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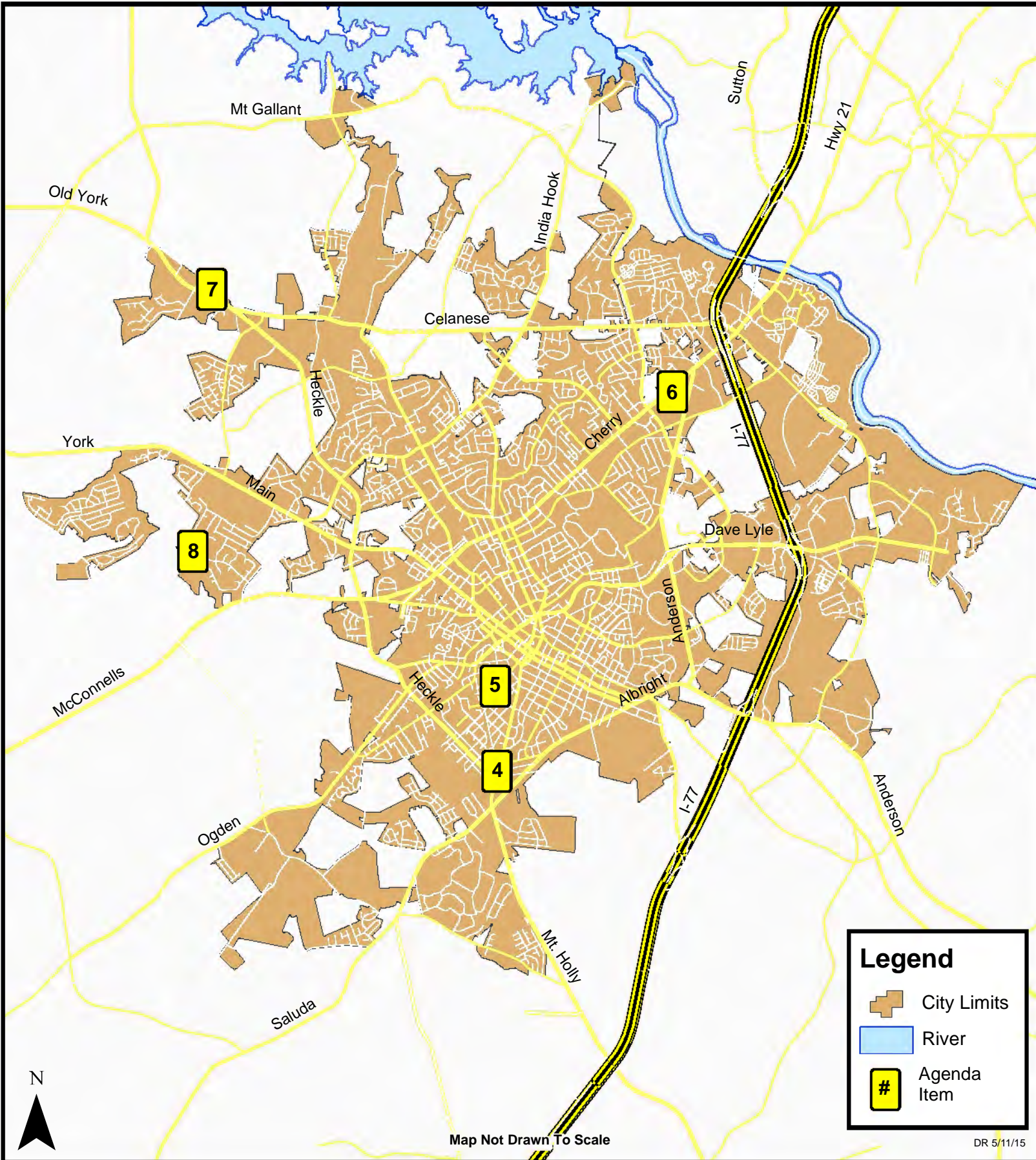
Rock Hill Zoning Board of Appeals January 19, 2021

1. Call to Order
2. Approval of Minutes from the December 15, 2020 meeting.
3. Approval of Orders from the December 15, 2020 meeting
4. Appeal Z-2021-01: Request by Marcus Payne, 3 Points Auto Sales, for a special exception to expand an existing automobile sales use at 1227 Saluda Street, which is zoned Mixed Use Corridor (MUC). Tax map number 625-13-02-003.
5. Appeal Z-2021-02: Request by Akisha Nichols for a special exception to establish a non-conforming commercial mixed use space that will house retail, office and personal services uses at 810 Carolina Avenue, which is zoned Single-Family Residential-5 (SF-5). Tax map number 600-02-03-015.
6. Appeal Z-2021-03: Request by Joe Delaney for a special exception to establish a vocational/trade school at 2260 Cherry Road, which is zoned General Commercial (GC). Tax map number 634-01-07-038.
7. Appeal Z-2021-04: Appeal by Kyle Hoyt on behalf of Caliber Collision, for special exceptions to establish an automobile painting/body shop use and a reduction in the required separation from residential uses at 4850 Old York Road, which is zoned Limited Commercial (LC). Tax map number 542-07-01-088.
8. Appeal Z-2021-05: Appeal by Ina Shtukar of the Director's decision to deny a short-term rental permit for property located at 1687 Saybrook Court, which is zoned Single-Family Residential-3 (SF-3). Tax map number 537-08-01-015.
9. Other Business
10. Adjourn.

Zoning Board of Appeals Agenda Items



City of Rock Hill, SC
January 19, 2021
Zoning Board of Appeals



Map Not Drawn To Scale

DR 5/11/15

Zoning Board of Appeals

City of Rock Hill, South Carolina

December 15, 2020

A public hearing of the Zoning Board of Appeals was held Tuesday, December 15, 2020, at 6 p.m. in City Council Chambers at City Hall, 155 Johnston Street, Rock Hill SC.

MEMBERS PRESENT: Matt Crawford, Keith Sutton, Michael Smith, Stacey Reeves, Randy Sturgis, Chad Williams

MEMBERS ABSENT: Rodney Cullum

STAFF PRESENT: Dennis Fields, Shana Marshburn, Melody Kearse, Janice E Miller, Leah Youngblood

Legal notice of the public hearing was published in *The Herald*, Friday, November 27, 2020. Notice was posted on all property considered. Adjacent property owners and tenants were notified in writing.

1. Call to Order

Chair Matt Crawford called the meeting to order at 6:00 p.m.

2. Approval of Minutes of the November 17, 2020, meeting.

Vice Chair Keith Sutton presented the motion to approve the minutes as presented. Mr. Michael Smith seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

3. Approval of Orders of the November 17, 2020, meeting.

Mr. Smith presented the motion to approve the orders as presented. Mr. Randy Sturgis seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

4. Appeal Z-2020-28: Request by Charlie Robinson with VFW Post No. 3746 for a special exception for an event venue use and a request to reduce the required separation from a residential use at 1404 Crawford Road, which is zoned Office and Institutional (OI). Tax map number 599-02-01-002.

Staff member Melody Kearse presented the staff report.

Vice Chair Sutton observed that the special exception and variance were tied together, that if the variance was not approved the special exception could not be approved. Ms. Kearse stated this was correct.

The applicant, Charlie Robinson, 2085 Cavendale Drive, provided a brief history of VFW Post No. 3746.

Mr. Melvin Poole, Senior Vice Commander, VFW Post No. 3746, 1634 Crestdale Road, detailed future plans for the Post to provide for the community in addition to the facility being used for social events, including veterans' support services, youth programs, neighborhood meetings, and community outreach.

Chair Crawford asked if the applicants were agreeable to the conditions recommended by staff. Mr. Robinson stated they were.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the application.

Chair Crawford closed the floor for Board discussion.

Mr. Sturgis presented the motion to approve the special exception with the conditions outlined by staff:

- A member of Post No. 3746 must attend every event that is not hosted by the Post itself.
- All events must end no later than midnight, and the facility must be vacated completely by 1 a.m.
- Event rentals are not allowed to hold activities outside. Only events held by the Post itself can take place outdoors.
- The primary use of the site must be by a nationally recognized fraternal organization in order for the rental use to be allowed.
- The approval is for this application only. Any similar application for this property in the future that is not for the VFW must be re-evaluated through a new special exception process before the Zoning Board of Appeals and otherwise must be based on whatever standards are in place in the Zoning Ordinance at that time.

Mr. Smith seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Mr. Sturgis presented the findings, specifically noting the impact plan submitted and conditions for approval alleviated concerns over the diminished separation between uses. He added that the use would comply with the use specific standards as outlined, the use would not be a bar or nightclub, a Post member would be in attendance at all events, the roads were able to handle the use, and the use would not injure neighboring lands. He also extended his thanks to all the Post members for their military service.

5. Appeal Z-2020-31: Request by Magloire Lubika of Green Box Market for a modification to an existing special exception to extend the trial period for the reestablishment of a non-conforming convenience store use at 455 Green Street, which is zoned Single-Family Residential-4 (SF-4). Tax map number 600-02-03-037.

Staff member Shana Marshburn presented the staff report.

Vice Chair Sutton asked for clarification as to whether the extension was to begin from the current meeting date or the initial date of approval in December 2019, or if it would end in June 2021 or June 2022. Ms. Marshburn stated her understanding was the request was for 18 months from the current meeting date but the date for the extension was at the Board's discretion.

Vice Chair Sutton asked if staff had any issues with either date being decided. Ms. Marshburn stated they did not.

Chair Crawford observed that the police calls for this location occurred when the store was not open. Ms. Marshburn stated that this was correct.

The applicant, Magloire Lubika, 6304 Trevor Simpson Drive, Indian Trail SC, stated the request for a time extension was due to issues obtaining funding from banks due to the pandemic. He noted that he has been able to secure funding and will begin construction as soon as possible. He also shared a text from Rich Bridwell, Bridwell Homes, the builder of the new residence built on the adjacent property in support for the request.

Chair Crawford asked when they were proposed to open. Mr. Lubika stated the plan was to open in the summer of 2021 and provided a timeline for the project.

Chair Crawford asked if one year would be enough time to be in operation. Mr. Lubika stated

it would.

Chair Crawford asked if the Board could tie the one year to opening in case of a delay in construction. Ms. Kearse stated the time frame could be tied into the Certificate of Occupancy. Chair Crawford asked Mr. Lubika if this was agreeable. Mr. Lubika stated it was.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the request, noting the store would be good for the community overall and would have positive economic impact on the area.

Mr. Lonnie Sims, 467 Green Street, spoke in opposition to the request, specifically noting that the neighborhood had worked hard to improve the neighborhood. He added there had been a significant amount of trash that had not been picked up over a six-month timeframe and that the only way the store could make money was through the sale of alcohol. He stated he had difficulty backing out of his driveway and that traffic was a constant issue as the road did not have enough room to accommodate two cars. Referring to Mr. Lubika's business plan, he stated the income of the area was not the reported \$55-75,000 per year. He added that he had offered to support Mr. Lubika's request if he would sign an agreement that they would not sell alcohol for 25 years, but that Mr. Lubika would not sign.

Ms. Mary Ann Brown, 462 Green Street, spoke in opposition to the request, stating there was not enough road space to accommodate too much traffic and that while the speed limit was 35 mph, many cars drove faster. She added there was concern over the store being open until 11 p.m., adding that many residents will continue to go to the Dollar General and Food Lion on a regular basis. She stated she had seen other projects being constructed in spite of the pandemic. She reiterated her concern for safety and trespassers as a single woman and mother living directly in front of the store.

Chair Crawford allowed Mr. Lubika rebuttal time. Mr. Lubika stated that the store would close at 9 p.m. instead of 11. He referred to Mr. Sims' comments on the trash, stating that he had not had a crew on site so the trash on site was not possible. He added that the City would have notified him if the trash were an issue. He noted that he was an investor with a vision as to how the neighborhood could be improved and become a pocket neighborhood with local services available to the residents.

Chair Crawford asked the proposed hours of operation. Mr. Lubika stated 8 a.m. to 9 p.m.

Chair Crawford asked for clarification on the bank not providing funding because of COVID-19. Mr. Lubika replied that the bank stopped the process due to the pandemic.

Chair Crawford closed the floor for Board discussion.

Mr. Williams presented the motion to approve the extension of the time period as presented by staff. Mr. Sturgis seconded. Discussion centered around when the 18-month time period would begin. Mr. Williams stated that the 18-month period would start upon approval. Mrs. Reeves asked if the hours of operation should be made part of the motion. Chair Crawford stated the motion was only for the time extension. Planning & Development Manager Leah Youngblood stated the hours were not made part of the conditions.

Mr. Williams presented the motion to modify the motion to include the hours of operation as 8 a.m. to 9 p.m. Mr. Sturgis seconded the motion to modify the original motion, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Chair Crawford called for a vote on the motion to approve the extension of the time period as presented by staff and for the hours of operation to be 8 a.m. to 9 p.m. The motion carried

unanimously by a vote of 6-0 (Cullum absent).

6. Appeal Z-2020-32: Request by Jade Washington for a special exception to establish a non-conforming personal services establishment, type A (spa) use at 324 Pursley Street, which is zoned Single-Family Residential-5 (SF-5). Tax map number 598-02-03-015.

Staff member Melody Kearse presented the staff report.

Vice Chair Sutton asked for definitions of personal services and if the applicant would have to return if she wanted to begin cutting hair. Ms. Kearse provided the definitions and stated she would not have to come back for additional approval as this was under the same use category.

The applicant, Jade Washington, 301 Center Street #7, was available to answer questions. She stated her intent was to serve the Boyd Hill community.

Vice Chair Sutton asked if this was her first business. Ms. Washington stated it was.

Mr. Daryal Mayfield, 1166 Stanley Drive, building owner, spoke in support of the request, specifically noting that this had been built originally as a barbershop for the Boyd Hill community and had become an informal social center for the area. He stated the intention was to allow young entrepreneurs a space to start.

Ms. Timolin McKeever, 3009 Rocket Road, spoke in support of the request, noting that as Ms. Washington's aunt the family was in total support of the business.

Mr. Dwight Walter, 328 Pursley Street, spoke in support of the request and stated he would be the caretaker of the property.

Ms. Floree Hooper, 1108 Constitution Boulevard, asked for clarification on the zoning requirements and if the special exception would apply to any business that opened at that location. Chair Crawford explained that the use could be limited to that application. Ms. Hooper stated her concern that other properties in along Pursley Street would try to evict tenants and open businesses. Chair Crawford stated this use could only be applied to buildings that were constructed as commercial, not residential, adding that if the zoning were to change, it would have to be decided by the Planning Commission and City Council.

Ms. Hooper asked if this closed, would the next person have to come back. Chair Crawford stated if the use was significantly different or if there was a long vacancy, it would have to come back.

Chair Crawford closed the floor for Board discussion.

Chair Crawford commented that the use proposed was the same as the previous use.

Vice Chair Sutton presented the motion to approve the special exception as presented. Mr. Williams seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Vice Chair Sutton presented the findings, specifically noting the use was compatible with the area, the building had previously been used as a barbershop, there was adequate parking to serve the site, the hours of operation would conform to Neighborhood Commercial (NC) zoning, and there would be no harm to the adjacent properties.

7. Appeal Z-2020-33: Request by Jeff Miller on behalf of the Ballet of York County for a special exception to establish an indoor recreational use greater than 3000 square feet and for a variance from the side buffer yard requirements at 420 Dave Lyle Boulevard, which is zoned Neighborhood Office (NO). Tax map number 627-11-01-028.

Staff member Dennis Fields presented the staff report.

Chair Crawford referred to the two site plans submitted with the staff report, asking if the one staff prepared was the preferred option. Mr. Fields stated staff would, and that it was optimal for the applicant as they were only required to patch the existing lot and restripe.

The applicant, Jeff Miller, 1084 Market Street, Fort Mill, building owner, stated he was excited to get started and saw the Ballet of York County as a great tenant that he hoped would be in the building for a long time.

Ms. Leslie Cooper, 2300 Sparrow Court, provided a history of the York County Ballet that had had to shut down earlier in the year due to COVID-19, adding that the Ballet of York County was formed to continue classical ballet in York County. She stated the goal was to expand the arts district in the downtown area. She added they had been able to practice twice a week at two separate facilities but that they needed a permanent location and looked forward to being able to hold public performances once again.

Chair Crawford referred to the York County Ballet location at 325 Oakland Avenue, asking if the site would be able to accommodate the number of cars that may need to be on the site at one time for pick up. Ms. Cooper stated there was more parking available at this site and that parents would follow whatever parking arrangements were needed for the site.

Mr. Aaron Reel, 1234 Cedar Grove Road, Clover, Ballet of York County non-profit director, referred to the site plan prepared by staff, noting it was a more user-friendly design for parking.

Chair Crawford closed the floor for Board discussion.

Mr. Sturgis asked if a motion was necessary for each item or if one motion could be presented. Chair Crawford stated that one motion could be made.

Mr. Sturgis presented the motion to approve both the special exception and variance as presented by staff. Mr. Williams seconded.

Mr. Williams commented that the use would help improve the building. Chair Crawford stated there were many excited to see the ballet program restart.

Chair Crawford called for a vote and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Mr. Williams presented the findings, specifically noting for the special exception that the use would comply with the use specific standards, the design presented would minimize any adverse impacts, the use was compatible to the area, and would not injure the property values of adjacent properties. a motion was required for each item. With respect to the variance, Mr. Williams noted that the variance would assist in improving the appearance of the site and would not be detrimental to the surrounding area.

8. Appeal Z-2020-34: Request by Joseph Stokes for a special exception to establish a residential infill use 1046 Ebenezer Avenue Extension, which is zoned Multi-Family-15 (MF-15). Tax map number 596-03-05-010.

The applicant has asked to defer until spring. No action was taken on this item.

9. Appeal Z-2020-35: Appeal by Mary Victoria Beam, Jameson's Lounge, of Director's decision to revoke zoning approval of an extended hours restaurant serving alcohol located at 524 & 522 N Anderson Road, which is zoned General Commercial (GC). Tax map number 630-04-01-016 & -017.

Planning & Zoning Manager, Leah Youngblood, presented the City's case, and showed several

related documents and videos to the Board.

Captain Rod Stinson, Rock Hill Police Department, provided a summary of the calls for service and explained the Police Department's concerns about the establishment. He stated that issues had begun to occur in June at the establishment with promoted parties and possible adult entertainment activities. He stated that he had reached out to Ms. Beam to speak with her about the promoted parties and encouraged her to do business the right way in accordance with the City's regulations. He also explained to her that the business needed to stay in compliance with its approved zoning and that she could not have promoted parties or operate her business like a night club. He noted that at this point she did not have a state alcohol license yet. Capt. Stinson stated that over the following weeks and months, the Police Department continued to receive information about promoted parties, and the business continued to operate like a club. He continued to have officers monitor the business, and he continually reminded Ms. Beam to operate the business in the way she was licensed to operate.

Capt. Stinson stated on June 19, officers responded to a call of shots being fired at Jameson's. Upon arrival and after investigation, the officers located a number of shell casings in the rear parking lot and near the entrance door to the business. He stated that no one was injured in this incident; however, some vehicles were struck by stray bullets. He stated that even after that event, Jameson's continued to have promoted parties, and police officers continued to speak with Ms. Beam regarding how the business should operate. He added that promoted parties tend to have higher incidences of violence. He also added that officers noted the existence of a VIP room with a stripper pole inside Jameson's, which may have been used for adult entertainment purposes.

Capt. Stinson further stated that on two separate occasions, officers arrived at the business and were unable to enter because the doors were locked, including the videoed incident on June 26. The officers were not able to get answers as to why the doors were locked but were able to speak with the manager on duty about the activities occurring on the premises. In October, officers performed property checks of the business at night during its operational hours, and noted that the business appeared to have a club atmosphere, and again that the doors were locked.

Capt. Stinson stated that on October 17, after the Police Department received notice of a promoted party, he ordered patrol officers to keep check on the business. At around midnight another shooting occurred, with five persons injured. When police arrived at the premises, four of the injured people had been transported to two separate hospitals, but police were able to administer aid to the fifth victim, who was still on scene and had been shot in the shoulder. Officers secured the scene and located multiple shell casings, including a number on Anderson Road itself, which required that the road be closed during the investigation. Capt. Stinson stated that following this event, he received an email from Ms. Beam stating that the business would no longer operate as a bar but would begin holding church services.

Capt. Stinson stated that Jameson's posted promoted party fliers for a party on November 6th to the Instagram social media site. These videos indicated that the business had more of a club atmosphere than that of a restaurant. He stated that police officers held several conversations with Ms. Beam and the manager, Mr. Cran Neely, during which they continued to advise them about how the business cannot operate as a bar. He added that in the interest of public safety and to prevent another violent incident, the Police Department is asking the Zoning Board to affirm the decision of the Planning & Development Director to revoke the zoning approval for the business.

Chairman Matt Crawford asked how many times officers had gone to the business since June. Capt. Stinson stated there had been between 8 and 10 calls for service, either as 911 calls or for the shooting events, but added that several other visits had been proactive on the part of the officers due to the history of the business.

Mr. Randy Sturgis asked whether the Police Department viewed Jameson's as being operated as a restaurant, as the videos shown by staff did not make it look as if it were being run as a restaurant. Capt. Stinson stated that the Police Department did not view it as a restaurant, as it did not present itself as a restaurant.

Ms. Youngblood continued staff's presentation.

Ms. Maria McKee, City of Rock Hill Collections Supervisor, provided information on the collection of hospitality tax on small restaurants in the City. She stated that over a five-month period, restaurants of a similar size to Jameson's had paid between \$100 to 350 per month in taxes, while Jameson's had only paid \$4 to \$10 per month in taxes. There was a brief discussion on how these taxes were calculated.

Ms. Youngblood further explained the revocation process and the role of the Zoning Board in that process.

Ms. Mary Victoria Beam, appellant, provided testimony regarding her business, stating that the way it had been presented was not the way she had operated it. She stated that the photography offered at Jameson's was a way to make money and was not meant to be seen as offering photos of an adult entertainment nature, adding that the only photography session she was able to book was for a baby shower.

Ms. Beam stated that she had referred to the business as a bar but was 100% aware that she was not to have promoted parties, commenting that the fliers presented by the City staff were old. She said that no more parties had been held after the shooting, and she had hired four security guards to protect her customers, adding that the shooting had occurred due to a fight that had started elsewhere.

She reiterated that Jameson's was a restaurant open all day with families and customers coming daily and on a regular basis. She stated the restaurant had received good reviews on several social media sites and that one of her chefs had posted instructional videos about cooking on Instagram on a regular basis. She added that she could provide invoices from the companies where she had purchased the restaurant's food.

Ms. Beam noted that she was not aware of any restrictions on how she should run her business, and stated that she would follow the rules if given another chance. She stated that she wanted for Jameson's to be a good place for people to come to with their families.

She said that she was aware of the Governor's Order that drinks could not be sold after 11 p.m. but not that they could not be held onto by customers after that time, and she promised to have that activity stop. She added that her bartender was soft spoken and not assertive enough to get people to throw out their drinks at 11 p.m.

She reiterated to the Board that she intends to follow the rules as required if she is allowed to remain open.

Mr. Mike Smith expressed concerns about how Ms. Beam had not brought proof of the positive aspects of her business, as well as the possible underpayment of required taxes, and the lack of her knowledge of the regulations that the City had in place. Ms. Beam stated she had evidence of positive aspects of the business on her personal cell phone.

Mr. Smith asked why she had not paid as much in taxes as other businesses. Ms. Beam stated that the other restaurants may have been in business longer than Jameson's and that she just got her alcohol license.

Mr. Randy Sturgis asked why she believed the City wanted to shut her down, since her success would be in the best interest of everyone. Ms. Beam stated that the police officers did not shut her down and instead that it was other City departments that shut her down.

Ms. Stacey Reeves asked for confirmation that the business had been open past 11 p.m. Ms. Beam stated that it had been. Ms. Reeves asked the operating hours. Ms. Beam stated she thought they could stay open until 2 a.m. and serve alcohol until 11 p.m. Ms. Reeves asked if she was open past 11 p.m. Ms. Beam stated she was and that she had to stop serving liquor at 11 p.m., but she stated that she was not told to close by that time. Ms. Reeves asked why the business remained open with the Governor's Order in effect. Ms. Beam stated her understanding was that she had to stop serving at 11 p.m. but could stay open until 2 a.m.

Mr. Sturgis observed that Jameson's had been licensed as a restaurant but that a restaurant atmosphere was not evident in the videos presented by staff. Ms. Beam stated that Jameson's was licensed to stay open until 2 a.m. and that it served food until that time, adding that if she'd been told not to have lights or music in the evening, she would not have them.

Ms. Brittany Brady, attorney representing the appellant, stated the real question for the Board it would give her a chance to keep the business open. She noted that Ms. Beam may not have been aware as to the City's definitions of a bar, a nightclub, or an extended hours restaurant serving alcohol, and that her statements indicated as much. She stated that Ms. Beam was trying to make money during COVID-19, and agreed that she probably did underreport her revenue for tax purposes. Ms. Brady reiterated that the business had a number of social media posts and reviews of food served in the restaurant and provided a delivery service of food for customers. She stated Ms. Beam earned more from the sale of food than alcohol and was simply asking for another chance now that she knows the difference in classifications. She added that security had been hired in order to keep events from escalating.

Mr. Smith observed that obtaining a liquor license was not an easy feat and was considered sacred in this business. Ms. Beam agreed. She added that she had been informed that the only difference between a lounge and restaurant was having a DJ and promoted parties.

Ms. Reeves asked why she had hired security guards as most restaurants don't require security of this type. Ms. Beam stated that she was scared following the shootings and wanted to protect her employees and customers.

Ms. Reeves asked about the hours the security guards worked. Ms. Beam replied they guards worked only on the weekends.

Mr. Smith asked how the locked doors kept everyone safe. Ms. Beam stated the building had different entrances and exits, and the exits were locked so that people could exit only from those, not enter. She added the building had a number of doors.

Ms. Reeves asked whether the exit doors were locked all the time. Ms. Beam stated they were automatically locked but allowed for exit only. Ms. Reeves asked if they locked from the inside or outside. Ms. Beam stated from the inside but allowed people to exit. Ms. Reeves asked for clarification that the doors were never locked to keep people inside. Ms. Beam stated the doors were never locked to keep police out or to lock anyone inside.

Mr. Smith asked about the restaurant's Google reviews. Ms. Beam stated they were almost 5 stars, adding that Jameson's also was also highly rated on Facebook and Rock Hill Eats

Facebook page. Mr. Williams stated the reviews were at 3.9. Ms. Beam noted the restaurant had received an “A” rating from DHEC.

Vice Chair Keith Sutton asked whether Ms. Beam lived in Rock Hill. Ms. Beam stated that she did not.

Ms. Reeves asked whether she worked at the business at all. Ms. Beam stated that she did not.

Chair Crawford asked how often she was on site. Ms. Beam said she used to go there often but not as much recently, adding that she was not aware of what was going on at the business.

Mr. Sutton asked what she did during the day if the business was her only form of income. Ms. Beam stated that she had a life outside of her business—that she has four children, two of them infants, and that she is trying to save money to open new businesses.

Ms. Reeves asked about the promoted party fliers from October and November. Ms. Beam stated she had told her staff not to hold those events. Ms. Reeves observed that despite what the employees did, these actions were ultimately her responsibility. Ms. Beam agreed but stated she had not been informed.

Chair Crawford asked if she had anything else to add.

Vice Chair Sutton asked her previous work history. Ms. Beam stated she had been an exotic dancer. She added that she had established the non-profit Fighting for Men Foundation in order to fight bias laws against men.

Chair Crawford reminded the Board of its role in the appeal process.

Mr. Williams presented the motion to affirm the Director’s decision revoking the zoning approval of an extended hours restaurant serving alcohol at 524 and 522 N. Anderson Rd. Mr. Smith seconded.

Mr. Williams commented that the adult entertainment and shootings were peripheral to the issue, and that the decision comes down to the fact that the business appears to be more of a bar than a restaurant, and that Ms. Beam stated she was a bar when the police officer asked what type of business she was operating.

Chair Crawford stated that the appellant had been provided with multiple reminders about how to operate and chances to do so within the approved zoning for the location, and that it appeared that she and her staff chose to ignore those opportunities.

Chair Crawford called for a vote and the motion to affirm the Director’s decision was approved unanimously by a vote of 6-0 (Cullum absent).

10. Other Business

Ms. Kearse noted that Mr. Smith would be leaving the Board as he and his wife moved to Georgia within the coming months.

Ms. Kearse distributed thank you cards to all the Board members from the Zoning Staff.

11. Adjourn.

There being no further business, Mr. Smith called for a motion to adjourn. Vice Chair Sutton seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent). The meeting adjourned at 9:10 p.m.



Zoning Board of Appeals Order

Z-2020-28

The Zoning Board of Appeals held a public hearing on Tuesday, December 15, 2020 to consider a **request by Charlie Robinson with VFW Post No. 3746 for a special exception for an event venue use and a request to reduce the required separation from a residential use at 1404 Crawford Road, which is zoned Office & Institutional (OI). Tax map number 599-02-01-002.**

Board members in attendance included: Matt Crawford, Keith Sutton, Michael Smith, Stacey Reeves, Randy Sturgis, Chad Williams (Rodney Cullum absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 1404 Crawford Road.
2. The property owner is Trustees of the VFW Post# 3746.
3. This property is zoned Office and Institutional (OI).
4. The request was for a Special exception to establish an event center use, and a reduction in the required separation for the event center use from residential uses.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
 - November 20: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
 - November 20: Public Hearing notification signs posted on subject property.
 - November 27: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
 - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Melody Kearse presented the staff report.

Vice Chair Sutton observed that the special exception and variance were tied together, that if the variance was not approved the special exception could not be approved. Ms. Kearse stated this was correct.

The applicant, Charlie Robinson, 2085 Cavendale Drive, provided a brief history of VFW Post No. 3746.

Mr. Melvin Poole, Senior Vice Commander, VFW Post No. 3746, 1634 Crestdale Road, detailed future plans for the Post to provide for the community in addition to the facility being used for social events, including veterans' support services, youth programs, neighborhood meetings, and community outreach.

Chair Crawford asked if the applicants were agreeable to the conditions recommended by staff. Mr. Robinson stated they were.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the application.

Chair Crawford closed the floor for Board discussion.

Mr. Sturgis presented the motion to approve the special exception with the conditions outlined by staff:

- A member of Post No. 3746 must attend every event that is not hosted by the Post itself.
- All events must end no later than midnight, and the facility must be vacated completely by 1 a.m.
- Event rentals are not allowed to hold activities outside. Only events held by the Post itself can take place outdoors.
- The primary use of the site must be by a nationally recognized fraternal organization in order for the rental use to be allowed.
- The approval is for this application only. Any similar application for this property in the future that is not for the VFW must be re-evaluated through a new special exception process before the Zoning Board of Appeals and otherwise must be based on whatever standards are in place in the Zoning Ordinance at that time.

Mr. Smith seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Mr. Sturgis presented the findings, specifically noting the impact plan submitted and conditions for approval alleviated concerns over the diminished separation between uses. He added that the use would comply with the use specific standards as outlined, the use would not be a bar or nightclub, a Post member would be in attendance at all events, the roads were able to handle the use, and the use would not injure neighboring lands. He also extended his thanks to all the Post members for their military service

THE BOARD, THEREFORE, ORDERS:

That the request by Charlie Robinson with VFW Post No. 3746 for a special exception for an event venue use and a request to reduce the required separation from a residential use at 1404 Crawford Road, is APPROVED WITH CONDITIONS.

The conditions are as follows:

- 1. A member of Post No. 3746 must attend every event that is not hosted by the Post itself.**
- 2. All events must end no later than midnight, and the facility must be vacated completely by 1 a.m.**

3. **Event rentals are not allowed to hold activities outside. Only events held by the Post itself can take place outdoors.**
4. **The primary use of the site must be by a nationally recognized fraternal organization in order for the rental use to be allowed.**
5. **The approval is for this application only. Any similar application for this property in the future that is not for the VFW must be re-evaluated through a new special exception process before the Zoning Board of Appeals and otherwise must be based on whatever standards are in place in the Zoning Ordinance at that time.**

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting for plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

Matt Crawford, Chairman

Date the Order Was Approved by the Board: _____

Date the Decision of the Board Was Mailed to the Applicant: _____



Zoning Board of Appeals Order

Z-2020-31

The Zoning Board of Appeals held a public hearing on Tuesday, December 15, 2020, to consider a **request by Magloire Lubika of Green Box Market for a modification to an existing special exception to extend the trial period for the reestablishment of a non-conforming convenience store use at 455 Green Street, which is zoned Single-Family Residential-4 (SF-4). Tax map number 600-02-03-037.**

Board members in attendance included Matt Crawford, Keith Sutton, Michael Smith, Stacey Reeves, Randy Sturgis, and Chad Williams (Cullum absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 455 Green Street.
2. The property owners are Mayimona Makumzungani and Jean Claude Lutuangu Lubika.
3. This property is zoned Single-Family Residential-4 (SF-4).
4. The request was for a modification to an existing special exception to extend the trial period for reestablishment of a non-conforming convenience store use.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
 - November 20: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
 - November 20: Public Hearing notification signs posted on subject property.
 - November 27: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
 - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Shana Marshburn presented the staff report.

Vice Chair Sutton asked for clarification as to whether the extension was to begin from the current meeting date or the initial date of approval in December 2019, or if it would end in June 2021 or June 2022. Ms. Marshburn stated her understanding was the request was for 18 months from the current meeting date but the date for the extension was at the Board's

discretion.

Vice Chair Sutton asked if staff had any issues with either date being decided. Ms. Marshburn stated they did not.

Chair Crawford observed that the police calls for this location occurred when the store was not open. Ms. Marshburn stated that this was correct.

The applicant, Magloire Lubika, 6304 Trevor Simpson Drive, Indian Trail SC, stated the request for a time extension was due to issues obtaining funding from banks due to the pandemic. He noted that he has been able to secure funding and will begin construction as soon as possible. He also shared a text from Rich Bridwell, Bridwell Homes, the builder of the new residence built on the adjacent property in support for the request.

Chair Crawford asked when they were proposed to open. Mr. Lubika stated the plan was to open in the summer of 2021 and provided a timeline for the project.

Chair Crawford asked if one year would be enough time to be in operation. Mr. Lubika stated it would.

Chair Crawford asked if the Board could tie the one year to opening in case of a delay in construction. Ms. Kearse stated the time frame could be tied into the Certificate of Occupancy. Chair Crawford asked Mr. Lubika if this was agreeable. Mr. Lubika stated it was.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the request, noting the store would be good for the community overall and would have positive economic impact on the area.

Mr. Lonnie Sims, 467 Green Street, spoke in opposition to the request, specifically noting that the neighborhood had worked hard to improve the neighborhood. He added there had been a significant amount of trash that had not been picked up over a six-month timeframe and that the only way the store could make money was through the sale of alcohol. He stated he had difficulty backing out of his driveway and that traffic was a constant issue as the road did not have enough room to accommodate two cars. Referring to Mr. Lubika's business plan, he stated the income of the area was not the reported \$55-75,000 per year. He added that he had offered to support Mr. Lubika's request if he would sign an agreement that they would not sell alcohol for 25 years, but that Mr. Lubika would not sign.

Ms. Mary Ann Brown, 462 Green Street, spoke in opposition to the request, stating there was not enough road space to accommodate too much traffic and that while the speed limit was 35 mph, many cars drove faster. She added there was concern over the store being open until 11 p.m., adding that many residents will continue to go to the Dollar General and Food Lion on a regular basis. She stated she had seen other projects being constructed in spite of the pandemic. She reiterated her concern for safety and trespassers as a single woman and mother living directly in front of the store.

Chair Crawford allowed Mr. Lubika rebuttal time. Mr. Lubika stated that the store would close at 9 p.m. instead of 11. He referred to Mr. Sims' comments on the trash, stating that he had not had a crew on site so the trash on site was not possible. He added that the City would have notified him if the trash were an issue. He noted that he was an investor with a vision as

to how the neighborhood could be improved and become a pocket neighborhood with local services available to the residents.

Chair Crawford asked the proposed hours of operation. Mr. Lubika stated 8 a.m. to 9 p.m.

Chair Crawford asked for clarification on the bank not providing funding because of COVID-19. Mr. Lubika replied that the bank stopped the process due to the pandemic.

Chair Crawford closed the floor for Board discussion.

Mr. Williams presented the motion to approve the modified special exception to extend the time period as presented by staff. Mr. Sturgis seconded. Discussion centered around when the 18-month time period would begin. Mr. Williams stated that the 18-month period would start upon approval. Mrs. Reeves asked if the hours of operation should be made part of the motion. Chair Crawford stated the motion was only for the time extension. Planning & Development Manager Leah Youngblood stated the hours were not made part of the conditions.

Mr. Williams presented the motion to modify the motion to include the hours of operation as 8 a.m. to 9 p.m. Mr. Sturgis seconded the motion to modify the original motion, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Chair Crawford called for a vote on the motion to approve the extension of the time period as presented by staff and for the hours of operation to be 8 a.m. to 9 p.m. The motion carried unanimously by a vote of 6-0 (Cullum absent).

There being no further discussion, Chair Crawford closed the floor.

THE BOARD, THEREFORE, ORDERS:

That the request by Magloire Lubika of Green Box Market for a modification to an existing special exception to extend the trial period for the reestablishment of a non-conforming convenience store use at 455 Green Street, is APPROVED WITH CONDITONS.

Conditions include the following:

- 1. The extension is for 18 months from the date of approval.**
- 2. The hours of operation are limited to 8:00 am to 9:00 pm.**

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting for plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

Matt Crawford, Chairman

Date the Order Was Approved by the Board: _____

Date the Decision of the Board Was Mailed to the Applicant: _____



Zoning Board of Appeals Order

Z-2020-31

The Zoning Board of Appeals held a public hearing on Tuesday, December 15, 2020, to consider a **request by Jade Washington for a special exception to establish a non-conforming personal services establishment, type A (spa) use at 324 Pursley Street, which is zoned Single-Family Residential-5 (SF-5). Tax map number 598-02-03-015.**

Board members in attendance included Matt Crawford, Keith Sutton, Michael Smith, Stacey Reeves, Randy Sturgis, and Chad Williams (Cullum absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 324 Pursley Street.
2. The property owners are Raye Mayfield and Brenda McKinney.
3. This property is zoned Single-Family Residential-5 (SF-5).
4. The request was for to establish a non-conforming personal services establishment, type A (spa) use.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
 - November 20: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
 - November 20: Public Hearing notification signs posted on subject property.
 - November 27: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
 - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Melody Kearse presented the staff report.

Vice Chair Sutton asked for definitions of personal services and if the applicant would have to return if she wanted to begin cutting hair. Ms. Kearse provided the definitions and stated she would not have to come back for additional approval as this was under the same use category.

The applicant, Jade Washington, 301 Center Street #7, was available to answer questions.

She stated her intent was to serve the Boyd Hill community.

Vice Chair Sutton asked if this was her first business. Ms. Washington stated it was.

Mr. Daryal Mayfield, 1166 Stanley Drive, building owner, spoke in support of the request, specifically noting that this had been built originally as a barbershop for the Boyd Hill community and had become an informal social center for the area. He stated the intention was to allow young entrepreneurs a space to start.

Ms. Timolin McKeever, 3009 Rocket Road, spoke in support of the request, noting that as Ms. Washington's aunt the family was in total support of the business.

Mr. Dwight Walter, 328 Pursley Street, spoke in support of the request and stated he would be the caretaker of the property.

Ms. Floree Hooper, 1108 Constitution Boulevard, asked for clarification on the zoning requirements and if the special exception would apply to any business that opened at that location. Chair Crawford explained that the use could be limited to that application. Ms. Hooper stated her concern that other properties in along Pursley Street would try to evict tenants and open businesses. Chair Crawford stated this use could only be applied to buildings that were constructed as commercial, not residential, adding that if the zoning were to change, it would have to be decided by the Planning Commission and City Council.

Ms. Hooper asked if this closed, would the next person have to come back. Chair Crawford stated if the use was significantly different or if there was a long vacancy, it would have to come back.

Chair Crawford closed the floor for Board discussion.

Chair Crawford commented that the use proposed was the same as the previous use.

Vice Chair Sutton presented the motion to approve the special exception as presented. Mr. Williams seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Vice Chair Sutton presented the findings, specifically noting the use was compatible with the area, the building had previously been used as a barbershop, there was adequate parking to serve the site, the hours of operation would conform to Neighborhood Commercial (NC) zoning, and there would be no harm to the adjacent properties.

THE BOARD, THEREFORE, ORDERS:

That the request by Jade Washington for a special exception to establish a non-conforming personal services establishment, type A (spa) use at 324 Pursley Street, is APPROVED.

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting for plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed.

For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

Matt Crawford, Chairman

Date the Order Was Approved by the Board: _____

Date the Decision of the Board Was Mailed to the Applicant: _____



Zoning Board of Appeals Order

Z-2020-33

The Zoning Board of Appeals held a public hearing on Tuesday, December 15, 2020, to consider a request by Jeff Miller on behalf of the Ballet of York County for a special exception to establish an indoor recreational use greater than 3000 square feet and for a variance from the side buffer yard requirements at 420 Dave Lyle Boulevard, which is zoned Neighborhood Office (NO). Tax map number 627-11-01-028.

Board members in attendance included Matt Crawford, Keith Sutton, Michael Smith, Stacey Reeves, Randy Sturgis, and Chad Williams (Rodney Cullum absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 420 Dave Lyle Blvd.
2. The property owner is Jeff Miller.
3. This property is zoned Neighborhood Office (NO).
4. The request was for a special exception to establish an indoor recreational use greater than 3000 square feet and for a variance from the side buffer yard requirements.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
 - November 20: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
 - November 20: Public Hearing notification signs posted on subject property.
 - November 20: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
 - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Dennis Fields presented the staff report.

Chair Crawford referred to the two site plans submitted with the staff report, asking if the one staff prepared was the preferred option. Mr. Fields stated staff would, and that it was optimal for the applicant as they were only required to patch the existing lot and restripe.

The applicant, Jeff Miller, 1084 Market Street, Fort Mill, building owner, stated he was excited

to get started and saw the Ballet of York County as a great tenant that he hoped would be in the building for a long time.

Ms. Leslie Cooper, 2300 Sparrow Court, provided a history of the York County Ballet that had had to shut down earlier in the year due to COVID-19, adding that the Ballet of York County was formed to continue classical ballet in York County. She stated the goal was to expand the arts district in the downtown area. She added they had been able to practice twice a week at two separate facilities but that they needed a permanent location and looked forward to being able to hold public performances once again.

Chair Crawford referred to the York County Ballet location at 325 Oakland Avenue, asking if the site would be able to accommodate the number of cars that may need to be on the site at one time for pick up. Ms. Cooper stated there was more parking available at this site and that parents would follow whatever parking arrangements were needed for the site.

Mr. Aaron Reel, 1234 Cedar Grove Road, Clover, Ballet of York County non-profit director, referred to the site plan prepared by staff, noting it was a more user-friendly design for parking.

Chair Crawford closed the floor for Board discussion.

Mr. Sturgis asked if a motion was necessary for each item or if one motion could be presented. Chair Crawford stated that one motion could be made.

Mr. Sturgis presented the motion to approve both the special exception and variance as presented by staff. Mr. Williams seconded.

Mr. Williams commented that the use would help improve the building. Chair Crawford stated there were many excited to see the ballet program restart.

Chair Crawford called for a vote and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Mr. Williams presented the findings, specifically noting for the special exception that the use would comply with the use specific standards, the design presented would minimize any adverse impacts, the use was compatible to the area, and would not injure the property values of adjacent properties. a motion was required for each item. With respect to the variance, Mr. Williams noted that the variance would assist in improving the appearance of the site and would not be detrimental to the surrounding area.

THE BOARD, THEREFORE, ORDERS:

That the request by Jeff Miller on behalf of the Ballet of York County for a special exception to establish an indoor recreational use greater than 3000 square feet and for a variance from the side buffer yard requirements, is APPROVED.

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the

Court a petition setting for plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

Matt Crawford, Chairman

Date the Order Was Approved by the Board: _____

Date the Decision of the Board Was Mailed to the Applicant: _____

Z-2021-01

Requests: Special exception to expand an existing automobile sales use

Address: 1227 Saluda Street

Zoning District: Mixed Use Corridor (MUC)

Applicant: Marcus Payne





Request: Special exception to expand an existing automobile sales use

Address: 1227 Saluda St.

Tax Map No.: 625-13-02-003

Zoning District: Mixed Use Corridor (MUC)

Owner: Church of God Unchanged Ministries (COGUM) (Vincent James)
 P.O. Box 12476
 Rock Hill, SC 29730

Applicant: Marcus Payne
 1227 Saluda St., Suite 101
 Rock Hill, SC 29730

Background

The applicant, Marcus Payne of 3 Points Auto Sales, is seeking to expand its existing automobile sales use at 1227 Saluda St. The Zoning Board of Appeals granted the business a special exception for that use at that location in August of 2016.

At the time of the original approval, the Board was provided a site plan showing where the vehicles being offered for sale would be parked. The applicant wishes to expand into other areas of the site now, which requires the Board to consider whether the requested expansion should be granted.

Primary use table excerpt <ul style="list-style-type: none"> • Blank cell = prohibited • S = Special exception • C = Conditional use • P = Permitted use 	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="8">RESIDENTIAL</th> <th colspan="10">BUSINESS</th> </tr> </thead> <tbody> <tr> <td>SF-2</td><td>SF-3</td><td>SF-4</td><td>SF-5</td><td>SF-8</td><td>SF-A</td><td>MFR</td><td>MF-15</td><td>MX</td><td>NO</td><td>NC</td><td>OI</td><td>LC</td><td>GC</td><td>CC</td><td>CI</td><td>DTWN</td><td>MUC</td><td>IB</td><td>IG</td><td>IH</td> </tr> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td style="background-color: yellow;"></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </tbody> </table>	RESIDENTIAL								BUSINESS										SF-2	SF-3	SF-4	SF-5	SF-8	SF-A	MFR	MF-15	MX	NO	NC	OI	LC	GC	CC	CI	DTWN	MUC	IB	IG	IH																					
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Definition of proposed use	<p>Automobile Sales: Uses that offer vehicles on-site for sale or long-term lease to the general public, whether at retail or through an auction. The vehicles must include only those customarily used for personal use, such as automobiles, pick-up trucks, and vans, as well as recreational vehicles that are smaller than automobiles, such as all-terrain vehicles, golf carts, motorcycles and similar. These uses may have any number of vehicles being offered for sale as the site can accommodate under the requirements listed in Chapters 4 and 6 of the Zoning Ordinance.</p>																																																												

Site Description

The property is located on Saluda Street just south Downtown and just north of the Heckle Blvd. intersection. Although it is adjacent to a residential use, it is mainly surrounded by other commercial uses or vacant buildings suited for commercial use.

The Saluda Street corridor as a whole consists of a mix of residential, commercial, and institutional uses.

The building located on the site is 1,200 square feet, with half used as a rental leasing office and the other half being dedicated to an office for the car sales use.

- A rental leasing office is considered a business/professional office use, which is parked at a rate of 1 space per 250 square feet of building area. For this property, the rental leasing office use is required to have 2 customer spaces.
- The Zoning Ordinance requires vehicle sales uses to be parked at a rate of 1 space per every 300 square feet of enclosed floor area, plus 1 space per every 5,000 square feet of outdoor display area. For this property, the vehicle sales use required to have 4 customer spaces.
- The business also has 10 automobile sales inventory spaces now and would like to add 24 more. Because of that, the applicant also would need to pave 2 additional customer spaces. The property has areas that would accommodate these 2 extra spaces, such immediately left of the row of the row of 15 spaces shown on the proposed site plan.

Though the site plan contemplates a new entrance onto Blackmon Road, this is an option for the applicant and not a requirement of the City. This area has an existing curb cut but the applicant would need to request an encroachment permit from the South Carolina Department of Transportation in order to work within the right-of-way. Alternatively, the applicant may forego the second entrance and simply end the new paved area with a large enough bump-out to serve as a turnaround.

Description of Intent for the Mixed Use Corridor (MUC) zoning district

The MUC district is intended to foster a compatible mix of land uses along the Saluda Street corridor, where commercial land uses closely abut residential areas. The standards for the MUC district are set forth in an appendix to this chapter.

Analysis of Request for Special Exception

Staff will base its recommendation on an analysis of the below standards, and the Zoning Board of Appeals may approve a special exception use only upon a finding that the applicant has demonstrated that the applicable standards listed below are met. The Board may find that not all of these standards are applicable to every request for a special exception use.

The applicable are shown below in italics, followed by staff's assessment of each standard in non-italicized font.

1. ***Complies with Use-Specific Standards:*** *The proposed use complies with all use-specific standards.*

- A. ***Vehicle Display Pads:*** *Automobile sales uses can have up to one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade level. Any rack that tilts the vehicles in any way to show the underside must be located inside a showroom.*

No display pads or tilt racks have been shown on the site plan.

B. Public Address Systems: Automobile sales uses cannot have an outdoor speaker or public address system that is audible off-site.

None are proposed.

C. Other Materials for Sale: Automobile sales uses cannot display any other materials including but not limited to tires, rims, and other parts and accessories for sale between the principal structure and the street.

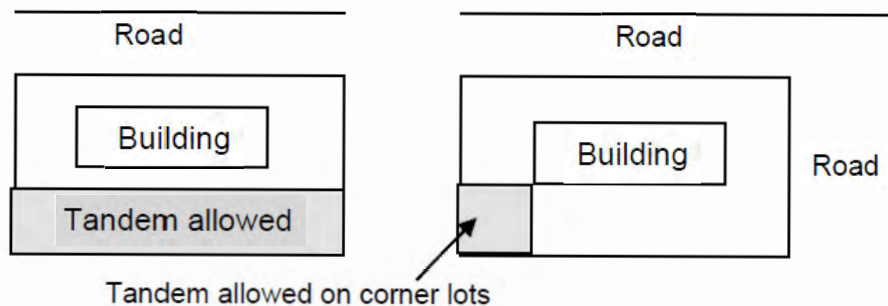
No other materials would be sold in this area of the site.

D. Test Drives: Automobile sales uses cannot test drive vehicles on residential streets.

The business would not test drive vehicles on residential streets.

E. Off-Street Parking Standards: Automobile sales uses must pave vehicle display, vehicle storage, and customer parking, including all access and driving surfaces, with concrete or asphalt. These areas must comply with all applicable off-street parking standards in Chapter 8: Development Standards, except for the following.

- Tandem/valet-style spaces may be allowed behind the building's rear plane, as long as fire access and traffic patterns within the site are maintained according to an approved site plan.



- Parking lot islands will not be required for vehicle display and vehicle storage areas located to the rear of the principal structure as long as the principal structure meets all applicable setbacks and the area is not located along a public street.

All new inventory display spaces, customer parking, and driving surfaces will be paved with concrete or asphalt and landscaped according to zoning standards.

F. Vehicle Signage: Automobile Sales uses are allowed to have signage displayed on vehicles, provide that the maximum letter size is 6 inches and the overall area is 10 square feet per vehicle.

The applicant agrees to the size requirements for vehicle signage.

G. Special Exception: *As part of the special exception process for automobile sales uses in some zoning districts, the Zoning Board of Appeals must evaluate the following.*

- *Compatibility with Land-use Plans: The proposed location conforms with land-use plans prepared for the City, including but not limited to the Comprehensive Plan and the Cherry Road Revitalization Strategy.*

The proposed use is compatible with the Comprehensive Plan, which envisions stand-alone commercial uses with parking in the rear yards along Saluda Street.

- *Avoidance of key redevelopment areas and pedestrian-oriented corridors: The proposed location is not in a key redevelopment area of the City, such as Downtown or Knowledge Park. The proposed use is located in automobile-dominated environments and not in pedestrian-oriented environments, such as Oakland Avenue, Charlotte Avenue, and Ebenezer Avenue, nor ones that are planned to become pedestrian-oriented, such as portions of Cherry Road.*

Regarding the avoidance of key redevelopment areas, the Saluda Street corridor should be considered a key redevelopment area of the City. The City made infrastructure and other public improvements along Saluda Street as a catalyst for private development a few years ago, and the corridor has seen some key private redevelopment as a response, such as with the AME Zion conference center and the North Central Pediatric Center. Generally, automobile sales uses should be avoided in such key redevelopment areas. However, in this case, the site is located along the south end of the corridor, near other automobile uses, and it is in an area that starts to have some of the characteristics of highway commercial development.

Regarding the avoidance of pedestrian-oriented corridors, while this site does have pedestrian activity, it is located farther from downtown in a transitional area of the Saluda Street corridor between uses that are more pedestrian-oriented and those that are more automobile-oriented.

- *Site Plan: The applicant must show a site plan to scale that depicts the proposed location of the vehicles that are offered for sale. If the special exception is approved, the parking of cars must be limited to the area shown on the site plan. Any applicant who wants to expand vehicles offered for sale into other areas of the site must return to the Zoning Board of Appeals with a request to modify the original special exception approval.*

Site improvements are proposed. The site plan shows the creation of additional paved area along with an optional entrance onto the Blackmon Street frontage.

- 2. Compatibility:** *The proposed use is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands.*

Several other automobile uses exist in the area, and this particular portion of Saluda Street is more automobile-dominated than the area to the north.

- 3. Design Minimizes Adverse Impact:** *The design of the proposed use minimizes adverse effects, including visual impacts on adjacent lands; furthermore, the proposed use avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.*

The site is fully developed with components that support both uses located on the site. The additional paved areas and entrance should not cause any adverse impact. Staff has not heard from anyone with concerns about the proposal.

- 4. Design Minimizes Environmental Impact:** *The proposed use minimizes environmental impacts and does not cause significant deterioration of water and air resources, significant wildlife habitat, scenic resources, and other natural resources.*

The proposed site plan would be reviewed for environmental impacts. If any are identified during review, they would be required to be mitigated.

- 5. Roads:** *There is adequate road capacity available to serve the proposed use, and the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.*

The proposed use is not a high-traffic generator. The property is located along Saluda Street, which would support traffic from this type of use without any additional upgrades.

Not Injure Neighboring Land or Property Values: *The proposed use will not substantially and permanently injure the use of neighboring land for those uses that are permitted in the zoning district or reduce property values in a demonstrative manner.*

The proposed expansion is not anticipated to reduce property values. A wide variety of automobile uses exist in the area.

- 6. Site Plan:** *A site plan has been prepared that demonstrates how the proposed use complies with the other standards of this subsection.*

A site plan, showing improvements to the lot, has been submitted.

- 7. Complies with All Other Relevant Laws and Ordinances:** *The proposed use complies with all other relevant City laws and ordinances, state and federal laws, and regulations.*

The applicant agrees to conform to all other relevant laws and ordinances.

Public Input

Staff has taken the following actions to notify the public about this public hearing:

- December 31: Sent public hearing notification postcards to property owners within 300 feet of the subject property.
- December 31: Posted public hearing signs on subject property.
- December 31: Advertised the Zoning Board of Appeals public hearing in *The Herald*.
- Information about this request was posted to the City's website

Staff has not received any feedback from the public about the proposed expansion at this time.

Staff Recommendation

Staff recommends approval of the special exception request because staff believes that it meets the standards for granting the special exception, specifically noting the following:

- The use is an expansion of an existing auto sales use in an area that is surrounded by other automobile-related uses.
- The use is not expected to have negative impacts on surrounding lands, and staff has not heard from anyone with concerns about it.

Attachments

- Application and supporting materials
- Site plan
- Zoning Map

Staff Contact:

Shana Marshburn, Planner I

803-326-2456

Shana.Marshburn@cityofrockhill.com

SPECIAL EXCEPTION APPLICATION

Plan Tracking # 20180566 Date Received: 12/17/2020 Case # Z-2020-01

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

PROPERTY INFORMATION

Street address of subject property: 1227 Saluda Street, Rock Hill, SC 29730

Tax parcel number of subject property: 625-13-02-003

Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes No

If yes, please describe the requirements: _____

APPLICANT/PROPERTY OWNER INFORMATION

Applicant's name	Mailing address	Phone number	Email address
Marcus Payne	1227 Saluda St Suite 101 Rock Hill, SC 29730	704-301-5423	mloans40@gmail.com

Are you the owner of the subject property? Yes No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) Tenant

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature: Marcus Payne Date: 12/16/20

If you are **not** the owner of the subject property, the **property owner** must complete this box.

Name of property owner: Church of God Unchanged Ministries

If property owner is an organization/corporation, name of person authorized to represent its property interests:
Vincent James

I certify that the person listed in the person listed above has my permission to represent this property in this application.

Signature: Vincent James Date: 12/16/20

Preferred phone number: 704-614-2909 Email address: _____

Mailing address: 1227 Saluda St, Suite 102, Rock Hill SC 29730

INFORMATION ABOUT REQUEST

What is the type of use for which you are requesting a special exception?

A special exception presently exist. Seeking to expand parking.

Special exception standards

Please explain to the Board why you believe your request meets these standards. These are the standards the Board will consider when deciding whether to approve your request, although it may find that not all are applicable to your request.

1. If your proposed use has any use-specific standards, how do you propose to meet them? (Staff can help you determine whether your use has any use-specific standards.)

We have conferred with staff and been provided the necessary guidance to comply with landscaping and runoff standards. We have provided staff with drawings / sketches and measurements. Additionally, this project meets the Land Use compatibility requirements, avoids pedestrian traffic, is in a key redevelopment area, and a site plan has been provided.

2. How is the proposed use appropriate for its location and compatible with surrounding land and uses?

We are currently a car lot and real estate rental location. The expanded parking will allow easier access to the property, additional parking, as well as, the ability to serve the community's car buying needs by having more units to showcase.

3. What steps are you taking to minimize any adverse impacts on surrounding properties?

We have been in consistent contact with city staff to insure we are meeting standards and not adversely affecting our neighbors.

4. How would the use impact the environment (water, natural resources, wildlife habitat, etc.)?

There is ~~no~~ adverse impact, according to staff and storm water personnel's assessments.

5. How would the use impact traffic issues (road capacity, safety of those coming into or leaving the site, etc.)?

The additional parking will insure customers have adequate parking; thus, easing the backup on Sabuda Street. At present, there is only one way to enter the property. This improvement will provide 2 means of egress and entry and create a safer, more fluid flow of traffic onto and out of the property.

6. How would the use impact the ability of neighboring land owners to use their properties in a way that is allowed under the Zoning Ordinance, and their property values?

There is no impact.

Exhibits

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of property that is the subject of the request



Blackmon St

BLACKMON ST

Saluda St.

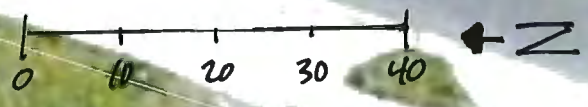
SALUDA ST

15

9

Continue landscape treatment

1" = 20'










8

18

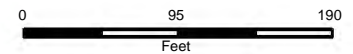
22

Z-2021-01

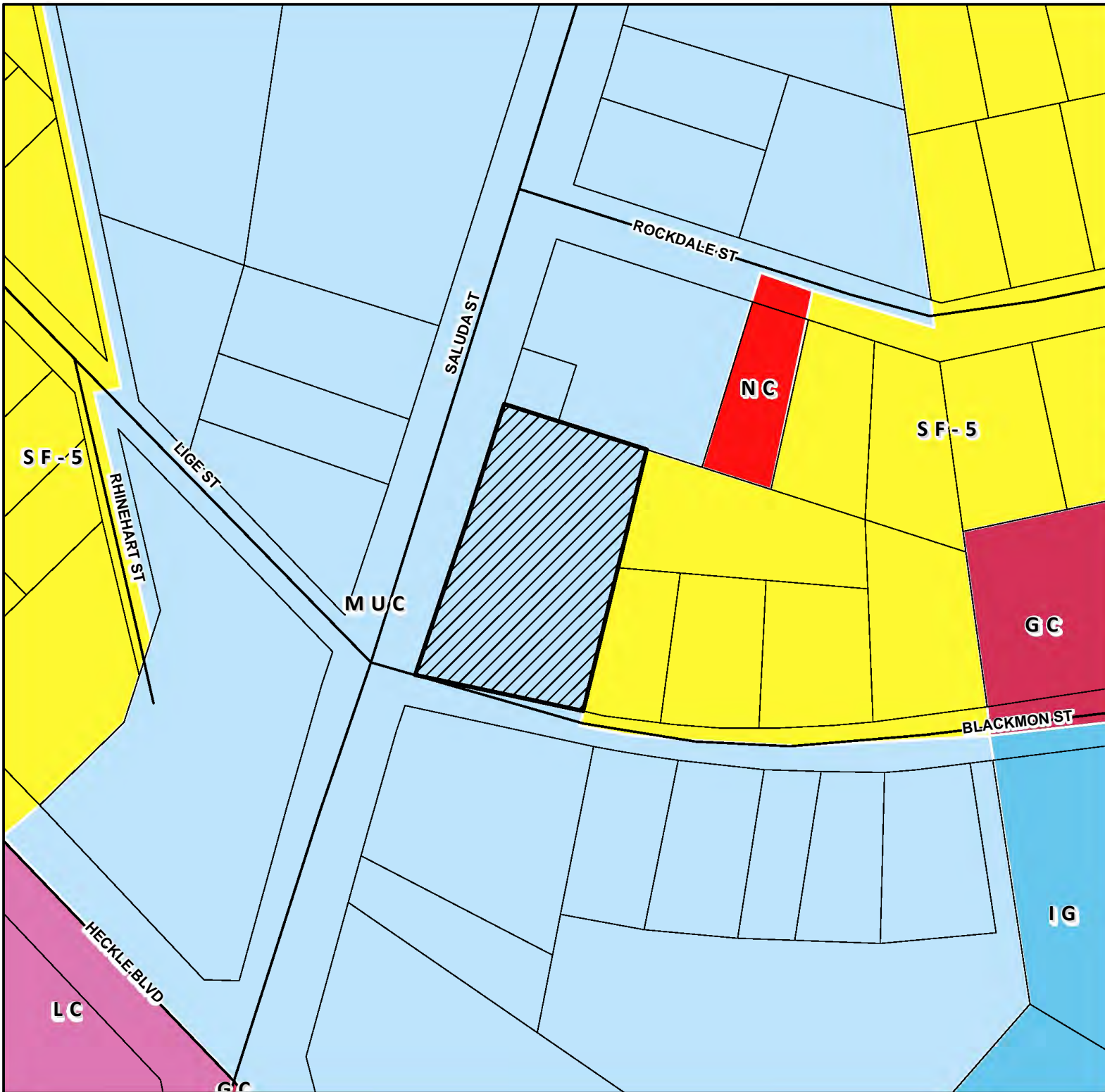
-  Subject Property
- Zoning Districts**
-  General Commercial (GC)
-  Industry General (IG)
-  Limited Commercial (LC)
-  Mixed Use Corridor (MUC)
-  Neighborhood Commercial (NC)
-  Single-Family 5 (SF-5)

Zoning Data

Current Zoning
MUC



Planning & Development
Department
City of Rock Hill
01/19/21



Z-2021-02

Requests: Special exception to establish a non-conforming commercial mixed-use space that will house retail, office and personal services uses.

Address: 810 Carolina Avenue.

Zoning District: Single-Family Residential-5 (SF-5)

Applicant: Akisha Nichols



Request:	Special Exception to establish a non-conforming commercial mixed-use space that will house retail, office and personal services uses in a residential district.
Address:	810 Carolina Ave.
Tax Map No.:	600-02-03-015
Zoning District:	Single-Family Residential-5 (SF-5)
Applicant/ Owner:	Akisha Nichols PO Box 10174 Rock Hill, SC 29731

Background

The applicant, Akisha Nichols, is seeking to establish a mixed-use commercial space at 810 Carolina Ave. The uses would include office space for a charitable foundation with a small thrift store, other rental office space and personal service spaces for community start-up businesses.

This property was developed for commercial use in 1979, and the building was originally used as a church. Since that time, it also has been used as a mental health clinic and then as a day care until recently. Ms. Nichols purchased the property in 2007.

Because the property is zoned SF-5, the uses cannot be established without Zoning Board of Appeals approval to allow these non-conforming commercial uses through a special exception process. The uses also must be able to meet the standards listed in the "Analysis of Request for Special Exception" section below.

Site Description

The site is located on Carolina Avenue near the intersection with Heywood Street. It is mostly surrounded by single-family detached residential uses, with a few religious institutional uses nearby.

Description of Intent for Single-Family Detached Zoning Districts

These residential districts are established to primarily provide for single-family detached residential development. A few complementary uses customarily found in residential zoning districts, such as religious institutions, may also be allowed.

The primary difference between these districts is the minimum lot size for development and other dimensional standards that are listed in full in *Chapter 6: Community Design*

Standards. The following chart summarizes the differences in lot sizes for single-family residential development.

Zoning District	Minimum Lot Size for Single-Family Residential Development
SF-2	20,000 square feet
SF-3	14,000 square feet
SF-4	9,000 square feet
SF-5	7,500 square feet

Analysis of Request for Special Exception

Staff will base its recommendation on an analysis of the below standards, and the Zoning Board of Appeals may approve a special exception use only upon a finding that the applicant has demonstrated that the following standards are met.

The applicable are shown below in italics, followed by staff's assessment of each standard in non-italicized font.

- (a) *The proposed use is permitted by right, conditional use, or special exception in the Neighborhood Office (NO) or Neighborhood Commercial (NC) zoning district, and the proposed use is no more intense than the historical use of the property.*

Within the Neighborhood Office (NO) zoning district and the Neighborhood Commercial (NC) zoning district, the office use is allowed by right, the personal service use is allowed as a conditional use, and the retail sales use is allowed as a special exception in NO and a conditional use in NC.

The retail sales use will be very limited. The property owner is requesting to operate a small thrift store in association with a charitable foundation that she operates. This use will be open mostly on the weekends when the office uses will generally be closed. The use-specific standards that apply to the retail sales use are not applicable to this site.

The office use should be less intense than past uses of the property, such as the day care and church, in terms of the amount of traffic to the site, noise, etc.

The personal services use would be substantially limited by the size of the space. This would likely only be a one on one service type use such as hair braiding or massage therapy. These uses typically have longer appointment times and minimal traffic.

- (b) *The existing structure is specialized to nonconforming use such that conversion to the conforming use would not be economically feasible. Historical nonconforming uses in converted residential structures would generally not be seen as meeting this standard.*

The property was developed originally for commercial use. Converting the building to a conforming, i.e. residential use, would be extremely costly. It would be difficult to meet the residential design standards, which require residential structures to blend with the existing neighborhood or meet the City's current design standards.

- (c) *No functional expansion of the use is permitted. Modifications for code compliance and aesthetic enhancement are permitted.*

The use is not being expanded to areas of the site that have not been used in the past. Ms. Nichols plans to remove the play equipment and expand parking to the rear of the property in the future. (While this additional parking is not required to be installed now, other than adding an ADA-accessible space, Ms. Nichols is aware that additional parking would need to meet current standards, such as being paved.)

- (d) *There is demonstrated history of compatibility with the surrounding neighborhood including, but not limited to, a lack of demonstrated complaints, calls for police service, or other operational concerns such as traffic, parking, or other similar impacts.*

The proposed uses are considered less intense than the prior uses of the site, both the day care and church use. Staff looked into past calls for police service, a summary of which is attached to this report, and past code enforcement actions on the property. Neither showed any previous compatibility issues with the surrounding neighborhood.

Moreover, in speaking with Ms. Nichols, she wants to provide an opportunity to the community to use the space to start small businesses. These uses will be low intensity uses that should not generate noise or traffic impacts greater than those already experienced by the surrounding neighborhood, and if the site is managed well, this concept could benefit the community.

Ms. Nichols will operate her charitable foundation from the site, and therefore, she will be available to actively monitor the other uses for any potential issues.

- (e) *Reestablishment of the use may be permitted for a trial period to determine if impacts are mitigated to the extent anticipated.*

Since there have not been any major issues with the commercial use of the site in the past, staff does not believe that a trial period is necessary.

Public Input

Staff has taken the following actions to notify the public about this public hearing:

- December 31: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- December 31: Posted public hearing signs on subject property.
- January 1: Advertised the Zoning Board of Appeals public hearing in *The Herald*.

- Information about this request was posted to the City's website

Staff heard from one neighbor who voiced concerns about the use, but they felt that there has never been a successful business there and likely won't be in the future. They asked to remain anonymous.

Staff Recommendation

Staff recommends approval of the request to establish a mixed-use space that will house retail, office and personal services uses based on the above analysis, particularly noting the following:

- The site was developed as a commercial site.
- The site has operated as commercial site without issue for many years
- The applicant will be on-site regularly and can monitor any potential issues with the other users.

Attachments

- Application
- Floor Plan
- Calls for Service email
- Zoning map

Staff Contact:

Melody Kearse

803-329-7088

melody.kearse@cityofrockhill.com

**SPECIAL EXCEPTION APPLICATION FOR RE-ESTABLISHING
A NON-CONFORMING USE IN A RESIDENTIAL ZONING DISTRICT**

Plan Tracking # 2020291 Date Received: 12/17/20 Case # Z- 2020-02

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

PROPERTY INFORMATION

Street address of subject property: 810 CAROLINA AVE, Rock Hill, SC 29730

Tax parcel number of subject property: 600-02-03-015

Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes No

If yes, please describe the requirements: demands in report by city

APPLICANT/PROPERTY OWNER INFORMATION

Applicant's name	Mailing address	Phone number	Email address
AKisha C. Nichols	P.O. Box 10174 Rock Hill, SC 29731	803-412-9791	achildsheart@ycho.com

Are you the owner of the subject property? Yes No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) _____

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature: A.C. Nichols Date: 12-17-20

If you are not the owner of the subject property, the *property owner* must complete this box.

Name of property owner: _____

If property owner is an organization/corporation, name of person authorized to represent its property interests: _____

I certify that the person listed in the person listed above has my permission to represent this property in this application.

Signature: _____ Date: _____

Preferred phone number: _____ Email address: _____

Mailing address: _____

INFORMATION ABOUT REQUEST

What is the type of use for which you are requesting a special exception?

Special exception standards

Please explain to the Board why you believe your request meets these standards. These are the standards the Board will consider when deciding whether to approve your request, although it may find that not all are applicable to your request.

1. Is the proposed use allowed by right, conditional use or special exception in the Neighborhood Office (NO) or Neighborhood Commercial (NC) zoning district? If so, please demonstrate how you plan to meet the use-specific standards for the use:

Operating Only hours Allowed by city
providing services for the community and
allowing starter business to occupy office
space. And a resale shop for the nonprofit
program. To make into a community center.

2. Is the existing structure specialized to a non-conforming use, such that conversion to a conforming use would not be economically feasible?

Yes

3. Would the non-conforming use be functionally expanded in any way?

NO

4. Is there a demonstrated history of compatibility with the surrounding neighborhood including, but not limited to, a lack of documented complaints, calls for police service, or other operational concerns such as traffic, parking or other similar impacts?

NO

5. If the Board so chooses, re-establishment may be permitted for a possible trial period to determine if impacts are mitigated to the maximum extent possible; is the applicant agreeable to such trial period?

NO

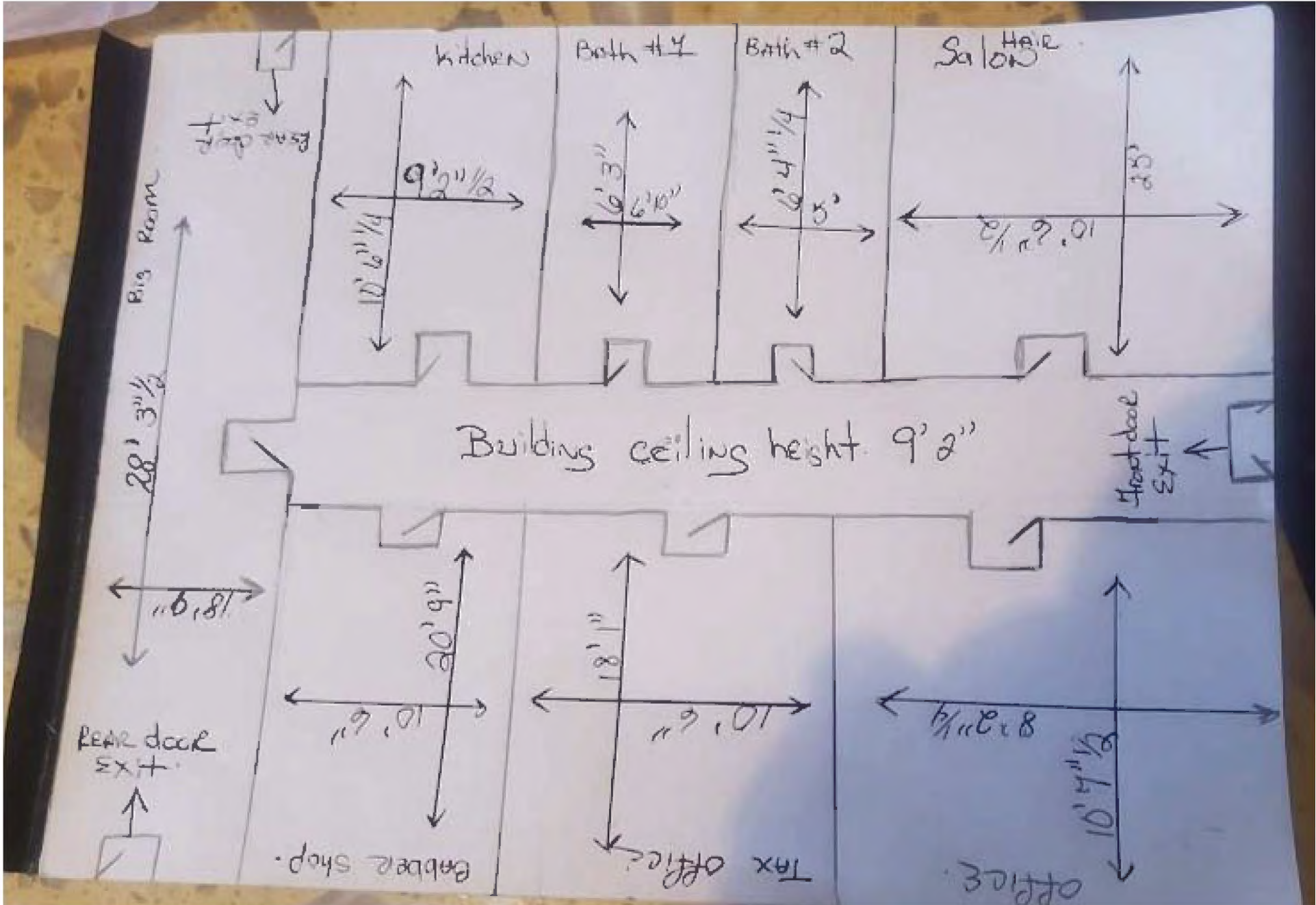
Exhibits

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

Site plan

Photos of property that is the subject of the request

Will have before 1-19-2021



Kearse, Melody

From: Williams, Damien
Sent: Friday, January 8, 2021 9:25 AM
To: Kearse, Melody
Subject: RE: 810 Carolina Ave - Calls for Service

Follow Up Flag: Follow up
Flag Status: Completed

Good Morning Melody! I just went back through our entire system of info that we still have calls for service data on, because I wasn't 100% sure what years they may have been a daycare. Doesn't seem like too many issues over the years.

1998	4
SUSP : Suspicious Person	1
NOIS : Noise Complaint	1
ASTM : Assist Motorist	1
FIRE : Fire	1
2000	3
DOC : Disorderly Conduct	2
DRUG : Drug Investigation	1
2001	5
TRES : Trespassing	1
ABDV : Abandoned Vehicle	1
WARR : Warrant Service Attempt	1
DOM : Domestic	1
HANG : 911 Hangup	1
2002	4
SUSP : Suspicious Person	1
PROC : Property Check	1
BURGB : Burglary - Business	1
LARC : Larceny	1
2003	2
OPEN : Open Door	2
2004	2
INVEST : Miscellaneous Investigation	1
HANG : 911 Hangup	1
2005	4
DRUG : Drug Investigation	2
SUSP : Suspicious Person	1
PROC : Property Check	1
2006	7
ALRM : Alarm	2

SUSP : Suspicious Person	1
OPEN : Open Door	1
LARC : Larceny	1
VAND : Vandalism	1
MISS : Missing Person	1
2007	1
LARC : Larceny	1
2008	15
ALRM : Alarm	6
BURGV : Burglary to Vehicle	2
FOLL : Follow-Up	2
TRES : Trespassing	1
ASSA : Assault	1
WANT : Wanted Person	1
HANG : 911 Hangup	1
HARS : Harassment	1
2009	5
ALRM : Alarm	4
MVC : Motor Vehicle Collision	1
2010	6
INVEST : Miscellaneous Investigation	1
SUSV : Suspicious Vehicle	1
MVC : Motor Vehicle Collision	1
FOLL : Follow-Up	1
ALRM : Alarm	1
HARS : Harassment	1
2011	1
ALRM : Alarm	1
2012	4
LARC : Larceny	1
INVEST : Miscellaneous Investigation	1
FOLL : Follow-Up	1
HANG : 911 Hangup	1
2013	5
ALRM : Alarm	2
LARC : Larceny	1
PROC : Property Check	1
ANIM : Animal Complaint	1
2014	6
ALRM : Alarm	2
JUV : Juvenile Complaint	1
LARC : Larceny	1
HANG : 911 Hangup	1
HARS : Harassment	1

2015	4
ALRM : Alarm	3
DOC : Disorderly Conduct	1
2016	8
MVC : Motor Vehicle Collision	2
ALRM : Alarm	2
TRES : Trespassing	1
ESCT : Escort	1
INVEST : Miscellaneous Investigation	1
FOLL : Follow-Up	1
2017	9
ALRM : Alarm	5
JUV : Juvenile Complaint	1
LARC : Larceny	1
ASSA : Assault	1
FOLL : Follow-Up	1
2018	3
ALRM : Alarm	2
HARS : Harassment	1
Grand Total	98

Damien Williams

Research Data Analyst
Police Department
City of Rock Hill
P.O. Box 11706
120 East Black Street (29730)
Rock Hill, South Carolina 29731-1706
o: 803-326-3753

Damien.Williams@cityofrockhill.com
www.cityofrockhill.com

From: Kearse, Melody <Melody.Kearse@cityofrockhill.com>
Sent: Friday, January 8, 2021 8:42 AM
To: Williams, Damien <Damien.Williams@cityofrockhill.com>
Subject: 810 Carolina Ave - Calls for Service

Damien,

Has the police had any major issues with the 810 Carolina Ave? It was a day care for most of its existence so I would think not, but wanted to double check.

Thanks,

Melody Kearse
Zoning Coordinator



Z-2021-02

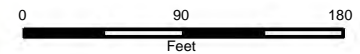
 Subject Property

Zoning Districts

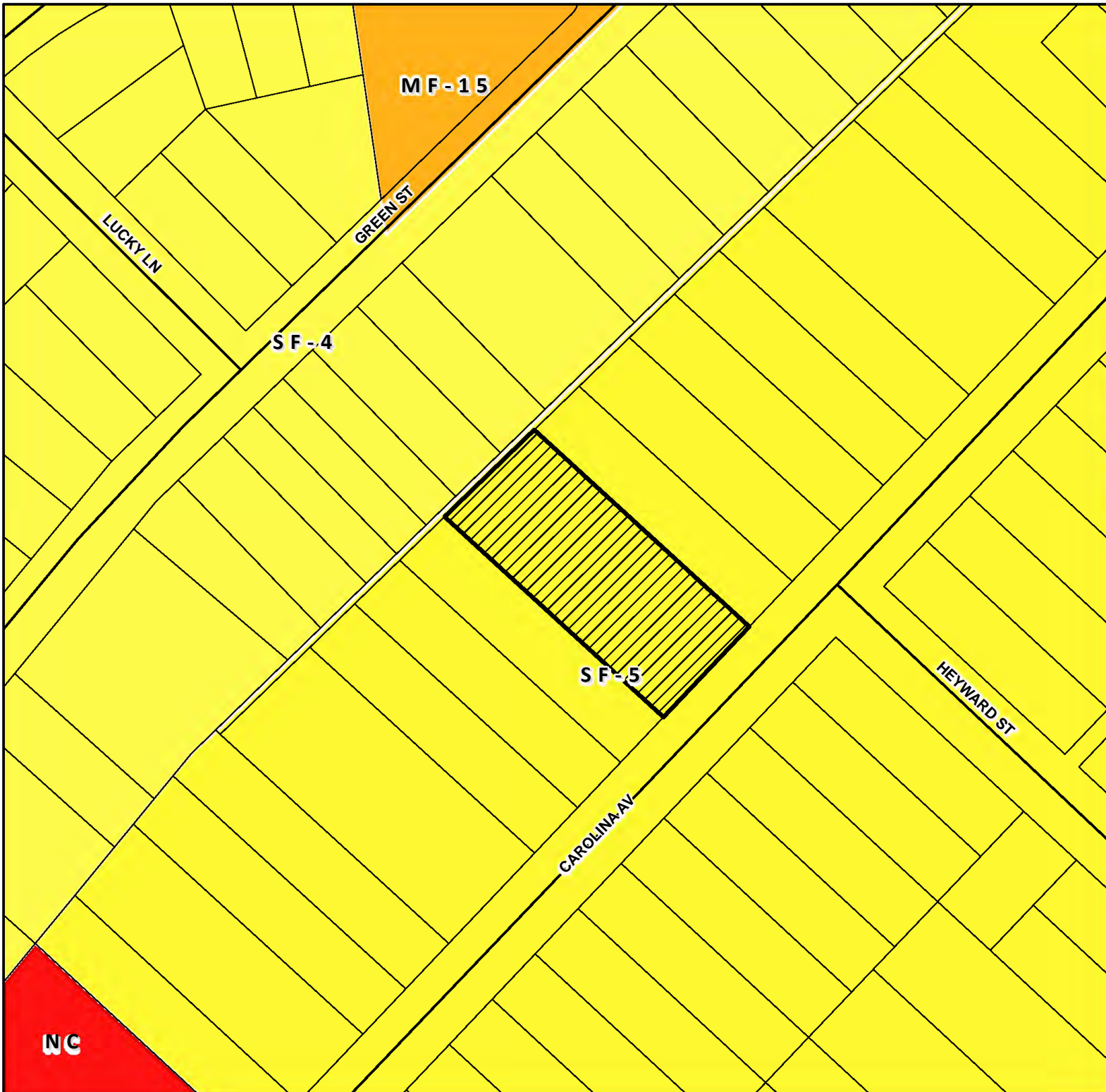
-  Multi-Family 15 (MF-15)
-  Neighborhood Commercial (NC)
-  Single-Family 4 (SF-4)
-  Single-Family 5 (SF-5)

Zoning Data

Current Zoning
SF-5



Planning & Development
Department
City of Rock Hill
01/19/21



Z-2021-03

Requests: Special exception to establish a trade school use

Address: 2260 Cherry Road

Zoning District: General Commercial (GC)

Applicant: Joe Delaney





Request: Special exception to establish a vocational/trade school use

Address: 2260 Cherry Rd.

Tax Map No.: 634-01-07-038

Zoning District: General Commercial (GC)

Applicant: Joe Delaney
 PO BOX 3746
 Greenville, SC 29608

Property Owner: Progress Land Development, LLC
 Gene Crook
 2616 Hwy 153
 Piedmont, SC 29673

Background

The applicant, Joe Delaney, is proposing to use the existing building located at 2260 Cherry Rd. for a welding trade school. The now-vacant building was previously used as a furniture store. Trade school uses are only allowed by special exception in the General Commercial (GC) zoning district.

Primary use table excerpt <ul style="list-style-type: none"> • Blank cell = prohibited • S = Special exception • C = Conditional use • P = Permitted use 	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="8">RESIDENTIAL</th> <th colspan="8">BUSINESS</th> </tr> </thead> <tbody> <tr> <td>SF-2</td><td>SF-3</td><td>SF-4</td><td>SF-5</td><td>SF-8</td><td>SF-A</td><td>MFR</td><td>MF-15</td><td>MX</td><td>NO</td><td>NC</td><td>OI</td><td>LC</td><td>GC</td><td>CC</td><td>CI</td><td>DTWN</td><td>MUC</td><td>IB</td><td>IG</td><td>IH</td> </tr> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>P</td><td>S</td><td>S</td><td>P</td><td>P</td><td>P</td><td>P</td><td>P</td><td>P</td><td>S</td> </tr> </tbody> </table>	RESIDENTIAL								BUSINESS								SF-2	SF-3	SF-4	SF-5	SF-8	SF-A	MFR	MF-15	MX	NO	NC	OI	LC	GC	CC	CI	DTWN	MUC	IB	IG	IH												P	S	S	P	P	P	P	P	P	S
	RESIDENTIAL								BUSINESS																																																		
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Definition of proposed use	<p>Vocational/trade school: An instructional institution that provides on-site training of vocational or trade skills in specialized areas of study.</p>																																																										

The trade school expects to have approximately 60 students plus staff.

The existing building is approximately 25,000 square feet and would be completely renovated as part of the project. The site is currently nonconforming in terms of meeting current parking, lighting, and landscaping standards. Given the extensive work being done to the building, site improvements are required. The proposed site plan shows a revised parking lot layout, which includes landscaping.

Site Description

The property is located along Cherry Road, adjacent to the Publix shopping center. Access to the site is through the shared driveway entrance for the shopping center.

Description of Intent for General Commercial (GC) Zoning District

Although originally established to apply to lands being used commercially that did not fit into one of the other commercial districts, it is now the intent of this ordinance that the GC district be phased out over time by not allowing new rezonings to the district.

Analysis of Request for Special Exception

Staff will base its recommendation on an analysis of the below standards, and the Zoning Board of Appeals may approve a special exception use only upon a finding that the applicant has demonstrated that the applicable standards listed below are met. The Board may find that not all of these standards are applicable to every request for a special exception use.

1. ***Complies with Use-Specific Standards:*** *The proposed use complies with all use-specific standards. In this case, the applicable use-specific standards are shown below in italics, followed by staff's assessment of each standard in non-italicized font.*

Trade school uses have no use-specific standards.

2. ***Compatibility:*** *The proposed use is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands.*

The trade school use would be compatible with the surrounding properties, many of which are also high-volume uses with delivery and loading areas.

3. ***Design Minimizes Adverse Impact:*** *The design of the proposed use minimizes adverse effects, including visual impacts on adjacent lands; furthermore, the proposed use avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.*

The trade school's activities, including welding stations for hands on learning, will primarily be inside the building, with a small loading area at the rear of the building. Welding activities should not create a nuisance as it is not noisy, and will have proper ventilation as required by building and fire codes.

Renovation of the existing building would enhance the look of the older building, and the proposed site plan shows improvements to the site in areas that are currently nonconforming, including landscaping and lighting. These improvements should result in a positive change for the area.

4. ***Design Minimizes Environmental Impact:*** *The proposed use minimizes environmental impacts and does not cause significant deterioration of water and air resources, significant wildlife habitat, scenic resources, and other natural resources.*

The site is fully developed. Any additional impacts will be evaluated during civil plan review. The additional landscaping that is planned would reduce the amount of impervious surface on the site.

- 5. *Roads:*** *There is adequate road capacity available to serve the proposed use, and the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.*

The property is located adjacent to Cherry Road, which has capacity to serve the proposed use without additional upgrades.

- 6. *Not Injure Neighboring Land or Property Values:*** *The proposed use will not substantially and permanently injure the use of neighboring land for those uses that are permitted in the zoning district or reduce property values in a demonstrative manner.*

The proposed use would primarily be located within the proposed building, with a small loading area to the rear. The use is considered low-impact and it should not result in harm to the surrounding area. Staff has not heard from anyone with concerns about the proposed use.

- 7. *Site Plan:*** *A site plan has been prepared that demonstrates how the proposed use complies with the other standards of this subsection.*

A site plan has been submitted and is attached to this report.

- 8. *Complies with All Other Relevant Laws and Ordinances:*** *The proposed use complies with all other relevant City laws and ordinances, state and federal laws, and regulations.*

The applicant agrees to comply with all other laws and ordinances.

Public Input

Staff has taken the following actions to notify the public about this public hearing:

- December 31: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- December 31: Posted public hearing signs on subject property.
- January 1: Advertised the Zoning Board of Appeals public hearing in *The Herald*.
- Information about this request was posted to the City's website

Staff has not received any feedback from adjacent property owners.

Staff Recommendation

Staff recommends approval of the special exception because staff believes that it meets the standards for granting the special exception, specifically noting the following:

- The use is not expected to have any adverse impacts, and staff has not heard from anyone with concerns about it.
- The site plan shows improvements to the site, which will correct existing site nonconformities and enhance the appearance of the property. Additionally, building renovations should enhance the look of the property as well, which would have a positive impact on the area.

Attachments

- Application
- Site plan
- Zoning map

Staff Contact:

Dennis Fields, Planner II

803-329-5687

Dennis.Fields@cityofrockhill.com

SPECIAL EXCEPTION APPLICATION

Plan Tracking # 20202256 Date Received: 12/18/2020 Case # Z-2021-03

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

PROPERTY INFORMATION

Street address of subject property: 2260 CHERRY ROAD, Rock Hill, SC 29732

Tax parcel number of subject property: 6 3 4 - 0 1 - 0 7 - 0 3 8

Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes No

If yes, please describe the requirements: _____

APPLICANT/PROPERTY OWNER INFORMATION

Applicant's name	Mailing address	Phone number	Email address
JOE DELANEY	PO BOX 3746 GREENVILLE SC 29608	864-900-2262	joe@keelconcepts.com

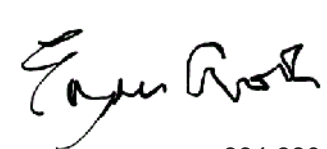
Are you the owner of the subject property? Yes No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) ARCHITECT

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature:  Date: 12-16-2020

If you are not the owner of the subject property, the *property owner* must complete this box.

Name of property owner: <u>PROGRESS LAND DEVELOPMENT LLC</u>	
If property owner is an organization/corporation, name of person authorized to represent its property interests: <u>GENE CROOK</u>	
I certify that the person listed above has my permission to represent this property in this application	
Signature: 	Date: <u>12-16-2020</u>
Preferred phone number: <u>864-380-6530</u>	Email address: <u>gene.crook@arclabs.edu</u>
Mailing address: <u>2615 HWY 153, PIEDMONT SC 29673</u>	

INFORMATION ABOUT REQUEST

What is the type of use for which you are requesting a special exception?

WELDING TRADE SCHOOL

Special exception standards

Please explain to the Board why you believe your request meets these standards. These are the standards the Board will consider when deciding whether to approve your request, although it may find that not all are applicable to your request.

1. If your proposed use has any use-specific standards, how do you propose to meet them? (Staff can help you determine whether your use has any use-specific standards.)

No use specific standards apply.

2. How is the proposed use appropriate for its location and compatible with surrounding land and uses?

The surrounding land is a mix of building types ranging from a Publix supermarket to an Enterprise car rental. Most of the businesses are operating out of recycled buildings that have changed use and ownership over the years much in the same way this project proposes to revitalize an old unoccupied grocery store and convert it into a trade school.

3. What steps are you taking to minimize any adverse impacts on surrounding properties?

Currently the building and site is an eyesore in regards to the surrounding properties.

The work proposed in this renovation would add trees and landscape islands to the parking lot, alter the appearance of the building front facade to bring it up to date and give purpose to a abandoned site. School activities will occur inside or in the rear of the building which will not have an impact on the surrounding properties.

4. How would the use impact the environment (water, natural resources, wildlife habitat, etc.)?

The proposed work should have a positive impact on the natural resources within the site by bringing additional native landscaping and permeable surfaces to the site.

5. How would the use impact traffic issues (road capacity, safety of those coming into or leaving the site, etc.)?

The site layout will use the existing shared drive in and out of the parking lot therefore impacts to the existing traffic flow will be minimal.

6. How would the use impact the ability of neighboring land owners to use their properties in a way that is allowed under the Zoning Ordinance, and their property values?

The impact on the neighboring land owners should be positive by bringing students to the site that will also shop at the neighboring grocery stores, eat at the restaurants and use the banks and automotive repair shops. Typically after dead properties are resurrected and utilized the surrounding property increases in value.

Exhibits


Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of property that is the subject of the request






Z-2021-03

 Subject Property

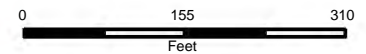
Zoning Districts

 General Commercial (GC)

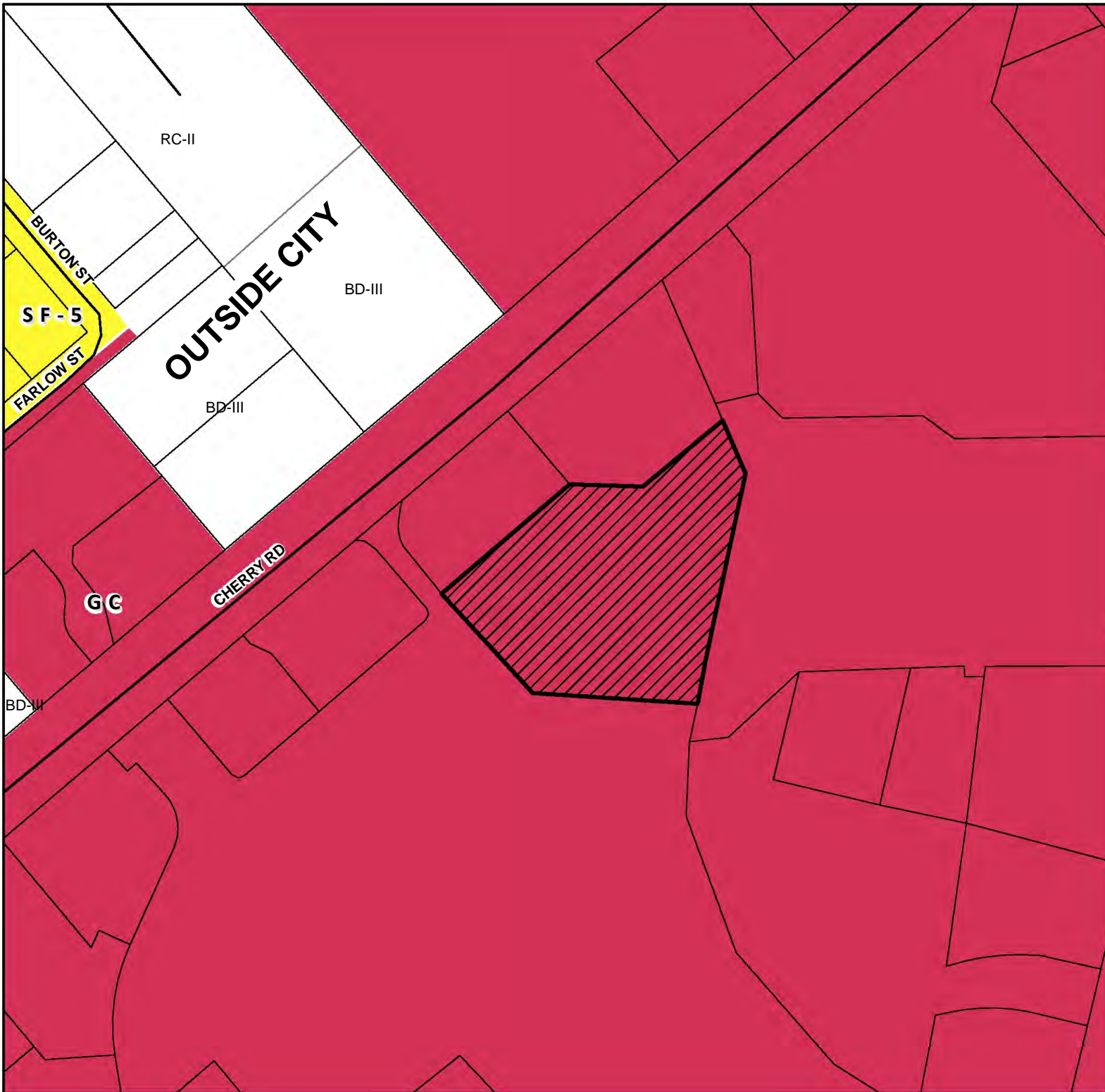
 Single-Family 5 (SF-5)

Zoning Data

**Current Zoning
GC**



Planning & Development
Department
City of Rock Hill
01/19/21



Z-2021-04

Requests: Special exception to establish a painting/body shop use and reduction to the required separation from residential uses

Address: 4850 Old York Road

Zoning District: Limited Commercial (LC)

Applicant: Kyle M. Hoyt





Request: Special exception to establish painting/body shop use and a reduction in the required separation from residential property.

Address: 4850 Old York Rd.

Tax Map No.: 542-07-01-088

Zoning District: Limited Commercial (LC)

Applicant: Kyle M Hoyt
 PO Box 1470
 Ladson, SC 29456

Property Owner: CMBH Properties, LLC
 4850 Old York Road
 Rock Hill, SC 29732

Background

The applicant, Kyle Hoyt, is requesting a special exception to establish an automobile painting and body shop use at 4850 Old York Rd. The property is zoned Limited Commercial (LC), which allows automobile painting and body shop uses only through special exception approval by the Zoning Board of Appeals. The business would utilize the existing building and would construct a 5,063-square-foot building addition to the rear.

The applicant is also requesting a reduction to the required separation. Automobile painting and body shop uses must be located at least 250 feet from all existing residential uses and any undeveloped residentially zoned properties. The parcel is currently separated by 100 feet from the closest residential property. The Norfolk-Southern Railroad right-of way separates the subject property from the existing neighborhood.

Primary use table excerpt <ul style="list-style-type: none"> • Blank cell = prohibited • S = Special exception • C = Conditional use • P = Permitted use 	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="8">RESIDENTIAL</th> <th colspan="8">BUSINESS</th> </tr> </thead> <tbody> <tr> <td style="background-color: yellow;">SF-2</td> <td style="background-color: yellow;">SF-3</td> <td style="background-color: yellow;">SF-4</td> <td style="background-color: yellow;">SF-5</td> <td style="background-color: orange;">SF-8</td> <td style="background-color: orange;">SF-A</td> <td style="background-color: orange;">MFR</td> <td style="background-color: orange;">MF-15</td> <td style="background-color: grey;">MX</td> <td style="background-color: purple;">NO</td> <td style="background-color: red;">NC</td> <td style="background-color: blue;">OI</td> <td style="background-color: pink;">LC</td> <td style="background-color: red;">GC</td> <td style="background-color: red;">CC</td> <td style="background-color: white;">CI</td> <td style="background-color: brown;">DTWN</td> <td style="background-color: lightblue;">MUC</td> <td style="background-color: cyan;">IB</td> <td style="background-color: cyan;">IG</td> <td style="background-color: blue;">IH</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td style="background-color: yellow;">S</td> <td style="background-color: red;">C</td> <td style="background-color: red;">C</td> <td style="background-color: white;">C</td> <td></td> <td></td> <td></td> <td style="background-color: cyan;">C</td> <td style="background-color: blue;">C</td> </tr> </tbody> </table>	RESIDENTIAL								BUSINESS								SF-2	SF-3	SF-4	SF-5	SF-8	SF-A	MFR	MF-15	MX	NO	NC	OI	LC	GC	CC	CI	DTWN	MUC	IB	IG	IH													S	C	C	C				C	C
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Definition of proposed use	Automobile painting/body shop: Repair of automobiles or trailers, including bodywork, framework, welding, and major painting service.																																																										

Site Description

The site is adjacent to automobile repair (Express Oil and Tire Engineers) to the east, shed sales business to the west, variety of commercial uses to the south (Walmart development), and single-family homes to the north separated by a 100-foot railroad right-

of-way for Norfolk Southern. The automobile repair use recently received a special exception from the ZBA in September of 2019.

Access to the property would be through a full-access drive on Old York Road, directly across from the Walmart site entrance, and through a shared common access drive to the rear. The rear access drive is a required cross-access connection to allow traffic in the area to access the signalized intersections at Pennington Road and Secession Way. The adjacent development to the east has already constructed portions of the access drive from Pennington Road up to the subject property line (see the attached access road plan).

In addition, the site plan would create a shared connection at the front of the site to the Express Oil and Tire Engineers site to the east (currently under construction), and the shed sales parcel to the west. This would serve as the only full access connection within this portion of Old York Road, helping to eliminate multiple driveway connections.

Description of Intent for Limited Commercial (LC) Zoning District

The LC district is established as a mid-level intensity commercial district that allows a wider range of non-residential uses at increasing intensities than the NC district. The uses allowed in this district include a wide range of general retail, business, and service uses, as well as professional and business offices as allowed in the NC district. Uses in this district are intended to serve groups of neighborhoods instead of individual neighborhoods.

Analysis of Request for Special Exception

Staff will base its recommendation on an analysis of the below standards, and the Zoning Board of Appeals may approve a special exception use only upon a finding that the applicant has demonstrated that the applicable standards listed below are met. The Board may find that not all of these standards are applicable to every request for a special exception use.

1. *Complies with Use-Specific Standards:* *The proposed use complies with all use-specific standards.*

A. *Enclosed Building:* *Automobile repair uses must repair all vehicles within an enclosed building.*

All work would be completed in the proposed building.

B. *Outdoor Storage Area:* *Automobile body shop uses must provide a temporary vehicle storage area where any vehicle kept overnight must be stored. This area can be any size, provided that it is not located within required setback or land-use buffer areas. A screen fence at least 6 feet tall along with perimeter landscaping is required around all sides visible from public view according to the fencing standards of Chapter 5: Land Use: Accessory and Temporary Uses and the landscape screening standards of Chapter 8: Development Standards. The height of stored materials and equipment must not exceed the height of the screening*

fence or wall such that they would be visible from public areas of the subject property or adjacent sites, or the public road.

The applicant is proposing an exterior storage area on the north and west portions of the site to screen any vehicles that are kept overnight. The screening would meet the requirements for fencing and landscaping.

- C. Time Limitation:** *Automobile body shop uses cannot store or park any vehicle for more than 30 consecutive days. However, in cases where a vehicle has been abandoned by its lawful owner prior to or during the repair process, the vehicle may remain on site for more than 30 days, provided the owner or operator of the establishment can demonstrate that steps have been taken to obtain legal title to the vehicle, and that the vehicle is removed from the site no later than three days after the legal process is complete.*

The applicant agrees with the time limitations set forth above.

- D. On-Site Circulation:** *Automobile body shop uses must be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.*

The site plan shows how the use will have adequate parking, stacking and circulation.

- E. No Junk Vehicles:** *Automobile body shop uses cannot park or store any vehicle as a source of parts, or that is inoperable, even within an enclosed storage area.*

The applicant agrees to not store vehicles for parts or that are inoperable.

- F. No Vehicles for Sale or Lease:** *Automobile body shop uses cannot park or store any vehicle for the purpose of sale or lease/rent.*

The applicant will not have any vehicles for sale or lease, although vehicle rental is allowed as an accessory use to auto painting and body shop locations.

- G. Test Drives:** *Automobile body shop uses cannot test drive vehicles on residential streets.*

The applicant agrees not to test drive vehicles on residential streets.

- H. Public Address Systems:** *Automobile body shop uses cannot have an outdoor speaker or public address system that is audible off-site.*

No public address system is proposed.

- I. Trash Storage:** *Automobile body shop uses must provide adequate trash storage on site. For example, tires or oil drums must be kept in a four-sided enclosure (not necessarily with a roof).*

A trash enclosure is shown on the site plan, and staff will ensure that any other trash storage areas are within the building or an appropriate enclosure during civil plan and building permit review.

- 2. *Compatibility:*** *The proposed use is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zoning district(s) of surrounding lands.*

Old York Road is automobile-dominated part of the City, with one of the highest traffic volumes in York County. Commercial uses exist adjacent to this use and in the surrounding area. Additionally, the Zoning Board of Appeals recently approved a special exception for an automobile repair use on the adjacent property.

- 3. *Design Minimizes Adverse Impact:*** *The design of the proposed use minimizes adverse effects, including visual impacts on adjacent lands; furthermore, the proposed use avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.*

Surrounding businesses include automobile repair, a business that sells sheds (outdoor retail sales), a drive-through restaurant use, and various commercial across Old York Road. Given the proposed plan layout, proposed use should not have adverse impacts on surrounding properties.

- 4. *Design Minimizes Environmental Impact:*** *The proposed use minimizes environmental impacts and does not cause significant deterioration of water and air resources, significant wildlife habitat, scenic resources, and other natural resources.*

Since this would be a major redevelopment of the site, all improvements would need to meet current environmental standards. This would be evaluated during the plan review process.

- 5. *Roads:*** *There is adequate road capacity available to serve the proposed use, and the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.*

The property is located along Old York Road, which would support traffic from this type of use. The plan would remove two existing nonconforming entrance locations, and would combine those access points to line up with the Walmart entrance across Old York Road, which would be an improvement to the area. The South Carolina Department of Transportation will require permits for access and work within the road right-of-way.

- 6. *Not Injure Neighboring Land or Property Values:*** *The proposed use will not substantially and permanently injure the use of neighboring land for those uses that are permitted in the zoning district, or reduce property values in a demonstrative manner.*

The proposed use is not anticipated to reduce property values. A wide variety of commercial uses exist in the area, and more are proposed to be developed.

The site plan shows the access drive and potential area for a stormwater pond to the rear, which pushes development away from the residential properties.

In addition, the plan shows appropriate screening for the storage areas of the site.

- 7. *Site Plan:*** *A site plan has been prepared that demonstrates how the proposed use complies with the other standards of this subsection.*

A site plan has been submitted and is attached to this report.

- 8. *Complies with All Other Relevant Laws and Ordinances:*** *The proposed use complies with all other relevant City laws and ordinances, state and federal laws, and regulations.*

The applicant agrees to conform to all other relevant laws and ordinances.

Reduction in Separation Requirements

After the separation requirement has been determined, a use may receive a reduction in the separation requirements down to any number, including zero, if the approving authority for the particular use determines that the following two standards are met:

1. *The uses that necessitate the separation would experience no greater adverse impacts from the proposed use than those that are generally experienced in the area from permitted uses in the district. For this standard, the impacts measured may include but are not limited to noise, lighting, and traffic.*

Although the use is requesting a reduction in the required 250-foot separation from residential uses, the proposed site layout provides some additional relief beyond the existing 100-foot railroad right-of-way. With the required access drive, and potential stormwater pond areas that would be constructed near the rear of the site, the proposed building addition would be approximately 230 feet at the closest point from the closest residential property line (155 Silver Leaf Cir.), and that property would be more than 160 feet away from the screened outdoor storage area.

Given that all work must be completed inside the building, and that a majority of the building would be farther than 250 feet from the residential properties, this use should not create greater impacts than those generally experienced by neighboring uses.

2. *Any impacts of the proposed use can be mitigated through buffering, screening, or other mechanisms that are made a part of the site plan for the property.*

The site plan shows the access drive and potential area for a stormwater pond to the rear, which pushes development away from the residential properties.

In addition, the plan shows appropriate screening for the storage areas of the site.

Public Input

Staff has taken the following actions to notify the public about this public hearing:

- December 31: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- December 31: Posted public hearing signs on subject property.
- January 1: Advertised the Zoning Board of Appeals public hearing in *The Herald*.
- Information about this request was posted to the City's website

Staff had one email from a neighboring property owner with concerns about increased noise from the body shop, and potential air and water pollution from chemicals/paint.

Staff Recommendation

Staff recommends approval of the special exception to allow the use, and to reduce the separation requirement because staff believes that it meets the standards for granting those requests, specifically noting the following:

- This is a commercial area with a variety of commercial uses existing and soon to be developed.
 - The site plan shows the access drive and potential area for a stormwater pond to the rear of the site, which would push the development away from the residential properties.
 - The outdoor storage area would meet all requirements for screening and landscaping.
 - Improvements to the existing site would improve access to Old York Road and internal access between properties.
-

Attachments

- Application
 - Site plan
 - Access Road Map
 - Zoning map
-

Staff Contact:

Dennis Fields, Planner II

803-329-5687

Dennis.Fields@cityofrockhill.com

SPECIAL EXCEPTION APPLICATION

Plan Tracking # 20202371 Date Received: 12/23/20 Case # Z- 2020-04

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

PROPERTY INFORMATION

Street address of subject property: 4850 Old York Road, Rock Hill, SC 29732

Tax parcel number of subject property: 5 4 2 0 7 0 1 0 8 8

Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes No

If yes, please describe the requirements: _____

APPLICANT/PROPERTY OWNER INFORMATION

Applicant's name	Mailing address	Phone number	Email address
Kyle M. Hoyt, P.E.	PO Box 1470 Ladson, SC 29456	843-408-3546	KHoyt@ HoytBerenyi.com

Are you the owner of the subject property? Yes No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) Civil Engineer hired by entity purchasing property

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

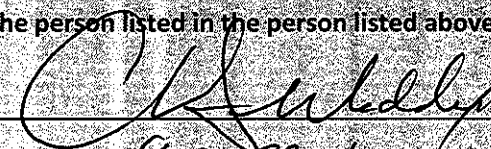
Signature: Kyle M. Hoyt  Digitally signed by Kyle M. Hoyt
DN: C=US, E=khoit@hoytberenyi.com, O="Hoyt + Berenyi LLC", CN=Kyle M. Hoyt
Date: 2020.12.23 10:03:52-05 Date : _____

If you are not the owner of the subject property, the *property owner* must complete this box.

Name of property owner: CMBH Properties

If property owner is an organization/corporation, name of person authorized to represent its property interests:
Chris Maddox

I certify that the person listed in the person listed above has my permission to represent this property in this application.

Signature:  Date: 12/23/2020

Preferred phone number: 803-230-6026 Email address: chrisc@rockhillglass.com

Mailing address: 4850 Old York Rd. Rock Hill 29732

INFORMATION ABOUT REQUEST

What is the type of use for which you are requesting a special exception?

Automobile Painting / Body Shop

Special exception standards

Please explain to the Board why you believe your request meets these standards. These are the standards the Board will consider when deciding whether to approve your request, although it may find that not all are applicable to your request.

1. If your proposed use has any use-specific standards, how do you propose to meet them? (Staff can help you determine whether your use has any use-specific standards.)

The use-specific standard states no auto body/paint shop can be within 250' of residential uses. We propose to meet this through separation reduction application and mitigation through existing and proposed screening and buffering.

2. How is the proposed use appropriate for its location and compatible with surrounding land and uses?

This property is within the immediate vicinity of a Planned Development and York County Zoning BD-III; which, also abut or lie in close proximity to the residential uses. Those neighboring properties and zonings allow for uses including gas stations, car washes, commercial transportation and distribution, as well as automobile and boat service repair. The proposed use for an Automobile Painting / Repair Shop is compatible with the surrounding uses.

3. What steps are you taking to minimize any adverse impacts on surrounding properties?

The steps we are taking to minimize and adverse impacts on surrounding properties include: Maintaining and supplementing landscape buffering, fence screening, appropriate site lighting design, maintaining existing traffic flow via driveway and implementing tasteful architectural elements that compliment the existing architectural elements and features in the area. The site naturally buffered from the residential uses by an existing 100' Railroad Right of Way. Buffering will also be increased via a planned perimeter road to be located at the northern end of the property per current planning requirements.

-
-
4. How would the use impact the environment (water, natural resources, wildlife habitat, etc.)?

The proposed use will meet or exceed all applicable environmental protection requirements including SCDHEC and local City of Rock Hill requirements. No adverse impacts are expected to occur as a result of this development.

5. How would the use impact traffic issues (road capacity, safety of those coming into or leaving the site, etc.)?

The proposed Automobile Painting / Repair Shop is a low volume traffic generator. Anticipated traffic volumes for the proposed facility, as reflected in the site plan, are well under SCDOT and City of Rock Hill thresholds which may warrant further study.

6. How would the use impact the ability of neighboring land owners to use their properties in a way that is allowed under the Zoning Ordinance, and their property values?

The proposed use will not negatively impact the ability of any neighboring property to utilize their land; or adversely affect neighboring property values. This is a redevelopment of an existing facility and will contribute to the surrounding properties and neighborhood.

Exhibits

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of property that is the subject of the request

SEPARATION REDUCTION APPLICATION

Plan Tracking # 20202371 Date Received: 12/23/20 Case # Z- 2020-04

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

PROPERTY INFORMATION

Street address of subject property: 4850 Old York Road, Rock Hill, SC

Tax parcel number of subject property: 5 4 2 - 0 7 - 0 1 - 0 8 8

Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes No

If yes, please describe the requirements: _____

APPLICANT/PROPERTY OWNER INFORMATION

Applicant's name	Mailing address	Phone number	Email address
Kyle M. Hoyt, P.E.	PO Box 1470 Ladson, SC 29456	843-408-3546	KHoyt@HoytBerenyi.com

Are you the owner of the subject property? Yes No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) Civil Engineer hired by entity purchasing property

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature: Kyle M. Hoyt Digitally signed by Kyle M. Hoyt
DN: C=US, E=khoyt@hoytberenyi.com, O="Hoyt + Berenyi LLC", CN=Kyle M. Hoyt
Date: 2020.12.23 09:09:52-0500 Date: _____

If you are not the owner of the subject property, the *property owner* must complete this box.

Name of property owner: CMBH Properties
 If property owner is an organization/corporation, name of person authorized to represent its property interests:
Chris Madloy
 I certify that the person listed in the person listed above has my permission to represent this property in this application.
 Signature: [Signature] Date: 12/23/2020
 Preferred phone number: 803-230-6020 Email address: chris@rockhillglass.com
 Mailing address: 4850 Old York Rd Rock Hill 2932

INFORMATION ABOUT REQUEST

What is your proposed use? Automobile Painting / Body Shop

Separation reduction standards

Please explain to the Board why you believe your request meets these standards. These are the standards the Board will consider when deciding whether to approve your request, although it may find that not all are applicable to your request.

1. Would your proposed use create any adverse impacts to those uses from which separation is required greater than the impacts generally experienced in the area from other permitted uses in the district? (consider noise, lighting, traffic, and any other relevant impacts)

Proposed use is for a Caliber Collision Auto Repair and Paint Shop. Repair is performed within an enclosed structure and does not emit any additional noise, smell, or other impact than similar uses approved within the area. This property is within the immediate vicinity of a Planned Development and York County Zoning BD-III; which, also abut or lie in close proximity to the residential uses. Those neighboring properties and zonings allow for uses of greater impact including gas stations, car washes, commercial transportation and distribution, as well as automobile and boat service repair. Caliber Collision will not result in any adverse impacts beyond those uses currently approved within the area.

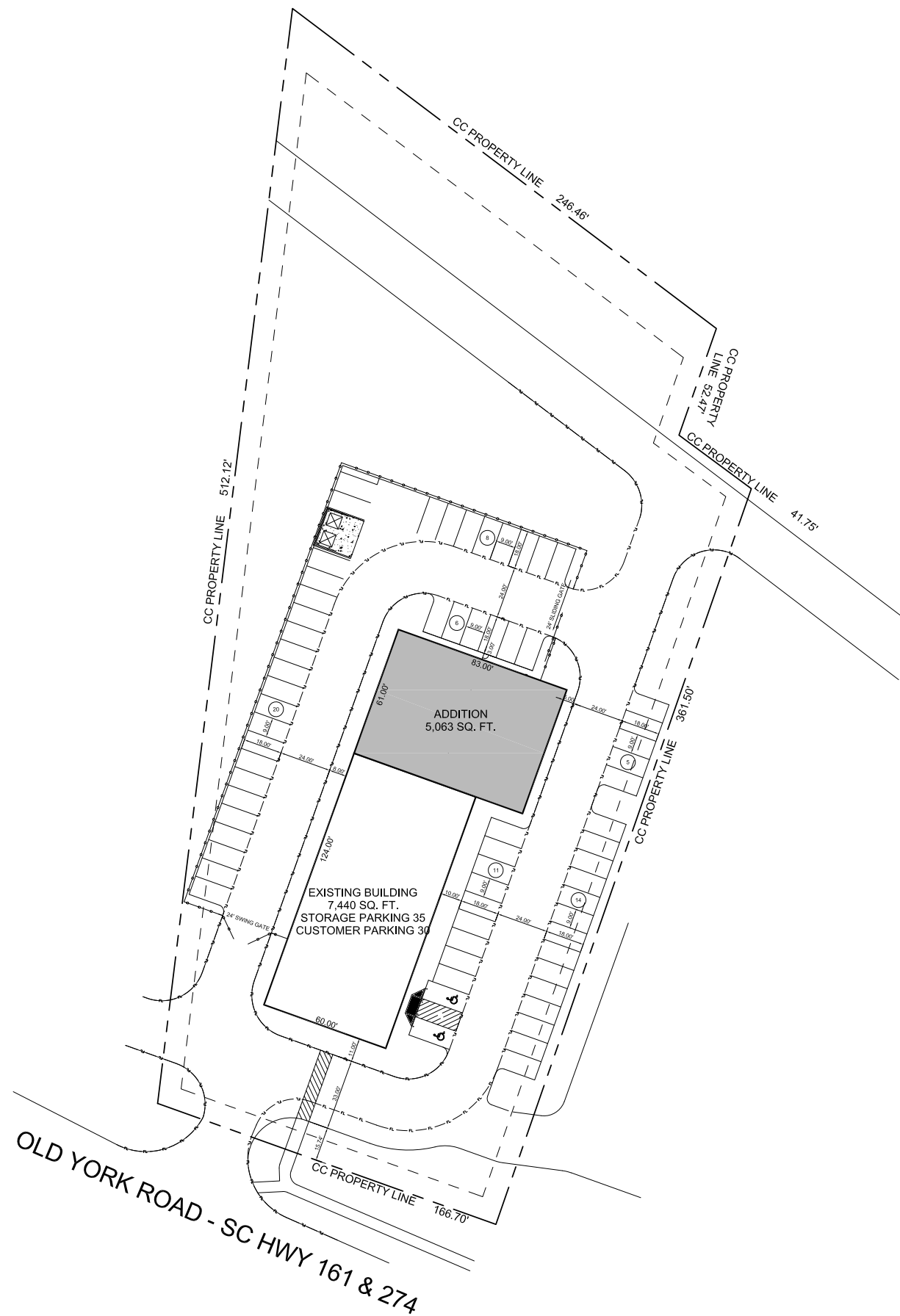
2. Can any impacts of the proposed use be mitigated through buffering, screening, or other mechanisms that are made a part of the site plan for the property?

The subject is naturally buffered via an existing 100' Railroad Right-of-Way that separates this parcel from any residential uses. That separation is further increased via the planning for a perimeter road located at the northern end of the property line as reflected in the proposed site plan. No impacts are anticipated with the proposed Caliber Collision facility; however, additional screening or buffer are certainly items that can be addressed through the site plan approval process.

Exhibits

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of property that is the subject of the request



OLD YORK ROAD - SC HWY 161 & 274

1 SITE PLAN
1" = 30'-0"

SITE DATA		
OFFICE SQ. FT.	=	SQ. FT. ±
SHOP FLOOR SQ. FT.	=	SQ. FT. ±
TOTAL BUILDING SQ. FT.	=	12,503 SQ. FT. ±
ACREAGE TOTAL	=	2.21
PARCEL CONTROL NUMBER: N/A		
FLOOD ZONE 'X' (OUTSIDE 500 YEAR PLAIN)		
SETBACKS:		
FRONT: 10'	REAR: 20'	SIDES: 10'
PROPOSED HEIGHT	=	TBD
MAX. HEIGHT	=	TBD
ZONING	=	TBD
USE	=	TBD
WATER	=	TBD
SEWER	=	TBD
PARKING CALCULATIONS		
OFFICE @ 1:XXX REQ'D	=	TBD
SHOP @ 1:XXX REQ'D	=	TBD
CITY TOTAL REQUIRED	=	TBD
TOTAL PARKING SHOWN	=	65
BICYCLE CALCULATIONS		
OFFICE @ 5% OF 10	=	
SHOP @ 5% OF 47	=	
CITY TOTAL REQUIRED	=	
TOTAL BICYCLE SHOWN	=	

Brian RUMSEY
 BRIAN RUMSEY
 1255 W. 15TH ST. SUITE-125
 PLANO, TEXAS 75075
 PH: 972.398.6644

McNEEL PROPERTIES

**CALIBER COLLISION
CONCEPTUAL SITE PLAN**

ROCK HILL, SC

DRAWN: CSM	PROJECT #: SCHEM B	DATE: 20.12.16
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Subject Property

MILLER POND RD

SECESSIONWAY

SILVERLEAF CIR

SILVER LN

OLD YORK RD

RAILWAY

PENNINGTON RD

Fields, Dennis

From: Allie Persinger <alliepersinger@icloud.com>
Sent: Thursday, January 7, 2021 8:12 AM
To: Fields, Dennis
Cc: Franklin ☺ Persinger
Subject: Re: Notice of Public Hearing Involving 4850 Old York Rd

To Whom It May Concern:

My name is Allie Persinger and I am writing on behalf of my husband, Franklin and I. We are homeowners in Silver Lakes and our property backs up to the aforementioned property address seeking exception of LC zoning.

We are writing to express our concerns with making an exception for a body shop in a residential area in particular with the subsequent increase in noise that this would bring. My husband and I work from home and plan to start a family soon and we are already vexed with the noise the construction in this area has brought; we would hate for this to become a daily, regular occurrence with the loud noises that are common with body shop machinery. In addition, and perhaps even greater, are the chemicals that would be utilized for automobile painting/body shop work being so close to a residential area, and potentially affecting air/water supply. What precautions would take place to ensure that these would not impede our quality of life?



Lastly, the building is already in place. I don't understand why the exception is being sought after the fact. This is the first time we have received any such notice.

We thank you for your attention and consideration.

Alejandra and Franklin Persinger

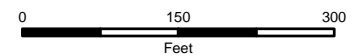
Sent from my iPhone

Z-2021-04

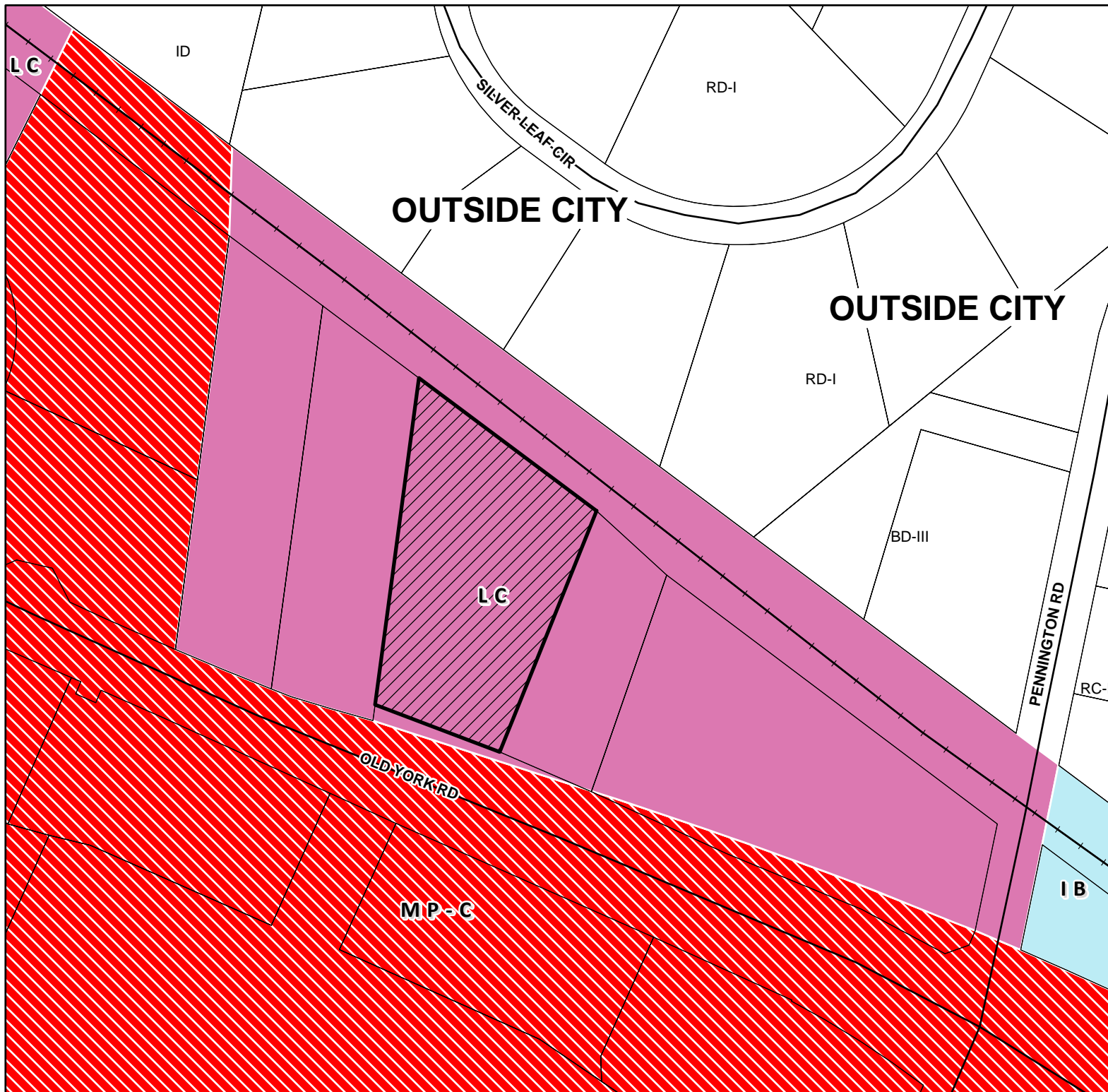
-  Subject Property
- Zoning Districts**
-  Industry Business (IB)
-  Limited Commercial (LC)
-  Master Planned Commercial (MP-C)

Zoning Data

Current Zoning
LC



Planning & Development
Department
City of Rock Hill
01/19/21



Z-2021-05

Requests: Appeal of the Director's decision to deny a short-term rental permit.

Address: 1687 Saybrook Ct.

Zoning District: Single-Family Residential-3 (SF-3)

Appellant: Ina Shtukar





Location:	1687 Saybrook Ct.
Request:	Appeal of Planning & Development Director's decision to deny a short-term rental permit
Tax Map Number:	537-08-01-015
Zoning District:	Single-Family Residential-3 (SF-3)
Property Owner/ Appellant:	Ina Shtukar 1687 Saybrook Ct. Rock Hill, SC 29732

BACKGROUND

On October 12, 2020, City Council adopted regulations related to short-term rentals. Short-term rentals are where a residential property is rented for short stays of less than 30 days. This practice has existed for decades in beach and other resort communities, and in recent years has become popular in other locations throughout the world, including in Rock Hill.

The full regulations are attached to this report. The key regulation relative to this appeal is a provision that involves an interpretation of covenants when a prospective short-term rental property is located within a neighborhood that has an active Homeowners Association (HOA). When that is the case, the regulations require staff to attempt to obtain from the HOA a statement regarding whether the HOA has interpreted its covenants to prohibit or allow the use. Staff does not have the authority to weigh in on whether it believes the HOA is interpreting the covenants correctly; instead, staff is required to simply follow the HOA interpretation. If the HOA states that the covenants allow short-term rentals, staff will continue reviewing the application and will grant a short-term rental permit if it meets all of the other standards for the use. Conversely, if the HOA states that the covenants prohibit short-term rentals, staff must deny the short-term rental permit.

In this case, the property in question, 1687 Saybrook Ct., is located within the Meadow Lakes II neighborhood. The prospective short-term rental host, Ina Shtukar, owner of the property, submitted an application for a short-term rental permit on November 20, 2020. The application included a statement that she had personally reviewed the restrictions, covenants and short-term rental ordinances and had determined that Meadow Lakes II HOA does not regulate short-term rentals. Because this assessment was made by the host instead of the HOA, staff reached out to the HOA for confirmation of that interpretation. Unfortunately, the HOA disagreed with the applicant's interpretation of the covenants, and they informed staff that the neighborhood covenants do not allow short-term rentals.

Staff then denied the short-term rental permit on December 9, 2020, and Ms. Shtukar has appealed that decision to the Zoning Board of Appeals.¹ Staff asks that the Zoning Board of Appeals affirm the Planning & Development Director's decision to refuse the short-term rental permit for this location per the short-term rental regulations adopted by City Council.

APPEALS PROCESS

Staff placed the required legal ad regarding the appeal in *The Herald* on January 1st.

Staff has provided Ms. Shtukar with copies of this staff report and the attachments that are included in your packets.

The full provisions of the Zoning Ordinance about the appeals process are included as an attachment. Specific provisions to note include the following (paraphrased):

- **Hearing of Appeal:** While both the City and the appellant may call witnesses on their behalf, members of the general public cannot otherwise appear and submit testimony. During the hearing, the appellant must state the grounds for appeal and must identify any materials or evidence from the record to support the appeal.
- **Decision of the Zoning Board of Appeals:** The Zoning Board of Appeals is charged solely with determining whether the decision of the Planning & Development Director is consistent with the provisions of the Zoning Ordinance that are in question. The Board does not function as a judge of whether the policies in question are or are not wise or beneficial. After the conclusion of the hearing, the Zoning Board of Appeals must affirm, partly affirm, modify, or reverse the decision based on whether it finds the decision to be consistent with the provisions of the Zoning Ordinance in question.

Description of Attachments

1. **Application and supporting documents provided by Ms. Shtukar, including her statement regarding the Meadows Lake II covenants.**
2. **Correspondence from Meadow Lakes II representatives:**
 - a. Email from Chad Brakefield stating that he had confirmed the use was not allowed. Mr. Brakefield is listed on Meadows Lake II website, <https://meadowlakesii.com/homeowners/>, as the contact for the architectural review committee, and he was the listed representative that the City's Housing and Neighborhood Services department had as their contact.

¹ The applicant is also operating the residence as an event venue for weddings, parties, and other events, which is not allowed in the zoning district of the property. Staff is pursuing code enforcement of that separate issue under the business license ordinance for operating a business without a business license. That issue is not before the Zoning Board of Appeals. Instead, appeals hearings related to violations of the business license ordinance go before the City Manager.

- b. Emails from Tim Sturgis, acting president of the Meadow Lakes II HOA, reiterating the stance of the HOA and reporting to staff the complaints received from some of Ms. Shtukar's neighbors.
 - c. Letter from Meadow Lakes II HOA attorney reiterating the HOA's stance regarding short-term rentals.
3. **“Not Approved” letter and related correspondence:** The letter that provided Ms. Shtukar with notice of denial of the short-term rental permit, and an email from her asking to appeal the decision.
4. **Ordinance Provisions:**
- a. **Short-term Rental Regulations:** Sections from both the municipal code and the Zoning Ordinance that pertain to the regulation of short-term rentals.
 - b. **Appeals Process:** Sections from the Zoning Ordinance regarding the appeals process.

Staff Contact:

Melody Kearse

Zoning Coordinator

803-329-7088

melody.kearse@cityofrockhill.com

Planning and Development Department - Permit Application Center

P.O. Box 11706 or 155 Johnston St., Rock Hill, SC 29731-1706

Ph: 803-329-5590

www.cityofrockhill.com

SHORT-TERM RENTAL PERMIT APPLICATION

Complete a separate application for each property that you would like to offer as a short-term rental. We prefer that you submit the application through email to Leah Youngblood at lyoungblood@cityofrockhill.com, although you also may mail it to the address above, c/o Leah Youngblood, or drop it off in the reception area at City Hall (address above).

If you apply on or before December 31, 2020, the application fee is \$200. You may mail a check, or we can accept payment by phone or online. The application will be reviewed by City staff. We expect to complete our review within 10 business days.

If you apply after December 31, 2020, you must complete this application as well as a special exception application. The total application fee is \$300. You may mail a check, or we can accept payment by phone or online. The request will go to the Zoning Board of Appeals (ZBA) for consideration. The ZBA will hold a public hearing about the request so that neighbors, Home Owners Association representatives, and other interested parties may give input into the decision. It generally takes about 30 days for a request to be placed onto the next ZBA agenda. More information about that process can be found on the special exception application.

If approved, the short-term rental permit will be valid for one year unless revoked. Additional information regarding the renewal and revocation process is located on the last page of this document.

PROPERTY INFORMATION

Street address of subject property: 1687 Saybrook Court, Rock Hill, SC 29732

Tax parcel number: _____ - _____ - _____ - _____ Number of bedrooms: 9

HOST INFORMATION

HOST CONTACT INFORMATION

Host's name: INA SHTUKAR, Esquire Phone number: 704-309-0992

Mailing address: 1687 Saybrook Court Email address: inashtukar@gmail.com

Host's Legal Business Name: n/a

DBA (Doing Business As) Name: _____

HOST OWNERSHIP INFORMATION

Are you the owner of the subject property? Yes No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant)

If you are not the owner of the subject property, the *property owner* must complete the information in the gray box.

Name of property owner: _____
If property owner is an organization/corporation, name of person authorized to represent its property interests: _____
Phone number: _____ Email address: _____
I certify that the person listed in the person listed above has my permission to use the property as a short-term rental.
Signature: _____ Date: _____

HOST RESIDENCY INFORMATION

Do you live on the property as your primary residence? Yes No

If not, you must do one of the following:

- 1. Live within 15 miles of the City limits of Rock Hill and be willing to accept phone calls at all times of the day at the above phone number to address any issues with the short-term rental. OR
- 2. Provide the name, mailing address, and telephone number of a designated responsible agent who lives within 15 miles of the City limits, who is willing to take phone calls at all times if needed to address issues with the short-term rental use, and who is authorized to accept service of process on behalf of the owner of said unit.

Which one of the above do you agree to do? #1 #2

If #2, your designated agent must complete the information in the gray box.

Name of designated agent: _____
Home address: _____
Phone number: _____ Email address: _____
I am willing to take phone calls at all times of the day if needed to address issues with the short-term rental use, and I am willing to accept service of process on behalf of the host of the short-term rental.
Signature: _____ Date: _____

What percent do you pay in property taxes? 4% 6% Not sure

If the property owner does not live in the structure, the property tax rate should be 6%. If we discover through our review that you are not living in the structure but are paying the 4% property tax rate, we will ask you to correct that with the York County Tax Assessor’s Office before issuing the short-term rental permit. This change typically produces a tax bill that is 3 to 4 % higher.

BUSINESS LICENSE AND STATE ACCOMMODATIONS TAX

A business license is required in addition to the short-term rental permit. Apply for the business license at www.cityofrockhill.com/newlicense.

Please note: If the host is not the owner of the property, both the owner of the property and the host must obtain separate business licenses.

The local accommodation tax rate is 3%. This is separate from the state accommodation tax. It is due by the 20th of the month for the previous month. We will create a Local Accommodation Tax account for you as and will send you information about remitting the tax if the short-term rental permit is approved.

If you have questions about this part of the process, please contact Matthew Thomas, Open for Business Coordinator, at MatthewC.Thomas@cityofrockhill.com or 803-329-7093.

HOME/PROPERTY OWNERS ASSOCIATION

If the property is located within a neighborhood or community that has a Home Owners Association or a Property Owners Association, you must provide a statement in writing from the President of the Association Board or other authorized representative that says either the Association either allows the use or does not regulate it.

Name of Home Owners Association or Property Owners Association: MEDOW LAKES II

PARKING PLAN

The host must provide one parking space for the use of short-term rental guests.

FOR PROPERTIES WITHIN THE DOWNTOWN PARKING MANAGEMENT AREA:

The host must arrange with the City to pay into the Downtown Parking Management System for one parking space. Please contact Demario Ervin, parking management supervisor, at (803) 325-2656 for more information.

FOR PROPERTIES OUTSIDE THE DOWNTOWN PARKING MANAGEMENT AREA:

SINGLE-FAMILY RESIDENCES

Please check the statement that describes how you will accommodate guest parking needs.

- This property is exclusively used as a short-term rental. In other words, no one lives here. My guests will park in the existing driveway or parking pad area that is on the property.
- Two or more drivers live in the home, and the property has enough existing driveway or parking pad area for at least three vehicles to be parked completely on the subject property (meaning not within the road right-of-way area nor overhanging a sidewalk, etc.). One of these spaces will be dedicated for guest parking, and the two others will be available for the residents to use.
- Only one driver lives in the home, and the property has enough existing driveway or parking pad area for at least two vehicles to be parked completely on the subject property (meaning not within the road right-of-way area nor overhanging a sidewalk, etc.). One of these spaces will be dedicated for guest parking, and for the other one will be available for the resident to use.
- I plan to add more driveway or parking pad area to my property so that it has room for at least three vehicles. (If this is the case, please complete the [Driveway, Patio or Paving Application](#).)
- My property is adjacent to a street where formal, striped, on-street parking is provided.
- I have an agreement with a nearby property owner for my guests to park in his/her parking lot or driveway. Please provide a statement in writing from the nearby property owner, and provide the following contact information:

Name of property owner: _____

Address of property: _____

Phone number: _____ Email address: _____

- My situation is different from all of the above situations, so I plan to accommodate guest parking in the following manner:
I have a 3-car garage and a very large driveway that can accommodate at least 15 vehicles.

MULTI-FAMILY RESIDENCES

Please check the statement that describes how you will accommodate guest parking needs.

- An apartment management company representative or my condominium association president has agreed to allow my guests to park in the parking lot of the complex. Please provide a statement in writing from the management company representative or condominium association president, and provide the following contact information:

Name of apartment management or condominium association representative:

Phone number: _____

Email address: _____

My apartment complex or condominium development is adjacent to a street where formal, striped on-street parking is provided.

I have an agreement with a nearby property owner for my guests to park in his/her parking lot or driveway. Please provide a statement in writing from the nearby property owner, and provide the following contact information:

Name of property owner: _____

Address of property: _____

Phone number: _____ Email address: _____

My situation is different from all of the above situations, so I plan to accommodate guest parking in the following manner:

MARKETING

List each online platform that you use or plan to use to market or rent the property (i.e., AirBNB, VRBO, etc.). If you have an associated property number issued by the platform, list that as well.

Platform	Property number	Name of listing
AirBNB		LAKE HOUSE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Describe any other methods you have of marketing or renting the property.

GARBAGE/RECYCLABLES

How will you/your guests take care of garbage and recyclables?

Guests are allowed to use the residents' recycling and garbage containers provided by the City of Ro

COMMUNICATION FROM GUESTS

How can your guests reach you during their stay in case they need your help resolving an issue? (check all that apply)

Website platform Email Phone Other: _____

PHOTOGRAPHS OF PROPERTY

Please attach current photographs of the exterior of the structure, the driveway, and yard areas.

CERTIFICATIONS BY HOST

Initial by each of the following statements to certify that you will abide by the requirement at all times. If a statement does not apply to this property, put N/A instead of your initials.

1. _____ There are no recorded deed restrictions or restrictive covenants that apply to this property that would prohibit, conflict with, or be contrary to the activity that I am requesting.
2. _____ If I am not the owner of the property, the property owner has authorized the short-term rental use as evidenced by his/her signature on page 1 of this application.
3. _____ If the property is located in a neighborhood or community that has a Home Owners Association or a Property Owners Association, the Association has approved the use or does not regulate it as evidenced by the written statement provided by the President of the Board of the Association or another authorized representative.
4. _____ If the property is located within the Downtown Parking Management Area, I have arranged with the City to pay into that system for one parking space.
5. _____ If the property is located outside the Downtown Parking Management Area, I have arranged to accommodate guest parking as specified above.
6. _____ I will not offer my property for use as, nor allow it to be used as, an event location or a party house. This includes the marketing or use of the unit for "open invite" parties, which are open to anyone and are frequently advertised on social media), as well as for private parties including but not limited to weddings, bachelor/bachelorette parties, birthday parties, holiday parties, and parties for other special events.
7. _____ I will not rent rooms to different guest groups at the same time unless I am present on the property during the rental.
8. _____ If the property is not owner-occupied, the owner lives within a 15-mile radius of the City limits and is willing to take phone calls at all times to address issues with the use. Alternatively, I have provided the name and contact information for a designated responsible agent who lives within the same radius who has agreed to do that and to accept service of process, as evidenced by his/her signature on page 2 of this application.
9. _____ I will not rent to more guests than two per bedroom, plus two.
10. _____ I will maintain the property (all structures, yard areas, etc.) in accordance with Property Maintenance Code standards.
11. _____ I will not post any sign on the property advertising the short-term rental use.
12. _____ I will keep a current guest register including the names, addresses, telephone numbers, and dates of occupancy of all guests.
13. _____ I will provide a rental packet containing the information on the next page, as well as pertinent safety information and contact information to guests when they book the short-term rental, and shall prominently display the short-term rental permit, rules, safety and contact information within the short-term rental unit.
14. _____ I will list the short-term rental permit number for this property on all advertisements, listings with booking services, and marketing materials, including without limitation, AirBNB, VRBO/Homeaway, Flipkey, and any other online websites and listing or booking platforms or services. I understand that the City will assign this number upon the approval of this application.
15. _____ I will comply with all business license and revenue collection laws of the City of Rock Hill, York County, and the State of South Carolina.

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature: _____ Date : _____

REQUIRED GUEST NOTICES

The following information must be included in all booking information, provided to guests upon booking, and conspicuously posted within the unit. Staff will provide you with a custom notice form to use based on your responses on the application. This is just an example of what it will look like—you do not need to complete any information here.

The City of Rock Hill regulates short-term rentals. In addition to any “house rules” created by the host, the following City regulations apply to guests:

1. The maximum number of guests is two per bedroom, plus two. This property has 9 bedrooms, so a maximum of 20 guests are allowed by the City. *(Alternatively, host may list the number of guests he/she allows if the number is less.)*
2. Guests may not have parties. This includes “open invite” parties (which are open to anyone and are frequently advertised on social media), as well as private parties including but not limited to weddings, bachelor/bachelorette parties, birthday parties, holiday parties, and parties for other special events.
3. Guests must park only in areas that have been approved by the City. For this rental, the approved area is: *(host to describe or attach a photograph or diagram)*
4. Guests are subject to the City’s Noise Ordinance at all times. In residential areas, this means that noise must be kept to no more than 60 decibels at all property lines. You may wish to think of 60 decibels of noise as the same level of noise as a normal conversation between two people in a business office.
5. Guests must dispose of trash and recyclables as follows: *(host to describe)*
6. Guests may contact the host by *(host to describe)*

IN CASE OF EMERGENCY, CALL 911.

Address of property: 1687 Saybrook Court, Rock Hill, SC 2

Short-term rental permit number: _____

Host’s name: INA SHTUKAR

RENEWAL APPLICATION PROCESS

If approved, the short-term rental permit will be valid for one year unless revoked.

Within 30 days prior to the end of this annual period and all subsequent annual periods, the host must reapply for a short-term rental permit if the host wishes to continue the short-term rental use after the end of the current permit period. The host must complete the above application each year and pay a \$200 renewal application fee.

Unless the permit was revoked during the year such that the request must go to the Zoning Board of Appeals for consideration, renewals will be a staff-level review. Staff will review all of the information in the application anew each year and will only issue a permit again if the request continues to meet all of the standards for the use.

- **Please note:** This means that if the property is located within a neighborhood or community that has a Home Owners Association or Property Owners Association, and the Association notifies us that it no longer allows the use, we will not be able to issue a renewal permit to you.

VIOLATIONS AND PENALTIES

A complete list of the violations and penalties is located in Section 11-367 of the Code of Ordinances of the City of Rock Hill. This is a summary for your information.

Examples of violations include:

1. Advertising or operating a short-term rental unit without a short-term rental permit.
2. Submitting an application with misleading or fraudulent information.
3. Violating any of the certified statements in the short-term rental application.
4. Staff receiving three valid neighbor complaints or police calls per rolling 12 months at the property in question, or one incident at the property in question with widespread community impacts or substantial public safety concerns.
5. The host being convicted of an offense under a law or ordinance regulating business or a crime involving violence or moral turpitude.

Possible penalties include:

1. Revocation of the short-term rental permit for the subject property.
2. Revocation the associated business license so that the host may not operate short-term rentals on other properties, either.
3. Refusal of a short-term rental permit for any other property.
4. A misdemeanor criminal charge, which upon a guilty finding may result in a fine of \$500.00 per day plus court costs, or imprisonment of not more than 30 days, or both.
5. Civil penalties after litigation of the matter.

SOUTH CAROLINA

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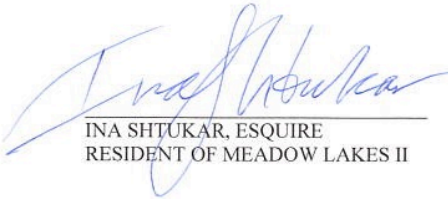
VERIFICATION

YORK COUNTY

)

)

I, INA SHTUKAR, a licensed attorney in the State of North Carolina and a member of MEADOW LAKES II HOA, hereby certify that I personally reviewed all applicable covenants, restrictions, and zoning regulations and determined that MEADOW LAKES II HOA does not currently regulate short-term rentals. Moreover, at the November 12, 2020 HOA meeting, an elected president of MEADOW LAKES II HOA indicated that MEADOW LAKES II HOA does not currently regulate short-term rentals.



INA SHTUKAR, ESQUIRE
RESIDENT OF MEADOW LAKES II

Kearse, Melody

To: Youngblood, Leah
Subject: RE: 1687 Saybrook Court

From: Chad Brakefield <cbrakefield@fertitechno.com>
Sent: Wednesday, November 25, 2020 11:12 AM
To: Marshburn, Shana <Shana.Marshburn@cityofrockhill.com>
Subject: RE: 1687 Saybrook Court

Hi Shana,

I have some clarity on this issue. We do not allow any business to be allowed that requires a city business license and air b n b's require a city business license.

So no we will not allow this.

Please advise if you have any other questions.

Thanks for your help and have a great holiday.

Chad

From: Marshburn, Shana <Shana.Marshburn@cityofrockhill.com>
Sent: Tuesday, November 24, 2020 3:12 PM
To: Chad Brakefield <cbrakefield@fertitechno.com>
Subject: 1687 Saybrook Court

Hi. I understand from Jason Weil from our Housing and Neighborhood Services Department that you are the contact for the Meadow Lakes II neighborhood association.

You may be aware that City Council recently adopted regulations regarding short-term rentals (i.e., "AirBNBs"). One of the applications that has been submitted is within the Meadow Lakes II neighborhood, so I wanted to ask whether the neighborhood has any restrictive covenants that would prohibit that activity.

If you could let me know that, I can finish processing this application, and will know how to deal with any others that might come in for other properties within the neighborhood in the future. Please note that the short-term rental regulations give HOA representatives 10 business days to respond to this email to let us know whether covenants exist or not that affect the requested activity.

Thanks!

Shana Marshburn
Planner I

Kearse, Melody

From: Miller, Janice
Sent: Thursday, December 10, 2020 8:47 AM
To: Youngblood, Leah; Marshburn, Shana
Subject: FW: 1687 Saybrook Ct-Shtukar

Janice Miller

Historic Preservation Specialist
Planning & Development
City of Rock Hill
P.O. Box 11706
155 Johnston Street (29730)
Rock Hill, South Carolina 29731-1706
o: 803-817-5129
f: 803-329-7228

Janice.Miller@cityofrockhill.com
www.cityofrockhill.com

From: Tim Sturgis <tim@sturgisbeaty.com>
Sent: Wednesday, December 9, 2020 5:19 PM
To: Miller, Janice <Janice.Miller@cityofrockhill.com>
Cc: 'John Black' <jblackiii@yahoo.com>; 'Chad Brakefield' <cbrakefield@fertitechno.com>
Subject: 1687 Saybrook Ct-Shtukar

Janice,

After consulting with our attorney, Meadow Lakes II is in support of your decision to deny the requested business license for short term rental located at 1687 Saybrook Ct Rock Hill SC 29732 for Ina Shtukar. Have a Merry CHRISTmas.

Timothy M. Sturgis Sr. CLU, ChFC, LUTCF
Sturgis Beaty Insurance Group
454 S. Anderson Road BTC522, Suite 307, Rock Hill, SC 29730
O: 803.366.7255 | C: 803.417.6819 | F: 803.366.7256 | www.sturgisbeaty.com

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Kearse, Melody

Subject: RE: Meadow Lakes II

From: Tim Sturgis <tim@sturgisbeaty.com>

Sent: Monday, December 7, 2020 10:40 AM

To: Marshburn, Shana <Shana.Marshburn@cityofrockhill.com>

Cc: 'Chad Brakefield' <cbrakefield@fertitechno.com>; 'John Black' <jblackiii@yahoo.com>

Subject: Meadow Lakes II

Shana,

Hope you are well. Please see the attached emails discussing short term rentals in Meadow Lakes II. I wanted to follow up to be sure you haven't granted any license for Short Term rentals. This is prohibited by our covenants and by-laws. As the president of the HOA I fielded a few complaints about the resident that applied for a license for short term rentals. She rented her home to a basketball team that was playing at the events center. Her neighbor was leaving his home and had 10 or more kids trespass on his property. He asked why they were using his basketball goal and they stated they were renting the home next door. He politely advised them to vacate his property and they complied. Also, another neighbor complained that the cul-de-sac was filled with cars. If the homeowner was not licensed for short term rentals who do we report this activity to and what is the remedy to keep this from happening again? Feel free to call and discuss if needed. Thank you for all you do for our city.

Timothy M. Sturgis Sr. CLU, ChFC, LUTCF

Sturgis Beaty Insurance Group

454 S. Anderson Road BTC522, Suite 307, Rock Hill, SC 29730

O: 803.366.7255 | C: 803.417.6819 | F: 803.366.7256 | www.sturgisbeaty.com

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MORTON & GETTYS

ATTORNEYS AT LAW

JAMES M. MORTON

JOHN P. GETTYS, JR. *

MICHAEL B. SMITH †

JOSHUA B. VANN

ELIZABETH SMITH OWEN

J. RICHARDS MCCRAE, III

MELISSA G. CASSELL ♦

DANIEL J. BALLOU •

JOSEPH L. RAAD ‡

J. NATHANIAL PIERCE §

DAVIS C. RIDDLE ▲

BEVERLY A. CARROLL §*‡

JOE TERRIOUS K. NEAL

ASHLEY N. WORRELL §

Certified Civil Court Mediator *

Certified Circuit Court Arbitrator & †
Certified Family Court Mediator

Certified Specialist in Estate Planning
and Probate Law ‡

Certified Specialist in Employment Law ‡

Licensed in SC & NC §

Licensed in SC & TX •

Licensed in SC & FL ▲

Licensed in SC, NC, GA ♦

Melody Kearse
Zoning Coordinator
Planning & Development
City of Rock Hill
P.O. Box 11706
Rock Hill, South Carolina 29731-1706

Re: Meadow Lakes II HOA Covenants

Dear Melody:

This firm represents Meadow Lakes II Homeowners Association, Inc. ("MLII") in connection with various matters, including advice regarding the applicable Amended and Restated Declaration of Restrictive Covenants ("Covenants"). We understand that an application for a business license has been made by the owner of a home located at 1687 Saybrook Court ("Property"), for the purpose of short-term rental of the Property. The Property is located in the Meadow Lakes II subdivision and is subject to the Covenants.

We understand that the City of Rock Hill requires the operator of short-term rental properties to obtain a business license from the City and pay hospitality taxes on revenue generated from short-term rental operations. Accordingly, we consider the operation of short-term rentals within the City of Rock Hill to be commercial activity. We understand that the owner of the Property has engaged in numerous short-term rentals of the Property, particularly to groups participating in local sporting tournaments. MLII opposes such use of the Property and supports the refusal of the City to issue a business license under these circumstances.

Section 8.1 of the Covenants specifically restricts the use of Lots in MLII to single family residential purposes only. MLII considers short-term rentals a business operation that would be inconsistent with single family residential use, particularly since such rentals require a business license and incur hospitality tax liability. So too, the renters

www.mortongettys.com

Fountain Park Place
331 E Main Street, Suite 300
Post Office Box 707
Rock Hill, SC 29731
office 803.366.3388
fax 803.366.4044

A LIMITED LIABILITY COMPANY

of the Property appear to be members of athletic teams, and not members of any family unit or household.

Section 8.5 of the Covenants provides that "[n]o trade or business of any sort shall be carried on upon any Lot" and that "[n]o Building or other structure on any Lot shall be used for office or business purposes." Again, short-term rentals are considered to be a business by the City of Rock Hill, and MLI agrees with that assessment, rendering such use in violation of the Covenants.

Finally, the Covenants contains numerous prohibitions against any noxious activities such as would create a nuisance, disturbance, annoyance to the neighborhood, or that would cause noise that would disturb the peace and quiet of the neighborhood. Based upon complaints received from neighbors, the rental of the Property has resulted in numerous instances of nuisance, disturbance and annoyance that are prohibited under the Covenants.

Please let us know if you have any questions with regard to the above matters. Again, MLI supports the City's interpretation of its ordinance to deny the issuance of a business license to the Property owner.

Very truly yours,



Daniel J. Ballou

cc: Tim Sturgis (tim@sturgisbeaty.com)

Permit Application Center

Planning and Development Department
155 Johnston Street or P.O. Box 11706
Rock Hill, SC 29731-1706
Phone (803) 329-5590 Fax (803) 329-7228
www.cityofrockhill.com

Letter of Notification for Plan Review

Short-term Rental - 1687 Saybrook

Plan Reviewed:

Zoning Short Term Rental

Status:

Not Approved

20202129

**Short-term Rental - 1687 Saybrook
1687 Saybrook Court
Single-family detached 9BR
Zoning Short Term Rental -**

Project Contact:

Ina Shtukar

1687 Saybrook Ct
Rock Hill, SC 29732
Phone: 704-309-0992
Email: inashtukar@gmail.com

The following comments are grouped as "**Review Comments**" or "**Advisory Comments**". "Review Comments" are items related to your plan review that require action on your part. "Advisory Comments" are informational notes that may be important in the future and are for your information.



Do you have a question or concern about a permitting or development process you've been unable to resolve?

Would you like to speak to someone in the City Manager's Office about your experience?

Contact:

Melanie Brandon
Assistant to the City Manager
803-326-3797
Melanie.Brandon@cityofrockhill.com

20202129
Short-term Rental - 1687 Saybrook
1687 Saybrook Court
Single-family detached 9BR
Zoning Short Term Rental -

Plan Review Comments

Admin - Open for Business Program - Matthew Thomas -
matthewc.thomas@cityofrockhill.com - 803-329-7093

Approved

Review Comments:

BL Application has been received. I can only bill and approve the license if the Zoning review of this STR is approved.

Zoning - STR - Janice Miller - janice.miller@cityofrockhill.com -

Not Approved

Review Comments:

Zoning - Shana Marshburn - shana.marshburn@cityofrockhill.com - 803-326-2456

Not Approved

Review Comments:

1. The Meadow Lakes II HOA has informed staff that the use is not allowed per restrictive covenants that are in place.

Kearse, Melody

From: Miller, Janice
Sent: Thursday, December 10, 2020 8:47 AM
To: Youngblood, Leah
Subject: FW: Appeal of the denial of the short term rental permit

Janice Miller

Historic Preservation Specialist
Planning & Development
City of Rock Hill
P.O. Box 11706
155 Johnston Street (29730)
Rock Hill, South Carolina 29731-1706
o: 803-817-5129
f: 803-329-7228

Janice.Miller@cityofrockhill.com
www.cityofrockhill.com

From: Ina Shtukar <inashtukar@gmail.com>
Sent: Wednesday, December 9, 2020 4:02 PM
To: Thomas, Matthew C. <MatthewC.Thomas@cityofrockhill.com>; Miller, Janice <Janice.Miller@cityofrockhill.com>; Marshburn, Shana <Shana.Marshburn@cityofrockhill.com>; cbrakefield@fertitechno.com
Subject: Appeal of the denial of the short term rental permit

Good afternoon all!

I realized that not all of the appropriate parties received my previous notice of the appeal.

Please allow this email to serve as my written notice of the appeal of the denial of the short term rental and business license applications. While it is true that Restrictive Covenants prohibit "business of any kind," short-term rental activity is not a business activity but residential in nature. Therefore, the covenant at issue does not prohibit short-term rental activities. It appears that my application was denied based on Mr. Chad Brakefield's erroneous interpretation of the governing law and the covenant at issue. Frankly, I am upset that the president of the HOA failed to reach out to me first. I was present at the HOA meeting in November and indicated willingness to provide services to the association as an attorney. Moreover, as Mr. Brakefield is aware, at the meeting itself, the issue of short-term rental activities was discussed and it was clearly stated that our current covenants do not prohibit such activities. Therefore, Mr. Brakefield's actions appear to be in bad faith in light of his actual knowledge of what was stated at the meeting.

As an attorney, I am aware that restrictive covenants "are not favored by the law, and they will be strictly construed to the end that all ambiguities will be resolved in favor of the unrestrained use of land..." Russell v. Donaldson, 731 S.E.2d 535 (N.C. App. 2012). "As a consequence, the law declares that nothing can be read into a restrictive covenant enlarging its meaning beyond what its language plainly and unmistakably imports." ... Russell v. Donaldson, 731 S.E.2d 535 (N.C. App. 2012).
Item 5 of the restrictive covenants states "no business of any kind shall be carried on upon any lot..." Therefore, the tribunal would be called upon to determine if short-term rental activity qualifies as a business or commercial

activity in violation of the covenant. The tribunal would be required to look to the natural meaning of the term "business." In the instant case, the restrictive covenant and the surrounding context used to determine the intent of the parties at the time the restrictive covenant was created fail to define "business" activities.

I have not specifically researched South Carolina, however most jurisdictions that have considered the issue of short-term vacation rentals have ruled that "a restrictive covenant prohibiting the use of property for commercial enterprise was ambiguous and held that the owners of the property could use the property for short term rental because the use was "not plainly within the provisions of the covenant." Similarly, it has been held that "the owner's rental use of their property did not violate the covenant's prohibition against use "for any commercial purposes" because the covenant did not expressly forbid the activity." Lastly, it has been held that that "a covenant prohibiting commercial usage of property did not prohibit the rental of the property on a short term basis for residential purposes because neither [the] financial benefit nor the advertisement of the property or the remittance of a lodging tax transforms the nature of the use of the property from residential to commercial."

The mere fact that the City of Rock Hill requires a business license in order to acquire a short-term rental permit, such requirement does not transform short-term rental activities from residential to commercial. Since the applicable covenants do not prohibit rental activities as they are residential in nature, the short-term permit should have been granted and was denied based on the erroneous interpretation of the governing law and the language of the restrictive covenant itself. Since I clearly stated that the purpose for the business license would be to enable me to legally engage into short-term rental activities and pay my taxes, which is the main reason a requirement of a business license is imposed in the first place, the business license application should have been granted and my application was denied in error.

Based on the above, I respectfully request the City of Rock Hill to reconsider my short-term permit and business license applications to avoid unnecessary litigation. Please feel free to reach out to me in writing or via the phone. I am looking forward to hearing from you.

--

Very truly yours,
Ina Shtukar

Attorney at law
Licensed in North Carolina
1687 Saybrook Court
Rock Hill, SC 29732
704-309-0992

CONFIDENTIALITY NOTICE: The information contained in this transmittal is legally privileged and confidential information intended only for the use of the individual or entity to which it was intended to be directed. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this transmittal is strictly prohibited. If you receive this transmittal in error, please immediately notify us by reply email and delete the original transmittal. Thank you.

ARTICLE XI. - SHORT-TERM RENTALS

Sec. 11-362. - Purpose.

City council finds that there is a growing national interest for short-term accommodations in traditional neighborhood settings. City council finds that the provision of such accommodations can be beneficial to the public if potential negative impacts are managed.

When properly regulated, short-term rentals provide a means of assisting property owners with keeping properties in good order and repair, which in turn, assists in stabilizing home ownership, and maintaining property values in neighborhoods. Short-term rentals also serve to bolster the city's sports tourism industry by providing alternatives to traditional hotels and motels for the traveling public.

City council is mindful of the importance of maintaining the residential character of city neighborhoods. Absent appropriate controls on the manner of short-term rentals, neighborhoods stand to be harmed by undue commercialization and disruption to the primary and overarching purpose of a neighborhood being first and foremost a residential community, where people actually live, not a place of transient occupancy.

(Ord. No. 2020-68, § 4(Exh. B), 10-12-2020)

Sec. 11-363. - Definitions.

The following definitions are hereby added to apply specifically to this article. Words not defined in this article shall have the meaning set forth in this chapter, in the zoning ordinance, or their ordinary accepted meaning such as the context implies.

Article means this Article 11 ordinance.

City means the City of Rock Hill, South Carolina.

Planning and development director means the director of the city's planning and development department.

Host means the person offering a residential living unit, or portion thereof, for short-term rental.

Short-term rental means the rental of a residentially-used property in whole or in part for an overnight stay of less than 30 days at a time to one or more guest parties.

Short-term rental permit means a document issued by the planning and development department to the host upon meeting the conditions set forth in section 11-364 or 11-365 herein. Such permit is required for lawful short-term rental of a residential living unit or portion thereof. This permit does not warrant the proper habitability, safety or condition of the residential living unit or portion thereof in any way.

(Ord. No. 2020-68, § 4(Exh. B), 10-12-2020)

Sec. 11-364. - Short-term rental permit for applications made on or before December 31, 2020.

The host of a short-term rental must apply for a short-term rental permit with the planning and development director prior to offering a unit or portion thereof for rent for 30 days or less at a time. The following processes and standards apply if the host applies for a short-term rental permit on or before December 31, 2020.

For each property being offered for short-term rent, the host must complete a short-term rental application certifying that the following operational requirements are met and pay a \$200.00 application fee:

- (a) There are no recorded deed restrictions or restrictive covenants that apply to the property that would prohibit, conflict with, or be contrary to the activity.
- (b) If the host is not the owner of the property, that the property owner has authorized the short-term rental use.
- (c) If the residence is located in a neighborhood that has a home owners association, either the association has approved the use or does not regulate it.
- (d) If the property is located within the downtown parking management area, that the host has arranged with the city to pay into that system for one parking space.
- (e) If the property is located in any area of the city outside the downtown parking management area, that the host has provided for the use of short-term rental guests at least one additional on-site parking space beyond what the zoning ordinance requires for a residential use. This parking space must meet the vehicular use area standards of chapter 8.8 and 6.3 of the zoning ordinance for residential uses. Exceptions exist for:
 - i. Properties that have immediately adjacent on-street parking that has been formalized through striping; and
 - ii. Hosts who can demonstrate a viable alternative method of meeting this requirement. Examples may include situations where:
 - The property is exclusively used as a short-term rental;
 - A nearby business has given the host written permission for guests to use parking spaces at all hours;
 - The host is the single occupant of a residence with two off-street parking spaces, and uses only one parking space him/herself.
- (f) That the unit will not be marketed nor used as an event location or a party house. This includes the marketing or use of the unit for "open invite" parties (which are open to anyone and are frequently advertised on social media), as well as for private parties including but not limited to weddings, bachelor/bachelorette parties, birthday parties, holiday parties, and parties for other special events.
- (g) That rooms will not be rented to different guest groups at same time unless the host is

present on the property during the rental.

- (h) That if the property is not owner-occupied, either:
 - i. The property owner lives within a 15-mile radius of the city limits and is willing to take phone calls at all times if needed to address issues with the short-term rental use; or
 - ii. The host provides the name, mailing address, and telephone number of a designated responsible agent who lives within a 15-mile radius of the city limits, who is willing to take phone calls at all times if needed to address issues with the short-term rental use, and who is authorized to accept service of process on behalf of the owner of said unit.
- (i) That the number of guests will be limited to two per bedroom, plus two.
- (j) That the residence and yard will be maintained to property maintenance code standards.
- (k) That the property will not contain any sign advertising the short-term rental use.
- (l) That the host will keep a current guest register including names, addresses, telephone numbers, and dates of occupancy of all guests.
- (m) That the host will provide a rental packet containing applicable City rules and restrictions specified in the short-term rental permit application, as well as pertinent safety information and contact information to guests when they book the short-term rental, and shall prominently display the short-term rental permit, rules, safety and contact information within the short-term rental unit.
- (n) That the host shall list the short-term rental permit number on all advertisements, listings with booking services, and marketing materials, including without limitation, AirBNB, VRBO/Homeaway, Flipkey, and any other online websites and listing or booking platforms or services.
- (o) That the host shall comply with all business license and revenue collection laws of the City of Rock Hill, York County, and the State of South Carolina.

Upon receiving this complete application, the planning and development director shall verify the following certified statements: (b) (in writing), (c) (in writing), (d), (e), (h), (j), and (k). With respect to (c), if staff does not hear back from the home owners association representative of record within ten business days of attempting to contact them for written verification, the lack of response will not hold up the approval of an application that staff otherwise determines meets all of the standards.

Upon the host certifying the above statements in the short-term rental application and the planning and development director verifying the numbers listed above, the planning and development director will issue a short-term rental permit that will remain valid for one year unless revoked. An annual renewal process is established in section 11-366.

(Ord. No. 2020-68, § 4(Exh. B), 10-12-2020)

Sec. 11-365. - Short-term rental permit for applications made after December 31, 2020.

The host of a short-term rental must apply for a short-term rental permit with the planning and development director prior to offering a unit or portion thereof for rent for 30 days or less at a time. This section sets forth a different application process than in section 11-364 if the host applies for a short-term rental permit after December 31, 2020. All of the standards listed in section 11-364 apply unless explicitly listed otherwise below.

Upon the host certifying the statements listed in section 11-364 in the short-term rental application and the planning and development director verifying the numbers listed in section 11-364 following the process set forth in the preceding section, the application will go before the zoning board of appeals for consideration as a special exception for the use according to the processes set forth in Chapter 2 of the Rock Hill Zoning Ordinance. The application fee will be \$300.00. The zoning board of appeals will consider whether the application meets the standards in chapter 2, section 2.12.2, of the zoning ordinance for the granting of a special exception for the use.

If the special exception is approved, the permit shall be valid for one year from the date of issuance unless revoked. It shall be renewable annually according to the procedures for renewal that are set forth in section 11-366.

If the board of appeals denies the special exception request, the host is subject to the waiting period that is set forth in Chapter 2, Section 2.5.5, of the Rock Hill Zoning Ordinance, before the host may reapply for a short-term rental permit for the same property.

(Ord. No. 2020-68, § 4(Exh. B), 10-12-2020)

Sec. 11-366. - Renewals.

Once a short-term rental permit has been issued, it shall remain valid for one year unless revoked.

Within 30 days prior to the end of this annual period and all subsequent annual periods, the host must reapply for a short-term rental permit if the host wishes to continue the short-term rental use after the end of the current permit period. The host must re-certify all of the statements listed in section 11-364 in a renewal application each year and pay a \$200.00 renewal application fee.

The planning and development director shall approve the renewal application, provided that:

- (a) The permit remains in force at the time of renewal.
- (b) If the property is located within a neighborhood that has an organized and active home/property owners association, that association has re-verified in writing that its board has approved the activity or does not regulate it.
- (c) The following certified statements are verified by the planning and development director: (b) (in writing), (c) (in writing), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o). With respect to (c), if staff does not hear back from the home owners association representative of record within

ten business days of attempting to contact them for written verification, the lack of response will not hold up the approval of an application that staff otherwise determines meets all of the standards.

(Ord. No. 2020-68, § 4(Exh. B), 10-12-2020)

Sec. 11-367. - Violations and penalties.

1. *Violations.* It shall be a violation of this article for a host or his agent to:
 - (a) Advertise or operate a short-term rental unit without a short-term rental permit; or
 - (b) Violate any of the certified statements in the short-term rental application.
2. *Penalties.*
 - (a) *Revocation.* When the planning and development director determines:
 - i. The short-term rental permit has been mistakenly or improperly issued, or issued contrary to law; or
 - ii. A host has obtained the license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
 - iii. The host has breached any condition upon which the license was issued, has violated any of the certified statements on the short-term rental permit application, or has failed to comply with the provisions of this article; or
 - iv. The host has been convicted of an offense under a law or ordinance regulating business or a crime involving violence or moral turpitude; or
 - v. The host has engaged in an unlawful activity or nuisance related to the short-term rental, as evidenced by three valid neighbor complaints or police calls per rolling 12 months at the property in question, or one incident at the property in question with widespread community impacts or substantial public safety concerns;

The planning and development director shall give written notice to the host or designated responsible agent by personal service, certified mail, or the posting of the property that the short-term rental permit is revoked. The notice shall contain a brief statement of the reasons for the revocation.

The host or designated responsible agent will have ten days from the date of the written notice to appeal the decision to the city manager, who will render a final decision within 30 days.

If the city manager upholds the revocation, or if the host does not appeal the decision to the city manager, the host is subject to the waiting period that is set forth in Chapter 2, Section 2.5.5, of the Rock Hill Zoning Ordinance before the host may reapply for a short-term rental

permit on the same property. The starting date for this period is the date of the final decision by the city.

If the planning and development director has reason to believe that the issue that led to the revocation of a short-term rental permit has been resolved, the director may reinstate the short-term rental permit.

All applications for short-term rentals after revocation will go through the special exception process before the zoning board of appeals as set forth in section 11-365 above regardless of the original method of approval of the use.

If the permit is revoked, the planning and development director may also undertake the process to revoke the associated business license such that the host may not operate short-term rentals on other properties either. The business license revocation would follow the processes set forth in section 11-46.

(b) *Refusal to issue permits.*

- i. The planning and development director may refuse to issue a short-term rental permit to any host who has had a short-term rental permit revoked, even if for a different property than the one for which the short-term rental permit is being requested.
- ii. The planning and development director may refuse to issue a short-term rental permit to any host who has any outstanding violations related to a short-term rental use until those violations have been remedied.

Appeals related to the refusal of a short-term permit under this section follow the process set forth in the Zoning Ordinance, Chapter 2, Section 2.12.6.

- (c) *Criminal penalties.* Whoever violates any provision of this article shall, upon a first offense, be subject to a fine of \$500.00, or imprisoned not more than 30 days, or both. If, after any conviction for noncompliance with this article or any lawful order issued pursuant thereto, such person continues the noncompliance, then such person shall be liable for further prosecution, conviction, and punishment without any necessity of the code official to issue a new notice of violation or order, and until such noncompliance has been corrected.

3. *Civil remedies.* In addition to the remedies set out in section 11-367(2), the city manager or any duly authorized agent of city may take such civil or equitable remedies in any court having jurisdiction, against any person or property, to effect the provisions of this Code.

(Ord. No. 2020-68, § 4(Exh. B), 10-12-2020)

Excerpt from Zoning Ordinance

4.3.3.3.19 Visitor Accommodations

D. Short-term rental

1. Short-term rentals as a primary use must follow the processes and meet the standards set forth in the City Code of Ordinances for the use.

Definition:

Visitor Accommodations

Characteristics:

Uses that involve the short-term rental of overnight accommodations.

Use types (examples and definitions):


Short-term rental as a primary use: When a non-owner occupied, residentially-used property is rented in whole or in part for an overnight stay of less than 30 days at a time to one guest party. Exceptions: When an owner-occupied residentially-used property is rented in whole or in part for an overnight stay of less than 30 days at a time to one guest party, that is considered an accessory use; see *Chapter 5: Land Use: Accessory and Temporary Uses*.

2.12.6 APPEALS FROM DECISIONS AND INTERPRETATIONS OF PLANNING & DEVELOPMENT DIRECTOR


- A. Who May Appeal:** Any person who is aggrieved by a decision or interpretation of the Planning & Development Director on any topic that does not fall under the Board of Historic Review's purview may appeal the decision or interpretation to Zoning Board of Appeals.
- B. How to File an Appeal:** The aggrieved party must file a written notice of appeal within 20 calendar days of the date of the decision or interpretation with the Planning & Development Department. The written notice of appeal must specify the decision or interpretation that the applicant believes is incorrect, including the date that it was made, and the grounds for the appeal. The applicant may submit other supporting materials related to the decision.
- C. Effect of Filing an Appeal:** A pending appeal stays all proceedings in furtherance of the action appealed from, unless the Planning & Development Director certifies to the Zoning Board of Appeals that a stay would cause imminent peril to life or property. In such case, proceedings can only be stayed through a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Planning & Development Director, and on due cause shown.
- D. Hearing of Appeal:** A hearing for an appeal is a public hearing according to the standards listed in the section above related to public hearings, except that while both the City and the appellant may call witnesses on their behalf, members of the general public otherwise may not appear and submit testimony. During the hearing, the applicant must state the grounds for the appeal and must identify any materials or evidence from the record to support the appeal.
- E. Decision of the Zoning Board of Appeals:** The Zoning Board of Appeals is charged solely with determining whether the decision or interpretation of the Planning & Development Director is consistent with the provisions of the Zoning Ordinance that are in question. The Board does not function as a judge of whether the policies in question are or are not wise or beneficial. After the conclusion of the hearing, the Zoning Board of Appeals must affirm, partly affirm, modify, or reverse the decision or interpretation based on whether it finds the decision or interpretation to be consistent with the provisions of the Zoning Ordinance in question.



Z-2021-05

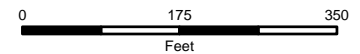
 Subject Property

Zoning Districts

 Single-Family 3 (SF-3)

Zoning Data

**Current Zoning
SF-3**



Planning & Development
Department
City of Rock Hill
01/19/21

OUTSIDE CITY

RC-I

OUTSIDE CITY

SF-3

RUD-I

LANDRY LN

SAYBROOK CT

JACK WHITE DR

FARROW DR