



## BOARD OF ADJUSTMENT

### Development Services

112 Goldsboro Street E, Wilson, NC 27893

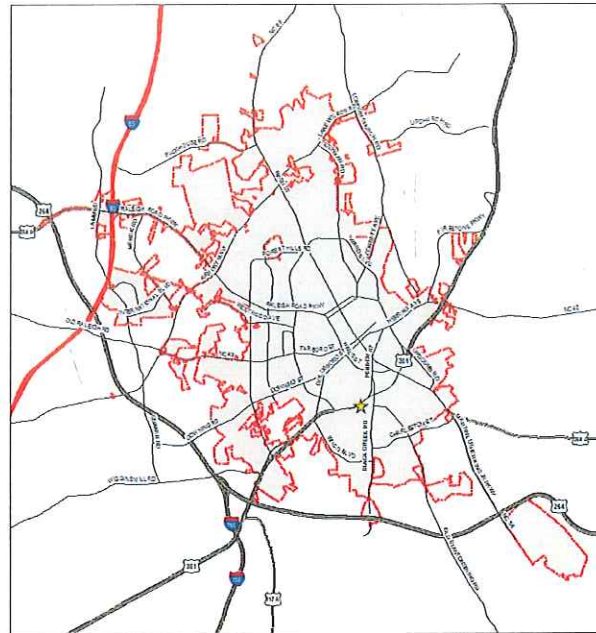
PO Box 10, Wilson, NC 27894-0010

(252) 399-2220

[www.WilsonNC.org](http://www.WilsonNC.org)

**PROJECT:** 20-127  
**AGENDA ITEM #** 1  
**PIN #** 3721-12-4926.000  
**DATE:** July 21, 2020

**DESCRIPTION:** A request by Sandy G. Lee for a Special Use Permit to operate a Sweepstakes Facility/ Adult Arcade at 6799 Ward Blvd in a HI zone.



### STAFF ANALYSIS:

In its review of the request, the City Planning Staff made the following "findings of fact" and suggests that the Board, likewise, include these among any specific "findings of fact" that they make regarding this case. Any such "findings of fact" should be made by separate motion(s) and vote(s) prior to any motion and vote to grant or deny the permit.

Photo of Property



Map of Property:



## **STAFF FINDINGS**

A request by Sandy G. Lee for a Special Use Permit to operate a Sweepstakes Facility/Adult Arcade at 6799 Ward Boulevard in an HI (Heavy Industrial) zone.

FACT 1: The property in question is located at 6799 Ward Boulevard in Wilson County, North Carolina.

FACT 2: The property is also known as 3721-12-4926.000 (PIN).

FACT 3: Brown Oil Company operated its administrative offices in this building from 1980 until the early 2000s. Hill & Brown Construction utilized the building from 2002 until 2007 for its offices. There was a Special Use Permit issued to the property for an Internet Sweepstakes Facility (former use classification) in May 20, 2014 that expired in May 20, 2016.

FACT 4: The property is zoned HI, a “heavy industrial” district. The surrounding properties are zoned as follows:

- North – Light Industrial (LI)
- South – Heavy Industrial (HI)
- East – Heavy Industrial (HI)
- West – Light Industrial (LI)

FACT 5: Section 2.7.3 of the City of Wilson Unified Development Ordinance (UDO) includes a “Use Table”. That table lists a “Sweepstakes Facilities/Adult Arcade, subject to a special use permit, and subject to the requirements of Section 3.5.5” as a use permitted in the HI zone.

FACT 6: Section 17.3 of the City of Wilson UDO is entitled “Definitions, Use Types.” It includes the following definition for “Sweepstakes Facilities/Adult Arcade:”

**SWEEPSTAKES FACILITIES** Any business enterprise, whether as a principal or accessory use, where persons utilize computers, gaming terminals, or other electronic machines to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are earned, redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This does not include any lottery approved by the State of North Carolina. For purposes of this definition, a game of chance is one in which the element of chance is the dominating element that determines the result of the game. See also ADULT ARCADES.

**ADULT ARCADES** Any business enterprise, whether as a principal or accessory use, where persons utilize computers, gaming terminals, or other electronic machines to conduct games of skill, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, and where the maximum value earned by any play of the game may exceed the cost for that play of the game. This does not include any lottery approved by the State of North Carolina or traditional claw-type games. For purposes of this definition, a game of skill is one in which the element of skill is the dominating element that determines the result of the game. For purposes of this ordinance, ADULT ARCADES shall be regulated similarly to SWEEPSTAKES FACILITIES.

FACT 7: Sweepstake Facilities/Adult Arcades are also subject to the requirements of Section 3.5.5 of the UDO which states:

**3.5.5 SWEEPSTAKES FACILITY/ADULT ARCADE [HI]**

A. General Standards

1. Selling and/or consuming alcoholic beverages are prohibited in sweepstakes facilities and/or adult arcades.

*This condition applies to this request. They would not be allowed to sell or consume alcoholic beverages.*

2. Persons under the age of 16 are prohibited from entering the premises during regular school hours as defined by the Wilson County Board of Education.

*This condition applies to this request.*

- B. Separation Requirement: All sweepstakes facilities and/or adult arcades shall be located at least 250 feet from any school, church, or residential use.

*This condition applies to this request. This facility is at least 250 feet from any school, church, or residential use.*

- C. Hours of Operation: In issuing a Special Use Permit for this use, the Board shall consider the surroundings and restrict the hours of operation of the business if they deem it warranted.

*This condition applies to this request. The Board may impose hours of operation if deemed warranted by the Board. No hours of*

*operation have been imposed on existing sweepstakes facilities/adult arcades due to the isolation of the use in only the HI zones.*

- D. Amortization of Existing Uses: All uses meeting the definition of Sweepstakes Facilities as defined in Chapter 17 of this ordinance that were legitimately established prior to December 11, 2009 shall cease operations and close or be brought into compliance with the provisions of this ordinance by midnight, December 31, 2012.

*This condition does not apply to this request.*

- FACT 8: The Neighborhood Improvement Enforcement Coordinator has indicated that there are no outstanding nuisances at this site.
- FACT 9: Construction Standards and Fire may require architectural plans for any interior renovations to the structure.
- FACT 10: A general plan indicating a potential of 40 parking spaces adjacent to the building for the proposed request has been submitted with this Special Use Permit application to provide a conceptual view of the property. This property shall be in compliance with MUTCD and ADA requirements.
- FACT 11: Section 9.4.1 of the UDO lists the parking requirements for Sweepstakes Facilities/Adult Arcade. It requires 1 parking space per simultaneous player.
- FACT 12: Section 15.10.2.E of the UDO, pertaining to the issuance of special use permits, reads as follows:
1. That the proposed special use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site;
  2. That adequate measures will be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads;
  3. That adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use;
  4. That the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;

*This request should not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.*

5. That the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the land development district;
6. That the establishment, maintenance and/or operation of the proposed use will not be detrimental to or endanger the public health, safety or general welfare; and
7. That the establishment will be operated in compliance with all local, state and federal laws and will not become a nuisance by creating criminal activity or public disturbance.

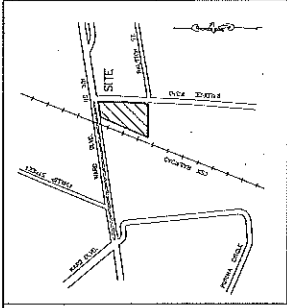
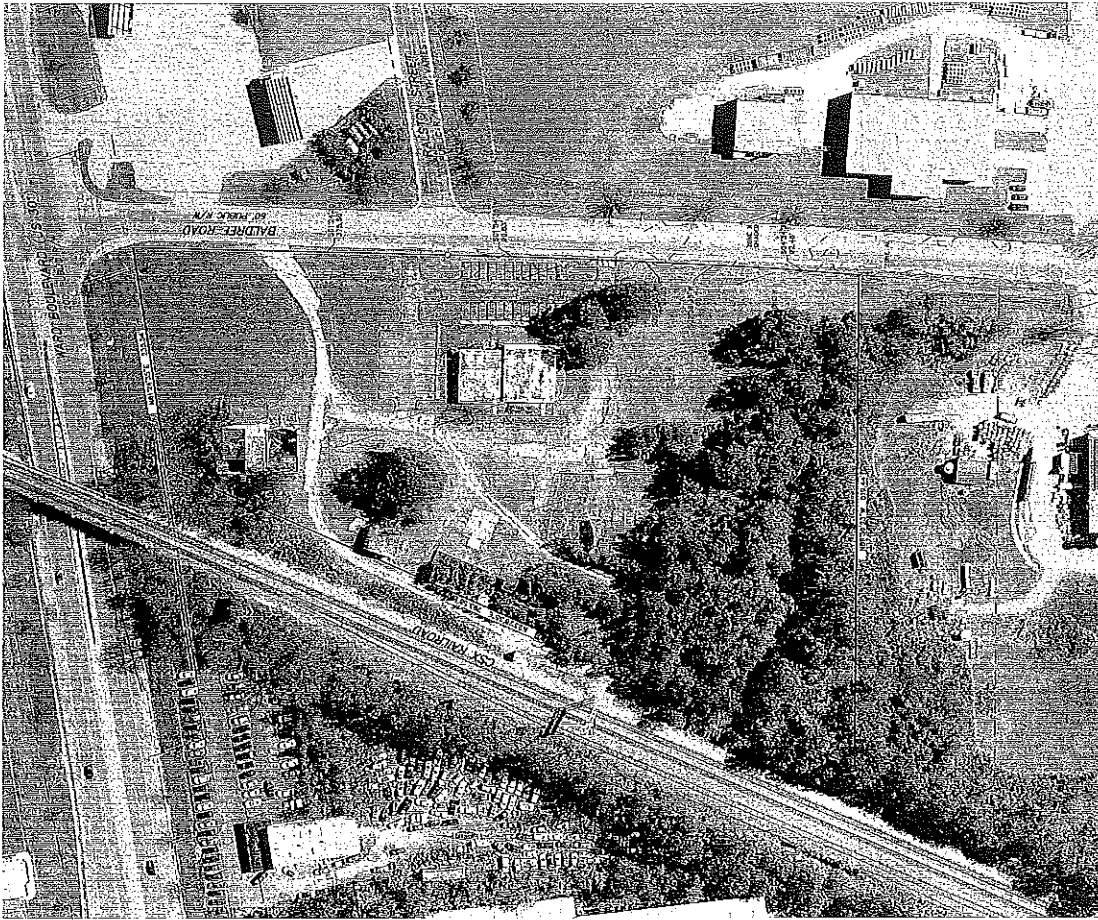
PROCEDURE: The Board must proceed in accordance with Section 15.10.2.E of the UDO as quoted in FACT 12.

RECOMMENDATION: Staff recommends you proceed as follows:

- Move that Facts 1-12 in the staff findings be adopted as “findings of fact” of the Board (*motion-second-and vote*).
- Move to conclude:
  1. that the requested permit is within the jurisdiction of the Board to issue;
  2. that the application is complete; and
  3. that, if completed as proposed in the application and in compliance with the recommended conditions, the development will comply with the requirements of the Zoning Ordinance.
- Move to grant the Special Use Permit subject to the following conditions:
  1. The applicant and operator of the establishment shall fully comply with all of the requirements of the order, including, but not limited to, any other applicable state or local rules, ordinances, laws and regulations of whatever nature.
  2. If any of the conditions affixed to the permit or any part thereof shall be held invalid or void, then the permit shall become void and of no effect.

3. The applicant shall comply with all applicable requirements of Section 3.5.5 (see Fact 6) of the Unified Development Ordinance.
4. All signs shall comply with Section 11 of the Unified Development Ordinance and acquire a sign permit. Please contact Land Development for additional information at 252.399.2220.
5. The Special Use Permit is granted for a Sweepstakes Facility/Adult Arcade with an equal ratio of parking spaces to maximum simultaneous players on premise as shown on a Technical Review Committee (TRC) approved site plan, ONLY. Any deviation in the site plan shall require a revised plan to be submitted for approval by the TRC.
6. Prior to any monitors or gaming devices being brought on site, the parking spaces shall be installed according to a Technical Review Committee approved site plan and a zoning inspection completed by Land Development staff. Please contact the Permit Desk at 252.399.2220 to schedule an inspection.
7. Any gaming units not in use cannot be stored on site except, with prior notification to Land Development in cases where existing machines are switched out and replaced.
8. If renovations are proposed for the building, architectural plans shall be submitted to Construction Standards and Fire for review. The Fire Marshall and Construction Standards staff must conduct inspections of the premises prior to the opening of business. Please contact the Permit Desk for additional information at 252.399.2220.
9. The applicant does agree that he/she has read and understood the above-listed information, and does hereby expressly reaffirm, consent to, agree to abide by, and remain in compliance with the plan(s), requirements and/or conditions listed therein and that he/she shall conduct such business in full compliance with all local, state, and federal laws and regulations applicable thereto. The applicant further acknowledges and agrees that the City of Wilson makes no representation or acknowledgement that the business is in compliance with said laws and regulations.

10. The Special Use Permit will expire on third Tuesday of July 2022. The applicant must submit an application for renewal to the Development Services by the third Tuesday of June 2022.



LOCATION MAP  
AS SHOWN

DATE: JUNE 2002  
 PROJECT: 22-125  
 SCALE: 1" = 40'  
 SHEET: 1 OF 1  
 DRAWN BY: J.A.  
 CHECKED BY: N/A

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1.48 ACRES  
 LOT AREA  
 100' WIDE  
 100' DEEP  
 100' WIDE  
 100' DEEP  
 100' WIDE  
 100' DEEP

10 SPACES  
 14 PLAYSER MARKS

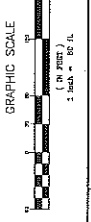
PROPOSED SWEEPSTAKES FACILITY - 400 SQUARE FEET  
 100' WIDE  
 100' DEEP  
 100' WIDE  
 100' DEEP

PROPOSED LAND USE: SWEEPSTAKES FACILITY  
 100' WIDE  
 100' DEEP

PROPOSED ROAD: SWEEPSTAKES ROAD  
 100' WIDE  
 100' DEEP

SPECIAL USE PERMIT REQUIRED FOR FINAL APPROVAL.  
 WATER AND SEWER ARE EXISTING AND NEW SERVICES REQUIRED.  
 ALL REQUIRED ACCESSIBLE PARKING TO BE APPROVED BY  
 PLANNING DEPARTMENT.  
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CITY OF WILSON	WILSON COUNTY
NORTH CAROLINA	ZONE HI
PIN #	SHEET SUPI

**SPECIAL USE PERMIT PLAN**  
**SWEEPSTAKES FACILITY**  
 - 6799 WARD BLVD, WILSON, NC -

**BARTLETT**  
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PRELIMINARY PLAN  
 NOT FOR RECORDATION,  
 SALES OR CONVEYANCES