

**NC Department of Insurance  
Office of State Fire Marshal, Engineering Division**

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RE:    Appeal of the April 5, 2021                    )  
      Appeal Response by                            )  
      Mecklenburg County                            )  
      Inspection Department.                        )

NCDOI DECISION

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In accordance with GS 160D-1127, Terpening Law, PLLC, representing Ballantyne Village Parking (BVP), LLC, has appealed the Mecklenburg County Inspection Department decision regarding issuance of a Certificate of Compliance or Certificate of Occupancy for a project named “Ballantyne Village Renovation”.

GS 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws to the Commissioner of Insurance or his designee.

**PARTIES**

Appellant:    Terpening Law PLLC, representing  
                  Ballantine Village Parking, LLC  
                  221 W. 11<sup>th</sup> Street  
                  Charlotte, NC 28202

Appellee:     Mecklenburg County Code Enforcement  
                  2145 Suttle Avenue  
                  Charlotte, NC 28208

**BACKGROUND**

On March 26, 2021 the appellant made a formal appeal to the appellee to revoke the Certificate of Compliance (CC) and Certificate of Occupancy (CO) issued for a renovation project involving Unit 300 located at 14185 Ballantyne Village Way, Charlotte, NC. The appellant questions the issuance of the CC and CO based on the project not complying with a local zoning ordinance regarding required parking.

On April 5, 2021 the appellee issued a response to the appeal indicating that the City of Charlotte Zoning Department performed a review of the project as submitted by the project architect before the permit was issued. The City of Charlotte Zoning Department review then stated in their review notes that “Zoning Estimation Not Required” for the project.

### ISSUE RAISED IN APPEAL

Although the City of Charlotte Zoning Department did not believe that the project required a zoning review the appellant contends that the project does not comply with local zoning requirements regarding required parking.

The following issue is raised in Appellants' appeal:

"BVP submits this appeal on the basis that the Applicant for the project was never able to demonstrate compliance with the City and County Zoning Ordinances requiring a sufficient number of parking spaces. As detailed in the original Appeal, because of this deficiency, the County should never have issued Certificates of Compliance or Certificates of Occupancy for the project."

### FINDINGS

Based on information submitted by the appellant, the following findings are made:

1. A copy of the March 26, 2021 appeal made to the appellee by the appellant was included. The appeal indicates that the Certificates of Compliance should be revoked because the project does not comply with applicable State and local laws and local ordinances and regulations.
2. A copy of the local zoning ordinance regarding parking requirements was not provided, and the appellant does not demonstrate what specific local zoning ordinance is not met.
3. A copy of the April 5, 2021 appellee's response to the March 26, 2021 appeal was included. The conclusion of the appellee was that the project had been marked by local zoning as not requiring review.
4. N.C. General Statutes 153A-363 and 160A-423 were repealed on June 19, 2020 and replaced with N.C. GS160D-1116. GC160D-1116 requires compliance with all State and local laws and with the terms of the permit before a CC can be issued.
5. 2018 North Carolina Administrative Code and Polices, Section 204.8.4 states:  
  
"204.8.4 Issuing certificate of occupancy. Upon satisfactory completion of a building and after final inspection, the inspection department may issue a certificate of occupancy. The certificate of occupancy shall state the occupancy may be safely occupied."

### CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

The appellant does not show how the parking is noncompliant other than to say it does not have "a sufficient number of parking spaces".

Charlotte Zoning Department verifies zoning compliance and issues a report to Mecklenburg County Code Enforcement regarding compliance.

Charlotte Zoning Department, by indicating the project did not require review, indicates the project complies with local zoning ordinances.

The appellee had no reason to believe at the time of issuance of the CC and CO that local zoning ordinances had not been met.

The 2018 NC Administrative Code and Policies, Section 204.8.4 does not require compliance with local ordinances before a CO is issued.

#### **APPEAL DECISION**

Based on the above findings and conclusions:

The decision to issue a Certificate of Compliance and Certificate of Occupancy by the appellant is upheld.

This 29<sup>th</sup> day of April 2021.



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Carl Martin, RA  
Deputy Commissioner  
Division Chief of Engineering  
North Carolina Department of Insurance

#### **FURTHER APPEAL RIGHTS**

You have the right to appeal this decision to the NC Building Code Council. Please refer to GS 160D-1114 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. In accordance with GS 143-141 you have 30 days in which to appeal this decision to the NC Building Code Council.

Cc:

Patrick Granson, Division Director, Mecklenburg County Code Enforcement