

**REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS**

MEETING DATE: May 2, 2022
SUBJECT: ABC permit comment request
PRESENTER: Charles Russell Burrell
ATTACHMENT(S): Opinion Application

SUMMARY OF REQUEST:

Patel has requested the Board's comment on an ABC permit application for premises located at 2104 Kanuga Road. There is currently a permit associated with this address, but there is a change in ownership of the business, so a new permit is sought.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Give notice of non-objection

If the Board is so inclined, the following motion is suggested:

I move that the Board direct staff to give notice of non-objection to this permit request.



**OFFICE OF THE
COUNTY ATTORNEY**

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Website:
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Confidential Memorandum

TO: Board of Commissioners
FROM: Charles Russell Burrell *Burrell*
RE: Application for ABC Permit

This document is a confidential communication, between the author and the recipient(s). It is protected by attorney-client privilege, and is not subject to disclosure for at least a period of three years from the date hereof under North Carolina Public Records law, pursuant to N.C. Gen. Stat. §132-1.1.

DATE OF THIS MEMO: 4/14/2022

A new application for an Alcoholic Beverage Control permit has been received. Under your policy, these are immediately both placed in your "in-box" in the Historic Courthouse and emailed to you.

NAME OF APPLICANT: Jonak Kumar Patel dba Daily Stop

DATE APPLICATION RECEIVED BY COUNTY: 4/14/2022

Since the County's response has to be in the hands of the State Alcoholic Beverage Control Commission within **fifteen (15)** days of the date the application was received by the County, I ask that you get any response to me as soon as possible, but at least by not later than **ten (10)** days from the date the application was received by the County, so that I can prepare the County's response.

If I do not hear any response from a Commissioner or the Sheriff within the time allotted, I will inform the State ABC Commission that the County does not object to the granting of the permit.

NCABC says any objection must be "fact-based", regarding the following criteria only:

- (1) The reputation, character, and criminal record of the applicant.
- (2) The number of places already holding ABC permits within the neighborhood.
- (3) Parking facilities and traffic conditions in the neighborhood.
- (4) Kinds of businesses already in the neighborhood.
- (5) Whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.
- (6) Zoning laws.
- (7) Any other evidence that would tend to show whether the applicant would comply with the ABC laws.
- (8) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood, including evidence admissible under G.S. 150B-29(a) of any of the following:
 - a. Past revocations, suspensions, and violations of ABC laws by prior permittees related to or associated with the applicant, or a business with which the applicant is associated, within the immediate preceding 12-month period at this location.
 - b. Evidence of illegal drug activity on or about the licensed premises.
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises.

NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION

4307 Mail Service Center
Raleigh, NC 27699-4307
(919)779-0700 FAX: (919)662-3583

LOCAL GOVERNMENT OPINION for ALCOHOLIC BEVERAGE PERMITS

APPLICANT SHOULD COMPLETE THIS SECTION ONLY

Applicant's Name Janakumar Patel
Corporate or LLC Name (if applicable) Hijapa LLC
Trade Name of Business Daily Stop
Former Trade Name (if any) _____
Business Address 2104 Kamaga RD
City/State Hendersonville North Carolina
Date of Birth Feb 23 - 1963
NC Driver's License # 000048452289
Last 4 of Social Security # 9108

TYPE OF ABC PERMIT(S) BEING APPLIED FOR:

_____ On Premise
Indicate Type (if any)
_____ Off Premise
Indicate Type (if any) mail beverage and into titled

REMAINDER OF FORM FOR OFFICIAL USE ONLY

Date Form 001 Mailed or Delivered _____
Designated Official's Name _____
Title _____
City/County _____
Address _____
Contact Telephone # _____

NOTICE: The Alcoholic Beverage Control Commission shall give notice of a permit application to the Governing body of a city or county prior to issuing a retail ABC permit. Designated Officials are expected to process this form within 15 days of receipt. The applicant will be required to provide proof of mandatory compliance with all applicable building and fire codes. The Inspection/Zoning Compliance form (Form 002) is for this purpose and will be completed by the appropriate local agencies.

FACTORS IN ISSUING A PERMIT: Pursuant to N.C.G.S. 18B-901(c), before issuing a permit, the ABC Commission shall be satisfied the applicant is a suitable person and that the location is a suitable place.

PLEASE INDICATE YOUR ANSWER TO THE FOLLOWING:

Do you approve of the applicant and location for the ABC permit?

YES ___ Applicant _____ NO ___ Applicant _____
Location _____ Location _____

Disapprovals: Pursuant to N.C.G.S. 18B-901 (b), to be considered by the ABC Commission, the objections shall state the facts upon which it is based. If you have indicated disapproval by answering "NO", please explain your reason(s) based on the factors outlined in N.C.G.S. 18B-901(c) on the attached page. Use extra sheets if additional space is required and attach all records and/or documents used to arrive at your decision. The mere indication of "NO" without an explanation is an insufficient basis for rejection and cannot be considered by the Commission.

Signature of Designated Official

Date

Title of Designated Official

State of North Carolina

_____ County

_____ Being duly sworn says that the contents of the foregoing Local Government Opinion are true to his/her own knowledge, except as to matters stated on information and belief, and as to those matter(s) he/she believes them to be true.

Sworn to and subscribed before me this:

Day Month Year

(Notary Public's Signature)

18B-901(c)

Factors in Issuing Permit

Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which the applicant has applied. To be a suitable place, the local governing body shall return a Zoning and Compliance Form to the Commission on a form provided by the Commission to show the establishment is in compliance with all applicable building and fire codes and, if applicable, has been notified that it is located in an Urban Redevelopment Area as defined by Article 22 of Chapter 160A of the General Statutes and as required by G.S. 18B-904(e)(2). Other factors the Commission shall consider in determining whether the applicant and the business location are suitable are all of the following:

- (1) The reputation, character, and criminal record of the applicant.
- (2) The number of places already holding ABC permits within the neighborhood.
- (3) Parking facilities and traffic conditions in the neighborhood.
- (4) Kinds of businesses already in the neighborhood.
- (5) Whether the establishment is located within 50 feet of a church, public school, or any nonpublic school as defined by Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.
- (6) Zoning laws.
- (7) The recommendations of the local governing body.
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws.
- (9) Whether the operation of the applicant's business at that location would be detrimental to the neighborhood, including evidence admissible under G.S. 150B-29(a) of any of the following:
 - a. Past revocations, suspensions, and violations of ABC laws by prior permittees related to or associated with the applicant, or a business with which the applicant is associated, within the immediate preceding 12-month period at this location.
 - b. Evidence of illegal drug activity on or about the licensed premises.
 - c. Evidence of fighting, disorderly conduct, and other dangerous activities on or about the licensed premises.