

May 23, 2007

J. Grayson Harris  
1680 Williams Road  
Lewisville, NC 27023

RE: ZONING TEXT AMENDMENT UDO-174

Dear Mr. Harris:

The attached report of the Planning Board to the Forsyth County Board of Commissioners and City of Winston-Salem City Council is sent to you at the request of the Commissioners and Council Members.

When the text amendment is scheduled for public hearing, you will be notified by Jane Cole, Clerk to the County Commissioners and Renee Henderson, City Secretary, of the date on which the Commissioners and City Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP  
Director of Planning

Attachment

pc: Jane Cole, County Manager's Office  
Renee Henderson, City Secretary

**FORSYTH COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** \_\_\_\_\_ **AGENDA ITEM NUMBER:** \_\_\_\_\_

**SUBJECT:-**

- A. Public Hearing on Zoning Text Amendment proposed by J. Grayson Harris to amend Chapter B of the *Unified Development Ordinances* to allow the use Kennel, Indoor in the YR, AG, RS-40, RS-30, and RS-20 zoning districts (UDO 174).
- B. Approval of Ordinance

**COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-**

**SUMMARY OF INFORMATION:-**

See attached staff report.

After consideration, the Planning Board recommended denial of the rezoning text amendment.

**ATTACHMENTS:-**     YES             NO

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## STAFF REPORT

**DOCKET #: UDO-174**

**STAFF:** Jesse Beckom III

### REQUEST

UDO Text amendment proposed by John H. Grayson to amend: Chapter B – *Zoning Ordinance*, ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAPS, USES, and USE CONDITIONS to allow the use “Kennel, Indoor” in the YR, AG, RS-40, RS-30 and RS-20 zoning districts.

### BACKGROUND

In 2006 the petitioner was initially cited for illegally operating a kennel in RS-40 without the approval of the Inspections Division. Upon inspection it was determined that the petitioners’ business did not meet the setback for “Kennel” which at the time of his citation required a one hundred and eighty (180) foot setback from any property line or street. Subsequently, in 2006 UDO-150 was adopted whereby the use “Kennel” was separated into two new use classifications “Kennel, Indoor” and Kennel, Outdoor”. Currently, the petitioner meets the new setback requirements of forty (40) feet for an indoor kennel adjacent to residentially zoned properties, but the use “Kennel, Indoor” is not allowed in RS-40 or any other residentially zoned district. The UDO only allows “Kennel, Indoor” in certain business and industrial districts within the City of Winston-Salem and Forsyth County. The petitioner is requesting to amend the UDO to allow Kennel, Indoor as a use by right in YR, AG, RS-40, and proposes Board of Adjustment approval in RS-30 and RS-20.

### ANALYSIS

In April of 2006 the petitioner was informed by the Inspections Division that the Oak Grove Kennel he is operating is in violation of the UDO. Since his initial notification the petitioner has been in contact with the Inspections Division and has explored several different strategies in an attempt to make his business legal. Accordingly the petitioner has been allowed to continue his kennel operation during this process and has been doing so now for approximately one year.

Initially, the petitioner inquired about applying for a waiver from the Forsyth County Board of Adjustment, but was informed by zoning officers that he would likely not qualify since his situation would be considered a self imposed hardship. The petitioner then tried to acquire adjacent property in order to meet the one hundred and eighty (180) foot setback then required under the UDO. The petitioner was unsuccessful in acquiring the additional property. Coincidentally, about this same time, UDO-150 was being proposed to accommodate kennel operation within certain commercial and industrial zoning districts within Winston-Salem. At that time the petitioner was informed by the Inspections Division that UDO-150 might address his concerns and was allowed additional time to stay in operation while UDO-150 went through the approval process. However UDO-150 did not address the petitioner’s concerns. Instead UDO-150 separated the use “Kennel” into two separate use classifications “Kennel, Indoor” and

“Kennel, Outdoor”. This separation resulted in each use having its own set of permitted zoning districts, requiring different setbacks, bufferyards, and review authorities. (See Comparison Table below.) Although the petitioner could now meet the required forty (40) foot setback for the new “Kennel Indoor” use the use was not permitted in RS-40 or any other residentially zoned district.

Therefore the petitioner is requesting that Table B.2.6 “Permitted Uses” be amended to allow “Kennel, Indoor” as a use by right (Z) within YR, AG, and RS-40 and a use requiring a Special Use Permit (A) from the Board of Adjustment in RS-30 and RS-20. The petitioner has also proposed as a use condition that a Type IV Bufferyard be installed within one hundred and fifty (150) feet of any indoor kennel adjacent to residentially zoned properties. No bufferyard will be required if the kennel is setback at least one hundred and eighty (180) feet from any YR, AG, RS or RM Zoned District or street.

Staff visited the Oak Grove Kennel on March 22, 2007 to determine if the proposed forty (40) foot setback and Type IV Bufferyard would be adequate to achieve compatibility with adjoining residential properties. Upon completion of the site visit staff determined that a forty (40) foot setback from an abutting residential use, even including a Type IV Bufferyard is not satisfactory. As a means of comparison, UDO requirements for “Riding Stable” which Staff considers to be a comparable or less intense business use in a residentially zoned district includes a minimum one hundred and fifty (150) foot setback. Moreover the use requires Board of Adjustment approval. Staff also recognizes the similar impacts of traffic associated with this type of business operation. Further, staff found that neighboring municipalities allowing indoor kennels in residentially zoned districts required anywhere from a one hundred (100) to three hundred (300) foot setback in addition to other specified permitting requirements.

**Comparison Table**

USE	YR	AG	RS-40	RS-30	RS-20	Setback W/O Bufferyard	Setback W/ Bufferyard	Required Lot Size
<b>Kennel, Indoor (Current)</b>	Kennel, Indoor is only allowed in LO, LB, NSB, HB, GB, MRB-S, LI, GI, and MUS							
<b>Kennel, Indoor (Proposed)</b>	Z	Z	Z	A	A	180 feet	40 feet	5 acres
<b>Riding Stable (Current)</b>	A	A	A	A	A	150 feet	N/A	5 acres
<b>Kennel, Outdoor (Current)</b>	Z	Z	Z	A	A	180 feet	100 feet	5 acres

Staff acknowledges that the use of “Kennel, Outdoor” was created with the adoption of UDO-150 as a use by right in RS-40. However, this UDO amendment has prompted staff to reconsider whether or not “Kennel, Outdoor” should be allowed within **any** residential districts in Forsyth County without more restrictive requirements. Therefore it is Staffs’ intention in the very near future to reevaluate the suitability of “Kennel, Outdoor” in residential zoning districts and consider other regulatory measures which may include Board of Adjustment review.

**RECOMMENDATION**

**DENIAL.**

Jesse Beckom presented the staff report.

**PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

MOTION: Carol Eickmeyer moved denial of the zoning text amendment.

SECOND: Wesley Curtis

VOTE:

FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Lynne Mitchell, Paul Mullican

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO 174**  
**AN ORDINANCE AMENDING**  
**THE ZONING ORDINANCE**  
**OF THE *UNIFIED DEVELOPMENT ORDINANCES***  
**REGARDING KENNELS**

Be it resolved, by the Board of Commissioners of Forsyth County, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

**Section 1.** CHAPTER A – DEFINITIONS ORDINANCE; ARTICLE II - DEFINITIONS is hereby revised as follows

**2-5.39 KENNEL, INDOOR**

**(A) Location and Setbacks in all zoning districts except YR, AG, RS-40, RS-30 and RS-20**

Indoor kennels services may be permitted in attached buildings; however, any end unit in an attached building or any freestanding building containing such a use must be set back at least twenty (20) feet from any side lot line and forty (40) feet from any rear lot line. Any end unit of an attached building or any freestanding building containing such a use abutting a residential district shall be set back not less than forty (40) feet from any residential boundary

**(B) Location , Setback, and Lot Size in YR, AG, RS-40, RS-30,and RS-20 Zoning Districts**

Indoor kennels services must be set back at least forty (40) feet from any property line or street and must include a Type IV Bufferyard as required in Section B.3-5.2(A)(1)(e). The Type IV Bufferyard shall be located within one hundred and fifty (150) feet of the use on all sides abutting YR, AG, RS or RM Zoning Districts . No bufferyard will be required if the kennel is setback at least one hundred and eighty (180) feet from any YR, AG, RS or RM Zoned District or street. The required minimum lot size shall be five (5) acres.

**~~(B)~~ (C) Enclosure of Facilities**

The indoor kennel services use shall be fully enclosed. There shall be no outside runs or exercise areas for animals or pets. Any outside use of the property for the animals or pets must be supervised and on leashes.

**Section 2.** CHAPTER B ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAPS, AND USES Section 2-4.1, Table B.2.6 is hereby amended as follows:

**Table B.2.6  
PERMITTED USES**

Use Type	Y R	A G	R S 4 0	R S 3 0	R S 2 0	R S 1 5	R S 1 2	R S 9	R S 7	R S O	R M 5	R M 8	R M 1 2	R M 1 8	R M U	M H	N O	L O	C P O	G O	N B	P B	L B	N S B	H B	G B	C B	M R B - S	L I	C P I	G I	C I	I P	C	M U S	C O N D S	
<u>Kennel, Indoor</u>	Z	Z	Z	A	A													E					Z	Z	Z	Z		Z	Z		Z					Z	<b>39</b>
<u>Kennel, Outdoor (F)</u>	Z	Z	Z	A	A													A					Z	Z	Z	Z			Z		Z						<b>39.1</b>

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.  
UDO-174 May 2007 F