April 20, 2005

Peace Haven Properties, LLC
c/o John N. Davis, III
3401 Healy Drive
Winston-Salem, NC  27103

RE:  ZONING TEXT AMENDMENT UDO-131

Dear Mr. Davis:

    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, AICP
Director of Planning

Attachment

pc:  Jane Cole, County Manager's Office
     Renee Henderson, City Secretary
MEETING DATE: ____________________  AGENDA ITEM NUMBER: ____________  

SUBJECT:-

A. Public Hearing on Zoning Text Amendment proposed by Peace Haven Properties. LLC to amend Chapter B, Article II, Section 2-58 (H) (1) (a) regarding PRD Buffers (UDO-131)

B. Approval of Ordinance

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

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

ATTACHMENTS:-  X  YES  ___  NO

SIGNATURE: ___________________________________________  DATE:
# ACTION REQUEST FORM

| **DATE:** | April 20, 2005 |
| **TO:**   | The Honorable Mayor and City Council |
| **FROM:** | A. Paul Norby, AICP, Director of Planning |

## COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning Text Amendment proposed by Peace Haven Properties. LLC

## SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by Peace Haven Properties. LLC to amend Chapter B, Article II, Section 2-58 (H) (1) (a) regarding PRD Buffers (UDO-131)

## PLANNING BOARD ACTION:

| **MOTION ON PETITION:** | APPROVAL |
| **FOR:**               | UNANIMOUS |
| **AGAINST:**           | NONE |
| **SITE PLAN ACTION:**  | NOT REQUIRED |

NOTE: Items to be deleted are indicated with a strike-out; items to be added are indicated with an underscore.
REQUEST

Request for Public Hearing on zoning text amendment proposed by Peace Haven Properties, LLC to amend Chapter B Article II Section 2-5.58 (H) (1) (a) by adding a new subparagraph (v) immediately after existing paragraph (iv) to read as follows: “at such location where single family lots within the PRD are adjacent to a public road or street having a right-of-way width of sixty (60) feet or more” (UDO-131).

CONTINUANCE HISTORY

The petition was continued from the March 10, 2005 Planning Board public hearing to continue discussions with the Homebuilders and Realtors Association.

BACKGROUND

The petitioner submitted the subject text amendment after realizing the required buffers on a corner lot in an approved PRD were significantly impacting the buildable area. The PRD regulations require a perimeter buffer be placed around the entire development including the portion adjacent to existing roads. This significantly impacts small corner lots on the periphery of PRDs.

The regulations currently have four exceptions to the bufferyard requirement as follows:

(i) at such location where single family residential lots within the planned residential development meet or exceed the minimum lot requirements of a residential zoning district adjacent to and outside the planned residential development;
(ii) where the zoning lot is adjacent to a floodplain at least sixty (60) feet wide;
(iii) where an internal residential lot line lies at least one hundred (100) feet from an adjoining zoning lot; and
(iv) where open space or a passive recreation area at least thirty (30) feet wide lies next to the adjacent zoning lot.

The petitioner’s request would add another exception to the list.

ANALYSIS

The perimeter buffer requirement has been a part of the PRD regulations since before the UDO was adopted. The buffer was seen as a form of protection between this new development pattern and the existing single family development in our community. Another safeguard that existed
when the PRD regulations were created was a requirement that PRDs go through the rezoning process. The approval process was changed to a Planning Board Review when the UDO was adopted. At this point, many PRDs have been successfully developed in our community and are no longer the unknown quantity they were when the use was first established. Because of this it is worth revisiting the PRD bufferyard standards.

Staff is supportive of the petitioner’s request to add another exception to the list of PRD bufferyard exceptions.

However, staff also believes that related to this, a more comprehensive review of the PRD bufferyard requirements is merited. The specific example that led to this text amendment relates to a street side yard, however, in some cases buffers must be planted in the front yards of homes that are within PRDs and also front on existing public streets. Inspections staff observes that even on side and rear property lines, the bufferyard requirement has been difficult to enforce because the buffer is often in the form of an easement along the backs of privately owned lots. When a new homeowner buys the property, she or he is not always aware of the bufferyard requirement and, in many cases, removes the required plantings. This can happen each time the property is sold and often happens repeatedly in PRD subdivisions throughout the community.

Based on those discussions, several approaches were pursued in an attempt to alleviate the enforcement challenge. Inspections staff first approached the problem by proposing all bufferyards be located within common open space owned by the homeowners association. They then applied this scenario to some existing approved PRD designs and found that there would be a net loss of lots due to building setback requirements. Ultimately, staff arrived at the proposed amendment which eliminates the buffer requirement while adding some protection to adjoining properties through the setback requirements. This proposed amendment has been sent for review and comment to potentially affected parties on the text amendment proposal distribution list. Planning staff has not received any comments in response to the distribution, however, Inspections Division staff has been discussing the amendment with the Homebuilders representative and the results of those discussions will be presented at the Planning Board meeting.

The amendment proposed by staff will address the enforcement issue described above and will reduce development costs associated with the bufferyard plantings. By eliminating the bufferyard, however, the amendment addresses the impact on surrounding development by proposing perimeter lots meet the underlying zoning district setbacks. The loss of the bufferyards themselves is mitigated by proposing a slightly higher open space requirement for PRDs. With these proposed changes, staff is of the opinion that the PRD bufferyards can be eliminated without detrimental impacts to adjoining properties.

Attached are two proposed ordinance changes. The first is the original request proposed by Peace Haven Properties. The second is the ordinance proposed by staff which, if approved, will address the issue brought forward by Peace Haven Properties.
RECOMMENDATION

APPROVAL.

PUBLIC HEARING - March 10, 2005

FOR: None

AGAINST: None

WORK SESSION

MOTION: Jerry Clark moved continuance of the zoning text amendment to April 14, 2005.
SECOND: Jimmy Norwood
VOTE:
   FOR: Clark, Eickmeyer, Glenn, King, Lambe, Mullican, Norwood, Smith
   AGAINST: None
   EXCUSED: None

PUBLIC HEARING - April 14, 2005

FOR: None

AGAINST: None

WORK SESSION

MOTION: Dara Folan moved approval of the zoning text amendment.
SECOND: Jerry Clark
VOTE:
   FOR: Clark, Folan, Glenn, King, Mullican, Norwood
   AGAINST: None
   EXCUSED: None

A. Paul Norby, AICP
Director of Planning
UDO-131
AS REQUESTED BY PETITIONER
AN ORDINANCE AMENDING
CHAPTER B ZONING ORDINANCE OF
THE UNIFIED DEVELOPMENT ORDINANCES
REGARDING PRD BUFFERYARD REQUIREMENTS

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 B Article II Section 2-5.58 (H) (1) (a) of the UDO is hereby amended by the addition of the following section “(v)”

“(v) at such location where single family lots within the PRD are adjacent to a public road or street having a right-of-way width of sixty (60) feet or more.”

Section 2. This ordinance shall be effective upon adoption.
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 B Article II Section 2-5.58 (H) of the UDO is hereby amended as follows:

(H) Development Standards

A planned residential development shall meet the following standards:

1. **Bufferyard.**

   (a) **Width and Location**. (F,W,C,L) A minimum thirty (30) foot wide type II bufferyard shall be provided around the entire perimeter of the zoning lot, except:

   (i) at such location where single family residential lots within the planned residential development meet or exceed the minimum lot requirements of a residential zoning district adjacent to and outside the planned residential development;

   (ii) where the zoning lot is adjacent to a floodplain at least sixty (60) feet wide;

   (iii) where an internal residential lot line lies at least one hundred (100) feet from an adjoining zoning lot;

   (iv) where open space or a passive recreation area at least thirty (30) feet wide lies next to the adjacent zoning lot.

2. **Outside Perimeter Lot Setback Requirements.**

   Any lot which adjoins the outside boundary of the planned residential development shall be considered an outside perimeter lot. Internal street refers to a street that is within the boundary of the planned residential development. Adjoining street is a street which that is not located with the planned residential development but is adjacent to the outside boundary of the planned residential development. The following setbacks shall be required for outside perimeter lots:

   Lots with access on an internal street. Rear yard setback requirement of the zoning district in which the planned residential development is located shall be required.
Lots with access on an adjoining street. Front yard setback requirements of the zoning district in which the planned residential development is located shall be required.

Corner lots with access either on an internal or adjoining street. Front yard setback requirements of the zoning district in which the planned residential development is located shall be required on the adjoining street and the front yard setback requirements allowed in the planned residential development shall be required on the internal street.

**Section 2.** Chapter B Article II Section 2-5.58 (H) of the UDO is hereby amended as follows:

(10) Common Open Space:

(a) **Area.** Common open space shall not be less than the following percentages of the land area of the planned residential development, excluding dedicated public rights-of-way or private access easements.

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* Planned Residential Developments of less than right (8) acres in size, and in Growth Management Areas (GMA) 1 and 2 may receive a 33% reduction in the common open space requirements provided all the following conditions are met:

- Public streets with detached sidewalks on both sides of the street shall be constructed and interconnected to all adjoining public streets. If an alley is utilized,
then one detached sidewalk may be installed for that street. Public stub streets are to be installed to adjoining land as per Planning staff’s recommendations;

- The common open space shall be well designed, centrally located and easily accessible to all residents. Topography shall be considered in order to ensure residents of a useable and accessible open space amenity;

- Meets the requirements in (b) and (c) below:

(b) **Minimum Average Open Space Quotient.** The minimum average open space quotient shall be determined by dividing the square footage of open space used to satisfy the requirement in Section 2-5.58(H)(10)(a) above, by one quarter (0.25) of the lineal footage of its periphery. The minimum average quotient throughout the development shall not be less than one hundred (100) feet.

(c) **Location.** The open space area required in Section 2-5.58(H)(10)(a) above and which is held by a non-profit homeowners’ association shall adjoin the planned residential development for at least fifty (50) percent of the periphery of such required open space.”

(d) **Character.** (C,L) Common Open Space (as defined in Chapter A, Article II of the UDO) shall include the following three types of open space: environmental, scenic and internal. Environmental shall include riparian areas, steep slopes and, when feasible, other significant natural areas. Scenic shall include sensitive view corridors from roads, parks, and other public areas. Internal shall include pocket parks, street terminations and other prominent open space features intended to be readily available to residents.

**Section 3.** This ordinance shall be effective upon adoption.
AS REQUESTED BY PETITIONER
AN ORDINANCE AMENDING
CHAPTER B ZONING ORDINANCE OF
THE UNIFIED DEVELOPMENT ORDINANCES
REGARDING PRD BUFFERYARD REQUIREMENTS

Be it resolved, by the City Council of the City of Winston-Salem, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

Section 1. Chapter B Article II Section 2-5.58 (H) (1) (a) of the UDO is hereby amended by the addition of the following section “(v)"

“(v) at such location where single family lots within the PRD are adjacent to a public road or street having a right-of-way width of sixty (60) feet or more.”

Section 2. This ordinance shall be effective upon adoption.
UDO-131
AS RECOMMENDED BY PLANNING STAFF
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(H) Development Standards

A planned residential development shall meet the following standards:

(1) Bufferyard.

(a) Width and Location.  (F,W,C,L)  A minimum thirty (30) foot wide type II bufferyard shall be provided around the entire perimeter of the zoning lot, except:

(i) at such location where single family residential lots within the planned residential development meet or exceed the minimum lot requirements of a residential zoning district adjacent to and outside the planned residential development;

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Any lot which adjoins the outside boundary of the planned residential development shall be considered an outside perimeter lot.  Internal street refers to a street that is within the boundary of the planned residential development.  Adjoining street is a street which that is not located with the planned residential development but is adjacent to the outside boundary of the planned residential development.  The following setbacks shall be required for outside perimeter lots:

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Section 2. Chapter B Article II Section 2-5.58 (H) of the UDO is hereby amended as follows:

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- Public streets with detached sidewalks on both sides of the street shall be constructed and interconnected to all adjoining public streets. If an alley is utilized,
then one detached sidewalk may be installed for that street. Public stub streets are to be installed to adjoining land as per Planning staff’s recommendations;

- The common open space shall be well designed, centrally located and easily accessible to all residents. Topography shall be considered in order to ensure residents of a useable and accessible open space amenity;

- Meets the requirements in (b) and (c) below:

(b) Minimum Average Open Space Quotient. The minimum average open space quotient shall be determined by dividing the square footage of open space used to satisfy the requirement in Section 2-5.58(H)(10)(a) above, by one quarter (0.25) of the lineal footage of its periphery. The minimum average quotient throughout the development shall not be less than one hundred (100) feet.

(c) Location. The open space area required in Section 2-5.58(H)(10)(a) above and which is held by a non-profit homeowners’ association shall adjoin the planned residential development for at least fifty (50) percent of the periphery of such required open space.”

(d) Character. (C,L) Common Open Space (as defined in Chapter A, Article II of the UDO) shall include the following three types of open space: environmental, scenic and internal. Environmental shall include riparian areas, steep slopes and, when feasible, other significant natural areas. Scenic shall include sensitive view corridors from roads, parks, and other public areas. Internal shall include pocket parks, street terminations and other prominent open space features intended to be readily available to residents.

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Be it resolved, by the Board of Aldermen of the Town of Kernersville, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

Section 1. Chapter B Article II Section 2-5.58 (H) (1) (a) of the UDO is hereby amended by the addition of the following section “(v)”

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CHAPTER B ZONING ORDINANCE OF
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REGARDING PRD BUFFERYARD REQUIREMENTS

Be it resolved, by the Village Council of the Village of Clemmons, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

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Lots with access on an internal street. Rear yard setback requirement of the zoning district in which the planned residential development is located shall be required.
Lots with access on an adjoining street. Front yard setback requirements of the zoning district in which the planned residential development is located shall be required.

Corner lots with access either on an internal or adjoining street. Front yard setback requirements of the zoning district in which the planned residential development is located shall be required on the adjoining street and the front yard setback requirements allowed in the planned residential development shall be required on the internal street.

Section 2. Chapter B Article II Section 2-5.58 (H) of the UDO is hereby amended as follows:

(10) Common Open Space:

(a) Area. Common open space shall not be less than the following percentages of the land area of the planned residential development, excluding dedicated public rights-of-way or private access easements.

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<tr>
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* Planned Residential Developments of less than right (8) acres in size, and in Growth Management Areas (GMA) 1 and 2 may receive a 33% reduction in the common open space requirements provided all the following conditions are met:

- Public streets with detached sidewalks on both sides of the street shall be constructed and interconnected to all adjoining public streets. If an alley is utilized,
then one detached sidewalk may be installed for that street. Public stub streets are to be installed to adjoining land as per Planning staff’s recommendations;

- The common open space shall be well designed, centrally located and easily accessible to all residents. Topography shall be considered in order to ensure residents of a useable and accessible open space amenity;

- Meets the requirements in (b) and (c) below:

(b) Minimum Average Open Space Quotient. The minimum average open space quotient shall be determined by dividing the square footage of open space used to satisfy the requirement in Section 2-5.58(H)(10)(a) above, by one quarter (0.25) of the lineal footage of its periphery. The minimum average quotient throughout the development shall not be less than one hundred (100) feet.

(c) Location. The open space area required in Section 2-5.58(H)(10)(a) above and which is held by a non-profit homeowners’ association shall adjoin the planned residential development for at least fifty (50) percent of the periphery of such required open space.”

(d) Character. (C,L) Common Open Space (as defined in Chapter A, Article II of the UDO) shall include the following three types of open space: environmental, scenic and internal. Environmental shall include riparian areas, steep slopes and, when feasible, other significant natural areas. Scenic shall include sensitive view corridors from roads, parks, and other public areas. Internal shall include pocket parks, street terminations and other prominent open space features intended to be readily available to residents.

Section 3. This ordinance shall be effective upon adoption.
Be it resolved, by the Town Council of the Town of Lewisville, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

Section 1. Chapter B Article II Section 2-5.58 (H) (1) (a) of the UDO is hereby amended by the addition of the following section “(v)”

“(v) at such location where single family lots within the PRD are adjacent to a public road or street having a right-of-way width of sixty (60) feet or more.”

Section 2. This ordinance shall be effective upon adoption.
UDO-131
AS RECOMMENDED BY PLANNING STAFF
AN ORDINANCE AMENDING
CHAPTER B ZONING ORDINANCE OF
THE UNIFIED DEVELOPMENT ORDINANCES
REGARDING PRD BUFFERYARD REQUIREMENTS

Be it resolved, by the Town Council of the Town of Lewisville, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

Section 1. Chapter B Article II Section 2-5.58 (H) of the UDO is hereby amended as follows:

(H) Development Standards

A planned residential development shall meet the following standards:

(1) Bufferyard.

(a) Width and Location. (F,W,C,L) A minimum thirty (30) foot wide type II bufferyard shall be provided around the entire perimeter of the zoning lot, except:

(i) at such location where single family residential lots within the planned residential development meet or exceed the minimum lot requirements of a residential zoning district adjacent to and outside the planned residential development;

(ii) where the zoning lot is adjacent to a floodplain at least sixty (60) feet wide;

(iii) where an internal residential lot line lies at least one hundred (100) feet from an adjoining zoning lot;

(iv) where open space or a passive recreation area at least thirty (30) feet wide lies next to the adjacent zoning lot.

(1) Outside Perimeter Lot Setback Requirements.

Any lot which adjoins the outside boundary of the planned residential development shall be considered an outside perimeter lot. Internal street refers to a street that is within the boundary of the planned residential development. Adjoining street is a street which that is not located with the planned residential development but is adjacent to the outside boundary of the planned residential development. The following setbacks shall be required for outside perimeter lots:

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Corner lots with access either on an internal or adjoining street. Front yard setback requirements of the zoning district in which the planned residential development is located shall be required on the adjoining street and the front yard setback requirements allowed in the planned residential development shall be required on the internal street.

Section 2. Chapter B Article II Section 2-5.58 (H) of the UDO is hereby amended as follows:

(10) Common Open Space:

(a) Area. Common open space shall not be less than the following percentages of the land area of the planned residential development, excluding dedicated public rights-of-way or private access easements.

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then one detached sidewalk may be installed for that street. Public stub streets are to be installed to adjoining land as per Planning staff’s recommendations:

- The common open space shall be well designed, centrally located and easily accessible to all residents. Topography shall be considered in order to ensure residents of a useable and accessible open space amenity;

- Meets the requirements in (b) and (c) below:

(b) **Minimum Average Open Space Quotient.** The minimum average open space quotient shall be determined by dividing the square footage of open space used to satisfy the requirement in Section 2-5.58(H)(10)(a) above, by one quarter (0.25) of the lineal footage of its periphery. The minimum average quotient throughout the development shall not be less than one hundred (100) feet.

(c) **Location.** The open space area required in Section 2-5.58(H)(10)(a) above and which is held by a non-profit homeowners’ association shall adjoin the planned residential development for at least fifty (50) percent of the periphery of such required open space.”

(d) **Character.** (C,L) Common Open Space (as defined in Chapter A, Article II of the UDO) shall include the following three types of open space: environmental, scenic and internal. Environmental shall include riparian areas, steep slopes and, when feasible, other significant natural areas. Scenic shall include sensitive view corridors from roads, parks, and other public areas. Internal shall include pocket parks, street terminations and other prominent open space features intended to be readily available to residents.

**Section 3.** This ordinance shall be effective upon adoption.
UDO-131
AS REQUESTED BY PETITIONER
AN ORDINANCE AMENDING
CHAPTER B ZONING ORDINANCE OF
THE UNIFIED DEVELOPMENT ORDINANCES
REGARDING PRD BUFFERYARD REQUIREMENTS

Be it resolved, by the Town Council of the Town of Walkertown, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

Section 1. Chapter B Article II Section 2-5.58 (H) (1) (a) of the UDO is hereby amended by the addition of the following section “(v)”

“(v) at such location where single family lots within the PRD are adjacent to a public road or street having a right-of-way width of sixty (60) feet or more.”

Section 2. This ordinance shall be effective upon adoption.
Be it resolved, by the Board of Aldermen of the Town of Walkertown, North Carolina that the Unified Development Ordinances (UDO) is hereby amended as follows:

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(1) Bufferyard.

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Section 3. This ordinance shall be effective upon adoption.