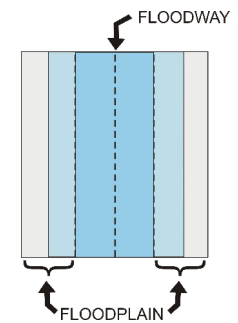


DOCKET #: W3068

PROPOSED ZONING:
Special Use Permit
for Kennel Enclosure

EXISTING ZONING:
GI

PETITIONER:
Lusk Commercial Properties LLC
for property owned by Same



SCALE: 1" represents 400'

STAFF: Roberts

GMA: 2

ACRES: 0.78

NEAREST BLDG: 30' south

MAP(S): 624858



June 23, 2010

John Lusk
Lusk Commercial Properties LLC
1920 Angelo Court, Apt A
Winston-Salem, NC 27104

RE: SPECIAL USE PERMIT W-3068

Dear Mr. Lusk:

The attached report of the Planning Board to the City Council is sent to you at the request of the Council Members. You will be notified by the City Secretary's Office of the date on which the Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102
Chris Dunn, 1049 Kenleigh Circle, Winston-Salem, NC 27106
Gray Stout, 206 East Fisher Street, Salisbury, NC 28144
Sanders Mosley, 1855 Runnymede Road, Winston-Salem, NC 27104
Lonnie Clark, 1212 Watson Avenue, Winston-Salem, NC 27103

ACTION REQUEST FORM

DATE: June 23, 2010
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

BOARD ACTION REQUEST:

Request for Public Hearing on Special Use Permit of Lusk Commercial Properties, LLC

SUMMARY OF INFORMATION:

Special Use Permit of Lusk Commercial Properties, LLC for an outdoor enclosure of a Kennel, Indoor use and setback reductions: property is located on the west side of Chatham Road, south of Northwest Boulevard (Zoning Docket W-3068).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: ARNOLD KING, ARTHUR KING, CLARENCE LAMBE,
DARRYL LITTLE, LYNNE MITCHELL, PAUL MULLICAN
AGAINST: WESLEY CURTIS, BARRY LYONS
SITE PLAN ACTION: CONFORMS TO THE REQUIREMENTS OF THE UDO

CITY ORDINANCE - SPECIAL USE PERMIT

Special Use Permit of Lusk Commercial Properties, LLC,
Docket W-3068

AN ORDINANCE ISSUING A SPECIAL USE
PERMIT FOR OUTDOOR ENCLOSURE OF A KENNEL,
INDOOR USE AND SETBACK REDUCTIONS

BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The City Council hereby makes an affirmative finding as follows, based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

Section 2. The Winston-Salem City Council hereby issues a special use permit for an outdoor enclosure of a Kennel, Indoor use and setback reductions in accordance with Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* to Lusk Commercial Properties, LLC to be established on the following described property:

Section 3. This Ordinance is adopted after approval of the site plan entitled Winston-Salem Kennel and identified as Attachment "A" of the Special Use Permit issued by the City Council the _____ day of _____, to Lusk Commercial Properties, LLC.

Section 4. The City Council hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Winston-Salem Kennel. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.

CITY - SPECIAL USE PERMIT

SPECIAL USE PERMIT

Issued by the City Council
of the City of Winston-Salem

The City Council of the City of Winston-Salem issues a Special Use Permit for the site shown on the site plan map included in this zoning petition of Lusk Commercial Properties, LLC, (Zoning Docket W-3068). The site shall be developed in accordance with the plan approved by the Council and bearing the inscription: "Attachment A, Special Use Permit for an outdoor enclosure of a Kennel, Indoor use and setback reductions, approved by the Winston-Salem City Council the _____ day of _____, 20____" and signed, provided the property is developed in accordance with requirements of Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances*, and other applicable laws, and the following additional conditions be met:

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
 - a. Developer shall obtain a driveway permit from City of Winston-Salem Public Works Department.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
 - a. Any damage to City maintained streets, sidewalk, or curb shall be replaced or repaired to the requirements of the Public Works Department.
 - b. All requirements of the City of Winston-Salem driveway permit shall be completed.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION			
Docket #	W-3068		
Staff	Gary Roberts, Jr. AICP		
Petitioner(s)	Lusk Commercial Properties, LLC		
Owner(s)	Same		
Subject Property	PIN # 6825-98-6919		
Address	744 Chatham Road		
Type of Request	Special Use Permit		
Proposal	The petitioner is requesting a Special Use Permit for an outdoor enclosure and setback reductions for a Kennel, Indoor use.		
GENERAL SITE INFORMATION			
Location	West side of Chatham Road, south of Northwest Boulevard		
Jurisdiction	City of Winston-Salem		
Ward(s)	Northwest		
Site Acreage	± 0.78 acre		
Current Land Use	An 8,500 sf, unoccupied industrial/commercial building is currently located on the site.		
Surrounding Property Zoning and Use	Direction	Zoning District	Use
	North	GI	Railroad and Twin City Industrial Center
	East	GI	Parking lot for Hanes Dye and Finishing
	South	GI	Industrial building
	West	LI & RS-Q HO	Undeveloped property and single family home
Physical Characteristics	The site slopes down gently from south to north. No streams or wetlands are located on the site. Staff also notes that the subject property had a chemical fire in 2002 that destroyed the previous building and its contents. The site is listed on the EPA Superfund CERCLIS website with information that the site was “cleaned up” between 7/31/02 and 10/16/02.		
Proximity to Water and Sewer	Public water and sanitary sewer are available to the site.		
Stormwater/ Drainage	No known issues		
Watershed and Overlay Districts	The subject property is not located within a water supply watershed.		
Analysis of General Site Information	The site appears to have no development constraints. Staff does not anticipate any significant changes to the site from this request.		

SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
Chatham Road	Collector Street	122'	NA	NA
Proposed Access Point(s)	The site plan reflects one driveway onto Chatham Street, which will be relocated from its present location.			
Planned Road Improvements	All three proposed alternative Martin Luther King Drive Extensions run through the subject property.			
Trip Generation - Existing/Proposed	<p><u>Existing Zoning: GI</u> No trip rate is available for the existing zoning which has no site plan.</p> <p><u>Proposed Use: Kennel, Indoor</u> No trip rate is available for this use</p>			
Sidewalks	No sidewalks are located along this portion of Chatham Road.			
Transit	Route 4 along Broad Street, +/- 1,100' to the west.			
Analysis of Site Access and Transportation Information	Staff does not anticipate any negative transportation impacts from this request.			
CONFORMITY TO PLANS AND PLANNING ISSUES				
Legacy GMA	Growth Management Area 2, Urban Neighborhoods			
Relevant Legacy Recommendations	<ul style="list-style-type: none"> • <i>Legacy</i> encourages convenient commercial services to support neighborhood needs. • <u>Infill and Redevelopment:</u> Manage growth by making more efficient use of land that has already been developed, encouraging reuse and infill and capitalizing on other development opportunities. • <u>Infill and Redevelopment:</u> Increased infill development could bring new opportunity and improved quality of life for residents within the MSA, especially for neighborhoods within the city. 			
Relevant Area Plan(s)	<i>South Central Area Plan (2003)</i>			
Area Plan Recommendations	Though zoned General Industrial, the property's existing land use is shown as commercial. No change is recommended on the proposed land use map.			
Other Applicable Plans and Planning Issues	<p>For Special Use Permits (SUP) requiring approval by the Elected Body, certain findings have to be met. Findings of the Planning Board accompanying a favorable recommendation shall include:</p> <p><u>Planning Board Findings:</u></p> <ol style="list-style-type: none"> a. The development is in conformity with <i>Legacy</i>. (<i>Yes</i>) b. Water and sewer service are available in adequate capacity. (<i>Yes</i>) c. Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment. (<i>No new buildings are proposed; existing building height is 20'</i>) 			

	<p>d. Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard. <i>(Yes)</i></p> <p>e. General layout and design of the development meet all requirements of this Ordinance. <i>(Yes)</i></p> <p>f. Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc) and service vehicles and personnel (sanitation, postal delivery, etc). <i>(Yes)</i></p> <p>g. The Planning Board may recommend to the Elected Body conditions as identified in Section 6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. <i>(See “SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL” section below)</i></p> <p>The Elected Body shall issue a Special Use Permit only when the Elected Body makes an affirmative finding as follows:</p> <p><u>Elected Body Findings:</u></p> <p>a. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved. <i>(Yes)</i></p> <p>b. That the use meets all required conditions and specifications. <i>(Yes)</i></p> <p>c. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and, <i>(Yes)</i></p> <p>d. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with <i>Legacy</i>. <i>(Yes)</i></p>
<p>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)</p>	<p>(S)(3) - Have changing conditions substantially affected the area in the petition?</p> <p>No</p> <p>(S)(4) - Is the requested action in conformance with <i>Legacy</i>?</p> <p>Yes</p>
<p>Analysis of Conformity to Plans and Planning Issues</p>	<p>The petitioner is requesting a Special Use Permit (SUP) for: (1) an outdoor enclosure, and (2) setback reductions for a Kennel, Indoor use. The use conditions for Kennel, Indoor require a 40’ rear yard and 20’ side yard setback for both the building and any outdoor enclosed area. Any reduction of those setbacks must be reviewed through the elected body Special Use Permit process. The UDO also requires that any outdoor enclosure for a Kennel, Indoor use be reviewed and approved through the elected body SUP process.</p> <p>The existing building is located +/-15 feet from the southern lot line, +/-20 feet from the western lot line, and 0 feet from the northern lot line. Approval of this request would provide relief from the required 20’</p>

setback on these three sides of the building. The proposed outdoor enclosure wraps around the building’s southern and western sides and extends to those respective property lines. Staff believes that the outdoor enclosure and setback reductions are reasonable requests, given the existing site layout and surrounding land uses.

RELEVANT ZONING HISTORIES

There are no relevant histories in the vicinity of the subject property.

SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

Building Square Footage	Square Footage		Placement on Site	
	8,500 SF		Western ½ of site	
Parking	Required	Proposed	Layout	
	21 spaces	21 spaces	90° head-in	
Building Height	Maximum		Proposed	
	60 feet		1-story	
Impervious Coverage	Maximum		Proposed	
	85%		68%	
UDO Sections Relevant to Subject Request	<ul style="list-style-type: none"> • Chapter B, Article II, Section 2-1.4(C) GI District • Chapter B, Article II, Section 2-5.39 Kennels, Indoor Use Conditions 			
Complies with Chapter B, Article VII, Section 7-5.3	(A) Legacy policies:		Yes	
	(B) Environmental Ord.		Yes	
	(C) Subdivision Regulations		NA	
Analysis of Site Plan Compliance with UDO Requirements	The revised site plan meets the requirements of the UDO.			

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

Positive Aspects of Proposal	Negative Aspects of Proposal
Request is consistent with <i>Legacy</i> .	The proposed outdoor enclosure will be approximately 100’ from a residence.
The request is consistent with the <i>South Central Area Plan</i> .	
The proposed use is compatible with the surrounding land uses.	
The SUP would encourage the re-use of an existing commercial building.	
The request meets the required SUP findings.	

SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
 - a. Developer shall obtain a driveway permit from City of Winston-Salem Public Works Department.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
 - a. Any damage to City maintained streets, sidewalk, or curb shall be replaced or repaired to the requirements of the Public Works Department.
 - b. All requirements of the City of Winston-Salem driveway permit shall be completed.

STAFF SPECIAL USE PERMIT RECOMMENDATION: Approval

NOTE: These are **staff comments** only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR W-3068
JUNE 10, 2010**

Aaron King presented the staff report.

PUBLIC HEARING

FOR:

Chris Dunn, 1049 Kenleigh Circle, Winston-Salem, NC 27106

- I will be the developer of the property.
- This will be a dramatic improvement to what is there now.
- We have sent letters and the site plan to eight property owners in Historic West End whose properties look down on this site. We have had no response from them.
- We also communicated with the West End Association and posted our letter on their neighborhood web site. They had a concern regarding noise and we responded with another letter.
- Please understand that these dogs will be internally housed. Their time outside the building will be limited to exercise when they will be escorted by an employee.
- The hours of that happening would be Monday through Friday from 8 AM to 6 PM and Saturdays probably from 8 AM to Noon with outdoor walks Saturday afternoon and Sunday afternoon.

Gray Stout, 206 East Fisher Street, Salisbury, NC 28144

- I am the site plan preparer.
- I feel that the outdoor enclosure area is in the best spot possible.
- We feel that the proposed layout will enhance the visual aspect of this portion of Chatham Road.
- Our proposal also includes alterations to the building's façade which will help it look less like a metal building.

AGAINST:

Sanders Mosley, 1855 Runnymede Road, Winston-Salem, NC 27104

- We own the building directly south of this property.
- The proposed kennel will be almost on our property line.
- I am opposed to this because my building is leased to a church and I'm concerned that the noise from this will interfere with them.

- It will also echo the noise up to the Historic West End neighborhood.
- I urge you to vote against this proposal because of the disruption of the peace and quiet of the area at this time.

Lonnie Clark, 1212 Watson Avenue, Winston-Salem, NC 27103

- I'm here representing the Neighborhood Alliance of which I'm a member because I'm president of the Ardmore Neighborhood Association.
- In both this case and the next one we are concerned that they set a precedent regarding the setback requirements for kennels.
- While many of us on both boards are serious dog-lovers, we think this many dogs does create a noise problem and can reduce the property values of adjacent properties.

WORK SESSION

During discussion by the Planning Board, the following points were made:

1. The extension of Martin Luther King, Jr Drive is unscheduled at this time. Mention of the proposed extension is provided for a "heads-up".
2. This building was built in 2002 and has never had a tenant.
3. The Board discussed potential uses in the GI District. Paul Mullican: There are a lot of things that could go on this property as it's zoned right now which would be detrimental to the area. This could be much better than many of those uses. This does have economic value to the area. There are manufacturing plants nearby.

NOTE: A list of uses currently allowed in the GI District is attached.

4. Barry Lyons: A dog kennel can be an intense use with regards to the noise factor. I hesitate to set a precedent of reducing setback requirements when there is residential property on the hill just above this property. It appears to me that too often the Special Use Permit is used to circumvent what is reasonable zoning. This particular situation may be very well run, but we could be setting a precedent for businesses which will not be well run.
5. The petitioner read the letter he wrote to the neighbors in which he addressed the noise concern. It was noted that the statements were not binding unless the petitioner agreed to include them as conditions in this Special Use Permit. Staff read the existing restrictions in the UDO pertaining to kennels. They restrict hours of operation from 8 AM - 6 PM, limit use of outdoor space to dogs on leashes, and require adult supervision and meeting the appropriate sanitary restrictions.
6. In response to a question from Arthur King, the petitioner noted that there would be outdoor activity on Sunday for the purpose of walking the dogs. The dogs would be on leashes during this activity.

7. Lynne Mitchell clarified that the dog run would abut the adjoining property on the southern sides as it will be placed within the bufferyard area. and that there was a railroad tract on the northern side. On the western side, the play area will meet the normal setbacks but there will not be a buffer since the adjoining property on that side is zoned LI. We look at cases individually. Given that the houses are significantly higher than the site, I don't think the buffer would be a help anyway.
8. Wesley Curtis: Since this is a request which gives the property owner a right which the surrounding neighbors do not have, to me the key thing is the surrounding neighbors. If the adjacent property owners don't support that, I don't know if I can support it.
9. Arthur King: This is a difficult decision. I appreciate the possibility of setting precedent. On the other hand it seems the economic benefit of using property for business purposes is a reasonable objective in and of itself. If there were more valuable uses they probably would have shown up by now. We have an industrial building which ought to be used for something.
10. Lynne Mitchell: I'm struggling also. I think there's a perception of what it can do, but it's beneficial to do something with the site. I'm always supportive of keeping something in the community which is in a good location, convenient to people instead of way out. I do think we would have to have the conditions.
11. The petitioner's letters were sent to the HOA and not the property owner of the church next door.
12. The petitioner stated that he doesn't want to agree to conditions beyond the requirements of the UDO.

MOTION: Paul Mullican moved approval of the Special Use Permit, certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Clarence Lambe

VOTE:

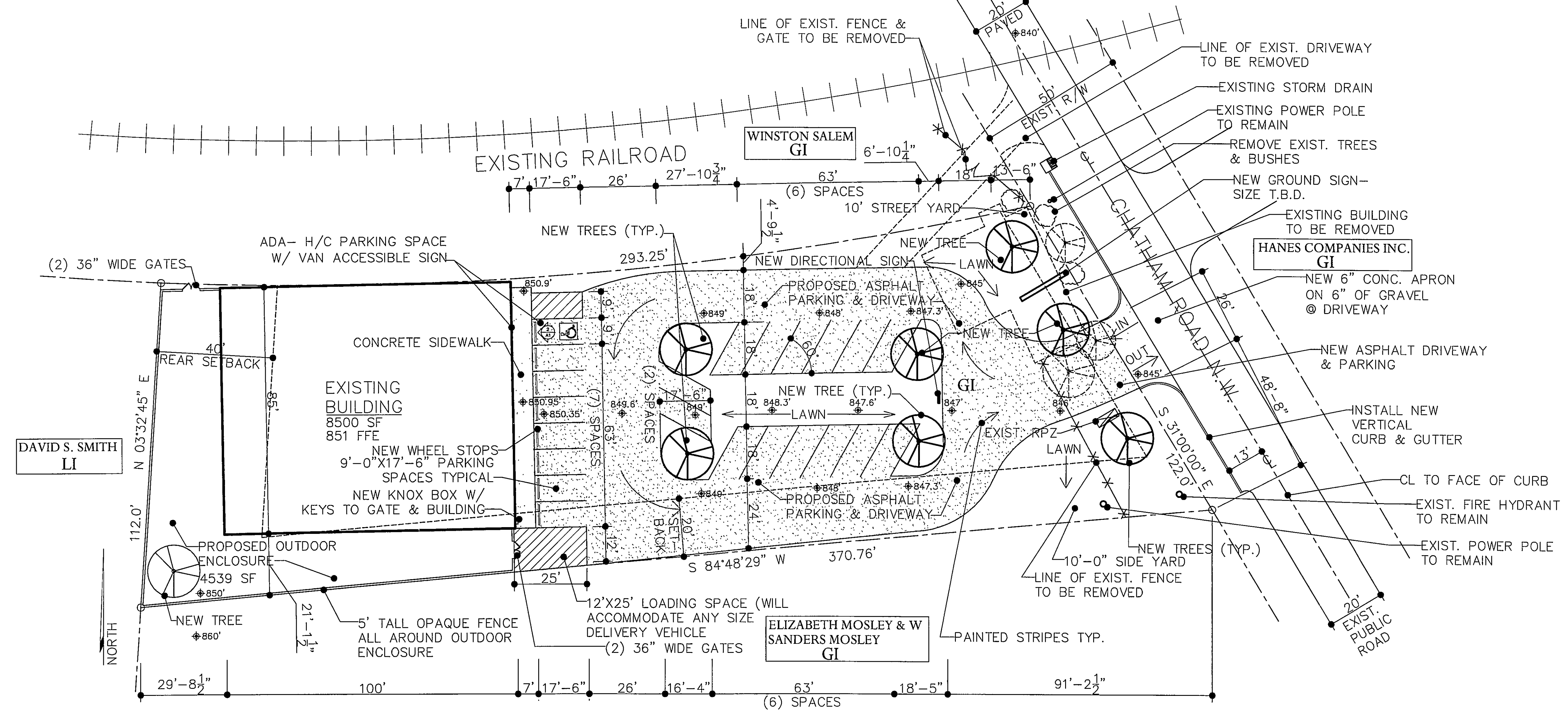
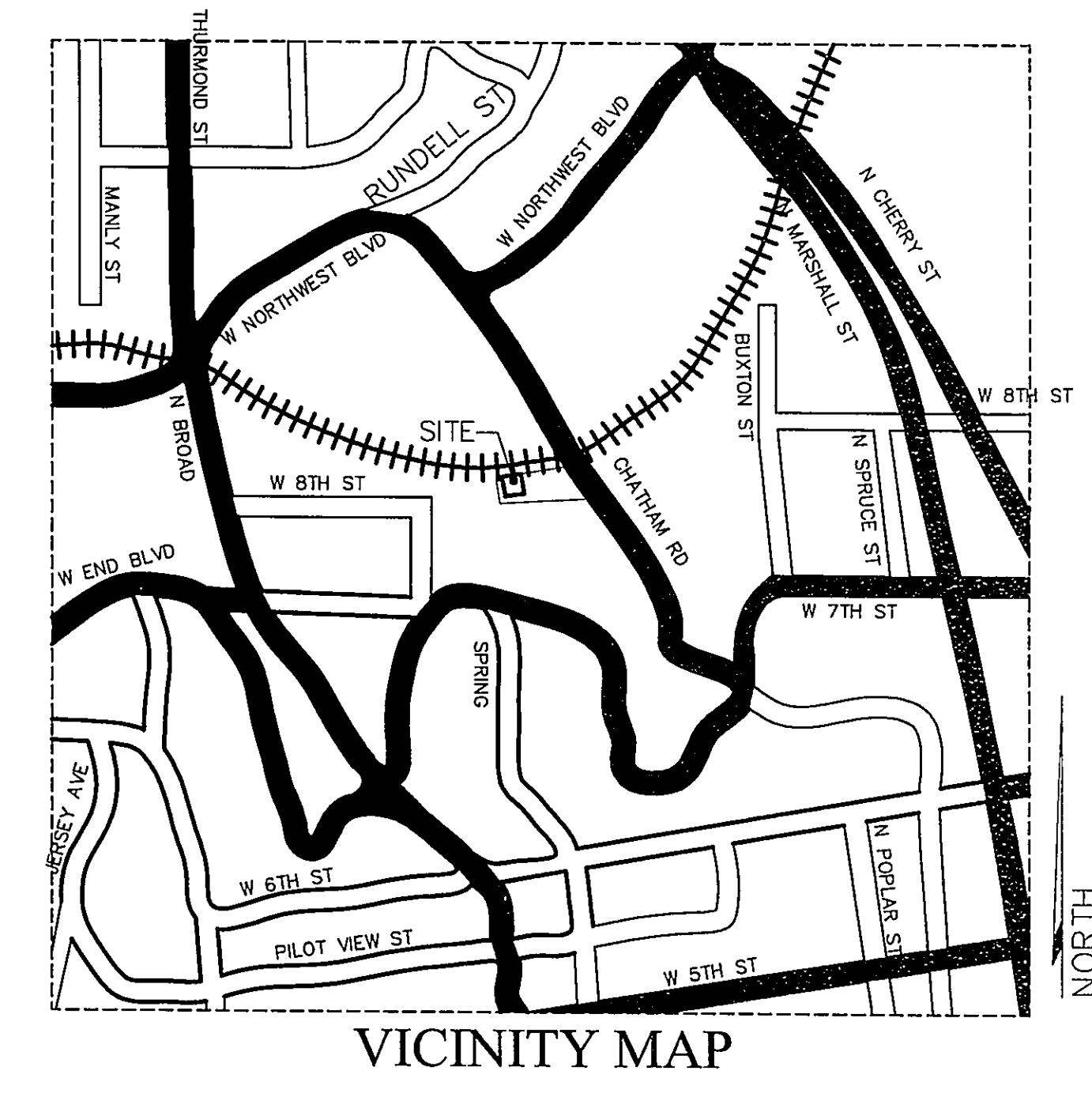
FOR: Arnold King, Arthur King, Clarence Lambe, Darryl Little, Lynne Mitchell, Paul Mullican

AGAINST: Wesley Curtis, Barry Lyons

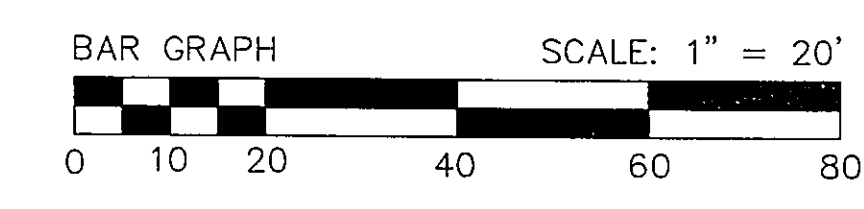
A. Paul Norby, FAICP
Director of Planning

REVIEW INFORMATION		ZONING		OFF-STREET PARKING (if applicable)	
Type of Review:	Special Use Rezoning	Existing Zoning:	GI	Proposed Use(s):	KENNEL INDOOR
	Site Plan Amendment	Proposed Zoning:	GI	Required Parking:	1 Spaces / 400 GFA
	Special Use Permit (Elected Body Only)			Parking Provided:	21
	Final Development Plan	Proposed Use:	INDOOR KENNEL WITH OUTDOOR ENCLOSURE		8,500 / 400 = 21.25
	Preliminary Subdivision			OFF-STREET LOADING (if applicable)	
	Planning Board Review			Loading/Unloading Spaces Required:	1
Jurisdiction:	City of Winston-Salem	(Use UDO Terminology)		Loading/Unloading Spaces Provided:	1
	Forsyth County			Size:	12 ft x 25 ft
	Village of Clemmons				
	Town of Walkertown				
Purpose Statement: The purpose of this request is to REQUEST SPECIAL USE PERMIT TO ESTABLISH KENNEL INDOOR AND OUTDOOR ENCLOSURE WITHIN THE REQUIRED SETBACKS.		DENSITY CALCULATIONS		BUFFERYARDS	
		# of Units or Lots:	1	Adjoining Zoning:	GI
		Density:	Units/Lots per Acre	Type Required:	NO BUFFERYARD REQ'D.
		(Note: If more than one type of residential product is proposed, provide the number of units & density broken down by type)		Width Provided:	ft
INFRASTRUCTURE		PROPERTY INFORMATION		WATERSHED CALCULATIONS	
Water	Public	PIN #'s:	6825-98-6919.00	This section only needs to be completed for projects located within designated water supply watersheds. See reverse side for calculation legend.	
Sewer	Private				
Streets					
Linear feet of public streets:	122 ft				
SITE SIZE AND COVERAGES					
Total Acreage:	0.78 Acres				
Site Coverages:					
Building to Land	25%				
Pavement to Land	43%				
Open Space	32%				
Building Square Footage:	8,500sf				
Building Height:	20ft				

Tree Save Area Summary Calculations - To Be Used in Conjunction With the Inspections Division Landscaping and Tree Preservation Checklist		
New Development:	Total Site Size (in Square Feet): 34,000 SF	
Proposed Use(s):	Total Limits of Land Disturbance (in Square Feet):	
Required Parking:	Total Site Area Excluded From TSA: Square Feet of Proposed R.O.W.s + Square Feet of Existing Utility Easements + Square Feet of Existing Water Bodies and Stormwater Ponds = 0 + 0 = 0	
Parking Provided:	Minimum Tree Save Area Required: X 10% = 12%	
	Total Required Tree Save Area (in square feet): Total Site Size or Total Limits of Land Disturbance - Excluded Area X	
	Minimum TSA (12%) = 3,400 SF	
Individual Trees Method Used:	Tree Stand Method Used:	New Trees Used For TSA Credit:
Number of Trees 6-9" DBH: X 500sf =	List the Area of Each Tree Stand Being Saved (AGE, DBH, Species Mix):	Number of Large Varying Trees Planted: 7 X 750sf = 5250 SF
Number of Trees 9.01-12" DBH: X 750sf =		
Number of Trees 12.01-24" DBH: X 1800sf =		
Number of Trees 24.01-36" DBH: X 3000sf =		
Number of Trees Larger Than 36.01" DBH: X 4000sf =		
Total Square Footage of Individual Trees Used to Satisfy Minimum TSA: 0	Total Square Footage of Tree Stands Being Saved to Satisfy Minimum TSA: 0	Total Square Footage of New Trees Planted to Satisfy Minimum TSA: 5250
Total Required TSA (in Square Feet): 3400		Total TSA provided (in Square Feet): 5250



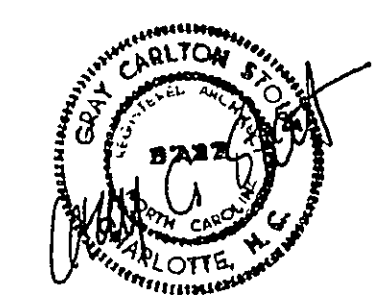
PROPOSED SITE PLAN 1:20



S2.A

stoutstudio.architecture

Gray Stout, AIA, Architect
 206 east fisher street
 salisbury, nc 28144
 704.603.8117
 704.603.8119 fax
 www.stoutstudio2.com
 member:
 American Institute of Architects
 & Congress of the New Urbanism



WINSTON SALEM
 KENNEL

744 CHATHAM RD.
 WINSTON SALEM, NC

PIN #: 6825-98-6919.00

APPLICANT: CHRIS DUNN
 CAROLINA PET PLACE
 336.766.4447

CURRENT OWNER:
 LUSK COMMERCIAL
 PROPERTIES, LLC.
 JOHN G. LUSK
 1920 ANGELO ST. APT. A
 WINSTON SALEM, NC

ZONING: GI
 ADJACENT ZONING:
 SIDE-GI
 REAR-LI
 TAXABLE DEED BK-PG:
 2514-756
 PARCEL ID: BLOCK LOT
 0145 209 F
 LOT#: 6919
 AREA: 0.78 ACRE
 MAP#: 624858

PROPOSED
 SITE PLAN

SUBMITTAL:
 5/10/2010
 RESUBMITTAL:
 6/3/2010

A1

PRELIMINARY- NOT
 FOR CONSTRUCTION
 W-3068 "REVISED"

ZONING File Copy