

AGENDA

**ROCKINGHAM COUNTY PLANNING BOARD &
BOARD OF ADJUSTMENT**

November 13, 2018 at 7:00 pm

County Commissioners Chambers

Rockingham County Governmental Center



I. Call to Order

II. Invocation

III. Approval of Minutes: September 10 and October 8, 2018 Meetings

III. Review of Procedures

IV. Public Hearings:

Planning Board

- a. Text Amendment to the Unified Development Ordinance: revising language and development criteria pertaining to Special Use Permits for Rural Family Occupations.

Board of Adjustment

- b. Case #2018-028, Cook Florist Rd: An appeal has been filed for relief from notice of citation fees pertaining to a zoning violation – Development Without Permit, *UDO Chapter 2, Article XVI "Penalties," Section 16-1(a)*. The violation centers on a domestic animal kennel that is in operation without having obtained the required Special Use Permit.

V. Other Business:

- a. Old Business: 1. Consideration of Revisions to Planning Board Bylaws
- b. New Business: 1. Introduction of new Associate Planner, Emily Bacon

VI. Adjourn

**MINUTES OF THE REGULARLY SCHEDULED MEETING OF:
THE ROCKINGHAM COUNTY PLANNING BOARD**



**BOARD OF COMMISSIONERS CHAMBERS
ROCKINGHAM COUNTY GOVERNMENTAL CENTER
WENTWORTH, NC
SEPTEMBER 10, 2018 AT 7:00 PM**

MEMBERS PRESENT: Timothy Wyatt, Chairperson
Ann Cunningham, Vice-Chairperson
Doug Isley
James Harris
Mike Lee

STAFF PRESENT: Ben Curry, Code Enforcement Officer
Bricen Wall, Code Enforcement Officer
Lynn Cochran, Planner
Mark Langel, Chief Building Inspector
Roy Sawyers, A/V Tech
Tonya Caddle, Planning Director

I. CALL TO ORDER

CHAIRPERSON WYATT CALLED TO ORDER THE REGULARLY SCHEDULED MEETING OF THE ROCKINGHAM COUNTY PLANNING BOARD AT 7:00 PM.

II. INVOCATION

Mr. Harris conducted the invocation.

III. REVIEW OF PROCEDURES

Planning Board meeting procedures were read by Vice-Chairperson Cunningham.

Chairperson Wyatt called forward and swore in witnesses signed-up to speak.

Chairperson Wyatt brought a motion to approve minutes from board meetings in May 2018 and August 2018. Mr. Lee made a motion to approve the minutes from both meetings. The motion was seconded by Mr. Isley. The Board voted unanimously to approve the respective minutes (5-0).

IV. PUBLIC HEARINGS

1. **CASE #2018-028 REZONING:** a portion of parcel to be rezoned from Highway Commercial Conditional Use (HC-CU) to Residential Protected (RP).

Mr. Cochran presented the case to the Board and recommended approval. The case consisted of a request for portion of a parcel to be rezoned from Highway Commercial Conditional Use (HC-CU) to Residential Protected (RP). The parcel is denoted by Tax PIN: 7948-04-63-5828, located at NC Highway 135 and Young Road.

The board members posed no questions.

Mr. Braxton Terry of 157 Young Road, Stoneville NC took the stand and presented as applicant.

The board members posed no questions.

MR. LEE MOTIONED TO APPROVE THE REZONING REQUEST. VICE-CHAIRPERSON CUNNINGHAM SECONDED THE MOTION TO RECOMMEND APPROVAL TO THE COUNTY COMMISSIONERS. THE REZONING REQUEST CARRIED UNANIMOUSLY (5-0).

2. CASE #2018-023 REZONING: from Residential Agricultural (RA) to Highway Commercial Conditional Use (HC-CU).

Mrs. Caddle presented the case to the Board and recommended denial. The case consisted of a request for a rezoning from Residential Agricultural (RA) to Highway Commercial Conditional Use (HC-CU) for a Retail Establishment. The parcel is denoted by Tax PIN: 7941-00-33-7807, located at US Highway 158 and Glencoe Church Loop.

The board members posed no questions.

Mr. Mike Fox of 100 North Green Street, Greensboro NC took the stand representing Teramore Development LLC and the parcel owner. He stated that he would be addressing key points in the planning department's staff report and denial recommendation.

Mr. Daniel Almazan of 306 Oak Brook Drive, Salisbury NC took the stand representing Teramore Development. He stated that to his knowledge a Dollar General store would not negatively impact property values, crime rate, or traffic patterns.

- Mr. Lee asked what percentage of community meeting attendees were against or for the store. Mr. Almazan stated that 40 or 50 people expressed concern over the store being built, and a number of people expressed positive feedback after the meeting ended.

Mr. Mike Fox of 100 North Green Street, Greensboro NC retook the stand to discuss 'spot zoning'. He defined spot zoning, and reminded everyone that this area was identified as a Rural Transition land class in the county's Land Use Plan. He proposed that he did not believe that the store would cause the community 'significant harm'.

- Chairman Wyatt asked why the Mr. Fox why they did not apply to be zoned Neighborhood Commercial (NC). Mr. Fox deferred to Mr. Almazan. Mr. Almazan noted

that other similar zoning types on the highway 158 corridor are zoned Highway Commercial (HC). Their intention was to apply for rezoning that was consistent with the surrounding area.

- Chairman Wyatt asked Mr. Fox if he knew how close the next parcel zoned Highway Commercial (HC) is. Mr. Fox noted there is a small store and a small-scale car dealership toward highway 220.

Mr. Boyd Bennett of 8100 Harper Drive, Raleigh NC & 313 Bennett Farm Road, Stokesdale NC, took the stand as one of the land owners. He discussed the nature of due diligence conducted by Teramore Development with other interested parties.

The board members posed no questions.

Ms. Gloria Carroll of 421 Chestnut Street, Eden NC spoke as a concerned long-time resident of Rockingham County. She spoke in favor of bringing new business and tax revenue, to the county.

The board members posed no questions.

Mr. Bert Bennett of 313 Bennett Farm Road, Stokesdale NC & North Myrtle Beach, SC as one of the land owners. He noted his support for progress and change to the area.

The board members posed no questions.

Mr. George S. Escojido of 231 Devonshire Road, Summerfield NC spoke on behalf of neighbors living close to the parcel in question. He spoke about safety concerns that included roadway blind spots, road wear, commercial septic, and the sale of tobacco and alcohol across the street from a school.

- Mr. Harris asked why Mr. Escojido was concerned with commercial septic at this specific business. Mr. Escondido stated that employees of Dollar General may not be trained on proper drain usage. Mr. Harris pointed out that this was an assumption.
- Mr. Harris addressed Mr. Escojido regarding regular usage of Highway 158 by semi-trucks pointing out that he believed this negated any concerns regarding additional road wear from Dollar General delivery trucks. Mr. Escondido clarified that he was referring to increased semi-truck usage on Glencoe Loop.
- Mr. Harris reminded Mr. Escojido that the blind spot mentioned existed prior to Dollar General's application. In addition Mr. Harris reminded Mr. Escondido that federal and state laws regulate the sale of alcohol and tobacco to minors.

Ms. Candace Sease of 1111 Hash Lane, Summerfield NC spoke as a resident of Rockingham County. She presented a petition with 215 names of people in opposition of rezoning the parcel to Highway Commercial Conditional Use (HC-CU).

The board posed no questions.

Mr. Fox of 100 North Green Street, Greensboro NC retook the stand. He stated that Dollar General is a lawful business, and that the neighboring school has a larger footprint and more traffic than this Dollar General will have.

- Chairperson Wyatt asked what Dollar General is anticipating regarding DOT requirements for the location. Mr. Fox stated that a traffic impact assessment is not required of Dollar Generals in Greensboro. Chairperson Wyatt followed up asking if Dollar General anticipates DOT requiring a divided highway to manage traffic. Mr. Fox deferred to Mr. Almazan, who stated that he has spoken directly with DOT and that no extra traffic management arrangements will be necessary. Mr. Almazan took the stand, and submitted preliminary site plans. He stated DOT has advised that Dollar General's driveway will need to be aligned with the school's driveway.

CHAIRPERSON WYATT OPENED THE FLOOR FOR BOARD DISCUSSION AND MOTIONS. AS THERE WAS NO DISCUSSION, MR. WYATT OPENED THE FLOOR FOR MOTIONS. MR. LEE MOVED TO DENY THE RECOMMENDATION AND MR. ISLEY SECONDED. THE VOTE TO RECOMMEND DENIAL OF THE REQUEST WAS UNANIMOUS, (5-0).

VI. OTHER BUSINESS

- Old Business: None
- New Business: Mrs. Caddle informed the Board that she has resigned from her position and to direct future questions to Mr. Langel, and Mr. Cochran.

VII. ADJOURN

AS THERE WAS NO FURTHER BUSINESS, CHAIRPERSON WYATT OPENED THE FLOOR FOR MOTIONS TO ADJOURN. MR. ISLEY MOTIONED TO ADJOURN AND MR. ISLEY SECONDED. THE BOARD VOTED UNANIMOUSLY TO ADJOURN AT 8:15 PM, (5-0).

Minutes Read and Approved,

Respectfully submitted,

Chairperson

Date

Planning Staff

Date

**MINUTES OF THE REGULARLY SCHEDULED MEETING OF:
THE ROCKINGHAM COUNTY PLANNING BOARD**



**BOARD OF COMMISSIONERS CHAMBERS
ROCKINGHAM COUNTY GOVERNMENTAL CENTER
WENTWORTH, NC
OCTOBER 8TH, 2018 AT 7:00 PM**

MEMBERS PRESENT: Timothy Wyatt, Chairperson
Ann Cunningham, Vice-Chairperson
T. Matt Cardwell
James Harris
Doug Isley
Mike Lee

STAFF PRESENT: Lynn Cochran, Planner
Mark Langel, Interim Planning Director
Roy Sawyers, A/V Tech
Bricen Wall, Code Enforcement Officer

I. CALL TO ORDER

CHAIRPERSON WYATT CALLED TO ORDER THE REGULARLY SCHEDULED MEETING OF THE ROCKINGHAM COUNTY PLANNING BOARD AT 7:00 PM.

II. INVOCATION

Mr. Harris conducted the invocation.

III. PROCEDURES

Mrs. Cunningham read and reviewed the meeting procedures. Mr. Wyatt conducted the swearing of speakers.

IV. PUBLIC HEARINGS

1. CASE #2018-022 REZONING: from Residential Agricultural (RA) to Neighborhood Commercial (NC).

Mr. Cochran presented the case to the Board and recommended approval. The case consisted of a request for a rezoning from Residential Agricultural (RA) to Neighborhood Commercial (NC). The parcel is denoted by Tax PIN: 7901-00-94-2175, located 3066 Gideon Grove Church Rd, Stokesdale NC.

- Chairperson Wyatt asked Mr. Cochran about existing uses of the structure. Mr. Cochran stated that the structure was previously used as an electrician's shop.

Mr. Christopher Angel of 3066 Gideon Grove Church Road, Stokesdale NC spoke as the applicant. He described why he is seeking rezoning. He is planning on using the structures for a small landscaping business.

- Chairperson Wyatt inquired how long it has been since the electrical business was operated. Mr. Angel stated that it was last operated in 2015.

There were no further questions from board members.

CHAIRPERSON WYATT OPENED THE FLOOR FOR BOARD DISCUSSION. AS THERE WAS NONE, MR. WYATT OPENED THE FLOOR FOR MOTION TO RECOMMEND TO APPROVE OR DENY THE REZONING REQUEST. VICE-CHAIRPERSON CUNNINGHAM MOTIONED TO RECOMMEND APPROVAL OF THE REZONING REQUEST AND MR. ISLEY SECONDED. THE MOTION TO RECOMMEND APPROVAL OF THE REZONING REQUEST CARRIED UNANIMOUSLY (6-0).

2. CASE #2018-027 DUAL REZONING: from Residential Agricultural (RA)/ Residential Protected (RP) to Neighborhood Commercial (NC)/ Residential Agricultural (RA).

Mr. Cochran presented the case to the Board and recommended approval. The case consisted of a request for a straight rezoning Residential Agricultural (RA) / Residential Protected (RP) to Neighborhood Commercial (NC)/ Residential Agricultural (RA). The parcel is denoted by Tax PIN: 7901-00-77-6626, located at Ellisboro Road and Cannonball Court.

- Chairperson Wyatt inquired about the residential protected part of the parcel in regards to road frontage. Mr. Cochran clarified that if this rezoning is approved the parcel will no longer have any road frontage that is zoned residential protected.
- Mr. Isley asked how many adjacent property owners were notified of this rezoning application. Mr. Cochran stated that adjacent property owners would be notified prior to the Board of Commissioners meeting as that board is the final decision-making body regarding the request..

The board members posed no further questions.

CHAIRPERSON WYATT OPENED THE FLOOR FOR DISCUSSION. AS THERE WAS NONE, THE FLOOR WAS OPENED FOR MOTIONS. MR. LEE MOTIONED TO RECOMMEND APPROVAL OF THE REZONING REQUEST. MR. CARDWELL SECONDED. THE BOARD VOTED TO RECOMMEND APPROVAL (4-2). CHAIRPERSON WYATT AND VICE-CHAIRPERSON CUNNINGHAM DISSENTED.

3. CASE #2018-025 SPECIAL USE PERMIT: to allow the permitting and operation of a Large Scale Solar Energy Facility.

Mr. Cochran presented the case to members of the board and recommended approval. The case consisted of a request for a special use permit to allow the development of a Large Scale Solar Energy Facility. The parcels are denoted by Tax PINs: 7972-00-59-5783, 7972-00-55-8503, 7972-00-45-6808, 7972-00-68-4202 located on King Carter Road, Koger Rd and Wright Dairy Rd.

- Mr. Isley asked a question about the floodplain and riparian buffers. Mr. Cochran clarified that the site plan does not encroach upon the floodplain or place any equipment on top of the floodplain.

The board members posed no additional questions.

Mr. Mike Fox of 100 North Greene Street, Greensboro NC, attorney for Cypress Creek Renewables, took the stand representing the applicant.

Mr. Steve Evans of 5310 South Austin Avenue, Durham NC, took the stand on behalf of Cypress Creeks Renewables. He described site plan, vegetative buffers, and setbacks. He specified that Duke Energy has agreed to purchase the energy generated. He emphasized that their monitoring station is located in Durham, NC and is in operation 24 hours 7 days a week.

The board members posed no questions.

Mr. Nick Kirkland of 901 Occoneechee Drive, Fuquay-Varina NC, appraiser from Kirkland Appraisals took the stand. Mr. Kirkland described the typical locations of solar farms, which are most often located near rural and/ agricultural areas. He also described evidence that solar energy facilities do not negatively impact the values of nearby residential properties.

The board members posed no questions.

Mr. Tommy Cleveland of 4141 Lauryl Hills Road, Raleigh NC, professional engineer from Advanced Energy, took the stand to describe the array technology, access to the grid, and the 25 year panel lifespan.

The board members posed no questions.

Mr. John Butler of 529 Butler Dairy Road, Reidsville NC, took the stand on behalf of all landowners involved with the application. He spoke in favor of the project.

The board members posed no questions.

Mr. John McCollum of 10451 US 158, Reidsville NC, adjacent property owner, took the stand to ask questions regarding the substation and electrical infrastructure for the project. He expressed

concern about a power line that goes through his property on an easement - specifically in regards to an easement that was originally granted to Duke Energy.

The board members posed no questions.

Mr. Todd Isley of 200 Kroger Road, an adjacent property owner, took the stand voicing concerns about traffic and safety associated with construction, and public health impacts. He also inquired about a security fence, and if it could be placed directly on the property line. Mr. Cochran clarified that Rockingham County's zoning ordinance requires solar facilities to have a security fence but does not regulate its exact location.

- Mr. Isley asked how much of Todd's land touches the proposed Solar Facility. Todd stated that between him and his son they own all of the land between Koger Road and King Carter Road that will abut the project area.

The board members posed no further questions.

Mr. Mike Fox of 100 North Greene Street, Greensboro NC, retook the stand to address the other speaker's questions. He stated that in regards to Mr. McCollum's right of way and Duke Energy, Duke will pick up the energy from the project's property directly.

Mr. Tommy Cleveland of 4141 Lauryl Hills Road, Raleigh NC, retook the stand to discuss EMF radiation. He stated the installed solar panels would be direct current and would not produce additional EMF waves. He stated that a negligible amount of radiation is created at a few point sources by some of their equipment: inverters, transformers, and their electrified lines. He stated that the amount of EMF's created at the pad site is not sufficient to create a hazard for employees working on the solar panels.

Mr. Steve Evans 5310 South Austin Avenue, Durham NC, retook the stand to describe site access roads, site traffic, and setbacks. Initial equipment delivery will be heaviest period of traffic, afterwards the site will have minimal weekly trips for monitoring etc. Barbed-wire security fence will be 75ft from parcel lines, and include a 20ft vegetative buffer. The actual panels will be 100ft back from parcel lines.

- Mr. Harris inquired if there be interference with wireless cell reception. Mr. Cleveland stated there would be no interference with wireless cell reception.

CHAIRPERSON WYATT OPENED THE FLOOR FOR DISCUSSION.

MR. ISLEY ASKED IF THE RESIDENTS WITH PREVIOUS QUESTIONS WERE SATISFIED BY TESTIMONY. MR. MCCOLLUM STATED THAT HIS QUESTIONS HAD BEEN ANSWERED. MR. TODD ISLEY STATED THAT HE FELT LIKE HIS SAFETY AND SECURITY CONCERNS WERE ADDRESSED.

- Mr. Cochran reviewed the tentative planning board meeting dates for 2019. The board of commissioners have not come out with their final calendar so there may be some changes. The calendar does not need to be adopted tonight.
- Mr. Cochran presented proposed revisions to the Planning Board Bylaws. A highlighted copy with proposed changes will be provided to members of the Board for action at a future meeting date.
- There will be no second Planning Board Meeting for October. A new Associate Planner will be starting October 22nd. She will be at the next meeting. The two remaining meetings for this year are November 13th and December 10th.

VII. ADJOURN

AS THERE WAS NO FURTHER BUSINESS, CHAIRMAN WYATT OPENED THE FLOOR FOR MOTIONS TO ADJOURN. MR. ISLEY MOTIONED TO ADJOURN AND MR. CARDWELL SECONDED. THE BOARD VOTED UNANIMOUSLY TO ADJOURN (6-0).

Minutes Read and Approved,

Respectfully submitted,

Chairperson, Planning Board Date

Planning Staff Date

(t) Rural Family Occupations of Nonagricultural/Commercial Nature

Special Use District: RA
Approved By: Planning Board
Minimum Lot Size: 3 acres

Other Requirements:

Owner must reside on property on which business is located

(Note: Unlike home occupations, Rural Family Occupations of Nonagricultural/Commercial Nature may be conducted within an accessory building)

Business use must be set back at least 100 ft. from road right-of-ways

Business use shall not create any noxious fumes, odors, traffic congestion or other nuisance factors

Restrictions as to fencing, indoor storage and other appearance criteria may be added as necessary

Signs:

Type Sign: Identification Permitted Number: 1 ground sign per road frontage or 1 wall sign affixed to front of business use structure

Permitted Sign Area: 9 sq. ft. for ground sign; 12 sq. ft. for wall sign.

Permitted Illumination: None.

(t) Rural Family Occupations of Nonagricultural/Commercial Nature

Special Use District: RA
Approved By: Planning Board
Minimum Lot Size: 3 acres

Other Requirements:

The owner must reside on the property on which the business is located

(Note: Unlike home occupations, Rural Family Occupations of Nonagricultural or Commercial Nature may be conducted within an accessory building)

Business use must be set back at least 100 ft. from road right-of-ways

*Commercial structures shall maintain the same property line and rights of way setbacks as required in the Residential Agricultural district.

Business uses shall not create any noxious fumes, odors, traffic congestion or other nuisances.

Restrictions as to fencing, indoor storage and other development criteria may be added as necessary

Signs:

Primary Use Identification Sign: 1 ground sign per road frontage or 1 wall sign affixed to front of business use structure

Permitted Sign Area: 9 sq. ft. for ground sign; 12 sq. ft. for wall sign.

Permitted Illumination: None.

**ROCKINGHAM COUNTY BOARD OF ADJUSTMENT
CRITERIA FOR BOARD CONSIDERATION
CASE #2018-028**

Appellant: Mr. Herbert D. Moniz
Tax PIN: 8913-00-21-7209
Address: 394 Cook Florist Road, Reidsville NC
Counsel: Ms. Linda Stephens, 4131 Parklake Ave, Raleigh NC
Request: An Appeal of a Notice of Citation and Penalty

Background:

The property in question is located at 394 Cook Florist Rd in Reidsville, NC and is zoned Residential Agricultural (RA). Mr. Moniz maintains and operates a domestic animal rescue/adoption facility at this location. This business has never applied for nor received a special use permit to function as a kennel for more than eight (8) domestic animals. Upon receiving a complaint on or about March 8, 2018, Rockingham County Code Enforcement staff visited the parcel to verify that the complaint was valid and that there a kennel in operation on the property.

Administrative and Regulatory Provisions

1. Rockingham County Unified Development Ordinance (UDO) *Chapter II, Article XIV "Board of Adjustment"*:

Section 14-5 Appeals from Decisions of the Zoning Administrator

"The Board of Adjustment shall hear and decide appeals from and review from any order, requirement, decision or determination made by an administrative official charged with the enforcement of the UDO. An appeal may be taken to the Board by any persons aggrieved, or by any officer, department, board or bureau of the County affected by such decision."

Section 14-6 Appeal Stays All Proceedings

"An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after the notice of appeal shall have been filed with him by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, or because the violation charged is transitory in nature and a stay would interfere with enforcement of the ordinance. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court of Record on application, on notice to the Zoning Administrator and on due cause shown."

Section 14-7 Powers of the Board of Adjustment

"The Board shall have the following powers:

- a) To hear and decide appeals in which it is alleged that there is error in any order, requirement, decision, or determination made by the administrative official charged with the enforcement of a zoning ordinance adopted pursuant to this Ordinance (NCGS 153A-345(b)). The concurring vote of four-fifths (4/5's) of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning

Administrator, to decide in favor of the applicant any matter which it is required to pass under the zoning ordinance.”

Staff Findings: Attorney Linda Stephens, on behalf of Mr. Moniz, filed an appeal of “Notice of Citation and Penalty issued 13 July 2018 by Code Enforcement Officer Ben Curry, citing Mr. Moniz for the alleged violation of *Chapter II, Article XVI, [Section] 16-1(a)* of the Rockingham County Unified Development Ordinance.” This notice of appeal was received by the Clerk to the Board of Commissioners on 14 July 2018. The Board of Adjustment possesses jurisdictional power in this matter. It may consider evidence and testimony related to the citation in the amount of \$200 and the appeal thereof.

2. Rockingham County UDO *Chapter 2, Article XVI “Penalties” Section 16-1:*

16-1(a) Development Without Permit

“To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.”

3. Rockingham County UDO *Chapter 2, Article XVI “Enforcement Procedure” Section 16-2:*

16-2 Enforcement Procedure

“Set forth below are enforcement procedures, however, the existence or use of such procedures does not preclude the use of other remedies in appropriate situations.”

16-2(b) Second Notice of Violation

“If, following receipt of the First Notice of Violation, the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Enforcement Officer may give the owner or occupant written notice, by certified or registered mail to his last known address, or by personal service or by posting notice of the violation conspicuously on the property: that the land, building, sign, structure, or use is in violation of this Ordinance; the nature of the violation, and citation of the section of this ordinance violated; and the measures necessary to remedy the violation.”

16-2(c) Appeal

“Any owner or occupant who has received a Second Notice of Violation may appeal the decision of the Enforcement Officer to the Board of Adjustment by submitting a written appeal within ten (10) days following the date of the Second Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Second Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Enforcement Officer in the Second Notice of Violation shall be final.”

Staff Report: The appellant did not file a written appeal within 10 days following the date of the second notice of violation, issued March 28, 2018. Therefore, all penalties and remedies became final and enforceable as of April 10, 2018 (allowance of 3 days grace for

mailing time). As no appeal was submitted, the Rockingham County Board of Adjustment does not possess jurisdictional power in considering all aspects of the complainant's appeal.

Planning Staff Review and Findings:

From the Rockingham County UDO *Chapter 2, Article IX, Section 9-11(jj)*. (Exhibit A-1)

Summary Thereof

Kennels housing more than eight (8) domestic animals require approval of a Special Use Permit granted by the Rockingham County Planning Board in order to conduct business. Kennels of these types are allowed in the Residential Agricultural (RA), Residential Mixed (RM), Rural Commercial (RC), and Neighborhood Commercial (NC) zoning districts when a Special Use Permit has been granted. In all districts the minimum acreage required to operate such a kennel is two (2) acres, allowing for a maximum of 16 domestic animals. For any increase in domestic animals in excess of 16, an additional acre is required for each eight (8) animals. Additional conditions and requirements of the Special Use Permit are detailed in Exhibit A-1.

Staff Findings

The appellant has never applied for nor received a Special Use Permit for establishment and operation of a Kennel of this nature. Additionally, the appellant's parcel characteristics do not conform to the minimum lot size requirement for this Kennel nor do they allow conformance with other conditions and requirements of the Special Use Permit, as described in Exhibit A-1.

Conclusions

The UDO does not allow for maintenance and operation of a Kennel for more than eight (8) domestic animals without approval of a Special Use Permit. Upon receiving an anonymous complaint on or about March 8, 2018, Code Enforcement Officer Ben Curry visited the property in question and found evidence that the appellant was operating a Kennel without the applicable permits. The standard procedures for notices of violation and subsequent notices of citation as proscribed in Section 16 of Chapter 2, Article XIV of the Rockingham County Unified Development Ordinance (UDO).

As the appellant did not file an appeal within 10 days of receipt of the second notice of violation, all remedies allowed for in the same section of the UDO are final and enforceable. The appellant's counsel filed a notice of appeal of the \$200 citation (fine) ten (10) days after the citation was issued. This matter may be considered and adjudicated by the Board of Adjustment.

Alternatives:

The appellant may:

1. Discontinue use of the kennel at the current location.
2. Acquire a different parcel in an appropriately zoned district with the necessary characteristics for obtaining a Special Use Permit for operation of a Kennel 8+ domestic animals.

(jj) Kennel, more than 8 domesticated animals

Zoning District: RA, RM, RC, NC

Approved By: Planning Board

Acres: 2 acres are required for up to 16 animals.
For every incremental increase of 8 animals, the acreage requirement shall increase by 1 acre.

Setbacks: All areas of the kennel facility shall maintain a minimum setback of 50 feet from the front property line, 25 feet from the side and rear property lines unless abutting a side street in which a minimum side setback of 40 feet shall be maintained.

Access: A Kennel of more than 8 domesticated animals shall follow these access requirements:
1. Driveway access to the facility shall directly connect to a road that is maintained by the NCDOT;
2. A commercial driveway permit must be obtained from NCDOT and a copy shall be provided to the Rockingham County Planning Department.

Signs:	<u>Type of Sign:</u>	Principle Use Identification Ground Sign
	<u>Permitted Number:</u>	1 sign per entrance
	<u>Maximum area of sign:</u>	25 sq. ft.
	<u>Permitted Illumination:</u>	None

Other Requirements:

1. The property shall be screened with a Type I landscape buffer a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all sides of the kennel facility.
2. Parking shall be calculated at 1 space per each 400 square feet of gross floor area.
3. A site plan, drawn to scale, shall be submitted showing the following:
 - a. location of the proposed facility including boundary and acreage;
 - b. parking areas, roadways, entrances, and exits;

- c. any perennial and intermittent waters, flood plain, or wetlands on the facility property and any within 50 feet of the kennel area;
- d. existing and proposed landscape buffers;
- e. a floor plan of the facility must be provided

Y 2011

UDO, Chapter 2, Article IX Special Uses. Add a New Section – Kennel (more than 8 animals):

(jj) Kennel, more than 8 domesticated animals

Zoning District: RA, RM, RC, NC

Approved By: Planning Board

Acres: 2 acres are required for up to 16 animals.
For every incremental increase of 8 animals, the acreage requirement shall increase by 1 acre.

Setbacks: All areas of the kennel facility shall maintain a minimum setback of 50 feet from the front property line, 25 feet from the side and rear property lines unless abutting a side street in which a minimum side setback of 40 feet shall be maintained.

Access: A Kennel of more than 8 domesticated animals shall follow these access requirements:

1. Driveway access to the facility shall directly connect to a road that is maintained by the NCDOT;
2. A commercial driveway permit must be obtained from NCDOT and a copy shall be provided to the Rockingham County Planning Department.

Signs:	<u>Type of Sign:</u>	Principle Use Identification Ground Sign
	<u>Permitted Number:</u>	1 sign per entrance
	<u>Maximum area of sign:</u>	25 sq. ft.
	<u>Permitted Illumination:</u>	None

Other Requirements:

1. The property shall be screened with a Type I landscape buffer a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all sides of the kennel facility.
2. Parking shall be calculated at 1 space per each 400 square feet of gross floor area.
3. A site plan, drawn to scale, shall be submitted showing the following:
 - a. location of the proposed facility including boundary and acreage;
 - b. parking areas, roadways, entrances, and exits;
 - c. any perennial and intermittent waters, flood plain, or wetlands on the facility property and any within 50 feet of the kennel area;
 - d. existing and proposed landscape buffers;

e. a floor plan of the facility must be provided

4. *Compliance:*

Any property made non-conforming as a result of any amendment to this section shall be brought into compliance within one year (12 months) from the effective date of such amendment. Upon failure to comply with the requirements of this section, the Code Enforcement Officer may take corrective action as provided in Chapter 2, Article XVI of this ordinance.

Y 2015

UDO. Chapter 1.
Add definitions for “kennel.”

Kennel

Any facility, structure, or building used for a business use (non-profit or for profit) for the purpose of boarding domesticated animals. Such business use includes organizations devoted to the welfare, protection, rehabilitation, or humane treatment of animals. In addition to boarding, kennel activities may include, but are not limited to, the sale of animals, treatment of animals, grooming or cleaning, breeding, letting for hire, or training of domesticated animals. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats, and other generally accepted household pets. The following shall not constitute the operation of a kennel as defined above and in no way shall this provision regulate the following:

- (a) The ownership of domesticated animals as household pets.
- (b) The ownership of domesticated animals for hunting or tracking purposes pursuant to Chapter 113 of the North Carolina General Statutes.

UDO. Chapter 2, Article, VIII, Section 8-4 Table of Permitted Uses.
Amend the Table as follows:

USE	RA	RP	RM	OI	RC	NC	HC	LI	HI
Kennel (8 or less domesticated animals)	D		D		X	X	X	X	
Kennel (more than 8 domesticated animals)	S		S		S	S	X	X	

UDO, Chapter 2, Article VIII, Section 8-6 Development Standards.
Add a new Section:

(n) Kennel, 8 domesticated animals or less

Zoning Districts: RA, RM

Other Requirements for RA and RM zoning districts:

1. The property shall be screened with a Type I landscape buffer a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all property lines.
2. Two parking spaces shall be provided in addition to the standard parking required for a dwelling unit.
3. A site plan, drawn to scale, shall be submitted showing the following:
 - a. location of the proposed facility including boundary and acreage;
 - b. parking areas, roadways, entrances, and exits;

- c. any perennial and intermittent waters, flood plain, or wetlands on the facility property and any within 100 feet of the kennel area;
- d. existing and proposed landscape buffers;
- e. a floor plan of the facility must be provided

4. Compliance:
 Any property made non-conforming as a result of any amendment to this section shall be brought into compliance within two years (24 months) from the effective date of such amendment. Upon failure to comply with the requirements of this section, the Code Enforcement Officer may take corrective action as provided in Chapter 2, Article XVI of this ordinance.

UDO, Chapter 2, Article IX Special Uses. Add a New Section – Kennel (more than 8 animals):

(jj) Kennel, more than 8 domesticated animals

Zoning District: RA, RM, RC, NC

Approved By: Planning Board

Acres: 2 acres are required for up to 16 animals.
 For every incremental increase of 8 animals, the acreage requirement shall increase by 1 acre.

Setbacks: All areas of the kennel facility shall maintain a minimum setback of 50 feet from the front property line, 25 feet from the side and rear property lines unless abutting a side street in which a minimum side setback of 40 feet shall be maintained.

Access: A Kennel of more than 8 domesticated animals shall follow these access requirements:
 1. Driveway access to the facility shall directly connect to a road that is maintained by the NCDOT;
 2. A commercial driveway permit must be obtained from NCDOT and a copy shall be provided to the Rockingham County Planning Department.

Signs:	<u>Type of Sign:</u>	Principle Use Identification Ground Sign
	<u>Permitted Number:</u>	1 sign per entrance
	<u>Maximum area of sign:</u>	25 sq. ft.
	<u>Permitted Illumination:</u>	None

Other Requirements:

1. The property shall be screened with a Type I landscape buffer a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all property lines.
2. Parking shall be calculated at 1 space per each 400 square feet of gross floor area.
3. A site plan, drawn to scale, shall be submitted showing the following:
 - a. location of the proposed facility including boundary and acreage;
 - b. parking areas, roadways, entrances, and exits;
 - c. any perennial and intermittent waters, flood plain, or wetlands on the facility property and any within 50 feet of the kennel area;
 - d. existing and proposed landscape buffers;
 - e. a floor plan of the facility must be provided
4. Compliance:

Any property made non-conforming as a result of any amendment to this section shall be brought into compliance within two years (24 months) from the effective date of such amendment. Upon failure to comply with the requirements of this section, the Code Enforcement Officer may take corrective action as provided in Chapter 2, Article XVI of this ordinance.

Y. 2009 Table of Uses

ARTICLE V APPLICATION OF REGULATIONS

5-1 Zoning Affects Every Building and Use

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

5-2 Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

(07/12/2009)

Food freezer operations							X	X	
Foundries, metal									X
Funeral homes				X		X	X		
Furniture manufacturing								X	X
Gift Shops				X		X	X		
Golf, Miniature						X	X		
Golf Courses	X	X	X						
Governmental Offices				X		X	X		
Grain and Grist Mills					X				
Gravel, clay, and sand pits									S
Grocery stores						X	X		
Group homes	S		S	S					
Hardware, Paint & Garden Supplies						X	X		
Hazardous Waste, Toxic Waste, etc. Facilities									S
Home occupations	X	X	X	X		X	X	X	X
Hotels & Motels						X	X		
Home Furnishings & Appliance Sales						X	X		
Hospital or Sanatorium				S					
Health and Social Services Centers				X		X	X		
Industrial Equipment Sales & Service							X	X	X
Industrial and manufacturing uses not otherwise specified									X
Junk yards (600 sq. ft. or more in size) (Note 3)								S	S
Kennels							X	X	X
Laboratory, Medical & Dental				X		X	X		
Laboratory, Research				X			X	X	X
Laundry or Dry Cleaning, Self Service						X	X		

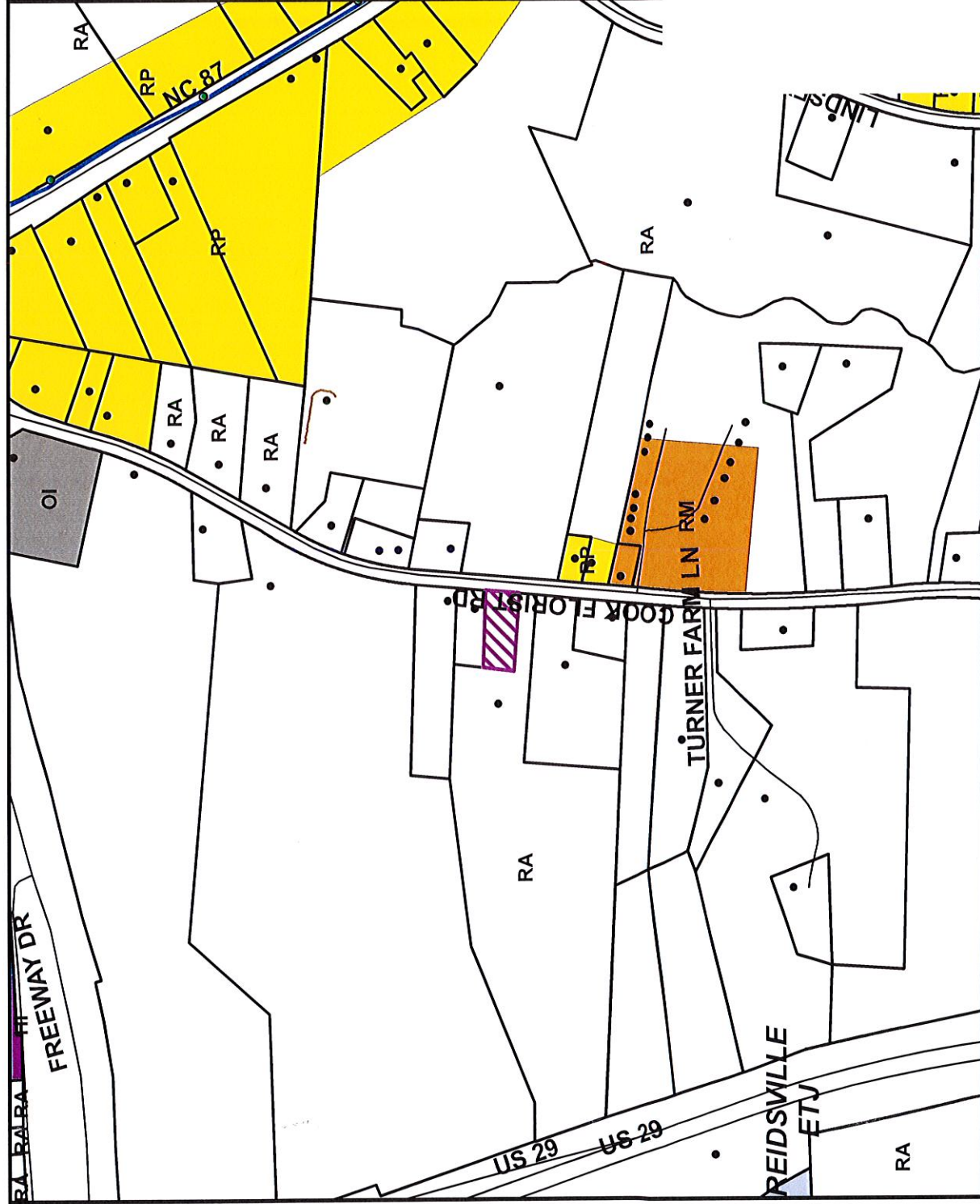
Library, Public				X		X	X		
Livestock Sales									X
Locksmith, Gunsmith						X	X		
Lumber yard (Note 2)	X							X	X
Machine shop, welding shop							X	X	X
Manufacturing, machine tools, chemicals, fertilizer, paving materials, wood products, paper									X
Manufacturing, apparel, soft goods, textiles								X	X
Manufacturing and other industrial uses								X	X
Manufacturing and wholesale trade processing agricultural products					X				
Manufactured Housing on lot during construction of new dwelling	D								
Meat packing and poultry processing									X
Mixed commercial and residential use where commercial use is primary and both occupy same structure or lot						X	X	X	



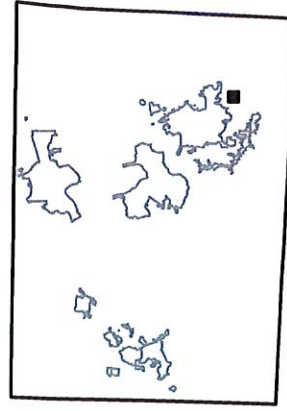
Rockingham County Board of Adjustment, 11/13/2018

Case #2018-028 Moniz Appeal

Tax PIN: 8913-00-21-7209



	Moniz Parcel
	County Zoning
	<all other values>
ZONE_CODE	
	CS
	HC
	HI
	LI
	NC
	OI
	RA
	RC
	RM
	RP



ROCKINGHAM COUNTY DEPARTMENT OF PLANNING: FOR ILLUSTRATION PURPOSES ONLY







ROCKINGHAM COUNTY
GOVERNMENTAL CENTER
County Attorney's Office

October 19, 2018

Linda Stephens
Hedrick Gardner Kincheloe & Garofalo LLP.
4131 Parklake Ave., Suite 300
Raleigh, NC 27612

Re: County of Rockingham v. Herbert Moniz and Carolina Veterinary Assistance and Adoption Group, Inc.

Dear Ms. Stephens:

I am writing in regards to the above-referenced case for which your client, Herbert Moniz, is requesting appeal to the violation of the Rockingham County, North Carolina, Unified Development Ordinance Development Without Permit –Chapter 2, Article XVI 16-1(a). The hearing is scheduled to be heard by the Rockingham County Board of Adjustment on November 13, 2018 at 7:00 pm in the upstairs boardroom of the Rockingham County Governmental Center located at 371 NC 65 in Wentworth, NC.

For your information, please find attached a copy of the Rockingham County Kennel Ordinance as well as copies of Notices of Violation and Notices of Penalty and Citation which were previously sent to Mr. Moniz.

If you need additional information, please feel free to contact my office.

Sincerely,

/s/John M. Morris
County Attorney

JMM/bss

cc: A. Lynn Cochran, Rockingham County Planning, Inspections and Central Permitting



HEDRICK GARDNER

HEDRICK GARDNER KINCHBLOE & GAROFALO LLP

ATTORNEYS AT LAW

CHARLOTTE • RALPHIGH • WILMINGTON • COLUMBIA

July 23, 2018

Via Hand Delivery

Ms. Tonya Caddle
Zoning Administrator
County of Rockingham
Rockingham County Government
371 NC Hwy 65, Suite 100
Reidsville, NC 27320

Reply To:

Linda Stephens
Attorney
4131 Parklake Ave, Suite 300
Raleigh, NC 27612
Direct: 919-719-2820
Fax: 919-832-9425
Email: lstephens@hedrickgardner.com

RE: Appeal of Herbert Moniz and Carolina Veterinary Assistance and Adoption Group, Inc.

Dear Ms. Caddle:

Please be advised that I now represent Herbert Moniz and Carolina Veterinary Assistance and Adoption Group, Inc. in connection with the County's recent citation of Mr. Moniz for the alleged violation of the UDO's permit provisions. Our notice of appeal from that citation is attached. Per UDO Article XIV, 14-6, our appeal stays enforcement of the citation. Also enclosed is an Acknowledgement document for your signature.

I spoke this morning with Mr. Morris regarding this matter and our request last week for an in-person meeting to see if we can resolve all the outstanding issues. I understand that Mr. Morris will be out for training this week and, therefore, unable to meet. We agreed to touch base again when he returns next week.

I look forward to working with you and Mr. Morris to reach an acceptable, reasonable, and fair resolution of the conflict that resulted in the issuance of the citation. It is our hope that Mr. Moniz will be able to continue the good work he is doing on behalf of Rockingham County's citizens and animals.

Very truly yours,

Linda Stephens
NC State Bar No. 8920

LRS/hld

Enclosure

cc: Mr. John Morris, Rockingham County Attorney (w/encls.)
Mr. Herbert Moniz (CVAAG)
Mr. Timothy Wyatt (w/encls.)

RECEIVED
1-24-18
P. Melvin

County of Rockingham V Herbert Moniz and Carolina Veterinary Assistance and Adoption Group, Inc.	NOTICE OF APPEAL
--	------------------

To: Ms. Tonya Caddle
Zoning Administrator
Mr. Timothy Wyatt
Planning Board Chair
County of Rockingham
Rockingham County Government
371 NC Hwy 65, Suite 100
Reidsville, NC 27320

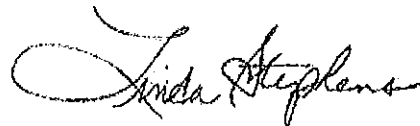
Now Comes Herbert Moniz, founder and president of Carolina Veterinary Assistance and Adoption Group, Inc. (CVAAG), by and through undersigned counsel, and gives notice of appeal to the Rockingham County Board of Adjustment from the Notice of Citation and Penalty issued 13 July 2018 by Code Enforcement Officer Ben Curry, citing Mr. Moniz for the alleged violation of Chapter 2, Article XVI, 16-1(a), of the Rockingham County Unified Development Ordinance (UDO) and imposing fines and penalties. This citation is inconsistent with and contrary to Rockingham County's previous determination, on or about 24 July 2009, that Mr. Moniz and CVAAG were not in violation of any zoning

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon Rockingham County by hand delivery addressed as follows:

Tonya Caddle
Zoning Administrator
Timothy Wyatt
Planning Board Chair
County of Rockingham
Rockingham County Government
371 NC Hwy 65, Suite 100
Reidsville, NC 27320

This the 23rd day of July, 2018.



LINDA STEPHENS
NC State Bar No. 8920

Code Enforcement 2009

Last Name Moniz	First Name Herbert	Middle Initial 	Case Log# 09-268
Street Address 384 Cook Florist Rd	Phone Number 338 394-4108	OCA # Number 	
City Reidsville	State NC	Zip Code 27320	Mobile Homes Removed
Work or Cell Phone 			Vehicles Removed

Violation Address
384 Cook Florist Rd

Complainant
McKinney, Michael David

Pin#
891300217209

Complaint Date
7/24/2009

Initial
KH

Code Violations
Zoning

Inspection Date
7/24/2009

First Notice Date

2nd Notice Date

Appeal deadline date

1st Citation

2nd Citation

3rd Citation
27320

4th Citation

Zip Code
27320

Closure Date
7/27/2009

Violation
Starting an Animal Shelter

Inspection Results
No zoning or solid waste violations

Response
7/24/09 Spoke to Mr. Moniz he has a non-profit animal rescue group. He is planning to put approx. 8 kennels (fencing) on his property. I spoke to Tom W. and Frankie L. at this time there are no zoning violations, because this is a non-profit. Mr. Moniz was referred to the county website to review the county dog and noise ordinances. He is planting a buffer between the kennels and the driveway. He already has one at the back of his property. complainant was advised by phone. case closed. KH

CASE FIELD REPORT

Rockingham County/ Code Enforcement

Assigned To:
Curry, Ben

CE18-70

Location of Violation: 394 Cook Florist Rd
Reidsville, NC 27320 APN# 891300217209

CDBG Custom Location Field Custom Field
NO # of Site Inspections to Date: 6
Repeat Offender: no
Jurisdiction: County

Open Violation(s) Code Section
Development Without Permit - Chapter 2, article XVI 16-1(a) Development Without Permit - Chapter 2, article XVI 16-1(a)

any one of these

Entry Date	Note Action Date	Type	Officer	Note/Activity
10/17/2018	2018-10-17	Note	Curry, Ben	Mr. Moniz appeal will be heard on 11/13.
09/05/2018	-	Case	Curry, Ben	Case Status changed to Under Investigation
09/05/2018	2018-09-05	Note	Curry, Ben	Planning Director advised me they are not going to accept the appeal because it is based on a violation in 2009. They are going to send a letter. I will wait for them to advise further.
07/24/2018	2018-07-24	Note	Curry, Ben	Mr. Moniz has filed for an appeal.
07/16/2018	-	Case	Curry, Ben	Case Status changed to 3rd Citation Issued
07/16/2018	2018-07-16	Note	Curry, Ben	Mr. Moniz called in and advised he is not in violation of anything and that he'd see me in court. Then called me an asshole and hung the phone up.
07/13/2018	2018-07-13	Note	Wall, Bricen	Upon SI Mr. Moniz advised me upon arrival that there was no change. I took updated pictures of the animals. When I was leaving the property Mr. Moniz said that he looked forward to getting my letter. Nothing further to report at this time.
06/25/2018	-	Case	Curry, Ben	Case Status changed to Site Inspection
06/25/2018	2018-06-25	Note	Curry, Ben	Upon SI, Brice and Tonya walked the property with Moniz. They confirmed he still had more than 8 animals. They talked about his attorney meeting with us. 3rd citation sent.
06/08/2018	-	Case	Wall, Bricen	Case Status changed to 2nd Citation Issued
06/07/2018	2018-06-07	Note	Curry, Ben	Upon SI, Mr. Moniz wouldn't let me on the property to confirm there were still more than 8 domesticated animals on the property for the business. He would like Officer Wall walk the property to confirm same. I stayed in my vehicle. Bricen's pictures attached.
06/06/2018	-	Case	Curry, Ben	Case Status changed to Site Inspection
06/06/2018	2018-06-06	Note	Curry, Ben	Upon SI, myself and Bricen met, with Jill, who advised she is working for Moniz and that he is at the hospital. She advised she didn't know if she could let us in the gate to confirm more than 8 domesticated animals were on the property. She advised he has only removed 2 of them off the property. I advised her we would come back when he is there.
05/15/2018	2018-05-15	Note	Curry, Ben	I swore out an administrative search warrant today get a count of how many animals were on the property. There are 25-30 dogs inside the home, outside in kennels, and in the "barn". There are 25-30 cats in the home. Some are in cages in the front of the home. The rest are scattered through the home. B wall, A Bowman, and M Langel were on site.
05/14/2018	-	Case	Curry, Ben	Case Status changed to 1st Citation Issued
05/14/2018	2018-05-14	Note	Curry, Ben	Tonya is going to meet with legal in ref. to obtaining a search warrant. On the business Facebook page, there is pictures of a barn on the property being worked on. Possibly to be used as an office.
05/14/2018	-	Case	Curry, Ben	Case Status changed to Site Inspection
05/14/2018	2018-05-14	Note	Curry, Ben	I checked with planning, no permit has been obtained or contact made with them. I attempted to take updated photos and meet with Mr. Moniz, but he would not unlock the gate to the property to do same. He went into his house and got a camera and said thank you and have a nice day. 1st Citation sent.
04/24/2018	2018-04-24	Note	Curry, Ben	Mr. Moniz called in on this date and advised he keeps receiving my NOV's that hes in violation and he knows he's not. He advised me to quit sending the NOV's or i'll see him in court. He then hung up before I could say anything.
04/20/2018	-	Case	Curry, Ben	Case Status changed to Final Notice of Violation
04/20/2018	-	Case	Curry, Ben	Case Status changed to Site Inspection
04/20/2018	2018-04-20	Note	Curry, Ben	Upon meeting with Planning, no special use permit has been obtained. No contact with them has been made. Final NOV sent certified mail.
04/10/2018	-	Case	Curry, Ben	Case Status changed to 2nd Notice of Violation
03/28/2018	-	Case	Curry, Ben	Case Status changed to Site Inspection
03/28/2018	2018-03-28	Note	Curry, Ben	No Special use permit has been obtained. 2nd NOV sent certified mail.
03/09/2018	-	Case	Curry, Ben	Case Status changed to 1st Notice of Violation
03/09/2018	2018-03-09	Note	Curry, Ben	Upon meeting with Planning, the kennel is in violation. They will need to acquire a special use permit.
03/08/2018	2018-03-08	Note	Curry, Ben	Upon SI, I met with Mr. Moniz who walked the property with me. He advised he had 4 personal dogs (in the lots closest to the house) 5 in the barn kennels (wouldn't show me) and 11 dogs in 6 kennels (2 in each and 1 by itself) by the property line. After we walked the lot he wanted to know where the complaint came from. I advised him it was anonymous complaint from planning for operating a kennel with out a permit. He said that was bull shit that we have all the paper work the county needs. He said the county manager, planning director, and every commissioner told him he was grandfathered in. He presented me with a state license for a public shelter and advised that was all he needs. He went on to talk about his neighbors and using vulgar language. He said he doesn't expect me to ever come back to his property. I advised him I have to follow up on every complaint I receive and he said I didn't need to because the county should have all the paperwork. He advised me to go through his lawyer. I advised him it would be mailed to his residence first and he could give it to him. He advised me I better not come back to his residence and I responded by asking him was that a threat. He advised me to grow the fuck up. I then left the property.
03/08/2018	-	Case	Curry, Ben	Case Status changed to Site Inspection
03/08/2018	2018-03-08	Note	Curry, Ben	Anonymous complaint from Planning in reference to running a kennel with no permit.
03/08/2018	-	Violation	Curry, Ben	Added: Development Without Permit - Chapter 2, article XVI 16-1(a)
03/08/2018	-	Case	Curry, Ben	Initial Case Status New Zoning Case
03/08/2018	-	Case	Curry, Ben	Case Opened (Created)



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0105
(336) 342-8300
(336) 342-8362 Fax



Notice of Violation

03/09/2018

CE18-70

Herbert Moniz
394 Cook Florist Rd
Reidsville, NC 27320

Dear Herbert Moniz,

The Rockingham County Code Enforcement Division has received a complaint about your property located at: **394 Cook Florist Rd, Reidsville, NC 27320**

pin#: 891300217209

An inspection of the property provides evidence that you are in violation of the following: Rockingham County Unified Development Ordinance and/or Rockingham County Solid Waste Ordinance.

Development Without Permit - Chapter 2, article XVI 16-1(a) - To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.

Consequently, this letter serves as legal notice that you are in violation of the ordinance. Please be advised that under Chapter Two, Zoning Article XVI section 16-3(b), civil penalties, citations and subsequent fines may be served against you. To avoid any legal action taken against you by the county, please have these violations removed within 15 days and contact this office within 48 hours after receiving this notice.

If you feel this is an incorrect assessment of your property, please contact this office immediately. Your cooperation will be appreciated.

Ben Curry

Rockingham County Code Enforcement Officer



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0105
(336) 342-8300
(336) 342-8362 Fax



Second Notice of Violation

CE18-70

03/28/2018

Herbert Moniz
394 Cook Florist Rd
Reidsville, NC 27320

Dear Herbert Moniz,

The Rockingham County Code Enforcement Division has received a complaint about your property located at: **394 Cook Florist Rd, Reidsville, NC 27320**

pin#: 891300217209

An inspection of the property provides evidence that you are in violation of the following: Rockingham County Unified Development Ordinance and/or Rockingham County Solid Waste Ordinance.

Development Without Permit - Chapter 2, article XVI 16-1(a) - To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance:

Consequently, this letter serves as legal notice that you are in violation of the ordinance. Please be advised that under Chapter Two, Zoning Article XVI section 16-3(b), civil penalties, citations and subsequent fines may be served against you. To avoid any legal action taken against you by the county, please have these violations removed within 15 days and contact this office within 48 hours after receiving this notice.

If you feel this is an incorrect assessment of your property, please contact this office immediately. Your cooperation will be appreciated.

Ben Curry

Rockingham County Code Enforcement Officer



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0105
(336) 342-8300
(336) 342-8362 Fax



Final Notice of Violation

04/20/2018

CE18-70

Herbert Moniz
394 Cook Florist Rd
Reidsville, NC 27320

Dear Herbert Moniz,

The Rockingham County Code Enforcement Division has received a complaint about your property located at: **394 Cook Florist Rd, Reidsville, NC 27320**

pin#: 891300217209

An inspection of the property provides evidence that you are in violation of the following: Rockingham County Unified Development Ordinance and/or Rockingham County Solid Waste Ordinance.

Development Without Permit - Chapter 2, article XVI 16-1(a) - To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.

Consequently, this letter serves as legal notice that you are in violation of the ordinance. Please be advised that under Chapter Two, Zoning Article XVI section 16-3(b), civil penalties, citations and subsequent fines may be served against you. To avoid any legal action taken against you by the county, please have these violations removed within 15 days and contact this office within 48 hours after receiving this notice.

If you feel this is an incorrect assessment of your property, please contact this office immediately. Your cooperation will be appreciated.

Ben Curry

Rockingham County Code Enforcement Officer



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0211
(336) 342-8300
(336) 342-8362 Fax



Notice of Penalty and Citation

Name Herbert Moniz
Address 394 Cook Florist Rd
Reidsville NC 27320
PIN# 891300217209
Location: 394 Cook Florist Rd, Reidsville, NC 27320

Case: CE18-70

Fine \$26.00

Service: 05/14/2018
Service Method:

In Person
 Certified Mail
 Posted

Pursuant to Rockingham County Ordinance, this citation issues based upon the existence of probable cause to believe that the above and named person has violated the Rockingham County Solid Waste or Zoning Ordinance as cited below:

- Junk Vehicles
- Outdoor Storage
- Illegal Use of Property
- Signage
- Burning Solid Waste
- Burying/Submerging Solid Waster
- Throwing, Dumping Solid Waste
- Maintaining Improperly Managed Solid Waste
- Other: See Below

Description of Violation:

Municipal Code	Description	Corrective Action
Development Without Permit - Chapter 2, article XVI 16-1(a)	To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.	Removal with proper disposal and comply with court ordered conditions.

THIS FINE MUST BE PAID BY 4:00 ON 05/30/2018 AT THE PLANNING & INSPECTIONS OFFICE, ROCKINGHAM COUNTY GOVERNMENTAL CENTER, 371 NC 65, SUITE 100, POST OFFICE BOX 105, WENTWORTH, NORTH CAROLINA 27375.

- Fines must be paid within 15 days of receipt or posting of this citation
- At the time the fine is paid, the Violator must show evidence of the remedy of the violation.
- If the Violator does not respond to this citation, the Rockingham County Code Enforcement Officer may pursue all criminal, civil, and/or equitable enforcement measures as allowed by law.

Ben Curry
Code Enforcement Officer
05/14/2018

Herbert
Moniz
Violator
05/14/2018



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0211
(336) 342-8300
(336) 342-8362 Fax



Notice of Penalty and Citation

Name Herbert Moniz
Address 394 Cook Florist Rd
Reidsville NC 27320
PIN# 891300217209
Location: 394 Cook Florist Rd, Reidsville, NC 27320
Fine \$50.00

Case: CE18-70

Service: 06/08/2018
Service Method:
 In Person
 Certified Mail
 Posted

Pursuant to Rockingham County Ordinance, this citation issues based upon the existence of probable cause to believe that the above and named person has violated the Rockingham County Solid Waste or Zoning Ordinance as cited below:

- Junk Vehicles
- Outdoor Storage
- Illegal Use of Property
- Signage
- Burning Solid Waste
- Burying/Submerging Solid Waster
- Throwing, Dumping Solid Waste
- Maintaining Improperly Managed Solid Waste
- Other : See below

Description of Violation:

Municipal Code	Description	Corrective Action
Development Without Permit - Chapter 2, article XVI 16-1(a)	To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.	Removal with proper disposal and comply with court ordered conditions.

THIS FINE MUST BE PAID BY 4:00 ON 06/22/2018 AT THE PLANNING & INSPECTIONS OFFICE, ROCKINGHAM COUNTY GOVERNMENTAL CENTER, 371 NC 65, SUITE 100, POST OFFICE BOX 105, WENTWORTH, NORTH CAROLINA 27375.

- Fines must be paid within 15 days of receipt or posting of this citation
- At the time the fine is paid, the Violator must show evidence of the remedy of the violation.
- If the Violator does not respond to this citation, the Rockingham County Code Enforcement Officer may pursue all criminal, civil, and/or equitable enforcement measures as allowed by law.

Ben Curry
Code Enforcement Officer
06/08/2018

Herbert
Moniz
Violator
06/08/2018



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0211
(336) 342-8300
(336) 342-8362 Fax



Notice of Penalty and Citation

Name: Herbert Moniz
Address: 394 Cook Florist Rd
Reidsville NC 27320
PIN#: 891300217209
Location: 394 Cook Florist Rd, Reidsville, NC 27320

Case: CE18-70

Service: 06/25/2018
Service Method:

Fine: \$100.00

In Person
 Certified Mail
 Posted

Pursuant to Rockingham County Ordinance, this citation issues based upon the existence of probable cause to believe that the above and named person has violated the Rockingham County Solid Waste or Zoning Ordinance as cited below:

Junk Vehicles Signage Throwing, Dumping Solid Waste
 Outdoor Storage Burning Solid Waste Maintaining Improperly Managed Solid Waste
 Illegal Use of Property Burying/Submerging Solid Waste Other: See Below

Description of Violation:

Municipal Code	Description	Corrective Action
Development Without Permit - Chapter 2, article XVI 16-1(a)	To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.	Removal with proper disposal and comply with court ordered conditions.

THIS FINE MUST BE PAID BY 4:00 ON 07/10/2018 AT THE PLANNING & INSPECTIONS OFFICE, ROCKINGHAM COUNTY GOVERNMENTAL CENTER, 371 NC 65, SUITE 100, POST OFFICE BOX 105, WENTWORTH, NORTH CAROLINA 27375.

- Fines must be paid within 15 days of receipt or posting of this citation
- At the time the fine is paid, the Violator must show evidence of the remedy of the violation.
- If the Violator does not respond to this citation, the Rockingham County Code Enforcement Officer may pursue all criminal, civil, and/or equitable enforcement measures as allowed by law.

Ben Curry
Code Enforcement Officer
06/25/2018

Herbert Moniz
Violator
06/25/2018



Rockingham County

Code Enforcement Division
Post Office Box 105
Wentworth, NC 27375-0211
(336) 342-8300
(336) 342-8362 Fax



Notice of Penalty and Citation

Case: CE18-70

Name: Herbert Moniz
Address: 394 Cook Florist Rd
Reidsville NC 27320
PIN#: 891300217209
Location: 394 Cook Florist Rd, Reidsville, NC 27320

Service: 07/13/2018
Service Method:

Fine: \$200.00

In Person
 Certified Mail
 Posted

Pursuant to Rockingham County Ordinance, this citation issues based upon the existence of probable cause to believe that the above and named person has violated the Rockingham County Solid Waste or Zoning Ordinance as cited below:

Junk Vehicles Signage Throwing, Dumping Solid Waste
 Outdoor Storage Burning Solid Waste Maintaining Improperly Managed Solid Waste
 Illegal Use of Property Burying/Submerging Solid Waster Other: See Below

Description of Violation:

Municipal Code	Description	Corrective Action
Development Without Permit - Chapter 2, article XVI 16-1(a)	To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this Unified Development Ordinance without all required permits, certificates or other forms of authorization as set forth in this Unified Development Ordinance.	Removal with proper disposal and comply with court ordered conditions.

THIS FINE MUST BE PAID BY 4:00 ON 07/30/2018 AT THE PLANNING & INSPECTIONS OFFICE, ROCKINGHAM COUNTY GOVERNMENTAL CENTER, 371 NC 65, SUITE 100, POST OFFICE BOX 105, WENTWORTH, NORTH CAROLINA 27375.

- Fines must be paid within 15 days of receipt or posting of this citation
- At the time the fine is paid, the Violator must show evidence of the remedy of the violation.
- If the Violator does not respond to this citation, the Rockingham County Code Enforcement Officer may pursue all criminal, civil, and/or equitable enforcement measures as allowed by law.

Ben Curry
Code Enforcement Officer
07/13/2018

Herbert Moniz
Violator
07/13/2018



Lance Metzler <lmetzler@co.rockingham.nc.us>

Kennel Information

1 message

Tonya Caddle <tcaddle@co.rockingham.nc.us> Fri, Mar 16, 2018 at 11:00 AM
 To: Lance Metzler <lmetzler@co.rockingham.nc.us>, Keith Mabe <kmabe@co.rockingham.nc.us>, Reece Pyrtle <rpyrtle@co.rockingham.nc.us>, Mark Richardson <mrichardson@co.rockingham.nc.us>, Kevin Berger <kberger@co.rockingham.nc.us>, Craig Travis <ctravis@co.rockingham.nc.us>, Eugene Russell <erussell1968@gmail.com>

I am writing to inform you all of how the County has handled Kennels in our Land Development Ordinance.

In **April 2015** there was a proposal for a text amendment to add kennels to our ordinance. That amendment was approved by Commissioners and included the following:

Definition:

Kennel

Any facility, structure, or building used for a business use (non-profit or for profit) for the purpose of boarding domesticated animals. Such business use includes organizations devoted to the welfare, protection, rehabilitation, or humane treatment of animals. In addition to boarding, kennel activities may include, but are not limited to, the sale of animals, treatment of animals, grooming or cleaning, breeding, letting for hire, or training of domesticated animals. Domesticated animals, for the purpose of this ordinance, shall be defined as dogs, cats, and other generally accepted household pets. The following shall not constitute the operation of a kennel as defined above and in no way shall this provision regulate the following:

- (a) The ownership of domesticated animals as household pets.
- (b) The ownership of domesticated animals for hunting or tracking purposes pursuant to Chapter 113 of the North Carolina General Statutes.

UDO, Chapter 2, Article IX Special Uses. Add a New Section – Kennel (more than 8 animals):

(jj) Kennel, more than 8 domesticated animals

Zoning District: RA, RM, RC, NC

Approved By: Planning Board

Acres: 2 acres are required for up to 16 animals.
 For every incremental increase of 8 animals, the acreage requirement shall increase by 1 acre.

Setbacks: All areas of the kennel facility shall maintain a minimum setback of 50 feet from the front property line, 25 feet from the side and rear property lines unless abutting a side street in which a minimum side setback of 40 feet shall be maintained.

The property shall be screened with a Type I landscape buffer a minimum of 15 feet in width and 8 feet in height, either planted or existing, along all sides of the kennel facility.

At the 2015 meeting there was nothing approved to amortize any time frame for current kennels to come into compliance. That was specifically excluded.

In **March 2016** there was a text amendment regarding kennels that read:

*Compliance: Any property made non-conforming as a result of any amendment to this section shall be brought into compliance within **two years (24 months)** from the effective date of such amendment. Upon failure to comply with the requirements of this section, the Code Enforcement Officer may take corrective action as provided in Chapter 2, Article XVI of this ordinance.*

With this approval, it changed how the county handled kennels and compliance. It meant that all kennels must come into compliance with the 2015 ordinance within 2 years of the March 2016 approval.

In **April 2016** there was a text amendment regarding kennels that read:

*Compliance: Any property made non-conforming as a result of any amendment to this section shall be brought into compliance within **one year (12 months)** from the effective date of such amendment. Upon failure to comply with the requirements of this section, the Code Enforcement Officer may take corrective action as provided in Chapter 2, Article XVI of this ordinance.*

So, In 2015 we had language added to the Unified Development ordinance to give guidance to how the county will handle kennels. In 2016 there were two amendments that spoke about time frames for these type of businesses to come into compliance. When the last amendment was approved it required any operating kennels to come into compliance within one year after April 2016. So, effective April 2017 any kennel that is in the county is expected to be in compliance with the kennel ordinance.

Should anyone have any questions, feel free to contact me.

Thanks,
Tonya Caddle
Planning and Inspections Director
Rockingham County
371 NC 65
Wentworth, NC 27375
Office: 336-342-8137
Fax: 336-342-8362
Email: tcaddle@co.rockingham.nc.us
Website: www.co.rockingham.nc.us



Lance Metzler <lmetzler@co.rockingham.nc.us>

Kennel Timeline

1 message

Tonya Caddle <tcaddle@co.rockingham.nc.us> Mon, Mar 19, 2018 at 11:25 AM
To: Lance Metzler <lmetzler@co.rockingham.nc.us>, Eugene Russell <erussell1968@gmail.com>, Pam McClain <pmclain@co.rockingham.nc.us>, Kevin Berger <kberger@co.rockingham.nc.us>, Reece Pyrtle <rpyrtle@co.rockingham.nc.us>, Mark Richardson <mrichardson@co.rockingham.nc.us>, Keith Mabe <kmabe@co.rockingham.nc.us>, Craig Travis <ctravis@co.rockingham.nc.us>

Dear Board Members,

I understand you all would like a timeline of the events at the kennel at 394 Cook Florist Rd., Owner Mr. Herb Moniz. Below is more of an action item break down. Many conversations and emails transpired between all of the dates with Mr. Moniz. These just captured more of the violation process and how the ordinance changes fell into that process. Please feel free to give me a call should you have questions.

Mr. Herb Moniz at 394 Cook Florist Rd

2009 – Code Enforcement per Planning Director at that time- issued a letter saying that there is no zoning violation because this is a non-profit.

April 2015- County Ordinance was changed to include language pertaining to kennels in residential areas. No time frames were added for compliance.

June 2015 – Code Enforcement received a complaint and met with Planning and legal. First notice of violation was sent out for operating a business without permits.

June 8, 2015- Meeting with Mr. Moniz, his attorney Mr. Jeff Huss, County Manager, County Attorney, County Planning Director, Animal Shelter Director; County offered a building that the County owns for Mr. Moniz to move into and lease from the County.

August 26, 2015 – Case was moved to Legal department

March 2016 – County Ordinance was changed to make the kennel ordinance have a two year compliance requirement.

April 2016 – County Ordinance was changed to make the kennel ordinance have a one year compliance requirement. Legal department recommended that Planning and Code Enforcement rely on complaints that come to them instead of going out and visiting kennels once the one year time frame is up.

March 2018 – An anonymous complaint came to Code Enforcement and a site visit was done.

March 9, 2018 – First notice of violation was issued for not getting the right permit, a Special Use permit for a kennel to be in compliance with the ordinance.

Thanks,

Tonya Caddle

Planning and Inspections Director

Rockingham County

371 NC 65

Wentworth, NC 27375

Office: 336-342-8137

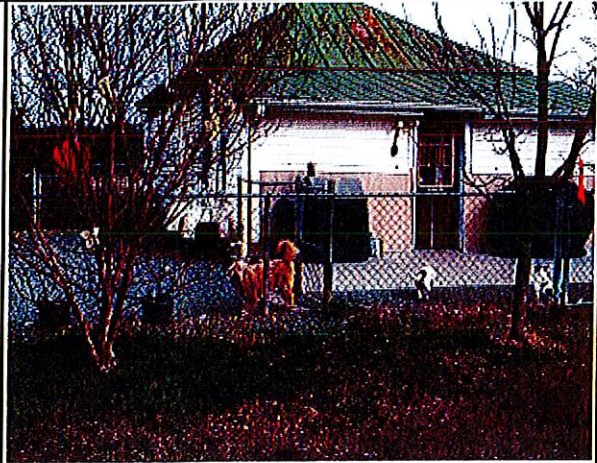
Fax: 336-342-8362

Email: tcaddle@co.rockingham.nc.us

Website: www.co.rockingham.nc.us



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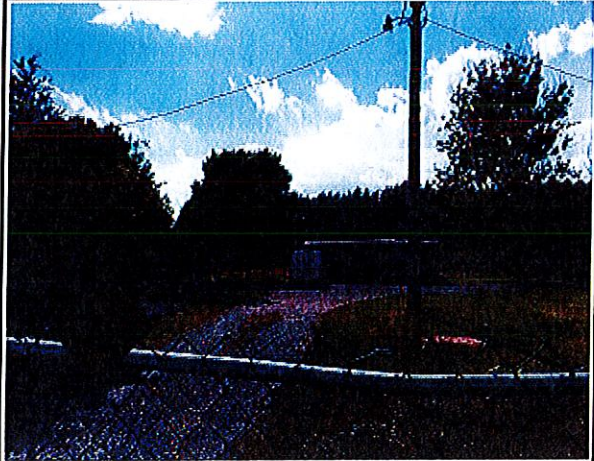
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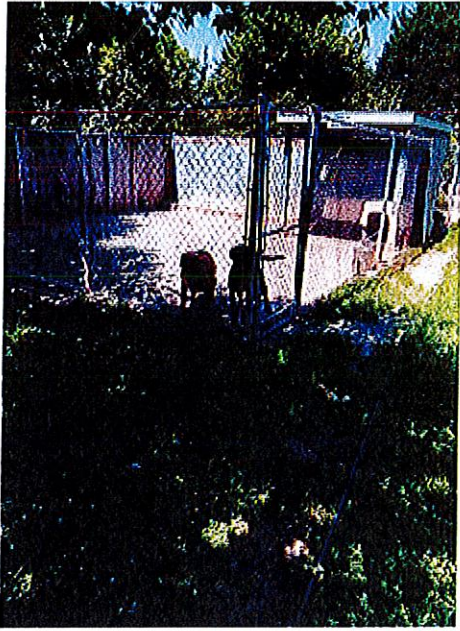
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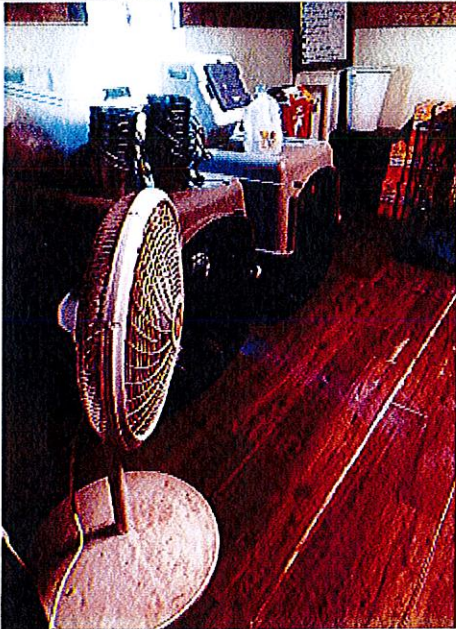
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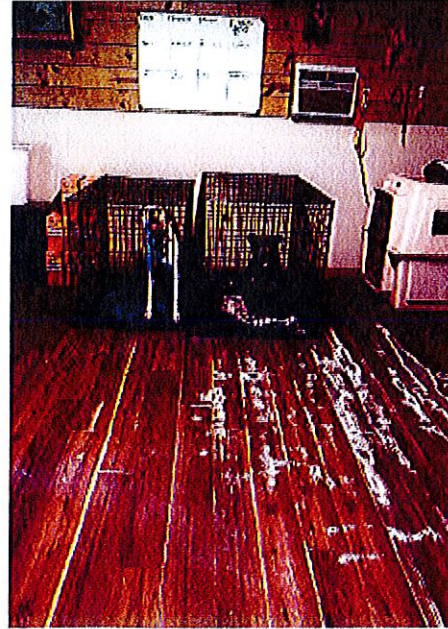
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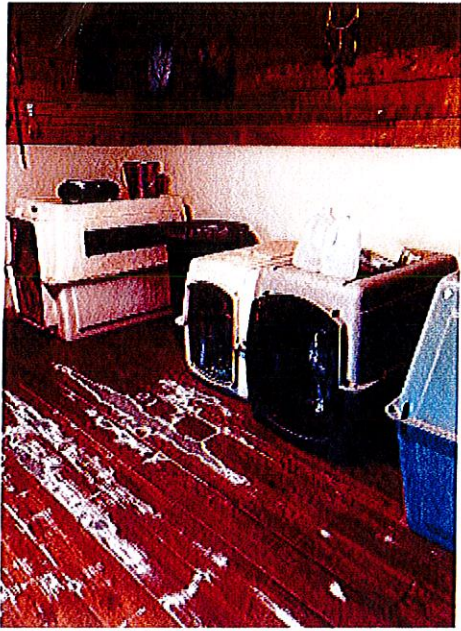
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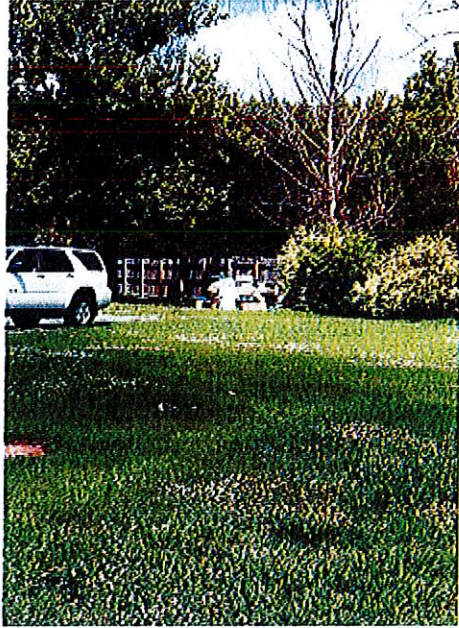
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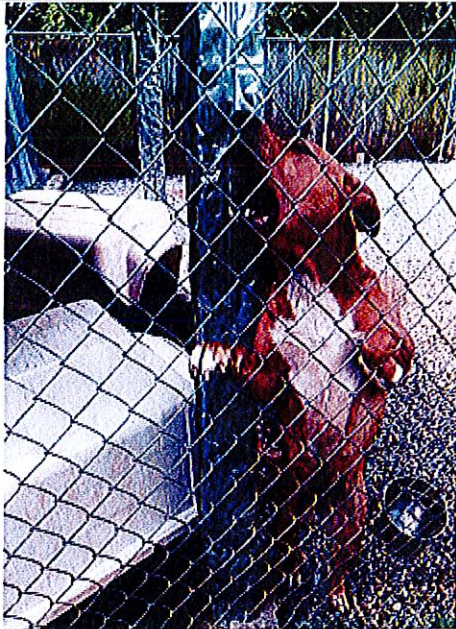
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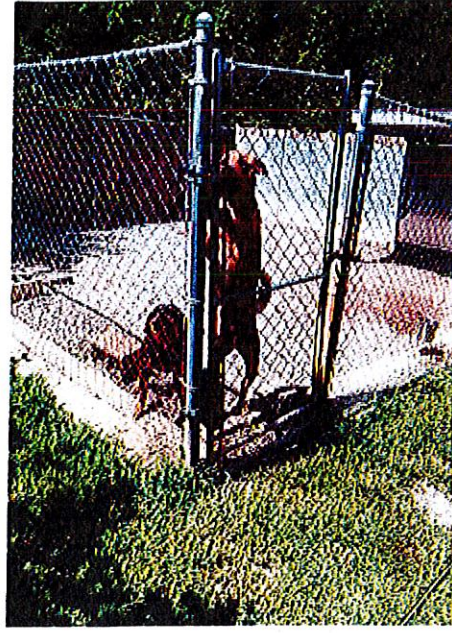
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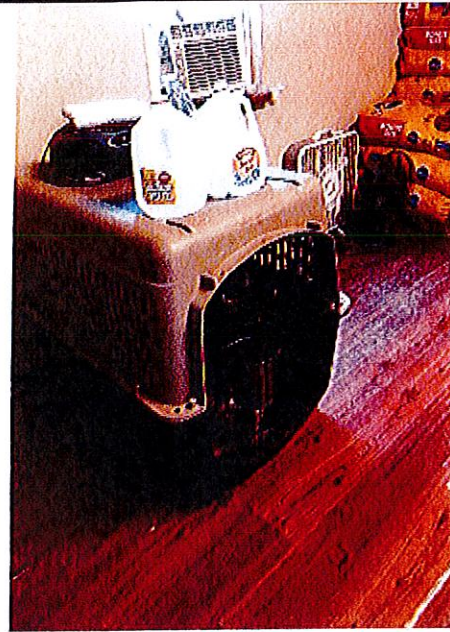
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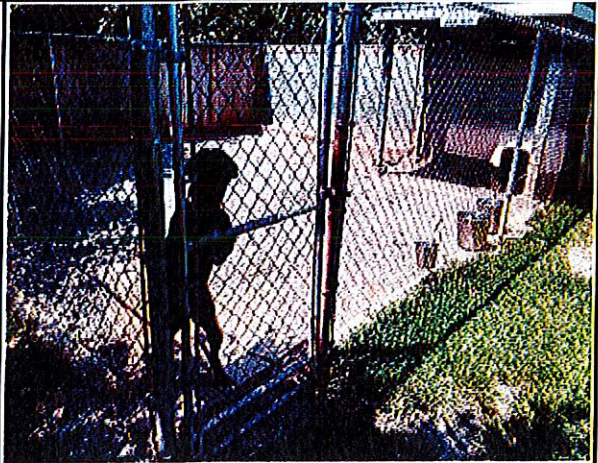
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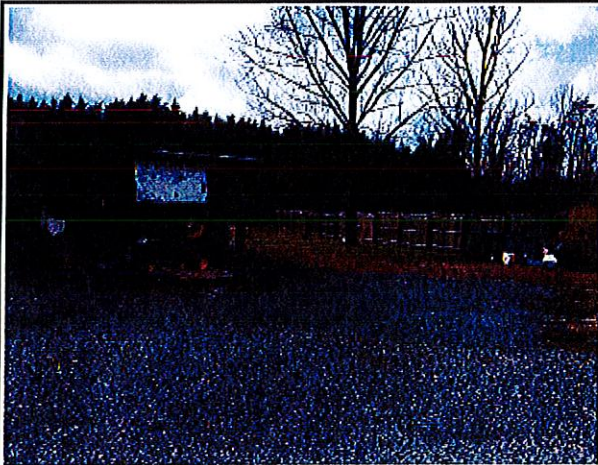
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