

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

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

**SUBJECT:-**

- A. Public Hearing on Zoning Text Amendment proposed by City-County Planning Board staff to amend Chapter B of the Unified Development Ordinances to revise the permitted use table and associated requirements related to the use Landfill, Land Clearing and Inert Debris (LCID), greater than two acres in Forsyth County's zoning jurisdiction. (UDO-208).
  
- B. Approval of Ordinance

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

**SUMMARY OF INFORMATION:-**

See attached staff report.

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

**ATTACHMENTS:-**     YES             NO

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

## STAFF REPORT

DOCKET # UDO-208  
STAFF: [Aaron King](#)

### REQUEST

This text amendment is proposed by Planning staff to amend Chapter B of the Unified Development Ordinances to revise the permitted use table and associated requirements related to the use Landfill, Land Clearing and Inert Debris (LCID) in Forsyth County's zoning jurisdiction.

### BACKGROUND

Currently, the UDO divides LCID's into two categories based on a two acre threshold. LCID's greater than two acres are only allowed in the HB, GB, LI, and GI districts with a Planning Board Review. Some recent rezoning proposals have been for LCID's greater than two acres in rural agricultural/residential areas of the County. In some of these cases, the proposed sites have been constrained by a severe topography or overhead transmission lines making them difficult to develop. Under current UDO requirements, the petitioner has to seek a rezoning to the HB, GB, LI, or GI districts, which often results in an illegal spot zoning opinion from the County Attorney. Staff believes there is some merit in allowing this use within the rural parts of the County, but having continued rezonings where there could be a risk of a court appeal over a spot zoning action puts the County in an awkward policy position. Also, *Legacy* specifically discourages rezonings to intense districts within the rural area of the County.

A second issue that staff has noted is the increase in popularity of treatment/processing/recycling programs. One reason for the increase is the rising popularity of the "green building" movement, where recycled materials are preferred over new materials. LCID's may have a treatment/processing/recycling component with approval from the Zoning Board of Adjustment. Staff supports the treatment/processing/recycling component, but is aware of the effect it has on the function of LCID's. LCID's were typically seen as a means for a person to fill-in unfavorable topography on their property with inert debris. As material came in, the fill area became more level. Without a recycling option, an LCID is destined to a shorter lifespan. The treatment/processing/recycling option works to lengthen the lifespan of the LCID because material that would typically end up in the fill area, ends up being recycled. Staff has concerns about the impacts associated with a prolonged LCID operation regarding noise, dust, debris, and traffic that might have a negative impact in a residential area, but believes these concerns can be addressed through this amendment.

### ANALYSIS

The intent of this text amendment is to address two separate issues pertaining to LCID's: (1) allow LCID's greater than two acres in rural residential areas with a SUP rather than a rezoning, and; (2) clarify regulations regarding the treatment/processing portion of LCID's regardless of their size.

## **LCID's Greater Than 2 Acres: SUP vs. Rezoning**

There is justification for allowing LCID's greater than two acres in the rural parts of the County with an elected body Special Use Permit (SUP), rather than by changing the underlying zoning of the property to a more intense district. Staff proposes to allow LCID's greater than two acres in the AG, RS-40, RS-30, and RS-20 districts with approval of an elected body SUP. This review still involves posting a sign on the subject property, advertisement in the newspaper, and letters sent to adjoining property owners. An elected body SUP also requires that four findings of fact be satisfied as per UDO requirements. Staff believes this type of review is appropriate because it allows for a case by case review of an intense use located in a residential zoning district. Individual cases will have to stand or fall based on their individual merit and their ability to clearly meet the required findings of fact. The most important impact of this amendment is the effect on the County's official zoning maps. Since an elected body SUP does not change the underlying zoning of the property, the zoning maps do not reflect HB, GB, LI, or GI zoning in a rural portion of the County. This is important because isolated pieces of intense zoning can influence future zoning decisions on nearby properties, which may create even greater impacts on an area with rural character.

## **Recycling/Treatment of Materials as an Accessory Use**

Staff believes that the current Zoning Board of Adjustment SUP review is appropriate for the treatment/processing/recycling component, with some modifications. There are a couple of different scenarios for permitting the treatment/processing/recycling operation for LCID's. For LCID's less than two acres in size, the treatment/processing/recycling component must be approved as a Zoning Board of Adjustment SUP. For LCID's greater than two acres that are legally established and operating, they also must obtain a Zoning Board of adjustment SUP. Lastly, if newly proposed LCID's greater than two acres wish to have a treatment/processing/recycling component; it can be approved by Board of County Commissioners in conjunction with the SUP that must be obtained for the LCID. In addition to the required findings of fact that accompany a SUP, the request must also demonstrate compliance with the Use Conditions listed in the UDO. Staff has proposed some modifications to the existing set of Use Conditions. Here are the proposed changes with a brief explanation:

The Zoning Board of Adjustment may issue an accessory use permit for the separation, treatment, recycling, processing, and wholesale/retail sale of materials produced/recovered as part of a land clearing and inert debris (LCID) landfill provided that the total area devoted to separation, treatment, recycling, processing, and wholesale/retail sales:

- (a) Does not exceed fifty (50) percent of the area devoted to the land-filling activities; (Staff Comments: Staff believes this requirement will keep the recycling component in scale with the LCID fill area.)
- (b) Is not located within fifty (50) feet of any surface water as defined in G.S. 143-212 or any property line (Staff Comments: This is a NCDENR requirement.)

- (c) Is not located within one hundred (100) feet of any water supply well  
*(Staff Comments: This is a NC DENR requirement.)*
- (d) Is located at least one hundred (100) feet from an adjacent zoning lot zoned RS or RM *(Staff Comments: Current UDO requirement.)*
- (e) Is clearly separated from the fill portion of the LCID by a minimum distance of twenty-five feet; and *(Staff Comments: This is a NC DENR requirement.)*
- (f) Is located at least two hundred (200) feet from any residential dwellings or commercial/public buildings. *(Staff Comments: This is a NC DENR requirement.)*

Accessory use permits issued by the Zoning Board of Adjustment for LCID's located in residential zoning districts are valid for a period of five (5) years from the approval date. These permits may be renewed by the Zoning Board of Adjustment in five (5) year intervals in accordance with Chapter B, Article VI, Section 6-1.4 of the UDO. No permit shall be required for those land clearing and inert debris (LCID) landfills established prior to December 31, 1994, to which Section B.2-5.41(F) applies. *(Staff Analysis: Staff believes the renewal period is important for LCID's that have a recycling component because they will have an expanded lifespan which exposes adjacent residents to potential adverse impacts for a longer time. Renewals from the Zoning Board of Adjustment will allow neighbors to come and provide feedback to the Board if they have been negatively impacted.)*

## **RECOMMENDATION**

### **APPROVAL**

Aaron King presented the staff report.

### **PUBLIC HEARING**

FOR: None

AGAINST: None

### **WORK SESSION**

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

1. Brenda Smith expressed concerns about the proposed text amendment. She was particularly concerned about the need for buffer requirements, especially if sites in the residential districts are included.
2. Arnold King expressed his concern that the buffering as proposed by Brenda Smith's amendment could be costly and unnecessary for a large piece of property.

3. Other board members asked questions to better understand the situations where this amendment would apply. Staff explained the proposal in more detail. Points made during the discussion include:
- DENR has its own set of requirements and does annual inspections of facilities like these.
  - Bufferyards are required under separate regulations in most instances where these situations would be requested.
  - Instead of providing a very long list of conditions to address every possible situation that might be presented, several board members and staff felt that considering each site on its individual characteristics as proposed by staff would be a better approach.

MOTION: Brenda Smith moved approval of the zoning text amendment with the addition that industrial use classification bufferyard requirements be added to this language.

SECOND: Carol Eickmeyer

MOTION: Brenda Smith amended her motion to apply only to residentially zoned land and not to AG zoned land.

SECOND: Carol Eickmeyer

VOTE:

FOR: Brenda Smith

AGAINST: Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Darryl Little, Lynne Mitchell, Paul Mullican

EXCUSED: None

MOTION: Clarence Lambe moved approval of the zoning text amendment as recommended by staff.

SECOND: Lynne Mitchell

VOTE:

FOR: Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Darryl Little, Lynne Mitchell, Paul Mullican

AGAINST: Brenda Smith

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO-208**  
**AN ORDINANCE PROPOSED BY PLANNING STAFF AMENDING CHAPTER B OF**  
**THE *UNIFIED DEVELOPMENT ORDINANCES* REVISE REGULATIONS**  
**PERTAINING TO LCID'S**

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

**Section 1.** Chapter B, Article III of the UDO is amended as follows:

## **Chapter B - Zoning Ordinance**

### **Article II – Zoning Districts, Official Zoning Maps and Uses**

#### **2-4 PERMITTED USES**

##### **2-4.1 TABLE B.2.6**

Table B.2.6 displays the principal uses allowed in each zoning district and references use conditions. Table B.2.6 should be read in conjunction with the definitions of principal uses and other terms in Section A.2. Land, buildings, and structures shall only be used in accordance with the districts shown on the *Official Zoning Maps*, and subject to all requirements and conditions specified in this Ordinance.

Table B.2.6 is amended in accordance with the following revisions:

Add an "E" in columns: AG, RS-40, RS-30 and RS-20 for the use Landfill, Land Clearing/Inert Debris, greater than 2 acres (F)

#### **2-5 USE CONDITIONS**

##### **2-5.41 LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID)**

**(N) Accessory Uses (F)**

~~The Zoning Board of Adjustment may issue a permit for the separation, processing, storage, or wholesale sale of materials received through lawful operation of the land clearing and inert debris (LCID) landfill on the site as an accessory use on the site of an LCID, provided such activities occur within the original boundaries of the State approved LCID landfill and are conducted at least one hundred (100) feet from any adjacent zoning lot zoned RS or RM. No permit shall be required for those land clearing and inert debris (LCID) landfills established prior to December 31, 1994, to which Section B.2-5.41(F) applies.~~

The Zoning Board of Adjustment may issue an accessory use permit for the separation, treatment, recycling, processing, and wholesale/retail sale of materials produced/recovered as part of a land clearing and inert debris (LCID) landfill provided that the total area devoted to separation, treatment, recycling, processing, and wholesale/retail sales:

- (a) Does not exceed fifty (50) percent of the area devoted to the land-filling activities;
- (b) Is not located within fifty (50) feet of any surface water as defined in G.S. 143-212 or any property line
- (c) Is not located within one hundred (100) feet of any water supply well
- (d) Is located at least one hundred (100) feet from an adjacent zoning lot zoned RS or RM
- (e) Is clearly separated from the fill portion of the LCID by a minimum distance of twenty-five feet; and
- (f) Is located at least two hundred (200) feet from any residential dwellings or commercial/public buildings.

Accessory use permits issued by the Zoning Board of Adjustment for LCID's located in residential zoning districts are valid for a maximum period of five (5) years from the approval date. These permits may be renewed by the Zoning Board of Adjustment in intervals no greater than five (5) years in accordance with Chapter B, Article VI, Section 6-1.4 of the UDO. No permit shall be required for those land clearing and inert debris (LCID) landfills established prior to December 31, 1994, to which Section B.2-5.41(F) applies.

**Section 2.** This ordinance shall become effective upon adoption.