

June 18, 2002

William F. Joyce
8107 Squire Marshall Road
Walnut Cove, NC 27052

RE: ZONING TEXT AMENDMENT UDO-85

Dear Mr. Joyce:

The attached report of the Planning Board to the Forsyth County Board of Commissioners is sent to you at the request of the Commissioners.

When the rezoning is scheduled for public hearing, you will be notified by Jane Cole, Clerk to the County Commissioners, of the date on which the Commissioners will hear this petition.

Sincerely,

A. Paul Norby, AICP
Director of Planning

Attachment

pc: Jane Cole, County Manager's Office
Stephen G. Calaway, 1330 Ashley Square, Winston-Salem, NC 27103
Richard M. Heriot, 4560 Brook Meadow Court, Lewisville, NC 27023
Jim Bryan, FC Health Dept., Solid Waste Program, 799 Highland Avenue, Winston-Salem, NC 27102

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _____ **AGENDA ITEM NUMBER:**

SUBJECT:-

Zoning text amendment proposed by William F. Joyce

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

Zoning text amendment proposed by William F. Joyce to permit Landfill, Construction and Demolition in AG, RS-40, RS-30, and RS-20 Zoning Districts in County jurisdiction (UDO-85).

After consideration, the Planning Board recommended approval of the zoning map amendment.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

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STAFF REPORT

DOCKET #: UDO-85

STAFF: Suzy Gallaway

CONTINUANCE HISTORY

The text amendment was continued from the March 14 and May 9, 2002 Planning Board meetings at the request of both the petitioner and the Planning staff. This was to allow staff to provide further information regarding landfills and also to allow the petitioner and staff to consider alternative text amendment language.

REQUEST

As originally submitted, the text amendment was proposed by William F. Joyce to amend Chapter B "Zoning Ordinance", Article II "Zoning Districts, Official Zoning Maps, And Uses", Table 2.6 "Permitted Uses" and other applicable sections of the UDO to allow for "Landfill, Construction and Demolition" (C & D landfills) in AG, RS-40, and RS-30 Zoning Districts with Planning Board Review and in RS-20 Zoning District with Board of Adjustment Special Use Permit in Forsyth County Zoning Jurisdiction.

BACKGROUND

At present C & D landfills are allowed in AG, RS-40, RS-30, and RS-20 districts with the proposed reviews within the City of Winston-Salem, Town of Kernersville, and Village of Clemmons Zoning Jurisdictions; however, those jurisdictions currently have virtually no land zoned AG, RS-40, or RS-30 and very little land zoned RS-20. There is a use condition that these landfills not be allowed as a principle or accessory use in any RS Zoning District in Growth Management Areas (GMA) 1, 2, and 3. The permitted zoning districts in conjunction with the prohibition of GMA's result in little, if any, land potentially useable in the municipalities of Winston-Salem, Kernersville, and Clemmons for C & D landfills.

There are a number of use conditions which must be met prior to the approval of a C & D landfill. These conditions include the prohibition of the use in RS Districts in Growth Management Areas 1, 2, and 3; the prohibition of C & D landfills in Water Supply watersheds, floodplains, and wetlands; and a requirement that a reclamation plan be filed in the office of the Register of Deeds.

ANALYSIS

Much of the County is zoned AG, RS-40, RS-30 and RS-20. Approval of the text amendment as originally submitted would allow the use "Landfill, Construction and Demolition" in much of the County without elected body review. Although "Landfill, Construction and Demolition" is

allowed in these districts within the City of Winston-Salem, Town of Kernersville, and Village of Clemmons, it is unlikely to occur because these areas are relatively urban and tend to be comprised of more dense zoning districts, such as RS-15, RS-12, and RS-9, etc. Also, there is a use condition that they not be located within RS Zoning Districts in Growth Management Areas 1, 2, and 3 (urban or municipal areas) which further restricts their location.

For a new C & D Landfill to be established, certain procedures must be followed with the North Carolina Department of Environment and Natural Resources (DENR). Once the appropriate zoning is in place, a site study approval must be granted. The applicant is required to do borings on the site to determine the types of soil, the location of bedrock, groundwater flow direction, and the depth of groundwater. The applicant must also define where the waste will be coming from and the character of the surrounding area. This process takes around 12 months. The next step is to obtain a permit to construct a five year phase of the site. This permit takes approximately eight months to obtain. Further borings are done and the site is constructed. The final step in State approval is to obtain a permit to operate which takes from 30 to 60 days. Once a C & D Landfill has been established, there are quarterly inspections by the State and groundwater monitoring wells are evaluated periodically.

Currently there is only one Construction and Demolition Landfill within Forsyth County, which lies in the City of Winston-Salem boundaries. This landfill was approved prior to the adoption of the UDO and the establishment of the current regulations regarding this landfill type. It is a "grandfathered" use, and would not be allowed if petitioned for under current regulations.

"Landfill, Construction and Demolition" is an intense use. Both a high amount of truck traffic and a high level of noise are associated with this use. Currently this use is allowed in GI, LI, GB, and HB in the County with Planning Board Review. Initially, staff held the conservative position that rezoning should be required for such an intense use, however, at the May 9th Planning Board meeting, the Board's discussion revolved around Elected Body Special Use Permit versus rezoning for Construction and Demolition Landfills in rural areas. In light of the approximately two year review required by the state for such landfills, both the staff and petitioner agreed that Elected Body Special Use Permit is more appropriate than rezoning and would eliminate the negative effects of establishing intense zoning districts in rural areas.

RECOMMENDATION

Staff recommends **APPROVAL**.

PUBLIC HEARING - March 14, 2002

David Reed presented the staff report.

FOR:

Steve Calaway, 1330 Ashley Square, Winston-Salem, NC 27103

I represent Bill Joyce, a Walnut Cove, Forsyth County, landfill operator.

We have three different types of landfills - C&D, LCID, & Sanitary.

We only have one C&D Landfill in the county that I know about - it's owned by the Utilities Commission.

As staff indicated, most of the county is residential. Since the UDO only allows C&D Landfills in a few districts, there aren't many places to have a C&D Landfill. In fact, much of the county has to go through the City to get to a C&D Landfill.

The Zoning Board of Adjustment gives extensive hearings for landfills and adds many conditions.

We could let this be approved by the Planning Board, as proposed, or by the Zoning Board of Adjustment or County Commissioners. At any rate, if they are permitted in North Carolina, there's a two step approval process by the State of NC - they have to approve the site and then approve the site plan and then they have periodic inspections. Approvals are only good for five years and then the owner/operator has to reapply.

I think it's foolish to drive great distances through the City to one owned by the Utilities Commission when you could put them around the County and meet all the needs.

I think it's appropriate to ask Zoning Board of Adjustment to approve these because there is such an appropriate review there and they are used to dealing with this kind of thing.

If you think a continuance is appropriate for us to look at the type of approval that would be acceptable, that is fine with us.

AGAINST:

Richard Herriott, 8560 Brook Meadow Court, Lewisville, NC 27023

Speaking for Lewisville Planning Board. We don't think the YR District was ever created for this type of use and when you get to RS-20, it's pretty close to our back yard.

We object to this.

WORK SESSION

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

1. Clearly staff doesn't support this proposal, but time would be worth while to consider different levels of review.
2. Kerry Avant - there needs to be more conversation. Defeating this isn't just going to stop them from being close to Lewisville.
3. John Bost - I do believe there's a need for these landfills.

4. Information to be gathered during the continuance: More information about the process for establishing landfills; detailed staff report that lays out what the present rules are; the applicable districts/jurisdictions; how staff looks at it; how landfills currently are controlled (the whole Utilities Commission and State process); why there is only one Landfill, C&D now (on Old Salisbury Road) - is it a zoning issue or a revenue generator?

MOTION: Arnold King moved continuance of the zoning text amendment to May 9, 2002.

SECOND: Jerry Clark

VOTE:

FOR: Avant, Bost, Clark, King, Norwood, Powell

AGAINST: None

EXCUSED: None

PUBLIC HEARING - May 9, 2002

FOR:

Steve Calaway, 1330 Ashley Square, Winston-Salem, NC 27103

Represent Bill Joyce.

There are a lot of LCID landfills, but there is one C&D Landfill.

If you get rid of anything that treated or painted (wood, asphalt, plastic, etc.), it has to go to a C&D landfill.

Every trip to a C&D landfill, counting transportation, labor, time, etc., cost several hundred dollars.

Time is money. Distance is money. If we have to go from Walkertown to South Clemmons Road, it costs more than it would to go to a nearby site.

There are some places in the county where we don't want them.

By having a Planning Board review or any public hearing or zoning board of adjustment, I'm confident the people speak.

If there's a feeling that it shouldn't be there, it won't be there.

I was pleased to hear that if C&D landfills have to be zoned, and they waive the spot zoning rule because of the need, that might be the way to go.

Jim Bryan, FC Health Dept., Solid Waste Program for county and inspect LCID

799 Highland Avenue, 27102

C&D Landfills are necessary. They provide a service for those that need to properly dispose of C&D waste. We have a tremendous waste of it that's properly managed at the landfill on Old Salisbury Road. The problem is that individuals doing work will improperly manage this type of waste.

There may be a need to find a way to site smaller C&D landfills in the county. I'll leave it up to the Planning staff to determine how we do that. we'll do our best to maintain they are well-kept.

Actually I came because I was told to come by Forsyth County. I'm thinking in terms of public health as well, that we need to locate these places so that they don't adversely impact the public safety and health.

Paul Norby - the concern is that this opens up several zoning districts to very little review as opposed to a rezoning approach which allows a more thorough review. Planning Board Review would not include a public hearing. State review is site specific, not location.

John Bost - if there is a need for more sites, why is that need not being addressed?

Jimmy Norwood - it's problematic in that there's a fixed amount of resources that the Utilities Division has. Now the private sector sees a need for additional sites.

Terry Powell - they don't want to go through rezoning.

There was a lot of intense discussion about this issue.

AGAINST:

WORK SESSION:

MOTION: Philip Doyle moved continuance of the zoning text amendment.

SECOND: Terry Powell

VOTE:

FOR: Avant, Bost, Clark, Doyle, Folan, King, Norwood, Powell

AGAINST: None

EXCUSED: None

PUBLIC HEARING - June 13, 2002

FOR: None

AGAINST: None

WORK SESSION

MOTION: John Bost moved approval of the zoning text amendment.

SECOND: Kerry Avant

Dara Folan asked what would happen to the underlying zoning? Would it stay the same?

David Reed responded that it would remain the same.

FOR: Avant, Bost, Clark, Doyle, Folan, Kennedy-Sloan, King, Powell,
AGAINST: None
EXCUSED: None

A. Paul Norby, AICP
Director of Planning

UDO-85
AN ORDINANCE AMENDING
THE *UNIFIED DEVELOPMENT ORDINANCES*
REGARDING LANDFILL, CONSTRUCTION AND DEMOLITION
IN FORSYTH COUNTY ZONING JURISDICTION

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

Section 1. Chapter B, Section 2-4 Permitted Uses, Table 2.6 by adding an "E" (Elected Body Special Use Permit) to the line "Landfill, Construction and Demolition (F)" under columns "AG", "RS-40", "RS-30" and "RS-20". All applicable conditions referenced in the "CONDS" column shall apply.

Section 2. The ordinance shall be effective upon adoption.