

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

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

**SUBJECT:-**

- A. Public Hearing on Zoning Text Amendment proposed by Inspections staff to amend various sections of the *Unified Development Ordinances* to provide clarifications and corrections throughout the text (UDO 172).
- 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-172  
**STAFF:** Kirk Ericson

### REQUEST

This UDO text amendment is proposed by the City-County Inspections Division to amend various sections of the *Unified Development Ordinances*. The purpose of this text amendment is to “clean up” various non-substantive issues which they have discovered in administering and interpreting the ordinances.

### BACKGROUND

Since the adoption of the UDO twelve years ago, several “clean up” text amendments have been presented to the Planning Board. These amendments address conflicts discovered by the City-County staff through daily use. The changes in this text amendment have been collected with the intent of being presented as one unified text amendment. None of the modifications presented here substantively change the effects of the ordinance, but instead improve the clarity of the ordinance and remove conflicting or outdated regulatory language.

### ANALYSIS

This text amendment consists of 23 sections, each of which is described in detail below:

Section 1. Section 1 adds asphalt pavement as an acceptable material for disposal in LCIDs. The NC Department of the Environment and Natural Resources (DENR) permits this material already, and its inclusion here is a clarification of that fact.

Section 2. This section exempts 35 year old vehicles from the definition of Motor Vehicle, Inoperative. This modification reflects a recent change in NC state law.

Section 3. Section 3 amends the definition of a sign to exempt religious icons, such as crosses or other religious symbols, from being considered a sign where these icons are not integral to a written sign. These icons are not intended to serve as advertisement, and as such should not be treated as signs by the ordinance.

Section 4. Section 4 clarifies that only major subdivisions allow accessory Borrow Sites.

Section 5. This section clarifies when a Special Use Permit from the Zoning Board of Adjustment is needed for an accessory day care. A Special Use Permit is not needed in situations where the zoning district permits a day care as a principal use.

Section 6. This section clarifies that only major subdivisions allow accessory dirt storage areas. Currently, it is unclear if dirt storage is allowed in minor subdivisions. Additionally, dirt storage is only allowed if this material comes from within the major subdivision.

Section 7. This section requires all LCIDs to be located 100 feet from the property line in accordance with DENR rules. An undisturbed area should be located between the property line if the LCID is located between 100 and 200 feet from the property line. LCIDs which are located more than 200 feet from the property line allow a disturbed area between the LCID and that property line. Additionally, all LCIDs should be required to be recorded on survey maps in the office of the Register of Deeds.

Section 8. Section 8 revises the location requirements for carports and garages in PRDs. Currently, these structures have separate requirements which are different from the accessory structure requirements of the UDO. These regulations are outdated, and as such have been removed and replaced with a reference to the accessory structure requirements for conventional single family development.

Section 9. This section replaces the streetyard requirement for Urban Residential Buildings with a street tree requirement. Street trees are more appropriate to the character of an urban environment than a conventional streetyard at the right-of-way edge.

Section 10. This section exempts transmission towers attached to other nonresidential structures from Planning Board Review.

Section 11. Section 11 clarifies language relating to above ground storage tanks, references fire codes in relation to tank setbacks, and removes confusing language about the screening of vertical storage tanks. Additionally, this section requires that above ground storage tanks in residential districts have a maximum capacity of 500 gallons, except where these tanks accompany institutional or utility uses.

Section 12. This section removes a reference to Board of Adjustment review for multiple flag lots from the Supplementary Dimensional Requirements section of the UDO. Section 20 of this text amendment further addresses the issue of Board of Adjustment review of multiple flag lots and transfers the reviewing authority to the Planning Board.

Section 13. Section 13 exempts utility and transmission towers from the lot size requirements of the UDO.

Section 14. Section 14 removes the bufferyard requirement where multifamily development adjoins high intensity commercial or industrial uses that do not have bufferyards. If those uses ever change or expand, they will be required to provide a bufferyard in accordance with UDO standards.

Section 15. This section accommodates minor expansion of nonconforming structures. Any nonconforming structure in a residential district may be expanded up to twenty-five percent of the length of the existing nonconforming building wall without a Special Use Permit provided that this expansion does not get any closer to the property line than the existing building wall, and the expansion does not increase the height of the building or the number of stories along the

nonconforming wall. These exceptions have been routinely approved by the Board of Adjustment.

Section 16. This section clarifies which specific "Accessory Uses" and Accessory Structures" do not require Planning Board review to the Board of Adjustment for Special Use Permits. Cross-references to other sections of the UDO have also been added to this section to increase the user friendliness of the ordinance.

Section 17. Section 17 requires a scaled site plan of the property being considered for all requests to the Board of Adjustment. This plan must show the location of any existing or proposed structures along with any relevant notations concerning the request. This ordinance change is intended to help the Board of Adjustment better understand the requests under their consideration.

Section 18. Section 18 requires that any site plan approved as a part of a Board of Adjustment Application shall become part of that application and shall not change. The Director of Inspections shall be able to approve minor changes to this plan consistent with the intent of the original site plan or conditions of the request. Additionally, Inspections staff routinely recommends approval of additions to buildings built prior to the adoption of the UDO which do not conform to setbacks as long as this addition does not get any closer to the property line than the existing building. The Hardship findings for variances in the UDO are not completely clear as to buildings being included in the "recorded platting or deeding of land prior to the adoption of the UDO". The insertion of this new language will make that hardship finding clearer for staff, applicants and the Board of Adjustment.

Section 19. This section changes the approval process of multiple flag lots in minor subdivisions from Board of Adjustment review to Planning Board review. The Board of Adjustment does not enforce the subdivision regulations, and is therefore not the best reviewing body in this situation.

Section 20. Section 20 removes the requirement of filing a record of use and a rehabilitation/reuse plan for a landfill with the Register of Deeds for any site within a minor subdivision.

Section 21 and 22. These sections clarify the intent of the MRB-S District to allow the Director of Planning or designee to accommodate deviations from the building setback requirements along with other already specified deviations of the MRB-S district, in order to facilitate quality site design.

## **RECOMMENDATION**

### **APPROVAL.**

Kirk Ericson presented the staff report.

## **PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

MOTION: Clarence Lambe moved approval of the zoning text amendment.

SECOND: Paul Mullican

VOTE:

FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO-172**  
**AN ORDINANCE AMENDING THE**  
***UNIFIED DEVELOPMENT ORDINANCES***  
**REGARDING INSPECTIONS STAFF**  
**PROPOSED TECHNICAL CHANGES AND**  
**CLARIFICATIONS FOR THE 12 YEAR UPDATE**

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 A – DEFINITIONS ORDINANCE; ARTICLE II - DEFINITIONS is hereby amended by adding or changing the following definitions:

**LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID).** A landfill that is limited to receiving land clearing waste, concrete, brick, asphalt pavement, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

**Section 2.** CHAPTER A – DEFINITIONS ORDINANCE; ARTICLE II - DEFINITIONS is hereby amended by adding or changing the following definitions:

**MOTOR VEHICLE, INOPERATIVE.** A motor vehicle which meets at least one of the following criteria:

- (A) Vehicle is presently unable to satisfy the vehicle inspection standards of the State of North Carolina, regardless of whether said vehicle possesses a currently valid inspection certificate;
- (B) Vehicle lacks a current inspection certificate, or displays an expired certificate. Exempt from the requirement to display a current inspection certificate are vehicles which are thirty-five (35) years or older per state law;
- (C) Vehicle is partially dismantled or wrecked;
- (D) Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move; or,
- (E) Vehicle has expired license plate or is unlicensed.

**Section 3.** CHAPTER A – DEFINITIONS ORDINANCE; ARTICLE II - DEFINITIONS is hereby amended by adding or changing the following definitions:

**SIGN.** Any form of publicity which is visible from any public way, directing attention to an individual, business, commodity, service, activity, or product, by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, or other pictorial matter designed to convey such information, and displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or other structures or supports. Exempt from this definition are religious icons, such as crosses or other religious symbols, when not integral to a written sign.

**Section 4.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

## 2-5 USE CONDITIONS

### 2-5.11 BORROW SITE

(B) **Within Major Subdivisions**

Borrow sites operated by a developer or builder in conjunction with active development of section(s) of a major subdivision within five (5) years of final plat approval, including land grading, removal, or filling within the major subdivision where the fill material is placed on sites within said section(s) of a subdivision, are exempt from the use conditions of this section and the Special Use Permit requirements specified in Table B.2.6.

**Section 5.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

## 2-5 USE CONDITIONS

### 2-5.18 CHILD DAY CARE CENTER

(A) **As an Accessory Use**

A Child Day Care Center is permitted as an accessory use ~~with a special use permit from the Board of Adjustment~~ as follows:

- (1) **Church or Religious Institutions.** In all zoning districts permitting churches or religious institutions when operated by a religious institution on the same zoning lot and within buildings also used for religious activities. A Special Use Permit from the Board of Adjustment shall be required when this accessory use is located in a zoning district that does not permit Child Day Care Centers as a principal use by right. In other zoning districts that permit Child Day Care Centers as a principal use, this accessory use shall follow the same approval process that is required for such principal use.
- (2) **Public or Private Schools.** In all zoning districts permitting public or private schools when operated by the school on the same zoning lot and within buildings also used for school activities. A Special Use Permit from the Board of Adjustment shall be required when this accessory use is located in a zoning district that does not permit Child Day Care Centers as a principal use by right. In other zoning districts that permit Child Day Care Centers as a principal use, this accessory use shall follow the same approval process that is required for such principal use.
- (3) **In CI and GI Districts.** In the CI and GI Districts when operated solely for the benefit of the employees of the principal use on the same zoning lot.

**Section 6.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

## 2-5 USE CONDITIONS

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.  
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## 2-5.27 DIRT STORAGE

### (B) Within Major Subdivisions

Dirt storage areas operated by a developer or builder in conjunction with active development of section(s) of a major subdivision within five (5) years of final plat approval, including land grading, removal, filling, or storage within the major subdivision where the fill material is placed on sites within said section(s) of a subdivision, are exempt from the use conditions of this section and the Special Use Permit requirements specified in Table B.2.6.

**Section 7.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

## 2-5 USE CONDITIONS

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

#### (B) Exemption

- (2) **Within Major Subdivisions.** Land clearing and inert debris landfills operated by a developer or builder in conjunction with active development of section(s) of a major subdivision within five (5) years of final plat approval, including land grading, removal or filling within the major subdivision where the fill material is obtained from within the subdivision and is placed on sites within said section(s) of a subdivision, are exempt from the use conditions of this section and the Special Use Permit requirements specified in Table B 2.6. The area(s) of the site used for fill material shall be recorded by instrument with an attached survey map in the Office of the Register of Deeds.

#### (D) **Fencing Setbacks**

~~Land clearing and inert debris landfills which are residentially zoned and lie within a block in which at least fifty percent (50%) of the lots are developed, or where either of the adjacent lots are developed, shall be completely enclosed with security fencing of a minimum six (6) feet in height. Any existing natural or constructed barrier approved by the Director of Inspections may be used in place of part of the fencing.~~ All land clearing and inert debris landfills shall be setback at least one hundred (100) feet from any interior property line or from any adjoining public or private street right-of-way. If located between one hundred feet (100') to two hundred feet (200') from any interior property line or from any adjoining public or private street right-of-way, the intervening area shall be left undisturbed except for access or erosion control devices for the LCID. If the LCID is located at least two hundred feet (200') of the property line or from any adjoining public street or private right-of-way, the intervening land may be disturbed.

#### (E) **Bufferyard and Landscaping**

~~No bufferyard landscaping according to Section B.3-5 is required if a permit for the land clearing and inert debris landfill is granted for less than six (6) months or the land clearing and inert debris landfill site remains at least one hundred (100) feet off the property line, and the intervening area is left undisturbed. Where a bufferyard is required, a land clearing and inert debris landfill is considered a high intensity use.~~



~~Streetyard landscaping meeting the standards of Section B.3-4 shall be installed on the outside of the security fencing along any adjacent public street right-of-way.~~ **Reserved.**

**(F) Permit Duration and Renewals**

Any land clearing and inert debris landfills which received approval from the State of North Carolina Department of Environment and Natural Resources (DENR) and were established prior to December 31, 1994, and for which a valid State permit has been continuously maintained shall not be required to obtain a special use permit from the Board of Adjustment. All other land clearing and inert debris landfills must obtain either a special use permit from the Zoning Board of Adjustment or a Planning Board Review whichever is required in the zoning district in which the LCID is located. Said permit shall be valid for a maximum of three (3) years, after which time renewals may be granted for up to three (3) years at a time.

**(G) State Permit Approval**

~~No permits or site plans~~ for land clearing and inert debris landfills shall be approved until all plans, including plans for rehabilitation of sites, have been reviewed and approved by the North Carolina Department of Environment and Natural Resources (DENR).

**(H) Landfill Recording and Rehabilitation/Reuse Plan**

The area(s) of the site used for fill material shall be recorded by instrument with an attached survey map in the Office of the Register of Deeds. Developer shall also file in the office of the Register of Deeds a record of use of the site for a landfill and a rehabilitation/reuse plan for the site. ~~Both of these requirements shall be completed prior to the issuance of a zoning or grading permit. Said plan shall be implemented by the owner of the site within six (6) months of discontinuance of the land clearing and inert debris landfill operation or expiration of the permit.~~

**Section 8.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

## **2-5 USE CONDITIONS**

### **2-5.60 PLANNED RESIDENTIAL DEVELOPMENT**

**(H) Development Standards**

A planned residential development shall meet the following standards:

- (7) Lot Dimensional Requirements and Spacing of Structures.** The lot and setback dimensional requirements of the zoning district for individual lots within the planned residential development are waived. Front yard setbacks for townhouse and multifamily structures shall be no closer than ten (10) feet from the nearest right-of-way line of a public street or private access easement. Minimum distances between townhouse and multifamily structures shall be those set forth in Section B.3-1.2(K). Minimum distances between single family, duplex, and twin home structures shall be as follows:

- (b) Rear facing rear. Dwellings oriented back to back shall be subject to the following provisions:

- (i) The minimum distance between rear walls of the dwellings shall be no less than thirty (30) feet.
- (ii) ~~Carports or garages~~ Accessory structures shall only be permitted in the intervening space between principal dwellings oriented back to back or to the rear yard of the principal dwelling provided the accessory structures meet the provisions of Section B.3-1.2(F) and (G)(1). Any accessory structure meeting the requirements of Section B.3-1.2(H) shall be located a minimum of seven (7) feet off the side property line and twenty (20) feet off the rear property line.

~~[A] — Carports or garages shall be no more than one story and of a total dimension not greater than twenty-four (24) feet by twenty-four (24) feet, whether attached or detached from the dwelling.~~

~~[B] — The rear walls of two carports or garages oriented back to back shall not be closer than six (6) feet.~~

~~[C] — The rear wall of the carport or garage of one dwelling shall be no less than thirty (30) feet from the rear wall of another dwelling to which it is oriented back to back. For the purpose of this provision, the rear wall of the carport or garage shall be that wall opposite the front wall of the dwelling it serves, whether or not it shall be the entrance wall of such carport or garage.~~

**Section 9.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, *OFFICIAL ZONING MAP, AND USES* is hereby amended as follows:

## 2-5 USE CONDITIONS

### 2-5.66 RESIDENTIAL BUILDINGS, URBAN (W)

(C) ~~Streetyard~~ Street Trees

~~A streetyard meeting the requirements of Section B.3-4 shall be installed within the front yard along the public street right of way except in the CB district. A street tree meeting the requirements of Section B.3-13(C)(3)(d) shall be installed within the front yard of each urban building fronting public right of way except in the CB zoning district.~~

**Section 10.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, *OFFICIAL ZONING MAP, AND USES* is hereby amended as follows:

## 2-5 USE CONDITIONS

### 2-5.79 TRANSMISSION TOWER

(H) Exemptions

- (1) **Attached or Incorporated in a Structure.** Transmission towers located on nonresidential structures or incorporated into other structures, which structures are devoted to a use not related to the transmission tower, are exempt from the security fencing, setback, bufferyard, and control of land requirements of this section provided they are located in a nonresidential zoning district that permits a Transmission Tower as a principal use. All ground equipment or buildings shall be placed underground or screened from view. These towers are also exempt from any requirements for a Special Use Permit or Planning Board Review as an accessory use.

**Section 11.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

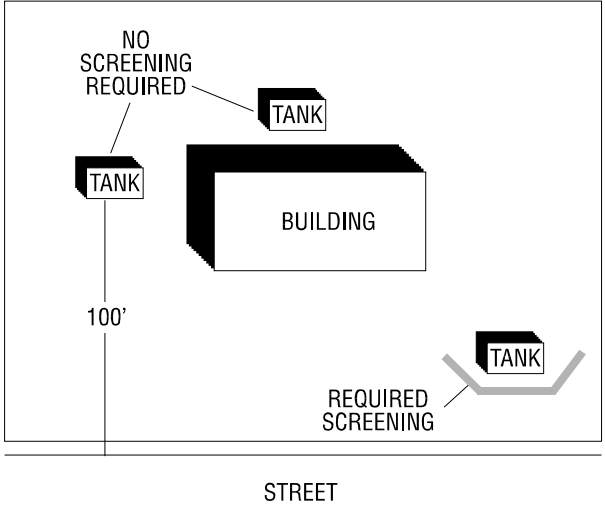
**2-6 ACCESSORY USES**

**2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES**

The following uses may only exist or be developed as accessory uses to a principal use, as provided below.

**(A) Above Ground Storage Tanks**

- (1) **Setbacks.** Above ground storage tanks shall meet all building setback requirements of the zoning district, except storage tanks located on existing sites of institutional or utility uses where existing below ground storage tanks are being replaced by above ground storage tanks or above ground storage tanks with a storage capacity of five hundred (500) gallons or less located in residential zoning districts. Regardless of zoning setbacks, additional setbacks may be required by Fire Codes.



- (2) **Development Standards.** Above ground storage tanks which are accessory to offices, businesses, industries, or on sites of institution or utility uses and which are located within one hundred (100) feet of any public right-of-way and not

screened by a building from the street or not located within ten (10) feet of a principal building, shall meet the following standards.

(a) Screening.

- (i) The tank shall be partially or totally screened from view from the public right-of-way.
- (ii) Said screening may consist of landscaping, planted earthen berms, natural topographic features, or a combination thereof. Landscaping shall consist of any shrubs identified in the streetyard and interior shrubs suggested plant materials plant list in Section B.3-4.10(D). Said shrubs shall be spaced no more than eighteen (18) inches, edge to edge. No more than thirty percent (30%) of shrubs shall be deciduous.
- (iii) Said screening shall be planted a minimum height of five (5) feet from the tank and be installed along the entire length of the tank ~~if installed horizontally or along the base of the tank if installed vertically.~~
- (iv) Said screening shall be maintained as long as the tank is present.
- (v) For tanks storing flammable, combustible, hazardous or toxic materials, screening shall not interfere with Fire Department operations, and N.F.P.A. 704 I.D. placards shall be installed as required by the Fire Official.

(3) **Signage.** No signs or advertising shall be permitted on the tank or screening, except identification signs or labels as required by State law.

(4) **Hazardous Material.** Above ground storage tanks containing ~~flammable, combustible,~~ hazardous or toxic materials are not permitted in RS and RM Districts.

(5) **Tanks with Capacity Greater than One Thousand (1,000) Gallons.** Tanks with individual storage capacity greater than one thousand (1,000) gallons are permitted only in office, business, industrial or Campus Zoning Districts, or on sites of institution or utility uses.

(6) **Storage of Motor Vehicle Fuel, Class 1 in Residential Districts.** The storage of more than twenty-five (25) gallons of motor vehicles fuel, Class 1, as an accessory use on any zoning lot in a residential district shall not be permitted, except on a bona fide farm.

(7) **Storage Tanks in Residential Zoning Districts.** No above ground storage tanks with a capacity of more than five hundred (500) gallons shall be located in a residential zoning district except for institutional or utility uses.

**Section 12.** CHAPTER B – ZONING ORDINANCE; ARTICLE III – OTHER DEVELOPMENT STANDARDS is hereby amended as follows:

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.  
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### 3-1 DIMENSIONAL REQUIREMENTS

#### 3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

##### (Q) Flag Lots

- (1) **Frontage and Width.** Flag lots must have at least twenty-five (25) feet of frontage on a street or private access easement. The “pole” of the flag lot from the frontage of the lot to the buildable area of the lot must be a minimum of twenty-five (25) feet in width along its entire length and may not be used in the calculation of lot area of the flag lot;
- (2) **Lot Area and Yard Calculation.** The pole may not be used for either lot area or yard calculation of any other lot; and,
- ~~(3) **Multiple Flag Lots.** If more than one flag lot is proposed to the rear of another lot or stacked off the street, a special use permit from the Board of Adjustment is required.~~

**Section 13.** CHAPTER B – ZONING ORDINANCE; ARTICLE III – OTHER DEVELOPMENT STANDARDS is hereby amended as follows:

### 3-1 DIMENSIONAL REQUIREMENTS

#### 3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

##### (V) Utilities and Transmission Towers

Any zoning lots leased or purchased and used solely for a utility or transmission tower use are exempt from the minimum lot size requirements of the zoning district in which it is located. All other requirements for these uses shall be met.

**Section 14.** CHAPTER B – ZONING ORDINANCE; ARTICLE III – OTHER DEVELOPMENT STANDARDS is hereby amended as follows:

### 3-5 BUFFERYARD STANDARDS

#### 3-5.2 DETERMINATION OF BUFFERYARD

##### (A) Procedure

- (2) **Determine the Bufferyard Type** (I, II, III, or IV) required for each adjacent zoning type from Table B.3.13.

TABLE B.3.13  
 Bufferyard Requirements

Zoning Type of Project	Zoning Type of Adjacent Property				
	SFR	MFR	LIC	HIC	IND
Single Family Residential (SFR)	*	*	*	*	*
Multifamily Residential (MFR)	II	*	*	* ↓ <sup>+</sup>	* ↓ <sup>+</sup>
Low Intensity Commercial (LIC)	II	I	*	*	*
High Intensity Commercial (HIC)	III	II	*	*	*
Industrial (IND)	IV	IV	I	*	*

\* = No bufferyard requirement

+ = ~~Type I bufferyard required if no bufferyard is provided on developed adjacent property designated as high intensity commercial (HIC) or industrial (IND) zoning types.~~

**Section 15.** CHAPTER B – ZONING ORDINANCE; ARTICLE V – NONCONFORMING SITUATIONS is hereby amended as follows:

## 5-4 NONCONFORMING STRUCTURES AND IMPROVEMENTS

### 5-4.3 MAINTENANCE, RENOVATION, EXPANSION AND RECONSTRUCTION

#### (C) Expansion

Expansion of nonconforming structures or improvements is permitted under the following provisions:

- (1) **Expansion Complies With Ordinance.** Except when the expansion complies with the provisions of B.5-4.3(C)(3), ~~the~~ proposed expansion of the nonconforming structure or improvement conforms to the dimensional requirements and other standards of this Ordinance; and,
- (2) **Other.** The proposed expansion of the nonconforming structure or improvement conforms to the parking requirements of Section B.3-3, the bufferyard requirements of Section B.3-5, and the TO District provisions of Section B.2-1.6(B). The bufferyard standards shall apply to the entire zoning lot, not to remaining vacant land existing as of the effective date of this Ordinance.
- ~~(3) **Minor Expansion Allowance.** Any nonconforming residential structure in any RS or RM zoning district may be expanded up to twenty-five percent (25%) of the length of the existing nonconforming building wall provided the expansion does not get any closer to the property line than the existing nonconforming building wall, the expansion does not increase the height of the building or the number of stories along the nonconforming building wall and the expansion does not violate any other provisions of this Ordinance.~~

**Section 16.** CHAPTER B – ZONING ORDINANCE; ARTICLE VI – ADMINISTRATION AND AMENDMENTS is hereby amended as follows:

## 6-1 ADMINISTRATION

### 6-1.4 BOARD OF ADJUSTMENT

#### (A) Special Use Permits Authorized by the Board of Adjustment

- (2) **Planning Board Report.** Applications for special use permits may be approved by the Board of Adjustment after such board receives a report from the Planning Board and holds a duly advertised public hearing in each case, except that the Planning Board shall not be required to review and report on applications for:
- (a) Riding Stables per Table B.2.6;
  - (b) Kennels, ~~Outdoor~~ per Table B.2.6;
  - (c) Shooting Ranges, ~~Outdoor~~ per Table B.2.6;
  - (d) Manufactured Homes ~~Not in Manufactured Housing Developments Class A, Class B and Class C~~ per Table B.2.6;
  - (e) Expansion or Conversion of a Nonconforming Use per Sections B.5-2.3(B) and B.5-2.4(A);
  - (f) Accessory Uses as follows:
    - (i) Dwelling, Accessory (Detached) per Section B.2-6.4 (C);
    - (ii) Separation, Processing, Storage or Wholesale Sale of Materials in LCID's per Section B.2-5.41(N); or
    - (iii) Home Occupations in Rural Areas (GMAs 4 and 5) per Section B.2-6.4(D)(2)(b);
  - (g) Accessory Structures as follows:
    - (i) Exceeding size limits for accessory structures per Section B.3-1.2 (E);
  - (h) Parking reductions for churches per Sections B.2-5.21(D) and B.2-5.22(C); or,
  - (i) Veterinary Services per Table B.2.6.

**Section 17.** CHAPTER B – ZONING ORDINANCE; ARTICLE VI – ADMINISTRATION AND AMENDMENTS is hereby amended as follows:

## 6-1 ADMINISTRATION

### 6-1.4 BOARD OF ADJUSTMENT

#### (D) Procedure to be Used in Processing Special Use Permits, Variances, and Appeals and Interpretations Authorized by the Board of Adjustment

- (1) **Application.** Applications for special use permits or variances to be considered in any month by the Board of Adjustment shall be made by the property owner or the owner's authorized agent to the Director of Inspections not less than twenty (20) days prior to the established meeting date of that month. Each petition shall be accompanied by:
- (a) a ~~a~~ fee as authorized in Section B.8.

- (b) Fifteen (15) copies of a scaled site plan (plot plan) of the property showing the location of any existing and proposed structure(s) and any relevant notations on the site plan concerning the request. Staff shall determine if a site plan is required with an appeal or interpretation application.
- (c) Any other written materials the applicant would like to submit to the Board for consideration of the application.

**Section 18.** CHAPTER B – ZONING ORDINANCE; ARTICLE VI – ADMINISTRATION AND AMENDMENTS is hereby amended as follows:

## **6-1 ADMINISTRATION**

### **6-1.4 BOARD OF ADJUSTMENT**

#### **(B) Variances**

- (4) **Difficulty or Hardship.** Said application for a variance may be approved only upon a finding of practical difficulty or unnecessary hardship in meeting the dimensional requirements of this Ordinance, which difficulties arise from the recorded platting or deeding of land or any building constructed and completed prior to the adoption of this Ordinance, or from any act of a public agency, or from natural conditions beyond the control of the property owner. The Board of Adjustment shall have the power to vary or modify such dimensional requirements.

#### **(F) Approved Site Plans**

Any site (plot) plans approved as a part of an application shall become a part of that application and shall not be changed. A modified site plan may be submitted and the changes may be approved by the Director of Inspections if in his opinion the changes are minor in nature and are consistent with the intent of the original site plan or conditions. Changes to site plans that are not considered minor by the Director of Inspections shall be approved by the Zoning Board of Adjustment.

**Section 19.** CHAPTER D – SUBDIVISION REGULATIONS is hereby amended as follows:

## **Chapter D - Subdivision Regulations**

### **3. MINOR SUBDIVISIONS**

#### **(B) Standards for Approval**

The following are the standards for approval of minor subdivisions:

- (4) Flag lots may be created with the following stipulations:
  - (a) Twenty-five (25) feet of the width of the "pole" or driveway access to the flag lot may not be used in the calculation of the lot area of the flag lot;



- (b) The pole may not be used for either lot area or yard calculation of any other lot; and,
- (c) If more than one flag lot is proposed to the rear of another lot or "stacked" side by side off the street, ~~a special use permit from the Board of Adjustment is required~~ a minor subdivision exception shall be approved per Section D.3.(E).

**Section 20.** CHAPTER D – SUBDIVISION REGULATIONS is hereby amended as follows:

## Chapter D - Subdivision Regulations

### 3. MINOR SUBDIVISIONS

(G) ~~Public Recordation of Landfills~~

~~Developer shall file in the Register of Deeds a record of use of any site for a landfill and a rehabilitation/reuse plan for the site, prior to the issuance of a zoning or grading permit.~~

Reserved.

**Section 21.** CHAPTER B – ZONING ORDINANCE; ARTICLE III – OTHER DEVELOPMENT STANDARDS is hereby amended as follows:

### 3-12 LARGE SCALE RETAIL DEVELOPMENTS (W)

#### 3-12.1 DESIGN REQUIREMENTS FOR LARGE SCALE RETAIL DEVELOPMENTS (seventy-five thousand (75,000) + SF SINGLE TENANT)

**Intent.** The intent of this section is to encourage visual design interest and a pedestrian site design for large-scale retail buildings. These structures shall be designed to reduce the massive scale and uniform, monolithic appearances. Building design shall also promote a safe and comfortable pedestrian oriented site with a mixture of uses and sizes of structures. Careful attention to local community design issues will also ensure a greater likelihood of reuse of the structure for subsequent tenants.

To further design excellence and creativity within the community, and to encourage a design tailored to the community, applicants for large-scale retail development proposals shall maximize the overall design of the site and structure(s). Therefore, the Director of Planning, or designee, may allow minor changes in the design standards listed in this section and deviation from the setback requirements of section B.2-1.3(L)(2) if the spirit and intent of this section continues to be adhered to in the overall development design. Additionally, minor deviations may also be made in order to enable and promote the creation of cohesive buildings and site designs for multi-structure developments. Major deviations and/or interpretations of these standards, as well as appeals of the decisions made by the Director of Planning or designee under this section, shall be made by the Elected Body.

**Section 22.** CHAPTER B – ZONING ORDINANCE; ARTICLE II – ZONING DISTRICTS, OFFICIAL ZONING MAP, AND USES is hereby amended as follows:

### 2-1 ZONING DISTRICTS

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.  
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**2-1.3 COMMERCIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

**(L) Major Retail and Business District (MRB-S) (W)**

**(2) General Dimensional Requirements – MRB-S.**

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks <sup>1,5</sup>				Maximum Impervious Surface Cover (%)	Maximum Height (ft) <sup>2</sup>
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side <sup>3</sup>			
						Interior Side (ft)	Street (ft)		
MRB-S	--	--	10	40	20 <sup>4</sup>	0.5/12	20 <sup>2</sup>	85	60

1. Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.
2. As per B.3-12.1 and which shall apply to all development done within the MRB-S District and which shall be reflected in the site plan required as part of the rezoning application.
3. Side yards are not required, however any side yard provided adjacent to an interior lot line shall not be less than twelve (12) feet in width. A space less than six (6) inches in width between an interior lot line and a building wall shall not be regarded as a side yard. This does not include the required bufferyard.
4. This does not include the required bufferyard.
5. These requirements may be varied during the review and approval of a site plan per section B.3-12.1

**Section 23.** This ordinance shall become effective upon adoption.