

DRAFT STAFF REPORT

DOCKET: UDO-64

STAFF: Tim Gauss/David Reed

CONTINUANCE HISTORY

The petition was continued from the November 9, 2000, Planning Board Public Hearing to gather additional information.

REQUEST

Zoning text amendment of Dogwood Properties to amend Chapter A Article II - "Definitions"; and Chapter B Table 2.6 "Permitted Uses", Section 2-5 "Use Conditions", and Section 2-6 "Accessory Uses" to create a new use and conditions for "Solid Waste Transfer Station".

BACKGROUND

The finite nature of sanitary landfills has created a demand for additional solid waste disposal options. "Solid Waste Transfer Station" is a term used in the waste disposal industry for a facility, usually enclosed, where waste or garbage collected at residence or business is transferred to other, usually larger, trucks or carriers for final disposal, often at a more distant location.

However, the term is not defined as an individual use in the UDO, and the most closely related use has been determined to be a Landfill, Sanitary. Sanitary landfills are allowed in Forsyth County jurisdiction in the HB, GB, LI and GI districts with a special use permit from the Zoning Board of Adjustment; in the City of Winston-Salem's jurisdiction, they are allowed in GI, RS-30 and RS-40 districts with a special use permit from the elected board. Although transfer stations handle individual waste collection trucks and the contents of those trucks, the similarities with sanitary landfills end there, since transfer stations are much smaller and are not the final disposal site of the waste.

REQUEST

The Solid Waste Transfer Station use would be permitted by right ("Z" in the Permitted Uses Table) in the General Industrial (GI) zone with use conditions met; if not all use conditions can be met, a special use permit from the Zoning Board of Adjustment is required. The use would also be permitted with a special use permit from the Zoning Board of Adjustment ("A" in the table) in the Light Industrial (LI) zone with use conditions met. Additionally, the use would be allowed as an accessory use to a sanitary landfill. Recycling Center and Recycling Plant (both uses listed in the UDO Permitted Uses Table) would be allowed as accessory uses on the premises of a Solid Waste Transfer Station.

Use conditions include provisions regarding vehicular access, setback and buffering, orientation of the structure on the site, and accessory use provisions.

ANALYSIS

In considering the text amendment, staff has attempted to evaluate a number of issues:

- The current and future "need" for such a facility. Staff has reviewed a copy of Volume I of the Report of the City-County Solid Waste Task Force. Although the report does not discuss the transfer station use in and of itself, the use is mentioned as being necessary if the community chooses to pursue a remote landfill disposal alternative after the Hanes Mill Road Landfill is closed.
- Definition of the use. Although the use has been interpreted by the Zoning Officer as a Sanitary Landfill (most similar in current UDO), it is also similar in nature to a warehousing facility.
- The potential impacts, in terms of traffic, noise, odor, and appearance, of such a facility.
- The relative treatment of other intense uses, such as sanitary landfills.
- Recognition of specific sites which might house such facilities, while recognizing their potential sites throughout the county.

Planning Staff met with the applicant and representatives of the Utilities Commission and the Inspections Division to develop a proposal which would meet the need for waste management throughout the county while providing protection to nearby areas.

Key features of the text amendment include:

- Allowing the use by right in the GI zone; this provision would provide some certainty for petitioners and avoid potentially controversial and lengthy review processes.
- Specifying a number of use conditions, such as spacing and buffering and access requirements, to minimize impacts on nearby properties. Developing standards with some flexibility provides protection of residential areas through a combination of distance, plant material, building orientation, sound attenuation barriers, and traffic limitations. The spacing requirements match the most stringent requirements currently in the UDO (250' for mines and quarries) and in State regulations (300' spacing from landfills to residential properties). The access limitation (i.e., direct access off thoroughfares or roads designed for industrial use) is not currently applied for any use in the UDO except sanitary landfills; however, staff included such a provision in response to citizen concerns expressed in regard to the recent Piedmont Landfill expansion request.
- Recycling activities are encouraged through accessory use provisions.

Although the subject amendment was initiated by Dogwood Properties for their specific needs, the text amendment is proposed to accommodate all potential sites for this use. The text amendment will accommodate the demand for additional solid waste disposal options, is consistent with State regulations, and with the proposed conditions will minimize the impacts on adjoining properties.

RECOMMENDATION

Staff recommends **APPROVAL** of the proposed text amendment.

PUBLIC HEARING - November 9, 2000

John Bost was excused from consideration of this request due to a conflict of interest.

David Reed presented the staff report.

FOR:

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

I represent Dogwood Properties. They are in the process of potentially operating a transfer station.

A transfer station is simply a place to transfer solid waste from many trucks to one truck and ship it to a municipally approved site.

People also state that there must be an alternative to landfills. No other alternatives have worked. To compound the problem, we've been taking waste from solid waste from other communities. That's made a lot of people very angry.

The theory here is to be able to consolidate it inside a building and truck it somewhere else. There's also the potential of using rail transit.

Hauling of waste is like hauling anything else, except for people's perception.

A lot of work was done on this with the folks from Utilities Division.

In response to a concern regarding medical or hazardous waste, Mr. Calaway stated that the applicant would have no problem putting a prohibition against hazardous waste. That is not at all what is intended. Medical waste is permitted to a limited degree in Sanitary Landfills now (Steve Snelgrove noted that not all medical waste is hazardous and infectious waste).

This is an application for public and private operators. I believe it's well thought out and is a good alternative to putting it in the ground.

AGAINST: None

WORK SESSION

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

1. If a transfer station is accessory to a landfill and the landfill closes, the transfer station can stay open after the sanitary landfill ceases to function only if the transfer station meets all the requirements and the property is zoned properly.
2. Kem Schroeder asked if "solid waste" was defined in the UDO? Staff answered that the term is not defined. She asked if the general wording in the definition of "Solid Waste Transfer Station" opened the door to hospital waste and other items which are not allowed in a sanitary landfill? Consensus was reached to amend the definition to allow only solid waste as defined and permitted in State law.
3. Litter from trucks getting to these landfill facilities is a problem. However, that is an issue which cannot be addressed through zoning.
4. Steve Johnson noted that major and minor thoroughfares may look very similar in construction, and that they are defined by the amount of use (i.e., traffic counts) rather than construction. It may be worth having some construction standards for these transfer stations, such as width of the road.
5. Mr. Williams questioned the provision regarding protection of residential property only if "under separate ownership". Ownership of adjoining property could subsequently change.
6. This text amendment is being considered before the report of the Solid Waste Task Force is released because this is a privately initiated text amendment; staff is required to process the request.
7. There was uncertainty whether permits for transfer stations are issued by DENR.
8. Kem Schroeder indicated she was unsure about adding an intense use to the UDO where we don't know how it would be monitored (i.e., by the State).
9. Steve Johnson said that by allowing this use by right, we are giving it a different status than landfill. It may not be good to get rid of the lengthy process involved in dealing with landfills. I'm not comfortable voting on this today. I don't see granting a different status than we do with landfills.
10. Kem Schroeder noted that she would like to have the report of the Solid Waste Task Force to comment on whether it's appropriate to require some kind of recycling in connection with this.

11. Steve Johnson noted that solid waste is becoming a commodity. We may not want to permit by right competing transfer stations in the community. There's a lot of GI zoned land where this would be permitted by right. How many transfer stations does Forsyth County need? Do we want to give that right to a private enterprise? Kem Schroeder stated that this text amendment would open up this type of use to a lot more areas than a landfill. Tim Gauss noted that while there are similarities between landfills and solid waste transfer stations, there are very distinct differences and a fundamental difference in operation (more similar to a warehousing operation).
12. Kem Schroeder asked where the water goes from washing down every night. Are there regulations that require control of that discharge?
13. The Board requested more information on the following:
 Revise the definition to assure that only nonhazardous waste under State law is handled.
 What are the performance standards?
 What is the State's oversight or permitting role?
 Should we allow these by right? Could there be competing transfer stations? If not, what way should it be reviewed and processed?
 Can we set some sort of recycling requirement?
 Does the Solid Waste Task Force have opinions about this?
 How is the waste water or wash down leachate managed?

MOTION: James Rousseau moved continuance of the zoning text amendment to January 11, 2001 and requested more information.

Mr. Rousseau amended his motion to continue the text amendment to December 14, 2000.

SECOND: Kem Schroeder

VOTE:

FOR: Avant, Johnson, King, Powell, Rousseau, Schroeder, Snelgrove, Williams

AGAINST: None

EXCUSED: Bost

ADDENDUM TO STAFF REPORT (FOR DECEMBER 14, 2000, PLANNING BOARD PUBLIC HEARING)

Staff has attempted to address the questions of the Board as summarized in item 13. above.

- Revise the definition to assure that only nonhazardous waste under State law is handled. Staff has revised the definition to exclude "Hazardous Waste" as defined in G.S. 130A-290 (a)(8).

- *What are the performance standards?* The performance standards include both the local government requirements described in this text amendment and the State Operational Requirements outlined in the North Carolina Division of Waste Management Regulations:
 - (1) Operational plans shall be approved and follows as specified for the facility;
 - (2) A facility shall only accept wastes which it is permitted to receive;
 - (3) Water that comes in contact with solid waste will be contained on-site or properly treated prior to discharge from the site. A NPDES permit may be required prior to discharge to surface waters;
 - (4) Equipment for fire control shall be available;
 - (5) Effective vector control measures shall be applied to control flies, rodents, and other insects of vermin;
 - (6) Equipment shall be provided in the storage and charging areas and elsewhere as needed or as may be required in order to maintain the facility in a sanitary condition; and
 - (7) Appropriate methods shall be provided to confine material subject to be blown by the wind within the area. At the conclusion of each day of operation, all windblown material resulting from the operation shall be collected and returned to the area by the owner or operator.

- *What is the State's oversight or permitting role?* The North Carolina Division of Waste Management oversees transfer facilities and has specific Operational Requirements which must be addressed through a permit application. The permit application must include both site and operation plans, an approval letter from the local unit of government, and any other information pertinent to the proposed facility.

- *Should we allow these by right? Could there be competing transfer stations? If not, what way should it be reviewed and processed?* The text amendment proposes allowing the use by right with a number of use conditions only in the General Industrial (GI) district, our heaviest industrial zoning district. Staff supports allowing transfer stations by right only in the GI district, because the use is fundamentally more in character like a warehouse or distribution facility than a landfill; adequate safeguards are proposed to address potential traffic, noise, odor, and visual impacts; and allowing the use by right with the numerous conditions provides certainty and predictability in making land use decisions. The proposal also provides for a Board of Adjustment special use permit approval in the LI zone and in GI where all the use conditions cannot be met. As a point of information, in addition to allowing the use either by administrative right or with a (quasi-judicial) special use permit from the Board of Adjustment, the UDO authorizes uses permitted with (non-discretionary) Planning Board review and with a (quasi-judicial) special use permit from the elected body.

With regard to the question as to whether there should be competing transfer stations, staff points out that the Planning Board and staff have traditionally avoided questions of whether the market could or could not support a use(s). In addition, questions of whether it is appropriate for a use to be provided by a public or private entity are usually not addressed by Planning staff. The Planning Board and staff usually focus on potential land use or growth impacts, positive or negative, associated with a land use decision or policy question. In the current specific situation, staff feels the question is whether one or more transfer stations so located in GI zoned areas, on thoroughfares, set back and buffered from residential areas is appropriate in terms of providing the requested service while minimizing the disruption to nearby sensitive residential properties.

- *Can we set some sort of recycling requirement?* Staff is of the opinion that allowing recycling centers and recycling plants as accessory uses as proposed in the text amendment is appropriate. To require recycling operations as part of the transfer station may be difficult from a practical standpoint, because of the need to enforce such an activity and because the viability of recycling is dependent on its own market trends. The "Report of the City/County Solid Waste Task Force" contains a number of recommendations to encourage recycling; if these recommendations are implemented, there should be greater recycling and resource recovery in the future.
- *Does the Solid Waste Task Force have opinions about this?* Staff has reviewed a copy of the "Report of the City/County Solid Waste Task Force". The report has not been reviewed yet by the City-County Utilities Commission. The report briefly discusses transfer stations as a necessary element of a "Remote Landfill Disposal Alternative." Page 26 of the report notes that ... "the Remote Landfill Disposal (Public Ownership) alternative is the least expensive future disposal alternative." Further, "While found to be the most economical, this alternative ranks low with respect to environmental sustainability." Also, "The Subcommittee investigated three alternatives that would enable the City and County to transition to a 'sustainable' solid waste disposal system. A sustainable waste disposal system is one in which most of the solid waste is recovered and landfill disposal is only used for process residue and as a backup to the recovery facility. These alternatives included waste-to-energy, thermochemical conversion, and MSW composting. The advantages of a sustainable waste disposal system include conservation of natural resources, fewer facility sites over a given time period, conservation of land, and immediate stabilization of waste."

Pages 2-8 of the report, which provide background information and summary findings, is provided as an attachment. A full copy of the report is available upon request.

- *How is the waste water or wash down leachate managed?* The State Operational Requirements include the following: "Water that comes in contact with solid waste will be contained on-site or properly treated prior to discharge from the site."

UDO-64
AN ORDINANCE
AMENDING CHAPTER A "DEFINITIONS"
AND CHAPTER B "ZONING" OF THE UNIFIED ORDINANCES
REGARDING A NEW LAND USE "SOLID WASTE TRANSFER STATION"

Be it ordained, by the @, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Article II "Definitions" of Chapter A is amended by inserting the following definition:

"SOLID WASTE TRANSFER STATION. A permanent structure and facilities in which solid waste excluding "Hazardous Waste" as defined in G.S. 130A-290 (a)(8) collected at the initial point of waste generation is transferred to other forms of transportation for final disposal."

Section 2. Table 2.6 "Permitted Uses" of Section 2-4 of Chapter B is amended by inserting in proper alphabetical order under the Institutional and Public Uses category the use "Solid Waste Transfer Station", placing a "Z" opposite the use in the column GI, and placing an "A" opposite the use in the column LI.

This section is further revised by placing "67" or the appropriate number corresponding to the use condition in Section 3 below in the CONDS column opposite the use "Solid Waste Transfer Station" and renumbering the remaining references in the column sequentially.

Section 3. Section 2-5 "Use Conditions" of Chapter B is revised by adding a new Section 2-5.67 to read as follows and renumbering the remaining subsections of Section 2-5:

"2-5.67 (or proper number) SOLID WASTE TRANSFER STATION

(A) TYPE OF WASTE HANDLED

The transfer station shall only handle waste that can be legally handled or disposed of. This limitation shall not preclude use of the transfer station for collection, processing, storage, and transfer of recyclable materials or for other waste reduction activities.

(B) VEHICULAR ACCESS

Vehicular access to the transfer station site shall be provided on a major or minor thoroughfare or on a road improved to necessary industrial capacity as determined by the Director of Public Works for the City of Winston-Salem or the North Carolina Department of Transportation for Forsyth County.

(C) SETBACK AND BUFFERING

Setback and buffering requirements for the underlying district shall be met. Where the facility is adjacent to residentially zoned land under separate ownership, setback and buffering for structural and vehicular use areas are specified below:

FACILITY	RESIDENTIALLY ZONED LAND UNDER SEPARATE OWNERSHIP		OTHER
	MINIMUM DISTANCE FROM	BUFFERING ADJACENT TO	
Solid Waste Transfer with Sanitary/ Putrescible Material	300'	Type IV	1. Open side of building oriented away from nearest residentially zoned property; no driveways located between building and said residential land.
	250'	Type IV Double Plantings	1. As above. 2. Minimum eight (8) foot high berm or opaque (wood or masonry) fence or wall constructed at edge of vehicular use surface area in direction of said residential property.
Solid Waste Transfer with Recycling or Non-Putrescible Material	200'	Type IV Triple Plantings	1. See 1 above. 2. See 2 above.

(D) WITHIN ENCLOSED BUILDING

The unloading and loading of solid waste shall take place within a building enclosed on at least three sides. The open side or bay openings for truck access shall be oriented away or screened from adjacent residentially zoned properties in separate ownership, historic districts, or public rights-of-way for those roads subject to requirements of the Thoroughfare Overlay District [Section 2-1.6 (B)(2)(c)].

(E) COMPLY WITH STATE AND FEDERAL LAW

The establishment and operation of a transfer station shall comply with all federal and State laws for such facilities.

(F) ACCESSORY USE

A Solid Waste Transfer Station constructed as accessory to a landfill prior to adoption of this ordinance must, upon termination of the landfill use, comply with all requirements of the UDO, including the required zoning of Table 2.6 "Permitted Uses."

(G) SPECIAL USE PERMIT - OTHER

If a proposed solid waste transfer station is not able to meet the requirements of subsection (B) and (C) above, the elected body may consider and issue a special use permit for the transfer station according to the provisions of Section 6-1.5 of the zoning ordinance.

Section 2-5 is further amended by renumbering the subsequent sections.

Section 4. Section 2-6.2 "Uses Accessory to Certain Principal Uses" is amended by adding the following to table 2.8.

"11. Landfill, Sanitary	Solid Waste Transfer Station
12. Solid Waste Transfer Station	Recycling Center; Recycling Plant"

Section 5. Section 2-6.3 "Accessory Uses Subject to Other Requirements" of Chapter B is amended by inserting the following in Table 2.9 in the proper numerical order and renumbering the remaining references in the table:

"12. Solid Waste Transfer Station	Section 2-5.67"
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Section 6. This Ordinance shall be effective upon adoption.