

STAFF REPORT

DOCKET # UDO-280

STAFF: Walter Farabee

REQUEST

This zoning text amendment is proposed by City-County Planning and Development Services staff to amend Chapter B, Articles II and III of the *Unified Development Ordinances* (UDO) to revise regulations for Bufferyards.

BACKGROUND

In accordance with recommendations in the *Legacy 2030* comprehensive plan to revise bufferyard regulations to promote better integration of uses, where appropriate, rather than simply separating different uses, staff prepared a report for the Planning Board in spring 2016 on potential bufferyard revisions. Amending existing UDO bufferyard standards was one of the recommendations included in that report. As part of its 2016-17 work program, the Board asked staff to prepare this text amendment.

The concept of buffering is based on the understanding that activities taking place on one piece of land may have negative effects on neighboring property, and that separation by screening and/or distance can minimize these impacts. The *Unified Development Ordinances* (UDO) lists the purposes of bufferyards as reducing potential nuisances such as glare, dirt, noise, and unsightly views; safeguarding property values and preserving the character and integrity of the community; and protecting the health, safety and welfare of the public.

Bufferyard regulations categorize different land uses into a hierarchy of use intensity. In this hierarchy, single-family residential is the least intense use while industrial is the most intense use and therefore requires the densest type of buffering. In the UDO, bufferyards currently may be provided in a number of design options that range from ten (10) feet to 200 feet in width. Each option requires a minimum number of deciduous trees, primary evergreen plants and/or supplemental evergreen shrubs per one hundred linear feet.

Although not intentional, buffering requirements can make a community more spread out, making a community less walkable and less connected. Planning Staff has worked in recent years to incorporate form-based zoning principles that place more importance on building and site design rather than simply land use. Bufferyard regulations in the UDO need to be revised to better integrate and blend differing uses. The proposed text amendment aims to provide this change but also looks to streamline regulations to make them easier to use and enforce.

ANALYSIS

Presently the UDO includes four bufferyard types: Type I, II, III and IV. A Type I bufferyard is a low density screen while Type IV is the highest density screen that is meant to eliminate visual contact and create spatial separation between adjacent uses. The definition of and required plantings for Type III and IV bufferyards are very similar. Therefore, the proposed revisions would eliminate the Type IV bufferyard and provide clearer planting differentiation between the

remaining three bufferyard types (a visual summary of proposed bufferyard plantings is included in **Appendix B**). Buffer widths are also proposed to be standardized to ten (10), twenty (20), forty (40) and 100 feet for all bufferyard types, except for the Type III buffer which would only have twenty (20), forty (40) and 100 foot widths due to concerns of plant crowding at smaller widths. The 200 foot width was eliminated for all buffers due to its lack of use in previous development.

Other proposed changes include eliminating internal buffer requirements for zoning lots with split zoning (for example, where a parcel has both commercial and residential zoning) but maintaining buffer requirements for adjoining properties. Also, single zoning lots with Manufactured Housing (MH) zoning would be considered single-family residential instead of multifamily housing, which all MH zoned property is currently considered. Bufferyards would also be required along rights-of-way in the Thoroughfare Overlay (TO) District rather than streetyards. These current streetyard requirements do not provide effective screening of what is on-site from the thoroughfare, running counter to the purposes of the TO District.

Lastly, the proposed regulations would allow a developer to apply for alternative compliance with a proposed bufferyard plan that differs from the specific requirements of the ordinance but which meets the intent of the ordinance. This provision allows plans which accommodate unique characteristics of the site and utilize innovative design. Upon the submittal of a site plan, the Director of Planning and Development Services or designee may determine that the proposed bufferyard plan fulfills the intent and purposes of the requirements. The Director's decision may be appealed to the Zoning Board of Adjustment if desired.

In developing this amendment, staff has consulted with the City's Vegetation Management Department and with a local landscape architect to ensure that the proposed buffer requirements allow for healthy growth and longevity of the required plantings, and to make sure the revised buffers still provide an appropriate level of screening. Staff believes that the revised bufferyard regulations will allow for better blending of uses while providing adequate screening and spacing. Furthermore, the proposed regulations will help streamline the ordinance and simplify its use by petitioners and staff. An Equivalency Table (**Appendix A**) is included with this report to demonstrate how previously permitted bufferyards will be enforced under the revised ordinance provisions.

RECOMMENDATION

APPROVAL

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-280
MAY 11, 2017**

Walter Farabee presented an abbreviated staff report.

PUBLIC HEARING

FOR: None

AGAINST:

Julie Magness, 630 Fenimore Street, Winston-Salem, NC 27103

- Part of my issue is understanding this. I find the charts and explanation are just not clear.
- I would request that this be something we can understand a little better. I know about bufferyards and I found it difficult to look at.
- I don't think there's been any stakeholder input from a residential standpoint, certainly nothing I have heard about or seen.
- This has a huge impact on residential properties.
- How is that lessened Type II bufferyard going to affect my home?
- Tax values become a real issue here.
- My neighbors across Fenimore live in homes valued at two-thirds (2/3) what my home is because they back up to a parking lot. Even the houses on my side of Fenimore which have a stormwater drain between their lots and where water floods their backyards frequently have tax values in line with mine.

WORK SESSION

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

Paul Norby noted that Walter Farabee had cut his presentation short due to the late hour and the need of several members to leave. However the remainder of his presentation was going to explain why we believe this is an improvement. Maybe the best thing to do is to continue this for a month. Staff would be glad to meet with folks who would like to have more conversation about this.

Arnold King asked about the type of outreach which has been done based on the comment regarding residential stakeholders. Kirk Ericson explained that no external stakeholder outreach was done due to the fact that staff felt this was a relatively minor amendment and that staff actually added planting requirements to these bufferyards. In one instance we went down from a

fifteen (15) foot minimum width to a ten (10) foot minimum width, but we increased the planting materials by an average of fifty (50) percent for those Type II bufferyards that the Neighborhood Alliance had concerns with.

Melynda Dunigan: I read this ordinance in preparation for this meeting and wrote down questions that I had. I had 16 (sixteen) questions so I did not understand it. I would like to know more and I'm sure the public would like to know more. Can we look at this at work session? I would just like to have a way the public can get their questions answered. Paul Norby: We are glad to meet with anyone who would like to get together on this. I imagine stakeholders would be two-fold - development professionals as well as folks who are concerned about the bufferyard requirements. We would be glad to talk with the Board at work session and it might be helpful if staff could get Ms. Dunigan's questions in advance so we can make sure we address them.

MOTION: Jason Grubbs moved to continue the zoning petition to June 8, 2017.

SECOND: Clarence Lambe

VOTE:

FOR: Melynda Dunigan, Jason Grubbs, Arnold King, Clarence Lambe, Chris Leak, Brenda Smith

AGAINST: None

EXCUSED: None

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-280
JUNE 8, 2017**

Walter Farabee presented the staff report.

PUBLIC HEARING

Although the public hearing for this case was closed at the May 11th meeting, the Board gave each side five (5) minutes of time to present updates.

FOR: None.

AGAINST: None.

WORK SESSION

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

Melynda Dunigan asked for more information about the community meeting, including whether any design professionals were at the meeting. Walter Farabee replied that there were several citizens present. However, no design professionals attended the meeting.

The primary concern at the community meeting focused on the Type II bufferyard. The current minimum width is fifteen (15) feet and staff is proposing a ten (10) foot minimum which would provide up to ten (10) extra feet of developable lot width (counting the five feet on each side of the lot). The concern of some of the citizens at the meeting was that reducing the minimum width could possibly bring site features such as parking closer to an adjacent residential lot.

George Bryan mentioned that the Active Neighborhoods Report talks about bufferyards being used to help accommodate walkability, biking, and things like that. Is there anything addressed in here that meets that report's needs? What is staff envisioning in how bufferyards will play a role in more active lifestyles? Walter Farabee stated that one of the main goals of the bufferyard ordinance is the integration of uses. Developers have looked at smaller lots which have been vacant or underutilized and determined that it was difficult to develop those lots due to space demands for the building, parking, and other activities on the site. By allowing narrower bufferyards there would be more space for development on smaller lots which in turn could provide more opportunities for neighborhood stores or cafes. Paul Norby noted that one part of the text amendment proposes to eliminate the current buffer requirement for lots with split zoning. In cases where people are undertaking mixed use development of a larger tract with split zoning, eliminating that buffer requirement helps to integrate the uses in that development.

George Bryan asked if there was any thought of allowing walking paths in the wider bufferyards? Aaron King noted that the UDO currently allows such paths in the wider buffers.

George Bryan: At our work session you gave plenty of examples of how ten (10) foot and fifteen (15) foot bufferyards would look, but there weren't examples of how smaller lots could be developed under the new proposal. Do you have more real life examples of how it's going to look with a ten (10) foot buffer without affecting the neighbors or causing issues? Walter Farabee: As previously mentioned, the reduced bufferyard width would provide more developable space on site, however we have increased the number of plantings which will help to separate adjacent uses. Paul Norby added that we didn't have examples of specific lots but as lots get smaller buffers take up more usable area. George Bryan: What size lots are we talking about here? Is this a residential size lot or is this something bigger than that? Paul Norby: Typically you'd be talking about nonresidential zoning which in some cases is near a residential neighborhood and in some cases might be on a main street. Where it is up against residential is typically where you are going to have that buffer requirement. Again, if you have a wider buffer requirement, that's going to make it more difficult for tighter lots to be developed so what you're left with is those lots being undeveloped and development which would have gone there just goes further out. What we're trying to maintain is the possibility for infill development. If the Board would like us to go and do some theoretical examples or find some actual lots where that would make a difference, we'd be glad to do that and draw in what the buffers would typically be. George Bryan: We've been seeing a proliferation of convenience store applications and they're in a variety of materials. I'm trying to visualize how this might work for neighbors if they aren't happy with the way the back of the store is looking or the traffic that was going on or the placement of dumpsters or lights in the parking lot. I really appreciate all the examples that we've seen here but personally I'm missing real life examples in the other areas and that may not be an issue for the rest of the board, but that is something that I'm missing. Aaron King: I don't know that we've got a specific example or two to show you. On some of your other sites where you're doing low intensity commercial development like properties zoned LB, LO, or IP and you're adjoining single family, there is currently a fifteen (15) foot requirement. This ordinance would allow you to go to ten (10) feet so that frees up five (5) feet along your entire perimeter. As we've gone in and added tree save and stormwater requirements over the years, that land starts to become a premium so I know five (5) feet doesn't seem like much but it can make a difference. We've seen some cases where five (5) feet would have helped a lot.

Melynda Dunigan: I can think of a couple of examples where the petitioner had to purchase an extra lot or use a lot for a buffer.

Brenda Smith: Think about taking five (5) feet off the buffer but ending up with a much denser planting separation between the uses. If I had to choose I would choose the actual physical buffer over five (5) feet or even ten (10) feet of separation. Don't forget you're getting additional density of plantings for that five (5) feet you're giving up. I think it's a win for the neighbors to get additional actual plant material added to the buffer.

Melynda Dunigan: I have some serious concerns about this and they may be allayed by some additional examples but my concern really is with the Type II because we're going from fifteen (15) feet to ten (10) feet. In my experience when residents are concerned about nonresidential

next to them, they're always unhappy with the bufferyard. It's never wide enough. Shrinking the bufferyard by five (5) feet is just going to have the result of more dissatisfaction and if you look at the illustration you have here in the chart between Type I and Type II, both would allow a ten (10) foot buffer. I don't see a real substantial difference between the two types even with the additional plantings. They seem very similar. To me it would make sense to go with Type I ten (10) foot, Type II fifteen (15) foot, and Type III twenty (20) foot. It would simplify the rules from what they are now and it would still give you three distinct bufferyard types rather than two that are very similar. Also in this ordinance there is an alternative compliance option which would allow the flexibility that you're looking for. It would be an alternative to shrinking the Type II down to ten (10) feet because you would allow the developer to propose an alternative in these delicate situations that we've been talking about so I think that's enough flexibility that we don't need to shrink the minimum down to ten (10) feet for the Type II. But I'd be happy to see more examples (before making a decision).

Aaron King asked for clarification: Is the concern about the ten (10) feet the proximity of parking and uses or is it the perceived visibility of seeing through a screen that's planted in ten (10) feet rather than seeing through a screen that's planted in fifteen (15) feet? Melynda Dunigan: I think they like the separation with the landscape buffer. Even though you're showing these plantings, in reality there are a lot of things that play into how it's actually going to look and how well it's going to be maintained and what sizes, whether they use large or small variety trees, whether the plantings die or don't die and that type of stuff. I think people feel more secure having spatial separation rather than just plantings because you can't count on them surviving.

Paul Norby noted that there are no Council Committee meetings in July so there's nothing that's pushing this item to be acted on today. If the Board wants to discuss it some more at work session we can do that. And if the Board thinks going from fifteen (15) feet to ten (10) feet is a big issue, then it's certainly your prerogative to say we think it should stay fifteen (15) feet.

George Bryan: Do you anticipate from an Inspections standpoint or maybe just zoning that if it goes to ten (10) feet you're still going to have as many alternative compliance options? That has always been an option, right? Aaron King: Just in certain districts. MU-S, MRB-S, NB, and maybe another one or two allow alternative compliance but outside of that it requires a variance from the Board of Adjustment if you want to do something other than what the ordinance dictates. George Bryan: I would feel better, since we're bringing in this alternative compliance and the landowner still has many options on how to do this, if we just leave the various types, ten (10) feet, fifteen (15) feet, and twenty (20) feet and then have these alternative compliance options in there. I think that gives developers a whole lot of options. In fact they could go closer than ten (10) feet, right?

Brenda Smith: I think saying alternative compliance can handle everything defeats the purpose of going ahead and establishing a known factor when you're designing a site, looking at it for its potential and looking at specific options rather than "I may or may not get it (alternative compliance approval)".

Allan Younger: I'm comfortable with the ten (10) feet and I do like that this reduces the restrictions that would apply if we remained at fifteen (15) feet.

MOTION: Allan Younger moved approval of the amendment.

SECOND: Jason Grubbs

VOTE:

FOR: Jason Grubbs, Tommy Hicks, Arnold King, Chris Leak, Brenda Smith, Allan Younger

AGAINST: George Bryan, Melynda Dunigan

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning and Development Services