

**FORSYTH COUNTY  
BOARD OF COMMISSIONERS**

**BRIEFING  
DRAFT**

**MEETING DATE:** February 1, 2018 **AGENDA ITEM NUMBER:** 1 A+B

**SUBJECT:-**

- A. Public Hearing on Zoning Text Amendment Proposed by the Planning and Development Services Staff to Amend Chapter B Articles II and III of the Unified Development Ordinances (UDO) to Revise Regulations for Bufferyards (UDO-280)
- B. Ordinance Revising Chapter B of the Unified Development Ordinances to Amend Regulations for Bufferyards

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

**SUMMARY OF INFORMATION:-**

See attached staff report.

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

**ATTACHMENTS:-**  YES  NO

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

**UDO-280**  
**ORDINANCE REVISING**  
**CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES***  
**TO AMEND REGULATIONS FOR BUFFERYARDS**

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

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

**Chapter B - Zoning Ordinance**  
**Article II – Zoning Districts, Official Zoning Maps, and Uses**

**2-1 ZONING DISTRICTS**

**2-1.3 COMMERCIAL ZONING DISTRICTS – PURPOSE STATEMENTS AND REGULATIONS**

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

(3) Special Use District Standards.

- (e) Bufferyard Standards. ....Due to the twenty-four (24) hour nature of the loading docks and storage areas of this scale of retail development, this district shall be considered an Industrial (IND) Zoning Type (Type ~~IV~~ III) as per Section B.3-5. When adjacent to a low density residentially zoned property the bufferyard shall be no less than forty (40) feet and include three (3) deciduous trees and eighteen (18) primary evergreen plants per one hundred (100) linear feet of bufferyard. Additionally, the elected body may require a larger bufferyard and/or a bufferyard with more plantings, berm(s) and fences, in order to provide a more effective transitional buffer between users.

**2-1.6 OVERLAY AND SPECIAL PURPOSE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

The purpose of establishing these districts is to assist the community in meeting the recommendations of *Legacy* and to meet requirements of State and federal law. When a rezoning proposal for one of these districts is considered, historic preservation, watershed protection, and other applicable goals and recommendations contained in *Legacy* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

(B) TO Thoroughfare Overlay District

(2) Overlay District Requirements.

- (a) Applicability. .... Within a TO District, every use of a building or land hereafter established, including demolition and reconstruction of new uses, shall meet the requirements of this section unless otherwise exempted below.
- (b) Exemptions.
  - (i) New Residential Development. .... New single family, duplex, or twin home development shall be exempt from all of the provisions of this section.
  - (ii) Reuse or Redevelopment. .... Reuse, remodeling, repairs, or other redevelopment which do not create additional building floor area or parking spaces shall be exempt from the provisions of this section.
  - (iii) Expansions. .... Building additions, parking lot expansions or other redevelopment that creates additional building floor area or parking spaces not exceeding twenty-five percent (25%) of the floor area or parking spaces existing on the site on the effective date of this Ordinance shall be exempt from the provisions of this section, except no expansion may occur within a required setback area. There shall be only one such expansion.
  - (iv) Shallow Lots. .... Vacant lots of record existing as of the effective date of this Ordinance in GMAs 1, 2 or 3 with less than one hundred fifty (150) feet of depth, or in GMAs 4 and 5 with less than two hundred (200) feet of depth shall be exempt from the provisions of this section, except that these lots are required to meet the ten (10) foot setback for parking off right-of-way and streetyard planting.
  - (v) ~~Streetyard~~ Bufferyard. .... If existing structures or parking areas are located within a landscaped ~~streetyard~~ bufferyard area required pursuant to this section on the effective date of this Ordinance, ~~reduction in streetyard width is permitted as provided in Section B.3-4.3(A)(3)(b)~~ alternative bufferyard standards may be approved in accordance with Section B.3-5.2(C).
- (c) Applicable Roads and Boundaries. .... The TO District shall consist of the public right-of-way and those lands within one hundred (100) feet of either side of the right-of-way, including access ramps of all freeways and all roads in the Interstate System. Additional roads may be included in a TO District pursuant to Section B.2-1.6(B)(3). The TO District does not include land lying underneath bridges or elevated portions of roadways.
- (d) Development Review. .... No building or zoning permit or subdivision plat shall be approved which does not demonstrate compliance with the provisions of this section.
- (e) Standards for Development Within the TO District. .... All development within the TO District shall be subject to the site development standards of the underlying district, in addition to the following:
  - (i) Enclosed Facilities. .... All manufacturing, storage, offices, wholesale, retail sales, or similar uses, other than display areas for motor vehicle sales and plant nurseries, shall be conducted within an enclosed building, except as otherwise provided below.

- (ii) Outside Storage. .... Outside storage shall be permitted only if screened from view from the thoroughfare. The outside storage shall not occupy an area larger than one-half of the area covered by the principal building.
- (iii) Loading and Garage Bays. .... All loading areas and entrances to motor vehicle repair bays shall be screened from view from the thoroughfare.
- (iv) Shielding On-Site Utilities. .... All public utilities and related facilities, heating, ventilation and air conditioning (HVAC) units, including on-ground and rooftop mechanical systems, and dumpsters, shall be so located and/or shielded so as to not be visible from the public right-of-way.
- (v) Utilities. .... All utilities providing direct service to individual buildings shall be placed underground. All distribution lines running parallel to the roadway within the TO District and installed or relocated in conjunction with construction of a new thoroughfare or widening of an existing thoroughfare which involves the relocation of power lines and poles shall be located underground, unless required to be placed above ground by the applicable utility provider.
- (vi) Setback. .... Any new structure or vehicular use area, including parking lots, loading areas, and driveways, and any addition to an existing structure or vehicular use area shall be set back a minimum distance from the right-of-way line as indicated below:

Growth Management Area	Building and Vehicular Use Area Setback
GMA 1	0
GMA 2 and 3	20'
GMA 4 and 5	50'

- (vii) Landscaped ~~Streetyard~~ Bufferyard. .... Within the setback area, the landscaped ~~streetyard~~ bufferyard requirements of Section ~~B.3-4~~ B.3-5 shall be met using a twenty (20) foot wide Type II Bufferyard. Use of existing vegetation to meet the requirements is encouraged.

Section 2. Chapter B, Article II of the *UDO* is amended as follows:

## **Chapter B - Zoning Ordinance**

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

#### **2-5 Use Conditions**

##### **2-5.39.1 KENNEL, OUTDOOR (F)**

(B) Setbacks and Bufferyards .....Kennel or exercise area may be located within one hundred (100) feet of any street or property line with the installation of a ~~type-IV~~ Type III Bufferyard as required in Section B.3-5.2(A)(1)(e). No bufferyard will be required if the kennel or exercise area is setback at least one hundred eighty (180) feet from any street or property line.

##### **2-5.40 LANDFILL, CONSTRUCTION AND DEMOLITION**

(E) Landscape Plantings .....Landscape plantings meeting the standards of the ~~type-IV bufferyard~~ Type III Bufferyard, defined in Section B.3.5, are required in the bufferyard area along all property lines and public rights-of-way regardless of the adjacent zoning. Existing plant material may be included in the computation of the required plantings with approval of the Director of ~~Inspections~~ Planning and Development Services or designee.

##### **2-5.42 LANDFILL, SANITARY**

(E) Landscape Plantings .....Landscape plantings meeting the standards of the ~~type-IV bufferyard~~ Type III Bufferyard, defined in Section B.3-5, are required in the bufferyard area along all property lines and public rights-of-way regardless of the adjacent zoning. Existing plant material may be included in the computation of the required plantings with approval of the Director of ~~Inspections~~ Planning and Development Services or designee.

##### **2-5.49 MANUFACTURED HOUSING DEVELOPMENT**

(E) Bufferyards .....A ~~type-II bufferyard~~ Type II Bufferyard of a minimum width of ~~thirty (30) forty (40)~~ feet shall be established along each exterior property line, ~~except where adjacent to a private street or public right-of-way not internal to the development. Along external private streets or public rights-of-way, a type II bufferyard of a minimum of fifty (50) feet shall be established.~~

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

(H) Development Standards .....A PRD shall meet the following standards:

(9) Common Open Space.

(b) Character. ....Common Open Space (as defined in Chapter A, Article II of the UDO) shall include both Passive and Active Open Space. Additionally, if developments are contiguous to minor and major thoroughfares as defined by NCDOT or WSDOT, Thoroughfare Open Space shall be required adjacent to such transportation corridors.

(iii) Thoroughfare Open Space. ....If PRDs are located in GMA 3, 4, or 5, and are contiguous to major or minor thoroughfares, Thoroughfare Open Space shall be required. The intent of this Thoroughfare Open Space is to preserve or enhance existing viewsheds along major transportation corridors.

[A] GMA 3. A thoroughfare buffer at least fifty (50) feet deep and a Type III Bufferyard planting wide containing the plants required in a forty (40) foot wide Type III Bufferyard shall be provided in GMA 3.

**2-5.74 SOLID WASTE TRANSFER STATION**

(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 <del>IV</del> III	1. Open side of building oriented away from nearest residentially zoned property; no driveways located between building and said residential land.
	250'	Type <del>IV</del> III Double Plantings	1. Open side of building oriented away from nearest residentially zoned property; no driveways located between building and said residential land. 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 <del>IV</del> III Triple Plantings	1. Open side of building oriented away from nearest residentially zoned property; no driveways located between building and said residential land. 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.
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**2-5.79 TRANSMISSION TOWER (W)**

(F) Bufferyard

- (1) Transmission Towers Adjacent to Residential Zoning. ....Where the transmission tower is located adjacent to a residential zoning lot or street and there is no intervening structure to block the view of the tower base and improvements, a ~~type IV bufferyard~~ Type III Bufferyard as described in Section B.3-5 shall be installed around the outside of all improvements on the site, including the tower, any ground buildings or equipment, and security fencing, so as to provide spatial separation and create a visual block from adjacent properties and streets.

**2-5.79 TRANSMISSION TOWER (F)**

(F) Bufferyard

- (1) Transmission towers adjacent to residential zoning. ....Where the transmission tower is located adjacent to a residential zoning lot or street and there is no intervening structure to block the view of the tower base and improvements, a ~~type IV bufferyard~~ Type III Bufferyard as described in Section B.3-5 shall be installed around the outside of all improvements on the site, including the tower, any ground buildings or equipment, and security fencing, so as to provide spatial separation and create a visual block from adjacent properties and streets.

**Section 3.** Chapter B, Article III of the *UDO* is amended as follows:

**Chapter B - Zoning Ordinance**  
**Article III – Other Development Standards**

**3-1 Dimensional Requirements**

**3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS**

(J) Special Yard Requirements Where Nonresidential Districts Adjoin Residential Districts

(2) Side Yard Requirements Where PB Adjoins Residential Districts.

- (b) PB Zoning District Adjacent to RS or RSQ Zoning Districts. ....Wherever a Residential Use as shown in Table B.2.6, exclusive of combined use, within the PB

Zoning District is directly adjacent to an RS or RSQ Zoning District, a minimum fifteen (15) foot side yard setback shall be required with a corresponding Type II Bufferyard. In no instance shall the height of a residential building be greater than the maximum height allowed in the adjoining residential district.

### **3-5 Bufferyard Standards**

#### **3-5.1 GENERAL REQUIREMENTS**

- (A) Purpose .....Bufferyard standards are designed to provide visual and functional separation between different land uses to:
- (1) Reduce potential nuisances, such as glare, dirt, noise, unsightly views, and other adverse impacts;
  - (2) Safeguard property values and preserve the character and integrity of the community; and
  - (3) Protect the health, safety, and welfare of the public.
- (B) Applicability .....Every use, change of use, construction of a new structure, or expansion of a structure or land hereafter established shall meet the bufferyard requirements of this section, except for the following:
- (1) Single family, duplex, or twin home uses;
  - (2) Development or redevelopment in the CB or CI Districts;
  - (3) Between component parts of a planned residential development or MU-S District; or,
  - (4) Where no bufferyard requirement is shown in Table B.3.13.

#### **3-5.2 DETERMINATION OF BUFFERYARD**

- (A) Procedure .....The type of bufferyard required shall be determined as follows:
- (1) Identify the zoning type for the proposed project and all adjacent properties, excluding properties across a public right-of-way. The zoning types are defined as follows for the purposes of this section only.
    - (a) Single Family Residential (SFR) Zoning Types. ....Single family residential zoning types include the H, YR, AG, all RS Districts (including RSQ), and MH (single lot or unit).
    - (b) Multifamily Residential (MFR) Zoning Types. ....Multifamily residential zoning types include all RM Districts and the MH District where a manufactured housing development is involved.
    - (c) Low Intensity Commercial (LIC) Zoning Types. ....Low intensity commercial zoning types include the CI, CPO, GO, LO, PB, LB, IP, C and NB Districts.
    - (d) High Intensity Commercial (HIC) Zoning Types. ....High intensity commercial zoning types include the NSB, HB, GB, CB, E, and MU-S Districts.



- (e) Industrial (IND) Zoning Types. ....Industrial zoning types include the LI and GI Districts and certain uses which require outdoor storage, have high trip generation rates, or have the potential for nuisance to adjacent properties due to noise, light and glare, or typical hours of operations. The following list of specific uses identified in Table B.2.6 shall be classified as industrial zoning types for bufferyard purposes.
- (i) Reserved;
  - (ii) Reserved;
  - (iii) Reserved;
  - (iv) Implement Sales and Service;
  - (v) Kennels, Outdoor (F) (See Section B.2-5.39.1(B));
  - (vi) Outdoor Display Retail;
  - (vii) Motor Vehicle Repair and Maintenance;
  - (viii) Motor Vehicle Storage Yard;
  - (ix) Reserved;
  - (x) Recreational Vehicle Park;
  - (xi) Recreation Services, Outdoor;
  - (xii) Reserved;
  - (xiii) Storage and Salvage Yard; and
  - (xiv) Dirt Storage Sites (See Section B.2-5.27(E)).

(2) Determine the Bufferyard Type (I, II, or 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	*	*	I <sup>+</sup>	I <sup>+</sup>
Low Intensity Commercial (LIC)	II	I <sup>++</sup>	*	*	*
High Intensity Commercial (HIC)	III	II	*	*	*

Industrial (IND)	IV-III	IV III	I	*	*
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\* = No bufferyard requirement

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

++ = Whenever a residential use in the PB Zoning District shares a side yard boundary line with a lot in a residential district, the requirements of Section B.3-1.2(J)(2) shall apply.

(3) Select the Desired Bufferyard Option .....for the required bufferyard type from those described in the following:

(a) Type I Bufferyard. ....A ~~type I bufferyard~~ Type I Bufferyard is a low density screen designed to ~~partially block~~ soften visual contact and create spatial separation between adjacent uses. The four (4) design options that may be used to satisfy this bufferyard requirement are identified in Table B.3.14.

Table B.3.14  
TYPE I BUFFERYARD DESIGN OPTIONS

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
10 feet	2 deciduous trees; 8 primary evergreen plants; 10 supplemental evergreen shrubs
20 feet	2 deciduous trees; 8 primary evergreen plants
<del>30 feet</del> <u>40 feet</u>	2 deciduous trees; <del>5</del> <u>6</u> primary evergreen plants
<del>50 feet</del> <u>100 feet</u>	2 deciduous trees; <del>3</del> <u>4</u> primary evergreen plants

(b) Type II Bufferyard. ....A ~~type II bufferyard~~ Type II Bufferyard is a medium density screen designed to partially block visual contact and/or create spatial separation between adjacent uses. The four (4) design options that may be used to satisfy this bufferyard requirement are identified in Table B.3.15.

Table B.3.15  
TYPE II BUFFERYARD DESIGN OPTIONS

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
15 feet	2 deciduous trees; 8 <u>12</u> primary evergreen plants; <del>20</del> <u>15</u> supplemental

	evergreen shrubs
20 feet	2 deciduous trees; 8 <u>12</u> primary evergreen plants; 10 supplemental evergreen shrubs
<del>30 feet</del> <u>40 feet</u>	2 deciduous trees; 8 <u>10</u> primary evergreen plants
100 feet	2 deciduous trees; <del>4</del> <u>6</u> primary evergreen plants

(c) Type III Bufferyard. ....A ~~type III bufferyard~~ Type III Bufferyard is a high density screen designed to eliminate visual contact and/or create spatial separation between adjacent uses. The ~~five (5)~~ three (3) design options that may be used to satisfy this bufferyard requirement are identified in Table B.3.16.

TABLE B.3.16  
Type III Bufferyard Design Options

Minimum Bufferyard Width	Minimum Plant Material per One Hundred (100) Linear Feet
<del>15 feet</del>	<del>2 deciduous trees; 18 primary evergreen plants; 20 supplemental evergreen shrubs</del>
20 feet	2 deciduous trees; 18 primary evergreen plants; <u>12 supplemental evergreen shrubs</u>
30 feet	<del>3 deciduous trees; 13 primary evergreen plants</del>
40 feet	3 deciduous trees; <del>40</del> <u>12</u> primary evergreen plants
<del>200 feet</del> <u>100 feet</u>	3 deciduous trees; <del>5</del> <u>8</u> primary evergreen plants

(d) ~~Type IV Bufferyard. ....A type IV bufferyard is a high density screen designed to eliminate visual contact and create spatial separation between adjacent uses. The six (6) design options that may be used to satisfy this bufferyard requirement are identified in Table B.3.17.~~

TABLE B.3.17  
~~Type IV Bufferyard Design Options~~

<del>Minimum Bufferyard</del>	<del>Minimum Plant Material per One Hundred (100) Linear Feet</del>
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Width	
15 feet	2 deciduous trees; 18 primary evergreen plants; 20 supplemental evergreen shrubs
30 feet	2 deciduous trees; 18 primary evergreen plants; 10 supplementary evergreen shrubs
40 feet	3 deciduous trees; 18 primary evergreen plants
50 feet	3 deciduous trees; 14 primary evergreen plants
100 feet	3 deciduous trees; 10 primary evergreen plants
200 feet	3 deciduous trees; 5 primary evergreen plants

(B) Additional Requirements

- (1) Fractional Calculations. ....Fractional planting requirement calculations shall be rounded to the next higher whole number.
- (2) Existing Plant Material. ....Existing plant material within the required bufferyard may be included in the computation of the required plantings with approval of the Director of Inspections Planning and Development Services or designee.
- (3) Fence or Wall Option. ....An opaque fence or wall may be used in lieu of not more than fifty percent (50%) of the required evergreen bufferyard plantings with the approval of the Director of Inspections Planning and Development Services or designee and providing provided each of the following conditions are met, where applicable:
  - (a) Fence Height for Industrial Zoning Type. ....The minimum required fence height shall be eight (8) feet above ground level when the proposed project zoning type is classified as an industrial zoning type.
  - (b) Fence Height for Zoning Types Except Industrial. ....The minimum required fence height shall be six (6) feet above ground level when the proposed project zoning type is classified as any zoning type except those classified as industrial.
  - (c) Vegetation Planted on Exterior Sides. ....Where a fence or wall is used as part of the required screening, all required vegetation shall be planted on the exterior side of the fence or wall.
  - (d) Screening Multifamily Residential Zoning Type. ....Where the fence option is used to screen multifamily residential zoning types from more intense zoning types, the required vegetation may be planted on the interior side of the fence or wall.
  - (e) Remaining Vegetation Distribution. ....Where a fence is used in lieu of not more than fifty percent (50%) of the required vegetation, the remaining percentage of vegetation to be used in conjunction with the fence or wall shall be evenly distributed in the bufferyard.

- (4) Earthen Berms. ....Earthen berms six (6) feet high or greater, or earthen berms with combined evergreen shrub plantings reaching a minimum height of six (6) feet, may be used in lieu of not more than fifty percent (50%) of the evergreen bufferyard plantings providing the following conditions are met:
- (a) Live Vegetation. ....The entire berm shall be planted and covered with live vegetation.
  - (b) Evergreen Shrubs. ....On berms less than six (6) feet in height, evergreen shrubs, if used, shall be a minimum of one foot in height at installation and shall be placed no greater than eighteen (18) inches edge to edge.
  - (c) Shape. ....Berms shall be naturally shaped, shall have a minimum crown width of two (2) feet, and shall have side slopes stabilized to sedimentation and erosion control standards.
- (C) ~~Alternative Compliance for NO, NB, MRB-S and MU-S Districts .....In the NO, NB, MRB-S and MU-S Districts, a developer may propose a bufferyard plan that varies from the strict application of the provisions of this section in order to accommodate unique characteristics of the site, utilize innovative design, or provide an appropriate degree of buffering for separate phases and types of development. Application for alternative compliance shall include a site plan following the requirements specified in Section B-7, and shall be approved by the Planning Board only upon a finding that the proposed bufferyard plan fulfills the intent and purposes of this section better than would strict conformance with the requirements of this section.....~~A developer may propose a bufferyard plan that differs from the strict application of the provisions of this section in order to accommodate unique characteristics of the site, utilize innovative design, or provide an appropriate degree of buffering for separate phases and types of development. Application for alternative compliance shall include a site plan and define how sites would be integrated using the proposed standards. Alternative plans shall be approved by the Director of Planning and Development Services or designee only upon a determination that the proposed bufferyard plan fulfills the intent and purposes of this section better than would strict conformance with the requirements of this section. An appeal of the decision of the Director of Planning and Development Services or designee shall be heard by the Zoning Board of Adjustment.
- (D) Alternative Compliance for Schools (W) .....The bufferyard requirements of this section otherwise required for development of public or private schools in certain zones may be met by the submittal and approval of a tree preservation and planting plan according to the provisions of Section B.3-4.2.1.
- Alternative Compliance for Schools (F) .....The bufferyard requirements of this section otherwise required for development of public or private schools in certain zones may be met by the submittal and approval of a landscaping plan according to the provisions of Section B.3-4.8.
- (E) Conflicting Bufferyard Requirements .....If any conflict exists between the bufferyard requirements as identified in this section and any use conditions or zoning district regulations contained in other sections of this Ordinance, the bufferyard requirements in the other section shall apply.

- (F) Bufferyard Standards for Nonresidential Uses in GMA 2 (W) .....Installation of bufferyards shall be required for expansion or redevelopment of existing nonresidentially zoned sites smaller than one acre in size, change of use to a high intensity use as identified in Table B.2.6, or parking additions which increase the current parking on site by twenty (20) percent or more. The minimum width and number of plantings required of bufferyards in Section B.3-5.2(A) shall be reduced by fifty (50) percent for these sites. Additionally, deciduous trees used in meeting the requirements of this section shall be small variety where bufferyards are less than seven and one-half (7.5) feet wide, and medium variety where bufferyards are less than ten (10) feet wide. Large variety trees shall be used where bufferyards have a width of ten (10) feet or more. Bufferyards meeting the requirements of Section B.3-5.2(A) which currently exist on these sites shall not be eligible for such reductions.

### 3-5.3 BUFFERYARD LOCATION AND DESIGN REQUIREMENTS

#### (A) Location of Bufferyards

- (1) Location. ....Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions:
- (a) On Adjacent Property. ....All or part of the bufferyard may be located on adjacent property within a permanent easement dedicated for such purpose with approval of the Director of ~~Inspections~~ Planning and Development Services or designee.
  - (b) Portion of Site Proposed for Development. ....If only a portion of a site is proposed for development, the required bufferyard may be located at the limit of construction perimeter with approval of the Director of ~~Inspections~~ Planning and Development Services or designee.
  - (c) Topographic Irregularities. ....Where topographic irregularities require a different location to meet the intent of this section, the location of the bufferyard may be varied with approval of the Director of ~~Inspections~~ Planning and Development Services or designee.
  - (d) Slope Ratios. ....Required bufferyard plantings shall not be installed on cut or fill slopes with slope ratios greater than two (2) to one (2:1).
  - (e) Intent. ....Where the intent of the bufferyard section is met by locating the bufferyard in a location other than the outer perimeter of a lot or parcel, upon approval of the Director of ~~Inspections~~ Planning and Development Services or designee.
  - (f) Multiple Zoning Districts on a Single Zoning Lot. ....Where multiple zoning districts exist on a single zoning lot, internal bufferyard requirements shall be waived. However, bufferyard requirements between the subject property and adjoining properties still apply.

- (2) Cut Slope. ....Where bufferyards include any part of a cut slope greater than ten (10) feet in height, grading for such cut slope shall not encroach closer than ten (10) feet to the property line.
- (3) Rights-of-Way and Streets. ....Bufferyards shall not be located on any portion of an existing, dedicated, or proposed right-of-way, or a private street.
- (4) Existing Easement Within Bufferyard. ....Where an existing easement that prohibits bufferyard-type plantings is partially or wholly within a required bufferyard, the developer shall design the bufferyard to meet the planting limitation of the easement and/or site. Such design may necessitate choosing a bufferyard with more land area and fewer required plantings (or a different species) or locating the bufferyard in a manner that satisfies the intent of the bufferyard requirements as determined by the Director of ~~Inspections~~ Planning and Development Services or designee.

(B) Design Requirements

(1) Size of Plant Material.

- (a) Deciduous trees in bufferyards shall be large variety trees, except where overhead utility lines exist in accordance with Section B.3-4.2(J). Suggested plant materials are listed in Section B.3-4.10(W).

Deciduous trees in bufferyards ~~thirty (30)~~ forty (40) feet in width or less may be either medium or large varieties as described in Section B.3-4.10, provided, however, at least one-half of the required trees shall be large variety. Deciduous trees in bufferyards of greater ~~than thirty (30)~~ forty (40) feet in width shall be large variety trees. Suggested plant materials are listed in Section B.3-4.10(F).

- (b) All deciduous trees used for bufferyard screening must be a minimum of eight (8) feet in height at installation and shall be at least two (2) inches in diameter measured six (6) inches above ground level.
- (c) All primary evergreen plants shall be a minimum of six (6) feet in height at time of installation unless combined with an approved earthen berm, and shall not be less than ten (10) feet in height at maturity.
- (d) All supplemental evergreen shrubs shall be a minimum of eighteen (18) inches in height at installation, and shall attain a minimum height of thirty-six (36) inches three (3) years after installation.

**Section 4.** This ordinance shall be effective upon adoption, including figures in Appendix A and Appendix B.

**Section 5.** This ordinance shall be amended including Appendix A.

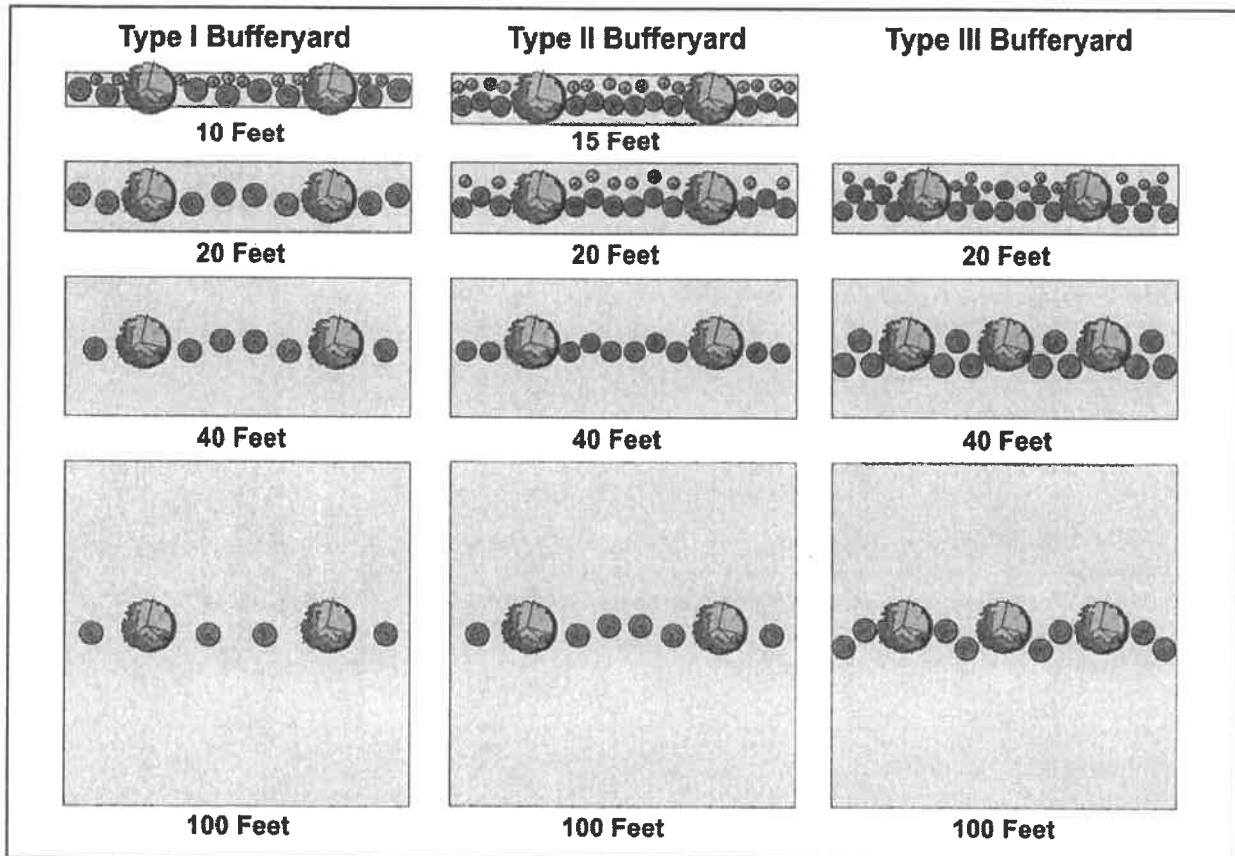
**APPENDIX A**  
**Bufferyard Equivalency Table**

<b>Type I Bufferyard</b>	
<b>Before Amendment</b>	<b>After Amendment</b>
10 feet	10 feet
20 feet	20 feet
30 feet	
50 feet	40 feet
-	100 feet
<b>Type II Bufferyard</b>	
<b>Before Amendment</b>	<b>After Amendment</b>
15 feet	15 feet
20 feet	20 feet
30 feet	40 feet
100 feet	100 feet
<b>Type III Bufferyard</b>	
<b>Before Amendment</b>	<b>After Amendment</b>
15 feet	20 feet
20 feet	
30 feet	
40 feet	40 feet
200 feet	100 feet
<b>Type IV to Type III Bufferyard</b>	
<b>Before Amendment</b>	<b>After Amendment</b>
15 feet	20 feet
30 feet	
40 feet	40 feet
50 feet	
100 feet	100 feet
200 feet	



**Section 6.** This ordinance shall be amended including Appendix B.

**APPENDIX B**  
Bufferyard Planting Requirements



## 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 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 for most bufferyard types to make the ordinance more uniform and easier to enforce. 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 by 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**