

TA 17-05 – Existing LCID Landfill Closure

PART 1: DESCRIPTION

TA17-05 is a request by Piedmont Wrecking and Grading Company, Inc. to amend Article 9.23.9 of the Huntersville Zoning Ordinance. The currently proposed text would extend the closure deadline for existing Land Clearing and Inert Debris (LCID) landfills by 5 five years. The original text submitted in the application would remove the closure deadline for LCID landfills. Please see the Huntersville Ordinance Advisory Board meeting summaries below for a description of how the draft text has evolved since the original application submittal.

PART 2: BACKGROUND

Since its adoption in 1996, the Town of Huntersville Zoning Ordinance has had an amortization or “sunset” date requirement where on a certain date existing non-conforming landfills (both Construction and Demolition (C&D) and Land Clearing and Inert Debris (LCID)) are required to come up to the requirements of ordinance or close. Various text amendments by the owners of the landfills throughout the years have either moved back the closure deadline or had it removed.

For instance the ordinance currently allows existing non-conforming C&D landfills to operate indefinitely as long as they have an unexpired Special Use Permit (SUP). Greenway Waste C&D landfill on Holbrook Road recently rezoned their entire landfill and got an updated Special Use Permit approved for their operation. Therefore their landfill has been brought into compliance with current ordinance standards. There are no more existing C&D landfills in Huntersville zoning jurisdiction.

In 2006, Piedmont Wrecking and Grading successfully applied to amend the zoning text to move the sunset date for its LCID landfill on Everette Keith Road back 10 years. After discussion with the Town Attorney in regard to the State Legislature’s “permit freeze” during the recession, it was determined that the Everette Keith landfill now has until March 3, 2018 to come into compliance or close. There are no other existing LCID landfills in the Huntersville zoning jurisdiction. The applicant is applying to amend Article 9.23.9 to again push back the sunset date another 5 years; to March 3, 2023.

The Land Development Ordinances Advisory Board (LDOAB) considered multiple drafts of the proposed text. A summary of their meetings and the different draft texts are below. The LDOAB is scheduled to review the current draft on Thursday August 3, 2017.

- June 1, 2017: The applicants first draft submitted removed the reference of LCID landfills in Article 9.23.9 D. The removal would in effect remove the sunset date for LCID landfills altogether and allow them to continue operation indefinitely without complying with any ordinance requirements. *This original proposed text is included in your agenda packet for review.* Staff presented the concern that the process for compliance was already present in the text through the conditional rezoning and special use permit process; which ensures that the landfill comes up to Article 9.23 code to “the extent practical”. After discussion, the committee recommended the applicant redraft the text to include some conformance stipulations of Article 9.23.

- July 13, 2017: The updated draft language continued to remove the sunset date but included language that required the landfill to pave their driveway, landscape their frontage to a reasonable degree, and keep the driveway clean. It also included a provision that after 10 years, the Planning Director could direct the landfill to close if there were 3 violations within the 10 year period. This updated text is also included in your agenda package for review. Staff's concern remained that many of the principles from Article 9.23 were not addressed in the proposed text and that staff would make the closure decision and not the Town Board. After discussion, the Board recommended the applicant meet with staff to come up with appropriate language that sufficiently addressed the requirements of Article 9.23.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2030 COMMUNITY PLAN AND APPLICABLE LONG RANGE PLANS

The following are examples of relevant plans and policies from the 2030 Huntersville Community Plan that may be incorporated into the Board's statement of consistency for approval or denial of the request.

- Policy E-7: Sustainability: Extending the life of the landfill would allow an existing recycling LCID landfill to continue to operate and reduce waste through their recycling program.
- Policy ED-12: Business Retention and Expansion: The text would allow the continuation or retention of a local business that has been in operation for many years.

PART 4: STAFF RECOMMENDATION

Staff is supportive of the continuation of the landfill operation. If the applicant intends to close in 5 years, staff recommends approval of the proposed text, save a few changes to the context (staff does not understand the need for a new "e" section and why "d" is not just amended to change the date). However, if the applicant proposes to readdress the issue at that time and stay open longer than the drafted 5 years, staff recommends a different approach. Rather than moving the sunset date back another 5 years and having to again review the conformity of the landfill for a 3rd time, staff recommends amending Article 9.23 of the ordinance to allow LCID landfills to continue to operate in the zoning district in which it is currently located indefinitely with the issuance of a Special Use Permit (SUP). Staff recommends the Special Use Permit (SUP) process be followed to allow the continuation of the existing LCID landfill for the following reasons:

1. The SUP process will easily allow staff, the public, and the Town Board to review site specific ways the landfill can come up to the current ordinance standards of Article 9.23 "to the extent practical". Issues such as screening, buffers, cleaning of streets, site security, etc can be reviewed and addressed on the SUP site plan.
2. Moving the closure date for existing LCID landfills and C&D landfills has been done several times in the past by two different landfills. Going through the SUP process for LCID landfills now would put an end to that process and allow the applicant to continue to operate indefinitely with no sunset date.
3. Greenway Waste used the SUP process to allow their landfill to continue operation indefinitely, thus setting a pattern to follow.
4. If an existing landfill is going to continue to operate for several years past the ordinance sunset date, staff believes the public and adjacent property owners should be included in the process and have

input on the permit. The SUP process would give adjacent property owners specific notice and allow them to comment if desired.

5. Staff does not anticipate the SUP process being an unreasonable burden on the applicant. Considering the fact that a landfill plan already exists (attached to the state permit), it does not seem like much in the way of site design would be needed to produce a SUP site plan. Much of the agreements worked through to bring the site up to code to the extent practical can be included with simple notes on the plan. The SUP process is a 3 month process that could yield an unlimited amount of operation time for the applicant.

PART 5: PUBLIC HEARING

The Public Hearing will be held on August 7, 2017.

PART 6: PLANNING BOARD RECOMMENDATION

The Planning Board is scheduled to hear this text amendment on August 22, 2017.

PART 7: ATTACHMENTS AND ENCLOSURES

- Original Draft Language
- Revised Draft Language
- Current Proposed Language
- Applicant Amendment Ordinance

PART 8: STATEMENT OF CONSISTENCY – TA17-05

Planning Department	Planning Board	Board of Commissioners
<p>APPROVAL: Staff support is predicated on whether or not the applicant proposes to close in 5 years.</p>	<p>APPROVAL: In considering the proposed amendment TA 17-05, to amend Article 9.23: <i>Off-Site Land Clearing and Inert Debris and Construction & Demolition Landfills</i> of the Zoning Ordinance, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u></p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</p>	<p>APPROVAL: In considering the proposed amendment TA 17-05, to amend Article 9.23: <i>Off-Site Land Clearing and Inert Debris and Construction & Demolition Landfills</i> of the Zoning Ordinance, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u></p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</p>
<p>DENIAL: Staff support is predicated on whether or not the applicant proposes to close in 5 years.</p>	<p>DENIAL: In considering the proposed amendment TA 17-05, to amend Article 9.23: <i>Off-Site Land Clearing and Inert Debris and Construction & Demolition Landfills</i> of the Zoning Ordinance, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>.</p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance</p>	<p>DENIAL: In considering the proposed amendment TA 17-05, to amend Article 6: <i>Off-Site Land Clearing and Inert Debris and Construction & Demolition Landfills</i> of the Zoning Ordinance, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>.</p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance</p>

	because....(<i>Explain</i>)	because....(<i>Explain</i>)
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