



VANCE COUNTY
PLANNING & DEVELOPMENT
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Planning Board Minutes

June 13, 2019

TO: Vance County Planning Board
FROM: Angie Blount
SUBJECT: Text Amendment Case # TA20190613-1 K & K Organics – Add LCID (Land Clearing Inert Debris) Minor and Major to the definitions Section 12, Add to the permitted use table Section 3, 3.2.14 and to Section 6.10 Subsection 3 under Industrial uses.
DATE: June 13, 2019

Board Members Present: Thomas Shaw III, Chair, Agnes T. Harvin, Phyllis Stainback, Ruxton Bobbitt, Ruth Jones, Vice-Chair, Logan Darensburg and Robin Liggon

Board Members Absent: Blake Haley, Alvin Johnson, Jr.

County Staff: Sam Hobgood, Director, Planning & Development, Angie Blount, Planner

Those signed up for Public Comment:

Tom Terrell, Jr., Attorney at law, Fox Rothschild LLP

Chairperson Shaw called to order the June 13, 2019 meeting of the Vance County Planning Board to order. Chairperson Shaw asked if anyone present planned to speak during the public comment portion of the meeting, to come forward and record their information. Chairperson Shaw announced the first order of business would be to review the minutes from the March 21, 2019 planning board meeting. Board Member Mrs. Ruth H. Jones made a motion to accept the minutes as written. The motion was seconded by Board Member Mrs. Agnes T. Harvin. A vote was taken and the minutes were accepted by unanimous vote.

Chairperson Shaw announced the next order of business, a proposed text amendment, Case number TA20190613-1, applicant K & K Organics. The proposal is to add text to the Vance County Zoning Ordinance, Section 12, add the definition of LCID (Land Clearing Inert Debris) Landfill, Minor and Major, Added to the Permitted Use Table and also added to Section 6.10, (G), a and b, the description and requirements under Industrial Uses.

Chairperson Shaw asked planning staff to explain the case. Mrs. Blount, planner for Vance County, explained to the board the request to amend the text, she advised that the county currently does not have an ordinance which addresses LCID Landfills. She advised that the majority of the regulation is through the state, but that counties would be able to designate which zonings they would be allowed in and to add further regulation. She explained that the proposed amendment would allow within zoning districts AR, LI and IM. Those under 2 acres would not have to be permitted through the Division of Solid Waste Management, but anything over two acres would require permits from the state. She advised that approval from NC DEQ would be required. She went on to state that staff found it reasonable to add these to the definitions and to the permitted use table. She advised that there has been considerable public interest in LCID Landfills, but that the ordinance did not adequately address it. She advised the planning board would need to consider if they were added to the ordinance, whether they would be allowed within the watershed, with a conditional use permit, or prohibited.

Chairperson Shaw asked the board if they had any questions. Board Member Mrs. Harvin asked about the materials that would be allowed. Clarification was made as to the material that would be allowed in the landfill. Untreated wood, yard clippings, concrete, rocks, sand. Mrs. Harvin raised questions as to who

would regulate what went into the landfill. Mrs. Blount advised LCID landfills were regulated and permitted by the Division of Solid Waste Management. Board Member Mrs. Harvin stated that her concern was the possibility of allowing a landfill like this in a residential area. Mrs. Harvin commented that there had been a very unsightly landfill located on Kelly Rd, in a residential area because there was no regulation to prevent it. Mrs. Blount commented that these definitions are not in the ordinance currently and expressed the importance of having them in the ordinance so that the county can apply some regulation as to where they are allowed. Alternate Board member Mr. Ruxton Bobbitt asked what regulations are in place now and if a conditional use permit was required. Mrs. Blount advised that currently LCID landfills are not mentioned in the ordinance, and that the closest definition is Demolition or Sanitary Landfill which requires a CUP and is only allowed within the LI or IM zoning districts. Board members expressed concerns about buffering and screening requirements for landfills, Mrs. Blount advised in error that there were no local screening requirements, when actually the county ordinance does require screening and buffering requirements for the demolition or sanitary landfills. Board member Mr. Bobbitt asked if this were an application for a private landfill, to which Mrs. Blount advised it was for private. Mr. Bobbitt asked if he applicant was applying to operate a private landfill with the county, to which Mrs. Blount advised he was applying to amend the text of the zoning ordinance to add minor and major LCID landfills, minor for under two acres and major for greater than two acres. Under two would be permitted by right, greater than two with a CUP. Board members asked about he current operating landfills, whether or not they were established prior to zoning, to which Sam Hobgood, Director of Planning and Development advised that they were and licensed through the state. Chairperson Mr. Shaw advised that the Department of Transportation used the current state licensed landfills for waste generated during highway projects. Board member Mrs. Jones asked if citizens were allowed to dump debris in the county landfill and if there was a cost involved, to which Chairperson Shaw advised they could and were charged a fee. Board member Mrs. Jones surmised that this was to be a private business to which a fee would be charged to individuals. Board member Mr. Bobbitt asked if the individual makes application with the county, they automatically have to make application with the state, to which Mrs. Blount advised the regulation is through the state.¹ Board member Mrs. Stainback advised she would like to have more information on what the state requirements are.

Chairperson Shaw asked if the applicant would like to speak. Mr. Tom Terrell, attorney with Fox Rothchild LLP, representing K & K Organics, and owner Mr. Ken Harrison, took the podium. Mr. Terrell stated that Mr. Harrison clears land for homes, businesses, Churches, and advised that when you clear land, you do not burn organic debris onsite, you have to take it somewhere where it can be safely disposed of. Mr. Terrell advised that this is disposal of organic material, the same material that is found naturally and that over time rots. Mr. Terrell advised that because it is generated waste, the state of North Carolina regulates the disposal. Mr. Terrell advised that it is heavily regulated but is entirely different from municipal solid waste. He advised it is not construction debris but organic naturally occurring debris. He advised inert debris would be described as rocks, something whose chemical composition would not change over time, non-painted brick, concrete, could all be placed in an LCID landfill. He advised this is not what Mr. Harrison does. Mr. Terrell advised that they were not asking for site approval, only to amend the ordinance to allow the definitions be added and allow LCID into the table of permitted uses in order to be consistent with the state statutes. He stated that a site approval would come with some very specific information at a later date once the ordinance had been amended to allow it. Mr. Terrell added that Vance County currently does not specifically list LCID landfills in its ordinance as an allowed use, but it does list disposal. Mr. Terrell advised for Mr. Harrison has to start with the local authority before he can obtain permission from the state. Mr. Terrell stated that once a person obtains local approval it can take up to two years to obtain permitting from the state. Mr. Terrell outlined the regulation the state requires for private and for public LCID landfills. Board member Mrs. Stainback asked if the state enforces the running of the LCID, to which Mr. Terrell advised they do. Mr. Terrell stated to the board that this type of facility is not dangerous to ground water and does not promote any other type of environmental danger, that it only contains debris which is in its natural state and does not change composition over time. Mr. Terrell stated that their request to the board is simply to allow the ordinance to be updated to include these definitions and permitting it in the use table, and then at some time in the

future, when Mr. Harrison has a specific plan, he could come back to the county for a Conditional Use Permit. Chairperson Shaw asked if Mr. Harrison had a site in mind at this time for a future landfill. Mr. Terrell advised that there is a site under consideration. He advised that he did not want this to become about the site, but that he could divulge it is next to a rock quarry, next to a cell tower, next to a junk yard, it cannot be seen, cannot be heard, that it is in an area that is wooded and would not be near residential areas. Board member Mrs. Stainback expressed concern about the number of quarries, landfills and junk yards that the county currently has which impose upon residential areas and questioned the need for more. Mrs. Stainback stated that for an LCID under two acres a CUP would not be required and that she had concerns regarding that lack of regulation. She also advised she had concerns about the placement of any LCID within the watershed area. Mr. Terrell advised that those issues would be addressed when application was made. Mrs. Stainback reminded Mr. Terrell that a CUP was not required for an LCID under two acres. Mr. Terrell advised that the board could place added conditions requiring a CUP for under two acres if they wished. Mrs. Stainback made a motion to request more information before making a decision on adding LCID, major and minor to the zoning ordinance and adding to the Permitted Use Table. Board member Mrs. Jones asked if the planning department wrote the amendment, to which Mr. Terrell advised that he wrote the amendment. Board member Mr. Darensburg seconded the motion made by board member Mrs. Stainback. Board member Mrs. Jones asked if Jordan McMillian had looked at the proposed amendment. Mr. Hobgood, Director of Planning and Development stated that Jonathan Care, Attorney for Vance County was aware of the proposed amendment. Mr. Hobgood stated that planning had met with Mr. Care and the applicant regarding proposing the amendment several months prior. Mrs. Jones asked if the planning department had made any changes to their proposed amendment, to which Mr. Hobgood replied they had not, it was presented as the applicant had written. Mrs. Blount advised the only change the planning department had made was to leave blank the area under Watershed Overlay blank for the Planning Board to decide. Board member Mrs. Harvin commented about the regulation other counties have in place, that some prohibit, some require CUPs and some require Special Use Permits, and though it would be reasonable that Vance County could require CUPs regardless of the size.

Chairperson Shaw stated there was a motion on the floor to regroup and study the matter further, and hat it had been duly seconded. Chairperson Shaw asked for a vote. The motion carried to study the issue further with a vote of four to one. Chairperson Shaw asked if there was any other business to come before the board or if Staff had any matters. Mr. Hobgood stated that he would like some direction from the board on what they expect from staff regarding this matter. Mrs. Stainback advised they would like the planning staff to research LCID landfills regarding the state requirements and watershed issues. Mrs. Jones advised she would like to see a Conditional Use Permit required regardless of the size of the landfill. Chairperson Mr. Shaw stated that he would also like the requirements from DEQ. Mrs. Jones advised she would also like to see the requirements for surrounding counties. Mr. Bobbitt commented that landfills are being utilized everyday and his concern is that they are not regulated. He commented that attention needs to be paid to properties utilized for this use which reside in the watershed. Board members expressed that they would like to have better definitions, Mr. Hobgood advised the definitions that were submitted were the state definitions. Mrs. Stainback advised she wanted a definition for Inert Debris.

Chairperson Shaw asked if there was any further discussion. Being none, he declared the June 13, 2019 meeting of the Vance County Planning Board adjourned.

¹ For landfills under two acres, the applicant is required to record the plat with the County Register of Deeds Office, but is not required to obtain permitting through the Office of Waste Management, greater than two acres triggers the need for permitting through the state office.