



AGENDA
Ordinance Advisory Board Meeting
November 3, 2022 - 3:30 PM

TOWN HALL (101 HUNTERSVILLE-CONCORD ROAD)

Live Stream- Members of the public may view or access the meeting on YouTube at
<https://www.youtube.com/channel/UCqgiipdJL0ywl-LZrcN5MpQ/featured>.

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes**
 - 2.A. Consider approval of the October 6, 2022 minutes of the meeting ()
- 3. Public Comments** - *Speakers are limited to 3 minutes. The Chairperson reserves the right to shorten the time limit for speakers when an unusually large number of persons have signed up to speak. Speakers may not give all or a portion of their time to other speakers*
- 4. Action Agenda**
 - 4.A. Consider recommendation on petition #TA22-13, a request by the Huntersville Planning Department for a text amendment to the Zoning Ordinance to amend Article 3.3.1(a) Manufactured Home Overlay District to update skirting requirements to comply with G.S. Chapter 160D-910 and to amend Article 11.6.1(a) Zoning Compliance to clarify application requirements and to amend Article 9.9 Commercial Communication Tower to comply with G.S. Chapter 160D-937 on co-locating wireless facilities on Town utility poles. *(Kayleigh Mielenz)*
 - 4.B. Consider an amendment to Section 7.3.3 of the Zoning Ordinance to increase the buffer yard width when a proposed development is more dense than adjoining existing development. ()
 - 4.C. Consider a Town Board sponsored amendment to Article 4, Urban Workplace and Shopfront Building Types clarifying how to count residential and non-residential floor areas in mixed-use buildings. ()
- 5. Other Business**
 - 5.A. Review table for School of Government checklist *(Kayleigh Mielenz, Emily Sloop)*

5.B. Discuss making ordinances more user-friendly (*Jack Simoneau, Kayleigh Mielenz*)

5.C. Discussion on large-scale one building one lot apartment in certain zoning districts ()

6. Adjourn

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met in person at 3:30 p.m. on Wednesday, October 6, 2022, at Town Hall 101 Huntersville-Concord Road.

Call to Order/Roll Call

Chairman Jones called the meeting to order at 3:30 pm.

Voting Members Present: M. Jones, T. Taylor, A. Hallman, K. Jones, J. Kluttz, B. Skelly, H. Whittaker, T. Finlay, and J. Henson (Planning Board member for F. Gammon).

Voting Members Absent: B. Skelly

Non-Voting Members Present: Commissioner Munger, J. Simoneau, T. Barron, E. Sloop, and J. Glass

Non-Voting Members Absent: None

Approval of Minutes

Item 2A. Consider approval of the September 1, 2022, Regular Meeting Minutes

Motion: K. Jones made a Motion to Approve the September 1, 2022, minutes. J. Kluttz seconded the motion.

Vote: The motion passed (6-0-2) with T. Finlay and J. Henson abstaining due to not being in attendance.

Public Comments

No comments.

Action Agenda

Item 4A. Discuss land use issues identified at September 6, 2022 Town Board work session

K. Mielenz, Planner I presented the Huntersville 2040 Community Plan items that have been identified by Boards and Staff as items that we would like to give attention to. The areas of concern were highlighted and included major residential subdivision administrative decision without ability to increase 20' setback from adjoining incompatible development, large scale one building/one lot apartments adjacent to smaller scale residential as "by right" development, unintentionally incentivizing large scale one building/one lot apartments "by right" versus smaller scale major subdivisions which are limited to 30% attached (i.e., townhomes), the state statute addressing "harmony" requirements when there are two or more affordable units, and senior age-restricted housing.

H. Whittaker asked what the definition of "underutilized" is as indicated on the Land Supply Map. Staff responded that it would be tracts of land large enough to be developed and currently being used in a limited capacity such as vacant, wooded, or single-family home.

K. Jones asked where definitions for words like “underutilized” as used here could be found. Staff stated that it could be project specific and they may need to contact staff.

Item 4B: Discussion on School of Government Checklist

M. Jones stated that he would like to know from Staff which items have been addressed and which items are outstanding related to legislative changes. Staff responded that Legal has reviewed and addressed the majority of the items that are applicable to the Town of Huntersville. There is one outstanding text amendment that Staff and Legal are currently preparing regarding the skirting of mobile homes.

M. Jones requested that Staff prepare a list identifying how each item was addressed via which text amendment and a date be provided for when any outstanding items will be addressed. E. Sloop, Town Attorney confirmed that all items from both checklists have been addressed. The only outstanding items are caveats and relative to mobile home skirting and co-location of small cell wireless facilities. Many of the items are not applicable to the Town of Huntersville because we do not handle building code, we have an interlocal agreement with Mecklenburg County.

M. Jones followed up and asked if the plat appeal subdivision changes have been addressed. E. Sloop responded that it has. M. Jones confirmed that Staff would provide the Board with a table. Staff confirmed they would provide the table.

Item 4C: Discussion on making the Zoning Ordinance more user friendly

M. Jones stated that a table of contents and table of uses for the Zoning Ordinance would be beneficial for users and staff. Staff confirmed that there is a table of contents for the Zoning Ordinance and Staff is currently researching and working on a Use Chart. Additionally, the Town has purchased MuniCode and we are currently transitioning all of our online ordinances to MuniCode so the product will be more consistent. MuniCode will have integrated hyperlinks as well as be a searchable product.

A. Hallman commented that an index would be nice to identify terms and make the document more user-friendly. She provided the example of ‘mixed-use’ which has multiple aspects of the Zoning Ordinance affecting it and it is very difficult to understand all of the uses that apply.

J. Henson commented that he has been able to find everything he needs because of the frequency that he uses the document. Staff restated that MuniCode is currently in process and nearing completion.

H. Whittaker requested that the Board be emailed when MuniCode is available so they can begin reviewing it.

M. Jones recommended that Staff complete a survey with applicants and/or their consultants to get some feedback from them in addition to the Board to save time for Staff and applicants and make things less complex. Staff stated we could look into that.

Commissioner Munger asked if reorganization of the Ordinances could also potentially have negative effects for developers and contractors who are familiar with what we have. J. Henson responded yes, there will be a learning curve. Staff confirmed that the language is not changing with the addition of MuniCode the goal is that the platform will make navigating the Ordinances simpler.

J. Henson asked if there is a potential for one application, the Land Development application, General Development application, TIA determination, Financial Responsibility Form. They are very repetitive, and all require the owner's signature. If there is a way to combine the applications into one form for multiple uses that would be helpful. Staff said we could look into that.

A. Hallman commented on missing definitions in Article 12 to make the document more user-friendly for things such as plat, sketch plan, concept plan, preliminary plan. Staff stated that the Board could present that for a text amendment.

K. Jones commented that she agrees that there are definitions that should be added and/or clarified as they can often make/break an interpretation. Staff said that if there is a specific list of words that are being recommended to please email those to staff so they can begin the process of reviewing those to bring them back as a text amendment.

M. Jones restated that he thinks it would be extremely beneficial to survey and get feedback from applicants and/or applicant's consultants as well as this Board and anyone else who can recommend methods to make it easier to work with. Staff stated that 4-5 years ago Staff met with Developers, Engineers, and Architects to address concerns. Changes and updates were recommended that led to some procedural changes and text amendments to be efficient and friendly for both businesses and residents. J. Henson commented that when Land Development was brought in house there were discussions, he was involved with to determine how to best implement those changes. Staff followed up that we understand the importance of keeping the communication going and keeping our processes efficient and effective for all parties. Staff stated that for the request of the survey we would ask for some time as we are quite busy. M. Jones offered to assist.

Item 4D: Discussion on NCAZO Conference presentation and Visible Properties vs Village of Clemmons

M. Jones reviewed the NCAZO presentation slides from A. Lovelady and stated that while this case was relative to signs the point of presenting this is that the court cited, "Determining which zoning provisions apply requires so much cross-referencing it is almost dizzying." Additionally, when there is a conflict, we are supposed to try to harmonize to try to avoid a conflict when one exists. If we have ambiguous provisions in our ordinance and we do not have those defined, then we need to return those in favor of the free use of the property. A. Lovelady's takeaway is clean up your ordinance. M. Jones stated that many of our Zoning Ordinances have ambiguous language, missing definitions, and terms, and determine if we want to leave/define or consciously know the language is ambiguous and ensure that the

interpretation is in favor of the free use of the property. Staff stated that if the Board has terms, they find ambiguous to please provide those over, it is an ongoing process and Staff will be happy to review them for a possible text amendment.

Staff commented on the benefits that can also come from items being open-ended in achieving the goals of the Town. M. Jones responded that we want to remain flexible and adaptive but not ambiguous and murky. A. Hallman commented that we also do not want it to be surprising and shocking. As an English major she is excited about the possibility of working on this and would like to see the approach be more organized and thoughtful. Staff stated that if the Board desires they may need to determine if this should be the efforts of a sub-committee.

T. Finlay commented that he agrees on being flexible and fluid and asked if we have sufficient Staff to handle all these requests. Staff responded no we are not sufficiently staffed. Currently the work demand of Planning is too great, and we have two positions we are advertising for and have not yet been able to fill. T. Finlay commented that it is important for the Board to know the realities of staffing on these asks and as the Town grows, we are going to have need for changes.

K. Jones commented that she understands the need for staffing but when we have projects that are going through and that are going to affect our town forever that some things cannot be put on the back burner. Staff agreed that it is all about prioritizing and there are things that statutorily need to be addressed and staff is doing their best to keep up with the current demands.

M. Jones offered to assist and asked the members of the Board to put the terms for definitions or that are ambiguous together for Staff to review. He referenced the NCAZO presentation and identified that ambiguous terms are defined as when there are two or more reasonable interpretations of a law. Staff stated that internally there are also interpretation sheets to provide for consistent interpretation of ordinances.

Other Business

No other business.

Adjourn

Motion: A. Hallman made a Motion to Adjourn. K. Jones seconded the motion.

Vote: The motion passed unanimously (8-0).

Approved this ____ day of _____ 2022.

Chairman or Vice Chairman

Board Secretary



Text Amendment Application

Date of Application 10/01/22

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☐ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other
☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): _____ Section(s): _____

Current Ordinance

See attached

Proposed Text

See attached

Reason for Proposed
Change

To comply with G.S. 160D-910 on manufactured home
skirting & comply with G.S. 160D-937 on the
co-location of wireless facilities on town owned utility poles.
Also to update permit application standards for Zoning Use
permits.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Town of Huntersville Planning Department

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: municipality

Signature Kayleigh Mielenz Date 10/01/22

Title Planner I Email Kmielenz@huntersville.org

Address of Applicant 105 Gilead Rd, 3rd Floor, Huntersville, NC 28070

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

Town of Huntersville
Planning Department
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: 10/01/22

Staff Initials: KIM

AN ORDINANCE TO AMEND THE TOWN OF HUNTERSVILLE ZONING ORDINANCE ARTICLE 3.3.1(a) MANUFACTURED HOME OVERLAY DISTRICT TO UPDATE SKIRTING REQUIREMENTS FOR MANUFACTURED HOMES TO COMPLY WITH G.S. CHAPTER 160D-910 AND TO AMEND ARTICLE 11.6.1(a) ZONING COMPLIANCE TO CLARIFY APPLICATION REQUIREMENTS AND TO AMEND ARTICLE 9.9 COMMERCIAL COMMUNICATION TOWER TO COMPLY WITH G.S. CHAPTER 160D-937 ON CO-LOCATING WIRELESS FACILITIES ON TOWN UTILITY POLES

Section 1. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Section 3.3.1(a) Manufactured Home Overlay District (MH-O), Permitted Uses, is hereby amended as follows:

a) Permitted Uses

Uses permitted by right

- all uses permitted by right in the underlying district, according to the standards of the underlying district
- family care homes

Uses permitted with conditions

- all uses permitted with conditions in the underlying district, according to the standards and conditions associated with the underlying district.
- Manufactured Homes, provided that:

(a) The home shall be set up in accordance with the standards set by the North Carolina Department of Insurance.

(b) A continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home. **Notwithstanding the foregoing, this requirement does not apply to manufactured homes located on land leased to the manufactured homeowner.**

(c) The home will have all wheels, transporting lights, and towing apparatuses removed.

(d) The structure must be at least 14 feet in width along the majority of its length.

(e) The roof shall have at least a 3:12 pitch.

(f) Exterior wall and roofing materials and finishes shall be comparable in composition, appearance and durability to those commonly used in conventional residential construction. As examples, exterior walls would be expected to be covered in wood, stucco, brick, stone, other masonry materials, or similar conventional exterior finishes. Roofing material should consist of wood shingle, wood shake, synthetic composite shingle, ceramic tile, concrete tile, or similar conventional roofing materials.

(g) All entrances to a manufactured home shall be provided with permanent steps, porch or similar suitable entry.

Section 2. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Article 11.6.1(a) Zoning Compliance is hereby amended as follows:

11.6 Zoning Compliance

.1 Zoning Compliance

- a. A completed application form for a Zoning Permit shall be submitted by filing a copy of the application in the office of the Zoning Administrator. **All applications shall be signed by the property owner.**
- b. The **Zoning** Administrator shall approve the Zoning Permit unless ~~he~~ **the Zoning Administrator** finds, after reviewing the application and consulting with the applicant that:
 - 1) The requested Permit is not within ~~his~~ **their** jurisdiction according to the Permitted Uses; or
 - 2) The application is incomplete; or
 - 3) If completed as proposed in the application, the development will not comply with one (1) or more requirements of this ordinance (not including those requirements for which a variance has been granted); or
 - 4) If required under Article 14, no Traffic Impact Assessment has been approved by the Town.

Section 3. BE IT ORDAINED by the Board of Commissioners of the Town of Huntersville, North Carolina, that Zoning Ordinance Article 9.9 Commercial Communication Tower is hereby amended as follows:

9.9 Commercial Communication Tower

A Commercial Communication tower shall meet the following standards:

1. To encourage future shared use of commercial communication towers, the tower owner must demonstrate that the tower will support a specified number of antennas and must file a letter of intent with the town to lease the space to other users in good faith. In turn, the owner may charge users a proportionate share of capital, financing, and operating costs, plus the cost of insulating equipment so that the transmissions do not interfere with one another. To encourage collocation of commercial communication antenna and facilities and to reduce the need for new commercial communication towers, co-location of such antennae and facilities shall be permitted on any commercial communication tower or tower for radio communication for business or governmental purposes of which the tower was in existence on July 20, 2009, regardless of when it was constructed, the underlying zoning district, or any condition of approval for the existing tower other than a condition which was imposed or accepted by the Board of Commissioners. To the extent practical as determined by the Planning Director, all standards of this Section 9.9 shall be applicable.

- .2 No new commercial communication tower may be established if there is a technically suitable space available on an existing communications tower within the geographic area that the proposed tower is to serve.
- .3 The entire facility must be aesthetically compatible with its environment. If not otherwise camouflaged, towers shall be of a coloration that will blend with the surroundings. Example: brown/green/gray.
- .4 Fencing must be provided to secure the communication equipment on site. If chain link or similar fencing material is used on the site, an opaque screen shall be provided on the exterior side of the fence.
- .5 All obsolete or unused facilities must be removed within 12 months of cessation of operations at the site.
- .6 Equipment, mobile or immobile, not used in direct support of the transmission or relay facility shall be stored or parked on the site unless repairs to the facility are being made.
- .7 Towers shall not be artificially lighted except to ensure human safety as required by the Federal Aviation Administration (FAA) regulations. To the extent possible, tower lighting shall be located and directed to avoid flashing or shining into the interior spaces of dwellings.
- .8 An opaque screen expected to reach minimum 8' height at maturity shall be planted around the perimeter of the area occupied by the tower, security fencing, and auxiliary uses such as parking. In addition, existing onsite trees and other vegetation shall be preserved to the extent possible.
- .9 No more than one communication tower shall be constructed on a single tract of land.
- .10 If such a structure is located on a lot adjacent to a lot or lots located in a residential or mixed-use district, it must be located at least 200 feet from all property lines adjacent to the residential or mixed use district(s).
- .11 To be permitted as an incidental accessory use in any zoning district, a tower shall be camouflaged on, with, or in an existing or proposed conforming structure (e.g., inside religious institution steeple, on utility transmission line tower). A detailed site plan and structural elevations must be submitted to the Planning Department for approval. The affirmative decision of the Planning Department shall be based upon a determination that the proposed tower is so camouflaged as to be unnoticeable to the public; or if placed upon a utility transmission line tower, that the additional equipment would not further diminish the quality of the view from surrounding properties and public streets, nor would additional light(s) intrude upon the private interior or exterior living areas of existing dwellings.
- .12 Commercial Communication Towers, in addition to meeting criteria 9.9.1-9.9.10, may be allowed in the Rural (R) district only if they meet the following criteria and are subject to a Special Use Permit, according to the procedures of Section 11.4.10:
 - a. The height of the commercial communication tower may not exceed 199 feet above ground level;

- b. The commercial communication tower may only be placed on properties in eight and a half (8.5) acres on a tract that existed as an eight and a half (8.5) acre tract or greater on February 6, 2012;
- c. The commercial communication tower must be set back a distance of at least 500 feet from any public right-of-way and 200 feet from any property line;
- d. The commercial communication tower may only be placed on a property where it will not require artificial illumination;
- e. The commercial communication tower must provide technically-suitable space for at least four (4) users;
- f. The commercial communication tower must be set back a distance of at least the tower's fall zone, as certified by a North Carolina Professional Engineer, from any occupied structure.
- g. All commercial communication towers in the Rural district shall be constructed using a monopole design.
- h. A new communication tower cannot be placed within a one-mile radius of an existing tower.

.13 Collocation on town-owned utility poles shall be in accordance with N.C.G.S. § 160D-937.

.14 Nothing in Article 9.9 shall be interpreted to conflict with the provisions of N.C.G.S. § 160D-938.

Section 4. EFFECTIVE DATE

This ordinance shall become effective upon the date of adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: November 3, 2022

PUBLIC HEARING DATE: January 3, 2023

PLANNING BOARD MEETING: January 24, 2023

TOWN BOARD DECISION: February 20, 2023

§ 160D-910. Manufactured homes.

(a) The General Assembly finds that manufactured housing offers affordable housing opportunities for low- and moderate-income residents of this State who could not otherwise afford to own their own home. The General Assembly further finds that some local governments have adopted zoning regulations that severely restrict the placement of manufactured homes. It is the intent of the General Assembly in enacting this section that local governments reexamine their land-use practices to assure compliance with applicable statutes and case law and consider allocating more residential land area for manufactured homes based upon local housing needs.

(b) For purposes of this section, the term "manufactured home" is defined as provided in G.S. 143-145(7).

(c) A local government may not adopt or enforce zoning regulations or other provisions that have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based on the age of the home.

(d) A local government may adopt and enforce appearance and dimensional criteria for manufactured homes. Such criteria shall be designed to protect property values, to preserve the character and integrity of the community or individual neighborhoods within the community, and to promote the health, safety, and welfare of area residents. The criteria shall be adopted by ordinance.

(e) In accordance with the local government's comprehensive plan and based on local housing needs, a local government may designate a manufactured home overlay district within a residential district. Such overlay district may not consist of an individual lot or scattered lots but shall consist of a defined area within which additional requirements or standards are placed upon manufactured homes.

(f) Nothing in this section shall be construed to preempt or supersede valid restrictive covenants running with the land. The terms "mobile home" and "trailer" in any valid restrictive covenants running with the land shall include the term "manufactured home" as defined in this section.

(g) A local government may require by ordinance that manufactured homes be installed in accordance with the Set-Up and Installation Standards adopted by the Commissioner of Insurance; provided, however, a local government shall not require a masonry curtain wall or masonry skirting for manufactured homes located on land leased to the homeowner. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2021-117, s. 6(a).)

§ 160D-937. Access to city utility poles to install small wireless facilities.

(a) A city may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on city utility poles. A city shall allow any wireless provider to collocate small wireless facilities on its city utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per city utility pole per year. The North Carolina Utilities Commission shall not consider this subsection as evidence in a proceeding initiated pursuant to G.S. 62-350(c).

(b) A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the city to be reimbursed by the wireless provider. In granting a request under this section, a city shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) If a city that operates a public enterprise as permitted by Article 16 of Chapter 160A of the General Statutes has an existing city utility pole attachment rate, fee, or other term with an entity, then, subject to termination provisions, that attachment rate, fee, or other term shall apply to collocations by that entity or its related entities on city utility poles.

(d) Following receipt of the first request from a wireless provider to collocate on a city utility pole, a city shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the city utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(e) In any controversy concerning the appropriateness of a rate for a collocation attachment to a city utility pole, the city has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.

(f) The city shall provide a good-faith estimate for any make-ready work necessary to enable the city utility pole to support the requested collocation, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a city utility pole necessary for the city utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.

(g) The city shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

(h) Nothing in this Part shall be construed to apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended, or under G.S. 62-350.

(i) Nothing in this Part shall be construed to apply to an electric membership corporation organized under Chapter 117 of the General Statutes that owns or controls poles, ducts, or conduits and is exempt from regulation under section 224 of the Communications Act of 1934, 47 U.S.C. § 151, et seq., as amended. Nothing in this section shall be construed to affect the authority of an electric membership corporation to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to its utility poles or wireless support structures by a wireless provider. This section shall not be construed to alter or affect the provisions of G.S. 62-350, and the rates, terms, or conditions for the use by communications

service providers, as defined in G.S. 62-350, of poles, ducts, or conduits owned by electric membership corporations. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2021-180, s. 38.10(o).)

BUFFER YARD AMENDMENT ISSUE:

The Town approved an amendment to the Subdivision Ordinance (below) making Section 6.200(2) "Conformity" a guideline instead of requirement. As a result, the Town no longer has the flexibility to require more than the 20' buffer established for new residential subdivisions when they adjoin other lower density development. The proposed amendment provides for an increased buffer width and vegetation when a new major residential subdivision adjoins residentially developed property that has half the density.

6.200 GENERAL ~~REQUIREMENTS AND POLICIES~~ GUIDELINES AND REQUIREMENTS

The following statements provide general ~~requirements and policies~~ guidelines and requirements to be used in the design, ~~review, and approval~~ of any subdivision under the jurisdiction of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Planning Director or Designated Administrative Agent at the earliest possible time in the development of a subdivision proposal. (*See Section 4.000 for appeal process*).

6.200-A GENERAL GUIDELINES

1. Consistency with adopted public plans and policies.

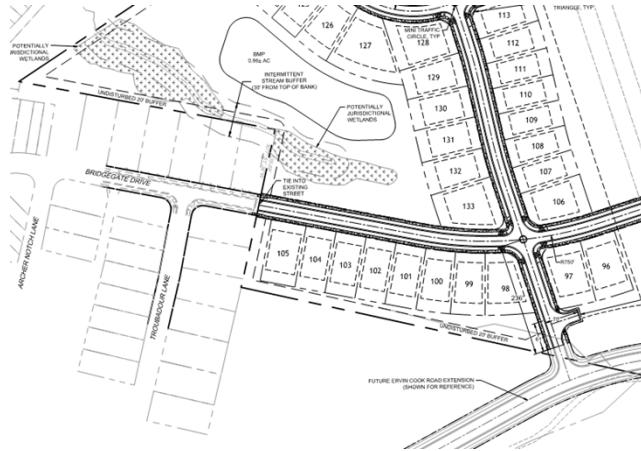
All subdivision of land approved under these regulations should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.]

2. Conformity.

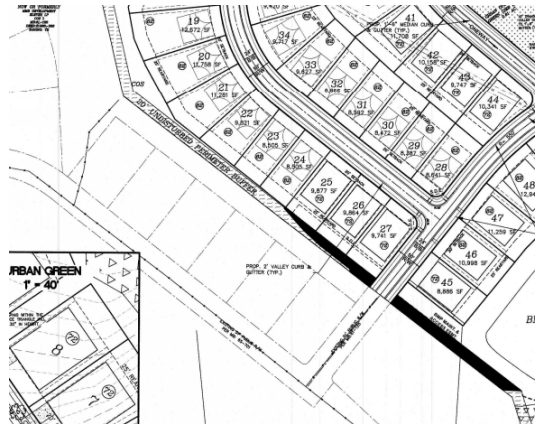
All proposed subdivisions ~~should~~ be planned ~~so as to~~ facilitate the most advantageous development of the entire neighboring area. In areas with established and/or approved development, new subdivisions ~~should~~ be planned to protect and enhance the stability, environment, health, and character of neighboring areas. The geometry of streets and intersections and the location of street connections ~~should~~ be assessed to minimize the detrimental effects of high volume, high speed neighborhood through traffic. This assessment will consider the location of large-scale traffic generating uses as well as the adopted thoroughfare plan and other adopted plans. Proposed subdivisions ~~should~~ not endanger the public health and safety of the community, further, orientation of principal structures ~~should~~ avoid backing up to public streets because of lack of privacy and inappropriate relationship to the public realm. Use of single-loaded streets where development is only on one side of the street or providing large expanses of open space where principal structures are visually buffered from the road may be appropriate in circumstances where such structures should not front on the existing public street. ~~The Town Board of Commissioners may allow a deviation to the orientation due to topography issues or existing vegetation visually buffering structures from the public street.~~

EXAMPLES

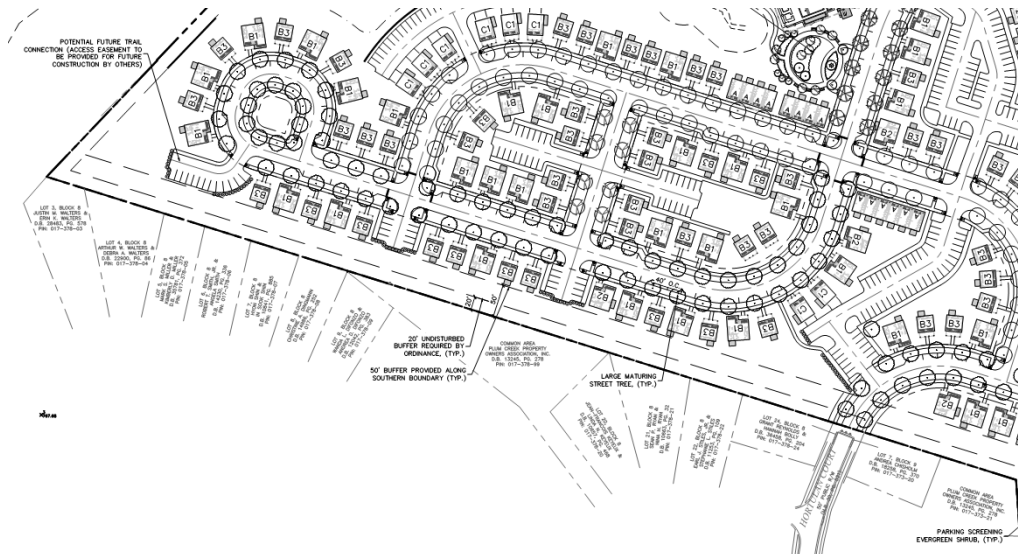
Whitaker Pointe (aka Cook Farm) – No increased buffer because lots are the same size and type as existing Gilead Ridge.



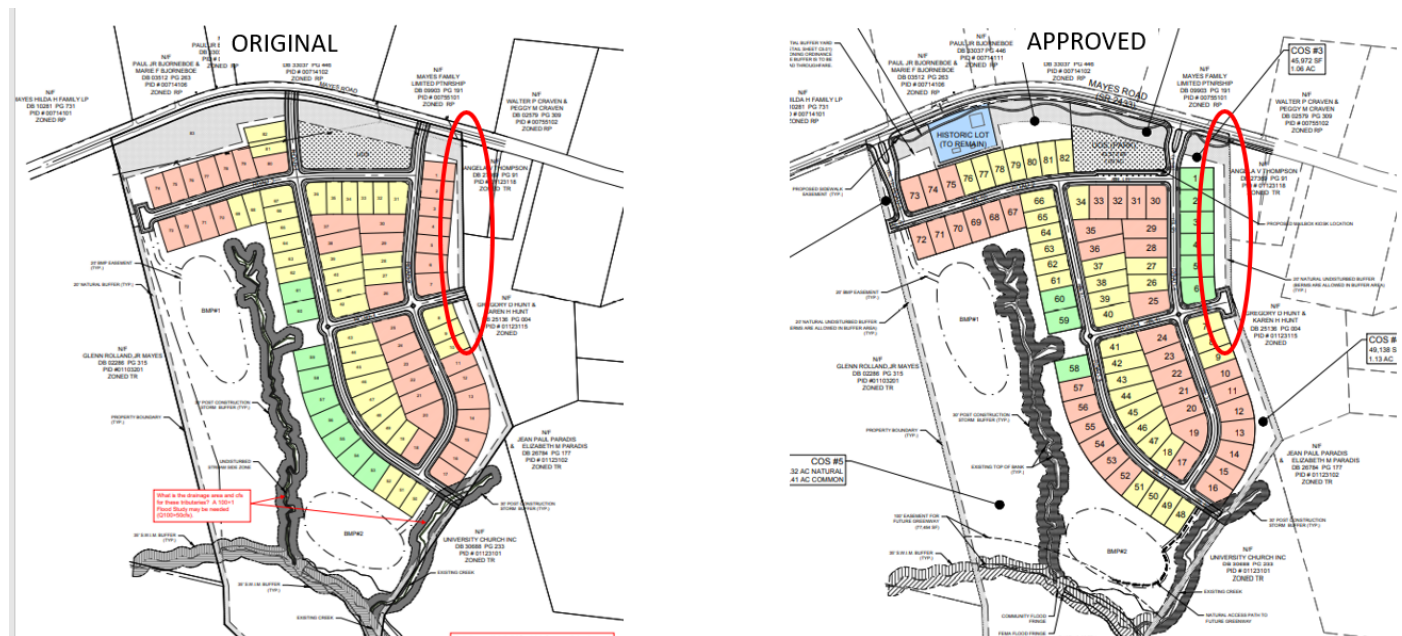
Brownleigh (Asbury Chapel Rd) – No increased buffer because lots are the same size and type as existing Mirabella.



Hamlet at Huntersville – Increase of 20' buffer to 40' because the Hamlet is more than 2 times as dense as the existing Plum Creek neighborhood.



Mayes Road – Increase of 20' minimum buffer to 40' because the Mayes Road is more than 2 times as dense as the existing residentially developed property in this area.



Buffer Yards (**Proposed Amendment Bold Underlined**)

.3 Function

A buffer yard shall function as an opaque or semi-opaque barrier between the viewer and the use or structure to be buffered. Therefore, the exact location and arrangement of materials in the buffer yard will be determined based upon an analysis of site topography and sight lines from public spaces or private properties, which are to be protected. The density of the buffer yard is determined by the intensity of the use and the zoning district. Buffer yard plantings shall meet or exceed the following standards:

Description	Condition where Buffer required	Width	Trees ¹	Shrubs ¹
I-77 Buffer	Any property abutting I-77 right-of-way	50 feet, greater if required by the district	5 trees per 1000 sq/ft of buffer area; 75% large maturing; 50% evergreen	8 shrubs per 1000 sq/ft 75% evergreen
CI, CB and SP	Any property zoned CI, CB, or SP ²	80 feet abutting street right-of-way and property lines ²	4 trees per 1000 sq/ft of buffer area; 75% large maturing; 50% evergreen; 25% small maturing	5 shrubs per 1000 sq/ft 75% evergreen
Non-residential uses not otherwise listed	Any developing non-residential use abutting a lesser intense use and/or district when not internal to a planned development ^{3, 5}	30 feet ⁶	4 trees per 1000 sq/ft of buffer area; 50% large maturing; 25% small maturing; 50% evergreen	7 shrubs per 1000 sq/ft 100% evergreen
Civic Uses - schools - religious institutions - govn't bldgs. - libraries	Any civic use abutting a property zoned residential or current use is residential ^{3, 5}	30 feet ⁶	4 trees per 1000 sq/ft of buffer area; 50% large maturing ; 25% small maturing; 50% evergreen	7 shrubs per 1000 sq/ft 100% evergreen
Residential	Any major residential subdivision abutting a property zoned residential or developed residential, not internal to a planned community ⁴	20 <u>or 40</u> feet ²	3 trees per 1000 sq/ft of buffer area; 25% large maturing; 25% small maturing; 25% evergreen	10 shrubs per 1000 sq/ft 100% evergreen

¹ Minimum tree size is 2" caliper, with minimum height 8' to 10' at time of planting. Shrubs planted shall have a minimum height of 3' at installation, expected height of 6' at maturity.

² The CB, CI, and SP buffer is not required if the subject property is abutting a property zoned CB, CI, or SP. Further, a full eighty (80) foot buffer may be reduced along street frontages where building scale, frontage relationship, and location of accessory uses ensure design compatibility off-site.

³ Where non-residential uses are a part of a mixed-use development, buffer yards are not required between lesser intense uses.

⁴ Where connectivity between subdivisions is appropriate for high quality neighborhood design, the Town Board may reduce or waive the required buffer yard.

⁵ Except where non-residential uses in the HC and VS district abut residential uses, buffer yard width may be reduced to 10' if evergreen shrubs are used that will reach a minimum height of 8' at maturity. Shrubs shall be planted to create a complete visual buffer.

⁶ The hierarchy of uses from lower intensity to higher intensity for purposes of determining buffer yards shall be as follows: Residential; Civic; Commercial/Office; Industrial.

⁷ Except in the Town Center District, buffer yard width shall be a minimum of 40' along all property lines where a proposed development has a density of more than 2 times greater than an adjoining developed property. In all other cases, a minimum 20' buffer yard shall apply.



MEMO

To: Huntersville Ordinances Advisory Board
From: Jack Simoneau, Planning Director
Date: 10/27/2022
Subject: Determining Residential First Floor Area in Mixed Use Buildings

The recent North State Town Center mixed use building highlighted a need to clarify how first floor area is determined in mixed use buildings. The ordinance currently reads:

“Residential up to 50% of 1st floor area or Non-residential Only”

The current ordinance is silent on how to classify floor area that is shared space between residential and non-residential. Further, there is concern with the general meaning of “non-residential”.

To address these concerns, the term “non-residential” floor area will be replaced with “commercial”, and the proposed ordinance will address how to calculate shared floor area as follows:

First floor commercial floor area shall include floor area used exclusively for commercial uses and shall not include any floor area that contains or is shared with residential uses, such as storage, mechanical rooms, etc. Any floor area devoted partially or wholly to serving residential uses, shall be considered residential floor area.

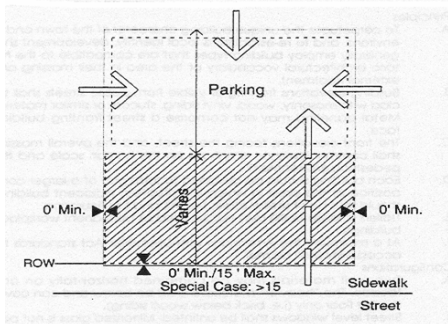
Please let me know if you have any questions.

Planning

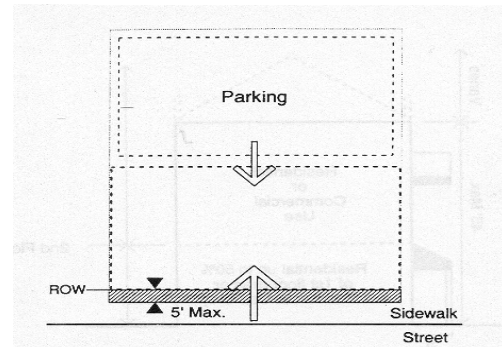
Post Office Box 664 • 101 Huntersville-Concord Road • Huntersville, NC 28070
phone 704.875.7000 • fax 704.875.6546 • www.huntersville.org

Lot Type / Urban Workplace

Building Placement/Parking/Vehicle Access



Encroachment/Pedestrian Access to Building



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build to line will range from 0' to 15' behind street right-of-way (ROW). Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback.
2. Building facades shall be generally parallel to frontage property lines. The façade shall be determined by the massing of the building.
3. Parking shall be located primarily to the rear of the building; sideyard parking shall occupy no more than 35% of the primary frontage line and shall not be placed in any sideyard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on sideyard parking may be modified.
4. Points of permitted access to the parking indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas.
6. Parking areas on adjacent lots shall be connected wherever practical.
7. Trash containers shall be located in a rear parking area (see Parking Regulations) and shall be screened from the right-of-way.
8. Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principal structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.
9. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale.

1. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height (min. 7'-6") are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover entire sidewalk.
2. Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

Special Conditions:

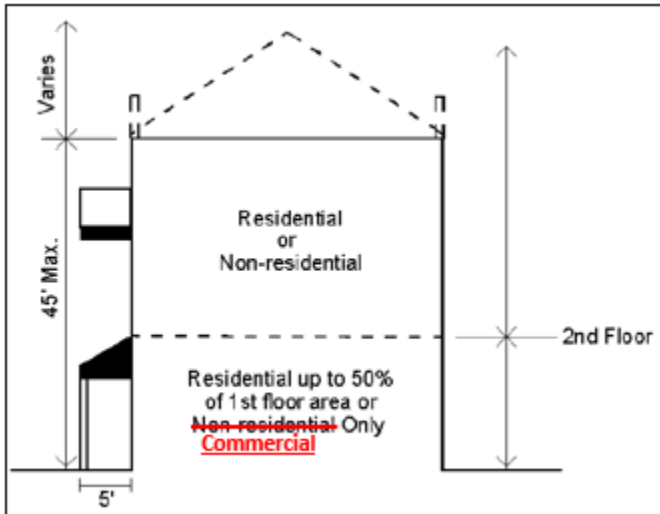
1. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street.
2. Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

Description:

The workplace building may be a large structure (15,000+ square feet) and may have a single use/tenant. Office, industrial, and commercial tenants are typical. Southern mill villages often provide examples of how these buildings can reasonably coexist with other businesses and homes. Locke Mill Plaza, in Concord, provides a good example with its placement at the end of prestigious Union Street. These buildings are critical to the town as employment centers and commercial service locations. The buildings will provide space for industry, large offices, as well as hotels, conference facilities, and large retail uses such as a full-service grocery store. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Building Type / Urban Workplace

Permitted Height and Uses



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above and are further controlled by zoning district standards.
5. Hotels in the Highway Commercial (HC) zoning district may exceed the maximum building height (shown above), not to exceed six (6) stories, subject to the provisions of Article 9.45.
6. **First floor commercial floor area shall include floor area used exclusively for commercial uses and shall not include any floor area that contains or is shared with residential uses, such as storage, mechanical rooms, etc. Any floor area devoted partially or wholly to serving residential uses, shall be considered residential floor area.**

Architectural Standards

Principles

- A. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are compatible to the historic architectural vocabulary of the area in their massing and external treatment.
- B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. Decorative metal panels, such as Aluminum Composite Material (ACM) panels, may be used as an accent or trim material and as cladding for building accent elements such as canopies and their supporting structure. However, decorative metal panel accents may not exceed 30% of any façade visible from the street.
- C. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
- D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
- E. Trailers (mobile units) may not be used as permanent workplace buildings.

Configurations

- A. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below and can cover the first floor only (i.e. brick below wood siding).
- B. Street level windows shall be untinted. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location.
- C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.

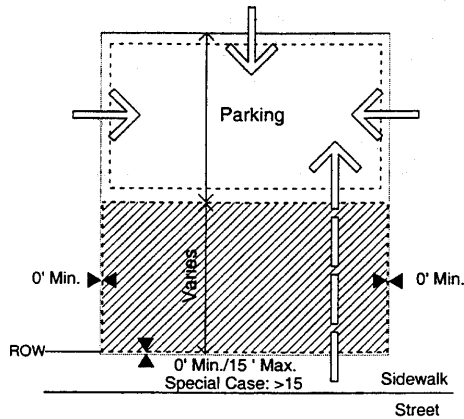
Techniques

- A. Windows should be set to the inside of the building face wall.
- B. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.

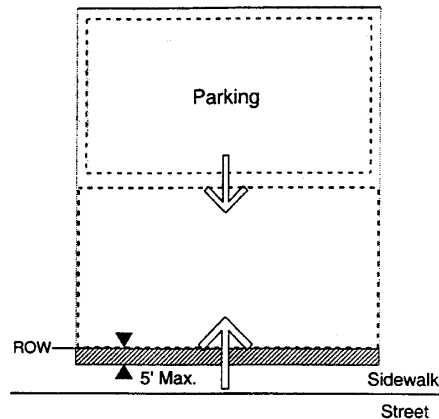


Lot Type / Shopfront Building

Building Placement/Parking/Vehicular Access



Encroachment/Pedestrian Access to Building



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build to line will range from 0' to 15' behind street ROW. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a larger setback.
2. Building facades shall be generally parallel to frontage property lines.
3. Parking shall be located to the rear of the building; sideyard parking shall occupy no more than 25 percent of the primary frontage line and shall not be placed in an established sideyard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on sideyard parking may be modified.
4. Points of permitted access to the parking indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (min. 3' in height) shall be installed along any street frontage adjacent to parking areas.
6. Parking areas on adjacent lots shall be connected wherever practicable.
7. Trash containers shall be located in a rear parking area (see Parking Regulations).
8. Mechanical and utility equipment at ground level shall be placed in the side or rear yard and shall be screened from view by opaque screening from grade level along any public street or adjacent property (Article 7.6.2). Buildings that front on more than one public street may have mechanical and utility equipment located within a street facing yard, provided it is visually screened using compatible building materials and design as the principal structure. This is applicable only where no other reasonable option exists as determined by the Administrator. Examples of features limiting the location of mechanical and utility equipment may include, but not limited to, the physical layout of existing building, the presence of easements, elevation changes, etc.

1. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover entire sidewalk.
2. Primary pedestrian access into the building shall be from the street frontage line (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).

Special Conditions:

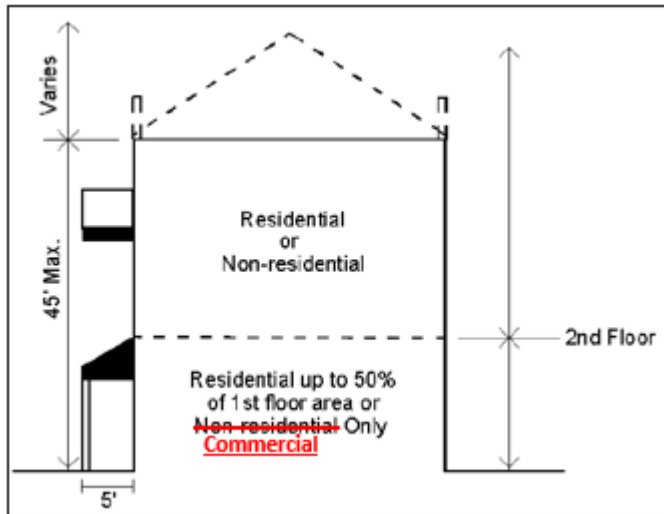
1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
2. Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street.
3. Setbacks at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. Squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

Description:

The shopfront building is a small-scale structure which can accommodate a variety of uses. The structure is typically a maximum of 15,000 square feet. A group of shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be used to provide some commercial service, such as a convenience food store, in close proximity to homes. Traditional commercial buildings in the old town provide good examples. Hotels, inns, and conference centers may be placed in shopfront or mixed-use buildings. Where possible, structures shall be designed to terminate vistas or serve as key focal points in the neighborhood.

Building Type / Shopfront Building

Permitted Height and Uses



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above, and are further controlled by district regulations.
5. Where an existing residential building converts to a mixed-use building, at least 40% of the habitable floors area shall be residential
6. **First floor commercial area shall include floor area used exclusively for commercial uses and shall not include any floor area that contains or is shared with residential uses, such as storage, mechanical rooms, etc. Any floor area devoted partially or wholly to serving residential uses, shall be considered residential floor area.**

Architectural Standards

Principles:

- A. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external materials.
- B. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
- C. The front elevations facing the street, and the overall massing shall communicate emphasis on the human scale and the pedestrian environment.
- D. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
- E. Trailers (mobile units) may not be used as permanent shopfront buildings.

Configurations:

- A. Two wall materials may be combined horizontally on one facade. The "heavier" material should be below and can cover the first floor only (i.e. brick below wood siding).
- B. Street level windows should be untinted. Tinted glass with a minimum visual transmittance factor of 35 is permitted. Mirrored or reflective glass is not permitted in any location.
- C. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.

Techniques:

- A. Windows should be set to the inside of the building face wall.
- B. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.



SCHOOL OF GOVERNMENT CHECKLIST

Checklist Item	Item Addressed?	How?
Ensure the local government has a reasonably maintained comprehensive or land use plan by July 1, 2022.	Yes	2040 Plan Adoption
Amend the local ordinance to comply with decriminalization of local ordinances, including decriminalization of local land use ordinances.	Yes	TA21-16
Ensure that remote meeting procedures adhere to new rules under S.L. 2021-35.	Yes	Rules of Procedures have been updated
Amend the local ordinance to strike any requirements for masonry curtain walls or masonry skirting for manufactured homes located on land leased to homeowners.	In process	TA22-13
Amend the local ordinance, review policies, or both to eliminate harmony requirements for permit approval for developments that include affordable housing units for families or individuals with incomes below 80 percent of area median income.	In process	TA22-07
Be aware of N.C. Department of Transportation (NCDOT) rules allowing relocation of billboards.	Yes	
Adjust policies and standards to confirm and preserve water and sewer capacity when requested by schools, including charter schools.	N/A	Board of Education requirement
For street right-of-way setbacks, update sight triangle calculations to ensure they measure from the edge of pavement or within the roadway	Yes	TA 22-03
Adjust timelines for approval of broadband development requests.	Yes	Public Works informed

SCHOOL OF GOVERNMENT CHECKLIST

Confirm that fees for small cell wireless projects conform to new statutory restrictions in S.L. 2021-180, Section 38.10.	In process	TA22-13
Consider updating any local regulations regarding voluntary agricultural districts for consistency with farm bill changes.	N/A	N/A
Revise limitations on redevelopment in water supply watershed areas.	Yes	TA21-16
Update sedimentation and erosion-control ordinances to align with new statutory limitations on fees, plan requirements, and enforcement.	Yes	Amendments approved on Oct 18, 2021 and further amendments approved on Aug 15, 2022
Incorporate limits on reinspection fees.	Yes	TA21-16
Align any building permit thresholds in ordinances to be consistent with new limits.	N/A	County issues building permits
Adopt a land use or comprehensive plan. Each small town (population at or under 1,500) in the state has until July 1, 2023, to adopt a land use plan or comprehensive plan if the town wants to enforce zoning. For other jurisdictions, the deadline was July 1, 2022.	Yes	2040 plan adopted
Amend development regulations to ensure that maximum sizes for parking spaces adhere to Chapter 160D, Section 702 of the North Carolina Statutes (hereinafter G.S.).	Yes	Engineering policy was already in compliance
Note the slightly revised procedures for designating local historic landmarks.	Yes	Updated checklist that Planner uses for intake of historical designations
Consider farm use exceptions. Building inspectors should take note of the changes to the building code exclusion for farm uses, and zoning officials should	N/A	County is responsible for Building code

SCHOOL OF GOVERNMENT CHECKLIST

note the expanded scope of the bona fide farm use zoning exception.		
Note that the state building code will not require more than one fire access road for developments of one- or two-family dwellings where there are fewer than 100 dwelling units.	Yes	Had discussions with County Fire Marshal
Amend development regulations to align appeals of subdivision plat decisions with the clarified statutory rules.	Yes	160D edits and TA 21-14
Ensure that the local government has designated an official to oversee the local government's statutory duties related to building code inspections (listed at G.S. 160D-1104).	Yes	Interlocal agreement with Mecklenburg County already in place
Prepare and publish an annual financial report on how permitting fees are used to support administration of building code enforcement as required by G.S. 160D-402(d). Reporting is due by October 1 of 2023, 2024, and 2025.	Finance Dept. is aware of requirements	
Fill out and turn in funding request paperwork and budget information for receipt of monies from certain state funds. If you have received direct allocations from the State Fiscal Recovery Fund or the Local Assistance for Stormwater Infrastructure Investments Fund, submit a completed Request for Funding form and a project budget no later than June 30, 2023.	Bobby Williams/Finance Dept. is aware of requirements	
Update local notice requirements for Coastal Area Management Act (CAMA) land use plan amendments. Note that local health departments	N/A	N/A

SCHOOL OF GOVERNMENT CHECKLIST

now have a ten-day permitting shot clock for certain onsite wastewater permits.		
Check statutory updates related to social districts. Any jurisdiction that has or is considering a “social district” should review the updated statutes.	Yes	Ordinance Approved June 6. Revised Ordinance Approved August 15, 2022



HOAB suggested updates to Zoning Ordinance:

- Add table of permitted uses
 - [Staff comment: Staff has been working on a table of permitted uses](#)
- Add index of terms
 - [Staff comment: Municode will address](#)
- Add table of contents to .pdf versions of ordinances
 - [Staff comment: .pdf version will be updated](#)
- Identify ambiguous terms in ordinance and consider defining, replacing, or leaving the terms
- Update definitions to include common terms used in the ordinance
 - ex. non-commercial, non-residential, mini-warehouse storage, etc.

HOAB general suggestions:

- Survey stakeholders for feedback on our development processes and ordinances
- A single application for land development (General Application, TIA, FRO)

Planning

Post Office Box 664 • 105 Gilead Road, Third Floor • Huntersville, NC 28070
phone 704.875.7000 • fax 704.992.5528 • www.huntersville.org

CONCERN

- 1 large scale apartment on 1 lot
- Statute “harmony” provision not permitted w/2+ affordable unit
- Major subdivisions limited to 30% attached but can have 1 large apartment building

OPTIONS

- Limit # units; limit acres; increase setback based on size
- Same as above
- Consider allowing townhomes as an option to 1 large apartment building