



**Huntersville Ordinances Advisory
Board Agenda
August 5, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

- NOTICE VIRTUAL MEETING -

Virtual Meeting Information - Members of the public may view the meeting on RingCentral at: <https://webinar.ringcentral.com/j/1467181819> or by telephone at: (470)869-2200 with Webinar ID: 146 718 1819

A. Call to Order

B. Adoption of July 1, 2021 Minutes (Attachment 1)

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

1. TA21-09, a request by Strategic Capital Partners to amend Section 8.25 allowing the Board of Commissioners to approve modification of a SWIM buffer through a conditional rezoning process in the Corporate Business zoning district using Army Corps of Engineer mitigation practices (Attachment 2 Applicant Proposal, Attachment 3 Staff Alternative Language).
2. TA 21-08 S.W.I.M. a request by Huntersville Planning to clarify the method for delineating S.W.I.M. buffers (Attachment 4).
3. TA 21-10, a request by Huntersville Planning to modify the 80' buffer in the CB, SP and CI zoning districts along street frontages (Attachment 5, 6).
4. Continued discussion on text amendment checklist
5. Legal refresher on text amendments and conflicts of interest (Attachment 7)

E. Adjourn



**Huntersville Ordinances Advisory
Board Minutes
July 1, 2021
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING**

A. Adoption of June 3, 2021 Minutes (Attachment 1)

Attendance: M. Jones, T. Taylor, L. Munger, K. Jones, J. Henson, S. Moore, F. Gammon, and T. Finlay

Absent: B. Skelly

Non-voting members present: J. Simoneau, J. Glass & T. Barron

B. Adoption of Minutes

1. Adoption of June 3, 2021 Minutes (Attachment 1)

S. Moore made a Motion to Adopt the June 3, 2021 Minutes. L. Munger seconded the motion. The motion passed unanimously (8-0).

C. Comments from Audience (3 minutes per person allocation)

D. Other Business

S. Moore made a Motion to Amend the agenda and hear items 5 & 6 as items 1 & 2. J. Henson seconded the motion. The motion passed unanimously (8-0).

1. Recommendation on dormitory amendment for Metrolina Greenhouse in TR and R zones with a special use permit (Attachment 2).

J. Simoneau, Planning Director reviewed the modified request which now includes:

- Section 1 & 2. Article 3.2.1 Rural District and Article 3.2.2 Transitional Residential District, Uses permitted with special use permit: Dormitory for a bona fide farm.
- Section 3. Article 9.62 Dormitory: Dormitories for a bona fide farm are permitted in the Rural and Transitional Zoning Districts subject to a Special Use Permit according to the procedures of Article 11.4.10. The Town Board shall issue a special use permit for use in a Rural or Transitional Residential Zoning District if, but not unless, the evidence presented at the Special Use Permit hearing establishes: 1. The use will not endanger health and safety, does not substantially reduce the value of nearby property. 2. The use does not conflict with long range plans. 3. The use does not constitute a nuisance to adjoining properties with respect to noise, dust, fumes, odor, and traffic. 4. Buildings, parking, trash facilities shall be setback at least 100' from any adjoining property line and 500' from any public street right-of-way. 5. The use shall be visual screened year-round from all adjoining properties and public streets. 6. The driveway and parking area shall, at a minimum, be ground asphalt. 7. The dormitory is located on a bona fide farm of at least 100 contiguous acres.
- Section 4. Article 12 Dormitory definition include: bona fide farm

L. Munger thanked the applicants and staff for their work on the amendment and appreciated the inclusion of Rural zoning, which he personally is more in favor of than Transitional Residential zoning, and he plans to support this amendment.

T. Finlay asked staff how many existing farms meet the criteria of the amendment. Staff stated that they do not have that information, but they do not know of any other than Metrolina. The applicants also stated that they were not aware of any, but they did not research to verify.

J. Henson asked staff if dormitories have a height limitation and while the setup proposed has limited traffic, do we need to include anything to address traffic for possible future concerns. Staff and the applicant confirmed that the proposed structure is one-story and there is no TIA requirement because the mode of transportation is a bus. The applicant confirmed that the transportation must be provided in the program, there is a 50-passenger bus and smaller buses that hold 15-25 people. The workers are not allowed to bring cars.

F. Gammon asked staff if the proposed amendment related to H2A or migrant workers should be included in the proposed amendment to ensure that proper regulations and guidelines are being met and this will serve for its intended purpose. The applicant responded that the amendment here is for zoning permit but the State and Federal entities that regulate the H2A program will come out and inspect and require that all of their criteria be met also.

M. Jones expressed concern over the proposed amendment of Article 9.62, Item 1: The use will not endanger health and safety, does not substantially reduce the value of nearby property. This language appears to give neighboring properties veto powers on how someone may use their land. Staff stated that it is the role of the Town Board in hearing Special Use Permits to hear any substantial evidence presented. If a nearby property owner had a concern, they would need to establish that through something like a certified appraisal.

S. Moore asked if the Code of Ordinances related to nuisances would apply and if it is redundant to state this reduction of value for nearby property statement. Staff responded that the Code of Ordinances applies only to properties in the corporate limits and not in the ETJ, where this would be located.

K. Jones asked staff where the neighbors would call and complain in the event that there was noise pollution. Staff responded that they would call Code Enforcement and it would be up to the Planning Department to enforce the standards of the Special Use Permit.

S. Moore made a Motion to Approve the proposed text amendment. L. Munger seconded the motion. The motion passed unanimously (8-0).

2. Continued discussion on street buffer amendment in the CB, CI, and SP zoning districts (Attachment 3, 4).

B. Priest, Principal Planner reviewed the current requirements of Article 7.5 related to an 80' buffer along an abutting street and any property lines that abut a property that is not zoned CB, CI, or SP. The footnote to this allows for the buffer to be reduced if the building scale, frontage relationship, and location of accessory uses ensures design compatibility off-site.

Recently applicants have requested to go through the conditional rezoning process to request modifications to the required buffer. This raised the question for staff if some flexibility needs to be added to the ordinance. The Huntersville 2040 Plan, Policy LU7.1 identified that some flexibility may be appropriate.

Staff reviewed the proposed amendment which includes:

- Article 7.5.3, footnote (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 removed along street frontages where the building proposed addresses the public street with architecture and design consistent with the building type requirements of Article 4. The 80-foot buffer may be reduced to the width below along street frontages when the following conditions are met:
 - 40-foot buffer
 - Along any thoroughfare where only customer and employee parking is located between the building and the street,
 - Along interior streets of existing or proposed business parks where loading, truck dock, or utility areas are located between the building and the street.
 - 20-foot buffer
 - Along interior streets of established or proposed business parks where only customer and employee parking is located in between the building and street.
 - Any building that meets the architectural standards of Article 4 but whose building is moved further from the street than the required build to line.
 - Reduced street buffer widths may be disturbed and replanted so long as a complete visual opaque buffer is established at planting maturity between the building and street.

L. Munger asked if there were any concerns regarding line of sight with the proposed change to the buffer. Staff stated that it is not addressed by the Ordinance, but it is addressed by Engineering and they will verify that the buffer elements are not in the line of sight.

T. Finlay asked how many applicants are requesting this change. Staff stated that in the past two months 100% of applicants made the request.

T. Taylor asked if staff considered adjusting the planting requirements based on buffer width to possibly make smaller buffers denser. Staff confirmed that all buffer widths are required to have an opaque buffer, when the buffer width changes the applicant may have less plants to choose from to successfully accomplish this.

F. Gammon asked what the impact would be on previously approved projects but are not yet built. Staff responded that any projects approved for buffer reduction through rezoning would be required to go back through the Board approval process to request a modification. Any by right projects could meet the new requirements and request to be administratively amended.

J. Henson confirmed that this proposed amendment would not reduce the 80-foot buffer requirement to adjacent residential. Staff confirmed that is correct, there is no change to those requirements.

Staff stated that they would take the comments from this discussion and bring the official amendment request to a subsequent meeting.

3. Recommendation on metal panel amendment for shopfront buildings (Applicant: Nick Lombardo – North American Properties; Attachment 5, 6)
J. Henson disclosed that he is working on the Birkdale Village project. F. Gammon made a Motion to Recuse J. Henson. S. Moore seconded the motion. The motion was passed unanimously (7-0).

L. Speight, Planner 1 reviewed the proposed amendment to permit metal paneling or aluminum composite material for the shopfront building type. Currently metal paneling is allowed in the Urban Workplace building type, Highway Commercial development, Apartment and Civic buildings, primarily as an accent material.

Staff reviewed the proposed amendment which includes:

- Article 4: Shopfront Building, Architectural Standards Principles
Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. 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 column wraps, entablature, canopies, and their supporting structure. Decorative metal panel access, however, may not exceed 30% of any façade visible from the street.

M. Jones asked how much flexibility this provides applicants versus current standards. Staff responded this is relative to the side of the building facing the street and it would provide one additional building material, currently masonry, wood, vinyl siding, stucco or similar materials are permitted.

S. Moore made a Motion to Approve the amendment as written. T. Finlay seconded the motion. The motion passed unanimously (7-0).

L. Munger made a Motion to Reinstate J. Henson. S. Moore seconded the motion. The motion passed unanimously (7-0).

4. Discussion on amendment to fence height restrictions for front yard of residential properties near boulevards and major thoroughfares. (Request by Tim Costello, Property Owner of 14238 Stumptown Road; Attachment 7, 8, 9)

L. Speight, Planner 1 shared that currently a fence is permitted to be up to 8-feet tall in the side and rear yard when those sides do not abut a street. The side yard begins at the front façade of the home and continues to the rear property line. Any fencing in the front yard must be a minimum of 2-feet in height and a maximum of 5-feet in height.

The proposal for discussion today is to permit a lot located within 300 feet of a major thoroughfare or boulevard may be allowed to have front yard fencing along the side yards be a maximum of 8-feet in height. The rationale for the proposal is to provide a sound barrier from the neighboring thoroughfares.

Staff reviewed transportation comments provided by Stephen Trott which indicated, sight distance for private street, driveways, and public streets. Additionally, staff noted that fences do not require permits, the property owner should make themselves aware of the ordinances and could be cited by Code Enforcement if they are not in compliance.

L. Munger commented that the line of sight would be a real concern for him. This concept makes the most sense near major thoroughfares and boulevards but that is also where you need the most line of sight and given that no permit is required for a fence, it could become a hazard since it will not be reviewed by Engineering.

Applicant Tim Costello, 14238 Stumptown Road commented that the intention of putting up a fence was always the intention to create some sound barrier from the busy streets, particularly due to emergency vehicles. He appreciates the concerns but he doesn't quite see the difference of

a fence versus trees and evergreens that the ordinances would permit him to install now.

L. Munger followed up and commented that the 8-foot fence on this particular property makes sense given its distance from the intersection, setback from Stumptown Road, no adjoining driveway issues, but as a text amendment it could cause problems on other properties where it really does not make sense. He recommended putting in language to create a required distance from a major intersection.

S. Moore agreed with L. Mungers comments and thought that working on improving the language to reduce the risk of inappropriate application would be necessary.

F. Gammon asked if this was a potential case for the Board of Adjustment. Staff confirmed that it would not.

S. Moore asked if the applicant considered a 5-foot fence and if that would suffice. The applicant stated that it did not suffice to create the sound barrier.

M. Jones summarized that the greatest concerns are related to safety, site lines, and to craft the amendment such that it can be uniformly applied without creating potential safety issues on other parcels.

5. Discussion on HOAB having a standardized checklist for text amendments.

M. Jones stated that at the previous meeting there was rough draft of a checklist provided to the Board to review. The catalyst is to provide a minimum level of diligence and transparency that is being implemented to change the ordinance.

T. Taylor stated he reviewed the list and recommended adding that the amendment should align with approved area plans, and the checklist be a guiding document but not the final deciding factor for a proposed amendment to be approved or denied based on the results of the findings.

S. Moore stated he would be in agreement with creating a standardized list.

F. Gammon agreed that he would not have a problem with it but he would like it to be a guideline so it does not become rigid but is a living document as additional things are found that could be added.

S. Moore made a Motion to Approve the creation of a standardized checklist for text amendments in order to provide due diligence. K. Jones seconded the motion. The motion passed unanimously (8-0).

6. Discussion about forming subcommittees.

M. Jones commented that there is a very limited amount of time to really deep dive into topics that may need time to research related to ordinances and Planning processes. The idea here is to form subcommittees that are indefinite in their term to complete the research that is not afforded during regular Board meetings.

S. Moore stated he is in favor of it at the basic level that it is being introduced.

T. Taylor who served on the TIA subcommittee stated he saw the value of what can be accomplished with a subcommittee and when there is a topic that warrants it, he agrees it would be useful.

L. Munger stated that he agreed with the subcommittee on ordinances, but he was not sure that the subcommittee for Planning processes fell under the Boards scope. M. Jones referenced the Boards bylaws which outlines both ordinances and Planning processes.

F. Gammon commented that he could support forming a subcommittee for the ordinance portion but hesitates on the forming of the subcommittee for Planning processes until he better understands what the purpose will be.

S. Moore made a Motion to Approve the forming of subcommittees to review ordinances and planning processes with a subsequent meeting to address how they will be formed and the purposes they will serve. K. Jones seconded the motion. The motion passed (7-0-1) with F. Gammon abstaining.

E. Adjourn

S. Moore made a Motion to Adjourn. L. Munger seconded the motion. The motion passed unanimously (8-0).

8.25 ATTACHMENT TO TEXT AMENDMENT

ORDINANCE: Huntersville Zoning Ordinance

Sections:

Section 8.25.9 Buffer Delineation

Section 8.25.10 Buffer Impacts Permitted Under Section 8.25, S.W.I.M.

Section 8.25.11 Appeals and Variances

Party Proposing the Amendment: Strategic Capital Partners

Reason for Requested Change:

1. The proposed amendment is consistent with the Purposes of the Huntersville Zoning Ordinance (the “Ordinance”) as set forth in Article 1.2 which states that the purpose of the zoning regulations is to encourage the most appropriate use of land throughout the corporate area in accordance with the Huntersville Community Plan and other adopted long range plans for the Town of Huntersville.
2. The proposed amendment is consistent with the Vision Statement, 2040 Town of Huntersville Community Plan, by, among other things, helping to provide meaningful economic development, balance the tax base, attract target industries, and provide more opportunities for people to work in Huntersville due to expansion of the industrial and commercial base.
3. The proposed amendment is consistent with the Policy Recommendations, 2040 Town of Huntersville Community Plan, by facilitating industrial and commercial growth in areas that are suitable for business and industrial development.
4. The proposed amendment is consistent with the Policy Recommendations, 2040 Town of Huntersville Community Plan, because the amendment improves a development standard that supports business growth.
5. The proposed amendment does not allow modification of S.W.I.M. Stream Buffers delineated by Mecklenburg County through its geographic information system (“GIS”), but only allows modification of intermittent streams, and perennial tributaries which drain less than 50 acres, that may be shown on an independent environmental study prepared by the applicant. This allows for industrial and commercial buildings to be built in areas preserved for industrial and commercial businesses without being required to reduce the size of the building, or not build at all, due to an intermittent or perennial tributary. Intermittent streams are those tributaries that hold water only intermittently, such as part of a year, or seasonally, during normal precipitation. They are often dry streams. Perennial tributaries hold naturally occurring surface water year- round. The proposed text amendment only allows modification for smaller, perennial tributaries that drain less than 50 acres, and that are not shown on Mecklenburg County GIS.

Proposed Changes to the Ordinance:

In order to accomplish this purpose, the Applicant proposes the following changes to the Ordinance:

1. Amend Section 8.25.9 Buffer Delineation, by adding the underlined section to .9 a):

a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.

- As part of an approved conditional zoning, the Board of Commissioners may approve a modification of a stream buffer delineation as to:

- (i) intermittent streams that are shown in an environmental study prepared by the applicant,

- (ii) perennial streams that are not shown on Mecklenburg County GIS, drain less than 50 acres and that are shown in an environmental study prepared by the applicant

2. Amend Section 8.25.10 Buffer Impacts Permitted under Section 8.25, S.W.I.M., by adding the underlined section to .10:

The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
- Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
- Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate stormwater.
- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.
- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.
- In the Corporate Business Zoning District, impacts permitted through the U.S. Army Corps of Engineers and/or the State Department of Environmental Quality under Sections 404 and/or 401 of the Clean Water Act (the "Clean Water Act"), so long as such impacts are mitigated in accordance with the Clean Water Act and the mitigation proposed for the site is limited to mitigation within the corporate limits of the Town of Huntersville or a payment in lieu of mitigation as permitted by the Ordinance.

3. Amend Section 8.25.11 of the Ordinance Appeals and Variances by adding the following underlined sentence to .11 b)(5):

b) Special Variance Provisions/Mitigation Techniques.

(5) Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Bottom Land Hardwood Preservation may also include tree preservation areas that are required in Section 7.4 if approved by the Town Board as part of the conditional zoning, or Bottom Land Hardwood Preservation may include tree preservation areas that exceed the tree preservation requirements in Section 7.4.

ARTICLE 8 PROVISIONS

GENERAL

- .8 Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural BMPs.
- .9 Buffer Delineation. The following buffer delineations are required:
- Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
 - ~~As part of an approved conditional zoning, the Board of Commissioners may approve a modification of a stream buffer delineation as to:
(i) intermittent streams that are shown in an environmental study prepared by the applicant,
(ii) perennial streams that are not shown on Mecklenburg County GIS, drain less than 50 acres and that are shown in an environmental study prepared by the applicant~~
 - The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange "tree-protection" or "high-hazard" fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.
 - The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to occupancy. Properties greater than 200' in width shall be marked at a maximum of 100' intervals.
 - Separate buffer zones must be permanently marked at highway stream crossings.
 - Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.
- .10 Buffer Impacts Permitted under Section 8.25, S.W.I.M. The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.
- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
 - Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
 - Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
 - Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
 - Incidental drainage improvements/repairs for maintenance.
 - Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.

Commented [JS2]: Moved a portion of this language to bottom bullet in 8.25.10 below.

ARTICLE 8 PROVISIONS

GENERAL

- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.
- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.
- ~~In the Corporate Business Zoning District, impacts permitted through the U.S. Army Corps of Engineers and/or the State Department of Environmental Quality under Sections 404 and/or 401 of the Clean Water Act (the "Clean Water Act"), so long as such impacts are mitigated in accordance with the Clean Water Act and the mitigation proposed for the site is limited to mitigation within the corporate limits of the Town of Huntersville or a payment in lieu of mitigation as permitted by the Ordinance.~~
- In the Corporate Business Zoning District as part of an approved conditional zoning, the Board of Commissioners may approve a modification to an intermittent stream buffer and perennial stream buffer draining under 50 acres without a variance subject to implementing one of the nine mitigation techniques in Subsection 11(b) below.

Commented [JS3]: Staff recommends replacing this language with the bullet below. Staff supports mitigation using one of the 9 techniques found in 11(b) below as opposed to ACE mitigation, even if in Huntersville's jurisdiction.

.11 Appeals and Variances.

- a) An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of [Section 11.3](#) of these ordinances.
- b) Special Variance Provisions/Mitigation Techniques.
 - When "unnecessary hardships", as defined in Section 11.3.2 e, would result from strict adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the Huntersville Board of Adjustment in compliance with the procedures and standards of [Section 11.3](#).
 - Site specific mitigation plans using the mitigation techniques set out below and approved by the designated agency shall be construed by the Board of Adjustment to be evidence responsive to Section 11.3.2 e),- 4 consistency with adopted plans and protection of public safety and welfare. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines (for Structural BMPs). The techniques below are not construed to offset the requirement of Section 8.25.6 for diffuse flow.
 - (1) Installation of Structural BMPs. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Manage Use Zone. A detailed BMP design plan must be submitted to the Mecklenburg County Land Use and Environmental Services Agency for approval based on specifications contained in the Charlotte-Mecklenburg BMP Design Manual. This plan must also include a long-term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.
 - (2) Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by the Mecklenburg County Land Use and Environmental Services Agency on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines, and receive approval from the Mecklenburg County Land Use and Environmental Services Agency.
 - (3) Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved by the Mecklenburg County Land Use and Environmental Services.

ARTICLE 8
PROVISIONS

GENERAL

- (4) Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by the Mecklenburg County Land Use and Environmental Services.
- (5) Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency. Bottom land hardwood preservation may not include minimum tree preservation otherwise required by these regulations (i.e. required buffers, required tree preservation of Section 7.4) but shall include any bottom land hardwood preserved beyond the minimums established. Bottom Land Hardwood Preservation may also include tree preservation areas that are required in Section 7.4 if approved by the Town Board as part of the conditional zoning, or Bottom Land Hardwood Preservation may include tree preservation areas that exceed the tree preservation requirements in Section 7.4.
- (6) Controlled Impervious Cover for Disturbance Landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
- (7) Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
- (8) Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.
- (9) Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.
- .12 Posting of financial security required. When structural BMPs (wet detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the Mecklenburg County Land Use and Environmental Services Agency, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to the Mecklenburg County Land Use and Environmental Services Agency. The owner must also verify the adequacy of the maintenance plan for the BMPs including the necessary financing to support the proposed maintenance practices. The Mecklenburg County Land Use and Environmental Services Agency will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner in writing within 30 days of the date of notice.

Commented [JS4]: Staff recommends counting bottom land hardwoods that are not otherwise protected by the ordinance.

ARTICLE 8 PROVISIONS

GENERAL

- .13 Maintenance responsibilities for structural BMPs – Civil Penalties. Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5000. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.
- .14 Request for Determination of Buffer Requirements. When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.
- (1) Ditches and manmade conveyances other than modified natural streams.
 - (2) Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
 - (3) Ephemeral (storm water) streams.



Text Amendment Application

Date of Application 7/28/2021

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): 8.25 Section(s): 4

Current Ordinance

See Attached

Proposed Text

See Attached

Reason for Proposed
Change

See Attached

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 Huntersville Planning Department

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

Signature LSpeight Date 7/28/2021

Title Planner II Email LSPEIGHT@HUNTERSVILLE.ORG

Address of Applicant 106 Gilead Rd, 3rd Floor, Huntersville, NC 28078

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: _____

Staff Initials: _____



Text Amendment Application

Date of Application _____ 7/1/21 _____

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

____X____ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): _____ Zoning Ordinance__ Article(s): _7.5.3_____ Section(s):

Current Ordinance

See attached draft ordinance.

Proposed Text

See attached draft ordinance.

Reason for Proposed Change

Add flexibility to buffer requirements along the street based on the use and architecture of the building facing the street.

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 _____ Huntersville Planning Department (Brad Priest) _____

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

Signature _____ *Bradley D. Priest* _____ Date _____ 7/1/21 _____

Title _____ Principal Planner _____ Email _____ bpriest@huntersville.org _____

Address of Applicant _____

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.**

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Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: _____ 7/1/21 _____

Staff Initials: _____ BP _____

**AN ORDINANCE TO AMEND ARTICLE 7.5.3 OF THE ZONING ORDINANCE TO MODIFY THE
CB/SP/CI 80 FOOT BUFFER ALONG STREET FRONTAGES**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 7.5.3 footnote [2] of the **Zoning Ordinance** is hereby amended as follows:

2The 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~~ **removed** along street frontages where ~~the building~~ **proposed addresses the public street with architecture and design consistent with the building type requirements of Article 4.** ~~scale, frontage relationship, and location of accessory uses ensure design compatibility off site.~~ **The 80 foot buffer may be reduced to the width below along street frontages when the following conditions are met:**

- **40 foot buffer**
 - **Along any thoroughfare where only passenger vehicle parking is located between the building and the street, and/or the architecture of the building does not meet the building type requirements of Article 4.**
 - **Along interior streets of existing or proposed business parks where loading, truck dock, or utility areas are located between the building and the street.**
- **20 foot buffer**
 - **Along interior streets of established or proposed business parks where only passenger vehicle parking is located in between the building and street, and/or the architecture of the building does not meet the building type requirements of Article 4.**
 - **Any building that meets the architectural standards of Article 4 but whose building is moved further from the street than the required build to line.**
- **Reduced street buffer widths may be disturbed and replanted so long as a complete visual opaque buffer is established at planting maturity between the building and street.**

Section 2. That this ordinance shall become effective September 20, 2021.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: August 5, 2021

PUBLIC HEARING DATE: August 16, 2021

PLANNING BOARD MEETING: August 24, 2021

TOWN BOARD DECISION: September 20, 2021

meant to preserve the character of the town. This commitment is noted in adopted plans and the zoning ordinance, and has been expressed in new development over the last 25 years.

LU 7.1: Require all new development to adhere to the following design principles:

- In Mixed-Use Centers, Activity Centers, Town Core, and Moderate Density Areas, streets and sidewalks are meant to be attractive and inviting. New development in these areas shall follow these principles:
 - All buildings shall front a public street or open space.
 - Streets should be connected, have short blocks and sidewalks on both sides of streets.
 - Improve connectivity, particularly for pedestrians and vehicles.
 - Parking lots, if required, should be predominately located behind buildings screened from view and larger lots should be broken by buildings and or landscape features.
 - Accommodate a mix of uses and/or housing types.
- In defined Employment Centers some flexibility in the form-based design principles is allowed, including:
 - Expanded options for frontages including buildings fronting the street or buffered from major or minor thoroughfares.
 - Exceptions to building frontage requirements and public street requirements may be allowable for internal streets in an industrial park or near interstates.

Urban Design Principles

The Town of Huntersville uses a form-based approach to mixed use and non-residential development that discourages large-scale commercial strips and disconnected uses. Commercial design was very important to survey respondents and policies in this plan include specific strategies to maintain and improve quality. Existing standards include a requirement that new buildings must front a public street or open space, streets must be connected and have sidewalks and street trees on both sides, and parking should be primarily located behind buildings. This plan also includes specific recommendations on how to elevate design standards in the downtown, provide flexibility for some employment uses and how to customize regulations to address emerging trends.



EXISTING HUNTERSVILLE ZONING ORDINANCE PROVISION, ARTICLE 7.5.3

Description	Condition where Buffer required	Width	Trees¹	Shrubs¹
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 feet	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

¹Minimum 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.

²The 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.

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

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

⁵Except 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.

Current Ordinance Language for Article 8.25.4

.4 Buffer Delineation.

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated by Mecklenburg County through its geographic information system (GIS) using the most current digital elevation model (DEM) of no greater than 10-foot cells. This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.

Proposed Ordinance Language

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville, shall be delineated by: **1)** Mecklenburg County through its geographic information system (GIS) ~~using the most current digital elevation model (DEM) of no greater than 10-foot cells;~~ **or, 2) if seeking a land development permit or when a property owner believes that the GIS buffer delineations inaccurately depict buffer requirements, an on-site stream delineation prepared by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology and which is approved by the Town.** ~~This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.~~

Reason for Proposed Change

- Clarify what buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville.
- Prevent unintended disturbance of S.W.I.M. Buffers throughout the Town of Huntersville.
- Greater consistency with the Buffer Implementation Guide and the delineation methods of several surrounding communities.

Ordinance Advisory Board

TRAINING MATERIALS

- Text Amendments and Conflicts of interest

TOWN OF HUNTERSVILLE

2021

Preliminary Matters

- ▶ Opening Meetings Law: Ordinance Advisory Board is subject to the open meetings law.
 - Applies anytime a majority of the Board gather, whether in person, or electronically to conduct public business.
 - Meeting must be open to public.
 - Must gather full and accurate minutes of the meeting.
 - Also subject to public records request.

Ordinance Advisory Board Role

- ▶ Primary Role- To advise the Town Board on amendments to the zoning and subdivision ordinance
 - ▶ Review and make recommendations to Town planning processes
 - ▶ Other zoning/subdivision ordinance related matters as directed by the Town Board or Planning Board

Initiating text amendments to the Board

- ▶ There are 3 ways to initiate an amendment to the zoning or subdivision ordinance
 - ▶ i) By the Town Board, the Planning Board, or the HOAB
 - ▶ ii) The property owner filing an official petition
 - ▶ iii) Someone other than the property owner filing an official petition
- ▶ It is key that the Board itself is the proper entity to initiate a text amendment
- ▶ If a member of the HOAB wishes to propose a text amendment, the Board must first vote whether to add that items to the agenda
- ▶ If a member of the public reaches out to you, you should direct them to the planning staff to file an official petition

Process to propose a text amendment

- ▶ The process for an individual of the HOAB to propose a text amendment is as follows:
 - ▶ i) That HOAB member has an idea for a text amendment to the zoning/subdivision ordinance that he or she believes will help the Town as a whole
 - ▶ ii) That member proposes the amendment to the planning staff along with associated reasoning behind the amendment
 - ▶ iii) Staff shall introduce the proposed amendment during a meeting of the HOAB along with the reasoning
 - ▶ iv) The Board shall vote whether the amendment shall be added to the agenda for the next meeting for further discussion

Conflicts of Interest

- ▶ Members shall not vote on any advisory or legislative decision regarding a development regulation adopted where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
- ▶ Members shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
 - ▶ Members must disclose these conflicts before a hearing and may be excused from voting.

Conflicts of Interest continued

- ▶ With the understanding that Members of the HOAB serve private employers who may directly relate to any zoning or subdivision revision, Members should not introduce amendments as a conduit for the business
- ▶ A company may file an official petition with the planning staff for a text amendment
- ▶ HOAB Members should not introduce text amendments for their own gain or benefit
- ▶ If proposed by a Member, text amendments are to benefit the Town, as a whole
- ▶ Amendments should not be introduced only to benefit a neighbor, employer, or certain zoning ideologies
- ▶ Adhere to the Town's code of ethics (provided as an attachment here)

Voting

- ▶ All Ordinance Advisory Board decisions are advisory and require a simple majority.
- ▶ Based on the 9-member makeup of the board, it requires 5 members to reach the simple majority.
- ▶ This calculation will only change if the Board has a vacancy or if a Member has a conflict. Absent members do not change the voting requirements.