AGENDA
Special Planning Board Meeting
October 14, 2021 - 6:30 PM
Virtual Meeting

Virtual Meeting Information- *Members of the public may view or access the meeting on Facebook Live at https://www.facebook.com/HuntersvilleNCTownGovernment. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron tbarron@huntersville.org by 3:00 pm on the day of the meeting, to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments below by email to Tracy Barron tbarron@huntersville.org until twenty-four (24) hours prior to the meeting.*

1. Call to Order/Roll Call

2. Approval of Minutes

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 #TA21-13, a request by Trinity Capital Advisors to amend the Zoning Ordinance allowing the Board of Commissioners to approve modification of a SWIM buffer in the Mountain Island Lake Overlay zone through a conditional rezoning process in the Corporate Business zoning district. *(Jack Simoneau) (Jack Simoneau)*

5. Other Business

6. Adjourn

Town of Huntersville
Town Board
October 14, 2021

To: Town Board

From: Tracy Barron, Exec Asst

Date: October 14, 2021

Subject: Petition #TA21-13 - SWIM Buffer Modification

EXPLAIN REQUEST:
Petition #TA21-13, a request by Trinity Capital Advisors to amend the Zoning Ordinance allowing the Board of Commissioners to approve modification of a SWIM buffer in the Mountain Island Lake Overlay zone through a conditional rezoning process in the Corporate Business zoning district.

ACTION RECOMMENDED:
Consider recommendation

FINANCIAL IMPLICATIONS:
N/A

ATTACHMENTS:
1. TA21-13 Staff Report
2. Signed Text Amendment Application
3. Text Amendment Application Attachment 9.6.21
4. Ordinance TA 21-13

TA 21-13 – Trinity Capital Advisors Mountain Island Lake Text Amendment

PART 1: DESCRIPTION

TA 21-13 is a text amendment request by Trinity Capital Advisors, LLC allowing small stream buffers **located in the PA-2 areas of the Mountain Island Lake Overlay Zone** to be impacted in the Corporate Business district with a conditional district rezoning and mitigation.

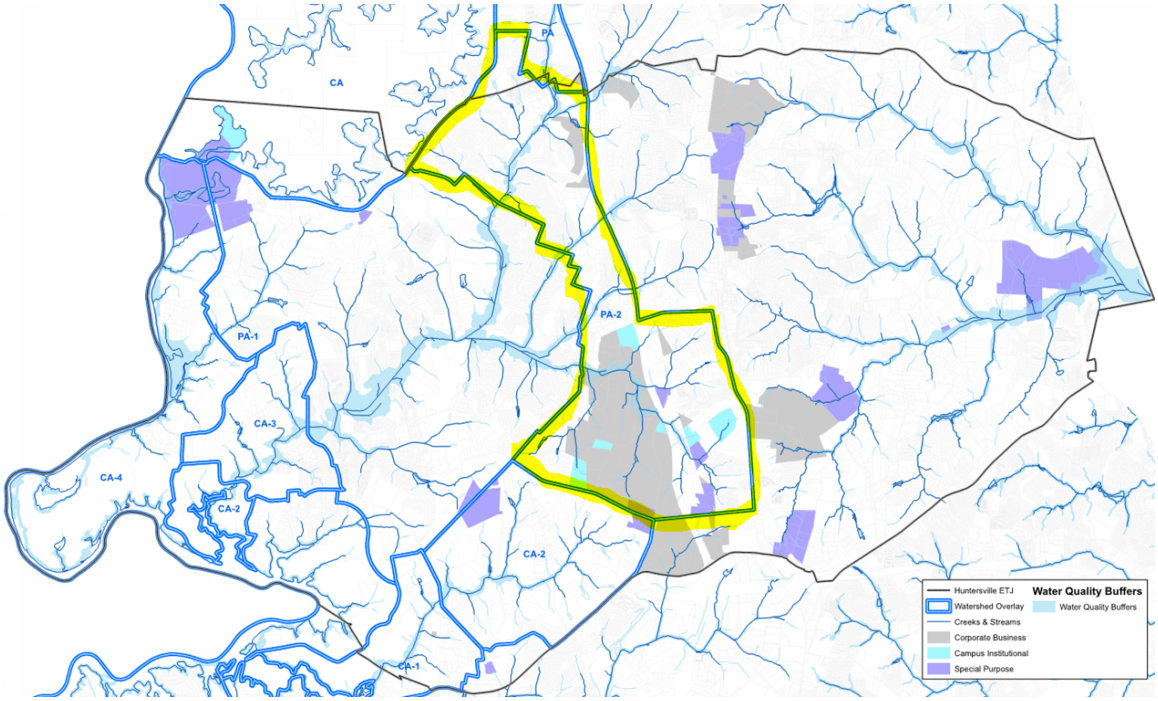
PART 2: BACKGROUND

The Zoning Ordinance establishes three levels of protection for streams:

1. Surface Water Improvement & Management Stream Buffers (SWIM Buffers; Section 8.25)
2. Water Quality Buffers (Section 8.17)
3. Mountain Island Lake Watershed Overlay District (Section 3.3.2)

Up until recently, the only way to impact SWIM and Water Quality Buffers was by being one of the eight exceptions listed in Section 8.25.10 **OR** by variance in accordance with Section 11.3 and implementing one of the nine mitigation options listed in Section 8.25.11(b).Text amendment TA 21-09, approved in September 2021, allows an additional option to impact small SWIM & Water Quality Buffers (intermittent streams & perennial streams draining less than 50 acres) through a Corporate Business conditional district rezoning.

However, text amendment TA 21-09 **does not apply** to small stream buffers that are **also located in the PA-2 area of the Mountain Island Lake Overlay Zone** UNLESS TA 21-13 is also approved. The below map illustrates the location of streams throughout the entire Huntersville zoning jurisdiction AND the Mountain Island Lake Over Zone (dark blue lines on the western side of Huntersville draining to Mountain Island Lake - yellow highlighted line is the PA-2 boundaries applicable to this text amendment). Small stream buffers within the Mountain Island Lake Overlay Zone PA-2 areas would be eligible to be impacted subject to a Corporate Business Conditional District rezoning and mitigation under TA 21-13. (NOTE Critical Areas 1, 2, 3 & 4 and PA-1 will not be impacted by this text amendment).



Because the Mountain Lake Overlay District is part of the state required Water Supply Watershed Protection regulations, text amendments must be approved by the State. On September 2, 2021, Mr. Paul Clark, NC Water Supply Watershed Protection Coordinator, gave preliminary approval for the text amendment.

Huntersville Planning Department supports a text amendment providing an additional option to impact small SWIM Buffers through conditional rezoning in the Mountain Island Lake Overlay Zone because it is difficult for large footprint flex space buildings to design around them and the text amendment would require mitigation of any impacts. Mr. Rusty Rozzelle, Program Manager for Mecklenburg County's Water Quality Program is not opposed to the text amendment because of the limited number of properties potentially impacted and because mitigation would be provided to offset any negative water quality impacts.

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

Policy LU-8: Emphasize form and flexibility in Mixed-Use Centers, Employment Centers, the Town Core, and Activity Centers.

Comment: Proposed amendment provides flexibility in the employment center where development options are limited for large footprint flex space buildings. Conditional zoning process and mitigation per Section 8.25(11)(b) allows town to consider impact on SWIM buffers in the Mountain Island Lake Overlay zone on the merits of each case.

Policy EV-1: Support a balanced economy through job growth in target industry sectors.

EV 1.4: Review development standards to support business growth.

- Support efforts to improve efficiency and responsiveness of the development review process for development proposals. Regularly review the market to ensure that standards are in line with current demand.

Comment: Staff finds providing another option for minor SWIM buffer impacts in the Mountain Island Lake Overlay zone through conditional zoning in the CB district reflects a proper balance of environmental protection and economic development.

Policy EOS-1: Support the preservation and enhancement of the natural environment, along with its scenic and cultural assets.

Comment: While the amendment allows impacts to intermittent streams and perennial streams draining under 50 acres in the Mountain Island Lake Overlay Zone, mitigation per Section 8.25.11(b) would be required.

PART 4: STAFF RECOMMENDATION

Staff recommends approval of the text amendment language (see Part 9 below).

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) recommended approval of the proposed text amendment 6-1 on September 2, 2021.

PART 6: PUBLIC HEARING

October 4, 2021

PART 7: PLANNING BOARD RECOMMENDATION

October 14, 2021

PART 8: ATTACHMENTS

1. Applicant's Text Amendment Application
2. Applicant's Text Amendment Language
3. Ordinance

PART 9: STATEMENT OF CONSISTENCY – TA 21-13

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA21-13, Planning Staff recommends approval based on consistency with LU-8, EV-1 and EOS-1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the amendment allows an additional option to impact SWIM buffers subject to a conditional rezoning and mitigation.	**APPROVAL:** In considering the proposed amendment TA21-13, Planning Board recommends approval based on the amendment being consistent with **(insert applicable plan reference)** It is reasonable and in the public interest to amend the Zoning Ordinance because… *(Explain)*	**APPROVAL:** In considering the proposed amendment TA21-13, the Town Board recommends approval based on the amendment being consistent with **(insert applicable plan reference)** It is reasonable and in the public interest to amend the Zoning Ordinance because*…(Explain)*
DENIAL: N/A	**DENIAL:** N/A In considering the proposed amendment TA20-13, the Planning Board recommends denial based on the amendment being **(consistent OR inconsistent)** with **(insert applicable plan reference).** It is not reasonable and in the public interest to amend the Zoning Ordinance because…. *(Explain)*	**DENIAL:** In considering the proposed amendment TA20-13, the Town Board recommends denial based on the amendment being **(consistent OR inconsistent)** with **(insert applicable plan reference).** It is not reasonable and in the public interest to amend the Zoning Ordinance because…. *(Explain)*

Town of Huntersville
NORTH CAROLINA

Text Amendment
Application

Date of Application August 26, 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

__X__ 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 Section(s): 8.25.10

Current Ordinance

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 Sherrie Chaffin / Trinity Capital Advisors, LLC

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

Signature _____ Date 8/26/21

Title Director of Development Email sls@trinitycapitaladvisors.com

Address of Applicant 440 S. Church Street, Suite 800, Charlotte, NC 28202

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: _____

3.3.2 B.(g) ATTACHMENT TO TEXT AMENDMENT

ORDINANCE: Huntersville Zoning Ordinance

Sections:

Section 3.3.2-B Protected Areas (PA-1, PA-2)

Party Proposing the Amendment: Trinity Capital Advisors, LLC

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. Section 3.3.2, Mountain Island Lake Watershed Overlay District, imposes additional buffer restrictions on property that is located in the critical and protected areas of the overlay district. The PA2 of the MIL District is the larger, less restricted area of the overlay district and, as such, a significant amount of property that is designated for Corporate Business in the Community Plan is in the PA2. The PA2 area has fewer restrictions than critical areas because the risk of water quality degradation from pollution is less in the protected areas than in the critical areas. This amendment will allow for industrial and commercial buildings in the Corporate Business, PA2 of the MIL District, that are shown in the 2040 Community Plan as preserved for industrial and commercial businesses, to be built without being required to reduce the size of the building, or not built at all, due to a perennial tributary. Mitigation is still required and the amendment is limited only to those streams not indicated on the most recent version of the United States Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps and therefore do not meet the criteria for a State water supply watershed buffer.

Proposed Changes to the Ordinance:

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

Amend Section 3.3.2. B. g) by adding the underlined section as 10):

g) Buffer Protection
No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

1) The surveyed buffer boundary 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.

2) The surveyed buffer boundary must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line 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.

3) No trees larger than 2-inch caliper, measured at 6 inches above the existing grade, are to be removed except for dead or diseased trees. Undergrowth and trees less than 2-inch caliper, measured at 6 inches above existing grade, may be removed to be replaced by an effective stabilizing and filtering ground cover based upon the most recent edition of the “Watershed Buffer Guidelines for Mecklenburg County, NC” and as approved by the Mecklenburg County Water Quality Program.

4) Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Mecklenburg County Engineering Department and the Mecklenburg County Water Quality Program.

5) Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMPs and pervious materials.

6) During new development or the expansion of existing development, the Town, upon the advice of the Mecklenburg County Water Quality Program, can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions. Buffer enhancement requirements shall be based on the most recent edition of the “Watershed Buffer Guidelines for Mecklenburg County, NC”.

7) Mitigation of disturbed buffers required. Should existing vegetation within the buffer be disturbed (except as allowed by this Ordinance) or should vegetation added to a buffer pursuant to paragraph 6) be disturbed, the property owner shall be required to enhance the buffer in accordance with the most recent edition of the “Watershed Buffer Guidelines for Mecklenburg County, NC” so that the buffer can effectively perform its filtering and absorption functions.

8) Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer in compliance with paragraph 3), above. Pathway guidelines are available in the most recent edition of the “Watershed Buffer Guidelines for Mecklenburg County, NC.” If in a common area, such development and trails must be located a minimum of 30 feet from the top of the bank on each side

of all perennial streams; except for waterfront access points approved by the Town, upon the advice of the Mecklenburg County Water Quality Program.

9) Non-conforming structures and increasing built-upon area may permitted if the following criteria are met:

a. The existing structure (to be expanded) was built prior to the enactment of the 1993_watershed ordinance.

b. The Built-upon area (BUA) of the existing structure must cover a minimum of 10% of the 100-foot buffer on the lot.

c. In Critical Area 1 (CA1), which has a 6% BUA cap, the maximum allowable increase in BUA in the buffers is 2%. In Critical Area 2 (CA2) and Critical Area 3 (CA3), which have a 12% BUA cap and Critical Area 4 (CA4), which has a 24% BUA cap, the maximum allowable increase in BUA is the buffer is 4%.

d. Existing BUA shall not be increased within the State minimum 50-foot buffer.

e. Best Management Practices (BMPs) (including rain gardens and plantings) must be installed to achieve the following removal efficiencies for all BUA on the lot (not just the BUA in the buffer):

i. 85% removal of Total Suspended Solids (TSS)

ii. 60% removal of Total Phosphorus (TP)

f. All BMPs shall be installed or planted in accordance with the Charlotte-Mecklenburg BMP Design Manual and in accordance with Huntersville's Water Quality Ordinance.

g. Maintenance Agreements and Maintenance Plans must be recorded for all BMPs installed and/or planted and the location of the BMP and corresponding notes must be recorded on the deed in compliance with Huntersville's Water Quality Ordinance.

h. Mitigation measures, including all BMPs, must be installed, inspected and approved and the provisions described in item g (above) satisfied prior to the release of any certificates of occupancy for the structural expansion.

i. All structural BMPs must be inspected and certified annually for compliance with design criteria by a licensed NC. engineer in accordance with the Huntersville Water Quality Ordinance. Inspection reports must be submitted to Mecklenburg County for approval.

j. Any deficiencies detected to the BMP or any other mitigation measure must be corrected within 30 days of detection at the sole expense of the property owner. Failure to do so will be in violation of the Huntersville Water Quality Ordinance and could result in the assessment of penalties.

10) Property in the Mountain Island Lake Overlay District Protected Area (PA2), which is also part of an approved conditional zoning in the Corporate Business Zoning District, may request the Board of Commissioners to approve a modification to a perennial stream buffer draining under 50 acres without a variance subject to implementing one of the nine mitigation techniques in Section 8.25. 11(b). This provision is applicable only to those streams not indicated on the most recent version of the United States Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps and therefore do not meet the criteria for a State water supply watershed buffer.

TA 21-13 Attachment 3: AN ORDINANCE TO AMEND ARTICLE 3.3.2-B(g)(10)

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 3.3.2-B(g) of the **Zoning Ordinance** is hereby amended by adding (10) below:

10) Property in the Mountain Island Lake Overlay District Protected Area (PA2), which is also part of an approved conditional zoning in the Corporate Business Zoning District, may request the Board of Commissioners to approve a modification to a perennial or intermittent stream buffer draining under 50 acres without a variance subject to implementing one of the nine mitigation techniques in Section 8.25. 11(b). This provision is applicable only to those streams not indicated on the most recent version of the United States Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps and therefore do not meet the criteria for a State water supply watershed buffer.

Section 2. That this ordinance shall become effective upon adoption.

HUNTERSVILLE ORDINANCE ADVISORY BOARD: September 2, 2021 (Approval 6-1)
PUBLIC HEARING DATE: 10-4-2021
PLANNING BOARD MEETING: 10-14-2021
TOWN BOARD DECISION: 10-18-2021