

## **TA 20-01 – Specimen Tree Definition, Mitigation, and Landscaping**

### **PART 1: DESCRIPTION**

TA20-01 is a request by the Huntersville Planning Board to consider amending Article 7.2.1, Article 7.4.2 F and Article 12 of the Huntersville Zoning Ordinance. The purpose of the application is to require plants from the approved tree and shrub list to be installed for required plantings, to increase the specimen tree mitigation requirement, and to lower the caliper width definition of a specimen tree.

### **PART 2: BACKGROUND**

Article 7.4 of the Huntersville Zoning Ordinance requires developments to save a certain percentage of the mature specimen trees existing on a site depending on the zoning district where the development is located. When the trees cannot be saved, the ordinance allows the applicant to “mitigate” the portion of the trees that were supposed to be saved by either planting additional trees above the planting requirements of the ordinance on the site, or contributing for the installation of such trees elsewhere in the community. Article 7.4 of the Huntersville Zoning Ordinance tasks the Huntersville Planning Board to review and approve tree save mitigation requests.

In 2019 the Planning Board expressed the observation that the amount of tree save mitigation requests were increasing and more trees were being removed than the ordinance intended through the mitigation process. The Planning Board created a Tree Mitigation Sub-Committee made up of its members to investigate what could be done to lower the amount of mitigation requests proposed and increase the amount of tree save for the Town’s development.

The committee met several times between the summer and fall of 2019. On October 22, 2019 the sub-committee presented their recommendations to the Planning Board. At that meeting the Planning Board voted to accept the recommendations from the committee and to begin the corresponding text amendment review process for further discussion. The recommendation of the committee and the associated proposed changes to the zoning ordinance text are described below, and shown on the attached draft ordinance.

#### **Changes to Article 7.2.1 – Landscaping Requirement**

One of the issues the committee addressed was a lack of regulation on what types of trees were planted in the Town. The concern was discussed that non-native trees and even invasive species of trees could be planted to satisfy the zoning ordinance’s planting requirements. The Town has an approved shrub and tree list, but there is no requirement in the ordinance that mandates that approved landscaping from the list be used. The sub-committee recommended that language be added to the ordinance in Article 7.2 that would require trees in the approved list be used to satisfy zoning requirements. However other species not on the list could be chosen on a case by case basis as approved by the Planning Director. The committee also recommended that staff work with local arborists and other agencies to continue to refine the Huntersville tree and shrub list to limit non-native species and remove invasive species. Staff also included an amendment to the text to update the new authoritative technical guideline for tree and landscape plantings.

#### **Changes to Article 7.4.2 F note 2 – Specimen Tree Mitigation**

Article 7.4 allows mitigation for required specimen tree save if the applicant either replaces 30% of the total caliper of trees removed over the minimum tree save requirement or contributes funds for their replacement. For example if 100 total caliper of trees are proposed to be removed over what was required to be saved, the developer is responsible to mitigate 30 inches of that caliper, or 15-2 inch newly planted trees. The mitigated trees can be planted on the development site or funds for planting the mitigated trees can be contributed to a tree fund bank for trees to be planted elsewhere in the community. The observation was discussed by the sub-committee that many developers do not hesitate to choose the contribution method to the tree fund bank if it means they can simply remove the trees required to be saved.

The sub-committee reviewed and discussed various potential changes to the code and the costs associated with modifying the mitigation requirement. A table was proposed by staff that estimated the cost of mitigation based on possible mitigation measures (please find those cost tables attached in the agenda packet). After discussion, the sub-committee recommended that the simplest means from a zoning code perspective to encourage more mature tree save and preserve existing canopy would be to increase the required mitigation from 30% of the caliper removed above the tree save requirement to 100%. The committee reasoned that the increase in planting requirement/cost contribution would encourage developers to design to save existing and mature trees where possible rather than default to paying the contribution for their removal. Additionally, if saving the required trees is not possible and mitigation is required, 100% of the caliper replacement or contribution would more accurately reflect the amount of mature tree cover actually being removed from the site.

A secondary part of the recommendation in regard to Article 7.4.2 F note 2 was a change in regard to what trees planted on the site could count toward a project's tree save mitigation. Currently the ordinance prohibits required street trees and parking lot tree plantings from being counted toward the trees used for mitigation. However required buffer plantings may count toward the mitigation trees. For example, if mitigation is needed and based on the caliper calculation a total of 10 trees are required, the applicant could not identify the 10 street tree plantings or parking lot trees as mitigation for specimen trees removed. However if a buffer is required on the site, the current ordinance allows trees planted in the buffer to count toward the trees mitigated with no limit. With 10 trees planted in the buffer, no additional tree mitigation would be required.

Therefore the sub-committee discussed the desire for the tree save mitigation requirement to stand on its own as a separate planting requirement. It has occurred in past mitigation requests where all of the trees to be mitigated were located in the proposed buffers and no additional trees were required to be planted or contributed for tree save purposes. Thus, the recommendation from the sub-committee was that the trees planted in the buffer should count no more than 50% of the required mitigation trees. For example if 10 trees are required for tree save mitigation, no more than 5 could be used in a required buffer. The other 5 would need to be planted on site or contributed for to the tree fund bank.

### **Changes to Article 12 – Specimen Tree Definition**

The current ordinance defines a specimen tree as among other things, a large maturing tree (maple, oak, elm, etc.) 24 inches in caliper or greater. The committee discussed that in commercial applications all large maturing trees that are under 24 inches could be removed under the ordinance without restriction since not

defined as a specimen tree. This contributes to the tree loss of the town. It was noted that the current definition of a “significant tree” in Article 12 of the ordinance is any tree 18 inches in caliper or greater. Cross sections of both a 24 inch caliper tree and an 18 inch caliper tree were brought in to the group and discussed. It was recommended by the sub-committee that an 18+ inch caliper tree was by definition a significant tree and the conflict between what is a specimen tree and what is a significant tree (24+ inch versus 18+ inch) should be clarified. The recommendation then was to define a specimen tree as an 18+ caliper tree for consistency purposes and to ensure that some of these significant and large trees were also preserved as part of Article 7.4 specimen tree save requirements.

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

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

- Policy E-1 Preservation and Enhancement: Support the preservation and enhancement of the natural environment, along with its scenic and cultural assets.
- Policy E-3: Environmental Regulations: Support and enhance environmental regulations pertaining to tree preservation, buffer yards, open space, water quality, wetland and stream protection.

### **PART 4: STAFF RECOMMENDATION**

Planning staff recommends approval of the text amendment to increase the specimen tree save caliper mitigation to 100%, to remove the buffer planting allowance for tree mitigation, and to require landscaping per the approved Huntersville approved species list. The recommendation is consistent with Policies E-1 and E-3 of the Huntersville 2030 Community Plan. Please see the “staff recommended ordinance draft” included in your agenda packet and the green recommendation table below on page 5.

Specimen Tree Definition: Planning staff researched several adjacent municipalities in regard to their definition of a specimen tree. Please see the table below on page 4. Although tree save requirements varied greatly between communities, the majority of local towns observed specifically defined a specimen tree as a large maturing tree 24 inches in caliper and above. The towns that were less than 24 inches for large maturing trees either did not have a definition of a specimen tree or defined it more broadly, based on their staff’s general review of the development plan.

Reducing the width definition of a specimen tree could result in developments having additional trees on their site categorized as specimen trees. This would in turn require the developer to save additional trees to meet the percentage tree save requirement of Article 7.4. The effects will likely be varied from site to site, but as shown in the test cases noted by staff in the attached test case table (included in your agenda packet), the amount of specimen trees increased with the reduction of the width definition. Staff is not opposed to the reduction of width definition. However if the intent of this amendment is to keep the overall tree save requirements the same and only modify *mitigation* standards (what happens when the tree save requirements cannot be adhered to), staff recommends keeping the specimen tree width at 24 inches. In addition, most neighboring towns that define a specimen tree define it as a large maturing tree 24 inches in caliper and above.

Specimen Tree Caliper Mitigation: Staff recommends that 100% of the caliper over and above the specimen tree save ordinance be required to be mitigated. This will notably increase the required mitigation as discussed by the sub-committee (70% increase) therefore encouraging development to save as many mature trees as possible. In addition, a caliper for caliper mitigation requirement represents a tangible application of the tree save ordinance that can clearly be communicated to the public. Mitigation would be permitted if the tree save requirement of Article 7.4 can't be met, however the corresponding tree size/caliper that cannot be saved must be replaced or contributed for. Breaking the caliper requirement down into a percentage seems more arbitrary and does not directly correlate to an aspect of the trees being removed or the requirement.

Buffer Planting Allowance: Staff recommends that required buffer tree plantings not be counted as tree save mitigation trees. The tree save requirement intent is to preserve existing *mature* trees. If those mature trees are removed/mitigated, staff recommends that the mitigation trees be specifically earmarked for the loss of mature trees on the site over and above separate landscaping requirements. Mature trees have intrinsic environmental value that is difficult to quantify. Whether it be through environmental cooling in the summer, aided storm water runoff control, animal and insect habitat, or purely natural aesthetics, that value is lost with the removal of mature trees. That value cannot be replaced with newly planted buffer trees for many years.

In addition, the buffer requirement in Article 7.5 requires between 3-5 trees per 1000 sqft of buffer area for various applications. For both residential subdivisions and commercial developments this buffer tree requirement could require a great deal of newly planted trees for buffering purposes. For instance the Burkert industrial development on Mt. Holly Huntersville Road was required to plant over 300 trees in their required 80 foot buffer along the street. Nutec, also on Mt. Holly Huntersville Road was required to plant 137 for theirs. Therefore if future development seeks mitigation and is also required to plant a buffer similar to Nutec or Burkert, the allowance to use buffer trees for mitigation trees could effectively eliminate mature tree mitigation. Reducing the buffer mitigation allowance from 100% down to 75% or 50% could have the same effect depending on the site. Staff recommends the tree save mitigation requirement remain separate from the buffer requirement, establishing a corresponding mitigation for loss of the required mature vegetation of Article 7.4.

Staff also supports the requirement to plant trees from the approved tree and shrub list.

| <24" Specimen Tree                          | 24+ inch Specimen Tree  |
|---|-------------------------|
| Cornelius (18 inches) - "Significant Tree"  | Mooresville (36 inches) |
| Pineville (12 inches) – "Protected Tree"    | Charlotte (24 inches)   |
| Matthews (no minimum) – Determined by staff | Davidson (24 inches)    |
|   | Raleigh (24 inches)     |
|   | Statesville (24 inches) |

**PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD**

The Huntersville Ordinances Advisory Board (HOAB) considered the proposed text amendment on February 13, 2020 and March 5, 2020. The HOAB discussed the proposed application with members of the tree mitigation committee and reviewed their findings. The Board also reviewed the contribution cost table produced by staff. The consensus of the Board was that 100% of the caliper mitigation may place an economic burden on the development community. Therefore the HOAB recommended that the text amendment be approved with the definition of a specimen tree being reduced to 18 inches, the caliper mitigation requirement be increased from 30% to 50%, and a maximum amount of buffer trees counted as mitigation trees to be capped at 75%. Please see the green recommendation table below.

| <u>Recommendations:</u>   | <u>Existing Ordinance</u>                      | Tree Mitigation Sub Committee | Huntersville Ordinance Advisory Board (HOAB) | Planning Staff | Planning Board TBD |
|---|--|-------------------------------|--|----------------|--------------------|
| Landscaping to be required from the approved Tree and Shrub List?     | No requirement to plant from the approved list | Yes                           | Yes  | Yes            |                    |
| Percent of Caliper to be Mitigated over the ordinance requirement?    | 30%  | 100%                          | 50%  | 100%           |                    |
| Percent of required Mitigation Trees counted toward Buffer plantings? | 100%   | 50%                           | 75%  | 0%             |                    |
| Specimen Tree Definition (large maturing tree)                        | 24 inches                                      | 18 inches                     | 18 inches                                    | 24 inches      |                    |

**PART 6: PUBLIC HEARING**

The Public Hearing is scheduled for September 8, 2020.

**PART 7: PLANNING BOARD RECOMMENDATION**

The Planning Board is scheduled to consider this text amendment on September 22, 2020.

**PART 8: ATTACHMENTS AND ENCLOSURES**

- Draft Language Ordinance (HOAB)
- Draft Language Ordinance (Staff)
- Staff Test Case Tables – Contribution Scenarios

- Text Amendment Application

**PART 9: STATEMENT OF CONSISTENCY – TA20-01**

| Planning Department  | Planning Board  | Board of Commissioners  |
|--|---|---|
| <p><b>APPROVAL:</b> In considering the proposed amendment TA20-01, to amend Article 7.2.1, Article 7.4.2 F and Article 12 of the Huntersville Zoning Ordinance, planning staff recommends approval based on the amendment being consistent with Policy E-1 and E-3 of the 2030 Huntersville Community Plan.</p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because the increased mitigation requirement encourages additional tree preservation, which provides distinct aesthetic, economic and environmental significance and value as a natural resource of the Town.</p> | <p><b>APPROVAL:</b> In considering the proposed amendment TA20-01 to amend Article 7.2.1, Article 7.4.2 F and Article 12 of the Huntersville Zoning Ordinance, the Planning Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u></p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because...<i>(Explain)</i></p>                            | <p><b>APPROVAL:</b> In considering the proposed amendment TA20-01 to amend Article 7.2.1, Article 7.4.2 F and Article 12 of the Huntersville Zoning Ordinance the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u></p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because...<i>(Explain)</i></p>                             |
| <p><b>DENIAL:</b> N/A</p>  | <p><b>DENIAL:</b> In considering the proposed amendment TA20-01 to amend Article 7.2.1, Article 7.4.2 F and Article 12 of the Huntersville Zoning Ordinance, the Planning Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>.</p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i></p> | <p><b>DENIAL:</b> In considering the proposed amendment TA20-01 to amend Article 7.2.1, Article 7.4.2 F and Article 12 of the Huntersville Zoning Ordinance, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u>.</p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i></p> |