

## TA 21-08 – S.W.I.M. Buffer Delineation

### PART 1: DESCRIPTION

TA21-08 is a text amendment request submitted by the Town of Huntersville Planning Department to amend Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation; Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance. The purpose of the amendment is to clarify which 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, and provide greater consistency with the Buffer Implementation Guide and the delineation methods of several surrounding communities.

### PART 2: BACKGROUND

Staff recently process Variance 21-05 submitted by Chris Stanley on behalf of MDH F1 Huntersville JV, LLC is requesting a variance from Article 8.25.11 S.W.I.M Buffers to allow disturbance and mitigation of an intermittent stream as established in Section 8.25.11 (b) of the Zoning Ordinance. The subject property of Variance 21-05, 12802 Jamesburg Drive, Huntersville, NC 28078, is included within the boundary of Rezoning 19-13 as well as the MMF Huntersville Distribution Park properties. During the course of the rezoning and commercial site plan an intermittent stream was not delineated on the plans submitted to the Town of Huntersville. Currently, Article 8.25.4 requires that S.W.I.M. stream buffers throughout the Town of Huntersville be delineated by Mecklenburg County through its geographic information system (GIS). The intermittent stream that was ultimately disturbed at the Jamesburg Drive property is not delineated by Mecklenburg County GIS, but was identified by the applicant through an on-site analysis. Per Article 8.25.9 (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. Buffers are already required to be shown on all plans indicated in Article 8.25.9 (a) of the Zoning Ordinance. This proposed text amendment seeks to clarify the methods by which intermittent streams shall be identified.

### PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

- Policy EOS-1: Support the preservation and enhancement of the natural environment, along with its scenic and cultural assets. COMMENT: The proposed text amendment seeks to require that when an applicant is seeking a land development permit or when a property owner believes that the that the GIS buffer delineations inaccurately depict buffer requirements, an on-site stream delineation be prepared by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology. An on-site delineation would provide the most accurate analysis of the conditions of the property to greater preserve any intermittent streams.
- Policy EOS-5: Protect water quality. COMMENT: Per Article 8.25, the purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the “green

infrastructure.” Stream systems are comprised of each stream and its respective drainage basin. Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life. Vegetated lands adjacent to the stream channel in the drainage basin serve as “buffers” to protect the stream’s ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife. The proposed text amendment seeks to provide requirements during plan review to prevent unintended disturbance to water quality.

#### PART 4: STAFF RECOMMENDATION

Planning staff recommends approval of the proposed text amendment application. EOS-1 and EOS-5 support the preservation of the natural environment and protection of water quality. The purpose of the amendment to Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation is to clarify which 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, and provide greater consistency with the Buffer Implementation Guide and the delineation methods of several surrounding communities. Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance are proposed to be amended to be consistent with the proposed language of Article 8.25.4.

Please see the drafted text below and the proposed amendment ordinance included in the agenda packet. Removed language is struck out, new language is **bold underline**.

#### Article 8.25.4: S.W.I.M. Stream Buffers, Buffer Delineation

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.~~

Articles 8.17.12(a)(2); 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects; Performance Criteria for High Density Projects

Built-Up Area Setbacks. All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be ~~deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared~~

~~by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). **delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.** An exception to this requirement shall be granted if one or more of the following is satisfied and documented:~~

(a) Based on an on-site determination by the Storm Water Administrator, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator. Upon request, the Storm Water Administrator shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this ordinance if this on-site determination shows that they fall into one of the following categories:

- Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access.
- Manmade ponds and lakes located outside natural drainage ways.
- Ephemeral (storm water) streams

Article 8.17.12(b)(1)

Built-Up Area Setbacks. All built-upon area for development and redevelopment subject to the requirements of this ordinance shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the water quality buffer area. Surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). **delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.** An exception to this requirement shall be granted if one or more of the following is satisfied and documented:

(a) Based on an on-site determination by the Storm Water Administrator, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator. Upon request, the Storm Water Administrator shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this ordinance if this on-site determination shows that they fall into one of the following categories:

- Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access.
- Manmade ponds and lakes located outside natural drainage ways.

- Ephemeral (storm water) streams

#### Article 12.2.3: Definitions, Watershed Definitions

Perennial Stream. A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. ~~They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.~~ **They shall be delineated in the field by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology.**

#### PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

The Huntersville Ordinances Advisory Board (HOAB) reviewed a previous draft of the proposed text August 5, 2021 and recommended approval. Revised language will be presented to the HOAB for the October 7, 2021 meeting. The HOAB reviewed the revised language and recommended unanimous approval with the below revision:

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated for the purposes of land development permits by 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, which has been approved by the Town. Delineation by** Mecklenburg County through its geographic information system (GIS) ~~using the most current digital elevation model (DEM) of no greater than 10 foot cells is allowed for development not requiring a land development permit site plan approval. 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.~~

#### PART 6: PUBLIC HEARING

The Public Hearing took place October 4, 2021.

#### PART 7: PLANNING BOARD RECOMMENDATION

The Planning Board is scheduled to consider this text amendment October 26, 2021.

#### PART 8: ATTACHMENTS AND ENCLOSURES

Attachment 1 - Draft Language Ordinance

Attachment 2 - Text Amendment Application

PART 9: STATEMENT OF CONSISTENCY – TA21-08

Planning Department	Planning Board	Board of Commissioners
<p><b>APPROVAL:</b> In considering the proposed amendment TA21-08, to amend Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation; Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance to clarify which and how buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville, the Planning Staff recommends approval of the application based on the amendment being consistent with policies EOS-1 and EOS-5 of the Huntersville 2040 Community Plan.</p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because it clarifies which and how buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville and helps to prevent unintended disturbance of S.W.I.M Buffers throughout the Town of Huntersville.</p>	<p><b>APPROVAL:</b> : In considering the proposed amendment TA21-08, to amend Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation; Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance to clarify which and how buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville, 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...(Explain)</p>	<p><b>APPROVAL:</b> : In considering the proposed amendment TA21-08, to amend Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation; Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance to clarify which and how buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville, 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...(Explain)</p>

	<p><b>DENIAL:</b> : In considering the proposed amendment TA21-08, to amend Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation; Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance to clarify which and how buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville, the Planning Board recommends denial based on the amendment being <b><u>(consistent OR inconsistent)</u></b> with <b><u>(insert applicable plan reference)</u></b>.</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 TA21-08, to amend Article 8.25.4: S.W.I.M Stream Buffers, Buffer Delineation; Articles 8.17.12(a)(2) and 8.17.12(b)(1): Water Quality, Performance Criteria, Performance Criteria for Low Density Projects, Performance Criteria for High Density Projects; and, Article 12.2.3: Definitions, Watershed Definitions of the Huntersville Zoning Ordinance to clarify which and how buffers must be shown on land development plans submitted for review and approval by the Town of Huntersville , the Town Board recommends denial based on the amendment being <b><u>(consistent OR inconsistent)</u></b> with <b><u>(insert applicable plan reference)</u></b>.</p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance because....<i>(Explain)</i></p>
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