

February 20, 1989
Ordinance Book 37 - Page 375

APPROVED BY CITY COUNCIL

DATE 2/20/89

AMENDING CHAPTER 20

ORDINANCE NO. 2588

AN ORDINANCE AMENDING CHAPTER 20, (SUBDIVISION REGULATIONS) OF THE CODE OF THE CITY OF CHARLOTTE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA:

Section 1. Chapter 20, is hereby amended as follows:

- 1. Amend Section 1.500. Compliance with Ordinance, by deleting the entire section which reads as follows:

1.500. Compliance with Ordinance

All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will exempt the transaction from compliance with this ordinance.

and replacing it with the following language:

1.500. Compliance with Ordinance

All plats for the subdivision of land must conform to the requirements of this ordinance, and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance.

- 2. Amend Section 2.100. Definitions, SUBDIVISION, as follows:

- a. Delete in its entirety the following paragraph:

SUBDIVISION. A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type, including residential or nonresidential use and also includes all divisions of land involving the dedication of a new street or a street right-of-way or a change in existing streets; provided, however, that, the following will not be included within this definition nor be subject to the requirements of this ordinance:

and replacing it with the following language:

SUBDIVISION. A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type (including both residential and nonresidential multiple building site and multi-site projects even if there is no division of the underlying land into separate parcels which is to be recorded with the Register of Deeds and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this ordinance:

- d. Delete in its entirety numbered paragraph 13. (an exception to the definition of subdivisions) which reads as follows:

13. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land.

3. Amend Section 6.100. Compliance Required, by deleting the entire section which reads as follows:

6.100. Compliance Required.

After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the County Register of Deeds until it has been submitted to and approved by the Charlotte-Mecklenburg Planning Commission staff. This includes all divisions of land as defined in Section 2.100 and includes the development of any residential multiple building site even if there is no division of the underlying land into separate parcels which is submitted to be recorded with the Register of Deeds. This does not include the development of a nonresidential multiple building site if there is no division of the underlying land into separate parcels which is submitted to be recorded with the Register of Deeds.

and replacing it with the following language:

6.100. Compliance Required.

After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the County Register of Deeds until it has been submitted to and approved by the Charlotte-Mecklenburg Planning Commission staff. This includes all divisions of land as defined in 2.100.

- 4. Amend Section 7.110. by adding the following after the Minimum Right-of-Way listing:

Along existing streets less than 60 feet wide, there is no requirement that right-of-way greater than 30 feet on each side of the centerline be dedicated. Along all other existing streets, there is no requirement that any right-of-way be dedicated or reserved.

- 5. Amend Section 8.110. Improvement responsibility by deleting the following wording which is the last sentence in the next to last paragraph:

The standards in this ordinance for the reservation and dedication of rights-of-way will not apply to any development which was approved under the parallel conditional use district process found in Section 3200 of the zoning ordinance so long as the approval occurred prior to January 21, 1986.

and replacing it with the following language:

The standards in this ordinance for the reservation and dedication of rights-of-way will not apply to any development meeting one or more of the following circumstances:

- 1. Any multi-building site or multi-site project that had at least one building built or under construction, or had a valid, unexpired building permit issued for at least one building prior to May 1, 1989.
- 2. Any project which had a site plan not requiring any additional right-of-way approved prior to May 1, 1989 either:
 - .1 by the Planning Commission and/or Planning Staff; or
 - .2 unconditional zoning district and/or special use permit zoning processes of the Zoning Ordinance. However, any change in the site plan requiring a public hearing or the creation of a new parcel of land may subject the project for which the site plan was revised or the newly created parcel of land to the provisions of this ordinance.

Section 2. This ordinance shall become effective May 1, 1989.

Approved as to form:

Henry W. Underhill Jr
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 20th day of February, 19 89, the reference having been made in Minute Book 92, and recorded in full in Ordinance Book 37, beginning on Page 375.

Pat Sharkey, City Clerk

February 20, 1989

Ordinance Book 37 - Page 379

Zoning Ordinance Amendments Related to Protecting Thoroughfare Rights-of-Way

APPROVED BY CITY COUNCIL

DATE 2/20/89

ORDINANCE NO. 2589

AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE ZONING ORDINANCE

AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the City of Charlotte is hereby amended as follows:

- 1. Amend Section 1102, Definitions, Add the following definitions in proper alphabetical order to the existing listing of definitions.

Collector street (Class V). A roadway which assembles traffic from local streets, and distributes it to the nearest arterial street. The Class V road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

Commercial arterial street (Class III-C). A multi-lane, major roadway connecting Class I or II roads with lesser streets in the network, the Class III-C road may also connect this region to other regions. It is designed to accommodate large volumes of traffic at moderate speeds while also providing, as a major part of its function, direct access to nonresidential high trip generating land uses. A Class III-C road may be part of state primary or secondary highway systems.

Freeway or expressway (Class I). A multi-lane, grade-separated, limited access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate large traffic volumes at high speeds. Such a facility may be part of the interstate, federal or state primary highway system. A Class I road will be built to or approaching interstate design standards.

Limited access arterial street (Class II). A multi-lane limited access major road connecting major activity centers or major roads. It is designed to accommodate large volumes of traffic at moderate speeds. Intersections are at grade, with access only a cross streets rather than at individual driveways. All types of land uses are acceptable along this road with proper consideration to environmental stresses related to the road.

Local street (Class VI). This is a two lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to local limited and Class V streets which serve the area. The Class VI road is designed to accommodate low volumes of traffic at low speeds. A local limited street (Class VII) function as the Class VI street but is located in residential environments

which have been created through special conditions or design considerations. These unique environments include planned developments and other similar techniques, or cul-de-sac streets in conventional subdivisions. A Class VI-L street may not provide vehicular access to elementary, junior or senior high schools, colleges, or official sites for such schools or to proposed places of public assembly including public or private parks, recreation facilities, or greenways.

Major arterial (Class III). A multi-lane major roadway connecting Class I, II or III streets with lesser streets in the network. The Class III road may also provide connections between this and other regions. It is designed to accommodate large volumes of traffic at moderate speeds, but it is not intended to provide primary access to adjoining high trip generating uses.

Minor arterial (Class IV). A roadway, frequently two lanes, providing a connection from Class II and Class III roads to other lesser roads in the system. It is designed to accommodate moderate volumes of traffic at moderate speeds. It does not have a significant function in connecting this region to other regions. Therefore, it usually only handles trips for short to moderate distances.

Proposed right-of-way line. The margin of a thoroughfare's right-of-way of the full width for that thoroughfare's classification as established by the Planning Commission pursuant to the Subdivision Ordinance.

Transitional setback or yard. That area, if any, along a thoroughfare which lies between (a) the minimum setback or yard line for the zoning district measured from the existing street right-of-way line and (b) the minimum setback or yard line measured from the Proposed Right-of-Way Line. There will be no transitional setback or yard when the existing street right-of-way line and the Proposed Right-of-Way Line are the same. (See Figure 1 below).

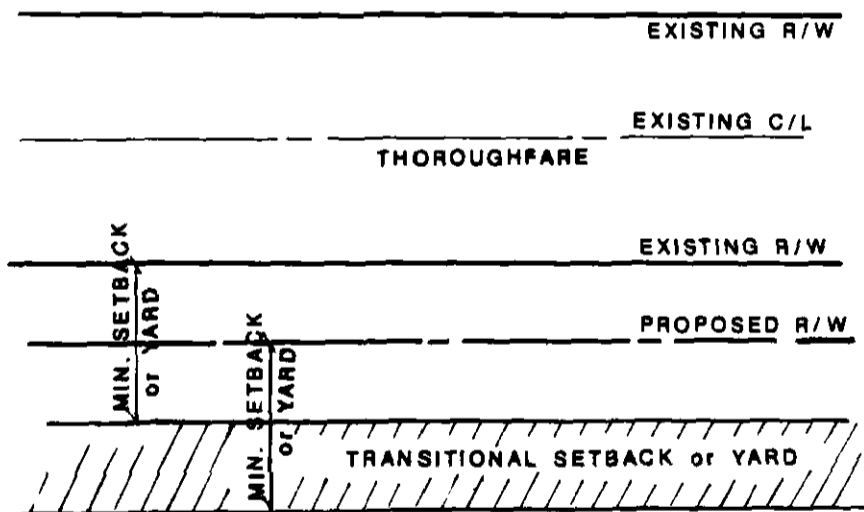


Figure 1
SPECIAL ZONING REQUIREMENTS
for LOTS ALONG THOROUGHFARES

Thoroughfare. Any street designated on the adopted thoroughfare plan or any street which is an extension of any street on the thoroughfare plan and which extends into the area not covered by the thoroughfare plan. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as Class I, II, III, III-C, or IV.

Thoroughfare plan. The most recent map approved by the City Council and the Board of County Commissioners which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation. The words thoroughfare plan and arterial plan are used synonymously.

2. Add a new section, Section 1631. as follows: 1631. Special Requirements for Lots Along Thoroughfares.

1631.1. Pursuant to North Carolina General Statutes 153A-326., and 160A-306 (which state that counties and cities shall have authority to (i) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic loads, and other characteristics relevant to the achievement of the purposes of this section, and (ii) establish by ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be set back from the right-of-way line or the center line of an existing or proposed street) the following requirements shall apply.

1631.2. The minimum yards or setbacks prescribed for each zoning district which abut a thoroughfare shall be measured from the Proposed Right-of-Way Line established for each classification of thoroughfare as follows:

<u>Thoroughfare Classification</u>	<u>Distance From Thoroughfare Centerline to "Proposed Right-of-Way Line"</u>
Freeway or Expressway (Class I)	125-175 feet
Limited Access Arterial (Class II)	100 feet
Commercial Arterial (Class III-C)	75 feet
Major Arterial (Class III)	50 feet
Minor Arterial (Class IV)	35 feet

A transitional setback or yard shall also be established for each zoning district which abuts a thoroughfare

that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for (a) those permanent uses which are prohibited in the required setbacks or yards as established by this ordinance, or (b) to satisfy and minimum parking requirements if parking is not allowed in the setback or yard by the particular zoning district. The area between the existing right-of-way and the Proposed Right-of-Way Line may not be used to satisfy any minimum parking requirement, any minimum open space requirements, any minimum lot size requirements or any other minimum requirements, imposed by this ordinance. At the time that the proposed right-of-way is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the transitional setback or yard that are not otherwise permitted in the setback or yard by the district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.

1631.4. The standards of Section 1631.2. and 1631.3. will not apply to any development meeting one or more of the following circumstances:

- .1 Any multi-building site or multi-site project that had at least one building built or under construction, or had a valid, unexpired building permit issued for at least one building prior to May 1, 1989.
- .2 Any project which had a site plan not requiring any additional right-of-way approved prior to May 1, 1989 either:
 - .1 by the Planning Commission and/or Planning Staff; or
 - .2 under the conditional zoning district and/or special use permit zoning processes of the Zoning Ordinance. However, any change in the site plan requiring a public hearing or the creation of a new parcel of land may subject the project for which the site plan was revised or the newly created parcel of land to the provisions of this ordinance.

1631.5. An affected property owner shall have the right to appeal transitional yard or setback requirements to the Board of Adjustment for variance or modification as they apply to a particular piece of property. The Board of Adjustment may vary or modify these requirements upon a showing that:

- .1 The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirement, and

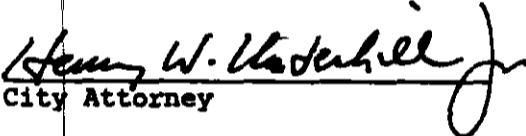
February 20, 1989
Ordinance Book 37 - Page 383

- .2 The property will not yield a reasonable return or cannot be put to reasonable use unless relief is granted, and
- .3 Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties. The Board of Adjustment's decision shall be subject to review by the superior court by proceedings in the nature of certiorari all in accordance with N.C. General Statutes Section 160A-388(e).

Section 2. That this ordinance shall become effective May 1, 1989.

Approved as to form:


City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 20th day of February, 19 89, the reference having been made in Minute Book 92, and recorded in full in Ordinance Book 37, at page 379.

Pat Sharkey, City Clerk