

Petition No.: 2017-118
Petitioner: Phillips Investments Properties

ORDINANCE NO. 80-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel numbers 04115105 and 04115106, and further identified on the attached map from R-4 (single-family residential) to B-2 (CD) (general business, conditional) with five-year vested rights.

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 001-002.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



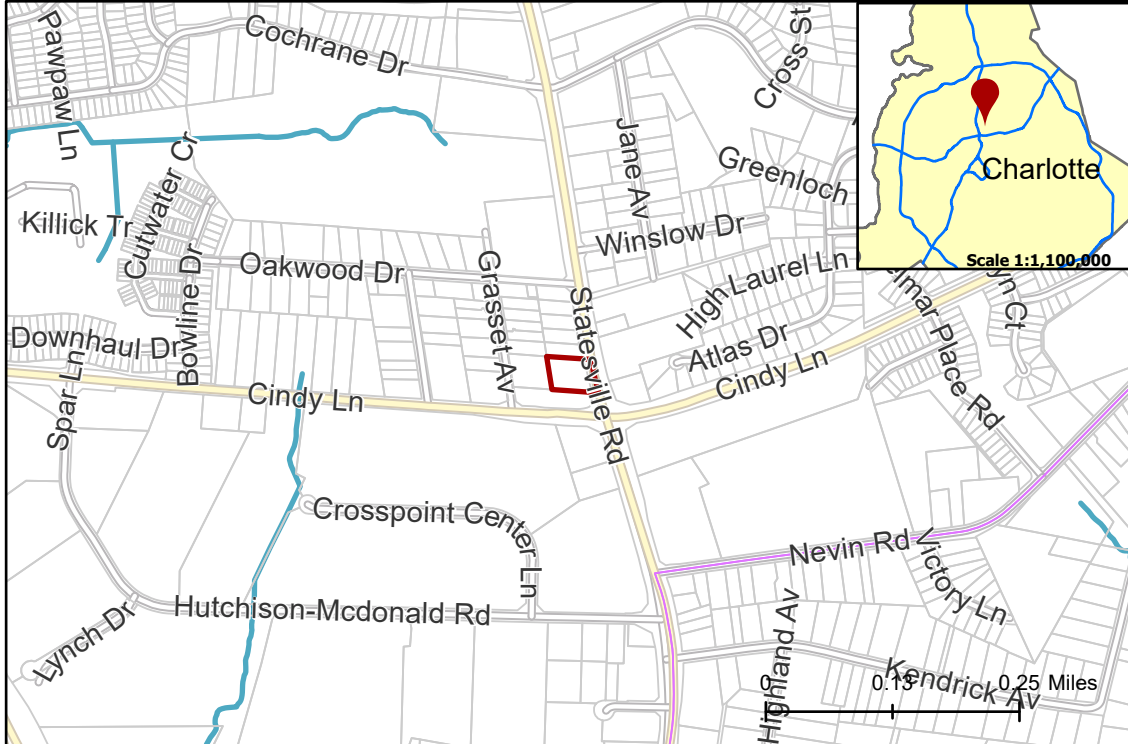
Stephanie C. Kelly, City Clerk, MMC, NCCMC

2017-118: Phillips Investments Properties

Current Zoning R-4 (Single Family Residential)
Requested Zoning B-2(CD) (General Business, Conditional)

Approximately 0.78 acres

Location of Requested Rezoning



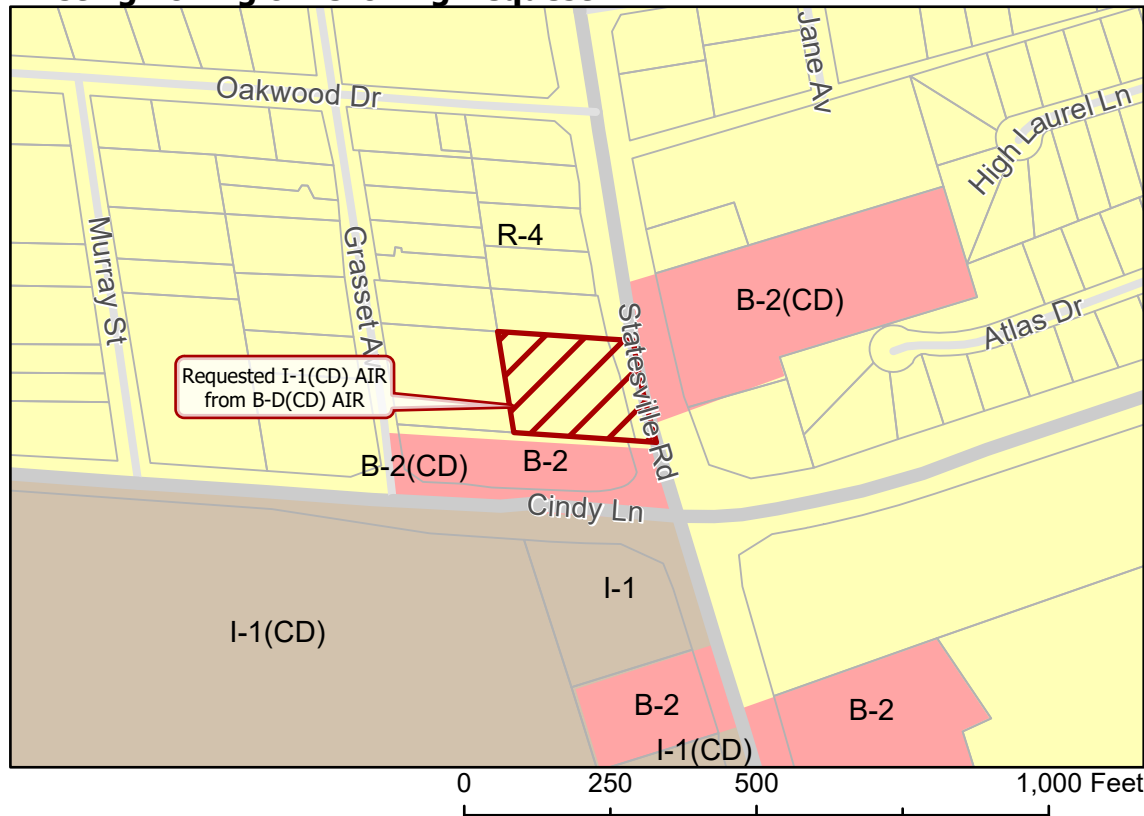
Rezoning Map



- 2017-118
- Inside City Limits
- Parcel
- Streams
- City Council District
- 2-Malcolm Graham



Existing Zoning & Rezoning Request



- Requested B-2(CD) from R-4
- Zoning Classification**
- Single Family
- Business
- Light Industrial



Map Created 5/12/2021

Petition No.: 2020-192
Petitioner: White Point Partners

ORDINANCE NO. 81-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel numbers listed below, and further identified on the attached map from TOD-UC (transit-oriented development – urban center) to MUDD-O (mixed-use development, optional).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:



City Attorney

Parcels included in Rezoning Petition 2020-192

12306401	12306402	12306404	12306405
12306407	12306408	12306409	

CERTIFICATION

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WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.





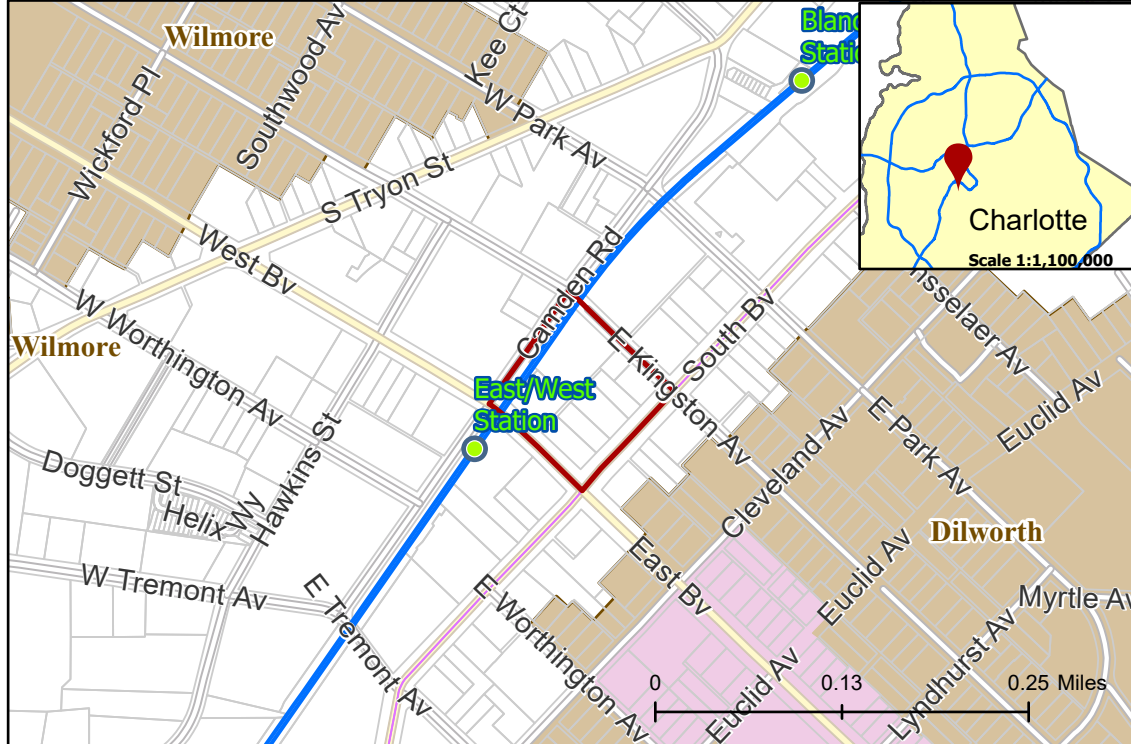
Stephanie C. Kelly, City Clerk, MMC, NCCMC

2020-192: White Point Partners

Current Zoning TOD-UC (Transit Oriented Development - Urban Center)
Requested Zoning MUDD-O (Mixed Use Development, Optional)

Approximately 3.501 acres

Location of Requested Rezoning



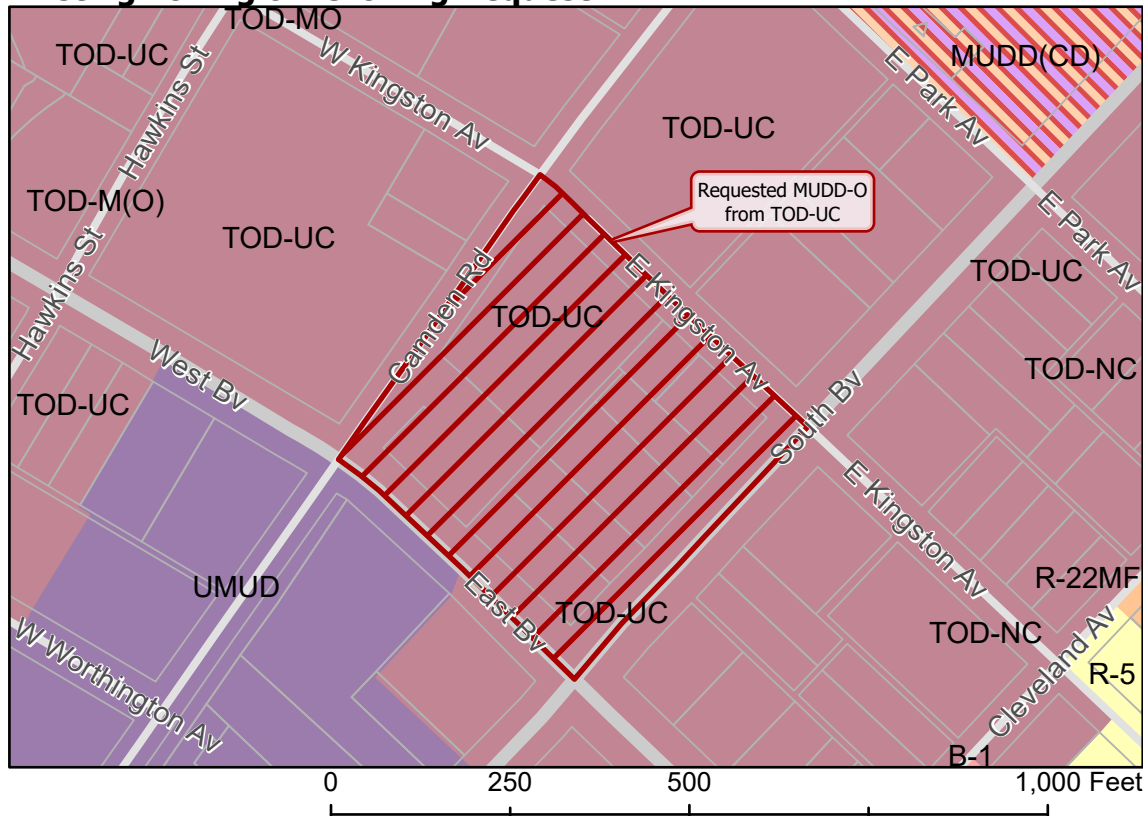
Rezoning Map



- 2020-192
- Inside City Limits
- Parcel
- LYNX Blue Line Station
- LYNX Blue Line
- East Blvd Pedscape Plan
- Historic Districts
- City Council District**
- 3-Victoria Watlington



Existing Zoning & Rezoning Request



- Requested MUDD-O from TOD-UC
- Zoning Classification**
- Single Family
- Multi-Family
- Business
- Uptown Mixed Use
- Mixed Use
- Transit-Oriented

Map Created 4/22/2021

Petition No.: 2020-197
Petitioner: The Paces Foundation, Inc.

ORDINANCE NO. 82-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel number 11707401, and further identified on the attached map from R-5 (single-family residential) and R-8 (single-family residential) to UR-2 (CD) (urban residential, conditional).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:



City Attorney

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WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

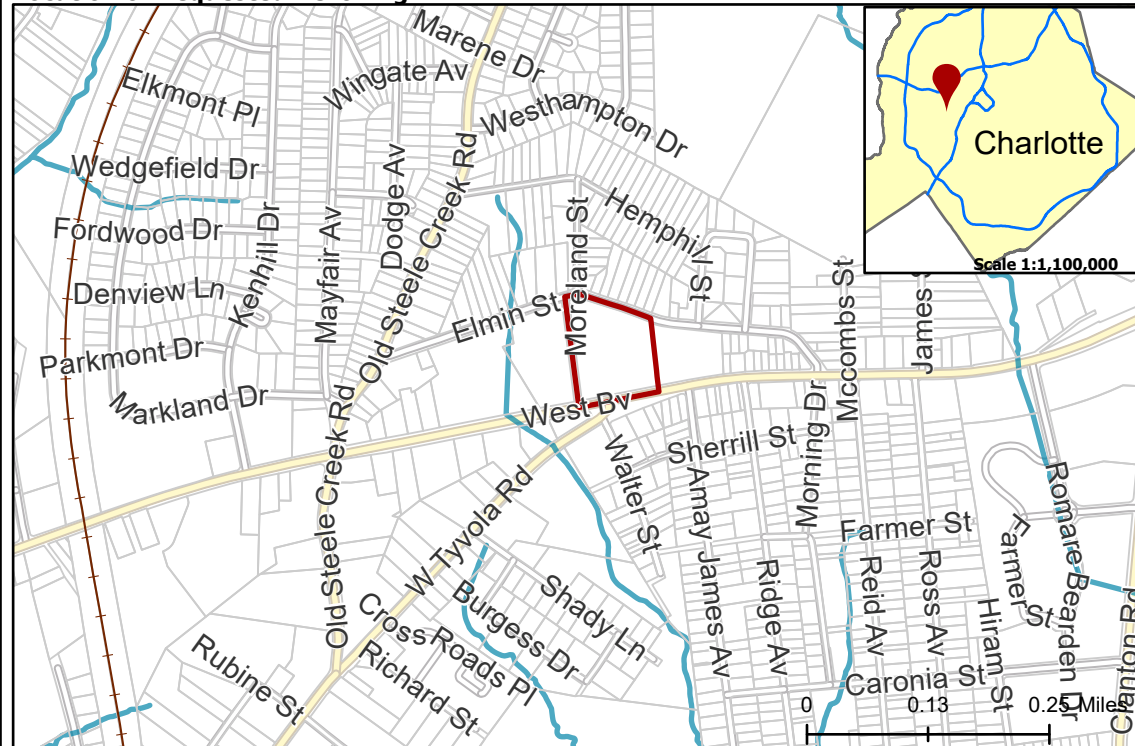
2020-197: The Paces Foundation, Inc.

Current Zoning R-8 (Single Family Residential), R-5 (Single Family Residential)

Requested Zoning UR-2(CD) (Urban Residential, Conditional)

Approximately 4.54 acres

Location of Requested Rezoning



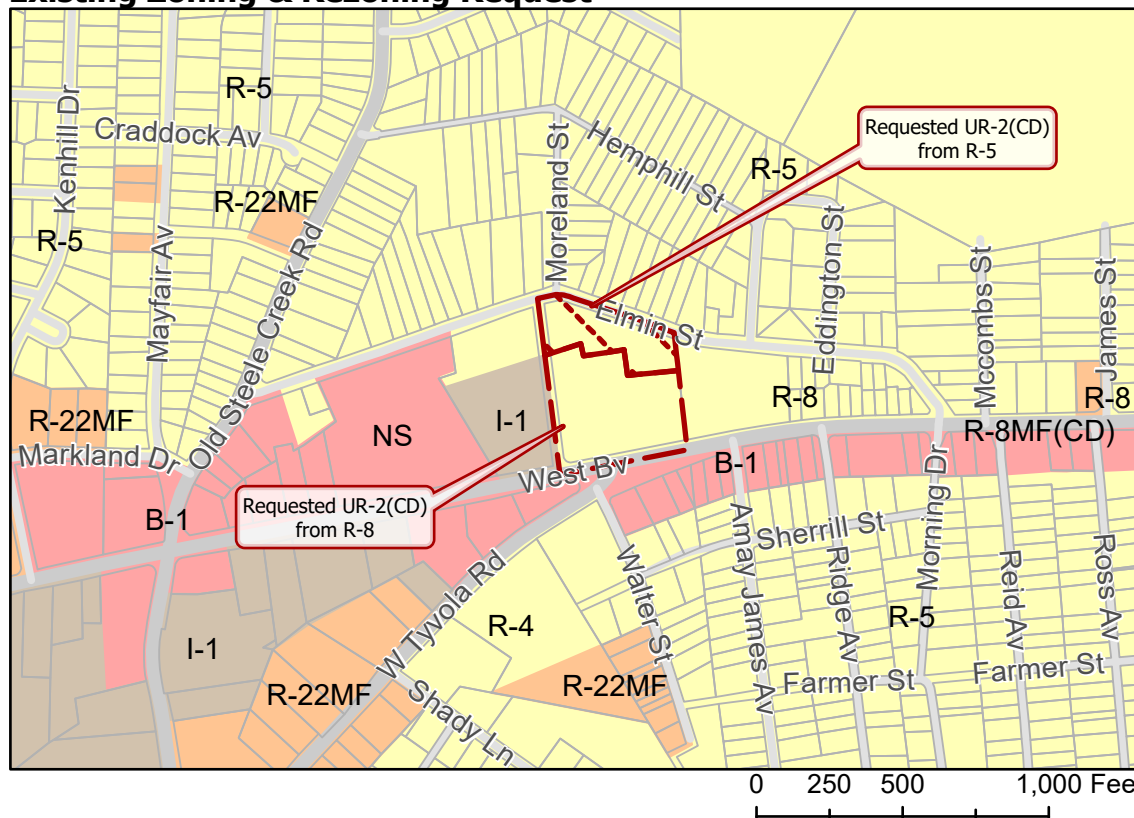
Rezoning Map



- 2020-197
- Inside City Limits
- Parcel
- — — Greenway
- + — Railway
- — — Streams
- FEMA Flood Plain
- City Council District**
- 3-Victoria Watlington



Existing Zoning & Rezoning Request



- Requested UR-2(CD) from R-8
- Requested UR-2(CD) from R-5

Zoning Classification

- Single Family
- Multi-Family
- Business
- Light Industrial



Map Created 11/20/2020

Petition No.: 2021-007
Petitioner: Pakchanok Lettsome

ORDINANCE NO. 83-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel number 08113110, and further identified on the attached map from R-5 (single-family residential) to UR-2 (CD) (urban residential, conditional).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 007-008.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

Map Created 2/19/2021

Petition No.: 2021-009
Petitioner: Edward Judson McAdams

ORDINANCE NO. 84-Z

ZONING REGULATIONS

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

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing the property identified by tax parcel number 09504417, and further identified on the attached map from R-3 (single-family residential) to R-4 (single-family residential).

SEE ATTACHED MAP

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

APPROVED AS TO FORM:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 009-010.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



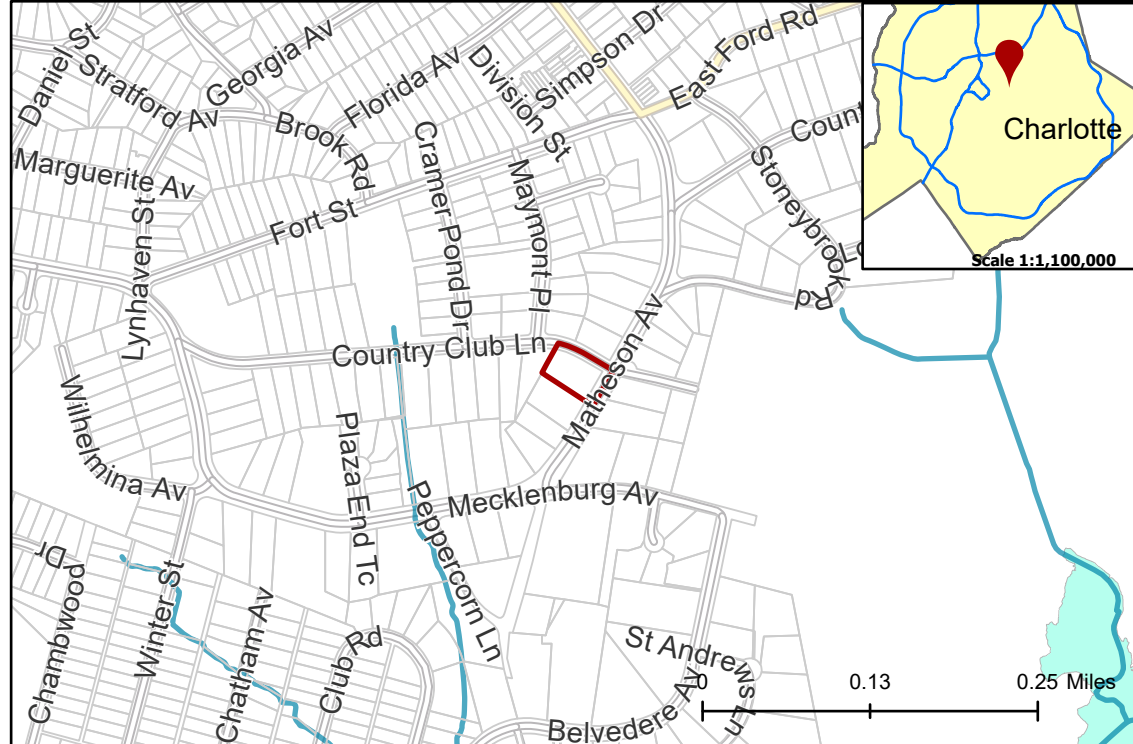
Stephanie C. Kelly, City Clerk, MMC, NCCMC

2021-009: Edward Judson McAdams

Current Zoning R-3 (Single Family Residential)
Requested Zoning R-4 (Single Family Residential)

Approximately 0.59 acres

Location of Requested Rezoning



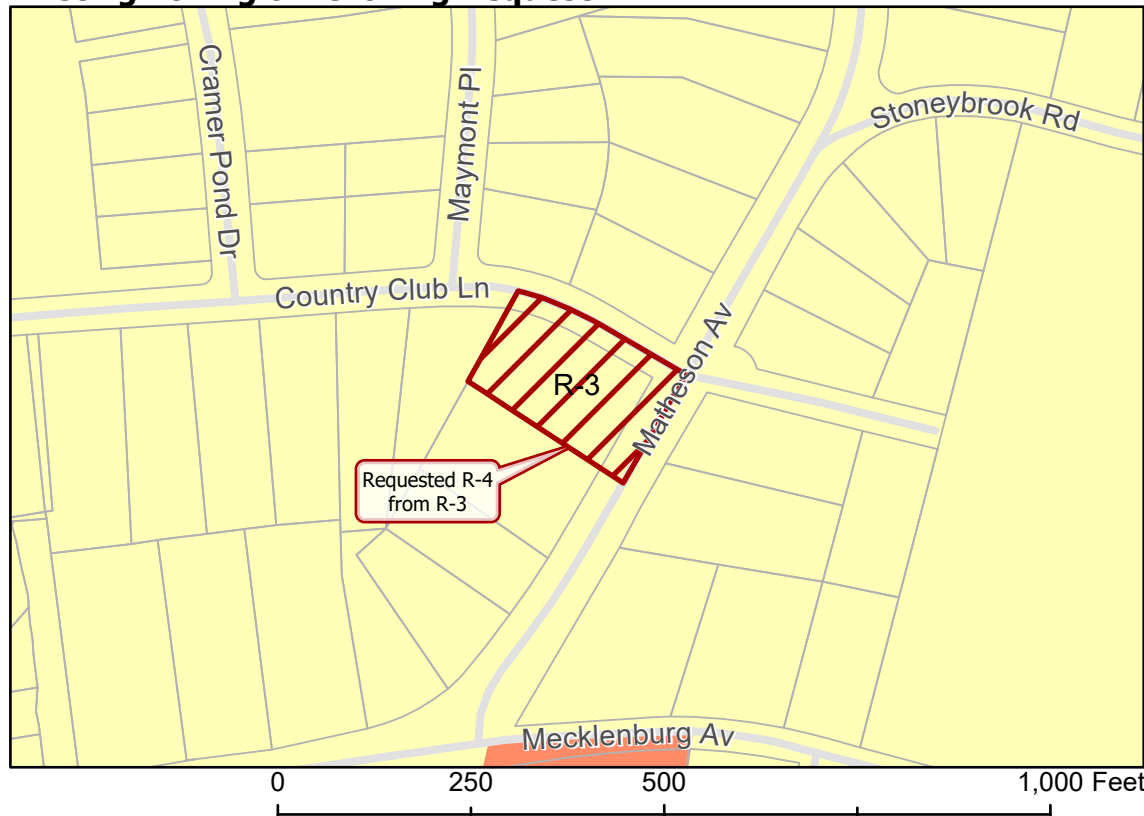
Rezoning Map



- 2021-009
- Inside City Limits
- Parcel
- Streams
- FEMA Flood Plain
- City Council District 1-Larken Egleston



Existing Zoning & Rezoning Request



- Requested R-4 from R-3
- Zoning Classification: Single Family
- Urban Residential



Map Created 2/19/2021

Petition No.: 2021-010
Petitioner: Madison Capital Group

ORDINANCE NO. 85-Z

ZONING REGULATIONS

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

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing the property identified by tax parcel numbers listed below, and further identified on the attached map from B-1 (neighborhood business, O-2 (office), and R-22 MF (multi-family residential) to TOD-NC (transit-oriented development – neighborhood center).

SEE ATTACHED MAP

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

APPROVED AS TO FORM:



City Attorney

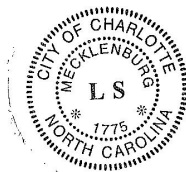
Parcels included in Rezoning Petition 2021-010

06705802	06705803	06705804	06705806
06705808	06705809	06705810	

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 011-012.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



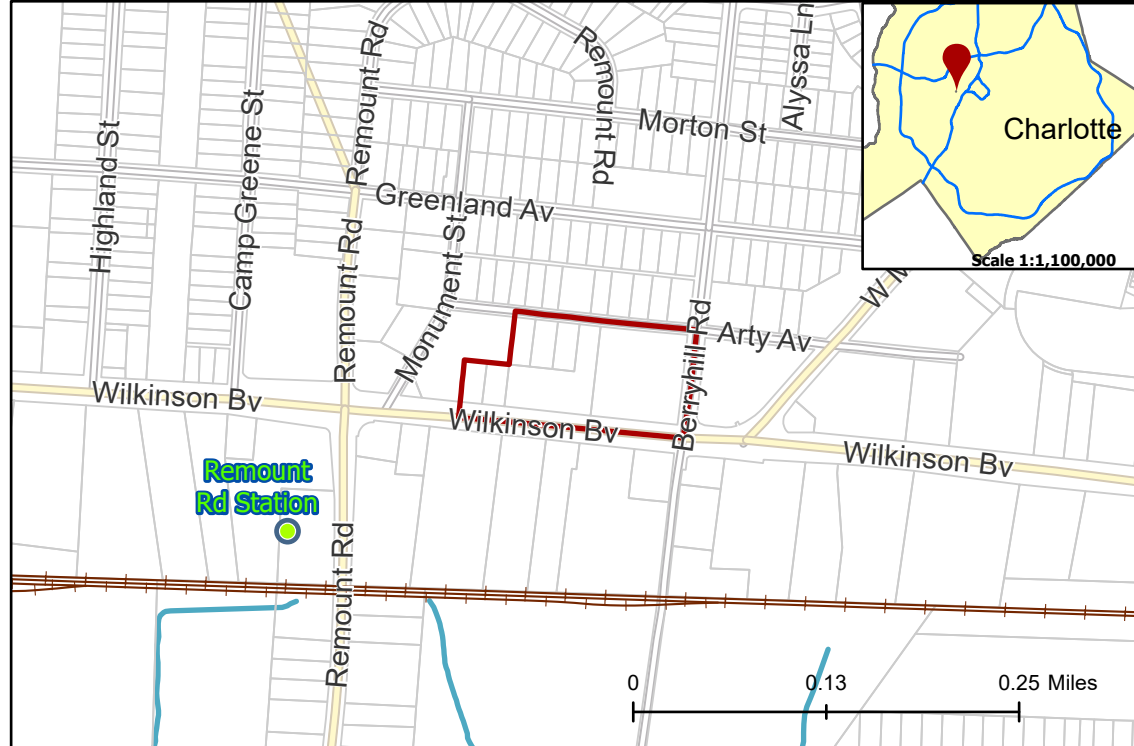
Stephanie C. Kelly, City Clerk, MMC, NCCMC

2021-010: Madison Capital Group

Current Zoning B-1 (Neighborhood Business), O-2 (Office), R-22MF (Multi-Family Residential)
Requested Zoning TOD-NC (Transit Oriented Development - Neighborhood Center)

Approximately 4.9 acres

Location of Requested Rezoning



Rezoning Map



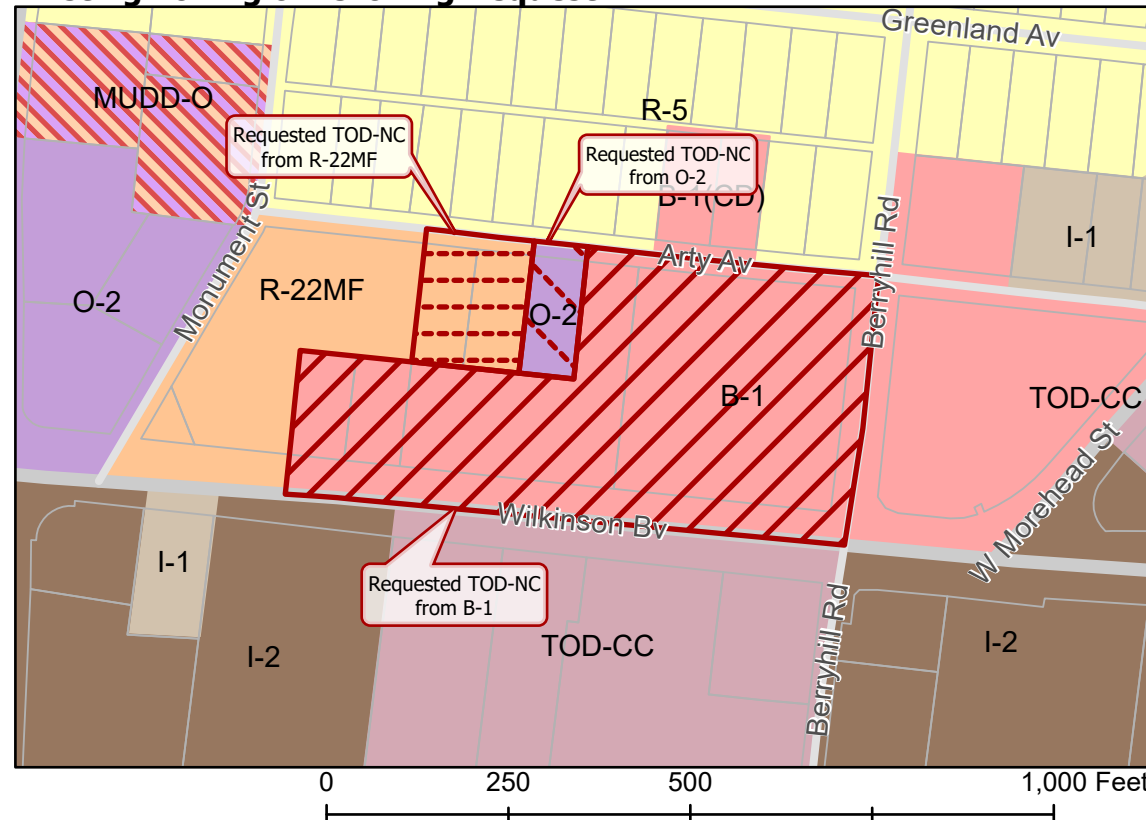
- 2021-010
- Inside City Limits
- Parcel
- Future LYNX Silver Line Station
- Railway
- Streams

City Council District

- 3-Victoria Watlington



Existing Zoning & Rezoning Request



- Requested TOD-NC from B-1
- Requested TOD-NC from O-2
- Requested TOD-NC from R-22MF

Zoning Classification

- Single Family
- Multi-Family
- Office
- Business
- Light Industrial
- General Industrial
- Mixed Use
- Transit-Oriented



Map Created 2/22/2021

Petition No.: 2021-013
Petitioner: Hebron Road Holdings, LLC

ORDINANCE NO. 86-Z

ZONING REGULATIONS

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

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing the property identified by tax parcel numbers 20515309, portions of 20515308, 20515310, and 20515301, and further identified on the attached map from I-1 (light industrial) to I-2 (general industrial).

SEE ATTACHED MAP

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

APPROVED AS TO FORM:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 013-014.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

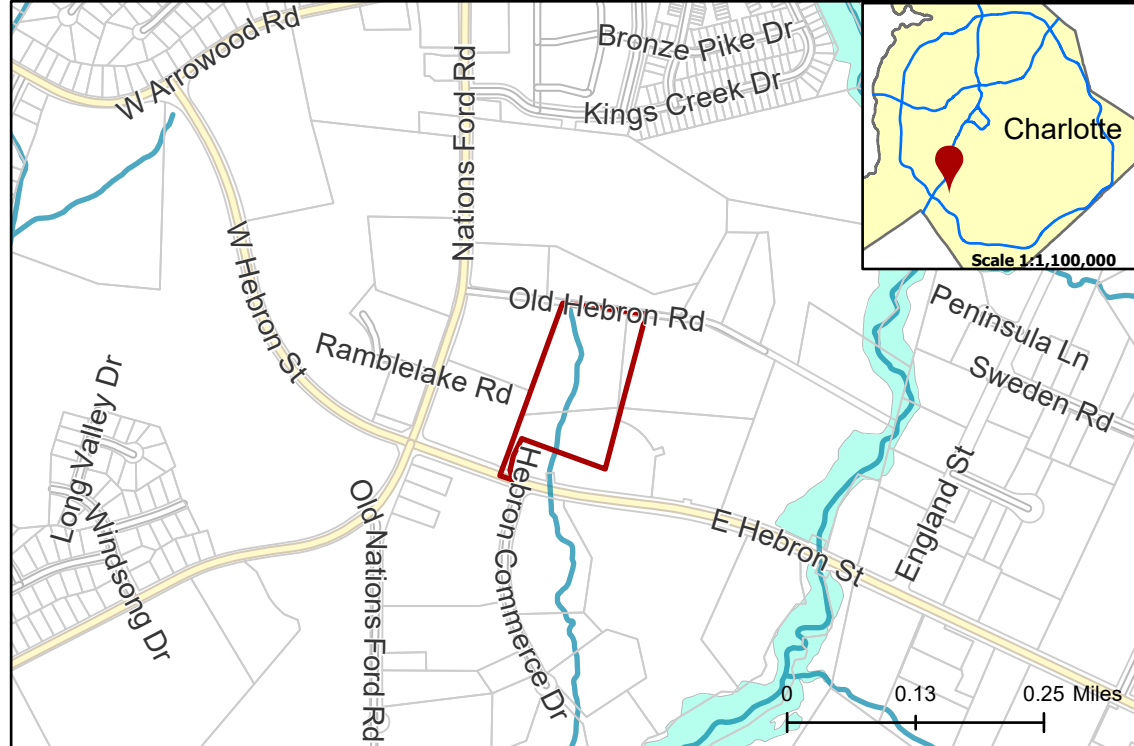
2021-013: Hebron Road Holdings, LLC

Current Zoning I-1 (Light Industrial)

Requested Zoning I-2 (General Industrial)

Approximately 8.25 acres

Location of Requested Rezoning



Rezoning Map



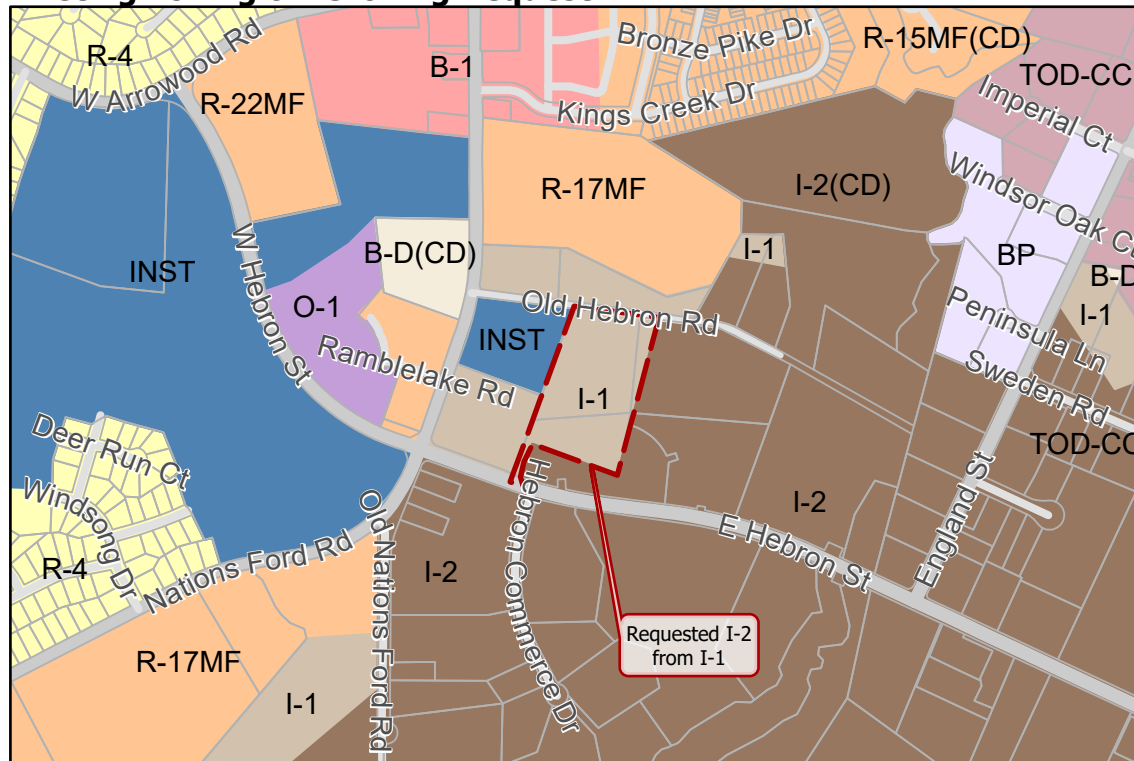
- 2021-013
- Inside City Limits
- Parcel
- Streams
- FEMA Flood Plain

City Council District

- 3-Victoria Watlington



Existing Zoning & Rezoning Request



- Requested I-2 from I-1

Zoning Classification

- Single Family
- Multi-Family
- Institutional
- Office
- Business Park
- Business
- Business-Distribution
- Light Industrial
- General Industrial
- Transit-Oriented



Map Created 2/19/2021

Petition No.: 2021-015
Petitioner: Exponential Development, LLC

ORDINANCE NO. 87-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel numbers 11504601 and 11504613, and further identified on the attached map from B-1S (CD) (business shopping center, conditional) to UR-2 (CD) (urban residential, conditional).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 015-016.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

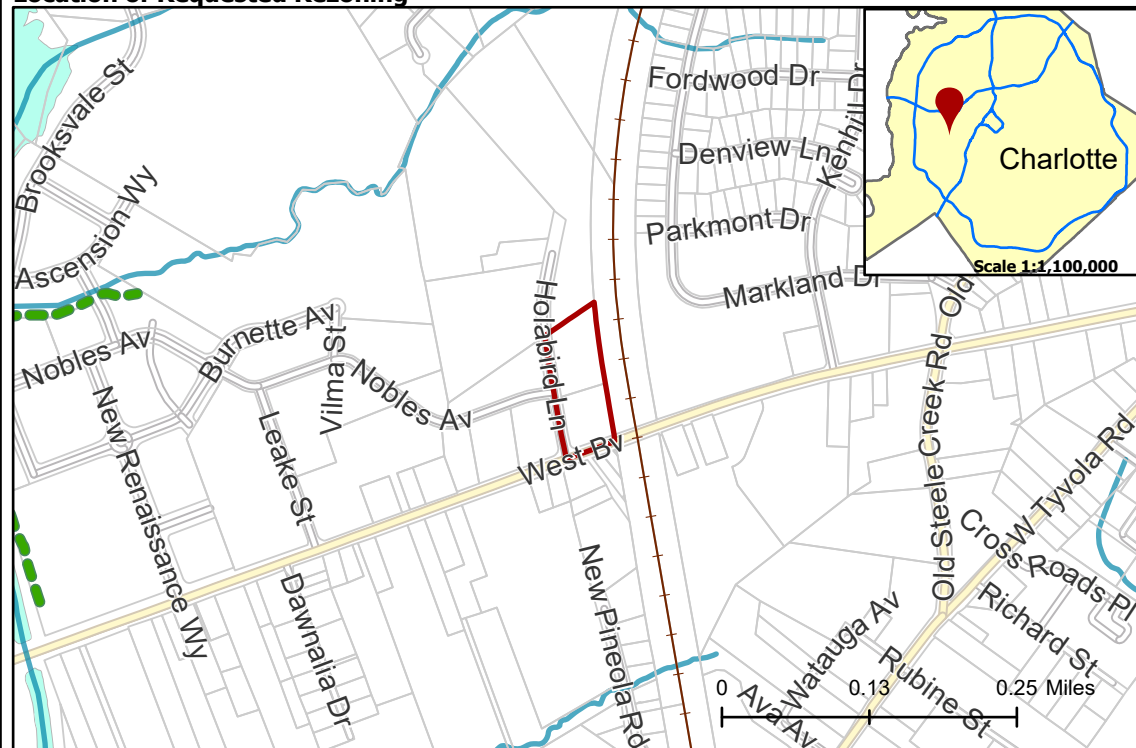
2021-015: Exponential Development, LLC

Current Zoning B-1SCD (Business Shopping Center)

Requested Zoning UR-2(CD) (Urban Residential, Conditional)

Approximately 2.556 acres

Location of Requested Rezoning



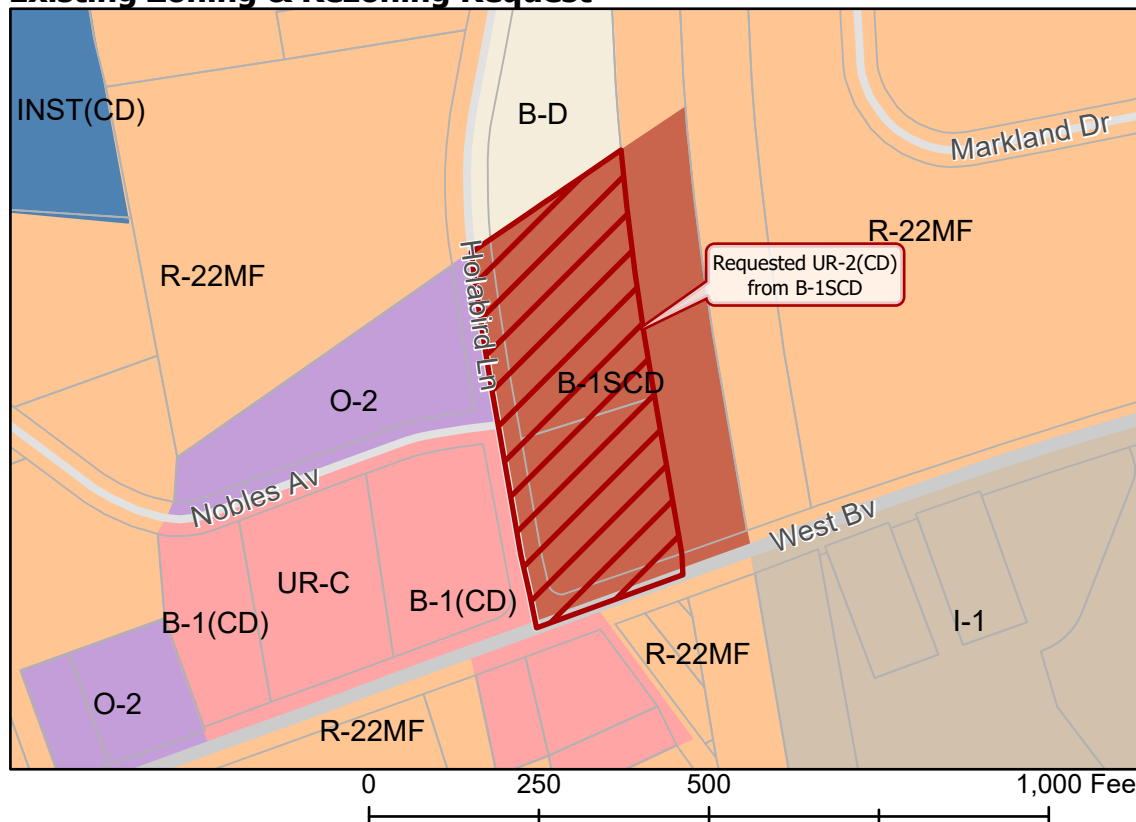
Rezoning Map



- 2021-015
- Inside City Limits
- Parcel
- Greenway
- Railway
- Streams
- FEMA Flood Plain
- City Council District**
- 3-Victoria Watlington



Existing Zoning & Rezoning Request



- Requested UR-2(CD) from B-1SCD

Zoning Classification

- Multi-Family
- Institutional
- Office
- Business
- Commercial Center
- Business-Distribution
- Light Industrial



Map Created 4/23/2021

Petition No.: 2021-030
Petitioner: Lucern Capital Partners

ORDINANCE NO. 88-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel number 04714119, and further identified on the attached map from O-1 (CD) (office, conditional) to RE-3(O) (research, optional).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 017-018.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



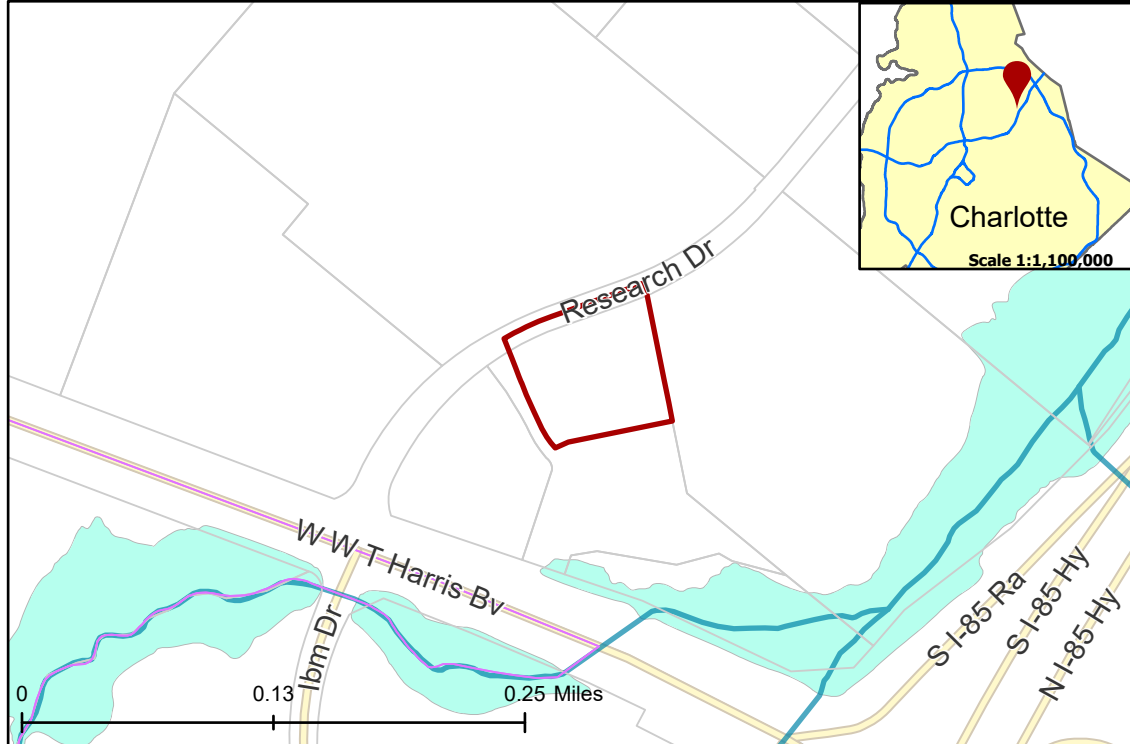
Stephanie C. Kelly, City Clerk, MMC, NCCMC

2021-030: Lucern Capital Partners

Current Zoning O-1(CD) (Office District, Conditional)
Requested Zoning RE-3(O) (Research, Optional)

Approximately 2.55 acres

Location of Requested Rezoning



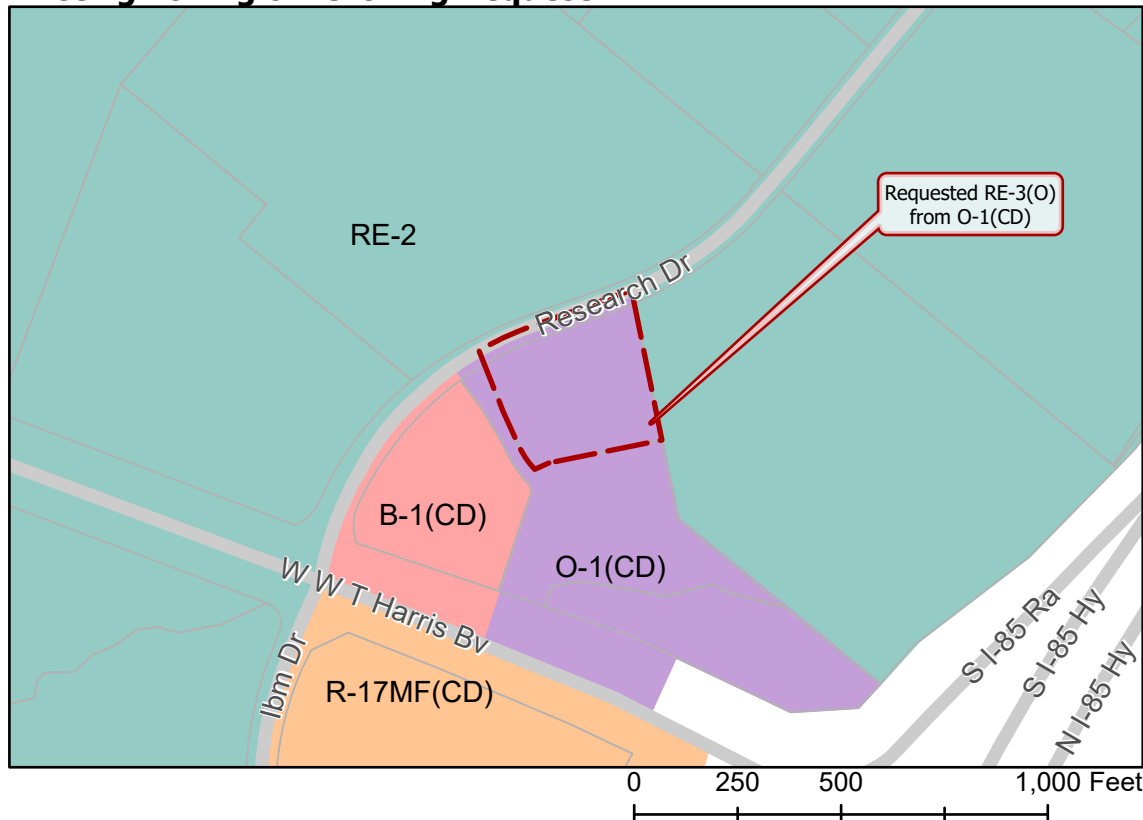
Rezoning Map



- 2021-030
- Inside City Limits
- Parcel
- Streams
- FEMA Flood Plain
- City Council District
- 4-Renee Perkins-Johnson



Existing Zoning & Rezoning Request



- Requested RE-3(O) from O-1(CD)
- Zoning Classification
- Multi-Family
- Research
- Office
- Business



Map Created 2/19/2021

Petition No.: 2021-031
Petitioner: Halley Douglas, Inc.

ORDINANCE NO. 89-Z

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. That the Official Zoning Maps referenced in Section 1.104 of the City of Charlotte Zoning Ordinance are hereby amended by changing the property identified by tax parcel number 15503211, and further identified on the attached map from R-5 (single-family residential) to R-8 (CD) (single-family residential, conditional).

Section 2. The development and use of the property hereby rezoned shall be governed by the predetermined ordinance requirements applicable to such district category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to the regulations and to the Zoning Maps.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:

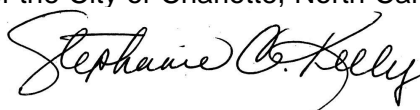


City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 017-018.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

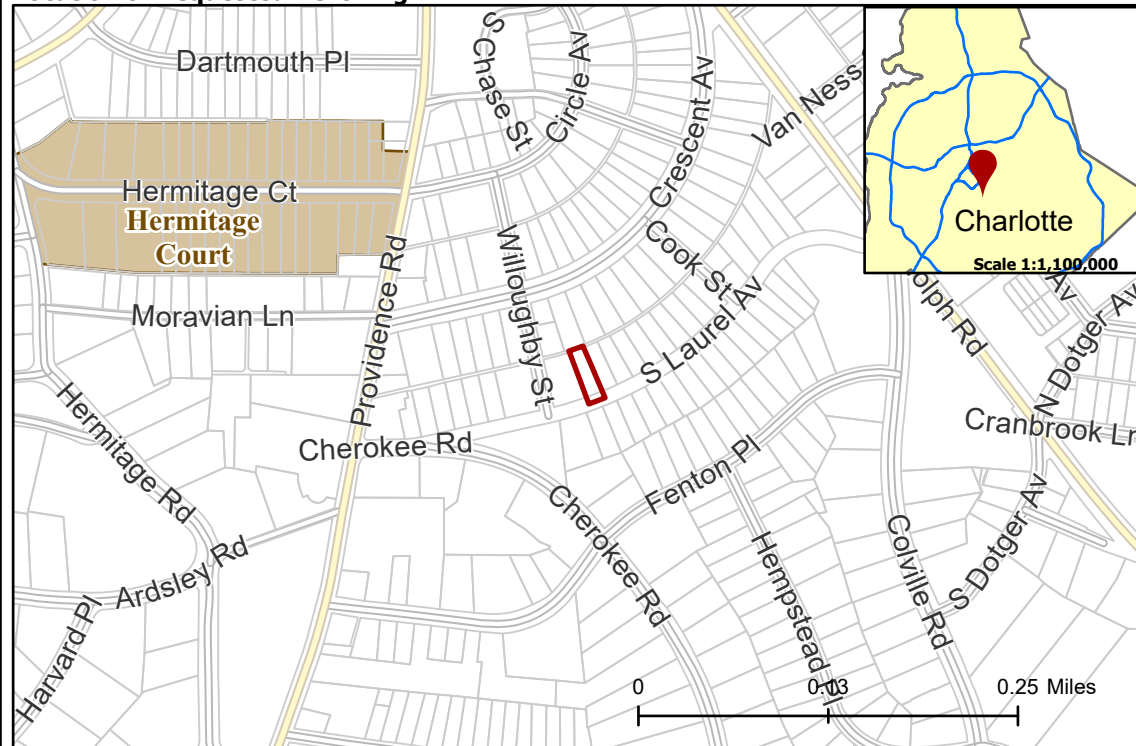
2021-031: Halley Douglas, Inc.

Current Zoning R-5 (Single Family Residential)

Requested Zoning R-8(CD) (Single Family Residential, Conditional)

Approximately 0.232 acres

Location of Requested Rezoning



Rezoning Map



- 2021-031
- Inside City Limits
- Parcel
- Streams
- Historic Districts
- City Council District
- 1-Larken Egleston



Existing Zoning & Rezoning Request



- Requested R-8(CD) from R-5

Zoning Classification

- Single Family
- Multi-Family
- Office
- Business



Map Created 2/24/2021

**AN ORDINANCE AMENDING APPENDIX A OF THE CHARLOTTE CITY
CODE TITLED “ZONING ORDINANCE”**

ORDINANCE NO. 90

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

Section 1: Appendix A, “Zoning Ordinance”, Sections 1.102, 1.105, 1.110, 1.111, 2.102, 2.202, 3.202, 3.203, 3.204, 3.301, 3.302, 3.303, 3.304, 3.401, 3.402, 3.403, 3.404, 3.501, 3.602, 3.605, 3.606, 4.102, 4.103, 5.101, 5.103, 5.107, 5.110, 5.113, 6.105, 6.108, 6.109, 6.110, 6.111, 6.113, 6.201, 6.204, 6.205, 6.206, 6.207, 6.209, 7.103, 8.102, 8.107, 9.104, 9.407, 9.805, 9.906, 9.1006, 9.1007, 10.203, 10.208, 10.209, 10.210, 10.213, 10.216, 10.509, 10.510, 10.609, 10.610, 10.710, 10.711, 12.103, 12.509, 13.4, 13.10, 13.11, 13.12, 13.15, 15.8.4, Table of Contents, and the Table of Contents of Chapter 13 are amended to read as shown in the attached Exhibit A, which is incorporated and made a part of this ordinance.

Section 2: This ordinance shall become effective as of July 21st, 2021.

Approved as to form:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 021-022.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

“To view Appendix A, the Zoning Ordinance regulations visit: <https://charlottenc.gov/planning/Rezoning/Pages/Zoning%20Ordinance.aspx>”

“To view this Appendix A, the Zoning Ordinance regulations visit: <https://charlottenc.gov/planning/Rezoning/Pages/Zoning%20Ordinance.aspx> or contact the City Clerk's Office for a PDF to view.

CITY OF CHARLOTTE ZONING ORDINANCE



Prepared by:

CHARLOTTE PLANNING, DESIGN, & DEVELOPMENT DEPARTMENT

600 E. Fourth Street (8th Floor)
Charlotte, North Carolina
(704)-336-2205
www.charlotteplanning.org

JANUARY, 1992

CODIFIED THROUGH ~~October 21, 2019~~ July 1, 2021

**AN ORDINANCE AMENDING Chapter 20 OF THE CHARLOTTE CITY CODE
TITLED “SUBDIVISION ORDINANCE”**

ORDINANCE NO. 91

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

Section 1: Chapter 20, “Subdivision Ordinance”, Sections 20-2, 20-6, 20-7A, 20-9, 20-10, 20-17, 20-20, 20-24, 20-58, 20-59, 20-86, 20-87, 20-88, 20-93, 20-94, 20-97 and Table of Contents are amended to read as shown in the attached Exhibit A, which is incorporated and made a part of this ordinance.

Section 2: This ordinance shall become effective as of July 21st, 2021.

Approved as to form:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 023-024.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

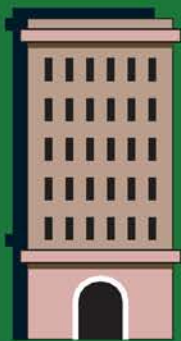
“To view Chapter 20, the Subdivision Ordinance regulations visit: <https://charlottenc.gov/planning/Subdivision/Documents/SubdivisionOrdinance.pdf>”

EXHIBIT A



City of Charlotte
North Carolina

Subdivision Ordinance



Adopted by
Charlotte City Council

January 29, 2015

Amended Effective
07.01.2021 160D
Revisions

"To view Chapter 20, the Subdivision Ordinance regulations visit: <https://charlottenc.gov/planning/Subdivision/Documents/SubdivisionOrdinance.pdf>

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ARTICLE I. IN GENERAL

Sec. 20-1. - Short title.

This chapter will be known and may be cited as the "Charlotte Subdivision Ordinance."

(Code 1985, § 20-1)

Sec. 20-2. - Purpose.

This chapter is adopted pursuant to the authority conferred by G.S. ~~460A-371~~ 160D-801 et seq., the Charter, and certain special legislation for the city and the county (ch. 203, Sess. Laws 1961) and for the purpose of promoting the orderly development of the city and county and for the purpose of coordinating streets within subdivisions with existing or planned streets or with public facilities; to secure adequate rights-of-way or easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; and to create conditions essential to health, safety, convenience and the general welfare.

(Code 1985, § 20-2)

Sec. 20-3. - Jurisdiction.

This chapter applies to all subdivision activities for which approval under this chapter is required in the city.

(Code 1985, § 20-3)

Sec. 20-4. - Compliance.

All plats for the subdivision of land must conform to the requirements of this chapter and be submitted in accordance with the procedures and specifications established in this chapter. 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 chapter.

(Code 1985, § 20-5)

Sec. 20-5. - Modification of certain standards.

(a) Certain development standards regulated by this chapter and specifically as follows may be modified under the provisions of the city zoning ordinance:

- (1) Street right-of-way.
- (2) Sidewalks.
- (3) Curb and gutter.

- (4) Type of street (public or private).
- (5) Street pavement width.
- (b) The standards of chapter 19 of this Code, which also regulate the development of streets, sidewalks and other facilities in the city, must be complied with, except as may be varied under article III of this chapter.
(Code 1985, § 20-6)
- (c) Any standard regulated by this chapter may be modified by City staff where necessary to ensure public safety.

Sec. 20-6. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative Compliance for street design means the process to approve street designs that differ from the design standards prescribed in this chapter.

Appeal means an action relating to a dispute involving an administrative interpretation or application of an ordinance standard to a particular parcel of land.

Block face means the distance along a block between two adjacent intersections, measured from centerline to centerline.

Building envelope means a three-dimensional area on a lot that remains for placing a structure on a site after setbacks, yard, height, and bulk regulations are observed.

Charlotte- Land Development Standards Manual means the manual of construction standard drawings and details prepared by the city engineer, which provides standard designs for public and private improvements relating to streets, sidewalks, drainage and other facilities. Whenever in this chapter reference is made to "standards" or "manual," it refers to that document. *Collector street* means any street which is defined as a collector street in the adopted comprehensive street classification system.

Commercial arterial street means a multilane, major roadway connecting major or minor thoroughfares with lesser streets in the network. The commercial arterial may also connect this region to other regions. - Commercial arterial streets provide direct access to nonresidential high trip generating land uses. A commercial arterial street may be part of state primary or secondary highway systems.

Connectivity means street or subdivision design which provides for public access, ingress and egress by interconnecting streets, bikepaths, and walkways within a development and with adjoining developments. Connectivity facilitates vehicular, bicycle, and pedestrian transportation.

Cul-de-sac means a street designed with a turnaround, or a street that will not reasonably be extended in the future.

Development review board means the board appointed by city council to hear and decide applications for alternative compliance for street design.

Double frontage lot means a lot with street frontage along two opposite boundaries. A "double frontage lot" may also be referred to as a "through lot" or a "reverse frontage lot".

Freeway or expressway means a multilane, 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 freeway or expressway will be built to or approach interstate design standards.

Green zone means the space lying between the sidewalk and back of curb, or edge of pavement where no curb-and-gutter is present (typically a planting strip or hardscaped amenity zone) which serves as a buffer between pedestrians and vehicles. The green zone typically includes street trees and landscaping, and often includes street furnishings and utilities. *Groundwater and wastewater services* means Mecklenburg County Groundwater and Wastewater Services Department.

Half street means a street that lies across a property line between two properties and is partially improved on only one of the properties at a time.

Hearing committee. The Charlotte-Mecklenburg Planning Commission can serve as the hearing committee to hear and decide variances and appeals, or it can appoint the zoning committee to serve as the hearing committee.

Limited-access arterial street means a multilane limited-access major road connecting major activity centers or major roads. Intersections are at grade with access only at cross streets rather than at individual driveways.

Local street means a street that provides access to residential, industrial or commercial districts, as well as to mixed use areas.

LUESA means the Mecklenburg County Land Use and Environmental Services Agency *Major arterial* means a major thoroughfare on the Charlotte Regional Transportation Planning Organization (CRTPO) Thoroughfare Plan.

Major streams means jurisdictional streams which are regulated by state or federal agencies.

Minor arterial means a minor thoroughfare on the Charlotte Regional Transportation Planning Organization (CRTPO) Thoroughfare Plan. It is typically designed to accommodate moderate volumes of traffic at moderate speeds, and usually only handles trips for short to moderate distances.

Mixed use development means one or more buildings that contain more than one type of land use (e.g., retail, office, residential); or, a combination of buildings that contain single uses and buildings that contain more than one type of land use. At least one land use is non-residential. A key characteristic of mixed use development is that the various uses are well integrated in a pedestrian-oriented environment.

Paper street means a right-of-way for a street offered for dedication on a final recorded plat which has not been constructed or accepted by the city for maintenance.

Parks department means the county park and recreation department.

Performance guarantee means any of the following forms of guarantee: a surety bond issued by any company authorized to do business in this State; a letter of credit issued by any financial institution licensed to do business in this State; or other form of guarantee that provides equivalent security to a surety bond or letter of credit.

Planned development means 1) a group of two or more duplex, triplex, quadraplex, multifamily residential buildings; 2) a multifamily residential building, including a single building with more than 12 units; or 3) nonresidential buildings established in a single development tract, under unified control which is to be planned and developed as a whole, either as a single development project or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures, buildings and uses substantially related to the character and purpose of the planned development, and having a unified design of buildings and coordinated organization of open space, parking and service areas.

Private street means a street which is constructed to private street standards as described in the Charlotte Land Development Standards Manual, and which is privately maintained.

Public street means a street accepted for dedication to the city, county or North Carolina Department of Transportation.

Reverse frontage. A "reverse frontage" lot is a through lot or "double frontage" lot. A block containing reverse frontage lots is comprised of one tier of lots rather than the standard two tiers. Reverse frontage does not relate to the structure's orientation to the street.

School board means the Charlotte-Mecklenburg School Board.

Slow Point means any physical feature constructed in a street designed to moderate vehicle speeds.

Street means a facility (either public or private) designed to accommodate motor vehicle, pedestrian and bicycle travel.

Street Furnishings means physical features included as part of the streetscape, e.g. benches, bike racks, lighting, trash receptacles, and banners

Street right-of-way means any public right-of-way set aside for public travel which has been accepted for maintenance by the state or the city or the county if so authorized, or has been dedicated for public travel by the recording of a plat or a subdivision which, prior to the effective date of the ordinance from which this chapter derives, has been approved by either the Planning Department, the city council or board of county commissioners or is subsequently approved by the planning staff or the planning commission or has otherwise been established as a public street prior to the adoption of the ordinance from which this chapter derives.

Streetscape means the physical features of the street outside of the travel lanes that typically includes sidewalk, curb, gutter, and street trees.

Stub street means a street that is designed to extend to the property line with a temporary barricade and has the intent to be extended to provide for future access and connectivity.

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 chapter:

- (1) The combination or recombination of portions of parcels created and recorded prior to January 1, 1988, or portions of lots platted in compliance with this ordinance after January 1, 1988, where the total number of parcels or lots is not increased and the resultant parcels are equal to the standards of the zoning ordinance.
- (2) The division of land into parcels greater than ~~five~~ ten acres where no street right-of-way dedication is involved.
- (3) The creation of strips of land for the widening or opening of streets or the location of public utility rights-of-way.
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the appropriate zoning classification.
- (5) The division of land into plots or lots for use as a cemetery.
- (6) Creation of a separate lot or building site by a less than fee simple instrument, such as a ground lease, when the property interest created is divided from the original parcel for ten years or less, including options to renew.
- (7) The lease of space or other area within a building owned by the landlord.
- (8) Easements for the purposes of utilities, driveways, parking, footpaths, trails or other similar purposes.
- (9) The division of a tract or parcel into separate tracts or parcels, or the creation of interests in lots or parcels, by means of:
 - a. A deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure), and
 - b. Releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
- (10) Proceedings to partition interests in lots or parcels pursuant to G.S. ch. 46 (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this chapter.
- (11) Divisions of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (12) Transfers of tracts or parcels by inheritance, to settle an estate, or bona fide gift.

- (13) Condemnation or deed in lieu of condemnation, by either a public or private condemnor; provided, however, that the condemnor must comply with the requirements of this chapter as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever date first occurs.

Subdivision, limited means a subdivision that is not otherwise exempt from this chapter, and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten acres. For such subdivisions, the owner shall be required to plat only the parcel to be transferred or leased, and only that parcel shall be subject to the requirements of this chapter.

Subdivision, minor-limited is the division of a tract or parcel of land in single ownership if all of the following criteria are met, which may require only a plat for recordation:

- (1) The tract or parcel of land to be divided is not exempted under the subdivision definition (2) in this chapter.
- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all the following:
 - a. All lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.

Subdivision, minor, means a subdivision that is not otherwise exempt from this chapter and that does not involve any of the following:

- (1) The creation of any new public street or street right-of-way or improvements to an existing street.
- (2) The extension of any needed rights-of-way or easements for the water or sewer system operated by the Charlotte-Mecklenburg Utilities.
- (3) The installation of drainage improvements through one or more lots to serve one or more other lots.
- (4) The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

Thoroughfare means 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 terms "thoroughfare" and "arterial" are used synonymously.

Thoroughfare plan means the most recent Map approved by the Charlotte Regional Transportation Planning Organization (CRTPO) which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

Through lot means a lot other than a corner lot, with a frontage on more than one street. A "through lot" may also be referred to as a "double frontage lot", or a "reverse frontage lot."

Traffic calming means a measure (or measures) that reduce(s) vehicle speeds.

Variance means an action requesting consideration for relief from the strict enforcement of the standards of this chapter where special circumstances or unusual considerations may exist on the parcel of land.

Zoning committee. The Charlotte-Mecklenburg Planning Commission is divided into two major working committees: the zoning committee and the planning committee.

(Code 1985, § 20-8; Ord. No. 2960, § 1, 5-16-2005; Ord. No. 2961, §§ 1—3, 5-16-2005; Ord. No. 3401, § 1, 10-18-2006)

Cross reference—Definitions generally, § 1-2.

Sec. 20-7. - Rules of construction.

For the purposes of this chapter, the following rules of construction apply:

- (1) This chapter will be construed to achieve the purposes for which it is adopted.
- (2) If a conflict occurs between the text of this chapter and any caption, figure, illustration, table or map, the text of this chapter will control.
- (3) If any conflict occurs in limitations, restrictions or standards applying to a project, the more restrictive provision will apply.
- (4) Reference to "days" will always be construed to be business days, excluding weekends and holidays, unless the context of the language clearly indicates otherwise.

(Code 1985, § 20-9)

Sec. 20-7A. – Conflicts of Interest

For the purposes of this ordinance, the following conflicts of interest standards shall apply:

- (1) Boards and Commissions. – Members of appointed boards and commissions (CharlotteMecklenburg Planning Commission, Design Review Board, and the Alternative Compliance Review Board) shall not vote on any advisory or quasi-judicial decision regarding a development regulation adopted pursuant to this ordinance where the outcome of the matter being

considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

- (2) Administrative Staff. – No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
- (3) Quasi-Judicial Decisions. – A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (4) Resolution of Objection. – If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (5) Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Sec. 20-8. - Planning staff.

In addition to any authority granted to the staff of the Charlotte-Mecklenburg Planning Department (referred to as "planning staff") by other ordinances of the city or the county, the planning director and the employees under his or her control will have the following powers and duties to be carried out in accordance with this chapter:

- (1) Review and approve all subdivisions of land within the authority and jurisdiction of this chapter.
- (2) Maintain the text of this chapter.
- (3) Maintain files and other public records related to the administration and enforcement of this chapter.

- (4) Recommend and comment on proposed amendments to this chapter.
- (5) Interpret the sections of this chapter.
- (6) Work to coordinate all local, state and other appropriate agency reviews and comment on all subdivisions proposed under this chapter.
- (7) Establish such rules of procedure as necessary and proper for the administration of their responsibilities under this chapter.

(Code 1985, § 20-10)

Sec. 20-9. - Planning commission.

- (a) In addition to any authority granted to the Charlotte-Mecklenburg Planning Commission (hereinafter "planning commission) by other ordinances of the city or Mecklenburg County, and in accordance with the provisions of the interlocal agreement regarding the structure and responsibilities of the planning commission, the planning commission will have the following powers and duties to be carried out in accordance with these regulations.
 - (1) To hear appeals filed regarding the action of the planning staff in the approval or disapproval of any subdivision proposed under these regulations.
 - (2) To hear and decide requests for variances from the standards of this chapter in accordance with the provisions of article III. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide requests for variances.
 - (3) To hear and decide appeals from the interpretation of any provisions of this ordinance from the planning staff. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.
- (b) In all of these matters, the planning commission, or the hearing committee, may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of this chapter.
- (c) Each commission member shall take an oath of office before starting their duties.

(Code 1985, § 20-11; Ord. No. 2960, § 2, 5-16-2005)

Sec. 20-10. – Development Review Board.

- (a) A Development Review Board is hereby established to hear and decide requests for alternative compliance with the standards of this chapter. The board shall be composed of nine members and three alternates who shall be appointed according to the following disciplines (the determination that an appointee meets the relevant discipline shall be made by the appointing authority whose determination shall be conclusive):

Architect (City Council)

Civil Engineer (Mayor)

Landscape Architect (Mayor)

Bicycle Advocate (Mayor)

Planning Commissioner (City Council)

Public Health Professional (City Council)

Real Estate Attorney (City Council)

Real Estate Development Industry Representative (City Council)

Transportation Planner or Urban Planner (City Council)

Architect – Alternate (Mayor)

Civil Engineer – Alternate (City Council)

Landscape Architect – Alternate (City Council)

- (b) The terms of office shall be for three (3) years with no member serving more than two consecutive full terms. The terms of one-third of the Board shall expire each year. If a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.
- (c) Five voting members shall constitute a quorum. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.
- (d) Members shall be subject to removal from the Board with or without cause by the appointing authority.
- (e) Each board member shall take an oath of office before starting their duties.

Sec. 20-11. - Amendments.

- (a) The planning staff may, from time to time, and must at the request of the city council, board of county commissioners or planning commission, prepare certain improvements to the text of this chapter to correct errors, update or modify the requirements, or otherwise improve the operation of this chapter in regulating the subdivision of land.
- (b) Amendments to this chapter may only be enacted pursuant to the public notice and public hearing requirements established by law. All text amendments must be referred to the planning commission for a recommendation prior to final action by the elected officials. Failure of the planning commission to act on such a recommendation within 30 days following the public hearing will be deemed to constitute an affirmative recommendation on the proposed amendment. An action to defer a recommendation for cause will constitute an action for the purposes of this section.

(Code 1985, § 20-12)

Sec. 20-12. - Compliance required.

After the effective date of the ordinance from which this chapter derives, no plat of a subdivision of land, subject to the jurisdiction of this chapter, will be filed or recorded by the county register of deeds until it has been submitted to and approved by the Planning Department. This includes all divisions of land as defined in section 20-6.

(Code 1985, § 20-13)

Sec. 20-13. – Intent

- (a) Consistency with adopted public plan and policies. All subdivision of land approved under this chapter should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policies regarding development objectives for the area, as well as specific policies or plans for public facilities, such as streets, parks and open space, schools and other similar facilities. Plans and policies for the community are on file in the offices of the Planning Department.
- (b) Street network goals. The proposed street network should implement the following goals:
 - (1) Support economic development and quality of life – by providing more transportation capacity, while creating more user-friendly streets overall.
 - (2) Provide more and safer transportation choices – by creating a better-connected network (route choices) and building streets for a variety of users (mode choices).
 - (3) Better integrate land use and transportation – by avoiding mismatches between land uses and streets, and by creating the right combination of land uses and streets to facilitate planned growth.
- (c) Street network design. The street network should be designed to provide interconnected streets so as to facilitate the most advantageous development of the entire neighborhood or area of the city.

Sec. 20-14. - General requirements.

- (a) Scope. The statements in this section provide general requirements and policies to be used in the design, review and approval of any subdivision under the jurisdiction of this chapter. Questions of interpretation of any of these subsections should be discussed with the planning staff at the earliest possible time in the development of a subdivision proposal.
- (b) Residential street design should ensure the creation of a network of low volume, low speed roadways. All new development should provide for more than one access for ingress and egress, where feasible. The proposed street system should extend existing streets on their proper projections. Cul-de-sacs and other permanently dead-end streets should be avoided.

- (c) Relationship to railroad rights-of-way. When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings, except where no such crossing will be allowed by the railroad.
- (d) Half streets. Whenever an existing half street is adjacent to a tract of land to be subdivided, the other half of the street shall be platted within such tract. New half streets are prohibited in single-family residential development.
- (e) Mature trees and natural vegetation. Streets and development sites should be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation.
- (f) Access to parks, schools, greenways, etc. Streets shall be designed or walkways dedicated to ensure convenient access to parks, greenways, playgrounds, schools and other places of public assembly.
- (g) Parallel streets along thoroughfares. Where a tract of land to be subdivided adjoins a federal or state highway, major or minor thoroughfare, or commercial arterial, the subdivider may be required to provide a street parallel to the highway or to utilize reverse frontage on an interior street for lots developed adjacent to the highway. Where reverse frontage is established, deed restrictions or other means should be provided to prevent driveways from having direct access to the highway or street.
- (h) Public school and public park sites. When a tract of land that appears in any adopted plan or policy document as a future public school, public park, greenway, or open space site falls

within an area proposed to be subdivided, the planning staff will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, the subdivision will not be approved without such reservation. The appropriate agency will have 18 months from the date of preliminary plan approval to acquire the site by purchase, by receipt of a dedication or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above has commenced, the subdivider may consider the land free of any reservation. The subdivider may choose to dedicate the area to be reserved and may transfer the development rights from the area to the remainder of the site in accordance with the provisions of the zoning ordinance.

- (i) Public facilities. When a tract of land that appears in any adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing or other public use sites, falls within an area proposed to be subdivided, the planning staff will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, the subdivision will not be approved without such reservation. The

appropriate agency will have 18 months from the date of preliminary plan approval to acquire the site by purchase, by receipt of a dedication or by initiating condemnation proceedings. If, at the end of the 18-month period, none of the actions listed above has commenced, the subdivider may consider the land free of any reservation. The subdivider may choose to dedicate the area to be reserved and may transfer the development rights from the area to the remainder of the site in accordance with the provisions of the zoning ordinance.

- (j) Street names. Proposed street names shall not duplicate nor too closely approximate phonetically the name of any street within the county or city. Where proposed streets are extensions of existing streets, the existing street names should be used.
- (k) Easements. Easements established to the width and in the locations required by the engineering department or the utility department, but in no case less than ten feet wide, should be provided for open or piped storm drainage, sanitary sewers and water lines. This requirement applies to such lines installed at the time of the development of the subdivision and to easements for such lines which may reasonably be expected to be installed in the future.
- (l) Proposed water and sewer system. The preliminary subdivision plan should be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.
 - (1) Where these systems are to be a part of the public water and sanitary sewer systems owned and operated by the city, the acceptability of the proposed systems should be attested by the approval of the preliminary subdivision plan by the utility department or a letter from the utility department, stating the availability of water and/or sewer service, and that the subdivision will be allowed to connect to the systems upon the completion and dedication of the systems in the development.
 - (2) When the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the city, the proposed systems will be reviewed and approved by the agency with jurisdiction over the approval. Evidence must be provided by the developer prior to the preliminary plan approval of the required discharge permit or perk test for sewage disposal, whichever is applicable. Prior to the approval of the final plat, evidence must be provided that both the sewer and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.
 - (3) Where local standards exceed those of state or federal agencies, and where those standards may be enforced over those of state or federal agencies, the Mecklenburg County Land Use and Environmental Services Agency Groundwater and Wastewater Services, or the Charlotte Utility Department will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency, which may include the Mecklenburg County Land Use and

Environmental Services Agency Groundwater and Wastewater Services, or the Charlotte Utility Department.

- (m) Restrictions on subdivision of land subject to flooding. Lots that are subject to flooding should not be established in subdivisions, except as provided in section 20-25(f).
 - (n) Water access lots. Where a subdivision which adjoins the Catawba River or its impounded waters contains interior lots, parcels or tracts of land which do not adjoin the water's edge, but any part of which is within 450 feet of the water's edge, one or more lots which adjoin the water's edge should be reserved to provide water access for the owners of interior properties. Such lots will be called water access lots (see section 20-25(g)). If the property which is in the same ownership adjoins the subdivision, this property will be construed as being part of the subdivision for purposes of determining requirements of water access lots.
- (Code 1985, § 20-14)

Sec. 20-15. - Sketch plan.

- (a) Encouraged for subdivisions. Prior to the filing of an application for approval of the subdivision preliminary plan, it is strongly encouraged, but not required, that a sketch plan be submitted to the planning staff for review and recommendation. When submitted, this sketch plan should be drawn to a scale no smaller than one inch equals 100 feet on a topographical survey and should show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. It should include the following information:
 - (1) The boundary lines of the property being subdivided.
 - (2) Watercourses on the land to be subdivided.
 - (3) The location, names and right-of-way widths of any existing streets, paper streets, or half streets on or within 300 feet of the land to be subdivided.
 - (4) The location of all property lines which intersect the boundaries of the property being subdivided.
 - (b) Required for minor subdivisions. In order to facilitate the review and approval of a minor subdivision, a sketch plan must be submitted to the planning staff. The staff will advise the applicant of any deficiencies that must be corrected prior to submission of the final plat.
- (Code 1985, § 20-15)

Sec. 20-16. - Preliminary plan requirements.

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed. No processing or review of a preliminary plan will proceed without all of the information listed. Detailed standards and specifications for construction are contained in the Charlotte Land Development Standards Manual available from the city engineer:

- (1) The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad lines, watercourses, easements or other significant features of the tract.
- (2) The location, sizes and elevations of existing sanitary sewers, storm drains and culverts within the tract and immediately adjacent thereto.
- (3) Original contours at intervals of not less than four feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coastal and Geodetic Survey and as extended by the city through its primary control system or to a benchmark that is within 2,000 feet of the subdivision. Proposed contours for the full width of all street rights-of-way along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
- (4) The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines and building setback lines with street dimensions, tentative lot dimensions, other property lines and the location of any storm water elevation line required by section 20-25(f).
- (5) The location of all proposed storm drains and appurtenances with grades, inverts and sizes indicated, together with a map of the drainage areas tributary to the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, use the stormwater elevation line and stormwater protection elevation for each lot subject to flooding as defined in section 20-25(f).
- (6) The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the planning staff.
- (7) The scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date.
- (8) Typical cross sections of proposed streets, showing widths and proposed construction of roadways.
- (9) Proposed profiles of roadways. Where a proposed street is an extension of an existing street, the profile shall be extended to include 300 feet of the existing roadway and storm drains if present, and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where the street may be expected to extend into the adjoining tract of land, the profile shall be extended to include 300 feet of the adjoining tract.
- (10) The proposed method of water supply and sewage disposal; the number of housing units.

- (11) A small-scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- (12) The location of any existing demolition landfill on the site and the location of any proposed demolition landfill sites if such information is available.
- (13) A timetable for estimated project completion of the area covered by the preliminary plan.

(Code 1985, § 20-16)

Sec. 20-17. - Procedures for approval.

- Preliminary plan. A preliminary plan of the proposed subdivision, developed in accordance with the specifications set forth in section 20-16, must be submitted to the planning staff. The plan must be accompanied by an application in duplicate, signed by the owner and/or his or her duly authorized agent for approval of the plans, on application forms to be furnished by the planning staff. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in section 20-16 that must be submitted with the application.
- Time limits. Time limits for reviewing complete applications are as follows:

Action

Staff Time

Initial review of preliminary plan—red line drawings	30 days	Review
of plans with corrections and/or changes	20 days	Approval of completed
and correct plan	10 days	

The time limits do not apply to plans for which no sketch plan has been prepared and submitted to the planning staff or to plans which contain any proposed school, park, greenway or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits in this subsection. Should the staff fail to respond within the time limits set out, the application will be considered to be denied, and the applicant may appeal the denial to the planning commission. ~~If the application is denied by the planning staff, the staff will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.~~

- (c) Waiver. The required preliminary plan may be waived by the planning staff for certain subdivisions, including metes and bounds subdivision. Such applications will be designated "minor subdivisions," provided:
 - (1) Such land abuts a street of required width and is so situated that no new streets are proposed, and no improvements are required to be installed by the subdivider according to this chapter.
 - (2) A plat of the tract being subdivided, accompanied by two applications signed by the owner/developer and/or his or her duly authorized agent, has been filed with the planning staff.
 - (3) The subdivider may be required to submit topographic information to determine flood elevations whenever the property proposed to be subdivided or resubdivided is

traversed by or adjacent to a known watercourse. However, a final plat must be prepared and recorded as provided in section 20-18.

- (4) The required preliminary plan may also be waived by the planning staff for limited subdivisions and/or those subdivisions which do not involve the dedication of a new street.
 - (d) Final plats. Upon tentative approval of the preliminary subdivision plan by the planning staff, the subdivider may proceed to comply with the other requirements of this chapter and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new street shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in section 20-58 prior to any final plat approval. The final subdivision plat must be developed in accordance with the specifications set forth in section 20-18. When the final plat is submitted to the planning staff for approval, it must be accompanied by an application in duplicate, signed by the owner and/or his or her duly authorized agent for final plat approval, on an application form to be supplied by the planning staff. The official plat for recording, together with a sufficient number of copies for distribution, must be presented for approval. The planning staff will approve final plats which comply with the requirements of this chapter within 30 days after complete submission.
 - (e) Decisions for preliminary subdivision plan and final subdivision plat.
 - i In approving a preliminary subdivision plan or final subdivision plat, the planning staff shall deliver a written notice of the decision, in print or electronic form, by personal delivery, electronic mail, or by first-class mail to the applicant and property owner, if different from the applicant. Any approval issued exclusively in electronic form shall be protected from further editing once issued. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner.
 - (ii.) Disapproval. If the planning staff disapproves a preliminary plan or final plat of a subdivision, ~~the grounds~~ reasons for such disapproval will be stated in ~~writing a written notice of the decision delivered to the applicant and property owner, if different from the applicant, by personal delivery, electronic mail, or by first-class mail.~~ The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner.
- After such disapproval, an appeal from the decisions of the planning staff may be taken to the planning commission, in accordance with article III of this chapter, and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is provided by first-class mail, the notice is

deemed received on the third business day following deposit of the notice for mailing with the United States Post Office. The planning commission may approve, disapprove in whole or in part, or otherwise modify the action of the planning staff. A final plat of a subdivision approved by the planning commission upon appeal from the decision of the planning staff will be eligible for recording by the register of deeds of the county.

- (f) Effect of approval of preliminary plan. A preliminary plan approved under this chapter will be valid for a period of three years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three-year period, the preliminary plan approval will become null and void, and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, that involves any utility installations or street improvements except grading, the plan will remain valid and in force, and the subdivision may be completed in accordance with the approved plan.
- (g) Release of grading permit. Preliminary plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. The release of the grading permit may be authorized by the planning staff prior to the approval of the preliminary plan, if the matters staying the approval are not related to nor will have an effect on the need for grading on the site. Once the preliminary plan is approved, further approvals under this subsection are not required for granting permits for individual sites within the development.

(Code 1985, § 20-17)

Sec. 20-18. - Final plat requirements.

The final subdivision plat will be prepared by a registered surveyor and must be drawn to a scale of not smaller than 100 feet equal to one inch and must contain the following information:

- (1) The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract.
- (2) The lines and names of all streets, alley lines, lot lines, lot and block numbers, building setback lines, easements, reservations, on-site demolition landfills and areas dedicated to public purpose, with notes stating their purposes.
 - (a) Also, the plat for all lots subject to flooding shall include a statement as follows: "This lot is subject to flooding during heavy rainfall, and the construction of buildings or structures below the stormwater protection elevation of _____ is prohibited, as further described by section 20-25(f) of the Charlotte Subdivision Ordinance."
 - (b) Plats for multiple lots may include the stormwater protection elevations in tabular form.
 - (c) In areas where the floodway regulations are applicable, the following statement shall

be inscribed on the plat: "Any construction or use within the areas delineated as floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by the floodway regulations."

- (d) Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.
- (3) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing and length of every street and alley line, lot line, building line, easements required under this chapter or of record in the county or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1:10,000. In closed traverses, the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.
- (4) As-built drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans should show all easements and/or rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of the request for final plat approval or release of any surety for required improvements, whichever comes later.
- (5) The name of the township in which the subdivision is located, the name of the subdivision, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and a north point oriented as per state statutes, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- (6) The accurate location of monuments which must be established along the rear property lines of lots with a minimum of two per phase including coordinates computed from the North Carolina Plane Rectangular Coordinate System as extended there from. Design and materials shall be in accordance with the standard detail contained in the Charlotte Land Development Standards Manual.
- (7) A certificate signed by the surveyor meeting the requirements of G.S. 47-30 for proof upon oath that the plat is in all respects correct, written as follows: "The undersigned surveyor, being duly sworn, deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct according to the best of his or her knowledge and belief, and was prepared from an actual survey made by him on the day of, 20 //, with maximum linear error of closure of , and a maximum field error of angular closure of ."

Final written approval by the planning staff must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this section. The final plat shall be recorded within 120 days of the final approval date.

- (8) If the subdivision is wholly or partially located in the airport noise disclosure overlay district, the following statement shall be inscribed on the plat: "Noise Warning—This property, either partially or wholly, is zoned Airport Noise Disclosure Overlay District and lies within or near the Noise Exposure Map Areas of Charlotte/Douglas International Airport and may be subject to noise that may be objectionable."

(Code 1985, § 20-18; Ord. No. 2288, § 1, 4-21-2003; Ord. No. 2961, §§ 4, 5, 5-16-2005; Ord. No. 3401, § 1, 10-18-06)

Sec. 20-19. - Plats already established by survey.

- (a) Plans for subdivisions of land previously approved by the city planning board or the Charlotte-Mecklenburg Planning Commission, but not recorded by the county register of deeds prior to February 29, 1956, will be approved for recording without complying with the requirements of this chapter if the plat conforms to the previously approved plan.
- (b) Plats already established by survey and recorded in the office of the county register of deeds prior to the effective date of the ordinance from which this chapter derives will be eligible for development and other administrative permits without complying with the requirements of this chapter, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of its approval.

(Code 1985, § 20-19)

Sec. 20-20. - Planned developments.

- (a) The requirements of this section will apply for the preparation, submission and approval of preliminary site plans for planned developments involving one-family attached dwellings and planned multifamily developments.
- (b) A pre-preliminary site plan conference will be arranged by the developer with designated members of the planning staff prior to the submission of a preliminary site plan for a planned development.
- (c) The developer must submit to the planning staff a preliminary site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in accordance with the requirements of section 20-16 and must include the following additional information:
- (1) The use, approximate height, bulk and location of all buildings and structures other than one-family detached and semidetached dwellings, except that one-family detached dwellings using a zero side yard shall be shown.
 - (2) All proposed land use and dwelling unit densities.
 - (3) For plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.

- (4) The proposed location, use, improvements, ownership and manner of maintenance of common open space areas.
- (5) Proposed off-street parking and circulation plan showing the location and arrangement of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.
- (d) The planning staff action may be approval, requests for revisions, or denial of the preliminary site plan.

(1) In approving a preliminary site plan, or requesting revisions for a planned development, the planning staff shall deliver a written notice of the decision, in print or electronic form, to the developer and property owner, if different from the developer, by personal delivery, electronic mail, or by first-class mail. Any approval issued exclusively in electronic form shall be protected from further editing once issued. The written notice shall be delivered to the developer's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the developer is not the property owner.

- ~~(2)~~ If the planning staff disapproves a preliminary site plan for a planned development, the applicant will be notified of the ~~grounds~~ reasons for such disapproval in a written notice of decision delivered to the developer and property owner, if different from the developer, by personal delivery, electronic mail, or by first-class mail. The written notice shall be delivered to the developer's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the developer is not the property owner.

After such disapproval, an appeal from the decision of the staff may be taken to the planning commission and shall be properly filed within 30 days from receipt of the written notice of the decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office. The planning commission may disapprove in whole or in part or otherwise modify the action of the planning staff.

- ~~(23)~~ The final plat for planned developments, involving one-family attached dwellings and planned multifamily developments shall be prepared in accordance with the requirements of section 20-18 and shall contain the following additional information:
- a. The use, bulk, and location of all buildings and structures other than one-family detached and semidetached dwellings.
 - b. All land uses.
 - c. The location, use, improvements, ownership and manner of maintenance of all common areas.

Written notice of the decision on a final plat for planned development shall be sent to the developer and to the property owner, if different from the developer. The written decision may be provided in print or electronic form and shall be delivered by personal delivery, electronic mail, or by first-class mail. Any

approval issued exclusively in electronic form shall be protected from further editing once issued. If the final plat is not approved, the reasons shall be provided in the notice of decision. The notice shall be delivered to the developer at the address provided in the final plat application, and to the last address listed for the property owner on the county tax abstract, if the developer is not the property owner.

- (e) The planning staff will review the preliminary site plan to ensure conformance with the requirements of the zoning ordinance in appendix A to this Code and with this chapter.
(Code 1985, § 20-20)

Sec. 20-21. - Development standards for nonresidential development.

Subdivisions for nonresidential development must conform to this chapter and to the provisions of the applicable zoning district.

(Code 1985, § 20-21)

Sec. 20-22. - Design standards for streets.

- (a) Scope. This section contains specifications for streets which must be followed in the subdivision process. Construction details for streets are available in the Charlotte Land Development Standards Manual. Cross-sections should be consistent for complete blocks based on the highest intensity of use, and transition between types only at intersections.
- (b) Right-of-way. A proposed street right-of-way must be of sufficient width to accommodate the required cross section. However, in no case will the dedicated and reserved right-of-way be proposed to be less than the following standards, unless the city engineer certifies that special circumstances exist which make the dedication of reservation of the full right-of-way unnecessary or impractical.

(c) Non-local street right-of-way-

Street Type	Minimum Right-of-Way (in feet)
Freeway or Expressway other than U.S. 74 from Briar Creek southeast to the City Limits	350
U.S. 74 between Briar Creek and W.T. Harris Boulevard	250
U.S. 74 from W.T. Harris Boulevard southeast to the City limits	280
Limited-access Arterial	200
Commercial Arterial	150
Major Arterial	100*
Minor Arterial	70*

*The right-of-way widths for major and minor thoroughfares located within the area bounded by Route 4 and I-85 shall be a minimum width of 80 feet for major thoroughfares and 60 feet for minor thoroughfares and as provided for in Section 12.103 of the zoning ordinance in appendix A to this Code.

- (1) City staff, after consulting applicable plans and programs and after consulting with the appropriate city, county, state and/or federal officials will be responsible for the determination of the classifications of streets or segments of streets. These standards represent the normally required rights-of-way. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case by case basis.
- (2) Whenever a tract of land to be subdivided includes any part of a thoroughfare shown on the thoroughfare plan approved by the Mecklenburg-Union Metropolitan Planning Organization and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the thoroughfare must be platted in the location and to the width specified in the plan.
- (3) The subdivider is responsible for the dedication of the rights-of-way up to 100 feet (50 feet on either side of the centerline) or the reservation of the right-of-way in accordance with Section 20-52. The remainder of the minimum right-of-way over 100 feet must be reserved for future right-of-way use and must be shown as such on the final plat.

- (4) Freeways. Whenever a tract of land is to be subdivided includes any part of the proposed right-of-way for a freeway, as shown on the thoroughfare plan approved by the Charlotte Regional Transportation Planning Organization and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved and remain undeveloped, pending future acquisition by the state or other governmental unit. The subdivider must reserve the proposed right-of-way in accordance with the requirements in subsection (2) above. (d) Local street right-of-way.

<u>Local Street Type Right-of-Way</u>	<u>Total Right-of-Way</u>	<u>Minimum Right-of-Way</u> <u>(using an easement for the</u> <u>Pedestrian Zone)</u>
Local Residential Streets		
Narrow	50 feet	37 feet
Medium (default)	56 feet	42 feet
Wide	72 feet	51 feet
Local Office/Commercial Streets		
Narrow	55 feet	41 feet
Wide	77 feet	57 feet
Local Industrial Streets		
All local Industrial Streets	65 feet	51 feet
Collector	72 feet	51 feet

- (1) Along existing local streets less than 77 feet wide, there is no requirement that right-of-way greater than 38.5 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.

(e) Local Street Cross-Section Application.

- (1) Local street alternatives may be applied only in accordance with the table below. Cross- sections should be consistent for complete blocks based on the highest intensity of use, and transition between types only at intersections.

Land Use Conditions	USDG Street Type/Cross-Section
Residential Land Uses	
Default: except in conditions 1-4 below, use:	Local Residential Medium

1. If residential use within a mixed use development unless a conditional zoning district or adopted area plan indicates otherwise, or where the separation of the residential uses from the non-residential uses is sufficient to justify the use of residential street type.	Local Office/Commercial Wide
2. If all lots are greater than 10,000 square feet with all of the following conditions: <ul style="list-style-type: none"> • Lot frontage greater than 80 feet • More than one street connection • Parallel street located within one connected block 	Local Residential Narrow
3. If the street is abutted only by lots fronting adjacent perpendicular streets with the following condition: <ul style="list-style-type: none"> • More than one street connection 	Local Residential Narrow
4. If greater than 8 dwelling units per acre use:	Local Residential Wide

Industrial Land Uses	Local Industrial Street
Office/Commercial/Retail Land Uses	
Default: except in conditions 1-2 below, use:	Local Office/Commercial Wide
1. A conditional zoning district or small area plan prescribes the use of the Local Office/Commercial Narrow	Local Office/Commercial Narrow
2. The developer can reasonably demonstrate to city staff that the anticipated long-term development will not create parking demand on the street.	Local Office/Commercial Narrow

(Code 1985, § 20-22)

Sec. 20-23. – Design Standards for Street Network and Blocks

- (a) Street Network. A network of interconnected streets providing both external and internal connectivity is required for all types of new development. This network can be constructed with either public streets or private streets as allowed under 20-25. The following uses are exempt from the street network requirements:

- (1) Schools
- (2) Parks
- (3) Places of Worship

- (4) Cemeteries
- (b) External Connectivity
 - (1) Existing Street Stubs
 - a. Extend any existing adjacent street stubs into the development on its proper projection
 - b. Extend any existing adjacent paper street stub into the development where the city commits to construct the paper portion of the street no later than the time of permit approval.
 - c. Complete any existing adjacent half street located along any property line.
 - (2) Additional new local streets shall be required as follows:
 - a. Measure the length of each property boundary and divide by the appropriate preferred block length spacing from Table 1 “Preferred Street Spacing”, to determine the overall number of blocks required along that boundary. Round down to the nearest whole number where a fractional number results. This is the required number of block faces along that boundary. Where the result is less than 2, but the boundary exceeds the maximum block length (Table 2 “Maximum Street Spacing”), one street is required.

Where an odd-shaped parcel has a series of boundary segments shorter than the preferred block length, but separate blocks would be required if the site is measured across, (as opposed to along the boundary segments), then a local street shall be required. Where the extension of non-local and adjacent local streets creates a street network that meets the required number of blocks, no additional new streets are required. If the distance from the nearest adjacent street to the parcel boundary exceeds the maximum block length, then a street may be required.

Figure 1.

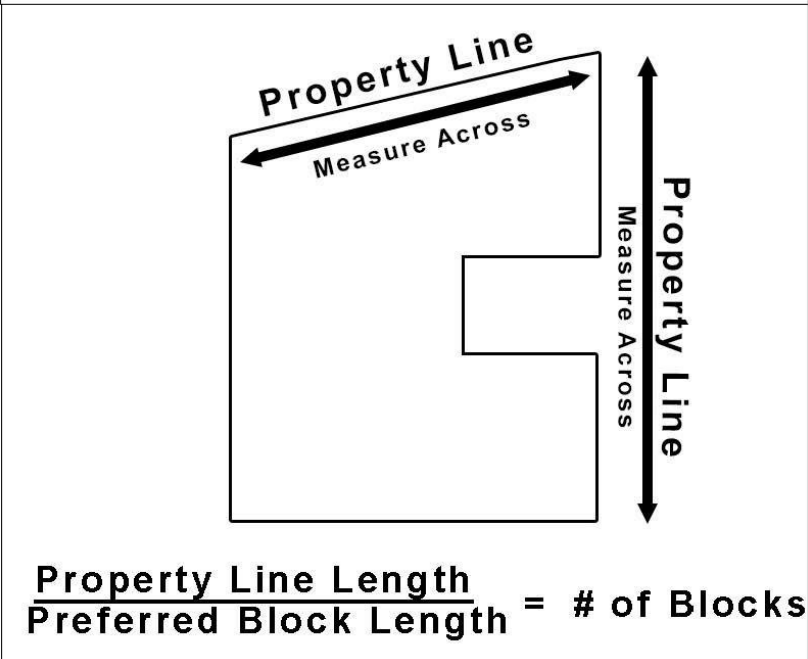


Table 1
Preferred Street Spacing

Location ¹ / Land Use		Block Length along Property Boundary
Activity Centers		
	Industrial Centers	600
	Mixed Use Centers	500
Growth Corridors		
	Transit Station Areas ¹	400
	Other Corridor Subareas	600
Wedges (apply uses below)		
	Nonresidential Uses	500
	Residential ≥ 5 du/acre	600
	Residential < 5 du/acre	600

¹ Boundaries for Activity Centers, Growth Corridors, Transit Station Areas and Wedges defined by the official map maintained by the Charlotte-Mecklenburg Planning Department.

EXAMPLE: Where the width of the site at the property boundary is 1,400 feet, and the site is located in a Transit Station Area, then three blocks are required ($1,400 / 400 = 3.5$, rounded down to the nearest whole number = 3 new blocks must be created).

- b. Construct new local streets where additional streets are required to create the blocks calculated above, including any required stub streets or half streets. When the property abuts a local street, begin by aligning, where possible, with streets or driveways across the local street to create four-way intersections.

The average street spacing, measured from centerline to centerline, for an entire site shall not exceed the maximum spacing shown in Table 2 “Maximum Street Spacing”. No individual block face shall exceed 1000 feet. Exceptions as noted in 20-23(d) are allowed, and will be included in the block averaging calculation based on its length, or 1000 feet, whichever is smaller. The following streets shall not be included in the calculation for average block length (see Figure 2):

1. Cul-de-sac streets
2. Stub streets
3. Streets whose length is determined by the depth of back-to-back residential lots

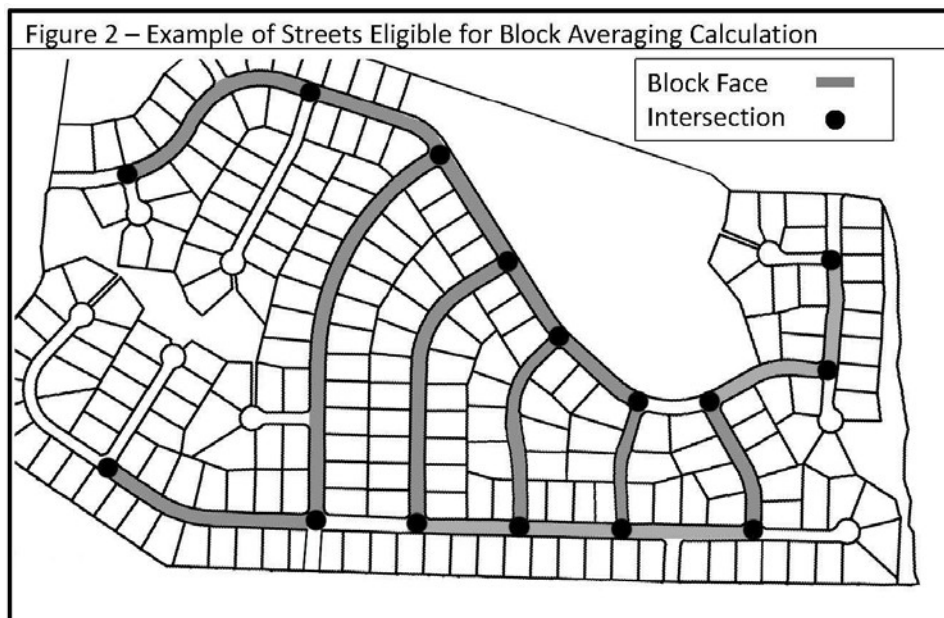


Table 2
Maximum Street Spacing

Location ¹ / Land Use		Maximum Block Length
Activity Centers		
	Industrial Centers	1000
	Mixed Use Centers	650

Growth Corridors		
	Transit Station Areas ¹	600
	Other Corridor Subareas	650
Wedges (apply uses below)		
	Nonresidential Uses	650
	Residential ≥ 5 du/acre	650
	Residential < 5 du/acre	800

¹Boundaries for Activity Centers, Growth Corridors, Transit Station Areas and Wedges defined by the official map maintained by the Charlotte-Mecklenburg Planning Department.

(3) New Street Stubs

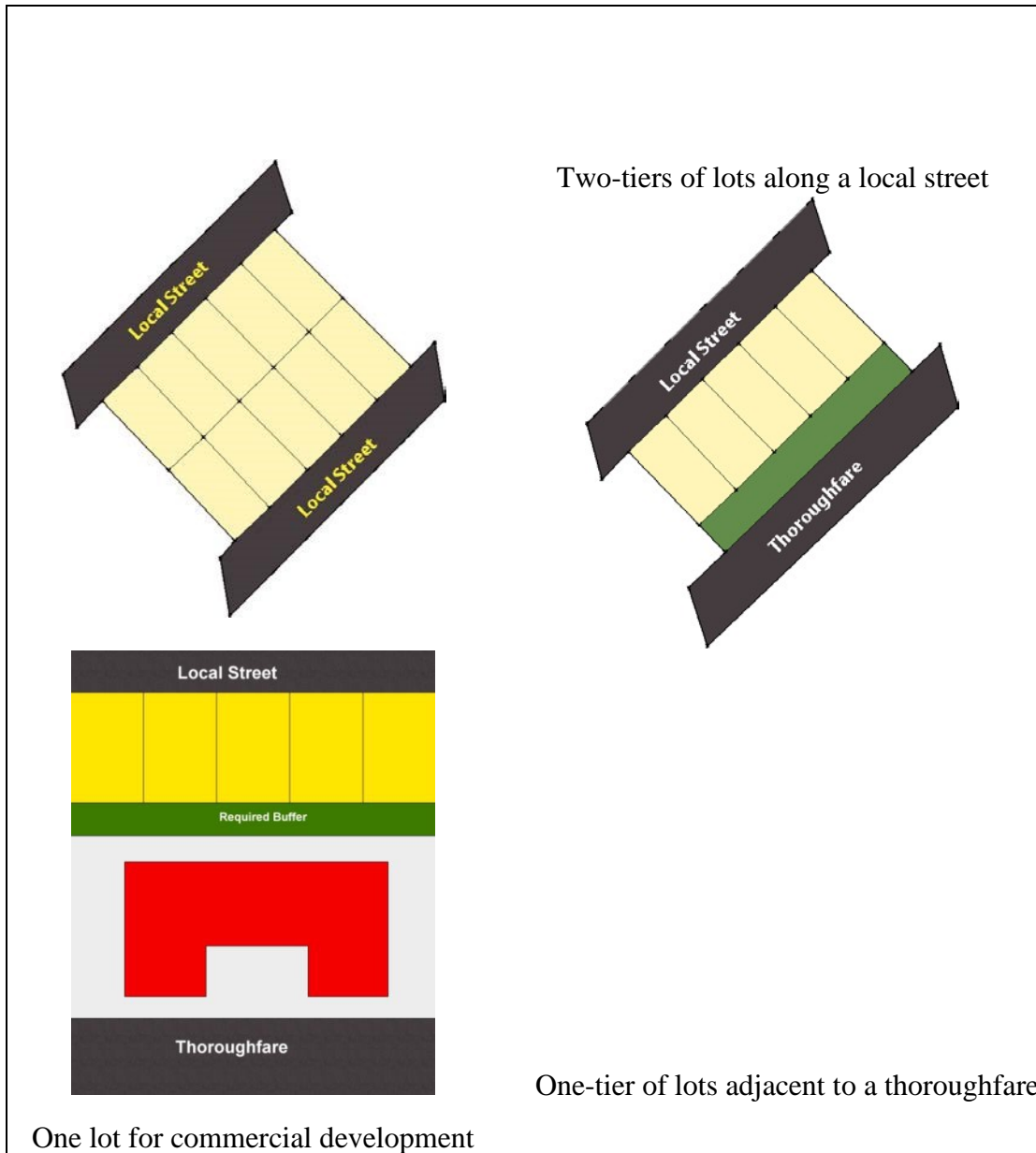
- a. New street stubs to adjacent properties are required using the prescribed methodology for creating blocks
- b. New street stubs are not required to existing single family developments, with the following two exceptions:
 1. A street stub may be required to an abutting single family lot that may be further subdivided based on the size and shape of the single family lot making a stub street extension feasible. New street stubs shall be public and connect to the existing public street system. Deed restrictions on the single family lots may be considered in determining whether a lot is likely to be redeveloped and therefore whether a street stub should be provided.
 2. A paper street may be required to single family lots located adjacent to thoroughfares

(4) Ingress and Egress

- a. All new development should provide for more than one access for ingress and egress at the time of development, if feasible.
 - b. New streets and driveways should align with existing streets across intersections to create four-way intersections.
- (c) Internal Connectivity. Once the external streets are created, connect them, and ensure no block lengths exceed 1000 feet and the average of the block lengths for the entire site does not exceed the maximum block spacing shown in Table 2 “Maximum Street Spacing”. Streets eligible for inclusion in the average block length calculation are described in 20-23 (b)(2)b.
- (d) The city staff may modify the maximum local street spacing, eliminate the need for a stub or paper street where:
- (1) A physical impedance to a connection exists, such as a freeway, railroad line, rapid transit line, or gas pipeline.

- (2) A natural impedance exists, such as areas of steep slopes, wetlands, floodplain, creeks or streams.
 - (3) An industrial use is located adjacent to a proposed residential property, allowing future traffic to the non-residential use to traverse the residential property to reach a non-local street.
 - (4) The shape of the property does not allow the requirements to be met.
 - (5) There are right-of-way, sight distance, or access constraints to providing the recommended spacing.
 - (6) Accessibility to the subject property or an adjacent property requires modification of the requirements.
 - (7) Special manufacturing, distribution warehousing, industrial or security functions do not allow the street spacing requirements to be met.
 - (8) It is advantageous to the street network to align a new street with an existing street, major driveway, or traffic signal, and therefore not creating smaller than desirable block faces.
- (e) Block widths. Block widths must be sufficient to allow two tiers of lots except where single tiers of lots will facilitate nonresidential development, the separation of nonresidential and residential developments, or the separation of residential development from thoroughfares.

Figure 2 - Acceptable block width configurations



- (f) Street offsets. Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines may not be less than 125 feet. Staff may reduce this requirement based on analysis of safety and operational conditions.
- (g) Cul-de-sac. Cul-de-sacs and other permanently dead-end streets are allowed only where no feasible alternative has been documented. No cul-de-sacs are permitted in transit station areas. Cul-de-sacs shall not be longer than the preferred street spacing in Table 1 “Preferred Street Spacing”. Flag lots along the turnaround portion of the cul-de-sac shall not

be used as a way to minimize the length of the cul-de-sac. Where a vehicular connection is impractical and limited additional connections exist, or when environmental conditions make a vehicular connection impractical, a pedestrian and bicycle connection through the cul-de-sac may be required.

- (h) Half streets. New half streets are allowed only where the dual objectives of achieving a network of streets and ensuring the burden of creating streets is reasonably shared among property owners are achieved. This determination shall be made by city staff based on the configuration of parcel boundaries and the anticipated impact of future extension and completion of the half street on the viability of the adjacent parcels. No new half streets are allowed for single-family residential development. Where a half street (partially improved) exists, adjacent development shall complete the street. A half street must be constructed to a minimum of one half the width of the appropriate local street. Where more than one half of the width is constructed, sufficient right-of-way must be dedicated to contain the constructed portion of the street.
- (i) Traffic calming. Wherever a street exceeds the maximum block length, the following conditions shall apply:
 - (1) For residential wide or office/commercial wide, provide at least one pair of midblock curb extensions, as described in the Charlotte Land Development Standards Manual, or another approved slow point.
 - (2) For all other street types, the developer must consult with City staff about the possible use of other traffic calming devices as available in the Charlotte Land Development Standards Manual or as approved by the City Engineer.
- (j) Parking, pedestrian, green zone design. While a common design for parking, pedestrian, and green zones on both sides of a street is preferred, there may be instances where opposite sides of a street contain significantly different land uses. Where such instances are located parallel to a thoroughfare, city staff may approve the design of each side of the roadway separately with regard to the parking, pedestrian, and green zones. Streets that extend perpendicular to a thoroughfare shall be designed for the most intense adjacent land use.
- (k) Collector street designation. If a street is designated on the adopted Collector Street Map dated November 27, 2000, or meets at least two of the criteria, the street will be designated as a collector street and must be built to the appropriate standard.
 - (1) The street intersects directly with a thoroughfare and provides access to an area with an overall density of one dwelling unit per acre, or provides access to more than 125 dwelling units.
 - (2) The street by its general configuration, in relationship to the existing development of the area, in effect serves a collector function.
 - (3) The street serves as a primary access to a significant nonresidential, institutional or recreational land use, as well as access to a residential area.

Sec. 20-24 Alternative Compliance for Street Design

- (1) Purpose and Intent. It is the purpose of this section to provide for the consideration of alternative street designs which differ from the conventional design standards outlined in Sec. 20-22 and 20-23 of this article but which are based upon sound engineering, transportation, and urban design practice. Alternative street design means alternative designs for physical improvements such as street cross-sections, street network, and street block design.
- (2) Authority. The Development Review Board will have the authority to hear and decide applications for alternative compliance.
- (3) Initiation. An application for alternative compliance may be initiated only by the owner of the subject property, an agent authorized in writing to act on the owner's behalf, or a person having written contractual interest in the affected property.
 - (a) An applicant requesting alternative compliance shall schedule a pre-application conference with staff to discuss the procedures, standards, and regulations.
 - (b) An application, in a form prescribed by the Planning Director, must be filed with the planning department accompanied by a nonrefundable filing fee as established by city council. The application shall include an explanation of why the development proposal is not allowed by the ordinance standards.
- (4) Determination of completeness.
 - (a) Within ten days of receiving an application for alternative compliance, the Planning Director will determine whether the application is complete. If the Planning Director determines that the application is not complete, he or she will notify the applicant or specifying the application's deficiencies. The planning director will take no further action on the application until the deficiencies are remedied. If the planning director fails to notify the applicant, the application will be deemed complete. If the application is deemed complete, the planning director will schedule the application for consideration at a hearing before the Development Review Board within 30 days.
 - (b) A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review of the application to proceed under this section. In the event that the application is automatically deemed complete due to the failure of the planning director to notify the applicant of any deficiencies in the application, the deficiency of information may result in rejection of the application by the Development Review Board.
- (5) Staff review.
 - (a) After receipt of a complete application for alternative compliance, the planning director will review the application and send a written recommendation to the Development Review Board setting forth whether the application for alternative compliance should be granted or denied and the reasons for such recommendation. In making such recommendation, the planning director may consult with other city and county agencies and may allow them to review the application for alternative

compliance. The recommendation of the planning director will be submitted to the Development Review Board and mailed to the applicant at least five days prior to the scheduled public hearing.

- (6) Notice and hearing.
 - (a) The Development Review Board will hold hearings on any application for alternative compliance which comes before it in accordance with rules adopted by it for such purpose.
 - (b) The planning staff will mail written notice of the time, place, and subject of the hearing to the person or persons filing the application, to the owners of the subject property, and to the owners of property which adjoins or is directly across a street or alley from the subject property at least 15 days prior to the hearing.
- (7) Action by the Development Review Board. The Development Review Board will grant or deny the application for alternative compliance. The board must state the reasons used to reach its decision.
 - (a) If the application is approved by the Development Review Board, the administrator shall deliver a written notice of the decision, in print or electronic form, by personal delivery, electronic mail or by first-class mail to the applicant and property owner, if different from the applicant. Any approval issued exclusively in electronic form shall be protected from further editing once issued. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner. A written copy of the notice of decision shall also be mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing.
 - (b) If the application is disapproved by the Development Review Board, the administrator shall notify the applicant of the reasons for such disapproval in a written notice of decision delivered to the applicant and property owner, if different from the applicant, by personal delivery, electronic mail, or by first-class mail. The written notice shall be delivered to the applicant's address provided in the application, and to the last address listed for the property owner on the county tax abstract, if the applicant is not the property owner. A written copy of the notice of decision shall also be mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing.
- (8) Approval criteria. Before granting approval of an application for alternative compliance, the Development Review Board must determine that:
 - (a) While the proposed alternative design does not strictly meet all of the standards of the Urban Street Design Guidelines it nevertheless satisfies their intent and is not an inferior improvement design.
 - (b) The proposed alternative design will have the same or higher level of service or adequacy as the standard required improvements. It is not the intent of the alternative

compliance procedure to allow an inferior improvement design to the standards required by this chapter for the purpose of reducing cost.

- (c) The departure from the standard is the minimum necessary, given the specific circumstances of the request.
 - (d) The proposed alternative design will not materially endanger the public health or safety if constructed where proposed and developed according to the plan as submitted and approved
- (9) Rehearing. The Development Review Board may refuse to hear an application for alternative compliance which is substantially similar to an application that has been previously denied.
- (10) Appeal from Development Review Board. Any appeal of a decision rendered by the Development Review Board under this section must be to the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court must be properly filed with the clerk of superior court within 30 days from receipt of the written notice of decision. If notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States Post Office. ~~after the decision of the Development Review Board is filed in the office of the planning director or after a written copy thereof is mailed to every aggrieved party who has filed a written request for such copy with the planning director at the time of the hearing, whichever is later.~~
- (11) Effect of grant of application for alternative compliance. After the approval of an application for alternative compliance, the applicant will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the alternative compliance to the regulations granted to the applicant by the Development Review Board or court.

Sec. 20-25. - Design standards for lots.

- (a) Frontage on street.
 - (1) Each lot in a subdivision must have frontage on a public or private street, except that all single-family detached lots shall front on a public street. Private streets may be allowed in place of public streets with approval by staff.
 - (2) Where lots or building sites that are part of a multifamily development exceed the maximum street spacing in Sec. 20-23(b)(2)b, at least one street extending through the development in both directions shall be a public street. The location of the required public street shall be determined based on the location with the greatest value for connectivity to the existing roadway network. Where no extension of a multifamily public street into adjacent sites is possible, the applicant may construct such a street as a private street.

- (3) Lots designed for certain planned multifamily dwellings need not front on a street, provided that all portions of the dwelling unit proposed for such lots are located within 400 feet of a public street or private street that furnishes direct access to the property, and that access to each such lot be made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership.
- (4) In addition to provisions (1), (2) and (3), all other lots must be designed in accordance with Appendix A of the City Code.
- (b) Sidelines. Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees.
- (c) Maximum density and minimum lot requirements. Density controls the maximum number of lots that can be created when subdividing property. Once the maximum density is established, lots must meet all the development standards of the underlying zoning district in which the proposed subdivision is located. Larger lots may be required to accommodate on-site sewer disposal systems.
- (d) Building lines. Building lines shall be established on all lots in accordance with the appropriate zoning classification. For residential subdivisions on thoroughfares, the building line may not be less than the required setback for the zoning district and shall regulate the placement of any structure relative to the thoroughfare right-of-way including all front, side and rear yards.
- (e) Driveway connections. Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured in accordance with the zoning ordinance and other applicable codes and ordinances.
- (f) Lots subject to flooding. The city engineer shall determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, subdivider shall make a determination of the crest elevation of the flood expected to be equaled or exceeded, on the average, of one time in one hundred years (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the city or county engineer. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions. Upon request and subject to available staff and any applicable fees, the city engineer will make the necessary determination of the 100-year flood crest if the necessary existing and proposed conditions are provided by the subdivider. No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour as determined by field survey, at an elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the "stormwater elevation line." in addition, a "stormwater protection elevation" for each lot subject to flooding shall be noted on the lot plan as determined by the county engineer

based on the stormwater elevation line, or for lots upstream of street crossings, the low elevation of the street plus one foot, whichever is greater. All habitable buildings or structures shall be located outside the stormwater elevation line or the lowest usable and functional part of the structure shall not be below the stormwater protection elevation.

"Usable and functional part of the structure" shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the stormwater protection elevation. Where only a portion of

a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1,200 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the stormwater elevation line. During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and banks of the stream all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. In areas of the county that are covered by the provisions of the floodway regulations, the floodway regulations will supersede the provisions of this chapter regarding land within the regulatory floodplain.

- (g) Water access lots. The water access lots must equal at least ten percent of the area, exclusive of streets, of all the interior property which lies within 450 feet of the water's edge. However, where the ten percent would equal less than 20,000 square feet, the subdivider will not be required to provide any water access lots. All water access lots shall have a minimum frontage at the water's edge of 100 feet. The water access lots must either be dedicated to the county parks department, but only if the board of county commissioners agrees to accept such dedication, or be transferred in fee simple title to a homeowners' association of the interior lot owners of the subdivision. Before approval of the final plat can be given, the subdivider must submit to the planning staff a covenant stating either that:
 - (1) He or she will dedicate the required amount of water access lots to the county; or
 - (2) He or she will convey title of the water access lots to a homeowners' association of the purchasers of each interior lot.

If the subdivider chooses to dedicate the water access lots to the county, the board of county commissioners must have agreed to accept the final responsibility of maintaining the lots, and the preliminary plan and final plat must show the dedication. If the title is transferred to a homeowners' association of the interior lot owners, the preliminary plan and final plat must designate the lots covered by the homeowners' association for each water access lot.

- (h) New subdivisions within watershed protection overlay zoning district. New subdivisions within a watershed protection overlay zoning district must submit a buffer plan in accordance with appendix B of Ordinance No. 1963. The buffer plan will be submitted with the subdivision preliminary plan application to the Planning Department.
- (i) Building envelope. All residential lots shall have a building envelope sufficient to meet the minimum requirements of the Minimum Housing Code.
(Code 1985, § 20-23; Ord. No. 2961, § 6, 5-16-05; Ord. No. 3141, § 1, 11-21-2005; Ord. No. 3401, § 1, 10-18-2006)

Editor's note—Ord. No. 3401, § 1, adopted October 18, 2006, added provisions intended for use as subsection (5). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsection (i).

Sec. 20-26. - Enforcement.

- (a) After the effective date of the ordinance from which this chapter derives, a plat of a subdivision filed or recorded in the office of the register of deeds of the county, without the approval of the planning staff or the Charlotte-Mecklenburg Planning Department as required by this chapter, will be null and void for the purposes of this chapter.
- (b) Any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this chapter, subdivides land in violation of this chapter or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this chapter and recorded in the office of the register of deeds of the county shall, upon conviction, be guilty of a misdemeanor and punished in accordance with section 2-21. The county, through the county attorney, or the city, through the city attorney, may enjoin such transfer or sale by action for injunction. All administrative actions relating to such land, including the issuance of any grading, construction, building or occupancy permit, will be suspended. This chapter will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this chapter (January 1, 1966, for Mecklenburg County; February 29, 1956, for the City of Charlotte).
- (c) In order to properly enforce the provisions of the subdivision regulations as stated in this section prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permits must be obtained from the Mecklenburg County Land Use and Environmental Services Agency (LUESA), engineering and property management, and neighborhood development. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this section.
(Code 1985, § 20-24; Ord. No. 3018, § 1A, 6-20-2005)

Sec. 20-27. - Application and processing fees.

Fees for the processing of applications for subdivision approval are established by ordinance by the city council and will be collected at the time of initial application.

(Code 1985, § 20-25)

Secs. 20-28—20-50. - Reserved.

ARTICLE II. REQUIRED IMPROVEMENTS

Sec. 20-51. - Standards and specifications.

- (a) Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the city or the state department of transportation, minimum improvements, including drainage and soil erosion, must have been completed by the developer and approved by the city or county engineer in accordance with the standards and specifications of the Charlotte Land Development Standards manual or bonded in accordance with section 20-58(c).
- (b) The intent of the specifications set out in this chapter is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the city or county engineering department, will qualify streets in the city to be accepted for maintenance by the city and streets in the county to be considered for maintenance by the state.

(Code 1985, § 20-36)

Sec. 20-52. - Improvement responsibility.

- (a) In order to facilitate the provision of street rights-of-way and necessary improvements, the following establish responsibilities for the installation of streets and related improvements for each class of street. Any area of right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner for development rights transfer purposes as provided for in the zoning ordinance in appendix A to this Code:
 - (1) Freeway-expressway: right-of-way: entire width reserved for future acquisition.
 - (2) Limited-access arterial:
 - a. Right-of-way: entire width reserved for future acquisition.
 - b. Improvements: installed by the public.
 - (3) Commercial arterial:
 - a. Right-of-way: Up to 100 feet or required width dedicated, whichever is less, and the remainder reserved for future acquisition (half of right-of-way located on each side of the centerline). Any development along a commercial arterial which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

- b. Improvements: installed by the public in accordance with a schedule of public street improvements, except that the developer is responsible for sidewalk construction along his or her project frontage on existing thoroughfares at the time of his or her development. Other specific improvements may be required to the thoroughfare to meet traffic demands of the particular development, in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the city or county engineer and the planning staff, to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new commercial arterials or extensions of commercial arterials must utilize reverse frontage with the only access points being public streets or specifically approved street-type entrances.

(4) Local Streets:

- a. Right-of-way: Entire right-of-way width dedicated (half of right-of-way located on each side of the centerline), except where a half street has been approved by city staff.
- b. All streets must be constructed to meet applicable city requirements. Standard detail drawings are available in the Charlotte Land Development Standards Manual. Public improvements will be made in accordance with adopted plans, programs and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector, unless those improvements are scheduled and funded in accordance with public policies and programs.

(5) Major thoroughfare:

- a. Right-of-way: The developer is responsible for the dedication of up to 100 feet (50 feet each side of the centerline) as provided for in section 20-22(c)(4). Any development along a major thoroughfare which requires specific improvement of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- b. Improvements: installed by the public in accordance with a schedule of public street improvements, except that the developer is responsible for sidewalk construction along his or her project frontage on existing thoroughfares at the time of his or her development. Other specific improvements may be required to the thoroughfare to meet traffic demands of the particular development, in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option,

after consultation with the city or county engineer and the planning staff, to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new major thoroughfares or extensions of class III streets must utilize reverse frontage with the only access points being public streets or specifically approved street-type entrances.

(6) Minor thoroughfare:

- a. Right-of-way: The developer is responsible for the dedication of up to 70 feet (35 feet each side of the centerline) as provided for in section 20- 22(c)(4). Additional right-of-way which may be required for improvements to meet specific traffic demands of the development must be dedicated by the developer.
- b. Improvements: installed by the public in accordance with a schedule of public street improvements, except that the developer is responsible for sidewalk construction along his or her project frontage on existing thoroughfares at the time of his or her development. Other specific improvements may be required to the thoroughfare to meet traffic demands of the particular development, in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the city or county engineer and the planning staff, to construct all or a portion of the street if the developer wants to make use of the street for access to the development.

(7) Collector:

- a. Right-of-way: dedicated by the developer.
 - b. Improvements: constructed by the developer.
- (b) All streets must be constructed to the requirements of the city as described in the Charlotte Land Development Standards Manual or as approved by the City Engineer. Public improvements will be made in accordance with adopted plans, programs and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector, unless those improvements are scheduled and funded in accordance with public policies and programs. The standards in this chapter 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 multisite 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:
 - a. By the planning commission and/or planning staff; or

- b. Unconditional zoning district and/or special use permit zoning processes of the zoning ordinance in appendix A to this Code. 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 this chapter.
- (c) No dedication or reservation of right-of-way for a street or highway within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2 for a street or highway that is included in the department of transportation's Transportation Improvement Program will be required by this chapter, unless and until the planning staff has determined and certified in writing (i) that the dedication or reservation does not result in the deprivation of a reasonable use of the original tract and (ii) that the dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land, or the impact of the dedication or reservation is mitigated by measures provided in this chapter. For these purposes, the term "original tract" will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

(Code 1985, § 20-37)

Sec. 20-53. - Drainage.

- (a) Storm drainage adequate to accommodate a ten-year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe and the necessary easements to provide access to the drainage facilities, in accordance with city or county standards, and has been dedicated and accepted or otherwise conveyed to the city or county, the city or county will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and the deed for the affected lots.
- (b) In addition to the drainage improvements as required by this section, the subdivider may provide for stormwater retention, at a minimum standard as provided in the applicable zoning ordinance, to serve the entire subdivision as part of the drainage plan to be approved by the city or county engineer. For the purposes of the subsection, the subdivision shall include the streets, sidewalks, driveways, rooftops and other impervious covers as proposed by the subdivider.
- (c) Reserved

(Code 1985, § 20-38)

Sec. 20-54. - Curb and gutter.

- (a) Installation of curb and gutter shall be in accordance with the requirements of the city. Standard detail drawings are available in the Charlotte Standards Manual according to street type. Standard curbs and gutters must be constructed on all arterial and commercial streets and streets within or abutting multifamily or other planned developments. Rolled curbs and gutters or standard curbs and gutters must be constructed on all local and collector streets.

(Code 1985, § 20-39)

Sec. 20-55. - Sidewalks.

- (a) Sidewalks are required in all subdivisions as follows:
- (1) Sidewalks are required on both sides of all new or existing major and minor thoroughfares in accordance with other improvement requirements of this section.
 - (2) Sidewalks are required on both sides of all new or existing collectors in accordance with other improvement requirements of this section.
 - (3) Sidewalks are required on both sides of all new or existing local residential streets in accordance with other improvement requirements of this section.
- (b) Location. Approval of sidewalk construction plans must be obtained as part of the subdivision review process. The Charlotte Land Development Standards Manual and Appendix A of this code (where applicable), or any adopted Streetscape Plan or Area Plan indicate the required location of the sidewalks. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement.
- (1) Sidewalks may be located on private property, thereby reducing the width of the required right-of-way, where an easement for access, utilities, and other required functions acceptable to the city is proposed and accepted.
 - (2) Location of sidewalks. Where nonresidential or multifamily development occurs, sidewalks shall be placed in their conforming locations, and a transition to any adjacent existing sidewalks shall be made. All other residential development shall place sidewalks in their conforming location to the maximum extent determined feasible by city staff. In cases where the sidewalk is not located in its conforming location, an easement shall be granted for future location of the sidewalk, and all street tree and other landscape planting shall respect the location of the future sidewalk.

(Code 1985, § 20-40)

Sec. 20-56. - Street markers and barricades.

- (a) Standard street markers must be installed at one corner of all street intersections in a subdivision, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location and installation of

the signs must be in accordance with standards specified by the Charlotte Land Development Standards Manual.

- (b) Barricades must be installed at the end of all dead-end streets, except cul-de-sac streets which have been improved with a permanent turnaround as required by this chapter. Design, material and installation of the barricades must be in accordance with the Charlotte Land Development Standards Manual.

(Code 1985, § 20-41)

Sec. 20-57. - No service unless street accepted or tentatively approved.

- (a) No department, officer or employee of the city or county will accept for maintenance, lay out, open, improve, grade, pave or light any streets or authorize the laying of water mains, sewers, connections or other facilities or utilities in any street within the city or county unless:
 - (1) Such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of the ordinance from which this chapter derives;
 - (2) For any new street, such street corresponds in its location and lines with a street shown on a preliminary subdivision plat, tentatively approved by the planning staff or Charlotte-Mecklenburg Planning Commission;
 - (3) Such street has been accepted as a public street by a vote of a majority of all the members of the city council or by the state; or
 - (4) Such street is an approved private street built in conformance with the provisions of all applicable ordinances.
- (b) The state department of transportation will accept subdivision streets for state maintenance purposes which meet all the requirements of this chapter and meet the uniform statewide standards adopted by the state department of transportation.

(Code 1985, § 20-42)

Sec. 20-58. - Modification of requirements; ~~bond~~performance guarantees.

- (a) In subdivisions adjoining already established streets that have been accepted for maintenance by the city or the state department of transportation, the requirements of this article will apply as follows:
 - (1) Those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable;
 - (2) Where the adjoining established street is a part of the city's or the state department of transportation's street system, the adjoining street must be improved in accordance with either the requirements of this article and the requirements of the city or the state department of transportation, whichever establishes the higher standard.

- (b) Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the city council or the state department of transportation, or which have been accepted for maintenance by the state department of transportation but have not been improved with a paved roadway, will be eligible for final approval when the requirements of this article have been complied with as closely as may reasonably be required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
- (c) Where the improvements required by this chapter have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner filing ~~a surety bond or an irrevocable letter of credit~~ performance guarantee with the engineering department. ~~in an amount to be determined by the city engineering department~~ The amount of the performance guarantee shall not exceed 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued. The City, in consultation with other affected agencies, such as the department of environmental health, with ~~sureties~~ performance guarantees satisfactory to the city guaranteeing the installation of the required improvements allowing credit for improvements completed prior to the submission of the final plat, ~~may determine the amount of the performance guarantee or use a cost estimate determined by the developer.~~ The reasonably estimated cost of completion shall include 100% of the cost for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional 25% allowed under this section includes inflation and all costs of administration regardless of how such fees or charges are denominated. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed 125% of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time. Upon completion of the improvements and the submission of as-built drawings, as required by this chapter, written notice thereof must be given by the subdivider to the appropriate engineering department. The engineering department will arrange for an inspection of the improvements and, if found satisfactory, will, within 30 days of the date of the notice, provide written acknowledgement to the developer that the required improvements have been completed and authorize in writing the release or return of the ~~security~~ performance guarantees given, subject to the warranty requirement.
- The developer shall have the option to post one type of a performance guarantee, in lieu of multiple bonds, letters of credit, or other equivalent security, for all matters related to the same project requiring performance guarantees. Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

(Code 1985, § 20-44)

Sec. 20-59. - Inspection.

- (a) The city must be notified two days in advance of the work to be started in a subdivision so that an authorized representative of the city engineer or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
- (b) The inspector must be allowed access to all parts of the work to ascertain whether or not the work as performed is in accordance with the specifications, and terms of approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
- (c) No material may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
- (d) If any disputes arises as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

(Code 1985, § 20-45)

Secs. 20-60—20-85. – Reserved.

ARTICLE III. APPEALS AND VARIANCES

Sec. 20-86. - Authority of planning commission.

- (a) The planning commission will have the authority to hear and decide appeals from any order, decision, determination, or interpretation made by any administrative officer pursuant to or regarding these regulations. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.
- (b) The planning commission will have the authority to hear and decide petitions for variances from the requirements of these regulations, which relate to subdivision of land or any development standards and requirements of this chapter not inconsistent with other codes or ordinance. The planning commission may appoint the zoning committee to serve as the hearing committee to hear and decide appeals.

(Code 1985, § 20-56; Ord. No. 2960, § 3, 5-16-2005) **Sec.**

20-87. - Initiation.

- (a) An appeal of a decision on a subdivision preliminary plan may be initiated by any person or incorporated or unincorporated association to which at least one of the members has standing per G.S. 160D-1402(c) is aggrieved or by any officer, department, board or bureau of the city or the county. However, only the applicant has the right to appeal from the disapproval of a final plat as required by section 20-18.
- (b) A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

(Code 1985, § 20-57)

Sec. 20-88. - Filing of notice of appeal.

- (a) A notice of appeal in the form prescribed by the planning commission must be properly filed with the planning director within ~~ten~~ 30 days from receipt of the written notice of the decision. If the notice is given by first-class mail, the notice is deemed received on the third business day following deposit of the notice for mailing with the United States post Office. The notice filed with the planning director must be accompanied by a nonrefundable filing fee as established by the city council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section.
- (b) The filing of such notice will require the officer whose action is appealed to transmit to the planning commission all administrative ~~papers~~ materials, records, and other information regarding the subject matter of the appeal.
- (c) Except as provided in this article, the filing of such notice shall stay any proceedings, including the issuance of civil penalties in furtherance of the contested action.

(Code 1985, § 20-58)

Sec. 20-89. - Standards for granting appeal.

- (a) The planning commission, or the hearing committee, may reverse or modify the order, decision, determination, or interpretation under appeal upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.
- (b) In modifying the order, decision, determination, or interpretation, the planning commission, or the hearing committee, will have all the powers of the officer from whom the appeal is taken.

(Code 1985, § 20-59; Ord. No. 2960, § 4, 5-16-2005)

Sec. 20-90. - Filing of variance petition.

A petition for a variance from this chapter, in the form prescribed by the planning staff, must be filed with the planning director accompanied by a nonrefundable filing fee as established by the city council.

(Code 1985, § 20-60)

Sec. 20-91. - Standards for granting variance.

When unnecessary hardships would result from carrying out the strict letter of the Subdivision Ordinance, the planning commission, or the hearing committee, shall vary any of the provisions of the Subdivision Ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- (3) The hardship did not result from actions taken by the applicant or the property owner, The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the Subdivision Ordinance, such that public safety is secured, and substantial justice is achieved.

Appropriate conditions may be imposed on any variance, provided that the conditions are related to the variance.

(Code 1985, § 20-61; Ord. No. 2960, § 5, 5-16-2005)

Sec. 20-92. - Determination of completeness.

- (a) Within ten days of receiving a notice of appeal or a variance petition, the planning director will determine whether the notice or petition is complete. If the planning director determines that the notice or petition is not complete, he or she will notify the appellant or petitioner specifying the notice's or petition's deficiencies. The planning director will take no further action on the petition until the deficiencies are remedied. If the planning director fails to notify the appellant or petitioner, the notice or petition will be deemed complete. If the notice or petition is deemed complete, the planning director will schedule the appeal or variance for consideration at a hearing before the planning commission, or the hearing committee, within 30 days.
- (b) A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review of the appeal of variance to proceed under this section. In the event that the notice or petition is automatically deemed complete due to the failure of the planning director to notify the

appellant or petitioner of any deficiencies in the notice or petition, the deficiency of information may result in rejection of the appeal or variance by the planning commission, or the hearing committee.

(Code 1985, § 20-62; Ord. No. 2960, § 6, 5-16-2005)

Sec. 20-93. - Staff review.

After receipt of a complete variance petition or notice of appeal from an action taken, the planning director will review the notice or petition and send a written recommendation to the planning commission, or the hearing committee, setting forth whether the appeal or variance should be granted or denied and the reasons for such recommendation. In making such recommendation, the planning director may consult with other city and county agencies and may allow them to review the notice of appeal or variance petition. The recommendation of the planning director will be submitted provided in written or electronic form to the planning commission and mailed to the appellant or petitioner, at the same time, at least five days prior to the scheduled public hearing.

(Code 1985, § 20-63; Ord. No. 2960, § 7, 5-16-2005)

Sec. 20-94. - Notice and hearing.

- (a) The planning commission, or the hearing committee, will hold quasi-judicial hearings on any appeal or variance petition which comes before it in accordance with rules adopted by it for such purpose.
- (b) As per G.S. 160A-388(a2), 160D-406(b) notices of hearings shall be mailed by the administrator or planning staff to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject to the hearing, and to other persons entitled to receive notice.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(Code 1985, § 20-64; Ord. No. 2960, § 8, 5-16-2005)

- (c) The administrator or planning staff shall transmit to the planning commission all applications, administrative materials, records, and other information regarding the subject matter being considered. The administrative materials may be distributed in written or electronic form to the members of the commission prior to the hearing if at the same time they are distributed to the commission a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. Objections to inclusion or exclusion of

administrative materials may be made before or during the hearing. The planning commission chair shall rule on any objections. Rulings on unresolved objections shall be made by the commission at the hearing. These rulings are also subject to judicial review pursuant to G.S. 160D-1402.

- (d) The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the City shall be present at the evidentiary hearing as a witness.

Sec. 20-95. - Action by planning commission.

The planning commission, or the hearing committee, will grant or deny the variance or will reverse, affirm, or modify the order, decision, determination, or interpretation under appeal by adopting a resolution and placing the resolution in the minutes of the meeting. The planning commission, or the hearing committee, shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

Each quasi-judicial decision shall be reduced to writing and reflect the commission's (or committee's) determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the commission or committee. A quasi-judicial decision is effective upon filing the written decision with the clerk to the planning commission or hearing committee.

The decision of the planning commission, or the hearing committee, shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(Code 1985, § 20-65; Ord. No. 2960, § 9, 5-16-2005)

Sec. 20-96. - Rehearing.

The planning commission, or hearing committee, will refuse to hear an appeal or variance petition which has been previously denied unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

(Code 1985, § 20-66; Ord. No. 2960, § 10, 5-16-2005)

Sec. 20-97. - Appeal from planning commission.

- (a) Every quasi-judicial decision of the planning commission, or the hearing committee, shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. ~~160A-393~~ 160D-1403. Any petition for a review of the planning commission's, or hearing committee's decision in the nature of certiorari by the superior

court must be filed with the clerk of superior court ~~by the later of (1) within 30 days after the decision is effective, or (2) 30 days after a from receipt of the~~ written ~~copy of the~~ notice of decision, is given in accordance with Section 20-95 of this ordinance. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

- (b) If there is an appeal from the decision of the planning staff taken to the planning commission, or the hearing committee, then the person filing the appeal may not file a revised preliminary plan or revised final plat for the portion of the subject site affected by the appeal until the completion of the appeal, or any final judicial determination. The planning staff may approve a preliminary plan or final plat for that portion of the property not affected by the action of the appeal.

(Code 1985, § 20-67; Ord. No. 2960, §§ 11, 12, 5-16-2005)

Sec. 20-98. - Effect of grant of variance.

After the approval of a variance by the planning commission, or the hearing committee, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variation in these regulations granted to the petitioner by the planning commission, hearing committee, or court. (Code 1985, § 20-68; Ord. No. 2960, § 13, 5-16-2005)

Sec. 20-99. ---20.114. – Reserved

Sec. 20-115. – Applicability

- (a) These amendments shall apply to all development and redevelopment within the corporate limits of this city and its extraterritorial jurisdiction, unless one of the following exemptions applies as of the effective date²:
- (1) Residential and nonresidential development and redevelopment plans submitted and accepted for review;
 - (2) Zoning use application submitted and accepted for review for uses that do not require a building permit;
 - (3) Common law vested right established (e.g., the substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid governmental approval to proceed with a project); and/or
 - (4) A conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district and parallel conditional use district) approved prior to the effective date of this article/ordinance, provided formal plan submission has been made and accepted for review either prior to five years from January 1, 2011 in the case of conditional zoning districts approved on or after January 1, 2002, or prior to two years from January 1,

2011 in the case of conditional zoning districts approved prior to January 1, 2002. If no such formal plan submission occurs within the above –described five-or two-year time frames the requirements of Section I shall be applied to the project.

¹. Amendments in Petition 2014-001 SUB

². Effective date: January 29, 2015

**AN ORDINANCE AMENDING Chapter 21, OF THE CHARLOTTE CITY CODE
TITLED “Trees”**

ORDINANCE NO. 92

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

Section 1: Chapter 21, “Trees”, Sections 21-31, 21-32, 21-122, 21-124, and 21-126 are amended to read as shown in the attached Exhibit A, which is incorporated and made a part of this ordinance.

Section 2: This ordinance shall become effective as of June 21st, 2021.

Approved as to form:



City Attorney

CERTIFICATION

I, Stephanie C. Kelly, City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 21st day of June 2021, the reference having been made in Minute Book 153, and recorded in full in Ordinance Book 64, Page(s) 025-049.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this 21st day of June 2021.



Stephanie C. Kelly, City Clerk, MMC, NCCMC

Chapter 21 - TREES^[1]

Footnotes:

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Editor's note— Ord. No. 4521, § 1, adopted September 27, 2010, amended chapter 21 in its entirety to read as herein set out. Formerly, chapter 21, articles I—V pertained to similar subject matter, and derived from the Code of 1985, §§ 21-1—21-20, art. III, and Ord. No. 2447, § 11, adopted November 24, 2003. Section 2 of Ord. No. 4521 states the following: "Section 2. These amendments shall apply to all development and additions to existing sites within the corporate limits of this city and its extraterritorial jurisdiction, unless one of the following exemptions applies as of the effective date: (1) Residential and nonresidential development and additions to existing sites submitted and accepted for review; (2) Zoning use application submitted and accepted for review for uses that do not require a building permit; (3) Valid building permit issued pursuant to G.S. 153A-344 or G.S. 160A-385, so long as the permit remains valid, unexpired, and unrevoked; (4) Common law vested right established (e.g., the substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid governmental approval to proceed with a project); and/or (5) A conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district and parallel conditional use district) approved, provided formal plan submission has been made and accepted for review prior to the date that the vested rights for the conditional zoning district expire pursuant to G.S. 160A-385.1 and Sec. 1.110 of the Charlotte zoning ordinance.

Charter reference— Trees, § 6.221.

Cross reference— Buildings and building regulations, ch. 5; streets, sidewalks and other public places, ch. 19; subdivisions, ch. 20.

State Law reference— Cutting, injuring or removing timber, G.S. 14-135.

ARTICLE I. - IN GENERAL

Sec. 21-1. - Short title.

This chapter will be known and may be cited as the "Charlotte Tree Ordinance."

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-2. - Definitions.

Words and phrases used in this chapter that are not specifically defined in this section shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amenitized tree area means an area that serves to meet the tree save requirement for urban sites and includes planted trees and amenities, such as irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.

Caliper means the diameter measurement of the trunk taken six inches above ground level for trees up to and including four-inch caliper size. Measurement shall be taken 12 inches above the ground level for larger trees.

City means the city engineer, the city arborist or the senior urban forestry specialist, or their designated agent.

Commission means the city tree advisory commission.

dbh (diameter at breast height) means the diameter of a tree four and one-half feet above the average ground level.

Corridors are identified on the centers and corridors map as part of the transportation action plan (adopted in 2006), or any adopted updates to this map.

Designated mixed-use centers are identified on the centers and corridors map as part of the transportation action plan (adopted in 2006), or any adopted updates to this map.

Drip line means a vertical line running through the outermost portions of the tree crown extending to the ground.

Existing tree canopy means tree canopy that has existed for at least two years prior to development as evidenced by city or county aerial photographs, or a tree survey of trees one-inch caliper and larger.

Heritage tree means any tree that is listed in the North Carolina Big Trees List, the American Forest Association's Champion Tree list or any tree that would measure 80 percent of the points of a tree on the North Carolina Big Trees List.

Homeowner means an owner of an existing single-family or duplex residence.

Impervious cover means buildings, structures and other paved, compacted gravel or compacted areas which by their dense nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

Internal planting area means a planting area located on private property outside the public right-of-way.

Invasive plant species means plant species that spread rapidly with little or no assistance. For the purposes of this chapter the following plant species are considered invasive: Bushkiller-Cayratia japonica, Chinese wisteria-Wisteria sinensis, English ivy- Hedera helix Japanese wisteria-Wisteria floribunda, Japanese honeysuckle- Lonicera japonica, Kudzu-Pueraria montana.

Land conservation group means a nonprofit land trust or similar organization approved by the city that permanently protects land, water, trees and wildlife habitat to enhance quality of life in Charlotte and Mecklenburg County.

Off-site mitigation means requirement of the developer and the property owner to convey at no cost to the city an equal amount of land in Mecklenburg County with a mature tree canopy to Mecklenburg County or to a land conservation group pursuant to the tree ordinance guidelines. The land shall be conveyed subject to either a permanent conservation easement or deed restrictions for the purpose of preserving tree canopy. The conveyance and its terms must be:

- (1) Approved by the city;
- (2) Be acceptable to either Mecklenburg County or a land conservation group; and
- (3) Comply with the tree ordinance guidelines.

Paved area means any ground surface covered with concrete, asphalt, stone, compacted gravel, brick, or other paving material.

Payment in lieu means contribution by the developer and the property owner to a city administered tree preservation fund a dollar amount equal to a percentage of the tax value of the land being developed at the time of the plan approval in accordance with section 21-94 and the tree ordinance guidelines. The tax value shall not exceed 90 percent of the average tax value of land in the city limits of and the ETJ, excluding the land within the boundaries of I-277 and in accordance with the tree ordinance guidelines.

Pedestrian scale lighting means lighting that is specifically intended to illuminate the sidewalk, as opposed to vehicular travel ways, and shall not exceed 15 feet in height.

Perimeter planting strip means a planting strip that abuts a public street or transportation right-of-way.

Person means a public or private individual, corporation, company, firm, association, trust, estate, commission, board, public or private institution, utility cooperative, or other legal entity.

Planting strip and *planting area* means ground surface free of impervious cover and/or paved material which is reserved for landscaping purposes.

Renovation means any construction activity to an existing structure which changes its square footage, changes its footprint, or modifies the exterior wall material excluding cosmetic maintenance and repairs.

Root protection zone means, generally, 18 inches to 24 inches deep and a distance from the trunk of a tree equal to one-half its height or its drip line, whichever is greater.

Single-family development shall refer to any single-family detached dwelling or duplex dwelling submitted for review subject to the subdivision ordinance.

Specimen tree means a tree or group of trees considered to be an important community asset due to its unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance as determined by the city. Examples include large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pine species) in good or better condition with a dbh of 24 inches or greater, and smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a dbh of ten inches or greater.

Streetscape plan means a plan that specifies planting strips, tree species, sidewalk locations, building setbacks and other design aspects for streets within the city. Such plans are effective following approval by the city council.

Suburban commercial zones mean all zoning districts other than single-family development and urban zones as defined in this section.

Topping means any pruning practices that result in more than one-third of the foliage and limbs being removed. This includes pruning that leads to the disfigurement of the normal shape of the tree.

Transit station area means high density area within approximately one-half mile of an existing or planned rapid transit station as designated by the city planning department.

Tree, large maturing means any tree the height of which is 35 feet or greater at maturity.

Tree, large maturing shade means any tree the height of which is 35 feet or greater at maturity and has a limb spread of 30 feet or more at maturity.

Tree, small maturing means any tree the height of which is less than 35 feet at maturity.

Tree evaluation formula means a formula for determining the value of trees and shrubs as published by the International Society of Arboriculture.

Tree ordinance guidelines means instructions and specifications of tree planting and tree protection as published by the city and subject to amendment from time to time by the city.

Tree protection zone mean a distance equal to the designated zoning district setback or 40 feet from the front property line, whichever is less, or from the side lot line on a corner lot. For urban zones, the tree protection zone shall be the same as the planting strip required for the associated zoning district or as designated in a streetscape plan. This definition does not apply to single-family development.

Tree save area means an area measured in square feet containing existing healthy tree canopy in a single-family subdivision or an area containing existing or mitigated off site healthy tree canopy in a commercial development. The area may include up to five feet beyond the drip line of the tree.

Urban retail site means any building site for a building that includes ground-floor nonresidential use.

Urban zones means property zoned as any of the following zoning districts: UMUD (uptown mixed use district), MUDD (mixed use development district), TOD (transit oriented development), UR (urban residential), and NS (neighborhood services), as well as any zoning district with a PED (pedestrian overlay) or TS (transit supportive) overlay. Urban zones do not include single-family development, even if developed under an urban zoning district.

Wedges are those areas shown on the centers and corridors map as part of the transportation action plan (adopted in 2006), or any adopted updates to this map.

(Ord. No. 4521, § 1, 9-27-2010; Ord. No. [8093](#), § 1, 8-22-2016; [Ord. No. 9671](#), § 1.A.1, 10-21-2019)

Cross reference— Definitions generally, § 1-2.

Sec. 21-3. - Purpose and intent.

- (a) It is the purpose of this chapter to preserve, protect and promote the health, safety and general welfare of the public by providing for the regulation of the planting, maintenance and removal of trees located on roadways, parks and public areas owned or controlled by the city and on new developments and alterations to previous developments on private property.
- (b) It is the intent of this chapter to:
 - (1) Protect, facilitate and enhance the aesthetic qualities of the community to ensure that tree removal does not reduce property values.
 - (2) Emphasize the importance of trees and vegetation as both visual and physical buffers.
 - (3) Promote clean air quality by reducing air pollution and carbon dioxide levels in the atmosphere, returning pure oxygen to the atmosphere and increasing dust filtration.
 - (4) Reduce the harmful effects of wind and air turbulence, heat and noise, and the glare of motor vehicle lights.
 - (5) Minimize increases in temperatures on lands with natural and planted tree cover.
 - (6) Maintain moisture levels in the air of lands with natural tree cover.
 - (7) Preserve underground water reservoirs and permit the return of precipitation to the groundwater strata.
 - (8) Prevent soil erosion.
 - (9) Provide shade.
 - (10) Minimize the cost of construction and maintenance of drainage systems necessitated by the increased flow and diversion of surface waters by facilitating a natural drainage system and amelioration of storm water drainage problems.
 - (11) Conserve natural resources, including adequate air and water.
 - (12) Require the preservation and planting of trees on site to maintain and enlarge the tree canopy cover across the city.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-4. - Applicability and exemptions.

This chapter shall apply to all developers and/or owners of real property involved with the erection, repair, alteration or removal of any building or structure as well as the grading in anticipation of such development. Compliance with this chapter will be required in the following circumstances:

- (1) New development.
- (2) In the case of the following cumulative (since January 2011) additions or changes:
 - a. Additions to existing sites that are equal to or greater than five percent of the site's existing building square footage or the addition of 1,000 square feet or more of building;
 - b. When ten or more parking spaces are added to the site with no building; or

- c. Facade changes to ten percent or more of any building wall facing a vehicular way intended for public travel regardless of ownership (e.g., adding or eliminating doors, windows, closings, openings, or increased wall area).
- (3) The following are excluded from the requirements of sections 21-94, 21-95 and 21-96:
- a. The homeowner of a single-family or duplex residence.
 - b. Property which as altered does not meet the requirements of subsection (2).

(Ord. No. 4521, § 1, 9-27-2010)

Secs. 21-5—21-30. - Reserved.

ARTICLE II. - ADMINISTRATION^[2]

Footnotes:

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Cross reference— Administration, ch. 2.

Sec. 21-31. - Tree advisory commission.

- (a) The city council may establish a tree advisory commission. This commission may from time to time make recommendations relative to trees to the city manager or his authorized representative and perform other duties as designated in this chapter.
- (b) The tree advisory commission shall be composed of 12 members, a majority of whom shall be residents of the city. Seven of the members shall be appointed by the city council, and three of the members shall be appointed by the mayor. The remaining two members shall be representatives of the city engineering and property management department and shall be ex officio members.
- (c) Those members appointed by the mayor and city council shall serve three years, and no member appointed by the mayor and city council shall be eligible to serve more than two consecutive full terms. Member terms shall be appointed on a staggered basis so that no more than five of the ten appointed seats become vacant at one time.
- (d) Any member who fails to attend the requisite number of meetings as set out in the boards and commission's attendance policy adopted by the city council shall be automatically removed from the commission. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section. The chair of the commission will notify the proper appointing authority if a member is absent the requisite number of the meetings, and appointment will be made by the appointing authority to fill that vacancy.
- (e) Any rules of procedure adopted by the tree advisory commission shall be consistent with the provisions of G.S. Chapter 160D and kept on file at the office of the City Clerk and posted on the City of Charlotte website.
- (f) In determining appeals of administrative decisions and variances, the tree advisory commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec.160D-406.

- (g) The tree advisory commission shall keep minutes of its proceedings as required by G.S. Sec.160D-308.
- (h) Each member shall take an oath of office before starting their duties as required by G.S. Sec. 160D-309.
- (i) Each member shall comply with the conflict of interest standards as specified in G.S. Sec. 160D-109 and Section 1.111 of the City of Charlotte zoning ordinance.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-32. - City jurisdiction and authority.

- (a) The city shall have the jurisdiction, authority, control, supervision and direction over all trees planted or growing in the city, except where exempted in this chapter.
- (b) The city shall prepare and publish guidelines and specifications for tree planting, care, maintenance, removal and landscape design in a document entitled "Tree Ordinance Guidelines" for reference and use by property owners, developers, consultants and the general public in furtherance of the requirements and intent of this chapter. This document shall be reviewed periodically by the city's engineering department and the tree advisory commission.
- (c) The city shall review all applications for permits for any planting, removal and/or trimming or cutting of trees subject to this chapter and shall have the authority to grant or deny permits and to attach reasonable conditions to the granting of a permit.
- (d) No staff member shall make a final decision on an administrative decision required by this chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the city to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the city, as determined by the city. For purposes of this chapter, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

(Ord. No. 4521, § 1, 9-27-2010)

Secs. 21-33—21-60. - Reserved.

ARTICLE III. - MAINTENANCE AND PROTECTION OF TREES

Sec. 21-61. - Trees on public property.

- (a) No person shall spray, fertilize, remove, destroy, cut, top, or otherwise severely prune, including the root system, or treat any tree or shrub having all or any portion of its trunk in or upon any public property without first obtaining a written permit from the city and without complying strictly with the provisions of the permit and this chapter.
- (b) No person shall plant any tree or shrub on any public street right-of-way or public property without first obtaining a permit from the city and without complying strictly with the provisions of the permit and the provisions of this chapter.

- (c) No person shall damage, cut, or carve any tree or shrub having all or any portion of its trunk in or upon any public property; attach any object, including, but not limited to, rope, wire, nail, chain or sign, to any such tree or shrub or attach any such object to the guard or stake intended for the protection of such tree.
- (d) No person shall place, store, deposit, or maintain, upon the ground in any public street or public place, any compacted stone, cement, brick, sand or other materials which may impede or obstruct the free passage of air, water and fertilizer to the roots of any tree or shrub growing in any such street or place without written authorization from the city.
- (e) No person shall change the natural drainage; excavate any ditches, tunnels, or trenches; or lay any drive within the root protection zone of any tree having all or any portion of its trunk in or upon any public property without obtaining a permit from the city and without strictly complying with the provisions of the permit and provisions of this chapter.
- (f) No person shall perform, or contract with another to perform, excavation or construction work within the drip line of any tree having all or any portion of its trunk in or upon any public property without first installing a fence, frame or box in a manner and of a type and size satisfactory to the city to protect the tree during the excavation or construction work. All building materials, equipment, dirt or other debris shall be kept outside the root protection zone. The tree protection fence, frame or box shall not be removed unless or until the city authorizes it to be removed.
- (g) Liability for damages or injuries to any tree or shrub having all or any portion of its trunk in or upon public property resulting from a violation of this article shall be determined by the city in accordance with section 21-124. The person performing the work, the property owner and the person contracting for the performance shall be jointly and severally liable for any penalties or other enforcement action imposed pursuant to this chapter or other provisions of law on account of work performed in violation of this article. However, no claims shall be made more than five years after damage can be proven to have occurred.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-62. - Trees on private property.

- (a) Any person owning or occupying real property bordering on any street where trees have branches, limbs, trunks, or other parts projecting into the public street or property shall prune such trees or keep them trimmed in such a manner that they will not obstruct or shade the streetlights, obstruct or interfere with the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct views of any street or alley intersection.
- (b) Any person owning or occupying real property bordering on any street, park or other public property, on which there may be trees that are diseased or insect infested, shall remove, spray or treat any such trees in a manner that will not infect or damage nearby public vegetation or cause harm to the community or citizens therein.
- (c) No tree equal to or larger than two inches caliper may be trimmed, pruned, or removed from the tree save area, and no tree equal to or larger than eight inches caliper may be trimmed, pruned, or removed from the tree protection zone, without a permit. No grading, demolition, trenching, or other activity which may adversely affect trees in this zone may proceed prior to approval and issuance of necessary permits by the city.
- (d) It shall be the duty of the property owner to maintain all trees planted pursuant to, or protected by, this chapter in a healthy condition in accordance with this section and the tree ordinance guidelines developed by the city. Trees shall be allowed to grow to their natural height and form. Topping is prohibited.
- (e) When trees that are subject to or protected by this chapter die, are missing, or are otherwise deemed unhealthy by the city, they shall be removed and replaced by the property owner to comply with any existing streetscape plan or as directed by the city, normally during the next planting season which is

November through March. New owners of properties already in compliance must maintain that compliance. Trees of the same, approved species as those existing may be used to replace dead, missing or unhealthy trees. The property owner is encouraged to use large maturing shade trees as replacements when possible. Nothing in this section is intended to impose a requirement that the property owner maintain more trees than those required for the site even if he has voluntarily done so in the past.

- (f) If the owner or occupant of such property does not perform the duties set out in subsections (a), (b) and (e), the city may order the pruning, removal or treatment of trees on private property that cause obstructions, present insect or disease problems or otherwise present a danger to public health or safety. The order shall be in writing to the owner or occupant responsible for such condition and shall be acted upon within 30 days from the time of the receipt of the order. If, after 30 days, the owner or occupant has not responded or acted to prune, remove or treat the trees, the city shall have the authority to enter upon the property to perform the work necessary to correct the condition and bill the owner or occupant for the actual costs incurred. In situations deemed necessary to the public health, safety, or welfare, the city may act without prior notification to the property owner or occupant.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-63. - Permits.

- (a) Persons requesting to do any planting, removal, trimming, or cutting of trees subject to this chapter, or any of the activities prohibited by this article, shall secure a permit for tree work from the city engineering and property management department before the activities commence. For purposes of this subsection, a landscape plan approved by the city constitutes a permit.
- (b) The city shall have the authority to review all requests for permits and to grant or deny permits or attach reasonable conditions to the permits.
- (c) Individual permits will not be required for city and state department of transportation projects so long as tree preservation and protection requirements are included in the project plans.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-64. - Utilities.

- (a) Public and private utilities which install overhead and underground utilities, including CATV installations and water and sewer installations by or at the direction of the Charlotte-Mecklenburg Utilities, shall be required to accomplish all work on property subject to this article in accordance with the company's written pruning and trenching specifications or as mutually agreeable to the property owner, the city and the utility.
- (b) Public and private utilities shall submit written specifications for pruning and trenching operations to the city for approval. Specifications shall be reviewed periodically by the city and the tree advisory commission for necessary improvements and as required by modifications in this chapter. Upon approval of its specifications, a utility shall not be required to obtain a permit for routine trenching and pruning operations affecting a tree having all or any portion of its trunk in or upon any public property so long as such work is done in strict accordance with the approved specifications. Requests for the removal of trees shall be handled on an individual permit basis. Failure to comply with the approved specifications is a violation of this chapter.
- (c) Refer to section 21-96 for light pole location requirements.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-65. - Tree protection and/or planting required on public property.

This chapter shall apply to public entities and owners of public property, and it shall be unlawful for such owners to fail to comply with all sections of this chapter unless specifically exempted therefrom.

(Ord. No. 4521, § 1, 9-27-2010)

Secs. 21-66—21-90. - Reserved.

ARTICLE IV. - GENERAL LAND DEVELOPMENT REQUIREMENTS

Sec. 21-91. - Tree survey.

Tree save area boundaries shall be required to be surveyed and be described in meets and bounds and be recorded on the final plat.

All applications for grading, building, demolition, land use, change of use or rezoning permits on all property, except single-family development shall require a tree survey. The survey shall identify all trees of eight-inch dbh or greater and all planted trees of two-inch caliper or greater and six feet in height that grow partially or wholly within the city right-of-way.

All applications for grading, building, demolition, land use, change of use or rezoning permits on all property, except single-family subdivision, subject to subsection 21-94(d)(1) [21-96(f)(1)] shall require a tree survey. The survey shall identify all trees of eight-inch dbh or greater within the tree protection zone.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-92. - Tree protection plan.

- (a) All applications for grading, building, demolition, land use, change of use, or rezoning shall include a tree protection plan of all tree save areas and tree protection zones. On sites where less than one acre is being graded, tree protection is still required and may be incorporated in the tree planting plan submitted in accordance with section 21-94. A tree protection plan shall include the following:
 - (1) A tree and root protection zone plan for any existing trees having all or any portion of their trunks in or upon any public property, which are:
 - a. All trees of eight-inch dbh or larger; and
 - b. Any planted trees of two-inch caliper or larger.
 - (2) A tree and root protection zone plan for the following:
 - a. Existing trees of two-inch caliper and larger in the tree protection zone and tree save area; and
 - b. Any trees of two-inch caliper or larger being saved for credit toward planting requirements.
- (b) All applications for single-family development shall include a tree and root protection zone plan for the following:
 - (1) Heritage trees;
 - (2) Specimen trees; and/or
 - (3) Tree save areas being protected for credit toward the tree save requirement for single-family development.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-93. - General tree save requirements.

- (a) Tree save areas shall be free of invasive plant species unless approved otherwise by the city. If an area proposed for tree save contains invasive plant species at the time of such proposal, such invasive plant species shall be removed prior to the issuance of final certificate of occupancy for commercial and multi-family properties or at final plat approval for subdivisions. Invasive plant species are considered removed if they are no longer living in the tree canopy. Subsequent property owners are required to maintain this condition for compliance with the chapter.
- (b) Tree removal in a tree save area will require a permit from the city pursuant to section 21-63 and may require mitigation. Invasive plant species and hazardous trees may be removed without city approval.
- (c) Pursuant to the tree ordinance guidelines, any alterations to the tree save area must be accomplished without mechanized equipment and made of organic, environmentally friendly materials, unless approved otherwise by the city. For sites located in urban zones, alterations to the tree save area do not have to meet the above standard. However, if alterations are made or amenities are added, these changes must be made in a manner that is not detrimental to the saved trees or their critical root zone. Alterations and amenitization must be approved by the city.
- (d) Any tree save area less than 30 feet in width must have boundary and property lines delineated on site by a surveyor prior to the first submittal of plans.
- (e) No structure will be allowed within ten feet of the tree save area. A building restriction must be noted on the record plat in accordance with the tree ordinance guidelines. For urban zones the ten-foot building restriction may be counted toward the tree save area requirement as long as this area continuously and directly abuts a tree save area, and remains pervious. However, regulatory trees may not be planted within this ten-foot area.
- (f) Tree save areas may include Mecklenburg County Park and Recreation Greenways. Trail placement must be coordinated with the city so that the effective tree save area required is maintained.
- (g) Tree save areas on commercial properties may include existing tree canopy which overhangs existing underground utility easements based upon adherence to the tree ordinance guidelines and approval by the city.
- (h) On commercial properties in cases where no other viable tree save areas exist and based upon adherence to the tree ordinance guidelines and approval by the city, tree save areas may include the planting of small maturing trees in accordance with Duke Energy's, or its successor's, approved planting list and within 20 feet of the centerline of power distribution easements that are accessible for maintenance by mechanical equipment.
- (i) In local historic districts designated by a historic district overlay (see chapter 10, part 2 of the zoning ordinance), the requirements of the Historic District Overlay apply in addition to the regulations of this section.

(Ord. No. 4521, § 1, 9-27-2010; [Ord. No. 9671](#), § 1.B.1—3, 10-21-2019)

Sec. 21-94. - Tree save area and tree protection zone requirements for commercial development.

- (a) A minimum of 15 percent of the overall commercial site must be preserved as tree save area (hereinafter for purposes of this section, "commercial tree save area"). If less than 15 percent of the site has existing trees, additional trees shall be planted at a rate of 36 trees per acre to meet the commercial tree save area requirement. In the event any area of the commercial tree save area cannot be protected, tree save area must be provided at 150 percent of the area removed. Replacement trees must be planted at 36 trees per acre.

Additions to existing sites that meet the criteria in subsection 21-4(2) shall protect all trees of eight-inch dbh or greater within the tree protection zone or maintain existing tree save areas for sites developed in accordance with the effective date of the ordinance from which this chapter derives.

- (b) In all cases, any perimeter tree and parking area planting requirements must still be met in accordance with section 21-96.

The following exceptions and alternatives to the tree save area requirement apply:

- (1) UMUD and UMUD-O within the I-277 loop and any TOD, MUDD or UMUD zoned parcels in transit station areas, as designated in a transit station area plan, are exempt. If no transit station area plan has been adopted, the transit station area will be designated as the property within one-half mile of an existing or proposed transit station location identified on the approved Metro Transit Commission (MTC) System Plan.
- (2) In transit station areas, designated mixed-use centers, NS zoning districts (for sites of 12 acres or less), and I-1 and I-2 zoning districts, the following measures may be chosen, individually or in combination, such that the measures are equal to 100 percent of any portion of the commercial tree save area not preserved as required above:
 - a. Plant or replant trees at a rate of 36 trees per acre on-site.
 - b. Install and maintain a living green roof on the project to be maintained in perpetuity. The owner shall submit an annual inspection and maintenance report pursuant to the tree ordinance guidelines.
 - c. Undertake either off-site mitigation, or payment in lieu. Off-site mitigation and payment in lieu may not be used together to meet this requirement.
 - d. In urban zones, create amenitized tree areas that include 36 trees per acre on-site and meet the following:
 1. Planting areas shall be a minimum of ten feet wide, unless otherwise approved by the city.
 2. No more than 25 percent of impervious paved areas within the amenitized tree area will be allowed. Gravel pathways in amenitized tree areas will be considered pervious.
 3. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as approved by the city.
 4. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.
- (3) In corridors that are outside of transit station areas the following measures may be chosen, individually or in combination, such that the measures are equal in area to 150 percent of any portion of the required commercial tree save area not preserved as required above:
 - a. Install and maintain a living green roof on the project to be maintained in perpetuity. The owner shall submit an annual inspection and maintenance report pursuant to the tree ordinance guidelines.
 - b. Undertake either off-site mitigation or payment in lieu. Off-site mitigation and payment in lieu may not be used together to meet this requirement.
 - c. In urban zones, create amenitized tree areas that include 36 trees per acre on-site and meet the following:
 1. Planting areas shall be a minimum of ten feet wide unless otherwise approved by the city.
 2. No more than 25 percent of impervious paved areas within the amenitized tree area will be allowed. Gravel pathways in amenitized tree areas will be considered pervious.
 3. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as otherwise approved by the city.

4. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as otherwise approved by the city.
- (4) In urban zones located in wedge areas, a minimum of 15 percent of the overall commercial site must be preserved as tree save area. For any tree save area not preserved the following measures may be chosen, individually or in combination, such that the measures are equal to 150 percent of any portion of the commercial tree save area not preserved as required above.
 - a. Plant or replant trees at a rate of 36 trees per acre on-site.
 - b. Provide amenitized tree area that meets the following:
 1. Trees must be planted at 36 trees per acre on-site.
 2. Planting areas shall be a minimum of ten feet wide.
 3. No more than 25 percent of impervious paved areas within the amenitized tree area will be allowed. Gravel pathways in amenitized tree areas will be considered pervious.
 4. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as approved by the city.
 5. Amenities may include, but are not limited to irrigation, landscaping, grass, seating, pathways and lighting or other items, as approved by the city.

(Ord. No. 4521, § 1, 9-27-2010; [Ord. No. 9671](#), § 1.B.4, 10-21-2019)

Sec. 21-95. - Tree save requirements for single-family development.

- (a) *Percentage of area required.* Whenever the existing tree canopy of a single-family development site is at least ten percent of the total property area, a tree save area equal to ten percent of the total property area must be saved during development of the site. If the existing tree canopy of the site is less than ten percent but more than five percent, a tree save area equal to ten percent of the total property area must be achieved by saving the entire existing tree canopy and planting new trees to reach the required percentage area. Single-family development sites with an existing tree canopy of less than five percent of the total property area must have a tree save area equal to five percent of the total property area, which may be achieved by saving the existing tree canopy and planting new trees.
- (b) *Tree save area method for calculation.* Square footage for existing and dedicated road rights-of-way and utility easements and for existing ponds and lakes will be subtracted from the total site area before the required percent of the tree save area is calculated. Where there are groups of trees that have areas within the group that are not expected to fill in with time, additional trees can be planted, pursuant to city approval, so that the entire area can qualify as a tree save area. A planted shade tree shall be equivalent to 2,500 square feet of saved area and new trees must be planted at a rate of 18 per acre. If root disturbance or construction activities occur within the drip line of any tree designated as protected in the tree protection plan, only the area actually being protected will be included in the calculated tree save area. Credit received for trees designated as heritage or specimen trees will be one and one-half times the actual square footage of the drip line. The city may adjust applicable land development standards to protect and preserve heritage or specimen trees.
- (c) *Criteria for new trees.* New trees planted in common open spaces to satisfy the requisite tree save area requirement must be at least three-fourths-inch caliper shade trees. New trees planted within individual lots to satisfy the requirement must be at least one and one-half inch caliper trees. Trees planted for mitigation where the existing tree canopy must be removed due to conflicting design criteria or hardship approved by the city must be planted in accordance with this section to obtain the required percentage.

- (d) *Heritage trees.* A person requesting to remove a heritage tree must obtain a permit from the city before the activities commence. Owners and persons who remove a heritage tree without a permit are subject to the civil penalties set out in section 21-124. For purposes of this subsection, a landscape plan approved by the city constitutes a permit. Permits for the removal of Heritage trees will be granted only where:
- (1) The tree is located in the buildable area or yard area where a structure or improvement may be placed and there is no other reasonable location and/or preservation would unreasonably restrict use of the property.
 - (2) The tree is diseased, injured, in danger of falling, creates unsafe sight distance or conflicts with other sections of this Code or provisions of other ordinances or regulations.
 - (3) One five-inch caliper tree or three two-inch caliper trees are planted in mitigation for the removal of each healthy tree under this subsection.
- (e) *Incentives for increasing area.* Incentives for increasing tree save areas are designed to achieve the specific objective to:
- (1) Enhance the city's tree canopy in residential settings.
 - (2) Improve the overall quality of life within the larger single-family developments.
 - (3) Further the land use policies of the city, including encouragement of open spaces and the preservation of wooded sites.
 - (4) Discourage clear cutting of sites before and during construction of single-family development.
- (f) The following incentives apply to single-family development as defined by this chapter.
- (1) *Reduced yards.* For single-family development requiring a tree save area, setback requirements as specified in subsections 12.805(3)(a), (b), and (c) of the zoning ordinance are reduced as follows:
 - a. Front setbacks can be reduced to a minimum of 15 feet for all lots; front loaded garages must maintain a minimum setback of 20 feet; and
 - b. Rear yards can be reduced to 30 feet on all internal lots. Rear yards forming the outer boundary of a project must conform to the minimum rear yard of subsection 9.025(1)(g) for the zoning district in which the development is located.
 - (2) *Density bonus.* Single-family development sites may be granted a density bonus provided the entire tree save area is dedicated to common open space. Such dedication must be to a homeowners' association or a public or private agency that agrees to accept ownership and maintenance responsibilities for the space. The density bonus is calculated as follows: the entire dedicated tree save area in acres multiplied by the maximum residential density number of the underlying zoning district.
 - (3) *Reduced lot sizes.* A development need not meet the minimum lot area and lot width requirements set forth in table 9.205 of the zoning ordinance if it complies with one of the following incentives:
 - a. Sites with more than ten percent and up to 25 percent of tree save area(s) in common open space may apply the cluster provisions for lot size and lot width of that zoning category.
 - b. Sites with greater than 25 percent of tree save area(s) in common open space, including the buffer area and where the perimeter protection is provided either by perimeter lots that meet the underlying zoning cluster provisions or by a minimum 20-foot perimeter tree save area, may apply the cluster provisions for lot size and width of the next lower zoning category as shown in the following table and in accordance with section 9.205(5) of the zoning ordinance.

	R-3	R-3 Cluster	R-4	R-4 Cluster	R-5	R-5 Cluster	R-6	R-6 Cluster
Min. Lot Area	10,000	8,000	8,000	6,000	6,000	4,500	4,500	3,500
Min. Lot Width	70'	60'	60'	50'	50'	40'	40'	40'

- (g) *New supplemental plantings.* If the existing tree canopy is insufficient to meet the desired incentive level, new supplemental plantings may be used to reach the desired level. This only applies for sites that have less than ten percent existing tree canopy prior to development or for sites that have more than ten percent existing tree canopy and the entire canopy is being saved.

(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 4766, § 1, 10-17-2011; Ord. No. [8093](#), §§ 1, 2, 8-22-16)

Note— Ord. No. 8093, § 2, adopted August 22, 2016, states "That this ordinance shall become effective upon its adoption, with the exception of the revised text for Section 21-95(f)(3)(b) that reads, "including the buffer area and where the perimeter protection is provided either by perimeter lots that meet the underlying zoning cluster provisions or by a minimum 20 foot perimeter tree save area." The revised section shall become effective on November 22, 2016."

Sec. 21-96. - Tree planting requirements.

- (a) Tree planting plan. All applications for building permits or land use permits shall include a tree planting plan. The tree planting plan shall be submitted in written/design form and shall conform to the general provisions of this section and all specifications set out in the applicable tree ordinance guidelines as issued by the city.
- (b) Tree and soil specifications. All trees planted pursuant to this article must be planted in amended soils as specified in the tree ordinance guidelines. The trees also must be from an approved list supplied by the city. Trees not on the list may be approved by the city on a case-by-case basis. Where trees are specified to be two-inch caliper, the minimum height shall be eight feet. If a multi-stem tree is used, it must have three to five stems and be eight to ten feet tall at the time of planting. Where three-inch caliper trees are specified, the minimum height shall be ten feet tall, and multi-stem trees shall be ten to 12 feet tall. All trees must comply with the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- (c) A minimum of 50 percent of new trees must be native species, and sites with more than 20 trees required will have to install multiple species pursuant to the tree ordinance guidelines.
- (d) Site lighting must be a minimum 30 feet away from a tree. If pedestrian scale lighting is being used, then lighting must be a minimum of 15 feet away from a tree, unless approved otherwise by the city. However, for urban zones, the following standards apply. Light poles taller than 15 feet must be a minimum of 20 feet away from a tree, and light poles 15 feet or less in height must be at least 10 feet away from a tree.
- (e) For urban zones, the following standards apply:
 - (1) Required trees, with the exception of perimeter trees, must be located at least ten feet from on-site underground utilities unless otherwise approved by the city. For the purposes of this standard,

underground utilities means main service lines for water, sewer, city-maintained stormwater, electric and gas lines.

- (2) Required trees must be located at least ten feet from buildings unless otherwise approved by the city.
 - (3) The minimum spacing between large maturing trees may be reduced from 40 feet to 30 feet. The minimum spacing between small maturing trees may be reduced from 30 feet to 20 feet. Tree species identified for reduced spacing may be found in the tree ordinance guidelines or as otherwise approved by the city.
- (f) Perimeter planting requirements. Requirements for perimeter planting are as follows:
- (1) *Single-family development zones.* Trees of a minimum two-inch caliper must be planted within 20 feet of the back of the curb on new streets, and any existing streets with lot frontage, in new single-family development. Trees may be planted between the sidewalk and the curb if a minimum six-foot planting strip is provided. Spacing will be an average of 40 to 50 feet apart for large maturing shade trees, and 30 to 40 feet apart for small maturing shade trees. Where a single-family development is directly across the street from multifamily development, the spacing between trees will be an average of 40 feet. Existing two-inch caliper or greater large maturing shade trees preserved within 20 feet of the back of the curb may be counted towards the street tree requirement if they are adequately protected during construction. The city may grant a modification for other existing trees on a case-by-case basis.
 - (2) *Suburban commercial zones.* A continuous perimeter planting strip, located in the public right-of-way between the curb and sidewalk or on private property abutting the public right-of-way, with a minimum width of eight feet, shall be required. If large maturing trees are planted, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, the same conditions apply, but the increment drops to 30 feet.
 - (3) *Urban zones.* Planting requirements for urban zones are as follows:
 - a. *Planting strip.* A continuous perimeter planting strip, located between the street and sidewalk, with a minimum width of eight feet, shall be required. The planting strip requirement may be met using tree pits as detailed in Charlotte Land Development Standards 4000 series.
 1. If large maturing trees are planted, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof.
 2. If the required number of trees cannot be planted as required by section 21-96(f)(3)a.1 due to site constraints, the alternatives listed below, individually or in combination, may be used. Site constraints include, but are not limited to, driveway locations, sight triangles, sight lines, and above ground utility locations, as determined by the city.
 - i. Spacing between large maturing trees may be reduced to 30 feet. Spacing between small maturing trees may be reduced to 20 feet. Tree species identified for reduced spacing may be found in the tree ordinance guidelines or as otherwise approved by the city.
 - ii. Trees that cannot be planted in the perimeter planting strip may be planted in alternative locations within 20 feet of the future back of curb, or in locations otherwise approved by the city.
 - iii. A payment in lieu may be made to the city for trees that cannot be planted in the perimeter planting strip.
 - b. *Urban retail sites.* The following options are available for urban retail developments:

1. *Relocation of trees.* The number of perimeter trees required in subsection (f)(3) may be reduced by up to 50 percent if the same quantity of trees reduced are planted elsewhere on the site and at least one perimeter tree is installed.
 2. *Tree pits.* The perimeter trees required in subsection (f)(3) may be installed in tree pits with irrigation and sub-drainage as specified in the tree ordinance guidelines in lieu of a continuous perimeter planting strip. If large maturing trees are planted in the pits, each tree shall have a minimum three-inch caliper. One such tree shall be planted for every 40 feet of frontage or fraction thereof. If small maturing trees are planted in the pits, each tree shall have a minimum two-inch caliper. One such tree shall be planted for every 30 feet of frontage or fraction thereof and as long as at least one perimeter tree is installed.
- (4) *Renovated sites.* When a building permit is requested for renovation of a previously developed site where the required perimeter planting strip does not exist, trees are still required. However, in lieu of a minimum eight-foot wide planting strip, a pavement cutout equal to 200 square feet and with a minimum width of five feet may be substituted.
 - (5) *Railroad or utility rights-of-way.* When a railroad or utility right-of-way separates the perimeter planting strip from a city right-of-way, the perimeter planting strip and tree planting requirements must still be met.
 - (6) *Large shade trees required.* In locations without overhead power distribution lines that obstruct normal growth, 75 percent of the trees required under subsections (f)(1), (2), and (3) shall be large maturing shade trees.
 - (7) *Streetscape plans.* In applicable cases where the city council has approved a streetscape plan, its provisions shall supersede those set forth in subsections (f)(2), (3) and (5).
- (g) Internal planting requirements, excluding single-family development. Requirements for internal planting, excluding single-family development, are as follows:
- (1) *Planting areas.*
 - a. *Suburban commercial zones.* Whenever the impervious cover exceeds 10,000 square feet, a planting area equal to ten percent of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and shall be in addition to any perimeter planting and tree save area requirements.
 - b. *Urban zones.* Whenever the impervious cover exceeds 10,000 square feet, a planting area for landscape purposes and tree planting is required as follows:
 1. The planting area shall equal ten percent of the total impervious surface for all urban zoning districts except for UMUD and MUDD.
 2. In MUDD and UMUD zoning districts outside the I-277/I-77 loop, the planting area may equal five percent of the total impervious surface. The planting requirements for UMUD zoning districts within the I-277/I-77 expressway loop are set out in subsection 9.906(4)(e) of the zoning ordinance in appendix A to this Code.
 3. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and shall be in addition to any perimeter planting, tree save area, and tree amenity area requirements.
 4. Trees may be planted in alternative locations, such as but not limited to rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations approved by the city. Planting in alternative locations shall be per the Land Development Standards Manual or as otherwise approved by the city.
 - (2) *Parking areas.* Internal planting requirements for parking areas are as follows:

- a. *Suburban commercial zones.* Planting in suburban commercial zones shall be in accordance with the following:
 1. Trees must be planted so that each parking space is no more than 40 feet from a tree trunk, unless the parking lot has continuous islands running the length of the parking lot with minimum eight feet width; then the requirement will increase to 60 feet from a tree trunk.
 2. Bus and tractor-trailer lots will be required to plant trees 40 feet apart around the perimeter of the parking lot in a minimum ten-foot wide planting strip. If there is parking on the perimeter of the bus and tractor-trailer lots, bollards or wheel stops are required.
 3. Seventy-five percent of the trees planted must be large maturing shade trees except as provided in subsection (g)(2)a.4. Minimum planting area per tree shall be 274 square feet with a minimum width of eight feet. The entire planting area must contain amended on-site soil or a soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches.
 4. Where small maturing shade trees are used, the minimum planting area shall be 200 square feet, with a minimum width of eight feet. The entire planting area must contain amended on-site soil or a soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches. Small maturing shade trees may be planted where overhead power distribution lines would interfere with normal growth (normally within 25 feet of overhead power distribution lines or within the Duke Power right-of-way for overhead transmission lines).
 - b. *Urban zones.* Planting in urban zones shall be in accordance with the following:
 1. Trees must be planted so that each parking space is no more than 40 feet from a tree trunk. Trees planted must be large maturing shade trees except as provided in subsection (g)(2)b.2.
 - i. Minimum planting area per large maturing shade tree shall be 274 square feet with a minimum dimension of eight feet. The entire planting area must contain amended on-site soil, as specified in the tree ordinance guidelines, to a depth of 18 inches.
 - ii. Minimum planting area per large maturing shade tree may be reduced to a minimum surface area and a minimum dimension of eight feet, if the entire planting area contains an approved soil mix, as specified in the tree ordinance guidelines, to a depth of 18 inches.
 - iii. For parking spaces located in driveways for individual single-family attached dwellings or multi-family attached dwellings (as defined by chapter 15 of the zoning ordinance), the required trees may be located elsewhere on the site as approved by the city. The number of trees shall equal the quantity required by section 21-96(g)(2)b.1.
 2. Small maturing trees may be planted where overhead power distribution lines would interfere with normal growth. Minimum planting area per small maturing tree shall be 200 square feet with a minimum dimension of eight feet. The entire planting area must contain amended on-site soil, as specified in the tree ordinance guidelines, to a depth of 18 inches.
- (3) *Renovated sites.* When a building permit is requested for the renovation of a site previously developed, internal tree planting is still required, and the minimum planting area shall be 200 square feet per tree. However, only five percent of the total impervious cover must be set aside for landscape purposes.
- (4) *Existing trees.* In meeting these internal planting requirements, credit may be given for existing trees if the following are met:

- a. The property owner must include in the tree survey referenced in section 21-91 all existing trees of two-inch dbh or greater which he/she proposes to satisfy these planting requirements.
- b. Only healthy trees and those that have been protected during the entire development period, beginning prior to the commencement of site work and continuing through to issuance of the certificate of occupancy in accordance with approved tree protection requirements, may satisfy these tree planting requirements.
- c. If the minimum protection standards are not met, or if trees are observed by the city to be injured or threatened, it may be deemed ineligible for meeting these requirements. The city shall have the authority to modify the planting requirements of this subsection to preserve existing trees.

(Ord. No. 4521, § 1, 9-27-2010; Ord. No. 4607, 12-20-2010; Ord. No. [8093](#), § 1, 8-22-16; [Ord. No. 9671](#), § 1.B.5, 10-21-2019)

Secs. 21-97—21-120. - Reserved.

ARTICLE V. - MODIFICATION, INSPECTION, ENFORCEMENT AND APPEAL

Sec. 21-121. - Modifications.

- (a) If strict compliance with the standards of this chapter conflict with existing federal or state statutory or regulatory requirements, or when planting is required by this chapter and the site design, topography, natural vegetation, or other special considerations exist relative to the proposed development, the developer may submit a specific alternate plan for planting to the city for consideration. This plan must meet the purposes and standards of this chapter but may suggest measures other than those in article IV. In addition, if the developer seeks a modification of planting requirements based upon a contention that the planting required by this chapter would pose a threat to health and safety due to a conflict with existing federal or state statutory or regulatory requirements, a modification will only be considered upon receipt of a written explanation of the alleged conflict created by the planting requirement and a copy of the statute or regulation that creates the conflict. The city shall review the alternate proposal and advise the applicant of the disposition of the request within 15 working days of submission by the applicant. Any appeals by the applicant shall be in accordance with section 21-126.
- (b) Requests for a delay in complying with this chapter due to poor weather conditions for planting will be considered following a written request directed to the city's engineering and property management department. Certificates of occupancy will be issued upon approval of a request for planting delay. Such request for a delay will not change the timeframe during which the planting will be completed. Failure to comply will result in penalties as provided for in section 21-124.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-122. - Inspections and investigations of sites.

- (a) ~~Agents, officials or other qualified persons designated by the Administrative staff of the~~ city are authorized to inspect the sites subject to this chapter to determine compliance with this chapter, the terms of applicable development approval, or rules or orders adopted or issued pursuant to this chapter. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

- ~~(b) No person shall refuse entry or access to any authorized city representative or agent who requests entry for the purpose of inspection, nor shall any person resist, delay, obstruct or interfere with such authorized representative while in the process of carrying out official duties.~~
- (eb) If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with this chapter or rules or orders issued pursuant to this chapter, the city ~~will serve~~ may issue a written notice of violation. As specified by G.S. Sec. 160D-404(a), the notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of the violation may be posted on the property. The person providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. The notice may be served by any means authorized under G.S. 1A-1, rule 4, or any other means reasonably calculated to give actual notice, such as facsimile or hand delivery. A notice of violation shall identify the nature of the violation and shall set forth the measures necessary to achieve compliance with this chapter. The notice shall inform the person whether a civil penalty will be assessed immediately or shall specify a date by which the person must comply with this chapter. The notice shall advise that failure to correct the violation within the time specified will subject that person to the civil penalties as provided in section 21-124 or any other authorized enforcement action.
- (ec) The city shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and for this purpose may enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites subject to this chapter as specified by G.S. Sec. 160D-403(e) and subsection (a) of this section.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-123. - Emergencies.

In an emergency such as a windstorm, ice storm, fire or other disaster, the requirements of this chapter may be waived by the city during the emergency period so that the requirements of this chapter will in no way hamper private or public work to restore order in the city. This shall not be interpreted to be a general waiver of the intent of this chapter.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-124. - Penalties.

- (a) *Generally.* Any person who violates any of the sections of this chapter, or rules or orders adopted or issued pursuant to this chapter, shall be subject to any one, all or a combination of the civil penalties prescribed by this section. Penalties assessed under this chapter are in addition to and not in lieu of compliance with the requirements of this chapter. The person performing the work, the property owner and the person contracting for the performance shall be jointly and severally liable for any penalty or other enforcement action imposed pursuant to this chapter or other provisions of law on account of work performed in violation of this chapter.
- (b) *Civil penalties.* Civil penalties for violations of this chapter shall be assessed pursuant to the following:
- (1) Failure to plant original or replacement trees in accordance with this chapter shall be \$50.00 for each tree not planted. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in section 21-122. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to plant each individual tree shall constitute a separate, daily and continuing violation.

- (2) Injury or damage to, or destruction of, trees and shrubs protected by sections 21-61 and 21-62 that result in the total loss of the tree or shrub shall be assessed in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum civil penalty for each tree injured, damaged or destroyed shall not exceed \$20,000.00. No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.
- (3) Injury or damage to, or destruction of, trees and shrubs protected by sections 21-61 and 21-62 that do not result in the total loss of the trees shall be assessed for each tree or shrub in accordance with the tree evaluation formula or other generally accepted industry evaluation methods. However, the maximum amount of the penalty shall not exceed \$1,000.00. No notice of violation is needed prior to the assessment of a civil penalty issued pursuant to this subsection.
- (4) Failure to install or maintain required tree protection measures in accordance with section 21-92 shall be \$1,000.00. No civil penalty shall be assessed until the person has been notified of the violation as provided in section 21-122. If the site is not brought into compliance within the time specified in the notice of violation, a civil penalty may be assessed from the date the notice of violation is received. The failure to install the required tree protection measures shall constitute a separate, daily and continuing violation. Injury or damage to, or destruction of, trees in the tree protection zone and tree save area resulting from inadequate or omitted tree protection measures constitutes a separate violation which may subject the violator to any other applicable penalty set forth in this section.
- (5) Any other action that constitutes a violation of this chapter may subject the violator to a civil penalty of \$50.00, and each day of continuing violation shall constitute a separate violation. However, the maximum amount of the penalty shall not exceed \$1,000.00.
- (c) *Nonmonetary penalty.* A nonmonetary penalty, in the form of increased or additional planting requirements, may be assessed in addition to or in lieu of any monetary penalties prescribed under this section.
- (d) *Notice.* The city shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. As specified by G.S. Sec. 160D-404(a), the notice of violation shall be delivered to the person assessed the civil penalty by personal delivery, electronic delivery, or first-class mail. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the city that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. The notice of assessment ~~shall be served by any means authorized under G.S. 1A-1, rule 4, and~~ shall direct the violator to either pay the assessment or contest the assessment as specified in section 21-126. If payment of assessed penalties is not received within 30 days after it is due, or if no request for a hearing has been made as provided in section 21-126, the assessment shall be considered a debt due and owing to the city, and the matter shall be referred to the city attorney for institution of a civil action to recover the amount of the debt. The civil action may be brought in the Mecklenburg County Superior Court or in any other court of competent jurisdiction.
- (e) *Civil action for unpaid assessment.* A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.
- (f) *Use of civil penalties collected.* Civil penalties collected pursuant to this chapter shall be credited to the general fund as a nontax revenue and shall be used to further the purposes, intent and requirements of this chapter. The commission shall be consulted with regard to use of collected funds.
- (g) *Criminal penalties.* Any person who knowingly or willfully violates any section of this chapter shall be guilty of a Class 2 misdemeanor and may, upon conviction thereof, be subject to punishment as provided in section 2-21. This remedy is in addition to any civil penalties that may be assessed.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-125. - Injunctive relief.

- (a) Whenever the city has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter, or any term, condition or provision of an approved permit, it may, either before or after the institution of any other action or proceeding authorized by this chapter, authorize the city attorney to institute a civil action in the name of the city for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the county superior court or any other court of competent jurisdiction.
- (b) Upon determination of a court that an alleged violation is occurring or is threatened, the court shall enter such orders or judgments as are necessary to abate the violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation of this chapter.

(Ord. No. 4521, § 1, 9-27-2010)

Sec. 21-126. - Hearings and appeals.

- (a) *Quasi-judicial procedure.* In determining appeals of administrative decisions and variances, the tree advisory commission shall follow the statutory procedures for all quasi-judicial decisions as required by G.S. Sec. 160D-406.

The commission shall vote in accordance with state law. Vacant positions on the commission and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the commission for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

- (ab) *Requests for variance.* Procedures for a request for a variance from this chapter are as follows:

- (1) ~~The decision of the city arborist or senior urban forester to deny~~ Aa an application for a variance from the requirements of this chapter shall entitle the person submitting the application (petitioner) to a public hearing before the commission if such person submits a written request for a hearing to the chair of the commission. ~~within ten working days of receipt of the decision denying the variance.~~ As soon as possible after the receipt of the request, the chair of the commission will set a date, time and place for the hearing and notify the petitioner of the hearing by mail. The time specified for the hearing shall be either at the next regularly scheduled meeting of the commission from the submission of the request, as soon thereafter as practical, or at a special meeting. ~~The chair may appoint a three-member board selected from the appointed members of the commission to act as an appeal board and hear the request of the petitioner.~~ The hearing shall be conducted by the commission in accordance with subsection (de).

- (2) As per G.S. Sec. 160D-406 notices of hearings shall be mailed to (1) the person or entity whose appeal, application or request is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing.

In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. Staff shall transmit to the commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the commission prior to the hearing if at the same time they are distributed to the commission, a copy is also provided to the applicant and to the property owner if that person is not the applicant. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of

administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the commission at the hearing.

(23) The commission ~~or its designated appeal board~~ may grant a variance from the requirements of this chapter upon a finding that:

a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

~~a. Practical difficulties or unnecessary hardship would result if the strict letter of the law were followed; and~~

~~b. The variance is in accordance with the general purpose and intent of this chapter.~~

(4) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

(5) Variance approvals attach to and run with the land pursuant to G.S. Sec. 160D-104.

(b) *Appeals of decisions, notices of violation and assessments of civil penalties.* Any party dissatisfied with a decision of the city adversely affecting such party in the application or enforcement of this chapter, including notices of violations and assessments of civil penalties, may request a public hearing before the commission. An appeal stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the commission as specified in G.S. Sec. 160D-405(f), unless the city staff member who made the decision certifies to the commission, after notice of appeal has been filed that because of the facts stated in the certificate a stay would cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with the enforcement of this chapter. In that case, enforcement shall not be stayed except by a restraining order, which may be granted by a court. Procedures for ~~such~~ appeal hearings are as follows:

(1) The issuance of a decision, including a notice of violation or assessment of a civil penalty by the city, shall entitle the person subject to the decision or responsible for the violation (petitioner) to a public hearing before the commission if such person submits a written request for a hearing to the chair of the commission within 30 days of the receipt of a decision, notice of violation or assessment of a civil penalty. In the absence of evidence to the contrary, notice given pursuant to G.S. Sec. 160D-403(b) by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(2) As soon as possible after the receipt of the request, the chair shall set a date, time and place for the hearing and, as specified in G.S. Sec. 160D-406, notify shall mail notices to (1) the petitioner person or entity whose appeal is the subject of the hearing; (2) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and (3) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the county tax listing shall be used to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same period, the city shall

also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

~~by mail of the date, time and place of the hearing.~~ The time specified for the hearing shall be either at the next regularly scheduled meeting of the commission from the submission of the request, as soon thereafter as practical, or at a special meeting. The hearing shall be conducted pursuant to G.S. Sec. 160D-406 and subsection ~~(de)~~.

~~(ed)~~ *Petition for review of commission's decision.* Every quasi-judicial decision of the commission shall be subject to judicial review by the superior court by proceedings in the nature of certiorari pursuant to G.S. Sec. 160D-1402. Any petition for a review of the commission's decision in the nature of certiorari by the superior court must be filed with the clerk of superior court by the later of (1) 30 days after the decision is effective, or (2) 30 days after a written copy of the decision is given in accordance with subsection (1) of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. Any party aggrieved by the decision of the commission shall have 30 days from the receipt of the decision to file a petition for review in the nature of certiorari with the clerk of Mecklenburg County Superior Court.

~~(de)~~ *Hearing procedure.* The following shall be applicable to any hearing conducted by the commission pursuant to subsection (a) or (b):

- (1) At the hearing, the petitioner and the city shall have the right to:
 - a. Be present and be heard;
 - b. Be represented by counsel; and
 - c. Present evidence through witnesses and competent testimony relevant to the issues before the commission.
- (2) Rules of evidence shall not apply to a hearing conducted pursuant to this section, and the commission may give probative effect to competent, substantial and material evidence.
- (3) At least seven days before the hearing, the parties shall exchange a list of witnesses intended to be present at the hearing and a copy of any documentary evidence intended to be presented. Additional witnesses or documentary evidence may not be presented except upon consent of both parties or upon a majority vote of the commission.
- (4) Staff shall transmit to the commission all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the commission prior to the hearing if at the same time they are distributed to the commission, a copy is also provided to the petitioner and to the property owner if that person is not the petitioner. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the commission the hearing.
- ~~(4-5)~~ Witnesses shall testify under oath or affirmation to be administered by the court reporter or another duly authorized official.
- (6) For appeals of administrative decisions, the administrator or staff person who made the decision (or his or her successor if the person is no longer employed) shall be present at the quasi-judicial hearing to appear as a witness.
- (7) All parties with standing shall be allowed to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.
- ~~(58)~~ The procedure at the hearing shall be such as to permit and secure a full, fair and orderly hearing and to permit all relevant, competent, substantial and material evidence to be received therein. A full record shall be kept of all evidence taken or offered at such hearing. Both the representative for the city and for the petitioner shall have the right to cross examine witnesses.

- (~~69~~) At the conclusion of the hearing, the commission shall render its decision on the evidence submitted at such hearing and not otherwise.
- a. If, after considering the evidence presented at the hearing, the commission concludes by a preponderance of the evidence that the grounds for the city's actions are true and substantiated, the commission shall, as it sees fit, uphold the city's action.
 - b. If, after considering the evidence presented at the hearing, the commission concludes by a preponderance of the evidence that the grounds for the city's actions are not true and substantiated, the commission may, as it sees fit, reverse or modify any order, requirement, decision or determination of the city. The commission bylaws will determine the number of concurring votes needed to reverse any order, requirement, decision or determination of the city.
- (~~710~~) The commission shall keep minutes of its proceedings, showing the vote of each member upon each question and the absence or failure of any member to vote. The decision of the commission shall be based on findings of fact and conclusions of law to support its decision- and shall be based upon competent, material, and substantial evidence in the record. The decision shall be reduced to writing, reflect the commission's determination of contested facts and their application to the applicable standards, and be approved by the commission and signed by the chair or other duly authorized member of the commission.
- (~~811~~) The commission shall send a copy of its findings and decision to the petitioner and the city. The decision of the commission shall be delivered by personal delivery, electronic mail, or by first-class mail to the petitioner, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made. If either party contemplates an appeal to a court of law, the party may request and obtain, at his own cost, a transcript of the proceedings.
- (~~912~~) The decision of the commission shall constitute a final decision.

(Ord. No. 4521, § 1, 9-27-2010)