

## TA 15-04: Specimen Tree Save Mitigation Amendment

### PART 1: DESCRIPTION

The Planning Board has requested that Article 7.4 of the Huntersville Zoning Ordinance be amended to change the way specimen tree save mitigation is calculated. The proposed amendment would calculate trees required to be mitigated or replaced based on how many calipers at diameter at breast height (DBH) is removed over and above the tree save requirements, rather than how many individual trees are removed. The amendment would also clarify and reorganize the article for clarity.

### PART 2: BACKGROUND

The Huntersville Zoning Ordinance currently requires a certain amount of existing trees to be saved on a site based on what zoning district the proposed development is located. There are two separate types of tree save requirements: “Canopy Tree Save” and “Specimen Tree Save”. Canopy Tree Save is a requirement that a certain percentage of canopy area or tree cover area be saved on a site. Specimen Tree Save is a requirement that a certain percentage of large individual “specimen” trees on the site be saved. A specimen tree in the ordinance is defined as a large maturing tree 24 inches in caliper (DBH) or greater (such as an Oak, Elm, Maple) OR a small maturing tree 12 inches in caliper or greater (such as a Cherry, Dogwood, or Redbud). The percentage of specimen trees required to be saved on a site is based on the use and the zoning district in which the project is located. For instance in the Rural (R) district 50% of the existing specimen trees on a site is required to be saved. In commercial districts the specimen tree save requirement is 30%

When a development cannot meet the requirements above, the ordinance allows a developer to “mitigate” the requirements as outlined below:

“Where circumstances prevent locating the required tree plantings or preservation standards on site and approval by the Planning Board is granted, the developer will contribute to a Tree Fund/Bank set up by the town for the planting and maintenance of such trees elsewhere in the community. The amount of the contribution shall be based on the number and species of trees needed to meet the tree save/planting requirement and on the commercial price and installation cost for such trees.”

For specimen tree save requirements, this ultimately means replacing each large, mature, specimen tree removed (over the tree save requirement) with a commercial grade 2-inch caliper tree or contributing the funds to install it. In other words the mitigation for removing an existing 50 inch Oak Tree is the cost of planting a new 2-inch caliper Oak tree.

The Planning Board has discussed for quite some time how the current specimen mitigation allowance does not reflect the value of removed large trees and does little to encourage developers to design their developments around existing specimen trees. At the November 2011 Planning Board meeting the Planning Board asked staff to continue to research how other municipalities handled tree save mitigation requirements and how North Carolina arborist agencies calculated the value of trees. Staff did the research, and reported back to the Board. Please find the January 17, 2012 staff memorandum to the Board attached outlining staff findings and recommendations. Staff found that many municipalities use the caliper of the tree (DBH) to establish mitigation requirements in one form or another. Several towns use the one to one ratio caliper requirement. This means that every inch of caliper that is removed above the ordinance requirement must be re-planted or paid for. A 50 inch caliper tree taken down would need to be mitigated by 25 – 2 inch caliper trees.

At the February 2012 Planning Board meeting the board reviewed the information and recommended that staff contact the Town Board and gauge their interest in amending the text to require a caliper for caliper mitigation calculation. Please find staff's June 20, 2012 memorandum to the Town Board attached, which requested feedback on the Town Board's interest in discussing the mitigation requirements. Staff received no feedback from the Board so the item was not pursued any further by staff.

After receiving several developments mitigation requests however, the Planning Board again discussed the issue at their November 2013 meeting. At that meeting they discussed the desire to both address the Town Board on the issue and form a sub-committee to research the issue directly with staff. On December 16, 2013 the Planning Board Chairman, Bruce Anderson addressed the Board and communicated the Planning Board's concerns. Receiving positive feedback on the need to make changes, the Planning Board formed a subcommittee to discuss the issue. It included Hal Bankier, Joe Sailor, Dan Boone, Art VanWingerden, Janet Spain, and Linda Kidd.

The committee met several times between April and October 2014 and discussed the various ways that the mitigation could be calculated and what effect the increase would have on potential developers. After much discussion the committee agreed that the caliper for caliper methodology was the most beneficial calculation for tree save mitigation. However the committee was not comfortable in the amount of cost the one to one ratio would add to a developer's site. Using the one to one ratio (where every caliper removed must be replaced) means that one 24" specimen tree which is removed over and above the requirements of the ordinance, would require 12 – 2 inch caliper trees to mitigate it. Understanding that the standard cost of installing a new 2" caliper tree is about \$250, the cost then to mitigate one minimally sized specimen tree would be \$3,000 (12 x \$250). A larger tree would be proportionally higher. The consensus of the committee was that an increased mitigation amount was needed to encourage saving existing trees, but the one to one replacement ratio was too much cost.

Therefore the committee recommended keeping the caliper to caliper methodology due to its ease to understand and real world application; but recommended requiring only 30% of the caliper be mitigated. That would reduce the cost of mitigating one 24" specimen from \$3,000 to \$1,000. (24" tree x 30% = 7.2 calipers = 4 – 2 inch trees. 4 trees x \$250 = \$1,000) Based on the committee's recommendation, staff finalized a drafted text amendment and sent the draft language to the Planning Board for their review. At their February 2015 meeting the Planning Board accepted the proposed draft language and asked staff to begin the formal text amendment process for review.

Please find the ordinance attached showing the drafted language. *It should be noted that there is no change to the current tree save requirements proposed. How many trees are required to be saved in each district would not change. Only changes to what mitigation is proposed when the ordinance standards are not met are proposed.* Also included in the amendment are many clarifications, grammar changes, and restructuring of the text to make it easier to understand. Attached is a "track changes" document that makes comment on each of the changes and why they're made for reference. The only significant change to the document however is the specimen tree save mitigation calculation as described above.

### **PART 3: PUBLIC HEARING COMMENTS – UPDATE 8/17/15**

The public hearing for the application was held on August 3, 2015. No one from the public spoke on the application. Some members of the Town Board discussed the recognition of the need to take additional steps to encourage mature tree save and supported the amendment to bring our ordinance requirements closer to those in adjacent communities.

**UPDATE – 8/17/15:** In response to the public hearing discussion concerning what adjacent towns require in regard to tree save, please find the table below. Staff would like to clarify that tree save requirements and what defines “mitigation” varies from town to town. While the Huntersville current ordinance mandates a specific percentage of large maturing trees to be saved, other ordinances have no such specific design requirements and it’s left to staff to enforce tree save based on the constraints of the individual site. In addition, some ordinances only require caliper to caliper “mitigation” if a designated mature tree save or buffer area is disturbed in violation of the ordinance or destroyed by an “Act of God” (after development has begun). Therefore it is difficult to exactly compare tree save ordinances to each other due to the differences in requirements. However the methodology used to mitigate specimen trees taken down in violation of the ordinance seems to often be a “caliper for caliper” calculation.

<u>Town/City</u>	<u>Specific Specimen Tree Save Requirement?</u>	<u>Specimen Tree Mitigation?</u>	<u>Violation/Accidental Removal Mitigation?</u>
<b>Huntersville</b>	Yes – 10-50% of specimen trees depending on zoning.	Yes – one 2.5 inch tree planted or contributed for each specimen tree removed.	Yes – 10 trees planted for each 1,000 ft <sup>2</sup> disturbed.
<b>Davidson</b>	No – but canopy <u>and</u> mature trees are required to be saved on a case by case basis as determined by staff.	Yes – if determined by staff that a mature tree should remain, caliper for caliper replacement can be required.	Yes – “Caliper for Caliper replacement”
<b>Cornelius</b>	No – but mature trees are saved on a case by case basis based on a staff review of the environmental survey and cooperation with developer.	No.	Yes – “Caliper for Caliper” Replacement
<b> Mooresville</b>	Yes – mature trees must remain unless they meet a specific criteria allowing their removal.	Yes – A healthy specimen tree removed must be replaced with 3 replacement trees 2.5” in caliper.	Yes – “Caliper for Caliper” Replacement

**UPDATE 8/17/15:** After the public hearing staff also found a section of 7.4.5 that is also recommended to be changed. The section deals with disturbance of an established tree save area and the “mitigation” of the disturbance. Staff finds the planting requirement of 10 trees per 1,000 ft<sup>2</sup> and 40 shrubs per linear feet an unhealthy planting requirement due to such small spacing. Staff would recommend that number be cut in half; to 5 trees per 1,000 ft<sup>2</sup> and 20 shrubs per 1,000 ft<sup>2</sup>. This will make the planting requirement more consistent with the buffer requirement of Article 7.5, and give the plantings more appropriate spacing conditions.

**PART 4: RELEVANT SECTIONS OF THE HUNTERSVILLE 2030 COMMUNITY PLAN AND APPLICABLE LONG RANGE PLANS**

Policy E-3 of the 2030 Community Plan is to “Support and enhance environmental regulations pertaining to tree preservation, buffer yards, open space, water quality, wetland and stream protection”. Increasing the mitigation amount for specimen trees would be consistent with the policy to enhance tree preservation measures. Currently, the \$250 mitigation contribution for each specimen tree provides very little incentive for developers to design their sites in such a way that saves significant trees. Increasing the contribution required would both encourage tree save design and better the town’s ability to plant more trees around town when the additional funds are contributed.

**PART 5: STAFF RECOMMENDATION**

Staff recommends approval. As shown in the research provided by staff, using the caliper of the tree to calculate various mitigation requirements is common in municipalities across the country and locally. While the modified calculation will require additional contribution and/or planting from developers, the increase is reasonable and will do more to encourage the design of sites in a way that will preserve mature vegetation when possible.

**PART 6: PLANNING BOARD RECOMMENDATION – UPDATE 9/11/15**

The Planning Board again reviewed the proposed text amendment application at their August 25, 2015 meeting. After discussion, the Board unanimously recommended that the Town Board approve the language as currently drafted by staff (6-0).

**PART 7: ATTACHMENTS AND ENCLOSURES**

Attachments: Proposed Ordinance  
“Track Changes” Document  
Staff Memos  
Staff Research Spreadsheet.

**PART 8: STATEMENT OF CONSISTENCY FOR TA 15-04**

<b>Planning Department</b>	<b>Planning Board</b>	<b>Board of Commissioners</b>
<p><b>APPROVAL:</b> In considering TA 15-04, amending Article 7 of the Zoning Ordinance, <u>Town Staff recommends approval based on the reasons described in the staff report and finds the amendment is consistent</u> with the policies of the Town of Huntersville 2030 Community Plan. It is reasonable and in the public interest to amend the ordinance because it will encourage the preservation of existing specimen trees, and allow equitable but reasonable mitigation measures for developments where trees cannot be preserved.</p>	<p><b>APPROVAL:</b> In considering TA 15-04, amending Article 7 of the Zoning Ordinance, <u>the Planning Board recommends approval based on the reasons described in the staff report and finds the amendment is consistent</u> with the Town of Huntersville 2030 Community Plan. It is reasonable and in the public interest to amend the ordinance because the methodology of using caliper to measure the mitigation requirements is common across the country and locally and the change will improve the tree canopy of the town.</p>	<p><b>APPROVAL:</b> In considering TA 15-04, amending Article 7 of the Zoning Ordinance, <u>the Town Board recommends approval based on the reasons described in the staff report and finds the amendment is consistent</u> with <i>(Insert applicable Policies and Actions here)</i> of the Town of Huntersville 2030 Community Plan. It is reasonable and in the public interest to amend the ordinance because... <i>(Explain)</i>.</p>
<p><b>DENIAL:</b> N/A</p>	<p><b>DENIAL:</b> N/A</p>	<p><b>DENIAL:</b> In considering TA 15-04, amending Article 7 of the Zoning Ordinance, <u>the Town Board finds the amendments are not consistent</u> with <i>(Insert applicable Policies and Actions here)</i> of the Town of Huntersville Community Plan. We recommend denial of amendment TA 15-04. It is not reasonable and not in the public interest to amend this ordinance because..... <i>(Explain)</i></p>