

TA #17-04 Amend Article 3.3.2.2(b) and Article 3.3.3.2(b): Watershed Overlay Exemptions

PART 1: DESCRIPTION

Text Amendment, TA #17-04, is a request by the Town of Huntersville to amend Article 3.3.2.2(b) and Article 3.3.3.2(b) of the Huntersville Zoning Ordinance to modify the exceptions to applicability section of the Mountain Island Lake and Lake Norman Watershed Overlay District regulations. See Attachment A for application and Attachment B for proposed language.

PART 2: BACKGROUND

Article 3.3.2 *Mountain Island Lake Watershed Overlay District* and Article 3.3.3 *Lake Norman Watershed Overlay District* of the Town Zoning Ordinance were adopted in October 1993 to provide protection of public water supplies as required by the North Carolina Water Supply Watershed Classification and Protection Act (1992).

Since 1993, the Town of Huntersville has processed four text amendments to the Watershed Overlay Districts; see Attachment C for a timeline of amendments. Notably, in 2006 the Watershed Overlay Districts' exceptions to applicability was not applicable to multiple contiguous lots under single ownership. Therefore, if a lot existed prior to the watershed regulations but someone owned more than one lot side-by-side they were no longer exempt from the standards of the Watershed Overlay Districts. This became an issue for staff as development in subdivisions such as Biltmore Park increased with the extension of Charlotte Water lines. Attachment D provides a map of residential subdivisions that existed prior to the adoption of the watershed regulations.

Biltmore Park and Norman Park were subdivided in the late 1960's with, typically, 50' wide by 150' long lots. The restrictive covenants (while not publicly enforced) requires property owners to combination at least two lots in order to build a single-family home. Prior to 2006, the combination of lots eliminated the exception to applicability, found in the ordinance, causing all development to be subject to built-upon area standards.

In 2006, staff proposed a text amendment to the watershed exceptions to applicability sections to remove the provision of applicability for multiple existing lots under single ownership. However, at the November 20, 2006 Town Board meeting concern was raised over eliminating this language, see Attachment E for Town Board Meeting Minutes.

Ultimately, the Text Amendment was approved with modified language that limited the exemption of Watershed Overlay District regulations to no more than two contiguous existing lots under single ownership. Therefore, if you own two contiguous existing lots development could be exempt from the Watershed Overlay District requirements but if you own three or more contiguous existing lots development could not be exempt. Since 2006, Town staff has not seen development patterns that suggest owners of existing lots are taking advantage of the being exempt from watershed overlay built upon area standards, which was some of the concern raised.

The modified text amendment exemption has been the most difficult to apply to the Biltmore Park and Norman Park subdivisions. Staff is aware of a situation in Biltmore Park where three contiguous existing lots under single ownership is prohibiting the owners from being able to put in a pool due to impervious restrictions. Whereas, in the same neighborhood a property owner having only two lots would not face the same impervious restrictions.

The current text amendment request is seeking to remove language that restricts the exception of applicability for the watershed overlay districts for existing contiguous lots under single ownership. If approved, lots existing prior to

the effective date of the Watershed Overlay Districts would be exempt from applicability for the first development permit, regardless of contiguous ownership.

The HOAB reviewed the proposed amendment at their May 4, 2017 meeting and recommended approval of the text amendment request as presented in Attachment B.

PART 3: RELEVANT HUNTERSVILLE 2030 COMMUNITY PLAN AND APPLICABLE LONG RANGE PLAN SECTIONS

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

Police H-10: Redevelopment Areas— Support redevelopment of older established residential areas, consistent with adopted plans, Zoning Ordinance and Subdivision regulations.

Policy ED-14: Development Review Process – Support efforts to improve efficiency and responsiveness of development review process for development proposals.

PART 4: STAFF RECOMMENDATION

Since adoption in 1993, the Mountain Island Lake and Lake Norman Watershed Overlay Districts have exempted existing lots of record from applicability of the watershed development standards (except in regards to buffer requirements). Over the years, single ownership of contiguous existing lots of record have become a difficult issue in administering watershed overlay regulations.

Considering the fact that existing lots of record are currently exempt from watershed overlay standards restricting built upon area allowance and the development patterns occurring in subdivisions such as Biltmore and Norman Park, staff does not see the need to restrict the contiguous ownership of existing lots of record in regards to watershed overlay applicability. Therefore, staff recommends approval of the text amendment as presented.

PART 5: PUBLIC HEARING

The Public Hearing was held on June 19, 2017. No comments directly related to the text amendment were made by Town Board members. Christopher Reep (owner of three contiguous lots in Biltmore Par) spoke in favor of the text amendment request as presented. Mr. Reep had his home built in 2012, at which time he was not aware of the impervious restrictions. The as-built survey for the home did not show impervious information as the surveyor believed the lots to be exempt from the build upon area (impervious) regulations. In 2017, when the Reeps applied for a permit to construct a pool in the backyard, the application was denied because the property was exceeding impervious standards. Mr. Reep mentioned that if he owned only two contiguous lots the pool addition would not exceed impervious standards; this concept seems counterproductive and owning more land was essentially stopping his family from adding a pool to their property. No additional comments from the public were given.

PART 6: PLANNING BOARD RECOMMENDATION

The Planning Board reviewed this text amendment request on June 27, 2017. No comments from the public were received. Planning Board members discussed and had questions for staff regarding the history and applicability of the exceptions to applicability sections of the watershed overlay regulations. After staff answered questions the Planning Board voted to recommend, unanimously, approval (9-0) this text amendment request.

PART 7: ATTACHMENTS

Attachment A: Text Amendment Application

Attachment B: Proposed Ordinance Language

Attachment C: Timeline of Watershed Overlay Districts Amendments

Attachment D: Residential Subdivisions Approved Prior to Watershed Ordinance Map

Attachment E: November 20, 2006 Town Board Meeting Minutes

PART 8: STATEMENT OF CONSISTENCY – TA #17-04

Planning Department	Planning Board	Board of Commissioners
<p>APPROVAL: In considering the proposed amendment, TA 17-04, to amend Article 3.3.2.2(b) and Article 3.3.3.2(b) of the Zoning Ordinance, the Planning staff finds the amendment consistent with the Town of Huntersville 2030 Community Plan and recommends approval.</p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because since adoption of the watershed overlay district regulations, existing lots of record have been exempt from built upon area development standards.</p>	<p>APPROVAL: In considering the proposed amendment, TA 17-04, to amend Article 3.3.2.2(b) and Article 3.3.3.2(b) of the Zoning Ordinance, the Planning Board recommends approval based on the amendment being consistent with <u>the 2030 Community Plan.</u></p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because since the adoption of the Watershed Overlay District regulations existing lots of record have been exempt from the build upon area development standards, and it provides flexibility and supports the needs of citizens.</p>	<p>APPROVAL: In considering the proposed amendment, TA 17-04, to amend Article 3.3.2.2(b) and Article 3.3.3.2(b) of the Zoning Ordinance, the Town Board approves the request based on the amendment being consistent with <u>(insert applicable plan reference)</u></p> <p>It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)</p>
		<p>DENIAL: In considering the proposed amendment, TA 17-04, to amend Article 3.3.2.2(b) and Article 3.3.3.2(b) of the Zoning Ordinance, the Town Board denies the request based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference).</u></p> <p>It is not reasonable and in the public interest to amend the Zoning Ordinance because....(Explain)</p>