

PROPOSED AGENDA

Meeting of the Town of Biltmore Forest
Planning Commission

To be held Tuesday, December 4, 2024 at 4:00 p.m.

1. Welcome – Chairman Saponaro
2. Approval of Minutes – August 27, 2024
3. Consider Recommendation re: Potential Accessory Structure Amendment
4. Post-Hurricane Helene Tree Protection Ordinance Discussion
5. Review Earlier Planning Commission Matters
6. 2025 Meeting Calendar
7. Adjourn

<https://us02web.zoom.us/j/83015148121?pwd=aG12eDZFU2RFSWx2Q09NOFFLMFAwQT09>

Meeting ID: 830 1514 8121
Passcode: 226922

PLANNING COMMISSION MEETING

TUESDAY, AUGUST 27, 2024 at 4:00pm

The meeting was called to order at 4pm.

Chairman Anthony Saponaro called the meeting to order for the Planning Commission. In attendance were Ms. Diane Fourton, Ms. Angela Newnam, and Mr. Lowell Pearlman. Dr. Ken Hornowski was not present. Mr. Billy Clarke, the Town Attorney, was also present.

Mr. Pearlman moved the minutes be accepted as amended. Ms. Newnam seconded, and the motion and was unanimously approved.

Ms. Newnam and Diane Fourton met a number of times with the Western North Carolina and Raleigh historical society. In 1989, Biltmore Forest received a determination of eligibility to be listed on the register of historic places. The Department of Transportation requires any taking of property for government or public use to be evaluated to make sure it is not historically important. This determination of eligibility led to Hendersonville Road being widened to the east and not into Biltmore Forest. At the time this was done, there were 204 historical structures, which includes light posts and bus stops, in addition to a number of homes. There were also 379 non-conforming homes and three homes already listed on the National Register of Historic Places.

Chairman Saponaro mentioned that the State Legislature had changed the Town's ability to regulate design and the Design Review Board does not have the same authority as before 2015.

Ms. Newnam said there are three ways to get a historical designation, the first way is a local historic district. She referred to Albemarle Park in North Asheville as an example. These properties must be contiguous, however. This method is done with local control of the ordinances and approval like the Design Review Board of the past, but is called the Historical Review Commission. The entirety of the Town would be included if the Town moved forward with this.

The pros are that property value is protected and, in many districts, the value increases. The cons are there is no financial benefit unless you get a property value increase. There are no tax credits unless it is a commercial building. This designation cannot prevent a structure from being torn down.

The second option is called a local landmark district. It is an individual property getting a historic designation. It is driven by that homeowner and the Town. It is still under local control and

still has the same standards. The pros are you still get the property somewhat protected and subject to reviews. This is only available to conforming properties. The state law has a 50% tax deferral. The con is that this may harm property taxes to help support the Town. It also doesn't protect the neighborhood feel with random houses and not the entire Town.

Chairman Sapanaro asked if anyone likes the second option and there was no approval.

The third option is individual listings with no local role and maintains the structures that are listed. This is at the state and federal level. An individual house could do it or the entire Town could do it.

Chairman Sapanaro said it looks like we can look into the first option, the second option is not favorable, the third option seems like a potential benefit to inform homeowners that have conforming houses and see if they would be interested in this.

Ms. Fourton said it might also encourage people to buy properties and maintain them and not tear them down.

Mr. Clarke said when you are making improvements for houses that are on the national register, one must get approved improvements that need to be consistent with the historical nature of the house.

Ms. Newnam said to get a house listed, they must review your plans and deem them appropriate. The national registry is a little bit harder of a process initially but there is nothing after that. Unless one is applying for the tax credit, they can't stop you from doing what you want.

Ms. Fourton said our best way to save the Town is to protect the feel of it. Ms. Fourton likes number three because it is not forcing anything on people.

Mr. Pearlman said government control is not the best way to do it. He wants the simplest solution to get to the goal.

Chairman Sapanaro said thank you for all the work that has been done and he agreed with the third option as well. Also, possibly designate historical trees on a voluntary basis. Mr. Kanipe said the Board of Commissioners would need to look at this for their approval.

Mr. Drew Stephens said he has some concerns. He expressed concerns about Hendersonville Road. He would like the public to know what their options are before a survey gets sent out. He would

like to wait for the survey until people are provided with resources. Also, he would like to see what provisions could be included.

The next topic discussed is the administrative review and approval of non-variance requested special use permits.

Mr. Clarke said moving something from Board of Adjustment review to Administration review with fences and driveway gates §153.049 in section A. This would take a lot of work away from the Board of Adjustment. Mr. Clarke said he can revise this ordinance and provide an update to the Commission for their review.

Mr. Kanipe said he will update this to get approved and let the Board of Commissioners know and have a Special Meeting in October. A draft ordinance will be provided to the Board of Commissioners as well.

The next topic of discussion is the Town ordinance amendment review process. Mr. Kanipe said they are working on a more formalized version of the noise ordinance and some breakout of the construction ordinance as it is. Chairman Saponaro will follow up on this.

Chairman Saponaro highlighted concerns expressed about the County Club's ability to adhere to setback guidelines and maintain the golf course, suggesting a need for clear communication and education. Mr. Kanipe said the club and the Town have a very close working relationship at this point in terms of addressing things before they happen.

Ms. Newnam asked if there was any clarification on the setbacks. Mr. Kanipe said he provided information to the Club.

Mr. Stephens wanted to follow up on accessory structures. Mr. Stephens said he thinks the Board of Adjustment manages this well by limiting the number of accessory buildings and structures. Mr. Stephens is ok with taking this load off the Board of Adjustment and having administration approve/disapprove these circumstances.

Chairman Saponaro adjourned the meeting at 5:15pm.

**PLANNING COMMISSION MEETING
STAFF MEMORANDUM
DECEMBER 4, 2024**



AGENDA ITEM - 3

CONSIDERATION OF RECOMMENDATION

Zoning Ordinance Amendment regarding Accessory Structures

BACKGROUND

The Planning Commission and Board of Commissioners held a joint meeting in June 2024. As a part of this meeting, discussion occurred surrounding the administrative approval of accessory structures that comply with the Town's Zoning Ordinance. This would assist the Board of Adjustment's workload and allow them to focus primarily on variance requests and other typical quasi-judicial matters. The Board of Commissioners, Planning Commission, and Board of Adjustment members were in support of this process.

AMENDMENT FOR RECOMMENDATION

The attached portions of the Town's Zoning Ordinance show how this amendment would be enacted. Please note that the permitted use table is the specific location for whether special use permits are required or if requests are allowed by zoning permit. The proposed change for this table would list all accessory structures as permitted – but again, this requires that they meet all other aspects of the Zoning Ordinance, such as setbacks, roof coverage, etc.

STAFF RECOMMENDATION

Staff recommends the Planning Commission recommend approval for this ordinance. Specifically, the Staff recommends the following motion be approved by the Planning Commission.

Motion for Recommending Approval to the Board of Commissioners

Move that the recommendation to the Board of Commissioners regarding a proposed zoning ordinance amendment for accessory structures be adopted, and further, that the proposed zoning ordinance amendment is consistent with the Town of Biltmore Forest's Comprehensive Plan.

§ 153.004 INTERPRETATIONS AND DEFINITIONS.

(A) Tense; singular and plural. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

(B) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE. A structure incidental and subordinate to the principal use or building on the lot and located on the same lot with such principal use or building. **ACCESSORY STRUCTURES** include, but are not limited to, fences, walls, curbs, pools, play sets, statues, water features, playhouses, decorative walls, sculptures, solar collectors, residential street lamps, rock and stone moved from its original location to any other location on the property, and the like.

ALLEY. A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

APARTMENT. A part of a building consisting of a room or rooms intended, designed, or used as a residence by an individual or a single-family.

APARTMENT, GARAGE. A part of a garage consisting of a room or rooms intended, designed, or used as a residence by an individual or a single-family.

BOARD OF ADJUSTMENT. The Town of Biltmore Forest Board of Adjustment, and shall include both regular and alternate members.

BOARD OF COMMISSIONERS. The Town of Biltmore Forest Board of Commissioners.

BONA FIDE FARM. All land on which agricultural operations are conducted as the principal use, including the cultivation of crops, the husbandry of livestock and timber resources, and the management of open pasture land.

BUFFER STRIP. A strip of land together with some form of screening such as existing vegetation, planted vegetation, a landscaped earth berm or grade change, or combination of the above. The purpose of the **BUFFER STRIP** is to minimize the potential conflicts between adjoining land uses.

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals, or property. Two structures shall be deemed a single building only if connected by heated and enclosed living space.

BUILDING, ACCESSORY. A detached building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot.

BUILDING HEIGHT. The distance measured from the average ground level at the building foundation to the highest point of the roof, but in no event above 40 feet from the highest point in the foundation. A chimney that complies with the minimum the State Building Code requirements for height of a chimney shall not be included in the calculations for height of the building; provided, that the chimney shall not extend more than five feet above the immediately adjoining ridge line of the roof.

BUILDING, PRINCIPAL. A building used for the same purpose as the principal use of the lot.

BUILDING SETBACK LINE. A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. Front setback lines shall be measured from the street line.

CARETAKER. A person that maintains grounds or structures on a lot or cares for the well-being of person(s) residing in the principal dwelling on a lot, and resides on the premises without being charged a rental fee.

CLOTHING AND JEWELRY SALE. The sale to the public of clothes and jewelry that have been brought to the home for that purpose.

CLUSTERED HOUSING DEVELOPMENT. Grouping or concentration of housing units on lots smaller than permitted by the existing zoning to preserve open space without increasing the allowable density of the development.

COMMERCIAL SERVICE or PROFESSIONAL SERVICE. Establishments or professions charging a fee for providing a service to the public.

CONSUMER SERVICES. Businesses providing services to the public for profit, including dining and restaurant services (not to include fast food service restaurants), lodging and motel services, financial, real estate and insurance services, and other personal services. In addition to the above, CONSUMER SERVICES shall not include filling and gasoline service stations or auto repair shops as defined by this chapter.

DAY NURSERY and PRIVATE KINDERGARTEN. A use of land and buildings to provide group care for children.

DISTRICT. A section of the Town of Biltmore Forest in which zoning regulations are uniform.

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of G.S. Ch. 160D, Art. 12, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

DWELLING, MULTI-FAMILY. A building or portion thereof used or designed as a residence for two or more families living independently.

DWELLING, SINGLE-FAMILY. A building arranged or designed to be occupied by one family.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one family.

EASEMENT. A grant by a property owner of a strip of land for specified purpose and use by the public, a corporation, or persons.

ESTATE/AUCTION SALE. The one-time sale to the public of goods that is held at the home. The goods and items offered for sale at the auction must be personal property that has been owned by the resident(s) of the home. No goods or items to be sold shall be shipped or transported to the

home from any other location. The sale shall be limited to no more than two consecutive days and the hours for the sale shall be between 10:00 a.m. and 8:00 p.m.

FAMILY. One or more persons occupying a single-dwelling unit; provided, that unless all members are related by blood or marriage or adoption, no such family shall contain over three persons, but further; provided, that domestic servants, caretakers, and security personnel employed or living on the premises may be housed on the premises without being counted as a FAMILY or FAMILIES.

GARAGE/YARD SALE. The sale to the public of typical household items that is held at the residence. The household items to be sold shall be items from the residence where the sale is to occur. Each residence is limited to one such sale per year. The sale shall not begin before 8:00 a.m. and shall end by 5:00 p.m.

GASOLINE SERVICE STATION/AUTO REPAIR SHOP. Buildings and premises where gasoline, automotive fuel, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made and no other. Sales and servicing as follows: spark plugs, batteries, and distributors and distributor parts; tire servicing and repair, but not recapping or regrooving; replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like; radiator cleaning and flushing; washing and polishing, the sale of automotive washing and polishing materials; greasing and lubrication; providing and repairing fuel pumps, oil pumps, and lines; minor servicing and repair of carburetors; emergency wiring repairs; adjusting and repairing brakes, wheel balancing and alignment, minor motor adjustments not involving removal of the head or crankcase or racing the motor; sale of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation; automobile body repair services; provision of road maps and other informational materials to customers; provision of restroom facilities.

GRADING. Any land-disturbing activity where the ground cover on or above the soil surface is removed and reconfigured, including trees, grasses, or pavements or other surfaces either natural or human-made.

HOME BUSINESS ACTIVITY. A business conducted from the home such as internet enterprise, professional office, or the making of crafts or items where no one is employed that does not live in the home and no one comes to the home for a business transaction as part of the activity.

HOME OCCUPATION. An occupation providing a service carried on by the occupants of a dwelling; provided, that certain conditions are met as listed in § 153.008(C)(5).

HOME STAY. Rental of a part of a dwelling unit or accessory structure for consideration, including in kind compensation, to a transient person or persons for a period of less than 90 days. Advertising and renting a room or rooms in a dwelling unit of accessory structure on Airbnb or similar internet web sites would be an example of a HOME STAY. HOME STAYS are not allowed in any zoning district in Biltmore Forest.

IMPERVIOUS SURFACE. Any paved, hardened, or structural surface, including, but not limited to, buildings, driveways, walkways, parking areas, patios, decks, streets, swimming pools,

tennis courts, and other structures and surfaces, that substantially reduces or prevents the infiltration of stormwater into the ground.

INCOMPATIBLE LAND USE. A land use requiring a special use permit from the Board of Adjustment in property zoned R-4 or R-5 adjacent to land zoned R-1, R-2, R-3, Public Service, or land zoned R-4 or R-5 in residential use.

INDIVIDUAL SEWER SYSTEM. Any septic tank, ground absorption system, privy, or other facility serving a single source or connection and approved by the County Sanitarian.

INDIVIDUAL WATER SYSTEM. Any well, spring, stream, or other source used to supply a single connection.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under this chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of G.S. Ch. 160D, Art. 10. Legislative decisions for development regulations shall be approved on first reading by simple majority vote.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LIVING AREA. Includes the area inside the dwelling walls of each particular floor, but shall not include basements, utility rooms, laundry rooms, storage rooms (other than closets), pantries, garages, and attics. **LIVING AREA** shall, however, include living rooms, dens, studies, kitchens, bedrooms, breakfast rooms, bathrooms, and closets in any of said rooms, foyers, entrance ways, and hallways connecting any of these rooms.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. Includes the words **PLOT** or **PARCEL**.

LOT DEPTH. The mean horizontal distance between front and rear lot lines.

LOT OF RECORD. Any lot for which a plat has been recorded in the Register of Deeds Office of Buncombe County, or described by metes and bounds, the description of which has been so recorded.

LOT WIDTH. The distance between side lot lines measured at the front building line.

MAY. The word **MAY** is permissive.

MOBILE HOME. A factory assembled, movable dwelling designed and constructed to be towed on its own chassis, comprised of frame and wheels, to be used without permanent foundation and distinguishable from other types of dwellings in that the standards to which it is built include provisions for its mobility on that chassis as a vehicle.

NONCONFORMING USE. Any parcel of land, use of land, building, or structure existing at the time of adoption of this chapter, or any amendment thereto, that does not conform to the use or dimensional requirements of the district in which it is located.

ORDINANCE. The Zoning Ordinance of the Town of Biltmore Forest.

PARKING SPACE. An area for parking a vehicle, plus the necessary access space. **PARKING SPACE(S)** shall always be located outside the dedicated street right-of-way and shall be provided with vehicular access to a street or alley.

PARKS. Includes those areas developed either for passive or active recreational activities. The development may include, but shall not be limited to, walkways, benches, open fields, multi-use courts, swimming and wading pools, amphitheaters, and the like. The term **PARK** shall not include zoos, travel trailer parks, amusement parks, or vehicle, equestrian, or dog racing facilities.

PERSON or APPLICANT. Includes a firm, association, organization, partnership, corporation, company, trust, and an individual or governmental unit.

PLANNED UNIT DEVELOPMENT. A development where more than one principal building is proposed to be constructed on a single tract or a clustered housing development or any residential complex containing at least six or more units or any building with a gross floor area of 50,000 square feet or more, shall be deemed a **PLANNED UNIT DEVELOPMENT (PUD)**. Multi-family structures shall have no less than three dwelling units per structure. Residential units within a planned unit development may include single-family detached or attached units, townhouse developments, condominiums, and other multi-family type residential units, excluding time sharing units, mobile homes, and mobile home parks.

PLANNING COMMISSION. The Town of Biltmore Forest Planning Commission.

PROTECTIVE BARRIER. A protective barrier is either:

- (a) A temporary fence which is at least three feet high and constructed in a post and rail configuration, using two by four posts and one by four rails;
- (b) A temporary fence with two by four posts placed no farther than ten feet apart covered with a four-foot orange polyethylene laminar safety fencing; or
- (c) A temporary fence using an equivalent material.

PUBLIC SEWER SYSTEM. Any sewer system owned and operated by a local government in Buncombe County, or other sewage treatment facility serving two or more connections, or any wastewater treatment system having a discharge to surface waters when approved by the Division of Environmental Management of the Department of Natural Resources and Community Development, or a ground absorption system serving two or more connections when approved by the County Sanitarian.

PUBLIC WATER SYSTEM. Water systems serving 15 or more residential connections or serving more than 25 year-round residents are classified as public water supplies, and plans and specifications must be approved by the State Department of Human Resources, Division of Health Services. Also, water supply systems serving from two to 14 connections shall be regulated by the County Board of Health and plans shall be approved by the Buncombe County Health Department, Environmental Health Section.

RECREATION USER NONPROFIT. An indoor or outdoor recreation facility operated on a nonprofit basis, according to the laws of North Carolina.

RECREATION USER PROFIT. An indoor or outdoor recreation facility operated on a profit basis.

RESIDENTIAL DENSITY. The number of dwelling units per acre devoted to residential buildings, accessory uses, and open spaces within the site, but excluding land for streets and street right-of-ways. **RESIDENTIAL DENSITY** shall be calculated by first subtracting the land area required for streets and rights-of-way from the total or gross land area of the tract to derive a net land area, and then dividing the number of dwelling units proposed to be built by the net land area.

RETAIL BUSINESS. Establishments selling commodities directly to the consumer. Fast food service restaurants, gasoline service stations/auto repair, or the dispensation of gasoline as an ancillary service to a retail use shall be prohibited.

ROOF COVERAGE. For the purposes of building construction and the calculation of maximum roof coverage pursuant to §§ 153.029(B)(1)(b) and 153.043 (and any other section of this chapter dealing with roof coverage), **ROOF COVERAGE** shall be the area contained under the roof of the primary building or any accessory structure/building and shall also include any impervious deck surface or any other above-grade impervious surface extending from or being attached to any primary building or accessory structure/building. Both heated and unheated enclosed spaces or any open space within, under or covered by the roof of the primary building or accessory structure/building or by any above-grade impervious surface (such as a deck, and the like), extending from the primary building or accessory structure/building shall be included in the calculation of **ROOF COVERAGE**.

ROOT PROTECTIVE ZONE. A circle encompassing an area around an existing tree or shrub that is the greater of the following two distances:

- (a) A one-foot radius for every one inch of tree or shrub trunk caliper (diameter); or
- (b) A measurement of the furthest or most outward branch or limb from the main trunk when that distance is then drawn as a circle around the remaining portion of the tree or shrub, commonly referred to as the 'drip line'. The minimum **ROOT PROTECTION ZONE** in any case is a radius of eight feet measured from the tree trunk.

SHALL. The word **SHALL** is mandatory.

SHORT TERM RENTAL. Rental of a dwelling unit or accessory structure for consideration, including in kind compensation, for a period of less than 90 days. **SHORT TERM RENTALS** are not allowed in any zoning district in Biltmore Forest.

SPECIAL USE. A use permitted in specified zoning districts only after review by the Board of Adjustment and found to meet specific conditions and procedures as set forth in this chapter to maintain the safety and general welfare and orderly development of the community.

STREET (ROAD). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties. **STREET** also includes the words **ROAD** and **HIGHWAY**.

STREET LINE. The edge of the roadway pavement.

STRUCTURE. Anything constructed or erected, including, but not limited to, buildings, which requires location on the land or attachment to something having permanent location on the land.

SUBSTANTIAL COMPLETION. For the purpose of building construction; the completion of all exterior work on the building; the completion of all plumbing, electrical, and HVAC work; the completion of all window installation; the completion of all interior and exterior door installation,

the completion of all wall construction, painting, and/or covering, the completion of all floor installation and/or covering; and the completion of all other work necessary to receive a certificate of occupancy from the Buncombe County Inspections Department. Minor work typically noted on a punch list may be incomplete and the structure shall be deemed to be substantially completed.

SUBSTANTIAL PROGRESS. For the purpose of building construction, it is expected that construction of the building is continuous and that progress is obvious and observable with inspections as required under the State Building Code occurring on a regular basis.

VARIANCE. As defined in G.S. § 160D-705(d) together with any amendments thereto.

WHOLESALE BUSINESS. The sale of goods in large quantities usually for resale.

YARD. A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

YARD, FRONT. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street or property line and the front line of the building, projected to the side lot lines of the lot. Driveways, to the extent possible, shall enter the property through the front yard. In the case of a lot with frontage on more than one street, the side of the lot with the most street frontage shall be considered the FRONT YARD; however, in the consideration and determination of applications for ~~special use or~~ variance on such a lot, the Board of Adjustment shall take into account and consider the visibility of both the FRONT and side yards to the street and adjoining properties in any determination.

YARD, REAR. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

YARD, SIDE. An open, unoccupied space on the same lot with a principal building extending the full width of the lot and being situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard. Notwithstanding the above definition, for the purposes of determining compliance with minimum yard setback of § 153.007, the SIDE YARD shall be the entire length of each side lot line extending from the front lot line to the rear lot line and shall equally apply to lots with a principal building, lots without a principal building and vacant lots. Driveways shall not be located in the side yard setback.

ZONING ADMINISTRATOR. An official or designated person of the Town of Biltmore Forest charged with enforcing and administering the zoning ordinance.

ZONING MAP or BILTMORE FOREST ZONING MAP. The official zoning map of the Town of Biltmore Forest.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.006 PERMITTED USE TABLE.

(A) *Table.* The following tables show the land uses permitted in each zoning district and the dimensional requirements for each zoning district, including minimum lot sizes, minimum lot widths, and minimum setback requirements.

Zoning Districts					
USE	R-1	R-2	R-3	R-4	R-5
Zoning Districts					
USE	R-1	R-2	R-3	R-4	R-5
Accessory buildings, structures and uses (does not include rental units by other than a family member)	S	S	S	S	S
Banks				S	S
Bone fide farms	S		S	S	P
Business or special schools (art, craft, dance, and the like)				S	S
Churches/religious assembly				S	S
Clothing and jewelry sales*	P	P	P	P	P
Country, athletic and social clubs	S	S	S	S	S
Commercial business					S
Commercial services (excluding retail trade)				S	S
Day nurseries/day care				S	S
Estate auction sale**	P	P	P	P	P
Fundraising events for nonprofits or political campaigns****	P	P	P	P	P
Garage/yard sales***	P	P	P	P	P
Home business activity*****	P	P	P	P	P
Home occupations				S	S
Libraries				S	S
Medical and dental services				S	S
Planned unit development*****			S	S	S
Professional and business offices				S	S
Public recreational facilities - nonprofit (parks, playgrounds, scenic parkways and open space)	P	P	P	P	P
Public utility station and substations	S	S	S	S	S
Retail businesses					S
Schools, public and private	S	S	S	S	S
Single-family residential dwelling unit	P	P	P	P	P
P = permitted S = allowed as a special use (approval required by Board of Adjustment) Blank space = not permitted Use not listed = not permitted zoning districts					

CHANGE HIGHLIGHTED PORTION ABOVE TO “P” FOR PERMITTED USE

(B) General provisions. The following are general provisions applicable to the table in division (A).

(1) Only two clothing or jewelry sales may be held per year at each dwelling, not to exceed five consecutive days for each sale. Property owners are required to contact the Zoning Administrator prior to holding the sale so that the date of the sale may be noted. See § 153.004.

(2) Only one estate auction sale may be held during a resident’s ownership of the property. Property owners are required to contact the Zoning Administrator prior to holding the estate/auction sale so that the date of the sale may be noted. See § 153.004 for additional limitations.

(3) Only one garage/yard sale may be held per year at each dwelling. Property owners are required to contact the Zoning Administrator prior to holding the sale so that the date of the sale may be noted. See § 153.004.

(4) Only four fundraising events may be held per year at each dwelling. No such event shall last longer than five hours in a single day and any such event must end by 11:00 p.m. There shall be no sales of goods or services at any such event. Parking for such an event must not impede the normal flow of traffic and must not be upon any other property without permission from the other property owners

(5) No home business activity shall employ any person who does not live in the home. No person shall come to the home for a business transaction of any nature as part of the home business activity, including, but not limited to, retail or commercial sales or fee for service transactions. See § 153.004.

(6) Where there is proposed more than one principal building per lot or where there is proposed any building with a gross floor area of 50,000 square feet or more, a planned unit development must be sought. See § 153.004 for additional requirements.

(C) Home stays and short term rentals are not allowed in any district. There may be only two rentals of a dwelling unit or accessory structure in any calendar year.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.007 DIMENSIONAL REQUIREMENTS.

(A) Table. The following table sets out dimensional requirements.

Districts	Minimum Lot Area In Square Feet	PUD Residential Density Maximum Number of Dwellings Per Acre	Minimum Yard Setback Requirement in Feet				
			Minimum Lot Width At Building Line in Feet	Front Yard From Street Edge	Side Yard	Rear Yard	Maximum Height in Feet
R-1	43,560	0	150	60	20	25	40
R-2	20,000	0	100	50	15	20	40
R-3	20,000	8	100	50	15	20	40
R-4	20,000	2	100	50	15	20	40
R-5	Footnote 6	8	100	50	15	20	40
PS	No Min.	0	No Min.	No Min.	No Min.	No Min.	Not App.

(B) General provisions. The following are footnotes applicable to the table in division (A).

(1) Footnote 1. The minimum lot area for lots not served by public water and/or sewer shall be subject to approval by the County Health Department to ensure the proper operation of septic tanks and wells. In no case, however, shall minimum lot area be less than those specified in the table in division (A).

(2) Footnote 2. The minimum lot width at the street line shall be 125 feet in the R-1 District, and 80 feet in the R-2, R-3, and R-4 Districts.

(3) Footnote 3. On all corner lots, a 30-foot side yard setback is required.

(4) Footnote 4. Accessory structures, including driveways, shall meet all setback requirements. ~~Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a special use permit in accordance with § 153.110(C), without the need for a variance pursuant to § 153.110(D).~~

(5) Footnote 5. Height requirements may be varied upon approval of the Board of Adjustment.

(6) Footnote 6. Whichever is greater, 20,000 square feet, or twice the gross floor area of the building.

(7) Footnote 7. An increase in the side and rear yard setbacks is required for homes (structures) that exceed 25 feet in height. Homes (structures) greater than 25 feet in height shall be setback from the side and rear property lines an additional one and one-half feet for each one foot, or portion thereof, that the home (structure) exceeds 25 feet in height.

(8) Footnote 8. Structures exceeding a roof coverage area of 7,000 square feet shall be set back from side and rear property lines an additional 20% of the required setback for each 500 square feet, or increment thereof, that the roof coverage areas exceeds 7,000 square feet.

Example: The rear setback for a single story 8,200 square foot house in the R-1 District would be calculated as follows:

$$8,200 - 7,000 = 1,200$$

$$1,200/500 = 2.4 \text{ (round to 3 to account for increment of change)}$$

$$3 \times 20\% = 60\%$$

$$60\% \times 20 = 12$$

$$25 + 12 = 37$$

Rear setback will be 37 feet

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

(8) Accessory buildings.

(a) All accessory buildings shall meet the standards of the State Building Code where applicable.

(b) All accessory buildings shall be of a design compatible with the principal building on the lot and with the structures in the neighborhood.

(c) An additional parking space shall be required when an accessory building is permitted for use as a dwelling by a family member.

(d) Accessory buildings shall comply with the district's setback requirements.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard, or within any side yard [setback](#) or rear yard setback.

(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:

(a) The maximum number of accessory buildings permitted on a lot shall be one;

(b) The maximum roof coverage area for accessory buildings shall be 750 square feet;

(c) The maximum height for accessory buildings shall be 25 feet;

(d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;

(e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;

(f) The accessory building must be designed in the same architectural style as the principal structure;

(g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048; and

(h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.

~~—(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.~~

(3) Fences, gates, and walls shall be regulated in accordance with § 153.049 of this Zoning Ordinance.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

Editor's note:

This amendatory language was passed during a Board meeting, July 9, 2013

§ 153.037 ACCESSORY ~~STRUCTURES OR~~ BUILDINGS UTILIZED AS DWELLINGS.

(A) Upon adoption of this chapter, accessory buildings used as dwelling units and occupied by a "family" (see definition in § 153.004) member shall be a conforming use. Such units occupied by a non-family member shall be nonconforming uses.

(B) (1) The definitions and provisions of this chapter provide for this situation.

(2) Therefore, the following shall apply:

(a) An existing accessory ~~structure~~ building occupied at the time of adoption of this chapter by a non-family member can continue to be used for such purpose. If the unit occupied by a non-family member becomes vacant for more than 60 days (see § 153.036(C)(2)(c)4.), then such unit could only be reoccupied by a family member.

(b) New accessory ~~structures~~ buildings intended for use as dwellings shall only be occupied by a family member.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.038 OFF-STREET PARKING.

§ 153.049 FENCE, GATE AND WALL REGULATIONS.

The Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this section.

(A) New fences, gates or walls may be approved ~~by the Board of Adjustment as a special use~~ administratively with the issuance of a zoning permit, so long as the gate, fence or wall meets the following requirements.

(1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side yard or rear yard setbacks, and is constructed of materials deemed acceptable in § 153.049(D).

(2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required to the extent necessary.

(B) A driveway gate and supporting columns may be approved ~~by the Board of Adjustment as a special use~~ administratively with the issuance of a zoning permit so long as it meets the following requirements:

(1) The driveway gate and columns shall not be located in the front or side yard setback of a property.

(2) The driveway gate shall not be more than eight feet in height.

(3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.

(4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance.

(C) Replacement of existing fences, gates, and walls shall be approved ~~by the Board of Adjustment as a special use~~ administratively with the issuance of a zoning permit so long as the replacement fence is constructed of materials deemed acceptable in § 153.049(D) and meets the requirements below. A ~~special use~~ zoning permit application to replace an existing fence, gate, or wall shall include a photograph of the existing fence or wall, specify the type of fence, gate, or wall, include a map or sketch depicting the height and length of the fence, gate, or wall and state whether or not the fence, gate, or wall is located within any setbacks.

(1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.

(2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

(3) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this section.

(D) Acceptable materials and standards for fences and walls/maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

(1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.

(2) Non-wooden fencing and gates shall be black, dark green or brown and shall blend with surrounding trees or vegetation.

(3) No new chain link fencing or gates shall be allowed.

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for “Permanent Woven Wire Fencing” and “Permanent Solid-Wire Fencing.” Copies of these standards are available at the Town Hall or at the following web address

(<https://www.ncwildlife.org/connect/have-wildlife-problem/tips-coexisting-wildlife/fencing-exclude-deer>)~~(<https://www.ncwildlife.org/learning/species/mammals/whitetail-deer/fencing-to-exclude-deer/#42041180-permanent-fencing>)~~.

(5) Wall-s should be constructed of stone or similar material, and shall be compatible with the construction materials of the house located on the same property.

(6) When a fence, gate or wall is not properly maintained or fails to comply with condition(s) imposed by the ~~Board of Adjustment~~Town, the Ttown ~~shall~~may required the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner’s expense. If the property owner fails to repair or remove the fence, gate, or wall, the Ttown may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

(Ord. passed 2-11-2020; Ord. passed 6-8-2021)

**PLANNING COMMISSION MEETING
STAFF MEMORANDUM
DECEMBER 4, 2024**



AGENDA ITEM - 4

**POST HURRICANE HELENE TREE PROTECTION
ORDINANCE DISCUSSION**

BACKGROUND

The Board of Commissioners adopted a new Tree Protection Ordinance in October 2023. A copy of the revised ordinance is attached to this packet. Many trees within the Town were brought down as a result of Hurricane Helene and many property owners have cleared lots extensively to deal with damaged trees and potentially hazardous trees that remained on their property.

This discussion item is to review the Town's existing ordinance, consider replanting recommendations, and simply discuss the ordinance within the context of the hurricane and other natural disasters. Chairman Saponaro will lead this discussion with the Commission.

ORDINANCE 2023-07

**AN ORDINANCE TO AMEND CHAPTERS 153.034 OF THE
TOWN OF BILTMORE FOREST ZONING ORDINANCE**

WHEREAS, the Town of Biltmore Forest has adopted a Zoning Ordinance which regulates the use of land within its corporate limits; and

WHEREAS, the Town of Biltmore Forest desires to revise a chapter of its existing zoning ordinance;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF BILTMORE FOREST THAT:

Section 1. Chapter 153.060 shall be replaced in its entirety as follows:

BUFFERS, SCREENING, AND LANDSCAPING REQUIREMENTS

§ 153.060 PURPOSE AND INTENT.

- (A) The town has an abundant and diverse tree and vegetative cover that is essential to the aesthetic value of the town and provides numerous ecological and economic benefits.
- (B) Landscape requirements for new construction and substantial additions are set forth below, in order to:
 - (1) Encourage the preservation of existing trees and vegetation on undeveloped residential lots and ensure the reforestation of the lot when tree removal is required for any construction activities.
 - (2) Ensure landscape plans presented to the Town include considerations for native species, reforestation, environmental protection, and effective stormwater management.
- (C) The landscape and buffering standards set forth below require buffers and landscaping between dissimilar land uses, along public rights-of-way, and within parking lots, in order to:
 - (1) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;
 - (2) Protect and improve the visual quality of the town and minimize the negative impacts of development such as noise, dust, litter, glare of lights, traffic, heat, overcrowding, odor, and views of unsightly parking lots, utilities, and mechanical systems and buildings;
 - (3) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;
 - (4) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and to preserve the character and value of property and to provide a sense of privacy; and

(5) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the town while allowing flexibility to promote well-designed and creative landscape plantings.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.061 GENERAL INFORMATION.

(A) Applicability.

(1) Buffer strip plantings, street trees, and parking lot trees and shrubs are required for developments within the town limits.

(2) The following developments are required to be in full compliance with this section:

(a) New residential development, including additions, exceeding more than 500 square feet of roof coverage, and all nonresidential development, including special uses; and

(3) New parking spaces or lots shall comply with the provisions of § 153.064.

(B) Landscape and grading plan required. Applicants are advised to meet with Town staff in order to review all ordinance requirements and procedures and receive a copy of the plan checklists. As required in § 153.034, a landscape and grading plan meeting Town requirements shall be reviewed and approved prior to any grading.

(C) Tree Replacement Requirements.

The following tree replacement requirements are in place for all developments as defined in (A)(2).

Table 1 - New Construction Tree Replacement Requirements

SIZE OF TREE REMOVED (DBH)	INSIDE SETBACK AREA				OUTSIDE SETBACK AREA			
	PROTECTED		UN-PROTECTED		PROTECTED		UN-PROTECTED	
	Qty	Size	Qty	Size	Qty	Size	Qty	Size
6"-12"	1	2"	1	2"	1	2"	x	x
13"-18"	2	2"	1	2"	2	2"	1	2"
19"-36"	2*	3"	2	2"	2	3"	2	2"
36"+ ^T	2**	4"	2*	3"	2	4"	2	3"

* must include a minimum of 3 screening/buffering trees as defined in RPL

** must include a minimum of 5 screening/buffering trees as defined in RPL

^T If removed trees include identified trees of preference (TOP) species, replanting requirements will follow 36"+ DBH requirements

(C) Alternative compliance.

(1) The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The Board of Adjustment, in consultation with the Design Review Board, may alter the requirements of this section as long as the existing or added landscape features of the development site comply with the intent of this chapter.

(2) Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

(a) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;

(b) Space limitations, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood; or

(c) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of the ordinance, and exhibits superior design quality.

(4) The property owner must submit a plan of the area for which alternative compliance is requested to the Town Manager 14 days prior to the meeting of the Design Review Board at which the request will be considered. The site plan shall show existing site features and any additional material the property owner will plant or construct to meet the intent of the buffer, street tree, and parking lot tree requirements.

(5) In addition, the applicant must submit a written statement explaining and justifying the need for alternative compliance. Upon recommendation from the Design Review Board following their review, alternative compliance plan shall then be considered by the Board of Adjustment. Alternative compliance shall be limited to the specific project being reviewed and shall not establish a precedent for acceptance in other cases.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.062 EXISTING VEGETATION IN R-4 OR R-5 ZONES.

(A) Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, and mitigate the impacts of development on the community. It is recommended that groups of trees be preserved, as well as individual trees. Existing trees and shrubs designated for preservation may be credited towards required buffer trees, street trees, and parking lot trees at the discretion of the Ordinance Administrator as described below.

(B) As required in § 153.052, no person shall remove or in any way damage any protected trees without first filing an application for the removal and receiving approval from the Town. This requirement is applicable to both residential and non-residential uses within the town.

(C) Special attention shall be given to protected trees located within 20 feet of the rear or side property line of property meeting the definition of an incompatible land use.

(1) Credits and other incentives to preserve vegetation within non-residential land use.

(a) Vegetation located in the buffer strip. One existing evergreen shrub over four feet high located in the buffer strip may be credited for two new shrubs, also on a case-by-case basis by the Board of Adjustment.

(b) Vegetation located elsewhere on the property.

1. Trees designated for preservation may be credited at the rate of the following.

2-inch to 6-inch caliper tree = 1 tree

7-inch to 12-inch caliper tree = 2 trees

13-inch to 18-inch caliper tree = 3 trees

19-inch to 24-inch caliper tree = 4 trees

25-inch and greater = 5 trees

2. One existing shrub over four feet high may be credited for two new shrubs. In order to receive credit, vegetation designated for preservation shall be in good health and condition. Trees and shrubs designated to be preserved shall be indicated on the landscape and grading plan, as well as all protective barriers. If a tree or shrub designated for preservation dies within five years of the project's completion, it must be replaced with the total number of trees or shrubs which were credited to the existing tree or shrub within six (6) months from removal of the dead trees or shrubs.

(2) Protection of existing trees and shrubs during construction.

(a) 1. No grading or other land-disturbing activity shall occur on a site with existing trees or shrubs which are designated to be preserved in order to meet the landscaping requirements until the landscape and grading plan has been approved by the Board of Adjustment and protective barriers are installed by the developer and approved by the Zoning Administrator. Trees designated for preservation which are counted toward the landscape and buffering requirements shall be protected by barriers, while trees designated for preservation which do not count toward the landscape and buffering requirements are encouraged to be protected by barriers. The diameter of the trees designated for preservation and the location of protective barriers shall be shown on the landscape and grading and site plans with the dimensions between the tree trunk and barrier indicated.

2. Protective barriers shall be placed around the root protection zone of trees designated for preservation that are within 50 feet of any grading or construction activity. Protected ground areas for shrubs shall consist of an area twice the diameter of the shrub. All protective barriers shall be maintained throughout the building construction process.

(b) 1. All contractors shall be made aware of the areas designated for protection.

2. No disturbance shall occur within the protective barriers, including:

- a. Grading;
- b. Filling, unless an aeration system which is certified by a registered landscape architect, certified arborist, or state cooperative extension specialist is installed to protect the tree from suffocation;
- c. Temporary or permanent parking;
- d. Storage of debris or materials, including topsoil;
- e. Disposal of hazardous wastes or concrete washout; and
- f. Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

3. If any area within the root protection zone will be disturbed for any reason, a registered landscape architect, certified arborist, or state cooperative extension specialist shall recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

4. The developer shall coordinate with the utility companies early in the design process to resolve potential conflicts about the placement of utilities and buffer and screening requirements in § 153.063(B)(5). The Zoning Administrator shall approve the placement of the utilities either outside of the root protection zone or tunneled at least two feet directly below the tree roots to minimize root damage.

5. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the drip line area.

(c) Tree protection zone signs shall be installed on the tree protection barriers visible on all sides of the protection area (minimum one on each side and/or every 300 linear feet). The size of each sign shall be a minimum of two feet by two feet and shall contain the following language: "TREE PROTECTION ZONE, KEEP OUT" or "TREE SAVE AREA, KEEP OUT".

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.063 BUFFER STRIP AND SCREEN REQUIREMENTS.

(A) Certain land uses are defined in this chapter as being an incompatible land use when developed adjacent to other less intensive land uses. A buffer strip can serve to lessen adverse impacts when development occurs.

(B) The installation of the applicable buffer strip shall be the responsibility of the owner of the developing land use. Buffer strips shall be located on the property of the developing land use between the property line and any vehicular use areas, buildings, storage, service areas, or other area of activity. The buffer strip shall extend along the entire rear and/or side property line which abuts an incompatible land use, up to any required street tree planting strip.

(1) Use of buffer strips. Required buffers shall not be disturbed for any reason except for approved driveway openings and other passive or accessory uses compatible with the general

separation of land uses and; provided, that the total number of required plantings are still met. Approval from the Town Manager is required prior to initiating any disturbance of the buffer.

(2) Placement of buffer plantings. The exact placement of the required plants shall be the decision of the developer or designer, but shall be reviewed by the Town Manager and approved by the Board of Adjustment. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from any area accessible to the public or from adjacent properties. Trees or shrubs should be planted at least five feet away from the property line to ensure maintenance access and to avoid encroaching upon neighboring property.

(3) Composition of buffer plantings. A buffer consisting of two staggered rows of evergreen shrubs or sheared evergreen trees, planted 48 inches apart (as measured from the central stem) in a 20-foot wide strip shall be installed to screen the nonresidential use from neighboring residential properties. The trees or shrubs shall be between four and five feet high at time of planting. During times of extended dry weather, the applicant may petition the Board of Adjustment to reduce the required size of vegetation to be planted in order to better ensure its survival. It is suggested that a mixture of two to three shrubs selected from the recommended species list be planted to encourage healthier plants.

(4) Coordination with stormwater drainage provisions. If the buffer strip is to be used as part of the area for required stormwater runoff absorption as outlined in Ch. 52, then the shrubs and trees within the buffer shall be water tolerant.

(5) Coordination with utility easements. In circumstances when the property to be developed is adjacent to a utility easement, the buffer requirement of division (C) above maybe altered to be only ten feet wide at the discretion of the Board of Adjustment, based on the factors of space, feasibility, and other considerations which may make it difficult to provide a 20-foot buffer.

(6) Additional buffering. The Board of Adjustment has the authority to require that a wall or fence be constructed next to property used for residential purposes when the Board determines that the buffer strip alone does not provide adequate buffering. The fence or wall shall be constructed in a durable fashion of wood, stone, masonry materials, or other materials if deemed appropriate and shall be built of material compatible with the principal building. When concrete block is utilized, it shall be finished with stucco on both sides. The materials and design shall be approved by the Board of Adjustment on a case-by-case basis. The finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this section. Shrubs shall be planted on the applicant's side of the property at the rate of 25 per 100 linear feet; their placing and arrangement shall be the decision of the applicant.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)

§ 153.064 PARKING LOT LANDSCAPING REQUIREMENTS.

Trees and shrubs are required in and around parking lots with more than five spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, help absorb runoff, reduce glare from parking lots, and to help filter exhaust from vehicles.

(A) There shall be a continuously-maintained growing strip planted with grass or similar low-growing vegetation, measured from the back of the curb and extending ten feet perpendicular to the road. The purpose of this growing strip is to provide a clear line of sight for motorists, pedestrians, and cyclists entering and leaving commercial properties.

(B) (1) Where parking areas with more than five spaces adjoin a public right-of-way, a landscaped planting strip ten feet wide shall be established and continuously maintained between the growing strip and parking area(s).

(2) Street trees shall be planted within the landscaped planting strip in accordance with § 153.066 and parking areas within 50 feet of the right-of-way shall have a visually modifying screen or barrier that meets one of these standards:

(a) Evergreen shrubs shall be planted 36 inches apart as measured from the center and attain a height of at least 48 inches within four years of installation;

(b) There shall be a fence or wall three feet high constructed of the same material as the principal building; or

(c) There is an earthen berm at least two feet high, with a minimum crown width of two feet and a width to height ratio of no greater than 2:1; shrubs shall be planted on top of the berm that will attain a height of at least 36 inches within four years of installation and shall be planted 36 inches apart.

(3) No screen is required at parking lot entrances or exits, and no screen shall obstruct vision within 50 feet of an entrance, exit, or intersection. The landscaped planting strip shall be covered with living material, including groundcover and/or shrubs, except for mulched areas directly around the trees, so that no soil is exposed.

(C) (1) (a) Parking areas with more than five spaces shall have at least one large-maturing deciduous tree for every three parking spaces, with some appropriate clustering of trees permitted, and six-foot by 18-foot projecting landscaped islands generally between ten and 12 parking spaces.

(b) Whenever possible, interior parking spaces should have a continuous planter strip six feet wide between rows of parking.

(2) Where appropriate, provisions shall be made to ensure that adequate pedestrian paths are provided throughout the landscaped areas. In all cases, at least one large maturing deciduous tree shall be provided for a parking lot regardless of the number of spaces provided. No parking space shall be located more than 50 feet from the trunk of a large-maturing deciduous tree. When calculating the number of trees required, the applicant shall round up to the nearest whole number.

(D) All landscaped areas shall be bordered by a concrete curb that is at least six inches above the pavement and six inches wide or a granite curb that is at least six inches above the pavement and four inches wide.

(E) To increase the parking lot landscaped area, a maximum of two feet of the parking stall depth may be landscaped with low-growth, hearty materials in lieu of asphalt, allowing a bumper overhang while maintaining the required parking dimensions.

(F) When more than the required number of parking spaces is provided, the applicant shall provide two times the required number of trees for the spaces provided above the ordinance requirement.

§ 153.065 SCREENING OF DUMPSTERS, LOADING DOCKS, OUTDOOR STORAGE AREAS, AND UTILITY STRUCTURES.

(A) All dumpsters, loading docks, outdoor storage areas, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or buffer strip. Landscaping shall not interfere with the access and operation of any such structure or facility. Trash and storage areas shall be well-maintained, including prompt repair and replacement of damaged gates, fences, and plants.

(B) Openings of trash enclosures shall be oriented away from public view or screened with sturdy gates wide enough to allow easy access for trash collection, where practical. The consolidation of trash areas between businesses and the use of modern disposal techniques is encouraged. All dumpsters shall be located a minimum of 50 feet from a residential dwelling. All unenclosed outdoor storage areas greater than 25 square feet shall also be screened from adjacent properties and streets.

(C) Screen types include:

(1) A continuous hedge of evergreen shrubs planted in a five-foot strip spaced a maximum of 36 inches apart; and

(2) A wall or fence six feet high, with the finished side of the fence or wall facing the abutting property or street. Fences longer than 25 linear feet shall be landscaped with trees and/or shrubs planted in a minimum five-foot planting area, except around access areas, spaced no farther than eight feet apart in order to screen at least 50% of the fence or wall.

§ 153.066 STREET TREES.

(A) (1) Street trees are required for all developments meeting the applicability requirements of § 153.061(A). Street trees shall be required at the rate of one large-maturing tree (over 35 feet in height) for every 40 linear feet of property abutting a street.

(2) In the event that overhead utility lines are present, then one small-maturing tree (less than 35 feet in height) may be planted for every 30 feet of property abutting a street.

(3) This does not imply that trees must be spaced exactly 30 or 40 feet apart.

(4) The exact placement of the required tree or trees may be established with input from the reviewing boards in order to fit in with sign placement and other building issues.

(B) Trees shall be planted within a landscaped planting strip adjacent to the growing strip as outlined in § 153.064(A) and also according to regulations from the State Department of Transportation.

§ 153.067 CERTIFICATION OF COMPLETION.

(A) Landscaping shall be installed and inspected prior to receiving a certificate of completion. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide an irrevocable letter of credit, or other financial surety in an

amount equal to 110% of the cost of installing the required landscaping to guarantee the completion of the required planting.

(B) Upon approval of the financial surety, the certificate of completion shall be issued. The financial surety shall be canceled and/or returned upon completion.

§ 153.068 MAINTENANCE.

(A) The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall shall constitute a zoning violation and shall be subject to the penalty provisions in § 153.999 if not replaced within 30 days of notification.

(B) If an act of God or other catastrophic event occurs which destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material shall be in compliance with the minimum size, spacing, and quantity standards of the ordinance requirements in effect at the time of project approval.

§ 153.069 RESIDENTIAL SCREENING OF UTILITY STRUCTURES.

(A) It is required that all new utility structures, whether they are part of a new dwelling or are being added to an existing dwelling, located out of doors, including, but not limited to, heat pumps, air conditioning units (with the exception of window units), and generators shall be screened on all sides except the side closest to the dwelling. The screening shall consist of evergreen shrubs or trees planted a maximum of 36 inches apart, with a height of 18 to 24 inches at time of planting. The shrubs may be planted three feet away from the utility structures so they do not interfere with proper functioning.

(B) Electric vehicle (EV) charging stations are hereby included as a utility structure for the purposes of this chapter. The Town recommends that EV charging stations be installed inside a garage and out of the public view. However, when this is not possible, the following requirements shall apply.

- 1) The EV charging station shall not be located within a front, side, or rear yard setback.
- 2) The EV charging station shall be screened from the public road and adjacent properties per requirements in section (A) above. The only exception to this requirement is that screening is not required in a location inhibiting the ability to charge the vehicle per the manufacturer's recommendation.
 - a. A site plan shall be provided to the Town prior to installation indicating the location, species, and planting timeline for screening. This site plan shall also include applicable setback lines for the appropriate zoning district and the distance of the proposed EV charging station to each property line.
- 3) Upon approval from the Town regarding the placement of the EV charging station, the property owner must obtain building inspections approval from Buncombe County for installation. The applicant shall provide all appropriate documentation submitted to Buncombe County, and subsequent approvals, to the Town once permitted.

§ 153.070 PLANT SPECIFICATIONS.

(A) Recommended plant species. Plants may be chosen from the recommended plant list (RPL) available from the Town. The list encourages the use of plant materials which are indigenous to this region and are readily available from local nurseries. Plant materials which are not on the list may be used following approval from the Board of Adjustment.

(B) Minimum plant size requirements.

(1) Large-maturing deciduous tree. Greater than 35 feet at maturity. Minimum size at planting shall be 12 to 14 feet in height and two inches caliper (diameter);

(2) Small-maturing deciduous tree. Smaller than 35 feet at maturity. The tree shall be at least one and one-half inch caliper and eight to ten feet high at time of planting;

(3) Evergreen tree. Minimum height of eight (8) feet at time of planting; and

(4) Evergreen shrub. Minimum three gallon container or ten-inch root ball with a height of 18 to 24 inches at time of planting.

(C) Plant standards.

(1) All plants shall meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1.

(2) Plants shall be healthy, well-branched, and free of disease and insect infestation.

Section 2. Effective Date.

This ordinance amendment shall take effect upon adoption.

10-9-2023

Date

George F. Goosmann III

George F. Goosmann, III

Mayor

Laura Jacobs

Laura Jacobs

Town Clerk

**PLANNING COMMISSION MEETING
STAFF MEMORANDUM
DECEMBER 4, 2024**



AGENDA ITEM - 6

2025 PLANNING COMMISSION MEETING SCHEDULE

BACKGROUND

The Planning Commission holds meetings on the fourth Tuesday of each month at 4pm, unless the meeting is cancelled due to a lack of business. The following is the anticipated scheduled for 2025, subject to any changes or cancellations.

2025 Meeting Schedule – 4pm at Town Hall

January 28, 2025

February 25, 2025

March 25, 2025

April 22, 2025

May 27, 2025

June 24, 2025

July 22, 2025

August 26, 2025

September 23, 2025

October 28, 2025

December 2, 2025 (NOTE – THIS MEETING COVERS BOTH NOVEMBER AND DECEMBER)