

RULES OF PROCEDURE
PLANNING AND ZONING BOARD
VILLAGE OF PINEHURST, NORTH CAROLINA

I. GENERAL RULES

The Planning and Zoning Board shall be governed by the terms of Chapter 160A, Article 19, Part 3 of the General Statutes of North Carolina and the Village of Pinehurst Development Ordinance (the “PDO”).

II. OFFICERS AND DUTIES

A. **Chairperson (“Chair”).** A Chairperson shall be appointed by the Village Council. The Chair shall decide on all points of order and procedure, subject to the rules herein, unless directed otherwise by a majority of the Board in session at the time. The term of office for the Chair shall be as set by Village Council or until a new Chairperson is named by the Village Council. The Chair may make no motions or second motions made by others and will vote only when required to break a tie.

B. **Vice Chairperson(s) (“Vice Chairs”).** Two Vice Chairpersons shall be elected by the Board from its members and subject to the same term limits as the Chair. The senior (first elected) Vice Chair present shall serve as Acting Chair in the Chairperson’s absence and at such times shall have the same powers and duties as the Chair.

- C. **Powers.** The presiding officer (Chair or Vice Chair) shall have the following powers:
1. With the Board’s informal consent, to amend the meeting’s agenda
 2. To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
 3. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
 4. To entertain and answer questions of parliamentary law or procedure;
 5. To call a brief recess at any time;
 6. To continue a meeting to a future date and,
 7. To adjourn in an emergency.

III. RULES OF CONDUCT FOR MEMBERS

A. The Chair may recommend to Village Council that members of the Board be removed for good cause shown, including violation of the rules stated below or in accordance with General Statutes.

B. Faithful attendance at all Board meetings shall be considered a prerequisite of continuing membership on the Board. In the event a member is absent from two Board meetings in any contiguous twelve month span, the Chair will meet with the member to determine the member's continued commitment to the Board. Whenever possible, Board members will provide advance notice of a planned absence to both the Clerk and the Chair and, when known, the Chair will announce the status of non-attendees at the beginning of each meeting.

C. Annually all Board members are required to review and acknowledge by their signature the *Ethics Policy of the Village of Pinehurst* and to provide or update the information described in the attachments hereto labelled *Organizations in Which Volunteer Currently Serves, Directly or Indirectly* and *Declaration of Potential Conflicts of Interest*. A Board member must declare a potential conflict of interest when it exists and ask to be excused from the meeting while the conflicted matter is discussed and a vote is called. Conflicts of interest include, but are not limited to, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

D. Every member must vote unless excused by the remaining members of the Board. A member who wishes to be excused from voting shall so inform the Chair, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the Board or by law, or the member's official conduct, as defined by the Board. In all other cases, a failure to vote by a member who is physically present in the Board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote. Generally, voting will be done by rollcall and when votes are not unanimous dissenting votes must be specifically noted in the meeting's minutes.

IV. MEETINGS

A. **Organization Meeting.** The regularly scheduled December meeting of the Planning and Zoning Board will serve as its annual organization meeting at which Vice Chairs will be nominated and elected to serve one year terms and any other governance/protocol matters will be considered.

B. Regular Meetings.

1. **Regular meetings** of the Board shall be held monthly on the first Thursday of the month at 4:00 PM at the Village Hall Assembly Room located at 395 Magnolia Rd., Pinehurst, NC; provided that meetings may be scheduled at or continued to another convenient place and time in the Village in any case where the Chair determines it is in the public interest to do so. As necessary, meetings may be continued to the second Thursday of the month in order to complete proceedings initiated in the prior week.

2. **Web Site Notice of Meetings.** The regular meeting schedule of the Planning Board shall be posted on the Village web site as will notice of any special or recessed meeting. If practicable, notice of any emergency meeting shall also be posted on the web site prior to the beginning of the meeting.

C. **Special and Emergency Meetings.** The Chair or a majority of the members may call special meetings of the Board at any time. A special meeting may also be called or scheduled by vote of the Board in open session during another duly called meeting. At least forty-eight (48) hours before a special meeting, written notice of the meeting stating its time and place and the subjects to be considered shall be given to each Board member, mailed, emailed or delivered to each media enterprise and person who has filed a written request for notice with the Village Clerk. Notice shall also be mailed, emailed or delivered at least forty-eight (48) hours before the meeting to each Board member who either did not call for the special meeting or was not present at the meeting at which the special meeting was called. Only those items of business specified in the notice may be discussed or transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

The Chair or a majority of the members may also at any time call an emergency meeting of the Board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each Board member and to each media enterprise that has filed a written emergency meeting notice request with the Village Clerk and whose request includes the telephone number of the media enterprise. Emergency meetings may be called only because of generally unexpected circumstances that require immediate consideration by the Board. Only business connected with the emergency may be considered at an emergency meeting.

D. **Cancellation of Meetings.** If there are no matters to be brought before the Board, or if so many members notify the Clerk and Chair that they cannot attend a meeting that a quorum will not be available, the Chair may cancel the meeting. The Chair or Clerk shall cause the notification of Board members of the cancellation.

E. **Quorum.** A quorum shall consist of five members of the Board and no action can be taken unless there are at least five members present and eligible to vote.

F. **Proposed Agenda.** The Planning Director or his/her designee shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least two (2) working days before the meeting. The Chair or Village Planner may waive this two-day requirement for any proposed agenda item. Any Board member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed agenda items, including attachments, shall be included with the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is necessary to a full understanding of the issue. Each Board member shall receive a copy of the proposed agenda and agenda package and they shall be available for public inspection when they are distributed to the Board members.

G. **Motions.** A Board member making a motion may revise the motion after discussion but the motion cannot be amended by another member. A second is required for all motions in order to call for a vote and only one motion can be considered at a time.

H. **Subcommittees.** Ad hoc subcommittees comprised of three Board members with a fourth serving as an alternate may be formed at any time to develop work product for consideration by the full Board.

I. **Public Hearings/Decorum.** When a meeting agenda includes more than one public hearing each hearing will be opened and closed before proceeding to the next. Before opening any public hearing, the Chair or presiding Vice Chair will review the Board's responsibilities with attending residents and guests as well as the expectations of them regarding their participation. Specifically, no person appearing before the Board shall make personal, impertinent, or slanderous remarks, nor shall any person appearing before the Board become boisterous or threatening. Any such person may be barred from the meeting room by the chair or the presiding officer. No signs or placards may be brought into the meeting.

The Chair shall have the authority either during or prior to the hearing to establish procedural rules for the hearing, provided that such rules may not conflict with these rules or any other applicable law. Procedural rules adopted may govern, but are not limited to, the following matters:

1. Rules fixing the maximum time allotted to each speaker or group;
2. Providing for the designation of spokespersons for groups of persons supporting or opposing the same positions;
3. Providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting place of the Board (so long as

arrangements are made for those excluded from the meeting place to listen to the hearing);and,

4. Providing for the maintenance of order and decorum in the conduct of the hearing.

J. **Time of Recommendation.** The Board must issue its recommendations to Village Council within thirty (30) days of a public hearing. No recommendation set forth within that period will have the same effect as if a recommendation to approve had been made.

K. **Conduct of Meetings.** All meetings shall be open to the public and unless otherwise set forth herein, will be governed by Robert's Rules of Order.

VII. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than a simple majority of the Board, provided that such amendment be presented in writing at a regular or special meeting before the meeting at which the vote is taken.

ADOPTED this the 11th day of July, 2019

VILLAGE OF PINEHURST PLANNING AND ZONING BOARD

Ceo Santoranzo
Chairman

James B. Burch
Director of Planning and Inspections



**PLANNING AND ZONING BOARD
REGULAR MEETING (ELECTRONIC)
THURSDAY, JANUARY 7, 2021
ASSEMBLY HALL & ZOOM MEETING PLATFORM
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:00 PM**

Board Members Present:

Cyndie Burnett, Chair
Julia Latham, 2nd Vice*
Joel Shriberg
Phillip Shumaker
Sonja Rothstein*
Jack Farrell
Paul Roberts

Board Members Absent:

David Alzamora
Jeremy Hooper

Staff Present:

Darryn Burich, Planning Director
Alex Cameron, Senior Planner
Kathy Liles, On-Call Senior Planner
Kelly Brown, Administrative Specialist

And approximately one person in attendance.

I. Call to Order

Ms. Burnett confirmed a quorum was present and called the meeting to order at 4:00 pm. *Ms. Rothstein participated remotely via Zoom meeting platform.

II. Approval of Minutes

A. 12-03-2020 Regular Meeting Minutes

Mr. Farrell moved to approve the minutes of the December 3, 2020 regular meeting. Seconded by Ms. Rothstein. Approved by a vote of 5-0.

III. General Business

*Ms. Latham arrived to the meeting via Zoom meeting platform at 4:09 pm.

A. Discuss Potential Draft Language for Tree Preservation and Landscaping Standards

Planning Director Darryn Burich, Senior Planner Kathy Liles, and Senior Planner Alex Cameron presented draft language for potential revisions to Sections 9.5 and 9.14.6 of the Pinehurst Development Ordinance for tree preservation and landscape requirements based on feedback from the Board and Village staff. The Board provided further feedback and no action was taken.

B. Other Business

Ms. Burnett provided the Board with a summary of the Village's strategic planning retreat she attended December.

The Board was notified that Mr. Shriberg's term as a board member was not renewed by Council and it was his last meeting; Mr. Shriberg provided departing wisdom to the Board, and the Board and Village staff thanked him for his service.

IV. Next Meeting Date

A. Regular Meeting on February 4, 2021.

V.

Motion to Adjourn

Mr. Farrell moved to adjourn the regular meeting. Seconded by Mr. Roberts. Motion approved by a vote of 6-0 at 5:34 pm.

Respectfully Submitted,

Kelly Brown
Administrative Specialist
Village of Pinehurst

A videotape of this meeting is located on the Village website: www.vopnc.org.

The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.
Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors. Values:
Service, Initiative, Teamwork, and Improvement.

AN ORDINANCE AMENDING THE VILLAGE OF PINEHURST DEVELOPMENT ORDINANCE

Whereas, trees buffer adjoining uses and mitigate impacts of adjoining uses and traffic; and

Whereas, buffers help protect the privacy of neighboring property; and

Whereas, trees are an essential natural resource that contribute to the environment by providing oxygen, purifying air quality, conserving water, preserving soil and providing a habitat for wildlife; and

Whereas, trees contribute to the history and character of Pinehurst making it a special place to live, work, and visit; and

Whereas, urbanization and development that significantly impacts this important element of the environment affects the economic, historic, and aesthetic value of the Village.

Now, be it ordained by the Village of Pinehurst Village Council that:

The following amendments to the Pinehurst Development Ordinance shall be made.

Section 1. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 *Tree Conservation and Newly Installed Trees and Plants* is amended to include the following.

Section 9.5 Tree Preservation and Landscape Requirements

Part 1. Tree Preservation

9.5.1. Purpose and Scope

The natural landscape conditions within the Village of Pinehurst and its extraterritorial jurisdiction typifies the North Carolina Sandhills and Longleaf Pine Ecosystems. These natural conditions (topography, vegetation, and wildlife) are unique within North Carolina and are the strongest visual aspects defining the character of the Village. The Village of Pinehurst encourages and prioritizes tree protection for specimen and protected trees through an incentivized program that encourages preservation of existing trees. The regulations of this Section are intended to preserve trees along the outer perimeter of parcels of land such that buffer yards are retained/created to reduce visual effects and the impacts of traffic, noise, dust, and odor as well as to protect the privacy of neighbors. Such regulations will help to ensure that trees and vegetation along the perimeter of a site are not removed or disturbed prior to consideration of an actual plan for development of the site. By doing so, the regulations will preserve and enhance the visual character of Village and the ETJ, increase the soils ability to absorb and retain water therefore reducing erosion and surface water runoff, enhance air quality, provide energy shading and cooling for canopy roads, and furnish habitat for wildlife.

9.5.1.1 Definitions.

- (A) **Clearing and Grading:** any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.
- (B) **Development:** Unless the context clearly indicates otherwise, the term means any of the following:
- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - b. The excavation, grading, filling, clearing, or alteration of land.
 - c. The subdivision of land as defined in N.C.G.S. 160D-802.
 - d. The initiation or substantial change in the use of land or the intensity of use of land.
- (C) **Protected Trees:** Any tree with a diameter breast height of eight inches or greater.
- (D) **Redevelopment:** For the purpose of this section, redevelopment is the physical change to a parcel of land that results in construction of an additional building, building replacement or an expansion in the size of an existing building by 50% or more.
- (E) **Specimen tree** is any healthy living tree that:
- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
 - b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
 - c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
 - d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
 - e. Has been cited by the Village Council as being historically significant.
- (F) **Tree Preservation Yards:** for the purposes of Sections 9.5 and 9.14.6, tree preservation yards are defined as follows. Yard lengths are based on the most interior length of the setback line.
- a. Front: the front yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
 - b. Rear: the rear yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
 - c. Side: the side yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.

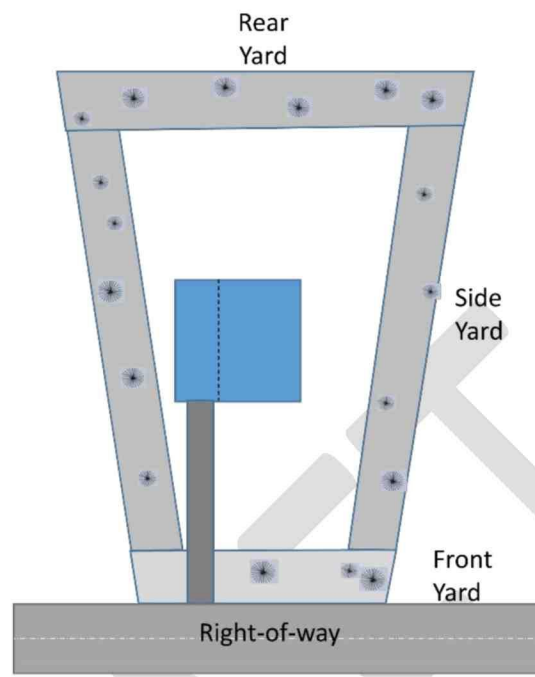


Figure 1. Standard lot yards

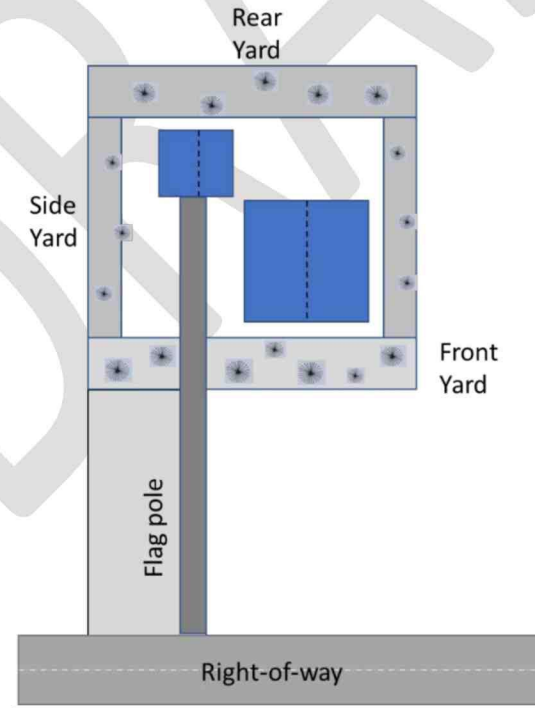


Figure 2. Flag Lot Yards

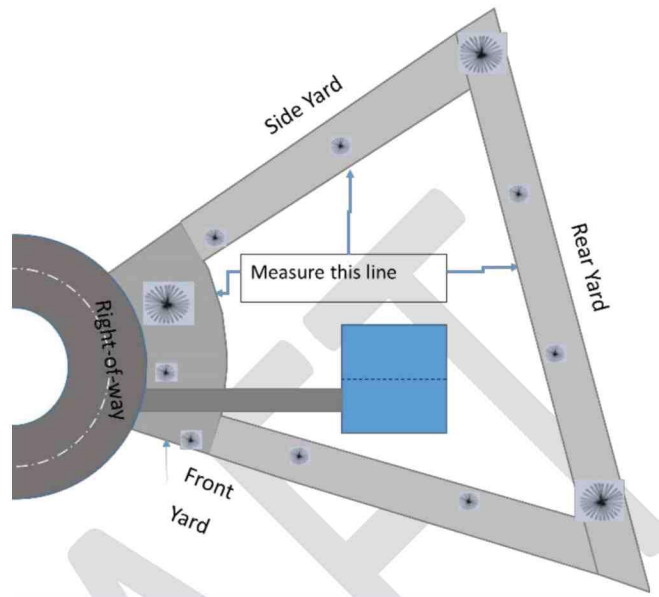


Figure 3. Where to Take Linear Measurements

- (G) **Tree Removal:** "Tree removal" shall include, but not be limited to, trees removed by clearing, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction; changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; paving with concrete, asphalt or other impervious material within the drip line or such proximity as to be harmful to the tree; or any act of malicious damage to a tree.

9.5.1.2 Clearing and Grading Applications and Permits

When clearing and grading activity is proposed on a vacant parcel and there is no active application for a development permit pursuant to this Ordinance (e.g. Major or Minor Site Plan, Major or Minor Subdivision, Single Family Development), a clearing and grading application must be submitted and a permit issued per the requirements of this Section.

If there is no tree survey on file for the property, then a tree survey must be prepared before any tree removal occurs unless it is subject to the exemptions listed in Section 9.5.1.6. If a landscape plan or tree survey has been prepared that is no older than five (5) years and is on file with the Village, it may be used whenever tree removal/replacement is planned.

Clearing and grading applications shall show the location of the construction entrance. Trees removed from construction entrances and future driveway locations must meet the

requirements of Section 9.14.6 for single family development or 9.5 Part 2 for all other development.

In addition to ensuring that Village standards are met, Village staff shall use clearing and grading applications as an educational tool to provide helpful insight to the developer regarding the costs of removing and replanting trees that will be required for buffering uses as well as to provide protection to specimen trees.

9.5.1.3 Tree Survey

Each application for a development or clearing and grading permit shall be accompanied by a tree survey.

If a clearing and grading accompanies an application for any other development permit, the tree survey shall be of the same scale as, and superimposed on, a development site plan or preliminary plat. Trees to be surveyed include all trees greater than or equal to 6" DBH. All tree surveys shall include location, number, size (DBH), qualifying trunks and species with a scaled graphic representation of each protected tree, and the trunk location shall be provided. All required tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, landscape architect, or civil engineer registered in the State of North Carolina. The survey shall include all trees to be protected or preserved, and those scheduled to be removed, including dead and damaged trees. Construction access shall be shown on the survey. In cases where a previously approved recorded plat is utilized for the purpose of tree survey, the name, address, phone number, signature and seal of the licensed landscape architect, civil engineer, or surveyor registered in the State of North Carolina shall be provided. A scaled infrared or high resolution black and white aerial photograph or print of equal quality may be substituted in cases where the Village Planner determines that it would provide sufficient information from which a decision may be made. This is typically the case when large contiguous areas of preservation are proposed, and the trees will not need to be counted towards credit.

(A) Existing Lots of Record. Existing lots of record are lots created by final plat prior to the effective date of this Section.

- (1) If an existing lot of record is undeveloped as of the effective date of this section, a tree survey shall be prepared prior to clearing or development.
- (2) If an existing lot of record is developed for single-family residential purposes and is proposed for redevelopment, additions, or modifications, a landscape plan shall be submitted consistent with the requirements of Appendix B. A tree survey is not required.
- (3) If an existing lot of record is developed for nonresidential purposes and is proposed for redevelopment, additions, or modifications, submittal requirements shall comply with Section 9.5, Part 2 and a tree survey is not required.
- (4) In the event an existing lot of record is damaged or destroyed due to disasters such as windstorms, ice storms, fire, or hurricanes, the requirements of this section shall not apply.

9.5.1.4 Tree Removal Standards for Undeveloped Lots of Record and Parcels

- (A) When a clearing and grading application is required and additional changes to the land are not proposed through a Major or Minor Site Plan or Major or Minor Subdivision, a minimum planted perimeter buffer must be preserved and or created per the Table 9.5.1.4 unless a tree preservation credit is provided as allowed under this Section.

Table 9.5.1.4

<u>Location</u>	<u>Number of Required Trees</u>
<u>Front Yard*</u>	<u>1 Protected/Specimen Tree Per 15 Linear Feet of Street Frontage**</u>
<u>Side Yard</u>	<u>1 Protected/Specimen Tree Per 35 Linear Feet</u>
<u>Rear Yard</u>	<u>1 Protected/Specimen Tree Per 25 Linear Feet</u>

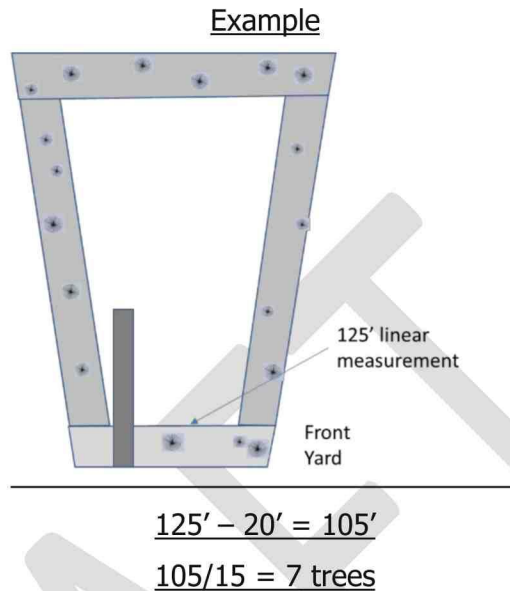
*For the purpose of this section, the front yard is any street facing yard. If a lot is a corner lot, then more than one front yard will apply.

**If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

The number of required trees shall be measured in whole numbers. The applicant shall round down when calculating the number of trees.

(B) Driveway Allowance

Each parcel shall be given an allowance for one 20' driveway. This shall be applied by subtracting twenty (20) feet from the linear foot calculation for number of required trees as shown in Table 9.5.1.4.



(C) Existing Tree Preservation Credits.

To help maintain the existing overall tree canopy and to encourage preservation of existing specimen and protected trees, credits may be given towards the requirements of Table 9.5.1.4 for existing preserved trees as follows.

- (1) Tree credits shall apply to the particular yard in which the tree is located.
- (2) No tree credit will be granted for trees less than 12" DBH.
- (3) The first tree credit will be granted for trees that are 12" to 16" DBH.
- (4) One additional tree credit will be granted for every four (4) inch increase in tree girth above 12" DBH.

Example. The front tree preservation yard contains a 24" oak. Preservation of this tree grants credits in the front yard for four (4) trees.

Trees subject to the preservation credit may be grouped and are not required to meet spacing requirements in the side and rear yards. In order to ensure adequate street yard buffer and to maintain street tree canopy, trees may be grouped in the front yard; however, there shall be no space less than one tree per every 35 linear feet.

(D) Credit for Trees Less than 8" DBH

At the discretion of the Village Planner, credit may be provided for trees smaller than 8 inches DBH but no less than 3 inches DBH when there are insufficient trees present on the property to meet the requirements of Table 9.5.1.4.

(E) Minor Modifications for Alternate Spacing and Grouping

The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

- (1) To satisfy tree preservation credits described in 9.5.1.4. (C).
- (2) To allow the preservation of trees within the building envelope if they are within a distance no greater than the required yard depth when insufficient trees are available for preservation.

9.5.1.5 Tree Removal for Redevelopment of Existing Lots of Record

- (A) Single-Family Lots of Record. Redevelopment of single-family lots of record shall comply with the following landscape requirements for trees as documented on a landscape plan.

<u>Zoning District</u>	<u># of Trees per Dwelling</u>	<u>Size of Tree</u>
<u>R-5, R-8 and R-10</u>	<u>4</u>	<u>3" DBH</u>
<u>R-15, R-20, R-30</u>	<u>8</u>	<u>3" DBH</u>
<u>R-210</u>	<u>16</u>	<u>3" DBH</u>

- (B) All other lots shall comply with 9.5 Part 2.

9.5.1.6 Exemptions

- (A) This Article shall not restrict public utilities and electric suppliers from maintaining safe clearance around existing utility lines, and existing easements in accordance with applicable state laws.
- (B) Removal of dead or naturally fallen or severely damaged trees or vegetation, or the removal, by an approved method, or trees or vegetation that are a threat to the public health, safety, or welfare based on observation by the Village Planner or by the submittal of an arborist's report.
- (C) Removal of trees for the purpose of conducting bona fide agricultural and forestry operations shall be exempt from the provisions of this Article. This exemption applies to forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the North Carolina General Statutes (NCGS) and activities conducted in accordance with an approved forestry management plan subject Chapter 89B of NCGS and extends to any activity defined as a bona fide farm operation in NCGS 160-D-9-3 within the extraterritorial jurisdiction of the Village. If an exempt timber harvest occurs as described above, the Village may withhold approval of a building permit, site plan,

- or subdivision plat for the site for three (3) years following the harvest and up to five (5) years if the removal is deemed willful.
- (D) Properties located in the VC, PC, and VMU Zoning Districts are exempt.
 - (E) The North Carolina Department of Transportation (NCDOT) shall be exempt from the tree protection and preservation requirements of this Ordinance within NCDOT rights-of-way. Tree removal in the Village rights-of-way must be approved by the Village Manager or designee.
 - (F) All real properties owned by the Village of Pinehurst are exempt if tree removal is authorized by the Village Manager or designee.

9.5.1.7 Trees Removed In Violation

- (A) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Village Planner in a ratio not to exceed 2:1 of two inches of caliper per inch removed. As an example, if six 8" trees are removed, 96 inches of caliper shall be planted. No tree planted shall be smaller than 3" caliper. The size of the tree removed shall be determined from the size of the remaining base or stump or an existing tree survey on file for the property. If the size of the tree cannot be determined but its removal can be documented by photographic evidence or the use of aerials, then the violator shall replant three 3" trees for every tree removed.

Tree preservation standards are incorporated in 9.5 Part 2 Landscape Requirements for Multi-family, Commercial and Industrial projects and in 9.14.6 for Single Family Residential Use.

Section 2. Amend Section 9.5 to insert a new part and renumber the existing text.

Part 2.

Section 9.5 Landscaping Requirements for All Development Requiring a Permit Other than Single-Family Residential and Clearing and Grading

9.5.1. Purpose and Scope

~~—The natural landscape conditions within the Village of Pinehurst and its extraterritorial jurisdiction typifies the North Carolina Sandhills and Longleaf Pine Ecosystems. These natural conditions (topography, vegetation, and wildlife) are unique within North Carolina and are the strongest visual aspects defining the character of the Village. The purpose of the landscaping standards in this Section shall be to create an appearance in which manmade development is situated within a forest or naturalized setting in all zoning districts. All size standards in this section shall conform to the American Standards for Nursery Stock.~~

9.5.12.1 Landscape Plan Required

A landscape plan shall be submitted to the Village Planner and its approval is a prerequisite for the issuance of a development permit where required.

9.5.12.2 Planted Buffers

(A) Permitted Uses within Planted Buffer Areas: Planted Buffers should be left in an undisturbed natural vegetative state and provided with supplemental plantings. Selective thinning of vegetation and removal of dead vegetation may be permitted as long as the intent of the planted buffer requirement is maintained. Driveways and utilities may cross a planted buffer at or as near a perpendicular angle as practical. Paths and walkways may pass through the planted buffer and pedestrian walkways (greenways) may be installed within the buffer area. Grading in the designated planted buffer may be allowed with site plan approval, if the re-vegetation plan is determined to meet the intent of this Section;

(B) Location of Planted Buffers: Required planted buffers shall be provided along the perimeter of development unless alternate locations are approved. Planted buffers shall be designated and dimensioned on all site plans and subdivisions plans, where applicable;

(C) Public Pedestrian Easement Required: The full width of all buffer areas shall be designated as a public pedestrian easement and shown on a recorded plat;

(D) Application:

(1) These standards apply to all non-residential and multi-family uses (including townhouse unit development) located within the Village of Pinehurst and its extraterritorial jurisdiction except for properties containing only museums and/or libraries as the primary use and located within the PC zoning district. Additionally, the Village Council may waive some or all of these standards for developments and uses located within the VC, VMU, VCP and VR Zoning Districts when determined to be in the best interest of the public. In waiving these standards, the Village Council may require an alternate means of buffering if agreed upon by the property owner. When nonresidential and multi-family uses submit a site plan for locations next to property zoned for primarily residential use, planted buffers shall be provided near the perimeter of the nonresidential or multi-family property. One half of the planted buffers requirements shall apply when a public street or railroad right-of-way separates a nonresidential or multi-family uses from a residential property. If a greenway passes through a landscape buffer the area of the greenway shall be subtracted from the total buffer area for plant count purposes.

(2) The required planted buffer width is based on the classification shown on Table 9.5.2.2;

(3) If said project is adjacent to property that is zoned non-residential or multi-family but is used for single family purposes, half the required planted buffer width along the perimeter of the property adjoining that property shall be required;

(4) A class 3 planted buffer shall be installed along and adjacent to NC 2, Midland Road east of the Traffic Circle to the zoning jurisdictional boundary of Pinehurst, on the west side of Hwy. 15/501 from the northern extent of the zoning jurisdictional boundary of Pinehurst southward to the western extent of the traffic circle and the intersection with Hwy. 211, Hwy. 211 from the intersection of McKenzie Rd. to the western extent of the zoning jurisdictional boundary of Pinehurst, Murdocksville Rd. from the intersection of Hwy. 211 to the northern extent of the zoning jurisdictional boundary of Pinehurst and on the west side of Hwy 5 from the intersection of Lake Hills Rd. south to the intersection with Trotter Hills for all non-single family residential uses.

(5) If the adjacent property is zoned for residential use but is vacant at the time of the proposed development, the full required planted buffer width shall be provided;

(6) If the proposed development is non-residential and the adjacent property is zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, but not less than ten (10) feet;

(7) If the proposed development is for multi-family dwellings adjacent to property zoned or used for multi-family dwellings, one-half of the planted buffer width shall be provided, whether the property is occupied or not.

(E) Planted Buffer Classifications and Width:

(1) Planted buffer width is based on uses in the following classifications:

- (a) Class 1 - 10 feet: Cemeteries, golf courses, passive recreational areas, and;
- (b) Class 2 - 20 feet: Offices, churches, schools, public facilities including playgrounds, ball fields, community swimming pools, and similar facilities, day care facilities, multi-family, residential, hotels;
- (c) Class 3 - 30 feet: Neighborhood commercial and service activities including, but not limited to, retail operations, funeral homes, restaurants, banks, convenience stores;
- (d) Class 4 - 50 feet: Commercial activities with higher vehicle activities including, but not limited to, vehicle repair, theatres, outdoor recreation centers, and outdoor storage

Table 9.5.12.2

REQUIRED PLANTED BUFFER WIDTH IN FEET BASED ON BUFFER CLASSIFICATION AND ADJACENT PROPERTY USE AND ZONE				
ADJACENT PROPERTY USE AND ZONE				
Planted Buffer Class	Developed Residential Zone	Principal Residential Use in Nonresidential Zone	Developed Multi-Family Zone	Vacant Multi-Family Zone
Class 1	10 feet	10 feet	10 feet	10 feet
Class 2	20 feet	20 feet	10 feet	10 feet
Class 3	30 feet	30 feet	15 feet	15 feet
Class 4	50 feet	50 feet	25 feet	25 feet

(2) The required setbacks may be used to meet landscape planted buffer width requirements in all districts. When planted buffers are required for residential uses, the planted buffer requirements shall be designated open space, or common area;

(3) Planted buffer widths and required plantings may be reduced by thirty percent (30%) if the site plan indicates berming, alternate landscaping, walls, opaque fencing in combination with landscaping or topographic features which will, in the opinion of the Village Planner, achieve the intent of this Section as outlined in Section 9.5.1 and result in equal or better performance. In no case shall a buffer width be less than ten (10) feet. Berms may not have a slope steeper than two (2) horizontal to one (1) vertical and must have a crown width of at least two (2) feet and a minimum height of two (2) feet;

(F) Requirements for Planted Buffer Areas:

(1) Existing Vegetation. Existing vegetation, regardless of species, shall be used to meet all or part of the requirements of this Section wherever possible, if it provides the same level of obscenity as the planted buffer required below. Vegetation to be saved shall be identified on site plans, along with protection measures to be used during grading and construction. (See Section 9.5.2.7 for protection measures and calculation of credits for existing trees);

(2) Planting requirements: Planting requirements for planted buffers include both trees (large and small) and shrubs as described below. (See Appendix F for a listing of native/water

conserving trees and shrubs.) In calculating buffer planting requirements, areas of driveways are excluded;

(a) Tree Standards: This requirement may be satisfied as follows:

1. One longleaf pine tree with a minimum size of three (3) inch caliper at planting are required per two hundred (200) square feet of buffer area.

2. Two Understory trees a minimum of two-inch caliper are required per five hundred (500) square feet of buffer area, one of which is to be an evergreen species that is not a pine tree.

3. Trees shall be distributed along the entire length and width of the planted buffer. Due to unique characteristics of a site, or design objectives, alternative plant mixes and spacing may be approved by the Village Planner.

(b) Shrub Standards: Shrubs, a minimum of twenty-four (24) inches in height, of a variety that can be expected to reach four (4) to five (5) feet in height and three (3) feet in width within three (3) years of planting, shall be provided. Shrubs shall not be planted closer than six (6) feet to newly planted trees, nor within the drip line of existing hardwood trees. Shrubs shall be distributed along the entire length and width of the planted buffer, preferably in naturalistic groupings so as not to create a hedge like condition. Shrubs shall be provided at one per seventy-five (75) square feet of buffer area.

9.5.12.3 Landscape Screens

(A) The purpose of a screen is to use plants and/or other landscape or architectural elements to obscure views from all corridors or adjacent properties.

Structures such as loading docks, mini-warehouses, service courts, dumpster areas, mechanical equipment, and outside storage of material stocks or equipment, either for sale or not for sale on the premises, such as, but not limited to, motor vehicles, equipment, or construction equipment shall be screened from unobstructed off-site views. Uses requiring screening as noted in this Ordinance shall be screened according to the requirements of this Section. This screening requirement does not pertain to outdoor display of merchandise located within the Historic Preservation Overlay District that complies with the regulations and design guidelines of that district.

(1) Landscape Screen Standards: Features and uses specified above and/or others requiring screens shall provide a visual obstruction from all corridor and adjacent properties in conformance with the following standards: The screen may be composed of view-obscuring vegetation, wall, fence, or berm. The items may be used individually or in combination. The minimum result shall be a semi-opaque seventy-five percent (75%) screen that obscures views from the ground to a height of the object being screened. Evergreen screening plants shall be at least five (5) feet tall at the time of installation and reach the desired height within three (3) years of planting. Additionally, screen areas shall be sufficient size to allow for the mature growth of plant materials when used.

9.5.12.4 Parking Area Landscaping

(A) Purpose: In order to reduce reflected sunlight and headlight glare from parked vehicles, as well as to maintain a separation between vehicles and other uses and to reduce the effects on the environment of vehicle parking facilities, the following standards apply;

(B) Required Perimeter Landscape Plants:

(1) Large trees (unless subject to overhead power lines): Longleaf pines shall be planted at the rate of one three (3) inch caliper tree per twenty (20) linear feet of property line abutting a street and/or adjoining property, less driveways and sight distance triangles. Trees must be a minimum of five (5) feet and a maximum of twenty (20) feet from the parking lot edge to meet this requirement.

Credit given for existing, healthy, protected trees, regardless of species, shall be according to 9.5.12.7 of this Section;

(2) Evergreen shrubs at the rate of one (1) 24-inch height minimum shrub per three (3) linear feet of parking lot edge abutting streets and adjoining property, less driveways, of a species expected to reach a minimum height of 36 inches and a minimum spread of thirty (30) inches within three (3) years of planting. This rate may be varied based upon size of installed plant materials. Shrubs must be a minimum of five (5) feet and a maximum of ten (10) feet from the parking lot edge to meet this requirement.

Shrubs shall be planted such that no less than seventy-five percent (75%) of the length of the parking lot edge, to a height of thirty-six (36) inches, is obscured from view after three (3) years of growth. Shrubs planted within sight distance triangles shall be of a type with a maximum mature height of eighteen (18) inches.

Additionally, shrubs shall not be planted within six (6) feet of the trunk of a tree;

(3) A brick or stone wall, or fence, at least thirty-six (36) inches tall and of a material compatible with the building, may be substituted for the requirements of shrubs.

(4) Berms may be installed within the highway (front) or interior (side or rear) yards with a minimum two (2) foot height, two (2) foot minimum crown width, and side slopes of not steeper than two horizontal to one vertical. Berms shall be planted with live vegetation, and may be used with smaller plants to meet the required screening area, provided that the combination of the berm and the shrubs obscures no less than seventy-five percent (75%) of the length of the parking area, to a minimum height of thirty-six (36) inches after three (3) years of growth;

(5) Areas used for vehicle sales and/or service, parking, and business transactions such as areas adjacent to gasoline pumps (even if under a canopy) and areas for drive-up service, shall be considered parking areas and shall comply with the requirements of this Section.

(C) Landscaping Within Parking Areas:

(1) Location: Parking areas shall provide and maintain landscaped areas based upon the parking area. Areas under canopies, loading and service areas, and portions of drives with no parking on either side for a distance longer than twenty-five (25) feet and/or used exclusively as access to loading or service areas, are exempt from this requirement. The landscaping within parking areas shall be provided in addition to planted buffer requirements of this Ordinance.

Areas used for landscaping shall be provided in the amount equivalent to at least ten (10) percent of the parking area, and shall be used for planting either trees and/or shrubs according to the requirements below. Tree planting areas shall be located such that no parking space is farther than seventy-five (75) feet from a tree trunk;

(2) Required Landscape Plants: Trees shall be used at the following rates, either in combinations of small and large trees, or with large trees only, to add up to the required landscape area:

(a) One three (3) inch caliper, large hardwood or pine tree per two hundred fifty (250) square feet of required landscaped area. Each large tree shall be located within a minimum growing area of two hundred fifty (250) square feet un-encroached upon by shrubs or impervious pavement, with a minimum dimension of ten (10) feet;

(b) One understory tree less than three (3) inch caliper at the rate of one eight (8) foot tall tree per one hundred twenty-five (125) square feet of required landscaped area. Understory and evergreen trees shall be located within a minimum growing area of one hundred twenty-five (125) square feet, with a minimum dimension of seven and one half (7½) feet, un-encroached upon by shrubs or impervious pavement. Understory trees may be used to fulfill up to one third (1/3) of the required trees.

(3) Islands and Medians:

(a) Minimum curb radii of five (5) feet are required on the corners of all tree islands and medians to allow for free movement of motor vehicles around planting materials. (See the Village of Pinehurst Engineering Standards and Specifications Manual). All islands shall have raised curbing around them meeting the Village of Pinehurst Engineering Standards and Specifications Manual to further protect plants from being run over by motor vehicles. Medians without curbing shall include devices to stop vehicles from driving into the planted areas;

(b) No more than one tree may be provided per island, unless there is at least the minimum growing area per tree as required above. Large trees shall not normally be planted less than eighteen (18) feet apart, and small trees/large shrubs shall not normally be planted less than twelve (12) feet apart.

(4) Existing Trees:

(a) Credit given for existing, healthy, protected trees shall be according to 9.5.12.7 of this Section. Trees used to meet other requirements of this Ordinance may not be used to meet the requirements of this Section.

(5) Sight Distances: Trees and shrubs shall be either pruned or located to facilitate safe sight distances within parking lots.

(D) Parking Area Landscaped Yards: Any new or expanded off-street parking areas shall provide landscaped areas meeting the requirements below:

(1) New or expanded parking areas shall provide a landscaped area, adjacent to and outside of the street right-of-way, and/or adjacent residential property line edge, less driveways, of a minimum of ten (10) feet in width and adjacent non-residential property line edge, less driveways, of a minimum of five (5) feet. Proposed locations of plants and parking spaces shall be arranged to protect plants from vehicles;

(2) Planted buffers and/or screens provided adjacent to right-of-way, as required under Sections 9.5.12.2 and/or 9.5.12.3 of this Section, and located between parking lots and streets and/or adjoining residential property may be considered in fulfilling these requirements.

(E) Street Trees Required

(1) For all non single-family developments one three (3) inch caliper, large hardwood or pine tree per forty (40) lineal feet of street frontage minus driveways shall be planted in the road right of way. These street trees shall be approved by the Village Engineer as being acceptable street trees. These trees shall be planted outside of site triangles and not conflict with any utilities. Alternate type and size trees may be approved by the village engineer based on existing site conditions and constraints.

9.5.12.5 Maintenance Responsibility

Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the maintenance of all required plant material and continued compliance with this Section.

9.5.12.6 Request for Extension of Compliance

(A) A letter of request for extension of compliance with landscaping requirements may be filed with the Village Planner that states the reasons why the request is being made. If the Village Planner finds that there are unfavorable conditions for planting, an extension of compliance with landscaping requirements may be allowed for a period not longer than ninety (90) days. The letter shall also acknowledge that the property owner is aware of all landscaping and screening requirements, and will comply with those requirements within ninety (90) days, or discontinue use of the property;

(B) If an extension is allowed by the Village Planner, the applicant shall provide to the village a financial guarantee as set forth in Section 9.17.1.26 sufficient to cover one hundred twenty-five percent (125%) of the installed landscaping costs;

(C) If the initial letter of request for extension of compliance with landscaping requirements has expired and conditions are still deemed unsuitable for planting, the applicant may request one (1) additional extension of up to ninety (90) days. Failure to comply with the provisions of this Section within the time noted in the letter of request for the extension of compliance with landscaping requirements shall be deemed a violation of this Ordinance. In addition, failure to perform in accordance with this Section shall result in default and the forfeiture of the financial guarantee as set forth in Section 9.17.1.26.

9.5.12.7 Existing Vegetation Credits

(A) Existing healthy trees and shrubs shall be retained when possible and may be credited toward landscape requirements. Vegetation to be saved shall be identified on submitted plans. Protection measures shall be installed to maintain tree health and such protective measures shall be shown on the submitted plan.

(B) Credit given for existing, healthy, protected trees shall be on a tree-for-tree basis, for planted buffer areas, and on the basis of fulfilling the requirements for parking areas. Existing trees will not be allowed to be counted towards landscape screen requirements. Trees so credited must be at least three (3) inch caliper.

9.5.12.8 Specimen Trees

(A) Specimen trees include all of the following:

A specimen tree is any healthy living tree that:

- (1) Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- (2) A trunk DBH of twelve (12) inches or more in the case of the following species:
 - (a) Ilex species (holly);
 - (b) Magnolia species;
 - (c) Lingleaf Pine species;
- (3) Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- (4) Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- (5) Has been cited by the Village Council as being historically significant.

9.5.12.9 Preservation and Removal on Private Property

(A) Specimen Trees on Private Land:

(1) Specimen trees shall be shown on all preliminary commercial and residential site plans submittals and located by survey on final site or Landscape Protection Plans. The Village Planner may visit the site to determine the accuracy of identification. The location and identification of specimen trees shall be required if such trees are within one hundred (100) feet of areas of a development site where soil disturbance or construction activity is proposed;

(2) Proposed development shall be designed to maximize the preservation of specimen trees. Where specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces and location of utilities shall be pursued in order to save them;

(3) Notwithstanding any provision of this Ordinance to the contrary, saving of a specimen tree shall constitute evidence that the requirements for a case have been met for a variance application;

(4) No soil disturbance from construction, trenching or grading, or paving, or storage of equipment or materials shall take place within the critical root zone of any specimen tree to be preserved unless during the review of the site and/or Landscape Protection Plan it is determined there is no reasonable way the property can be developed without such disturbance.

(B) Voluntary Protection of Specimen Trees on Existing Residential Lots:

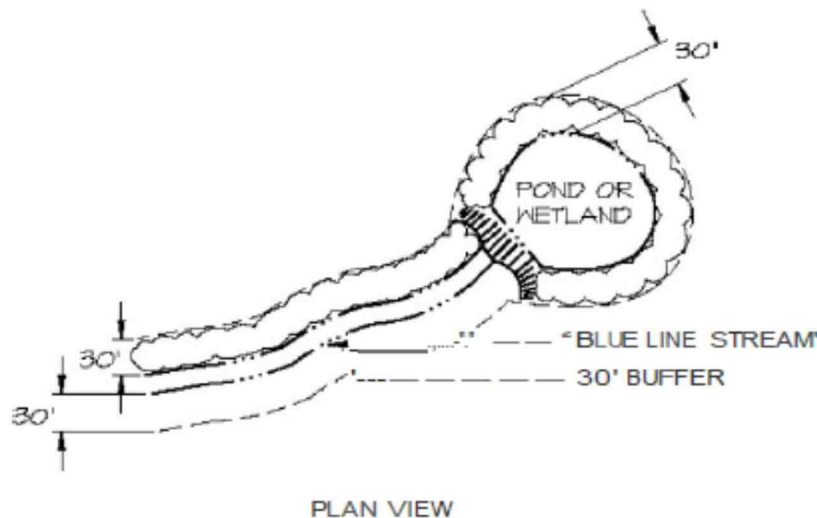
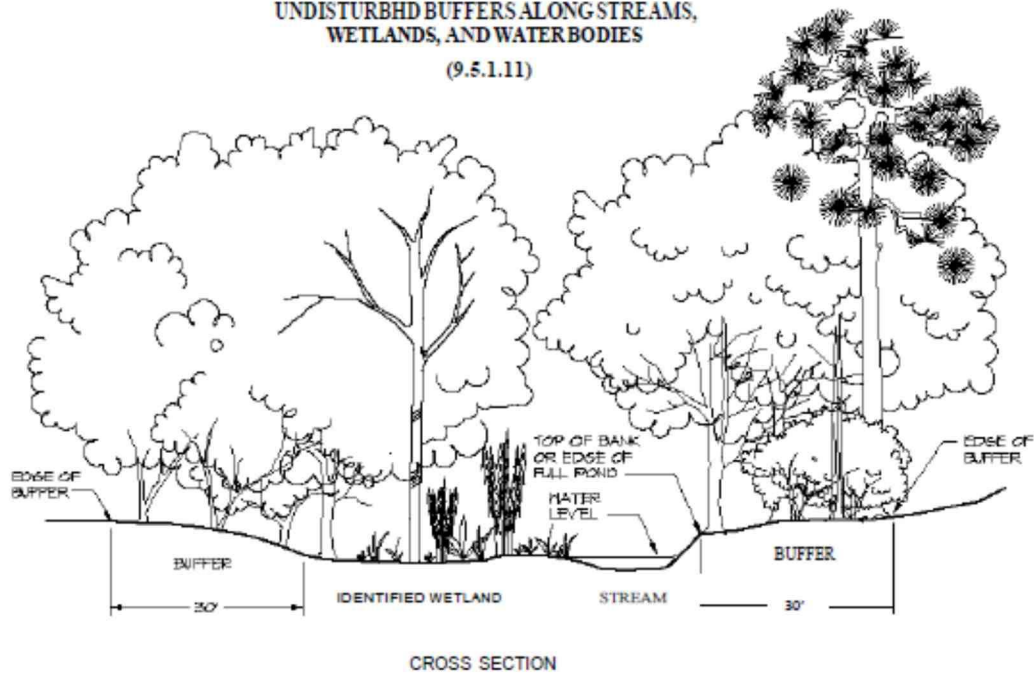
(1) Specimen trees which are located on individual lots with single homes shall be protected if voluntarily registered by the property owner;

(2) Registration of such trees shall render the owner of the lot the following privileges: If a permitted accessory structure or addition to a house is being planned, notwithstanding any provision of the Ordinance to the contrary, saving of a specimen tree may constitute evidence that requirements for a case have been met for a variance application.

9.5.12.10 Undisturbed Buffers along Streams, Wetlands, and Water Bodies

(A) Notwithstanding any other provisions of this Ordinance regarding buffers, landscaping or setbacks, all development, other than development of existing single family lots shall maintain a thirty (30) foot undisturbed buffer measured from the top of the bank along all streams that are shown as "blue lines" on the most recent versions of U.S. Geologic Survey 1:24,000 scale topographical maps; along the edge of identified wetlands as established by the North Carolina Department of Environmental Resources as defined by N.C.G.S. §143.212(6); and along the edge of the full pond of any water body that is fed by or connected to a "blue-line" stream, other setbacks such as wetland and watershed (Section 8.3.3) may also apply;

**UNDISTURBED BUFFERS ALONG STREAMS,
WETLANDS, AND WATERBODIES
(9.5.1.11)**



(B) The Village Council may permit as a special exception water dependent structures, pedestrian facilities and other similar structures where the Council finds that only minimal disturbance will result. In permitting such facilities, the Council may attach such reasonable conditions as the Council deems appropriate.

Section 3. Amend Chapter 10 of the Pinehurst Development Ordinance to replace the definition of "development" and alphabetically insert the following additional definitions.

Clearing and Grading: any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, paving, excavation, or drilling operations, or storage of equipment. Unless the context clearly indicates otherwise, the term means any of the following:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in N.C.G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

Protected Trees: Any tree with a diameter breast height of eight inches or greater.

Redevelopment: For the purpose of Section 9.5, redevelopment is the physical change to a parcel of land that results in construction of an additional building, building replacement or an expansion in the size of an existing building by 50% or more.

Specimen tree is any healthy living tree that:

- a. Has a trunk diameter at breast height (DBH) of twenty-four (24) inches or more;
- b. A trunk DBH of twelve (12) inches or more in the case of the following species:
 - i. Ilex species (holly);
 - ii. Magnolia species;
 - iii. Longleaf Pine species;
- c. Is listed as a State or National Champion by the North Carolina Forest Service or the American Forestry Association;
- d. Provides unique habitat for any endangered or threatened wildlife species protected by Federal law; or
- e. Has been cited by the Village Council as being historically significant.

Tree Preservation Yards: for the purposes of Sections 9.5 and 9.14.6, tree preservation yards are defined as follows. Yard lengths are based on the most interior length of the setback line.

- a. Front: the front yard is equal to the depth of the front yard setback of the zoning district extended to the side property lines.
- b. Rear: the rear yard is equal to the depth of the rear yard setback of the zoning district extended to the side property lines.
- c. Side: the side yard is equal to the width of the side yard setback from where it intersects both the front and the rear yard.

Section 4. The Village of Pinehurst Development Ordinance Chapter 9, Section 9.14.6 *Tree Conservation and Newly Installed Trees and Plants* is amended as follows.

General Intent. The regulations of this Section are intended to preserve trees along the outer perimeter of development sites such that buffer yards are retained/created to buffer uses from adjacent properties and to reduce visual effects and the impacts of traffic, noise, dust, and

odor. Where buffer yards do not exist or have been previously cleared, the planting requirements of this section apply.

(A) All development, including clearing and grading activities, shall consider conservation of existing specimen and protected trees. Where such trees exist, flexible approaches such as adjustment to placement of buildings and paved surfaces and location of utilities may be permitted by the Village Planner to preserve them. The conservation of existing trees that do not conflict with the placement of buildings, drives, walks, patios, or other site amenities is encouraged. Qualifying trees shall be healthy trees three (3) inches in diameter four and one-half (4 ½) feet above the ground or larger. A minimum of four (4) qualifying trees for a single family dwelling zoning districts R-5, R-8, R-10 sites; eight (8) qualifying trees for R-15, R-20 R-30 sites and sixteen (16) trees for R-210 sites shall be saved and protected during construction. If the site does not have enough qualifying trees to meet this standard then one (1) three inch (3") caliper tree shall be installed for each tree the site does not contain. A tree survey shall be submitted with an application for development approval that identifies all protected, heritage and specimen trees in accordance with Section 9.5. Part 1.

(B) Tree Retention/Planting Requirements.

(1) The number of trees to be retained/planted is per the requirements of Table 9.14.6 below that establishes the minimum number of trees per yard within an individual lot. If a yard does not contain enough qualifying trees per Table 9.14.6, then the required number of trees shall be installed per the requirements of 9.14.6. (C). Tree preservation credits may be provided per Section 9.14.6 (B) (2).

Table 9.14.6

<u>Setback Location</u>	<u>Quantity</u>	<u>Spacing for Planted Trees</u>
<u>Front Yard*</u>	<u>1 Protected/Specimen Tree Per 15 Linear Feet of Street Frontage**</u>	<u>7.5' on center</u>
<u>Side Yard**</u>	<u>1 Protected/Specimen Tree Per 35 Linear Feet</u>	<u>17.5' on center</u>
<u>Rear Yard</u>	<u>1 Protected/Specimen Tree Per 25 Linear Feet</u>	<u>12.5' on center</u>

*For the purpose of this section, the front yard is any street facing yard. If a lot is a corner lot, then more than one front yard will apply.

**If a lot is a flag lot or an irregularly shaped lot, the linear feet of street frontage is based on the widest street facing dimension of the front yard.

(2) Tree Preservation Credits.

Tree preservation credits shall be in accordance with 9.5.1.4. (C) and (D).

(3) Driveway Credit.

Driveway credit shall be in accordance with Section 9.5.1.4. (B).

(C) Tree Placement and Planting.

(1) Planted trees shall be evenly spaced within required yards and may be staggered in alignment throughout the length of the required yard based on recommended spacing in Table 9.14.6.

(2) At least one-half of the planted trees shall be Longleaf Pines. The remaining trees shall be selected from Appendix F of the Pinehurst Development Ordinance. Tall trees shall be used in the front protected yard; however, short trees may be used under power line easements. Tall or short trees may be used in the side and rear yards. Substitutions may be made at the discretion of the Village Planner.

(3) Landscaping should be of sufficient size so that mature appearance will be achieved within five (5) years of installation of trees.

Planted Tree Minimum Size

<u>Tree type</u>	<u>Minimum Planting Height</u>	<u>Minimum Caliper</u>
<u>Evergreen trees</u>	<u>6 feet</u>	<u>2 inch</u>
<u>Tall trees from Appendix F</u>	<u>8 feet</u>	<u>2 inch</u>
<u>Short trees from Appendix F</u>	<u>6 feet</u>	<u>1.25 inch</u>

(4) The Village Planner may authorize a minor modification to encourage the preservation of existing trees in lieu of planting subject to the following.

- a. To satisfy tree preservation credits described in 9.5.1.4. (C).
- b. To allow the preservation of trees within the building envelope if they are within a distance no greater than the required yard depth when insufficient trees are available for preservation.
- c. Small trees as identified in Appendix C may be used to avoid conflicts with overhead infrastructure.

(D) Protected Trees Removed in Violation. When trees of 8 inches DBH or greater have been removed in violation of this Ordinance, replacement trees shall be planted in the same general area according to a replacement schedule approved by the Village Planner in a ratio not to exceed 2:1 of two inches of caliper per inch removed. As an example, if six 8" trees are removed, 96 inches of caliper shall be planted. No tree planted shall be smaller than 3" caliper. The size of the tree removed shall be determined from the size of the remaining base or stump or an existing tree survey on file for the property. If the size of the tree cannot be determined but its removal can be documented by photographic evidence or the use of aerial photography, then the violator shall replant three 3" caliper trees for every tree removed.

(E) Unless otherwise stated, the owner of any property where landscaping is required shall be responsible for the continual maintenance of all required plant material and continued compliance with this Section. This requirement shall run with the property and shall be binding upon all future property owners.

—(B)(F) As part of the required single-family site plan the approximate location, size and type of trees to be used to meet this standard shall be shown.

—(C)(G) All trees used to meet the intent of this section shall be healthy and well protected during construction. See Appendix F for a listing of trees which are known to be adaptive and naturalized in the Sandhills of North Carolina. Any of these trees can be used in meeting the tree conservation standards of this section.

—(D)(H) HVAC units, pool equipment, well houses, and other structures on the property shall be screened with landscaping material or fencing so as to be seventy-five percent (75%) opaque.

—(E)(I) Foundation Plantings Required: Foundation plantings shall be provided for all principal and accessory buildings and structures, including storage sheds. The number of plants or plant groupings shall be provided based on the linear footage of foundation along the front and sides of the each structure minus doorways, and steps at a rate of one (1) shrub or plant grouping per six (6) linear foot of foundation. A minimum of fifty percent (50%) of the required plantings shall be five (5) gallon or larger at the time of planting, the remainder shall be a minimum of three (3) gallon in size. Said plantings are not required to be placed in a uniform, linear arrangement when installed and plant groupings or ground cover beds may be used to meet the intent of this section.

—(F)(J) The site shall be designed to minimize the removal of mature specimen trees, for example, Longleaf Pine, Dogwood, American Holly and Southern Magnolia.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY

**PLANNING AND ZONING BOARD STATEMENT OF REASONABLENESS
AND CONSISTENCY WITH THE 2019 COMPREHENSIVE PLAN
FEBRUARY 4, 2021 REGULAR MEETING**

**AMENDMENTS TO THE
PINEHURST DEVELOPMENT ORDINANCE FOR SECTIONS:**

9.5 Landscaping Requirements

9.14 Design Standards for Single Family Dwellings

(6) Tree Conservation and Newly Installed Trees and Plants

10.2 Definitions

The Village of Pinehurst Planning and Zoning Board finds that:

The 2019 Comprehensive Plan sets seven Guiding Principles which emerged to expand upon the vision of the Village, help achieve community goals and preserve and enhance the high quality of life. The Comprehensive Plan also set ten Strategic Opportunities as well as Implementation Strategies which are actionable recommendations to address the strategic opportunities.

One of the Strategic Opportunities on page 26 is to promote high quality development by updating and modernizing the Pinehurst Development Ordinance to ensure future development is of the desired character favored by Pinehurst residents.

On page 124 under Guiding Principle 3 “Places to Live” for Protect & Enhance Existing Neighborhoods; Improve Neighborhood Appearance, Implementation Strategy 3.1 states the Village should periodically evaluate standards for landscape design and planting and amend standards as necessary to meet the needs and desires of the Village.

On page 203 under Guiding Principle 7 “All things Green: Parks, Open Spaces & Natural Resources” for Protecting Pinehurst’s Natural Resources; Preserve Trees states the *urban forest is an important aesthetic, economic, and environmental asset to Pinehurst. It contributes positively to the character of the Village, the health of the environment, the quality of life of residents, and the experience of visitors.* Implementation Strategy 7.6 further suggests the Village to enhance *the Tree Preservation Program and standards for tree planting and preservation in the Pinehurst Development Ordinance.*

Therefore, the Village of Pinehurst Planning and Zoning Board finds that the proposed amendments to the Pinehurst Development Ordinance **IS** consistent with the 2019 Comprehensive Plan and therefore recommends **APPROVAL** of the amendments to Village Council. Achieving goals consistent with the Comprehensive Plan is deemed to be reasonable and in the best interest of the public.



HISTORY, CHARM, AND SOUTHERN HOSPITALITY_____

This is the _____ day of _____, 2021

Chair of the Planning and Zoning Board

Kelly Brown
Clerk to the Planning and Zoning Board

Cc: Darryn Burich
Alex Cameron
Kelly Brown



PLANNING AND INSPECTIONS DEPARTMENT STAFF REPORT

To: Planning and Zoning Board
From: Alex Cameron, Senior Planner
Kathy Liles, Senior Planner
CC: Darryn Burich, Planning & Inspections Director
Date: January 29, 2021
Subject: **Proposed Text Amendments for Sections:**
9.5 Landscaping Requirements,
9.14 Design Standards for Single Family Dwellings
(6) Tree Conservation and Newly Installed Trees and Plants
10.2 Definitions

Background and Approach:

The Village of Pinehurst is proposing amendments to the Pinehurst Development Ordinance (PDO) to address landscaping and planting requirements for development within the Village's zoning jurisdiction. These amendments would make changes to the landscaping requirements and standards for development as defined and outlined in the attached draft ordinance. Through vast public input and comment at public meetings as well as with the adoption of the 2019 Comprehensive Plan, the desire of the public and direction of the Comprehensive Plan is very specific. Trees represent an important part of the environmental, cultural, and historic fabric and identity of the Village of Pinehurst. The ongoing loss of the Village's mature tree canopy through urbanization, without adequate standards for replacement, has been an ongoing community concern reflected in the adopted 2019 Comprehensive Plan which states:

It is critically important to the character of Pinehurst that the Village maintain its tree-lined corridors and encourage the preservation of trees on both public and private property. Development standards and tree planting/re-planting programs should be evaluated to identify opportunities to further enhance tree preservation efforts in the Village.

The most concise direction of the Comprehensive Plan lies within Implementation Strategy 7.6 which states that the Village should *enhance the tree preservation program and standards for tree planting and preservation in the Pinehurst Development Ordinance*.

Over the course of nearly two years, staff and members of the Planning & Zoning Board have been discussing potential regulatory improvements to the PDO that would enhance the current regulatory standards through increased tree planting in designated areas and fall within the grant of power from enabling legislation. Staff has now developed and is recommending a series of amendments to the PDO that will increase the development standards.

The recently adopted North Carolina General Statute Chapter 160D for planning and development regulation sets forth the local zoning grant of power (160D-702). 160D -702 states that local jurisdictions may adopt zoning regulations with certain exceptions. One of those are “building design elements”. The statute continues to state that “building design elements” do NOT include “*the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors*”.

The draft ordinance language addresses these concerns and covers the grant of power from the enabling legislation by clearly stating the intent of the proposed regulations in the Purpose and Scope as described in Section 9.5.1. Section 9.5 of the PDO also now includes a new Part 1 to provide the scope for landscaping requirements or number of plantings that applies to all properties in the Village’s zoning jurisdiction. The existing language for landscape requirements for non-residential development remains unchanged but has been shifted to Part 2 of Section 9.5. Definitions have been added to Section 9.5 and Chapter 10 for clarity and are consistent with recently adopted North Carolina General Statutes Chapter 160D. Section 9.14.6 has been amended to revise landscape requirements for single-family residential development.

The general approach of the proposed standards is to create buffer areas or yards around the perimeter of development. In order to create the buffer yards, a required number of trees is to be located in each of those yards (front, side and rear) as shown in the table below. In lieu of planting the required number of trees in the respective yards, an applicant may receive credit for existing, healthy trees as defined in the proposed ordinance.

Location	Number of Required Trees
Front Yard*	1 Protected/Specimen Tree Per 15 Linear Feet of Street Frontage
Side Yard	1 Protected/Specimen Tree Per 35 Linear Feet
Rear Yard	1 Protected/Specimen Tree Per 25 Linear Feet

Protected trees are 8 inches and greater. If the property does not contain trees of protected tree size, then trees between 3 inches and 8 inches may be used. As a last resort, trees may be planted to meet the number of required plantings in the respective yards and must meet the requirements in the table below.

Tree type	Minimum Planting Height	Minimum Caliper
Evergreen trees	6 feet	2 inch
Tall trees from Appendix F	8 feet	2 inch
Short trees from Appendix F	6 feet	1.25 inch

One challenge that emerged in proposing new regulations was how to handle existing development that was approved under previous regulations and was proposed for redevelopment or simply a request to remove existing healthy trees on the property. Staff proposes to handle this within the “Existing Lots of Record” section of the proposed ordinance. If an existing lot of record is undergoing redevelopment of less than 50% of the building size, then the new requirements would not apply. If more than 50% of the property is proposed for development, the applicant may follow the standards that were originally approved.

Another issue was how to handle willful violations. The proposed ordinance addresses this by requiring that for every tree that is illegally removed, then 2 inches of caliper for every inch removed will be required to be replanted based on the stump size. If there is no stump, then aerial photography will be used, so that 3 three-inch trees will be planted for every tree removed.

Tree credits have been included to recognize the protection of large trees. Grouping may be used when preserving trees. Each lot will also be given credit for one 20-foot driveway. Staff is given limited flexibility to address minor administrative modifications on the placement of trees when tree credits apply, when small trees need to be used near powerline easements and if there are no existing trees within the required yards to preserve but there are trees in the nearby building footprint that could be.

The proposed draft is provided for further discussion. All proposed changes are included in the draft ordinance with deletions having a ~~striketrough~~ and additions being underlined.

Text Amendment Process and Planning and Zoning Board Action:

The Planning and Zoning Board shall consider each proposed amendment to the development ordinance and shall make a recommendation to Village Council on the proposed amendment. In considering an amendment, the Board shall conduct a legislative public hearing on the application. After conducting the public hearing and reviewing the application, the Board will formulate a recommendation to Village Council and shall also make a statement on whether the proposed amendment is consistent with the Comprehensive Plan.

If there are more questions or concerns that the Board feels are needed to be addressed, the Board can continue the public hearing to a specific date, place and time but a recommendation to Village Council should be made within 30 days of the first scheduled public hearing before the Board.

Comprehensive Plan Consistency:

The 2019 Comprehensive Plan sets seven Guiding Principles which emerged to expand upon the vision of the Village, help achieve community goals and preserve and enhance the high quality of life. The Comprehensive Plan also set ten Strategic Opportunities as well as Implementation Strategies which are actionable recommendations to address the strategic opportunities.

One of the Strategic Opportunities on page 26 is to promote high quality development by updating and modernizing the Pinehurst Development Ordinance to ensure future development is of the desired character favored by Pinehurst residents.

On page 124 under Guiding Principle 3 “Places to Live” for Protect & Enhance Existing Neighborhoods; Improve Neighborhood Appearance, Implementation Strategy 3.1 states the Village should periodically evaluate standards for landscape design and planting and amend standards as necessary to meet the needs and desires of the Village.

On page 203 under Guiding Principle 7 “All things Green: Parks, Open Spaces & Natural Resources” for Protecting Pinehurst’s Natural Resources; Preserve Trees states the *urban forest is an important aesthetic, economic, and environmental asset to Pinehurst. It contributes positively to the character of the Village, the health of the environment, the quality of life of residents, and the experience of visitors.* Implementation Strategy 7.6 further suggests the Village to enhance the *Tree Preservation Program and standards for tree planting and preservation in the Pinehurst Development Ordinance.*

Staff Recommendation:

Staff recommends that the Planning and Zoning Board recommend approval of the proposed amendments and adopt the statement of consistency with the Comprehensive Plan provided.