



**Note: This petition includes text amendments that modify both the Zoning and Subdivision Ordinances.**

<b>REQUEST</b>	Text amendment to modify the transitional setback regulations in the Zoning Ordinance and Subdivision Ordinance.
<b>SUMMARY OF PETITION</b>	<p>Part "A" (original text amendments) of this petition proposes to:</p> <ol style="list-style-type: none"> <li>1) provide the City Manager with the authority to reduce or eliminate the need for additional street right-of-way along thoroughfares, thus reducing or eliminating the transitional setback;</li> <li>2) transfer authority to hear and decide transitional yard or setback variance requests from the Zoning Board of Adjustment to the City Council;</li> <li>3) eliminate the transitional setback requirements where widening projects or other street improvements have been completed, unless specific conditions are met;</li> <li>4) eliminate the transitional setback for thoroughfares along which an improvement has been completed and another project has been funded, if acquisition of right-of-way in the transitional setback has not be completed within 18 months from the date a project is included in a Transportation Improvement Plan.</li> </ol> <p>Part "B" (staff recommended text amendments) of this petition proposes to:</p> <ol style="list-style-type: none"> <li>1) reduce the proposed minimum right-of-way for Independence Boulevard, and as a result the transitional yards and setbacks for properties that abut Independence Boulevard.</li> </ol>
<b>Petitioner Agent/Representative</b>	Bill Barnett, Faison Walter Fields
<b>Community Meeting</b>	Meeting is not required.

<b>ZONING COMMITTEE ACTION</b>	The Zoning Committee voted unanimously to recommend indefinite <b>DEFERENTIAL</b> of Part "A", and <b>APPROVAL</b> of "Part B" of this petition.
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<b>VOTE</b>	<table border="0"> <tr> <td>Motion/Second:</td> <td>Griffith/Locher</td> </tr> <tr> <td>Yeas:</td> <td>Howard, Griffith, Locher, Simmons, and Walker</td> </tr> <tr> <td>Nays:</td> <td>None</td> </tr> <tr> <td>Absent:</td> <td>Allen and Rosenburgh</td> </tr> <tr> <td>Recused:</td> <td>None</td> </tr> </table>	Motion/Second:	Griffith/Locher	Yeas:	Howard, Griffith, Locher, Simmons, and Walker	Nays:	None	Absent:	Allen and Rosenburgh	Recused:	None
Motion/Second:	Griffith/Locher										
Yeas:	Howard, Griffith, Locher, Simmons, and Walker										
Nays:	None										
Absent:	Allen and Rosenburgh										
Recused:	None										

**ZONING COMMITTEE DISCUSSION** The Zoning Committee had no questions of staff.

**STATEMENT OF CONSISTENCY** A consistency statement is not required for text amendments.

**STAFF OPINION** Staff agrees with the recommendation of the Zoning Committee.

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**FINAL STAFF ANALYSIS**

(Pre-Hearing Analysis online at [www.rezoning.org](http://www.rezoning.org))

**PLANNING STAFF REVIEW****Proposed Request Details**

Part "A" of the text amendments proposes the following modifications:

Provide the City Manager with the authority to reduce or eliminate the need for additional street right-of-way along thoroughfares, thus reducing or eliminating the transitional setback. Transfer authority to hear and decide variances to the transitional yard or setback requirements from the Zoning Board of Adjustment to City Council.

Propose that where widening projects or other street improvements have been completed, unless another project has been designed, funded for construction, and included in the City or State Transportation Improvement Plan, then the transitional setback requirements will no longer apply along that street.

Require the City or State Department of Transportation to acquire additional right-of-way within 18 months of the date that a project or improvements are included in the City or State Transportation Improvement Program. If the acquisition is not complete within 18 months, then the transitional setback will no longer apply

Part "B" of the text amendments proposes the following modifications:

Revise the proposed minimum right-of-way for Independence Boulevard and as a result the transitional yards and setbacks for properties that abut Independence Boulevard. The new proposed minimum transitional right-of-way would be reduced from 350 feet to 280 feet (140 feet on each side, measured from the centerline) for the portion of Independence Boulevard from W.T. Harris Boulevard southeast to the City limits, and to 250 feet (125 feet on each side, measured from the centerline) between Briar Creek and W.T. Harris Boulevard.

**Public Plans and Policies**

Part "A", the original text amendments, are inconsistent with adopted policies.

Part "B", the staff text amendments are consistent with preliminary recommendations in the draft *Independence Boulevard Area Plan* currently in progress.

**STAFF RECOMMENDATION (Updated)**

Staff agrees with the recommendation of the Zoning Committee.

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**PUBLIC INFRASTRUCTURE UPDATES** (see full department reports online)**CDOT:**

CDOT has no issues with Part "B", but recommends deferral of the petition (Part "A") for the following reasons:

The transitional setback applies to every property, except those zoned UMUD, MUDD, UR, PED, TOD, and TS, with frontage on a thoroughfare in the City of Charlotte and its sphere of influence.

The transitional setback enhances the city's ability to create high quality streets over time; The transitional setback ensures that homes and businesses remain in compliance with zoning requirements as street improvements occur; and

CDOT would like time to evaluate the effects that any proposed ordinance changes could have on the city's ability to implement the Urban Street Design Guidelines and the Transportation Action Plan.

**Charlotte Fire Department:** No comments received.

**CATS:** No issues.

**Connectivity:** No issues.

**Schools:** CMS does not comment on text amendments.

**ENVIRONMENTALLY SENSITIVE SITE DESIGN** (see full department reports online)

**Storm Water:** No issues.

**LUESA:** No issues.

**Site Design:** There is no site plan associated with this petition.

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**OUTSTANDING ISSUES**

Staff has the following concerns related to the Part "A" text amendments:

1. Staff does not support the proposal to provide the City Manager with the authority to reduce or eliminate the need for additional street right-of-way along thoroughfares, thus reducing or eliminating the transitional setback. The reduction or elimination of right-of-way, on a case by case basis, could result in irregular right-of-way widths.
2. Staff does not support the transfer of authority to hear and decide transitional yard or setback variance requests (a quasi-judicial process) from the Zoning Board of Adjustment to the City Council. City Council does not currently conduct its meetings in a quasi-judicial process. A quasi-judicial process requires sworn testimony, findings of fact, no ex-parte communication, and no time limits imposed on witness testimony.
3. Staff does not support the provision that eliminates the transitional setback along any street where widening projects or other street improvements have been completed, unless specific design and funding conditions are met. Under this provision, the only way a transitional setback can be protected is if the City and/or State have consecutive, back-to-back street improvement projects designed, funded, and included in a Transportation Improvement Plan.
4. Staff does not support the elimination of the transitional setback for thoroughfares along which an improvement has been completed and another project has been funded, if acquisition of right-of-way in the transitional setback has not be completed within 18 months from the date a project is included in a Transportation Improvement Plan. For complex projects, acquisition of needed right-of-way may not occur until after 18 months from the date the project is included in a Transportation Improvement Plan.

Staff has no issues with Part "B" modifications.

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**Attachments Online at [www.rezoning.org](http://www.rezoning.org)**

Application Form  
CATS Review  
CDOT Review  
LUESA Review  
Pre-Hearing Staff Analysis  
Storm Water Review

**Planner:** Sandra Montgomery (704) 336-5722