LURs Aaron Brown edits

Section 9.2 Exemptions

Section 9.2 of the Charlotte Land Use Regulations identifies fourteen types of development that are exempt from permitting requirements. In most cases, the exemptions are straightforward and easy to administer. In some cases, the regulations fail to consider practical everyday matters, cause confusion, or both.

(1) Subsection (A)(1): "Normal maintenance and repair…which does not result in any change to the footprint or height of a building"

This is straightforward about 90% of the time. The word maintenance is itself self-defined as "the act of maintaining." Maintain, however, is defined as "to keep in an existing state (as of repair, efficiency, or validity): preserve from failure or decline [emphasis added]." The latter clause in "maintain" as an action verb that prevents failure or decline potentially creates confusion. For example, if Smith purchases a two-story house and the main exterior entryway is located within the setback and does not have a roof protecting the entry from snowfall, does adding a small, above-head roof really need conditional use approval as a literal interpretation of the LURs might suggest? Installing a small ^-shaped roof above the entry way, whether attached directly to the house or on independent supports, would arguably prevent failure of the entry from snowfall and prevent snow damage to interior floors. These questions are not hypothetical; the problem pertains to a recent and real resident on Greenbush Road.

(2) Subsection (A)(3) – ADA-standard ramps
It might be helpful to spell out what complies because different ZAs could interpret this differently. At the very minimum, an ADA standard wheelchair access point (consider adding types of projects to "ramps" or using a broader term such as "path" or "access") should be three feet wide and, if a rise exists, have a 1:12 incline ratio, meaning that for every inch of rise, one needs twelve inches in length. Is the term "walkway" misused here? Wheelchair users typically do not walk. People who rely on other mobility devices may or may not walk. Also, the Fair Housing Act comes into play here. Morristown, for example, includes the following: ramps or other Reasonable Modifications under the Fair Housing Act.

(3) Subsection (A)(4): add "as approved by the Road Commissioner" as language because the road commissioner is always in practice consulted.

(4) Subsection (A)(8): this is the subsection that creates the most confusion, has the most potential loopholes, and is the most cited during discussions of exemptions.

Electrical Vehicle Charging Stations
Choose whether to exempt EV charging stations completely or not. It seems logical not to require permits for stand-alone charging stations at existing homes and businesses.

Solar Carports
I don't have a strong feeling one way or another about exempting solar carports, but I believe some communities have done that (with size restrictions) as a policy promoting renewable energy.

Fire Escapes
Consider adding fire escapes to the list of exempt projects. I'd advise adding language similar to ADA standard ramps. "Fire escapes and other necessary emergency preparedness structure may be built within setbacks if they do not obstruct public rights-of-way or pedestrian traffic." Apparently, Burlington no longer uses the term fire escape, opting instead to say "Secondary Means of Egress."

Please clarify the following:

-Up to two (2) detached accessory structures per lot provided that the combined area of both structures does not exceed 250 square feet in floor area, and neither structure is taller than twelve (12) feet. What about structures that existed prior to zoning? What about existing structures that received a permit when they were built? Do they count toward the two allowed by right? Do they count toward the two allowed by-right? Why do these structures need to be detached? Take for example the above scenario with an entryway roof.

(5) Subsection (A)(10): this section exempts temporary structures used during building projects as long as the structures are removed within two months of the new main building receiving a Certificate of Occupancy or Certification of Completion. We do not have a Certificate of Completion form per se. Our fee structure now has separate ways to addresses heated and unheated structures. Omit "Certificate of Completion."

(6) Subsection (A)(12) lists "Accepted management practices (AMPs) for silviculture…" The state uses the word "Acceptable," not "Accepted."

Other Possible Exemptions

- Signs are exempted if they meet standards found in Section 3.13. Perhaps the PC should add that citation to the list of exemptions, because that is often where readers (including staff) go to determine if a project is exempt from zoning.
- Unheated exterior entryways, including roofs and supporting materials, that do not exceed 250 square feet in floor area or twelve (12) feet in height, including the roof and its pitch.
- Dormers that do not increase net energy use and do not exceed 250 square feet of new additional floor space and do not exceed twelve (12) feet in height as measured from floor to ceiling.
- Emergency public services, including medical transport locations, fire ponds serving three or more residences, one-way telecommunications antennae used for public dispatch, and temporary emergency relief shelters.
- Wastewater and potable water supply systems that comply with 10 V.S.A. 220.
- A non-net-metered solar energy device installed on and projecting not more than 10 feet above a sloped roof, or a non-net-metered solar energy device of any height installed on a flat roof (any roof with a slope of not more than 5%)
- Driveway extensions associated with the permitted construction of accessory dwelling units and existing primary driveways.

Section 10 Definition:

Add Café, Deli, and Residential Care

Other:

Childcare Facilities

State and local policy both highlight the need for more childcare capacity. The Town Plan specifically states at Page 1-40, "*c. The Town will continue to monitor the availability of childcare services in association with the update of the town plan; and ensure that home-based childcare facilities are adequately accommodated under the land use regulations."*

Non-residential childcare facilities require conditional use approval in most cases. The PC might wish to consider making them permitted uses in all districts where single-family dwellings are permitted uses.

Public Facilities
"Places of worship" are listed as public facilities in Table 4.2. With the exception of private schools, all other uses are genuinely public or state-regulated entities such as power companies. **Is it appropriate to list private schools and places of worship among public facilities?**

Docks
Presently the regs allow for wood or metal, not composite, materials. In re: Goodwin 23-DRB-020-CU, there was considerable confusion about town jurisdiction over a structure that seemed to exist both below and above the 98' high water mark and which had decking that might be removed each season.

Shoreline Improvements
Clarify that shoreline improvements are permanent structures, not temporary.

An upcoming decision from environmental court should clarify if the Town Plan's prohibition on development within 150 feet of the mean high water mark legally prohibits all development in that area. In any event, the Town Plan language prohibiting such development is arguably overly broad and restrictive. For example, should the Town even be allowed to install a wheelchair ramp at the town beach?

Frontage Requirements
Dimensional standards exist for all districts, and one that has raised recent issues is road frontage. In the rural district, the required road frontage reads 300 feet per lot. This has led to scenarios in which otherwise large parcels that satisfy acreage requirement may be unable to be subdivided due to lack of road frontage. One way around this problem is the definition of road frontage, which includes rights of way.

One example involves a 60+/- acre parcel that the owner wishes to divide into two lots but, due to having only about 450 feet of road frontage, either has to drop plans or seek a waiver of dimensional standards, perhaps through Planned Residential Development review. That particular applicant proposed no new buildings and expressed interest in placing all undeveloped land into conservation. The proposed conserved land would connect to a large contiguous band of additional conserved land.

The applicant in this scenario would not have needed to meet frontage requirement if the proposal was for a major subdivision. In other words, the applicant risked a denial by seeking to divide one large lot into two, each with an existing building and no changes to the landscape. A proposal for twelve new single-family homes on lots under 5 acres would not have required the same road frontage.

The road frontage requirement is problematic for a few reasons: (1) it arguably has the opposite effect of the Town Plan's goal to cluster development; (2) it incentivizes major subdivisions over minors; (3)