

# ARTICLE 5. ZONING DISTRICTS



## 5.1. ESTABLISHMENT OF DISTRICTS

For the purpose of implementing the standards of this UDO, portions of the Town as specified on the Town's official zoning map are hereby divided into the following zoning districts:

	Category	Zoning District
Base Districts	Residential	Rural Agricultural (RA)
		Residential 2 (R2)
		Residential 4 (R4)
		Residential 8 (R8)
		Multifamily Residential 1 (MF-1)
		Multifamily Residential 2 (MF-2)
		Manufactured Home Park (RMH)
	Nonresidential and Mixed Use	Neighborhood Commercial (NC)
		Commercial Mixed Use (CMU)
		Traditional Business District (TBD)
		Activity Center (AC)
	Industrial	Light Industrial (I-1)
		Heavy Industrial (I-2)
Conditional Zoning District (formerly Planned Development or Conditional Use Zoning)	Conditional Zoning District (CZ)	
Overlays	Floating Overlay	Manufactured Home Floating Zone (-MH)
	Conservation Overlays	Conservation Buffer Area (CBA)
		Lake Benson Conservation District (LBC)
		Swift Creek Conservation District (SCC)
	Transportation Corridor Overlays	Residential Arterial Overlay (RAO)
		Commercial Highway Overlay (CHO)
Limited Access Highway Overlay (LAHO)		

**Commentary:**  
 In the general use single-family residential districts, the number represents the density of the district for single family detached dwellings. For instance, R4 is for neighborhoods with a gross density of 4 single-family detached dwelling units per acre, which is roughly equivalent to an average lot size of about 8,500 to 9,000 square feet. However, this equivalency does not necessarily hold true for multifamily structures or for the MF districts.

### 5.1.1. General Use Districts

Also known as base zoning districts, general use districts represent the traditional residential, commercial, and industrial range of districts established above. These districts set uniform standards for uses within them, and these uniform standards are the governing standards unless overlaid with more restrictive standards as in the case of an overlay district or other district-specific restrictions as in the case of a conditional district.

### 5.1.2. Conditional Zoning Districts

- A. The Town Council may establish by ordinance conditional zoning districts upon petition of the landowner.
- B. In accordance with G.S. §160D-703 and the standards outlined in Article 4, specific conditions approved by the Town Council and consented to by the petitioner in writing may be incorporated into the conditional zoning district regulations.
- C. In lieu of setting forth all of the regulations applicable to such district, the ordinance establishing it shall incorporate by reference all of the regulations applicable to a specified general use district or districts, except to the extent that the ordinance sets forth exceptions that are more stringent than those of the referenced general use district, as outlined in Article 6.

Commentary:  
E.g.- the ordinance may provide for greater (but not lesser) setbacks or landscaping buffering standards than those applicable to the referenced general use district and/or may specify that only one or some of the uses permissible in the referenced general use district are permissible.

### 5.1.3. Floating districts

Floating districts are set forth in the ordinance text but not on the initial official zoning map. A floating district may be employed when the local government recognizes that a particular type of activity is desired for a general area, but the specific site has not been located in advance. Property intended to be used for that activity may be rezoned upon application if the landowner can meet the regulations of this UDO.

### 5.1.4. Overlay districts

Overlay districts are established to define certain sub-areas within which development is subject to restrictions over and above those applicable to the underlying district. Within these overlay districts, any development must be in compliance not only with the regulations of the underlying district but also with the additional requirements of the overlay district. Overlay zones are not required to be mapped on the official zoning map if the description of such zones in this UDO is sufficient to define their extent and application to specific properties.

## **5.2. OFFICIAL ZONING MAP**

### **5.2.1. Establishment**

There shall be a map known as the official zoning map, which shall show the boundaries of all zoning districts within the Town's planning jurisdiction. This map shall be dated and drawn on a durable material or generated in a digital format from which prints or digital copies can be made. Both the current and prior zoning maps shall be maintained and made available for public inspection in the offices of the Town's Planning Department.

### **5.2.2. Adoption**

The official zoning map is adopted and incorporated herein by reference.

### **5.2.3. Damage**

Should the official zoning map be lost, destroyed, or damaged, it can be redrawn on a durable material or generated in a digital format from which prints can be made, so long as no district boundaries are changed in this process.

## **5.3. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

### **5.3.1. Interpretations**

- A. The BOA is authorized to interpret the official zoning map and to pass judgment upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a Written Interpretation decision of the Planning Director, they shall be handled as an Administrative Appeal according to the process outlined in Article 4.
- B. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:
  - 1. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines.
  - 2. Boundaries indicated as approximately following lot lines, city limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries.
  - 3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.
- C. Where a district boundary divides a lot, or where distances are not specifically indicated on the official zoning map, the boundary shall be determined by measurement, using the scale of the official zoning map.
- D. Where any street or alley is hereafter officially vacated or abandoned, the regulation applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

## **5.4. MEASUREMENTS AND EXCEPTIONS**

### **5.4.1. Density**

#### A. Defined

Density refers to the number of dwelling units per unit of land area.

#### B. Calculation

1. Density is calculated by dividing the number of dwelling units on a site by the gross area (in acres) of the site on which the dwelling units are located.
2. When calculating density of developed lots fronting on streets, half of the abutting right of way shall be used in calculations of gross density. This does not apply to railroad rights-of-way.

#### C. Considerations

1. The number of dwelling units allowed on a site is based on the presumption that all other applicable standards will be met.
2. The maximum density established for a district is not a guarantee that such densities may be obtained, nor shall the inability of a development to achieve the stated maximum density be considered sufficient justification for varying or otherwise adjusting other density, intensity, or dimensional standards.

### **5.4.2. Lot Area**

#### A. Defined

Lot area refers to the gross horizontal land area within lot lines.

#### B. Exceptions

Except for structure height requirements, utilities using land or located within an unoccupied building covering less than 1,000 square feet of site area shall be exempt from dimensional standards.

#### C. No conservation buffer or other officially designated buffer area shall be included within the area calculation of any lot.

### **5.4.3. Minimum Lot Widths**

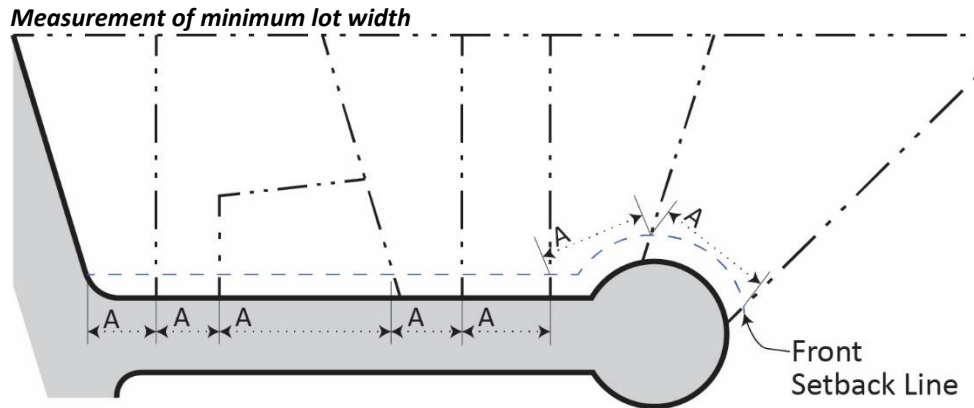
#### A. No lot may be created that is so narrow or so irregularly shaped that it would be impracticable to construct on it a building that:

1. Could be used for purposes permissible in that zoning district;  
or
2. Could satisfy setback and minimum lot width requirements for that district.

#### B. Measurement

1. Lot width is calculated as a straight-line measurement between opposite-side boundaries at the minimum required setback from the right-of-way or street. Where the setback curves into the lot, the measurement is at the midpoint of tangency of the curve.

Commentary:  
For instance, a cul-de-sac lot may not be 80 feet wide at the 35-foot front setback but may be 80 feet wide at a point that is 45 feet into the lot. Lot width would be measured at the 45-foot line, and this would become the front setback line as well.



*A = Minimum lot width measurement*  
*Dashed line = front setback line*

2. No lot created after October 1, 2003, having less than the recommended width shall be entitled to a variance from any building setback requirement.

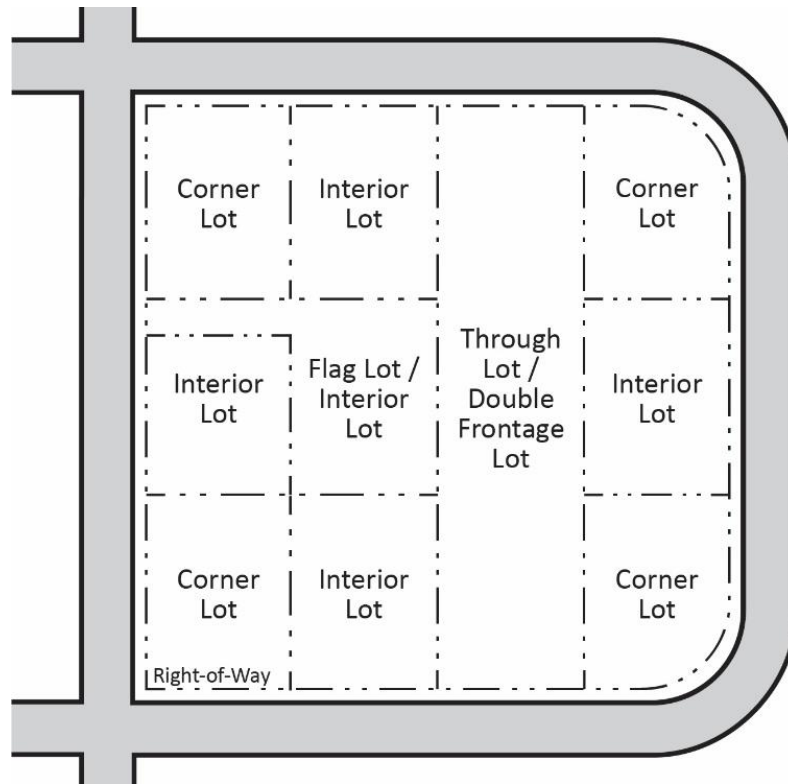
#### 5.4.4. Flag Lots

The Town discourages the creation of flag lots in subdivisions. A flag lot will only be permitted via variance if such design is necessary to allow the property owner reasonable use of his property when otherwise it would cause an extreme hardship for the owner to comply with the standards of the UDO.

##### A. Measurement of Setback

The front setback line will be measured from that lot line that runs parallel to the public or private street that provides the border between the flag lot and the lot that borders the street.

**Lot types**



- B. Flag lots are prohibited unless one of the following applies:
  - 1. It is necessary to eliminate access onto a major thoroughfare;
  - 2. It is necessary to reasonably use irregularly shaped property;
  - 3. It is necessary to reasonably use land with significant topography limitations;
  - 4. It is necessary to reasonably use land with limited sites for septic tank drain fields; or
  - 5. It is necessary to protect significant environmental resources.
- C. The minimum lot width for a flag lot is 20 feet at the street.
- D. Subdivisions approved and recorded after October 1, 2003, shall not be re-subdivided to create flag lots.
- E. No flag lot will be allowed if it increases the number of access points to a major or minor thoroughfare.

**5.4.5. Setbacks**

- A. Minimum setbacks refer to the required unobstructed and unoccupied open area (no enclosed usable structured space) between the furthestmost projection of a structure and the property line of the lot on which the structure is located, except as modified by the standards of this section.

B. Measurement

Actual setback distances are measured from the right-of-way line or property line (as applicable) to the nearest extension of any part of the building that is a substantial part of the building itself and not a mere appendage to it (such as a flagpole, awning, or antenna). For measurement of flag lot setbacks, see Section 5.4.4., Flag Lots.

C. Features Allowed within Required Minimum Setbacks

1. The following features may be wholly or partially located within required minimum setbacks:
  - a. Permitted rear yard accessory buildings.
  - b. Trees, shrubbery, or other landscape features.
  - c. Fences and walls.
  - d. Impervious surface associated with parking, pedestrian access, service areas, and driveways.
  - e. Utility lines, wires, and associated structures, such as a power pole.
2. The following features may be partially located within required minimum setbacks as noted:
  - a. Uncovered porches, uncovered steps to building entrances, uncovered patio decks, and uncovered balconies may extend up to five feet into any required front, rear or corner side setback for single-family detached and duplex uses.
  - b. Covered porches may extend 10 feet into the front setback for single-family detached and duplex uses. Covered porches may extend for a depth of up to 50 percent of the required side or corner side setback (i.e. if the required setback is 10 feet, a porch may extend up to five feet into the setback.)
  - c. Openwork fire balconies and fire escapes may extend up to five feet into any required setback.
  - d. Sills, belt courses, cornices, buttresses, bay windows, eaves, and other architectural features may extend up to two feet into any required setback.
  - e. Chimneys and flues may extend up to two feet into any required setback.



D. Reduction for Public Purpose

When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 50 percent of the required minimum setback for the district in which it is located, then that remaining setback will be deemed to satisfy the minimum setback standards of this UDO.

E. The Planning Director shall grant an allowance of not more than 10 percent from any setback specified in this article when:

1. a violation of any such requirements has been created through a good faith error of the property owner or a person acting on his behalf;
2. the error cannot be corrected without substantial hardship or expense (more than 25 percent of the cost of the improvement); and
3. that granting this relief would not substantially interfere with the convenient and enjoyable use of adjacent property or pose any substantial danger to the public health or safety.

Prior to any decision to grant relief under this section, the owners of the directly adjoining properties shall be given notice by certified mail that a request for this encroachment has been made to the Planning Department. The notice given shall give the adjoining property owners a minimum of 10 days from the date of postmark to provide any comments regarding the request to the Planning Department. The decision of the Planning Director or designee may be appealed to the BOA as provided in Article 4.

**5.4.6. Yards**

A. Yards collectively refer to the areas comprising a lot outside of the enclosed usable space of the primary building(s) or structure(s). Every point within the yard area falls exclusively within one specific yard designation, the front and rear yards being designated first, and side yards comprising the remainder.

B. Yard Exceptions in All Zoning Districts

The following exceptions shall apply in all zoning districts for projection of open structures into required yards. At no time shall an exception be granted if it results in interference with a required sight distance triangle or substantial danger to the public health or safety.

1. Uncovered porches, stairways, sundecks, and similar structures completely open except for necessary supports, may extend into or over not more than 30 percent of the

- required rear yard distance or more than 20 percent into a front yard.
2. Open stairways or wheelchair ramps may extend into the front yard setback as required to meet the building code.
  3. Projections of the above-described open structures in any required side yard will be permitted only by variance from the BOA. Such projections shall not extend more than 40 percent into the required side yard distance, including gutters, except in no case shall any projection be closer than five feet to the side property line.
  4. Decorative walls, planting areas, and uncovered paved areas, such as stoops, patios, drives not more than three and one-half feet above surrounding grade level, may project up to 20 percent into any required yard. If such areas are constructed at surrounding grade, they may extend into any yard spaces; except that at-grade swimming pool surroundings shall be no closer to any property line than five feet.
- C. In nonresidential and mixed use districts, gas pump islands (without pay booths) and all canopies not attached to buildings may be permitted to encroach into the front and corner side yards for a depth of up to 75 percent, so long as a minimum front setback of 25 feet or corner side setback of 18 feet remains between the right-of-way line and the closest canopy structure, support face, or pump island. Encroachments of greater than that may be permitted only by variance granted by the BOA. In addition to the findings required by Section 4.9.4.D.1., the Board must also be able to find that such projections will not interfere with adequate sight distance or negatively impact traffic circulation patterns.

#### **5.4.7. Minimum Building Separation**

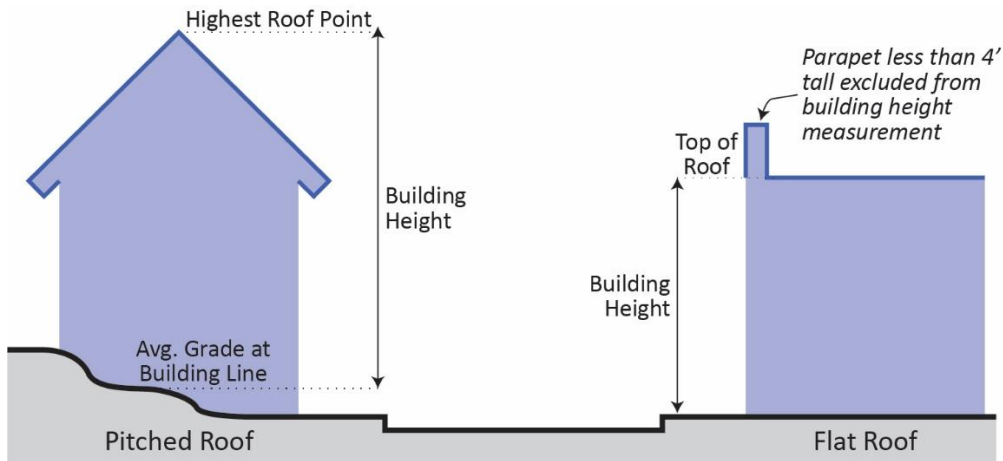
- A. Unless otherwise modified by this article, the minimum separation requirements for buildings with more than two dwelling units on the same lot shall be equivalent to twice the required minimum side (interior) setback defined by the respective zoning district.
- B. The minimum separation requirements for mixed-use and nonresidential buildings on the same lot shall be governed by the North Carolina State Building Code or other applicable code, whichever is more stringent.

### 5.4.8. Building Height Limitations

#### A. Measurement

1. The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building. This data shall be provided by the landowner, applicant or other authorized agent.

#### ***Building height measurement***



***Measuring from the front of the structure allows a consistent and intuitive building frontage along the street.***

- B. Roofs with slopes greater than 75 percent are regarded as walls.
- C. Exceptions to Height Limits

Unless otherwise expressly stated, the height limitations of this UDO shall not apply to any of the following:

1. Electrical power transmission lines;
2. Flagpoles, belfries, cupolas, spires, domes, monuments, chimneys, radio/television receiving antennas, or chimney flues; and
3. Bulkhead, elevator, water tank, or any other similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 percent of the area of the roof.

## **5.5. RESIDENTIAL DISTRICT PURPOSE STATEMENTS**

### **5.5.1. Rural Agricultural District (RA)**

The RA District primarily accommodates agriculture, silviculture, and rural residential (aka large-lot single-family residential) uses. Other uses typically found in rural areas, including utility structures and other compatible uses are also found in the district. Properties zoned RA are typically found in areas outside the Town's corporate limits where public water and sewer services are not readily available.

### **5.5.2. Residential Districts (R2, R4, R8)**

These districts are designed to create and maintain livable residential neighborhoods composed primarily of single-family residences and, in other select locations, such institutional, public, low-intensity nonresidential, house-scale multifamily, and other compatible uses that do not detract from the character of each district as a place for healthful, quiet, and aesthetically pleasing residential living. These districts generally provide a transition between areas of the RA District designation and the more intense multifamily and nonresidential or mixed use areas and are typically found within Garner's corporate limits.

#### **A. Residential 2 (R2)**

The R2 district is established to accommodate low-density single-family homes farther away from nonresidential areas. The district encourages high-quality development and open space protection and is found further away from nonresidential areas. These low-density suburban neighborhoods may or may not include public water and sewer services, although development on public services at this density is not generally considered an efficient use of these services.

#### **B. Residential 4 (R4)**

The R4 district accommodates suburban residential development at a moderate density. These neighborhoods primarily consist of detached single-family structures or duplexes and require public water and sewer service as well as infrastructure to support walking and outdoor recreation.

#### **C. Residential 8 (R8)**

The R8 district is a dense, residential district with urban character and potentially a mix of low-impact nonresidential and mixed-use structures at select locations. House-scale multifamily units are also appropriate and add to the diversity of the neighborhood. These neighborhoods are very walkable and often border or are within a short distance of commercial or mixed-use districts where shopping, retail, and services exist. The R8 district may also provide a transition from more commercially active districts to lower density single-family districts.

### **5.5.3. Multifamily Residential Districts (MF-1, MF-2)**

These districts are designed to create and maintain dense residential neighborhoods composed primarily of multifamily residences, and in select locations those service, institutional, commercial, public, and other compatible uses that are so designed, constructed, and maintained so that they do not detract from the quality of the neighborhood as a place for healthful, quiet, and aesthetically pleasing residential living. These districts may also provide a transition between the single-family residential districts and more active nonresidential or mixed-use areas. Higher density multifamily residential developments may also require easy access to high-capacity transportation facilities. The density found in these districts necessitates a high-quality, walkable neighborhood with pedestrian infrastructure and private or public outdoor recreation facilities, although in some instances commercial and mixed-use areas may provide adequate “third places”- the social surroundings separate from the two usual social environments of home ("first place") and the workplace ("second place") .

#### **A. Multifamily 1 (MF-1)**

The MF-1 district is intended to primarily accommodate neighborhood-scale multifamily dwellings, including duplexes, lower-unit count townhomes, and other housing-scale multifamily products. Multifamily dwellings in this district are low impact and can fit into existing single-family neighborhoods without excessive disruption of the character of the neighborhood. Some nonresidential or mixed-use structures and uses may also occur.

#### **B. Multifamily 2 (MF-2)**

The MF-2 district is intended to primarily accommodate more intense multifamily uses with larger structures that contain more units. Structures are more urban in character and are located closer to the street than in the MF-1 District with parking generally in the rear. These multifamily developments generally are clustered around active areas and allow people to live closer to places where they work and play. Some nonresidential or mixed-use structures and uses may also occur.

### **5.5.4. Manufactured Home Park (RMH)**

The RMH manufactured home park district is established to provide for the development of manufactured home parks in which any manufactured home may be located.

## **5.6. RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS**

### **5.6.1. Standards for All Residential Development**

A. Double frontage lots

Where residentially-zoned lots or lots with residential structures that are not mixed use have streets on both front and rear sides, they shall provide an additional setback to the street they do not access (i.e. – the rear of the lot). This additional setback shall be on top of any setbacks for the district and shall be a minimum of 20 feet for local or collector streets, 25 feet for arterials or thoroughfares, and 40 feet for limited access highways. Alleys or private streets that function as frontage roads must also meet this setback requirement, but the alley or private street is not qualified as a local or collector street.

B. Rear- and alley-loaded development is only permitted if at least 60 percent of the block length is also rear- or alley-loaded lots.

C. Sufficient space for formalized on-street parking, including landscaping islands and intersection bulb-outs where appropriate, is required whenever dwellings are alley-loaded.

D. When lots are narrower than 40 feet, or where there are shared lots and the average lot size is narrower than 40 feet, alley-loaded parking is required. This is intended to prevent driveways that are so close together that on-street parking is not feasible.

E. Except for mixed-use structures with upper story residential, all front-loaded single-family detached residential, duplex, townhome, and house-scale multifamily residential structures in the RA, R2, R4, R8, MF-1, or NC districts shall have no more than 40 percent of the front yard area covered by impervious surfaces.

F. Homeowners Association (HOA)

HOA declaration and by-law documents shall be submitted to the Town of Garner for review by the Town Attorney.

1. Such HOA documents shall have adequate provisions to ensure proper maintenance of all privately-owned areas such as, but not limited to: open space, recreation facilities and areas, parking lot areas, and private drives.

2. Applicants shall submit HOA documents which contain provisions addressing both proffered (as part of a conditional zoning district approval) and other exterior appearance and maintenance standards according to a set of architectural design criteria.

3. The HOA documents shall clearly state that the Town of Garner shall be held harmless from liability and responsibility

relative to the delivery of Town services on privately owned property.

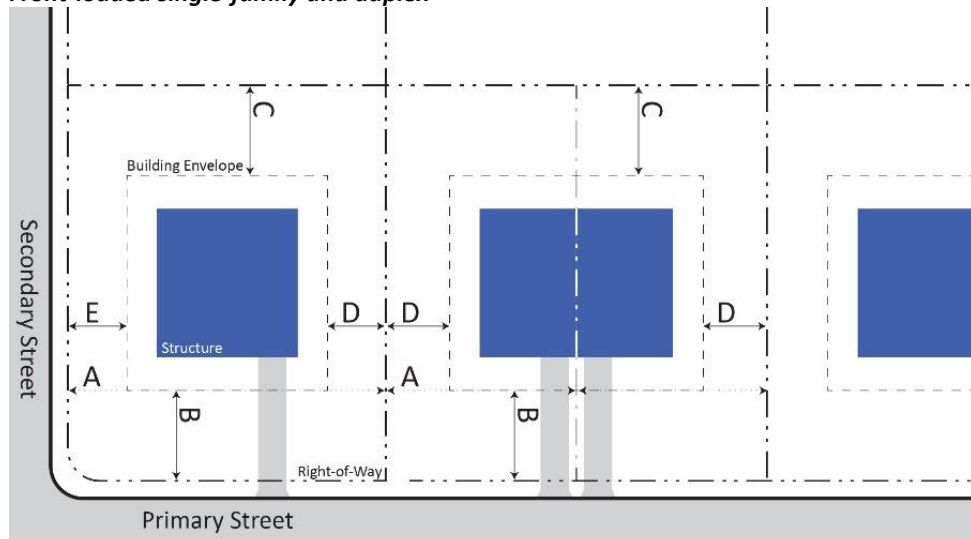
4. The HOA documents shall be recorded in the Wake County Registry prior to or concurrent with the recordation of the associated final subdivision plat.

**5.6.2. Standards for All Single-Family Detached and Duplex Residential Development**

- A. The footprint of the primary structure (i.e. impervious surfaces) may not exceed 70 percent of the building envelope.
- B. Where corner lots or structures on corner lots are side-loaded, garages shall provide a minimum of 25 feet of centerline driveway length from the right-of-way of the street they access.

**5.6.3. Single-Family Detached and Duplex Standards for Front-loaded Lots**

*Front-loaded single-family and duplex*



**A = Lot width**

**B = Front setback**

**C = Rear setback**

**D = Side (interior) setback**

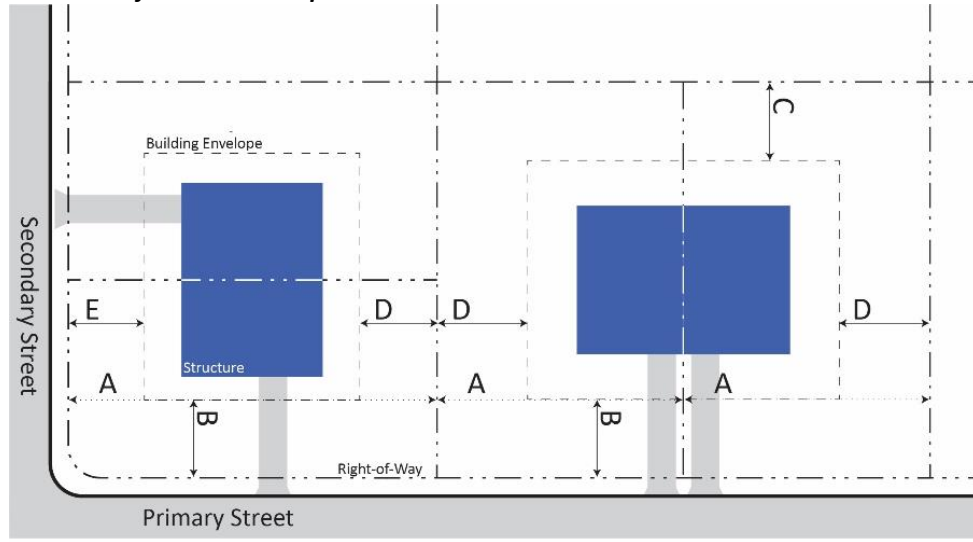
**E = Side (corner) setback**

**Dashed line = Potential building envelope, as defined by setbacks**

**Dash/dot/dot/dash line = Right-of-way**

**Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

**Corner and front-loaded duplexes**



**A = Lot width**

**B = Front setback**

**C = Rear setback**

**D = Side (interior) setback**

**E = Side (corner) setback**

**Dashed line = Potential building envelope, as defined by setbacks**

**Dash/dot/dot/dash line = Right-of-way**

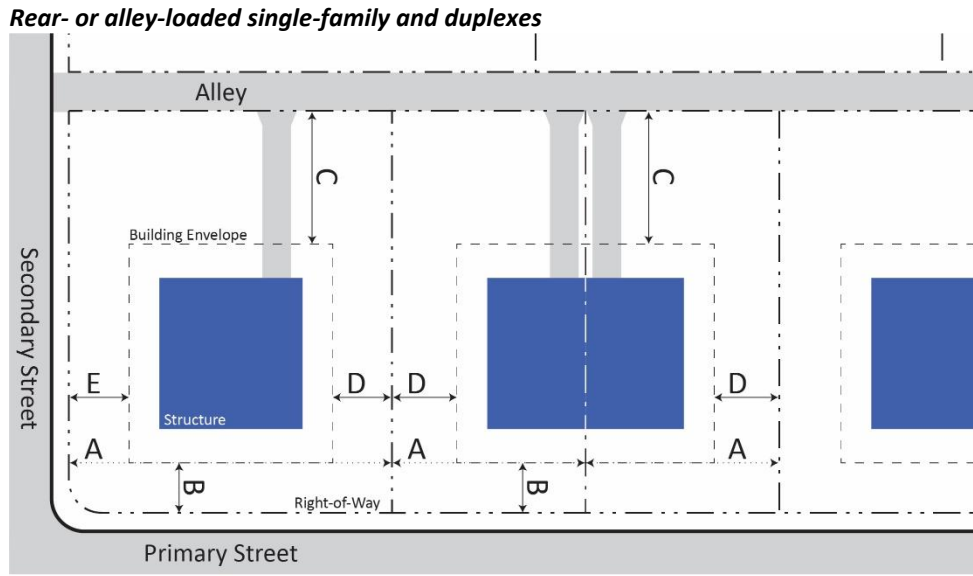
**Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. Impervious surface associated with parking, pedestrian access, service areas, and driveways for front-loaded single-family detached residences and duplexes may not occupy more than 40 percent of the front yard.
- B. Duplex Driveways
  1. If a shared driveway is used, it shall have a standard driveway width until it crosses the right-of-way line and then may flare out or diverge to access each individual dwelling unit.
  2. If a shared driveway is not used, the individual driveways shall be located close together. A planting strip may be located between the driveways provided that it is at least three feet wide but no more than six feet wide.
  3. Duplexes on corner lots are encouraged to have their driveways access separate streets.



<b>Dimensional Standards for Front-loaded Single-Family Detached and Duplexes</b>					
	<b>RA</b>	<b>R2</b>	<b>R4</b>	<b>R8</b>	<b>MF-1</b>
Minimum Lot Width; Single-family detached / Duplex (where applicable) (Feet)	100	80 / 100	60 / 80	45 / 65	45 / 60
Minimum Front Setback (Feet)	35	35	25	25	25
Minimum Rear Setback (Feet)	25	25	20	20	20
Minimum Side (Interior) Setback; Single-family / Duplex (Feet)	10	10 / 15	10 / 15	6 / 10	6 / 10
Minimum Side (Corner) Setback (Feet)	25	25	20	10	10
Maximum Height (Feet)	35	35	35	35	35
Maximum Gross Density (Dwelling Units per Acre)	1	2	4	8	20

### 5.6.4. Single-Family Detached and Duplex Standards for Rear- or Alley-loaded Lots



**A = Lot width**

**B = Front setback**

**C = Rear setback**

**D = Side (interior) setback**

**E = Side (corner) setback**

**Dashed line = Potential building envelope, as defined by setbacks**

**Dash/dot/dot/dash line = Right-of-way**

**Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

<b>Dimensional Standards for Rear- and Alley-loaded Single-Family Detached and Duplexes</b>			
	<b>R4</b>	<b>R8</b>	<b>MF-1</b>
Minimum Lot Width Single-family detached / Duplex (where applicable) (Feet)	60 / 80	45 / 65	35 / 50
Minimum Front Setback (Feet)	10	10	10
Minimum Rear Setback (Feet)	20	20	15
Minimum Side (Interior) Setback; Single-family / Duplex (Feet)	6 / 10	6 / 10	6 / 10
Minimum Side (Corner) Setback (Feet)	20	10	10
Maximum Height (Feet)	35	35	35
Maximum Gross Density (Dwelling Units per Acre)	4	8	20

### 5.6.5. Standards for All Townhome and Multifamily Development

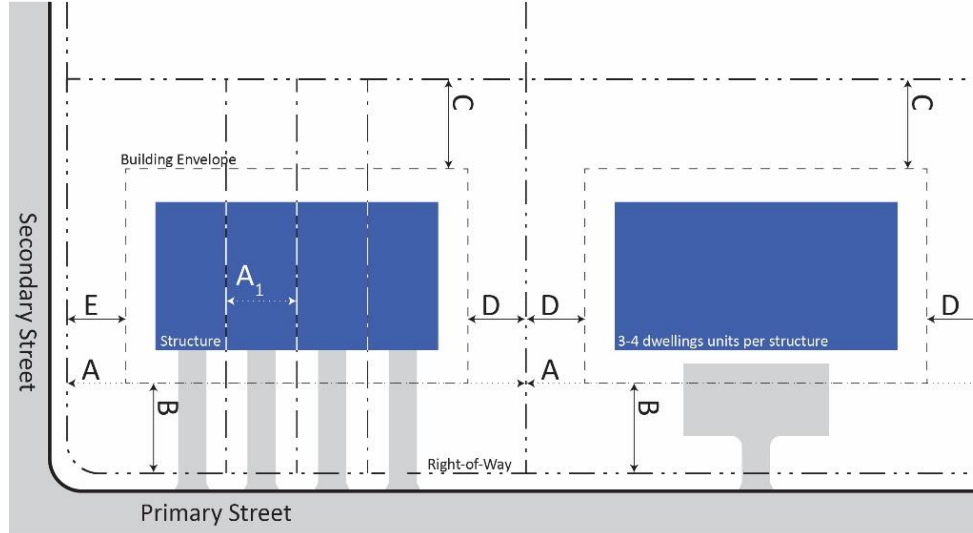
To the extent they do not conflict with G.S. § 160D-702(b), the following standards apply:

- A. Side yards are not required between connected dwelling units.
- B. Lots are required to front on a public street.
- C. Townhome Minimum Lot Size  
There is no minimum size for individual units; density is controlled by district regulations.
- D. House-Scaled Townhome and Multifamily Structures
  - 1. Defined  
The term “house-scaled” includes townhome and multifamily structures with three or four dwelling units up to a maximum 2,500 square foot footprint. These structures are specifically identified as compatible with and appropriate for integration into primarily single-family residential neighborhoods if the design criteria of this subsection are met. They are also appropriate as a transition to denser multifamily housing or commercial districts and may appear along the edges of predominantly single-family residential neighborhoods.

2. Design Criteria
  - a. In order to prevent a wind-tunnel effect, the minimum structure separation is regulated for all townhome structures and for multifamily structures with fewer than five dwelling units according to the standards set forth in the respective dimensional standards table. These standards apply whether the structures are on the same or separate lots.
  - b. Where end units have gabled, parapet, or non-hipped roofs, the side setback or structure separation is increased by five feet.
- E. Upper-Story Residential
  1. Mixed-use developments shall adhere to the setback and dimensional standards for nonresidential development in the respective district.
  2. Density is the same as for multifamily development with greater than four dwelling units per structure, in the respective district.
  3. Where upper-story residential exists in other districts, residential density shall not be expressly limited, although it will likely be restricted by other dimensional standards within the district.

**5.6.6. House-scaled Townhome and Multifamily Standards for Front-loaded Lots/Structures**

**Front-loaded house-scale townhome or multifamily**



**A = Lot width**

**A1 = Dwelling unit width**

**B = Front setback**

**C = Rear setback**

**D = Side (interior) setback**

**E = Side (corner) setback**

**Dashed line = Potential building envelope, as defined by setbacks**

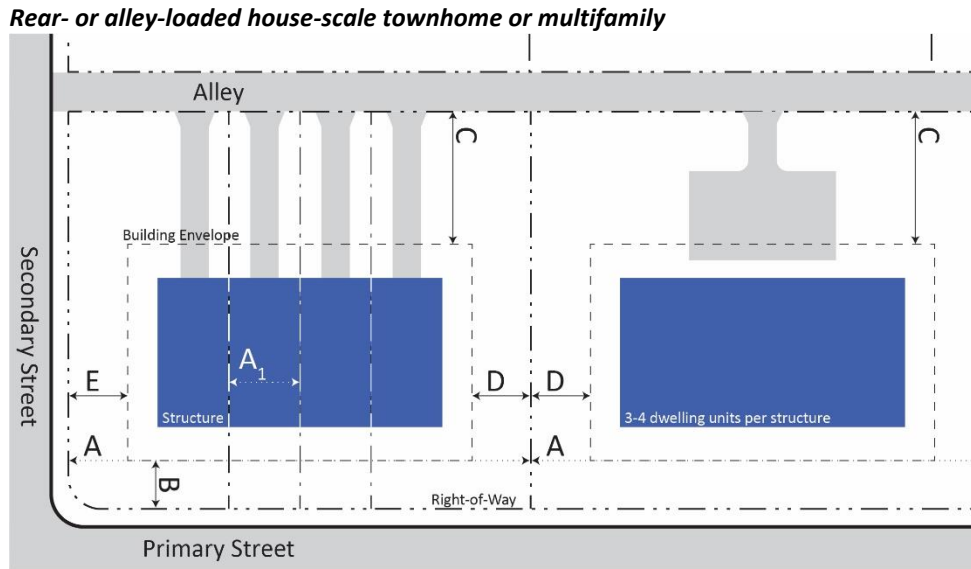
**Dash/dot/dot/dash line = Right-of-way**

**Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. Any parking areas in the front yard must be sufficiently deep enough that they do not encroach on the right-of-way or pedestrian ways. Garage doors shall be set back at least 25 feet from the sidewalk to allow for parking and passage of pedestrians between the parked vehicle and the structure.
- B. Impervious surface associated with parking, pedestrian access, service areas, and driveways for front-loaded house-scaled townhomes or multifamily structures may not occupy more than 70 percent of the front yard, measured as an average or aggregate for the entire structure.

<b>Dimensional Standards for Front-loaded House-scale Townhomes and Multifamily Residential Structures</b>			
	<b>R4</b>	<b>R8</b>	<b>MF-1, NC, CMU</b>
Minimum Lot Width for the whole structure; 3 units / 4 units (Feet)	110 / 120	110 / 120	110 / 120
Minimum width for each dwelling unit (Feet)	16	16	16
Minimum Front Setback (Feet)	25	25	25
Minimum Rear Setback (Feet)	20	20	20
Minimum Side (Interior) Setback (Feet)	15	15	15
Minimum Side (Corner) Setback (Feet)	20	15	15
Maximum Height (Feet)	35	35	35
Maximum Gross Density (Dwelling Units per Acre)	5	10	20
Note: Front-loaded House-scale Townhomes are not permitted in the MF-2 district			

**5.6.7. House-Scaled Townhome and Multifamily Standards for Side-, Rear-, or Alley-Accessed Lots/Structures**



- A = Lot width**
- A1 = Dwelling unit width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. Alley-loaded townhomes shall have parallel, on-street parking in the front. If the townhomes are fronting a central green or common courtyard with no vehicular accommodation areas (VAA), then an equivalent number of parking spaces shall be provided in an accessible, adjacent, off-site parking location.

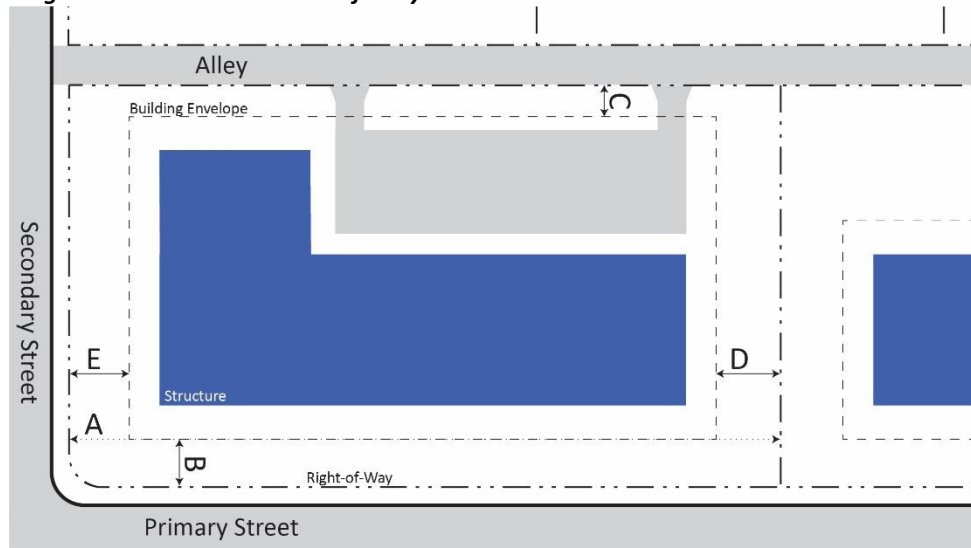
Dimensional Standards for Alley- or Rear-loaded House-scale Townhomes and Multifamily Residential Structures				
	R4	R8	MF-1, NC, CMU	MF-2
Minimum Lot Width for the whole structure; 3 units / 4 units (Feet)	110 / 120	90 / 100	75 / 95	55 / 70
Min. width for each dwelling unit (Feet)	16	16	16	16
Minimum Front Setback (Feet)	10	10	10	10
Minimum Rear Setback; from rear lot line and alley; primary structure / attached garage (Feet)	25 / 6	20 / 6	15 / 6	15 / 6
Minimum Side (Interior) Setback (Feet)	15	15	6	6
Minimum Side (Corner) Setback (Feet)	20	10	10	6
Maximum Height (Feet)	35	35	35	45
Maximum Gross Density (Dwelling Units per Acre)	5	10	20	50



**5.6.8. Townhome and Multifamily Standards for Lots/Structures with More than Four Dwelling Units per Structure or Others Not Described Elsewhere**

The following standards apply to townhome and multifamily developments of greater than four dwelling units per structure or with a footprint greater than 2,500 square feet, where permitted, or to other multifamily structures not regulated elsewhere in this article.

*Large-scale townhome or multifamily*



**A = Lot width**

**B = Front setback**

**C = Rear setback**

**D = Side (interior) setback**

**E = Side (corner) setback**

**Dashed line = Potential building envelope, as defined by setbacks**

**Dash/dot/dot/dash line = Right-of-way**

**Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. Wherever townhome and multifamily structures with more than four dwelling units per structure but single-family detached residential or duplex structures, the adjoining minimum setbacks shall be increased by 10 feet.

<b>Dimensional Standards for Townhomes and Multifamily Residential Structures Not Regulated Elsewhere</b>			
	<b>MF-1, NC</b>	<b>CMU</b>	<b>MF-2</b>
Minimum Lot Size, for the first five dwelling units (Square Feet)	24,000	24,000	24,000
Minimum Lot Width, per structure (Feet)	60	60	60
Minimum Front setback (Feet)	10	10	10
Minimum Rear Setback; from rear lot line / alley (Feet)	20 / 10	20 / 10	20 / 10
Minimum Side (Interior) Setback (Feet)	10	10	6
Minimum Side (Corner) Setback (Feet)	10	10	6
Maximum Height (Feet)	35	45	60
Maximum Gross Density (Dwelling Units per Acre)	20	30	50

**5.6.9. Nonresidential Development in Residential Districts**

- A. Nonresidential development in residential zoning districts shall use the dimensional standards for front-loaded single-family detached and duplexes (Section 5.6.3.) or for rear-loaded single-family detached and duplexes (Section 5.6.4.) as applicable.
- B. Any parking areas shall be screened to a height of four feet. Screening may be accomplished with a high evergreen hedge, a decorative masonry wall, opaque fencing, or a combination thereof.
- C. Service areas, loading areas, and mechanical areas shall be screened from abutting residential lots by a minimum six-foot tall opaque privacy fence.
- D. See Article 6 for specific use standards.

## **5.7. DEVELOPMENT STANDARDS FOR ALTERNATIVE SINGLE-FAMILY OPTIONS**

The following alternative single-family residential options are permitted subject to the associated standards.

### **5.7.1. Zero Lot Line**

#### **A. Description**

A zero lot line development is where houses in a development on a common street frontage are shifted to one side of their lot. This provides for greater usable side yard space on each lot. These developments require that planning for all of the house locations be done at the same time. Since the exact location of each house is predetermined, greater flexibility in site development standards are possible while assuring that a single-family residential character is maintained.

#### **B. Setbacks**

The side building setback may be reduced to zero on one side of the lot. This reduction does not apply to any corner side setback or to an interior side setback adjacent to lots that are not part of the zero lot line project. The reduced interior side setback may be located anywhere between the lot line and the minimum interior side setback required for the district. The remaining minimum side yard setback (interior or corner) shall be increased by one foot for every foot reduced on the zero lot line side.

#### **C. Deed Restrictions and Easements**

1. The minimum distance between buildings must be equal to twice the required interior side setback required by the underlying zoning district. A deed restriction must be recorded on the deed of each applicable lot to ensure continued compliance with this setback.
2. The eaves on the side of a house with a reduced setback may project a maximum of 18 inches over the adjacent property line. In this case, an easement for the eave projection must be recorded on the deed for the lot where the projection occurs.
3. An easement between the two property owners to allow for maintenance or repair of the house is required when the eaves or side wall of the house are within four feet of the adjacent property line. The easement on the adjacent property must provide at least five feet of unobstructed space between the furthestmost projection of the structure and the edge of the easement. The easement shall be recorded on the subdivision plat.

## **5.8. NONRESIDENTIAL AND MIXED-USE DISTRICT PURPOSE STATEMENTS**

### **5.8.1. Neighborhood Commercial (NC)**

This district is intended to accommodate low intensity commercial enterprises that provide goods or services primarily to residents of the surrounding neighborhood so that residents have convenient access without necessitating cross-town trips. The uses permitted are of a nature and scale that are compatible with nearby residences. The district provides areas for uses that include offices, professional services, and small-scale retail at key locations and may act as a transition from residential neighborhoods to the more intense Commercial Mixed Use district.

### **5.8.2. Commercial Mixed Use (CMU)**

This district is designed to accommodate general commercial, retail, and service activities that serve the whole community. Offices and very light industrial uses may also be appropriate depending on the context. This district serves a wide range of users and may draw customers from outside of the town. It must have good automobile access and access to transit is preferred. Pedestrian connectivity is also important.

### **5.8.3. Traditional Business District (TBD)**

This district is intended to provide a character-rich, concentrated, traditional downtown-style district with active storefronts, retail, and services. Residential dwellings and non-active uses (like professional offices) are encouraged in upper stories, so people can live in the district where they work or play. Residential dwellings and non-active uses are also allowed in either vertical mixed-use structures or on the edge of the district, where they provide a transition to a lower intensity use. Ground floor uses should be active and should not include residential, except as a lobby. This district is very urban and walkable, with structures pulled close to the street. On-street parking and outdoor seating or sales are also common.

### **5.8.4. Activity Center (AC)**

The Activity Center district is designed to encourage dense, walkable, mixed-use development of the type that would support future public transportation operations or allow for intensification or redevelopment of existing nonresidential uses, including commercial, retail, service, and employment uses. Vertical mixing of uses is encouraged, with emphasis on active ground floor uses. This extremely dense and intense district will create a focal point around which other relatively intense districts emanate. High-rise towers and block-scale redevelopment projects are expected.

## 5.9. NONRESIDENTIAL AND MIXED-USE DISTRICT STANDARDS

### 5.9.1. Nonresidential Development Standards

- A. The following table illustrates the dimensional standards that apply in the Town's commercial, mixed use, and industrial districts.

Standard	NC	TBD	CMU	AC	I-1	I-2
Lot width, Minimum (Feet)	45	None	60	30	100	100
Minimum Front Setback (Feet)	25	3	15	3	50	50
Minimum Rear Setback (Feet)	20	15	25	6	50	50
Minimum Alley Setback (Feet)	6	6	6	6	6	6
Minimum Side (Interior) Setback (Feet)	10	0	10	6	25	25
Minimum Side (Corner) Setback (Feet)	15	3	15	3	35	35
Maximum Height	35	55	45	No limit	50	60
Density Maximum for Upper Story Residential (Dwelling units per acre)	20	30	30	No limit	n/a	n/a

- B. Buildings in industrial districts may exceed the designated maximum height limit, provided the depth of the required front, rear and side yards shall be increased one foot for each foot, or fraction thereof, of building height exceeding the standard.
- C. Structures in the CMU district may exceed the designated height limit via a special use permit, provided the depth of the required front, rear and side yards shall be increased by a minimum of 1/2 foot for each foot, or fraction thereof, of building height exceeding the standard, or that the structure may be designed with a stepped profile to achieve the same outcome.

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## **5.10. INDUSTRIAL DISTRICT PURPOSE STATEMENTS**

The following districts are established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment. These districts serve the entire community (and beyond) as employment centers. Achieving compatibility between these uses and less intense uses, especially residential uses, often requires separation via other districts and uses, or extensive landscaping, screening, and buffering.

### **5.10.1. Light Industrial District (I-1)**

The Light Industrial District is intended to provide for a limited range of low-intensity industrial uses that are not noxious or offensive due to odors, smoke, dust, noise, fumes, or vibration. Operations are restricted to inside a building with outdoor storage prohibited.

### **5.10.2. Heavy Industrial District (I-2)**

The Heavy Industrial District is intended to provide for industrial uses that are, by their very nature, generally more noxious or offensive due to odors, smoke, dust, noise, fumes, or vibration. Operations may be inside or outside of a building.

## **5.11. CONDITIONAL ZONING DISTRICT PURPOSE STATEMENT**

Conditional zoning districts (CZs) are essentially an expedited route to enact a combined rezoning and ordinance text amendment to this UDO for a specific property or group of properties which by their uniqueness or by the uniqueness of the proposed development plan do not easily fit into the existing zoning districts. The options and specifications for conditional zoning districts are specified in Article 4, and each new CZ is essentially a new appendix to this UDO. Development in CZs is made compatible with surrounding uses and zoning districts through the designation of additional use restrictions or heightened, more stringent dimensional and design standards.

## 5.12. FLOATING DISTRICT PURPOSE STATEMENTS

### 5.12.1. Manufactured Home Floating Zone (-MH)

#### A. District established

The manufactured home floating zone is hereby established to provide for the designation of areas within select residential zones other than RMH within which manufactured homes may be located. When the regulations and standards of this section are met, the suffix -MH is attached to a base residential zone on the Town's official zoning map. Without an -MH designation, a manufactured home cannot be placed in any residential zone except RMH. Such -MH designated districts may not consist of an individual lot or scattered lots but shall consist of a defined area of not less than two acres and must conform to the requirements for conventional residential subdivisions as set forth in Section 5.6., as well as those contained herein.

#### B. Purpose and Intent

This section is established to provide alternative, affordable housing opportunities for Garner and its planning jurisdiction by permitting the use of manufactured homes in selected single-family residential zoning districts, subject to the requirements set forth herein.

#### C. Development standards

The development standards applicable to manufactured homes are located in Article 6.

#### D. Additional requirements

Structures within a district suffixed as a manufactured home district (-MH), must conform to the applicable dimensional, parking, and setback requirements of this article, and specifically those applicable to their underlying base zoning district. Developed subdivisions containing other than manufactured homes when rezoned with the -MH suffix may infill with either Class A manufactured, stick built, or modular homes.



## 5.13. CONSERVATION OVERLAYS

### 5.13.1. Conservation Buffer Areas (CBA)

#### A. Purpose and Intent

CBA's are designated for the following purposes:

1. Soil and pollutants carried overland, primarily from roads, construction and development, can be effectively trapped by leaving a relatively undisturbed strip of vegetation parallel and adjacent to the watercourse;
2. Properly managed overland water flow can be directed into this buffer area in a manner that will reduce velocity and cause dispersion of the water;
3. Sediments and associated pollutants carried by the water will settle out as a result of this slowing and dispersion process; and
4. These are highly desirable effects of stream and watershed protection in that non-point pollution, erosion and sedimentation, and the resulting property damage and devaluation, are so reduced.

#### B. Areas Designated

1. The CBA's located within the Town of Garner are not expressly mapped on the official zoning map. These provisions do not create a new zoning district; rather, they overlay whatever zoning is in place.
2. This section shall apply to property within 100 feet of any FEMA-designated 100-year floodplains, and if a future extraterritorial expansion includes any designated 100-year floodplain, such floodplain shall automatically be included.

#### 3. Exception

The CBA requirements for nonresidential development shall not apply for property located adjacent to the White Oak Creek 100-year floodplain; however, where residential development adjoins the White Oak Creek 100-year floodplain, a CBA shall still be required according to the provisions of this section.

#### C. Limitations on Development in Conservation Buffer Areas

1. Except for single-family detached residential on existing lots platted prior to March 1984, development is prohibited in both the floodplain and the CBA.
2. Development within and adjacent to the CBA's shall be subject to the following buffer width criteria:

- a. Along the lakefront or streams within 5,000 feet of the Lake Benson shoreline, the buffer area shall include the 100-year floodplain plus an area whose width is proportional to its distance from Lake Benson, beyond the edge of the floodplain and parallel to the stream, as follows:

Distance from Lake Benson	Buffer
Lakefront and within 1,000 feet of lakefront	100 feet
1,000 to 2,000 feet from lake	90 feet
2,001 to 3,000 feet from lake	80 feet
3,001 to 4,000 feet from lake	70 feet
4,001 to 5,000 feet from lake	60 feet

- b. Along streams beyond 5,000 feet from the lakefront, the buffer area shall include the 100-year floodplain plus a 50-foot-wide area beyond the edge of the floodplain and parallel to the stream.
3. Application of CBAs shall not diminish other riparian buffer requirements.
4. Buffers from which the vegetation cover has been removed shall be provided with ground cover.
5. Crossings by streets, bridges, utilities, or other facilities shall be kept at a minimum and their negative impact minimized.
6. Residential accessory buildings, on lots of record prior to March 1984, may encroach into designated conservation buffers provided that:
- a. Such buildings shall not exceed 25 percent of the area of the principal building served;
  - b. Such accessory building shall not be located in any designated floodway;
  - c. Placement of an accessory building in a flood fringe area shall meet all applicable construction requirements; and
  - d. The area of the lot covered by impervious surfaces, including the accessory building, shall not exceed 25 percent.
7. Buffers shall be protected by easements and shall remain, where possible, in private ownership.
- C. Land Disturbance Limits in Conservation Buffer Areas
1. No land-disturbing activities (including agricultural uses) are permitted within CBAs, except for the following uses:

- a. Street and associated facilities.
  - b. Greenways and pedestrian paths.
  - c. Utility mains, pump stations, and drainage facilities which comply with Town of Garner standards.
2. Community service facilities, educational facilities, government facilities, parks and open space uses, or public or private water dependent structures (functionally dependent facilities) may encroach into CBAs provided that:
- a. The area of encroachment does not exceed 10 percent of the total buffer area on the project site and a minimum of 40 feet of the buffer width remains undisturbed;
  - b. The area of encroachment is the minimum amount necessary in order to reasonably use the property;
  - c. No direct discharge of stormwater into the buffer from rooftops is allowed;
  - d. No VAAs are allowed within the buffer;
  - e. The elevation of all finished floors of all structures located within the buffer shall be a minimum of two feet above the base flood elevation; and
  - f. No encroachment into the floodplain or floodway shall be allowed except for water dependent structures and then only in accordance with the requirements and restrictions contained within Article 11.
3. Throughout the Lake Benson Conservation Overlay District (Section 5.13.2.) and CBAs, strict compliance with the Wake County Erosion and Sedimentation Control Ordinance is required. No construction is allowed in classes of soils which have severe erosion potential, or are classified as being otherwise unsuitable for urban uses, under the Urban Suitability Soil Groups in the Planning Guide to the Wake County Soil Survey (1970), unless the developer can provide either of the following:
- a. An independent (sealed) engineering study which documents that the soils to be developed are not in the stated erosion categories, or
  - b. Erosion prevention control measures that satisfy the Wake County Erosion and Sedimentation Control Ordinance.

### 5.13.2. Lake Benson Conservation District (LBC)

#### A. Purpose and Intent

The Council finds that Lake Benson, as a water supply for the Raleigh water service area, which includes Garner, is sensitive to and more quickly impacted by pollutants set into the system by development or other pollution sources. Protection of the lake from non-point pollution sources is the intent of the provisions of this section.

#### B. Lake Benson Conservation Overlay District Boundary

That portion of the watershed which was made subject to watershed protection regulations known as the LBC overlay district effective March 1, 1984, as shown on maps previously adopted and reflecting approximately that area within 2,000 feet of the northern shoreline of Lake Benson, shall constitute the LBC overlay district for purposes of this UDO. This boundary of this district aligns with the WSW Critical Area surrounding Lake Benson, as defined by the current NCDENR Division of Water Resources map.

#### C. Exemptions

All lots platted prior to March 1, 1984, are exempt from the requirements of this LBC overlay.

#### D. Limitations on Use

##### 1. Permitted uses

Within the LBC overlay, only the following uses are permitted:

- a. Agriculture.
- b. Residential (meaning only the following uses as listed in Article 6, Table of Permitted Uses):
  - i. Single-family residences; other than manufactured home parks or manufactured home subdivisions.
  - ii. Duplex and triplex.
  - iii. Multifamily residences.
  - iv. Townhouses and townhouse developments.
- c. Churches.
- d. Cemeteries.
- e. Public parks including ancillary concessions.
- f. Community centers.
- g. Indoor and outdoor recreation.
- h. Home occupations.

- i. Zero-lot-line developments.
    - j. Necessary municipally owned and operated utilities.
    - k. Individual residential wastewater holding tanks (sump pumps) and conventional septic tanks, subject to the other provisions.
  2. Density  
Within the LBC overlay, density shall not exceed:
    - a. 2.5 residential units per acre where the development is served by municipal water and sewer.
    - b. 0.5 units per acre where there is no municipal water and sewer.
- E. Master Plan Required  
A master plan detailing the distribution of units and improvements across the total development, shall be presented as part of application for land use permits. Where possible, developers shall use innovative site planning techniques to keep units away from the lakefront, streams, and other sensitive areas. Such techniques include but are not limited to cluster development patterns, mixtures of zoning categories, strategic location of densities so that larger and less densely developed lots are closer to the lakefront and creative use of greenways and open space.
- F. Performance Standards
  1. Within the LBC overlay, the impervious surface may not exceed six percent of land area per lot, except where runoff as described above is retained by retention ponds or other approved devices constructed pursuant to best management practices in which case it may not exceed a maximum of 35 percent.
  2. Within areas of the LBC overlay not constituting CBAs, site disturbance on existing lots of record as of March 1, 1984, except for agricultural use, including the cutting of trees, shall be permitted only pursuant to a removal plan approved by the Planning Director and the cutting of trees shall not exceed five times the actual impervious surface area planned for each site.
- G. Impervious Surface Limits
  1. Within the LBC overlay, in order to reduce stormwater pollution through natural infiltration on undisturbed vegetated land, the impervious surface area may not exceed six percent regardless of lot size or density, except where the

stormwater runoff from a one-inch rainfall event is retained by retention ponds or other approved devices.

2. Impervious surface area within the LBC overlay may be a maximum of 35 percent under the high-density development option where the stormwater runoff from a one-inch rainfall event is retained by retention ponds or other approved devices.
3. Stormwater retention may be accomplished by paying a fee-in-lieu of pond construction if the proposed development is within the Regional Retention Pond Service District and meets the requirements of Section 11.3.2.
4. The calculation of the impervious surface ratio contained in subdivisions or other developments required to apply for major subdivision approval, special use permits, or conditional zoning districts shall include impervious areas from all newly proposed collector and sub-collector streets, parking lots and tennis courts as well as buildings, driveways, patios, decks and other impervious surfaces.
5. The calculation of impervious surface ratios shall not include roads that were publicly maintained prior to March 1, 1984.
6. The calculation of impervious surface ratios may be based on the land area of the lots and any common areas, rights-of-way and easements dedicated pursuant to the development of the tract.
7. Where the project is developed in phases, with separately recorded survey plats, the area to which the calculation is applied shall consist of that area within the recorded plat. Such phases shall be based upon natural or proposed drainage where practicable. The designation of a phase shall have as its objective the principle of not overloading one drainage way with run-off from high impervious surface ratios while underutilizing the capacity of other drainage ways. Approval of the Town Engineer is required for designation of each phase used in this calculation to ensure that the loading of drainage ways is balanced.
8. Front yards. Impervious surface shall occupy no more than 40 percent of the required front yard.

#### H. Standards for Stormwater Drainage System

Standard 90-degree curb and gutter construction is not allowed in the LBC overlay. Streets with properly maintained grass swales or roll type curb and gutter construction may be allowed in the LBC overlay as an option by the Town Council if it concludes that regardless of street design used, surface run-off is diverted to

permanent retention ponds constructed in accordance with the requirements of this UDO and the proposed design protects the water quality of Lake Benson.

### **5.13.3. Lower Swift Creek Conservation District (LSCC)**

#### **A. Purpose and intent**

The purpose of these regulations is to protect and preserve the water quality of the Lower Swift Creek Watershed below Lake Benson while allowing the orderly development of land in this environmentally sensitive area. It has been determined by federal and state agencies that this watershed area provides significant wildlife, aquatic, or plant life habitats that possess characteristics unique to the Town of Garner. It is the intent of these regulations to protect the water quality in this watershed by requiring limits on the amount of impervious surface areas permissible for new residential and non-residential development.

#### **B. Location**

The portion of the Lower Swift Creek Watershed that is subject to these protection standards is located below Lake Benson in the Town of Garner's zoning jurisdiction generally bounded by Garner Road, N.C. 50, New Rand Road, White Oak Road, and the southern Garner ETJ boundary. The exact boundaries are shown on the Official Town of Garner Zoning Map which constitute the official boundaries of the Lower Swift Creek Conservation District where these provisions shall apply for purposes of this UDO.

#### **C. Use Regulations**

The uses permitted or prohibited in the LSCC overlay shall be those uses permitted or prohibited in the underlying zoning district that apply to a particular parcel of land.

#### **D. Exemptions**

1. All parcels of land that fall within the boundaries of the LSCC overlay which are identified on the Town of Garner Official Zoning Map as being exempt properties, shall not be subject to provisions of this overlay district.
2. Existing Development, Redevelopment and Expansions
  - a. Existing development (residential or non-residential) is not subject to the requirements of this section. Existing development shall be considered to be any existing impervious surfaces, or for which plan or permit approval has been officially granted; or where a vested right has been established, as of May 31, 2005.
  - b. Redevelopment or expansion of any existing non-residential development shall be subject to the

requirements of this section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this section.

E. Development Standards

The following standards shall apply for new residential and non-residential development in LSCC overlay:

1. The standards of both the LSCC overlay district and the underlying zoning district shall apply to each parcel. Where the standards of the overlay district and the underlying district differ, the more restrictive standards shall control development in new projects created after effective date of the LSCC overlay which is May 31, 2005.
2. The maximum impervious surface coverage of the new residential development projects and new non-residential development projects, which are defined as those projects approved or permitted after May 31, 2005, are as follows:
  - a. New single-family detached residential subdivision development projects shall be limited to a maximum of 30 percent total impervious surface area.
  - b. New multifamily residential development projects defined to include townhomes, condominiums, apartments, or other attached multifamily housing units shall be limited to a maximum of 50 percent total impervious surface area.
  - c. New non-residential development projects shall be limited to a maximum of 70 percent of total of impervious surface area.



## 5.14. TRANSPORTATION CORRIDOR OVERLAYS

### 5.14.1. Residential Arterial Overlay District (RAO)

#### A. Purpose and Intent

In the interest of the public health, safety, and welfare, the Town Council seeks to maximize vehicular and pedestrian mobility along the Timber Drive and Timber Drive East corridors. The Council establishes the Residential Arterial Overlay to:

1. Preserve the character of residential neighborhoods.
2. Locate quality commercial uses in areas recommended by the Comprehensive Plan.
3. Promote a pleasing physical environment where nature and development exist in harmony.

#### B. Location

The RAO shall apply to:

1. The entire length of Timber Drive from U.S. 70 to N.C. 50 for a depth of 250 feet from the right-of-way line on both sides including all of the property that has frontage on Timber Drive from N.C. 50 to U.S. 70. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all other buildings and parking areas.
2. The segment of Timber Drive East from N.C. 50 to White Oak Road including all of the property with frontage on Timber Drive East from N.C. 50 to White Oak Road as defined by the Official Zoning Map. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all other buildings and parking areas.

#### C. Use Regulations

Unless otherwise restricted below, all uses allowed by the underlying zoning district are permissible in the RAO, provided all requirements and permits as required by this UDO are satisfied.

##### 1. Restricted Uses

The following uses are permissible in the RAO provided they meet special standards listed below and as specified in Article 6. In the case of conflict, the more stringent requirement shall apply.

- a. Open storage and operations are restricted to only those activities associated with a garden center use operated in conjunction with a home improvement center or a large

retail store provided the location of outside storage is sufficiently screened from public street views with a minimum 25-foot wide Type D buffer (see Section 10.6.7.). The amount of outside storage areas is limited to 25 percent of the gross floor area of principal use served.

- b. Fast food restaurants with drive-in window operations are permitted only when such drive-in window service areas are not visible from street views.
- c. Convenience store or gas sales operations are permitted that meet the following design criteria:
  - i. Operations are exclusively between 5:00 a.m. and 11:00 p.m. when the site is adjacent to residential uses or separated by only a right-of-way;
  - ii. The principal building shall have a pitched roof with shingle roof material; and
  - iii. Gas sales operations, which may include a small kiosk or enclosed structure not exceeding 300 square feet in size that is not designed for walk-in traffic, may be allowed in the RAO, provided that the site does not front directly on Timber Drive or Timber Drive East and the building/canopy is located a minimum of 200 feet from Timber Drive or Timber Drive East.
- d. Automobile service centers are permitted that meet the following design criteria:
  - i. Automobile service centers are permissible on parcels located within the RAO that directly front along Timber Drive or Timber Drive East only;
  - ii. All service bay(s) associated with uses shall be oriented so as not to directly face Timber Drive or Timber Drive East or adjoining residential use; and
  - iii. A year-round, opaque, 100 percent screen to a minimum height of eight feet shall be required where the property directly adjoins a residential use.

## 2. Prohibited Uses

The following uses are prohibited in the RAO:

- a. Hotel and motels.
- b. Sales and rental of goods, merchandise and equipment with storage operations and display of goods outside fully enclosed building.

- c. Offices, clerical operations, research, and services not primarily related to goods or merchandise where operations are conducted outside a fully enclosed building.
- d. Manufacturing, processing, creating, repairing, renovation, painting, cleaning, assembling of goods, merchandise and equipment.
- e. Pool halls.
- f. Golf driving ranges (not accessory to golf courses), miniature golf courses, skateboard parks, water slides and similar uses.
- g. Drive-in movie theaters.
- h. Bars, nightclubs, ABC permitted private clubs.
- i. Adult cabarets and establishments.
- j. Motor vehicle sales or rental or sales and service.
- k. Auto service stations.
- l. Automobile repair shop.
- m. Car wash.
- n. Storage and parking.
- o. Scrap materials, salvage yards, junkyards, automobile graveyards.
- p. Service and enterprises related to animals with outside facilities for keeping animals.
- q. Mining or quarrying operations; including on-site sales of products; coal or aggregate sales and/or storage; concrete mixing plant.
- r. Reclamation landfill.
- s. Towers and antennas greater than 35 feet tall.
- t. Open air markets.
- u. Bus stations.
- v. Taxi base operations.
- w. Commercial greenhouse operations.
- x. Recyclable material collection centers.
- y. Flex spaces.
- z. Outdoor entertainment facilities.
- aa. Jail/detention facility.
- bb. Self-storage facilities.

cc. Solar farms.

D. Land Disturbing Activities

1. All development plans submitted under this UDO shall show a construction limit line delineating protected buffer areas and any tree save areas intended for the property. Protective orange fencing, surrounding all protective buffer areas plus ten feet and around tree save areas at the drip line, shall be installed prior to construction. Any cutting or clearance within an approved protected buffer or tree save areas shall be subject to a fine of \$5.00 per square yard of area in the protected buffer or tree save area that has been prematurely denuded.
2. No minor clearance of the existing vegetation within an approved, protected buffer area or tree save area to be retained on the property shall be allowed until after construction on the parcel is completed and upon approval by the Planning Director.
3. Logging or timbering activities on properties within the corridor are limited to the interior portions of the lot exclusive of required buffer areas.
4. Land development activities such as, but not limited to, site grading, buildings, and VAAs, shall be excluded from the perimeter area of lots in order to protect existing trees and vegetation in required buffer areas.
5. Any grading or clearing (including removal of stumps) on land within the overlay district, not part of a development proposal, requires site plan approval by the Town of Garner prior to any such activity on the site. All such activities shall be consistent with the standards of this UDO.

E. Street Access

The existing access location standards set forth in this UDO shall govern driveway locations. Deviations recommended by the Town Engineer and the NCDOT may be allowed.

F. Design Standards

The following design standards shall apply to all new development within the RAO:

1. Building Height

The maximum building height for development located in the RAO is 35 feet. For all other locations on the corridor, the applicable building height limits are controlled by the existing requirements of Article 8.

2. Building Setback from Right-of-Way

The building setback shall be 35 feet from the right-of-way line. A build-to line of 20 feet is permitted when no vehicle surface areas are located in front of the building. For all other building yard setbacks, the applicable underlying zoning standards shall apply.

G. Landscaping Standards

In addition to complying with all the general landscape standards in the Garner UDO, new development must meet the following standards:

1. Construction limit lines shall be shown on all site development plans. Approved undisturbed areas shall be protected on the ground with orange fencing and shall be installed prior to the issuance of a building permit. Such fencing shall be maintained during the entire time of construction.
2. Existing healthy vegetation may be incorporated into the landscaping plan on a one-for-one basis provided that all other criteria of this UDO are met.
3. Street Buffer Requirements
  - a. General
    - i. An undisturbed street buffer along Timber Drive and Timber Drive East shall be required. Minor underbrush clearing is permissible only.
    - ii. The street buffer shall extend 50 feet along corner side streets and 40 feet along all entrances to new development.
    - iii. The use of native or locally adaptable species is required.
  - b. Residential Street Buffer
    - i. Residential subdivisions and unsubdivided developments with frontage along the right-of-way of Timber Drive and Timber Drive East shall maintain a 25-foot undisturbed buffer.
    - ii. No fencing shall be allowed within the 25-foot buffer area. Fences shall not be allowed along property frontages with Timber Drive and Timber Drive East unless they are of uniform height and design.
    - iii. Required landscape planting within the residential street buffer shall consist of one street tree (minimum 10 feet tall with a two-inch caliper at installation) for every 40 feet of street frontage, with a combination of

vegetation and/or earthen berms to achieve a 100 percent screen to a height of four feet.

- c. Nonresidential Street Buffer
  - i. A 20-foot undisturbed street buffer along Timber Drive and Timber Drive East shall be required. Minor underbrush clearing of an undisturbed street buffer is permissible only with pre-approval from the Planning Department. Where existing trees and vegetation are retained that qualify according to the terms of this UDO regarding types, sizes, locations, and are healthy species as determined by the Planning Department, they may be substituted for the landscaping requirements on a one-for-one basis.
  - ii. One street tree shall be provided for every 40 feet of frontage. Such tree shall be a minimum of 12 feet tall with a two-and-one-half-inch caliper at installation.
  - iii. All VAAs visible from Timber Drive must provide landscape screening that achieves a 100 percent screen of the VAA to a minimum height of three feet within three years of installation.

d. Street Buffer for 20-foot Build-To Line Option

Where the build-to line option is utilized, and there is no VSA between the building and the right-of-way of Timber Drive or Timber Drive East, a 20-foot street buffer with only a lawn area and one street tree (minimum 12-foot tall with a 2.5-inch caliper at installation) for every 40 feet of frontage is permissible. Under this option, VAAs shall be located in the rear of the building.

### 5.14.2. Commercial Highway Overlay District (CHO)

A. Purpose and Intent

In the interest of the public health, safety, and welfare, the Town Council seeks to improve conditions along limited access highways. The Council establishes the Commercial Highway Overlay District (CHO) to:

1. Provide for functional, efficient transportation corridor.
2. Expand economic opportunity.
3. Protect community character.
4. Preserve and promote the community's appearance and quality.

B. Location

The CHO shall apply to:

1. The entire length of U.S. 70 and U.S. 401 located within Garner's zoning jurisdiction. The overlay district shall be designated on each side of the thoroughfare to a depth of 450 feet measured from the applicable right-of-way line. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all buildings and parking areas.
2. Those properties fronting on or within 50 feet of Garner Road, within the Town's planning jurisdiction (generally that segment of Garner Road located from Northview Street east to the limits of the Town's jurisdiction near the intersection of Garner Road and Auburn-Knightdale Road) as illustrated on the Official Zoning Map. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all buildings and parking areas.

C. Use Regulations

Unless otherwise prohibited or restricted below, all uses allowed by the underlying zoning district are permissible in the CHO, provided all requirements and permits as required by this UDO are satisfied.

1. Restricted Uses

Within the CHO and along all of U.S. 401, along the portion of U.S. 70 from New Rand Road west to the Town limits at the intersection of U.S. 70 and Mechanical Boulevard, and along the segment of Garner Road located generally from Northview Street east to the limits of the Town's jurisdiction near the intersection of Garner Road and Auburn-Knightdale Road; the following uses are prohibited when directly adjacent to, or within 150 feet of residential uses:

- a. Hotel/motels
- b. Pool halls/bowling alleys
- c. Bars/night clubs/ABC-permitted private clubs

2. Prohibited Uses

The following uses are prohibited in the CHO:

- a. Drive-in movie theaters
- b. Adult cabarets and establishments
- c. Outside storage of goods not related to sale or use on premises
- d. Scrap materials, salvage yards, junkyards automobile graveyards

- e. Mining or quarrying operations including on-site sales of products; coal or aggregate sale and or storage; concrete mixing plants
- f. Reclamation landfills
- g. Commercial greenhouse operations
- h. Recyclable material collection centers
- i. Solar farms

D. Development Standards

1. For new development:
  - a. A maximum of 50 percent of the total property frontage along U.S. 70/401 may be devoted to outside display or storage of goods when parking areas (excludes vehicular loading/service areas) are located in the street yard area.
  - b. A maximum of 66 percent of the total property frontage may be devoted to outside display or storage areas when parking areas are located in side or rear yards.
2. All development plans submitted under this UDO shall show a construction limit line delineating protected buffer area and any tree save areas intended for the property. Protective orange fencing, surrounding all protective buffer areas plus ten feet, and around tree save areas at the drip line, shall be installed prior to building and/or grading permit issuance. Any cutting or clearance within an approved protected buffer or tree save area shall be subject to a fine of \$5.00 per square yard of area in the protected buffer or tree save area that has been prematurely denuded and must be replaced with equivalent vegetation as determined by the Town of Garner.
3. No minor clearing of the existing understory vegetation within an approved protected buffer area or tree save area to be retained on the property shall be allowed until after construction on the parcel is completed and upon approval by the Planning Department.
4. Logging or timbering activities on properties within the corridor are strongly encouraged to be limited to the interior portions of the lot exclusive of required buffer areas.
5. Land development activities such as, but not limited to, site grading, buildings, and VAAs shall be excluded from the perimeter area of lots in order to protect existing trees and vegetation in required buffer areas.
6. Any grading or clearing (including removal of stumps) on land within the overlay district, not part of a development



proposal, requires site plan approval by the Town of Garner prior to any such activity on the site. All such activities shall be consistent with the standards of this UDO.

E. Street Access

The existing access location standards set forth in this UDO shall govern driveway locations. Deviations recommended by the Town Engineer and the NCDOT may be allowed.

F. Design Standards

1. Building Height

- a. The maximum building height for all buildings in the CHO is 70 feet, unless otherwise specified below.
- b. When a nonresidential use or mixed use structure directly adjoins an existing residential use, the maximum building height is 24 feet unless an additional setback distance of one foot is provided for every additional foot of building height over 24 feet measured from the property line adjoining the existing residential use.
- c. These building height limitations do not apply to the property within the CHO located east of New Rand Road along U.S. 70.

G. Landscaping Standards

In addition to complying with all the general landscape standards in the Garner UDO, new development must meet the following standards:

1. Construction limit lines shall be shown on all site development plans. Approved undisturbed buffer areas shall be protected on the ground with orange fencing and shall be installed prior to the issuance of a building and/or grading permit. Such fencing shall be maintained during the entire time of construction.
2. High-Intensity Activities (New Development Only)
  - a. Intent

The objective of this requirement is to provide denser screening, landscaping or a combination thereof where more intense uses of land occur between the highway and the principal improvements on properties which contain high intensity uses.
  - b. Defined

High intensity uses include outdoor operations (including but not limited to loading or assembly areas), operation utility service areas, and similar uses.

c. Screening Standard

All such high intensity uses not screened by an intervening building shall be screened 100 percent from public street views by a year-round continuous screen of evergreen plant material, fence, and/or berm that is a minimum of six feet in height.

3. Screening of Certain Nonresidential Uses Adjoining Residential Uses

- a. The following nonresidential uses shall be required to provide a 40-foot wide undisturbed buffer area with year-round, opaque screening to a minimum height of eight feet when directly adjacent to residential uses:
  - i. Golf driving range.
  - ii. Veterinarian/kennel with outside operations.
  - iii. Auto service/auto repair.
  - iv. Any other permissible use with outdoor display/storage that directly adjoins existing residential property.
- b. Required screening may be achieved by using evergreen vegetation, earthen berms, solid fences, or a combination thereof.

**5.14.3. Limited Access Highway Overlay District (LAHO)**

A. Purpose and Intent

The Town Council finds that the general welfare will be served by orderly development along existing and future interstate roads. The LAHO will accomplish the following objectives:

1. Preserve natural scenic beauty and aesthetic character.
2. Promote design quality.
3. Enhance trade, tourism, capital investment, and the general welfare along the thoroughfare.
4. Preserve undisturbed natural or native vegetation between the interstate(s) and current and future adjacent uses.

B. Location

1. The LAHO applies to either side of I-40 within the Garner zoning jurisdiction, as well as to all future interstate development including the future I-540, and is measured from the outside right-of-way line of the roadway at its farthest point (including access ramps and interchanges and rights-of-way for those same areas) a distance of 1,250 feet, as shown on the Official Zoning Map.

2. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all other buildings and parking areas.

C. Use Regulations

1. Restricted Uses

- a. The following uses are permitted only if site plans are approved which assure that these uses will have no visible outdoor storage or operations adjacent to the highway:
  - i. Truck service centers (truck stops);
  - ii. Car and truck dealerships; and
  - iii. Uses with storage for retail such as lumber yards, heavy equipment dealers, and similar uses.
- b. Such site plans shall indicate that all outdoor storage and operation will be located in the yard space farthest away from the highway and on the far side of the principal buildings.
- c. Outdoor display (as differentiated from outdoor storage) shall consist of only a sampling of wares sufficient to convey what is sold and is permitted in industrial zones only on a limited basis (maximum 25 percent of square footage of the primary structure) in accordance with the approved site plan.

2. Prohibited Uses

The following uses are prohibited:

- a. Truck terminals.
- b. Mobile home parks.
- c. Subdivisions.
- d. Mobile home sales lots.
- e. Scrap material salvage yards, junkyards, automobile graveyards.
- f. Sanitary (reclamation) landfill.
- g. Body shops.
- h. Storage of radioactive or otherwise hazardous wastes.
- i. Outside kennels.
- j. Drive-in theaters.
- k. Golf driving ranges.
- l. Water slides.

m. Self-serve car washes.

n. Solar farms.

D. Development Standards

1. Unless qualifying under development options set forth in Subsection G.2.a. or G.2.b., no clearing of vegetation shall be allowed for any purpose, including agriculture and timber harvesting, within the 50-foot buffer adjacent to the right-of-way regardless of whether land use permits are required under this UDO.
2. Subject only to Article 2, Nonconformities, any expansion of existing land uses involving frontage on the limited access highway shall comply with this section.
  - a. Site plans submitted under this section shall show a construction limit line delineating the buffer area existing prior to commencing construction.
  - b. No construction, and only selective thinning of underbrush are permitted in the buffer. No clearance of the existing vegetation within the delineated buffer area is allowed until after construction on the parcel is completed. Any cutting or clearance before completion of construction shall be subject to a fine of \$5.00 per square yard of area in the protected buffer that has been prematurely denuded.
  - c. Upon completion of construction, if an approved screening/landscaping plan has not already been approved, such plan shall be submitted at that time indicating how the screening/landscaping objectives of this section are to be achieved, with particular regard to the delineated buffer.

E. Street Access

1. For lots having more than 500 feet of frontage on an access or frontage road, points of ingress and egress shall be no closer than 500 linear feet apart.
2. For lots having less than 500 feet of frontage onto an access or frontage road, only one point of ingress or egress shall be allowed. Whenever possible, a minimum distance of 200 feet must be maintained between points of ingress and egress.
3. Ingress to and egress from a lot along a cross-street shall be prohibited within 200 feet of said cross-street's intersection with a limited access highway's on- or off- ramp.

F. Design Standards

1. Lot Dimensions

All dimensional requirements, including minimum lot area and minimum lot width requirements, are established in the underlying zones, but may be enlarged based on the enhanced setback requirements herein.

2. Building Height

No building shall exceed 150 feet above grade; other building height restrictions are governed by Subsection 3, Building Setbacks, below.

3. Building Setbacks

The required setback for yards not abutting the right-of-way shall be as set forth in the underlying zone. The minimum building setbacks measured from the scenic corridor right-of-way, including access ramps and interchanges, shall be as follows:

- a. For buildings up to 35 feet above grade, there shall be a minimum setback of 50 feet from the right-of-way.
- b. For buildings extending up to 60 feet above grade, there shall be a minimum setback of 100 feet.
- c. For buildings exceeding 60 feet above grade, there shall be an additional setback, measured beyond the initial 100-foot setback, consisting of two feet for each additional one foot in height up to the maximum height of 150 feet.

4. Parking

- a. Parking areas shall be paved with dust-free, all-weather surface, and shall be properly drained and landscaped.
- b. The number of parking spaces shall be governed by the standards of the underlying base district; however, the number of spaces required may be reduced to the least extent necessary to accommodate landscaping required by Subsection G.

G. Landscaping Standards

In addition to complying with all the general landscape standards in the Garner UDO, new development must meet the following standards:

1. Yards Not Adjacent to the Right-of-Way

Except for single-family residential uses, those portions of front, rear, side or corner side yards that are not adjacent to the 50-foot (interstate) buffer and are not devoted to the

uses, buildings and structures that are permitted within this section shall provide screening and buffering consistent with this UDO while emphasizing their natural wooded state, and where required shall provide additional landscaping, provided however that a minimum of 50 feet of natural transitional buffer area or its planted equivalent shall be preserved on corner side lot lines within 200 feet from the intersection of the side road and the interstate.

2. Yards Abutting the Right-of-Way

The 50-foot buffer adjacent to the interstate right-of-way shall be preserved or constructed in accordance with the following development options:

- a. A natural screen or its newly planted equivalent providing the percentage of visual screening required by this section, established and maintained by the owner. This subsection shall not apply to agricultural uses where the 50 feet adjacent to the road has been cleared prior to December 7, 1987.
- b. A natural water body or one specifically designed as a naturally-appearing landscape feature adjacent as part of the site plan.
- c. Other improvements which themselves provide no visual obstruction, such as access roads, which meet the standards of this section and for which the BOA grants a variance if the Board finds the proposed use will not result in a deviation from the letter of this section to any greater extent than is necessary to allow for reasonable development of the tract, provided that the site plan presented for the permit shall contain a condition that the developer install and maintain compensatory landscaping, screening or a combination thereof to meet the percentage of visual screening otherwise required in the 50-foot buffer area.

3. High-Intensity Activities

For purposes of this section, high-intensity activities include outdoor operations (loading, service, or assembly areas), outdoor storage, and operation utility service areas, and similar uses. All such high intensity uses not screened by an intervening building shall be completely screened (100 percent, year-round, visual obstruction) from view from public right-of-way except for necessary access in the following manner:

- a. A continuous, year-round screen of evergreen plant material and/or berm that reaches at least ten feet high

within three years is required. This screen may be placed on either side of a public access road;

- b. Beyond the initial three year height requirement, all required trees newly planted in the buffer must have an expected mature height of at least 35 feet or greater, unless subject to an overhead power line in which case the minimum mature height may be 12 feet; and
- c. Alternative screening for utility service areas may be accomplished by locally adapted planting (evergreen or deciduous) which are a minimum of 18 inches tall when planted and are expected to reach height and width equal to or greater than the utility service structures which are required to be screened (up to a maximum mature height of 12 feet). Screening for utility service areas in the right-of-way are to be installed by the utility company or person who installed the service; in all other instances, the property owner shall install the plantings.