Corrected Ordinance (2012) 96ZC675

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF RALEIGH WHICH INCLUDES THE ZONING DISTRICT MAP BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH

Section 1. That Section 10 of the City of Raleigh Code, which includes the Zoning District Map, be and the same if hereby amended as follows:

Z-12-12 — Creedmoor Road and West Millbrook Road, Conditional Use - located on the southeast corner of Creedmoor Road, and south of its intersection with West Millbrook Road, being Wake County PIN(s), 0796478165 and 0796477549. Approximately 7.27 acres are to be rezoned from Shopping Center Conditional Use District to Shopping Center Conditional Use District to amend conditions associated with property zoned Shopping Center Conditional Use District.

Conditions Dated: 07/31/12

Narrative of conditions being requested:

a) The following uses shall be prohibited:

   i. Automotive service and repair facility,
   ii. Hotel/motel;
   iii. Movie (theater, indoor and outdoor;
   iv. Schools (elementary, middle, and high, public, private or parochial);
   v. Carwash facility - all types
   vi. Emergency shelter type B;
   vii. Landfill (debris from on-site);
   viii. Manufacturing-custom;
   ix. Manufacturing-specialized;
   x. Mini-warehouse, storage facility;
   xi. Outdoor storage of recyclable material;
   xii. Special care facility;
   xiii. Telecommunication tower — all;
   xiv. Adult establishment;
   xv. Airfield or landing strip;
   xvi. Kennel/cattery;
   xvii. Riding stable;
   xviii. Correctional/penal facility;
   xix. Heliport — all types;
   xx. Outdoor stadium/theater — all types;
   xxi. Bed and breakfast inn.
b) A natural protective yard area at least 50 feet in width shall be maintained along the property line adjoining those properties with Wake County Parcel Identification Numbers 0796-56-2637 (Deed Book 2454, Page 368) and 0796-56-1425 (Deed Book 5279, Page 306).

This natural protective yard area may be used as primary tree conservation area so long as it complies with the requirements of Raleigh City Code Section 10-2082.14(c). Also, the width of this natural protective yard area may be increased in order to capture additional tree cover to qualify as primary tree conservation area. To the extent the natural protective yard areas described above are not used for primary tree conservation area, they may be disturbed subject to the provisions of Raleigh City Code Section 10-2075(e), a copy of which is attached hereto as Exhibit A.

c) Only to the extent necessary to achieve 10% total tree conservation area based on gross parcel acreage, tree protection areas at least 50 feet in width may be maintained along the property line adjoining that property with Wake County Parcel Identification Number 0796-46-8665 (Deed Book 12939, Page 2468). The width of those tree protection areas may be increased in order to capture additional tree cover to qualify as primary tree conservation area. These areas may be used as primary tree conservation area so long as they comply with the requirements of Raleigh City Code Section 10-2082.14(e), a copy of which is attached hereto as Exhibit B.

d) Vehicular ingress and egress to the property from public streets shall be limited to no more than (1) a right-in only access from Creedmoor Road; (2) a full service access on West Millbrook Road directly across from Bennettwood Court; and (3) the joint driveway access from Creedmoor Road described in that Cross Access and Easement Agreement recorded in Book 13665, Pages 363-384 of the Wake County Registry.

e) Prior to subdivision approval or the issuance of any building permit for new construction on the property, whichever shall first occur, the owner of the property shall deed to the City: (i) a transit easement measuring twenty (20) feet adjacent to Creedmoor Road by fifteen (15) feet wide; and (ii) a transit easement measuring twenty (20) feet adjacent to West Millbrook Road by fifteen (15) feet wide to support a bus stops for current and/or future transit services in the area. The location of the easements shall be approved by the Transit Division of the City and the City Attorney shall approve the transit easements deed prior to recordation.

f) The northernmost tip of the subject property bounded by West Millbrook Road and Creedmoor Road shall be reserved for use by the City of Raleigh for installation and maintenance of public art. The area to be reserved shall be that land north of a line created by connecting two points, each fifty (50) feet from their respective property corners, south along Creedmoor Road and east along West Millbrook Road, and representing approximately 3,000 square feet, The owner or developer of the subject property shall not be permitted to install any ground signs or vertical structures on this portion of the subject property; however the City of Raleigh or its designee may install public art on this portion of the subject property. Any public art installed on this portion of the subject property shall be maintained by the City of Raleigh. The owner of the subject property shall retain the right to maintain this portion of the property in a safe condition and shall be permitted to use this portion of the subject property as open space. Upon receiving thirty (30) days notice from the City of Raleigh of its intent to install public art pursuant to this
Condition (f), the owner of the subject property shall contribute $2,500 to the City of Raleigh for the public art display.

g) All ground mounted signage shall be low profile signage.

h) All dumpsters on the property shall be screened from view from West Millbrook Road with a solid closed wall or fence which is at least eight (8) feet in height and is the same or compatible in terms of texture and quality with the material and color of the principal buildings, and the emptying of dumpsters shall not occur before 7:00 am or after 7:00 pm.

i) If not opposed by the City at the time of site plan review, the owner of the subject property shall construct a bench and shelter in association with each transit easement described in above Condition (e).

j) Only one drive-thru establishment shall be permitted on the subject property, and it may only be associated with a principal or accessory pharmacy use. The drive-thru window permitted by this condition may not be located on an exterior building wall facing the Creedmoor Road right-of-way and may not be located on an exterior building wall facing the Millbrook Road right-of-way if such drive-thru window is located within 100 feet of the Millbrook Road right-of-way.

k) Within ninety (90) days after the adoption of this rezoning ordinance and every two years thereafter, the property owner shall request the North Carolina Department of Transportation (NCDOT) to install a traffic signal at the intersection of West Millbrook Road, Bennetwood Court, and the access to the subject property. The owner of the subject property shall provide written notice of this request to all owners of property located within the Bennett Place - Phase Two neighborhood, as platted on Book of Maps 1998, Page 2253 in the Wake County Registry. Within five (5) years of the date of the first site plan approval for any portion of the subject property or upon 100% occupancy, whichever is later, and after receiving written notice from NCDOT regarding its decision to permit the installation of the traffic signal at the intersection of West Millbrook Road, Bennetwood Court, and the access to the subject property, the then owner(s) of the subject property shall pay up to $100,000 toward the cost of the installation of the traffic signal. If there are multiple owners of the subject property at the time the obligation to pay toward the cost of the installation of the traffic signal arises, then each owner of the subject property shall be jointly and severally responsible for the $100,000, with a right of contribution from the other owners of the subject property on a pro rate share of the acreage owned divided by the total acreage of the subject property. Notice of this zoning condition shall be recorded in the Wake County Registry within 30 days following approval of this rezoning ordinance.

l) Upon development, all exterior flood, display and parking lot lighting shall be fill cut-off (shielded) design and directed away from the adjacent residential uses.

m) The maximum height for any building on the property shall be 40 feet,

n) Development on the property shall be limited to residential, office and commercial uses (as listed in Raleigh City Code section 10-2071 “Schedule of Permitted Land Uses in Zoning Districts”) not otherwise prohibited by this rezoning ordinance. The amount of floor area gross
for commercial uses shall not exceed 65,000 square feet and the total amount of floor area gross for office uses shall not exceed 5,000 square feet. In the event residential uses are developed on the property, the number of dwelling units or equivalent dwelling units shall not exceed 105 units, the amount of floor area gross for commercial uses shall not exceed 60,000 square feet and the amount of floor area gross for office uses shall not exceed 5,000 square feet.

o) Direct and convenient pedestrian connections shall be provided between the Creedmoor Road right-of-way and the Millbrook Road right-of-way to any principal building developed on the property. Where the pedestrian connection crosses a vehicular surface area, such pedestrian connection shall be identified using one or more of the following: (i) specialty paving techniques such as modular pavers or stamped paving; or (ii) raised crosswalks.

p) For any principal building developed on the property, the exterior wall of a building facing Creedmoor Road or Millbrook Road shall have a minimum 25% transparency within that façade area measured between 0 feet and 12 feet above the adjacent sidewalk.

q) No exterior wall of any principal building facing Creedmoor Road or Millbrook Road shall have more than 30 linear feet of continuous wall without intervening transparency measuring at least 10 square feet in area.

r) No more than a single bay of parking may be located between a principal building and the Creedmoor Road right-of-way, measured from that building wall closest and parallel to the Creedmoor Road right-of-way.

t) The infrastructure improvements shown in the Traffic Impact Analysis dated March 2009 prepared by Kimley-Horn & Associates for zoning case Z-43-08 shall be installed upon development of the property, with such infrastructure improvements being: (i) an exclusive eastbound right turn lane on Millbrook Road as part of the City’s thoroughfare widening (100’ vehicle storage, 150’ deceleration length), (ii) a shared through-left and an exclusive right turn lane exiting the project on Millbrook Road, and (iii) an exclusive northbound right turn lane on Creedmoor Road as part of the City’s thoroughfare widening.

u) The maximum floor area gross for a single building shall be 50,000 square feet. Floor area gross shall mean the sum in square feet of the gross horizontal areas of all floors of the building measured from the exterior walls or from the center line of separating two (2) buildings. The floor area gross of a building shall include basement floor area when more than one-half (1/2) of the basement height is above the established curb level or above the finished lot grade level where the curb level has not been established, Elevator shafts, stairwells, floor space used for mechanical equipment, attics, balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses shall be included in the calculation of floor area gross. However, the following shall not be included in the floor area gross: any space devoted exclusively to off-
street parking; or outdoor loading, display, utility service areas; or mechanical equipment and uninhabited enclosed space on tops of roofs; or attic space having head room of less than seven (7) feet ten (10) inches.
Ordinance (2012) 96ZC 675
August 7, 2012

(4) Setback reductions along thoroughfares other than street protective yards in the Thoroughfare, Airport, and Special Highway Overlay Districts:

Upon the approval by City Council of a Thoroughfare Plan or upon definite location of a thoroughfare of any type, any zoning district yard setback required by this Code measured from the proposed thoroughfare right-of-way lines may be reduced as either part of the plan or subdivision approval approved by the Planning Commission or the City Council as a public acquisition of right-of-way. The body which allows the reduced setback shall find that the proposed right-of-way lines deprive the property owner of the thoroughfare unreasonable use of their property, and may impose conditions to assure that the purpose of the yard setback are otherwise achieved.

(Cod. No. 2004-612-172W3, ¶ 1, TO-1-04, 8-3-00)

(5) Reductions of the required street protective yards in the Thoroughfare, Airport, and Special Highway Overlay Districts:

Street protective yards along thoroughfares in the Thoroughfare, Airport, and Special Highway Overlay Districts may be reduced in conjunction with other landscape yards under §10-2001.3.

(Cod. No. 1999-171-15T-4, §16, TO-1-04, 2-3-98; Ord. No. 1999-161-17C-181, ¶15, TO-1-02, 8-3-99)

(6) Reductions of rear yard.

On a lot less than one hundred (100) feet deep, the depth of a rear district yard setback required by either a special use permit or by the Board of Adjustment in accordance with 90-216, yard setbacks, or variances in accordance with §10-2143, may be reduced one (1) foot for each one (1) foot such lot is less than one hundred (100) feet in depth provided that such reduction in no case shall exceed one-half (½) the required depth and provided that no reduced rear yard shall be less than the required depth plus one-third (1/3) the height of the building.

(7) Yard reductions authorized by the Board of Adjustment.

Reductions of various required yards are allowed if either a special use permit is issued by the Board of Adjustment in accordance with §10-2164, yard setbacks, or variances in accordance with §10-2143.

(8) Railroad freight and passenger transit station or stop.

Zoning district yard setbacks required by this Code for structures or uses serving railroad freight and passenger transit stations or stops, as measured from the existing or proposed right-of-way line, may be reduced as part of site plan approval approved by the Planning Commission or the City Council in accordance with §10-2132.3. The body which allows the reduced setback may impose conditions to assure that the purposes of the yard setback are otherwise achieved.

(Cod. No. 2004-612-172W3, ¶ 1, TO-1-04, 8-3-00)

Editor's Note: This article includes text deleted in an amendment of one section on required yard setbacks, and §10-2099(2), Schedule of Permitted Land Uses within Types of Yard Areas.

(9) Downtown Overlay District.

Zoning district yard setbacks required by this Code for structures or uses on properties located within the Downtown Overlay District may be reduced as part of a subdivision or site plan approved by the Planning Commission or the City Council in accordance with §10-2132.2 after it finds that such reduction in setback is in accordance with the general plan for the physical development of the City as embodied in the Raleigh Comprehensive Plan and the site plan meets the standards of §10-2132.2(3).

(Cod. No. 2004-612-172W3, ¶ 1, TO-1-04, 2-3-98; Ord. No. 2002-223-17C-273, ¶15, TO-1-03, 11-15-02; Ord. No. 2009-661-17C-227, ¶15, TO-1-03, 11-18-09)

(c) Buildings, Structures or Uses Permitted in Yard Areas.

Buildings, structures, or uses, as permitted which may be located within or project over any yard setback required by this chapter are shown on the following Schedule of Permitted Land Uses Within Types of Yard Areas, which is incorporated herein. Buildings, structures, or uses that are shown in yard areas shall be approved in accordance with Article II of this chapter. Projections of buildings and structures, such as bay windows or chimneys, are not permitted unless so indicated on this schedule. All yard areas may be used to satisfy the minimum lot area, setback, and minimum lot coverage requirements of this chapter.

Cross references: Special use permits approved by the Board of Adjustment, §10-2144.

Annexation Extension A street side water berms is not an extension to a street to reduce yard setbacks. A-199-27 O’Neal Street Housing Improvement Corporation, Board of Adjustment (Oct. 9, 1977).

### SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (continued)

#### SPECIFIED AND CONDITIONAL USES

| Type of Yards | Uses Allowed | Uses Allowed in Certain Districts with Specific Rules
|---------------|--------------|---------------------------------------------------------------|
| Yard Uses | All uses allowed in certain district yards unless specifically prohibited by applicable conditional use regulations of §10-2144, §10-2146. | All uses allowed in zoning district yards subject to the terms and conditions of the conditional use district regulations of §10-2144, §10-2146.

#### ZONING DISTRICTS

| Zoning District | Uses Allowed | Uses Allowed in Certain Districts with Specific Rules
|-----------------|--------------|---------------------------------------------------------------|
| Commercial, Use Restriction Districts | All uses allowed in zoning district yards subject to the terms and conditions of the conditional use district regulations for the property. | Uses allowed in certain district yards unless specifically prohibited by applicable conditional use regulations of §10-2144, §10-2146.

#### ACCESSORY STRUCTURES

| Accessory Structures | Uses Allowed | Uses Allowed in Certain Districts with Specific Rules
|----------------------|--------------|---------------------------------------------------------------|
| Open space, water and sewer, landscaping, temporary storage, temporary structures, temporary use permits in the zoning district, etc. | Uses allowed in certain district yards unless specifically prohibited by applicable conditional use regulations of §10-2144, §10-2146. | Uses allowed in zoning district yards subject to the terms and conditions of the conditional use district regulations for the property.

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**SYMBOLS**

- P: Permitted Use
- C: Conditional Use
- A: Accessory Use
- S: Special Use

**NOTES**

- Permitted use requires a Use Permit.
- Conditional use requires a Use Permit and a Conditional Use Permit.
- Accessory use requires a Use Permit.
- Special use requires a Special Use Permit.

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10/21/48
**Schedule of Permitted Land Uses within Types of Yard Areas (continued)**

<table>
<thead>
<tr>
<th>Footnotes</th>
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<tbody>
<tr>
<td>a. This schedule does not include building expansions required by group housing development standards, §10-2106(b)(2), and North Carolina State Building Code. This schedule does include special requirements in group housing, §10-2106(b)(3), and multifamily dwelling, §10-2107(b)(2), and supplementary yard setbacks listed in §10-2325(b).</td>
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<td>b. No more than fifteen (15) percent of any required front yard area shall be covered with impervious surface.</td>
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<td>c. Yard setback requirements prohibited in any Residential Business Overlay District.</td>
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<td>d. Yard setbacks less than or equal to the overall yard requirement are allowed in the principal building setback. Yard setbacks greater than the overall yard requirement are not allowed in any Residential Business Overlay District.</td>
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<td>e. Yard setbacks less than the Special Residential 30-Dwelling Unit setback (but not greater than thirty (30) dwelling units per acre) are not allowed in the Special Residential 30-Dwelling Unit Overlay District.</td>
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<td>f. Accessory detached building including storage shed, storage tank, greenhouse, horse stall, garage or garage, provided that all of the following are met:</td>
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<td>1) There is a dwelling located on the lot.</td>
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<td>2) The accessory structure or building is constructed in the rear yard area.</td>
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<td>3) No more than one-half (1/2) of the required rear yard area is occupied by accessory structures or buildings. The size of a greenhouse is limited to one-half (1/2) of the required rear yard area, or three hundred (300) square feet, whichever is less. Accessory structures are limited in elevation prior to application of this requirement which otherwise conforms to the chapter and designing costs. Editor's Note: This regulation first became applicable on January 1, 1983.</td>
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<td>4) On lots less than one thousand (1,000) square feet in area, garage and accessory structures with an area of one hundred (100) square feet shall be constructed of materials compatible with the principal dwelling.</td>
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<td>5) The accessory structure or buildings is not located within any required front yard area or which is in a public street right of way, and not located on an underground utility easement. On a cul-de-sac, if the accessory structure or building is located within the required front yard area, the accessory structure or building shall be set back at or behind the front yard area of the adjacent lot or the middle line of the rear yard area, whichever is greater.</td>
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<td>6) The accessory structure or building is located no closer than the middle line of the required front yard width, or street setback of the principal building measured from both the side and rear boundary of the lot provided, that an accessory structure or building of less than one hundred and fifty (150) square feet may be located no closer than thirty (30) feet from the side or rear boundary. Side yard setback within the Residential 6 or Residential 30-Dwelling Unit, which are approved on a site located on a public street, which is a minimum of a block due to width, and established on or after July 21, 1981, for lots which contain single-family dwellings, may be reduced to the amount established for the principal conforming building.</td>
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<td>7) The accessory structure or building is not an extension or dwelling.</td>
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<td>8) Only one (1) detached garage shall be permitted on the property.</td>
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<td>9) Within a cluster unit development or townhouse development, the minimum lot size requirement of §10-2375(b) are met.</td>
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<tr>
<td>10) No part of the accessory structure or building is located within any permanent access area or setback area. For any accessory structure or building for a detached or two (2) attached townhouse dwelling, or detached dwelling unit or attached clustered housing within a cluster unit development which does not meet the requirements of §10-2375(b), each lot shall be:</td>
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Section 10-2075(c) Schedule of Permitted Land Uses within Types of Yard Areas (Cont.)
SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS

[Table of Schedule]

Section 10.2075(a) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (Cont'd)

10/23/15
SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (CONTINUED)

FOOTNOTES:

1. The manufactured home or travel trailer permitted in this area shall be parked on a permanent foundation and no more than 20 feet from the property line unless otherwise approved by the planning commission or the city council.

2. No temporary or seasonal structures shall be constructed or located within the area.

3. The maximum height of any temporary or seasonal structure shall be limited to 12 feet.

4. The maximum width of any temporary or seasonal structure shall be limited to 12 feet.

5. The maximum length of any temporary or seasonal structure shall be limited to 12 feet.

ACTIVITY:

1. Street parking and driveway access are prohibited.

2. No temporary or seasonal structures shall be constructed or located within the area.

3. The maximum height of any temporary or seasonal structure shall be limited to 12 feet.

4. The maximum width of any temporary or seasonal structure shall be limited to 12 feet.

5. The maximum length of any temporary or seasonal structure shall be limited to 12 feet.

Section 10-2075(e) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (Cont'd)
4. The tree is a hazardous tree according to all of the characteristics listed in §10-20B.2, subsection (1) through (4) for the defined term hazardous.

(2) Tree Cover Required.

Tree conservation areas proposed for thoroughfare areas of Thoroughfare District or Special Highway Overlay Districts 1 through 4 of priority areas (6)(1)a, and priority areas (6)(2)a through (6)(2)d, including any allowed alternate tree conservation areas of undisturbed areas, shall contain a basal area of at least thirty (30) square feet per acre as determined in increments of fifty (50) feet in length. Any required thoroughfare protective yard for zoning districts (1) and SHORD 1 through 4 that does not contain a basal area of thirty (30) square feet shall be planted in accordance with the landscaping standards for said zoning district, and such portions of the thoroughfare yard shall not be established as a tree conservation area. No tree, that is either unhealthy or a hazardous tree situated within the tree conservation area, or any two ton (2T) inches or greater DDBH with any of its critical root zone situated outside of the tree conservation area on the developing side of the property, shall count for computing basal area.

For those developments that fulfill any of their tree conservation area requirements in protective yards of Thoroughfare Districts or Special Highway Overlay Districts 1 through 4 or secondary tree conservation areas, subsection (2)(2) above, such developer shall submit to the City:

(1) Photo in map panels of the intended area to be conserved. The photo shall equal fifty (50) feet of the length of the priority area to be conserved;

(2) A tree cover report prepared by a certified arborist, North Carolina licensed landscape architect or North Carolina certified forester specifying for each fifty (50) foot length of proposed tree conservation area the composition of tree species, typical characteristics of the tree stand, the smallest caliper tree, but not less than three (3) inches DDBH (nine and three-eighths (9/8) inches circumference measured one and one-half (1 1/2) feet above the ground) the largest DDBH and the typical DDBH, typical spacing between trees, the basal area and an indication of the general health and vigor of the tree stand. The report and the photo panels shall be interleaved;

(3) The most recent aerial photograph of the subject area.

An actual survey of trees and computation of basal area may be submitted in lieu of subsection (2)(1) and (2) above, provided that no tree that is dead, unhealthy, or a hazardous tree is included in the survey.

An optional method to determine basal area for thoroughfare areas of Thoroughfare District or Special Highway Overlay District 1 through 4 of priority areas (6)(1)a, and for secondary tree conservation areas (6)(2)a through (6)(2)d, if for a registered forester registered with the State of North Carolina to certify in writing to the City Forestry Specialist that the basal area is sixty (60) or greater for tree conservation areas (6)(2)a through (6)(2)d, and for thoroughfare yards of Thoroughfare Districts or Special Highway Overlay District 1 through 4 provided all the following conditions are met:

a. Tree conservation area shall be at least eighty seven hundred (8,700) square feet in size, shall exclude cemeteries, and shall consist of contiguous undisturbed wooded areas with a basal area of 60 or greater composed of trees three (3) inches dbh and larger.

b. All dimensions of tree conservation area shall be at least sixty five (65) feet in all directions.

c. Land area that does not contain trees shall not be excluded unless it contains critical root zones of trees being preserved.

d. Any area of tree disturbing activity within the proposed tree conservation area shall be designated as a tree conservation area.

e. A legible copy of the latest Wake County/City of Raleigh aerial photograph, or more recent if available, should be included with the registered forester's certification.

Within each fifty (50) foot linear increment of Zone 2 of the Neuse River Riparian Buffer required by (6)(1)d, and greenway tree conservation areas delineated pursuant to §10-20B.2, subsection (1) that does not contain trees, a minimum of two whole trees to cover the riparian buffer shall be planted prior to issuance of certificate of occupancy. Planted whole trees shall be at least ten (10) gallon container size (at least five feet tall) from top of crotches at the time of planting. If said area without trees will be used as shown on the approved site plan for either a tree disturbing activity allowed by §10-20B.2, or a water-related activity located in, over, under, or adjacent to fluvial or natural watercourse, no planting of new trees shall be required.

Within each fifty (50) linear feet of watercourse buffer of the Reservoir Metro-Park Overlay District that does not contain trees, a minimum of two (2) ten (10) gallon
container size (at least five feet tall) shade trees from of disturb roots shall be planted to enhance the riparian buffer prior to the issuance of a certificate of occupancy.
Alternatively, trees that do not contain trees in Neuse Zone 2, greenways, or MPOD watercourse buffers may be established as permanently undisturbed primary tree conservation areas to allow natural regeneration of trees, provided such areas are not located on individual lots developed for single-family dwellings. Permanently undisturbed primary tree conservation areas shall not be cleared of any vegetation by any method whatsoever, are subject to any tree disturbing activity, and shall be delineated with signs as specified by the City. Said signs shall remain in place for a period of seven (7) years. Unlawful disturbance of any permanently undisturbed primary tree conservation area shall subject the violator to a civil penalty of a minimum of one thousand dollars ($1,000.00) plus thirty-five cents ($0.35) for every square foot of disturbed area, and unlawfully disturbed area shall be planted, with twice the number of ten (10) gallon container shade trees as denoted above. Unlawful removal of any required sign shall subject the violator to a civil penalty of one hundred dollars ($100.00) for each removed sign and each removed sign shall be replaced. Said civil penalties shall be assessed as set forth in §10-2082.12.

(d) Delineation of Tree Conservation Areas.
The area of primary tree conservation areas established pursuant to subsection (b)(1) above shall exclude the following: sight triangles, slope segments, drainage easements, cross access easements, governmental and utility easements that prohibit trees, easements that authorize tree disturbing activities, and any area devoted or to be devoted to streets, future right-of-way reservation, sidewalks, driveways, walkways, storm drainage facilities, including without limitation, pipes, energy dissipation, and streamwater control measures which require the removal of vegetation. Water-related utility areas located in, over, under or adjacent to a lake or natural watercourse, shown on the site plan shall not be included as Zone 2 areas of Neuse River Riparian Buffer required by §10-2082.14(a)(2).
The area of secondary tree conservation areas established pursuant to subsection (b)(2) above while it includes groups of trees, excluding undisturbed or bordering tree conservation areas already in existence, the area which fully encompasses all the protected trees excluding sight triangles, slope segments, drainage easements, cross access easements, governmental and utility easements that prohibit trees, any easement that authorizes tree disturbing activities, and any area devoted or to be devoted to streets, future right-of-way reservation, sidewalks, driveways, walkways, storm drainage facilities, including without limitation, pipes, energy dissipation, and streamwater control measures which require the removal of vegetation. Said areas shall define the area of tree conservation areas in priority to (2a), (2b), and (2c). An area created by the combination of the bordering area within the developing side of the property measured from the base of the tree. The critical root zone of a tree preserved pursuant to (2a), (2b), and (2c).