

**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 is 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, Bennettwood 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, Bennettwood 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 full 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.

s) 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.

t) For any principal building developed on the property, each building façade facing Creedmoor Road or Millbrook Road shall consist of at least 35% masonry materials. No stucco or EIFS shall be placed below 30 inches, as measured from the adjacent sidewalk, around the exterior of the building.

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.

- (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 new proposed thoroughfare right-of-way lines may be reduced as either part of site plan or subdivision approval approved by the Planning Commission or the City Council or a public acquisition of right-of-way. The body which allows the reduced setback shall find that the new proposed right-of-way lines deprive the property owner abutting the thoroughfare reasonable use of their property, and may impose conditions to assure that the purposes of the yard setback are otherwise achieved.

(Ord. No. 398-TC-341, §3, TC-8-89, 7-3-89; Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1999-616-TC-181, §45, TC-3-99, 8-3-99)

- (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 §10-2082.4.

(Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1999-616-TC-181, §46, TC-3-99, 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 may be reduced one (1) per cent 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 (1/2) the required depth and provided that no reduced rear yard shall be less in depth than 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 §10-2144, yard reductions, 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 a site plan approval approved by the Planning Commission or the City Council in accordance with §10-2132.2. The body which allows the reduced setback may impose conditions to assure that the purposes of the yard setback are otherwise achieved.

(Ord. No. 2004-682-TC-253, §1, TC-15-04, 8-3-04)

Editor's Note: Transit shelters and seating are permitted within required yard area setbacks, see §10-2075(e), 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 a finding that such reduction in setback is in accordance with the general plans 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(d).

(Ord. No. 2004-699-TC-255, §1, TC-14-04, 9-7-04; Ord. No. 2005-932-TC-275, §15, TC-6-05, 11-15-05; Ord. No. 2009-661-TC-327, §§16, 17, TC-4-09, 10-7-09)

- (e) *Buildings, Structures or Uses Permitted in Yard Areas.*

Buildings, structures, or uses, or portions thereof 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 allowed 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 net lot area, residential density, floor area ratio, and building lot coverage requirements of this chapter.

Cross reference: Special use permit approved by the Board of Adjustment yard encroachments, §10-2144.

Annotation: Extension A six-inch veneer facade is not an extension so as to reduce yard spaces. A-119-77 Downtown Housing Improvement Corporation, Board of Adjustment (Oct. 10, 1977).

(Ord. No. 1982-33-TC-171, §2, 12-7-82; Ord. No. 1983-81-TC-178, §1, 2, 3-15-83; Ord. No. 1983-115-TC-182, §8, 5-17-83; Ord. No. 1983-153-TC-190, §4, 7-19-83; Ord. No. 1984-366-TC-218, §2, 6-19-84; Ord. No. 1984-438-TC-226, §4, 11-6-84; Ord. No. 1985-309-TC-230, §3, 3-5-85; Ord. No. 1985-600-TC-242, §5, 7-2-85; Ord. No. 1985-675-TC-254, §4, 11-19-85; Ord. No. 1985-679-TC-256, §4, 12-3-85; Ord. No. 1986-



**Ordinance (2012) 96ZC 675**  
**August 7, 2012**

§ 10-2075

RALEIGH CITY CODE

1/10

799-TC-267, §34, 6-3-86; Ord. No. 1986-880-TC-277, §10, 10-22-86; Ord. No. 1988-291-TC-327, §7, 12-13-88; Ord. No. 1989-310-TC-331, §4, 2-7-89; Ord. No. 1989-440-TC-345, §3, 10-3-89)

10/2/D-46

August 7, 2012

§ 10-2075

RALPH CITY CODE

12/04

SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (continued)	
SYMBOLS	TYPES OF YARD AREA SETBACKS
<p>● Permitted Use</p> <p>a, b, ... Permitted use in accordance with regulations in both a. and b., etc.</p> <p>□ Blank space indicates the use is not permitted in that yard area setback</p>	<p>SPECIAL USE AND CONDITIONAL USE</p> <p>HISTORIC OVERLAY DISTRICT AND HISTORIC LANDMARKS</p> <p>NEIGHBORHOOD CONSERVATION, §10-2084 AND PEDESTRIAN BUSINESS, §10-2086, OVERLAY DISTRICTS</p> <p>CONDITIONAL USE ZONING DISTRICTS</p> <p>SPECIAL ARTERIAL YARD AREAS</p> <p>CLUSTER UNIT DETACHED DWELLING UNIT, ATTACHED CLUSTER HOUSE, AND DETACHED AND TWO ATTACHED TOWNHOUSES, §10-2101(b)(5), AND §10-2103(b)(2).</p> <p>SPECIAL SETBACKS IN CLUSTER DWELLING, §10-2103(b)(3) OR MULTIFAMILY DWELLING DEVELOPMENTS, §10-2107(b)</p> <p>NATURAL PROTECTIVE YARDS *</p> <p>PROTECTIVE YARDS AND CONSERVATION MANAGEMENT DISTRICTS</p> <p>ADDITIONAL YARD SETBACKS REQUIRED UNDER SPECIAL CONDITIONS OF THE SCHEDULE OF ZONING DISTRICT HEIGHT STANDARDS, §10-2076(a) AND EXCEPTIONS §10-2076(c)</p> <p>ZONING DISTRICT YARDS OTHER THAN NEIGHBORHOOD CONSERVATION, PEDESTRIAN BUSINESS, HISTORIC OVERLAY, AND CONSERVATION MANAGEMENT DISTRICT</p>
<p>ACCESSORY STRUCTURES AND USES</p> <p>Loading and service area</p> <p>Open space, water and natural vegetated areas</p> <p>Open structure, being limited to awning, porch, stairway, carport, ...</p> <p>Other uses permitted in the zoning district, not specifically listed in this schedule</p> <p>Sidewalk, walkway, footpath</p> <p>paved, graded, or gravel</p> <p>unpaved and ungraveled</p> <p>Signs also see §10-2085</p> <p>Off-premises billboard subject to §10-2084 et seq.</p> <p>On-premises subject to §10-2083 et seq.</p> <p>Statuary, monument, fountain or other decorative item</p> <p>Storage of one unoccupied manufactured home/motorhome</p> <p>Storm drainage facility</p> <p>Street and any associated facility</p> <p>Transit easement, shelter and seating</p> <p>Uncovered paved areas (e.g. stoops, patios, and pools)</p> <p>Utility lines, pipes, overhead power lines</p> <p>Vegetation/landscaping</p>	
<p>All uses allowed in zoning district yards unless specifically prohibited by applicable conditional use regulations of §10-2072, and applicable special use regulations, §10-2144, §10-2146.</p> <p>All uses allowed in zoning district yards subject to Certificate of Appropriateness being issued for buildings, structures, walls, fences, light fixtures, steps, pavement, trees, signs, above ground utilities and other appurtenant features.</p> <p>Except for certain vehicular parking areas in the Pedestrian Business Overlay District (§10-2055(e)(2)), all uses allowed in the underlying zoning district yard setbacks subject to the terms and provisions of the adopted Neighborhood Plan or Streetscape Plan, and in the Pedestrian Business Overlay District, subject to §10-2055(e)(2).</p> <p>All uses allowed in zoning district yards subject to the terms and provisions of the conditional use district ordinance for the property.</p>	

10/2/D-48



August 7, 2012

8/06

PLANNING AND DEVELOPMENT

§ 10-2075(e)

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

## FOOTNOTES

a. This schedule does not include *building* separations required by *group housing development* standards, §10-2103(b)(2), and North Carolina State Building Code. This schedule does include special setbacks in *group housing*, §10-2103(b)(3), and *multifamily dwellings*, §10-2107(b)(2), and supplementary yard setbacks listed in §10-2075(b)(2).

(Ord. No. 1998-370-TC-167, §16, TC-3-98, 7-7-98)

b. No more than fifteen (15) per cent of any required *protective street yard* shall be covered with *impervious surfaces*.

c. *Vehicular display areas* are prohibited in any Pedestrian Business Overlay District.

d. Vehicular parking areas, other than driveways, in the area between a *thoroughfare* and the front wall of the *principal building*, viewed perpendicular to the recorded *thoroughfare* right-of-way, is prohibited in any Pedestrian Business Overlay District.

e. *Vehicular surface areas* for *residential related services* in *life care communities*, *congregate care structures* or *congregate living structures* located within thirty (30) feet of any residentially zoned *lot* or *lot* containing a *dwelling* are regulated; see §10-2072(b), *residential related services*.

f. *Vehicular surface areas* in the Special Residential-30 District that contain more than four (4) off-street parking spaces and which serve residential developments that require a conditional use permit are regulated by §10-2072(b). Additional *dwelling units* or *equivalent dwelling units* on a *lot* [three (3) or more], or additional residential density [greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre], or both in the Special Residential-30 District.

(Ord. No. 1998-370-TC-167, §16, TC-3-98, 7-7-98)

g. Accessory detached building including storage shed, storage tank, greenhouse, horse stall, gazebo or garage, provided that all of the following are met:

- 1) There is a *dwelling* located on the *lot*.
- 2) The *accessory structure* or *building* is constructed in the *rear yard area*.
- 3) No more than one-half ( $\frac{1}{2}$ ) of the required *rear yard area* is occupied by *accessory structure(s)* or *building(s)*. The size of a garage is limited to one-half ( $\frac{1}{2}$ ) of the required *rear yard area*, or five hundred (500) square feet, whichever is less. *Accessory structures* lawfully in existence prior to application of this requirement which otherwise conformed to this chapter are conforming uses. Editor's Note: This regulation first became applicable on January 1, 1993.
- 4) On *lots* of five thousand (5,000) square feet or less in area, garages and *accessory structures* in excess of one hundred fifty (150) square feet shall be constructed of materials compatible with the *principal dwelling*.
- 5) The *accessory structure* or *building* is not located within any required district yard area which adjoins a public street right-of-way, and not located on an underground utility easement. On a *corner lot*, if the *accessory structure* or *building* is located within the required district *rear yard area*, the *accessory structure* or *building* shall be set back at or behind the *front yard area* of the adjacent *lot* or the minimum district front yard setback, whichever is greater.
- 6) The *accessory structure* or *building* is located no closer to any property line than the minimum required district *side yard setback* of the zoning district 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 three (3) feet from the side or rear boundary. *Side yard setbacks* in the Residential-5 thru Residential-30 districts, which are approved on a *lot* located on a public street which is a minimum of a *block face* in length, and established after July 21, 1991, for *lots* which contain *single family dwellings*, may be reduced to the setbacks established for the *principal conforming building*.
- 7) The *accessory structure* or *building* is not an apartment or *dwelling*.
- 8) Only one (1) detached garage shall be permitted on the property.
- 9) Within a *cluster unit development* or *townhouse development*, the minimum *lot area* requirements of §10-2073(b) are met.
- 10) No part of the *accessory structure* or *building* is located within any perpetual access easement required by §10-3073(b)(8).

For an *accessory structure* or *building* for a detached or two (2) attached *townhouse dwelling(s)*, or detached *dwelling units* or attached *cluster housing* within a *cluster unit development* which do not meet the net minimum *lot area* requirements of §10-2073(b), see footnote h.

(Ord. No. 890-TC-382, TC-19-91, 12-8-91; Ord. No. 823-TC-371, §11, TC-11-91, 7-21-91; (Ord. No. 111-TC-42, §34, TC-18-92, 12-8-92; Ord. No. 1995-760-TC-122, §17, TC-208-95, 11-21-95; Ord. No. 1998-288-TC-163, §51-3, TC-17-97, 2-17-98; Ord. No. 2003-373-TC-231, §18, TC-23-02, 2-4-03; Ord. No. 2006-961-TC-280, §1, TC-16-05, 1-17-06)

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

FOOTNOTES  
(continued)

h. On lots which do not meet the minimum lot area requirements of §10-2073(b): accessory structure(s) or building(s) which are detached, or detached garage for detached dwelling units or attached cluster housing within a cluster unit development, and detached or two attached townhouse dwellings, provided all the following are met:

- 1) There is a dwelling on the lot.
- 2) The accessory structure or building is constructed in the rear yard area.
- 3) No more than one-half ( $1/2$ ) of the required rear yard area is occupied by accessory structure(s) or building(s). The size of a garage, excluding eaves, is limited to one-half ( $1/2$ ) of the required rear yard area, or five hundred (500) square feet, whichever is less. Accessory structures lawfully in existence prior to application of this requirement which otherwise conformed to this chapter are conforming uses. Editor's note: This regulation first became applicable on January 22, 2008.
- 4) The accessory structure or building is constructed of materials compatible with the principal dwelling.
- 5) The accessory structure or building is located no closer to any property line than the minimum side yard setback in the zoning district unless the zoning district side yard is allowed to vary (see §10-2101(b)(6)(a); §10-2103(b)(2)(c), in which case the side yard setbacks for the accessory structure shall be those established for the principal conforming building.
- 6) The accessory structure or building does not exceed a maximum of one hundred fifty (150) square feet unless it is a garage directly accessed from the rear or side of the lot by an alley.
- 7) The accessory structure or building is not located within any required district yard area which adjoins a public street right-of-way, and a minimum of ten (10) feet from the outside edge of any private street right-of-way, street, sidewalk, and Driveway Access Handbook, §4.11 on file in the City Clerk's office.
- 8) The townhouse lot complies with the minimum lot sizes in §10-3071(b)(4) and conforms with §10-2103(b)(2)(c).
- 9) The accessory structure or building is not an apartment or dwelling.

(Ord. No. 828-TC-93, §1, TC-31-88, 2-28-89; Ord. No. 221-TC-316, §2, TC-11-88, 7-24-88; Ord. No. 588-TC-241, §3, TC-8-85, 6-24-85; Ord. No. 1892-111-TC-42, §34, TC-10-92, 12-8-92; Ord. No. 1895-700-TC-122, §17, TC-20-85, 11-21-85; Ord. No. 1898-370-TC-167, §18, TC-3-88, 7-7-88; Ord. No. 2008-961-TC-280, §2, TC-10-05, 1-17-06)

i. Reserved.

(Ord. No. 1992-118-TC-41, §40, TC-18-92, 12-8-92; Ord. No. 1993-218-TC-60, §8, TC-10-93, 6-15-93; Ord. No. 1997-137-TC-133, §63, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §48, TC-3-99, 8-3-99; Ord. No. 2001-991-TC-206, §9, TC-3-00, 5-1-01)

j. Driveways provided that the provisions of §10-7001 are met, in cluster unit developments, only driveways for detached single family dwellings and joint driveways for duplex units are permitted in the perimeter protocolive yard. For cluster unit developments, see also §10-2101(b)(8).

k. For multifamily dwelling developments, automobile parking spaces and private driveways located in the front yard areas shall not occupy more than one-half ( $1/2$ ) of said yard area, except this provision shall be inapplicable to underground parking areas. For buildings which are required to comply with group housing standards, such as townhouse developments, see special setbacks §10-2103(b)(3)e. Vehicular surface areas in the Special Residential-30 District that contain more than four (4) off-street parking spaces and which serve residential developments that require a conditional use permit, are regulated; see, §10-2072(b). Additional dwelling units or equivalent dwelling units on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) dwelling units per net acre), or both, in the Special Residential-30 District.

(Ord. No. 1998-370-TC-167, §16, TC-3-98, 7-7-98)

l. Gasoline and other fuel pumps shall comply with §10-6036.

(Ord. No. 1995-760-TC-122, §17, TC-10-95, 11-21-95)

m. Open structures including awnings, decks, marquees, canopies (including gasoline pump island canopies), projecting signs, porches, eaves, stairways, attached carports, shall meet the following:

- 1) The projections are completely open, except for reasonable structural supports that are allowed in the front and rear yard areas; no structural supports are permitted in the side yard area; and
- 2) The projections, including gutters, which are more than three and one-half ( $3\frac{1}{2}$ ) feet above the surrounding grade do not extend into or over more than twenty (20) per cent of the required front or rear yard setback and do not extend into or over more than forty (40) per cent of the required side yard setback or required building separation so long as no projection is closer than four (4) feet to the side yard property line. See also footnote n. below for structures less than three and one-half ( $3\frac{1}{2}$ ) feet high.

n. Other uses, buildings or structures permitted in the zoning district which not specifically listed in this schedule are permitted provided the use, building or structure is an accessory structure or use and is not higher than three and one-half ( $3\frac{1}{2}$ ) feet above the surrounding grade level.

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

## FOOTNOTES

- o. Storage of one unoccupied *manufactured home* or *travel trailer* provided all the following are met:
- 1) The *manufactured home* or *travel trailer* is not allowed in any *yard area* except the *rear yard area*.
  - 2) An *occupied dwelling* is located on the lot.
  - 3) No living quarters shall be maintained or any business conducted in such a unit.

(Ord. No. 2000-734-TC-189, §1, TC-2-00, 2-15-00)

- p. Storm drainage provided the provisions of §10-3051(b) are met. No stormwater detention or retention facilities are permitted within special arterial *yard areas*. Within Natural Protective Yards, no installation of storm drainage facilities, including pipes, detention facilities, and energy dissipaters which require the removal of vegetation, shall be permitted unless within a drive or a public street, or unless approved by the Planning Commission or City Council as part of a site plan approved in accordance with §10-2192.2.

(Ord. No. 1993-263-TC-65, §4, TC-19-93, 9-21-93; Ord. No. 1995-760-TC-122, §17, TC-20-95, 11-21-95; Ord. No. 1999-616-TC-181, §47, TC-3-99, 8-3-99)

- q. Reserved.

(Ord. No. 1992-110-TC-41, §40, TC-18-92, 12-8-92; Ord. No. 1993-218-TC-60, §8, 6-15-93; Ord. No. 1995-760-TC-122, §17, TC-20-95, 11-21-95; Ord. No. 2001-991-TC-206, §9, TC-8-00, 5-1-01)

- r. *Street* provided the provisions of §10-3053 and all the standards of the *Street, Sidewalk, and Driveway Access Handbook*, on file in the City Clerk's office are met, and within the Reservoir Watershed Protection Area Overlay District and the Conservation Management District, the additional provisions of §10-5006(a)(11) shall be met.

(Ord. No. 1992-110-TC-41, §40, TC-18-92, 12-8-92; Ord. No. 1993-218-TC-60, §8, 6-15-93; Ord. No. 1995-760-TC-122, §17, TC-20-95, 11-21-95; Ord. No. 1997-137-TC-153, §70, TC-18-96, 6-17-97)

- s. Uncovered paved areas, such as stoops, patios and pools not including vehicular surface or *display areas*, are permitted provided uses which are more than three and one-half (3 1/2) feet above the surrounding grade level do not project into the *yard area* more than twenty (20) per cent of the required district yard setback.

- t. Utility lines and pipes, transformers, meters and hydrants subject to the provisions of §10-3055(c), §10-3056(c) and §10-2082.3.

(Ord. No. 1995-760-TC-122, §17, TC-20-95, 11-21-95)

- u. Within the Reservoir Watershed Protection Area Overlay District and Conservation Management District: For primary watercourse buffer areas, only after the provisions of §10-5006(a)(11)a.3. and 4. are met, and for secondary watercourse buffer areas, only after the provisions of §10-5006(a)(11)a.2., a.3.; and a.4. are met.

Within the Metro-Park Protection Overlay District:

For watercourse buffer areas, only after the provisions of §10-5006(a)(11)a.3. and a.4. are met.

Within Natural Protective Yards, no installation of utilities or pipes shall be permitted unless required by the City and the utility cannot feasibly be located elsewhere to serve the site.

(Ord. No. 1992-110-TC-41, §40, TC-18-92, 12-8-92; Ord. No. 1993-218-TC-60, §8, 6-15-93; Ord. No. 1997-137-TC-153, §70, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §47, TC-3-99, 8-3-99)

- v. No off-street parking is permitted which is required to meet the minimum standards of §10-2081(a) to serve a use.

- w. Off-street parking and driveway areas shall not constitute more than forty (40) per cent of the *front yard area* of any detached *single family dwelling* except in planned residential developments constructed in accordance with Article F or *Master Plans*.

(Ord. No. 1993-263-TC-65, §4, TC-19-93, 12-8-92; Ord. No. 1994-446-TC-83, §1, TC-14-94, 7-19-94)

- x. Permitted; provided that, the structure is located outside any perpetual access easement required by §10-3073(b)(6).

(Ord. No. 1995-760-TC-122, §17, TC-20-95, 11-21-95)

- y. Crops involving cultivation are only allowed in the Conservation Management District if the garden is an *accessory use*, and the garden is located outside the Conservation Buffer District yard setbacks.

(Ord. No. 1997-137-TC-153, §71, TC-18-96, 6-17-97)

- z. No tree removal or grading shall take place unless in accordance with the requirements for a tree removal permit for *street protective yards* in Resource Management Zoning Districts, §10-2082.12(c)(1) a., b., c., d., e., f., g. and section 10-2082.12(d) and (e). No uses shall be permitted except in accordance with this schedule. No tree removal permit shall be issued if the cumulative grading and tree removal exceeds thirty (30) per cent of any *Natural Protective Yard*.

(Ord. No. 1999-616-TC-181, §47, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §18, TC-23-02, 2-4-03)

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 §10-2002 subsections (1) through (4) for the defined term *hazardous*.

(c) **Tree Cover Required.**

Tree conservation areas proposed for thoroughfare areas of Thoroughfare Districts or Special Highway Overlay Districts 1 through 4 of priority areas (b)(1)a., and priority areas (b)(2)a. through (b)(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 TD and SHOD 1 through 4 that does not contain a *basal area* of at least thirty (30) 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 tree ten (10) inches or greater DBH 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 requirement in *protective yards* of Thoroughfare Districts or Special Highway Overlay Districts 1 through 4 or; secondary tree conservation areas, subsection (b)(2) above; each developer shall submit to the City:

- (1) Photo panoramic panels of the intended area to be conserved. The photo panel 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 registered forester describing for each fifty (50) foot length of proposed *tree conservation area* the composition of tree species, typical characteristic of the tree stand, the smallest caliper tree, but not less than three (3) inches DBH (nine and three-eighths (9 3/8) inches circumference measured four and one-half (4 1/2) feet above the ground) the largest DBH and the typical DBH, 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 interrelated;
- (3) The most recent aerial photograph of the subject tract.

An actual survey of trees and computation of *basal area* may be substituted in lieu of subsection (c)(1) and (3) above, provided that no tree that is dead, *unhealthy*, or is a *hazardous tree* is included in the survey.

An optional method to determine *basal area* for thoroughfare areas of Thoroughfare Districts or Special Highway Overlay Districts 1 through 4 of priority areas (b)(1)a., and for secondary tree conservation areas (b)(2)a. through d.; is 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 (b)(2) a. through d. and for thoroughfare yards of Thoroughfare Districts or Special Highway Overlay Districts 1 through 4 provided all the following conditions are met:

- a. Tree conservation areas shall be at least eighty seven hundred (8,700) square feet in size, shall exclude easements, and shall consist of contiguous *undisturbed* wooded areas with a *basal area* of 60 or greater comprised of trees three (3) inches dbh and larger.
- b. All dimensions of tree conservation areas shall be at least sixty five (65) feet in all directions.
- c. Land area that does not contain trees shall 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 disallowed as tree conservation area.
- e. A legible copy of the latest Wake County/City of Raleigh aerial photograph, or more recent if available, shall be included with the registered forester's certification.

Within each fifty (50) foot linear increment of Zone 2 of Neuse River Riparian Buffers required by (b)(1)c. and greenway tree conservation areas delineated pursuant to §10-2082.14(d) that does not contain trees, a minimum of two *shade trees* to enhance the riparian buffer shall be planted prior to issuance of certificate of occupancy. Planted *shade trees* shall be at least ten (10) gallon container size (at least five feet tall) free of circling roots at 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 §10-2082.14(f) or a water-related activity located in, over, under, or adjacent a lake or natural watercourse, no planting of new trees shall be required.

Within each fifty (50) linear feet of watercourse buffer of the Resource 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* free of circling roots *shall* be planted to enhance the riparian buffer prior to the issuance of a certificate of occupancy.

Alternatively, areas 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, nor subjected 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 areas *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 areas *shall* be planted with twice the number of ten (10) gallon container *shade trees* as described above. Unlawful removal of any required signs *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 processed as set forth in §10-2152(5).

(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 easements, 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; and, storm drainage facilities including without limitation, pipes, energy dissipaters, and stormwater control measures which require the removal of vegetation. Water-related activity areas located in, over, under or adjacent a lake or natural watercourse, shown on the *site plan* *shall* not be included as Zone 2 areas of Neuse River Riparian Buffers required by §10-2082.14(b)(1)c.

The area of secondary tree conservation areas established pursuant to subsection (b)(2) above which consist of groups of trees, excluding *unhealthy* or *hazardous trees* is measured by finding the area which fully encloses all the protected trees excluding: sight triangles, slope easements, 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 dissipaters and stormwater control measures which require the removal of vegetation. Such tree conservation areas *shall* also contain the dimensional requirements of §10-2082(b)(2)a. through d. City of Raleigh greenways *may* at the option of the owner be included in the boundaries of tree conservation areas, provided that an area computed twenty-five (25) feet multiplied by the length of the greenway is excluded as tree conservation for trail construction. Tree conservation areas proposed for priority areas (2)a. through (2)d., including any allowed alternate internal *undisturbed areas* *shall* be at least twenty (20) feet in all directions excluding external boundaries.

Where either a slope or utility easement is required on the developing property adjacent to a thoroughfare, the width of secondary tree conservation areas required by §10-2082.14(b)(2)a. and §10-2082.14(b)(2)b. *may* be reduced by one-half (1/2) foot for each one (1) foot of easement width, but overall site tree conservation required by §10-2082.14(b)(2) *shall* not be reduced. Where both slope and utility easements are required and overlap, the overlapping width *shall* be counted once.

For each fifty (50) foot length of tree conservation area established pursuant to §10-2082.14(b), the boundaries of priority areas (2)a. through (2)d. *may* optionally be widened to provide additional area of protection for tree roots of trees included in the *basal area* computation provided that each fifty (50) foot section contains a *basal area* of at least thirty (30). The widened tree conservation areas *shall* be accomplished by measuring perpendicular to the tree conservation boundary no more than ten (10) feet from the edge of the *critical root zone* of trees ten (10) inches DBH and larger, or, no more than ten (10) feet from the trunk of the tree that is at least three (3) inches DBH but less than ten (10) inches DBH and which is also furthest from the developing parcel boundary. Tree conservation areas *shall* not exceed one hundred (100) feet wide for priority areas (2)a. and (2)b.

The area of tree conservation areas for individual trees and for trees ten (10) inches or more in DBH that are not *unhealthy* or a *hazardous tree* that are situated within tree conservation areas in priorities (2)a., (2)b., allowed alternate *undisturbed areas* pursuant to (2)c. and d. and (2)e. and (2)f., *shall* in addition include the *critical root zone* within the developing side of the property measured from the base of trees. The *critical root zone* of a tree preserved pursuant to (2)c. and (2)f.