ORDINANCE NO. (2008) 3507

AN ORDINANCE TO AMEND ORDINANCE NO. (2003) 3250 ENTITLED "THE GARNER UNIFIED DEVELOPMENT ORDINANCE FOR THE TOWN OF GARNER AND ITS EXTRATERRITORIAL JURISDICTION" BY AMENDING Section 7.2(D)(3) REGARDING LIMITED LAND DISTRUBANCE IN WATERSHED CONSERVATION BUFFER AREAS.

Section One. Amend Section 7.2(D)(3) by adding a new subsection (b) and renumbering existing subsections (b) (c) to subsections (c) and (d) to read as follows.

3. Land Disturbance Limits in Conservation Buffer Areas

a. No land-disturbing activities (including agricultural uses) are permitted within the conservation buffer areas, except for the following uses:

(1) Street and associated facilities;

(2) Greenways and pedestrian paths; and

(3) Utility mains, pump stations and drainage facilities which comply with Town of Garner standards.

b. *The permit issuing authority may allow community service facilities, educational facilities, government facilities, parks and open space uses or public or private water dependent structures (functionally dependent facilities) to encroach into conservation buffer areas provided it concludes that:*

i. the area of encroachment does not exceed 10% of the total buffer area on the project site and a minimum of 40 feet of the buffer width remains undisturbed;

ii. the area of encroachment is the minimum amount necessary in order to reasonably use the property;

iii. no direct discharge of stormwater into the buffer from rooftops is allowed;

iv. no vehicular parking/loading areas or driveways are allowed within the buffer;

v. *the elevation of all finished floors of all structures located within the buffer shall be a minimum of two (2) feet above the 100 year base flood elevation and;*

vi. *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 section 7.2.H of this ordinance.*

c. Within areas of the Lake Benson Conservation District not constituting the Conservation Buffer Areas, site disturbance on existing lots of record as of March 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.

d. Throughout the Lake Benson Conservation District and conservation buffer areas, 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:

(1) An independent (sealed) engineering study which documents that the soils to be developed are not in the stated erosion categories, or

(2) Erosion prevention control measures that satisfy the Wake County Erosion and Sedimentation Control Ordinance.

Section Two. Ordinance No. (2008) 3507 entitled Garner Unified Development Ordinance and Its Extraterritorial Jurisdiction as noted for deletion where applicable in Sections One through Three are hereby appealed.

Section Three. All ordinances or portions thereof in conflict with this ordinance are hereby appealed.

Duly adopted this 22nd day of April, 2008.

MAYOR

ATTEST:

TOWN CLERK

APPROVED AS TO FORM:

TOWN ATTORNEY

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