ARTICLE 4. ZONING DISTRICTS

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4.1. Establishment of districts.

For the purpose of this Unified Development Ordinance (UDO), portions of the Town, as specified on the Town's official zoning map are hereby divided into the following zoning districts:

Residential Zoning Districts	
R-40	Single-Family Residential
R-20	Single-Family Residential
R-15	Single-Family Residential
R-12	Single-Family Residential
R-9	Single-Family Residential
MF-1	Multifamily Residential
-2	Multifamily Residential
RMH	Manufactured Home Park/Subdivision
-MH	Manufactured Home Floating Zone
Commercial Zoning Districts	
NO	Neighborhood Office
NC	Neighborhood Commercial
CBD	Central Business District
OI	Office and Institutional
CR	Community Retail
SB	Service Business
Industrial Zoning Districts	
I-1	Light Industrial
I-2	Heavy Industrial
Planned Development Districts (Floating Districts)	
PUD	Planned Unit Development
PRD	Planned Residential Development
TND	Traditional Neighborhood Development
MXD	Mixed Use Development
Overlay Zoning Districts	
CBA	Conservation Buffer Area
LBC	Lake Benson Conservation District
SCC	Swift Creek Conservation District
O-TD	Timber Drive Overlay District
O-70	U.S. 70/401 Overlay District
O-40	I-40 Overlay District
Obsolete Districts	
MR-1	Multi-Residential
RCD	Residential Cluster District
R-12 PR	Planned Residential District
MXD-1	Mixed Development District

Note: The MXD General Use District has been replaced by the MXD Planned Development Floating District. Existing MXD General Use Districts remained mapped on the official zoning map and can developed according to the provisions of [Section] 4.14, Obsolete districts.

1. **General use districts.** Also known as base zoning districts, these represent the traditional residential, commercial, and industrial districts established above. They set uniform standards for uses in their district and are the governing standards unless overlaid with more restrictive standards as in the case of an overlay district.

2. **Conditional use districts.**

   a. The Board may establish by ordinance various conditional use zoning districts upon request by or on behalf of the owner. In lieu of setting forth all of the regulations applicable to such district, the ordinance establishing it may incorporate by reference all of the regulations applicable to any general use district, except to the extent that the ordinance sets forth exceptions that are less stringent than those of the referenced general use district (e.g., the ordinance may provide for greater but not lesser setbacks than those applicable to the referenced general use district or may specify that only one or some of the uses permissible in the referenced general use district are permissible).

   b. Within any conditional use zoning district, all of the uses that are permissible shall require a concurrent conditional use permit.

   c. Any conditional use zoning district shall be designated by adding -C to the general use district incorporated by reference and by adding a numerical subscript to indicate the order in which such districts are created. Thus, the first such district created might be designated SB-C1, the second MF-1-C2, and so forth. These designations shall be applied to the official zoning map as in the case of other amendments. All ordinances establishing a conditional use district shall be referenced in Appendix B to this UDO. Ordinances are on file in the Planning Department.

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 owner can meet the conditions in the ordinance. Uses typically designated in floating districts include Planned Developments such as the PUD, PRD, TND and MXD districts.

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 that occurs must be in compliance not only with the regulations applicable to the underlying district but also with the additional requirements of the overlay district. The Conservation Buffer, Lake Benson Conservation, Swift Creek Conservation, I-40 Special Highway, Timber Drive, and the U.S. 70/401 Thoroughfare are six such overlay

districts. 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. **Obsolete districts.** Obsolete districts have been mapped on the official zoning map of the Town of Garner, but are no longer part of the zoning district hierarchy applied to the Town. These districts have been retained from the previous version of the land use ordinance and land that is zoned with any of the obsolete district designations will continue to be developable under those use and dimensional regulations applicable to the districts immediately prior to the effective date of this UDO. See Section 4.1 entitled establishment of districts for list of obsolete districts.

4.2. Official zoning map.

A. 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 drawn on a durable material or generated in a digital format from which prints or digital copies can be made, shall be dated, and shall be kept in the Town Hall.

B. The official zoning map is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Section 3.12, Zoning map amendment (rezoning).

C. 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.

4.3. Rules for interpretation of district boundaries.

A. **Interpretations.**

1. The Board of Adjustment is authorized to interpret the official zoning map and to pass 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 decision of the Planning Director, they shall be handled as provided in Section 3.16, Administrative appeals.

2. An application for an official zoning map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Planning Director. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

3. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

a. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;

b. Boundaries indicated as approximately following lot lines, city limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries; and

c. 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.

4. 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.

5. 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.

4.4. Residential district purpose statements.

A. **Single-family residential districts (R-40, R-20, R-15, R-12, R-9).** These districts are designed to create and maintain residential neighborhoods composed primarily of single-family dwellings and, as special uses, such institutional, public, and other compatible uses that are designed, constructed and maintained so as not to detract from the quality of each district as a place for healthful, quiet, and aesthetically pleasing residential living.

B. **Multifamily residential districts (MF-1, MF-2).** These districts are designed to create and maintain higher density residential neighborhoods composed primarily of multifamily dwellings and, as special uses, those service, institutional, public and other compatible uses that are so designed, constructed and maintained that they do not detract from the quality of the neighborhood as a place for healthful, quiet and aesthetically-pleasing residential living. When evaluating an application for the MF-1 or MF-2 zoning district, emphasis shall be given to the location of the proposed district to adjoining developed property to ensure that such district is carefully located and achieves a satisfactory relationship with the surrounding properties.

C. **Manufactured home park/subdivision (RMH).** The RMH manufactured home park/subdivision district is hereby established to provide for the development of manufactured home parks or manufactured home subdivisions in which class A, class B or class C manufactured homes may be located.

D. **Manufactured home floating zone (-MH).**

1. **District established.** The manufactured home floating zone hereby established is provided for the designation of areas within selected residential zones other than RMH within which class A 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 Article 8, as well as those contained herein.

2. **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.

3. **Rezoning procedures.** The Town shall process manufactured home district rezoning requests in the same manner as set forth by Section 3.12 for all other rezoning requests, except that they shall be reviewed by the Garner Planning Commission.

4. **Development standards.** The development standards applicable to manufactured homes are located in Section 6.7.J.

5. **Additional requirements.** Structures within a district suffixed as a manufactured home district (-MH), must conform to the applicable dimensional, parking and setback requirements of Article 6 and Section 7.2.H.7, and specifically those applicable to the zoning district to which they are suffixed. 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. Class B or C manufactured homes units are not permitted.

4.5. Commercial district purpose statements.

A. **Neighborhood Office (NO).** The purpose of this district is to accommodate modest-scale professional and service occupations, along with single-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

B. **Office and Institutional (OI).** The purpose of this district is to accommodate more intense professional and service occupations than permitted in the neighborhood office (NO) district and to insure that the environmental effects (including noise, odor, glare, heat, vibration and air pollution) resulting from the conduct of such operations shall not interfere with the quality of any surrounding district. This district is also intended to accommodate, as special uses, certain other compatible uses that are so designed, constructed and maintained that they do not interfere with the conduct of permitted professional and service occupations. When used as part of a rezoning, this district serves as a transition between residential districts and more intense districts, including commercial districts.

C. **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 such residents can have convenient access to such goods and services without the necessity for making cross-town trips. The uses permitted are of such a nature and on such a scale

that incompatibility with or disruption to nearby residences is minimized, and uses that by their very nature depend for a majority of their business upon traffic from the whole community rather than the immediate neighborhood are not permitted.

D. **Community Retail (CR).** This district is designed to accommodate commercial activities that serve the entire community, especially retail businesses conducted within a building.

E. **Central Business District (CBD).** This district is intended to provide for and maintain the Main Street business district.

F. **Service Business (SB).** This district to accommodate commercial activities that are more intense in nature than those permitted in neighborhood or community business districts. This district allows merchandise or equipment to be stored and operations to be conducted outside a building.

4.6. 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 are subject to the industrial performance standards of Section 6.10.B.

A. **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 and conducted. Operations are restricted to inside a building (outdoor storage prohibited).

B. **Heavy Industrial District (I-2).** The Heavy Industrial District is intended to provide for industrial uses that are may be noxious or offensive due to odors, smoke, dust, noise, fumes or vibration. Operations may be inside or outside of a building.

4.7. Planned Development Districts (PUD, PRD, TND, MXD).

There shall be a Planned Development District which shall consist of any of the following types: Planned Unit Development (PUD), Planned Residential Development (PRD), Traditional Neighborhood Development (TND), or Mixed Use District (MXD). Each district is a floating district and additional standards are located in Sections 6.9 through 6.12.

A. **Planned Unit Development (PUD) purpose and intent.** The PUD district is intended to provide for a mix of uses, including commercial and residential uses. PUD provisions are intended to encourage creativity in the design and planning of parcels by allowing greater design flexibility than the underlying base districts to protect natural features and concentrate development in more suitable or less environmentally sensitive

areas. The end result is creativity in design, additional open space and an appropriate mix of uses. PUD development is permissible on tracts of land of five acres or greater.

B. **Planned Residential Development (PRD) purpose and intent.** The PRD district is intended to provide for master-planned residential communities containing a mix of housing types, including associated amenities. This district is primarily intended for large-scale residential projects that require either additional flexibility not available in the base residential districts, or greater scrutiny by the Town due to their scale. PRD development is permissible on tracts of land of 15 acres or greater.

C. **Traditional Neighborhood Development (TND) purpose and intent.** TND is a development option allowing new standards for development focused on mixed residential development with a pedestrian orientation, and a centralized commercial or mixed use node serving as the focal point for the development. TND development must also incorporate a network of open space, a network of internal streets, and connections to the surrounding area. TND development is permissible on tracts of land of 40 acres or greater.

D. **Mixed Use District (MXD) purpose and intent.** Mixed Use Districts are intended to produce higher levels of urban land use intensity at or near community focus nodes or regional focus nodes, consistent with the Town's long-range land use plan map. MXD zoning districts permit various combinations of usually separated uses, primarily promoting the development of business parks. It is not intended to be applied in a limited way to only inner city development or to mixed uses within one structure (high-rise), but rather, may be used to support either infill or new development on relatively large tracts. MXD development is permissible on tracts of land of 75 acres or greater.

E. **Rezoning criteria for all Planned Development (PUD, PRD, TND, MXD).** In approving a rezoning for a Planned Development, the Board of Aldermen shall find the district designation and Planned Development master plan comply with the general standards for all Planned Development in this paragraph and the specific standards for the proposed Planned Development listed in Sections 6.11 through 6.14 respectively.

1. **Planned Development master plan.** The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan also illustrates:

   a. A continuous pedestrian circulation system;

   b. A network of open space serving the entire development and providing internal connections within the project;

   c. Perimeter landscape areas to connect or buffer land uses both inside and outside the perimeter of the Planned Development; and

d. Preservation of the natural environment.

2. **Design guidelines and dimensional standards.** Each Planned Development shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. The dimensional standards identified in Article 6 may be varied in the development proposed in the master plan. The Board is not obligated to accept or approve any variation if it deems such variation to be inappropriate. Where such standards vary by more than 20 percent from the otherwise applicable numeric standard, a specific finding in the Board approval as to the acceptability of such a variation shall be required.

3. **Off-street parking and loading.** Off-street parking and loading shall comply with Section 7.4, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the Planned Development is submitted, and determined to be suitable and generally consistent with the intent and purpose of the off-street parking and loading regulations.

4. **Signs.** Signs shall comply with Section 7.5, except that signs within the Planned Development may be constructed to alternate, but equivalent standards if a comprehensive sign plan for the Planned Development is submitted with the rezoning and master plan applications that is determined to be suitable for the Planned Development and generally consistent with the intent and purpose of the sign regulations.

5. **Public facilities.**

   a. The Planned Development master plan shall demonstrate a safe and adequate on-site transportation circulation system. The on-site transportation circulation system shall be integrated with the off-site transportation circulation system of the Town.

   b. The Planned Development master plan shall establish public places that connect uses.

   c. The Planned Development master plan shall demonstrate a safe and adequate on-site system of potable water and wastewater service that can accommodate the proposed development, and is efficiently integrated into off-site potable water and wastewater public improvement plans.

   d. Adequate off-site facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads shall be planned and programmed for the Planned Development, and the development shall be conveniently located in relation to schools and police protection services.

   e. The improvement standards applicable to the public facilities that will serve the site shall comply with the provisions of Article

8, Subdivision design/improvements. However, the development may deviate from the city's road width standards in order to achieve greater efficiency of infrastructure design.

6. **Common recreation and open space.** The development proposed in the Planned Development master plan complies with the following common recreation and open space standards:
   a. Water bodies, lands within wildlife habitat areas, riparian ecosystems and 100-year floodplains that are preserved as open space may be counted toward this minimum standard, even when they are not usable by or accessible to the residents of the Planned Development. A maximum of 50 percent of the required open space in a Planned Development may be comprised of water bodies. No water bodies may be counted towards the requirements for common recreation area.
   b. All common open space and recreational facilities shall be shown in the master plan and shall be constructed and fully improved according to the development schedule established for each phase of the Planned Development.
   c. All privately-owned common open space shall continue to conform to its intended use, as specified in the Planned Development master plan. To ensure that all the common open space identified in the master plan will be used as common open space, restrictions or covenants shall be placed in each deed to ensure their maintenance and to prohibit the partition of any common open space.
   d. If common open space is proposed to be maintained through an association or nonprofit corporation, such organization shall manage all common open space and recreational facilities that are not dedicated to the public, and shall provide for the maintenance, administration and operation of such land and any other land within the Planned Development not publicly owned, and secure adequate liability insurance on the land. The organization shall also conform to the following standards:
   e. The association or nonprofit corporation shall be established prior to the sale of any lots or units within the Planned Development.
   f. Membership in the association or nonprofit corporation shall be mandatory for all landowners within the Planned Development.
7. **Stormwater management.** The Planned Development master plan meets or exceeds the standards of Section 7.2, Stormwater Management.
8. **Phasing.** The Planned Development master plan includes a phasing plan for the development, if appropriate, with specific build-out dates. If development is proposed to occur in phases, then guarantees

shall be provided that project improvements and amenities that are necessary and desirable for residents of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

9. **Consistent with comprehensive plan.** The Planned Development master plan shall be consistent with the comprehensive plan.

10. **Complies with this Code.** The Planned Development master plan shall comply with all other relevant portions of this UDO.

4.8. Conservation Buffer Areas (CBA).

A. **Purpose and intent.** The Conservation Buffer Areas 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.

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.** The Conservation Buffer Areas located within the Town of Garner are not expressly mapped on the official zoning map. Each buffer area can be determined by reviewing the text of Section 7.2.D. These provisions do not create a new zoning district; rather, they overlay whatever zoning is in place.

4.9. Lake Benson Conservation District (LBC).

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

B. **Lake Benson Conservation District Boundary.** That portion of the watershed which was made subject to watershed protection regulations known as the Lake Benson Conservation District effective March 1, 1987, as shown on maps previously adopted and reflecting approximately that area within 2,000 feet of the northern shore line of Lake Benson, shall constitute the Lake

Benson Conservation District for purposes of this UDO. The boundary is shown on the official zoning map maintained in both the Planning and Engineering Departments of the Town.

C. **Exemptions.** All lots platted prior to March 1984 are exempt from the requirements of this Lake Benson Conservation District Overlay.

D. **Limitations on use in Lake Benson Conservation District.**

1. **Permitted uses.** Within the Lake Benson Conservation District only the following uses are permitted:

   a. Agriculture;

   b. Residential (meaning only the following uses as listed in Section 5.1 (table of permissible uses);

   c. Single-family residences; other than manufactured home parks or manufactured home subdivisions;

   d. Duplex and triplex;

   e. Multifamily residences;

   f. Townhouses and townhouse developments;

   g. Churches;

   h. Cemeteries;

   i. Public parks including ancillary concessions;

   j. Community centers;

   k. Indoor and outdoor recreation;

   l. Home occupations;

   m. Planned Residential Developments;

   n. Zero-lot-line developments;

   o. Necessary municipally owned and operated utilities; and

   p. Individual residential wastewater holding tanks (sump pumps) and conventional septic tanks, subject to the other provisions.

2. **Density.**

   a. Within the Lake Benson Conservation District, density shall not exceed two and one-half residential units per acre where the development is served by municipal water and sewer.

   b. Within the Lake Benson Conservation District, density shall not exceed one-half unit 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.** The Lake Benson Conservation District performance standards are set forth in Section 7.2.F.

G. **Impervious surface limits.**

1. Within the Lake Benson Conservation District, 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 Lake Benson Conservation District 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 the table in Section 7.2.F.1.
4. The calculation of the impervious surface ratio contained in subdivisions or other developments required to apply for major subdivision approval, conditional or special use permits 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 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 under utilizing 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.

H. **Standards for stormwater drainage system.** Standard 90-degree curb and gutter construction is not allowed in the Lake Benson Conservation District. Streets with properly maintained grass swales or roll type curb and gutter construction may be allowed in the Lake Benson Conservation District as an

option by the Board 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.

4.10. Timber Drive Overlay District.

A. **Purpose and intent.** The Board of Aldermen finds that vehicular and pedestrian mobility should be maximized along the Timber Drive Corridor. The Board believes that Timber Drive is a place where residential neighborhoods should be preserved and quality commercial uses should be located only in areas recommended by the long range plan, which together results in a pleasing and harmonious environment of trees, natural and landscaped areas, and building development. Therefore, the Board adopts the Timber Drive Overlay District as a means to direct commercial development at recommended focus areas along Timber Drive consistent with the standards established herein in order to protect the general appearance of the Timber Drive Corridor, while sustaining the livability of the surrounding residential neighborhoods and the natural beauty of the area.

B. **Overlay zone.** The Timber Drive Overlay District is an overlay zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. Where there is a provision not expressed in the underlying zone, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.

C. **Location.** The Timber Drive Overlay District shall apply to 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 either side, and shall include all of the property within the focus areas that has frontage on Timber Drive from N.C. 50 to U.S. 70. The Town of Garner Official Zoning Map shall clearly indicate the boundaries of the adopted Timber Drive Overlay District. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to all of the building(s) and parking areas.

D. **Permissible and prohibited uses.** Unless otherwise restricted below, all uses allowed by the underlying zoning district are permissible in the Timber Drive Overlay District provided all requirements and permits as required by this UDO are satisfied.

1. **Restricted uses.** The following uses are permissible in the Timber Drive Overlay District provided the use complies with special standards listed below.

   a. Temporary school classroom units are permissible provided they are screened from all public street views. Any landscaping required to achieve this standard shall be installed at an initial height of six feet unless otherwise approved by the permit issuing authority.

   b. 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 as determined by the Planning Department. The amount of outside storage areas is limited to 25 percent of the gross floor area of principal use served.

c. Fast food restaurants with drive-in window operations are permissible only when such drive-in window service area(s) are not visible from Timber Drive street views unless otherwise approved by the permit issuing authority.

d. Convenience store or gas sales operations that meet the following design criteria:

(1) Operation limited to between 5:00 a.m. and 11:00 p.m.;

(2) Number of gas pump islands limited to a maximum of two islands with no more than four pump dispensing units per island;

(3) Principal building shall have a pitched roof with shingle roof material unless otherwise approved by the permit issuing authority;

(4) Canopy structure(s) shall be detached unless otherwise approved by the permit issuing authority;

(5) Canopy structures shall have a roof style and be constructed of a building material to match the principal building and shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet (large canopy super structures are prohibited);

(6) Site lighting shall be designed to have a zero footcandle measurement at property lines adjoining residential uses and shall be designed in a manner that is acceptable to the permit issuing authority;

(7) Canopy/gas island operational areas shall be screened from adjoining residential uses to provide a 100 percent visual screen throughout the year to a minimum height of eight feet using any combination of landscaping, earthen berms or fencing as approved by the permit issuing authority; and

(8) Canopy/gas island operational vehicular areas shall be screened from all public streets to a minimum height of three feet in a manner approved by the permit issuing authority.

e. Automobile service centers that meet the following design criteria:

(1) Automobile service centers are permissible on parcels located within the Timber Drive Overlay District that directly front along U.S. 70 or N.C. 50 only;

(2) All service bay(s) associated with uses shall be oriented so as not to directly face U.S. 70, N.C. 50, or adjoining residential use;

(3) All service bays shall have 100 percent screen to a minimum full height of two and one-half feet at time of plant installation, and shall be maintained at a minimum height of three and one-half feet or to a greater height if required by the permit-issuing authority; and

(4) A type-A buffer with a 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 Timber Drive Overlay District.

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. Office, clerical, 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.

E. **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 Department.

3. 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 unless specifically approved by the Town of Garner.

4. Land development activities such as, but not limited to, site grading, buildings, parking and vehicular areas, shall be excluded from the perimeter area of lots in order to protect existing trees and vegetation in required buffer areas unless otherwise approved by the permit issuing authority.

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.

F. **Street access.** The existing access location standards set forth in this UDO shall govern driveway locations on Timber Drive. The permit issuing authority may allow deviations from these standards if it concludes, based upon a traffic impact study submitted by a professional traffic engineer, the requested deviations do not pose any traffic safety impacts to the public and that such deviations have been recommended by the Town Engineer and the North Carolina Department of Transportation.

G. **Design standards.** The following design standards shall apply to all new development within the Timber Drive Overlay District:

1. **Building height.** The maximum building height for development located in neighborhood or convenience focus areas is 35 feet unless the building setback from all property lines increases one foot for every foot the building exceeds 35 feet in height. For all other locations on the corridor the applicable building height limits are controlled by the existing requirements of Article 6. The building height limitation for neighborhood

or convenience focus areas may be waived by the permit issuing authority for the building build to line option based upon findings that such an arrangement is in harmony with surrounding development.

2. **Building setback from Timber Drive right-of-way.** Building setback shall be 35 feet from the Timber Drive right-of-way line, unless the permit issuing authority approves the option to allow a build to line of 20 feet with no vehicle surface areas in front of the building. For all other building yard setbacks the applicable underlying zoning standards shall apply.

3. **Building design guidelines.** All shopping center development or business complexes, as defined in Article 11, Definitions, shall provide design guidelines consistent with the following standards which must be approved by the Town of Garner as part of the overall development plan submittal. An individual nonresidential building not part of a larger shopping center or business complex shall be subject to the following provisions:

   a. No metal or vinyl siding on nonresidential buildings shall be permitted;

   b. Seventy-five percent of the primary building materials shall consist of brick or decorative/scored concrete masonry units in styles and colors approved by the Town of Garner. Such building materials shall be applied on all building facades visible from Timber Drive;

   c. All dumpster enclosures and accessory/storage buildings for new development shall be of materials and colors that match the principal building served and shall be sited on the property to minimize view from all public streets;

   d. All building awnings used must be appropriately designed as part of the buildings architecture and unified with the buildings colors and style. Such awnings shall not be internally illuminated;

   e. Buildings shall be limited to a maximum of three types of materials and colors. If a building is part of a shopping center or business complex, the materials and colors used must be consistent with the approved design guidelines for the larger development;

   f. Design guidelines required by this UDO shall include provisions that address building height, scale and setback distances, unifying site elements such as building materials and colors, landscaping, site lighting elements, pedestrian circulation systems and other elements deemed appropriate by the permit issuing authority for the particular location on Timber Drive; and

   g. Chain link fences in commercial zoning districts shall have vinyl covering or some other similar material in a color that is compatible with the principal building materials and colors unless otherwise approved by the permit issuing authority.

H. **Vegetation and landscaping standards.**

1. **General street buffer requirements.**

   a. An undisturbed street buffer along Timber Drive shall be required unless otherwise approved by the permit issuing authority. Minor underbrush clearing is permissible only by obtaining pre-approval from the Planning Department. Such approval may not be unreasonably withheld without just cause.

   b. The street buffer shall extend 50 feet along corner side streets and 40 feet along all entrances to new development.

   c. The use of native or locally adaptable species is required unless alternative plantings are approved by the permit issuing authority.

   d. 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.

   e. The suitability of existing vegetation to meet the planting requirements for a required street buffer must be approved by the Planning Department. Otherwise, the applicant shall be required to provide a new landscape planting plan which meets the standards of this UDO as well all other applicable requirements of Section 7.1. Such plans must be approved by the Town of Garner Planning Department and the permit issuing authority.

2. **Residential street buffer.** Residential subdivisions and unsubdivided developments with frontage along the right-of-way of Timber Drive shall maintain a 25-foot undisturbed buffer. No fencing shall be allowed within the 25-foot buffer area. Fences shall not be allowed along property frontages with Timber Drive unless they are of uniform height and design according plans that have been approved by the permitting authority. Required landscape planting within the residential street buffer shall consist of one street tree (ten-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.

3. **Nonresidential street buffer.**

   a. **Undisturbed street buffer.** A 20-foot undisturbed street buffer along Timber Drive 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, additional landscaping may not be required. In cases where additional planting is required when existing vegetation is not present in the street buffer area, a street

buffer planting plan must be approved by the Town of Garner. One street tree shall be provided for every 40 feet of frontage. Such tree shall be a minimum of 12 feet tall with a 2.5-inch caliper at installation. All vehicular surface areas visible from Timber Drive must provide additional landscape screening to achieve a 100-percent screen of the vehicular surface area to a minimum height of three feet at installation.

b. **Street buffer for 20 foot build-to line option.** Where the build-to line option is approved by the permit issuing authority and there is no vehicular surface area between the building and the right-of-way of Timber Drive, a 20-foot street buffer with only a lawn area and one street tree (12-feet tall with a 2.5-inch caliper at installation) for every 40 feet of frontage is permissible. Under this option, vehicular surface areas shall be located in the rear of the building unless otherwise approved by the permit issuing authority.

I. **Site lighting.** See Section 7.6.I, Special standards in the Timber Drive Overlay District.

4.11. U.S. 70/401 Thoroughfare Overlay District.

A. **Purpose and intent.** The Board of Aldermen finds that both the U.S. 70 and 401 highway corridors play a vital role in shaping the communities future, relative to transportation, economic development opportunities and the appearance of the community that is portrayed to the traveling public. Presently these highway corridors are characterized by large freestanding signs, large expanses of unscreened surface parking areas with little or no landscaping, poorly spaced driveway/access points in some locations, and a generally uncoordinated approach to visual appearance matters. The Board believes it is important for the community to improve these conditions in order for U.S. 70 and U.S. 401 to function efficiently as transportation corridors, to provide opportunities for new business locations and promote a strong commitment to quality community appearance. Therefore, the Board of Aldermen adopts these regulations as a means to address these aforementioned issues.

B. **Overlay zone.** The U.S. 70/401 Thoroughfare District is an overlay zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. Where there is a provision not expressed in the underlying zone, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.

C. **Location.** The U.S. 70/401 Thoroughfare Overlay District applies to the entire length of U.S. 70 and U.S. 401 located within Garners zoning jurisdiction. The overlay district shall be designated on each side of the thoroughfare to a depth of 450 feet measured from the center line of the applicable right-of-way line. The district shall include all of the property in mapped focus areas with frontage on U.S. 70 and U.S. 401 as depicted on the adopted Centennial Long Range Plan's Future Land Use Intensities Map. The Town of Garner Official

Zoning Map shall clearly indicate the boundaries of the adopted U.S. 70/401 Overlay Thoroughfare District. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to all of the building(s) and parking areas.

D. **Prohibited and restricted uses.** Unless otherwise prohibited or restricted below, all uses allowed by the underlying zoning district are permissible in the U.S. 70/401 Thoroughfare Overlay District, provided all requirements and permits as required by this UDO are satisfied.

1. **Prohibited uses.** The following uses are prohibited in the U.S. 70/401 Thoroughfare District.
   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 plant;
   f. Reclamation landfill;
   g. Commercial greenhouse operations; and
   h. Recyclable material collection centers.
2. **Prohibited uses adjacent to existing residential uses.** The following uses are prohibited when directly adjacent to, or within 150 feet of residential uses. This restriction applies to all of U.S. 401 within the overlay district and to only 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 in the overlay district.
   a. Hotel/motels;
   b. Pool halls/bowling alleys only; and
   c. Bars/night clubs/ABC-permitted private clubs.
3. **Restricted uses.** The following uses are permissible provided the performance standards listed below are met. These standards shall apply only to new development.
   a. **Retail sales, offices and other permissible uses with outside display or storage of goods for sale:**
      (1) Outside display of goods for sale and/or outside storage areas with direct frontage along street rights-of-way must be screened to a minimum height of two and one-half feet planted every five feet on center at installation;
      (2) For new development; 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 vehicular parking areas (excludes vehicular loading/service areas) are located in the street yard area. A maximum of 66 percent of the total property

frontage may be devoted to outside display or storage areas when vehicular parking/service areas are located in side or rear yards; and

(3) For new development; all outside displays of goods for sale or outdoor storage areas shall have a minimum setback distance of 15 feet from the street right-of-way.

b. **Manufactured home sales lots:**

(1) Model display units only are allowed in front areas (measured 100 feet from the r/w line) directly visible to U.S. 70 or U.S. 401;

(2) All display model units must have foundation planting and underskirting material matching the unit as approved by the permit issuing authority; and

(3) All storage units must be located in the rear of display model area and have appropriate screening if visible from the thoroughfare as determined by the permit issuing authority.

c. **Motor vehicle sale lots:**

(1) All vehicle display areas with frontage along U.S. 70 or U.S. 401 rights-of-way shall be screened to a minimum height of two and one-half feet; and

(2) The two elevated display racks permitted per motor vehicle sales lot; not to exceed five feet in height.

d. **Automobile service centers:**

(1) All service bay areas shall be oriented so as not to directly face U.S. 70 or U.S. 401; and

(2) All service bay areas shall have a 100 percent screen to a minimum height of three and one-half feet if such areas are visible from public street views. Such screening height must be achieved within two years.

e. **Automobile repair and body shops:**

(1) All service bay areas shall be located at the rear of the building or be oriented in such a manner so as not to be directly visible from U.S. 70 or U.S. 401 as approved by the permit issuing authority; and

(2) All overnight vehicle storage areas shall be located in the rear of the building. Such storage areas shall be 100 percent screened from public street rights-of-way to a minimum height of 6 feet by the use of fencing, landscaping, berms, or a combination thereof as approved by the permit issuing authority.

f. **Veterinarians or kennels:** Veterinarians or kennels with outside facilities for keeping animals are permissible provided such operations are not located within 500 feet of an existing residential use.

g. **Truck terminals:** Truck terminals are permissible provided all operational and loading areas are located to the rear of the building and are not directly visible from U.S. 70 or U.S. 401. Parking lots for employees/ visitors are permissible in front of the building.

h. **Car washes:** Car washes are permissible, provided the buildings are oriented in such a manner that the wash bays do not directly face U.S. 70 or U.S. 401. If such orientation is not reasonably practical as determined by the permit-issuing authority, then wash bays may face U.S. 70 or U.S. 401 if appropriate screening of the building is provided in a manner and location approved by the permit issuing authority.

4. **Amortization of nonconforming uses.**

a. When a nonconforming use is abandoned or discontinued for a period of 180 consecutive days, any subsequent use of the property thereafter must comply with the applicable regulations of the Garner UDO regarding the use of the property.

b. Any change of use as defined by this UDO requires full compliance with the sign requirements of the Garner UDO.

E. **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 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.

2. No minor clearing of the existing vegetation within an approved protected buffer area or tree save area to be retained on the property shall not be allowed until after construction on the parcel is completed and upon approval by the Planning Department.

3. 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 unless specifically approved by the Town of Garner.

4. Land development activities such as, but not limited to, site grading, buildings, parking and vehicular use areas, shall be excluded from the perimeter area of lots in order to protect existing trees and vegetation in required buffer areas unless otherwise approved by the permit issuing authority.

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.

F. **Access.** The existing access location standards under Section 8.2.C of this UDO shall govern driveway locations on U.S. 70 and U.S. 401. The permit issuing authority may allow deviations from these access location spacing standards if it concludes, based upon a traffic impact study submitted by a professional traffic engineer, the requested deviations do not pose any traffic safety impacts to the public and that such deviations have been recommended by the Town Engineer and the North Carolina Department of Transportation.

G. **Design standards.**

1. Building height standards identified below relate to areas depicted on the Town of Garners Centennial Long Range Plan's Land Use Intensities Map.

   a. **Focus area.** Building height is limited to 70 feet within the first 100 feet; beyond the first 100 feet, height may be increased above 70 feet, provided for every additional foot of height the building setback is increased one foot.

   b. **Support area.** Building height is limited to 48 feet in first 100 feet; beyond first 100 feet height may be increased above 48 feet provided for every additional foot of height the building setback is increased one foot.

2. When a nonresidential use directly adjoins an existing residential use, the building height is limited to 24 feet unless otherwise approved by the permit issuing authority. When increased building height is authorized, an additional setback distance of one foot must be provided for every additional foot of building height over 24 feet measured from the property line adjoining the existing residential use. This requirement does not apply to the property within the overlay district located east of New Rand Road along U.S. 70.

3. Building setback standards identified below relate to areas depicted on the Town of Garner's Centennial Long Range Plans Land Use Intensities Map.

	Focus Area	**Support Area**
Front	20 foot minimum (no vehicular/ parking area permissible in set-back); otherwise 35 feet	30 foot minimum (no vehicular/ parking area permissible in set-back); otherwise 50 feet
Side	10 feet	10 feet
Rear	15 feet	15 feet

H. **Building design guidelines.** All shopping center developments, business complexes or commercial subdivisions, as defined in this UDO, shall be required to obtain Town approval of building design guidelines that are consistent with the following standards. An individual nonresidential building, not part of a larger shopping center, business complex, or commercial subdivision, shall also be subject to these provisions. All new development must comply with the following standards.

1. The use of pre-fabricated metal buildings shall not be permitted unless all building facades visible from street views are treated with brick, decorative/scored concrete masonry units (CMU), exterior insulated finishing systems (EIFS), or other materials in styles and colors approved by the permit issuing authority. The use of vinyl siding on nonresidential buildings is not permitted.
2. All dumpster enclosures and accessory/storage buildings for new development shall be constructed of materials and colors that match the principal building served and shall be sited on the property in such a manner to minimize view from all public streets.
3. All building awnings must be appropriately designed as part of the buildings architecture and be unified with the buildings colors and style.
4. Design guidelines shall be required for all shopping centers, business complexes and commercial subdivisions located within the overlay district. Such guidelines must be included as part of the initial overall development plan submittal. All development that is subject to design guidelines approved by the Town must be constructed in accordance with the applicable standards for that specific development.
5. All design guidelines shall include, but not be limited to, provisions that address building height, mass and scale, setback distances and unifying site elements such as building materials and colors, landscaping, site lighting elements, pedestrian circulation systems and other elements deemed appropriate by the permit issuing authority for the particular location on U.S. 70 or U.S. 401.
6. Vehicular parking surface areas with direct frontage on U.S. 70 or U.S. 401 shall have curb and gutter and be paved with a permanent surface consisting of a minimum six inches of base stone and two inches of I-2 asphalt from the edge of the front vehicular/parking surface area to the front building line. An equivalent permanent surface material may be used as an alternative if approved by the permit issuing authority. Truck loading and/or vehicular service areas are strongly encouraged to be oriented on the property so as to be out of public street views unless approved by the permit issuing authority consistent with the requirements herein.
7. Full lane widening with curb and gutter construction shall be required for all new development with property frontage on U.S. 70 or U.S. 401. This standard does not apply to new development where no direct driveway or

street access to U.S. 70 or U.S. 401 is proposed. For new development where access to U.S. 70 or U.S. 401 is proposed and the total peak hour trip generation according to the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual does not exceed a total of 50 trips, the permit issuing authority may require that a deceleration lane without curb and gutter construction be installed in lieu of full lane widening.

I. **General thoroughfare buffer requirements.** In addition to complying with all of the general landscape standards in the Garner UDO, new development must meet the standards listed below.

1. The buffer shall extend 50 feet along corner side streets and 40 feet along all entrances to new development unless otherwise approved by the permit issuing authority.
2. The use of native or locally adaptable species is required unless alternative landscape materials are approved by the permit issuing authority.
3. 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.
4. The suitability of existing vegetation to meet the planting requirements for required buffer areas must be approved by the Planning Department. If approved, it will be credited towards the projects landscaping requirements. Otherwise, the applicant shall be required to provide a new landscape planting plan which meets the standards of this UDO as well as all other applicable requirements of Article XIX entitled landscape and appearance. Such plans must be approved by the Town of Garner the Planning Department and the permit issuing authority.
5. Thoroughfare buffer design standards.
   a. A seven and one-half-foot wide thoroughfare buffer shall be required on property lines along U.S. 70 or U.S. 401 for all development. One street tree shall be provided for every 40 feet of property frontage along U.S. 70 or U.S. 401. Such tree shall be a minimum of ten feet tall with a two-inch caliper at installation. All vehicular parking areas visible from U.S. 70 or U.S. 401 must provide additional landscape screening to achieve a 100 percent screen of the vehicular surface area to a minimum height of two and one-half feet and planted every five feet on center at installation.
   b. Where existing trees and vegetation can be retained that qualify according to the terms of this UDO regarding types, sizes, and locations, and are healthy species as determined by the Planning Department, additional landscaping may not be required. In cases where additional planting is required, a street buffer planting plan must be approved by the Town of Garner.

6. Additional screening, buffering and landscaping requirements in street yards for high intensity uses (new development only). The objective of this requirement is to provide denser screening, landscaping or a combination thereof for more intense uses of land between U.S. 70/401 and the principal improvements on the property which are identified as high intensity uses. High intensity uses include outdoor operations (loading or assembly areas), operation utility service areas, and similar uses. All such high intensity uses not screened by an intervening building shall be screened 100 percent from public street views by a continuous screen of evergreen plant material and/or berm that reaches six feet in height.

7. Screening and landscape buffers adjoining residential uses.

   a. The nonresidential uses listed below shall be required to provide a 40-foot wide undisturbed buffer area with screening to a height of eight feet, or to a buffer width and screening height determined by the permit issuing authority based upon results of a sight line study, when directly adjacent to residential uses. Required screening may be achieved by using vegetation, earthen berms, solid fences, or a combination thereof, as approved by the permit issuing authority.

      (1) Golf driving range;

      (2) Veterinarian/kennel with outside operations;

      (3) Auto service/auto repair; or

      (4) Any other permissible use with outdoor display/storage that directly adjoins existing residential property.

   b. The permitting authority may approve deviations from these presumptive standards if it concludes that the objectives underlying these standards can be met without strict adherence to them, and that there are no excessive measurable impacts to adjoining properties, and it finds that such deviations are more likely to satisfy the above noted standards.

J. **Parking lot landscape planting for existing uses.**

1. All existing nonresidential uses of property with direct frontage on U.S. 70 or U.S. 401 shall comply with the following requirements within three years from the date the overlay district is adopted.

2. All affected properties shall comply with the street tree requirements of the overlay district and screen all outside display/storage areas or vehicular surface areas directly fronting along U.S. 70/401 to a minimum height of two and one-half feet at installation and planted five feet on center at installation.

3. Each property owner or designee shall be responsible for obtaining landscape plan approval from the Planning Department which complies with these standards and install the planting material prior to the three year deadline.

4. In cases where the existing property does not have sufficient land area available to accommodate the required landscaping on site without severely impacting business operations, the Planning Department may allow deviations from these standards provided the following is accomplished.
5. An appropriate combination of street trees and shrubs is provided in locations that effectively improve the appearance of the property and special highway corridor as determined by the Planning Department (the use of r/w area is permissible with an N.C. DOT encroachment agreement; maintenance by property owner shall be required).
6. A maximum deviation of up to 50 percent of required landscaping may be authorized by the Planning Department if it finds there is not sufficient space available on private property and/or public right-of-way areas (merely having to relocate storage areas when sufficient space elsewhere on site is available does not qualify for this type of relief).
7. The decision of the Planning Department may be appealed to the Planning Commission for review and recommendation with the final decision by the Board of Aldermen.

K. **Site lighting standards.** See Section 7.6.J, Special standards in the U.S. 70/401 Thoroughfare Overlay District.

L. **Sign regulations.**

1. The provisions set forth in Section 7.5 specific to U.S. 70 or U.S. 401 shall govern all signage for individual building development that is located within the U.S. 70/401 Thoroughfare Overlay District and is not defined as a shopping center, business complex or commercial subdivision. Shopping centers, business complexes or commercial subdivisions are subject to uniform sign plan standards contained in Section 7.5.N., unless otherwise noted in said section.
2. When a new business occupies an existing building, the new business shall fully comply with the applicable standards of Section 7.5, Sign regulations.

4.12. I-40 Overlay District.

A. **Purpose and intent.**

1. The Board of Aldermen finds that Garner is rich in natural scenic beauty along I-40 within its planning jurisdiction. The Board of Aldermen finds that the general welfare will be served by orderly development within the I-40 Overlay District in a fashion which would preserve natural scenic beauty and aesthetic character; promote design quality; and enhance trade, tourism, capital investment, and the general welfare along the thoroughfare. The Board of Aldermen therefore establishes these regulations in areas adjacent to I-40 to further those objectives while encouraging the orderly development of land within these corridors.

2. It is the intent of this section that as great a part of the tracts within the corridor as possible be left in an undisturbed or enhanced state of vegetation, and that sufficient areas of natural transitional buffer between uses remain so that the proposed use will be visually in harmony with the natural wooded character of the area. Removing or denuding natural forest vegetation along I-40 is prohibited except as provided in this section.

3. The I-40 Overlay District (O-40) is an overlay zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. Where there is a provision not expressed in the underlying zone, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.

B. **Location of I-40 Overlay District.** The district is located on either side of I-40 within the Garner zoning jurisdiction. The district shall extend from the right-of-way of the highway, on either side, and measured from the outside right-of-way line of the roadway at its farthest point, including access ramps and interchanges, a distance of 1,250 feet, as shown on the official zoning map maintained in the Planning Department. In cases where any portion of a building or parking area falls within the boundaries of the overlay district, these provisions shall apply to all of the building(s) and parking areas.

C. **Permits required.** Within the I-40 Overlay District, all developments for which a site plan or subdivision plat approval is required pursuant to other provisions of this UDO are required to receive a special use permit issued by the Board of Aldermen prior to issuance of building permits.

D. **Lot dimensional requirements.** All dimensional requirements, including minimum lot area and minimum lot width requirements, are established in the underlying zones.

E. **Maximum building height.** No building shall exceed 150 feet above grade; other building height restrictions are governed by the setback from the right-of-way as set forth below.

F. **Minimum building setback requirements.** The required setback for yards not adjacent to the right-of-way of I-40 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:

1. For buildings up to 35 feet above grade, there shall be a minimum setback of 50 feet from the right-of-way.

2. For buildings extending up to 60 feet above grade, there shall be a minimum setback of 100 feet.

3. 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.

G. **Buffering and screening.** Buffering and screening are required. For purposes of this section, the term buffer means a horizontal distance measured perpendicular to the right-of-way. The term screen pertains to vertical distance (height) of plantings, fences, berms and other landscape features. Screens provide visual obstruction; buffers only provide the space in which screens are used.

1. **Yards not adjacent to the right-of-way of I-40.** Those portions of front, rear, side or corner side yards that are not adjacent to the I-40 50-foot 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 landscaping, provided, however, 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 with I-40. Provided, further, however, that this subsection shall not apply to single-family residential uses.

2. **Yards adjacent to the right-of-way of I-40.**

   a. **Development options within the 50-foot buffer.** The 50-foot buffer adjacent to the right-of-way of I-40 shall be preserved or constructed in accordance with the following development options:

      (1) A natural screen or its newly planted equivalent providing the percentage of visual obstruction required by this section, established and maintained by the owner. The Planning Director shall determine the vegetative composition of the equivalent planting. Provided, however, that this subsection shall not apply to agricultural uses where the 50 feet adjacent to I-40 has been cleared prior to December 7, 1987.

      (2) A natural water body or one specifically designed as a landscape feature adjacent to a low intensity use as defined herein.

      (3) Other landscaping adjacent to a low intensity use as defined herein.

      (4) Other improvements which themselves provide no visual obstruction, such as access roads, which meet the standards of paragraph P below and for which the Board of Adjustment 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 obstruction otherwise required in the 50-foot buffer area.

   b. **Development options in the front yard beyond the 50-foot buffer.**

      (1) The front yard is defined as that area between the special scenic corridor right-of-way and the area at which the principal build-

ing or buildings are constructed. The front yard includes the buffer and any additional area beyond the buffer as so defined.

(2) Development options within the front yard area beyond the buffer, provided the screening requirements in the buffer are met first, or that these options, combined with the screening provided in the buffer, satisfy the intent of this section, are as follows:

(a) Additional natural screening, water bodies and other landscaping as set forth in paragraph G.2.a., above, provided the same are adjacent to medium intensity uses or adjacent to low intensity uses.

(b) Other improvements, as set forth hereinafter which have significant impact on the visual quality of the corridor, but which reduce that impact to meet the intent of this section through the use of interior landscaping and screening consistent with this section as follows:

(i) Landscaped vehicular surface (parking) areas;

(ii) Access roads with street yards;

(iii) Accessory buildings;

(iv) Outdoor storage and/or display;

(v) Loading areas;

(vi) Utility service areas;

(vii) Boundary fences, gates and security stations.

c. **Additional screening, buffering and landscaping requirements, by intensity of use, in any front yard.** Generally, the objective of these regulations is to provide a denser screening, landscaping or a combination thereof for more intense uses of land between the special highway and the principal improvements consistent with the purposes of this section and as described herein be high intensity, medium intensity, and low intensity uses.

3. **High intensity uses.** For purposes of this section, high intensity uses include outdoor operation (loading 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 visual obstruction) from view from the right-of-way of I-40 except for necessary access in the following manner:

a. A continuous screen of evergreen plant material and/or berm that reaches at least ten to 12 feet high within three years is required. This screen may be placed on either side of a public access road, provided the screen blocks visual penetration throughout all seasons of the year.

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 mature height may be less as approved by the Planning Director.

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. 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.

4. **Medium intensity uses.** For purposes of this section, medium intensity uses include vehicular surface parking areas in the front yard space adjacent to the right-of-way of I-40. Where such uses are proposed, the screening standards set forth herein apply and are designed to modify and reduce the deleterious visual, environmental and aesthetic effects of existing and proposed vehicular surface areas. Among other purposes, they are designed to modify the appearance of parking areas and vehicular surface areas, to encourage the construction of such necessary areas in a manner that more closely follows the existing natural contours of the land; to distribute planting areas around and within the parking area; and to break the visual blight created by large expanses of vehicular surface areas. The screening requirements are as follows:

a. An intermittent screen of mixed deciduous and/or evergreen plant material in the buffer at least ten to 12 feet high within three years, so as to achieve a 50 percent visual obstruction of the development, plus internal vehicular surface area landscaping according to the standards of paragraph P below.

b. Within the intermittent screen, beyond the initial three year height requirement, and unless substitute plantings are approved by the Planning Director, all required trees newly planted in the buffer or in the surface parking area must have an expected mature height of at least 35 feet or greater. For deciduous trees, a mature crown spread of at least 30 feet or greater is required unless subject to an overhead power line in which case the mature height may be less as approved by the Planning Director.

5. **Low intensity uses.** For purposes of this section, low intensity uses refer to instances where there is only grass or landscaping (including a water body designed as a landscape feature) in the front yard space between the building and the right-of-way of I-40. The screening requirement is an intermittent screen of mixed deciduous and/or evergreen plant material in the buffer at least ten to 12 feet high within three years, or landscaping provided according to an approved plan, which achieves up to 25 percent visual obstruction of the development.

H. **Land disturbing activities.**

1. Unless qualifying under development options set forth in subsection G.2.a.(1) through (3) above, 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 of I-40 regardless of whether land use permits are required under this UDO. The Planning Director has the discretion to grant approval of limited underbrush thinning provided no visual impacts result from such action.

2. Subject only to Article 9, Nonconformities, any expansion of existing land uses involving frontage on the special 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.

   d. Conditional use permits issued without an initially approved screening/landscaping plan shall bear a condition that any screening/landscaping plan submitted after construction is completed shall be consistent with this UDO, be complete, and receive the approval of the Board of Aldermen.

I. **Sign regulations.** See Section 7.5, Sign regulations.

J. **Restricted uses.**

1. The following uses are permitted only if site plans are approved which assure (i.e. condition) that these uses will have no visible outdoor storage or operations adjacent to the special highway:

   a. Truck service centers (truck stops);

   b. Car and truck dealerships;

   c. Uses with storage for retail such as lumber yards, heavy equipment dealers, and similar uses.

2. Such site plans shall indicate that all outdoor storage and operation will be located in the yard space farthest away from the special highway and on the far side of the principal buildings.

3. 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 SB and I-2 zones on a limited basis in accordance with the approved site plan.

K. **Prohibited uses.** The following uses are prohibited:

1. Truck terminals mobile home parks and subdivisions;
2. Mobile home sales lots;
3. Scrap material salvage yards, junkyards, automobile graveyards;
4. Sanitary (reclamation) landfill;
5. Body shops;
6. Storage of radioactive or otherwise hazardous wastes;
7. Outside kennels;
8. Drive-in theaters;
9. Golf driving ranges;
10. Water slides;
11. Self-serve car washes; and
12. Other uses, which by their nature or design, fail to meet the tests for a conditional use permit for development within a special highway overlay district.

L. **Access points.**

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.
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 shall be prohibited within 200 feet of the intersection of a special highway.

M. **Parking.** See underlying zone (land use category). Also, parking areas shall be paved with dust-free, all-weather surface, and shall be properly drained and landscaped. The number of spaces required may be reduced in order to accommodate landscaping required by this section.

N. **Industrial performance standards.** All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from the special highway.

O. **Regulations for screening, buffering, and landscaping in special districts.** The regulations set forth herein apply within the I-40 Overlay District and elsewhere as specifically enacted now or hereafter by the Board of Aldermen.

1. **Street yard width and planting requirements.**

a. Any nonresidential use of land (including vehicular surface areas) established after the effective date of this section shall provide a street yard along any existing or proposed public street right-of-way adjacent to or adjoining the property except for those portions of the lot used for driveways or buffers planted in accordance with this UDO. The street yard shall be contiguous with the right-of-way.

b. The total square feet area of the street yard shall be at least equal to five times the length in feet of frontage adjoining the public right-of-way (i.e., have a minimum of five feet in width).

c. The minimum dimension of any street yard used to satisfy this section shall be measured perpendicular to the recorded public street right-of-way.

d. The street yard shall contain at least one natural tree for every 50 linear feet of street yard or fraction thereof as measured from the corners of the property, and shall be located so that at least one natural tree is within every 75 linear feet of street yard or fraction thereof and shall be planted at least ten feet from any tree on the right-of-way; but along street yards for display areas, the spacing of trees may be one natural tree every 150 linear feet of the street yard or fraction thereof.

e. The street yard shall contain natural trees, either existing or planted, of at least eight feet in height and six and one-quarter inches in circumference (two inches in diameter) measured at one-half foot above grade.

f. All required trees in the street yard must be a locally adapted species with an expected mature height of 35 feet or greater and an expected mature crown spread of at least 30 feet or greater, unless subject to an overhead power line in which case the mature height may be less as approved by the Planning Director.

g. This yard shall be landscaped and be properly maintained by the owner and shall have live vegetation, groundcover, grass, trees, shrubs, and may, unless otherwise prohibited, include fences or walls, screening for loading, utility, and display areas, and plantings for vehicular surface areas. All fences must conform to the requirements of this UDO. No more than 15 percent of this required protective yard shall be covered with an impervious surface which may be used without limitation for walkways, fountains or walls, but not vehicular surface, storage, utility service, display, or loading areas.

2. **Interior screening and landscaping standards.**

a. These regulations shall apply to any vehicular surface area or portions thereof built after the adoption of this section, and to pre-existing vehicular surface area when there are additions or expansions which singularly or collectively exceed 25 percent of the land area or gross building floor areas existing at the time this section becomes applicable to the property. These requirements are for all vehicular surface areas, required or otherwise, regardless of the zoning district where they are located.

b. Landscaped planting areas shall be provided and maintained within the interior of the vehicular surface area and adjacent thereto.

c. Each planting area shall contain a minimum of 300 square feet in area with minimum dimensions of seven feet and, except for vehicular display areas for which trees are not required, shall contain at least one naturally locally adapted shade tree a minimum of six and one-quarter inches in circumference (two inches in diameter) measured one-half foot above grade with a minimum height of eight feet.

d. Trees shall be required at the minimum rate of one natural shade tree for every 2,000 square feet of total vehicular surface. All vehicular areas located serving one or more businesses or uses of land or share unified ingress and egress shall be considered as a single vehicular surface area for the purpose of computing the required rate of trees, notwithstanding ownership.

e. Shade trees as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed 35 feet and which has an expected crown spread of 30 feet or more, or is considered a shade tree in accordance with American Standards of Nursery Stock, set forth by the American Association of Nurserymen. The shade tree, existing or planted, shall be at least eight feet in height and six and one-quarter inches in circumference (two inches in diameter) measured at one-half foot above grade for new planted trees and measured at four and one-half feet above grade for existing trees.

f. Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end of parking bays, inside seven-foot wide or greater medians, or between rows of cars or as part of continuous street or transitional protective yards. The number, size and shape of landscaped planting area shall be at the discretion of the owner; however, no vehicular parking space shall be separated from a shade tree by an intervening building and be located farther than 50 feet from the tree trunk of a shade tree planting area with one tree, or 75 feet from the tree trunk of a planting area with two or more shade trees (existing or planted) provided that any landscaped planting area has a minimum of 300 square feet of continuous growing area for each tree therein.

g. Landscaped planting areas shall be distributed in a manner which fulfills the purposes of this section.

h. For vehicular display areas which are not required to have trees, measurements shall be made from the edge of the landscaped planting areas, and no stored vehicle shall be farther than 50 feet from the edge of any landscaped planting area without a tree.

i. The number of off-street parking spaces required in this UDO may be reduced by the following ratio: The square footage of required landscaped planting area divided by 150, but no fraction thereof, provided that no reduction in the number of off-street parking spaces authorized by this section in excess of ten percent shall occur without the prior approval of the Board of Aldermen which shall first determine if further reductions will cause on-street parking congestion.

j. Any vehicular surface area shall be provided with landscape areas containing shrubs. Shrubs shall attain a minimum size of 30 inches high within three years of planting. All shrubs shall be a minimum of 18 inches tall when planted and there shall be no gaps between required shrubs greater than ten feet. No more than 40 of the required shrubs may be deciduous. Shrubs shall be required at a rate of one shrub per 500 total feet of vehicular surface area.

k. Earthen berms may be provided or the ground sloped. Any berms used to comply with this section shall have a minimum height of one and one-half feet and a minimum crown width of two feet and a total minimum width of seven feet and shall be planted with a locally adapted species of shrubs which conform to the first paragraph herein. However, shrubs planted on berms may have a lesser height provided that the combined height of the berm and the plantings after three years is at least 30 inches high.

4.13. Swift Creek Conservation District.

A. **Purpose and intent.** The purpose of these regulations is to protect and preserve the water quality of the 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. **Swift Creek Conservation District Boundaries.** The portion of the 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 Swift Creek Conservation District where these provisions shall apply for purposes of this UDO.

C. **Use regulations.** The uses permitted or prohibited in the Swift Creek Conservation District shall be those uses permitted or prohibited in the underlying zoning district that apply to a particular parcel of land.

D. **Exempt from regulations.** All parcels of land that fall within the boundaries of the Swift Creek Conservation District 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.

E. **Existing development, redevelopment, and expansions.** 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. 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.

F. **Development standards.** The following standards shall apply for new residential and non-residential development in Swift Creek Conservation District.

1. The standards of both the Swift Creek Conservation 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 Swift Creek Conservation District 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 the above noted effective date of the Swift Creek Conservation District 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 multi-family residential development projects defined to include townhomes, condominiums, apartments, or other attached multi-family housing units as determined by the Planning Director, 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.

4.14. Obsolete districts.

Commentary: These existing districts were applied to land in Garner prior to the adoption of the UDO and remain mapped on the official zoning map, but are no longer available for zoning future land.

A. **Residential cluster district (RCD).**

1. **Purpose and intent.** The purpose of cluster development regulations is to provide an optional land development procedure which results in the preservation of open space; protection of streams, floodplain areas and significant existing tree cover; promotion of more efficient subdivision street and infrastructure networks; and encouragement of a variety of styles or types of residential dwellings. Cluster development should provide a total living environment for residential purposes that is in compliance with the land use plan and other applicable local, state or federal laws or regulations.

   There shall be three residential cluster districts (RCD). Each residential cluster district is a special purpose zoning district and is designed to have similar density characteristics of the various residential zoning districts of the ordinance (excluding the R-5 district) according to one of the following three elements:

   a. RCD-1 shall be the low density cluster development district and shall have a permitted overall average tract density range of up to one dwelling unit per acre. All development within the RCD-1 district shall be in accordance with the provisions of Section 6.1 and the all other applicable requirements of this UDO.

   b. RCD-2 shall be the medium density cluster development district and shall have a permitted overall average tract density range in excess of one dwelling unit up to five dwelling units per acre. All development within the RCD-2 district shall be in accordance with the provisions of Section 6.1 and all other applicable requirements of the UDO.

   c. RCD-3 shall be the high-density cluster development district and shall have a permitted overall average tract density range in excess of five dwelling units up to 12 dwelling units per acre. All development within the RCD-3 district shall be in accordance with Section 6.1 and all applicable requirements of the UDO.

2. **Permitted uses.** Residential cluster developments may have as permissible uses single-family detached dwelling units, single-family attached dwelling units, residential townhouse dwelling units, and residential condominium dwelling units or any combination thereof so long as the permitted density of the selected residential cluster district is not exceeded.

3. **General requirements.**

   a. Public sanitary sewer and water connections shall be required for every lot or dwelling unit in a cluster development.

b. A master plan shall be required to be submitted if the cluster development is to be the initial phase of a larger project. Conditional use permit approval procedures and final plat approval procedures according to the requirements of the land use ordinance shall apply to all cluster developments in designated cluster development districts.

c. Each individual cluster development lot containing single family detached or attached units public shall have street access according to the criteria listed in applicable sections of the land use ordinance.

d. Residential condominiums and townhouses shall meet the access standards, as well as other applicable sections of the land use ordinance.

e. Design of cluster developments will be reviewed by the Planning Commission based upon accepted general design principles, and special design criteria developed by the Commission and appropriate requirements of the ordinance. Where possible, appropriate information on floor plans, building areas, building elevations (materials colors) and landscape provisions should be furnished along with all required information with the CUP application. Restrictive covenants may be submitted to address the above related matters with the CUP application.

f. A homeowner's association shall be established to own and maintain all property or facilities held in common private ownership. Documents regarding the homeowner's association shall be submitted to the Town for approval with the final plat and shall be duly recorded with the final plat in the Wake County Register of Deeds Office by the applicant.

g. A pre-application conference between the developer or agent and the staff of the Town of Garner shall be required. The meeting should address procedures and requirements of the land use ordinance, conformance with the long range plan, availability of utilities, and general design related matters associated with the project. The developer shall furnish three copies of a conceptual plan which outlines the proposed development of the entire tract of lands. Such plan shall include the following:

(1) Structures, location and arrangement.

(2) Circulations patterns, vehicular (streets), pedestrian and parking.

(3) Existing site conditions, topography, vegetation cover, soil conditions, flood prone areas and streams, and other significant environmental conditions.

(4) Tentative provisions for all utilities.

(5) Recreational and open space locations.

(6) Boundaries of the development including acreage.

(7) The conceptual plan should be at a scale of one inch equals 100 feet, or larger.

h. Dimensional standards.

(1) A cluster development lot shall not have a minimum lot area requirement. The overall density or number of dwelling units in a cluster development shall not exceed the allowable density provisions of the cluster district.

(2) Front yards may be staggered to provide a variety in the size of such yards. The minimum average of all front yards in a cluster development shall be 20 feet; however, no front yard of any lot shall be less than 15 feet. Side yards shall be a minimum of eight feet each; corner side yards shall be a minimum of 15 feet. Rear yards shall be a minimum of 15 feet. Zero lot line building orientations may be allowed in a cluster development subject to the provisions of Section 6.5.A of the land use ordinance. Individual detached single family units in a cluster development shall have a minimum lot width of 20 feet measured at the street line. The provisions of Sections 6.6.B.4 and 6.6.C.2.a regarding minimum lot widths shall apply to residential townhouse and condominium units.

(3) A peripheral yard of at least 25 feet in width, shall be provided along the entire perimeter of a cluster development.

(4) Each dwelling unit in a cluster development shall have two off-street parking spaces. In addition, there shall be one space for every two dwelling units set aside in an auxiliary off-street parking area in a cluster development.

i. Open space standards. Open space in cluster development shall be no less than 35 percent of the gross area of the cluster development tract. All open space provided in a cluster development shall meet the following criteria in addition to the requirements of Article XIII of the land use ordinance:

(1) Open space shall abut 75 percent of the lots within the subdivision and shall be well distributed throughout the development so as to achieve the requirement herein.

(2) All open space areas shall be at least 40 feet in width, except the open space that is provided around the perimeter of a cluster development. The 40-foot width minimum nay be achieved through a combination of common open space and private land disturbing activities.

(3) All open space shall be linked, either directly or across street rights-of-way.

B. **Multi-residential district (MR-1).**

1. **Purpose and intent.** The MR-1 district must contain a minimum of five acres and is designed to accommodate single family detached units,

duplexes, and triplexes as well as zero-lot-line attached units. This district is designed to create and maintain higher density residential neighborhoods and, as special uses, those service, institutional, public and other compatible uses that are so designed, constructed and maintained that they do not detract from the quality of the neighborhood as a place for healthful, quiet and aesthetically-pleasing residential living. When evaluating an application for the MR-1 zoning district, emphasis shall be given to the location of the proposed district to adjoining developed property to ensure that such district is carefully located and achieves a satisfactory relationship with the surrounding properties.

2. **Permitted uses.** The MR-1 district shall permit the following uses:
   a. Site-built and modular homes.
   b. Duplexes and triplexes following approval of a special use permit.
   c. Nursing and intermediate care homes; group care homes, child care homes, family care homes.
   d. Zero lot line development following approval of a special use permit.
   e. Elementary and secondary schools following approval of a special use permit.
   f. Churches, synagogues and temples following approval of a special use permit.
   g. Libraries, museums, art galleries, art centers and similar uses located within a building designed and previously occupied as a residence or within a building having a gross floor area not in excess of 3,500 square feet.
   h. Community centers following approval of a special use permit.
   i. Publicly or privately owned outdoor lower intensity and lower commercial recreational facilities such as golf and country clubs, swimming or tennis clubs, parks, etc. following approval of a special use permit.
   j. Police stations, fire stations, rescue squad or ambulance service following approval of a special use permit.
   k. Reclamation landfill following approval of a special use permit.
   l. Cemetery following approval of a special use permit.
3. **Density and dimensional regulations.**
   a. **Minimum lot size:** 7,000 square feet for single-family detached units. Every lot developed for multifamily residential purposes shall have at least 6,000 square feet for each dwelling unit.

      Commentary: Single-family detached setbacks follow the same setbacks as the R-9 district.
   b. **Minimum lot width:** 60 feet.

c. **Minimum side setbacks:**

(1) Fifteen feet from side lot boundary line for attached units.

Ten feet from side lot boundary line for detached units.

(2) Twenty-five feet from street right-of-way along side of corner lot for attached units.

Twenty feet from street right-of-way along side of corner lot for detached units.

d. **Minimum front and rear setbacks:** Minimum front and rear setbacks 25 feet for both attached and detached units.

e. **Maximum building height:** 35 feet for residential buildings. Non-residential buildings may exceed the height of 35 feet provided the following occurs:

(1) The depth of the required front, rear and both side yards shall be increased one foot for each foot or fraction thereof of building height in excess of 35 feet; and

(2) The permit-issuing authority certifies that such building is designed to provide adequate access to fire-fighting personnel, or the building is otherwise designed or equipped to provide protection against the dangers of fire.

f. **Zero lot line development:** Zero-lot-line developments consisting of groups of two or three attached units may be allowed in accordance with Section 6.5.A. Such developments shall be reviewed only through a special use permit, site plan and subdivision plat concurrently submitted. In addition, a master plan shall be submitted if a zero-lot-line development is to be an initial phase of a larger development.

C. **Mixed Use Development (MXD-1).**

1. **Applicability.**

a. There shall be a Mixed Use District-1 established.

b. No area of less than 75 contiguous acres in single ownership or control may be zoned as a MXD-1 zoning district. Section 157 of the land use ordinance provides further guidance regarding MXD-1 regulations.

2. **Purpose.** MXD-1 is intended to produce higher levels of urban land use intensity at or near Community Level Nodes or Metro-focus Nodes, consistent with the Town's long-range plan. MXD-1 zoning permits various combinations of usually separated uses, primarily promoting the development of "business parks". It is not intended to be applied in a limited way to only inner-city development or to mixed uses within one structure (high-rise), but rather, may be used to support either infill or new development on relatively large tracts.

3. **Permitted uses.** Land shall be used and buildings erected, altered, enlarged, or used only for a combination of the uses listed below:
   a. Residential.
      (1) Apartments and condominiums;
      (2) Townhomes;
      (3) Hotels and motels.
   b. Sales and rental of goods, merchandise and equipment.
      (1) No storage or display of goods outside fully enclosed building;
      (2) Storage and display of goods outside fully enclosed building if properly screened;
      (3) Wholesale sales.
   c. Office, clerical, research and services not primarily related to goods or merchandise.
      (1) Operations designed to attract and serve customers or clients on the premises, such as attorneys, physicians, other professionals, insurance and stock brokers, travel agents, government office buildings, banks, etc.;
      (2) Operations designed to attract little or no client traffic other than employees of the entity operating the principal use;
      (3) Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area;
      (4) Operations conducted within a fully enclosed building.
   d. Manufacturing, processing, creating, repairing, renovating, painting, cleaning, assembling of goods, merchandise and equipment.
      (1) Service, repair of goods, etc. sold or rented on-premises;
      (2) Other fully-enclosed operations;
      (3) Operations conducted outside fully enclosed building if properly screened.
   e. Educational, cultural, religious, philanthropic, social, fraternal uses.
      (1) Business or vocational schools;
      (2) Churches, synagogues and temples, including associated residential structures for religious personnel and associated buildings, but not including elementary or secondary school buildings;
      (3) Libraries, museums, art galleries, art centers and similar uses (including associated educational and instructional activities);
      (4) Social, civic, service, fraternal clubs and lodges, union halls, and similar uses.
   f. Recreation, amusement and entertainment.
      (1) Indoor tennis, racquetball courts, indoor athletic and exercise facilities and similar uses;

(2) Playhouse theaters, movie theaters, bowling, pool halls or similar uses.

g. Institutional residence of care or confinement facilities.
   (1) Hospitals, clinics, other medical including mental health, treatment facilities in excess of 10,000 square feet of gross floor area;
   (2) Nursing care institutions, intermediate care institutions, handicapped or infirm institutions;
   (3) Group care institution;
   (4) Continuing care retirement communities consistent with UDO provisions.

h. Restaurants, bars, night clubs.
   (1) Restaurants without drive-in service (ancillary drive-thru window service allowed);
   (2) Bars, nightclubs, ABC permitted private clubs.

i. Motor vehicle related sales and service operations.
   (1) Motor vehicle sales or rental or sales and service;
   (2) Automobile service stations;
   (3) Gas sales operations.

j. Storage and parking.
   (1) Automobile parking garages or parking lots (not provided to meet parking requirements for a principal use);
   (2) Storage of goods not related to sale or use of these goods on the same lot where they are stored.

k. Services and enterprises related to animals.
   (1) Veterinarian (inside facilities only).

l. Emergency services.
   (1) Police stations;
   (2) Fire stations;
   (3) Rescue squad, ambulance service.

m. Miscellaneous public and semi-public utilities.
   (1) Post office;
   (2) Military reserve, national guard centers.

n. Dry cleaner, laundromat.

o. Towers and antennas greater than 35 feet tall.

p. Nursery schools, day care centers.

q. Temporary structures.

r. Public transportation facilities.
   (1) Bus station.

s. Non-residential subdivisions.

t. Combination uses planned.

u. In addition, the MXD-1 district shall allow the use of "flex-space" defined as follows: the sale, lease, or rental of space within a structure or multiple structures that will allow a combination of uses permitted in the MXD-1 district. The following parameters apply to the use of flex-space.

(1) Changes in products, services, and square footage of the permitted uses within a flex-space structure do not require approval of the Town.

(2) Any portion of the gross floor area in each flex-space structure may be commercial space.

(3) One parking space shall be provided for each 400 square feet of floor area used as flex space.

4. **Minimum standards for development plan.** The MXD-1 district shall be established through regular zoning procedures, except submission of a conceptual plan, while not required, is strongly encouraged at the time of submission of the zoning application.

a. Conceptual plan. "Conceptual" means that the developer intends to develop the site in the general manner indicated and that he is not to be literally held to specific configuration of the plan. If satisfactory, the Planning Board and Board of Aldermen may elect to "receive" or "accept" the plan. If a conceptual plan is submitted, it should provide the following:

(1) Proposed use and general location with acres identified.

(2) Planned primary and secondary traffic circulation patterns with proposed ingress and egress to the district. Identify and locate existing roads, easements and proposed road improvements.

(3) Planned open space buffers and parks to be provided and preserved, stating proposals for ownership, maintenance and preservation of open space.

(4) Existing contours at vertical intervals of not more than five feet. Floodplains (100-year) areas are to be delineated.

(5) Optional details may be required to provide the Town with a better understanding of the proposed MXD-1.

b. MXD-1 district shall be a minimum of 75 contiguous acres in single ownership or control at the time a rezoning application is submitted.

c. In addition to buffering and screening within the MXD-1, perimeter buffer and screen which is also consistent with Section 307 of the land use ordinance shall be provided around the development. A maintenance agreement for all buffer areas shall be developed by the owner/developer, with copies provided with the rezoning application.

d. Where applicable, the MXD-1 district shall be consistent with the Town's parks and greenway plan, special highway overlay district (SHOD) and other adopted Town policies.

e. A minimum of five percent of the total acreage in the overall development zoned MXD-1 shall be designated as common open space in accordance with the following guidelines:

(1) Floodplains, natural areas, buffers, landscaped areas, seeded areas and lakes may be included in open space.

(2) Roadways and parking areas may not be included in open space.

(3) Whether or not dedication/reservation of land is involved, outdoor recreation facilities shall otherwise meet the standards of Section 202.

(4) The acreage provided as open space shall not count toward satisfaction of the impervious surface requirements directed at controlling run-off from individual lots set forth in this section.

f. The major entrance (ingress and egress) to a MXD-1 shall have direct access to an existing thoroughfare or a thoroughfare proposed by the developer. The purpose of this requirement is that roads of sufficient capacity to support the proposed development either in place or provided.

g. A minimum of three of the use categories listed below shall be included in any MXD-1 District and specified at the submission of subdivision and/or site plans:

(1) Flex space;

(2) Office/institutional;

(3) Research, technology, and industrial;

(4) Commercial;

(5) Hotel/motel;

(6) Cultural;

(7) Residential (maximum of 50 percent of MXD-1, and then, at no more density than that permitted in Section 181 for MF-2. No detached single family residential is permitted).

(8) Impervious surface area of individual non-residential lots or parcels in a MXD-1 district shall not exceed 80 percent. Residential uses shall not exceed 70 percent impervious surface ratio.

(9) While loading areas and display areas are addressed elsewhere in this section, other outdoor storage/operations shall be buffered and screened so as to provide 100 percent visual obstruction, consisting of fencing or berming and plantings, and otherwise consistent with Section 317 A(2).

5. **Site development criteria.** The development shall be implemented through the site plan conditional use permit (CUP-SP) approval process, and shall meet the following minimum standards:

   a. **Setbacks.** Building setbacks shall not conflict with required buffers from existing rights-of-way, and otherwise, shall meet the following:

      (1) **Setbacks for permissible residential uses:**

         (a) **Front yard:** 35 feet.

         (b) **Side yard:** Ten feet.

         (c) **Rear yard:** 25 feet.

         (d) **Corner side yard:** 25 feet.

      (2) **Non-residential setbacks:** There are no side and rear setbacks between structures and interior property lines; however, if a separation is proposed, the minimum distance between structures is 20 feet. Unless otherwise identified below, and regardless of yard type, the minimum setback for non-residential structures from any interior street right-of-way is 30 feet. From exterior street right-of-way, the setback shall vary by classification of said street as follows:

         (a) **Local and collector street:** 60 feet.

         (b) **Major and minor thoroughfare:** 75 feet.

   b. **Building height.** Building height shall be in conformance with Article 6, District development standards.

   c. **Landscaping.**

      (1) Each tract of land submitted for site plan review shall provide a minimum of 20 percent of the site as landscaped areas. Landscaped is defined as either natural areas or prepared planting areas containing trees, shrubs, and ground covers and seeded areas, and unroofed plazas or common areas, whether pervious or impervious, for pedestrian movement only.

      (2) Necessary easements or fee for greenways, in accordance with the Town's greenway plan, shall be dedicated with the approval of the site plan.

   d. **Off-street parking, landscaping and loading requirements.**

      (1) Off-street parking shall be provided for each use permitted within the MXD-1 district based on the Town of Garner's requirements. No on-street parking shall be permitted on thoroughfare or collector streets within nonresidential portions of the district. However, on-street parking is allowed in the residential portions, but then, only on local streets.

      (2) Except for work areas used for active loading/unloading and temporary parking of transport vehicles, parking areas shall be

landscaped in accordance with Section 317(A)(2) of the Land Use Ordinance (although part of the MXD-1 district may lie outside the SHOD referenced in paragraph (A) of this section.

(3) Loading areas are allowed in any yard of industrial buildings. Otherwise, loading areas shall be located at the rear of buildings. In any case, such areas shall be screened from roads and adjacent property at the perimeter of the MXD-1 district consistent with Section 317(A)(2).

(4) Refuse areas and dumpster locations shall be fully screened from adjacent property and rights-of-way.

e. **Signs.** It is not the intent of this section to require uniform signage throughout the entirety of acreage zoned MXD-1. However, any developments meeting the definition of "shopping center", "business complex" or "commercial subdivision" in Section 7.5 shall comply with the master sign plan requirements of that article. All others signs shall comply with the remainder of said article.

D. **Planned Residential Development.**

1. Planned Residential Developments are permissible only in the R-12 PR zoning district. Planned Residential Development is an option provided to encourage a mix of housing options within a comprehensively Planned Development, allowing a density bonus in return for provision of substantial landscaping, screening and buffering.

2. Planned Residential Developments are permissible only on tracts of at least five contiguous acres.

3. A Planned Residential Development may be developed up to but not exceeding a density of 7,500 square feet per dwelling unit. However, at least 25 percent of the total number of dwelling units constructed must be single family residential dwellings (other than mobile homes); of the 25 percent, 60 percent of the number of units must be on lots of at least 12,000 square feet, and 40 percent must be on lots of at least 9,000 square feet. Setbacks standard to R-12 must be observed for these units.

4. The R-12 PR district also allows the construction of small detached patio home lots with the option to have zero lot line orientation as provided for in this ordinance. The maximum number of lots allowed under this option shall not exceed 25 percent of the total number of dwelling units constructed in an R-12 PR district.

5. Each patio or zero lot line dwelling unit in R-12 PR developments shall meet one of the following parking standards:

   a. A minimum of four off-street parking spaces on each lot;

   b. A minimum of three off-street parking spaces on each lot plus one parking space for each dwelling unit set aside in auxiliary off-street parking areas in locations approved by the permit issuing authority.

Such parking areas shall be designed and constructed in accordance with all other applicable parking provisions of the land use ordinance.

c. The permit issuing authority may approve an alternative parking design if it finds that the alternative achieves a parking standard of four off street parking spaces for each lot. setback along the entire development perimeter is required, except where 12,000 square foot lots abut similar development. Any required screening and buffering (see Article 7.1) shall be within this perimeter setback. Parking and access drives may be permitted within the ten feet farthest from the development perimeter, provided any required buffer is not intruded upon.

6. The screening requirements that would normally apply where a multi-family development adjoins a single family development shall not apply within the Planned Residential Development, but all screening requirements shall apply between the development and adjacent lots. Preservation of significant natural features shall be documented in the required permit application materials, along with landscaping appropriate to the site, uses and building locations. The provisions for recreation and open space shall be met within the development tract.

7. A minimum separation between single-family and multi-family buildings of 60 feet is required. The building to building separation between multi-family buildings is specified in [Section] 6.10.E., Minimum building separation.

8. The minimum dimensional standards for the R-12 PR district are as follows:

   a. **Lot size:** 7,500 square feet for overall project density.

   b. **Lot width:** 70 feet for detached unit, 50 feet for patio unit or zero lot line.

   c. **Front setback:** Patio or zero lot line 15 feet or 20 feet with garage (other units must meet setbacks according to lot size).

   Side setback: Patio or zero lot line aggregate of 15 feet minimum seven feet.

   Corner side setback: Patio or zero lot line is 15 feet or 20 feet with garage.

   Rear setback: Patio or zero lot line is 20 feet.

(Ord. No. 3396, § 3, 4-3-06)