

Matthews Zoning Code

§ 153.063 RURAL DISTRICT.

(A) *Purpose. Rural District: RU.* The purpose of this district is to protect agricultural endeavors and to preserve land for future alternate uses. Expansion and continuance of agricultural endeavors are encouraged within this district. The major uses permitted within this district are farms and residences plus commercial activities and enterprises related to agriculture, such as dairies, plant nurseries, and rural home occupation.

(B) *Permitted uses.* The following uses are permitted by right in the Rural District.

- (1) Arboretum.
- (2) Dwellings, one-family detached.
- (3) Farms, either in conjunction with or separate from dwellings, which may conduct retail sales of products produced on the premises.
- (4) Parks and playgrounds, operated on a noncommercial basis for purposes of public recreation.
- (5) Trailer, recreational, and overnight camping vehicles (stored unoccupied on a lot behind a line established by front of house).
- (6) Parking for uses permitted within the district.
- (7) Signs as permitted within the district.
- (8) Public utility transmission and distribution lines.
- (9) Railroad rights-of-way.
- (10) Saw mills for harvesting forest products on the premises where grown.
- (11) Telephone booths.
- (12) Temporary buildings and storage of materials in conjunction with construction of a building on a lot where construction is taking place or on adjacent lots, those temporary uses to be terminated upon completion of construction, issuance of certificate of occupancy, or invalidation of building permit.

(C) *Uses under prescribed conditions.* The following uses are permitted subject to the conditions governing each use as specified in the appropriate section.

- (1) Rural home occupations. See

§ 153.167.

(2) Room renting. See § 153.177.

(3) Farm type enterprises when not part of a bona fide farm, such as dairies, plant nurseries, greenhouses, fruit or vegetable and similar farm products, hatcheries, tobacco storage and similar uses. See § 153.180.

(4) Transit stop shelters. See § 153.184.

(5) Customary home occupations. See § 153.166.

(6) Electric and telephone poles supporting hardware systems and communications antennas. See §153.172. (Ord. 912, passed 1-27-97)

(D) *Accessory uses.* The following accessory uses are permitted in the Rural District.

(1) Accessory residential structures and uses, clearly incidental to the permitted principal use.

(2) Petroleum storage, accessory to a permitted principal use or building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.

(3) Vending machines for cigarettes, candy, soft drinks and similar items, and coin-operated laundries located within an enclosed building as an accessory use to the uses in the principal building or buildings.

(4) Accessory uses, clearly incidental to the permitted principal use or structure on the lot.

(5) On-site demolition disposal site, as regulated by § 153.190.

(E) *Yard, area, and height regulations.* The following standards apply to uses in the Rural District:

	<i>Single Family Detached</i>	<i>Other Uses</i>
Minimum lot area	40,000 square feet	15,000 square feet
Area for each additional dwelling unit	-	-
Minimum lot width	200 feet	80 feet
Minimum setback	50 feet	40 feet

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Minimum side yard:

One side	20 feet	10 feet
Other side	20 feet	10 feet
Both sides	40 feet	20 feet
Minimum rear yard	55 feet	55 feet
Minimum unobstructed open space	65%	65%
Maximum height*	35 feet	35 feet

* Buildings in the Rural District may be erected to heights in excess of 35 feet, provided that the side yards of any lot on which those structures are located must be increased by one foot for every one feet of building height in excess of 35 feet.

(F) *Development standards for various uses.*
The following development standards apply to uses within the Rural District in addition to other requirements that may be established elsewhere in this chapter.

(1) No wall or fence may exceed six feet in height within any required yard. This wall and fence height limitation does not apply to walls and fences constructed around electric and gas substations; telephone repeater stations or huts; pressure regulator stations; buildings to house pumps and lift stations and similar structures; radio, telephone, and television masts, towers, antennas, and similar structures; and water storage tanks. Walls and fences need not conform to any of the yard or setback requirements specified in this chapter.

(G) *Signs.* Signs are permitted in the Rural District in accordance with the provisions of §§ 153.140 through 153.155.

(H) *Parking and loading standards.*

(1) Development of any use in the Rural District must conform to the parking and loading requirements of §§ 153.115 through 153.129 and to the following standard.

(2) Parking of motor vehicles is not permitted in the required setback on a lot in the Rural District with the exception of lots used for single-family dwellings. The space within the required setback may not be used as maneuvering space for the parking or unparking of vehicles, except that driveways providing access to the parking area may be installed across the setback area. On corner lots within the Rural District, parking is not permitted within the side and rear yard adjacent to the street for a distance of ten feet back from the street right-of-way.

(72 Code, § 3090) (Ord. 477, passed 2-8-88; Am. Ord. 643, passed 11-5-90; Ord. 753, passed 9-14-92; Am. Ord. 775, passed 4-12-93; Am. Ord. 875, passed 5-9-94; Am. Ord. 877, passed 5-9-94) Penalty, see § 153.999.

§ 153.064 DOWNTOWN OVERLAY DISTRICT.

(A) *Purpose.* The adopted Downtown Master Plan, Design Guidelines, and Streetscape Improvements create a framework for preserving, revitalizing, and expanding on the social, cultural and architectural heritage of the downtown area of Matthews. The Downtown Master Plan was developed after thorough study of the downtown’s characteristics and its history, including the implementation of a Downtown Special Area Overlay district following an earlier downtown study. This Downtown Overlay District is therefore created to continue to focus on the concentrated central business area of Matthews to protect its unique position in the community, and to acknowledge the downtown’s role in economic viability and general welfare of the town as a whole. The historic downtown and its fringe areas are anticipated to develop and redevelop in the near future due to increased area population and demand for more urban services nearby. This Downtown Overlay District therefore includes Precincts 1 and 2 from the Downtown Master Plan, which is a larger geographic boundary than the previous Special Area Overlay, in order to direct new expansion in a compatible development approach to the existing urban core. This district stresses sensitivity to the pedestrian environment, urban design, urban open space, pedestrian scale signs, street furniture and amenities, and urban landscaping in both the existing historic core and in fringe areas anticipated to receive development pressure/opportunities in the near future. The Design Guidelines and Streetscape Improvements are adopted by reference.

(B) *Permitted uses.* Permitted uses within the Downtown Overlay district shall be determined by the requirements of the underlying zoning district.

(C) *Uses under prescribed conditions.* Uses permitted subject to specific conditions shall be permitted in accordance with the requirements of the underlying zoning district. Live/work units may also be allowed in the Downtown Overlay District when meeting the requirements established at 153.194.

(D) *Accessory uses.* Accessory uses shall be permitted in accordance with the requirements of the underlying zoning district.

(E) *Area, yard and height regulations.* Area, yard, and height regulations shall be determined by the requirements of the underlying zoning district, except that:

(1) Communications antenna or tower height within the Downtown Overlay district shall not exceed 35’;

(2) When build-to lines for various categories of streets - Types 1 through V - are given in the Streetscape Improvements, then they shall supersede underlying zoning district requirements.

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(F) *Creation of streetscape design standards.* The relationship between a building and areas for pedestrian or vehicular circulation must be carefully planned in order to avoid negative impacts of one upon the other. The Streetscape Improvements document illustrates design standards for the public rights-of-way for the majority of existing streets within the overlay district. New streets shall be assigned a street type category as they are proposed, in order to assure consistency in development of the public rights-of-way. All buildings and uses developed in this overlay district must meet the following minimum standards.

(1) *Paving.* Paving systems in the public rights-of-way must conform to the standards of the Streetscape Improvements and/or adopted standards in the Matthews Subdivision Ordinance. The paving systems used on private plazas, walkways, drives, and parking areas not in the public right-of-way may be different in color, material, and texture from those specified for public properties. The paving systems must be of a compatible pattern and scale to provide a transition into the paving system on public property.

(2) *Street furniture and amenities.* Walking surfaces, street furniture, light fixtures, information signs, and kiosks constructed in the public right-of-way or required setback/minimum build-to line must be consistent with the approved Streetscape Improvements document. Exterior lighting used on private plazas and walkways must be complementary in design motif to that specified in the Streetscape Improvements.

(3) *Street trees.* Street trees in public right-of-way shall be installed as properties are developed or separate from adjacent private property activity in accordance with the approved Streetscape Improvements. Above ground planters shall not be used to fulfill the street tree requirement. As new streets are proposed, the streetscape design shall be developed consistent with the class of street type assigned to it.

(G) *Creation of urban design and development standards.* The harmonious relationship between land uses and their environment requires that certain areas be addressed during project planning. These relationships deal with the streetscape, historic buildings and places, and open spaces. Development or redevelopment subject to these provisions shall be built in accordance with the minimum urban design standards set forth here. The purpose of this division is to define the minimum urban design standards for development in the defined Matthews downtown area in order to preserve the small-town character while encouraging revitalization and expansion. It is not the intent or expectation that new development should mimic a previous time period, but the general design principles in place when the majority of the current historic core developed are being recreated here for consistency in context for those buildings constructed between 1900 and 1940. These guiding general principles are as follows:

(1) Buildings should address the street.

(a) Entrances should face the street and be accessible from the sidewalk via an operable door designed so that it functions as a primary entrance to the building. (Ord. No. 1632, passed 9-8-08)

(b) Site layout should place the building generally at or near the front of the lot as indicated in the Streetscape Improvements, with parking to the side and/or rear of the building.

(2) Buildings should be designed to be compatible with the context of the neighborhood.

(a) Scale of new buildings should be in harmony with existing structures.

(b) Materials, colors, and styles should be compatible with existing structures.

(3) Building styles should be traditional, or styles adapted from local and regional interpretations of traditional architecture

(a) Building style should be appropriate to the intended use.

(b) Choice of building materials, elements, and details should be consistent with chosen architectural style. Elements that are obviously of another style, should be avoided.

(4) Overall design, use of materials, and ornamentation should be kept simple and in harmony with the scale of the building.

Additional illustrative detail on how urban design standards may be met is provided in the design Guidelines and Streetscape Improvements documents, both adopted here by reference.

(H) *Structure design standards.*

(1) Build-to lines are established for most existing streets in the Overlay district. As new streets are proposed, they will be assigned a street type category and build-to lines shall be assigned. Any new construction in the 100 block of North Trade Street, because it contains the majority of historic commercial structures set at or near the sidewalk, shall not exceed 10' setback from the right-of-way, except for outdoor café-type or other outdoor uses when a fence or wall is carried across the right-of-way to continue the visual continuity of building faces.

(2) Building bulk is categorized in width-to-height or height-to-width ratio and by a percentage of lot width coverage. All new buildings or additions to existing structures shall fall within a width-to-height or height-to-width ratio between 1:1.5 to 1:1. New nonresidential or mixed use construction located within the overlay district shall utilize a design in which the building coverage of the lot facing the street at the street entrance level shall be at least 75% of the total frontage of the lot at the established setback.

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Where no vehicular use area separates the structure from the street, portions of the building up to 20' behind the established setback may also make up the 75% lot frontage coverage. Required landscape areas, and up to 12' of driveway width, may be excluded from the lot frontage calculation. Where several new buildings are proposed to be developed adjacent to each other along the same side of a streetfront, the percentage for drive openings may be combined and averaged within that block face, in order to allow one or two driveways or loading areas for all the adjacent buildings.

(Ord. No. 1632, passed 9-8-08)

(3) Street walls and entrances must be designed to encourage and complement pedestrian-scale activity. Building design should not be conceived in isolation, as a singular entity, but should consider the structures at either side and in the neighborhood in general. It is intended that this be accomplished principally by the use of architectural criteria such as building materials, roof styles, attachments to buildings, and windows and doors arranged so that the uses are visible from and/or accessible to the street on at least 50% of the length of the ground level street frontage.

(a) Where windows are used multi-paned shop front windows are preferred, and no single glass pane shall be greater than 12 square feet. Windows of up to 20 square feet shall be allowed when mullions or other decorative features are incorporated. Windows shall have clear or lightly tinted non-reflective glass with a visible light transmission percentage 60% or higher, as verified by manufacturer or installer. Double hung windows with a height-to-width proportion of 2 to 1 are preferred for upper stories. Casements for windows shall be of wood, vinyl, or painted metal and may have stone, brick, or cast concrete lintels and sills. Window glass shall always be set back from the building face rather than flush. Shop front windows shall not be lower than 2' from the ground plane at front wall. Windows on the front of a building facing a street shall be at least 15 square feet and up to 40% of the total street front first floor facade in Precinct 1 and up to 60% of the total street front first floor facade in Precinct 2.

(Ord. No. 1632, passed 9-8-08)

(b) Expanses of solid wall facing a pedestrian use area, which may include a street, plaza, park, or parking lot, are not permitted to exceed 10 linear feet. A blank exterior wall, when necessary, shall be broken by one or more of the following:

- (1) a public doorway made of transparent materials;
- (2) a doorway made of opaque materials and recessed at least 3' and not more than 5';
- (3) a public stairway directly available at street/plaza/park/parking lot level, but not fire escapes or false stairways;
- (4) a window of at least 15 square feet in

area and no more than 4' above the ground surface.

(c) Building materials should repeat and/or complement the types found in existing downtown buildings. Brick or wood shall be the predominant building materials of any wall facing a public street or pedestrian use area. Predominant shall mean no less than 75% of the non-glassed wall surface facing the street or pedestrian use area. Materials used for awnings and canopies are exempt from this provision and shall not be included in the calculation. Other acceptable materials include stone, concrete-based stucco, concrete, horizontal wood siding or wood shingle. Brick may be painted or unpainted. Trim shall be stone, cast stone, cast concrete, or painted wood.

(d) Roof styles shall reflect those generally found in the downtown and fringe areas. Due to the concentration of flat-roofed commercial buildings on the 100 block of North Trade Street, any new development there shall use a flat roof. Elsewhere in the Downtown Overlay district flat roofs may be used if appropriate to the overall building style and to neighboring structures. Other acceptable roof styles include hipped, gables, or cross gabled. Roof pitch shall be between 5:12 and 10:12. Single pitch shed roofs are not allowed except as a minor attachment to the rear of a structure, with minor defined as less than 10% of building footprint. Mansard-style roofs or mansard attachments to a building wall are not permitted.

(e) Recessed doorways at street fronts are required and at non-street pedestrian use areas are encouraged. This provides a sense of entry and adds subtle variety to the streetscape. All structures shall have a street front entryway of at least one square foot for each 500 square feet of floor area with a ten square foot minimum. When a structure will provide off-street parking to the side or rear in a separate or combined lot, then the same doorway size requirements apply to the side or rear of the building. The maximum distance of recess from the exterior wall plan is 5'. Doors shall be of wood, painted metal, or simulated wood material, or a combination of one of the above materials and glass. No glass shall be positioned lower than 2' above ground level at door entrance unless the door is of a traditional style with multiple glass panes.

(Ord. No. 1632, passed 9-8-08)

(f) Colors of buildings shall follow the Design Guidelines, including the number of main and trim colors and the combinations of light and dark shades. Colors of adjacent structures shall be considered in choosing color schemes for compatibility.

(g) Reflectivity of exterior surfaces, except for painted wood siding, shall not exceed a reflectivity value of 36%, as measured under the applicable provisions of Federal Specifications DD-G-451d 1977.

(h) The entrances to buildings and shop front windows

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are permitted to have canopies and awnings made of canvas or treated canvas material. Vinyl or metal awnings are not permitted. Flat, suspended, metal canopies may be used on newly constructed buildings, if consistent with the architectural style of the building. Awnings or canopies may extend from the building up to one-half of the width of the sidewalk area in front of the building or 9', whichever is less. If this extension would reach into the public right-of-way, an encroachment agreement from the town or state is required. In no case shall an awning or canopy extend beyond the curb line of any public street, nor shall it interfere with the growth or maintenance of street trees. A minimum overhead clearance of 8' from the adjacent pedestrian area or sidewalk must be maintained. Curved awnings shall not be used, except over a single door at the rear entrance of a building. (Ord. No. 1632, passed 9-8-08)

(I) *Signs*. Identification, business or other signs on private or public property must meet the minimum criteria of Sections 153.140 through 153.155, except where specifically exempted below. In addition, certain signs may be allowed in the Downtown Overlay district that are not permissible in other locations, only as specifically listed below.

(1) *Signs encouraged but not mandated in the Downtown Overlay*. The following signs are encouraged: signs painted or stenciled on windows or doors to complement the architectural period or style of the building; individual sculpted or carved letters/logos/number of metal or wood applied to building face; painted wood or metal sign applied to building face; projecting sign made of wood or metal and painted, and having at least 7'6" clearance when encroaching over a sidewalk or pedestrian area; awning or canopy sign when sign is same or similar material and same plane as awning or canopy, and not built up; neon signs in Precinct 1 within a window area only and not occupying more than 10 square feet, and when complementing the architectural period or style of the building; neon signs in Precinct 2 not to exceed 2 colors and 16 square feet in area; portable signs in compliance with the regulations of this division (I); and externally illuminated identification signs in keeping with the architectural style and age of the surrounding structures. Direct light of white or yellow from a shielded source is the preferred method of illumination, although white or colored halo lighting, where individual opaque letters/symbols are lit from within, is permitted.

(2) *Signs prohibited in the Downtown Overlay*. The following signs are prohibited: any structure or any material for a sign face which is designed to be an internally illuminated wall, projecting, awning, or freestanding sign, whether or not it has any electrical or mechanical components that create internal light; any sign containing more than three colors; signs placed in or extending over the public right-of-way except when otherwise regulated in this division (I); and signs listed at Section 153.148 except when otherwise regulated in this division (I). In Precinct 1, any neon on building face or projecting from building, or in a

freestanding sign is prohibited. In Precinct 2C, only freestanding signs are permitted for residential structures when any portion of the structure is converted to nonresidential use, and neon is not permitted in any sign for these converted structures.

(3) *Attached signs*. Attached signs are permitted in the number and total sign area given in Section 153.153(C).

(4) *Freestanding signs*. Freestanding signs are allowed in association with a use within a building or a use when no building is present. Only one freestanding sign is allowed per lot, except as allowed at Section 153.144(C). Freestanding signs must be located behind the street right-of-way and outside of sight triangles, as defined at Section 153.141. When the associated building is at or extends into the street right-of-way for the entire frontage, then no freestanding sign is allowed. The size of freestanding signs must meet the following:

Lot Frontage (Feet)	Maximum Sign Size (Square feet)
0-39	24
40-69	36
70 and over	50

(5) *Temporary signs*. Temporary signs as regulated at Sections 153.145(H) and 153.146(A) are permitted as outlined in Section 153.153(C).

(6) *Directory or bulletin board signs*. Directory or bulletin board signs are permitted as outlined in Section 153.153(C).

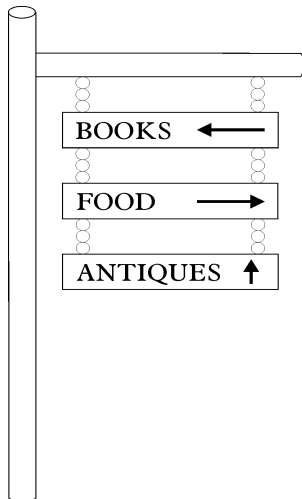
(7) *Portable signs*. Certain portable signs, up to 8 square feet in sign area and not more than 5' in total height, may be allowed in the Downtown Overlay, as regulated here. A single or two-sided sign of an "A" frame type configuration, an upright single or two-sided structure with a weighted foot or pedestal, or a chalkboard or board of other material which can allow frequent changes in the message with stationary feet or pedestal may be displayed as a portable sign in front, and within 10', of the associated use's front door or front gate entrance. When the building uses a side or rear entrance as a public entrance as well, then a second portable sign of the same type, size, and location relative to side/rear door may be permitted. When there is sufficient space between the wall of the building or use and the street right-of-way, then such portable sign must be located behind the right-of-way line. When the building is located at the street right-of-way, the portable sign may be located within the street right-of-way, provided the sign does not prohibit pedestrian flow, block drivers' visibility, and has approval from the NC Department of Transportation when on a state maintained right-of-way.

(8) *Block corner directory signs*.

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(a) In order to improve pedestrian and driver ability to locate certain businesses or services, to create a unique yet unified look for the downtown, and to increase public safety by combining various pieces of information at single locations, the town will determine when block corner directory signs may be placed. Businesses, organizations, and uses within the Downtown Overlay may request space on the corner sign posting. The Town may specify the size, material, colors, letter height, and similar criteria for each panel on a corner directory sign. The Town will be responsible for installation and maintenance of the signpost, and will hang and remove all panels. Individuals or businesses must purchase an annual permit from the Town for each panel, which may be renewed without limit. Permit holders will be responsible for the maintenance of worn or damaged panels. The Town shall reserve the right to remove panels that are so deteriorated or damaged that they may affect public safety, or those panels directing persons to uses no longer in existence. Annual fees for panels shall be set by the Town Board of Commissioners, and revised from time to time as deemed necessary.

(b) A BLOCK CORNER DIRECTORY SIGN shall be defined as a sign composed of a post and hanging panels, each panel listing the name and/or use of a business, activity, organization, or office located nearby. Such sign panels contain no other advertising messages, except arrows pointing toward the business, activity, organization, or office identified.



(9) *Signs for Live/work units.* Live/work units may have one attached sign, up to nine (9) square feet in sign area, per public entrance to the business portion of the structure. This sign must be located within six (6) lineal feet of the public entrance.

(J) *Landscaping.* The landscaping provisions of the underlying district shall apply. The Design Guidelines also provide recommended treatment of landscape areas.

(K) *Parking and loading standards.*

(1) Permitted uses within the Downtown Overlay are required to provide off-street motor vehicle and bicycle parking and loading according to the minimum standards set forth in Sections 153.115 through 153.129, except where the Historic Urban Core (HUC) district specifically authorizes different parking allotments for specific uses. If off-site, non-street parking to meet the requires of this division (K) are not met, the office or agent authorized by the Matthews Board of Commissioners to issue occupancy permits, will revoke the occupancy permit for the permitted use and will not issue a building or occupancy permit with respect to the permitted use until those requirements are met. One of the following parking reduction options may be used to reduce on-site motor vehicle parking requirements.

(Ord. No. 1632, passed 9-8-08)

(2) Where on-street or public parking lot spaces are located within 400' of a building entrance, up to a 25% reduction to required on-site parking may be allowed for new construction or where a change of use requires more intensive parking.

(Ord. No. 1418; passed 2-14-05) (Ord. No. 1632, passed 9-8-08)

(3) A modified sight triangle with dimensions no less than 25' x 25' may be allowed within the Downtown Overlay District with the approval of the Town Engineer. The reduced sight triangle must be located where the driving lane closest to the building or parking lot edge is controlled by either a signal or signage.

(Ord. No. 1632, passed 9-8-08)

(4) Shared Parking: Joint use of up to 25% of required parking spaces may be permitted with approval from the Zoning Administrator for different uses on newly developed mixed-use parcels provided that the property owner can demonstrate that uses will not overlap in hours of operation or in demand for shared spaces. If a newly developed site is to be subdivided, a shared parking agreement subject to the terms of 153.120(A) (3) shall be provided to the Zoning Administrator for any lots that would otherwise show a parking deficiency.

(Ord. No. 1632, passed 9-8-08)

(5) New on-street parking spaces developed

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adjacent to and in conjunction with a new building or group of buildings may be counted toward the minimum on-street parking requirements for those buildings. New spaces must be located on public streets and within 400' of the new building(s) with which they are associated. Any such on-street spaces may only be attributed to meeting minimum parking requirements for one new building.

(Ord. No. 1632, passed 0-8-08)

(L) *Development review.* Applicants planning any demolition, development, or redevelopment are required to meet with the Town Planning Department during the conceptual design process in order that the applicant and staff may review the design standards and the Streetscape Improvements as they relate to that location. The applicant shall submit plans to the Town Planning Department during the formal design review stage prior to receiving any building permit to ensure that the plans meet the minimum standards for the Downtown Overlay district. Building, demolition and/or zoning permits shall not be issued until the Town Planning Department approves the proposal as in conformance with this chapter.

(1) Site plan submittal requirements. Site plan submittal for any development activity in the Downtown Overlay shall include but not be limited to:

(a) A vicinity map clearly establishing the location of the project with readily recognizable landmarks.

(b) A development summary including land area in development, proposed use(s), total building square footage, required parking, provided parking spaces, indicating where off-lot parking is being included.

(c) An accurate drawing of property boundaries.

(d) Existing topography of existing vacant land to be disturbed by the development activity, and where appropriate, water courses and water bodies, floodplains and floodways, or other areas that would require extensive clearing and grading or alteration for development.

(e) Identification and location of all existing site improvements, including streets, water, sewer, storm drainage, buildings, overhead power or telephone/cable lines, cross access easements, and utility easements.

(f) Proposed location, type, and size of each sign (attached, freestanding, portable) to be employed on the site.

(g) Location of proposed buildings, driveways, and parking areas.

(h) Location of trash dumpsters or bins and required screening.

(i) Grading, drainage, erosion and sedimentation control, and utility plans.

(j) Landscaping, including street trees, parking lot islands, and perimeter planting where required. The canopy dripline of any existing trees meeting the sizes listed in Section 153.075(I) shall be indicated, and noted whether or not they will remain. Details of required

landscaping, showing species, dimensions, and spacing of planted materials shall be provided, with a proposed timeline for installation.

(k) Name of the project, owner, name and address of engineer, architect, planner or landscape architect, scale, date, and north arrow.

(M) *Residential construction design standards.* The adopted Design Guidelines provides details on building design and setting for single-family and multi-family residential structures. These guidelines should be utilized to the greatest extent possible when proposing a residential development within the Downtown Overlay.

§ 153.066 SPECIAL HIGHWAY OVERLAY DISTRICT I.

(A) *Purpose and intent.*

(1) The purpose of these regulations is to protect and preserve the natural scenic beauty along designated major thoroughfares which are within the Special Highway Overlay District I and which are located or proposed for construction in the town zoning jurisdiction, while allowing the orderly development of land located along those highways. In order to protect and enhance both the public and private interests in and along the highway system, this district is adopted for the purpose of:

(a) Protecting the public investment and lengthening the time during which highways can continue to serve their functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress, egress and cluttered roadside development.

(b) Reducing the costs of future highway expansions by requiring that buildings and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the highway; and

(c) Reserving adequate roadside space through which neighborhood traffic may be admitted to and from the highway system in a manner that avoids undue traffic concentrations, sudden turnings and stops and other hazards.

(2) It is the intent of these regulations that development in the Special Highway Overlay District I shall be in harmony with and shall preserve the natural beauty and character of the existing landscape. Ensuring the attractiveness of uses will in turn contribute to and enhance capital investment, trade, tourism, and the general welfare. Therefore, this district is adopted for the additional purposes of:

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(a) Improving the appearance and livability of the community while enhancing its economic vitality.

(b) Preserving and improving property values by creating and maintaining an ecosystem of sustainable development. This assures a management system of renewable natural resources for both the present and future generations.

(c) Protecting and enhancing the environment by preserving trees and natural ground cover, which reduces soil erosion and localized flooding, recharges ground water and regenerates oxygen, reduces the impacts of heat and cold to the man-made urban fabric of pavement and buildings, and conserves energy.

(B) Locational guidelines.

(1) The Special Highway Overlay District I should be generally located along limited access interstate or divided highway approaches to, through or, around the town.

(2) The district shall be located on either side of an existing or proposed major thoroughfare within the town's zoning jurisdiction and should begin at the outer edge of the existing or proposed right-of-way. The district should be 500 to 1,000 feet deep. The district shall follow identifiable boundaries whenever possible and shall be delineated as an overlay on the official zoning map of the town. However, when a new right-of-way has been established by an approved Thoroughfare Plan, the district boundaries shall be calculated from the newly established right-of-way.

(C) *Regulation of uses.* The uses permitted or prohibited in the Special Highway Overlay District I shall be the uses permitted or prohibited in the underlying zoning district. Any development or land disturbing activity on previously approved plans are still subject to these overlay requirements.

(D) Plan review procedures.

(1) *Industrial, commercial, and multi-family development.* No conditional districts, development, general rezoning, land disturbing activity, or site improvement activity, other than single-family residential development may occur within the Special Highway Overlay District I without first obtaining approval of a detailed or abbreviated site plan from the Town Planning Department as allowed at division (E) of this section. Any change to zoning conditions or zoning districts shall be subject to all provisions of the Special Highway Overlay District, and building or grading permits shall not be issued until Highway Overlay site plan submittal has been approved. All development shall conform to an approved site plan. Any substantial deviation from the approved site plan must be resubmitted for review and approval by the Town Planning Department in accordance with these requirements. Appeals of Planning Department

decisions on site plans shall be submitted to the Town Board of Adjustment.

(2) *Single-family residential development.* All new or replatted single-family residential developments and subdivisions must comply with the minimum thoroughfare buffering, signage, underground utility, and access standards of the Special Highway Overlay District. Plan review shall be administered through the normal zoning and subdivision review process, supplemented by applicable additional requirements of the Overlay District.

(E) *Site plan submittal requirements.* Site plan submittal for any development activity except those listed at division (E)(12) below shall include but not be limited to:

(1) A vicinity map clearly establishing the location of the project with readily recognizable landmarks.

(2) A development summary including total acres in development, proposed uses, total building square footage, required parking, and provided parking spaces, total impervious surface area, and the percentage of lot covered by impervious surface. This information shall be supplied in table form on the site plan.

(3) An accurate drawing of property boundaries.

(4) Existing topography, water courses and water bodies, floodplains and floodways, or other areas that would require extensive clearing and grading or alteration for development.

(5) Identification and location of all existing site improvements, including streets, water, sewer, storm drainage, buildings, and other significant site features and any existing or former easements (driveway, street, utility, construction, etc.) which may have cleared vegetative matter, and or could allow clearing or grading.

(6) Proposed location, type, and size of each sign to be employed on the site.

(7) Location of proposed buildings, driveways, and parking areas.

(8) Location of trash dumpsters and required screening.

(9) Grading, drainage, erosion and sedimentation control, layout, and utility plans.

(10) Landscaping Plan to include:

(a) 1. Prior to any site disturbance, approximate locations and species of all deciduous and coniferous trees at least three inches DHB, and all dogwoods, redbuds and American hollies at least four feet high, which

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are located in any required buffer or screen area, and in any area not being disturbed by the planned development. The canopy dripline of those trees shall be delineated. A brief assessment of the above inventoried trees, indicating major deformity, disease, and or damage may be included. Where groves of the protected trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the plan drawing, stating the approximate number of protected trees and species mix, without specifying data of each individual tree.

2. Locations, species, and size of all protected trees proposed for removal shall be shown in outline form using a dashed line for the canopy dripline. Reasons for removing protected trees shall be explicitly stated on the Plan.

(b) Locations, dimensions, and square footage of required buffer strips and parking lot landscaping.

(c) Details of required landscaping, showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation. Each plant unit in front tree buffer areas shall be marked as meeting one of the options given in division (G)(5).

(d) Proposed timeline for landscaping.

(11) Name of the project, owner, name and address of engineer, architect, planner or landscape architect, scale, date, and north arrow.

(12) Minor changes or additions to existing development or approved plans may submit an abbreviated site plan. An abbreviated site plan shall be allowed when the proposed change is physically limited to only a contained portion of the site. An abbreviated site plan shall include but not be limited to items listed at divisions (E)(1), (E)(2), (E)(5), (E)(7), (E)(10), and (E)(11) above. The Planning Department shall determine when an abbreviated site plan may be submitted for a detailed site plan and what items must be included.

(F) *General site standards.* The standards of both the Special Highway Overlay District I and the underlying zoning district shall apply. Where the standards of the overlay district and the underlying district differ, the more restrictive standard shall apply:

(1) *Required minimum lot area:*

(a) Lots for single-family detached or attached dwellings, multi-family dwellings, and all other lots not bordering directly on the Special Highway: the required minimum lot area of the underlying district shall apply.

(b) All nonresidential lots bordering on the Special Highway shall be at least two acres in size, except

that lots may be smaller: 1.) when those lots are contained within a unified multi-lot development plan which is part of a conditional district zoning process; and 2.) where shared driveway access is used; and 3.) where no more than one driveway for a minimum 500 feet of frontage along the Special Highway will exist. All lots shall be developed with a unified approach to landscaping and buffering, access points, parking and loading, lighting, and noise.

(c) Lots bordering on the Special Highway which were created prior to application of this section and which are less than two acres shall be handled in accordance with the town's existing zoning provisions governing nonconforming situations.

(2) *Lot coverage.* Stormwater retention shall be required on all lots, and in no case shall impervious surface, such as rooftops, walkways, paving, and the like exceed 75% of the site.

(3) *Yards.* The required front, side, and rear yard requirements of the underlying zoning district shall apply, except that the required protective buffer areas shall in all instances take precedence. No building shall in any instance be closer than 15 feet from any required buffer or screen area.

(4) *Building height.* The maximum building height limit of the underlying zoning district shall apply, except that where allowed, communications antennas or communications towers shall follow the height limits given in Section 153.172 and shall be located a minimum straight line distance of 150 feet from the nearest edge of right-of-way to the Special Highway. Where guy wires are used, their point of connection to the ground shall be used to determine the minimum 150 foot distance. (See also §153.172(F). Whichever paragraph is more restrictive shall control.) (Ord. 912, passed 1-27-97)

(5) *Parking and loading requirements.* Parking and loading requirements shall be met in accordance with the underlying zoning district, except that the special design standards of this section shall apply in the Special Highway Overlay District I.

(6) Location of parking, loading, and storage areas.

(a) Any paved or impervious surface designed or intended to be used by vehicles, including parking, loading and storage areas shall be located to the side and rear of all principal nonresidential structures of sites fronting the Special Highway. Parking to the side of a structure shall be no closer to the Special Highway right-of-way than the structure or 60 feet, whichever is the lesser distance. For corner lots, the side of the lot facing the more major thoroughfare shall be considered the front yard for the purpose of this requirement.

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(b) Exceptions to this provision may only be granted under certain circumstances:

1. When the applicant can demonstrate that placement of those facilities in the side or rear yards would require greater clearing and grading than if those facilities were to be located in the front yard. An alternative design layout showing what vegetation would be lost that can be retained by front yard paving must be provided.

2. When the applicant can demonstrate that the necessary vehicular and pedestrian circulation of the proposed use cannot function without front yard parking, loading, or storage. A written description of the use, and why the front yard vehicular use area cannot be eliminated or relocated elsewhere on the site must be provided.

(c) An enhanced landscaping plan shall be part of any request for an exception as described in divisions (a) or (b) above. Enhanced landscaping located between the vehicular use area and the Special Highway shall include evergreen shrub screening, berms, low fencing with evergreen shrubs on the street side, or a combination of methods to significantly reduce the amount of pavement and vehicles viewed from the Special Highway. In addition, any paved area used for parking requesting an exception shall be required to provide at least one existing or planted tree of a minimum three inch caliper and minimum eight foot height for every five parking spaces. These trees must be located in tree islands with minimum dimensions as given in division (J)(2). Property at a higher grade than the Special Highway shall not be reason to exempt the requirement for enhanced landscaping.

(d) An exception may be granted under either divisions (1) or (2) above by the Planning Department when no other variances to the Special Highway Overlay District requirements are requested. If any other variances are necessary, an exception to front yard paved areas may only be determined by the Board of Adjustment.

(7) *Location of Utility Connections.* For properties fronting the Special Highway, utilities such as water, sewer, natural gas, telephone, cable, etc., shall only be located in the portion of the required front protective buffer that is disturbed for driveway access when trees of protected size exist. If a variance to this provision is requested, the applicant must demonstrate how trees and tree roots will be protected from damage during construction or future maintenance/repair, and that new easements will not include any existing or new trees required by division (G).

(G) *Special Highway buffer required.*

(1) As previously stated, one of the principal purposes of the Special Highway Overlay District is to

preserve and protect existing natural landscaping while allowing development of individual properties. To this end, a protective buffer area shall be created on all sites fronting the Special Highway. Within this area, all deciduous and coniferous trees three inches caliper or larger, and all dogwoods, redbuds, and American hollies four feet high or larger shall be considered of protected size. The front protective buffer shall be left in a natural state to the greatest extent possible. Clearing of small brush, vines, dead wood, trash, etc., is permitted when done in a method so as not to damage roots, limbs, trunks, bark, etc., of protected vegetation. Mulch of natural material only may be placed around existing or added trees and shrubs.

(2) (a) A minimum protective buffer of 30 feet shall be established from the edge of the existing or proposed right-of-way of any Special Highway, except when a service road right-of-way abuts and parallels the Special Highway right-of-way, in which case a minimum protective yard of 25 feet shall be established from the service road right-of-way.

(b) When road construction, utility locations, or similar action has cleared some or all of this buffer area of tree cover, then the buffer area shall be measured from the undisturbed tree line, when one exists within 50 feet of the edge of the right-of-way. Utility easements, sidewalk easements, current or former temporary construction easements, and similar restrictions shall be shown on the site plan submittal as described in division (E)(5).

(c) Where no natural vegetation including trees of protected size exists within a 50 foot depth from the right-of-way of the Special Highway, then the minimum buffer area shall be measured from the edge of the right-of-way.

(3) A minimum protective yard of 25 feet shall be established adjacent to any street right-of-way which intersects and shares common access with the Special Highway for a distance of 200 feet from the intersection of the rights-of-way of the street and the Special Highway.

(4) In a case where an individual parcel has been rendered virtually unusable due to establishment of the buffer area, there may be grounds for a variance or appeal, provided that all other conditions set forth in this section are met. In granting any such variance or appeal, the Town Board of Adjustment may require the applicant to compensate in equivalent landscaping improvements any vegetative matter that is lost through an encroachment into the buffer area.

(5) Emergency access driveways may cross through the special highway buffer when included as a zoning condition in a conditional district zoning. Emergency access driveways may be paved or may use a porous surface, but existing or new landscape plant material will not be required. An emergency access driveway may not exceed 24

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feet in width through the front protected buffer area.
(Ord. 1303, passed 9-8-03)

(6) (a) A distinctive streetscape will be created along the Special Highway buffer, including 200 feet on intersecting streets and on parallel service roads, composed of one plant unit for every 40 feet or portion of 40 feet of lineal frontage, not including necessary drive access points and required sight angle locations. A plant unit shall be composed, at a minimum, of one of the following combinations of plants as listed in division (P) below:

1. A combination of existing trees of required protected size which will be retained, and which total more than 24 inches caliper.

2. A combination of both existing trees of required protected size and newly planted trees which would total more than 24 inches caliper.

3. Two large-maturing deciduous trees, and three small-maturing trees; or

4. Three large-maturing evergreen trees, and three small maturing trees; or

5. Two large-maturing deciduous trees, and two large-maturing evergreen trees; or

6. One large-maturing deciduous tree, two large-maturing evergreen trees, and two small-maturing trees; or

7. Two large-maturing deciduous trees, one large-maturing evergreen tree, and one small-maturing tree; or

8. Seven small-maturing trees.

(b) The arrangement and location of landscaping in the Special Highway buffer shall be designed in a random spacing, not in a straight line, to give the appearance of a naturalized setting, and shall be part of the landscape plan submitted for site plan approval. Existing plant material of minimum protected size shall be retained, except where an approved driveway access or existing utility easements are located.

(H) *Site perimeter buffer required for nonresidential and multi-family uses.*

(1) A minimum 20-foot undisturbed buffer strip shall be retained along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area. (Single-family residential uses shall not be required to provide side and rear yard buffers but shall provide the 30-foot buffer along the Special Highway.) The required side or rear yard buffers shall be 75% opaque year

round. The more intense land use shall be required to provide the buffer as part of its yard requirement. Natural vegetation must be retained whenever possible. Buffer strips may be occupied only by natural and/or planted vegetation, berms, and fencing, as specified in Illustration I - Typical Lot Layout. (See Appendix.)

(2) One or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate buffer where no natural vegetation exists:

(a) *Planted buffer strips.* The planted buffer strips shall be at least six-foot tall and give approximately 75% visual opacity within two years of planting. Three rows of planted materials shall be required.

(b) *Combination planted buffer strip with fencing:*

1. Fencing shall be five to seven feet in height. The use of natural fence materials such as wood, brick, and stone is encouraged.

2. If a solid fence is used, two rows of planted materials shall be provided at a minimum height of three feet at initial planting and give at least 50% visual opacity of the fence at planting.

3. If a permeable fence is used, two rows of planted materials shall be provided and give approximately 75% visual opacity of the fence within two years of planting.

4. The buffer vegetation shall be located between the fence and the common property line.

(c) *Combination berm with vegetation:*

1. An earthen berm may be used in conjunction with planted vegetation, provided that the combined height of berm and planted vegetation shall be at least six feet and provide approximately 75% opacity within two years of planting.

2. The slope of the berm shall be stabilized with vegetation and be no steeper than 3:1. The height of the berm shall be six feet or less, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth.

(I) *Preservation of existing site vegetation.*

(1) In addition to the required minimum buffer along the right-of-way of the Special Highway and site perimeter buffers on non single-family developments, it is the intent of the Special Highway Overlay District I regulations to retain existing vegetation on the site at the time of

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development or any other land-disturbing activity.

(2) In any required landscape buffer or screen, and in any location within the site that will not be disturbed, all deciduous and coniferous trees at least three inches caliper and all dogwoods, redbuds, and American hollies at least four feet high shall be considered protected. Elsewhere on the site, trees of these sizes and larger are encouraged to be preserved and incorporated into required landscaping, but will not be considered protected as described below.

(a) The following steps shall be accomplished in chronological order:

1. These trees shall be initially inventoried as part of the Landscape Plan, in accordance with division (E)(10).

2. If any of these trees are to be cleared from the site, reasons for doing so shall be clearly stated on the Landscape Plan. Those trees marked as being required to be removed are not considered protected trees for the remainder of this section.

3. Existing trees specified on the required Landscape Plan to remain on the site under these requirements shall be considered protected trees. Individual protected trees or groves of protected trees shall be staked, fenced, or otherwise clearly marked and protected from material storage and vehicular movement during construction and in the final landscape design, as shown in Illustration III - Preservation of Existing Vegetation. (See Appendix.)

4. If a protected tree is destroyed or dies within three years after completion of construction, then replacement trees of total equal diameter shall be planted on the site. Tree destruction or death during this three-year period shall be assumed to be the result of construction/development work unless: a) the tree destruction is easily verified as due to an act of God (storm, lightning strike, and the like), or b) the property owner provides documentation from an arborist of an alternate explanation for the tree's death.

5. A minimum of 15 large-maturing deciduous or evergreen trees at least three-inch caliper and a minimum of eight feet in height shall be retained or planted on the parcel for each acre of proportionate area disturbed by development. Required front, side or, rear landscaped buffers should be included in calculating this overall requirement. For every 24 inches caliper total retained within the disturbed area of the site, the project shall be credited with one tree which may be counted toward this 15 tree per acre minimum performance standard. Credits shall not apply to the removal of existing trees at or over the size limits for "protected" status listed elsewhere in division (I).

(b) *Adequate sight angles.* At all points of egress from off-street parking areas to a road and at corners of road intersections, unobstructed visibility shall be maintained in accordance with the requirements of the County Engineering Department and the regulations adopted by the Department of Transportation, State of North Carolina, in "Subdivision Roads: Minimum Construction Standards" (May 1, 1983) and any subsequent amendments thereto, or the regulations adopted by the governing body, whichever are the greater.

(J) *Parking lot and pavement landscaping.* Landscaping is required for parking lots and other areas of paved surface to reduce the aesthetic impacts of paving or removal of natural vegetation from large areas; to reduce the noise, heat, glare, and dust associated with parking lots; and to control the direction and velocity of surface water runoff.

(1) *Applicability.* Landscaping shall be required for all off-street parking facilities with five or more spaces or those areas 2,500 square feet or more devoted for vehicular use. A landscaping plan shall be submitted in accordance with division (E)(10) above.

(2) *Interior landscaping required.* **INTERIOR LANDSCAPING** is defined as the landscaping required within the parking lot perimeters, including the planting islands, curbed areas, corner lots, parking spaces, and all interior driveways and aisles, except those with no parking spaces located on either side. Interior landscaping shall be in the form of planting islands, either separate or protruding from the perimeter of the parking lot. The planting islands shall be located appropriately in the parking facility to create parking sub areas and to help establish distinct patterns of traffic flow. No planted area in any island shall have a dimension of less than 12 feet, or eight feet with minimum overall area not less than 144 square feet. Smaller protrusions from planting islands shall not have deciduous trees planted within them. At least one existing or planted large-maturing tree shall be provided for every ten parking spaces, except small trees are allowed where they are within an overhead power line easement. No parking space shall be located more than 60 feet from a tree either in an island or outside of the parking lot. Trees should be generally distributed evenly throughout the parking lot. All parking spaces shall be blocked or curbed to prevent vehicles from overhanging planting islands or landscaped yards by more than one foot or damaging adjacent fences or screens, as shown in Illustration IV -Screening in Parking Lots. (See Appendix.)

(3) *Enhanced interior landscaping required for front yard parking lots and vehicular use areas.* In accordance with division (F)(6), the interior landscaping requirements for parking lots and other paved vehicular use areas approved in front yards shall be increased as stated in division (F)(6)(c).

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(K) *Landscape maintenance.* The owner, tenant, and their agent, if any, shall be jointly and severally responsible for the maintenance and protection of all landscaping existing or hereafter installed which shall be maintained in a healthy growing condition. Maintenance shall include watering, weeding, mowing, fertilizing, treating, mulching, pruning, removal and replacement of dead or diseased trees and shrubs on a regular basis so as to present a neat and well-kept appearance at all times. Trees and shrubs are to be maintained in their natural form, and should not be pruned or shaped inconsistent with their species natural growth habits.

(L) *Signage standards.* The signage standards of the underlying zoning district and the general sign sections of this chapter shall apply. For sites bordering on the Special Highway, the location of freestanding signs is limited to any disturbed portion of the site, including the roadway or driveway access corridor from the Special Highway right-of-way, but not in any other portion of the required front buffer, and no additional clearing shall be permitted in the front buffer.

(M) *Outdoor lighting.* All outdoor lighting shall be shielded in a manner that no direct glare from the light source can be seen from an abutting right-of-way line or from an abutting residential use or district.

(N) *Utilities underground.* All utilities under the control of the property owner or developer shall be of underground construction.

(O) *Access points and traffic movement.* Traffic service and land access are necessary but conflicting functions of a highway system. Although major roadways may provide both traffic service and land access, access is a secondary function that should be controlled to avoid jeopardizing the primary traffic service function. The following provisions are intended to protect the public interest and safety of highway users by achieving reasonable access control.

(1) The term **ACCESS CONTROL** refers to all techniques intended to minimize the traffic interference associated with driveway access, whether the use is commercial, industrial, or residential.

(2) Whenever a tract proposed for a residential subdivision borders on a special highway, then all lots created out of that tract must have sufficient frontage on another street (either pre-existing or created as part of the subdivision) so that direct access to that lot need not be provided by the special highway, unless compliance with this requirement is not reasonably practicable due to the size or shape of the tract to be divided. The final plat creating the subdivision shall indicate a limitation on driveway access to the special highway for those lots which have alternative access.

(3) To separate basic conflict areas and gain control of access, techniques which will allow the reduction of driveway numbers or directly increase the spacing between driveways or between driveways and intersections will be required to achieve the following limitations for driveway access in relation to highway frontage:

(a) For lots having more than 500 feet of frontage on special highway, driveways shall be no closer than 500 linear feet.

(b) For a lot having less than 500 feet of frontage on a special highway, only one driveway onto that highway shall be allowed. Whenever possible, a minimum distance of 200 feet must be maintained between driveways of adjacent lots.

(c) Ingress to and egress from a corner lot or reverse frontage lot adjacent to a special highway shall be limited to the more minor thoroughfare.

(d) Adjacent or adjoining lots with small highway frontages are encouraged to combine access to one driveway. In those instances, a wider driveway may be permitted, conditioned on DOT approval.

(e) Whenever separate or single parcels are assembled under one purpose, plan, entity, or usage, consolidation of existing direct access shall be required to the extent feasible. Approval depends on the developers' plans to use existing driveways, close other existing driveways, or redesign and rebuild some existing driveways. However, the spacing and number of access points should not exceed the limits set based on highway frontage.

(f) Emergency access driveways may be created, using the separation requirements listed in (a) through (e) above where specifically included as part of approved zoning conditions in a conditional zoning district and designed to meet NCDOT requirements. Emergency access driveways shall primarily use a solid subsurface with natural cover, such as porous block subsurface and grass cover, and may be crossed with a removable or breakaway barricade, gate, chain, bollards, or other method to prevent general public use. (Ord. 1303, passed 9-8-03)

(g) Deviations from the foregoing standards may be authorized when the town determines, upon the advice of the North Carolina Department of Transportation, that a particular development design or technique can achieve a satisfactory level of access control consistent with the objectives of this section.

(P) *Approved plant list.*

(1) This list has been prepared to increase the likelihood of survival and to reduce maintenance requirements of plant species and varieties which are most

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commonly found in a natural wooded setting in the region. These are the varieties of plants most likely to be found and are desired to be retained in buffer areas, screens, and other required landscaped areas. All plants utilized in all developments along the Special Highway Overlay should pay particular attention to preserving and protecting the species listed below when they are found on sites to be developed or otherwise disturbed. All plants utilized in landscape plans, whether listed below or not, should be generally adapted to the normal climatic and environmental conditions expected for the Matthews area. This list is not intended to be a comprehensive survey of plants found within the overlay district, but it will serve as a guide to appropriate plant selection. If the plants selected are from this approved list, further review will not be necessary. Plants which are not on this list may be used, if it can be shown that the selected species satisfies one or more of the following criteria.

(a) An indigenous species to the area, adapted to the proposed site conditions; or

(b) A cultivated species which is well suited for use in this area; or

(c) A cultivated species which will be used in a manner that it will not be adversely affected by normal climatic environmental conditions; or

(d) Any plant species which has been previously approved for use.

(2) All replacement plantings should be installed at a frequency and species composition similar to that found under similar environmental conditions in undisturbed forested areas.

(3) Recommended plant species for use within the Special Highway Overlay District shall be as set forth in the following table:

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<i>Plant Species Encouraged Within the Special Highway Overlay District</i>	
<i>Common name</i>	<i>Taxonomic name</i>
LARGE-MATURING TREES	
Evergreen: Loblolly Pine Shortleaf Pine Virginia Pine Eastern Red Cedar* Carolina Hemlock Southern Magnolia	Pinus taeda Pinus echinata Pinus virginiana Juniperus virginiana Tsuga caroliniana Magnolia grandiflora
Deciduous: Oaks (various) Hickories (various) Tulip Poplar Sweet Gum* Ashes (various) Maples (various) American Beech Black Gum or Tupelo Persimmon Sour Wood Sycamore Black Walnut Pecan Southern Catalpa	Quercus spp. Carya spp. Liriodendron tulipifera Liquidambar styraciflua Fraxinus spp. Acer spp. Fagus grandifolia Nyssa sylvatica Diospyrus virginiana Oxydendron arboreum Platanus occidentalis Juglans nigra Carya illinoensis Catalpa bignonioides
<i>(Minimum planting size is 3 inches caliper unless noted with *)</i>	

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<i>Plant Species Encouraged Within the Special Highway Overlay District</i>	
<i>Common name</i>	<i>Taxonomic name</i>
SMALL-MATURING TREES	
River Birch Cherries (various) American Holly Flowering Dogwood Eastern Redbud Hawthorns (various) Winged Elm Paw Paw Redosier Dogwood Tag Alder Serviceberry Carolina Silverbell Sassafras*	Betula nigra Prunus spp. Ilex opaca Cornus Florida Cercis canadensis Crataegus spp. Ulmus alata Asimina triloba Cornus stolonifera Ainus serrulata Amelanchier arborea Halesia carolina Sassafras albidum
<i>(Minimum planting size is one inch caliper unless noted with *)</i>	
SHRUBS	
Viburnum (various) Privet Carolina Rose Blackberry (various) Elaeagnus (various)	Viburnum spp. Ligustrum spp. Rosa carolina Rubus spp. Elaeagnus spp.
<i>(Minimum planting size is three foot initial height installed, unless noted with *)</i>	
GROUNDCOVERS/VINES	
Honeysuckle (various) Virginia Creeper Grape (various) Green Brier (various) Clematis (various) Winter Jasmine	Lonicera japonica Parthenocissus cinquefolia Vitis spp. Smilax spp. Clematis spp. Jasminum nudiflorum
<i>(These varieties to be retained in required screens.)</i>	

('72 Code, § 24-3500) (Ord. 477, passed 2-8-88; Am. Ord. 647, passed 1-7-91; Am. Ord. 679, passed 7-1-91; Am. Ord. 888, passed 3-25-96) Penalty, see § 153.999

(Q) (1) In the event that property located in the Special Highway Overlay District also abuts the boundary of another Overlay District, competing interest may occur. When the Town Board of Commissioners receives a petition to rezone such property to a conditional use district or a parallel conditional use district (or a petition to amend a previously approved conditional use district site plan or parallel conditional use district site plan), a condition may be added that provides for an alternative Special Highway Overlay District buffer landscaping plan that provides a

significant increase in benefit over the Special Highway Overlay District requirements and complies with the requirements of this Section 153.066(Q). Petitioner shall include as a part of the petition to rezone the request for the Town Board of Commissioners' consideration and approval of an alternative Special Highway Overlay District buffer landscaping plan, and such plan shall be submitted to the Town Planning Department concurrently with the petition to rezone. In the event that the Town Board of Commissioners approves the petition to rezone, it may, in its discretion,

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approve or deny the request for an alternative Special Highway Overlay District buffer landscaping plan.

(2) When applying for the consideration and approval of an alternative Special Highway Overlay District buffer landscaping plan, the following information must be submitted with the petition to rezone:

(a) A site plan containing all of the information outlined in Section 153.066, including the Special Highway Overlay District buffer landscaping plan;

(b) A letter to the Director of Planning that contains a statement of intent that outlines the purposes and objectives of the proposed alternative Special Highway Overlay District buffer landscaping plan, and that describes the nature of the existing vegetation in the required Special Highway Overlay District buffer and the special landscape design features being proposed by the alternative Special Highway Overlay District buffer landscaping plan that make the request a significant increase in benefit over the existing Special Highway Overlay District requirements and worthy of approval;

(c) The pedestrian walkway system proposed for the entire property included in the petition to rezone and its connections to adjoining properties; and

(d) Any other relevant information that Petitioner may feel is appropriate.

(3) The Director of Planning may require additional information that may be necessary for an adequate review of the proposed alternative Special Highway Overlay District buffer landscaping plan.

(4) The intent of this Section 153.066(Q) is to allow for the removal of coniferous trees and certain deciduous trees from the required Special Highway Overlay District buffer and to provide for the replacement of any such trees three inches in caliper or larger that are removed with superior deciduous trees at least three inches in caliper at the time of installation to be installed in various locations on the property subject to the petition to rezone. Specifically, Petitioner may propose the removal of the following trees in the Special Highway Overlay District buffer landscaping plan:

(a) coniferous trees of any size;

(b) sweet gum or black gum trees less than eight inches in caliper; and

(c) any other deciduous trees less than three inches in caliper.

Petitioner may not propose the removal of the following trees:

(a) dogwoods, redbuds and American hollies of any size;

(b) sweet gum or black gum trees eight inches in caliper or larger; and

(c) any other deciduous trees three inches in caliper or larger.

For each and every tree three inches in caliper or larger to be removed from the Special Highway Overlay District buffer, the alternative Special Highway Overlay District buffer landscaping plan must provide by way of a note that each such tree will be replaced with one deciduous tree at least three inches in caliper at the time of installation to be installed on the property subject to the petition to rezone inside or outside of the Special Highway Overlay District buffer. The specific locations of the replacement trees will be set out on the landscaping plan that must be submitted to the Town Planning Department pursuant to Section 153.066(E)(10) of the Ordinance.

(5) Those portions of the property subject to the petition to rezone that are not within the Special Highway Overlay District buffer shall comply with the minimum landscaping requirements of the Ordinance. Accordingly, the replacement trees required to be installed on the property subject to the petition to rezone shall be in addition to and not in lieu of the minimum landscaping requirements for such property under the Ordinance.

(6) Review and Approval. In evaluating a request for the approval of an alternative Special Highway Overlay District buffer landscaping plan, the Town Board of Commissioners may consider whether such plan meets the objectives listed below:

(a) Preserves all dogwoods, redbuds, and American hollies of any size within the special Highway Overlay District buffer.

(b) Excepting sweet gum or black gum trees less than eight inches in caliper, preserves all deciduous trees three inches in caliper or larger within the Special Highway Overlay District buffer.

(c) Provides for the replacement of any tree removed from the Special Highway Overlay District buffer that is three inches in caliper or larger with one deciduous tree at least three inches in caliper at the time of installation to be installed on the property subject to the petition to rezone.

(d) Provides for the protection of existing trees that remain in the Special Highway Overlay District buffer and their root systems during the grading and construction processes and for the replacement of any trees inadvertently damaged during grading or construction.

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(e) Gives consideration to the location of existing trees to be preserved within the Special Highway Overlay District buffer and their proximity to retaining walls, parking lot grading areas and other factors that may affect such trees.

(f) Provides assurances for the maintenance of the original quality of all landscape elements including both existing and new planting materials located within the Special Highway Overlay District buffer in accordance with the provisions of Section 153.066.

(g) Exhibits innovative and thoughtful landscape elements and design.

(h) Provides for a reasonable and appropriate relationship to the abutting Special Highway and surrounding public street system.

(I) Enhances the walkability of the community at large as well as the livability of the people living within the proposed development.
(Ord. 1283, passed 2-10-03)

§153.067 CRESTDALE CONSERVATION DISTRICT

(A) *Purpose.* The Crestdale Conservation District (CrC) is established to protect and preserve the character and atmosphere of the Crestdale neighborhood, a neighborhood of significant historical and cultural value. The Crestdale Conservation District is intended for single family housing, small scale multi-family housing, and certain non-residential uses which fit with the character of the Crestdale neighborhood. The CrC should accommodate unique land use, design, and other distinctive characteristics of the Crestdale neighborhood, however, these regulations are intended to maintain an environment suitable for family living.

In order to achieve its purpose the CrC should:

- (1) Protect and stabilize property values;
- (2) Preserve desirable and unique physical features;
- (3) Prevent blighting caused by intense or undesirable land uses;
- (4) Promote compatible new development;
- (5) Protect natural open space;
- (6) Preserve existing tree cover; and
- (7) Preserve local history.

(B) *Permitted Uses.* The following uses are permitted by right in the CrC.

- (1) Arboretum.
- (2) Dwellings, one-family detached.
- (3) Parks and playgrounds operated on a

noncommercial basis for the purpose of public recreation.

(4) Trailer, recreational, and overnight camping vehicles (stored unoccupied in a lot behind a line established by front of house).

(5) Railroad rights-of-way.

(6) Temporary buildings and storage of materials in conjunction with construction of a building on a lot where construction is taking place or on adjacent lots, those temporary uses to be terminated upon completion of construction, issuance of certificate of occupancy, or invalidation of building permit.

(7) Public utility transmission and distribution lines.

(C) *Uses under prescribed conditions.* The following uses are permitted in the CrC subject to the conditions governing each use as specified in the appropriate section.

(1) Customary home occupations. See 153.166.

(2) Office of doctor, dentist, lawyer, architect, accountant, sales representative, realtor, and similar professional, semi-professional and business representatives, conducted as customary home occupations. See 153.166.

(3) Room renting. See 153.177.

(4) Sewage treatment plants and control houses, pump and lift stations and similar uses. See 153.183. Must be self-contained, not odorous, and meet all EPA standards, and be used primarily to serve the CrC.

(5) Telephone repeater stations and huts. See 153.183.

(6) Bed and breakfast guest homes. See 153.169.

(7) Cemeteries. See 153.189.

(8) Short-term temporary uses of seven days or less duration which are of civic or nonprofit nature, or a festival of local, national, or historical significance. See 153.191.

(9) Child day care homes. See 153.181.

(10) Community recreation centers. See 153.186.

(D) *Accessory uses.* The following accessory uses are permitted in the CrC.

(1) Accessory residential uses and structures clearly incidental to the permitted principle use.

(2) Petroleum storage, accessory to a permitted principle use building, subject to the Fire Prevention Code of the National Board of Fire Underwriters.

(3) Parking for uses permitted within the district.

(4) Accessory uses, clearly incidental to the principle permitted use or structure on the lot.

(5) Satellite dishes and swimming pools behind the principle structure.

(E) *Special uses.* The following uses may be permitted after a special use permit has been issued by the Town Board of Commissioners in accordance with 153.067(M) of this chapter.

(1) Churches. See 153.067(N)(1) and (9).

(2) Child day care facilities limited to 30 children.

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See 153.067(N)(2).

(3) Homes for the aged, rest homes, and nursing home facilities, (which may include an adult care home) and/or assisted living, limited to the service of 30 individuals, and adult day care centers. See 153.067(N)(3). (Ord. No. 1562-A, passed 6-11-07)

(4) Commercial uses limited to the inside of buildings with no drive through service window. See 153.067(N)(4). Permitted establishments:

(a) Farms, either in conjunction with or separate from dwellings, which may conduct the retail sales of products produced on the premises.

(b) Fraternal organizations.

(c) Orphanages, children's homes, and similar non-profit institutions providing domiciliary care for up to 20 children.

(d) Art galleries, operated on a commercial basis.

(e) Bakeries, retail, including manufacturing of goods for sale on the premises or for distribution.

(f) Beauty shops and barber shops.

(g) Blueprinting and photostating.

(h) Civic organizations.

(i) Contractors' offices, excluding accessory storage.

(j) Feed, retail sales.

(k) Florist shops.

(l) Laundries and dry cleaning establishments.

(m) Locksmiths.

(n) Nurseries and greenhouses, retail.

(o) Second hand goods, retail sales to benefit a non-profit organization.

(p) Printing and photo processing.

(q) Restaurants, without drive-through or drive-in services.

(r) Retail mini-markets for the sale of groceries, beverages, and incidental household goods without the sale of gasoline.

(s) Social and social service organizations.

(t) Studios for gymnasts, artists, designers, photographers, musicians, or sculptors.

(u) Tourist homes.

(v) Upholstery, including the repair or replacement of fabric, cushions, foam, padding, and similar materials in a workroom setting, excluding furniture refinishing. Auto and marine upholstery is permitted, however storage of the automobile or marine craft is not permitted on the premises (seats or other auto or marine parts must be removed from the vehicle and brought in by hand, not removed on the premises).

(5) Dwellings, single-family semi-detached and single-family attached. See 153.067(N)(5). (Ord. No. 1145, passed 1/8/01)

(6) Dwellings, two-family. See 153.067(N)(6).

(7) Accessory apartment. See 153.067(N)(7).

(8) Accessory dwelling unit. See 153.067(N)(8).

(F) *Development Options for Lots Greater than 5 Acres.*

(1) Option 1

(a) Yard, area, and height restrictions. The following standards apply to uses under both the permitted uses at 153.067(B) and uses under prescribed conditions at 153.067(C) of the Crestdale Conservation District.

Minimum lot area	6,000 square feet
Minimum lot width	50 feet
Minimum side yard	5 feet, or 0 feet*
Minimum set back	25 feet
Minimum rear yard	25 feet
Maximum height	35 feet

*Use of a zero lot line is permissible only if a 10 foot separation can be maintained from that lot line and the adjacent home, so this option would require a 10 foot side yard for the opposite side yard. In addition, a 5 foot maintenance easement must be provided to maintain the wall abutting the adjacent property. No windows or heating/cooling equipment is permitted along the zero lot line side of the property.

(2) Option 2

(a) Yard, area, height restrictions. The following standards apply to uses under both the permitted uses at 153.067(B) and uses under prescribed conditions at 153.067(C) of the Crestdale Conservation District.

Minimum lot area	12,000 square feet
Minimum lot width	70 feet
Minimum side yard	10 feet
Minimum set back	30 feet
Minimum rear yard	50 feet
Maximum height	35 feet

(3) *Open Space Requirements.* Lots developed under Option 1 must preserve 30% and lots developed under Option 2 must preserve 10% of the total land area as public open space. This open space can be left in a 'natural state' or can be used for active and passive recreational purposes. For the purpose of this section, areas designated as open space shall meet these qualifications:

(a) Is not encumbered with any substantial structure, except those that are accessory to the recreational use of the open space, and such structures shall not cover more than 5% of the total open space.

(b) Is not contained in any street right-of-way, easements, parking areas, sidewalk, or public facilities area.

(c) The open space shall be defined on a subdivision plat. If confined to rear lots, it shall be legally and logically accessible to the public.

(d) The open space must be free from litter and noxious weeds.

(e) The open space shall be set aside in one of two ways:

(1) Dedicated to the Town of Matthews if

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requested by the Town to be used as public open space for parks, greenway, or other public use.

(2) Shall be protected by legal arrangements, satisfactory to the Town of Matthews, sufficient to assure its maintenance and preservation for the purpose intended. Covenants or other acceptable legal arrangements shall specify: ownership of the open space; method of maintenance; responsibility of maintenance; membership and assessment provision; guarantees that any association formed to own and or maintain the open space could not be dissolved without the consent of the Town of Matthews; and other provisions determined necessary by the Town.

(f) At least one half (50%) of the open space required to be set aside under this section shall be useable, meaning an area that is capable of being used and enjoyed for passive or active recreation that:

(1) Is left in its natural or undisturbed state (as of the date development began), but should be clear of weeds. If wooded, the only cutting of trees permitted shall be for walking/jogging trails. Additional landscaping and tree planting may be required by the Town of Matthews to assure the area is consistent with the objective of providing open space.

(a) The area shall contain at least 30 trees per acre, and newly planted trees should have a minimum height of six (6) feet and should not be planted in 'rows'.

(b) The ground shall be planted in grass, bulbs, or some other type of ground cover.

(c) Walking, jogging and biking trails may be paved or unpaved and should have a minimum width of four (4) feet and a maximum width of eight (8) feet. Trails should be designed in such a way that water will not stand on the trail.

(2) Natural bodies of water are encouraged to remain in their natural state and can be counted toward the open space requirement upon approval of the Town of Matthews, however water bodies may only account for 25% of total open space requirements and will not count towards the requirement for 'useable' open space.

(3) Used for active recreation such as athletic courts, and/or fields, picnic facilities, and playground equipment or tot lots.

(a) There shall be a minimum of 10 trees per acre, and newly planted trees shall have a minimum height of six (6) feet.

(b) Athletic fields shall be planted in grass with the exception of the infield area of a baseball or softball field which may be left exposed.

(G) Development Options for Lots Less than 5 Acres.

(1) Yard, area, and height restrictions. The following standards apply to uses under both the permitted uses at 153.067(B) and uses under prescribed conditions at 153.067(C) of the Crestdale Conservation District.

Minimum lot area 7,500 square feet

Minimum lot width 65 feet

Minimum side yard 8 feet

Minimum set back 25 feet

Minimum rear yard 30 feet

Maximum height 35 feet

(H) *Innovative Development.* Innovative developments will be encouraged within the Crestdale Conservation District. The preceding sections have dealt with specific regulations for Crestdale, which have included certain minimum development standards for the area. The district provides a special setting for certain uses and ensures that the type of development which is anticipated in the district is, in fact, what occurs. However it is not always possible to anticipate variations or improvements in the development types or to accommodate changes with broad, all-encompassing regulations. It may be desirable to consider and evaluate new and innovative development concepts in a specially designed and controlled development setting. The Crestdale area provides such a setting.

(1) *Purpose.* It is the objective of this section to encourage innovative development proposals that exhibit such special qualities or concepts that they may deviate from standard ordinance requirements. These regulations are established in order that an innovative development proposal will be evaluated on its own merits. It is recognized that some proposals or concepts will be more successful than others, and the approval of a specific proposal in one situation does not mean that a similar proposal would be acceptable in other circumstances. These provisions are purely optional and are a voluntary means by which land may be developed outside of the standard ordinance requirements. These provisions are designed to evaluate only those innovative concepts that propose to meet a community need that would not otherwise be met. Finally, it should not be confused with or take the place of the normal variance procedures established either in 152.285 through 153.291 or Chapter 152.

(2) *Certain development standards may be modified.* The zoning standards listed below which would normally apply to development in the district may be modified through the innovative development process. In general no greater than a 15% deviation from the district's zoning standards shall be permitted.

(a) Lot area.

(b) Lot width.

(c) Public street frontage.

(d) Setback and yards.

(e) Building separation.

(f) Use of private rather than public streets.

(g) Height of fences and walls.

(h) Off-street parking.

(i) Open space.

(3) *Subdivision ordinance standards may be modified.*

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The subdivision development standards listed below which would normally apply to development in the district may be modified through the innovative development process.

(a) Street right-of-way, where the purpose is to allow a more narrow paved area without curb and gutter. A grid street pattern is preferred as an alternative to the use of cul-de-sacs.

(1) Private street easements must be at least 30 feet wide and public street rights-of-way must be 40 feet wide and built in accordance with standards described in chapter 152.

(2) Alleys may also be used and shall have a minimum right-of-way of 20 feet.

(b) Sidewalks. Sidewalks, where required or used, must conform to Town standards.

(c) Curb and gutters. Curb and gutters, where required or used, must conform to Town standards.

(4) *Submittal Requirements.* When requesting approval of a development employing innovative development elements, the following shall be met.

(a) An innovative development proposal shall be submitted to the Planning Department and shall include but not be limited to the following information:

(1) Proposed lot dimensions.

(2) Proposed public and private streets and alleys with their dimensions.

(3) Proposed vehicular circulation system and off-street parking arrangements.

(4) Proposed sidewalks or other pedestrian pathways.

(5) Proposed layout of open space and its dimensions.

(6) Proposed screening, including fences, walls, or planting areas for nonresidential or mixed-use developments.

(7) Proposed treatment of any existing significant natural features.

(8) Proposed land uses if any nonresidential uses are planned.

(b) Additional information that may be necessary for an adequate review of the proposed development. This information may include individual dwelling unit concepts, intended use and design of the open space, design of a pedestrian network, recreational amenities, and other similar information.

(5) *Time Limit.* Once the innovative development proposal is submitted to the Planning Department it shall be sent for review by the Town Board within 45 days.

(6) *Review and Approval.* In evaluating an application for innovative developments, the Town Board will consider whether the development plan meets the objectives listed below:

(a) Accomplishes the objectives as specified in the statement of intent.

(b) Exhibits special design features and thoughtful,

imaginative use of the land.

(c) Provides for reasonable and appropriate land use relationships, both within the development itself and with surrounding areas adjacent to the development.

(d) Provides the community with a beneficial, alternative design concept which is potentially applicable in other community situations.

(e) Fits with the goals and objectives set forth in Crestdale Conservation District.

(I) *Nonconforming vacant lots.* A nonconforming lot is a lot which does not meet the minimum dimensional requirement for width, area, front, side, or rear yard requirements for the district in which it is located, but was recorded by plat or description in the office of the Register of Deeds of Mecklenburg County prior to the adoption of this section. Such a lot can either be vacant or contain a structure. A nonconforming lot may be used for any use permitted by the Crestdale Conservation District, and any structure on this type of lot may be improved or expanded in accordance with the standards at 153.221.

(J) *Nonconforming uses.* Any use existing prior to the date of adoption of this ordinance that would become nonconforming due to this ordinance's regulations and is registered at its location with the Town of Matthews Planning Department at the time of this ordinance shall be considered conforming for the purposes of zoning in the Crestdale Conservation District.

(K) *Landscape regulations.*

(1) *Purpose.* The landscaping of Crestdale should maintain a 'natural' feeling and as such should not appear to have a 'planned layout'. Today the area has a very open feeling with little perception of property boundaries which might be found in more traditional developments, therefore requiring vegetation buffers along property lines would not fit with Crestdale's atmosphere. The best 'landscaping' plan for Crestdale would be the protection of existing trees. However, it is also acknowledged that there are certain uses which could cause visual blight and should therefore be screened from the public.

(2) *Benefits.* Benefits derived from landscaping and tree planting/protection include:

(a) Improved control of soil erosion.

(b) Moderation of storm runoff, and improved water quality.

(c) Interception of airborne particulate matter, and the reduction of some air pollutants.

(d) Enhanced habitat for desirable wildlife.

(e) Climate moderation.

(f) Aesthetics, scenic amenity.

(g) Increased property value.

(h) Noise abatement.

(3) *Definitions.* The definitions regarding landscaping

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found at 153.075(C) apply here.

(4) *Planting and screening requirements.* Planting and screening may be required to meet different standards depending where on a property they are located. The landscaping required on nonresidential properties and suggested for residential are listed below.

(a) Streetscape trees shall be encouraged on all residential properties and are required on all nonresidential properties in the Crestdale area. Large maturing trees should be placed no greater than fifty (50) feet apart and small maturing trees shall be placed no further than forty (40) feet apart. Trees may be of a variety listed in 153.075(M), and flowering trees are preferred. Any property of at least forty (40) feet in width shall have at least one streetscape tree planted.

(1) To maintain vehicular safety no tree shall be planted within 15 feet of a driveway or in a sight triangle of a street intersection.

(b) Perimeter landscaping. The intent is to encourage an environment without physical property boundaries. Perimeter landscaping is not required or desirable.

(1) Fencing at property boundaries shall not be permitted on nonresidential properties unless required by local, state, or federal law.

(c) Parking lot landscaping. Landscaping as outlined at 153.075(G) shall be required for parking lots for the purpose of reducing aesthetic impacts of paving or removing the natural vegetation from large areas; to reduce the noise, heat, glare, and dust associated with parking lots; and to control the direction and velocity of surface water runoff.

(d) Screening. Screening shall be required to prevent the view of storage, trash receptacles, and loading areas from adjoining properties and public streets. Parking lots shall be screened to prevent their view from adjacent residential properties.

(1) Preferred location of screening is close to the object being screened.

(2) Fencing may be used to screen trash receptacles and loading areas. Fencing alone cannot be used as screening but a combination of fencing and vegetation is acceptable. Vegetation must be on the side opposite the new development.

(e) Preservation of existing site vegetation. It is the intent of the town to retain existing trees and natural vegetation areas on the site. Any living deciduous trees at least eight inches DBH, coniferous trees at least 12 inches DBH, and dogwoods, redbuds, and American hollies larger than two inches DBH anywhere outside of the building envelope shall be preserved to the greatest extent possible. These existing trees can be used to meet any landscaping requirements set forth in this section.

(1) Existing trees outside of the building envelope shall be marked as protected trees and shall be staked, fenced, or otherwise clearly marked and protected from vehicular movement and material storage during

construction or land-disturbing activity.

(2) A minimum of 15 small or large maturing trees shall be retained or planted on the parcel for each acre of proportional area disturbed by development. Required planting or screening should be included in calculating this overall requirement.

(L) *Fencing and walls: Residential Properties.*

Fencing and walls are not encouraged. On residential properties, no wall or fence may exceed six feet in height within any required yard, and shall not exceed twenty-five per cent (25%) opacity. This wall and fence height/opacity limitation does not apply to walls and fences not in any required yard or setback, or those constructed around electric and gas substations, telephone repeater stations and huts, sewage treatment plants, pressure regulator stations, buildings to house pumps and lift stations, and similar structures; or municipal reservoirs and water storage tanks. Walls and fences related to these uses may be subject to landscape screening provisions elsewhere in this chapter. (Ord. 1241, passed 8-12-02)

(M) *Crestdale Special Use Provisions.* A number of special uses are indicated in 153.067(E) of the CrC. A property owner can petition the town to allow for uses under this section by obtaining and turning in a completed Special Use Permit application. The procedures for obtaining a special use permit are contained in this section.

(1) *Purpose.* The Crestdale Conservation District provides for a number of uses by right and under prescribed conditions subject to each use meeting certain area, height, and yard requirements. In addition to these uses, the Crestdale Special Use regulations are established to allow additional uses through the issuance of a Special Use Permit. The purpose of having a Special Use Permit is to insure that these uses are compatible with the Crestdale area and that they are in keeping with the purpose of the Crestdale Conservation District.

(2) *Special Use Permit Application.*

(a) An application for a special use permit shall be submitted to the Board of Commissioners by filing a copy of the application with the Matthews Planning Department. When it is complete, it shall be forwarded to the Board of Commissioners within thirty (30) days for a public hearing date to be set.

(b) The Board of Commissioners shall first find that the application complies with all applicable provisions of this ordinance. It must also find, based upon the information submitted at the public hearing, that if completed as proposed, the proposed use and development:

(1) Will be in harmony with the general and specific purposes for which this section was enacted and for which the regulations of the CrC were established, and

(2) Will not have a substantial or undue adverse effect upon adjacent property, the character of the

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area, parking, utility facilities, and other matters affecting the public health, safety, and general welfare, and

(3) Will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, water and sewer, parks, libraries, and schools, or the application will provide adequately for such services, and

(4) Will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets, and

(5) Will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance, and

(6) Complies with all additional standards imposed by this ordinance.

(c) In addition to the above requirements and other requirements specified by the CrC the Board must also consider:

(1) Whether and to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.

(2) Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.

(3) Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development of the immediate vicinity through building design, site design, landscaping, and screening.

(3) *Burden of Presenting Evidence: Burden of Persuasion.* The burden of presenting a completed application, as described above, and presenting all other necessary evidence to the Board of Commissioners shall be upon the applicant.

(4) *Board of Commissioners action on special use permits.*

(a) The Board shall consider whether the application complies with all the applicable requirements of this ordinance during a public hearing held in accordance with 153.268. If the Board concludes that all such requirements are met, it shall issue the permit.

(5) *Additional requirements on special use permits.*

(a) In granting a special use permit, the Board of Commissioners may attach to the permit such reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this section and the general purpose of the CrC, in addition to those specified in this chapter as will ensure that the development in its proposed location will meet all the requirements set forth in 153.067(M)(2). Violation of any condition or limitation shall

be a violation of this chapter and shall constitute grounds for revocation of the special use permit.

(b) All additional conditions or requirements shall be written into the minutes of the Special Use hearing.

(c) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

(6) *Special Use Permit: Required information.* The following list indicates the required information for each special use application. Nothing contained herein exclusively limits the Board of Commissioners from requiring additional information or modifying the required information.

(a) Dwelling, single-family attached; single-family semi-detached; dwelling, two-family; accessory dwelling unit (Ord. No. 1145, passed 1/8/01)

(1) Completed application;

(2) Sketched site plan drawn to scale of no less than 1 inch equals 100 feet;

(3) Statement of purpose describing the intended use;

(4) A sketch of the structure with a description of materials to be used on the exterior, including siding and roofing material;

(5) A boundary survey showing total acreage of the property;

(6) The owner's name(s) and addresses and existing land use(s) of all adjoining properties.

(b) Accessory apartment

(1) Completed application;

(2) Sketched site plan and floor plan drawn to scale of no less than 1 inch equals 100 feet;

(3) Statement of purpose describing the intended use;

(4) A sketch of the structure with a description of materials to be used on the exterior, including siding and roofing material (if an addition to the primary structure is part of the plan);

(6) A boundary survey showing total acreage of the property;

(7) The owner's name(s) and addressees and existing land use(s) of all adjoining properties.

(c) All other special uses

(1) Completed application;

(2) A site plan drawn to scale;

(3) Statement of purpose describing the intended use;

(4) A sketch of the structure with a description of materials to be used on the exterior, including siding and roofing material;

(5) A landscape and screening plan;

(6) A boundary survey showing total acreage of the property;

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(7) the owner’s name(s) and addresses and existing land use(s) of all adjoining properties;

(8) If the intended use is to be licensed by a state or federal agency, a copy of the license requirements and explanation of how they will be met;

(9) Parking and vehicular circulation;

(10) A statement of hours of operation and number of employees.

(7) *Perpetuity.* Any Special Use Permit so approved shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Board of Commissioners. However, minor changes in the detail of the approved plan which (a) will not alter the basic relationship of the proposed development to adjacent property, and (b) will not alter the uses permitted or increase the density or intensity of development, and (c) will not decrease the off-street parking ration or reduce the yards provided at the periphery of the site may be made with the approval of the Planning Board through administrative amendment in the same manor as provided at 153.201(E).

(8) *One (1) Year Limitation.* If a request for special use permit is denied by the Board of Commissioners, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve month period from the date of the most recent denial by the Board of Commissioners. This waiting period shall not be applicable if the application is significantly different from the original application.

(9) *Change in Special Use Permit.* Any request to materially change the special use permit once it has been issued shall be reviewed by the Board of Commissioners at public hearing. Amendment by the Board of Commissioners of the special use permit shall be subject to the same considerations as original special use permit application.

(10) *Limitations on Special Use Permits.*

(a) Subject to an extension of time granted by the Board a Special Use Permit shall be valid for no more than one year unless a building permit is issued and construction begun within that period and is thereafter diligently pursued to completion or the use has commenced within that period.

(b) A special use permit shall be deemed to authorize only a particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six consecutive months or more.

(c) Except when otherwise provided in this section, a special use permit shall be deemed to relate to, and be for the benefit of, the use and lot in question rather than the owner or operator of such use or lot.

(11) *Violation of Special Use Permit.* If at any time a use permitted by Special Use Permit fails to comply with any conditions set forth in this section or any special conditions

set forth by the Town Board as part of a Special User Permit, the holder of the Special Use Permit shall be notified by registered mail and shall have 14 days from the receipt of the letter to take action to resolve the violation, in no case shall the holder of the special use permit have more than 45 days to resolve the violation(s). After the 45 day period, if the violation continues, the permit shall be revoked and the use shall cease until such time as the Town Board issues a new Special Use Permit.

(N) *Special Permit: Additional Requirements.*

(1) Churches.

(a) Dimensional requirements:

Minimum lot size	1 acre
Maximum lot size	4 acres
Minimum lot width	100 feet
Minimum side yard	20 feet
Minimum rear yard	30 feet
Minimum setback	40 feet
Maximum height	50 feet
Minimum unobstructed open space (% of lot)	50%
Maximum building square feet	7500

(b) Protection of existing site vegetation is encouraged.

(c) Parking shall be to the side or rear of the primary structure and also meet the provisions at 153.115 through 153.123. A pick up and drop off area to the front entrance shall be permitted, but parking of vehicles in this area is prohibited.

(d) May have seating for a maximum of 200 and/or with programs of up to 50 persons operated on a daily basis.

(e) One accessory building may also be constructed but its use must be secondary to that of the primary structure. The accessory building may have a maximum square footage of 50% of the primary structure and must use siding and roofing materials similar to that of the primary structure.

(f) The development’s main entrance must not be on a minor residential street.

(g) The landscaping plan is in conformance with the regulations set forth in 153.067 (K).

(2) Child day care facilities.

(a) Dimensional requirements:

Minimum lot size	12,000 sq. ft.
Maximum lot size	1 acre
Minimum lot width	70 feet
Minimum side yard	10 feet
Minimum rear yard	35 feet
Minimum setback	35 feet
Maximum height	35 feet

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Minimum unobstructed open space (% of lot) 40%

(b) Must meet all requirements of 153.181 of this chapter.

(c) Protection of existing site vegetation is encouraged.

(d) Parking: See 153.115 through 153.123.

(e) Serve a maximum of 30 children.

(f) Shall meet all state and federal laws governing such a facility.

(g) A minimum of 150 square feet of secured outdoor recreation space must be provided for each child.

(h) The landscaping plan is in conformance with the regulations set forth in 153.067(K).

(3) Homes for the aged, rest homes, or nursing home facilities, and adult day care centers.

(a) Dimensional requirements:

Minimum lot area 12,000 square feet
 Maximum lot size 2 acres
 Minimum lot width 75 feet
 Minimum side yard 15 feet
 Minimum rear yard 35 feet
 Minimum setback 35 feet
 Minimum height 35 feet

(b) Protection of existing site vegetation is encouraged.

(c) Parking shall be to the side or rear of the primary structure and also meet the provisions at 153.115 through 153.123.

(d) May serve a maximum of 30 persons.

(e) Each structure may contain only 5 individual apartment units and each structure must be separated by 20 feet, on all sides, from all other structures.

(f) A minimum of 150 square feet of secured outdoor recreation space must be provided for each resident and a minimum of 400 square feet of private outdoor recreation space must be provided for each individual apartment unit.

(g) Must meet all North Carolina state license requirements for its facility type.

(h) Must not be located within 500 feet of another home for the aged, rest home, nursing home facility, or adult day care center.

(I) The landscaping plan is in conformance with 153.067(K).

(4) Commercial uses: limited to the inside of buildings with no drive-through or drive-in service.

(a) Dimensional requirements:

Minimum lot area 6,000 square feet
 Maximum lot area 15,000 square feet
 Minimum lot width 50 feet

Minimum side yard 10 feet
 Minimum rear yard 30 feet
 Minimum setback 20 feet
 Maximum height 25 feet
 Minimum unobstructed open space (% of lot) 40%
 Maximum square feet 2000

(b) Protection of existing site vegetation is encouraged.

(c) Parking shall be to the side or rear of the structure and also meet the provisions at 153.115 through 153.123.

(d) Alcoholic beverages and adult materials shall not be sold.

(e) Commercial developments are limited to streets classified as collector or better.

(f) Hours of operation shall be limited to 8 am to 8 pm.

(g) The landscaping plan is in conformance with 153.067(K).

(h) All dumpster receptacles are adequately screened from public view, except for those receptacles normally meant for patron use.

(I) The structure shall use building and roofing materials similar to typical single family dwellings, and has significantly the appearance of a single family hone.

(5) Dwellings: single-family semi-detached and single-family attached. (Ord. No. 1145, passed 1/8/01)

(a) Dimensional requirements:

Minimum lot area 4,500 square feet
 Minimum lot width 45 feet
 Minimum side yard 5 feet*
 (*only one side as one side is attached)
 Minimum rear yard 25 feet
 Minimum setback 25 feet
 Maximum height 35 feet

(b) Protection of existing site vegetation is encouraged.

(c) Must look considerably like a single-family detached dwelling.

(d) Only one entrance shall be on the front elevation. All other entrances shall be on the side or rear of the building.

(6) Dwellings: two-family.

(a) Dimensional requirements:

Minimum lot area 9,000 square feet
 Minimum lot width 70 feet
 Minimum side yard 5 feet
 Minimum rear yard 25 feet
 Minimum setback 25 feet
 Maximum height 30 feet
 Minimum private open space 400 sq. ft.

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(b) Protection of existing site vegetation is encouraged.

(c) Must look considerably like a single-family detached dwelling.

(d) Only one entrance shall be on the front elevation. All other entrances shall be on the side or rear of the building.

(7) Accessory Apartment constructed within a single family home.

(a) Dimensional requirements:

Minimum lot area	9,000 square feet
Minimum lot width	70 feet
Minimum side yard	5 feet
Minimum rear yard	25 feet
Minimum setback	25 feet
Minimum height	35 feet

(b) Only one accessory apartment, for a total of two dwelling units per lot shall be permitted.

(c) The maximum floor area of the accessory apartment shall be 50% of the total heated square feet of the building with a maximum of 900 square feet permitted.

(d) There shall be no more than 1 person for every 300 square feet of floor space.

(e) One additional off-street parking space shall be provided for every 400 square feet, or portion thereof, of the accessory apartment.

(f) At least one unit shall be owner occupied.

(g) Any additions to the primary structure must portray the character of a single family home and materials used must be similar in composition and appearance to those of the original building. A building may not be expanded by more than 20% for the purpose of adding an accessory apartment.

(h) If an additional door is added to provide access to the accessory apartment it shall not be installed on the front elevation of the building.

(I) The special use permit shall become void if the property changes ownership.

(8) Accessory dwelling unit on a single family lot.

(a) Dimensional requirements:

Minimum lot size	15,000 square feet
Minimum lot width	80 feet
Minimum side yard	10 feet
Minimum rear yard	35 feet
Minimum setback	25 feet
Maximum height	35 feet

(b) The accessory dwelling must be located within the area of the lot allowed for principal dwellings (the building envelope).

(c) The accessory unit shall be compatible, in appearance, with the principal dwelling unit.

(d) If the accessory unit is a manufactured home

all regulations in 153.067(M) apply.

(e) The accessory unit shall be no larger than 50% of the primary dwelling unit and shall have no more than 900 square feet.

(f) The accessory unit must be located behind the primary structure.

(g) One additional off-street parking space shall be provided for every 400 square feet, or portion thereof, of the accessory unit.

(h) The primary dwelling unit shall be owner occupied.

(I) The primary structure may not have an accessory apartment.

(j) The primary structure and the secondary structure shall be separated by at least 10 feet.

(k) There shall be no more than 1 person for every 300 square feet of floor space.

(l) The special use permit shall become void if the property changes ownership. (Ord. No. 977, passed 5-26-98)

(9) Religious institutions having 300 or more members.

(a) Dimensional requirements:

Minimum lot size	4 acres
Maximum lot size	30 acres
Minimum lot width	100 feet
Minimum side yard	20 feet
Minimum rear yard	30 feet
Minimum setback	40 feet
Maximum height	50 feet
Minimum unobstructed open space (% of lot)	30%

(b) Protection of existing site vegetation is encouraged

(c) Parking shall meet the provisions of 153.115 through 153.123. A pick up and drop off area to the front entrance shall be permitted.

(d) Accessory buildings may also be constructed.

(1) Siding materials used alone or in combination shall be wood, masonry, architectural metal panels or other such similar aesthetically pleasing materials.

(2) Roofing materials shall be asphalt shingles or architectural metal panels.

(e) The development's main entrance must not be on a minor residential street.

(f) The landscaping plan is in conformance with the regulations set forth in 153.067(K).

(g) Accessory uses on the same property may include but are not limited to:

(1) Child day care facilities:

(a) Serve a maximum of 125 children.

(b) Shall meet all state and federal laws

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governing such a facility.

(c) A minimum of 100 square feet of play area for at least one-half of the total number of children for which the center is licensed. Maximum number of children allowed on the outdoor play area at any time shall be one per 100 square feet of actual play area.

(Ord. 1656, passed 12-8-08)

(2) Assisted living facilities, homes for the aged, rest homes, nursing homes and adult day care centers:

(a) May serve a maximum of 100 persons.

(b) A minimum of 150 square feet of secured outdoor recreation space must be provided for each resident and a minimum of 400 square feet of private outdoor recreation space must be provided for each individual apartment unit.

(c) Must meet all North Carolina state license requirements for its facility type.

(3) Dwellings: single-family, semi-detached and single-family detached:

(a) Must look considerably like a single-family detached dwelling.

(b) Only one entrance shall be on the front elevation. All other entrances shall be on the side or rear of the building.

(c) Maximum of 24 residential units.

(d) Dwelling units may be individually owned with no conveyance of property with ownership, therefore units shall be exempt from all lot size requirements.

(4) Outdoor recreational facilities including tennis and basketball courts.

(5) Parks.

(6) Picnic areas.

(7) Pavilion areas.

(h) The time limits of paragraph M(10) shall not apply to the Master Plan. Site plan review by the Board of Commissioners shall be required for all future phases to verify conformance with the approved Master Plan.

(Ord. 1240, passed 7-8-02)