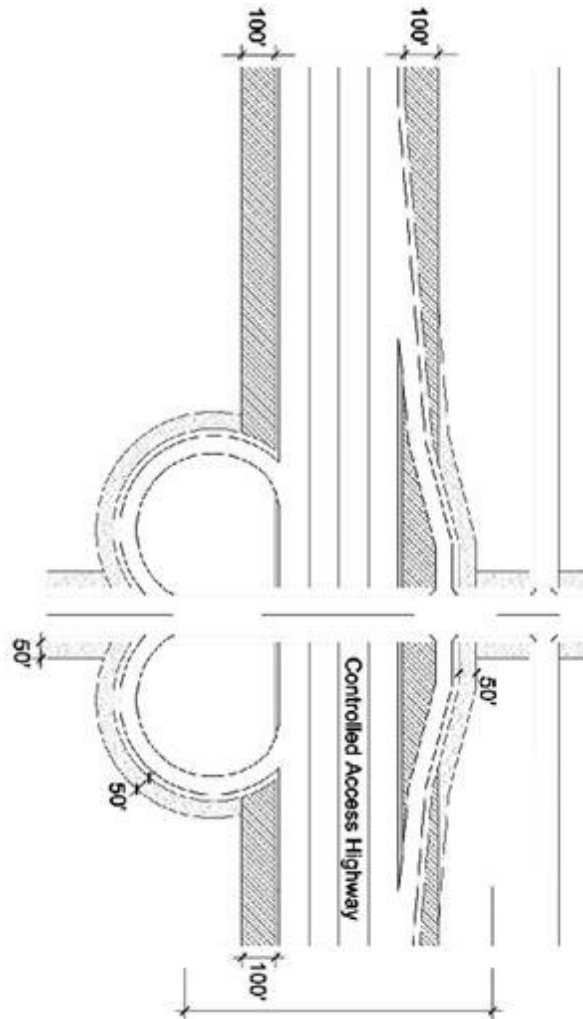


ZONING REQUIREMENTS THAT MIGHT AFFECT COUNCIL APPROVAL OF THE BUFFER REVEGETATION PLAN

4.4.4 Thoroughfare Overlay

(A) Purpose and Intent

The purpose of the Thoroughfare Overlay is to provide orderly development along controlled/limited access highways, to encourage the most appropriate use of adjacent lands, to maintain the scenic natural beauty of the area, and to promote the safe and efficient movement of traffic. These thoroughfares commonly establish an image of the quality of life in the Town for visitors and for residents. Preservation of this natural beauty is required to enhance trade, to enhance capital investment, to enhance tourism, and to enhance the general welfare. All development within this overlay district shall comply with the regulations of this Section.



(B) Location of District

The Thoroughfare Overlay is established along both sides of the existing and the planned controlled/limited access highways within the Town's jurisdiction and the Extraterritorial Jurisdiction Area, as indicated on the Zoning Map and/or the Comprehensive Transportation Plan Maps. Such highways include, but are not limited to: US-1; US-64; I-40; Cary Town Boulevard (between I-40 and NE Maynard Road); and the Western Wake Expressway. The Thoroughfare Overlay covers all lands within one hundred (100) feet of the right-of-way along both sides of each controlled-access highway, except at interchanges where the overlay district

shall extend back to the established point of the intersecting roadway where the controlled access ends or begins [see Section 4.4.4(D) below].

(C) Plan Approval Required

All development within the Thoroughfare Overlay shall require submission of a subdivision plan or a site plan in accordance with Section 3.9 of this Ordinance and shall require approval of such plan by the appropriate decision-making body.

(D) Buffer Requirement

(1) *General Requirement*

A buffer strip with a width extending one hundred (100) feet from and parallel to the right-of-way boundary of the controlled-access highway shall be maintained on all property within the Thoroughfare Overlay.

(2) Interchange Requirements

A buffer strip width extending fifty (50) feet from and parallel to the right-of-way for interchange ramps shall be maintained on all property within the Thoroughfare Overlay.

(3) Reductions

The Town Council may reduce the required width of this buffer strip as part of its approval of the site and/or subdivision plan, taking into consideration: the topography of the area; the area surrounding land uses, and particularly residential uses; the actual location of the corridor; the size and shape of land parcels affected by the buffer; and whether the buffer requirement would render the entire property unusable. In reducing the width of the buffer strip, the Town Council shall ensure that the applicant will provide appropriate landscaping to meet the requirements of Section 4.4.4(D)(4) as stated below. In no event, however, shall the Town Council reduce the required width of the buffer strip to less than thirty (30) feet. (See Section 3.19, Minor Modifications).

(4) Maintenance of Existing Vegetation

Within the required buffer strip, all existing vegetation shall be maintained in a natural, undisturbed state and, unless the existing natural vegetation provides such a buffer, the applicant shall install and maintain a Type A opaque buffer that meets the requirements of Section 7.2.3 of this Ordinance. The owners of the property are responsible for maintenance of the buffer and the consequences resulting from damage to the buffer in accordance with Section 7.2.13, Maintenance Responsibility, Replacement of Damaged Vegetation, and Associated Fines.

(5) Development within Buffer

No development shall be allowed within the required buffer strip. However, the decision-making body may, in approving the site and/or subdivision plan for the property, permit the construction of streets or of easements through the buffer strip upon finding that such construction is necessary for safe ingress and egress or for utility service to the site. The nature and limits of such construction shall be designated on the approved site and/or subdivision plan.

(6) Enforcement

Disturbance of buffers required under this section shall constitute a violation of this Ordinance and shall be subject to the appropriate penalties and the appropriate remedies set forth in Chapter 11. For purposes of this section, "disturbance" shall be defined as any action that results in either injury or harm to required trees, to shrubbery, or to other vegetation.

(E) Variances

No variance shall be granted that modifies the width of the buffer or the amount or type of the vegetation required under this Section, but the Town Council may grant modifications to these requirements in some circumstances [see paragraph (D)(2) above].

7.2.3 Requirements for Perimeter Buffers and Landscape Areas

(D) Types of Buffers and Landscaped Areas

(1) The three (3) types of landscaped buffers that appear in Table 7.2-1 are as follows:

(Detailed illustrations and supplemental information on buffer configurations are available in the Community Appearance Manual.)

(a) *Type A, Opaque*

This perimeter buffer functions as an opaque screen from the ground to a height of at least eighteen (18) feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation. Vegetative material within this buffer should meet the following criteria:

1. Existing vegetation or planted upper-story deciduous and evergreen trees shall attain a height at maturity of no less than sixty (60) feet.
 2. At least fifty (50) percent of the required upper-story trees and all of the required under-story trees and shrubs shall be evergreen species that are locally adapted to the area.
 4. Upper-story trees shall be spaced no wider than twenty (20) feet, and evergreen shrubs shall attain a height at maturity of no less than six (6) feet and shall be spaced no wider than five (5) feet between plants.
 5. The buffer may include a wall, a fence, a landscaped earthen berm, planted vegetation, existing vegetation, or any appropriate combination of these elements.
 6. Streetscapes are required to be planted and to meet the planting standard for a Type A opaque buffer and also required to incorporate ornamental trees spaced no wider than twenty (20) feet.
- (2) Buffer plantings shall conform to the following standards:
- (a) The new plantings comprising the buffer shall be spread across the entire span of the buffer and shall not always be planted in a row or in rows. In some cases, planting in a row in or rows is necessary to achieve the desired performance objective. Specifically, planting the width of the entire buffer may not be needed to achieve the desired performance objective of the buffer type; however, the remainder of the required buffer area should have a minimum spacing of trees as required by the associated buffer type.
 - (b) The buffer performance requirements must be achieved in the quickest time possible, preferably no more than three to five years.
 - (c) The additional trees and of shrubs may be required to supplement existing vegetation to meet buffer requirements.
 - (d) The consistency with the types of buffers required may be achieved by following the requirements set forth below or by another alternative that meets the performance requirements.

7.2.12 Implementation of Landscape Plan; Inspections

(B) Inspections After First Year

The Planning Department shall inspect the site one (1) year after the issuance of a permanent Certificate of Occupancy to ensure compliance with the approved site and/or with the subdivision plan and to ensure that the landscaping is properly maintained. Failure to maintain required landscape areas (trees and shrubs) shall result in fines in accordance with Chapter 11 of this Ordinance.

ZONING REQUIREMENTS THAT MIGHT AFFECT COUNCIL APPROVAL OF SITE PLAN REVISIONS

3.9.2 Common Procedures for the Review and the Approval of Subdivisions and of Site Plans

(H) Town Council Review and Approval Process

(1) *Director Forwards Application*

- (a) If the plan either seeks reductions to the requirements of this Ordinance or is deferred by the Planning Director, the Planning Department shall forward the application and the plan to the Planning and Zoning Board prior to a regularly scheduled meeting of the Board, along with the recommendations of the Development Review Committee and with any comments received from other boards and commissions and from the applicant's response. If a plan is associated with an application for a special use and does not seek either reductions or deviations as specified in Section 3.9.2(F)(1)(a), neither review nor recommendation by the Planning and Zoning Board shall be required.

(2) Review by Planning and Zoning Board

The Planning and Zoning Board shall review all materials forwarded by the Planning Director and, based upon the approval criteria in this Section, shall formulate a recommendation to the Town Council for appropriate action on the plan. The Planning and Zoning Board may request the applicant to revise either the site and/or the subdivision plan before it is submitted to the Town Council for approval.

(4) Action by Town Council

The application, the recommendations, and the comments of the appropriate review bodies shall then be forwarded to the Town Council for action. The Town Council shall review this information and shall either approve, shall conditionally approve, or shall reject the plan within ninety (90) days of receipt of the plan unless the applicant has caused additional delay beyond this ninety (90)-day period by failing to provide necessary or accurate information.

(l) Approval Criteria

A subdivision plan or a site plan may be approved only if it meets the criteria set forth below:

- 1) The plan is consistent with Comprehensive Plan goals and objectives.
- 2) The plan complies with all applicable requirements of this Ordinance, including the development and the design standards of Chapter 8 as well as the dedication and the improvement provisions of Chapter 8. (Note: Plans within Planned Developments may be subject to different requirements based on the approval.)
- 3) The plan adequately protects other property or other residential uses located on the same property from the potential adverse effects of the proposed development.
- 4) The plan provides both harmony and unity with the development on nearby properties.
- 5) The plan provides safe conditions for pedestrians or for motorists and prevents a dangerous arrangement of either pedestrian or vehicular travel ways.
- 6) The plan provides both safe ingress and safe egress for emergency services to the site.