

LDO AMENDMENTS RELATED TO IMAGINE CARY

CHAPTER 1 - GENERAL PROVISIONS

1.4 COMPREHENSIVE PLAN AND OTHER PLANS AND MANUALS

1.4.1 Purpose and Role

The Comprehensive Plan for the Town of Cary shall serve as the basic policy guide for the administration of this Ordinance. The Comprehensive Plan serves as the statement of goals, recommendations, and policies guiding the development of the physical environment of the Town, its extraterritorial jurisdiction, and any other geographic areas specifically addressed by the Comprehensive Plan. The goals, vision, recommendations, and policies of the Comprehensive Plan may be amended from time to time to meet the changing requirements of the Town and any other geographic areas addressed by the Comprehensive Plan. Any reference to the Comprehensive Plan in effect prior to January 24, 2017 shall be interpreted as referring to the Cary Community Plan adopted on January 24, 2017 and associated documents, as amended. Procedures for amending the Comprehensive Plan are set forth in Section 3.2.

1.4.2 Legal Effect

All development and redevelopment within the Town and its extraterritorial jurisdiction ~~shall~~ should be in accordance with the policy direction provided by all of the applicable elements or volumes of the Comprehensive Plan, as adopted or amended by the Town Council. Amendments to the text of this Ordinance (see Section 3.3) and/or rezoning of property (see Section 3.4) may be required in order to ensure compliance with this section.

1.4.3 Components of the Comprehensive Plan

~~The following elements or volumes of the Comprehensive Plan set forth the Town's overall goals and strategies in each of the respective areas:~~ consists of the following documents:

~~(A) Affordable Housing Plan~~

~~This plan sets forth the Town's overall goals and strategies relating to the encouragement of construction of moderately priced housing and financial assistance to those struggling to purchase or rehabilitate existing housing. The plan is a general policy guide intended to ensure that current and future Town plans, policies, procedures, and regulations, as well as land use decisions and investments, are consistent with the goals and strategies identified in the Affordable Housing Plan.~~

~~(B) Growth Management Plan~~

~~This plan sets forth the Town's overall goals and objectives relating to the rate and timing, location, amount and density, cost, and quality of growth. The plan is a general policy guide intended to ensure that current and future Town plans, policies, procedures, and regulations, as well as land use decisions, are consistent with the guiding principles identified for these five growth characteristics.~~

~~(C) Land Use Plan~~

~~This plan presents the Town's declaration of its official policy with regard to the form and pattern of future development. It directs growth by serving as a reference guide when considering rezonings, annexation, subdivisions, and site plans. The plan also is used to direct provision of public infrastructure and aid decisions for private sector investment. Included within the Land use plan are several smaller "Area plans" which serve as amendments or extensions to the official Land use plan. Such Area plans include, but are not limited to: the Town center Area plan, Southeast Gateway Area plan and the Northwest Cary Area plan.~~

~~(D) Open Space Plan~~

This plan sets forth a plan of action to identify and protect the Town's natural resources and other special environmental features. The Plan identifies parcels with significant resource value and open space potential and ranks them according to the quality and quantity of resources present, threat of loss, and other factors.

(E) Parks, Greenways, and Bikeways Master plan

This plan addresses the enhancement and future implementation of a system of parks, greenways, and bikeways to meet future recreation and transportation needs of local residents.

(F) Transportation Plan

This plan sets forth the Town's overall objectives and strategies regarding both long-term and short-term planning of roadways, bicycle facilities, pedestrian facilities, and transit.

(G) Historic Preservation Master Plan

This plan sets forth preservation goals, objectives, and implementation actions to build a complete and effective historic preservation program for the Town by the year 2020.

(A) Cary Community Plan

The Cary Community Plan is a long-range policy document that expresses the Town's official long-term vision, values, and policies related to a wide range of topics including housing and neighborhoods; economic growth and resilience; economic development; land development and urban form; public transportation facilities and services; and a wide range of municipal public services, including utilities, public safety, environmental protection, solid waste, and others. As such, the Cary Community Plan provides guidance to the Town's current and future decision-makers regarding land development, capital improvements, public facilities and services, and public programs. It directs growth by providing a policy framework to guide the evaluation and consideration of zoning map and text amendments, annexations, and development plans. The plan is also used to direct provision of public infrastructure, programs, and services, and aid and inform decisions for private sector investment.

While the Cary Community Plan is primarily a policy-based plan, it also provides overarching guidance for the geographic arrangement of future development. This is provided via a "Future Growth Framework," expressed in Chapter 6, "Shape". The Future Growth Framework includes a Future Growth Framework Map that geographically organizes the Town's physical layout, structure and character into various development categories for residential and commercial uses, mixed use areas, business and employment areas, and open spaces. The plan also provides specialized policy guidance for a number of "Special Planning Areas," which are geographic subareas of the overall planning area. For each Special Planning Area, the plan provides a unique vision, policies, and a more highly detailed future growth framework and maps.

The Town's Comprehensive Transportation Plan consists of Chapter 7, "Move," and its associated appendices from the Cary Community Plan, together with the 2012 Greenways Master Plan Map and Chapter 6, "Greenways & Trails," from the 2012 Parks, Recreation and Cultural Resources Master Plan and any associated appendices and updates.

(B) Chatham/Cary Joint Land Use Plan

The Chatham-Cary Joint Land Use Plan covers over 18,000 acres located east of Jordan Lake in Chatham County. The area is bordered by White Oak Creek to the south, Wake County to the east, Durham County to the north and Jordan Lake to the west. The Plan is an official policy document adopted by the Chatham County Board of Commissioners and Cary Town Council meant to guide future land use regulations, public infrastructure improvements and development. By guiding and limiting future development and infrastructure improvements, the

Plan aims to maintain the rural form and character of most of the area, while still accommodating a limited amount of suburban growth in the area closest to Research Triangle Park and the Western Wake Freeway. The plan also seeks to protect water quality in Jordan Lake.

(C) Historic Preservation Master Plan

The Historic Preservation Master Plan provides a framework for the development of the Town's formal preservation program, and will serve as a guide for proactive preservation decision-making. The Plan synthesizes the Town's existing preservation efforts with the desires expressed by the community during the planning process, and recommends actions for integrating historic preservation into Town policies and regulatory activities. The scope of this Plan includes the Town's entire planning area, which includes Cary's extraterritorial jurisdiction.

(D) Parks, Recreation, and Cultural Resources Master Plan

The Parks, Recreation, and Cultural Resources Master Plan charts a course for providing a balanced system of cultural arts, active recreation, passive recreation, and conservation facilities to all residents. It recognizes current needs within the Town and allows for the flexibility to incorporate future facilities that will address trends and the needs of residents as the Town grows.

(E) Public Art Master Plan

The Public Art Master Plan suggests venues, art types, and themes for public art based on public input and an urban design analysis of existing and desired conditions, and identifies numerous educational and outreach programs for implementation

1.4.4 Other Plans, Ordinances and Manuals

In addition to the Comprehensive Plan, other plans and manuals contain additional recommendations, policies, and standards regarding development within the Town. ~~Such documents include, but are not limited to: the Design Guidelines Manual, the Downtown Design Guidelines, the Community Appearance Manual, the Water System Master Plan, the Wastewater System Master Plan and the Town Code of Ordinances.~~ It is the intent of the Town to administer this Ordinance in accordance with these supplemental plans and manuals, including subsequent amendments. Amendments to these supplemental plans and manuals shall not be required to follow the procedures for amending the Comprehensive Plan set forth in Section 3.2.

Plans, manuals and ordinances containing recommendations, policies, and standards regarding development within the Town include, but are not limited to, the following:

- (1) Town of Cary Code of Ordinances
- (2) Standard Specifications and Details Manual
- (3) Community Appearance Manual
- (4) Site Design Standards
- (5) Town Center Design Guidelines
- (6) Swift Creek Land Management Plan
- (7) Long Range Water Resources Plan
- (8) Reclaimed Water Master Plan
- (9) Wastewater Collection System Plan
- (10) Water Distribution System Plan

CHAPTER 2 – REVIEW AND DECISION-MAKING BODIES

2.6.2 PARKS, RECREATION AND CULTURAL RESOURCES ADVISORY BOARD: Other Powers and Duties

The Parks, Recreation, and Cultural Resources Advisory Board shall have the following additional powers and duties, to be carried out in accordance with the terms of this Ordinance:

- (A) To develop and implement the ~~Parks, Greenways, and Bikeways Master Plan~~ Parks, Recreation and Cultural Resources Master Plan and other park-related, plans, policies, and programs;

CHAPTER 3 – REVIEW AND APPROVAL PROCEDURES

3.1.9 COMMON REVIEW AND APPROVAL PROCEDURES: Simultaneous Processing of Development Applications

- (B) No rezoning application shall be accepted or processed while an application for any of the permits or approvals listed in this chapter is pending for the same property, and vice versa. This general rule has the following exceptions:

- ~~(5) A rezoning to a mixed use district (MXD district) may be submitted along with a rezoning to a mixed use overlay district.~~

3.2.32 AMENDMENTS TO THE COMPREHENSIVE PLAN: Regular Review of the Comprehensive Plan

- (A) The Comprehensive Plan shall be reviewed and reassessed regularly in order to evaluate its effectiveness and adequacy in guiding Town growth and to determine whether or not the Plan continues to meet the long-term planning needs of the Town.

~~The Planning Director shall initiate this review, assisted as necessary by the directors of other Town departments and advisory boards, on an annual or semi-annual basis in accordance with a published schedule prepared by the Planning Director. As part of this review, the Planning Director shall provide the Planning and Zoning Board. Such Review shall include an overall assessment of the adequacy and effectiveness of the existing Plan, including identification of new issues not adequately addressed by the Plan, issues which require further study and investigation, and suggested improvements, and specific revisions to Plan maps and policies requested by citizens. The Planning and Zoning Board shall consider the staff assessment and shall recommend Plan amendments or issues that the Board feels should be pursued or investigated. The Board shall then forward its recommendations, along with the staff report, to the Town Council for consideration.~~

- ~~(B) The Town Council shall consider the recommendations of the Planning and Zoning Board and the staff report and shall determine whether issues exist that merit further investigation or an amendment to the Plan. The Director shall then initiate the investigation of any issues or amendments as requested by Council. Any amendments shall be initiated in accordance with the provisions of Section 3.2.2.~~

3.2.3 AMENDMENTS TO THE COMPREHENSIVE PLAN: Initiation of Comprehensive Plan Amendment by Town Council

~~Either the Town Council or the Planning and Zoning Board may, on their own motion, or upon the request of the property owner, request that a Director of a Town department investigate and evaluate a specific substantive amendment proposal. The Director shall submit, within a reasonable time, a report and recommendation to the Town Council regarding whether or not the proposed substantive amendment should be reviewed by Town Council and the Planning and Zoning Board at this time. Upon receiving the report and recommendation of the Director, the Town Council will, by majority vote, determine whether or not to proceed and review the proposed amendment.~~

The Town Council may at any time direct that that Planning Director conduct a review and assessment of the Comprehensive Plan, or evaluate a specific substantive amendment proposal for consideration in accordance with the provisions of Section 3.2.4.

3.2.24 AMENDMENTS TO THE COMPREHENSIVE PLAN: Substantive Amendments to the Comprehensive Plan

(A) Procedure

(1) ~~Initiation~~

~~Substantive amendment proposals may be submitted for consideration to the Town Council in the following manner, by the parties indicated:~~

- ~~(a) The Director of any Town department may propose a substantive amendment to the Town Council at any time.~~
- ~~(b) Either the Town Council or the Planning and Zoning Board may, on their own motion, or upon the request of the property owner, request that a Director of a Town department investigate and evaluate a specific substantive amendment proposal. The Director shall submit, within a reasonable time, a report and recommendation to the Town Council regarding whether or not the proposed substantive amendment should be reviewed by Town Council and the Planning and Zoning Board at this time. Upon receiving the report and recommendation of the Director, the Town Council will, by majority vote, determine whether or not to proceed and review the proposed amendment.~~

(2)(1) Public Hearings and Public Notice

Two (2) public hearings shall be held on each proposed substantive amendment, the first before the Town Council and the second before the Planning and Zoning Board. Notice of the hearings shall be provided and the hearings shall be conducted in accordance with the general provisions of Sections 3.1.6 and 3.1.7, except that only the first public hearing shall require written (mailed) notice.

(3)(2) First Public Hearing: Staff Report to Town Council

The Planning Director and other staff as appropriate shall review each proposed substantive amendment in light of the standards of review set forth in paragraph (B) ~~and distribute the application, as deemed necessary, to other reviewers. Based on the results of those reviews, †~~The Director shall provide a report to the Town Council at the first public hearing ~~on the proposed substantive amendment~~. This report shall include a discussion of all plans and policies that have been adopted by the Town and are relevant to the proposed amendment.

(4)(3) Second Public Hearing: Staff Recommendation to Planning and Zoning Board

- (a) Following the first public hearing, the Planning and Zoning Board shall hold a second public hearing on the proposed amendment. The Director shall provide the staff's recommendation regarding whether to approve or deny the amendment at this second public hearing.
- (b) The Planning and Zoning Board shall make its recommendation to the Town Council ~~within ninety (90) days of the second (or last) public hearing, based on the standards of review set forth in paragraph (B). The Planning and Zoning Board may request an extension of time from the Town Council.~~ within ninety (90) days of the initial public hearing and no extension is granted, then the Town Council may act on the proposed amendment without a recommendation from the Planning and Zoning Board.

(5)(4) Town Council Action

- (a) After reviewing the reports and recommendations of the Planning Director and Planning and Zoning Board if applicable, the Town Council may take action based on the standards of review set forth in paragraph (B). Such action may include the following:
 - 1. Approve the amendment by motion, either as submitted or with modifications suggested by staff or by the Council or Planning and Zoning Board;
 - 2. Reject the proposed amendment; or
 - 3. Refer the proposed amendment back to the Planning and Zoning Board for further consideration.
- (b) Failure of the Town Council to take any action within ninety (90) days of the delivery of the Planning and Zoning Board's recommendation at a Council meeting shall be deemed a denial of the amendment request.

(B) Standards of Review

Proposals to amend the Comprehensive Plan shall be evaluated based upon whether the amendment is necessary in order to address conditions including, but not limited to, the following:

- (1) A change in projections or assumptions from those on which the Comprehensive Plan is based;
- (2) Identification of new issues, needs, or opportunities that are not adequately addressed in the Comprehensive Plan;
- (3) A change in the vision, values, policies, or objectives on which the plan is based, principles, or standards governing the physical development of the Town or any other geographic areas addressed by the Comprehensive Plan; or
- (4) Identification of errors or omissions in the Comprehensive Plan.

~~(C) Simultaneous Review of a Rezoning and a Related Substantive Amendment~~

~~The Town Council may direct, on their own motion, that a specific substantive amendment proposal be considered by the Planning and Zoning Board according to the same schedule as a related request for the rezoning of a particular tract or parcel affected by the substantive amendment. In such a case, the Planning and Zoning Board shall submit its report and recommendation regarding the substantive plan amendment to Town Council at the same time it submits its report and~~

~~recommendation regarding the rezoning case. The schedule for the review of the rezoning, as set forth in Section 3.4, shall prevail over the schedule in this Section 3.2. The Town Council and Planning and Zoning Board shall consider the plan amendment proposal and the rezoning request separately, and shall vote separately on the two (2) items (though the votes may occur simultaneously.)~~

3.4.1 REZONINGS: Rezonings Generally

(C) Substantive Comprehensive Plan Amendments

~~Where a proposed rezoning conflicts with the Comprehensive Plan (e.g., with the Land Use Plan), the applicant shall may also request a substantive plan amendment, which shall may be considered simultaneously with the rezoning request (see Section 3.2) as provided in Section 3.2.~~

3.4.4 Rezonings in the Town Center (TC) District and Walnut Street Corridor Transition (CT) District

Rezonings of sub-districts in the TC and CT districts are processed the same as a general or conditional use district.

~~Because the TC district is a single zoning district with various subdistricts, land use changes within this district do not entail a rezoning to a different district. Hence, rezoning requests shall all be considered substantive changes to the Comprehensive Plan and shall be processed in accordance with Section 3.2.2. All other procedural requirements spelled out in Chapter 3 shall be followed, except for altered notice as follows:~~

~~(A) Change from One Subdistrict to Another Subdistrict~~

~~Where a rezoning contemplates changing the subdistrict designation on property(ies) that will alter the boundaries of a subdistrict or create a new subdistrict, mailed notice shall be provided to all property owners within the same subdistrict category as well as all property owners adjacent to such subdistricts.~~

~~(B) Change within One Subdistrict~~

~~Where a rezoning for a property contemplates changing allowed uses or other development requirements within a subdistrict, mailed notice shall be provided to all property owners within such subdistrict as well as all property owners adjacent to the affected subdistrict.~~

3.4.5 Rezonings to Mixed Use District (MXD)

(A) Applicability, ~~Scope and Purpose~~

The MXD district is designed to be used in conjunction with the Mixed Use Overlay District (MUOD) as follows: Applications for rezoning to a MXD district shall be submitted in accordance with procedures set forth in this section.

- 1) Property which is within a Mixed Use Overlay District and within the Destination Center, Commercial Center Mixed Use, or Mixed Use Employment Center development category in the Shape chapter of the Cary Community Plan may be rezoned only to Mixed Use District consistent with the Comprehensive Plan.
- 2) Property which is within a Mixed Use Overlay District and within the Commercial Center development category in the Shape chapter of the Cary Community Plan may be rezoned to Mixed Use District or any other general use or conditional use zoning district consistent with the Comprehensive Plan.
- 3) Property which is within a Mixed Use Overlay District and is not within the Destination Center, Commercial Center Mixed Use, Mixed use Employment Center or Commercial Center development category in the Shape chapter of the Cary Community Plan may not be rezoned to Mixed Use District but may be rezoned to any other district consistent with the Comprehensive Plan.

- 4) Property which is not within a Mixed Use Overlay District may not be rezoned to the Mixed Use District but may be rezoned to any other district consistent with the Comprehensive Plan.

(B) Application

(2) Application Materials.....

(a) Preliminary development plan or site plan, and table of uses.....

~~**(b) Context Illustrative Drawing**~~

~~In addition to the preliminary development plan required by Section 3.4.5(B)(3)(a) above, an applicant shall include a reference drawing to illustrate reasonable, theoretical development that could occur on adjacent property(ies). Such nonbinding drawing shall be done at a generalized, lesser level of detail than for the property(ies) proposed for rezoning, shall be used as a reference point for evaluating the preliminary development plan, and shall encompass the general environs of the site being rezoned (preferably the entire land area within one (1) quadrant of a designated mixed use overlay district, regardless of ownership). As part of the pre-application meeting, the Planning Department staff will determine the extent of properties to be covered by the illustrative drawing and may assist the applicant in preparing the context drawing. The illustrative drawing shall show the relationships between potential future buildings, uses, and other spaces; and how adjoining properties can be effectively integrated with the property proposed for rezoning in terms of comprehensive road and pedestrian network connections. In particular, the circulation system shown in the preliminary development plan shall be designed to ensure that adjacent areas will have efficient and direct access to the activity center.~~

~~**(c) Traffic Assessment**~~

~~A traffic impact analysis as required under the provisions of Section 3.4.1(D)(3) is required.~~

~~**(d)(b) Supporting Materials**~~

~~The application shall also be accompanied by information regarding the following:~~

- ~~1. a statement regarding compliance with the Comprehensive Plan, including any applicable area plan;.....~~

(C) Review and Approval Process

(1) Neighborhood Meeting....

(2) Initial Public Hearing

(a) Process.....

(b) Action by Town Council

Following the initial public hearing, the Town Council shall either refer the proposed rezoning to the Planning and Zoning Board for a recommendation or require a Community Workshop and a second public hearing before the Planning and Zoning Board.

~~**(3) Process If Community Workshop is Required [Reserved]**~~

~~If, based upon the evidence presented by all parties at the public hearing, the Town Council identifies substantial remaining issues related to the specific approval criteria outlined in Section 4.5.2(E), it may require a single Community Workshop to allow for further review and discussion of the application. Within sixty (60) days, or longer as may be approved by the Town Council, a Community Workshop shall be conducted by the Planning Department, with support from a staff team with representatives from~~

Development Review Committee member departments and two (2) members of the Planning and Zoning Board.

~~(a) — *Notice of Community Workshop*~~

~~The Planning Department shall send invitations to the community workshop by first class mail to all property owners located within one hundred (100) feet of the area included in the rezoning case. Additionally, invitations should be sent to any Homeowner's Associations known to represent such property owners and any other persons notified by the applicant of the required Community Meeting.~~

~~(b) — *Community Workshop*~~

~~The Community Workshop should be conducted in accordance with guidelines available from the Planning Department. In general, the Community Workshop should include an evaluation of adjacent land uses, expected land uses and intensities within an activity center of the applicable size and scale, and the supporting transportation network; should utilize a general site analysis that assesses the suitability of the land for particular land uses; and should review compliance with adopted guidelines and requirements for mixed use development included in the Land use plan (including any specific guidelines from an area or district plan), town-wide site design standards, and this Ordinance.~~

~~(c) — *Planning and Zoning Board Public Hearing*~~

~~Within ninety (90) days of the Community Workshop, the applicant shall submit a revised preliminary development plan and revised supporting materials as appropriate, or shall advise staff in writing that it wishes to proceed with its original rezoning application materials. Upon receipt of the revised materials or the applicant's statement, Planning Department staff shall place the proposed MXD rezoning on a Planning and Zoning Board's meeting agenda for a public hearing according to a schedule maintained by the Planning Department. This second public hearing on the proposed MXD rezoning shall be advertised as required in Section 3.1.6 and notification should also be provided to any other persons notified by the applicant of the required Community Meeting.~~

~~(d) — *Action by Planning and Zoning Board*~~

~~The Planning and Zoning Board shall consider the proposed rezoning based on the approval criteria of Section 3.4.1(E), Section 4.5.2(E), in accordance with Section 3.4.1(D)(5)(c).~~

- (4) ~~***Process if Community Workshop is Not Required Planning and Zoning Board Recommendation.....***~~
- (5) ~~***No Further Changes Allowed***~~
- (6) ~~***Town Council Action***~~

CHAPTER 4 – ZONING DISTRICTS

4.1.3 GENERAL PROVISIONS: Annexed Lands and Lands Added to the Town's Extraterritorial Jurisdiction

(A) Zoning Designation

- (1) The Town Council shall determine the zoning designation and ~~land use plan designation~~ future growth framework development category (if applicable) of properties added to the Town's jurisdiction through extraterritorial boundary changes or annexation at the time such properties are added. Such determination shall be based on, but not be limited to, the following factors: the property's ~~designation on the Land use plan~~ future growth framework development category, the property's current land use, the existence of a previously-approved site or subdivision plan, the character of adjacent properties,

current zoning designations, property owner requests or other factors considered relevant at the time of the annexation.

4.2 GENERAL USE DISTRICTS

4.2.2 Residential and Non-Residential Zoning Districts

The specific purposes of the general use zoning districts are set forth below, along with any district-specific provisions that may apply. The allowed uses and use specific-standards for each of the districts are set forth in Chapter 5. All uses shall comply with the general dimensional standards set forth in Chapter 6, or as may be specified elsewhere in the Ordinance, including, but not limited to, Section 4.5.2. Mixed Use Districts and Section 8.4, Alternative Development Option: Cluster Residential Subdivisions.

~~Some general use zoning districts and their associated conditional use zoning districts may be requested only within specified land use plan categories of the Cary Land use plan or applicable Area plan that support the land use and development intensity associated with the requested zoning district, as provided in the following table.~~

LAND USE PLAN DESIGNATIONS AND ASSOCIATED GENERAL USE ZONING DISTRICTS				
LAND USE PLAN DESIGNATION	GENERAL ZONING DISTRICT			
	R-12	R-8	TR	RMF
VLDR	•	•		
LDR	•	•		
MDR	•	•	•	•
HDR		•	•	•
INS				
COM				
OFC/IND				
OFC/INS				
Activity Center	•	•	•	•

(C) R-20: Residential District

The R-20 district is established as a district in which the principal use of land is for low-density residential purposes, and is appropriate in areas where the ~~Land Use Plan designation~~ Comprehensive Plan supports very low or low density residential use. All development in the R-20 district shall be required to utilize public utilities. The minimum lot area is twenty thousand (20,000) square feet, and the maximum density allowed is two and seventeen hundredths (2.17) units per acre.

(D) R-12: Residential District

The R-12 district is established as a district in which the principal use of land is for single-family dwellings, and is appropriate in areas where the ~~Land Use Plan designation~~ Comprehensive Plan supports very low, low or medium density residential use. The regulations of this district are intended to discourage any use that would substantially interfere with the development of single-family dwellings and that would be detrimental to the quiet residential nature of the district. The minimum lot area is twelve thousand (12,000) square feet, and the maximum density allowed is three and sixty-three hundredths (3.63) units per acre.

(E) R-8: Residential District

The R-8 district is established as a district in which the principal use of land is for single-family dwellings, and is appropriate in areas where the ~~Land Use Plan designation~~

Comprehensive Plan supports low, medium or high density residential use. The regulations for this district are intended to discourage any use that would substantially interfere with the development, use, and enjoyment of single-family dwellings or that would be detrimental to the quiet residential character of the district. The regulations of this district also are designed to encourage the wise use of land and natural resources, with the aim of reducing sprawl and the costly provision of infrastructure to serve dispersed development. The minimum lot area is eight thousand (8,000) square feet, and the maximum density allowed is five and forty-four hundredths (5.44) units per acre.

(F) TR: Transitional Residential District

The TR district is established as a district in which the principal use of land is for a variety of residential uses, and is appropriate in areas where the ~~Land Use Plan designation~~ Comprehensive Plan supports medium or high density residential use, with the exception of multi-family structures. This district is appropriate for infill developments smaller than ten (10) acres in established neighborhoods, for denser residential neighborhoods, and for areas identified ~~as supporting for~~ medium-density residential uses in the Town's ~~Land Use~~ Comprehensive Plan. The regulations of this district are intended to allow innovation in the arrangement of buildings within such developments. The minimum lot size for single family detached dwellings is five thousand (5,000) square feet, and the maximum density allowed is six (6) units per acre.

(G) RMF: Residential Multi-Family District

The RMF district is established as a district in which the principal use of land is for multi-family dwellings and also less-intensive residential uses such as patio homes, and is appropriate in areas where the ~~Land Use Plan designation~~ Comprehensive Plan supports high density residential use. This district can be applied to locations that are suitable for multi-family development, and thus provide areas within the community for persons desiring to live in multi-family structures at densities sufficient to support public transit. This district should be located so as to not interfere with or damage environmentally sensitive lands and to ensure that adequate open space and recreational facilities are located nearby, or within the district itself, to serve the needs of the persons who are or will be living in the district. The maximum density allowed is twelve (12) units per acre.

(K) CT: Walnut Street Corridor Transitional District

~~(1) Purpose~~

~~The CT district addresses concerns unique to areas when other zoning districts cannot achieve the desired results. This district addresses the needs of specific areas defined in Comprehensive Plan, special plans, or studies. They may be applied for some or all of the following reasons:~~

- ~~(a) To provide buffering and compatible land uses between residential areas and thoroughfares, where the residential character of an area has changed or is changing or may be subject to development pressure;~~
- ~~(b) To facilitate development solutions that will enhance area character, address existing deficiencies and provide benefits to the area and/or community; and~~
- ~~(c) To provide opportunities for consolidation of properties to encourage and permit unified planning and compatibility of uses within the districts and the existing and anticipated development in the surrounding area. They also provide a means to ensure that the land uses permitted by the existing zoning on adjacent properties are not negatively impacted by the uses permitted in CT districts.~~

~~(2) Establishment~~

~~A CT district shall not be established until a neighborhood plan, a corridor plan, or an area plan is completed for the area encompassed by the district. A CT district may be established if all the following criteria are met:~~

- ~~(a) The area proposed for the CT district has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the Town;~~
- ~~(b) Existing general use districts are inadequate to achieve a desired public benefit or to address an identified problem in the area;~~
- ~~(c) The proposed CT district and standards are the result of a study and plan documenting the special characteristics or problems of the area and describing how a CT district will best address the relevant issues; and~~
- ~~(d) The standards of the CT district are in conformance with the comprehensive plan, or there is a determination that the comprehensive plan should be amended to reflect the proposed standards~~

~~(3) **Scope of Corridor Transitional Districts and Relationship to Other Regulations**~~

~~Corridor Transitional districts are areas identified through the Comprehensive Plan as being of a transitional nature. Development within CT districts shall comply with the general provisions required elsewhere in this Ordinance. When there is a conflict between the CT district and the general provisions of this Ordinance, the CT district shall control.~~

~~(4)~~**(1) Standards Applicable in the Walnut Street Corridor—Purpose and Intent**

The Walnut Street Corridor Transitional District standards are intended to accomplish the following:

- (a) Provide for the development of offices, personal service and other compatible uses in the area defined between existing residential neighborhoods and the Walnut Street Corridor;
- (b) To minimize impacts on adjacent residential uses;
- (c) To provide a landscape buffer to the residential area;
- (d) To encourage the conversion of existing structures where practical;
- (e) To encourage the consolidation of property to facilitate redevelopment and minimize the number of access points to the thoroughfare;
- (f) To require the provision of cross access where possible;
- (g) To encourage new development to be of a residential style and proportion; and
- (h) To ensure compatibility of design in the district, adequate parking, pedestrian and bicycle accessibility, and consistent streetscape treatment.

(2) Subdistricts Created and Defined

Due to the variation in existing character and desired types of future development in various portions of the Walnut Street Corridor, differing land uses, building standards, parking requirements, and other related development standards are imposed within different portions of the Walnut Street Transitional District. In order to present the full range of zoning and development requirements for each different area, this zoning district is divided into such subdistricts as follows:

(a) Redevelopment Subdistrict

Parcels located in the redevelopment subdistrict are the larger, deeper parcels located at the western end of the Walnut Street corridor. These parcels lend themselves to redevelopment and larger sized buildings or conversion to certain non-residential uses. These parcels, if redeveloped, are intended to serve as transitions in size between the intense commercial uses at Cary Towne Center Mall and the adjoining low-density residential neighborhoods. Development is intended to respect the residential appearance of the corridor in this location.

(b) Conversion Subdistrict

Parcels located in the Conversion subdistrict are shallower in depth and less affected by development pressure than those parcels adjacent to the mall. The Conversion subdistrict is also more suitable for smaller size buildings and

conversion of existing homes to certain low-impact non-residential uses
Development and redevelopment should maintain the residential appearance of
the central portion of the CT district.

(c) Infill Subdistrict

Parcels located in the Infill subdistrict are at least five acres in size and are
currently either undeveloped, contain impermanent structures such as mobile
homes, or contain only a single home. The type and intensity of use
recommended for this classification is the same as for Corridor subdistrict except
that it is expected that new buildings will be constructed.

(3) Development Standards for Certain New Construction and Redevelopment

The standards listed in the Table below shall only be utilized when there is a change in the use of a property from the use in existence on July 1, 2003. Detail on the allowable uses, and development standards are listed in the table below as well as in Chapters 5, and 6 of this Ordinance.

TABLE 4.2-1: BUILDING AND SITE DESIGN STANDARDS FOR CERTAIN NEW CONSTRUCTION AND/OR REDEVELOPMENT IN THE <u>WALNUT STREET CORRIDOR TRANSITIONAL</u> DISTRICT	
(Not applicable to structures subject to regulation under the North Carolina Residential Code for one- and two-family dwellings).	
Walnut Street Corridor	
.....
Signage	All signs shall comply with the Walnut Street Corridor Master Sign Plan.

(N) TC: Town Center District

(1) Purpose and Intent

The purpose of the TC district is to carry out the land use recommendations contained in the Town Center Area Plan Comprehensive Plan, ~~an official amendment to the Land Use Plan.~~ It is also the intent of this district and to achieve the urban design principles spelled out in the Downtown Town Center Design Guidelines.

~~**(2) Relationship to Plan and Design Guidelines**~~

~~The provisions of this district are based upon the adopted land use policies contained in the Town Center Area Plan and the design principles of the Downtown Design Guidelines, which are hereby incorporated by reference as part of this zoning district. In the event that this district does not specify a particular requirement, or when a conflict between this district and such policy documents arises, the Planning Director shall make a zoning determination based upon the overall direction and intent of the adopted plan and guidelines.~~

(3) Findings.....

(h) Housing Diversity

Encouragement of a diverse range of housing types to accommodate a range of needs is good public policy and helps achieve the policy direction contained in the Town's Affordable Housing Comprehensive Plan.

(4) Applicability

This zoning district shall apply to the geographic land area covered by the Town Center Area Plan adopted by Town Council on August 9, 2001. The district boundaries may not necessarily correspond to the Town Center Area Plan boundaries. The current boundaries of this district are shown on the Official Zoning Map.

(5) Subdistricts Created and Defined

Due to the variation in existing character and desired types of future development in various portions of the downtown area, differing land uses, building standards, parking requirements, open space requirements, and other related development standards are spelled out in the Town Center Area Plan applicable within different portions of the Town Center. In order to present the full range zoning and development requirements for each different area, this zoning district is divided into such subdistricts as delineated in the Town Center Area Plan on the Official Zoning Map as follows:

(6) Treatment of Existing Residential Uses

(a) Notwithstanding the provisions of Chapter 10, Nonconformities, residential uses that exist in the ~~HMxD, MXD, HDR Mid-Rise, HDR Garden, COM, CLI, OFC/INS, INS, OFC/IND, MDR and LDR~~ Subdistricts of the Town Center district on the effective date of this Ordinance, or any amendment thereto that adds the property to the Town Center district, January 24, 2017 are deemed to be conforming to the terms of this Section. Such uses may continue to be used as such, even if left unoccupied for more than 180 days.

(10) Standards for New Development

(d) Required Design Issues

All new development requiring site and/or subdivision plan approval within the Town Center district shall, at a minimum, adequately address the following design characteristics as detailed separately in the Downtown Town Center Design Guidelines:

(f) ~~Site or Area Specific Requirements~~

~~Some portions of the Town Center Area Plan are subject to additional requirements beyond those for the subdistrict where they are located. The following table lists such affected areas. The recommendations contained in the plan for these areas shall also be addressed and taken into consideration as part of the site and/or subdivision plan review process.~~

TABLE 4.2-3: SPECIAL LAND USE RECOMMENDATIONS	
Notation	Area
1	"Heart" of Downtown
3	Middleton Avenue Area
4	West Block of Adams Street
5	Around East Block of Adams Street
6	Hillsboro Street
7	Wood/Holloway/West Street Area
8	Gary Recycling Drop Off and Public Works Facility
9	Land South of Old Apex Road
11	Chapel Hill Road and NE Maynard Road Area
12 & 13	Chatham Estates Mobile Home Park and Adjacent Open Space Area
14	Park Area at Kildaire Farm Road and Walnut Street
15	Mixed Use Area on Walnut Street
16	Low Density Area on Pleasants Avenue

4.3.2 Districts Established

Each general use district set forth in Section 4.2 of this Ordinance, except for ~~TC~~ and the Planned Development Districts, shall have a corresponding conditional use district. Accordingly, the following conditional use districts are hereby established:

(A) Residential Districts

- (1) R-80-CU: Residential district;
- (2) R-40-CU: Residential district;
- (3) R-20-CU: Residential district;
- (4) R-12-CU: Residential district;
- (5) R-8-CU: Residential district;
- (6) TR-CU: Transitional Residential district; and
- (7) RMF-CU: Multi-Family Residential district.

(B) Non-Residential Districts

- (1) RR-CU: Resource/Recreation district;
- (2) OI-CU: Office and Institutional district;
- (3) GC-CU: General Commercial district;
- ~~(4) CT-CU: Corridor Transitional district;~~
- ~~(5)~~ (4) ORD-CU: Office/Research and Development district; and
- ~~(6)~~ (5) I-CU: Industrial district.

(C) Town Center Subdistricts

- (1) TC-HMXD-CU: High Intensity Mixed Use subdistrict;
- (2) TC-MXD-CU: Mixed Use subdistrict
- (3) TC-HDR Mid-Rise-CU: High Density Residential Mid-Rise subdistrict;
- (4) TC-MXDR-CU: Mixed Density Residential subdistrict;
- (5) TC-HDR Garden-CU: High Density Residential Garden subdistrict;
- (6) TC-MDR-CU: Medium Density Residential subdistrict;
- (7) TC-LDR-CU: Low Density Residential subdistrict
- (8) TC-OFC/INS-CU: Office/Institutional subdistrict;
- (9) TC-OFC/IND-CU: Office/Industrial subdistrict;
- (10) TC-COM-CU: Commercial subdistrict;
- (11) TC-CLI-CU: Commercial Low Intensity subdistrict;
- (12) TC-CB&R-CU: Cottage Business and Residential subdistrict; and
- (13) TC-INS-CU: Institutional subdistrict.

(D) Walnut Street Corridor Subdistricts

- (1) CT-REDEV-CU: Walnut Street Corridor Redevelopment Area subdistrict;
- (2) CT-CONV-CU: Walnut Street Corridor Conversion Area subdistrict; and
- (3) CT-INFILL-CU: Walnut Street Infull Area subdistrict.

4.4 OVERLAY ZONING DISTRICTS

4.4.2 Mixed Use Overlay

(A) Purpose and Intent

It is the purpose and intent of this overlay district to enable the development of land in areas designated as Activity centers on the Land use plan Map in accordance with the guidance of the Land use plan volume of the Town of Cary Comprehensive plan. Activity centers vary in scale and intensity, and are intended to have a compatible mixture of commercial, office, residential, recreational, civic and/or cultural uses which are highly integrated and function in a cohesive manner. Each Mixed Use Overlay District is intended to function at a neighborhood, community or regional scale identified on the Town of Cary Official Zoning Overlay Map. Benefits of this approach to development will help concentrate land uses, reduce sprawl, promote a more efficient pattern of land uses, provide needed goods and services, reduce automobile trips, and facilitate convenient and safe circulation. ~~The Mixed Use Overlay District (MUOD) was initially established and added to the Official Zoning Map by the Cary Town Council on July 1, 2003.~~

(B) Applicability

The Mixed Use Overlay District ~~may be applied only~~ shall apply to areas designated as Activity centers as described in Chapter 6.2 in the Land use plan and identified on the Land use plan map ~~as such on the Town Of Cary Official Zoning Overlay Map.~~

(C) Types of Activity Centers

The intensity, amount, and size of development allowed within a Mixed use Overlay District are based on the three (3) types of activity center designations used on the Land use plan map. The three (3) types of activity centers are intended to function at a neighborhood, community or regional scale, in accordance with guidelines found in Section 6.2 of the Land use plan. [Reserved]

(D) Uses Allowed

The uses allowed in the Mixed Use Overlay District are set forth in the Table of Permitted Uses in Chapter 5. The applicable designation of Neighborhood, Community or Regional Activity Center will be as identified on the Land use plan map Town Of Cary Official Zoning Overlay Map.

(E) Authority Under Overlay District

(1) General Authority

Property in a Mixed Use Overlay District may be developed in accordance with requirements for one (1) of the following, as applicable, and as described below in this Section 4.4.2(E):

- (a)** an existing general use zoning district, conditional use zoning district, or planned development district established prior to August 13, 2009 (hereinafter collectively, "base zoning");
- (b)** an Activity Center Concept Plan ("ACCP") approved between July 1, 2003 and April 27, 2006;
- (c)** a Mixed Use Sketch Plan ("MUSP") approved between April 27, 2006 and August 13, 2009;
- (d)** modification of a planned development district that was initially created prior to August 13, 2009;
- (e)** a MXD District approved after August 13, 2009; or
- (f)** where the property is not in the Destination Center, Commercial Center Mixed Use, or Mixed Use Employment Center future growth framework development category as designated in the Shape chapter of the Cary Community Plan, a general use or conditional use zoning district approved after January 24, 2017.

(2) Utilization of Existing Base Zoning, Excluding Planned Development Districts

Development plans that are submitted utilizing the base zoning shall be evaluated against ~~established land use plan policies~~ the Comprehensive Plan, design guidelines, and related requirements to determine whether the proposed development is in keeping with the overall intent of the MUOD.

Further, if an ACCP or MUSP has been approved for all or a portion of property proposed for development or redevelopment, and if the ACCP or MUSP includes specific site design guidelines, then the design guidelines shall apply to the property, or portions thereof, covered by the ACCP or MUSP. The aspects of ACCP/MUSP design guidelines that are applicable to development under the base zoning include, but are not limited to, more restrictive guidelines related to building placement and orientation, roadway and sidewalk sections, streetscape treatments, landscaping treatments, individual building or tenant space sizes, open space and public space, parking lot design and placement, block length, connectivity,

stormwater controls, block frontage coverage, public art, signage and site entryway features.

Dimensional standards prescribed by ACCP/MUSP site design guidelines are also applicable to development under the base zoning, except for single family detached subdivisions having lots of twenty thousand (20,000) square feet or more. A development or redevelopment proposal submitted under the base district zoning should facilitate the ultimate attainment of the circulation network outlined in the ACCP/MUSP.

(3) *Utilization of Approved Activity Center Concept Plans or Mixed Use Sketch Plans*
Property for which an ACCP or MUSP was approved prior to August 13, 2009 may be developed in accordance with that ACCP/MUSP.

(4) *Modification of Planned Development Districts*
Requests to modify or expand existing planned development districts shall be evaluated against ~~established land use plan policies~~ the Comprehensive Plan, design guidelines, and related requirements to determine whether the proposed development is in keeping with the overall intent of the MUOD.

(5) *Utilization of a Mixed Use District Approved After August 13, 2009*
Requests to rezone property to the Mixed Use District shall be evaluated against Section 4.5.2 and other applicable Sections of this Ordinance, the Comprehensive Plan, design guidelines, and related requirements to determine whether the proposed development is in keeping with the overall intent of the MUOD.

(5) *Utilization of a General Use or Conditional Use Zoning District Approved After January 24, 2017*
Requests to rezone property to a General Use or Conditional Use Zoning District shall be evaluated against Section 3.4.1(E) and other applicable Sections of this Ordinance, the Comprehensive Plan, design guidelines, and related requirements to determine whether the proposed development is in keeping with the overall intent of the MUOD.

(F) Development Standards

Notwithstanding an approved ACCP/MUSP or existing planned development master plan, any development and/or redevelopment proposed for parcels located within a Mixed Use Overlay District shall meet the following development standards:

- (1)** Any conditions related to allowable land uses and/or landscaping buffer provisions applied through a conditional use rezoning shall continue to apply unless the property is subsequently rezoned to the MXD district and said conditions are not included as development requirements of the MXD district; and
- (2)** The road network shall be designed to ensure that adjacent residential areas will have direct access to the non-residential portions of the ~~activity center~~ Mixed Use Overlay District in lieu of entering and exiting through thoroughfares and/or collector streets; and
- (3)** The development/redevelopment shall provide or contribute to a pedestrian and road network that connects non-residential and existing residential uses (multi-family and single-family) developments in accordance with town-wide design guidelines. Exceptions may be considered to items 2 and 3 above where adjacent established single family residential developments (not part of an approved mixed use sketch plan or an existing master plan) are proposed to connect through a roadway to a Regional Mixed Use ~~Center~~ Overlay District. This exemption shall not apply when public uses (including but not limited to schools, libraries, and parks) are proposed within a Regional Mixed Use ~~Center~~ Overlay District.

(G) Dimensional Requirements

The general dimensional standards shall be as specified for the applicable base zoning district, ACCP, MUSP, Planned Development District Master Plan, or preliminary development plan for property zoned MXD, or applicable general use or conditional use zoning district approved after January 24, 1017.

4.4.3 Conservation Residential Overlay District

(A) Purpose and Intent

The Conservation Residential Overlay District is established to implement ~~the Southwest Area Land Use Plan Comprehensive Plan~~. The goals and objectives of this overlay are to:.....

(B) Location of District and Applicability

The provisions of the Conservation Residential Overlay District shall apply to the geographic areas designated as such on the Town of Cary Official Zoning Overlay Map, ~~and also areas designated as Low Density Conservation Residential (LCR) and Very Low Density Conservation Residential (VLCR) on the Southwest Area Plan~~. For properties designated as Conservation Residential on the ~~Southwest Area Plan~~ Town of Cary Official Zoning Overlay Map and located outside of the Town's extraterritorial jurisdiction (ETJ), annexation and rezoning in accordance with this Section and all other applicable sections of the Land Development Ordinance is required before applicants may utilize the density bonus provisions of Sections 4.4.3(D) through (H).

This overlay district does not preclude ~~the~~ any residential or non-residential uses allowed within the underlying zoning districts, provided that all applicable Land Development Ordinance requirements are met. Properties may be rezoned to residential or non-residential districts if supported by the ~~Southwest Area Plan Comprehensive Plan~~ and in accordance with applicable sections of the Land Development Ordinance. Parcels zoned as Planned Development Districts and parcels subject to site plans approved before July 15, 2004, are exempt from the application of this Section for so long as the PDD or site plan remains valid.

(C) Subdistricts Created and Defined

Due to the existing character and desired types of future development ~~in the Southwest Area Conservation Residential Overlay District~~, differing residential densities, dimensional standards, open space requirements, and other related development standards are set forth within this Section. In order to present the full range of zoning and development requirements for each different area, this overlay zoning district is divided into two (2) subdistricts ~~that correspond to two (2) of the land use classifications delineated in the Southwest Area Plan~~ as follows:

(D) Eligibility and Process to Obtain Density Bonus

(1) Rezoning

For property located within the overlay district as shown on the Town of Cary Official Zoning Overlay Map, rezoning is not required in order to submit development plan applications that meet the requirements stated in Sections 4.4.3(D) through (H).

For properties ~~designated as Conservation Residential on the Southwest Area Plan and~~ within the Conservation Residential Overlay District but not within the Town Limits and/or Extraterritorial Zoning Jurisdiction (ETJ), annexation and rezoning is required before such properties can be developed pursuant to Sections 4.4.3(D) through (H). Annexation and rezoning (to establish initial zoning) to the Residential-40 district and Conservation Residential Overlay District must be approved before a

proposed development plan using the provisions of Section 4.4.3(D) through (H) can be submitted for review.

Rezoning to non-residential and institutional uses may be permitted if consistent with the ~~Southwest Area Plan~~ Comprehensive Plan. Rezoning to non-residential and institutional districts are not required to be subject to the requirements of this Overlay District.

(H) Additional Design Requirements

(9) Pedestrian Connectivity

..... Limited pedestrian access shall be provided through Urban Transition Buffers ~~buffers~~ and floodplain areas in accordance with the standards of this Ordinance.....

4.4.6 Watershed Protection Overlay

(F) Limitations on Impervious Surface Area and Density

(1) Low Density Option

..... the Swift Creek regulations distinguish between three (3) different sub-areas: New Suburban, New Urban, and Existing Urban development. These sub-areas are depicted on the Town's Official Zoning Map ~~and the Land Use Plan Map~~.

4.5.2 FLEXIBLE USE DISTRICTS: Mixed Use District

This Mixed Use District (MXD) was established on August 13, 2009 and may only be used in areas already zoned Mixed Use Overlay District (MUOD). In support of the MUOD provisions, the Mixed Use District (MXD) is a flexible zoning district that allows property owners to rezone land subject to specific requirements set forth in a preliminary development plan.

(A) Intent

Every rezoning to a MXD district must be accompanied by a preliminary development plan that illustrates how the proposed district will ~~yield the required features of mixed use development that conform to the overall policy direction and intent for Activity centers as specified in Section 6.2 of the Land Use Element of the Comprehensive plan, conform to policies identified in the Comprehensive Plan, applicable requirements of the Land Development Ordinance, and other applicable plans, ordinances and manuals identified in Section 1.4.~~ Depending upon the location and the existing nature of development, it is not the intent of a MXD district to require each separate building or every individual development site to include a complete, integrated mix of land uses but rather for the ~~Activity center~~ Mixed Use Overlay District as a whole to contain a mix of uses designed to meet the Town's overall planning objectives. ~~Instead, the MUOD and MXD districts developed thereunder seek to encourage certain areas of the Town to develop or redevelop in a manner that supports the specific goals for Activity centers identified in Chapter 6.2 of the Land use plan. These goals call for a more efficient and less energy-intensive alternative to suburban growth patterns by creating opportunities for more integrated development of residential uses and the non-residential uses that can provide goods, services and employment opportunities to the residential population.~~

(B) Approval Procedure.....

(C) Geographic Coverage

Unless there is no adjacent or closely located property under the same or closely related ownership that qualifies for MXD zoning a single, small parcel or portion of a parcel should not be rezoned to a MXD district when a larger geographic area of developable or redevelopable land could be included. In keeping with the Town's longstanding preference for comprehensively planned areas, the intent of this district is to encompass as much land area

as practicable to successfully implement the Comprehensive Plan. However, depending upon the location, size and scale of the ~~activity center~~ Mixed Use Overlay District, nature of the property proposed to be rezoned, the existing zoning in the vicinity, whether or not the adjoining land is developed or vacant, and ownership patterns, the amount of land included in any MXD rezoning case may vary and cannot be predicted in advance. Following a required presubmittal meeting, the Development Review Committee staff will recommend the extent of property(ies) that should be included in any ~~mixed-use~~ Mixed Use District rezoning application.

(D) General Use and Development Standards

(1) Uses Allowed

The extent of appropriate uses and ~~the development intensity of activity centers shown on the Land use plan map~~ within Mixed Use Overlay Districts increases from neighborhood to community to regional in scale. Table 5.1-1 found in Chapter 5 of this Ordinance identifies allowed uses within each category.

(E) Approval Criteria for Mixed Use District Rezoning

In addition to the criteria for a general rezoning specified in Section 3.4.1(E), rezoning requests to a MXD district shall be reviewed for compliance with the following criteria, as applicable [i.e., it may not be reasonable or practical to expect that some existing or partially-built mixed use districts (formerly activity center concept plans or mixed use sketch plans) to achieve certain design standards]:

(1) Intensity, Type, and Mix of Uses

The preliminary development plan includes an appropriate intensity, type, and mix of land uses, as outlined by the guidelines contained in the Land Use Plan Comprehensive Plan. This shall be assessed in relation to the scale of the ~~activity center~~ Mixed Use Overlay District and the mix and relationship of existing and planned uses ~~in the activity center~~, including residential, commercial, office, and institutional uses;

(2) Site Design

The preliminary development plan shows how the proposed ~~mixed-use~~ development will meet or exceed Town site design guidelines and other established Town standards, including connections and linkages to immediately adjacent properties;

(3) Expected Land Uses

The extent to which the proposed development provides the expected land uses, including medium- and higher-density housing, outlined by the numerical and other guidelines contained in the Land Use Plan Comprehensive Plan;

(4) Public Spaces

The preliminary development plan includes some formal outdoor space(s) for public use, such as a park, village green, or plaza, ~~with larger mixed-use centers including more such space than smaller centers~~; and

(5) Scale and Context

The preliminary development plan demonstrates that the proposed development is appropriate for the context and location, responds to the unique conditions of the area, and provides reasonable transitions within and adjacent to the district.

CHAPTER 5 – USE REGULATIONS

<p><i>Portion of TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT</i></p> <p>P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit</p>
--

¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² ~~Mixed Use Overlay District (MUOD) - Neighborhood Activity Center, as delineated on the Town-wide Land Use Plan Official Zoning Overlay Map.~~ ³ ~~MUOD - Community Activity Center, as delineated on the Town-wide Land Use Plan Official Zoning Overlay Map.~~ ⁴ ~~MUOD - Regional Activity Center, as delineated on the Town-wide Land Use Plan Official Zoning Overlay Map.~~

Use Category	Use Type and [Use Class]	RESIDENTIAL						NON-RESIDENTIAL					MIXED USE OVERLAY DISTRICT ¹			Use-Specific Standards
		R 8 0	R 4 0	R 2 0	R 1 2	R 8	T R	R M F	R R	O I	G C	O R D	I	NC ²	CG ³	
RESIDENTIAL USES.....																

5.2 USE-SPECIFIC STANDARDS

5.2.1 Residential Uses

(F) Multi-Family Dwelling, and Multi-Family Dwelling, Mid-Rise

(5) Mid-rise multi-family dwellings shall comply with the following additional standards:

- (a)** In districts where a mixing of residential and non-residential uses is allowed, such uses may include ground-level retail stores and personal service establishments as incidental uses, to provide goods and services to residents of the building. Greater amounts of retail and/or personal service establishments may be permitted within a ~~mixed-use center overlay districts.~~ Mixed Use Overlay District, subject to the provisions of 4.4.2 and Table 5.1-1 of this Ordinance.

(H) Patio Dwelling

- (3)** There are no density limits for patio homes within ~~the mixed-use center overlay district~~ a Mixed Use Overlay District.
- (4)** Density limits for patio homes within the TC district shall be in accordance with ~~the Town center Area plan Table 6.1-3~~

(L) Townhouse

- (1)** In the RMF district, townhouses are a permitted use up to twelve (12) units per acre; densities within the TC district shall be in accordance with ~~the Town Center Area plan, Table 6.1-3 but there are no density limits for townhouses within the mixed-use center overlay district.~~

(M) Detached Dwelling

- (4)** Detached dwellings may be allowed in a ~~Regional~~ Destination Center provided the following standards are met:
- (a)** There is an approved mixed use sketch plan ~~for the mixed-use center~~ that specifies a reasonable mix of housing types and densities ~~within the mixed-use center as a whole,~~ consistent with the vision of the Comprehensive Plan, including higher-density housing types such as multi-family dwellings, semidetached/ attached dwellings, or townhouses; and
- (b)** The detached dwellings constitute a reasonable portion of the total housing stock planned for the ~~mixed-use center~~ Destination Center, and do not dominate the overall ~~mixed-use center~~ Destination Center housing stock.
- (5)** Detached dwellings may be allowed in the HMXD sub-district of the Town Center provided the following standards are met:

5.2.2 Public/Institutional Uses

(E) Religious and Other Assembly Uses

- (1) Any religious or other assembly use (i.e., club, lodge, or hall) located upon residentially-zoned property that is twenty (20) acres in size or smaller shall be required to meet the following standards:
 - (a) Such uses shall obtain a Special Use Permit consistent with Section 3.8 of this Ordinance. This requirement shall also apply to residentially-zoned properties twenty (20) acres in size or smaller located within ~~an mixed-use center overlay a~~ Mixed Use Overlay District and/or a residentially-designated portion of a planned development district;

5.2.3 Commercial Uses

(Q) Motor Vehicle Sales/Rental

- (1) In the GC district and the Mixed Use ~~Center Overlay~~ District, motor vehicle rental shall be permitted by right based upon the following conditions:.....
- (2) In the GC district and the Mixed Use ~~Center Overlay~~ District, such uses shall be permitted as Special Uses based upon the following conditions:....

5.3.4 ACCESSORY USES AND STRUCTURES: Accessory Uses and Structures Allowed

(C) Home Occupations

- (1) **General Requirements**
 - (b) **Neighborhood Compatibility**
 - ~~(v.) There are no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building. However, home occupation signs are allowed in the Town center.~~

(D) Outdoor Display and Sales

- (2) **Where Permitted**
 - (j) ~~Where the property is located within the Town Center Area Plan~~ Within the area inside the outer perimeter of the Town Center District, including all subdistricts and conditional use districts, outdoor display and sales area may not exceed twenty-five percent (25%) of the floor area of the principal use, subject to the following:

CHAPTER 7 – DEVELOPMENT AND DESIGN STANDARDS

7.1.4 GENERAL PROVISIONS: Community Appearance, Site Design Standards, and Other Documents

This chapter contains minimum legal requirements related to site design and layout, appearance, landscaping, and building design. This chapter shall be used in conjunction with other related documents including, but not limited to, ~~the Community Appearance Manual, Site Design Standards, and Downtown Design Guidelines, Standard Specifications and Details, Small Area plans, the Transportation Plan, Policy Statements, and Standard Procedures~~ those listed in Section 1.4. These documents express Town policy and contain standards, guidelines, examples, and details needed to make this chapter easy to understand and apply in various situations. Some of these documents contain minimum requirements that may or may not be included within the text of this Ordinance, or may in some situations differ with this Ordinance; in such cases, the more restrictive of the two (2) requirements shall apply. The requirements of Chapter 7 may be eligible for Minor Modifications. (See Section 3.19 for applicability.)

7.2 LANDSCAPING, BUFFERING, SCREENING AND TREE PROTECTION:

7.2.3 Requirements for Perimeter Buffers and Landscape Areas

(A) Applicability

- (2) Within the ~~Town center Area plan~~ area inside the outer perimeter of the Town Center District, including all subdistricts and conditional use districts, and the individual Mixed Use Center Overlay Districts, the requirements of this section shall apply only to boundaries between properties located within the district and properties located outside the districts, ~~and not to boundaries between properties that are each located within the Town center Area plan or the Mixed use Center Overlay District~~ the interior of the district boundaries.

<i>Portion of TABLE 7.2-2: LAND USE CLASSES</i>	
Class	Uses Included
Class 2	In addition, "underdeveloped" properties (larger size properties greater than ten (10) acres that have the potential for higher density development as specified on the Land Use Plan Map <u>based on the future growth framework development category designated for the property in the Shape chapter of the Cary Community Plan</u>) that may presently be zoned and/or used for residential uses shall be placed in the a class according to the future land use shown on the adopted Land Use Plan Map <u>consistent with future growth framework development category.</u>

7.2.5 Tree Protection, Tree Surveys, and Replacement Trees

(A) Tree Protection and Tree Surveys

(5) Definitions

- (g) *Prominent Location* means areas: along any ~~arterial thoroughfare~~ or collector roadway; along a public/private street interior to the site; surrounded by buildings/homes on at least two (2) sides; or immediately adjacent to or within twenty (20) feet of a public greenway easement or public greenway property boundary.

7.2.8 Screening

(A) Stormwater Devices

..... Visible hardscape transitions or edges (walls) for stormwater devices should not be used outside of Mixed Use ~~(Activity) Centers Overlay Districts~~. The Planning Director may allow the use of hardscape transitions for developments outside of a Mixed Use ~~Center~~ Overlay District pursuant to Section 3.19.1.

7.2.10 Allowable Modifications and Reductions

- (A) This Section 7.2.10 provides flexibility and presents alternative ways to meet the standards
- (8) The required streetscape along thoroughfares and collectors may be reduced to ten (10) feet, and building setbacks from the streetscape to zero (0) when buildings are placed close to the street inside Mixed Use ~~Centers~~ Overlay Districts.

7.7 BUILDING DESIGN STANDARDS

7.7.3 General Requirements

(C) Building Placement

Buildings shall comply with the following standards and those provisions that address building orientation, arrangement, mass, and other elements. All development plans must also follow the provisions in the Town's Community Appearance Manual and Site Design Standards.

- (1) In addition, in non-residential centers, ten (10) acres or more in size within ~~activity centers shown in the Land use plan, Mixed Use Overlay Districts~~ a majority of the tenant spaces forty thousand (40,000) square feet or less must be located

7.7.7 Amendment Process

(G) Design and Location of Parking Areas/Stacking Spaces

- (1) The Director of Transportation and Facilities may allow parking on public streets within the Town Center, ~~Mixed use~~ and Mixed Use Overlay Districts provided that

7.8.2 OFF-STREET PARKING AND LOADING: Off-Street Parking Space Requirements

(G) Design and Location of Parking Areas/Stacking Spaces

- (1) The Director of Transportation and Facilities may allow parking on public streets within the Town Center, ~~Mixed use~~ and Mixed Use Overlay Districts provided that

7.10 CONNECTIVITY

7.10.2 Consistency with Other Documents

The design and evaluation of vehicular, bicycle, and pedestrian circulation systems built in conjunction with new residential and non-residential development shall adhere to applicable provisions of the ~~Town's Design Guidelines Manual, Downtown Design Guidelines, Cary Comprehensive Transportation Plan, and Standard Specifications and Details Manual plans, ordinances and manuals listed in Section 1.4,~~ in addition to meeting the requirements of this section.

7.10.4 Standards for Pedestrian Facilities

All sidewalks, greenways and street-side trails shall be designed to comply with the standards provided in the ~~Site Design Standards, the Downtown Design Guidelines, the Standard Specifications and Details Manual, the Comprehensive Transportation Plan, and the Parks, Recreation and Cultural Resources Facilities Master Plan plans, ordinances and manuals listed in Section 1.4,~~ . In addition to the general provisions of Section 7.10.3 above, the following specific standards shall be met in designing and achieving a pedestrian circulation system:

(A) Sidewalks

- (1) Sidewalks shall be installed on both sides of all thoroughfares and collector streets. In non-residential developments and property located within ~~mixed-use centers on the Land use plan~~ Mixed Use Overlay Districts, sidewalk shall also be provided on both sides of all local and private streets
- (1) Site design techniques such as shortening crosswalk distances with curb extensions, reducing sidewalk curb radii, and eliminating free right-turn lanes shall be used to improve pedestrian safety at pedestrian roadway crossings. Signals that allow longer crossing times in ~~mixed-use centers~~ Mixed Use Overlay Districts, raised crosswalks, and pedestrian refuges in medians shall be provided as appropriate.

(B) Greenways

- (8) In those cases where ~~the Town has approved special area plans which require the Comprehensive Plan requires~~ use of greenways instead of sidewalks,

the greenways shall be constructed in accordance with Town of Cary standards and specifications as provided by the Parks, Recreation and Cultural Resources Department, and shall meet the following criteria:

CHAPTER 8 – STANDARDS FOR SUBDIVISIONS AND USES REQUIRING SITE PLANS

8.1 SUBDIVISION AND SITE PLAN GENERAL PROVISIONS

8.1.1 General Design Standards....

- (K) The proposed development shall meet all other applicable requirements of this Ordinance, and, unless otherwise specified, shall comply with applicable provisions in supplemental documents such as, but not limited to, ~~the Design Guidelines Manual, Town Center Design Guidelines, Community Appearance Manual, Standard Specifications and Details Manual, and the Comprehensive Transportation Plan~~ those listed in Section 1.4;

8.1.3 Required Improvements

(A) General Requirements

The developer or applicant shall be required to do the following unless specified otherwise in this Ordinance:

- (4) Install sidewalks and pedestrian pathways in accordance with the requirements set out in the Town's Comprehensive Transportation Plan and Standard Specifications and Details Manual where ~~where~~ warranted for the public safety and convenience in view of existing and expected pedestrian traffic;

8.1.4 Improvements

(A) Streets

- (2) The street layout in the development shall conform to the arrangement, width, and location indicated on the Comprehensive Transportation Plan ~~Thoroughfare Plan Maps~~ Planned Roadway Widths Map.
- (3) Street rights-of-way shall meet the minimum widths stated in the Town's Standard Specifications and Details Manual and, if the street is indicated on the Comprehensive Transportation Plan ~~Thoroughfare Plan Maps~~ Planned Roadway Widths Map, the minimum width shown on the Comprehensive Transportation Plan ~~Thoroughfare Plan Map~~ Planned Roadway Widths Map.

8.2 SUBDIVISIONS

8.2.3 Dedication Land for Parks and Greenways

(D) Dedication of Greenway Land

- (3) If the ~~currently adopted master plan for the Town of Cary's Parks, Recreation and Cultural Resources Facilities Master Plan~~ indicates a future greenway through a proposed development,

8.2.6 Improvements

(C) Lots

(2) Flag Lots

..... Flag lots are prohibited except:

- (a) Where necessary to eliminate access onto arterial streets or thoroughfares;
- (b)

8.5 ALTERNATIVE DEVELOPMENT OPTION: TRADITIONAL NEIGHBORHOOD DEVELOPMENT

8.5.3 General Principles

(B) Interconnected Street Pattern

- (2) The design of thoroughfares and collectors shall be consistent with the Cary Comprehensive Transportation Plan.

8.5.5 Design Standards

The design of buildings, streets and streetscapes, landscapes, and open spaces in TND projects shall be consistent with the standards contained in this Ordinance, ~~Design Guidelines Manual and the Town's Site Design Standards.~~ Town Center Design Guidelines, Community Appearance Manual, and Standard Specifications and Details Manual, as applicable.

CHAPTER 10 - NONCONFORMITIES

10.1.8 GENERAL PROVISIONS: Enlargement, Expansion, Alteration, or Major Repair

(C) Findings

-
- (1) The nonconforming use allowed to continue remains compatible with adjacent land uses and the ~~Land Use Plan~~ Comprehensive Plan;

CHAPTER 12 – RULES OF CONSTRUCTION, USE CLASSIFICATIONS, AND DEFINITIONS

12.4 OTHER KEY TERMS DEFINED

~~AFFORDABLE HOUSING PLAN~~

~~The affordable housing element of the Comprehensive Plan. A policy document, consisting of an analysis of the local housing market, definitions of affordable homeownership and rental opportunities, housing goals, and recommended strategies for implementing the Town's housing goals.~~

~~COMPREHENSIVE PLAN~~

~~The collection of long-range municipal planning documents and maps that serves as the official policy guide for the long-range physical, social, and economic development of Cary, including the provision of its public infrastructure and services. The Comprehensive plan is comprised of a series of distinct plans adopted by Town Council as elements of the Comprehensive plan, each dealing with separate aspects of town planning, including but not limited to: the Growth Management Plan, the Land use plan, special area plans, the Thoroughfare Plan, the Parks, greenways, and bikeways master plan, and the Affordable housing plan. The term "Comprehensive plan" as used in this Ordinance refers to any or all of these long-range plans that taken together constitute the Comprehensive plan for Cary.~~

~~GROWTH MANAGEMENT PLAN~~

~~The growth management element of the Comprehensive plan, consisting of goals relating to various growth issues within the Town's jurisdiction. The Growth Management plan is a policy document that sets forth the Town's vision for addressing the rate and timing, location, amount and density, cost, and quality of growth.~~

MIXED USE CENTER

~~Mixed Use Centers are physically and aesthetically unified areas, where all elements and land uses are designed to function as an integrated whole (rather than as a series of unconnected, unrelated developments). Mixed Use Centers consist of commercial, institutional, and office uses needed to support a specified geographic area. These centers also include high and medium density residential uses for the population that supports non-residential uses.~~

SUBSTANTIVE AMENDMENT TO THE COMPREHENSIVE PLAN

~~A substantive amendment to the Comprehensive Plan is an amendment that would affect the fundamental meaning or recommendations of the Plan. Examples of substantive amendments include, but are not limited to: moving a mixed use center or changing the land use designation for a particular parcel in the Land use plan; moving a greenway in the Parks and Greenways Master Plan; removing a future roadway from the Transportation Plan; adopting a new policy in the Affordable housing plan; or revising official goals of the Growth Management Plan reflects a significant departure from the policy direction contained in the Comprehensive Plan.~~

In addition to the specific changes shown above, terms will be revised in various Tables as needed for consistency.