

C-UDO-76
Chapter B-Article III, IV and VI, AND
Chapter C, Article V of the
UNIFIED DEVELOPMENT ORDINANCES
TO REFLECT CHANGES IN STATE LAW, THE
STORMWATER ORDINANCE and THE LEWISVILLE-
CLEMMONS ROAD OVERLAY DISTRICT

Section 1. Chapter B, Article III, Section 3-4.9-Variance is hereby amended as follows:

3-4.9 VARIANCE

Applications for variances from the requirements of the landscaping and screening standards may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing in each case. Said application for a variance will be governed by the procedures set forth in Section B.6-1.4(B). ~~Approval of a variance shall include the determination that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance because of one or more of the following conditions:~~

- ~~(A) Narrow. Unusually narrow (less than ten (10) feet) sections of land available for planting because of existing permanent structures, existing paving, or natural features such as rock outcroppings.~~
- ~~(B) Elevation Change. Elevation change of more than twelve (12) feet within the area where the screening would be located.~~
- ~~(C) Public Safety. Specialized land uses such as public utilities, airports, etc. where strict adherence to the screening standard would significantly interfere with the function of that use and would create a public safety problem.~~
- ~~(D) Public Agency. Actions of a public agency.~~
- ~~(E) Platting or Deeding. Difficulties arising from the recording platting or deeding of land prior to the adoption of this Ordinance.~~

Section 2. Chapter B, Article III, Sections 3-5.5-Bufferyard Variance is hereby amended as follows:

3-5.5 BUFFERYARD VARIANCE

Application for *variances* from the requirements of the bufferyard standards may be approved by the Board of Adjustment in accordance with the procedures in Section B.6-1.4(B). ~~Approval of a variance shall include the determination that there are practical difficulties or unnecessary~~

~~hardships in the way of carrying out the strict letter of the ordinance because of one or more of the following conditions:~~

- ~~(A) Narrow. Unusually narrow (less than ten (10) feet) sections of land available for planting within the back and/or side yards because of existing permanent structures, existing paving, or natural features such as rock outcroppings.~~
- ~~(B) Steep Slopes/Elevation Change. Existing slopes in excess of two (2) to one (2:1) in locations where a bufferyard is required.~~
- ~~(C) Public Safety. Specialized land uses such as public utilities, airports, etc. where strict adherence to the screening standard would significantly interfere with the function of that use and would create a public safety problem.~~
- ~~(D) Public Agency. Actions of a public agency.~~
- ~~(E) Platting or Deeding. Difficulties arising from the recorded platting or deeding of land prior to the adoption of this Ordinance.~~

Section 3. Chapter B, Article VI, Section 6-1.4-Board of Adjustment is hereby amended as follows:

(B) Variances

- (1) Authority. No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:
 - (a) General Dimension Requirements for Zoning Districts listed in Sections B.2-1.2, B.2-1.3, B.2-1.4 and B.2-1.5 and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;
 - (b) Floodplain regulations as specified in Section C.2-2.7;
 - (c) Vehicular use landscaping requirements as specified in Section B.3-4;
 - (d) Bufferyard requirements as specified in Section B.3-5;
 - (e) Setback and landscaping requirements of the TO District as specified in Section B.2-1.6(B);

- (f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978;
 - (g) Off-street parking and loading as specified in Section B.3-3;
 - (h) Delay of building permits within designated Transportation Plan corridors as specified in Section B.3-7.1;
 - (i) Residential infill setback requirements as specified in Section B.3-8; (W) and
 - (j) Conservation Standards for the NCO District as specified in Section B.2-1.6(A).
- (2) Limitations. The Board of Adjustment shall not grant a variance to permit a use not permitted in the applicable zoning district, nor shall it grant a variance for a site plan feature or condition adopted in conjunction with a special use district zoning.
- (3) Public Hearing. Applications for *variances* may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing in each case.
- (4) Hardship. ~~Said application for a variance may be approved only upon a finding of unnecessary hardship in meeting the dimensional requirements of this Ordinance. The hardship must arise from the recorded platting or deeding of land or any building constructed and completed prior to the adoption of this Ordinance, from any act of a public agency, or from natural conditions beyond the control of the property owner. The Board of Adjustment shall vary the provisions of the Ordinance upon a showing of all of the following: When unnecessary hardships would result from carrying out the strict application of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:~~
- (i) The unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of a variance, no reasonable use can be made of the property;
 - (ii) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
 - (iii) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist

that may justify the granting of a variance shall not be regarded as a self-created hardship; and

- (iv) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

~~(5) Findings. The Board of Adjustment shall approve of a variance only when the Board of Adjustment makes an affirmative finding as follows:~~

~~(a) That the approval of the variance will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;~~

~~(b) That the use of the property otherwise meets all required conditions and specifications;~~

~~(c) That the approval of the variance will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,~~

~~(d) That the location and character of the use, if developed according to the variance, will otherwise be in harmony with the area in which it is to be located and in general conformity with Legacy.~~

~~(e) That the basis for a hardship determination in subsection B.6-1.4(B)(4) is met.~~

~~(65) Review of Applications. Any such variance shall observe the spirit and purpose of this Ordinance and shall be granted only with reference to conditions and circumstances peculiar to the property involved. If the Board of Adjustment denies the application for a variance, it shall enter the reasons for the denial in the minutes of the meeting at which the action was taken.~~

~~(76) Conditions. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~

~~(8 7) Voting on Variance Requests. The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.~~

Section 4. Chapter B, Article IV, Section 6-2.1 (O) Protest Petition is hereby amended as follows:

- O) ~~Protest Petition.....~~ Submission of Written Statements...~~The Unified Development Ordinance may from time to time be amended, supplemented, changed, modified or repealed. If any resident or property owner in the Village limits submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Village Clerk at least two business days prior to the proposed vote on such change, the Village Clerk shall deliver such written statement to the Village Council. In case of a protest against any amendment or change of the zoning ordinance signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change; or of those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet therefrom; or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots; such amendment shall not become effective except by favorable vote of three fourths (¾) of all members of the Elected Body.~~

~~No protest against any change or amendment of the zoning ordinance shall be valid or effective under the provisions of the foregoing paragraph unless such protest is in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless such protest shall have been received by the Elected Body in sufficient time to allow at least two (2) normal workdays, excluding Saturdays, Sundays, and legal holidays, prior to the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. Such petition shall be accompanied by a map or sketch clearly showing the property of the petitioners in such detail as to show that the ownership requirements of the foregoing paragraph are met, which would compel a three fourths (¾) favorable vote by the Elected Body.~~

Section 5. Chapter C, Article IV, Subsection 4-21.2-Notice of Violation is, hereby, amended as follows:

4-21.2 NOTICE OF VIOLATION

If, through inspection, it is determined that a person engaged in land disturbing activity has failed to comply with the Act, this chapter, or rules or orders adopted or issued pursuant to this chapter, or has failed to comply with an approved plan, a notice of violation shall be served upon that person by registered or certified mail or other means reasonably calculated to give actual notice. The notice shall specify a date by which the person must comply with the Act, or this Ordinance, or rules or orders adopted pursuant to this Ordinance, and inform the person of the actions that need to be taken to comply with the Act, this Ordinance or rules or orders adopted pursuant to this Ordinance. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the Local Government serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this Ordinance. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this Subsection 4-21.2, the Local Government shall deliver the notice of violation in person and

shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the North Carolina Department of Environmental Quality, referral to a cooperative extension program, or by the provision of written materials, such as North Carolina Department of Environmental Quality guidance documents. If the Local Government is unable to deliver notice of violation, in person, within fifteen (15) days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by N.C.G.S 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures.

Section 6. Chapter C, Article IV, Subsection 5-22.1-Civil Penalties is, hereby, amended as follows:

4-22.1 CIVIL PENALTIES

~~(A) Procedure Any person who violates any of the provisions of this section-Article IV of Chapter C of the Ordinance, or rules, or orders adopted or issued pursuant to this section of the Ordinance, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty of not more than up to five thousand dollars (\$5,000.00) per day, except that the penalty fee for failure to submit an erosion and sedimentation control plan shall be as provided in Subsection C.4-16.2. Each day of continuing violation shall constitute a separate violation. A person may be assessed an initial civil penalty of up to five thousand dollars (\$5,000.00) for the first day the violation is detected, and daily civil penalties, thereafter, for every day the violation continues. Notwithstanding any of the foregoing, if the person has not previously been assessed any civil penalty under G.S. 113A-64(a) or this Subsection 5-22.1 for any prior violation, and has since abated any continuing environmental damage resulting from the current violations, within one hundred eighty (180) days from the date of the notice of violation, the maximum associated with the land-disturbing activity for which the erosion and sedimentation control plan is required will be twenty-five thousand dollars (\$25,000). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the day the violation is first detected. However, no time period for compliance need be given for failure to submit an erosion control plan for approval or for obstructing, hampering, or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation. A person may be assessed a one-time civil penalty of up to five thousand dollars (\$5,000.00) for the day the violation is first detected.~~

(B) Amount and Enforcement The Director of Inspections shall determine the amount of the *civil* penalty to be assessed under this Subsection 4-22.1 and shall provide notice to the person in violation directing the violator to either pay the assessment or contest the assessment by a written demand for a hearing within thirty (30) days after receipt

of the notice of assessment. The notice shall set forth; in detail: (i) the *civil* penalty amount, (ii) a description of the violation for which the penalty has been imposed; and (iii) the basis for assessment, (iv) the option available to the violator to request a remission of the civil penalty, under G.S. 113A-64.2 and Subsection 4-22.1(E), below, (v) the date by which the violator must make the remission request regarding the particular penalty, and (vi) if the violator has not previously been assessed any civil penalty under G.S. 113A-64(a) or this Subsection 4-22.1 for any prior violation, the date by which the violator must abate continuing environmental damage resulting from the violation, in order to qualify for the twenty-five thousand dollar (\$25,000) cap on cumulative total civil penalty under subsection 4-22.1(a) above. In determining the amount of the penalty, the Director of Inspections shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this ordinance. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not made within thirty 30 days after it is "due", as that term is used below, or if demand for hearing to contest the assessment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to the Clemmons Attorney for institution of a *civil* action in the name of the City of Winston-Salem/Forsyth County in the appropriate division of the general courts of justice superior court of the county where the violation occurred or the violator's residence or principle place of business is located, for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this chapter. Such actions must be filed within three (3) years of the date the final decision was served on the violator the assessment was due. An assessment that is not contested is due at the conclusion of the administrative or judicial review of the assessment, as the case may be.

(C) Contest of Assessment A hearing on a *civil* penalty shall be conducted by the Director of Inspections within thirty (30) days after the date of receipt of the written demand for hearing. The Director of Inspections shall render his decision on the *civil* penalty at the conclusion of the hearing. Appeal from the final decision of the Director of Inspections shall be to the Superior Court of Forsyth County where the violation occurred.

(D) Disbursal of Penalties Civil penalties collected pursuant to this Ordinance shall be used or disbursed as directed by G.S. 113A-64(a)(5).

(E) Requests for Remission of Civil Penalties

- (i) A request for remission of a civil penalty imposed under G.S. 113A-64 or this Subsection 4-22.1 may be filed with the North Carolina Sedimentation Control Commission within sixty (60) days of receipt of the notice of the assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing, pursuant to Chapter 150B of the General Statutes, and a stipulation of the facts on which the assessment was based.

- (ii) The following factors shall be considered by the North Carolina Sedimentation Control Commission in determining whether a civil penalty remission request will be approved:
 - (a) Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied, to the detriment of the petitioner,
 - (b) Whether the petitioner promptly abated continuing environmental damage resulting from the violation,
 - (c) Whether the violation was inadvertent or the result of an accident,
 - (d) Whether the petitioner has been assessed civil penalties for any previous violations,
 - (e) Whether payment of civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship, and
 - (f) The property tax value of the petitioner's property, upon which the violation occurred, excluding the value of any structures located on the property
- (iii) The petitioner shall have the burden of establishing that the civil penalty imposes financial hardship and of providing supporting information and documentation.
- (iv) The North Carolina Sedimentation Control Commission may remit the entire amount of the penalty only when the petitioner has not been assessed civil penalties for previous violations and payment of the current civil penalty will prevent payment for necessary remedial actions.
- (v) The North Carolina Sedimentation Control Commission will not impose a penalty under G.S. 113A-64.2 that exceeds the civil penalty imposed by the North Carolina Department of Environmental Quality.

Section 7. Chapter C, Section 7-7.3, Establishment of a watershed review board is amended as follows:

The Village of Clemmons ~~Zoning Board of Adjustment~~ Stormwater Advisory Board shall serve as the Watershed Review Board.

Section 8. Chapter C, Article III, Section 3-3.7, Development Regulations, Maintenance and Inspections is amended as follows:

3-3.7(A)(2) Annual Maintenance Inspection And Report

(2) Annual Maintenance Inspection and Report.

~~The owner of a permitted structural BMP installed pursuant to this Ordinance shall annually submit a maintenance report for each BMP. Pursuant to this ordinance structural BMPs shall be inspected and an annual maintenance report shall be submitted by a licensed professional as defined by this Ordinance. Reports shall be submitted to filed with~~ the Clemmons Stormwater Administrator. Maintenance reports

must be performed by a registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence, or by a "Certified Stormwater BMP Inspection and Maintenance Professional" as certified by the North Carolina State University Cooperative Extension, whose documented, and current, certification shall accompany the report. Annual inspections shall begin within one year ~~from of the~~ issuance of the Stormwater Management Occupancy Permit recordation of any deed(s) showing stormwater control structures. The inspection report shall contain, at a minimum, the following:

- a. The name and address of the land owner;
- b. The recorded book and page number of the lot for each structural BMP;
- c. A statement that an inspection was made for all structural BMPs;
- d. The date the inspection was accomplished;
- e. A statement that all inspected structural BMPs are performing properly and are in compliance with the term and conditions of the approved maintenance agreement required by Section 3-4.1 of this Ordinance;
- f. The original signature and seal of the engineer, surveyor, or landscape Architect, or documented certification as a BMP Stormwater Professional;
- ~~g. A statement by the owner certifying that all periodic maintenance standards were performed during the previous year, as referenced in paragraph (1) above.~~

7-1.5 Exceptions to Applicability

- (A) Nothing contained herein shall repeal, modify, or amend any federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of the Village of Clemmons; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in Clemmons at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
- (B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (C) This Ordinance shall not apply to single family residential development or single-family redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale.
- (D) Development or redevelopment including non-residential and residential (excluding single-family) that cumulatively disturbs less than 20,000 square feet is exempt from the quantity management provisions of this Ordinance.

~~(D)~~ (E) This Ordinance shall not apply to any single family residence constructed upon an individual lot, provided that such lot was created by subdivision platted and approved prior to the effective date hereof.

~~(E)~~ (F) This Ordinance shall not apply to accessory dwellings as referenced in Section B.2-6.4(B)(3) of the Unified Development Ordinance.

~~(F)~~ (G) This Ordinance shall not apply to redevelopment projects that result in no net increase in built-upon area and provide equal or greater stormwater control than the previous development.

~~(G)~~ (H) This Ordinance shall not apply to ongoing agricultural and forestry activities as defined in Section 404 of the Federal Clean Water Act, 40 CFR 232.

~~(H)~~ (I) Existing Development. This Ordinance shall not apply to development conducted pursuant to one of the following authorizations, (provided that the authorization was obtained prior to the effective date of this Ordinance and the authorization is valid, unexpired, un-revoked, and not otherwise terminated) under:

- (1) A building permit pursuant to G.S. 160A-417;
- (2) A site-specific development plan as defined by G.S. 160A-385.1(b)(5);
- (3) A vested right to the development under G.S. 160A-385(b), or 160A-385.1;
- (4) A vested right to the development pursuant to common law.

~~(I)~~ (J) Reconstruction of Buildings or Built-Upon Areas. This Ordinance shall not apply to any structure or built-upon area that has been damaged or removed and the same may be repaired, reconstructed, or replaced provided that:

- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage, and
- (2) The total amount of space devoted to built-upon area is not increased.

Chapter C-Environmental Ordinance, Article VII, Stormwater Quantity Management is hereby amended by

(A) General Standards for Maintenance

(2) Annual Maintenance Inspection and Report.

~~The owner of a permitted structural BMP installed pursuant to this Ordinance shall annually submit a maintenance report for each BMP. Pursuant to this ordinance structural BMPs shall be inspected and an annual maintenance report shall be submitted by a licensed professional as defined by this Ordinance.~~ Reports shall be ~~submitted to~~ filed with the Clemmons Stormwater Administrator. Maintenance reports must be performed by a registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence, or by a "Certified Stormwater BMP Inspection and Maintenance Professional" as certified by the North Carolina State University Cooperative Extension, whose documented, and current, certification shall accompany the report. Annual inspections shall begin within one year ~~from of the~~ issuance of the Stormwater Management Occupancy Permit ~~recording of any deed(s) showing stormwater control structures.~~ The inspection report shall contain, at a minimum, the following:

- a. The name and address of the land owner;
- b. The recorded book and page number of the lot for each structural BMP;
- c. A statement that an inspection was made for all structural BMPs;
- d. The date the inspection was accomplished;
- e. A statement that all inspected structural BMPs are performing properly and are in compliance with the term and conditions of the approved maintenance agreement required by Section 3-4.1 of this Ordinance;
- f. The original signature and seal of the engineer, surveyor, or landscape Architect, or documented certification as a BMP Stormwater Professional;
- ~~g. A statement by the owner certifying that all periodic maintenance standards were performed during the previous year, as referenced in paragraph (1) above.~~

Section 9. Chapter B, Article II, Section 2-1.6(E) shall be amended as follows:

(E) Lewisville Clemmons Road (South Overlay District)

(A) Vision.

The Lewisville-Clemmons Road Corridor Overlay District is to facilitate implementation of the *general* intent of the Lewisville-Clemmons Road Strategic Area (south) to promote the redevelopment of the area into a mixed use commercial/office/residential. It is intended to foster development that improves traffic/safety, intensifies land use and economic value, to promote a mix of uses, to enhance the livability of the area, to enhance pedestrian connections, parking conditions, and to foster high-quality buildings and public spaces that help create and sustain long-term economic vitality.

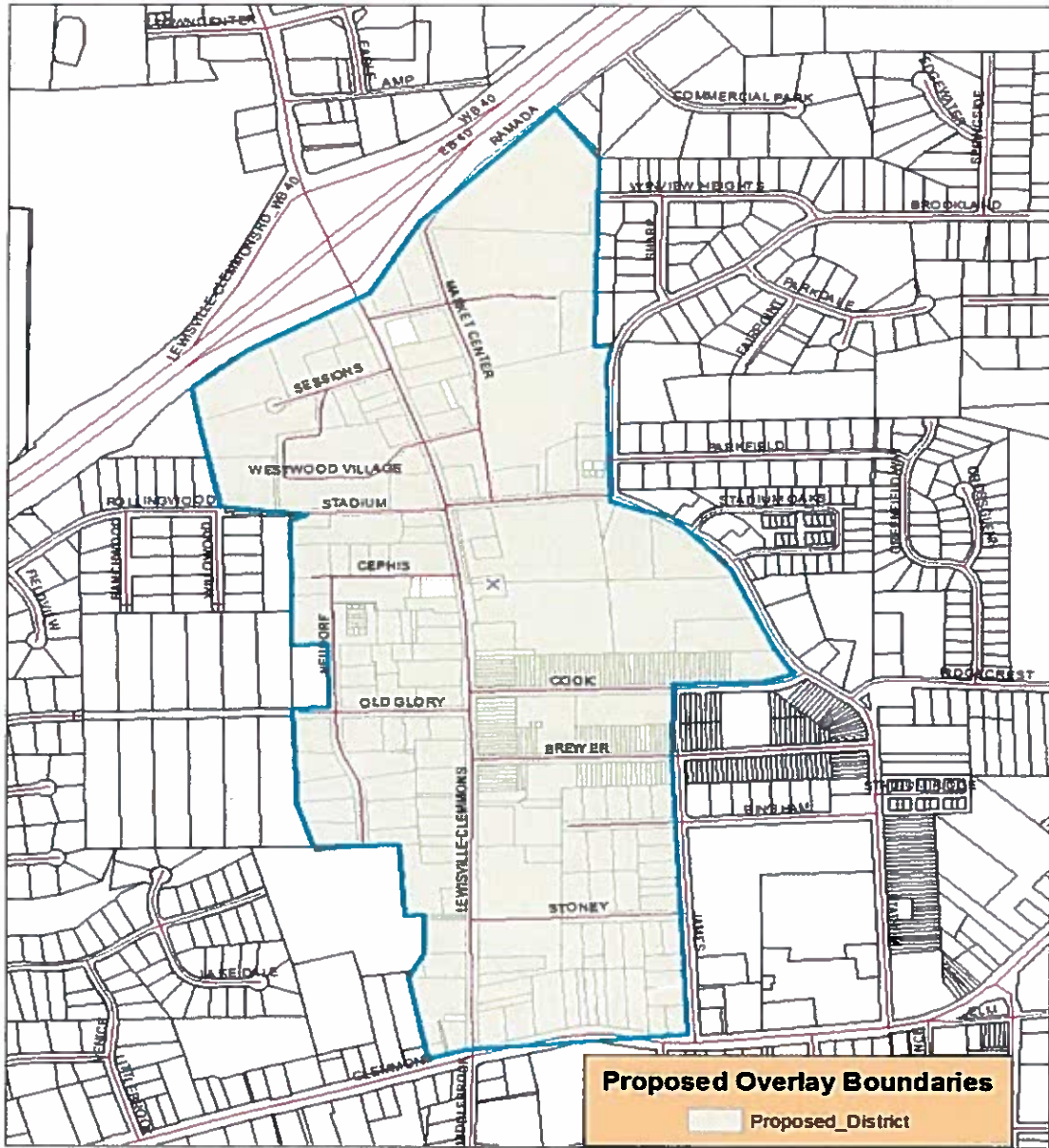
(B) Intent

Lewisville-Clemmons Road is expected to continue carrying significant traffic volumes making development along the corridor highly visible to the traveling public. Therefore, the main objectives of this proposed district is to:

1. Develop visible interconnected alternate traveling routes to provide the motoring public choices in trip destination
2. Strategically close some driveways along the corridor for safety measures and develop cross access opportunities where appropriate
3. Establish high standards for buildings and landscaping improvements with a cohesive street tree plan and consistent standards for building design
4. Establish a safe pedestrian network for residents and visitors to access numerous sites by foot
5. Promote businesses along the corridor by the development of a wayfinding signage program and other applications

Geographic Boundary

The proposed geographic boundary begins at the interchange (I-40/Lewisville-Clemmons Road) and continues south to the intersection of Lewisville-Clemmons Road and Middlebrook. The map shown below provides the specific geographic boundaries by parcel lines.



(C) Application and Exemptions

1. These standards apply to sites (including principal and accessory buildings) that are within the Lewisville-Clemmons Road Corridor Overlay district unless otherwise specified herein, and apply to all permitted uses allowed within the district.
2. Farm uses are exempt from these requirements provided they meet the base zoning district requirements.
3. Existing single family units are exempt from these requirements provided they meet the base zoning district requirements.
4. Expansions to buildings that exist on the date this ordinance is adopted are exempt from the requirements of this ordinance.

5. New development, building expansions and demolition/rebuilds that are 25% or greater or cumulative additions 25% or greater of the original building footprint shall conform to all requirements of this section. All other requirements noted in this ordinance shall apply to the 25% or great building expansion requirements unless specified below.
6. The streetyard requirements as identified in section B.3-4.3(B):
 - a. Additions to existing sites that are equal to or greater than five (5) percent of the sites' existing building square footage or the addition of one-thousand (1,000) sq. feet or more of building or,
 - b. When ten (10) or more parking spaces are added to a site with no building or,
 - c. Façade changes to ten(10) percent or more of any building wall facing a vehicular way intended for public travel regardless of ownership (e.g. adding or eliminating doors, windows, closings, openings or increased wall area)
7. Right-of-way shall be required to be recorded as shown in "Exhibit A" with a zoning change of use permit as shown in Exhibit A.
8. Any new roadway connectors as shown in "Exhibit A" shall be required with new development and/or by the Village of Clemmons, NC.
9. Driveway Closures. RESERVED
10. Newly created sidewalks as shown in "Exhibit A" shall be required under the same requirements of Section E above.

(D) Permitted Uses

The overlay district provisions apply to any base zoning district set forth in this chapter that exists within the defined overlay area. The following permitted uses are allowed for this proposed geographic area by use category:

1. Residential Uses

Single Family, Townhomes, Multi-family, Congregate Care Facility, Family group care facilities, A, B, and C, Life Care Community

2. Retail and Wholesale Trade

ABC store, Arts and Crafts Studio, Building Materials Supply, Convenience Store, Food/Drug Store, Furniture Store, General Merchandise Store, Hardware Store, Implement Sales and Service, Motorcycle Dealer, Nursery/Lawn/Garden Retail Store, ~~Outdoor Display Retail~~, Restaurants (with and without drive-through service), ~~Retail Developments larger than 125,000 square feet~~ Retail Developments larger than 90,000 square feet (use Big Box standards for this use), Retail Misc., Whole Trade A

3. Business and Personal Services

Banking and Financial Services, Bed and Breakfast, Building Contractors General, Car Wash, Funeral Home, Health Services Misc., hotel/motel, Kennel, Medical Lab, Medical Offices, Motor Vehicle, Leasing/Rental, Repair/Maintenance, Body/Paint Shop, Office Misc., Professional Office, Service Personal, Services, Business A/B, Veterinary Services

4. Recreational Services

Recreation Services, Indoor and Outdoor, Public Recreation Services, Swimming Pool, Private, Theater, Indoor

5. Institutional and Public Uses

Academic Medical Center, Adult Day Care, Adult Day Care Center, Child Care facilities, Religious Institutions, Club or Lodge, College/University, Government Offices, Group Care Facilities, Hospital or Health Center, Library, Museum/Art Gallery, Neighborhood Care Institution, Police/Fire Station, Post Office, School

(E) Standards.

1. Pedestrian Accommodations

- a. All new development shall provide pedestrian walkways between the building and entrance/exits and parking areas, and within parking areas to designated walking areas especially where there is a need to connect dispersed buildings with parking areas
- b. All pedestrian amenities in "Exhibit A" shall meet Section 1 (e) requirements for construction
- c. All new development shall provide canopy shade trees, landscape features and seating or other pedestrian amenities near colonnades, storefronts, and pedestrian routes

2. Cross Access and Right-of-ways

- a. Cross access easements between properties are encouraged, however the Village of Clemmons will proactively rank cross access priorities and negotiate with properties outlined in "Exhibit A" to make cross access requirements.
- b. Public Right-of-ways are required to be dedicated as noted in "Applications and Exemptions (G)". The Village of Clemmons shall make necessary improvements to the public right of way from a priority list as property owners voluntarily dedicate outside of the development review process. The priority list shall be kept in the Village of Clemmons Planning Office.

3. Driveway modifications. RESERVED

4. Landscaping.

- a. As noted in "Exhibit A" landscaping as defined in section B.3-4(B) is required to form cohesion to the existing corridor and to delineate connectivity routes.

5. Zoning Setbacks. Zoning Setback for the defined geographic area shall have the flexibility to be modified up to a zero setback for redevelopment sites in order to encourage infill development. Redevelopment proposals that request setback reductions shall be reviewed by the Village of Clemmons Planning Board for consistency with the overall intent of the plan. The setback reductions shall be reviewed on a case by case basis based on location and shall consider location, future roadway improvements and surrounding land use.

(F) Overlay Flexibility Standards

1. If a developer and/or property owner cannot meet the requirements set forth in this overlay section a creative design option shall be submitted to the Village of Clemmons Planning Department for review. The Village of Clemmons Planning Board shall review the plan for the consistency of the overall intent of the overlay district set forth in vision and intent section of this amendment.

Approved this 11 day of Sept. 2017



Nickolas B. Nelson, Mayor

Attest:



Lisa Shortt