



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



**Date:** March 26, 2018

**To:** Durham Board of County Commissioners

**Through:** Wendell M. Davis, County Manager

**Through:** Jay Gibson, General Manager

**From:** Patrick O. Young, AICP, Planning Director

**Subject:** Administrative Interpretation of Neuse/Jordan Lake Protected Area (F/J-B)

Summary. The City-County Planning Department has received a request from Jeanelle Morton, P.E, for an administrative interpretation of the water supply watershed protection overlay boundary of the Falls /Jordan Lake Protected Area (F/J-B), pursuant to the *Unified Development Ordinance*, Section 4.11.3, Rules and Interpretations of Overlay Boundaries. The property affected is located at 2801 Olive Branch Road (PID 194304). Ms. Morton requests that the property be removed from the F/J-B district. The request includes a signed and sealed land survey that establishes that a portion of the property is more than one mile from the normal pool of Falls Lake. The Planning Director has evaluated the request and recommends removing the property from the F/J-B overlay district. The North Carolina Administrative Code requires that the North Carolina Environmental Management Commission (EMC) approve all expansions and deletions to protected and critical area boundaries prior to adoption by the local government. The Planning Director requests authority from the Board of Commissioners to submit the proposed change to the watershed protection overlays to the EMC for approval.

**Recommendation.** The Planning Department recommends that the Board of Commissioners authorize the Planning Director to seek approval from the EMC for this interpretation of the F/J-B boundary line for property located at 2801 Olive Branch Road.

**Background.** Durham mapped watershed protection overlays in the early 1990s in response to new minimum state requirements. At that time, Durham opted to apply the following two policies to guide mapping of overlay boundaries:

- 1) When an arc representing the one-mile Critical Area crossed a property, the entire property would be included inside the Critical Area; likewise for the five-mile Protected Area.
- 2) The *Zoning Ordinance* (incorporated into the *Unified Development Ordinance* in 2006) included language to allow the Planning Director to make an administrative interpretation in cases where a property was transected by the one- and five-mile arcs at the request of the property owner.

Section 4.11.3, Rules for Interpretation of Overlay Boundaries, has been used several times in the past by multiple Planning Directors to more accurately locate watershed protection overlay boundaries.

The property in question comprises a 16 acre site, wholly located within the F/J-B boundary. The site's southern property line is the edge of the F/J-B district (see Attachment 1). The applicant's survey indicates that the boundary should be shifted to the north by approximately 600 feet, the site's northern property boundary line, as the entire site drains away from Falls Lake towards Little Brier Creek and Sycamore Creek. The intervening ridgeline between the subject property and Falls Lake can be seen on the watershed delineation survey (Attachment 3). The Planning Director has evaluated the request and recommends removing the property from the F/J-B overlay district.

The North Carolina Administrative Code, in Rule 15A NCAC 02B.0104(o), requires that the EMC approve all expansions and deletions to Protected Area and Critical Area boundaries prior to adoption by the local government. The Planning Director requests authority from the Board of Commissioners to submit the proposed change to the watershed protection overlays to the EMC for approval.

**Issues.** There are no significant issues.

**Alternatives.** The Board of Commissioners could elect not to authorize the Planning Director to submit the proposed watershed overlay boundary change to the EMC for approval, effectively refusing the applicant's request for interpretation.

**Staff Contact**

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**Attachment**

Attachment 1: Context Map

Attachment 2: Submitted Materials

Attachment 3: Watershed Delineation Survey