



Date: September 24, 2018

To: Wendell M. Davis, County Manager
Through: Jay Gibson, General Manager
From: Patrick O. Young, AICP, Planning Director
Subject: Administrative Interpretation of Falls/Jordan Lake Protected Area (F/J-B)

Summary. The City-County Planning Department has received a request from Jacob Anderson, of Alliance Group NC, LLC, for an administrative interpretation of the water supply watershed protection overlay boundary of the Falls /Jordan Lake Protected Areas (F/J-A and 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 739 Baptist Road (PID 193766). Mr. Anderson requests that the boundary between the F/J-A and the F/J-B overlay districts be adjusted. The signed and sealed land survey provided by the applicant shows the current F/J-A, as mapped, being located more than one mile from the normal pool of Falls Lake. The Planning Director has evaluated the request and recommends adjusting the F/J-A and F/J-B overlay boundaries. 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-A and F/J-B boundary line for property located at Baptist 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 site in question is approximately 209 acres, partially located within the F/J-A overlay and the remainder within the F/J-B overlay. The current boundary between the F/JA and the F/J-B district is located in the southern portion of the site (see Attachment 1). The applicant's survey indicates that the overlay boundary should be located to the north by approximately 750 feet. The Planning Director has evaluated the request and recommends adjusting the overlay boundary as shown on the survey (Attachment 3) and further depicted on the context map (Attachment 1).

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: Application

Attachment 3: Watershed Delineation Survey