



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: March 9, 2015

To: Wendell Davis, County Manager

Through: Lee Worsley, Deputy County Manager

From: Steven L. Medlin, AICP, Planning Director
and Laura D. Woods, AICP, Senior Planner

Subject: Administrative Interpretation of Neuse/Jordan Lake Critical Area (F/J-A)

Summary. The Planning Department received a request from Meyer Engineering & Consulting, PLLC, for an administrative interpretation of the water supply watershed protection overlay boundaries of the Falls of the Neuse/Jordan Lake Critical Area (F/J-A) and Falls of the Neuse/Jordan Lake Protected Area (F/J-B), pursuant to the *Unified Development Ordinance*, Section 4.11.3, Rules and Interpretations of Overlay Boundaries. The properties affected, located at 3700 and 3702 East Geer Street, are owned by Mr. Christopher Robert Meyer, who requests that his properties be transferred from F/J-A to F/J-B. The request includes a signed and sealed land survey that attests that the properties are more than one mile from the normal pool of Falls of the Neuse Lake.

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 boundary in northeast Durham County.

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* (subsequently the *Unified Development Ordinance*) includes 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 5.11.3, 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 properties in question, located at 3700 East Geer Street (PIN 0853-02-75-087) and 3702 East Geer Street (PIN 0853-02-75-1991), comprise a 2.7 acre site located within F/J-A, adjacent to the F/J-B boundary. The normal pool of Falls of the Neuse Lake is defined as the topographic contour line at 251.5 feet above sea level. The site is within one mile of the 251.5 foot elevation at Ellerbe Creek, a tributary of Falls of the Neuse Lake, located north of the site. However, an intervening ridgeline precludes stormwater runoff from the site flowing toward Ellerbe Creek. Instead, stormwater runoff flows southeast to Panther Creek. The land owner has submitted a survey, prepared by Puckett Surveyors, PLLC, which documents that the site is located more than one mile from the normal pool of Falls of the Neuse Lake, as measured within the Panther Creek Basin (See Attachment D). The Planning Director has evaluated the request and supports transfer of the properties from F/J-A to F/J-B.

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 Mr. Meyer's request for interpretation.

Staff Contact

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Attachment

Attachment A: Location Map

Attachment B: Context Map

Attachment C: Land Owner Request for Administrative Interpretation

Attachment D: Land Owner's Watershed Delineation Map