



Date: May 28, 2019

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)

Executive 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). 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.

Recommendation

The Planning Department recommends that the Board of Commissioners approve the request to revise the F/J-A and F/J-B boundary line for property located at 739 Baptist Road as shown on the survey provided as Attachment 4 to this agenda item and further depicted on the context map (Attachment 1).

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 Planning Directors to more accurately locate watershed protection overlay boundaries.

The site in question is approximately 209 acres, with 151.75 acres located in the F/J-A overlay and the remaining 57.44 acres 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 as shown on Attachment 1. The applicant's survey indicates that the

overlay boundary should be located to the north by approximately 750 feet which would result in 59.81 acres in the F/J-A area and 149.38 acres in the F/J-B area. 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). On September 24, 2018 the Board of County Commissioners voted unanimously to direct the Planning Director to send the request to the Division of Energy, Mineral and Land Resources (DEMLR) for review and action.

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 approval authority was delegated from EMC to the Division of Water Quality (DWQ) and then later transferred to the DEMLR. The DEMLR has reviewed and approved the proposed amendment to the F/J-A and F/J-B watershed protection overlay boundary (Attachment 5).

Issues

There are no significant issues.

Alternatives

The Board of Commissioners could elect not to change the current watershed protection overlay boundary on the zoning map.

Staff Contact

Grace Smith, 919-560-4137 ext. 28215, grace.smith@durhamnc.gov

Attachments

- Attachment 1:** Context Map
- Attachment 2:** Topographical Map
- Attachment 3:** Application
- Attachment 4:** Watershed Delineation Survey
- Attachment 5:** DEMLR/EMC Approval Letter