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NORTH CAROLINA



Zoning Map Change Report

As per Section 3.5.7A.1 of the Unified Development Ordinance, this item was administratively deferred from the September 14, 2009 Board of Commissioners meeting at the request of an opponent.

Meeting Date: October 12, 2009

Reference Name	Jordan Lake Critical Area (Z0900009)	Jurisdiction	County
Request	Proposed Overlay	Falls/Jordan District A (F/J-A), Falls/Jordan District B (F/J-B)	
Site Characteristics	Existing Zoning	Residential Rural (RR), Planned Development Residential 0.220 (PDR 0.220), Office/Institutional (OI), Science/Research Park (SRP)	
	Existing Use	Vacant, Agriculture, Single-Family Residential, Open Space, Research	
	Tier	Rural, Suburban	
	Land Use Designation	Rural Density Residential (0.5 DU/Ac or less), Very Low Density Residential (2 DU/Ac or less), Recreation/Open Space, Office, Research & Research Applications	
	Overlays	F/J-A, F/J-B	
	Site Acreage	834.7 (352.6 acres from F/J-B to F/J-A, 257.6 acres from F/J-A to F/J-B, 95.6 acres from no overlay to F/J-B, 128.9 acres from F/J-B to no overlay)	
Applicant	County of Durham	Submittal Date	May 15, 2009
Location	Generally west of NC 751, east of Farrington Mill Road, south of Stagecoach Road, and north of the Chatham County line, and between NC 55 and Hopson Road, north of the Wake County line		
PINs	(See Attachment 7)		

Recommendations/ Comments	Staff	Approval, should the plan amendment (Jordan Lake Critical Area A090004) be adopted, based on consistency with the <i>Comprehensive Plan</i> and considering the information contained in this report.
	Planning Commission	Denial, 12-0, on August 11, 2009. The Planning Commission finds that the ordinance request is not consistent with the adopted <i>Comprehensive Plan</i> . The Commission believes the request is not reasonable nor in the public interest and recommends denial based on inconsistency with the neighboring land uses, concerns regarding impacts on the environment, opposition from the community, and inadequate policy direction for determining the normal pool location.
	DOST	No comments
	Bike/Ped	No comments

A. Summary

Section 4.11 of the Unified Development Ordinance (UDO) establishes the requirements for delineating Watershed Protection Overlay district boundaries. Properties within one mile of the normal pool of a water supply reservoir should be designated as F/J-A. Properties between one and five miles of the normal pool should be designated as F/J-B.

In response to the revised location of the normal pool of Jordan Lake, the proposed zoning map change would:

1. Adjust the boundaries of the F/J-A and F/J-B Watershed Protection Overlay districts to correspond with the revised one-mile critical area and five-mile protected area; and
2. Adjust the boundaries of the F/J-A and F/J-B Watershed Protection Overlay districts, where appropriate, in accordance with Section 4.11.2D of the UDO to reflect subdivision activity and improved mapping technology.

B. Site History

Zoning Map Change Case P02-79 (Colvard Farms) for the property located at 9310 NC 751 was approved by the Board of Commissioners on May 12, 2003. The approved request of PDR 0.220 allows 37 single family units with 2-acre minimum lots.

In 2005, the owners of several parcels of land in southwest Durham requested that the Planning Director make an interpretation about the location of the Jordan Reservoir normal pool based on survey information. The Planning Director determined that the survey represented better information about the normal pool location and used it to administratively determine the location of the Critical and Protected Areas. Subsequently, Durham County received notice from the N.C. Division of Water Quality (DWQ) that the County acted outside its authority in

administratively adjusting the normal pool boundary. In November 2008, at the direction of the Board of County Commissioners, the Planning Director submitted a request to DWQ to approve the survey information delineating the Jordan Reservoir normal pool. DWQ accepted and approved the proposed revisions to the Critical and Protected Area boundaries around Jordan Lake as better information than the 1973 U.S. Geological Survey quads used to establish the normal pool location.

There have been no other recent zoning map change requests within the affected area.

C. Site Characteristics

Unlike typical zoning map change requests, the only issue at hand with a Watershed Protection Overlay District is the distance of a property from the normal pool of a drinking water reservoir. If the Board of Commissioners accepts the revised normal pool location of Jordan Lake, the watershed boundaries should be adjusted accordingly based on the ordinance mandated distances from the normal pool location.

D. Requested Overlay Characteristics

The **-F/J-A (Falls/Jordan District A) and -F/J-B (Falls/Jordan District B) Watershed Protection Overlay** – The purpose this overlay district is to preserve the quality of the region's drinking water supplies through application of the development standards intended to protect the environment. In general, water supply protection will be accomplished by establishing and maintaining low intensity land use and development on land near the region's water supply rivers and reservoirs. Where high density development is desired, water supply protection will be accomplished through the use of engineered stormwater controls. The overall objective is to:

- Reduce the risk of pollution from stormwater running off of paved and other impervious surfaces; and
- Reduce the risk of discharges of hazardous and toxic materials into the natural drainage system tributary to drinking water supplies.

In the F/J-A district, impervious surface is limited to 6% in the first half mile area and 9% in the second half mile area. In the F/J-B district, impervious surface is limited to 24%, or 70% with the use of engineered stormwater controls.

Section 4.1.2 of the UDO specifies generally where the boundaries of the Watershed Overlay Districts shall be applied, as well as which properties shall be included. Specifically, Section 4.1.2 states, “(w)here a general boundary crosses a parcel, parcels one-half acre or less shall be excluded from the Overlay, and parcels greater than one-half acre shall be included.” Section 4.11.3 allows a property owner whose property is bisected by the one-mile arc to request the Planning Director to determine the exact boundary of the Watershed Overlay.

Staff Analysis and Conclusion. This zoning map change request revises the boundaries of the F/J-A and F/J-B Overlay districts consistent with the state-recognized normal pool location of Jordan Lake, and the requirements of Section 4.11 of the UDO.

E. Infrastructure Impacts

The proposed zoning map change does not change the base zoning district for any individual property within the affected area. However, a change in overlay designation from F/J-A to F/J-B will allow higher-density development options to be utilized on those properties.

F. Plan Consistency

Plan Requirements			
<i>Comprehensive Plan</i>	Policy	Requirement(s) (LOS = Level of Service)	Consistent
	9.1.4b	Watershed Critical Areas and Land Use	Yes

Staff Analysis and Conclusion. The proposed zoning map change request is consistent with the applicable policies of the *Comprehensive Plan*.

G. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a zoning sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Fairfield Community Awareness Committee
- Friends of Durham
- Inter-Neighborhood Council
- Jordan Lake Resource Management
- Northeast Creek Stream Watch
- Partners Against Crime—District 4
- Town of Chapel Hill

H. Recommendations

Staff recommends approval, should the plan amendment (Jordan Lake Critical Area A090004) be adopted, based on consistency with the *Comprehensive Plan*, and considering the information provided in this report.

The Planning Commission recommends denial. The Planning Commission finds that the ordinance request is not consistent with the adopted *Comprehensive Plan*. The Commission believes the request is not reasonable nor in the public interest and recommends denial based on inconsistency with the neighboring land uses, concerns regarding impacts on the environment, opposition from the community, and inadequate policy direction for determining the normal pool location.

I. Summary of the Durham Planning Commission Minutes of August 11, 2009 (Case Z0900009)

Plan Amendment Request: Change in Tiers and designated land uses due to proposed adjustment of Jordan Lake Critical Area boundary

Zoning Map Change Request: Change in F/J-A and F/J-B Boundary

Staff Recommendation. Approval. Mr. Luck and Mr. Carley presented the staff report.

Motion: To suspend the rules of procedure and allow 63 minutes per side (Brown, Womack 2nd)

Substitute Motion: To suspend the rules of procedure and allow 42 minutes per side (Moffitt, Mitchell-Allen 2nd)

Action: Substitute motion failed, 6-6 (With Brine, Brown, Jacobs, Monds, Summers, Womack voting no)

Action: Original motion carried, 12-0

Public Hearing: Chair Brine opened the public hearing. One person spoke in favor and nineteen spoke in opposition. Chair Brine closed the public hearing.

Commission Discussion: Commission discussion centered around different survey methodologies for determining the normal pool, the need for a comprehensive, independent survey, and potential impacts on water quality.

Motion: To approve the plan amendment. (Ms. Brown, Ms. Mitchell-Allen 2nd)

Action: Motion failed, 12-0.

Motion: To approve the zoning map change. (Ms. Mitchell-Allen, Ms. Brown 2nd)

Action: Motion failed, 12-0

Findings: The Planning Commission finds that the ordinance request is not consistent with the adopted *Comprehensive Plan*. The Commission believes the request is not reasonable nor in the public interest and recommends denial based on inconsistency with the neighboring land uses, concerns regarding impacts on the environment, opposition from the community, and inadequate policy direction for determining the normal pool location.

Motion: Recommend to the City Council and Board of County Commissioners that they adopt guidelines for determining the normal pool elevation for backwaters of any water supply reservoir in Durham County, that these jointly-adopted guidelines for determining normal pool elevation be based on the advice and input of a panel of independent professionals qualified in hydrology and water resources, that once the policy guidelines are in place the City Council and Board of County Commissioners commission a publicly-funded, independent survey of the entire Durham portion of the Jordan Lake reservoir, and that

updated Jordan Lake water supply watershed protection areas be based on this survey. (Jacobs, Mitchell-Allen 2nd)

Action: Motion carried, 12-0

Motion: Resolved that the Planning Commission request that Tom Miller communicate his ideas about revisions to the UDO regarding the delineation of the critical and protected watersheds to Joint City County Planning Committee, and further that JCCPC be requested to give those ideas careful consideration. (Moffitt, Mitchell-Allen 2nd)

Action: Motion carried, 12-0

J. Staff Contact

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K. Attachments

1. Context Map (Critical Area)
2. Context Map (Protected Area)
3. Future Land Use Map (Critical Area)
4. Future Land Use Map (Protected Area)
5. Aerial Map (Critical Area)
6. Aerial Map (Protected Area)
7. List of Affected Properties
8. Planning Commission Written Comments
9. Ordinance