

## STAFF REPORT

### Zoning Condition Recommendations for Rural Areas

September 24, 2024 Town Council Regular Meeting



#### **Background:**

At the March 7, 2024 Planning Committee meeting, committee members and Planning staff discussed conservation subdivision attributes. The Committee asked Planning staff to come up with a set of zoning conditions to recommend to applicants who propose to rezone and amend the 2045 Land Use Map from Rural Density Residential to Rural Transition Residential or to Low Density Residential, or from Rural Transition Residential to Low Density Residential. These zoning conditions would be the standard list developers would consider proffering for any rezoning to Rural Residential - Conditional Zoning (RR-CZ), Low Density Residential - Conditional Zoning (LD-CZ), or Planned Unit Development - Conditional Zoning (PUD-CZ) within existing Rural Density Residential and Rural Transition Residential areas.

Concurrent with the Planning Committee meeting, Planning staff held three workshops for the *Western Big Branch Area Plan: Encompassing Portions of the Friendship and New Hill Communities* (WBBAP) on March 6, 18, and 20, 2024. Public input included the “Friendship and New Hill Community Land Use Map & Neighborhood Conservation Overlay District Proposal” (see Attachment #1). Planning staff had concerns about the logistics of an overlay district (see Attachment #2), but heard the public’s interest in having more guidelines and restrictions for development in or near rural areas.

Further, Wake County is seeking a memorandum of understanding with the Town of Apex to allow Voluntary Agricultural Districts (VAD) and Enhanced Voluntary Agricultural Districts (EVAD) in the Town’s extraterritorial jurisdiction (ETJ) and corporate limits. Wake Soil and Water Conservation District staff have asked for wider buffers adjacent to properties designated as VAD or EVAD.

Given the various related initiatives and requests, Planning staff recommend utilizing the conditional zoning process to accomplish the goals of the Planning Committee, WBBAP neighbors, and Wake County to ensure more compatible development in rural areas. This work session item is the first step in preparing a set of zoning conditions that will provide guidance to developers seeking rezonings in areas currently shown as Rural Density Residential or Rural Transition Residential on the 2045 Land Use Map.

#### **Zoning condition categories from Planning Committee:**

1. Limit mass grading
  - Discussion at the September 2023 Planning Committee meeting called for possible ordinance changes to “Mass Grading” that would trigger simultaneous UDO amendments to remove lot averages for Residential Agricultural (RA), Rural Residential (RR), and Low Density Residential (LD), which are the only residential districts that still have lot size standards. The lot average currently excludes HOA common area except riparian buffer area that the State allows to be attributed to the adjacent lots. Direction was to “Make changes to prohibit both mass grading and staged grading based on lot size. Staff to do research to determine lot size (will be more than 8,000 sq. ft.; ¼ acre is 10,890 sq. ft.; 12,000 sq. ft. was also mentioned). Exceptions similar to Cary, but would only allow staged grading; no mass grading allowed for lots at or above a certain lot size (TBD). Cary’s exception: Exceptions to grade upon a lot prior to the issuance of a building permit may be granted as a modification to the original plan if there is sufficient justification (e.g. problematic drainage issues and/or severe topographic issues).
  - Staff’s recommendation in lieu of prohibiting mass and staged grading is to preserve more trees by requiring wider perimeter and streetfront buffers and increase the minimum Resource Conservation Area (RCA) requirement to 40%. Restrictions on mass

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or staged grading results in issues with efficiently managing stormwater, steep driveways, and does not prevent individual homeowners from removing trees on their property. See Attachment #3 for discussion from September 2023 Planning Committee meeting.

#### 2. Increase tree preservation

- Staff recommends the following:
  - Increase RCA percentage – 40% was original UDO provision and makes more sense in rural areas.
  - Increase buffer along frontage of the project to lessen the visual impact – 50' was original UDO provision and makes more sense in rural areas.
  - Increase perimeter buffers by 10' from that required by the UDO and increase the opacity from a Type B to a Type A where a fence is used in lieu of a shrub row to ensure existing trees are preserved.

#### 3. Pedestrian connectivity required

- Staff recommends the following:
  - Fill in off-site sidewalk gaps where feasible.
  - Fill in off-site greenway gaps where feasible.
  - Provide high visibility crosswalks where needed.

### **Zoning condition categories from citizen overlay district proposal:**

#### 1. Lot size – 1 unit/acre

- Staff recommends the minimum lot size be evaluated on a case by case basis while also considering the buffers proposed and the context of the existing development pattern. Goal would be to require lot sizes to be from 0.5 acre to 1.0 acre for the RR-CZ zoning district.

#### 2. Frontage

- Staff recommends that the minimum lot width in RR-CZ should generally be around 100' and 80' in LD-CZ.

#### 3. Building setbacks

- Staff supports the typical building setbacks in the LD and RR zoning districts, and may support larger than typical building setbacks depending on context.

#### 4. Building height/1 story rule (can go up only 1 story from neighboring property's structures)

- Staff supports transitioning either through larger buffers or a 1-story increase on the edges of the development, but would support up to 3 stories interior to the project.

#### 5. 50% tree canopy

- Staff's recommendation is for the subdivision to provide 40% RCA.

#### 6. Use net vs. gross density

- Staff's recommendation is to maintain the use of gross density because of the significant infrastructure and other requirements in the UDO (e.g. roads, sidewalks, greenways, park dedication/fee-in-lieu, stormwater controls, RCA, private play lawns, etc).

#### 7. Require fencing

- Staff's recommendation is for fences to be required when projects are adjacent to a bona fide farm, VAD or EVAD, or when the shrub layer would not likely survive when planted within a Type A buffer with high percentage of tree canopy.

#### 8. Greater buffers

- Staff recommends the following:

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- Increase buffer along frontage of the project to lessen the visual impact – 50' was original UDO provision and makes more sense in rural areas versus suburban areas.
  - Increase perimeter buffers by 10' from that required by the UDO and increase the opacity from a Type B to a Type A where a fence is used in lieu of a shrub row to ensure existing trees are preserved.
9. Stormwater protections for farm ponds
- Stormwater staff recommend the following condition: “As part of the sediment & erosion control plan, include the use of NC DWR Approved PAMS/Flocculants in accordance with Sec. 6.86 of the NC Erosion & Sediment Control Planning and Design Manual. (NC DWR Approved PAMS/Flocculants: <https://www.deq.nc.gov/water-resources/north-carolina-dwr-list-approved-pamsflocculants>.”
10. Clear cutting and mass grading prohibited
- Staff’s recommendation in lieu of prohibiting mass and staged grading is to preserve more trees by requiring wider perimeter and streetfront buffers and increase the minimum RCA requirement to 40%. Restrictions on mass or staged grading results in issues with managing stormwater efficiently, steep driveways, and does not prevent individual homeowners from removing trees on their property. See Attachment #3 for discussion from September 2023 Planning Committee meeting.
  - Staff does not consider mass grading to be the same as clear cutting since staff recommends that 40% of the subdivision be preserved as RCA.
11. Seller disclosure of zoning conditions
- Staff is unsure how this condition would be enforced.
12. Country, rural architecture
- Staff’s recommendation is that we review the existing architectural standards that we typically suggest and modify those to fit the context of the area.
13. Small homes
- Staff supports affordable housing and accessory dwelling units, and the UDO does not have minimum house sizes (state law also prohibits minimum lot size). Staff works with all developers to try to encourage a diversity of home sizes to provide a variety of housing options.

*Note that staff does not recommend the following conditions from the citizen overlay district proposal:*

- *Limit interconnectivity (staff has consistently promoted interconnectivity throughout our jurisdiction)*
- *Traffic studies for parks and capped schools (TIAs are done for road capacity and consider both current traffic and projected traffic, but do not look specifically at existing parks or schools other than to include them in background traffic).*

#### **Categories of zoning conditions from Wake County request:**

1. Buffer adjacent to EVAD and VAD set at 50' Type A (same as American Tobacco Trail buffer)
  - Staff supports the 50' buffer adjacent to EVAD and VAD.

#### **Categories of zoning conditions from earlier rural area rezonings:**

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Staff looked at prior rezonings in the Rural Density Residential and Rural Transition Residential land use categories and have provided a list of relevant conditions from other developments that could potentially be used for rezonings in rural areas:

1. Game lands buffer – 450' is the NC Wildlife Commission's recommended buffer.
  - Staff's recommendation is to provide 450' or as much as is reasonably possible since requiring the full buffer width could render some properties undevelopable.
2. Affordable Housing proffer.
3. Homeowners Association covenants shall not restrict the construction of accessory dwelling units.
4. Historic structures shall be put into historic preservation easement with Capital Area Preservation or similar non-profit.
5. Cemeteries shall be preserved in place. Prior to Master Subdivision Plan approval, a survey of any cemetery shall be completed to establish its exact dimensions and the location of grave sites.
6. Limit permitted uses to the following for RR-CZ and LD-CZ rezonings:
  - Single-family
  - Accessory apartment
  - Farm residence (RR-CZ only)
  - Utility, minor
  - Greenway
  - Horse boarding and riding stable (RR-CZ only)
  - Park, passive
  - Park, active
  - Recreation facility, private
  - Cemetery (RR-CZ only)
7. See Appendix G: Review of Allowable Agricultural Business and Agritourism Uses for possible agritourism land uses allowed within RR-CZ, and PUD-CZ (see Attachment #4).
8. Development shall provide a maximum gross density of 1.0 units per acre.
9. The minimum lot size shall be 0.5 acre.
10. The maximum built-upon area per lot shall be 50%, the maximum height shall be 40 ft, and the minimum building setbacks shall be as follows:
  - Front – 40 ft;
  - Side – 15 ft. min;
  - Corner side – 15 ft;
  - Rear – 25 ft.
11. Architectural Zoning Conditions:
  - Vinyl siding is not permitted; however, vinyl windows, decorative elements and trim are permitted.
  - The roof shall be pitched at 5:12 or greater for 75% of the building designs.
  - Eaves shall project at least 12 inches from the wall of the structure.
  - Garage doors shall have windows, decorative details or carriage-style adornments on them.
  - Garages on the front façade of a home that faces the street shall not exceed 40% of the total width of the house and garage together.
  - Street facing garages shall not protrude more than 1 foot out from the front façade and front porch.
  - Houses with more than a 2-car garage shall have at least one of the garage bays recessed at least 10 feet from the front façade.



- Side-entry garages shall be required on at least 50% of the homes. This shall not include garages accessed by J-driveways.
- The visible side of a home on a corner lot facing the public street shall contain at least 3 decorative elements such as, but not limited to, the following elements:
  - Windows
  - Bay window
  - Recessed window
  - Decorative window
  - Trim around the windows
  - Wrap around porch or side porch
  - Two or more building materials
  - Decorative brick/stone
  - Decorative trim
  - Decorative shake
  - Decorative air vents on gable
  - Decorative gable
  - Decorative cornice
  - Column
  - Portico
  - Balcony
  - Dormer
- A varied color palette shall be utilized throughout the subdivision to include a minimum of three (3) color families for siding and shall include varied trim, shutter, and accent colors complementing the siding color.
- House entrances for units with front-facing single-car garages shall have a prominent covered porch/stoop area leading to the front door.
- The rear and side elevations of the units that can be seen from the right-of-way shall have trim around the windows.
- Front porches shall be a minimum of 6 feet deep.

#### 12. Environmental Zoning Conditions:

- For stormwater management, post-development peak runoff shall not exceed pre-development peak runoff conditions for the 1 year, 10 year, and 25 year 24-hour storm events.
- Implement a stormwater management plan that results in nitrogen and phosphorous loading rates of 4.4 lbs/ac/yr and 0.78 lbs/ac/yr, respectively, or provides "runoff volume matching" as defined in 15A NCAC 02H .1002.
- As part of the sediment & erosion control plan, include the use of NC DWR Approved PAMS/Flocculants in accordance with Sec. 6.86 of the NC Erosion & Sediment Control Planning and Design Manual. (NC DWR Approved PAMS/Flocculants: <https://www.deq.nc.gov/water-resources/north-carolina-dwr-list-approved-pamsflocculants>.)
- Developer shall install pollinator-friendly and native flora within SCM planting areas.
- At least 75% of the plant species used in the landscape design shall be native species.
- Perimeter buffers, SCMs, and other HOA maintained areas shall be planted with clover or warm season grasses for drought resistance.
- In order to reduce water consumption and promote pollinator friendly habitat and biodiversity, Homeowner Association covenants shall permit clover lawns throughout the neighborhood.
- A minimum of xx pet waste station shall be installed in HOA common area.
- All garages shall be wired with a 220-volt outlet inside the garage to facilitate charging of electric vehicles.
- A split-rail wooden fence shall be provided along the project boundary to provide a physical barrier between the USACE property and the cleared and maintained Town of Apex utility easements which run parallel to the project boundary.

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- All dwelling units shall be pre-configured with conduit for a solar energy system. All homes shall include solar conduit in the building design to facilitate future rooftop solar installations.
- A solar PV system shall be installed on at least ## homes within the development. A solar PV system shall be installed on a minimum of one (1) model home. All solar installation required by this condition shall be completed or under construction prior to 75-90% of the building permits being issued for the development. The lot on which this home is located shall be identified on the Master Subdivision Plat, which may be amended from time to time.
- The project shall install at least one (1) sign per SCM discouraging the use of fertilizer and to reduce pet waste near SCM drainage areas. The sign(s) shall be installed in locations that are publicly accessible, such as adjacent to, but outside of public property and/or public easement(s), amenity centers, sidewalks, greenways, or side paths.
- The project shall plant drought resistant warm season grasses throughout the development to minimize irrigation and chemical use.
- Landscaping shall include at least four (4) native hardwood tree species throughout the Development.
- At least 75% of plants shall be native species. Landscaping will be coordinated with and approved by the Planning Department at subdivision review.
- No clearing or land disturbance shall be permitted within the riparian buffer nor the Game Lands Buffer (as defined in the Landscaping, Buffering, and Screening section of this PUD), except in the riparian buffer, the minimum necessary to install required road and utility infrastructure and SCM outlets. The SCM water storage and treatment shall not be permitted within the riparian buffer or the Game Lands Buffer. Sewer infrastructure shall be designed to minimize impacts to riparian buffers.
- Any outdoor lighting installed on private amenities, signs, landscaping, walls, or fences in common areas shall be full cutoff LED fixtures with a maximum color temperature of 3000k. This condition shall not apply to lighting on single-family homes, accessory buildings, or street lighting.
- The project shall preserve at least 25% of existing tree canopy.