

**ORANGE COUNTY PLANNING DEPARTMENT
131 W. MARGARET LANE, SUITE 201
HILLSBOROUGH, NORTH CAROLINA 27278**



**AGENDA
ORANGE COUNTY PLANNING BOARD**

NOTE MEETING LOCATION!!

**WEST CAMPUS OFFICE BUILDING
PLANNING DEPARTMENT CONFERENCE ROOM
131 W. MARGARET LANE, 2ND FLOOR
HILLSBOROUGH, NORTH CAROLINA 27278**

Wednesday, February 5, 2020

Regular Meeting – 7:00 pm

No.	Page(s)	Agenda Item
1.		CALL TO ORDER
2. 1'	ELECTION OF CHAIR AND VICE-CHAIR FOR 2020 a. Term Expiration Dates and Reappointment Eligibility, by Member
3. (!)	INFORMATIONAL ITEMS a. Planning Calendar for February and March
4.* !'-	APPROVAL OF MINUTES December 4, 2019 Regular Meeting Minutes
5.		CONSIDERATION OF ADDITIONS TO AGENDA
6.		PUBLIC CHARGE Introduction to the Public Charge

The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development laws of the County. The general purpose of OCPB is to guide and accomplish coordinated and harmonious development. OCPB shall do so in a manner which considers the present and future needs of its residents and businesses through efficient and responsive process that contributes to and promotes the health, safety, and welfare of the overall County. The OCPB will make every effort to uphold a vision of responsive governance and quality public services during our deliberations, decisions, and recommendations.

Public Charge

The Planning Board pledges its respect to all present. The Board asks those attending this meeting to conduct themselves in a respectful, courteous manner toward each other, County staff, and Board members. At any time should a member of the Board or the public fail to

No.	Page(s)	Agenda Item
		<p>observe this charge, the Chair will take steps to restore order and decorum. Should it become impossible to restore order and continue the meeting, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed.</p> <p>The Planning Board asks that all electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.</p> <p>Please be kind to everyone.</p>
7.		CHAIR COMMENTS
8.%\$!&)	<p>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – WEST FORK ON THE ENO RESERVOIR - To make a recommendation to the BOCC on proposed amendments to the UDO pertaining to the West Fork on the Eno reservoir to address concerns over reservoir setbacks. This item was introduced at the November 6, 2019 ORC meeting and is scheduled for BOCC public hearing on March 10, 2020.</p> <p>Presenter: Michael Harvey, Current Planning Supervisor</p>
9.		ADJOURNMENT

IF AN EMERGENCY OCCURS, OR IF YOU ARE RUNNING LATE FOR THE MEETING, PLEASE LEAVE A VOICE MAIL FOR PERDITA HOLTZ (919-245-2578).

**Orange County Planning Board
Membership and Term Information**

Name	Term End Date (March 31)	Eligible for Reappointment?	Date First Appointed
Randy Marshall	2020	Y	3/7/17
Susan Hunter	2020	Y	3/31/20
Lydia Wegman	2020	N	5/20/14
David Blankfard	2020	Y	3/7/17
Carrie Fletcher	2021	Y	3/8/18
Patricia Roberts	2021	N	11/5/15
Melissa Poole	2021	Y	4/16/19
Hunter Spitzer	2021	Y	12/12/17
Giovanna Mollinedo	2022	Y	9/17/19
Adam Beeman	2022	Y	12/12/17
Hathaway Pendergrass	2022	Y	4/16/19
Kim Piracci	2022	Y	3/22/16

February 2020						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
		BOCC Meeting Whitted Building 7:00PM	Planning Board Meeting WCOB 204 7:00PM*			
9	10	11	12	13	14	15
	Board of Adjustment Meeting Whitted Building 7:00PM	BOCC Work Session Southern Human Services Center 7:00PM				
16	17	18	19	20	21	22
		BOCC Meeting Southern Human Services Center 7:00PM	OUTBoard Meeting WCOB 204 6:30PM			
23	24	25	26	27	28	29
Notes: * Planning Board member attendance required or encouraged WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)						

March 2020						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
			Planning Board Meeting WCOB 204 7:00PM*			
8	9	10	11	12	13	14
		BOCC Meeting Whitted Building 7:00PM				
15	16	17	18	19	20	21
		BOCC Work Session Southern Human Services Center 7:00PM	OUTBoard Meeting WCOB 204 6:30PM			
22	23	24	25	26	27	28
		BOCC Meeting Southern Human Services Center 7:00PM				
29	30	31				
Notes: * Planning Board member attendance required or encouraged WCOB = West Campus Office Building (131 W. Margaret Lane, Hillsborough)						

MEETING MINUTES
ORANGE COUNTY PLANNING BOARD
DECEMBER 4, 2019
REGULAR MEETING

MEMBERS PRESENT: Lydia Wegman (Chair), At-Large Representative; David Blankfard (Vice-Chair), Hillsborough Township Representative; Adam Beeman, Cedar Grove Township Representative; Hathaway Pendergrass, At-Large Representative; Kim Piracci, Eno Township Representative; Susan Hunter, Chapel Hill Township Representative; Patricia Roberts, Cheeks Township Representative;

MEMBERS ABSENT: Carrie Fletcher, Bingham Township Representative; Melissa Poole, Little River Township Representative; Hunter Spitzer, At-Large Representative; Randy Marshall, At-Large Representative; Gio Mollinedo, At-Large Representative;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor; Tina Love, Administrative Assistant III

AGENDA ITEM 1: CALL TO ORDER AND ROLL CALL

Chair Lydia Wegman called the meeting to order

AGENDA ITEM 2: INFORMATIONAL ITEMS

- a. Planning Calendar for December and January

AGENDA ITEM 3: APPROVAL OF MINUTES

- November 6, 2019, Training Session Notes
- November 6, 2019, Regular Meeting
- November 6, 2019 ORC Notes

Lydia Wegman: Are there any changes or corrections?

MOTION by Hathaway Pendergrass to approve the November 6, 2019 Training Session Notes, Meeting Minutes and ORC Notes. Seconded by David Blankfard.

VOTE: Unanimous

AGENDA ITEM 4: CONSIDERATION OF ADDITIONS TO AGENDA.

There were none

AGENDA ITEM 5: PUBLIC CHARGE

INTRODUCTION TO THE PUBLIC CHARGE

The Board of County Commissioners, under the authority of North Carolina General Statute, appoints the Orange County Planning Board (OCPB) to uphold the written land development law of the County. The general purpose of OCPB is to guide and accomplish coordinated and harmonious development. OCPB shall do so in a manner, which considers the present and future needs of its citizens and businesses through efficient and responsive process that contributes to

55 and promotes the health, safety, and welfare of the overall County. The OCPB will make every
 56 effort to uphold a vision of responsive governance and quality public services during our
 57 deliberations, decisions, and recommendations.

58

59 **PUBLIC CHARGE**

60 The Planning Board pledges to the citizens of Orange County its respect. The Board asks its
 61 citizens to conduct themselves in a respectful, courteous manner, both with the Board and with
 62 fellow citizens. At any time, should any member of the Board or any citizen fail to observe this
 63 public charge, the Chair will ask the offending member to leave the meeting until that individual
 64 regains personal control. Should decorum fail to be restored, the Chair will recess the meeting
 65 until such time that a genuine commitment to this public charge is observed.

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68 **AGENDA ITEM 6: CHAIR COMMENTS**

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70 There were none

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73 **AGENDA ITEM 7: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – EROSION CONTROL PERMITS - To**
 74 **make a recommendation to the BOCC on proposed amendments to the UDO pertaining to the lifespan of an erosion**
 75 **control permit. These amendments are scheduled for BOCC public hearing on January 21, 2020.**

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77 **PRESENTER:** Michael Harvey, Current Planning Supervisor

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79 *Michael Harvey reviewed the abstract and proposed changes to the UDO.*

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81 Craig Benedict: I've asked Michael is to have the fee structure related to the hours of service, before it wasn't a
 82 direct relation. Now that the projects are done to a certain level and they pick up 20% of the project that is left
 83 (Collins Ridge) the amount of the fee and the amount of hours staff monitors that project will be closely reflected.

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85 Lydia Wegman: Is the fee linked to the amount of land disturbance that occurs?

86

87 Craig Benedict: Yes it is.

88

89 Michael Harvey: It will be, not yet.

90

91 Craig Benedict: This handles one of the matters, permit renewal, there will be another activity which Michael and I
 92 are coming to terms with that will probably be in the next few months. It will be about how the initial fees are
 93 calculated.

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95 Lydia Wegman: So the fee structure is likely to change?

96

97 Craig Benedict: Yes.

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99 *Michael Harvey continued the review*

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101 Michael Harvey: It is hard to ask a homeowner to give us electronic copies when they may not have the wherewithal
 102 to do it, it is easy for an engineering firm to give us an electronic copy but not a homeowner. We are trying to provide
 103 some level of flexibility and my staff wants to look at physical plans so they can make their note on them. We do
 104 scan approved plans so they are always available electronically. We are trying to get to the electronic age. There
 105 was at one point, draft text amendments from the Attorney's Office that wanted to turn this into a totally electronic
 106 submittal process. That may come up again. There were concerns to the ability of some to submit.

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108 Lydia Wegman: This does require an electronic copy.

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Michael Harvey: It does but if someone doesn't have the ability we take it to our scanner and scan it.

Craig Benedict: You've heard Michael reference erosion control plans and stormwater plans and you may think they are almost the same, the erosion control plan is during the construction phase where you are trying to keep sediment from leaving the site. In most cases now, these erosion control devices are turned into stormwater devices to treat the water quality after construction. They're very similar and in some cases we have control over how that conversion occurs.

David Blankfard: Where is the date of the preconstruction conference, is that written down?

Michael Harvey: It's now written down, it occurs once the land disturbance permit is issued, we coordinate meeting with the contractor on site.

David Blankfard: So there's a record of it.

Michael Harvey: Yes, there has to be. You don't sign the permit until the day of the precon meeting. That's when the five years starts.

Michael Harvey: There is one modification to the recommendation, strike the "approve with modifications".

MOTION by David Blankfard to approve the statement of consistency, and the text amendment as amended by staff. Seconded by Hathaway Pendergrass.

VOTE: Unanimous

Michael Harvey: Very quickly to talk about a couple of other things, Lydia, you asked about the fee schedule. There are a lot of things we have to do with the existing erosion control ordinance. These are things that have been identified and some are to address changes in state law. Staff is now completing the text amendments. We are moving forward with fixing the UDO as it relates to changes we want to make to erosion control and stormwater standards. We are still waiting on the state to determine what they want to do with regulations on nutrients. Some will involve the Neuse.

Craig Benedict: We just repealed our nutrient standards in this and Jordan Lake because the state said we had to or they could take away our whole program. We had to sacrifice the nutrient rules.

Michael Harvey: We don't know what direction they are going to go yet. Our hope is they have uniformity between the Neuse and Cape Fear. It is easier.

Craig Benedict: One initiative they're talking about is alternative approach to how to achieve these things that maybe there are state guidelines instead of state rules and they say they'll make a determination if the method of implementation meets certain goals and then they would give some latitude back. This is the only thing that we've seen recently, in nine years, that has let it shift back a little bit to some more latitude by the local governments. We've never been recognized for what we've been doing for 20 years. Some of the other fee things, some of our other projects have been smaller scale and our fee schedule was not tailored for the larger ones like Collins Ridge and Carraway Village so the numbers are coming up quite high. We need to relate our staff time and the project fees.

Michael Harvey: We will report to management on the fee schedule and the elected officials. The next step is to go back in and clean up some inconsistencies with our existing erosion control standards and stormwater rules. We are going to have to tackle the bonding requirement for all stormwater control measures and waiting to see what the state is going to do on nutrients. We'll keep you in the loop but you can anticipate it in 2020, a lot of erosion control and stormwater stuff. We're still waiting on to see what they do on stream buffers.

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164 **AGENDA ITEM 8: ADJOURNMENT**
165 Meeting was adjourned by consensus
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Lydia N. Wegman, Chair

**ORANGE COUNTY
PLANNING BOARD
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: February 5, 2020

**Action Agenda
Item No.** i

SUBJECT: Unified Development Ordinance (UDO) Text Amendments – Modification of Regulations Associated with Setbacks from the West Fork on the Eno Reservoir

DEPARTMENT: Planning and Inspections

ATTACHMENT(S):

INFORMATION CONTACT:

- | | |
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| <ol style="list-style-type: none"> 1. Aerial Photo of the West Fork on the Eno Reservoir 2. Excerpt from November 6, 2019 Ordinance Review Committee (ORC) Meeting 3. Statement of Consistency 4. UDO Text Amendment(s) | <p>Michael D. Harvey, Planner III (919) 245-2597
Craig Benedict, Director (919) 245-2575</p> |
|---|--|

PURPOSE: To review and make a recommendation to the Board of County Commissioners (BOCC) on a Planning Director initiated Unified Development Ordinance (UDO) text amendments revising existing guidelines associated with the enforcement of reservoir setbacks for structures and septic systems.

Specifically the amendment seeks to formally establish the effective date for the expansion of the West Fork on the Eno reservoir when determining required reservoir setbacks. This item was first presented at the November 6, 2019 Ordinance Review Committee (ORC) meeting.

BACKGROUND: Section 6.13.4 *Minimum Buffer Widths for Watershed Protection Overlay Districts* of the UDO establishes a 150 ft. wide setback around reservoirs. This area is intended to be left in an undeveloped state. Section 4.2.9 *Water Supply / Sewage Disposal Facilities* of the UDO establishes a 300 ft. setback for septic tanks and their nitrification fields from a reservoir as well.

Section 4.2.2, specifically subsections (F) through (I), of the UDO establishes the applicability of the various County watershed protection standards. These sections establish the criteria utilized by staff defining those properties (developed and undeveloped) considered to be ‘grandfathered’ and outlines what standards they are allowed to adhere to with respect to demonstrating compliance with applicable buffer (i.e. stream and reservoir) standards.

In the 1990’s The Town of Hillsborough began the necessary permitting processes at the State level to construct a reservoir, specifically the West Fork on the Eno, within the Cedar Grove Township of the county. This work has been broken down into 2 phases, with Phase 1 including the Town purchasing property to begin the process of expanding the actual reservoir. At the

writing of this memorandum the anticipated normal pool elevation of the expanded reservoir will be 643.9 ft. Attachment 1 contains maps of the existing reservoir boundary, based on 2017 aerial photographic data, denoting the aforementioned 150 ft. and 300 ft. setback areas.

Phase 2 of the project will involve the actual clearing of property and expanding the existing 'normal pool' elevation of the reservoir. The Town has begun portions of Phase 2 of the project by increasing the elevation of the dam. Clearing/grading of property to accommodate the additional water storage will not commence until work on the dam is completed.

While the Town purchased sufficient property to accommodate the approved expansion of the actual reservoir, the required reservoir setback will still potentially impact adjacent parcels of property. Property owners adjacent to the waterbody have expressed concern the UDO does not specifically reference the expansion of the reservoir thereby making their properties potentially non-conforming to applicable watershed management regulations (i.e. the required reservoir setback).

In an effort to address this concern staff is proposing a text amendment (Attachment 4) to reference the expansion of the West Fork on the Eno, from the date the Town began legally securing property to allow for the approved expansion, in terms of defining what constitutes existing development. Specifically, this is February 11, 1997 (i.e. the date plats were recorded within the Orange County Registrar of Deeds Office denoting the Town's purchase of property along the West Fork of the Eno allowing for the expansion of the reservoir).

Property owners are still required to abide by the applicable setbacks per Section(2) 4.2.9 and 6.13.4 of the UDO but will have greater latitude in demonstrating compliance with applicable standards. This amendment will not necessarily allow for additional development of structures closer to the actual reservoir. It will, however, recognize the conforming status of existing development and not arbitrarily make same non-conforming. The status can be important with respect to property transactions and mortgage applications.

As previously indicated, this proposal was reviewed at the November 6, 2019 Ordinance Review Committee (ORC) meeting. Notes from this meeting are contained within Attachment 2.

Analysis: As required under Section 2.8.5 of the UDO, the Planning Director is required to: '*... cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners*'.

The amendments are necessary to address current inconsistencies within the UDO relating to the definition of what constitutes 'existing lots' and/or 'existing development' with respect to compliance with applicable reservoir setbacks. This amendment should likely have been completed in 1997 when the Town was purchasing property to establish the reservoir in the first place.

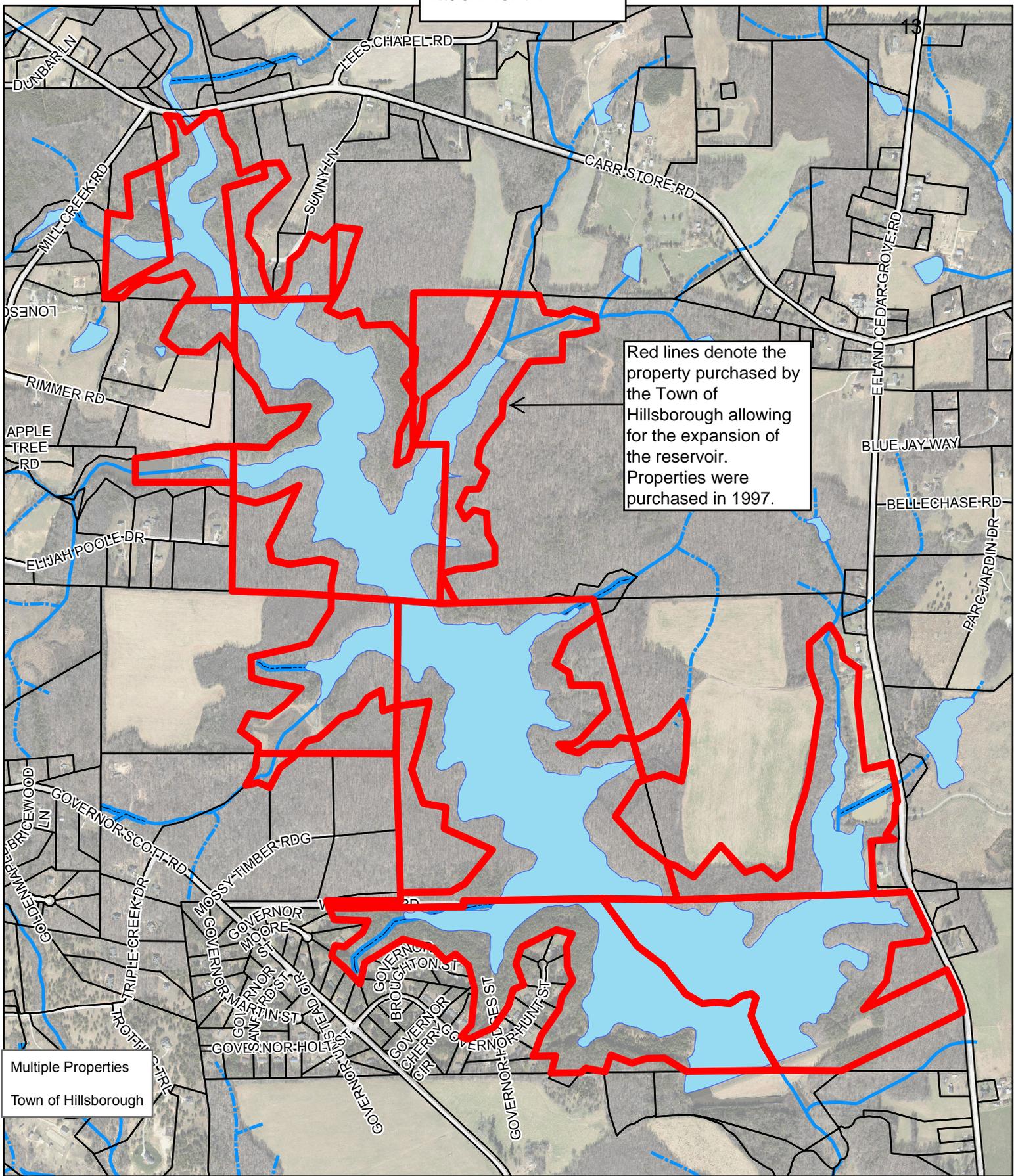
Planning Director Recommendation: The Planning Director recommends approval of the Statement of Consistency, as contained in Attachment 3, and the UDO Text Amendment, as contained within Attachment 4.

FINANCIAL IMPACT: Consideration and approval will not create the need for additional funding for the provision of County services. Existing staff, included in the Departmental staffing budget, will accomplish the work required to process this amendment.

RECOMMENDATION(S): The Planning Director recommends the Planning Board:

1. Review the proposed amendments to the UDO,
2. Deliberate on the proposal as desired,
3. Consider the Planning Director's recommendation(s), and
4. Make a recommendation to the BOCC on:
 - a. The Statement of Consistency for proposed UDO Text Amendment(s) (Attachment 3), and
 - b. Proposed UDO Text Amendment(s) (Attachment 4).

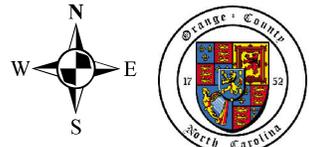
in time for the March 10, 2020 Public Hearing.



Red lines denote the property purchased by the Town of Hillsborough allowing for the expansion of the reservoir. Properties were purchased in 1997.

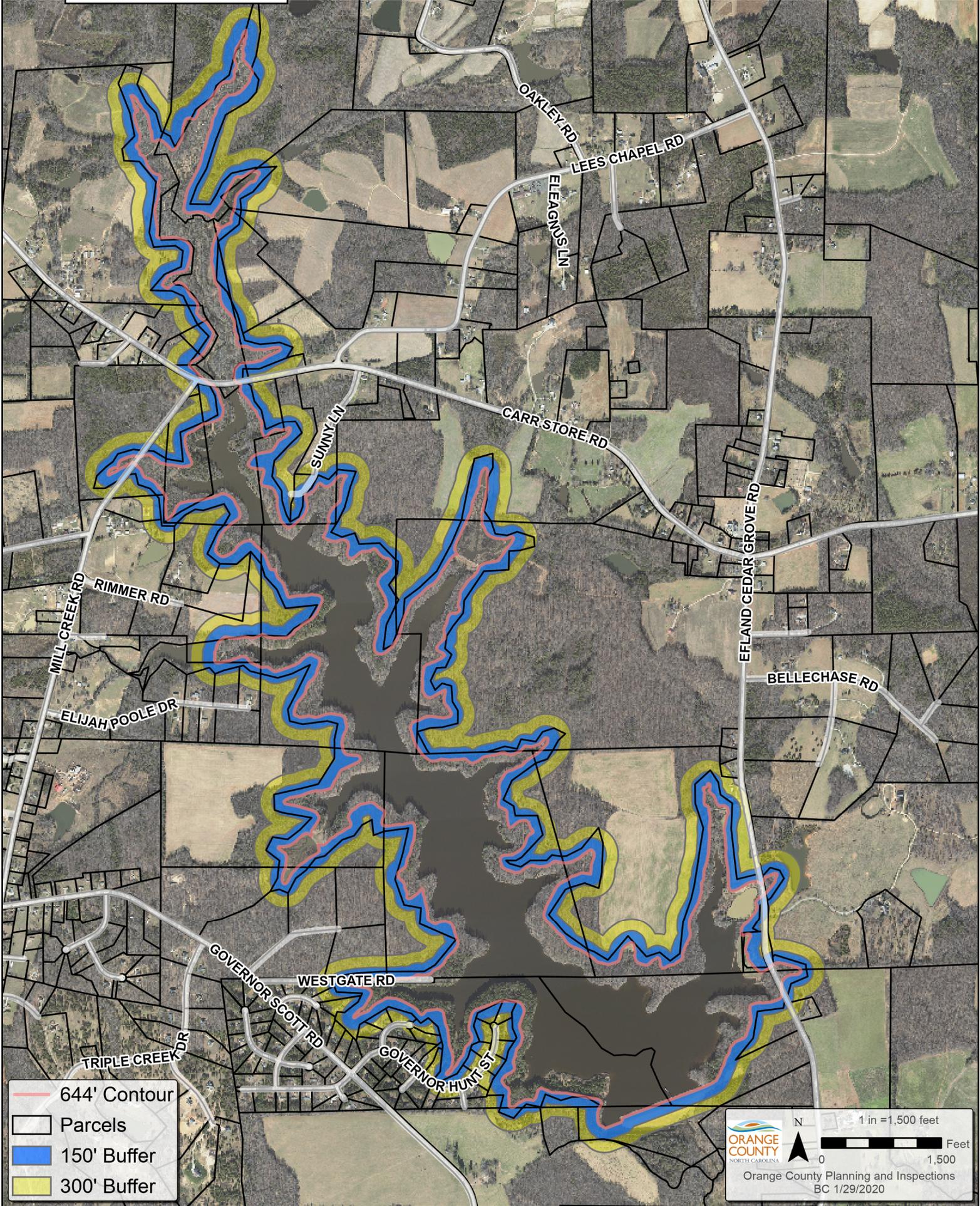
Multiple Properties
Town of Hillsborough

- USGS Stream
- - - Soils Survey Stream
- OC Updated Stream
- Parcels
- Streets
- Water Body



1 inch = 1,187 feet





- 644' Contour
- Parcels
- 150' Buffer
- 300' Buffer

1 in = 1,500 feet

0 1,500 Feet

Orange County
NORTH CAROLINA

Orange County Planning and Inspections
BC 1/29/2020

West Fork of the Eno (Area 1)

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CARR STORE RD

SUNNY LN

- 644' Contour
- Parcels
- 150' Buffer
- 300' Buffer

ORANGE COUNTY
NORTH CAROLINA

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1 in = 300 feet

0 300 Feet

Orange County Planning and Inspections
BC 1/29/2020

West Fork of the Eno (Area 2)

RIMMER RD

ELIJAH POOLE DR

- 644' Contour
- Parcels
- 150' Buffer
- 300' Buffer

1 in = 350 feet

Feet

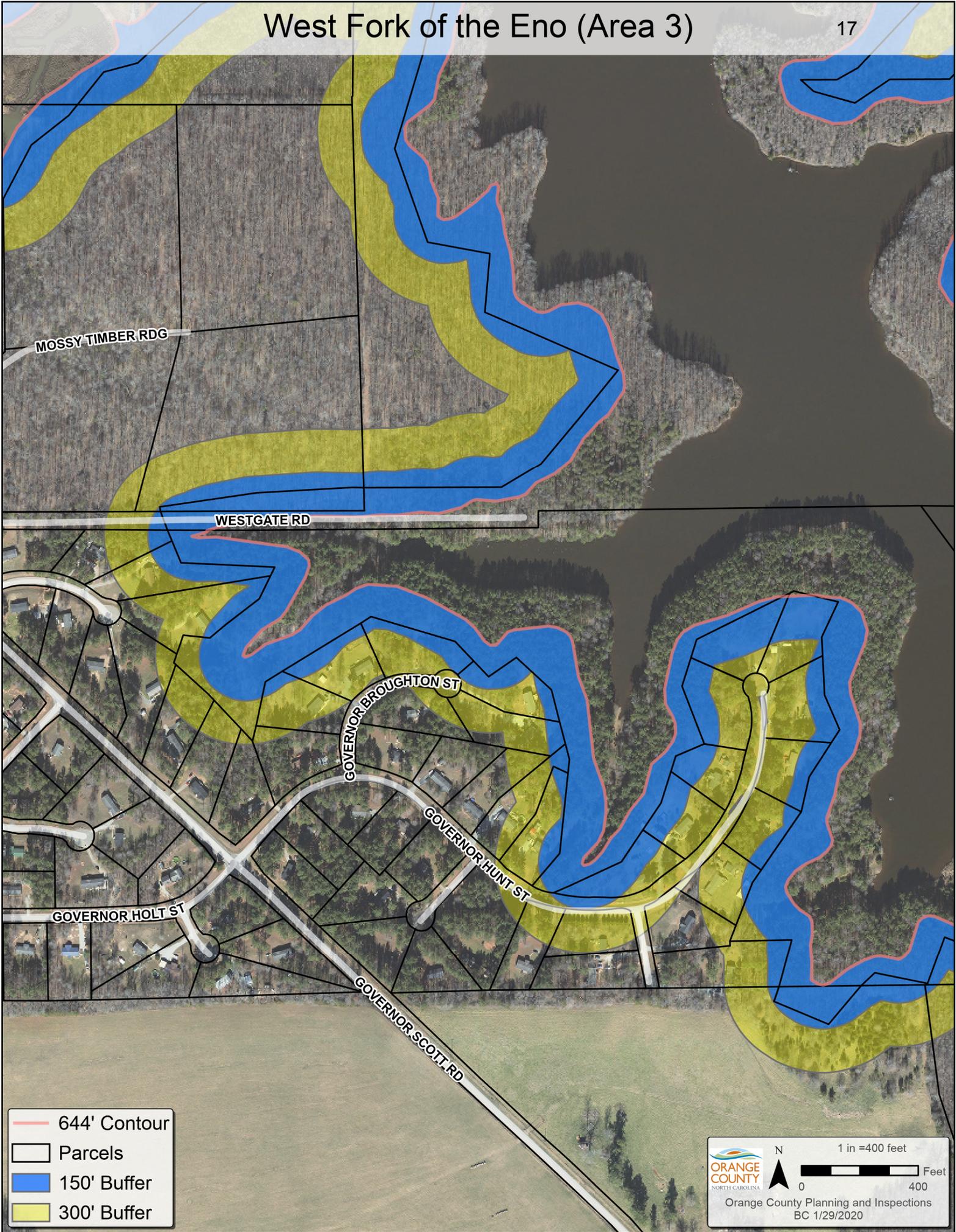
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ORANGE COUNTY
SOUTH CAROLINA

Orange County Planning and Inspections
BC 1/29/2020

West Fork of the Eno (Area 3)

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SUMMARY NOTES
ORANGE COUNTY PLANNING BOARD
NOVEMBER 6, 2019
ORDINANCE REVIEW COMMITTEE

NOTE: A QUORUM IS NOT REQUIRED FOR ORDINANCE REVIEW COMMITTEE MEETINGS.

MEMBERS PRESENT: Lydia Wegman (Chair), At-Large Representative; Randy Marshall, At-Large Representative; Kim Piracci, Eno Township Representative; Melissa Poole, Little River Township Representative; Carrie Fletcher, Bingham Township Representative; Susan Hunter, Chapel Hill Township Representative; Gio Mollinedo, At-Large Representative; Patricia Roberts, Cheeks Township Representative; Hunter Spitzer, At-Large Representative;

STAFF PRESENT: Craig Benedict, Planning & Inspections Director; Michael Harvey, Current Planning Supervisor; Tina Love, Administrative Assistant III

AGENDA ITEM 1: Call to Order

AGENDA ITEM 3: WEST FORK ON THE ENO RESERVOIR - To begin review and discussion on proposed amendments to the UDO pertaining to the West Fork on the Eno reservoir to address concerns over reservoir setbacks. The expected timeline for the Planning Board recommendation and BOCC public hearing has not yet been determined.

PRESENTER: Michael Harvey, Current Planning Supervisor

Michael Harvey reviewed the proposed amendments to the UDO regarding reservoir setbacks and provided background information.

Carrie Fletcher: How many residents does it affect?

Michael Harvey: A couple dozen.

Patricia Roberts: Wouldn't you have to buy their house if did penalize them?

Michael Harvey: Hillsborough would, in my mind, have to buy their house but that's me saying that.

Craig Benedict: Hillsborough should have bought all the way up to that 150' from their future pool area, I think they were trying approximate that 150' area but it should have been from their phase II reservoir not their, possibly phase I reservoir pool area.

ORC was adjourned through consensus

**STATEMENT OF APPROVAL AND CONSISTENCY
OF A PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE ADOPTED ORANGE COUNTY 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) establishing the effective date for the expansion of the West Fork on the Eno reservoir when determining required reservoir setbacks.

The Planning Board hereby approves the proposed text amendment and finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.

1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:

- Land Use Goal 4 - Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all.

These amendments are consistent with this goal and objective by establishment of the effective date for the expansion of the West Fork on the Eno reservoir when determining required reservoir setbacks thereby ensuring consistent application of development regulations.

- Land Use Goal 6 – A land use planning process that is transparent, fair, open, efficient, and responsive.

These amendments are consistent with this goal and objective by eliminating confusion with respect to the enforcement of setbacks from the West Fork on the Eno reservoir thereby ensuring transparency in the development review process.

- c. The amendment is reasonable and in the public interest because it:

1. Ensures legal sufficiency by formally establishing what constitutes existing development and/or an existing parcel as it relates to the enforcement of reservoir setbacks associated with the expansion of the West Fork on the Eno reservoir.

By establishing this reference date staff will be better suited to working with property owners abide by applicable regulations.

The Planning Board hereby adopts this Statement of Approval and Consistency as well as the findings expressed herein.

Chair

Date

UDO AMENDMENT PACKET NOTES:

The following packet details staff's proposed modifications to the Unified Development Ordinance (UDO) designed to establish appropriate references to the effective date for the expansion of the West Fork on the Eno reservoir when determining required reservoir setbacks involving the following Section(s).

➤ 4.2.2 *Applicability – Watershed Protection*

As part of this amendment, package:

- **Red Underlined Text:** Denotes new, proposed text that staff is suggesting be added to the UDO
- **Red-Strikethrough-Text:** Denotes existing text that staff is proposing to delete

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. Some text on the following pages has a large "X" through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment or footnotes from previous sections 'spill over' onto the included page. Text with a large "X" is not proposed for deletion.

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at:

<http://www.orangecountync.gov/DocumentCenter/View/8305/Unified-Development-Ordinance-PDF>

ARTICLE 4: OVERLAY ZONING DISTRICTS

SECTION 4.1: GENERALLY

4.1.1 Description, Standards, and Conflicts

- (A) Overlay districts are supplemental to general zoning district classifications and are applied in combination to address special situations or to accomplish specific planning and land use goals.
- (B) Unless otherwise expressly stated, all applicable regulations of the underlying district apply to property in an overlay district.
- (C) Unless otherwise stated, all applicable standards of this Ordinance apply to property in an overlay district.
- (D) When overlay district standards conflict with standards that otherwise apply in the underlying district, the regulations of the overlay district always govern.

SECTION 4.2: WATERSHED PROTECTION

4.2.1 Purpose and Intent

- (A) The purpose of the Watershed Protection Overlay Districts is to prevent significant future water quality deterioration in existing or potential future drinking water reservoirs which receive stormwater runoff from land within Orange County.
 - (1) Protection of all water supplies within the State in accordance with minimum standards was mandated by NCGS §143-214.5.
 - (2) The quality of water in drinking water reservoirs can be affected by human activities including farming, construction of highways and roads, subdivision development, industrial development, and other land-disturbing activities. Types of water pollutants resulting from these activities include sediment, bacterial contamination, heavy metals, synthetic organic compounds and low-level radioactivity.
- (B) The intent of the Watershed Protection Overlay Districts is to apply a set of regulations involving land use and, in some cases, structural best management practices which protect the watersheds by reducing the pollution from future development which enters drinking water supplies.
 - (1) Land use management practices involve minimum lot size and impervious surface restrictions, since impervious surfaces such as roads, roof tops and driveways are a major source of pollution.
 - (2) Structural best management practices allow for more intensive land use by providing for temporary detention of stormwater runoff so that pollutants may settle.

4.2.2 Applicability

- (A) The Watershed Protection Overlay Districts as established herein overlay other zoning districts established in this Ordinance. The new use of any land or new structure within any Watershed Protection Overlay District shall comply with the use regulations applicable to the underlying zoning district as well as the requirements of the applicable Watershed Protection Overlay District.
- (B) A Watershed Protection Overlay District shall be applied to the Orange County portion of watersheds which have been classified as WS-II, WS-III or WS-IV watersheds by the North Carolina Environmental Management Commission in its implementation of NCGS

§143-214.5. In accordance with the State Mandate, 13 Watershed Protection District Overlays, as listed in the table in subsection (D), are hereby established.

- (C)** Areas designated as “Critical Area” under the Orange County designation are hereby established using the following criteria:
- (1)** The land area in the Upper Eno watershed (straight line distance) within one-half mile of the normal pool elevation (NPE), or nearest available contour line used for the calculation, of an existing Class I or Class II reservoir or proposed water supply reservoir designated for protection, or the ridgeline of the sub-watershed, whichever is less; and
 - (2)** The land area within one-half mile on each side for an upstream distance of 2.5 miles (straight line distance) of any fifth order or higher stream flowing into a Class I reservoir, or the ridgeline of the sub-watershed, whichever is less; and
 - (3)** The land area within one-half mile on each side of a fourth order or higher stream flowing between any Class II and Class I reservoir; and
 - (4)** The land area within one-half mile on each side for an upstream distance of 1.5 miles (straight line distance) of a third or fourth order stream flowing directly into any Class I reservoir; and
 - (5)** The land area within one-half mile on each side for an upstream distance of 1.0 mile (straight line distance) of a third or fourth order stream flowing into a fourth order or higher stream that is within 1.0 miles (straight line distance) of a Class I reservoir; and
 - (6)** Any isolated areas within the overall critical area boundary that drain into any of the streams listed above.
 - (7)** Areas designated as Transition Areas on the Land Use Element Map of the Orange County Comprehensive Plan are excluded from designation as a Critical Area, except for land areas located within one-half mile from the normal pool elevation of a Class I reservoir.
 - (8)** The land area north of the centerline of West Ten Road and west of the centerline of the Interstate 85/U.S. 70 Connector is excluded from designation as a Critical Area, except for land areas located within one-half mile from the normal pool elevation of a Class I reservoir.
- (D)** The designation of “Protected” applies to areas of watersheds classified as WS-II, WSIII, or WS-IV outside of areas designated as “Critical Area.”
- (E) General Locations of Watershed Protection Overlay Districts**

TABLE 4.2.2.E: WATERSHED PROTECTION OVERLAY DISTRICTS		
DISTRICT	GENERAL LOCATION	
UNIV-CA	University Lake Critical Area	One-half mile from the normal pool elevation of University Lake, or to the ridgeline of the watershed, whichever is less.
UNIV-PW	University Lake Protected Watershed Overlay District	The portion of the drainage basin of University Lake not covered by UNIV-CA.
CANE-CA	Cane Creek Critical Area Overlay District	One-half mile from the normal pool elevation of Cane Creek Reservoir, or to the ridgeline of the watershed, whichever is less.
CANE-PW	Cane Creek Protected Watershed Overlay District	The portion of the drainage basin of Cane Creek Reservoir not covered by CANE-CA.
U-ENO-CA	Upper Eno Critical Area Overlay District	One-half mile from the normal pool elevation, or to the ridgeline of the watershed, whichever is less, of the following Class I reservoirs: Corporation Lake (538’ actual NPE, 540’ contour line used) and Lake Ben Johnson (515’ NPE and contour line used). One-half mile (straight line measurement) from the normal pool elevation, or to the ridgeline of the watershed, whichever is less, of the following Class II

TABLE 4.2.2.E: WATERSHED PROTECTION OVERLAY DISTRICTS		
DISTRICT		GENERAL LOCATION
		reservoirs: Lake Orange (615' NPE and contour line used) and West Fork on the Eno (643.9' NPE, 6440' contour line used) ¹ ; and the land area within one-half mile (straight line measurement) on each side of other streams designated for protection. These protected streams include portions of: Eno River, Seven Mile Creek, West Fork of the Eno River, East Fork of the Eno River, Rocky Run, Stream ID 1625, Stream ID 1498, Dry Run Creek, Crabtree Creek, and Stream ID 2109. (Source of elevation data: Atlantic Technologies Ltd., 1998 planimetric project approved by Orange County GIS).
U-ENO-PW	Upper Eno Protected Watershed Overlay	The portion of the Upper Eno drainage basin not covered by U-ENO-CA.
L-ENO-PW	Lower Eno Protected Watershed Overlay	The Orange County portion of the Eno River Watershed within ten miles of the City of Durham Emergency Water Intake east of US 501 (Roxboro Road).
LITTLE-PW	Little River Protected Watershed Overlay District	The portion of drainage basin of the Little River Reservoir which is located in Orange County.
BACK-PW	Back Creek Protected Watershed Overlay District	The portion of the drainage basin of Back Creek which is located in Orange County.
HYCO-PW	South Hyco Creek Protected Watershed Overlay District	The portion of the drainage basin of South Hyco Creek which is located in Orange County.
FLAT-PW	Flat River Protected Watershed Overlay District	The portion of the drainage basin of the Flat River which is located in Orange County.
HAW-PW	Haw River Protected Watershed Overlay District	The portion of the drainage basin for the Haw River which is located in Orange County
JORDAN-PW	Jordan Lake Protected Watershed Overlay District	The Orange County portion of the Jordan Lake Watershed which extends five miles from the normal pool elevation of the impoundment.

(F) Existing Development

The following residential or non-residential structures shall be considered existing development for the purpose of determining compliance with or applicability of Sections 4.2 and 6.13.3, 6.13.4, 6.13.6, 6.13.8, 6.14.4, 6.14.10, 6.14.11, and 6.15.7(B)(3):

- (1) Was either constructed prior to, or constructed in accordance with a valid building permit issued prior to, or was included as part of a Site Specific Development Plan approved by the Board of County Commissioners prior to January 1, 1994; or
- (2) Was either constructed prior to, or constructed in accordance with a valid building permit issued prior to, or was included as part of a Site Specific Development Plan approved by the Board of County Commissioners prior to February 11, 1997 with respect to the Town of Hillsborough purchase of property associated with expanding the West Fork of the Eno reservoir; or²

¹ The UDO made reference to what was identified as the normal pool elevation of the reservoir. Based on recent information from the Town, the expansion of the reservoir will result in a normal pool elevation of 643.9 ft. Staff is tweaking existing language to reference the correct normal pool elevation and identify the methodology staff will utilize to map the new boundary of the reservoir for regulatory compliance purposes.

² This language is consistent with how the UDO currently references what constitutes 'existing development'. What the proposal does is formalize what constitutes existing development as it relates to the West Fork on the Eno.

~~(2)~~(3) Was either constructed prior to, or constructed in accordance with a valid building permit issued prior to, or was included as part of a Site Specific Development Plan approved by the Board of County Commissioners prior to October 19, 1999 with respect to the October 19, 1999 amendments related to the CANE-CA and CANE-PW districts, or

~~(3)~~(4) Was either constructed prior to, or constructed in accordance with a valid building permit issued prior to, or was included as part of a Site Specific Development Plan approved by the Board of County Commissioners prior to September 19, 2001 with respect to the Stream Buffer/Usable Lot amendments, or

~~(4)~~(5) Was either constructed prior to, or constructed in accordance with a valid building permit issued prior to, or was included as part of a Site Specific Development Plan approved by the Board of County Commissioners prior to May 20, 2003 with respect to the Stream Classification Amendments, or

~~(5)~~(6) Had otherwise established a vested right under North Carolina Zoning law prior to January 1, 1994, or October 19, 1999 with respect to the October 19, 1999 amendments related to the CANE-CA and CANE-PW districts, or September 19, 2001 with respect to the Stream Buffer/Usable Lot amendments, or May 20, 2003 with respect to the Stream Classification Amendments.

(G) Existing development is hereby deemed to be conforming with respect to requirements of Sections 4.2, 6.13.3, 6.13.4, 6.13.6, 6.13.8, 6.14.4, 6.14.10, 6.14.11, and 6.15.7(B)(3) of this Ordinance. Periodic updates to FEMA maps may affect structures located within the special flood hazard area of specific streams.

(H) Redevelopment

(1) The rebuilding or replacement of residential or nonresidential structures which are defined as existing development according to subsection (F) above is allowed, provided that the rebuilding or replacement does not result in an increase in the amount of impervious surface, and does not encroach any farther into stream buffers or setbacks from reservoirs than the previous development.

(2) A structure which is rebuilt or replaced in accordance with these provisions is deemed conforming with respect to setbacks from streams and reservoirs required by Section 6.13 of this Ordinance.

(I) Existing Lots

(1) An existing lot, for the purpose of determining compliance with Sections 4.2 and 6.13.3, 6.13.4, 6.13.6, 6.13.8, 6.14.4, 6.14.10, 6.14.11, and 6.15.7(B)(3), is defined as:

(a) A lot which was created prior to January 1, 1994, or

~~(b)~~ A lot within the Upper Eno watershed which was created prior to February 11, 1997 with respect to the Town of Hillsborough purchase of property associated with development of the West Fork on the Eno reservoir; or

~~(b)~~(c) A lot within the Cane Creek watershed which was created prior to October 19, 1999, with respect to the October 19, 1999, amendments related to the CANE-CA and CANE-PW districts, or

~~(c)~~(d) Non-conforming lots of record.

(2) Stream buffers as required by Section 6.13, and setbacks for septic systems as required by Section 4.2.9 may be reduced to the extent necessary to allow development of the lot, provided that all of the following criteria are met:

(a) The septic system is sized to serve no more than four bedrooms; and

(b) The septic tank, drainfield and repair area (where required) can be accommodated on 20,000 square feet of area or less; and

- (c) The Orange County Planning Department, in consultation with Orange County Environmental Health and/or the Orange County Staff Engineer has determined that encroachment of the structure into the stream buffer and/or encroachment of the septic system or repair area into the stream buffer or reservoir setback is necessary in order to provide adequate area for septic disposal and repair while maintaining required separations between wells, septic systems, structures and property lines; and
- (d) The Orange County Planning Department, in consultation with Orange County Environmental Health and/or the Orange County Staff Engineer, has determined that the relative locations of the well, septic system and structure maximize the amount of watershed protection that can be achieved while allowing development of the lot. Generally, an exception to setbacks for repair area is preferable to an exception for the initial septic system, and encroachment of structures or gravity septic systems into the setback is preferable to the installation of a septic system pump.
- (e) The amount of encroachment into the stream or reservoir buffer is the minimum amount which can be obtained while meeting the criteria in (a) through (d).

4.2.3 Land Use Restrictions

All uses and activities allowed in the underlying zoning district are permitted with the following exceptions:

TABLE 4.2.3 LAND USE RESTRICTIONS	
DISTRICT	RESTRICTIONS
UNIV-CA UNIV-PW CANE-CA U-ENO-CA	No new landfills are permitted. No commercial or industrial uses are permitted except for commercial development, in accordance with the provisions of the Ordinance, located within established Nodes as detailed within the Orange County Comprehensive Plan. No new golf courses are permitted
UNIV-CA CANE-CA U-ENO-CA	No residual (sludge/biosolids) application is permitted.
CANE-PW U-ENO-PW HYCO-PW LITTLE-PW BACK-PW FLAT-PW HAW-PW L-ENO-PW JORDAN-PW	No discharging landfills are permitted. Industrial use is limited to nonhazardous light industrial uses characterized by low water use (less than 10,000 gpd, excluding domestic water (25 gpd per employee) and water used for heating and air conditioning).

4.2.4 Residential Density

Maximum residential density shall be as indicated in the Table in this subsection, or as required by the underlying zoning district, whichever is less.

TABLE 4.2.4 RESIDENTIAL DENSITY	
DISTRICT	MAXIMUM DENSITY