

Section 80. Wilson Creek Conservation Overlay District

I. Purpose

The purpose of the Wilson Creek Conservation Overlay District (“District”) is to implement the Wilson Creek Vision Statement (“Vision Statement”) as prepared by the Wilson Creek Advisory Committee. The Vision Statement outlines five primary goals:

1. Enhance the public health, safety, and general welfare in the Wilson Creek area through the protection of water quality, the environment, and historic values
2. Preserve and enhance the water quality of Wilson Creek as a North Carolina “outstanding water resource” and a federally designated Wild and Scenic River
3. Protect the public’s view of Wilson Creek and screen future development from the road and waterways
4. Protect the area’s endangered plant, animal, and aquatic species
5. Work to complement the U.S. Forest Service Comprehensive Management Plan for the Wilson Creek area adopted on September 30, 2005, and support other federal and state agencies, as well as land trusts, that have jurisdiction or interests in the Wilson Creek corridor

II. Applicability

This ordinance applies to all new major and minor subdivisions and PUDs within the Overlay District as defined below. It does not apply to agricultural or forestry related activities and applies to existing lots and family subdivisions only as indicated in the matrix on page 3.

Furthermore, existing lots of record, between the sizes of 2 and 6 acres, may subdivide creating no more than one new lot with a minimum lot size of 1 acre provided that all other requirements of the Subdivision Ordinance are met.

III. Wilson Creek Overlay District Defined

The District shall include Wilson Creek from the southernmost USFS boundary on Brown Mountain Beach Road north to the Avery County line and all areas within 1,320 (1/4 mile) of each side of Wilson Creek. This area is delineated on the Official Caldwell County Zoning Map.

IV. Definitions

1. Existing lot of Record
A lot legally recorded at the adoption date of the Overlay ordinance.

2. Density Average

The density average provides the standard for the maximum number of dwellings allowed within a development project.

$$\text{Density Average} = \text{Total number of acres/acreage requirement}$$

3. Undisturbed Buffer

A unit of land containing existing healthy vegetation that shall be left in its natural state excluding noxious weeds and plants. Individual trees can be cut that are dead, diseased or damaged, or pose a threat to human life or property. Such a buffer shall not be graded, nor shall any development occur within such a buffer.

4. Environmental Assessment (EA)

A detailed report that is submitted by the responsible party for major development projects, including Major Subdivisions and Planned Unit Developments (PUD), which provides the following information:

- a. The environmental impact of the proposed action;
- b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
- c. Mitigation measures proposed to minimize the impact;
- d. Alternatives to the proposed action;
- e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and
- f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

5. Traffic Impact Analysis

A study that assesses the effects that a particular development's traffic will have on the transportation network in the community.

6. Development Plan

A plan as described in Section 80L.7 (Planned Unit Development) of the Caldwell County Zoning Ordinance.

7. Site Plan

A site plan illustrates development plans for a single lot or parcel. Identified on a site plan shall be driveways, septic areas, dwelling footprint, accessory buildings, yard areas, and any other site impact areas. Surveyed trees larger than 18" in diameter and within 150' of the dwelling and access driveway shall be included on plan and are expected to remain.

8. Construction Plans

Construction plans for structures greater than 144 square feet, including residential dwellings, commercial buildings, and accessory buildings, must be submitted for review by the Caldwell County Planning Department. Plans should demonstrate architectural detail, roof and siding material, and color schematics.

V. Permitted and Conditional Uses

Permitted Uses

- a. Accessory buildings to residential uses, provided that no accessory building shall be rented or occupied for gain. Furthermore, in no instance shall an accessory use be placed upon a parcel which is absent of a principal use. See Section 80C.4 for requirements for accessory structures and garages.
- b. Churches and their customary related uses including cemeteries..
- c. Governmentally owned facilities.
- d. Public safety facilities such as fire and police stations and rescue squad headquarters, provided that equipment be stored indoors.
- e. Public or private parks.
- f. Single family site built and modular dwellings.
- g. Agricultural and farm related structures which qualify under G.S. 153A-340 as a Bona Fide Farm. These structures are to be used for purposes such as the storage of hay, plants, farm supplies/machinery or livestock, including uses such as horses, cattle, or goats, but excluding more intensive uses such as swine facilities and chicken houses. Any farm-type building or structure shall be at least two-hundred (200) feet from any existing perennial stream or any residence on adjacent tracts of land and shall be at least one-hundred (100) feet from any shared property line.

Conditional Uses

The following uses are permitted when authorized by the Board of Commissioners after said Board holds a public hearing pursuant to the provisions of the base ordinance.

- a. Bed and Breakfast
- b. Garage apartments and guest houses, provided they are located in the rear yard, meet the requirements stipulated for two-family dwellings, are architecturally similar, and meet all setback requirements required of the principle structure. Upon approval, such uses may be constructed prior to the completion of the principle structure provided both are permitted and under construction. The principle use must be completed within three years of the garage apartment or guest home. (amended 8/16/2004)

c. Privately owned utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges provided:

1. All buildings shall be designed and landscaped in such a way as to blend in with surrounding area;
2. All dangerous apparatus shall be enclosed by a wood or native stone privacy fence of at least eight (8) feet in height.
3. A proposed facility must be located on a site which contains a mature natural canopy shall perpetually maintain a one hundred (100) foot undisturbed buffer, said mature natural canopy, measured from the outermost limits of said facility and not visible from a public road, adjoining property, or perennial stream..

d. Recreational vehicles and/or campers as principal uses, provided;

1. The property to which it is to be located is no less than ten (10) acres.
2. Provided that the recreational vehicle or camper is not visible from a public road, perennial stream, or any surrounding properties.
3. Prior to the camper being placed on the property an approved well and septic system must be installed.

e. Wireless Telecommunication Towers, provided that no portion of the tower or support facilities can be seen from any perennial stream or public roadway.

f. Accessory Structures not meeting the required development standards listed in Sections 80C.1(a) and 80C.4 shall be subject to the following conditions:

1. Is the structure for personal storage and is it secondary to the main dwelling;
2. Will the structure substantially injure the value of adjoining properties;
3. Is the location and character of the structure in harmony with the area;
4. Is the structure in any way to be used in connection with any commercial or industrial activity;

In seeking to accomplish the above goals the Overlay Committee, Planning Board, and County Commissioners will consider such items as:

1. Is the structure architecturally similar to the principal dwelling;
2. Is the structure located on acreage or is it part of a residential development lot;
3. Is the applicant increasing setbacks, landscaping, buffering, etc.;
4. Is the structure visible from Wilson Creek, the road and/or adjacent properties;
5. Other potential impacts not conducive to the area.

VI. Process for requesting uses not listed

All uses not specially listed as a permitted or Conditional Use must be requested under the provisions of a PUD rezoning request. A PUD request may be submitted for any size lot within the Overlay. Industrial uses and manufactured homes are prohibited within the Overlay.

VII. Non-Conforming Uses

If a nonconforming building is damaged by fire, explosion, tornado, earthquake, or other uncontrollable cause it may be repaired or rebuilt within one (1) year of the date of such damage, but not thereafter. In reconstructing said structure the amount of non-conformity may not be increased. All county codes such as Environmental Health (septic), Building Code, Flood Ordinance, etc. must be met or said structure may not be reconstructed. All other non-conformities are subject to the requirements of the base ordinance.

VIII. Requirements for Development

| | Existing lots of record | Family subdivision | Minor subdivisions | Major subdivisions | Planned Unit Development (PUD) |
|---|--------------------------------|---------------------------|---------------------------|---------------------------|---------------------------------------|
| Minimum lot size | - | - | 1 acre | 2 acres | Negotiable |
| Density average | - | - | 3 acres | 6 acres | 4 acres |
| 50 foot undisturbed buffers along perennial streams | - | - | Required | Required | Required |
| <u>30 foot buffer undisturbed buffers along perennial streams</u> | Required | Required | - | - | - |
| From Wilson Creek, a 100 foot undisturbed buffer or the width of the floodplain whichever is greater | - | - | Required | Required | Required |

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|---|-----------------|-----------------|----------|----------|----------|
| No structures permitted in 100-year floodplain | - | - | Required | Required | Required |
| 125' building setback from high bank of Wilson Creek or 25' from floodplain, whichever is greater | - | - | Required | Required | Required |
| <u>Any</u> Land disturbance greater than <u>½ acre</u> and on slopes greater than 30% require engineered plans | <u>Required</u> | <u>Required</u> | Required | Required | Required |
| Asphalt required on grades greater than 18% | - | - | Required | Required | Required |
| Open space required | - | - | - | - | 50% |
| Environmental assessment required | - | - | - | Required | Required |
| Traffic impact study required | - | - | - | >39 lots | >39 lots |
| Development plan | - | - | - | Required | Required |
| Site plan | Required | Required | Required | Required | Required |
| Construction plan | - | - | Required | Required | Required |

A. Projects requiring Development Plans

While not limited to, the following factors shall be considered during the development review process by the Caldwell County Subdivision Review Board, Caldwell County Planning Board, and Caldwell County Commissioners:

- I. Impact upon views from Wilson Creek, tributaries, and public roads associated with road clearing
- II. Dwelling site placement that best screens proposed dwellings from Wilson Creek, tributaries, and public roads
- III. Lighting must be shielded and directed to avoid illuminating structures or creating glare on the night sky; roadway lights in major subdivisions and PUDs are prohibited

B. Projects Requiring Site Plans

While not limited to, the following standards must be met prior to the issuance of Zoning Permit by the Caldwell County Planning Department:

- I. The dwelling height shall be 20 feet below the ridgeline

- II. Natural vegetation shall appropriately screen structures from Wilson Creek, tributaries, and public roads
- III. Lighting must be shielded and directed to avoid illuminating structures or creating glare on the night sky

C. Projects requiring Construction Plans

While not limited to, the following standards must be met prior to the issuance of Zoning Permit by the Caldwell County Planning Department:

- I. New structures must demonstrate an appearance that blends with the natural environment and minimally impacts views from public roads and waterways
- II. Exterior building materials shall primarily consist of natural elements such as stone, logs, wood shingle, wood lapped siding, or vertical board and batten. Roofing materials shall be chosen to blend in harmoniously with the natural tree canopy. Metal buildings are not permitted.
- III. Dominant exterior building colors should be chosen to blend in with the natural surroundings. All shades of white, cream, or beige are prohibited from being used as the primary exterior color on any structure.
- IV. Exterior lighting shall be muted, fully shielded, and directed to avoid illuminating entire structures, creating glare on the night sky, and attracting attention to particular areas for reasons other than security.

D. Requirement for Land Disturbance greater than 1/2 acre and on 30% or greater slopes
An Erosion/Sedimentation Control Plan and a Stormwater Control Plan must be prepared by a Professional Engineer according to the design standards described in the Caldwell County Erosion and Sedimentation Control Ordinance and the Caldwell County Stormwater Control Ordinance.

E. Protected Flood Plain/ Buffer Requirements

On undeveloped property, healthy trees of 4" diameter and greater, to be measured at 3' above the ground, may not be removed. All clearing within a buffer must be done by hand except in the case of a natural disaster. Development may take place upon existing and Family lots within the floodplain, but such development must meet the requirements of the floodplain ordinance. Lots with existing improvements prior to the adoption of this ordinance, including cleared areas within buffer, are grandfathered and may continue to maintain their property in the same manner as before ordinance adoption.

F. Passive recreation

Uses such as walking trails or primitive camp sites are allowed within the protected buffer-flood plain. Such passive uses may not be closer than 30' from a perennial stream unless design plans

are reviewed by the Overlay Committee and the Planning Board and approved by the County Commission.

IX. Wilson Creek Overlay District Planning and Review Committee (“Committee”)

The Committee shall have five voting members. There shall be at least one voting member that is a full-time resident and property owner of the Overlay Area and two that are property owners within the Overlay District. These five members shall be appointed by the Caldwell County Commissioners. Two non-voting advisory positions shall be appointed from the Friends of Wilson Creek, the North Carolina Fish and Wildlife Commission, the United States Forest Service, or the Foothills Conservancy. The Committee’s duties shall be as follows:

1. The Committee shall have 30 days prior to the Caldwell County Subdivision Board or the Caldwell County Planning Board meetings to review and produce a report regarding Rezoning, Special/Conditional Use, Major Subdivision, and PUD requests.
2. The Committee report shall outline recommendations, if any, to ensure that the proposed action is in accordance with intent of this ordinance.