

REZONING STAFF REPORT

Case: PLAN2406-0002
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Planning Board: July 1, 2024 County Commissioners: July 15, 2023

Request for a Rezoning from RA-40/Conservation to RA-30/Conservation

Applicant Information

Owner of Record:

Name: Judy P. Ives & Dell P. Edwards
 Address: 3413 Pleasant Pines Rd.
 City/State/Zip: Apex, NC 27502

Applicant:

Name: Mattamy Homes
 Address: 11000 Regency Parkway, Suite 110
 City/State/Zip: Cary, NC 27518

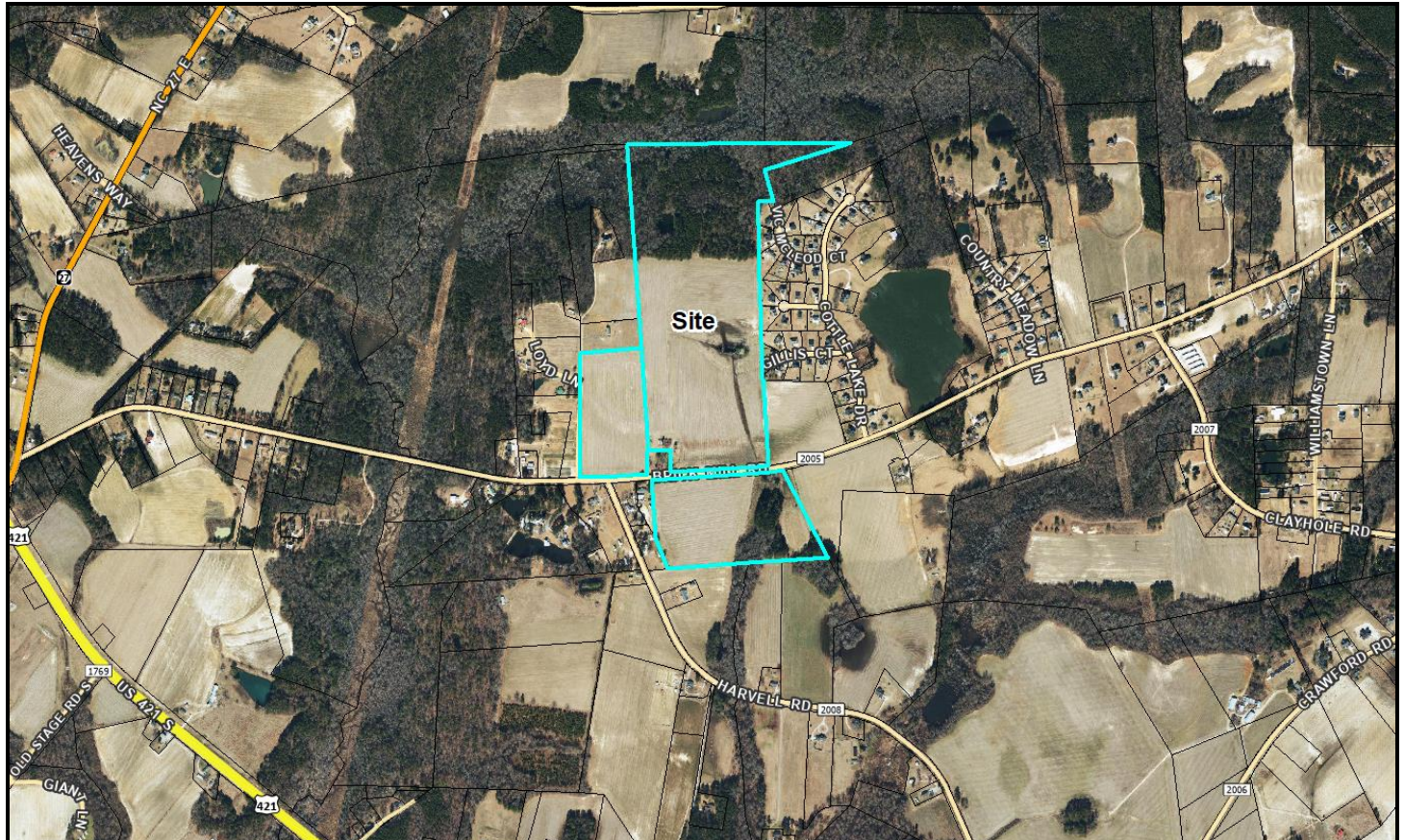
Property Description

PIN(s): 0589-78-4271.000, 0589-67-6742.000 Acreage: +/- 98.2 of 104.1
 Address/SR No.: Brick Mill Rd., SR 2005

Township:

- | | | |
|--|--|--|
| <input type="checkbox"/> (01) Anderson Creek | <input type="checkbox"/> (05) Buckhorn | <input type="checkbox"/> (09) Johnsonville |
| <input type="checkbox"/> (02) Averbosboro | <input type="checkbox"/> (06) Duke | <input type="checkbox"/> (10) Lillington |
| <input type="checkbox"/> (03) Barbecue | <input checked="" type="checkbox"/> (07) Grove | <input type="checkbox"/> (11) Neill's Creek |
| <input type="checkbox"/> (04) Black River | <input type="checkbox"/> (08) Hectors Creek | <input type="checkbox"/> (12) Stewart's Creek |
| | | <input type="checkbox"/> (13) Upper Little River |

Vicinity Map



Physical Characteristics

Site Description: The site is comprised of two large properties currently used for agricultural purposes. There is a demolished accessory structure located on the site which was previously used to support the agricultural activities, but the site is otherwise unimproved. The eastern tract is split by Brick Mill Rd., separating the property into two sections. Thornton's creek runs along the north property line of the +/- 98.7 acre tract and there are wetlands present in this area. There is a small pond located near the center of the site.

Surrounding Land Uses: Surrounding land uses consist of single-family residences and agricultural activities.

Services Available

Water:

- Public (Harnett County)
 Private (Well)
 Other: Unverified

Sewer:

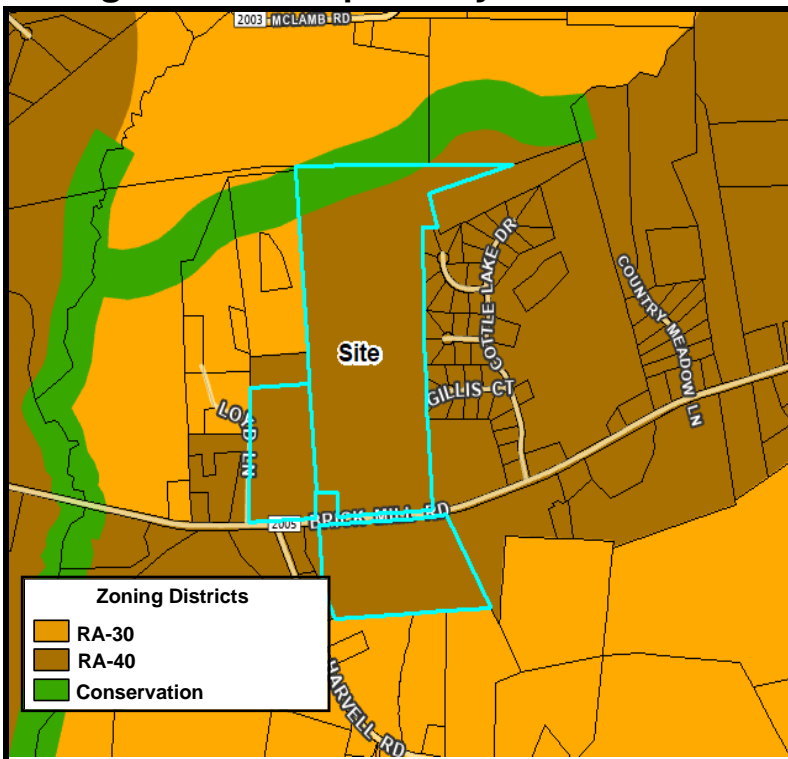
- Public (Harnett County)
 Private (Septic Tank)
 Other: unverified

Transportation:

Annual Average Daily Traffic Counts are unavailable for the section of Brick Mills Rd. abutting the site. NCDOT AADT maps reports a count of **900 daily trips** +/- .10 of a mile from the intersection of NC 27 E and of Brick Mill Rd.

Site Distances: Fair

Zoning District Compatibility



	Current RA-40	Requested RA-30
Parks & Rec	X	X
Natural Preserves	X	X
Bona Fide Farms	X	X
Single Family	X	X
Manufactured Homes, (with design criteria)		Special Use
Manufactured Homes		Special Use
Multi-Family		Special Use
Institutional	X	X
Commercial Services	Special Use	Special Use
Retail		
Wholesale		
Industrial		
Manufacturing		

The following is a summary list of potential uses. For all applicable uses for each Zoning district please refer to the UDO's Table of Uses

RA-40: The RA-40 Residential/Agricultural District (RA-40) is established exclusively as a single-family residential and agricultural district.

RA-30: The RA-30 Residential/Agricultural District (RA-30) is established as primarily a single family residential and agricultural district, but includes occasional two-family and multifamily structures.

Unified Development Ordinance
Article IV. Zoning & Overlay Districts
Section 14.0 Dimensional Requirements

The purpose of the compatibility design concept table is to protect agricultural lands, direct growth near infrastructure, and improve the quality of development through amenities. To encourage compatible development, a reduction in the minimum lot size requirement is permitted for major subdivision developments occurring in areas where public utilities are available and amenities and open space are provided.

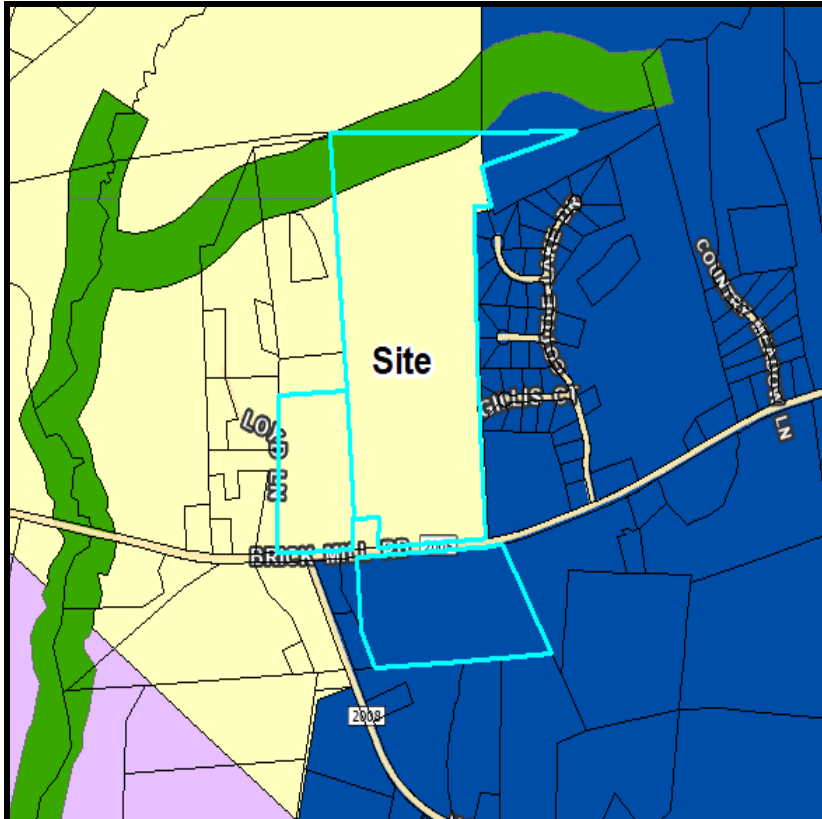
14.3.5 Compatibility Design Concept Table

	LOT WIDTH	FRONT YARD	REAR YARD	SIDE YARD	CORNER SIDE YARD	OPEN SPACE	STREET TREES	SIDEWALKS & CURB & GUTTER	PUBLIC UTILITIES	STREET PAVEMENT WIDTH	REQUIRED PERIMETER BUFFER
RA-40 Zoning											
LAND USE CLASS: LD, MDR, RC, CMU, EMU, ARR, ESA, PA											
≥40,000 sq. ft. minimum lots	150'	35'	25'	10'	20'	0%	-	-	-	-	-
→ ≥35,000 sq. ft. minimum lots	150'	35'	25'	10'	20'	0%	-	-	1	-	-
→ ≥28,000 sq. ft. minimum lots	100'	35'	25'	10'	20'	10%	✓	✓	1	-	-
LAND USE CLASS: MDR, RC, CMU, EMU											
≥21,000 sq. ft. minimum lots	100'	35'	25'	10'	20'	20%	✓	✓	1	-	-
≥17,500 sq. ft. minimum lots	80'	35'	20'	10'	10'	30%	✓	✓	2	29'	✓
RA-30 Zoning											
LAND USE CLASS: LD, MDR, RC, CMU, EMU, ARR, ESA, PA											
→ ≥30,000 sq. ft. minimum lots	100'	35'	25'	10'	20'	0%	-	-	-	-	-
→ ≥25,000 sq. ft. minimum lots	100'	35'	25'	10'	20'	0%	-	-	1	-	-
→ ≥20,000 sq. ft. minimum lots	80'	35'	20'	10'	20'	10%	✓	✓	1	-	-
LAND USE CLASS: MDR, RC, CMU, EMU											
≥15,000 sq. ft. minimum lots	80'	30'	20'	10'	20'	20%	✓	✓	1	-	-
→ ≥12,500 sq. ft. minimum lots	70'	25'	20'	10'	20'	30%	✓	✓	2	29'	✓

In the Low Density Residential and Agricultural/Rural Residential land use classifications, the 40,000 square feet minimum lot size requirement in the RA-40 zoning district can be reduced to 35,000 square feet for this property because of water availability. However, the minimum lot size in the current zoning could be further reduced to 28,000 square feet if the site were developed as a major subdivision with 10% open space, street trees, sidewalks & curb and gutter.

In the requested zoning district, RA-30, the minimum lot size could be reduced to 25,000 square feet due to the availability of public water. In the RA-30 zoning district, a developer could potentially develop a major subdivision with 25,000 square foot lots without providing open space or installing sidewalks, curb & gutter, or street trees.

Land Use Classification Compatibility



Land Use Classification

- Low Density Residential
- Agricultural/Rural Residential
- Employment Mixed Use
- Environmentally Sensitive Areas

	ZONING	LAND USE	
	Proposed RA-30	Low Density Residential	Agricultural Rural Residential
Parks & Rec	X	X	X
Natural Preserves	X	X	X
Bona Fide Farms	X	X	X
Single Family	X	X	X
Manufactured Homes, Design Regulated	X & Special Use	X & Special Use	X & Special Use
Manufactured Homes	X & Special Use	X & Special Use	X & Special Use
Multi-Family	Special Use	Special Use	Special Use
Institutional	X	X	X
Commercial Service	Special Use	Special Use	Special Use
Retail			
Wholesale			
Industrial			
Manufacturing			

The above is a summary list of potential uses. For all applicable uses for each Zoning district, please refer to the UDO's Table of Uses.

Low Density Residential: Single family detached residential intended to remain predominantly suburban in character and provide for low density single-family residential development on lots smaller than those in Rural Residential areas. Gross densities of 1-3 dwelling units per acre depending on utilities, soils and character of adjacent development.

Agricultural and Rural Residential: Primarily agricultural and forestry uses with some rural residential areas. These areas are located outside of existing and future sewer service areas and rely on septic systems for wastewater treatment. They have a limited road network and in some cases lie within High Quality Watershed or Water Supply Watershed areas. The lack of utility and transportation infrastructure, the established low density development pattern and ongoing agricultural activities in these areas contribute to their rural character. This character can be enhanced by encouraging only low intensity uses, single family residential up to one unit per acre and context sensitive rural design.

Environmentally Sensitive Areas: Environmentally sensitive areas, including floodplains and areas located in the Conservation Overlay Zoning District. Primary uses in these areas would be open space, forestry, and agriculture.

**Site
North Side Brick Mill Rd.**





**Site
South Side Brick Mill Rd.**





Road View - East



Road View - West



Road View – West Intersection of Brick Mill Rd. and Harvell Rd.





Evaluation

Yes No **A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.**

The subject property is contiguous to both the requested zoning district, RA-30, and the current zoning district, RA-40, and does not require evaluation for reasonableness as a small-scale rezoning.

Yes No **B. There is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of the individual or small group.**

There is not a convincing demonstration that all uses permitted under the proposed district classification would be in the interest of the general public and not merely the interest of a small group.

The RA-30 zoning district is less restrictive than the current RA-40 zoning district and allows for uses such as manufactured homes, multifamily, and a variety of commercial services with a special use permit. The RA-30 zoning district also allows for a smaller minimum lot size and lot width, which could allow for more intense development than the current zoning.

Yes No **C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)**

There is not convincing evidence that all uses permitted in the proposed district classification would be appropriate in the area. The RA-30 zoning district allows for several special permit uses not permitted in the current and adjoining RA-40 zoning district.

- Yes No **D. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.**

There is not a convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any of the uses permitted outright or with a special use permit in the RA-30 zoning district. The RA-30 zoning district permits uses not permitted in the RA-40 zoning district with a special use permit, including manufactured home, multi-family uses, and several commercial services.

- Yes No **E. The proposed change is in accordance with the comprehensive plan and sound planning practices.**

The subject property has 3 land use classifications: Low Density Residential, Agricultural Rural Residential, and Environmentally Sensitive Areas. While the proposed RA-30 zoning district is partially compatible with the Low Density Residential and Agricultural Rural Residential land use classifications, the current zoning RA-40 is more compatible with the Agricultural/Rural Residential land use classification due to the uses permitted in this zoning district. The RA-40 zoning district is predominantly for agricultural and single-family dwelling uses.

The proposed change in zoning is not in accordance with sound planning practices. Rezoning of the property could result in development of the property with a higher density and smaller minimum lot size than permitted in the current zoning district, but in the absence of the amenities and open space meant to offset a smaller lot size and increased density.

Suggested Statement-of-Consistency

As stated in the evaluation, the requested rezoning to **RA-30** could potentially have an unreasonable impact on the surrounding community due to the incompatibility of the uses in the requested zoning district. Planning Services staff recommends that this rezoning request be **DENIED**.

Standards of Review and Worksheet

TYPICAL REVIEW STANDARDS

The Planning Board shall consider and make recommendations to the County Board of Commissioners concerning each proposed zoning district. The following policy guidelines shall be followed by the Planning Board concerning zoning districts and no proposed zoning district will receive favorable recommendation unless:

- Yes No A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- Yes No B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of the individual or small group.
- Yes No C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
- Yes No D. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
- Yes No E. The proposed change is in accordance with the comprehensive plan and sound planning practices.

GRANTING THE REZONING REQUEST

Motion to grant the rezoning upon finding that the rezoning is reasonable based on All of the above findings of fact A-E being found in the affirmative and that the rezoning advances the public interest.

DENYING THE REZONING REQUEST

Motion to deny the rezoning upon finding that the proposed rezoning does not advance the public interest and is unreasonable due to the following:

- The proposal will not place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- There is not convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of the individual or small group.
- There is not convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
- There is not convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
- The proposed change is not in accordance with the comprehensive plan and sound planning practices.
- The proposed change was not found to be reasonable for a small scale rezoning