



# VILLAGE OF MARVIN

10006 Marvin School Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | [www.marvinnc.gov](http://www.marvinnc.gov)

**FROM:** Hunter Nestor, Village Planning & Zoning Administrator

**SUBJECT:** Recommended Statement of Consistency and Conditions to be Incorporated in Rezoning Approval

**DATE:** August 9<sup>th</sup>, 2022

## Development Agreement

The applicant has submitted a draft development agreement in compliance with the MHD Application Procedure and Requirements. This agreement is a draft, and the applicant will need to make any necessary revisions once reviewed by Village Staff. A Final Draft of the Development Agreement will be provided to the Council Prior to the Public Hearing.

If all provisions of the draft development agreement are agreed upon by the Developer and the Village, then it will be incorporated into the Rezoning Approval and become binding.

## Land Use Plan and Other Adopted Plans Consistency

State Statute requires that all zoning regulations shall be made in accordance with an adopted comprehensive plan. When adopting or rejecting any zoning amendment, the Council shall approve a statement describing whether its action is consistent or inconsistent with our 2020 Land Use Plan or any other officially adopted plan that is applicable, and briefly explain why the Council considers the action taken to be reasonable and in the public interest. A Planning Board/Village Council can adopt a rezoning that is inconsistent, as long as it's acknowledged in writing and there is rationale for the decision.

The Village of Marvin Land Use Plan and the Marvin Heritage District Small Area Plan designates this area as the Marvin Heritage District. It designated the subject property as Residential Only within the Marvin Heritage District. The scale of the residential development is consistent with these adopted plans. The residential development is a compatible use due to the surrounding properties, transition to future adjacent light commercial and mixed uses, and minimum impacts on public facilities. The residential density on this specific property is found to be inconsistent with the recommendation of the 2020 Land Use Plan; however, it furthers it is consistency with the maintaining the Marvin Heritage District overall density under one house per acre and consistent with recommended housing allocation percentage of the MHD Small Area Plan. Furthermore, this development is consistent with the goals and purpose of the plan by providing conservation land or fee-in-lieu for future greenway connections, maintaining rural aesthetics, transportation improvements, and economic development to the area.



# VILLAGE OF MARVIN

10006 Marvin School Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | [www.marvinnc.gov](http://www.marvinnc.gov)

## Draft Statement of Consistency:

The Village Council finds that the proposed rezoning of Parcels numbers 06-240-005 and 06-225-022 to the Marvin Heritage – Residential Only Conditional Zoning District, along with the terms and conditions set forth in the Development Agreement, is substantially consistent with the Village of Marvin 2020 Land Use Plan, the Marvin Heritage District Small Area Plan and all other officially adopted plans.

The Village of Marvin 2020 Land Use Plan designates the two subject parcels as the Marvin Heritage District. It designated these parcels as Residential Only within the Marvin Heritage District in the Marvin Heritage Small Area Plan and the adopted Future Land Use Map. The overall scale of the residential development is consistent with these adopted plans. The residential development is a compatible use due to the surrounding properties, transition to future adjacent light commercial and mixed uses, and promotes the minimum impacts on public facilities in the long term. The elevations represent an historic-friendly community. The development is community-oriented in terms of overall vision for the Heritage District.

The residential density on this specific property is found to be inconsistent with the recommendation of the 2020 Land Use Plan; however, it furthers it is consistency with the maintaining the Marvin Heritage District overall density under one house per acre and consistent with recommended housing allocation percentage of the MHD Small Area Plan. Furthermore, this development is consistent with the goals and purpose of the plan by providing emphasis on open space and conservation land, connectivity to the greenway system, additional pedestrian-oriented facilities, future parks and recreation opportunities, maintaining rural and historical aesthetics, transportation improvements, and promoting the goal and vision of a successful Village Center District.

The rezoning with the Development Agreement of the subject site to the Marvin Heritage – Residential Only Conditional Zoning District is reasonable and is in the public interest because it promotes the goals of the adopted Village of Marvin 2020 Land Use Plan, the Marvin Heritage District Small Area Plan and other officially adopted plans.

## **Recommended Conditions**

The following conditions were supplied to staff prior to the public hearing (the application is subject to additional conditions from Village Council and mutually agreed upon by the applicant).

The following Conditions have been mutually agreed upon and added to the developer agreement:

1. **Preliminary site & civil design plans.** The approval of a rezoning master/site plan shall be considered equal to the approval of a sketch plan, described in the Subdivision Chapter, pursuant to § 150.050. Within one year of the approval, preliminary site and civil design plans shall be prepared to meet the requirements of CHAPTER 150, Appendix 1 and receive review and approval pursuant to § 150.050.
  - a. **Has been added to section 4.5(b) of the attached development agreement.**



# VILLAGE OF MARVIN

10006 Marvin School Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | [www.marvinnc.gov](http://www.marvinnc.gov)

2. **Conditions to be Recorded with Final Plat.** The MHD development standards and specific applicable conditions shall be filed with the County Register of Deeds. The final plat for any parcel within the development shall also show or reference the development standards and conditions on the plat.
  - a. **Has been added to section 4.12 of the attached development agreement.**
3. **Maintenance Plan.** A maintenance plan for the residential subdivision shall be reviewed and approved with the Preliminary site & civil design plans.
  - a. **Has been added to section 4.9(a) of the attached development agreement.**
4. **CCR's.** CCR's for the residential subdivision shall be reviewed and approved prior to Final Plat approval.
  - a. **Has been added to section 4.2 of the attached development agreement.**
5. **Overnight On-Street Parking.** The CCR's for the residential subdivision shall prohibit overnight road parking on all roads within the development to the extent allowable by State Law.
  - a. **Has been added to section 4.10 of the attached developer agreement**
6. **Fencing in the Development.** No fencing shall be allowed in the front yards of the residential lots.
  - a. **Has been added to section 4.10 of the attached developer agreement**
7. **Rezoning Master Plan Pool and Accessory Use.** Remove Note 1 on Sheet RZ-3.0. Pools and Accessory Structures and Uses shall comply with § 151.054 ACCESSORY USES AND STRUCTURES.
  - a. **Has been added to section 4.10 of the attached developer agreement**
8. **Outdoor Lighting.** The development shall be subject to Chapter 152: Outdoor Lighting of the Village Ordinances.
  - a. **Has been added to section 4.10 of the attached developer agreement**
9. **Photometric Plan.** A photometric plan for all pedestrian facilities, roadways and signs shall be provided and approved with the preliminary site & civil design plans.
  - a. **Has been added to section 4.10 of the attached developer agreement**
10. **Engineering Manual.** The development shall be subject to the Village of Marvin Engineering Standards and Procedures Manual (upon adoption).
  - a. **Has been added to section 4.10 of the attached developer agreement**
11. **Additional Road Improvements Along New Town Road.** The developer shall discuss any recommended road improvements and traffic calming with NCDOT and Village Staff for portions along New Town Road and reflect those recommendations on the preliminary site & civil design plans.
  - a. **Has been added to section 4.10 of the attached developer agreement**



# VILLAGE OF MARVIN

10006 Marvin School Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | [www.marvinnc.gov](http://www.marvinnc.gov)

12. **Subdivision Entrance.** Developer shall consult with NCDOT and the Village on making the exit of the development a right out only.
  - a. **Has been added to section 4.10 of the attached developer agreement**
13. **Conceptual Heritage Park Site Layouts.** The conceptual site layouts for the Heritage Park shall be removed and not be considered a part of the rezoning plan and only be used for discussion of potential amenities for the future park by the Village.
  - a. **Has been added to section 4.10 of the attached developer agreement**
14. **Buffer Width Reductions.** A note shall be added to the plans that buffers are a material consideration to the rezoning and it is recommended to all future boards and councils that these not be reduced in any way.
  - a. **Has been added to section 4.10 of the attached developer agreement**
15. **Buffer Opaqueness.** The Development shall plant in the required buffer in areas that do not meet a minimum of 95% opaqueness of screening from adjacent properties.
  - a. **Has been added to section 4.7 of the attached developer agreement**
16. **Linear Park and Walking Trail Improvements.** Developer shall install lights on timers along paths and contrast with asphalt for paths closer to pedestrian and potential commercial areas and natural materials for internal paths.
  - a. **Has been added to section 4.9(c) of the attached developer agreement**
17. **Supplemental Screening for Linear Park and Walking Trail.** Screening shall be provided per agreements made with adjoining property owners and shall be considered if recommended on the preliminary site & civil design plans.
  - a. **Has been added to section 4.9(c) of the attached developer agreement**
18. **Native Plants.** The Development shall conserve native plants where possible and replant with native species and identify this on their preliminary site & civil design plans.
  - a. **Has been added to section 4.10 of the attached developer agreement**
19. **Future Sidewalk Connection.** The applicant shall provide easements on their Preliminary site & civil design plans and final plat for future sidewalk connectivity with the Marvin Road and New Town Road roundabout and adjacent Mixed-Use Parcels.
  - a. **Has been added to section 4.10 of the attached developer agreement**



# VILLAGE OF MARVIN

10006 Marvin School Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | [www.marvinnc.gov](http://www.marvinnc.gov)

20. **Future Sewer Connection.** The applicant shall consider and provide easements on their Preliminary site & civil design plans and final plat for sewer connectivity with adjacent residential parcels and future Mixed-Use Parcels.

a. **Has been added to section 4.10 of the attached developer agreement**

21. **Rezoning Plan Exhibits and Attachments.** All exhibits and attachments, as submitted by the applicant, shall be incorporated as part of this rezoning. Amendments to site plans shall be completed by the applicant and must be provided to Village Staff within two weeks.

a. **Has been added to section 4.10 of the attached developer agreement**

## Recommended Draft Motion

Motion to approve the proposed ordinance rezoning of Parcels numbers 06-240-005 and 06-225-022 to the Marvin Heritage – Residential Only Conditional Zoning District, along with the Development Agreement containing numerous terms and conditions related thereto and adopt the proposed Statement of Consistency