

ITEM #6: Conditional Zoning for 860 Weaver Dairy Road

Council Question:

For 860 Weaver Dairy (and other projects that come before us too), what is the rationale for the HOA requirements? Is there a way to ensure that any current or future HOA does not have the ability to prevent housing types, density, lot reconfiguration, etc. that the town may want now or in the future?

Staff Response:

Staff would need to do further detailed research on the Town's legal authority before commenting on whether these sorts of restrictions are permissible under state law.

It is unlikely that any such restrictions would be necessary for 860 Weaver Dairy. Because the residential portions of the 860 Weaver Dairy project allow townhomes and multifamily apartments, there is limited potential for lot reconfigurations, increased density, or new housing types on the site. Those sorts of changes are the most likely – and most beneficial – in existing single-family neighborhoods.

The HOA requirements that the Town currently uses in Conditional Zoning ordinances generally have two purposes:

- *Ensuring there is an entity in charge of maintaining the shared infrastructure and amenities of the development (common area)*
- *Requiring that certain accessory uses – solar panels and home occupations – be allowed*

Council Question:

Can you help me understand what “will not negatively impact” means relating to stormwater study? Do water levels stay largely the same or does water rise but not impact structures or....?

Staff Response:

At all the downstream points analyzed by the study, post-development flow is projected to be the same or slightly lower than pre-development flow for all of the storm levels that were modeled (e.g., 10-year, 25-year, 100-year).

Council Question:

I appreciate that stronger protections are being included. Does this prohibition (no more than 25% of the critical root zone) apply just to the 3 identified trees? Is it 25% of the root zone on the applicant's site or 25% of all? Why is 25% the magic number to ensure tree preservation and health?

Staff Response:

The prohibition only applies to “rare and specimen trees”. This is consistent with tree protection regulations within sites, where the focus is on larger trees. Smaller trees (i.e., pines with a trunk diameter of less than 18 inches; native trees with a trunk diameter of less than 6 inches; and other non-invasive trees with a trunk diameter of less than 12 inches) are not covered by the prohibition.

The 25% disturbance limit is pulled from the Town Design Manual.

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Council Question:

Thanks for addressing the health of neighbors' trees adjacent to the property line. For clarification, is the developer allowed to disturb 25% of the total critical root zone, or 25% of the critical root zone on the developer's property

Staff Response:

The developer is allowed to disturb 25% of the total critical root zone, which is consistent with guidance provided in the Design Manual.

Council Question:

This approval would allow future development of the central area without the applicant coming back to Council. Would that approval be limited to non-residential use, as mentioned in the Statement of Justification? What other limits on the administrative approval would there be?

Staff Response:

Yes, the central area is reserved for future non-residential/commercial uses only. Future administrative approval would be limited by all of LUMO's generally applicable standards for by-right development and all conditions of the proposed Conditional Zoning Ordinance for the project.

Council Question:

The stormwater analysis found no downstream impact for the 100-year storm. Is there a level that would produce increased impacts over predevelopment?

Staff Response:

Further analysis is required to provide a specific answer. There is definitely some storm intensity level at which downstream impacts would exceed predevelopment conditions; however, determining that level was outside the scope of the downstream analysis.

Council Question:

One of the concerns of the Coventry residents was the buffering between the entry road and their homes. As I read it, this approval allows but does not require the road to be moved. If the road remains in the eastern configuration, what buffering to Coventry will be required?

Staff Response:

Per LUMO, a 10-foot-wide buffer is required whenever a new multifamily development is located next to an existing residential use. Town standards require that the buffer includes at least 4 canopy trees, 7 understory trees, and 12 shrubs per 100 linear feet. This requirement can be met using existing vegetation or new plantings.

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Council Question:

According to the staff report, “The proposal also includes a central area that is reserved for future development.” How big an area are we talking about? What do we need to understand about this area, given that this wouldn't come back to Council, so is there anything we need to understand or be aware of there? Elsewhere in the packet it mentions that this would be for non-residential use. Is that use codified or required somewhere in this conditional zoning approval?

Staff Response:

Roughly 6.5 acres are reserved for future commercial development. The district-specific plan for the project specifically limits the area to “non-residential/commercial space.” If the developer wants to use the space for a residential use in the future, they will need to return to Council for a major modification of their conditional zoning.

Superimposing the district-specific plan on satellite imagery for the area highlights that the future commercial space is located closest to the existing Vilcom Center offices south of the proposed development. The distance between the reserved space and the nearest adjacent residential uses (the Kensington Trace Condos) is noticeably larger than the distance between Kensington Trace and the Vilcom Center.

The allowed uses in this reserved space would be limited to the non-residential uses that are allowed in the MU-V Conditional Zoning District. These include:



- Business, office-type,
- Child/adult day care facility,
- Clinic,
- College or university,
- Fine arts educational institution,
- Hotel or motel,
- Research activities,
- Bank,
- Barber shop/beauty salon,
- Business—convenience,
- Business—general,
- Business—wholesale,
- Manufacturing, light,
- Personal services,
- Public service facility,
- Publishing and/or printing,
- Recreation facility: Commercial