

# Planning Board Minutes

October 7, 2020

## **UDO Text Amendment OA-03-20: Uses Allowed in R-40W Activity Centers**

Mr. Parks presented a brief presentation to amend the Wake County Unified Development Ordinance (UDO) Article 4 to allow Hardware Stores and Veterinary Services as a use allowed by a Special Use Permit process in the R-40W zoning district.

Mr. Parks stated that the proposal would allow Hardware Stores and Veterinary Services as a use within the R-40W zoning district through the Special Use Permit process, which currently allows a limited number of nonresidential uses through the approval of a Special Use Permit by the Board of Adjustment. These nonresidential uses are restricted to property within a designated Activity Center as defined in the Wake County Land Use Plan. The UDO specifically denotes currently the use of a hardware store as not being allowed within R-40W zoning district under the Neighborhood/Convenience-Oriented Retail.

Mr. Parks gave an overview of Text Amendments as follows:

- Amend the Use Table in Article 4 to add the specific use of Veterinary Services as allowed through the Special Use Permit process in the R-40W zoning district.
- Amend UDO Section 4-50 which describes what can be included under Neighborhood/Convenience Oriented Retail uses by including hardware stores as a use allowed in Section 4-50-2(A) and removing hardware stores as a prohibited use in Section 4-50-2 (C) which specifically prohibits that use.

## **Staff findings of the proposed amendment were presented as follows:**

- Staff had meetings with the City of Raleigh and with the County's Environmental Services Department to share the proposed amendments and whether there would be any concerns with these uses in the watershed districts because the water supply is the City of Raleigh's water supply.
- First Meeting - The City of Raleigh had concerns about the effect on water quality directly related to certain aspects of the operation of a hardware store. Including, but not limited to, the storage of fertilizers and paints and how overall outdoor storage would be handled for this type of use.
- Second Meeting - Environmental Services also raised similar concerns as the City of Raleigh as it relates to the operation of a hardware store. Concerns were also raised as to the size and scope of services for a Veterinary Service within the watershed.

Staff recommends that this ordinance amendment request be tabled based on the concerns that have been raised by the City of Raleigh and the Environmental Services Department on the potential adverse impacts that these could potentially have to water quality in the watershed districts. County staff would like to look at the possibility of creating specific performance standards for these two uses to help mitigate any potential adverse impacts in the watershed district. Mr. Parks explained that 'veterinary services' is not clearly defined and recommended that the board may want to consider defining and setting limits on what services could be provided for that use.

**Public Comments:** None

## **Board Discussion**

Mr. Clark recalled that this item was presented at Code and Ops Committee meeting on September 16, 2020. Mr. Wells, Chair of the Code and Ops Committee, explained that at that

meeting there was a consensus that the veterinary operation would be acceptable. Mr. Wells stated that the concerns mentioned in today's presentation were not available at the Code and Ops meeting. Specific issues the Committee discussed included the fact that outdoor storage would be an accessory use to the approved 15,000sq-ft facility and that cremation of animals is not allowed. Mr. Well also reminded that these two types of operations would still need to be granted special use permits from the Board of Adjustment.

Mr. Clark asked staff whether there were objections from the City of Raleigh or Environmental Services prior to Code and Ops committee meeting on September 16, 2020, and Mr. Maloney stated that these discussions occurred after the committee meeting.

Mr. Barron asked Mr. Maloney what specific concerns did the City of Raleigh voice regarding these types of services. Mr. Maloney stated that in regard to Hardware facilities, they were concerned with the outdoor storage of fertilizers and other chemicals and with waste disposal of chemicals. Additionally, they were concerned with the broad term in what is allowed of a veterinary service. Mr. Maloney stated that staff will reach out to the City of Raleigh when these types of changes are considered since it is the Raleigh water supply, and it is important to continue that relationship.

Ms. Crawford informed the Board that Veterinary practices adhere to strict FDA laws on how to dispose of animals, animal waste and chemicals/drugs and are well regulated. Ms. Crawford further stated that she believes there is more of a concern from kennels being allowed in a neighborhood.

Mr. Maloney stated that staff's position is that they would like to do research on the matter and develop performance standards and definitions around these two uses and further contemplate some of the other types of uses that might be suitable for the R-40 watershed zoning.

Mr. Wells stated that he would like to hear comments from the applicant, and he would like to consider Hardware stores and Veterinary Services as two separate entities, and not as one action.

Ms. Hayes Finley addressed the board and believes that there are many safeguards to ensure that the watershed is protected, specifically the facility size limitation, the outdoor storage limitations, the required landscaping and the Board of Adjustment approval requirement. She further stated that the concern is that additional levels put in place by the County will further deter businesses from locating into the area. The applicant would prefer to move forward with their Special Use Permit and avoid future delays, but the is willing to continue to work with staff on the specific site plan through this process.

Mr. Barron stated that, although he feels there are enough safeguards in the Special Use Permitting process, he would prefer that planning staff should research more per their recommendation. Mr. Asa Fleming and Mr. Amos Clark agreed. Mr. Wells agreed as well but would like the process expedited.

There being no further discussion, Mr. Clark entertained a motion from the Board as follows:

Mr. Barron moved that the Board table the UDO Text Amendment OA-03-20, until the next regularly scheduled Planning Board meeting. Motion was seconded by Mr. Fleming and by raise of hand passed unanimously.

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November 4, 2020

## **UDO Text Amendment OA-03-20: Uses Allowed in R-40W Activity Centers**

Mr. Nishawala presented a brief presentation on the request to amend the Wake County Unified Development Ordinance (UDO) Article 4 to allow Hardware Stores and Veterinary Services as a use allowed by a Special Use Permit process in the R-40W zoning district.

Mr. Nishawala stated that the R-40W zoning district currently allows a limited number of nonresidential uses through the approval of a Special Use Permit by the Board of Adjustment. These nonresidential uses are restricted to property within a designated Activity Center as defined in the Wake County Land Use Plan. The UDO specifically denotes currently the use of a hardware store as not being allowed within R-40W zoning district under the Neighborhood/Convenience-Oriented Retail.

Mr. Nishawala gave an overview of Text Amendments as follows:

- Amend the Use Table in Article 4 to add the specific use of Veterinary Services as allowed through the Special Use Permit process in the R-40W zoning district.
- Amend UDO Section 4-50 which describes what can be included under *Neighborhood/Convenience-Oriented Retail* uses by including hardware stores as a use allowed in Section 4-50-2(A) and removing hardware stores as a prohibited use in Section 4-50-2 (C) which specifically prohibits that use.

As a recap from the October 7th Planning Board meeting, Mr. Nishawala stated that this case was presented at that time for Board consideration. After lengthy discussion, the Planning Board tabled discussion to allow staff to research and develop performance standards. Staff from current/long-range planning and from Environmental Services researched other jurisdictions' watershed protection regulations, and using language found in those regulations, developed additional standards for both veterinary clinics and hardware stores in the R-40W zoning districts. Mr. Nishawala additionally stated that staff has informed Swift Creek and Little River ILA partners of the proposed amendment.

Staff recommended the following standards in relation to Veterinary Clinics:

- All buildings must be set back at least 100-feet from any lot line or street line.
- The exterior appearance of all buildings must be in harmony with the character of the area.
- No outside activity associated with the use shall be permitted.
- Medical treatment or care shall be practiced only within an enclosed building or structure.
- The building space shall be adequately soundproofed to assure that no noise will carry beyond the confines of the building or space that the use would occupy.

Staff recommended the following standards in relation to Hardware Stores and provided photographic examples of the standards:

- No outdoor/storage and display

### **Staff findings of the proposed amendment were presented as follows:**

- Staff had meetings with the City of Raleigh and with the County's Environmental Services Department to share the proposed amendments and whether there would be any concerns with these uses in the watershed districts because the water supply is the City of Raleigh's water supply.
- First Meeting - The City of Raleigh had concerns about the effect on water quality directly related to certain aspects of the operation of a hardware store. Including, but not

limited to, the storage of fertilizers and paints and how overall outdoor storage would be handled for this type of use.

- Second Meeting - Environmental Services also raised similar concerns as the City of Raleigh as it relates to the operation of a hardware store. Concerns were also raised as to the size and scope of services for a Veterinary Service within the watershed.

### **Staff Findings:**

Mr. Nishawala stated that staff's intention is to ensure that, with any amendment to the allowed uses in residential watershed districts, the community character is maintained and that the risk of environmental harm is minimized. The applicant and staff were able to reach a consensus on all the proposed text amendment changes, with the exception of hardware store' outdoor storage and display and is therefore, recommending denial of the applicants proposed text amendment as originally submitted. Mr. Nishawala stated that staff recommends approval of the proposed changes to said submittal.

### **Staff Recommendations:**

Staff recommends that the Planning Board recommend that the Board of Commissioners adopt the statement of consistency for Ordinance Amendment 03-20 as presented and recommend that the Board of Commissioners adopts Ordinance Amendment 03-20 as presented.

Mr. Maloney clarified what staff is trying to demonstrate in the recommendations. One, is that staff want to ensure that the recommended uses are within the character of the residential zoning district. And second, that water quality is maintained in the watershed districts in terms of how land is developed.

### **Presentation from the Applicant**

Ms. Ashley Terrazas spoke on behalf of the applicant, Harold Yelle, in support of the proposed text change that was originally proposed in August 2020. Ms. Terrazas stated that the original text change would benefit all the residents of unincorporated Wake County and especially those in the more rural parts, by reducing traffic, raising property values, increasing tax revenue, and ensuring quality of life all while safeguarding the County's resources. Ms. Terrazas presented an excerpt from the Wake County Land Use Plan about the 13 neighborhood activity centers located in the unincorporated parts of the county and briefly described what was allowed and the intention.

Ms. Terrazas stated that the applicant is interested in developing a veterinary clinic and hardware store in an R40-W Activity Center, but they are currently prohibited. The original proposal was to allow both uses via a special use permit from the Board of Adjustment. However, concerns were raised by the Planning Board members and municipal partners which resulted in the current revised proposal by Wake County Planning Staff.

Ms. Terrazas presented the text amendments, that were also provided in the Board packets. Ms. Terrazas stated that the applicant argues that subsection C is slightly too broad regarding 'no outside activity associated with the use shall be permitted,' but the applicant has agreed to the proposed wording.

Mr. Harold Yelle addressed the Board and offered additional comments. Mr. Yelle does not own the property, but he is personally interested in having a Hardware Store there because it would be convenient for himself and citizens in the area.

Mr. Yelle stated that he is interested in making sure that the proposed use would be harmonious to the surrounding area and has a plan to prevent runoff into the watershed. Mr. Yelle also stated that outdoor displays should be allowed to allow seasonal plants the necessary sunlight

while displayed for purchase. Mr. Yelle finally stated that he feels the Planning Board and Board of Commissioners reconsider the outdated restrictions on the neighborhood activity center uses.

### **Outside Storage**

Ms. Terrazas presented the list of standards that the applicant is required to meet when seeking a special use permit from the Board of Adjustment, and specifically discussed the outside storage standard that the storage must be proven necessary for the use.

The applicant feels there is a compromise to allow outdoor storage while still, “keeping the character of the community”, without totally banning all outdoor storage and display. Ms. Terrazas stated that the applicant proposes that neighborhood convenience-oriented retail uses be added as allowable uses in the R-40W district providing rural citizens access to services not currently allowed.

- The applicant feels the ban on outdoor storage/display is not needed and is not included in the applicant's proposal.

Mr. Barron was excused from the meeting by Mr. Clark at 2:15 p.m.

### **Board Discussion**

Mr. Clark reiterated that the three items that the Board needs to discuss:

1. Text changes relating to the Veterinary Services and Hardware Stores, agreed upon between staff and the applicant and is contained in the board packet.
2. Outdoor Storage and Display standards for Hardware Stores.
3. Additional uses being proposed to allow in the watershed (in addition to Veterinary Services and Hardware Stores).

Mr. Clark opened the floor to board discussion.

Mr. Van Dyk stated that he wanted to hear staff thoughts on the request for expanding the allowed uses and on the alternative approach on outdoor storage that Ms. Terrazas presented. Mr. Maloney stated that during initial discussions with the applicant, staff was transparent about not considering additional uses at this time and only focusing on the Veterinary Services and Hardware Stores, because these text changes will apply to all 13 activity centers throughout Wake County. Mr. Maloney also stated that the site plan presented by the applicant should not be considered as this is not a site-specific decision. Ms. Peterson added that staff has not reached out to and discussed with our municipal partners to allow them the opportunity to weigh in on an expanded list of uses.

Mr. Jenkins asked staff if there were any comments regarding the alternate approach to outside storage that Ms. Terrazas presented to the board. Mr. Maloney stated that the stormwater controls that the applicant is proposing are already a condition reviewed by Environmental Services when applying for a special use permit with the Board of Adjustment.

Mr. Wells asked staff for more detail on objections from the City of Raleigh and from Environment Services, and whether the UDO has limits on outdoor storage. Mr. Maloney stated that the City of Raleigh is not supportive of allowing Hardware Stores and Veterinary Services, due to possible outside storage, impact on residential character, and that the water supply could be at-risk. Mr. Maloney stated that there are not any specific concerns from Environmental Services other than the fact that there are going to be nontraditional wastewater systems installed for these types of uses. Regarding the outdoor storage, Mr. Maloney reminded the board that outdoor storage and display is not allowed in watershed zoning. In non-watershed zoning, it is limited through impervious surface limitations. Mr. Wells asked staff how outdoor

storage and display is defined. Mr. Maloney stated that it is difficult to draw a distinction between the two through a definition but is evident when you see it. Staff is open to the review of any examples the applicant may have to make this distinction. Mr. Maloney stated that staff does consider an area as outdoor storage if it is covered, is on an impervious surface and if it has opaque walls/screening.

Mr. Barron rejoined the meeting at 3 p.m.

Mr. Clark stated that he does have concerns with outdoor storage of chemicals that the stormwater facilities are not designed to catch. Mr. Clark feels that items would need to be stored in a covered area that does not allow stormwater runoff. Mr. Kadis recommended a possible limit on the amount of covered storage be limited to a percentage of the floor area of the building itself. Mr. Barron also agreed that an excellent compromise, with the cover being attached to the primary structure.

Mr. Van Dyk was excused from the meeting by Mr. Clark at 3:30p.m.

Mr. Maloney suggested the board table discussion on the question of outdoor storage and display until a future meeting, to allow staff and the applicant to have conversations about amenable language based upon board discussion.

There being no further discussion, Mr. Clark entertained a motion from the Board as follows:

Mr. Barron moved that the Board table the UDO Text Amendment OA-03-20, until the next regularly scheduled Planning Board meeting. Motion was seconded by Ms. Crawford and by raise of hand passed unanimously.

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## December 2, 2020

### **UDO Text Amendment OA-03-20: Uses Allowed in R-40W Activity Centers**

Staff Lead: Mr. Akul Nishawala

Mr. Nishawala presented a brief presentation on the request to amend the Wake County Unified Development Ordinance (UDO) Article 4 – *Use Regulations* to allow Hardware Stores and Veterinary Services as a use allowed by a Special Use Permit in the R-40W zoning district. He stated that the R-40W zoning district currently allows a limited number of nonresidential uses through the approval of a Special Use Permit by the Board of Adjustment.

Mr. Nishawala informed the Board these nonresidential uses are restricted to property within a designated Activity Center as defined in the Wake County Land Use Plan and that the UDO currently denotes the use of a hardware store as not being allowed within R-40W zoning district under the Neighborhood/Convenience-Oriented Retail.

Mr. Nishawala gave an overview of Text Amendments as follows:

- Amend the Use Table in Article 4 to add the specific use of Veterinary Services as allowed through the Special Use Permit process in the R-40W zoning district; and
- Amend UDO Section 4-50 which describes what can be included under Neighborhood/ Convenience Oriented Retail uses by including hardware stores as a use allowed in Section 4-50-2(A) and removing hardware stores as a prohibited use in Section 4-50-2 (C) which specifically prohibits that use.

Mr. Nishawala reminded the Board that this case was presented at the October 7<sup>th</sup> Planning Board meeting for Board consideration and that the Planning Board tabled discussion to allow staff to research and develop performance standards.

At the November 4<sup>th</sup> Planning Board meeting, planning staff and the applicant presented different drafts regarding the outdoor storage and display of hardware stores. The Planning Board again tabled the item and requested that staff and the applicant find a reasonable allowance for storage and display while maintaining residential character and protecting the watershed.

Mr. Nishawala informed the Board that there are currently thirteen activity centers in Wake County, located inside three watersheds that contain R-40W zoning districts. Staff from current/long-range planning and from Environmental Services researched other jurisdictions' watershed protection regulations, and using language found in those regulations, developed additional standards for both veterinary clinics and hardware stores in the R-40W zoning districts. Mr. Nishawala additionally stated that staff has informed Swift Creek and Little River ILA partners of the proposed amendment and were sent updated documents. Mr. Nishawala stated only one comment was received regarding an update to previous language.

Mr. Nishawala reviewed staff recommendations of standards in relation to Veterinary Clinics, which the Board had accepted previously:

- All buildings must be set back at least 100-feet from any lot line or street line.
- The exterior appearance of all buildings must be in harmony with the character of the area.
- No outside activity associated with the use shall be permitted.
- Medical treatment or care shall be practiced only within an enclosed building or structure.
- The building space shall be adequately soundproofed to assure that no noise will carry beyond the confines of the building or space that the use would occupy.

Staff recommended the following updated standards in relation to Hardware Stores:

- Remove requirement for County Board of Adjustment approval to determine necessity of outside storage in neighborhood-oriented retail
- Watershed and watershed district overlay districts:
  - Outdoor display limited to seasonal products, including propane tanks
  - Storage of landscaping and building products must be inside the main building AND/OR under the main building canopy, located on an impervious surface, and enclosed with an opaque wall or fence
  - Maximum combined floor area of 15,000 square-feet

#### **Staff Findings:**

Mr. Nishawala commented that Staff's intention is to ensure that, with any amendment to the allowed uses in residential watershed districts, the community character is maintained and that the risk of environmental harm is minimized. The language proposed by staff creates reasonable standards for hardware stores and veterinary clinics located in Wake County's

watershed and watershed overlay districts. The language proposed by staff is in the best interest of the health, safety, and welfare of the public.

**Staff Recommendation:**

Planning staff recommends that the Wake County Planning Board recommend that the Board of Commissioners adopt the statement of consistency for Ordinance Amendment 03-20 as presented and recommend that the Board of Commissioners adopts Ordinance Amendment 03-20 as presented.

**Presentation from the Applicant**

Ms. Ashley Terrazas stated that the applicant agrees with the proposed text changes.

**Board Discussion**

Mr. Clark opened the floor for board discussion.

Mr. Jenkins commented that he approves of the recommended square footage cap, allowing the owner to decide how to configure the layout of indoor/outdoor storage. Mr. Jenkins asked staff to clarify if only landscaping supplies could be stored outside. Akul clarified that the hardware store is not limited in that respect if the standards are met.

Mr. Clark agreed that the standards are thorough and do a good job in protecting the watershed. Mr. Barron agreed and supports the recommended standards.

**Motion for Consistency**

In the matter of OA-03-20, Mr. Jenkins moved that the Planning Board adopt and offer to the Board of Commissioners the following recommended statement finding that these proposed text amendments, as recommended by staff and agreed to by the applicant, are consistent with the Wake County Land Use Plan and Wake County Unified Development Ordinance because:

1. The purpose of the Wake County Land Use Plan, and of the Unified Development Ordinance as seen in Article 1-22, is to provide a guide for the physical development of the county, preserve and enhance the overall quality of life of residents, and establish clear and efficient development review procedures. These proposed text amendments advance these purposes by expanding the allowable nonresidential uses within designated activity centers in the R-40W zoning district to veterinary services and hardware stores.
2. The proposed text amendments are reasonable and in the public interest because they provide clear standards to protect the community character and environmental sensitivity of the residential watershed districts that the proposed uses might otherwise affect.

Motion was seconded by Mr. Barron and passed unanimously.

**Motion for Approval**

In the matter of OA-03-20, Mr. Jenkins moved that the Board finds that the adoption of these proposed text amendments, as recommended by staff and agreed to by the applicant, is consistent with the Wake County Land Use Plan and Wake County Unified Development and is reasonable and in the public interest and hereby make a motion to recommend approval of these proposed text amendments to the Wake County Board of Commissioners.

Motion was seconded by Mr. Wells and passed unanimously.