



## Planning, Development & Inspections

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### MINUTES OF REGULAR MEETING

#### Wake County Planning Board

Wednesday December 2, 2020, 1:32 p.m.

Online Meeting via WebEx

**Members Present:** (9) Mr. Amos Clark (Chair), Mr. Asa Fleming (Vice-Chair), Mr. Jason Barron, Ms. Brenna Booker-Rouse, Ms. Meredith Crawford, Mr. Bill Jenkins, Mr. Ted Van Dyk, Mr. Thomas Wells, Mr. Tony Yao

**Members Absent:** (1) Mr. Daniel Kadis

**County Staff:** (12) Mrs. Loretta Alston (Clerk to the Board), Mrs. Phoebe Brown (Community Services Accounting Technician), Ms. Jenny Coats (Community Services Business Manager), Mr. Adam Cook (Planner), Mr. Frank Cope (Community Services Director), Ms. Celena Everette, (Planner II), Mr. Steven Finn (Land Development Administrator), Mr. Tim Gardiner (Planner III), Mr. Tim Maloney (Planning, Development, Inspections Director), Mr. Akul Nishawala (Planner III), Ms. Sharon Peterson (Long Range Planning Administrator), and Ms. Beth Simmons (Community Services Administrative Manager)

**County Attorney:** (1) Mr. Kenneth Murphy (Senior Assistant County Attorney)

**Guests:** (7) Ms. Ashley H Terrazas (Fox Rothschild LLP), Ms. Molly Stuart (Speaker), Henry McNair (Speaker), Ms. Emily Starnes (Speaker), Nicole Shoemaker (Attendee), Wendy Waring (Attendee), Zac West (Attendee)

#### 6. Rezoning PLG-RZ-002573-2020: Raleigh ETJ Relinquishment

##### Staff Lead: Mr. Adam Cook

Mr. Adam Cook began by showing a Powerpoint presentation (attachment 4) on the request to rezone an area consisting of 227.59 acres from City of Raleigh residential-1 & residential-10 zoning districts to Wake County Residential-40 Watershed zoning district.

Mr. Cook stated that the Raleigh City Council relinquished extraterritorial jurisdiction for the subject site on October 6, 2020 with an effective date of December 1, 2020. Per NCGS 160D-202(h), the County has 60 days from the effective date to assign zoning to the relinquished parcels.

The site is located south of Tryon Road and to the east of Dover Farm Road and is currently zoned as Residential-1 & Residential-10 with the City of Raleigh. The adjacent zoning to the north is City

of Raleigh Zoning Residential-1 and Residential-10. To the east is Raleigh zoning district Residential-1 and Agricultural Productive (AP). To the south is Raleigh zoning districts Residential-1, Agricultural Productive and Wake County R-40W zoning. To the west is Raleigh zoning districts Residential 1&10 and Wake County zoning District R-40W.

Mr. Cook gave a brief overview of historical land use:

- 1970: General Wake County zoning was first applied to the area west and south of the subject site.
- 1980: Raleigh ETJ established
- 1990: Wake County Board of Commissioners adopted the Swift Creek Land Management Plan.

The subject site is in the Swift Creek Watershed and is part of the Swift Creek Land Management Plan. The Swift Creek Land Management Plan identifies the area as a non-critical rural area which allows for a maximum density of up to one dwelling unit per acre. The proposed Residential-40 watershed district zoning allows for very-low density residential development with a minimum lot size of 40,000 square feet and a maximum density of one dwelling unit per acre. The requested R-40 watershed district allows for a residential density and a limited range of nonresidential uses that are consistent with the Land Use Plan and are reasonable and appropriate for the area.

Planning staff sent letters to property owners adjacent to the subject property and posted meeting notification signs on Tryon Road and Dover Farm Road. Staff has received one call from an adjacent property owner seeking more information about the proposed rezoning. He stated that no real opposition to the request was received.

The subject property is in the non-critical rural area of the Swift Creek Land Management Plan. The non-critical rural area prohibits the connection to municipal sewer unless it is necessary to protect public health in the event of a private system failure. The subject property will likely be developed with individual or community well and septic disposal systems. Mr. Cook presented a map of Wake County flood hazard soils and USGS blue line streams that are located on the site. Various provisions of the Wake County Unified Development Ordinance (UDO) restrict or prohibit development within this environmentally sensitive area.

The subject site has access to Tryon Road from a 1.5-acre parcel that fronts Tryon Road. The Site also has frontage on Dover Farm Road. Any future redevelopment on this site will be required to comply with the requirements of the Wake County UDO related to the provision of transportation facilities identified by the Wake County Transportation Plan. Any roadway improvements and/or driveway permits will have to be coordinated with, and approved by, the North Carolina Department of Transportation (NCDOT).

Mr. Cook explained that both the North Carolina General Statute 160D-604 and Section 19-20-6 (E) of the Wake County Unified Development Ordinance require that the Planning Board provide the Board of Commissioners with a statement of whether or not the proposed rezoning petition is consistent with the Land Use Plan and otherwise advances the public health, safety, and general welfare.

In making a determination of whether or not to approve the rezoning petition, the Board of Commissioners must adopt a statement describing whether or not the proposed petition is consistent with the Land Use Plan and otherwise advances the public health, safety, and general welfare, or why it chose not to follow the Land Use Plan and how that decision is reasonable and in the public interest.

The planning staff has drafted a statement of consistency and public interest for consideration by the Planning Board (see attached).

### **Staff Findings**

1. The proposed Residential-40 watershed rezoning and the permissible density and range of uses are consistent with the Land Use Plan's designation and are reasonable and appropriate for the area.
2. More specifically the R-40 watershed density allows for one dwelling unit per acre, which complies with the Land Use Plan's designation of one dwelling unit per acre.
3. The proposed rezoning complies with Land Use Plan objective 9.a. which strives to minimize pollutants from storm water runoff, protect drinking water, and protect water quality suitable for fishing, boating, and swimming by allowing only appropriate land uses and densities which meet or exceed applicable State water quality guidelines.
4. A detailed site plan must be approved by the appropriate Wake County entity prior to future redevelopment.
5. Raleigh City Council relinquished ETJ for the subject site at its October 6<sup>th</sup> meeting with an effective date of December 1st.
6. In accordance with NCGS 160D-202(h), the County has a period of 60 days (from the effective date) to assign zoning to the relinquished property.

### **Staff Recommendation**

Planning staff recommends that the Planning Board:

- (1) Adopt the drafted statement of consistency, and
- (2) Approve the rezoning petition, PLG-RZ-002573-2020, as presented.

### **Board Discussion**

Mr. Fleming raised the concern about the watersheds in the future and inquired if a community septic system was an option. Mr. Cook stated that it is an option if a community wanted such a system but has not been explored in the County for several years because it is difficult to get state approval for a community septic system.

Ms. Crawford stated that her concern with septic systems is not as great as her concern with the municipal sewer systems, stemming from the recent leaks into the watersheds.

Mr. Van Dyk asked if the applicant has submitted any plans for those systems associated with this rezoning. Mr. Cook stated that no plans had been received for this site yet, but that the applicant is

one of the speakers and suggested the board follow up during the public comment period of the meeting.

Mr. Clark asked staff to clarify that the R40W is consistent with what the zoning in surrounding areas. Mr. Cook verified that is correct and further stated that all the adjacent county zoning for that area is R40 as well.

Mr. Clark opened the Public Hearing at 2:19 p.m.

Mr. Henry McNair addressed Mr. Van Dyk's inquiry regarding site plans and stated that they will be developing part of the property into 38 lots to preserve part of the existing horse farm. Mr. McNair further stated that they have developed in the Swift Creek and Falls Lake Watersheds for years, and the development regulations, although stringent, have never posed an issue.

Mr. Clark closed the Public Hearing at 2:26 p.m.

### **Motion for Consistency**

In the matter of PLG-RZ-002573-2020, Mr. Wells moved that the Board find that the requested rezoning to R-40W is consistent with the Wake County Land Use Plan and Wake County Unified Development Ordinance because the rezoning is:

- a. consistent with the Wake County Land Use Plan's designated maximum residential density for this area of one dwelling unit per acre (R-40 watershed is also a maximum of one DU/acre);
- b. consistent with the permissible range of uses that are allowed throughout the Swift Creek Land Management Plan non-critical rural area, especially considering that most nonresidential uses would require a separate public hearing process for a Special Use Permit to ensure that their location and design is appropriate and will protect the public health, safety and general welfare;
- c. consistent with the land use plan's objective 9.a. which strives to minimize pollutants from storm water runoff, protect drinking water, and protect water quality suitable for fishing, boating, and swimming by allowing only appropriate land uses and densities which meet or exceed applicable State water quality guidelines;
- d. reasonable because it would allow for the same residential density and range of uses as would be permissible on all the surrounding properties in this area.
- e. in the public interest because the future residential development of the site may meet a market need for additional housing opportunities;
- f. reasonable and in the public interest because various provisions in the Wake County Unified Development Ordinance and the established development review process with outside agencies such as the North Carolina Department of Transportation and other county departments, will ensure that there are no significant adverse impacts on the public health, safety and general welfare. For example, the subsequent development will comply with county requirements regarding buffering, stormwater and erosion control, and protection of environmentally sensitive areas.

Motion was seconded by Mr. Jenkins and passed unanimously.

### **Motion for Approval**

In the matter of PLG-RZ-002573-2020, Mr. Wells stated that the Board finds that the requested rezoning to R-40W is consistent with the Wake County Land Use Plan and Wake County Unified

Development Ordinance is reasonable and in the public interest and therefore moved for approval of the proposed rezoning to R-40W to the Wake County Board of Commissioners. Motion was seconded by Ms. Crawford and passed unanimously.