



Planning, Development & Inspections

A Division of Community Services
P.O. Box 550 • Raleigh, NC 27602
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MINUTES OF REGULAR PLANNING BOARD – September 6, 2023

LOCATION: Wake County Justice Center, 301 S. Salisbury St., Room 2700, Raleigh, NC

MEMBERS PRESENT:

1. Mr. Thomas Wells (Chair)
2. Ms. Brenna Booker-Rouse (Vice-Chair)
3. Mr. David Adams
4. Mr. Jason Barron
5. Mr. Amos Clark
6. Mr. Bill Jenkins
7. Mr. Ted Van Dyk

MEMBERS ABSENT:

1. Mr. Asa Fleming
2. Mr. Daniel Kadis
3. Dr. Kamal Kolappa

COUNTY STAFF:

1. Mr. Josh McClellan
2. Mr. Timothy Maloney
3. Ms. Terry Nolan
4. Ms. Sharon Peterson
5. Ms. Beth Simmons

GUESTS:

1. Mr. Travis Crayton, Senior Director of Planning, Research Triangle Foundation

COUNTY ATTORNEY:

1. Mr. Kenneth Murphy, Deputy County Attorney

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1. **Meeting Called to Order:** Mr. Wells called the Planning Board meeting to order at 1:31 pm.
 2. **Petitions and Amendments:** Mr. Van Dyk requested an amendment to the agenda to allow an update on the Tree Canopy and Reforestation Project from Staff. Hearing no objections from the Board, Mr. Wells amended the agenda.
 3. **Approval July 19, 2023, and August 2, 2023, minutes:** Mr. Adams made a motion to accept the minutes for July 19 and August 2, 2023, as presented. Mr. Jenkins seconded the motion, and the minutes were adopted unanimously.

4. Research Triangle Park Update – Presentation by Travis Crayton, Senior Director of Planning, Research Triangle Foundation

Mr. Maloney introduced Mr. Crayton, Senior Director of Planning for the Research Triangle Foundation, and noted that he had presented information on Research Triangle Park (RTP) at past meetings. Given recent endeavors by RTP to improve and expand their campus, Mr. Crayton would be providing an update to Board Members.

Mr. Crayton began his presentation with a brief introduction to the Research Triangle Foundation, a 501c4 nonprofit economic development organization. The Foundation operates as the steward and administrator for RTP and facilitates collaboration among Triangle universities to create economic impact for the region and state. Mr. Crayton specified that RTP was defined as the 7,000-acres designated as the park, with an estimated 60,000 employees associated with the 375 RTP companies. RTP's campus is divided between Wake and Durham counties, with 22% located in Wake. Mr. Crayton identified Apple, NetApp, Cisco, Fujifilm, and Diosynth Biotechnologies as notable businesses located in the Wake County portion of the RTP campus.

Mr. Crayton explained that Hub RTP, located between I-40 and NC-54, was the focus of his update for the Board. He noted that, over the past three years, RTP had seen an increase of investment from new and existing companies of 4.7 billion dollars with the addition of 8,000 jobs projected in the future. To meet the economic development mission and the needs of companies, Hub RTP was designed as a Mixed-Use Development to function as a "downtown" for the campus. Mr. Crayton presented a site plan of the proposed Hub RTP, comprised of 50 acres of a 100-acre tract situated in the center of the park in Durham County. At completion, the area will include up to a million square feet of office and life science space, 50,000 square feet of retail space, a 250-room hotel, and up to 1200 residential units. Additionally, Hub RTP was the site of a 16-acre green space and stream restoration project, replacing an existing parking lot.

Mr. Crayton provided photos of the in-progress construction of "Horseshoe RTP," part of the property owned and maintained by Research Triangle Foundation. The Horseshoe RTP portion of the campus will include four stories of office space above a retail pavilion. He noted that the retail pavilion would anchor the public space, and would provide food, beverages, and restaurant services to employees, residents, and visitors. Two residential units were also under construction and would include the first residential areas ever offered in RTP and would be available by the summer of 2024. Current projections include the Longfellow Life Science Building with construction beginning in late 2023 and the hotel would begin construction in 2024 with a 2026 completion date.

Mr. Crayton presented renderings of the proposed Horseshoe and Longfellow Building to demonstrate their relative view from I-40, which presented a corporate visibility not previously available to RTP businesses. Feedback from businesses indicated that lodging for visitors was in high demand, and Hub RTP prioritized the development of a hotel in conjunction with partner Alamo Manhattan. When completed, the hotel would also include a modest conference facility and a signature restaurant on the ground floor overlooking the Horseshoe pavilion. Mr. Crayton noted that the Foundation built an Experience Center that includes a 3D model of the hub site, designed to showcase the amenities of the Hub to companies interested in doing business with RTP.

Mr. Crayton thanked the Board and offered to answer any questions.

Board Discussion

Mr. Van Dyk asked if the Foundation was considering education and cultural components in the future, paving the way for RTP to become its own separate town. Mr. Crayton responded that discussions had taken place, but that the Foundation's priorities remained on delivering an economic development mission. Companies had expressed a need for daycare facilities, but other discussions were purely in preliminary stages as to appropriateness in their visioning plan. Mr. Maloney clarified that the County worked with RTP to amend the UDO, particularly to allow schools. He explained that an elementary school was already in place with a high school under construction near the future Apple campus. He noted that residential development is not currently permitted in the Wake County portion of RTP, but that Staff would be willing to discuss emerging needs with the Foundation in the future as need arose.

Mr. Adams asked how RTP considered themselves in relation to smaller, suburban office parks situated closer to residential areas and Mr. Crayton responded that despite the overall size of RTP, the density made their classification closer to a suburban environment, and their competition came from larger urban areas. Mr. Wells inquired about future housing opportunities for employees, and Mr. Crayton explained that due to their current zoning and available space, they were limited at present, but that they intended to continue to discuss with landowners the possibility of developments moving forward.

Mr. Van Dyk asked for clarification on RTP's plans for transportation and whether a train station would be under consideration. Mr. Crayton responded that they were in preliminary discussions with Go Triangle about relocating the Regional Transportation Center adjacent to the NC Railroad Corridor. Mr. Crayton noted that he did not include this in his presentation because the plans were located on the Durham side of the RTP campus.

Mr. Wells thanked Mr. Crayton for his presentation.

5. Proposed Unified Development Ordinance Text Amendment – OA-02-23

Request that the Planning Board recommend approval to the Board of Commissioners to amend the Wake County Unified Development Ordinance (UDO) Article 4 – Use Regulations establishing distance requirements for Tobacco and Hemp retailers to lessen the negative impact of the land use on youth populations.

Presentation by Staff: Terry Nolan, Planner III

Ms. Nolan began by updating the Board that her presentation had been updated since her introductory comments in August. The request from Staff is to amend Article 4-57 of the UDO to prohibit tobacco & hemp retail within 1,000 feet of public or private elementary, middle, and high schools, public parks, greenways or residences, and other tobacco & hemp retail sites. Additionally, tobacco & hemp retail would be restricted to general business, heavy commercial, industrial, and special zoning districts.

She identified "Tobacco and Hemp Retail" as any business where sales of tobacco and/or hemp is the principal use. The request also includes any natural or synthetic product containing nicotine, specific levels of THC (including delta-8 THC & delta-9 THC), and any product containing a substance called "kratom," a stimulant containing effects comparable to heroin. Electronic devices used to deliver nicotine, THC, or other substances would also apply. She presented the Board with a slide of

a typical tobacco & hemp retail establishments, noting that they are small storefronts found along major corridors and downtown areas. Ms. Nolan did acknowledge that there are currently no tobacco & hemp retail establishments within the unincorporated areas of Wake County.

Wake County Public Schools (WCPSS) requested to amend land use regulation and reduce the availability of tobacco and hemp products. Planning staff partnered with staff from Public Health who promoted similar ordinances as a larger effort to educate and promote tobacco prevention amongst youth. Public Health provided Planning Staff with data from the Poe Center, containing over 800 outlets that sold tobacco. Once staff narrowed out grocery stores, gas stations, and other areas where the principal use did not meet the sale of tobacco and hemp, Ms. Nolan identified 30 establishments that sold tobacco within the unincorporated County however, none are impacted by proposed ordinance criteria.

Ms. Nolan noted that Staff felt that the legal authority for the proposed UDO amendment was consistent with “secondary effects doctrine,” to authorize the County to act in regulatory fashion for the safety and welfare of the public. While the County was prohibited from limiting the sale of products, they were within their rights to limit the effects of land use and apply the “secondary effects doctrine” to limit adverse effects on youth. Wake County’s proposed UDO amendment is also consistent with five municipalities and their standards for distance from schools and other uses.

Ms. Nolan presented a slide of municipal UDO guidelines, identifying how restrictions varied from one to the next. Based on strategies provided by Public Health, staff identified land use restriction as the most feasible course of action to impact the availability and accessibility of products. She then presented a slide demonstrating a tobacco & hemp retail location less than 400 feet from the Broughton High School property, partially prompting the request from WCPSS. Ms. Nolan presented the proposed draft language to Article 4-57 (1, 2, and 4) along with a use table indicating proposed zoning districts with tobacco & hemp added. She explained that, without the change, tobacco & hemp sales would fall under permitted uses in the neighborhood retail use category.

Ms. Nolan reported that Staff Findings indicated that 1) the proposed changes do not impact any existing Tobacco & Hemp retailers in unincorporated Wake County, 2) the proposed standards align with the County’s land use policies (PLANWake) with Health and Human Service efforts on youth tobacco & hemp activity, and 3) several municipalities have already established similar standards for this type of use. She requested that the Board find that adoption of the proposed text amendment was consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance and is reasonable and in the public interest and hereby make a motion to recommend approval to the Wake County Board of Commissioners. Ms. Nolan offered to address any questions the Board might have.

Board Discussion

Ms. Booker-Rouse asked if it would be feasible to increase the distance of 1,000 feet and Ms. Nolan explained that her presentation to the Health and Human Services Board also resulted in a similar request. She conducted a study increasing the distance from 1,000 to 2,000 feet and found it only positively impacted an additional two schools on the list of ten within the unincorporated County.

Mr. Jenkins inquired as to how the proposed amendment would affect convenience stores, and Ms. Nolan responded that it would not – only businesses where products of this nature were the principal or primary use of the building. Mr. Barron asked for specificity on how that was monitored and determined, and Mr. Maloney responded that if a convenience store shifted their primary product, they would be subject to a “change of use” because of the UDO amendment. He noted that these

shifts are typically identified through complaints or fire inspections. Mr. Barron expressed curiosity to any existing litigation surrounding the type of amendment proposed or successful implementation of regulation of retail uses. Mr. Murphy responded that he researched the existing statutes when initially presented the proposed UDO text amendment and found that, while State statute prohibits the regulation of sale and distribution, promotion, and display, the County was within their rights to regulate location. He noted that he felt comfortable defending this land use regulation, particularly with the 1,000-foot provision, as it did not unduly burden the operation of tobacco and hemp retail.

Ms. Nolan noted that Specialty Retail of North Carolina, a lobbying organization, had been contacted and that she regularly supplied their staff with presentation materials and meeting agendas. Ms. Nolan indicated that she had not received a response from their chief lobbyist. Mr. Wells thanked her for the presentation.

Public Comment

Mr. Wells opened the floor for public comment at 2:43p.m. Hearing none, he asked for a motion on OA-02-23.

Board Motion #1 – Adoption of the Statement Consistency in OA-02-23

Motion was made by Mr. Adams in the matter of OA-02-23, that the Planning Board adopt and offer to the Board of Commissioners the following recommended statements finding that the proposed text amendments are consistent with the Wake County Comprehensive Plan and the Wake County Unified Development Ordinance (UDO). The text amendments included herein accomplish this as described in the following statements:

- 1) The purpose of the Wake County Comprehensive Plan, and of the Unified Development Ordinance, is to promote the health, safety, and general welfare of the citizens of Wake County. These purposes are advanced by this text amendment's creation of distance requirements of Tobacco and Hem retail from schools and other youth sensitive areas.
- 2) The proposed text amendment is reasonable because it is consistent with land use regulations within five Wake County municipal jurisdictions and aligns with the County's public health initiatives to curb use of these products among youth.

Mr. Clark seconded the motion, and it was adopted unanimously.

Board Motion #2 – Approval of the Proposed Text Amendments in OA-02-23

Mr. Barron moved that the Board find that the adoption of the text amendment is consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance and is reasonable and in the public interest and here by make a motion to recommend approval of the proposed text amendment to the Wake County Board of Commissioners.

Mr. Van Dyk seconded the motion, and it was adopted unanimously.

6. Tree Canopy and Reforestation Pilot Program Update

Mr. Maloney indicated that the public release of the Tree Canopy Assessment Land Cover Analysis was underway and that he would be meeting with members of the press to continue releasing information. He noted that the Treekeeper Canopy Tool was online and available to the public, and

that training was underway between the vendor and municipalities on how to use the tool. The County, while unable to conduct studies on behalf of others, would be providing training so that interested parties would be able to use the tool themselves. Mr. Maloney expressed great confidence in the Treekeeper Canopy Tool's ability to provide specific information to assist municipalities and jurisdictions with copious data.

Mr. Maloney also updated the Board on the pilot project with the Turnpike Authority, noting that 3,200 saplings were tentatively planned for reforestation along the interchange of NC-540 and NC-54. He indicated, per Mr. Van Dyk's comments about the County's potential role using Treekeeper Canopy Tool, that it was too early to determine where the County ultimately stood but that he hoped for positive results from the pilot program and where it might lead, budget permitting. Mr. Van Dyk concurred that having the data was a valuable first step and that discussions would be valuable moving forward.

7. Committee Reports

There were no updates from the Planning Board Committees.

8. Planning, Development, and Inspections Report

Ms. Sharon Peterson updated the Board on the Lower Neuse Area Plan: the first in-person meeting was scheduled at Triangle Land Conservancy at the Wilson Preserve on September 12th from 4 p.m. to 7 p.m. Staff would be partnering with the Soil and Water Conservation District staff and Parks, Recreation, and Open Spaces. Ms. Peterson indicated that they had also invited members of the Turnpike Authority, as I-540 is within the Planning Area, but they had not responded yet. She also informed the Board that the Board of Commissioners approved the first agricultural conservation easement funding for a farm located in the Lower Neuse Planning Area. She explained that rollover money from the Voluntary Agriculture Districts would help fund conservation easements.

Ms. Peterson closed her remarks by updating the Board on the Town of Apex's Western Branch Land Use meeting, which includes portions of the Lower Neuse Area Plan. She noted that a property owner in a rural designation spoke to her expressing concerns about growth in her area, and that she would be meeting with the Town of Apex to discuss the impact of their mutual area plans.

Mr. Maloney informed the Board that he would be presenting the Ordinance Amendment pertaining to minor / minor-limited subdivision changes to the Board of Commissioners on September 18th. Mr. Maloney noted that Ms. Booker-Rouse would be in attendance for that meeting, and Mr. Wells would be needed for the October 16th meeting to present OA-02-23. Mr. Maloney indicated that he had worked on the agenda for the Planning Board Retreat with Mr. Wells but would defer to his comments, and closed by noting that there were no current agenda items for the October meeting.

9. Chairman's Report

Mr. Wells thanked the members for attending requested the Planning Board members review the agenda for their retreat on September 27th. He noted that it would be a fact-filled day with several presentations from parties throughout the County.

10. Adjournment

The meeting was adjourned at 3:02 p.m.

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REGULAR MEETING
WAKE COUNTY PLANNING BOARD
September 6, 2023

Chair Thomas Wells declared the regular meeting
of the Wake County Planning Board for
Wednesday, September 6, 2023, adjourned at 3:02 p.m.

Respectfully Submitted:

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11/1/2023

Thomas Wells
Wake County Planning Board

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