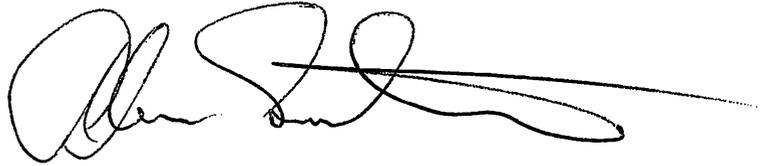


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REGULAR MEETING  
WAKE COUNTY PLANNING BOARD  
July 19, 2017

Alan Swanstrom declared the regular meeting  
of the Wake County Planning Board for  
Wednesday, July 19, 2017 adjourned at 2:53 p.m.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Alan Swanstrom", with a long horizontal flourish extending to the right.

Alan Swanstrom  
Wake County Planning Board

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## MINUTES

**Wake County Planning Board  
Wednesday, July 19, 2017  
1:30 P.M., Room 2700  
Wake County Justice Center  
301 S. McDowell St.  
Raleigh, N.C.**

**Members Present (7):** Mr. Alan Swanstrom (chair), Mr. Jason Barron (vice-chair), Mr. Amos Clark, Mr. Phil Feagan, Mr. Ted Van Dyk, Ms. Tara Kreider, and Mr. Asa Fleming

**Members Not Present (3):** Mr. Thomas Wells, Mr. Wayne Maiorano, and Ms. Ashley Foxx

**Staff Members Present (5):** Mr. Steven Finn (Land Development Administrator), Mr. Tim Maloney (Planning, Development & Inspections Director), Mr. Bryan Coates (Planner III), Ms. Sharon Peterson (Long Range Planning Administrator), and Mr. Russ O'Melia (Clerk to the Board)

**County Attorney Present (1):** Mr. Kenneth Murphy

**1. Call to Order** – Mr. Swanstrom called the meeting to order at 1:30 p.m.

**2. Petitions and Amendments** – Mr. Swanstrom proposed adding an item to the agenda for a discussion at the end of the meeting regarding strategic planning for the board. The agenda was approved unanimously as amended.

**3. Approval of Minutes of the May 3, 2017 Planning Board Meeting** – Ms. Kreider made a motion to approve the minutes from the May 3, 2017 meeting. Mr. Clark seconded the motion. The motion passed unanimously.

**4. Land Use Plan Amendment 03-17: Amend the Swift Creek Land Management Plan Map within the Wake County Land Use Plan to reclassify 355 acres from Swift Creek Watershed New Suburban Non-Critical to Swift Creek Watershed Rural Non-Critical**

Mr. Coates presented the staff report to the board.

**Applicant:** Wake County Planning, Development, & Inspections

**Request:** Amend the Swift Creek Land Management Plan Map within the Wake County Land Use Plan to reclassify 355 acres (106 parcels) from Swift Creek Watershed New Suburban Non-Critical to Swift Creek Watershed Rural Non-Critical.

**Location:** The subject properties are located within the northeast quadrant of the intersection of Lake Wheeler & Simpkins Road extending north to the North Carolina State University Dairy Farm and Yates Mill County Park.

**Current Classification:** Swift Creek Land Management Plan New Suburban Classification (Maximum density of 2.5 units an acre).

**Proposed Classification:** Swift Creek Land Management Plan- Rural Classification (Maximum density of 1 unit an acre).

**Background**

The Swift Creek watershed, located in southern Wake County, is comprised of approximately 40,174 acres. Lakes Benson and Lake Wheeler are the primary bodies of water. Within the Wake County Land Use Plan it is classified as a Water Supply Watershed. Roughly 17,500 acres are within Wake County’s planning jurisdiction.

In the late 1980s and early 1990s, Wake County, Raleigh, Cary, Garner and Apex jointly developed (with the North Carolina Division of Water Quality) and adopted the Swift Creek Land Management Plan (SCLMP) as a guide to managing development in the Lake Wheeler and Lake Benson watersheds, to protect water quality in these water supply reservoirs. The Wake County Board of Commissioners adopted the Swift Creek Land Management Plan on April 19, 1990.

Session Law 1998-192, adopted by the North Carolina General Assembly on October 22, 1998, prohibits Wake County (and other parties to the Plan) from adopting any development ordinance or granting any development permit that would be inconsistent with the standards and provisions of the Swift Creek Land Management Plan adopted April 19, 1990.

The Swift Creek Land Management partners have created a draft Inter-local agreement to formalize current land use planning practices within the Swift Creek Land Management Area and also proposed several land use classification changes. The proposed changes are within Garner and Wake County’s planning jurisdictions (see attached map). The changes would concentrate density along major corridors and create less dwelling units within the plan boundaries. Land Use Plan Amendment 03-17 is the only proposed change within Wake County’s jurisdiction.

**Analysis:**

Wake County Water Supply Watershed Protection Policies

**WATER QUALITY GOAL**

To maintain and enhance the quality of public water resources, allowing no further degradation of water quality, while allowing limited development in water supply watersheds.

Wake County protects water quality in water supply watersheds by applying land use and development regulations that are designed to keep impervious surface coverage low and to provide adequate infiltration of runoff water into the ground. They do so by limiting the density of residential development, limiting the impervious surface coverage of nonresidential development, requiring vegetated buffers along watercourses, limiting nonresidential land uses to those with characteristics less likely to adversely affect water quality, controlling the storage and use of hazardous materials, and applying design standards to minimize adverse water quality impacts. These land use and development regulations help to maintain water quality and direct more dense growth out of water supply watersheds and into the urbanizing areas.

**Wake County Land Use Plan Current Designation**

The SCLMP identifies the area as non-critical new suburban area and allows for a maximum density of up to 2.5 dwelling units per acre and have a 12% impervious surface limit. For a

property to go over the 12% impervious municipal sewer is required within the New Suburban Area.

### **Wake County Land Use Plan Proposed Designation**

The Rural Non-Critical Classification within the SCLMP allows up to 1 dwelling unit per acre and a 12% impervious surface limit, however it could increase to 30% if the first ½" of rainfall runoff is retained. Municipal sewer is prohibited within the Rural Non-Critical Classification.

### **Current Land Use Pattern**

The amendment area contains a mix of residential homes and woodlands (see aerial map). The parcels are currently zoned R-40W (Residential - one dwelling unit per acre) Watershed within Wake County's jurisdiction. However the parcels are located within the Town of Garner's Short and Long Range Urban Services.

A municipal waterline is located roughly 3,000 feet from the eastern edge of the proposed amendment area along US 401 and Simpkins Road.

Areas south of Simpkins Road are within urban services for Garner and its Extra-Territorial Jurisdiction (ETJ). Properties to the east and south have a higher density of residential development than the proposed amendment area. The range of density is from 1 unit an acre to roughly 4 units an acre. Some of the residential communities were built before the Swift Creek Land Management Plan was created and adopted.

### **Input from Property Owners**

Planning staff mailed out letters to (106) property owners being reclassified explaining the proposal as well as notifying them of the Land Use Committee and Planning Board meetings.

### **Purpose**

Land Use Plan Amendment 03-17 is just one of several Swift Creek Land Management Plan changes that would decrease the potential number of dwelling units by 1,000 within the Water Supply Watershed. The changes would increase and concentrate density along major corridors (US 401 and Ten-Ten Road), while lowering the density near Lake Benson and Wake County's jurisdiction along Lake Wheeler and Simpkins Roads. Land Use Plan Amendment 03-17 meets a few goals of the Wake County Land Use Plan by encouraging growth close to municipalities and creating transition areas between urban areas.

### **Findings:**

1. The Swift Creek Land Management Plan was adopted in 1990, establishing water quality protection measures including restrictions on public utilities.
2. The proposed land use plan amendment parcels are currently classified as Swift Creek Land Management Plan New Suburban Classification (Maximum density of 2.5 units an acre)
3. The proposed land use plan amendment parcels are zoned Residential-40 Watershed (1 unit per acre).

4. The City of Raleigh and Town of Garner have stated that they have no plans to provide municipal services in this area.
5. The properties are surrounded by Wake County jurisdiction on three sides and Garner ETJ to the south.
6. The properties to the west and north are classified Rural Non Critical Area of the Swift Creek Land Management Plan.

### **Recommendations**

Planning Staff recommends that the parcels totaling 355 acres located in the northeast quadrant of the intersection of Lake Wheeler & Simpkins Road extending north to the North Carolina State University Dairy Farm (LUPA 03-17) be reclassified from Swift Creek Land Management Plan New Suburban Classification to Swift Creek Land Management Plan- Rural Classification.

Mr. Swanstrom noted that there was a Land Use Committee meeting to discuss this case that was attended by citizens from the public. Most of them were interested in adjacent parcels rather than the affected area.

Ms. Yan Zhou came forward to address the board. She stated that she manages property in the area that she has invested in. She asked how the proposal would impact the permission for existing houses that may have nonconforming status.

Mr. Coates said that there are properties in the area that are less than an acre that were in existence before the Swift Creek Land Management Plan, and the proposed Land Use Plan Amendment would not impact the nonconforming status of those properties.

Mr. Swanstrom asked if a new structure could be constructed on a nonconforming lot. Mr. Finn said that houses that are torn down can be rebuilt within a timeframe on the same footprint. If the footprint would be expanding, the UDO does allow some expansions within size limitations, and those approvals may require a special use permit from the Board of Adjustment.

Mr. Van Dyk asked about the density proposed for the approved subdivision in the area. Mr. Coates said that R-40W standards would apply, but it would be less dense than the zoning allows due to environmental features on the parcels.

Mr. Barron asked about the county's authority to change the Land Use Plan relating to the Swift Creek Land Management Plan. Mr. Murphy said that legislation allows the Land Use Plan to be modified if all of the signatories to the plan are in agreement. Mr. Coates said that the attorneys for the relevant municipalities have been involved in the discussion and are in agreement. Mr. Barron asked about the impervious surface requirements related to the change. Mr. Coates said that under the new suburban designation parcels are limited to 12% impervious surface until they get sewer. Under the rural designation, they would be limited to 30% impervious surface without sewer. Mr. Barron commented that this is an unusual situation where the density would be reduced but the impervious surface allowed

would be increased. Mr. Clark noted that properties in the rural designation can go to the 30% impervious surface limit with stormwater treatment.

Mr. Fleming asked about the property owned by Mr. Robert Harper who requested that his properties not be included in the changes. Mr. Coates said that Mr. Harper could request a rezoning to achieve the zoning he desires. The only zoning districts in the watershed are R-40W and R-80W; the density that Mr. Harper proposed is closer to R-20W. Mr. Swanstrom noted that one requirement for a rezoning is that it complies with the Land Use Plan, so the proposed Land Use Plan Amendment would impact Mr. Harper's ability to rezone his property. Mr. Coates said that Mr. Harper's land is zoned one unit per acre; any development more dense than that would require a rezoning to a classification that does not exist in Wake County's jurisdiction. He added that Garner has indicated that they would not run sewer lines to the area, and Raleigh would not add utilities to the area. Mr. Coates said that the process for Mr. Harper to achieve 2½ units per acre on well and septic would be difficult even without the Land Use Plan Amendment.

Ms. Kreider asked if Mr. Harper was notified of the meeting. Mr. Coates answered that letters were sent to property owners, including Mr. Harper, before both the committee meeting and the board meeting, and Mr. Coates also emailed Mr. Harper to notify him of the Planning Board meeting.

Mr. Swanstrom asked about the impact if Mr. Harper's property were removed from the request. Mr. Coates said that everything surrounding his property would be classified totally different than his property.

Mr. Van Dyk said that if Mr. Harper's property is removed from the request, it could give him an understanding that 2½ units per acre is possible based on the Land Use Plan classification even though the density would not be achievable. Mr. Barron said that removing Mr. Harper's property from the request would not be doing him any good because it would be leaving in place a Land Use Plan classification that he cannot achieve in the county. He said that Mr. Harper can't do in the county what the current Land Use Plan tells him he can do, so it would benefit Mr. Harper in making informed decisions to include his property in the proposal. Annexing his property into Garner would still be an option for Mr. Harper's property if Garner would extend utilities. Mr. Clark said that even if Mr. Harper could achieve the density according the Land Use Plan and UDO, he would still be limited by the 12% impervious surface limitation and the well and septic requirements.

Mr. Van Dyk made a motion to recommend approval of LUPA 03-17 to the Board of Commissioners along with a recommendation to the Board of Commissioners that a letter be drafted to Mr. Harper with an explanation that the board found that there was no significant encumbrance to his property because the zoning for additional density does not exist in the county. Mr. Barron seconded the motion. By a vote of 7-0, the motion passed.

**5. ETJ Criteria Review** – Mr. Maloney provided an update to the board regarding proposed changes to the seven criteria used to evaluate ETJ requests from the municipalities. He said that the existing criteria have been in place since the 1990s. The latest version of the proposed changes is amenable to staff, though it may not include some of what the municipalities would prefer. The proposed changes include a timeframe of approximately

ten years for extending water and sewer into the ETJ. Mr. Maloney said that the county found it important to establish a timeframe for that even though some of the municipal partners would prefer that there not be a timeframe included.

Mr. Barron asked if there has been any reaction to the 5-year reporting requirement. Mr. Maloney said that county staff can collect the data to determine the progress that municipalities are making without the municipality submitting a report. Mr. Barron said that the existence of a report could provide landowners in an ETJ with a tool that shows whether the municipality is making progress toward extending utilities into the ETJ areas.

Mr. Maloney said that staff will prepare a report showing what ETJ areas currently exist for each municipality, and staff will present the report to the Land Use Committee at a future meeting.

**6. Reports** – Ms. Kreider reported that the Land Use Committee met on June 21<sup>st</sup> to discuss the two items previously heard.

**7. Planning, Development, and Inspections Report** – Ms. Peterson reported that staff may have an item for the Code & Operations Committee in September related to historic resource preservation. She reported that the Urban Land Institute will have a panel discussion on August 4<sup>th</sup> related to Creative Placemaking.

Mr. Finn reported to the board regarding recent development trends.

**8. Chairman's Report/Strategic Discussion** – The board discussed the value in having an orientation session to educate the board members on issues related to the Land Use Plan, UDO, and the Comprehensive Plan update. The board agreed to have a work session on August 2<sup>nd</sup> immediately after the conclusion of the 1:30 p.m. board meeting that day.

**9. Adjournment** – With no other business, the meeting was adjourned at 2:53 p.m.