

**MINUTES OF THE
NASH COUNTY PLANNING BOARD MEETING
HELD MONDAY, FEBRUARY 20, 2017
CLAUDE MAYO, JR. ADMINISTRATION BUILDING
FREDERICK B. COOPER COMMISSIONERS ROOM
7:00 P.M.**

MEMBERS PRESENT

Lennie Breedlove, Chairman
Jeffrey Tobias, Vice-Chairman
Moses Brown
Harold Colston
Randy Glover
DeLeon Parker, Jr.
Chris Sandifer

MEMBERS ABSENT

Sandra Edwards
Kevin Smith

STAFF PRESENT

Nancy Nixon, Planning Director
Adam Tyson, Senior Planner
Windy Braswell, Planning Technician

OTHERS PRESENT

Edwin V. Batchelor
Lee Brock
Brian Colbert
Kim Colbert
John Frazier
Gail P. Hamm
Richard A. Privette
Marie Whisner
Thomas A. Winstead

1. Call to Order.

Chairman Breedlove called the meeting to order at 7:00 p.m.

2. Determination of a Quorum.

Chairman Breedlove recognized a quorum.

3. Introduction of Newly Appointed Board Member

Chairman Breedlove introduced Mr. DeLeon "Dee" Parker, Jr. as a newly appointed member of the Nash County Planning Board.

4. Approval of the Minutes of the September 19, 2016 Meeting.

The minutes of the September 19, 2016 meeting were mailed to each member of the Board for review. Chairman Breedlove asked for any revisions or corrections. None were offered.

BOARD ACTION: Mr. Glover offered a motion and Mr. Colston duly seconded to approve the minutes of the September 19, 2016 meeting as submitted. The motion was unanimously carried.

5. Approval of the Minutes of the October 17, 2016 Meeting.

The minutes of the October 17, 2016 meeting were mailed to each member of the Board for review. Chairman Breedlove asked for any revisions or corrections. None were offered.

BOARD ACTION: Mr. Glover offered a motion and Mr. Colston duly seconded to approve the minutes of the October 17, 2016 meeting as submitted. The motion was unanimously carried.

6. Conditional Use Rezoning Request CU-170201 Made by Michael Hocutt on Behalf of the Property Owner, Progressive Development Partners Wilson-Nash LLC, and by Lee Brock with Brock Equipment Company to Rezone an Approximately 3.67 Acre Tract Located on the South Side of Pine Street (S.R. 1968) From R-40 (Single-Family Residential) to a Mixture of LI-CU (Light Industrial Conditional Use) and RC-CU (Rural Commercial Conditional Use).

Chairman Breedlove introduced this item to the Board and recognized Mr. Tyson to present the staff report.

Mr. Tyson stated that Conditional Use Rezoning Request CU-170201 was submitted by Michael Hocutt on behalf of the property owner, Progressive Development Partners Wilson-Nash LLC, and by Lee Brock with Brock Equipment Company to rezone an approximately 3.67 acre tract located on the south side of Pine Street east of the Town of Bailey in order to permit the subdivision of the tract into two separate lots.

He explained that proposed Lot 1 is approximately 0.91 acres in size and includes the existing commercial structures located at 5023 and 5031 Pine Street, Bailey, NC 27807. This site was the former location of Perry's Trucking and was later used as an equipment storage yard for Envirolink. Currently, the site is leased by Brock Equipment Company and used for the storage of irrigation and waste handling equipment. Mr. Lee Brock desires to purchase the site from Progressive Development Partners Wilson-Nash LLC, however, the proposed subdivision of the lots is not permitted by the dimensional requirements of the R-40 Single-Family Residential Zoning District due to the density of the existing residential development on Lot 2. The commercial activity on this property would not normally be permitted in the R-40 Zoning District, however, this site is classified as a legal

nonconforming land use, meaning that the commercial activity predates the adoption of Nash County's zoning regulations and has been operated continuously during that time.

Mr. Tyson continued, stating that proposed Lot 2 is approximately 2.76 acres in size and includes six existing single-family dwellings at 5059, 5075, 5089, 5105, 5121, and 5137 Pine Street; two existing single-wide manufactured homes at 5043 Pine Street and 4975 Shade Lane; as well as one vacant manufactured home space at 4993 Shade Lane. According to the Nash County Unified Development Ordinance (UDO), the R-40 Single-Family Residential Zoning District requires a minimum lot area of 40,000 square feet per dwelling and a minimum lot width of 100 feet per dwelling. The existing 3.67 acre tract obviously does not satisfy these dimensional requirements, but the structures were legally established prior to the effective date of those standards, making them nonconforming land uses that may continue to remain on the property. The UDO does not, however, allow the proposed subdivision of the property because it would further increase these dimensional nonconformities by reducing the total lot area and lot width associated with the dwellings. Therefore, the applicants have requested that both proposed lots be rezoned in order to alter the applicable dimensional requirements and to ultimately permit the proposed subdivision.

Mr. Tyson noted that the request was carefully prepared in order to only recognize the land uses that are currently present on the subject property with the only significant difference being the subdivision of the tract into two lots. He directed the Board's attention to the maps included in the agenda packet showing the subject property and surrounding area.

He explained that the submitted application requests that proposed Lot 1 be rezoned to LI-CU Light Industrial Conditional Use specifically for continued use as "Special Trade Contractor with Outdoor Storage" only in order to recognize the consistent nonresidential use of this property over the last several decades. The LI Light Industrial Zoning District is "primarily intended to accommodate limited manufacturing, warehousing, wholesaling, and related commercial and service activities which have little or no adverse impact upon adjoining properties" (UDO, Article IX, Section 9-1.5 A). He clarified that the reason this rezoning request was for an industrial zoning classification instead of a commercial zoning classification was because the UDO only permits outdoor storage in industrial zoning districts.

Mr. Tyson stated that the application also requests that proposed Lot 2 be rezoned to RC-CU Rural Commercial Conditional Use for "Single-Family Detached Dwellings" and "Customary Residential Accessory Uses & Structures" only. He explained that the inclusion of "Customary Residential Accessory Uses & Structures" would allow the addition of storage sheds or other accessory buildings that would normally be found on a residentially developed lot in the future without any additional formal Board proceedings to amend the rezoning resolution. The RC Rural Commercial Zoning District is "primarily intended to accommodate limited retail, office, service, and medium density residential uses" that are "typically located in the intersection area of rural roads" (UDO, Article IX, Section 9-1.4 A). Residential land uses in the RC Rural Commercial Zoning District only require a minimum lot area of 6,000 square feet per dwelling and a minimum lot width of 60 feet per dwelling. This means that the property would become eligible for the proposed subdivision if the rezoning request were approved.

He also explained that no additional structures are proposed in relation to the rezoning request with the potential exception of one manufactured home to occupy the currently vacant space at 4993 Shade Lane. Single-wide (or "Class B") manufactured homes are not a permitted land use in either the current R-40 Single-Family Residential Zoning District or the proposed RC Rural Commercial Zoning District, however, a proposed condition of the requested rezoning would allow the three manufactured home spaces at 5043 Pine Street and at 4975 & 4993 Shade Lane to continue to be occupied by

single-wide (or "Class B") manufactured homes subject to the currently applicable regulations for nonconforming manufactured homes in residential zoning districts. This means that if the existing single-wide manufactured homes are removed from the property, then they may be replaced with other single-wide manufactured homes provided that the replacement home can be connected to the existing wastewater/septic system without the need for any major repairs and that at least one single-wide manufactured home remains present on the property at all times. He provided several example scenarios to further explain these requirements and noted that the staff report included a suggested rezoning condition addressing the requirements.

Mr. Tyson also noted that the 2006 Nash County Land Development Plan (LDP) designates the subject tract as Suburban Growth Area as it does the majority of the County's planning jurisdiction. According to the LDP, "the Suburban Growth land use designation defines those areas of the County where significant residential growth is expected to occur within the 10-year planning horizon". The LDP states that very limited non-residential or commercial land uses may be allowed in the Suburban Growth Area if they meet certain locational criteria, including: frontage and access to a major state highway or secondary road, location at a major intersection, proximity to similar land uses, and spatial separation from non-compatible land uses such as existing residential development.

He reported that the proposed rezoning site does have frontage along and direct access to Pine Street (State Road #1968), a state-maintained secondary road, and it is located just west of the intersection of Pine Street and Old Smithfield Road. It is not located in proximity to any other similar, nonresidential land uses and there is no significant spatial separation between the subject site and the existing residential development immediately adjacent to the east and across the road. However, the proposed rezoning would recognize the consistent and continued non-residential use of the existing, viable commercial structures on proposed Lot 1 and the residential structures on proposed Lot 2 over the last several decades. Also, the conditional nature of the rezoning request does not create the opportunity for any additional development beyond the existing structures already built on the subject property and it limits the specific land uses permitted on the tract to only those that are already present. Therefore, the requested rezoning could be considered reasonably consistent with the LDP.

Mr. Tyson confirmed that because the proposed lots are relatively small and isolated from any other existing commercially or industrially zoned properties, the request would be considered "spot zoning." However, North Carolina law permits the establishment of spot zones provided that a local government adopts a statement establishing why a particular spot zone would be considered "reasonable." The requested rezoning could be considered a reasonable case of spot zoning because of the commercial nature of the existing structures located at 5023 and 5031 Pine Street, the site's prior history of lawful commercial use, and the limited impact anticipated on the surrounding community due to the conditional nature of the request. Approval of the request would not expand the permitted use of the tract beyond those land uses already currently present on the property and would not create the opportunity for the construction of any additional structures.

Mr. Tyson stated that the Nash County Technical Review Committee (TRC) considered Conditional Use Rezoning Request CU-170201 on February 2, 2017 and recommended approval based on its determination that the request is consistent with the 2006 Nash County Land Development Plan and not unreasonable spot zoning. This recommendation was made subject to the attachment of the following suggested conditions:

- 1) The approved permitted use of the subject property shall be limited to “Special Trade Contractor with Outdoor Storage” only for Lot 1 and “Single-Family Detached Dwellings” & “Customary Residential Accessory Uses & Structures” only for Lot 2; and
- 2) The subject property shall be developed in accordance with the submitted “Minor Subdivision Final Plat for Progressive Development Partners, Wilson-Nash LLC” which shall serve as the approved site plan (subject to minor revisions requested by the Nash County Technical Review Committee); and
- 3) The three designated manufactured home spaces located at 5043 Pine Street and at 4975 & 4993 Shade Lane shall continue to be recognized as legal, nonconforming land uses and may continue to be occupied by the existing or replacement Class B manufactured homes provided that:
 - a) The related wastewater/septic systems do not require any major repairs prior to reconnection and
 - b) At least one of the three spaces on the property remains occupied by a Class B manufactured home at all times; and
- 4) The installation of a visual screening buffer on Lot 1 to satisfy the requirements of UDO Article XI, Section 11-3.3 “Screening of Adjoining Incompatible Land Uses” shall be the responsibility of the owner of Lot 1 but may be deferred until such time that it is requested by an owner of an adjacent residentially zoned property or such time that changes to the site plan or the list of permitted uses are approved for the property.

Mr. Tyson shared photographs of the subject site with the Board and stated that he would be happy to answer any questions for the staff.

Chairman Breedlove stated that this rezoning would actually bring the property more into compliance with the ordinance requirements than it currently was.

Mr. Tyson agreed that the site was currently nonconforming and the approval of the rezoning request would bring it more into compliance.

Mr. Sandifer asked about the septic systems currently serving the structures on the site.

Mr. Tyson referred to the submitted subdivision plat to explain how the structures on the lot were served by various existing septic systems.

Mr. Brock, the applicant, pointed out the single existing well/pump house located on the property that serves all the structures.

Mr. Colston noted that the submitted subdivision plat was twelve years old.

Mr. Tyson assured the Board that a revised subdivision plat was being prepared at the request of the Technical Review Committee but that there should not be any significant changes to the proposed lot boundaries.

Mr. Tobias asked if the approval of the rezoning was a condition of the sale of the property.

Mr. Tyson answered that Mr. Brock only desired to purchase Lot 1, so the rezoning approval would be required before the necessary subdivision plat could be recorded.

Mr. Tobias expressed concern regarding the potential impact to the nearby single-family homes and the precedent that this action could set regarding future requests that may be considered spot zoning.

Mr. Tyson stated that this request could be differentiated from other future requests by the fact that its approval would not permit any additional development on the lots beyond what was already present.

Mr. Glover noted that the replacement of manufactured homes would be permitted provided that the septic systems did not require "major repair." He asked how "major repair" is defined.

Mr. Tyson answered that the standards established in 2006 alongside the Land Development Plan for the replacement of single-wide manufactured homes in residential zones do not specify what constitutes "major repairs" to a septic system, so the Planning Department would rely on interpretations made by Nash County Environmental Health.

Mr. Tobias asked if all the existing homes have driveways directly accessing Pine Street.

Mr. Tyson verified that all the homes, with the exception of the two manufactured homes accessed off Shade Lane, had driveways directly onto Pine Street. He further stated that this request represented a unique situation wherein a very small lot was developed more densely than would normally be permitted without access to sewer service. He noted that the sharing of septic systems by multiple homes would not likely be permitted today.

Chairman Breedlove asked if there were any further questions. None were offered.

BOARD ACTION: Mr. Sandifer offered a motion and Mr. Tobias duly seconded to recommend the following consistency statement related to the requested zoning map amendment for adoption by the Nash County Board of Commissioners: "The requested zoning map amendment is reasonable and in the public interest because it is: 1) consistent with the 2006 Nash County Land Development Plan because: a) the site has frontage along and direct access to Pine Street (State Road #1968), a state-maintained secondary road; b) the site is located just west of the intersection of Pine Street and Old Smithfield Road; c) the site contains two viable, commercial structures located at 5023 and 5031 Pine Street that have been used consistently for nonresidential uses for the last several decades; d) the requested zoning map amendment does not permit any new land uses that are not already in operation on the property; and e) the requested zoning map amendment does not permit the construction of any additional principal structures; and 2) not unreasonable spot zoning because: a) the site has a long prior history of lawful nonresidential/commercial use; b) the requested zoning map amendment does not permit any new land uses that are not already in operation on the property; and c) no additional impacts on the surrounding community are anticipated as a result of an approval of the requested zoning map amendment." The motion was unanimously carried.

BOARD ACTION: Mr. Tobias offered a motion and Mr. Sandifer duly seconded to recommend approval of Conditional Use Rezoning Request CU-170201 subject to the following conditions: 1) The approved permitted use of the subject property shall be limited to "Special Trade Contractor with Outdoor Storage" only for Lot 1 and "Single-Family Detached Dwellings" & "Customary Residential Accessory

Uses & Structures” only for Lot 2; and 2) The subject property shall be developed in accordance with the submitted “Minor Subdivision Final Plat for Progressive Development Partners, Wilson-Nash LLC” which shall serve as the approved site plan (subject to minor revisions requested by the Nash County Technical Review Committee); and 3) The three designated manufactured home spaces located at 5043 Pine Street and at 4975 & 4993 Shade Lane shall continue to be recognized as legal, nonconforming land uses and may continue to be occupied by the existing or replacement Class B manufactured homes provided that: a) The related wastewater/septic systems do not require any major repairs prior to reconnection and b) At least one of the three spaces on the property remains occupied by a Class B manufactured home at all times; and 4) The installation of a visual screening buffer on Lot 1 to satisfy the requirements of UDO Article XI, Section 11-3.3 “Screening of Adjoining Incompatible Land Uses” shall be the responsibility of the owner of Lot 1 but may be deferred until such time that it is requested by an owner of an adjacent residentially zoned property or such time that changes to the site plan or the list of permitted uses are approved for the property. The motion was unanimously carried.

7. General Rezoning Request Z-170201 Made by William Brian Colbert, the Property Owner, to Rezone Three Tracts Totaling Approximately 89.5 Acres Located on the West Side of S NC Highway 58 on Cabin Path Ln From R-40 (Single-Family Residential) to A1 (Agricultural).

Chairman Breedlove introduced this item to the Board and recognized Mr. Tyson to present the staff report.

Mr. Tyson directed the Board’s attention to the aerial photograph of the subject property included in the agenda packet and stated that General Rezoning Request Z-170201 was submitted by William Brian Colbert and Kimberly R. Colbert, the property owners, to rezone three tracts totaling approximately 89.5 acres from R-40 Single-Family Residential to A1 Agricultural. The tracts are located on the west side of S NC Highway 58 at the end of Cabin Path Lane, an existing 20’ wide access easement. The properties include dilapidated hog houses, a hog waste lagoon that is no longer in use, two wells, two existing residential septic/wastewater systems, a dilapidated dwelling that the property owner plans to demolish, and a small storage building.

Mr. Tyson explained that the A1 Agricultural Zoning District is “primarily intended to accommodate uses of an agricultural nature, including farm residences” as well as “scattered non-farm residences, including Class A and Class B manufactured homes on large tracts of land and manufactured home parks” (Nash County Unified Development Ordinance, Article IX, Section 9-1.1 A). He also noted that the applicant’s primary purpose in requesting this rezoning is to permit the use of Class B (single-wide) manufactured homes on these properties which are not permitted in the current R-40 Single-Family Residential Zoning District. This is a general rezoning, meaning that if it is approved, the subject properties would become eligible for the entire range of land uses permitted in the A1 Agricultural Zone. He then referred to the excerpt from the Nash County Unified Development Ordinance - Table of Permitted Uses included in the agenda packet. However, he also noted that because the tracts are only accessible by easement, they would only be potentially eligible for the agricultural and single-family residential land uses at this time. Without the construction of a public or private road right-of-way to serve the subject tracts, they could only potentially be subdivided into a maximum of eight home lots, each being greater than ten acres in size. Mr. Tyson noted that the property could be subdivided as described under both the current and proposed zoning classifications.

Mr. Tyson stated that the 2006 Nash County Land Development Plan (LDP) designates the subject tract as Suburban Growth Area as it does the majority of the County's planning jurisdiction. According to the LDP, "the Suburban Growth land use designation defines those areas of the County where significant residential growth is expected to occur within the 10-year planning horizon." The LDP does not specifically comment on rezoning property to the A1 Agricultural Zoning District, however, it does acknowledge that "Nash County's most predominant land use remains agriculture" and that "agriculture remains a viable use of the land not only because of the inherent value of feeding the population, the financial contribution to the local economy, and the traditional agricultural lifestyle and beauty of the rural areas of the County, but also because for the most part, agricultural land uses do not require expensive public infrastructure services such as the provision of water, sewer and roads, sanitation services, recreation facilities, and local government management services."

Mr. Tyson added that the LDP further identifies agriculture and low-density residential land uses that can be accommodated by private onsite water supply wells and private onsite septic/wastewater systems as appropriate types of development within the Suburban Growth Area. As the former location of a swine farm, the subject tracts remain characterized by their rural nature and they also do not extend far enough to the east to disrupt the consistent R-40 Single-Family Residential Zoning found along the S NC Highway 58 road right-of-way. For these reasons, the requested rezoning could be considered consistent with the LDP. He also stated that the requested rezoning would not be considered "spot zoning" as it would be an expansion of the large, existing A1 Agricultural Zoning District located west of and immediately adjacent to the subject tracts. He then referred to the zoning map included in the agenda packet and noted that there was an example of a previous extension of the A1 Zoning District depicted to the south of the subject lots, specifically a conditional use rezoning to permit a mixture of residential land uses as well as a wood products and logging operation.

Mr. Tyson reported that the Nash County Technical Review Committee (TRC) considered General Rezoning Request Z-170201 on February 2, 2017 and recommended approval based on its determination that the request is consistent with the 2006 Nash County Land Development Plan and not spot zoning.

Mr. Tyson stated that he also wished to share some recently received additional information that was not included in the staff report. He stated that public notice letters regarding the rezoning request were mailed on February 9, 2017 to all the owners of the properties located within 600 feet of the subject site. Since that time, the Planning Department had received between four to five public inquiries about the rezoning request and at least two of which included complaints regarding the operation of an alleged, unauthorized outdoor shooting range on the site. The previous owner of the subject properties, Mr. Edwin Van Batchelor, was issued a Notice of Violation in April 2015 regarding the operation of an outdoor shooting range at this site in association with Yard Dog, Inc. Firearms Training which was not permitted by the Nash County Unified Development Ordinance in an R-40 Residential Zoning District. The violation was considered closed by Nash County in May 2015 upon receipt of a letter from Mr. Ted Williams representing Yard Dog, Inc. stating that they had ceased operations on the shooting area and totally deconstructed the components of the range. Nash County had not received any further complaints until late last week after the rezoning notices were sent. The complaints allege that outdoor shooting activity continues on the property. The current property owner and rezoning applicant, Mr. Colbert, was informed of these complaints late last week. He acknowledged that Mr. Williams has access to the site, however, he was unsure at that time as to whether the shooting activity was recreational or commercial in nature. Purely recreational firearms activity would not be subject to the UDO requirements unless the construction of the range was more substantial than just temporary targets. Mr. Tyson stated that the mailed notices have perhaps created

a perception in the community that the requested rezoning action is related to the alleged shooting range activity. He noted that the requested rezoning of the subject site to the A1 Agricultural Zoning District would be a necessary first step in permitting an outdoor shooting range, however, that alone would not constitute an approval. A Special Use Permit would have to be requested and issued by the Nash County Board of Adjustment. The Planning Department had not received an application for a Special Use Permit on this site and if one were submitted, all the same owners of the properties located within 600 feet of the site would receive an additional public hearing notification at that time.

Mr. Colston asked for clarification that the tracts could only be subdivided into eight lots.

Mr. Tyson answered that the subject tracts could be subdivided into eight residential lots, each being greater than ten acres in size.

Mr. Colston asked if there was a minimum width requirement for the access easement known as Cabin Path Lane in order to provide access to the potential residences for emergency vehicles.

Mr. Tyson answered that the minimum requirement for the issuance of a residential building permit is the establishment of an eighteen foot wide access easement from the highway to each lot, however, in this instance the ordinance does not specify the required construction of a passable travel way of any particular width. The Planning Department can only verify that the recorded access easement exists on paper.

Mr. Colston asked if the tracts could be developed with 150 single-wide manufactured homes if the only access provided was the existing easement.

Mr. Tyson explained that a development of that density would be classified as a "manufactured home park" and would not only require the issuance of a Special Use Permit, but also the property owner would need to acquire the land between the tracts and the highway in order to construct a public or private road right-of-way. He reiterated for the Board that this rezoning request would not increase the maximum number of homes that could be located on the site, but it would allow the homes to be single-wide manufactured homes which are not permitted under the current zoning classification.

Ms. Nixon stated that under the current zoning classification, the eight potential homes would have to be either site-built single-family dwellings, modular homes, or Class A double-wide manufactured homes.

Mr. Colbert, the applicant, addressed the Board and stated that he wished to replace a single-wide manufactured home that was previously located on the lot with another single-wide manufactured home, however, he was informed by the Planning Department that he could not because the home had been removed for too long. He noted that the placement of a double-wide manufactured home on the lot in the future also remained a possibility. He stated that the property was mostly swamp land and that his goal was to make use of the already existing septic system with a single-wide manufactured home.

Chairman Breedlove noted that the land's suitability for the installation of septic systems would have to be determined prior to the permitting of any additional homes on the property.

Mr. Colbert stated that he felt that the majority of the property towards the rear of the lot would probably not perk and would therefore not likely be divided into lots.

Chairman Breedlove asked if the Board had any further questions for the applicant. None were offered.

Chairman Breedlove asked if anyone else present at the meeting wished to address the Board.

Mr. Thomas Winstead addressed the Board and identified himself as a lifelong resident of Nash County that resides approximately 0.1 to 0.2 miles away from the subject property. He stated that the shooting range located on the property was very active and that on the weekend prior to this meeting he heard between 300 and 400 rounds discharged from both small and large firearms. While he could not say whether this activity was recreational or not, he did find it excessive. Mr. Winstead stated that while the shooting activity may not go on every day or even every weekend, it has been creating a noise issue for some time. He stated that he has no objection to the rezoning of the tract to the less restrictive A1 Agricultural Zoning District or to Mr. Colbert's plans to locate single-wide manufactured homes there, however, he is opposed to the permitting of any type of commercial or private shooting range on the property due to the proximity to his home and the homes of his family members.

Chairman Breedlove stated that any type of authorized shooting range would require the issuance of a Special Use Permit.

Mr. Colbert stated that he had spoken with Mr. Ted Williams regarding the shooting range and that he had taken about 20 people to the site to shoot skeet. He noted that Mr. Williams was a friend of the previous property owner, Mr. Van Batchelor, who granted him permission to shoot on the land. Mr. Colbert said he had made Mr. Williams aware of the complaints. He stated that Mr. Williams informed him that he allows judges and Nash County Sheriff's Deputies to train on the property without charge and that he had removed the backstops when previously ordered to do so to avoid classification as a permanent shooting range. Mr. Colbert stated that he did not mind if Mr. Williams continued to use the property for shooting activities as long as it was not illegal.

Mr. Tyson stated that zoning enforcement can be difficult in situations like these when there is no specific building or structure involved, when activities take place on weekends and it cannot be observed or monitored by staff, or when there is no easy way to differentiate between commercial and recreational activity.

Mr. Colston asked where shooting range was listed on the Table of Permitted Uses.

Mr. Tyson responded that it was listed under "Recreational Uses."

Mr. Colston noted that the land use "Shooting Range, Outdoor" would require the issuance of a Special Use Permit in the A1 Agricultural Zoning District.

Mr. Tyson stated that a Special Use Permit request for an outdoor shooting range would be heard by the Board of Adjustment and must be accompanied by a site plan showing that the range would comply with certain dimensional requirements including minimum separation distances from adjacent property lines and controlled access to the range itself. In addition to those considerations, the Board of Adjustment would also have to determine that the proposed shooting range would not endanger the public health or safety, would not injure the value of adjoining properties, would be in harmony with the surrounding area, and would be consistent with the Land Development Plan. He also noted that the subject property would not currently be eligible for an approved outdoor shooting range because it is

only accessible via easement and would therefore be limited to agricultural and single-family residential land uses only.

The Board held a brief discussion regarding what was actually being considered in relation to this specific request and clarified that its objective was to either recommend approval or denial of the general rezoning request itself. If the rezoning was ultimately approved by the Board of Commissioners, then any subsequent Special Use Permit requests would be the responsibility of the Board of Adjustment.

Mr. John Frazier addressed the Board and identified himself as an avid hunter who lives on Winstead Store Road. He stated that he understood that Mr. Williams allows the Nash County Sheriff's Department as well as judges to use the subject property for firearms training. He asked the Board to consider that per the requirements of state law, anyone completing a concealed weapon course must shoot 50 rounds. He stated that if Mr. Williams is conducting such a class, whether it was in exchange for payment or not, then 50 rounds per person should be considered excessive for this location. Mr. Frazier stated that he had no problem with Mr. Colbert's proposed use of the land but asked the Board to consider approving the rezoning request with the stipulation that the housing continue to meet the requirements of the R-40 Residential Zone to narrow the potential use of the property.

Mr. Colbert stated that he had no intention of ever applying for a shooting range permit, but was also not willing to agree to any stipulations that would prevent him from shooting his own firearms on his property. He stated that if he chooses to allow Mr. Williams to shoot on the property as his guest then that is his right. Mr. Colbert stated that he would not run Mr. Williams off of the property and that since the shooting happens on the very back of the lot, then anyone hearing the related noise must have some very good ears.

Mr. Frazier again addressed the Board, stating that he had provided proof to the Planning Department in the form of photographs that the shooting activity was ongoing on the property. He stated that there was a building on the site with electrical service for the classes and that signs are posted on the property. He stated that there were once banners posted at the entrance to Cabin Path Lane off NC Highway 58. Mr. Frazier stated that he knew multiple people who have taken and paid for the class provided by Mr. Williams. He stated that Mr. Williams had not stopped providing firearms classes on the property contrary to the stop order issued previously by the Nash County Planning Department. Mr. Frazier cautioned the Board against recommending any type of zoning change that would allow a shooting range operation on the property.

Chairman Breedlove reminded the Board that it was being asked to vote on the general rezoning request for the property only and not on any specific land use.

BOARD ACTION: Mr. Tobias offered a motion and Mr. Glover duly seconded to recommend the following consistency statement related to the requested zoning map amendment for adoption by the Nash County Board of Commissioners: "The requested zoning map amendment is reasonable and in the public interest because it is: 1) consistent with the 2006 Nash County Land Development Plan (LDP) because: a) the LDP explicitly acknowledges agriculture as a viable and predominant land use; b) agriculture and low-density residential land uses that can be accommodated by private wells and septic systems are recommended types of development within the Suburban Growth Area; c) the site is the former location of a swine farm and remains rural in nature; and d) the request will not disrupt the

consistent R-40 Single-Family Residential Zoning found along the S NC Highway 58 road right-of-way; and 2) not spot zoning because the request would be an expansion of the large, existing A1 Agricultural Zoning District located west of and immediately adjacent to the site.” The motion was unanimously carried.

BOARD ACTION: Mr. Tobias offered a motion and Mr. Sandifer duly seconded to recommend approval of General Rezoning Request Z-170201 to rezone three tracts totaling approximately 89.5 acres located on the west side of S NC Highway 58 along Cabin Path Lane from R-40 Single-Family Residential to A1 Agricultural. The motion was unanimously carried.

Mr. Tyson reminded everyone present that the Planning Board functions in an advisory role with regard to rezoning requests and that its recommendation would be presented to the Board of Commissioners at a public hearing scheduled for March 6, 2017 at 9:00 a.m. before a vote on the ultimate approval or denial of the request.

8. Other Business.

Chairman Breedlove asked for any other business.

Mr. Sandifer asked about the status of Text Amendment Request A-161001.

Mr. Tyson reminded the Board that Text Amendment Request A-161001 was a request to amend Appendix 2, Section A-2-2, Subsection (I) of the Nash County Unified Development Ordinance in order to add a “Certification of Existing Onsite Wastewater Disposal System by the Property Owner” to be used on subdivision plats. The request was tabled by the Planning Board on October 17, 2016 for further revision by the staff and the Technical Review Committee. Mr. Tyson noted that this text amendment request had been initiated by the Nash County Environmental Health Supervisor who, in the months since that meeting, left Nash County to take another position. The Planning Staff recommends that the amendment remain tabled until that position is filled so that the next Environmental Health Supervisor can provide input on the request.

The Board engaged in a general discussion regarding shooting ranges and the related expectations of property owners within respective zoning districts.

Ms. Nixon addressed the differences between Class A and Class B manufactured homes and their related zoning requirements.

Mr. Tyson and Ms. Nixon discussed several previous shooting range related cases in Nash County that had ultimately been withdrawn due to pressure from the surrounding land owners before the Board of Adjustment could vote on them.

The Board engaged in a general discussion regarding the actual number of lots and home sites that could be developed from the Cabin Path Lane tracts based on the potential soil suitability for septic systems and other requirements.

9. Adjournment.

There being no further business, Chairman Breedlove adjourned the meeting at 8:30 p.m.