

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

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

None

**STAFF PRESENT**

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

**OTHERS PRESENT**

Bonnie Batchelor  
Carlton Bone  
Elaine Bone  
Matthew Bone  
Rex Bone  
Brian Colbert  
Kim Colbert  
Daniel S. Winstead  
Ernest 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. Approval of the Minutes of the February 20, 2017 Meeting.**

The minutes of the February 20, 2017 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. Sandifer offered a motion and Mr. Brown duly seconded to approve the minutes of the February 20, 2017 meeting as submitted. The motion was unanimously carried.**

**4. Conditional Use Rezoning Request CU-170301 - 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 Lane From R-40 (Single-Family Residential) to A1-CU (Agricultural Conditional Use) For All Land Uses as Permitted in the Standard A1 Agricultural Zoning District With the Exclusion of Outdoor Shooting Range.**

Chairman Breedlove introduced this item to the Board.

Mr. Tyson began his report by reminding the Board that on February 20, 2017 the Nash County Planning Board unanimously recommended approval of General Rezoning Request Z-170201 made by William Brian Colbert and Kimberly R. Colbert, the property owners, to rezone three tracts totaling approximately 89.5 acres and located on the west side of S NC Highway 58 at 2001, 2125, and 2171 Cabin Path Lane, Nashville, NC 27856 from R-40 (Single-Family Residential) to A1 (Agricultural). He referenced the aerial photograph included in the agenda packet and noted that the requested rezoning area was shown outlined in red.

He continued, stating that on March 6, 2017 the Nash County Board of Commissioners held a public hearing on General Rezoning Request Z-170201 during which residents from the surrounding area made allegations regarding the operation of an unauthorized shooting range on the subject property and stated concerns about the potential addition of single-wide manufactured homes on the site. After the public hearing, the Board of Commissioners voted 4 to 3 to deny the rezoning request based on the determination that the broad range of additional land uses permitted by the general A1 Agricultural Zoning District would not be consistent with the recommendations of the Land Development Plan for this area.

In response, the property owners have now submitted Conditional Use Rezoning Request CU-170301 to rezone the same approximately 89.5 acre area from R-40 (Single-Family Residential) to A1-CU (Agricultural Conditional Use) for all land uses as permitted in the general A1 Agricultural Zoning District with the exclusion of "Outdoor Shooting Range." It is the hope of the applicants that this slightly more restrictive proposal will secure an approval from a majority of the Board of Commissioners. Mr. Tyson characterized this change as incremental and noted that had the previous general rezoning been approved, an outdoor shooting range would have still required the issuance of a Special Use Permit by the Board of Adjustment. The current proposal would not allow an outdoor shooting range without an amendment to the requested conditional use zoning resolution that would have to be reviewed by the Planning Board and ultimately approved by the Board of Commissioners after a public

hearing. This request adds an extra layer of required review before an outdoor shooting range could be permitted on the site.

Mr. Tyson explained that, as noted in the previous staff report, 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 some small storage buildings. He indicated the locations of the listed features on the aerial photograph.

He continued, stating 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).

Mr. Tyson explained that the applicants' primary purpose in requesting this rezoning is to permit the use of Class B manufactured homes on these properties which are not permitted in the current R-40 (Single-Family Residential) Zoning District. Class B manufactured homes include single-wides and double-wides without the masonry curtain wall installation required in residential zoning districts. If this conditional use rezoning request is approved, the subject properties would become eligible for the entire range of land uses permitted in the general A1 (Agricultural) Zoning District with the notable exception of "Outdoor Shooting Range." He referenced an excerpt from the Nash County Unified Development Ordinance Table of Permitted Uses included in the agenda packet. However, because the tracts are only accessible by easement, they may 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, in addition to the already existing lot containing the hog waste lagoon. He noted that each buildable lot would be subject to the requirements for wastewater system permitting.

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, the Planning Board determined that the previous general rezoning request for this site was consistent with the LDP because it explicitly acknowledges agriculture as a viable and predominant land use in Nash County and it identifies agriculture and low-density residential land uses that can be accommodated by private onsite water supply wells and private onsite septic/wastewater disposal systems as appropriate types of development within the Suburban Growth Area. Additionally, 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. The slight modification of the request to remove "Outdoor Shooting Range" as a potential permitted land use would not be expected to impact any of the justifications for the Planning Board's determination that the previous request was consistent with the LDP.

Mr. Tyson noted 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 informed the Board that the Nash County Technical Review Committee (TRC) considered Conditional Use Rezoning Request CU-170301 and, as with the previous request, recommended approval based on its determination that the request is consistent with the 2006 Nash County Land Development Plan and not spot zoning. This recommendation was made subject to the attachment of the following suggested condition: "The subject property is approved for land uses allowed in the A1 (Agricultural) Zoning District in accordance with the permitting procedures specified by the Nash County Unified Development Ordinance, Article IX, Section 9-3, Table 9-3-1: 'Table of Permitted Uses' with the exclusion of 'Shooting Range, Outdoor.' The subject property may be further developed in accordance with all applicable development regulations without a public hearing unless the issuance of a Special Use Permit or Conditional Use Permit is specifically required for the proposed land use by the Nash County Unified Development Ordinance."

Mr. Tyson referenced the excerpt from the Table of Permitted Uses included in the agenda packet and clarified that land uses marked with a "P" for "Permitted Use" or "D" for "Development Standards" could be developed on the properties without any further required Board review or approval. Land uses marked "C" for "Conditional Use Permit" would have to be reviewed first by the Planning Board and ultimately approved or denied by the Board of Commissioners after a public hearing. Land uses marked "S" for "Special Use Permit" would be approved or denied by the Board of Adjustment after a public hearing.

Mr. Tyson stated that he would be happy to answer any questions that the Board may have for the staff. None were offered.

Chairman Breedlove asked if anyone in attendance wished to address the Board and specified that speakers should try to provide new arguments or information not heard at the previous meeting concerning this property.

Mr. Ernest Winstead addressed the Board, identifying himself as a resident of Winstead Store Road and the owner of the land located on the south side of Cabin Path Lane. He stated that he had no problem with Mr. Colbert using the land to make a profit, but expressed concerns regarding the potentially increased traffic on the path. He stated that there were both pros and cons regarding the shooting range activity on the property. He stated that even though the current application excludes outdoor shooting ranges, he believed that the rezoning would not stop the shooting activity on the property or that at least it has not so far.

Chairman Breedlove stated that this rezoning request excludes outdoor shooting range as a potential land use for the property.

Mr. Winstead stated that they did not have a permit for the shooting range to start with and they do not have one now, but the shooting activity has not stopped and this rezoning action will not stop it.

Chairman Breedlove asked if there were any other speakers.

Mr. Matthew Bone addressed the Board stating that he resides at 4516 S NC Highway 58. He stated that he and his uncle own land beside the subject site including an existing pond. Mr. Bone expressed his concern that if manufactured homes are developed on the subject site, he would not be able to keep people out of the pond. He stated that he has already had to repair damage from trespassers and the approval of the rezoning would mean more people causing more damage for him to clean up

as well as increased liability in the event that anyone was hurt on his property. He stated that he has posted "No Trespassing" signs on the property which have been torn down. Mr. Bone stated that more homes on the subject site would lead to more people abusing his adjacent property. He also expressed concern regarding the impact of increased traffic on the condition of the path.

Chairman Breedlove asked if there were any other speakers.

Ms. Bonnie Batchelor addressed the Board stating that she resides at 3812 S NC Highway 58. She stated her concern regarding the number of people that will live on the path back in the woods and said that she does not know what that attracts. Ms. Batchelor expressed concerns regarding increased traffic, four wheeler activity, and trespassing, all of which were already a problem in the area.

Mr. Brian Colbert, the applicant, addressed the Board stating that he maintains the path and that currently no one lives on the subject property. He stated that "none of his crowd" has been or will be on anyone else's land including Mr. Bone's land or around his pond.

There being no additional speakers, Chairman Breedlove closed the discussion and asked the Board for a motion on the request.

**BOARD ACTION: Mr. Colston offered a motion which was duly seconded by Mr. Sandifer 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. Parker offered a motion which was duly seconded by Mr. Smith to recommend approval of Conditional Use Rezoning Request CU-170301 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-CU (Agricultural Conditional Use), subject to the following condition: "The subject property is approved for land uses allowed in the A1 (Agricultural) Zoning District in accordance with the permitting procedures specified by the Nash County Unified Development Ordinance, Article IX, Section 9-3, Table 9-3-1: 'Table of Permitted Uses' with the exclusion of 'Shooting Range, Outdoor.' The subject property may be further developed in accordance with all applicable development regulations without a public hearing unless the issuance of a Special Use Permit or Conditional Use Permit is specifically required for the proposed land use by the Nash County Unified Development Ordinance." The motion was unanimously carried.**

Mr. Tyson reminded everyone present at the meeting that the Planning Board functions in an advisory role with regard to rezoning requests and that this recommendation would be presented to the Board of Commissioners at a public hearing scheduled for April 3, 2017 at 9:00 a.m. before a vote on the ultimate approval or denial of the request. He clarified that the public hearing would be a quasi-judicial proceeding, meaning that it will be subject to the rules for a formal evidentiary hearing and speakers who are determined to have standing in the case must give sworn testimony.

Ms. Nixon stated that anyone in attendance who wished to be added to the mailing list for future public notices regarding this case should provide their name and mailing address to the Planning Staff before leaving the meeting.

#### **5. Other Business.**

Chairman Breedlove asked for any other business.

Ms. Nixon reported that Conditional Use Rezoning Request CU-170201 related to the Brock Equipment Company site outside Bailey and recommended for approval at last month's meeting of the Planning Board had been approved by the Board of Commissioners.

Ms. Nixon also announced an upcoming opportunity for board member training to be facilitated by the UNC School of Government. She stated that the 2017 Spring Regional Board Workshop for Planning & Development Regulation would be held May 31, 2017 from 1:00 p.m. to 4:30 p.m. at the Upper Coastal Plain Council of Governments located at 121 Nash St W, Wilson, NC 27893. The topic will be quasi-judicial hearing procedures and she stated that although the Planning Board proceedings were not subject to these requirements, the training may provide valuable insight into the next level of the review process. She asked any interested members to contact the Planning Department to register to attend.

Chairman Breedlove, Mr. Brown, and Mr. Parker asked to be registered for the workshop.

#### **6. Adjournment.**

There being no further business, Chairman Breedlove adjourned the meeting at 7:35 p.m.