

Regular Meeting February 5, 2018

A regular meeting of the Nash County Board of Commissioners was held at 9:00 AM, February 5, 2018 in the Frederick B. Cooper, Jr. Commissioners' Room at the Claude Mayo, Jr. Administration Building in Nashville, NC.

Present were Chairman Robbie B. Davis and Commissioners Fred Belfield, Jr., Dan Cone, J. Wayne Outlaw, Lou M. Richardson, and Mary P. Wells.

Commissioner Lisa Barnes was absent due to medical reasons.

Others present were Donna Wood, Stacie Shatzer, Amanda Clark, Mark Cone, Lindell Kay, Nancy Nixon, Chief Deputy Brandon Medina, Mike Tolson, Janice Evans, Zee B. Lamb, Vince Durham and other staff members and members of the public.

Chairman Davis called the meeting to order and provided a brief explanation regarding prayer and the Pledge of Allegiance in Nash County. He stated it is customary that Nash County starts each meeting with a prayer and Pledge of Allegiance and that anyone wishing to participate in the prayer, moment of silence, or a prayer of their own choice was welcomed.

Chairman Davis called on Ms. Lou M. Richardson for the invocation and Mr. J. Wayne Outlaw to lead the Pledge of Allegiance.

Chairman Davis provided a brief explanation of Nash County's Public Comment Policy and asked for any public comments.

Minister Edna Mount of W. Hanes Avenue, Middlesex, NC spoke on behalf of a resident, Ms. Renfrow, living at Mt. Pleasant Trailer Park and with regard to help with getting a trash dumpster for the elderly.

Minister Brenda Renfrow of Lincoln Street, Bailey, NC spoke on her concern of not having a trash dumpster on site at the Mt. Pleasant Trailer Park.

Mr. Tyler Staverman, Veterans Service Officer, and Mr. Rick Thomason, North Carolina Marine Corps League provided an update to the Board on the parking signs to be placed at all Nash County facilities for Veterans. The designation of a Purple Heart Veteran sign and an all-inclusive Veteran sign will be unveiled at the Claude Mayo, Jr. Administration Building, Nashville, NC, and following the unveiling, all-inclusive Veteran signs will be installed at the Court House, Senior Center, Health Department,

Agriculture Building, Farmer's Market, and the Health Department building located in Rocky Mount, NC.

Chairman Davis called for a short recess for the unveiling of the Purple Heart sign and the all-inclusive Veteran sign in the Parking Lot at the Claude Mayo, Jr. Administration Building, Nashville, NC.

Upon reconvening, Chairman Davis provided the State of the County address regarding Nash County's accomplishments for 2017.

Mr. Bart Grimes, Chief of Behavioral Health Services at Robeson Health Care Corporation made a presentation to the Board on the North Carolina Perinatal and Maternal Substance Abuse and CASAWORKS for Families Initiatives.

Ms. Nancy Nixon, Planning Director presented for the Board's consideration Petition Z-180101 made by the Property Owners Larry Finch, Barbara G. Finch, Angela Finch Stallings, Carolyn Finch Ellis & Gordon Finch to rezone an approximately 0.72 acre portion of a tract located at 8114 Old Middlesex Road, Bailey, NC 27807 From R-40 (Single-Family Residential) to RC (Rural Commercial). She stated the Nash County Technical Review Committee (TRC) and the Nash County Planning Board considered the rezoning request and recommended approval.

On motion of J. Wayne Outlaw seconded by Lou M. Richardson and duly passed that the Board go into a public hearing.

Mr. Larry Finch spoke in support of the rezoning request.

On motion of Dan Cone seconded by Mary P. Wells and duly passed that the public hearing adjourn.

On motion of Dan Cone seconded by Mary P. Wells and duly passed that the Nash County Board of Commissioners adopt Consistency Statement "A" related to the requested zoning map amendment Z-180101 for RC – Rural Commercial designation:

Consistency Statement "A" (FOR APPROVAL):

General Rezoning Request Z-180101 is reasonable and in the public interest because it is:

(1) Consistent with the recommendations of the Nash County Land Development Plan for the establishment of rural commercial land uses in the Suburban Growth Area because:

(a) The subject site has frontage along and direct access to Old Middlesex Road (S.R. 1105), a state-maintained secondary road;

- (b) The subject site is located near the intersection of Old Middlesex Road (S.R. 1105) and Camp Charles Road (S.R. 1100);
- (c) The subject site is located directly adjacent to the commercially zoned metal shop structure at 8114 Old Middlesex Road and in close proximity to the commercially zoned structures currently utilized by American Scale Company, Inc. at 8098 Old Middlesex Road;
- (d) While the subject site is located immediately adjacent to the existing residences at 8138 Old Middlesex Road to the west and 10518 Camp Charles Road to the east as well as to the currently vacant but residentially zoned Lot 3C to the north, the potential impact of any future commercial development should be mitigated by the screening requirements of UDO Article XI, Section 11-3; and
- (e) The subject site has a history of prior commercial use from the mid-1990s through late 2016 in relation to Finch Construction Inc., a heavy construction and grading contractor that specialized in road, highway, and parking lot construction; AND

- (2) Not “spot zoning” because it is an expansion of the already existing, approximately 1.5 acre RC (Rural Commercial) Zoning District located at the northwest corner of the intersection of Old Middlesex Road (S.R. 1105) and Camp Charles Road (S.R. 1100) and immediately adjacent to the subject area.

On motion of Dan Cone seconded by Fred Belfield, Jr. and duly passed that the Board of Commissioners approve General Rezoning Request Z-180101 to rezone approximately .72 acres of a tract located at 8114 Old Middlesex Road, Bailey, NC from R-40 (Single-Family Residential) to RC (Rural Commercial).

Ms. Nixon presented for the Board’s consideration Petition by Steven E. Luper, the Property Owner, to Rezone approximately 10 acres at the southeast corner of the intersection of Old Mill Road and South Halifax Road from R30 (Single & Two- Family Residential) to RC-CU (Rural Commercial Conditional Use). She stated the Nash County Technical Review Committee (TRC) and the Nash County Planning Board considered the Conditional Use Permit and unanimously recommended approval, subject to the conditions listed below:

[Updates in RED]:

- 1) The applicant shall submit a metes and bounds description of the area to be rezoned prepared by a registered land surveyor as well as preliminary stormwater calculations prepared by a qualified land surveyor or engineer prior to the scheduling of a public hearing before the Nash County Board of Commissioners on this Conditional Use Rezoning Request; *[A map by Donald Hilhorst, RLS including a metes and bounds description of the rezoning area, plus stormwater calculations have been submitted]*
- 2) The permitted use of the subject property shall be limited to a landscape and horticultural service with an outdoor storage yard only;
- 3) The subject property shall be developed only in accordance with the approved site plan and in compliance with all other applicable development regulations;

- 4) The final locations of the proposed future office and workshop may vary from that which is depicted on the site plan due to other requirements including, but not limited to, those related to the wastewater system and parking requirements. All final building locations must meet any applicable setback requirements. Parking requirements for the proposed future structures will be determined by the gross floor area of the buildings;
- 5) Additional clearing on the site required for the potential construction of the proposed future office and workshop may be allowed subject to review and approval by the Planning Staff and/or the Technical Review Committee;
- 6) No structures, equipment, or materials shall be placed or stored in the non-encroachment area of Grape Branch as designated on the approved site plan;
- 7) The 25 foot wide screening buffer yard depicted on the site plan shall be installed or preserved and maintained to satisfy either the adjoining incompatible land use vegetative screening requirements of UDO Article XI, Section 11-3.3 (B) or the alternative screening method requirements of UDO Article XI, Section 11-3.4;
- 8) The existing on-premises sign shall be removed, relocated, or modified to satisfy all North Carolina Department of Transportation road right-of-way requirements or the applicant may obtain an NCDOT right-of-way encroachment agreement. The existing on-premises sign shall also be removed, relocated, or modified to satisfy all the requirements of UDO Article XI, Section 11-1.5 (D) including:
 - a) The maximum height of the sign shall not exceed 35 feet;
 - b) The maximum area of the sign shall not exceed 400 square feet; and
 - c) The minimum separation required between the sign and the road right-of-way, property lines, or structures shall be 5 feet; *[NDCOT Encroachment Agreement issued October 24, 2017 for the rock around the sign, and the sign meets Nash County UDO requirements]*
- 9) The use and development of the site shall be subject to the approval and issuance of the following additional permits and documents, as applicable:
 - a) Stream Buffer Determination by the North Carolina Department of Environmental Quality Division of Water Resources and the site plan shall be revised to depict any applicable riparian buffer areas; *[NCDEQ issued a determination dated September 21, 2017 that no buffer issues had been identified]*
 - b) Wetlands Determination by the U.S. Army Corps of Engineers or any other appropriately licensed and authorized professional and the site plan shall be revised to depict any applicable wetland areas; *[USACE cleared the site of violation on December 19, 2017, following restoration of .1 acres of wetlands from the original clearing and fill area]*
 - c) Erosion and Sedimentation Control Evaluation by the North Carolina Department of Environmental Quality Division of Land Resources; *[Notification from NCDEQ Land Quality Section by email (October 19, 2017) that no issues of concern had been identified as of that date]*
 - d) Driveway Permit issued by the North Carolina Department of Transportation; *[A permit has been issued by NCDOT, per Nashville District NCDOT office]*
 - e) Stormwater Permit (Tar-Pamlico River Basin) issued by the Nash County Planning & Inspections Department on the basis of calculations submitted and sealed by a qualified land surveyor or engineer;
 - f) Zoning & Floodplain Development Permit issued by the Nash County Planning & Inspections Department;
 - g) Wastewater System & Well Permits issued by the Nash County Environmental Health Department as required for the proposed structures; and
 - h) Building & Trade Permits issued by the Nash County Planning & Inspections Department as required for the proposed structures.

On motion of J. Wayne Outlaw seconded by Dan Cone and duly passed that the Board go into a quasi-judicial public hearing.

Mr. Vince Durham, County Attorney swore in Ms. Nancy Nixon and Mr. Steve Luper.

Mr. Luper spoke in support of the Conditional Use Rezoning request.

On motion of Mary P. Wells seconded by Fred Belfield, Jr. and duly passed that the public hearing adjourn.

On motion of J. Wayne Outlaw seconded by Fred Belfield, Jr. and duly passed that the Board of Commissioners adopt Consistency Statement "A" related to the requested zoning map amendment CU-170901 for RC-CU - Rural Commercial Conditional Use:

Consistency Statement "A" (FOR APPROVAL):

The requested zoning map amendment is reasonable and in the public interest because it is:

- 1) Consistent with the Nash County Land Development Plan's recommendations for the Surface Water Protection Area through compliance with the various local, state and federal permitting requirements for protecting Grape Branch; and
- 2) Consistent with the Nash County Land Development Plan's recommendations for the establishment of rural commercial land uses in the Suburban Growth Area because:
 - a) The proposed land use can be accommodated by a private on-site water supply well and an on-site septic system;
 - b) The site has frontage and access at the intersection of two state-maintained secondary roads - Old Mill Road and S Halifax Road;
 - c) The site is located in proximity to two other existing, similar land uses - Allen's Nursery approximately 2,000 feet to the north at 2817 S Halifax Road and the Briar Creek Nursery approximately 1,800 feet to the southwest at 7998 West Mount Drive;
 - d) The site is located approximately 1,600 feet from the existing commercial zoning and development at the intersection of S Halifax Road and West Mount Drive to the south;
 - e) The site is spatially separated from most of the surrounding residential development and will be screened by existing vegetation from the immediately adjacent dwelling at 2916 Old Mill Road; and
- 3) Considered reasonable "spot zoning" because:
 - a) The rezoning area includes all or portions of three separate tracts;
 - b) The potential impact of the commercial activity on the neighboring properties and the surrounding community should be effectively mitigated by both the impact of the existing development standards and the limited

nature of the conditional use rezoning request which will restrict the applicant to the development of just the specified land use and only in accordance with the approved site plan; and

- c) The site is located in relative proximity to other existing similar land uses such as Allen's Nursery, the Briar Creek Nursery, and the existing commercial zoning and development at the intersection of S. Halifax Road and West Mount Drive.

On motion of J. Wayne Outlaw seconded by Dan Cone and duly passed that the Board of Commissioners approve the rezoning of 10.03 acres to RC-CU Rural Commercial Conditional Use as related to Conditional Use Rezoning Request CU-170901 southeast of the intersection of South Halifax Road and Old Mill Road, Rocky Mount, NC (as shown on "Rezoning Map for the Property of Steven E. Luper Jr.", by Donald S. Hilhorst, Registered Land Surveyor, dated 11/22/2017).

On motion of J. Wayne Outlaw seconded by Lou M. Richardson and duly passed that having considered information provided through the staff report and testimony, plus evidence and arguments presented at the public hearing, the Nash County Board of Commissioners **APPROVE** the following Findings of Fact related to Conditional Use Rezoning Request CU-170901, for the development of a landscape and horticultural service with an outdoor storage yard:

1. Steven E. Luper is the owner of the property and the applicant in this request.
2. The applicant requested that uses in this conditional use district be limited to a landscape and horticultural service with an outdoor storage yard, which is a permitted use (P) in a Rural Commercial District (RC-CU), per the Nash County UDO Table of Permitted Uses.
3. The RC-CU zoned area limits the landscape and horticultural service and its outdoor storage yard as limited to approximately 10.03 acres located on Nash County parcels as follows:
 - a. PIN # 373918417890 & Parcel ID #017362 (Approx. 5.62 Acres)
 - b. PIN # 373918417918 & Parcel ID #017334 (Approx. 1.27 Acres)
PIN # 373919523391 & Parcel ID #017357 (Approx. 3.10 Acres)
4. A site plan depicting the existing and proposed structures and cleared outside storage area was presented as part of the application. The site plan included portions of the site potentially impacted by Grape Branch.
5. The site is located approximately 2000 feet from Allen's Nursery and 1800 feet from Briar Creek nursery, both of which are existing, similar landscape operations.
6. Based on testimony of county staff, the following documents have been received related to this request:

- a. an NDCOT Encroachment Agreement was issued October 24, 2017 related to the on-premise sign, and
 - b. NCDEQ issued a stream buffer determination dated September 21, 2017 that no buffer issues had been identified, and
 - c. US Army Corps of Engineers letter clearing the site of violation on December 19, 2017, following restoration of .1 acres of wetlands from the original clearing and fill area, and
 - d. Email notification from NCDEQ Land Quality Section (Thad Valentine, October 19, 2017) that no issues of concern had been identified as of that date.
7. Development of the site has been found by the Nash County Commissioners to be in compliance with the 2006 Nash County Land Development Plan for uses permitted in this Rural Commercial Conditional Use zoning district.

On motion of J. Wayne Outlaw seconded by Fred Belfield, Jr. and duly passed that based upon the above-listed Findings of Fact, the Nash County Board of Commissioners adopts the following Conclusions and Additional Conditions:

CONCLUSIONS

1. The proposed landscape and horticultural service with an outdoor storage yard will not materially endanger public health and safety.
2. The proposed landscape and horticultural service with an outdoor storage yard will not substantially injure the value of adjoining or abutting property.
3. The proposed landscape and horticultural service with an outdoor storage yard will be in harmony with the area in which it is to be located.
4. The proposed landscape and horticultural service with an outdoor storage yard will be in general conformity with the Nash County Land Development Plan.
5. The applicant is entitled to the issuance of a conditional use permit for a landscape and horticultural service with an outdoor storage yard.

ADDITIONAL CONDITIONS

The Conditional Use Permit is subject to the following conditions:

- 1)The permitted use of the subject property shall be limited to a landscape and horticultural service with an outdoor storage yard only;
- 2)The subject property shall be developed only in accordance with the approved site plan and in compliance with all other applicable development regulations;
- 3)The final locations of the proposed future office and workshop may vary from that which is depicted on the site plan due to other requirements including, but not limited to, those related to the wastewater system and parking requirements. All final building locations must meet any applicable setback requirements. Parking requirements for the proposed future structures will be determined by the gross floor area of the buildings;

- 5) Additional clearing on the site required for the potential construction of the proposed future office and workshop may be allowed subject to review and approval by the Planning Staff and/or the Technical Review Committee;
- 6) No structures, equipment, or materials shall be placed or stored in the non-encroachment area of Grape Branch;
- 7) The 25 foot wide screening buffer yard depicted on the site plan shall be installed or preserved and maintained to satisfy either the adjoining incompatible land use vegetative screening requirements of UDO Article XI, Section 11-3.3 (B) or the alternative screening method requirements of UDO Article XI, Section 11-3.4;
- 8) The following permits and reviews must be completed:
 - Zoning & Floodplain Development Permit issued by the Nash County Planning & Inspections Department;
 - Wastewater System & Well Permits issued by the Nash County Environmental Health Department as required for the proposed structures; and
 - Building & Trade Permits issued by the Nash County Planning & Inspections Department as required for the proposed structures.

Chairman Davis called for a ten (10) minute recess.

Upon reconvening, Chairman Davis called on Chief Deputy Brandon Medina, Nash County Sheriff's Office.

Chief Deputy Medina presented for the Board's consideration a request to award the retiring K-9 Rek to his handler Lieutenant Dirk Lehman.

On motion of Mary P. Wells seconded by Lou M. Richardson and duly passed that the Nash County Board of Commissioners approve the request to award retiring K-9 Rek to his handler Lieutenant Dirk Lehman.

Mr. Scott Rogers, Emergency Services Deputy Director provided an update to the Board on the Radio Replacement Project.

Ms. Patsy McGhee, Assistant to the County Manager/Grants & Intergovernmental Relations presented for the Board's consideration the 2017 Community Development Block Grant – Disaster Recovery – Grant Application. She stated Nash County has been awarded \$1,000,000 in Community Development Block Grant – Disaster Recovery (CDBG-DR) funds by the State of North Carolina.

On motion of Fred Belfield, Jr. seconded by Lou M. Richardson and duly passed that the Nash County Board of Commissioners approve the 2017 Community Development Block Grant – Disaster Recovery – Grant Application.

Ms. Donna Wood, Finance Officer asked the Board to consider budget amendments for Fiscal Year 2017-2018.

On motion of J. Wayne Outlaw seconded by Fred Belfield, Jr. and duly passed that the following budget amendments be approved.

Sheriff's Office

This amendment is to budget funds to update the Sheriff's Office Interview camera and recording system. The current system is failing. To maintain compliance with North Carolina General Statutes, the Sheriff's Office must ensure and have in place an interview and recording system which is functioning properly for interviews and interrogations. This system was originally intended to be purchased with the JAG Grant funding, however due to issues with available grant funding which may not be resolved during the currently fiscal year, the Sheriff's Office is requesting to use Controlled Substance funding.

Revenue:		
0270991-499100	Fund Balance Appropriated	\$20,562 Incr
Expenditure:		
0274310-531200	Equipment Supply	\$700 Incr
0274310-552000	Computer Equipment	<u>\$19,862</u> Incr
		\$20,562

Legal

This budget amendment is to budget additional funds in FY17-2018 for legal services. The increase is primarily due to the additional fees required due to the unexpected litigation with Eastpointe and the Solar Farm.

Revenue:		
0100991-499100	Fund Balance Appropriated	\$150,000 Incr
Expenditure:		
0104150-519200	Legal Fees	\$150,000 Incr

Cooperative Extension

This budget amendment is to budget additional funding received for the Master Gardner Training Class and the Regional Grain Meeting scheduled for February 2018. No additional County funds are needed.

Revenue:		
0100230-487934	NCCE Horticulture Events	\$2,815 Incr
Expenditure:		
0104950-563006	NCCE Horticulture Events	\$2,815 Incr

Recreation and Senior Services Department

This budget amendment is to budget additional funds received for the Home Delivered Cost Share Program and Project Lifesaver and to adjust HCCBG Congregate Nutrition to correct funding amounts.

Revenue:

0100230-487832	Project Lifesaver Donations	\$130 Incr
0100213-458674	Home Delivered Cost Share	\$1,830 Incr
0100213-458670	HCCBG Congregate Nutrition	(\$6,969)Decr
0100991-499100	Fund Balance Appropriated	<u>\$6,969</u> Incr
		\$1,960

Expenditure:

0105810-569296	Project Lifesaver Donations	\$130 Incr
0105330-569210	Home Delivered Cost Share	<u>\$1,830</u> Incr
		\$1,960

Ms. Stacie Shatzer, Assistant County Manager presented for the Board's consideration options for the Commemorative Courtyard in front of the Claude Mayo, Jr. Administration Building.

On motion of Dan Cone seconded by Lou M. Richardson and duly passed that the Nash County Board of Commissioners approve moving forward with the Teardrop design and working with the lowest bidder, An Everlasting Memory Monument Company for the Commemorative Courtyard in front of the Claude Mayo, Jr. Administration Building.

Ms. Shatzer asked the Board to consider appointments to the Transportation Advisory Committee.

On motion of Fred Belfield, Jr. seconded by J. Wayne Outlaw and duly passed that Mayor Luther Harvey Lewis, Town of Middlesex, and Commissioner Brenda Lucas, Town of Spring Hope, be appointed, as recommended by the Towns, to the Transportation Advisory Committee.

Ms. Shatzer asked the Board to consider appointments to the Nash UNC Health Care Board of Commissioners.

On motion of Fred Belfield, Jr. seconded by Dan Cone and duly passed that Sheila Wallace and Joel Lee Bryant be appointed to the Nash UNC Health Care Board of Commissioners.

Ms. Shatzer asked the Board to consider reappointments to the Nash UNC Health Care Board of Commissioners.

On motion of Lou M. Richardson seconded by Fred Belfield, Jr. and duly passed that Eugene F. "Butch" Holland, Jean Kitchin, Dr. Martha Chesnutt and John Barker be reappointed to the Nash UNC Health Care Board of Commissioners.

The Monthly Tax Collector's report was accepted.

There are no refund requests for February 2018.

Mr. Wrenn, Tax Administrator asked the Board to consider approval of the report of the Tax Collector on unpaid 2017 taxes that are liens on real property and order the Tax Collector to advertise 2017 taxes that are liens on real property at least once in the newspaper between March 1, 2018 and June 30, 2018.

On motion of Lou M. Richardson seconded by Fred Belfield, Jr. and duly passed that the Board approve the report of the Tax Collector on unpaid 2017 taxes that are liens on real property and order the Tax Collector to advertise 2017 taxes that are liens on real property at least once in the newspaper between March 1, 2018 and June 30, 2018.

Chairman Davis called on the Commissioners for any comments and/or reports.

Mr. Zee B. Lamb, County Manager provided a Manager's Report to the Board.

Mr. Lamb presented for the Board's consideration a request of \$5,000 from the Town of Castalia to help erect and equip a concession stand that will be used during school sports' events. He advised that Nash County had previously committed \$15,000 for the Recreation Complex Project and that the Town of Castalia had not used those funds.

On motion of Lou M. Richardson seconded by Mary P. Wells and duly passed that the Nash County Board of Commissioners approve the \$5,000 request by the Town of Castalia.

Mr. Lamb introduced Mr. Mike Phillips, new Nash County Public Facilities & Utilities Assistant Director.

On motion of Lou M. Richardson seconded by Fred Belfield, Jr. and duly passed that the Board go into closed session as permitted by NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve

the attorney-client privilege: NCGS 143-318.11(a)(4) for the discussion of matters relating to economic development and the location or expansion of industries or other businesses in the County; and NCGS 143-318.11 (a) (5) to establish or to instruct the public body's staff or negotiating agents concerning the position to be taken on behalf of the county in negotiating the price or a proposed contract for the acquisition of real property.

During closed session, the Board received updates on economic development projects and consulted with the attorney to discuss matters that are subject to the attorney-client privilege between the attorney and the Board.

On motion of Fred Belfield, Jr. seconded by Dan Cone and duly passed that the closed session adjourn.

On motion of Lou M. Richardson seconded by Dan Cone and duly passed that the meeting adjourn.

Janice Evans, Clerk
Nash County Board of Commissioners