

**MINUTES OF THE
NASH COUNTY PLANNING BOARD MEETING
HELD MONDAY, FEBRUARY 19, 2018 AT 7:00 P.M.
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR
FREDERICK B. COOPER COMMISSIONERS ROOM**

BOARD MEMBERS PRESENT

Leonard Breedlove, Chairman
Jeffrey Tobias, Vice-Chairman
Moses Brown
DeLeon Parker, Jr.
Barbara Pulley
Chris Sandifer
Kevin Smith

BOARD MEMBERS ABSENT

Harold Colston
Sandra Edwards

STAFF MEMBERS PRESENT

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

OTHERS PRESENT

Howard Beddingfield
Caryn Denton
Lewis Denton
Jamie Griffin
Marie Hinton
Matthew Hinton
Jordan Hunter
Teresa Hunter
Angela M. McGrew

Jack McGrew
James McGrew
Joey McGrew
Barbara Menefee-Dunn
Don Morgan
Bobby Perry
Carl Pulley
McCoy Pulley

Roy Pulley
Ashley Roach
Curtis Roach
Dianne Roach
Taranpreet Singh
Robert Snopik
Art Tippet
Libby Tippet

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 January 16, 2018 Regular Meeting.

The minutes of the January 16, 2018 regular meeting were mailed to the members of the Board for review. Chairman Breedlove asked for any revisions or corrections. None were offered.

BOARD ACTION: Mr. Tobias offered a motion which was duly seconded by Ms. Pulley to approve the minutes of the January 16, 2018 regular meeting as submitted. The motion was unanimously carried.

4. General Rezoning Request Z-180201 Made by Taranpreet Singh, the Property Owner, to Rezone the Approximately 5.25 Acre Lot Located at the Northwest Corner of the Intersection of S NC Highway 231 and Cone Road (S.R. 1159) from A1 (Agricultural) to RC (Rural Commercial).

Chairman Breedlove recognized Mr. Tyson to present the staff report.

Mr. Tyson began by stating that in accordance with the requirements of the Nash County Unified Development Ordinance, a written notice of this public meeting was sent by first class mail on February 7, 2018 to the applicant, to the owner of the subject property, and to the owners of all surrounding properties any portion of which is located within 600 feet of the subject property.

Mr. Tyson then presented the staff report and supplemental materials related to General Rezoning Request Z-180201 as submitted to the Board in the February 19, 2018 Nash County Planning Board Meeting agenda document. He noted that the Nash County Technical Review Committee (TRC) considered General Rezoning Request Z-180201 on February 1, 2018 and recommended approval based on its determination that the request is consistent with the Nash County Land Development Plan and not spot zoning for the reasons outlined in the staff report.

Mr. Tyson concluded the report by informing the Board that the applicant, Mr. Taranpreet Singh, was present at the meeting to represent the request. He offered to take any questions from the Board regarding the request.

Ms. Pulley asked about the length of the existing screening buffer.

Mr. Tyson clarified that the buffer Ms. Pulley was referring to actually consisted of trees located on the adjacent property owner's lot to the north. He further explained that if the subject property was developed commercially in the future and the commercial activity area was located within 100 feet of that northern property line, then the applicant would be responsible for providing additional screening on the subject property itself, regardless of what may be planted on the adjacent property owner's lot.

Mr. Tobias inquired about how a state road would be defined as being "major."

Mr. Tyson responded that as a "numbered" highway, S NC Highway 231 would be considered a "major" road, however, he further explained that while Cone Road is a publicly dedicated and state maintained

road, he was unsure if the ordinance specifically defined the term “major” as referenced in the Land Development Plan, making the term somewhat subjective.

Ms. Nixon clarified that highways which are not “numbered” but which serve as collector roads (different from residential streets such as those found within subdivisions) may not necessarily be considered “major” roads even if they are state maintained.

Chairman Breedlove stated that all the main roads in the state were “numbered” roads, citing as examples NC Highway 231, NC Highway 58, and NC Highway 581.

Mr. Tobias stated that he thought “major” roads were defined by traffic count, referencing previous development issues presented to the Board that were located along NC Highway 97.

Mr. Tyson suggested that Mr. Tobias may be thinking of the subdivision regulations requiring additional lot width along “high traffic” roads with more than 1,000 vehicles per day. He noted that those regulations specifically recognize any “numbered” highway, regardless of its actual traffic count, as being a “high traffic” road.

Mr. Sandifer asked if it would be possible to pave over the existing septic drain field on the subject lot.

Mr. Tyson responded that it was his understanding that the septic drain field could be paved over only if it were properly abandoned and crushed in, however, a functioning septic drain field would not be allowed to be paved over.

Mr. Tobias asked if the existing business located across the road from the subject property kept this request from being considered “spot zoning” or whether it was because of some particular commercial vibrancy in this area.

Mr. Tyson responded that it was the existing RC (Rural Commercial) zoning classification of the property across the road that kept this request from being considered “spot zoning.”

Mr. Tyson reminded the Board that because this was a general rezoning request, as opposed to a conditional use rezoning request or a conditional use permit request, there was no opportunity to attach additional conditions to an approval beyond the standard ordinance requirements for the requested zoning district. If the request was ultimately approved, the applicant may develop the property in accordance with those requirements. The only adjustments to the request that could be made prior to an approval would be to revise the size and shape of the requested rezoning area itself.

Chairman Breedlove recognized the applicant, Mr. Singh, and invited him to address the Board.

Mr. Singh addressed the Board stating that his desire to rezone the subject property to a commercial status was related to his belief that this was a developing area based on the sales and demand he had observed at his existing convenience store located across the road over the past four years. He stated that he intended to locate a restaurant on the subject property as current regulations prevent him from serving hot food at the convenience store. He stated that he felt a restaurant would benefit the surrounding community because currently the nearest food service was a ten minute drive away and there is no food delivery service in the area. He stated that he also plans to locate a self-storage facility on the subject property at a later date, which is why the rezoning request includes the entire 5.25 acre lot.

Ms. Pulley asked Mr. Singh about the buffer along the northern property line of the subject property.

Mr. Singh stated that there was a small fence located there now, but he intends to add a 25 foot wide buffer which would extend along the entire length of the northern property line.

Chairman Breedlove invited any members of the public who were present at the meeting and who wished to address the Board regarding this request to come forward.

Ms. Dianne Roach addressed the Board in opposition to the request, identifying herself as the owner of the immediately adjacent property to the north and stated that her family had lived in the community for more than 20 years. Ms. Roach expressed her concerns that rezoning the subject property to a commercial zoning classification would result in increased traffic and crime in the area as well as her concerns that a potential restaurant would increase noise (particularly if it served breakfast early in the morning) and trash discarded by the patrons. She stated that the area was already served by a hotdog and hamburger stand in operation within one mile of the proposed site and that other previous restaurants located in the same area had failed. Ms. Roach stated that the proposed commercial rezoning request would threaten the sense of community and security which currently exists in the area.

Ms. Marie Hinton addressed the Board in opposition to the request, stating that she has lived 0.25 miles away from the site on Valley Road for 41 years and that her father-in-law, Melvin Hinton, had originally built the convenience store there in the 1960s. She stated that during the period when her father-in-law owned the store, there were several break-ins including an armed robbery. She noted that there are no other residences in the area beyond those immediately surrounding the intersection of S NC Highway 231 and Cone Road/Valley Road. She also stated that over the last few years she and several other members of the community had witnessed what they believed to be drug transactions on an abandoned property on Valley Road behind the convenience store. She expressed her concern that the commercial rezoning could make the area worse by drawing in outside individuals to this remote area. She stated that the structure formerly located on the subject property was built in the early 1970s and used for a sewing business until the property was sold, at which time it was converted to become a bar and pool hall. She stated that in 1979 there was an altercation on the property that resulted in the death of two individuals and concluded that the property drew an unsavory clientele because of its remote location. Ms. Hinton requested that the Board recommend denial of the rezoning request based on these examples of past issues on and around the subject property.

Ms. Ashley Roach addressed the Board in opposition to the request, stating that she grew up in the home adjacent to the subject property and that her children go to a nearby home on a daily basis. Ms. Roach requested that the Board recommend denial of the rezoning request in order to maintain the peaceful community as it currently exists and to prevent her and her children from being subjected to the dangerous or criminal environment that could result from the commercial development of the subject property.

Mr. Carl Pulley addressed the Board in support of the request, identifying himself as a resident of the community. He stated that the convenience store currently operated by Mr. Singh is a pillar of the community providing services related to the post office and utility payments as well as gas purchases and a one-stop shop for all your needs. Mr. Pulley stated that a new restaurant would be an asset to the community.

Mr. Singh, the applicant, addressed the Board again to present a petition with 194 signatures in support of the commercial rezoning request. He stated that his store serves everyone in the community and that he maintains a good relationship with all of his customers regardless of their differing opinions and beliefs. With regard to crime, he stated that his convenience store utilizes a surveillance and security system and that he has had no issues in the past two years. Mr. Singh assured the Board that if the rezoning request were approved that he would utilize a surveillance and security system on the subject property as well.

Chairman Breedlove asked Mr. Singh if all the signatures on the submitted petition were from people located within the "geographic neighborhood" of the proposed site.

Mr. Singh responded that all the signatures were from customers who already visit the convenience store and who would be the same individuals who would visit the proposed restaurant. He added that the proposed restaurant would offer dine-in and take-out as well as delivery service.

Mr. Sandifer asked about the security currently provided at the convenience store.

Mr. Singh replied that he has a 16 channel system with motion sensors that monitor the store 24/7. He stated that in the past when he encountered an individual acting suspiciously but had no proof, he would warn that person to stop and if he saw a continuation of the problem, he would contact law enforcement.

Mr. Sandifer asked how long ago this had happened and if there had been any 911 calls prior to that incident.

Mr. Singh replied that it happened four to five months ago and it was something he observed and handled on his own. He stated that he had not had any problems since and that there had been no 911 calls. He also stated that the store is well-maintained and that he tries to keep the area clean by picking up any trash around the store.

Ms. Barbara Dunn addressed the Board in support of the request and identified herself as a member of the community. She stated that she would welcome the proposed restaurant because it would be convenient, especially for seniors who currently have to travel to Zebulon or Spring Hope for any carry-out food other than a hotdog available from Samaria. She noted the number of churches in the area and stated that many of the signatures on the submitted petition were from area church members. Ms. Dunn stated that she has no reason to believe that Mr. Singh would not maintain the subject property as a part of the quiet neighborhood that currently exists and she expressed her hope that the Board would recommend approval of the rezoning request.

Ms. Angela McGrew addressed the Board in support of the request and identified herself as an employee of the applicant. She stated that she would like to see a new restaurant in the area because she has to drive to Zebulon or somewhere else to pick up food for her family which includes five children. Ms. McGrew also stated that the hotdog stand in Samaria is only open five hours a day for three days per week and that it will not open again until March.

Mr. Matthew Hinton addressed the Board in opposition to the request, identifying himself as a resident of the community for his entire life. He stated that his grandfather had originally built the convenience store across from the subject property in the 1960s. He stated that while he appreciates Mr. Singh and his current business which he frequents, he does not wish to see the community changed. Mr. Hinton

stated that he was only recently made aware of the petition in support of the rezoning request and asked that the Board allow him time to gather signatures for a petition in opposition to the request.

Mr. Sandifer asked if a structure were permitted to be constructed on the subject lot and then abandoned at some point in the future, what regulations, if any, would apply regarding the abandonment.

Mr. Tyson responded that he was unaware of any zoning rules that would be applicable to the abandoned structure, however, if it presented a safety issue related to the building code, then the structure could possibly be removed or at least secured in order to prevent access.

Mr. Sandifer asked about the difference between the land uses defined in the ordinance as “bar, night club, tavern” (SIC 5813) and “restaurant” (SIC 5812).

Ms. Nixon responded that part of the difference between the two land uses is determined by how the ABC Board licenses bars.

Mr. Tyson attempted to clarify by reading the referenced section from the Standard Industrial Classification (SIC) Manual for a “restaurant” (SIC 5812) – “eating places, establishments primarily engaged in the retail sale of prepared food and drinks for on-premises or immediate consumption” – and for a “bar, night club, tavern” (SIC 5813) – “drinking places (alcoholic beverages), establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises. The sale of food frequently accounts for a substantial portion of the receipts of these establishments.” He stated that a determination between the two land uses would most likely be based on whether the alcohol sales of a particular business was their primary function or whether it was secondary to the food sales. Mr. Tyson reiterated Ms. Nixon’s statement that the County would rely on the criteria used by the ABC Board when licensing bars.

Chairman Breedlove stated that the ABC Board currently requires a restaurant to have a higher percentage of food sales than alcohol sales and if the alcohol sales exceed the food sales, then the restaurant may lose its license to sell alcohol.

Mr. Sandifer stated that whether or not a commercial endeavor at this location would flourish economically would be the property owner’s issue. He also stated that the issue of drug activity on Valley Road should have no impact on the rezoning decision because a new business may attract more activity and increase visibility at the site, driving any illicit activity further away. He stated that he had heard no evidence that led him to believe that a restaurant at this location would cause any criminal activity.

Mr. Tobias stated that he appreciated all the commentary from the community and said that his focus was on whether the rezoning request stretched the boundaries of the intentions for the “Rural Commercial” Zoning District. He stated that he perceived appropriate “Rural Commercial” sites to be in areas located around identified nodes at more frequently traveled intersections where there is a higher probability of commercial activity and development. He expressed his concern that the proposed site seemed to be more isolated.

Ms. Pulley stated that NC Highway 231 is a well-traveled road with a substantial volume of traffic including law enforcement vehicles from the Nash County Sheriff’s Office and the North Carolina Highway Patrol.

Mr. Tobias asked about the traffic count for this portion of NC Highway 231.

Mr. Tyson responded that the traffic count information was not available for this meeting but could be provided at a later date. He suggested that if the Board determined that the traffic count information was vital in order to proceed, then it should consider tabling this request until the next meeting.

Mr. Tobias asked why the applicant had requested a general rezoning as opposed to a conditional use rezoning for the subject site.

Mr. Tyson responded that a conditional use rezoning is usually more appropriate in cases where the request would be more likely to be considered "spot zoning." He stated that was less of a concern with this particular site because of the already existing general RC (Rural Commercial) Zoning District located directly across the road for the convenience store, so the general rezoning request seemed more appropriate. He noted for the Board that if this general rezoning request is ultimately denied by the Board of Commissioners, then the applicant could submit a conditional use rezoning request which would be restricted to a specific land use or list of land uses with a proposed site plan rather than the entire broad range of land uses that would be permitted by the general RC (Rural Commercial) Zoning District.

Mr. Tobias asked when the convenience store site was originally zoned.

Mr. Tyson stated he suspected that the original zoning for the site most likely dated to the early 1990s when county-wide zoning regulations were first implemented. He guessed that for this particular site, the Board of Commissioners had to choose whether to recognize the store as a nonconforming use (meaning it could continue to operate in that location until it shut down for a substantially long enough period to lose its "grandfathered" status) or to establish the site as an actual commercial zoning district which would ensure its potential commercial use even beyond the operation of the existing store. Obviously, they ultimately chose to establish the commercial zoning district.

BOARD ACTION: Ms. Pulley offered a motion which was duly seconded by Mr. Parker to recommend the following consistency statement related to General Rezoning Request Z-180201 for adoption by the Nash County Board of Commissioners:

"General Rezoning Request Z-180201 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 both S NC Highway 231, a major state highway, and Cone Road, a state-maintained secondary road;**
- (b) The subject site is located at the intersection of S NC Highway 231 and Cone Road (S.R. 1159);**
- (c) The subject site is located directly across from and in close proximity to the already existing and commercially-zoned Mart 231 convenience store at 3477 S NC Highway 231; and**
- (d) While the subject site is located immediately adjacent to the existing residences at 3454 S NC Highway 231 to the north and 10078 Cone Rd to the west, the potential impact of any future commercial development should be**

- mitigated by the separation distance or screening buffer requirements of UDO Article XI, Section 11-3; AND
- (2) Not “spot zoning” because it is an expansion of the already existing RC (Rural Commercial) Zoning District located directly across the road from the subject site for the Mart 231 convenience store at 3477 S NC Highway 231.”

The motion was carried with a vote of 5 to 1 in favor with Mr. Tobias being opposed.

BOARD ACTION: Mr. Parker offered a motion which was duly seconded by Mr. Smith to recommend approval of General Rezoning Request Z-180201 to rezone the approximately 5.25 acre lot located at the northwest corner of the intersection of S NC Highway 231 and Cone Road from A1 (Agricultural) to RC (Rural Commercial).

The motion was carried with a vote of 5 to 1 in favor with Mr. Tobias being opposed.

5. Other Business.

Ms. Nixon reported that on February 5, 2018 the Nash County Board of Commissioners voted to approve both General Rezoning Request Z-180101 made by the Finch family to rezone 0.72 acres located at 8114 Old Middlesex Road, Bailey, NC 27807 from R-40 (Single-Family Residential) to RC (Rural Commercial) and Conditional Use Rezoning Request CU-170901 made by Steven E. Luper Jr. to rezone 10.03 acres located on the east side of the intersection of Old Mill Road and S Halifax Road from R-30 (Single & Two-Family Residential) to RC-CU (Rural Commercial Conditional Use) for a landscape and horticultural service with an outdoor storage yard.

Ms. Nixon also reported that a court date of Monday, March 12, 2018 had been set for the appeal of Conditional Use Permit CU-170804 for the Sabattus Solar, LLC solar farm on the southeast corner of Mount Pleasant Road and Winters Road.

Ms. Nixon invited the Board members to participate in the upcoming Spring 2018 Regional Board Workshop for Planning & Development Regulation to be held by the UNC School of Government on Tuesday, April 3, 2018 from 1:00 p.m. to 4:30 p.m. at the Pitt County Agricultural Center Auditorium located at 403 Government Circle, Greenville, NC 27834. The topic of the workshop will be legislative zoning decisions on rezonings and zoning ordinance amendments.

Ms. Nixon also brought to the Board’s attention the need to revise or update the Nash County Land Development Plan previously adopted in 2006. She anticipated that this project would primarily focus on county infrastructure improvements with regard to public water and sewer lines as well as parks and recreation facilities and operations that did not exist in 2006. The update project would also examine areas in the community where increased growth and development have occurred. The project will involve public meetings and some Board members may be asked to serve on a committee to help guide the process. She noted that further details regarding schedules and committee commitments would be presented at a later date.

6. Adjournment.

There being no further business, Chairman Breedlove adjourned the meeting at 8:05 p.m.