

**MINUTES OF THE
NASH COUNTY PLANNING BOARD MEETING
HELD MONDAY, JUNE 17, 2019 AT 7:00 P.M.
FREDERICK B. COOPER COMMISSIONERS ROOM
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR
120 WEST WASHINGTON STREET
NASHVILLE, NC 27856**

BOARD MEMBERS PRESENT

Leonard Breedlove, Chairman
Jeffrey Tobias, Vice-Chairman
Moses Brown
Harold Colston
Sandra Edwards
Chris Sandifer
Kevin Smith
DeLeon Parker
Barbara Pulley

BOARD MEMBERS ABSENT

None

STAFF MEMBERS PRESENT

Adam Tyson, Planning Director
Adam Culpepper, Senior Planner
Windy Braswell, Planning Technician
Jessica Flores, Planning Technician

OTHERS PRESENT

Delmar Brantley	James Glover
Doris Brantley	Fred Schroeder
Joyce Eatmon	Lane Schroeder
Mack Eatmon	Ron Sutton
Mike Eatmon	Cecil Williams
William E. Eatmon	H. R. Williams
Donnie Glover	Sarah J. Williams

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 May 20, 2019 Regular Meeting.

The minutes of the May 20, 2019 regular 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 which was duly seconded by Mr. Brown to approve the minutes of the May 20, 2019 regular meeting as submitted. The motion was unanimously carried.

4. Announcement of Upcoming Board Member Term Expirations on June 30, 2019.

Mr. Tyson announced that on June 3, 2019 Mr. DeLeon Parker, Jr. was reappointed by the Board of Commissioners to serve a first regular three-year term set to expire on June 30, 2022 and that Mr. Harold D. Colston had declined to serve a third three-year term. Mr. Tyson noted that the Board of Commissioners were seeking a replacement appointee from Commissioner District 4 which was currently unrepresented on the Planning Board.

5. General Rezoning Request Z-190601 Made by Frederic J. Schroeder, Jr. and Lane F. Schroeder on behalf of L & F Farms LLC, the property owner, to rezone an approximately 25 acre tract of land located at 3645 Stoney Hill Church Road, Bailey, NC 27807 from R-40 (Single-Family Residential) to RA-20 (Medium Density Residential).

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

Mr. Tyson presented the staff report and supplemental materials related to General Rezoning Request Z-190601 as submitted to the Board in the June 17, 2019 Nash County Planning Board agenda document.

He informed the Board that the Nash County Technical Review Committee (TRC) considered General Rezoning Request Z-190601 on May 31, 2019 and recommended approval based on its determination that the request is reasonable, in the public interest, consistent with the recommendations of the Nash County Land Development Plan, and reasonable "spot zoning." Mr. Tyson noted that the very good soil conditions of the subject property, making it suitable for the installation of on-site septic systems, as well as the historical support of the Board of Commissioners for R-20 density development in similar situations were factors in the TRC's decision.

Mr. Tyson concluded the staff report by offering to answer any questions from the Board and informing the Board that the request applicants and property owners, Mr. Frederic J. Schroeder, Jr. and Mrs. Lane F. Schroeder, as well as the prospective developer, Cecil T. Williams Jr., were also present and available to answer questions.

Mr. Sandifer asked about specific address points shown on the aerial photograph, which were identified by Mr. Tyson.

The Board members discussed the relative location of the nearest existing R-20 or R-30 Zoning Districts to the subject property as well as the density of R-20 development as it related to the Land Development Plan.

Mr. Frederic J. Schroeder Jr., the applicant and property owner, addressed the Board in support of the request, explaining the circumstances that led to its proposal and noting his belief that it would be an economic benefit to the surrounding area and stating that the proposed 20,000 square foot lot sizes were comparable to the neighborhood he currently resides in.

Mr. Mike Eatmon, a local attorney and adjacent resident to the subject property, addressed the Board in opposition to the request, representing the surrounding community's concern that although this particular request included only a 25 acre tract, the applicant was eventually expected to pursue a rezoning of the entire 188 acres included in a previously withdrawn rezoning request. He also asked that the Board consider issues related to the proposed development including increased traffic, property tax impacts, erosion issues, flash flooding, water supply constraints, other as-yet unknown environmental impacts, the lack of commercial businesses in the area, and the necessity to install many new septic systems as reasons to recommend denial of the rezoning request.

Mr. Tyson clarified that the Nash County Public Utilities Department had ultimately determined that the existing water system has sufficient capacity to accommodate the residential development of the subject property at the proposed density.

Chairman Breedlove asked Mr. Eatmon if he and the community members that he was representing would be opposed to the rezoning of the subject 25 acres to the RA-30 Zoning District instead of the requested RA-20 Zoning District.

Mr. Eatmon responded that they would be opposed to any change other than the current development density allowed by the existing R-40 Zoning District and argued that anyone building in the subject area should remain subject to the same density requirements as the other surrounding residents.

Mr. Sandifer asked Mr. Eatmon for any evidence to support his claims regarding increased traffic impacts.

Mr. Eatmon responded that the concern was based on the traffic that would be related to the potential new homes and residents if the rezoning was approved and offered anecdotal support for the current traffic conditions in the area. He argued that the approval of the rezoning would ultimately place an undue burden on the N.C. Department of Transportation as well as the current residents due to the changes or improvements to the existing transportation infrastructure that could potentially be required.

Mr. Sandifer asked Mr. Eatmon for any evidence to support his claims regarding flash flooding impacts.

Mr. Eatmon responded that the increased built-upon area related to the denser residential development would potentially leave fewer places for the water to go and create runoff issues.

Mr. Sandifer asked Mr. Eatmon for any evidence to support his claims regarding property value impacts.

Mr. Eatmon responded that the development of smaller homes on the subject property could potentially impact the overall comparable property values for the area.

Mr. Sandifer asked Mr. Eatmon for any evidence to support his claims regarding environmental hazards.

Mr. Eatmon responded that to his knowledge, the potential environmental hazards had not yet been precisely studied, however, he speculated regarding potential concerns related to various forms of protected wildlife species.

Mr. Parker asked Mr. Eatmon if he would have the same issues with the development of the subject property at the density allowed by the current R-40 Zoning District.

Mr. Eatmon responded no, because from a mathematical standpoint the development of the property at the current R-40 density would involve impacts from fewer new residents than development at the requested RA-20 density.

Mr. Sandifer asked Mr. Eatmon to explain his rationale for describing the request as "spot zoning."

Mr. Eatmon responded by discussing the North Carolina case law established by Good Neighbors of South Davidson v. Town of Denton and arguing that allowing individuals to profit at the expense of the surrounding community would be a violation of the law. He explained his criteria for requesting denial of the rezoning including his observation that there was no demonstration of broad based support for the rezoning, the surrounding community would not be able to make use of the subject property, and that the burden to demonstrate the impact on surrounding property values should be on the developer requesting the change.

Mr. William Eatmon, another adjacent resident to the subject property, addressed the Board in opposition to the request, discussing his recently received residential property tax statement as well as the need to study the potential environmental impacts to the nearby Toisnot Swamp and White Oak Swamp. He mentioned the potential impacts of raw sewage and other chemicals on the watersheds and stated that the majority of the surrounding land is currently agricultural and will likely remain agricultural in the future.

Mr. Sandifer asked Mr. Eatmon how he anticipated that raw sewage would end up on top of the ground.

Mr. Eatmon responded that he had witnessed the results of a damaged wastewater drain field which caused the release of raw sewage on top of the ground.

Chairman Breedlove commented that septic system failures could potentially occur anywhere regardless of the particular lot size and further noted that all septic systems must be properly permitted and that sewage was not permitted to be discharged on top of the ground.

Mr. Cecil Williams, the prospective developer of the subject property, addressed the Board in support of the request, stating that he intends to construct homes on the subject property that average \$200,000 in value. He noted that the soil conditions were excellent for septic system installation and stated his belief that the soil conditions should be the determining factor with regard to the allowable lot size. He noted that while 20,000 square feet would be the minimum allowable lot size, the specific

findings and requirements of the Nash County Environmental Health Division could ultimately result in larger lot sizes.

Mr. Williams reminded the Board that until recently, state mandated watershed rules required a minimum lot size of 40,000 square feet, however, the state rules were allowed to expire and Nash County had repealed the related requirements through an amendment to the Unified Development Ordinance. He also argued that because this area is designated as a Suburban Growth Area, it is being looked at by developers and noted that the increased tax base related to the proposed development would help to support the Nash County Water System as well as the recently constructed nearby Southern Nash Senior Center.

Mr. Sandifer asked Mr. Williams to address the previously stated concerns regarding “spot zoning,” whether this request was the first step in a plan to rezone a larger area, and whether a connection to the county water system was to be required.

Mr. Williams responded that the expiration of the state’s watershed lot size rules and the repeal of the related Nash County regulations was the reason for the rezoning request. He confirmed that the request to rezone this parcel was the first step in a plan to rezone a larger area to RA-20 and that connecting the new development to the existing county water system would be a requirement.

The Board members discussed among themselves whether the rezoning request would be considered “spot zoning” and how the request related to the recommendations of the Nash County Land Development Plan.

BOARD ACTION: Mr. Parker offered a motion which was duly seconded by Mr. Sandifer to recommend the following consistency statement related to General Rezoning Request Z-190601 for consideration by the Nash County Board of Commissioners:

General Rezoning Request Z-190601 is reasonable and in the public interest based on the following statements:

- (1) The request is consistent with the recommendations of the Nash County Land Development Plan (LDP) because:**
 - (a) The LDP explicitly supports the rezoning of property located within this designated Suburban Growth Area to either the RA-30 (Single-Family Residential) or the RA-20 (Medium-Density Residential) Zoning Districts where public water service is available and where the soil conditions will accommodate the installation of on-site septic systems.**
 - (b) The subject property has access to Nash County public water service via an existing four inch (4”) waterline installed along the Stoney Hill Church Road public right-of-way and the Nash County Public Utilities Department has determined that the existing water system has sufficient capacity to accommodate the residential development of the subject property at the proposed density.**
 - (c) The soil conditions of the subject property as depicted on the Nash County Soil Survey Map appear sandy, well-drained, and favorable for the installation of on-site septic systems.**

- (d) The higher density residential development permitted by the new zoning district will help accommodate the significant residential growth anticipated by the LDP for the Suburban Growth Area.
 - (e) The new zoning district is more restrictive in terms of permitted land uses than the current R-40 (Single-Family Residential) Zoning District.
- (2) The request is considered reasonable “spot zoning” because:
- (a) The request is consistent with the recommendations of the Nash County Land Development Plan as established above.
 - (b) The subject property has access to public water service and the soil conditions appear favorable for the installation of on-site septic systems.
 - (c) The subject property as well as all the adjacent and surrounding properties already are and will continue to be zoned for residential use.
 - (d) The new zoning district will allow higher density residential development, but is more restrictive in terms of permitted land uses than the current R-40 (Single-Family Residential) Zoning District.
 - (e) The large size of the subject property (approximately 25 acres) demonstrates that the intention of this request is to establish a new zoning district within which multiple residential lots may be subdivided, rather than to create a single, isolated “spot zone.”

The motion was unanimously carried.

BOARD ACTION: Mr. Parker offered a motion which was duly seconded by Mr. Brown to recommend approval of General Rezoning Request Z-190601 to rezone the subject property from R-40 (Single-Family Residential) to RA-20 (Medium-Density Residential) as requested by the applicant and recommended by the TRC.

The motion was unanimously carried.

6. Major Subdivision Sketch Plan for the River Stone Subdivision submitted by Herring-Sutton & Associates, P.A. on behalf of Williams Builders of Rocky Mount LLC, the property owner, for the development of twelve (12) proposed new residential lots and a new fifty (50) foot wide public road right-of-way to be constructed on a 7.21 acre tract of land located on the east side of S NC Highway 58 in the RC (Rural Commercial) Zoning District.

Mr. Tyson recognized Senior Planner Adam Culpepper to present the staff report.

Mr. Culpepper presented the staff report and supplemental materials related to the Major Subdivision Sketch Plan for the River Stone Subdivision as submitted to the Board in the June 17, 2019 Nash County Planning Board agenda document.

He informed the Board that the Nash County Technical Review Committee (TRC) considered the Major Subdivision Sketch Plan for the River Stone Subdivision on May 31, 2019 and recommended approval subject to suggested conditions. Additionally, the TRC recommended that after the approval and recordation of the final plat, the developer should consider requesting that the subject tract be rezoned from the current RC (Rural Commercial) Zoning District to an appropriate residential zoning district prior to the development or sale of any of the new lots for residential use.

Mr. Culpepper concluded the staff report by offering to answer any questions from the Board.

Mr. Sandifer asked questions regarding the minimum building setbacks depicted on proposed Lot 7 and whether a screening buffer would be required between the proposed new lots and the commercially-zoned parcel immediately adjacent to the south.

Mr. Culpepper explained that the building setbacks required for Lot 7 were impacted by a proposed 20' wide drainage easement containing stormwater controls as well as an existing 50' wide riparian stream buffer.

Mr. Tyson also responded that the proposed residential development of the subject property would not trigger any specific screening requirements, however, if the commercially-zoned parcel to the south was actually developed for a commercial land use after the residential development of the subject property had occurred, then any commercial use area located less than 100 feet from the adjacent residentially-used property would require the installation of a screening buffer.

BOARD ACTION: Mr. Parker offered a motion which was duly seconded by Mr. Smith to approve the Major Subdivision Sketch Plan for the River Stone Subdivision subject to the following conditions:

Conditions for Future Preliminary Plat Approval and Construction Authorization:

- (1) The developer shall submit a Driveway Permit and Subdivision Review Approval issued by the N.C. Department of Transportation District Engineer based on a review of the proposed road construction plans and the proposed location of the cluster box unit (CBU) mailbox prior to construction.**
- (2) The developer's engineer shall submit the construction plans for the proposed public water utility system expansion along with all the required state permit applications and permits issued by the N.C. Department of Environmental Quality to Nash County Public Utilities for review and approval prior to construction.**
- (3) The developer's engineer shall submit the required Tar-Pamlico River Basin Overlay District stormwater management plan along with the necessary documents and fees required for the issuance and recording of a Nash County Stormwater Permit (including documentation of any necessary nutrient buy-down payments made to a private mitigation bank.)**
- (4) The developer shall submit a final soils report prepared by a licensed soil scientist for review and approval by the Nash County Environmental Health Division verifying that each proposed new lot will be suitable for the installation of an individual private on-site septic system.**
- (5) The developer shall submit an Erosion and Sedimentation Control Plan Approval issued by the N.C. Department of Environmental Quality, Division of Land Resources.**

Conditions for Future Final Plat Approval:

- (1) Post-construction inspection and approval of the new public road right-of-way by the N.C. Department of Transportation District Engineer.**
- (2) The developer's engineer shall submit a utility construction certification approved by the N.C. Department of Environmental Quality and record drawings related to the completed public water utility system expansion to Nash County Public Utilities and shall also establish the required one (1) year warranty period for the utility related improvements.**
- (3) The developer shall identify the responsible party and make the necessary accommodations for the future maintenance of the proposed stormwater discharge drainage system, specifically the level spreader depicted on Lot 7.**
- (4) A one-time fee in the amount of \$75.00 for the purchase and installation of the new River Stone Court street name sign shall be paid at the submittal of the final plat.**

The motion was carried with eight (8) votes in favor. Mr. Tobias abstained from voting.

7. Other Business.

Mr. Tyson reminded the Board that officers (Chairman & Vice-Chairman) would be elected at the next regular meeting to serve for the 2019-2020 year. He also reviewed the remaining terms of each Board member.

8. Adjournment.

There being no further business, Chairman Breedlove adjourned the meeting at 8:10 p.m.