NASH COUNTY PLANNING BOARD
REGULAR MEETING
MONDAY, MAY 16, 2022 AT 6:30 P.M.
FREDERICK B. COOPER COMMISSIONERS ROOM
CLAUDE MAYO, JR. ADMINISTRATION BUILDING - THIRD FLOOR
120 WEST WASHINGTON STREET
NASHVILLE, NC 27856

MEETING AGENDA

1. **Call to Order.**

2. **Determination of a Quorum.**

3. **Approval of the Minutes of the Previous Meeting:**
   - April 19, 2022 Regular Meeting
   - Delayed Meeting Minutes:
     - November 15, 2021 Regular Meeting
     - December 20, 2021 Regular Meeting

4. **Review of Public Comment Policy.**

5. **Castle Berry Section Three Subdivision Sketch Plan.**
   Submitted by H & S Land, LLC for the cluster development of 36 new residential lots along three new public road rights-of-way on an approximately 36.9-acre tract of land owned by Michael A. Daniel and located at the southwest corner of Oak Level Rd and Barnes Hill Church Rd, Nashville, NC 27856 in the R-30 (Single & Two-Family Residential) Zoning District.

6. **UDO Text Amendment Request A-220401.**
   Made by Donna Moore to amend the Nash County Unified Development Ordinance Article IX, Table 9-3-1 to add tattoo parlor as a permitted land use in the GC (General Commercial) Zoning District. *(Referred back to the Planning Board for further consideration by the Board of Commissioners on May 2, 2022.)*
7. **Other Business.**

   a. Update on the Board of Commissioners Planning Actions Taken May 2, 2022:

   **Conditional Rezoning Request CZ-220401** to rezone 165.67 acres at the intersection of S NC Highway 58 & E NC Highway 97 to RA-30-CZ for the cluster development of the **Newton’s Grove Subdivision** was **WITHDRAWN** by the applicant prior to the meeting.

   **Conditional Rezoning Request CZ-220402** to rezone 1.91 acres at **1313 N NC Highway 58** from RC-CU to RC-CZ to add contractor with no outdoor storage and beauty shop to the list of commercial land uses already permitted on the subject property was **APPROVED**.

8. **Adjournment.**
MINUTES OF THE
NASH COUNTY PLANNING BOARD REGULAR MEETING
HELD TUESDAY, APRIL 19, 2022 AT 5:30 P.M.
FREDERICK B. COOPER COMMISSIONERS ROOM
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR
120 WEST WASHINGTON STREET
NASHVILLE, NC 27856

BOARD MEMBERS PRESENT

Kevin Smith, Chairman
DeLeon Parker, Jr., Vice-Chairman
Philip Brannan
Jimmy Glover
Barbara Pulley
Ethan Vester

BOARD MEMBERS ABSENT

Moses Brown, Jr.
Kimberly Moore
Chris Sandifer

STAFF MEMBERS PRESENT

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

OTHERS PRESENT

Cindy Allen
Michael Allen
Gary Atkinson
Brittany Bass
Kyle Bass
Colin Bateman
Paula Bateman
Tom Benson
Gerald André Bissette
Letitia Bottoms
Mike Bottoms
Carolyn Bracey

Jennie Cawthon
John Cawthon
Jeffrey Harrison Edwards
Melinda Edwards
Ralph Jeffrey Edwards
Heather Louise Finch
Jane Flowers Finch
Louise S. Finch
Darlene Floyd
Karl Haberyan
Tim Huggins
Jay McLeod

Donna Moore
Shawn D. Moore
Gerald Pearson
Sandra Pearson
Joanne Robey
Teresa Dilda Shadding
Kevin Varnell
Andrea Lynn Whitley
Amy S. Williams
Ray Williams
Jim Wilson
1. Call to Order.
Chairman Smith called the meeting to order at 5:30 p.m.

2. Determination of a Quorum.
Chairman Smith recognized the presence of a quorum.

3. Approval of the Minutes of the October 18, 2021 and March 21, 2022 Regular Meetings.
The minutes of the October 18, 2021 and March 21, 2022 regular meetings were sent to each member of the Board for review. Chairman Smith asked for any revisions or corrections. None were offered.

BOARD ACTION: Mr. Glover offered a motion, which was duly seconded by Mr. Brannan, to approve the minutes of the October 18, 2021 and March 21, 2022 regular meetings as submitted.

The motion was unanimously carried.

4. Presentation of Draft Nash County Land Use Plan.
Community Planning Consultant Jay McLeod with Stewart provided an update presentation on the draft version of the revised Nash County Land Use Plan as submitted to the Board in the April 19, 2022 Nash County Planning Board agenda document.

Mr. Tyson added that with this version of the revised Land Use Plan, the Steering Committee had placed more emphasis on landowner choice and less emphasis on the availability of public water service, at least in comparison to the current Land Use Plan. He also noted a number of Ordinance amendment recommendations that resulted from the committee's discussions, including limiting the number of lots subdivided with direct access to existing state roads, requiring the development of new subdivisions from the inside-out, and potential changes to the cluster development option requirements.

Chairman Smith stated that the Steering Committee's proposal represented a good compromise between the competing interests of preserving a rural, agricultural way of life and permitting continued development, while providing fair opportunities for landowners across the County.

Mr. Glover inquired about information regarding the loss of agricultural land over the last ten years.

Mr. McLeod responded that average farm size has decreased by approximately 7% as farmlands have been consolidated and that the overall number of farms has very slightly decreased, while the value of farm market products has increased by 4%.

Mr. Vester noted his concern about potential conflicts between the currently proposed future land use map and the initial plan goals set by the committee.

Mr. McLeod noted the option of returning to the future land use map that was adopted with the currently effective land use plan, but tweaking the accompanying text and area descriptions to better fit the committee's initial goals.

Mr. Vester also asked about the future expansion of the County's public park system.
Mr. Tyson responded that the County does have a Parks & Recreation Comprehensive Master Plan and that currently the County was working to secure a site and funding for a new park immediately adjacent to the Tar River as recommended by the plan.

Chairman Smith temporarily recessed the meeting until 6:30 p.m.

5. Review of Public Comment Policy.
Chairman Smith called the meeting back to order at 6:30 p.m.

Mr. Tyson reviewed the Board’s public comment policy for everyone present at the meeting.

6. Conditional Rezoning Request CZ-220401 made by Irene H. Newton et al., the property owners, to rezone approximately 165.67 acres located on the northwest and southwest corners of Winstead Crossroads at the intersection of S NC Highway 58 & E NC Highway 97, Elm City, NC 27822 to RA-30-CZ (Single-Family Residential Conditional Zone) for the cluster development of the 121-lot Newton’s Grove Subdivision.

Mr. Tyson presented the staff report and supplemental materials related to Conditional Rezoning Request CZ-220401 as submitted to the Board in the April 19, 2022 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered this request on April 11, 2022 and recommended approval of the request and the suggested statement of plan consistency and reasonableness, subject to the substantial recommended sketch plan revisions and development conditions listed in the staff report.

The following members of the public addressed the Board in opposition to the request, expressing concerns regarding the increased residential density, decreased lot size, preservation of agricultural and forest land, litter, traffic safety, water drainage issues, the continued use of the pond on the subject property by the local fire department as well as the potential impact of the development on the local property values, neighborhood character, and groundwater supply.

Colin Bateman
Andrea Lynn Whitley
Cindy Allen
Jane Flowers Finch
Heather Louise Finch

Mr. Tyson clarified that all the proposed new lots would be served by Nash County public water and would each include an onsite septic system and designated repair area. He noted that the state watershed regulations permitted 20,000 square foot lots in this area to use onsite septic systems.

Kevin Varnell with Stocks Engineering addressed the Board in support of the request on behalf of the applicant. He noted that the applicant had no objections to the staff-recommended revisions, that the development would abide by the applicable stormwater management requirements, and that the pond would remain accessible to the local fire department.

**BOARD ACTION:** Mr. Glover offered a motion, which was duly seconded by Chairman Smith, to recommend denial of Conditional Rezoning Request CZ-220401 to rezone the specified property to RA-30-CZ for the development of the Newton's Grove Subdivision and the adoption
of the statement of plan consistency and reasonableness below for the consideration of the Nash County Board of Commissioners.

**Statement of Plan Consistency and Reasonableness:**

Conditional Rezoning Request CZ-220401 is:

1. Consistent with the recommendations of the Nash County Land Development Plan (LDP) because:
   
   a. The LDP designates the northern portion of the subject property as Suburban Growth Area and the southern portion of the subject property as General Commercial Area.
   
   b. The request is consistent with the recommendations of the LDP for the Suburban Growth Area because:
      
      i. The LDP supports the rezoning of property located within the Suburban Growth Area where public water service is available to either the RA-30 or RA-20 Zoning Districts at the Board’s discretion.
      
      ii. The subject property has access to Nash County public water service via an existing twelve-inch (12") waterline installed along E NC Highway 97 and an existing four-inch (4") waterline installed along Riviera Dr.
      
      iii. Permitting higher density residential development will help to accommodate the significant residential growth anticipated by the LDP for the Suburban Growth Area.
   
   c. The request is also consistent with the recommendations of the LDP for the General Commercial Area because:
      
      i. The LDP supports the development of higher density residential uses within the General Commercial Area to serve as a buffer and transition area between commercial land uses and surrounding lower density residential areas; **BUT**

2. Unreasonable and not in the public interest because of the requested residential density.

The motion was unanimously carried.

7. **Conditional Rezoning Request CZ-220402 made by Gary W. Atkinson on behalf of Flat Tire Enterprises LLC, the property owner, to rezone 1.91 acres located at 1313 N NC Highway 58, Nashville, NC 27562 to RC-CZ (Rural Commercial Conditional Zone) in order to add contractor with no outdoor storage and beauty shop to the list of commercial land uses already permitted on the subject property.**

Mr. Culpepper presented the staff report and supplemental materials related to Conditional Rezoning Request CZ-220402 as submitted to the Board in the April 19, 2022 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered this request on April 11, 2022 and recommended approval of the request and the suggested statement of plan consistency and reasonableness, subject to the development conditions listed in the staff report.

Gary Atkinson, the applicant, addressed the Board in support of the request and stated that he wished to use the subject property to expand his existing swimming pool contractor business and to open a beauty shop.

**BOARD ACTION:** Mr. Vester offered a motion, which was duly seconded by Mr. Glover, to recommend approval of Conditional Rezoning Request CZ-220402 to rezone the specified property to RC-CZ to authorize its use for contractor with no outdoor storage and beauty shop in addition to the other commercial land uses previously approved for this location and the
statement of plan consistency and reasonableness below, subject to the following
development conditions recommended for the consideration of the Nash County Board of
Commissioners.

**Statement of Plan Consistency and Reasonableness:**
Conditional Rezoning Request CZ-220402 is:
(1) Partially consistent with the recommendations of the Nash County Land Development Plan (LDP)
because:
   (a) The LDP designates the subject property as Suburban Growth Area.
   (b) The request is consistent with the recommendations of the LDP for the Suburban Growth Area
       because:
       (i) The commercial use of the subject property is limited in scope by the conditional nature of
           the request.
       (ii) The subject property has frontage along and direct access to N NC Highway 58, a major
            state highway.
       (iii) The subject property has potential access to Town of Nashville public water and sewer
            utility service.
   (c) The request is inconsistent with the recommendations of the LDP for the Suburban Growth
       Area because:
       (i) The subject property is not located at a major intersection.
       (ii) The subject property is not located in proximity to other similar commercial or
            nonresidential land uses.
       (iii) The subject property does not have significant spatial separation from the existing
            residential dwelling located directly across the highway.
(2) Reasonable "spot zoning" and in the public interest because:
   (a) The Board of Commissioners previously determined that the initial rezoning of the subject
       property for conditional commercial use in 2008 (Case File #CU-080202) was reasonable
       because it allowed the growth and expansion of a pre-existing equipment repair business that
       was legally established and operating on the opposite side of the highway at that time.
   (b) The commercial use of the subject property has continued since 2008 and approval of the
       current request would allow the re-use of an existing, viable commercial building.
   (c) The proposed additional commercial land uses – contractor (no outdoor storage) and beauty
       shop – are similar to and likely no more intensive in nature than those uses already permitted
       on the subject site.

**Development Conditions:**
(1) The subject property is approved for the development of the following commercial land uses only:
    light equipment repair (ex. lawn mower repair), equipment rental & leasing (no outdoor storage),
    miscellaneous retail sales, office use (not otherwise classified), contractor (no outdoor storage),
    and/or beauty shop.
(2) The subject property shall be developed in accordance with the approved site plan only.

The motion was unanimously carried.

8. UDO Text Amendment Request A-220401 made by Donna Moore to amend the Nash County
Unified Development Ordinance Article IX, Table 9-3-1 to add tattoo parlor as a permitted land
use in the GC (General Commercial) Zoning District.
Mr. Culpepper presented the staff report and supplemental materials related to UDO Text Amendment Request A-220401 as submitted to the Board in the April 19, 2022 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered this request on April 11, 2022 and recommended approval.

Tim Huggins was present at the meeting to represent the request applicant.

**BOARD ACTION:** Mr. Brannan offered a motion, which was duly seconded by Mr. Glover, to recommend approval of UDO Text Amendment Request A-220401 to add tattoo parlor as a land use permitted by right in the GC (General Commercial) Zoning District and the adoption of the following statement of plan consistency for the consideration of the Nash County Board of Commissioners.

**Statement of Plan Consistency:**
UDO Text Amendment Request A-220401 is neither consistent nor inconsistent with the recommendations of the Nash County Land Development Plan, because the plan does not address tattoo parlors as a specific commercial land use.

The motion was unanimously carried.

9. **Coolwater Phase Four Subdivision Sketch Plan** submitted by Karl Friedrich Habaryan, the property owner, for the cluster development of 19 new residential lots along a new public road right-of-way on approximately 20.53 acres located on the west side of Whitley Rd, Bailey, NC 27807 in the R-40 (Single-Family Residential) Zoning District.

Mr. Tyson presented the staff report and supplemental materials related to the Coolwater Phase Four Subdivision Sketch Plan as submitted to the Board in the April 19, 2022 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered the plan on April 11, 2022 and recommended approval, subject to the sketch plan revisions listed in the staff report.

Mr. Parker asked if approval of the subdivision sketch plan would change the land uses that were permitted for development on the property.

Mr. Tyson responded that since the request does not include a rezoning of the subject property, the permitted land uses would remain the same.

Kevin Varnell with Stocks Engineering addressed the Board in support of the request on behalf of the applicant.

Mr. Glover asked about the smallest and largest proposed lots.

Mr. Tyson responded that Lot 34 with 30,114 square feet was the smallest proposed lot and Lot 24 with 52,511 square feet was the largest proposed lot.

Mr. Glover asked about the location of the proposed mailbox kiosk.

Mr. Tyson and Mr. Varnell responded that the mailbox kiosk was to be located in the curve of Street “C”.
Karl Friedrich Haberyan, the property owner and developer, addressed the Board in support of the subdivision sketch plan.

**BOARD ACTION:** Mr. Parker offered a motion, which was duly seconded by Chairman Smith, to approve the Coolwater Phase Four Subdivision sketch plan, subject to the following revisions.

**Sketch Plan Revisions:**
1. The front MINIMUM BUILDING SETBACK LINE (MBSL) currently depicted on each lot shall be corrected from 50’ to 40’.
2. After the front MBSLs have been corrected, the width of each lot shall be rechecked and verified to be at least 100’ as measured at the revised front setback line.
3. On Lot 27, the MBSL shown along the southern property line shall either be corrected to a 15’ side MBSL or removed altogether as it will fall within the 20’ EXISTING VEGETATION PRESERVATION BUFFER.
4. On Lot 28, the 30’ rear MBSL shall be corrected to a 15’ side MBSL as there is no rear lot line.
5. On Lot 35, the MBSLs shall be revised as follows:
   a. 40’ front MBSL along Whitley Rd;
   b. 20’ corner side MBSL along Street “C”;
   c. 30’ rear MBSL along the western lot line; and
   d. 15’ side MBSL along the southern lot line.
6. Under SITE INFORMATION:
   a. The MINIMUM BUILDING SETBACKS shall be corrected as follows:
      FRONT / R/W: 40’
      CORNER SIDE: 20’
   b. The MINIMUM LOT SIZE shall be corrected to 30,000 SF.

**Additional Notes:**
The following signed and notarized documents shall be submitted and recorded concurrently along with the final subdivision plat:
1. A declaration establishing a homeowners’ or property owners’ association to own and maintain the special purpose lot for common area / open space and granting all lot owners access to that lot via the 20-foot wide access easement on Lots 26 & 27.
2. A deed transferring the ownership of the special purpose lot for common area / open space to the homeowners’ or property owners’ association.

The motion was unanimously carried.

10. Countryview Subdivision Sketch Plan submitted by Vanhart Homes for the development of 24 new residential lots along two new public road rights-of-way on approximately 37.88 acres owned by Tar River Ranch, LLC and located on the south side of E NC Highway 97, Rocky Mount, NC 27803 in the R-30 (Single & Two-Family Residential) Zoning District.

Mr. Tyson presented the staff report and supplemental materials related to the Countryview Subdivision Sketch Plan as submitted to the Board in the April 19, 2022 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered the plan on April 11, 2022 and recommended approval, subject to the sketch plan revisions listed in the staff report.
Kevin Varnell with Stocks Engineering addressed the Board in support of the request on behalf of the applicant.

**BOARD ACTION:** Ms. Pulley offered a motion, which was duly seconded by Mr. Glover, to approve the Countryview Subdivision sketch plan, subject to the following sketch plan revisions.

**Sketch Plan Revisions:**
(1) The title of the sketch plan shall be revised from COUNTRYVIEW SUBDIVISION to COUNTRY VIEW SUBDIVISION PHASE II (because PHASE I was previously recorded in Plat Book 38 Page 129 of the Nash County Registry.)
(2) All lots containing less than one (1) acre in area shall be labeled with their total square footage.
(3) On Lot 7, the REAR MBSL shall be corrected from 20' to 30'.
(4) The immediately adjacent properties shall be labeled with the current ownership information.
(5) The TEMPORARY TURNAROUNDS shown on either side of the end of COUNTRY VIEW ROAD shall be labeled as TEMPORARY TURNAROUND EASEMENTS.
(6) The sketch plan shall note that the extension of Leigh Rd will be paved across the adjacent property line for a continuous connection to the existing portion of the road right-of-way.
(7) The sketch plan shall account for the potential 50' TAR-PAM RIPARIAN BUFFER depicted on Plat Book 38 Page 129 of the Nash County Registry.
(8) The sketch plan shall designate a location for a shared mailbox kiosk per the requirements of the U.S. Postal Service.
(9) Under DEVELOPER, the spelling of WILSONT shall be corrected to WILSON.
(10) The PROPERTY OWNER's name, address, and telephone number shall be noted on the sketch plan (TAR RIVER RANCH, LLC).
(11) Under SITE INFORMATION:
   (a) The DEED BOOK & PAGE references shall be updated to DEED BOOK: 2653 PAGE: 83.
   (b) The PARCEL ID NUMBER shall be corrected to 37370256684.
   (c) TOWNSHIP: ROCKY MOUNT OUTSIDE shall be added.
   (d) WATERSHED PROTECTION OVERLAY DISTRICT: WS-IV-CA & WS-IV-PA shall be added.

**Additional Notes:**
(1) The NCDOT advises that the construction of a double left turn lane will be required in the E NC Highway 97 public right-of-way for the proposed entrance to this subdivision as well as Tar River Cove Dr directly across the highway.
(2) The proposed new road name COUNTRY VIEW RD will require review and approval by Nash County Emergency Services prior to its official assignment.
(3) Natural gas utility service is available to this subdivision and may be installed under the City of Rocky Mount's gas main extension policy.

The motion was unanimously carried.

**11. Other Business.**

Mr. Tyson provided the following update on the planning actions taken by the Nash County Board of Commissioners at its regular meeting on April 4, 2022:
Subdivision Waiver Request to waive the limitation on the number of lots served by an access easement in order to permit the subdivision of the property at 7695 Stony Creek Ln based on an unintentional staff error was approved.

There being no further business, Chairman Smith adjourned the meeting at 7:48 p.m.
Nash County Planning Board
Public Comment Policy

Adopted: March 15, 2021
Last Amended: February 21, 2022

1. The Board Chairman will recognize the Planning Director or Senior Planner to present the staff report for each agenda item.

2. For agenda items requiring public input (rezoning requests and ordinance amendments), the Board Chairman will then recognize individual members of the public, one at a time, who wish to address the Board with regard to that specific agenda item.

3. Each individual will be permitted to speak once per agenda item for a maximum of three (3) minutes. No time may be yielded or transferred from one speaker to another.

4. To avoid repetition, groups of individuals supporting the same position are encouraged to designate a spokesperson to address the Board on their behalf.

5. The three-minute timer may **BEEP** to indicate when **ONE MINUTE** and then when **THIRTY SECONDS** of the speaker’s time is remaining or when the speaker’s time has **EXPIRED**.

6. At the conclusion of the speaker’s comments, the Board Chairman will provide an opportunity for the Board members to ask the speaker any clarifying questions regarding their previous comments.

7. After all interested members of the public have spoken, the Board Chairman will recognize the applicant for the agenda item to address the Board and to answer any questions or comments raised by the previous speakers. The applicant is not subject to a specific time limit.

8. The Board Chairman reserves the right to call upon anyone present during the Board’s discussion of the agenda item if he or she determines that additional information is relevant to the Board’s decision.
NASH COUNTY PLANNING BOARD
STAFF REPORT: MAJOR SUBDIVISION SKETCH PLAN

**Type of Plat:** Major Subdivision Sketch Plan (Cluster Development Option)

**Name of Plat:** Castle Berry Section Three Subdivision

**Property Owner:** Michael A. Daniel

**Developer:** H & S Land, LLC (Hunter Stone)

**Designer:** Herring–Sutton & Associates (Ron Sutton)

**Location:** Southwest Corner of Oak Level Rd & Barnes Hill Church Rd, Nashville, NC 27856

**Tax ID #:**
- PIN # 382000018321 / Parcel ID # 019312 (30.45 Acres)
- PIN # 382000128362 / Parcel ID # 020470 (2.53 Acres)
- PIN # 382000120368 / Parcel ID # 038407 (0.69 Acres)
- PIN # 382000029473 / Parcel ID # 038408 (0.72 Acres)
- PIN # 382000028520 / Parcel ID # 038409 (0.72 Acres)
- PIN # 382000027555 / Parcel ID # 038410 (0.69 Acres)
- PIN # 382000026611 / Parcel ID # 038411 (1.17 Acres)

**Total Area of Development:** Approx. 36.9 Acres

**Number of Lots:** 36 New Residential Lots & 2 Cluster Common Area Lots

**Water Supply:** Nash County Public Water Service (Extension)

**Wastewater Disposal:** Individual Private Onsite Septic Systems

**Zoning District:** Split – R-30 (Single & Two-Family Residential) & R-40 (Single-Family Residential)

**LDP Classification:** Suburban Growth Area

**Description of the Subject Property:**

The subject property is approximately 36.9 acres of land owned by Michael A. Daniel at the southwest corner of Oak Level Rd and Barnes Hill Church Rd on the southeastern side of the Town of Nashville and located primarily in the R-30 (Single & Two-Family Residential) Zoning District, but with 2.53 acres zoned R-40 (Single-Family Residential.)

The undeveloped property is currently divided into one large 30.45-acre tract and six smaller lots established directly along Oak Level Rd in 2003 as part of the Daniel Farm Section One Subdivision.
The site is west of and immediately adjacent to nine developed residential lots established directly along Barnes Hill Church Rd also as a part of Daniel Farm Section One (2003) and Section Two (2005.)

The site is directly across Barnes Hill Church Rd from Castle Berry Subdivision Section One (2007) and Section Two (2020.)

The southwest corner of the subject property includes existing wetlands and there are two stream features and a pond on the property that may potentially be subject to riparian buffer requirements to protect them from disturbance.

The site is located in the Tar-Pamlico River Basin and the WS-IV-PA Watershed Protection Overlay District, meaning that its development will be subject to stormwater management requirements.

**Description of the Subdivision Sketch Plan:**

Herring–Sutton & Associates has submitted a sketch plan for the Castle Berry Section Three Subdivision on behalf of the developer, H & S Land LLC, which proposes the development of thirty-six (36) new residential lots.

It utilizes the cluster development option to reduce the standard minimum lot size required in the R-30 Zoning District from 30,000 square feet each to as little as 20,000 square feet each, provided that all the land which would have otherwise been included in the residential lots is designated as shared common area in the two (2) proposed conservation lots.

The sketch plan designates a total of 7.23 acres of common area in proposed Lots 37 & 38, which exceeds the minimum calculated requirement of approximately 5.54 acres (or at least 15% of the overall development area.) A property owners' association shall be established to own Lots 37 & 38.

Only two of the lots — Lots 35 & 36 — will not be accessed from the new interior roads and those two lots include sufficient additional lot width to be accessed directly from the existing state roads. The sketch plan design also provides stub road connections to the immediately adjacent properties to the south and west for potential interconnectivity in the future.

The developer would be required to construct new waterlines to connect each lot to the existing four-inch (4"") Nash County public waterline installed along the Barnes Hill Church Rd right-of-way and each lot would have an individual private onsite septic system.

**Subdivision Review Procedure:**
The proposed sketch plan shall remain valid for one year (12 months) from the date of its approval by the Planning Board.

The Planning Staff may review and approve a preliminary plat (authorizing the construction of the new road) and a final plat (post-construction) unless the overall proposed design of the subdivision deviates substantially enough from the previously approved version to require reconsideration and re-approval by the Board.

**TRC Recommendation:**

The Nash County Technical Review Committee (TRC) considered the Castle Berry Section Three Subdivision sketch plan on May 11, 2022 and recommended APPROVAL, subject to the SKETCH PLAN REVISIONS listed below.

**Suggested Motion:**

*I move that the Nash County Planning Board APPROVE or DENY (choose one) the Castle Berry Section Three Subdivision sketch plan, subject to the following sketch plan revisions.*

**Sketch Plan Revisions:**

1. The map title shall be revised from “Preliminary Plat” to “Sketch Plan”.

2. Under SITE DATA, the ZONING shall be revised from “R-30” to “R-30 (CLUSTERED TO R-20 DENSITY & DIMENSIONAL STANDARDS)”.

3. Under SITE DATA, the PROPERTY ADDRESS shall be removed, as it will likely be retired from use with the construction of the project.

4. Under SITE DATA, the PARIDs may be removed, as they are not required.

5. Under SITE DATA, all the PINs belonging to the subject properties shall be listed.

6. The CERTIFICATE OF PRELIMINARY PLAT APPROVAL shall be removed from the sketch plan.

7. Lots 37 & 38 shall be labeled as “SPECIAL PURPOSE LOT FOR CLUSTER DEVELOPMENT COMMON AREA & CONSERVATION LOT”.

8. Lot 38 shall include an extension of the 5' NON-ACCESS EASEMENT along the Oak Level Rd right-of-way and shall be accessible from one of the interior road rights-of-way via an ACCESS EASEMENT with a minimum width of at least 10 feet.
(9) On Lot 36, the 5' NON-ACCESS EASEMENT already shown shall be extended around the corner of the lot for a minimum length of at least 100 feet along the Oak Level Rd right-of-way to provide separation between the intersection and the lot's future driveway.

(10) Any existing structures, wells, or septic systems located on the subject property at 1746 Barnes Hill Church Rd shall be noted as well as whether they are intended to remain or to be removed.

(11) The width of Lot 12 shall be increased to the minimum required 100 feet.

(12) The sketch plan shall reflect the zoning boundary between the R-40 Zoning District (on PARID 020470) and the R-30 Zoning District (on the rest of the subject property) and the portions of Lots 35 & 36 that are zoned R-40 shall reflect the following minimum building setback lines: FRONT – 50', CORNER SIDE – 25', SIDE – 15', & REAR – 30'.

(13) The side and rear minimum building setbacks shall be depicted as dashed lines on all the proposed lots.

(14) The sketch plan shall depict temporary turnarounds (with accompanying temporary easements as necessary) at both of the barricaded ends of the stub roads.

(15) The sketch plan shall address the 15' DRAINAGE EASEMENT along the existing ditch as well as the 5' MAINTENANCE EASEMENT around the existing pond that were previously established on Plat Book 31 Page 45 of the Nash County Registry.

(16) All proposed DRAINAGE EASEMENTS depicted on the sketch plan shall be labeled as "PRIVATE DRAINAGE EASEMENT".

(17) All proposed new interior road rights-of-way shall be labeled as "PROPOSED 50' PUBLIC R/W".

(18) BALSAM DR – SR 2409 shall be labeled across the intersection from Barnes Hill Church Rd.

(19) The following road name labels shall be revised to include their state road numbers: SHERROD RD – SR 1702 & ELMWOOD RD – SR 2410.

(20) The proposed design for the CBU Mailbox Kiosk location shall be verified to conform with the NCDOT Policy for Placement of Mail Cluster Box Units in Subdivisions because it does not appear to include a paved turnout.
Castle Berry Section Three Subdivision
Property of Michael A. Daniel
Aerial Photograph

Approx. 36.9 Acres For 38 New Lots
NASH COUNTY PLANNING BOARD
STAFF REPORT: UDO TEXT AMENDMENT REQUEST

**File Number:** A-220401 (UDO Text Amendment Request)

**Applicant:** Donna Moore

**Affected UDO Section:** Article IX, Table 9-3-1

**Purpose:** To add tattoo parlor as a land use permitted by right in the GC (General Commercial) Zoning District.

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**Note:**

The Planning Board previously considered UDO Text Amendment Request A-220401 to add tattoo parlor as a land use permitted by right in the GC (General Commercial) Zoning District on April 19, 2022 and voted unanimously to recommend approval of the request.

The Board of Commissioners held a public hearing on the request on May 2, 2022 and voted to refer the request back to the Planning Board for further consideration with the following specific instructions:

1. **To review and consider the development requirements for tattoo parlors enforced by other comparable county jurisdictions;**

2. **To consider the potential need for any specific development standards (ex. a required separation distance between a tattoo parlor and a church, school, park, dwelling, or residentially-zoned lot.); and**

3. **To consider whether a tattoo parlor should also be permitted in an RC (Rural Commercial) Zoning District in addition to the proposed GC (General Commercial) Zoning District.**

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**Description of the Proposed Text Amendment:**

Ms. Donna Moore is the owner of the property located at 4495 US Highway 264A, Bailey NC 27807, which was recently rezoned by the Board of Commissioners in September 2021 (Case File #Z-210801) from LI (Light Industrial) to GC (General Commercial). The existing building, which was previously used as a machine shop, is now being used for an automobile towing and repair service. The operators also desire to add a tattoo parlor at this location as well.

However, the Table of Permitted Uses found in the Nash County Unified Development Ordinance (UDO) does not currently list a land use similar to a tattoo parlor.
Therefore, Ms. Moore has submitted UDO Text Amendment Request A-220401 to add tattoo parlor as a land use permitted by right in the GC (General Commercial) Zoning District.

UDO Section 9-3.1(B)(2) states that, "If the Zoning Administrator should determine that a use is not listed and is not similar to a use in the Permitted Use Table, then said use is prohibited."

However, previous North Carolina court decisions caution that a jurisdiction should first make a plausible, legitimate justification that a particular land use is either a nuisance or an inherent threat to the public health, safety, or general welfare, before completely excluding that land use from development.

When adding a new land use to the Table of Permitted Uses, the Board of Commissioners may choose which zoning districts the use will be allowed in as well as any development standards that should be required for that land use (such as separation distances, screening, etc.)

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**Development Requirements of Other County Jurisdictions:**

**Johnston, Pitt, and Wilson Counties** permit tattoo parlors by right in zones comparable to our GC (General Commercial) District.

**Franklin County** permits tattoo parlors by right in zones comparable to both our RC (Rural Commercial) and GC (General Commercial) Districts.

**Edgecombe and Wake Counties** permit tattoo parlors in zones comparable to our GC (General Commercial) District, but also require the issuance of a special use permit. This means that the establishment of a tattoo parlor requires a public hearing process to conclude that, based on findings of fact, the development:

1. Will not materially endanger the public health or safety;
2. Will not substantially injure the value of adjoining or abutting property;
3. Will be in harmony with the area in which it is to be located; and
4. Will be in general conformity with the land development plan.

**Halifax County** does not specifically address tattoo parlors in its zoning ordinance.

None of the surveyed counties apply development standards (such as separation distances) specifically to tattoo parlors.
Proposed Text Amendment *(Changes Highlighted)*:

NASH COUNTY UNIFIED DEVELOPMENT ORDINANCE
ARTICLE IX – ZONING

**NOTES:** After surveying other counties, the Planning Staff recommends the substitution of the broader term "Body Art Service (Tattoos & Piercings)" instead of "Tattoo Parlor."

For context, the proposed new land use is listed below alongside the most similar land uses already included in the table.

**Table 9-3-1: Table of Permitted Uses (Excerpt):**

<table>
<thead>
<tr>
<th>LAND USE TYPE</th>
<th>REF. SIC</th>
<th>ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUSINESS, PROFESSIONAL &amp; PERSONAL SERVICES</td>
<td></td>
<td>OI</td>
</tr>
<tr>
<td>Barber Shop</td>
<td>7241</td>
<td>P</td>
</tr>
<tr>
<td>Beauty Shop</td>
<td>7231</td>
<td>P</td>
</tr>
<tr>
<td>Medical, Dental or Related Office</td>
<td>8000</td>
<td>P</td>
</tr>
<tr>
<td><strong>Body Art Service (Tattoos &amp; Piercings)</strong></td>
<td>7299</td>
<td></td>
</tr>
</tbody>
</table>

P = Use Permitted by Zoning Permit
D = Use Permitted by Zoning Permit with Development Standards
S = Special Use Permit Required
C = Conditional Zone Required

**Land Development Plan Consistency:**

UDO Text Amendment Request A-220401 is neither consistent nor inconsistent with the recommendations of the Nash County Land Development Plan, because the plan does not address body art service as a specific commercial land use.

**TRC Recommendation:**

The Nash County Technical Review Committee (TRC) considered UDO Text Amendment Request A-220401 on April 11, 2022 and recommended **APPROVAL**.
Suggested Motion:

I move that the Nash County Planning Board recommends APPROVAL or DENIAL (choose one) of UDO Text Amendment Request A-220401 to add body art service (tattoos & piercings) as a land use permitted by right in the GC (General Commercial) Zoning District and the adoption of the following statement of plan consistency for the consideration of the Nash County Board of Commissioners.

Statement of Plan Consistency:

UDO Text Amendment Request A-220401 is neither consistent nor inconsistent with the recommendations of the Nash County Land Development Plan, because the plan does not address body art service as a specific commercial land use.