

**MINUTES OF THE
NASH COUNTY PLANNING BOARD
REGULAR MEETING
HELD MONDAY, JUNE 19, 2023 AT 6:30 P.M.
COMMISSIONERS ROOM – THIRD FLOOR
NASH COUNTY ADMINISTRATION BUILDING
120 WEST WASHINGTON STREET
NASHVILLE, NC 27856**

BOARD MEMBERS PRESENT

Kevin Smith, Chairman
DeLeon Parker, Jr., Vice-Chairman
Jimmy Glover
Barbara Pulley
Chris Sandifer
Ethan Vester
Steve Williams

BOARD MEMBERS ABSENT

Moses Brown, Jr.
Kim Moore

STAFF MEMBERS PRESENT

Adam Tyson, Planning Director
Windy Braswell, Planning Technician

OTHERS PRESENT

Glenn Dew
Randy Howard
Veronica Mandujano
Eric Urieta-Mandujano
Misael Urieta

1. Call to Order.

Chairman Smith called the meeting to order at 6:31 p.m.

2. Determination of a Quorum.

Chairman Smith recognized the presence of a quorum.

3. Introduction of New Planning Board Member: Steve Williams.

Mr. Tyson introduced Mr. Steve Williams who was appointed to the Planning Board by the Board of Commissioners on May 1, 2023.

4. Approval of the Minutes of the August 15, 2022 & May 15, 2023 Regular Meetings.

The minutes of the August 15, 2022 & May 15, 2023 regular meetings were provided to the Board for review. Chairman Smith asked for any revisions or corrections. None were offered.

BOARD ACTION: Vice-Chairman Parker offered a motion, which was duly seconded by Mr. Sandifer, to approve the minutes of the August 15, 2022 & May 15, 2023 regular meetings as submitted.

The motion was unanimously carried.

5. Review of Public Comment Policy.

With the Chairman's permission, Mr. Tyson omitted the usual review of the Board's public comment policy because there were no members of the public present at the meeting other than the request applicants.

6. Conditional Rezoning Request CZ-230601 made by Misael U. Mariano, the property owner, to rezone the 0.87-acre lot located at 13660 Old Smithfield Rd, Bailey, NC 27807 from R-40 (Single-Family Residential) to A1-CZ (Agricultural Conditional Zone) to allow the replacement of a Class B manufactured home.

Mr. Tyson presented the staff report and supplemental materials related to Conditional Rezoning Request CZ-230601 as submitted to the Board in the June 19, 2023 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered the request on June 1, 2023 and recommended approval, subject to suggested development conditions, to which the applicant had already verbally agreed.

Mr. Glover asked to clarify that the proposed development conditions would permit the one-time only replacement of a Class B single-wide manufactured home, but not again following its removal in the future.

Mr. Tyson replied that was correct.

Vice-Chairman Parker asked how had single-wide manufactured homes not been a permitted land use in an R-40 Zoning District.

Mr. Tyson replied that the Unified Development Ordinance was amended around 2006 to no longer permit the set-up of Class B manufactured homes in the R-40 Zoning District.

Vice-Chairman Parker asked about the reason for that change.

Mr. Tyson replied that it was his understanding that the change was made in response to complaints regarding the upkeep of renter-occupied single-wide manufactured homes, the proliferation of single-wide manufactured homes in the southern area of the County, as well as reasons related to growing the tax base.

Mr. Williams asked whether the subject property had been rezoned to the R-40 Zoning District at the request of the owner.

Mr. Tyson replied that no, the decision to rezone this property to the R-40 Zoning District was a decision that affected a large area of the southern portion of the County and the decision was not directly related to this individual subject property.

Mr. Sandifer asked about the public notice letters sent in relation to the request.

Mr. Tyson replied that 28 public notice letters were sent to the owners of all properties located within 600 feet of the subject property, plus a letter was sent to the owner of the subject property as well.

Mr. Sandifer asked whether the request could potentially include a condition that would automatically revert the zoning of the subject property back to the R-40 Zoning District upon the future removal of the proposed replacement Class B manufactured home.

Mr. Tyson replied that he was unaware of any mechanism that would change the zoning classification of a property without a public hearing process and specific action taken by the Board of Commissioners.

Eric Urieta-Mandujano, the son of the applicants and the intended occupant of the replacement Class B manufactured home, addressed the Board in support of the request. No other members of the public were present at the meeting to address the Board with regard to the request.

BOARD ACTION: Vice-Chairman Parker offered a motion, which was duly seconded by Mr. Glover, to recommend approval of Conditional Rezoning Request CZ-230601 to rezone the specified property to A1-CZ for the replacement of a Class B manufactured home 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-230601 is:

- (1) Consistent with the 2022 Nash County Comprehensive Land Use Plan's description of both Class A and Class B manufactured homes as residential land uses that would typically be allowed in this designated Residential / Agricultural Area.**
- (2) Reasonable "spot zoning" and in the public interest given the continuing presence of other legal, nonconforming Class B manufactured homes located directly across the road from the subject property as well as the attached development conditions, which are intended to limit the potential impact of the rezoning on the area.**

Development Conditions:

- (1) The subject property is approved for the one-time only replacement of a Class B manufactured home, provided that the replacement home is permitted within six months of the approval date of this rezoning request.**
- (2) Following the removal of the replacement Class B manufactured home from the subject property in the future, the property may be developed for permitted land uses common to both the R-40 and A1 Zoning Districts in accordance with the standard requirements and procedures established for those land uses in the R-40 Zoning District by the Nash County Unified Development Ordinance.**
- (3) The subject property shall be developed in accordance with the minimum building setback requirements depicted on the submitted survey map / site plan.**
- (4) This conditional zoning map amendment shall be invalid unless and until the petitioner(s) consent in writing to all the attached development conditions.**

The motion was unanimously carried.

- 7. River Dew Subdivision, Phase 2 Final Plat request made by the River Dew Corporation, the property owner and developer, to revise the approval condition previously adopted by the Nash County Planning Board on July 19, 2021 in order to exempt any maintenance items or corrective actions required for the existing portions of Sportsman Rd that were not identified in the initial NCDOT Investigation Report Letter dated July 16, 2021.**

Mr. Tyson presented the staff report and supplemental materials related to the River Dew Subdivision, Phase 2 Final Plat approval condition revision request as submitted to the Board in the June 19, 2023 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered the request on June 1, 2023 and recommended denial, based on the findings detailed in the staff report.

Mr. Williams asked whether the intent was for Sportsman Rd and River Buck Rd to meet the applicable NCDOT standards so that they become state-maintained roads.

Mr. Tyson replied yes, that was the intent, as soon as the roads include enough existing homes to qualify for addition to the State-Maintained Secondary Road System.

Mr. Williams stated that Liberty Rd, located within the same subdivision, will also require repairs in order to qualify for state maintenance and he referenced the photographs included in the NCDOT Investigation Report Letters. He asked that if the developer chose to submit a performance guarantee to cover the estimated cost of the required road repairs, then who would prepare that estimate.

Mr. Tyson replied that the developer's engineer would prepare the construction cost estimate for the remaining repairs, which would then be reviewed and approved by the NCDOT District Engineer on behalf of the County. He provided some additional explanation of the performance guarantee process.

Mr. Williams noted the possibility of additional repairs being required prior to the adoption of the roads for state maintenance even after their initial completion.

Mr. Tyson commented on the state-wide issue of "orphan roads" and noted the County's responsibility to at least ensure that at the time that the final subdivision plat is recorded that the new roads meet the applicable NCDOT standards.

Mr. Sandifer commented that the NCDOT Investigation Report Letter clearly noted that it only remained valid for a period of 90 days.

Mr. Glover asked about the initial approval of Sportsman Rd and Liberty Rd.

Mr. Tyson replied that, to his knowledge, both roads satisfied the applicable NCDOT state standards at the time that Phase 1 of the River Dew Subdivision was approved and recorded.

Mr. Glover clarified that the roads were not eligible at that time for state maintenance because there were not yet enough existing homes on them to qualify.

Mr. Tyson replied that was correct.

Mr. Randy Howard with Sungate Design Group, the project engineer, addressed the Board in support of the developer's request to revise the previous approval condition. He acknowledged that the NCDOT Investigation Report Letter did reference a 90-day period, but he noted that any substantial road repair would likely take longer than 90 days to complete. He acknowledged that the approval condition previously adopted by the Planning Board did not reference the July 16, 2021 NCDOT Investigation Report Letter, but stated that the letter was referenced by the subdivision construction authorization later granted by Nash County. He explained that the developer had no reason to expect that such a significant repair as the one required for the crossline pipe would be accidentally overlooked or omitted by NCDOT and that the developer would have otherwise gladly made the fix at the time that all the other corrective actions listed in the initial letter were addressed. He also explained that economically, it would be the developer's preferred option to make the crossline pipe repair at the same time that the needed repairs to Liberty Rd are made in the future due to the costs of mobilizing the contractor. He further noted that the disturbance to the ditch detailed in the most recent NCDOT Investigation Report Letter was recently caused by a private lot owner along Sportsman Rd regrading their yard and that it would be addressed soon.

Mr. Williams asked if the ditch that Mr. Howard had just referenced was the only ditch that NCDOT had identified as a problem.

Mr. Howard replied that there was also a ditch on Liberty Rd that will require additional work.

Mr. Sandifer asked Mr. Howard what leverage would the County have over the developer to ensure that the crossline pipe was repaired after the final subdivision plat was approved and recorded.

Mr. Howard acknowledged that the County would not have leverage over the developer at that point, but he noted that the developer would still be required to make the repair in order to have the road adopted for state maintenance in the future.

Mr. Sandifer asked Mr. Howard what adversity did the option of providing a performance guarantee present to the developer.

Mr. Howard cited the typical one-year term of the performance guarantee as posing a difficulty for the developer because of the desire to make the crossline pipe repair at the same time as the repairs to Liberty Rd and a concern about being able to mobilize a contractor within that one-year period.

The Board discussed with Mr. Tyson the potential for the County to agree to a term for the proposed performance guarantee that would be longer than the typical one-year period.

Mr. Williams asked about the developer's current proposed timeline for making the road repairs.

Mr. Glenn Dew addressed the Board on behalf of the River Dew Corporation, the property owner and developer, in support of the request to revise the previous approval condition. He explained that the delay between the development of Phase 1 and 2 of the subdivision was due to the economic recession in 2008. He stated that they absolutely intend to make the necessary repairs to the roads because they also live on Baines Loop Rd near the site and they have made a commitment to the current residents to have the roads adopted by NCDOT. He noted that the current condition of Sportsman Rd was much better than the current condition of the adjacent Baines Loop Rd, which was already state-maintained. He explained that the developer had already invested \$50,000 in making the repairs initially identified by the NCDOT, that a home builder was already contracted to purchase six of the new lots just as soon as the final plat is recorded, and that he anticipated Phase 2 of the subdivision to be completely built out within a two-year period. He stated that the existing issue with the crossline pipe was not as bad as it might seem and he reiterated the developer's desire to make the crossline pipe repair at the same time as the repairs to Liberty Rd. Mr. Dew expressed his desire to revise the approval condition in order to expedite the sale of the initial lots.

Mr. Dew replied to Mr. Williams that the developer would likely make the repairs to the crossline pipe within the first year after the final plat was recorded.

The Board further discussed the option for the developer to provide a performance guarantee for the required repairs.

Mr. Sandifer clarified that the decision currently before the Board did not address the status of Liberty Rd.

Mr. Tyson confirmed that was correct because Liberty Rd does not provide direct access to the new Phase 2 of the River Dew Subdivision.

BOARD ACTION: Mr. Sandifer offered a motion, which was duly seconded by Vice-Chairman Parker, to deny the condition revision proposed for the River Dew Subdivision, Phase 2 final plat and to require the developer to either make all the necessary road repairs in order to satisfy the applicable NCDOT public road specifications prior to recording the final plat or to submit a performance guarantee to cover the estimated cost of the required road repairs.

The motion was unanimously carried.

8. Other Business.

Mr. Tyson noted that the Board of Commissioners had taken no planning-related actions at its June 5, 2023 regular meeting. He also noted the upcoming expiration on June 30, 2023 of the terms of Chairman Smith and Ms. Pulley. He thanked them for their service to the Board and to the citizens of Nash County.

9. Adjournment.

There being no further business, Chairman Smith adjourned the meeting at 7:30 p.m.