

**MINUTES OF THE  
NASH COUNTY PLANNING BOARD MEETING  
HELD MONDAY, FEBRUARY 15, 2021 AT 6:30 P.M.  
FREDERICK B. COOPER COMMISSIONERS ROOM  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR  
120 WEST WASHINGTON STREET  
NASHVILLE, NC 27856**

**BOARD MEMBERS PRESENT**

Jeffrey Tobias, Vice-Chairman  
Moses Brown, Jr.  
Jimmy Glover  
Kimberly Moore  
DeLeon Parker, Jr.  
Barbara Pulley  
Chris Sandifer  
Kevin Smith

**BOARD MEMBERS ABSENT**

Leonard Breedlove, Chairman

**STAFF MEMBERS PRESENT**

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

**OTHERS PRESENT**

Blair Alford  
Salvador Avila  
Michael A. Crowley

Linda M. Green  
John Hogan  
Chris Manning

Edward Manning  
James Potter  
Cecil T. Williams, Jr.

**1. Call to Order.**

Vice-Chairman Tobias called the meeting to order at 6:30 p.m.

**2. Determination of a Quorum.**

Vice-Chairman Tobias recognized the presence of a quorum.

**3. Approval of the Minutes of the December 21, 2020 Regular Meeting.**

The minutes of the December 21, 2020 regular meeting were sent to each member of the Board for review. Vice-Chairman Tobias asked for any revisions or corrections. None were offered.

**BOARD ACTION: Mr. Sandifer offered a motion, which was duly seconded by Mr. Parker, to approve the minutes of the December 21, 2020 regular meeting as submitted. The motion was unanimously carried.**

**4. Approval of the Minutes of the January 19, 2021 Regular Meeting.**

The minutes of the January 19, 2021 regular meeting were delayed and will be submitted to the Board for review at a later date.

**5. Conditional Use Permit CU-141102 Amendment Request made by Pine Gate Renewables LLC, the developer, to revise the site plan and permit condition #4 previously approved for the Spring Hope 2 Solar Farm to be constructed at the northeast corner of Frazier Road and Worth Road in order to substitute a proposed berm for the previously proposed drainage plan required to divert water runoff from the immediately adjacent residential property at 833 Frazier Rd, Spring Hope, NC 27882.**

Mr. Tyson presented the staff report and supplemental materials related to the request to amend Conditional Use Permit CU-141102 as submitted to the Board in the February 15, 2021 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered this request on February 2, 2021 and recommended approval based on suggested conclusions with supporting findings of fact and an amended permit condition found in the staff report.

Mr. Tyson concluded the staff report by introducing Mr. James Potter with Pine Gate Renewables, LLC and Mr. Michael A. Crowley, PE of Crowley Professional Engineers, who were both present to represent the request.

Vice-Chairman Tobias asked why water runoff was more of a concern at this particular site than at others.

Mr. Tyson answered that the owners of the adjacent property at 833 Frazier Rd were already experiencing substantial runoff prior to the construction of the solar farm and were concerned that additional land clearing could make the situation worse.

Mr. Sandifer commented that the removal of trees could sometimes increase the absorption of the soil and actually decrease water runoff.

Mr. Michael A. Crowley, PE of Crowley Professional Engineers addressed the Board, explaining that, in his professional opinion, the drainage plan previously submitted and approved for the project would potentially compromise the existing onsite septic system serving the home at 833 Frazier Rd, it would

not effectively address the current ponding of water behind the home during heavy rain events, and that the required drainage pipes would be susceptible to clogging and failure.

As an alternative, Mr. Crowley proposed the construction of a berm along the property boundary that would retain water within the already existing wetland area on the solar farm site as well as a new ditch to divert any excess water that could not be retained behind the berm directly into the existing drainage ditch along the road right-of-way, preventing it from ponding behind the adjacent home.

Mr. John Hogan, the owner and resident of the property at 892 Frazier Rd, addressed the Board stating that the construction of a separate but adjacent solar farm, Spring Hope Solar 3, directly across the road from his home was diverting water onto his property due to a washed out spillway that wasn't being properly maintained and that any additional water from the next solar farm would cause him flooding issues. He stated his concern that the proposed berm would divert additional water onto his property.

Vice-Chairman Tobias asked what that assumption was based on.

Mr. Hogan responded that the water directed into the existing drainage ditch along the road right-of-way would be sent straight to his property.

Mr. Tyson clarified the locations of the Spring Hope Solar 2 and Spring Hope Solar 3 projects for the Board.

Mr. Sandifer asked if Mr. Hogan felt that the original drainage plan using a pipe system would be a better solution than the proposed berm.

Mr. Hogan replied that neither option would be a good solution for his property and suggested the construction of a pond on the solar farm site to retain additional water.

Mr. Crowley explained that if the dirt used to construct the proposed berm came from the solar farm site itself, then that could potentially result in a large hole that could be allowed to naturally fill with water like a pond, however, he noted that the source of the dirt for the berm had not yet been decided and that any such action would have to be compliant with the erosion and sedimentation control permit issued by the State. He noted his opinion that the construction of the berm should provide for an additional foot of water storage on the solar farm site.

Vice-Chairman Tobias asked whether this question regarding the proposed Spring Hope Solar 2 project should be tabled until the alleged issues with the already existing Spring Hope Solar 3 project could be addressed.

Mr. Crowley responded that they were two separate projects and that the question before the Board simply involved the substitution of a berm for the previously proposed drainage pipe system.

Vice-Chairman Tobias noted that the current site plan did not include a pond as requested by Mr. Hogan.

Mr. Crowley clarified that the terms "hole" or "excavation pit" would be more accurate than "pond" and noted that digging such a hole would not be required for the construction of the solar farm or to satisfy

the requirements of the conditional use permit and would strictly be to accommodate the request of Mr. Hogan.

Mr. Glover asked about the size of the existing wetland area on the solar farm site.

Mr. Crowley answered that it was just under an acre in size.

Ms. Moore expressed concern regarding the maintenance requirements of the pipe drainage system and stated her preference for the berm option.

Mr. Hogan again stated his concern and frustration with the lack of maintenance to the spillway on the adjacent Spring Hope Solar 3 project.

Mr. Smith clarified the Board's options to either recommend approval of the proposed berm or to recommend denial of the amendment and therefore obligate the developer to construct the previously approved drainage pipe system.

The Board discussed the maintenance requirements of the proposed berm.

Mr. Crowley noted that because the berm is simply an anchored mound of dirt with landscaping, it should require relatively little maintenance.

Mr. Tyson noted that the berm must be maintained by the developer as required by the conditional use permit.

Vice-Chairman Tobias asked about the potential maintenance requirements for the drainage pipe system.

Mr. Tyson answered that the drainage pipe system would require the establishment of an easement agree, which would designate the party responsible for its maintenance.

The Board discussed the digging of a hole or excavation pit on the solar farm property that could become a pond.

**BOARD ACTION: Mr. Parker offered a motion, which was duly seconded by Mr. Glover, to recommend the following conclusions with supporting findings of fact related to the request to amend Conditional Use Permit CU-141102 for consideration by the Nash County Board of Commissioners.**

**Conclusions with Supporting Findings of Fact:**

**The proposed substitution of the berm for the previously approved drainage plan:**

- (1) Meets all the standards required by the Nash County Unified Development Ordinance (UDO), including the specific requirements of Article XI, Section 11-4, Subsection 11-4.72(a) for solar farm facilities;**
- (2) Will not materially endanger the public health or safety;**
- (3) Will not substantially injure the value of adjoining or abutting property;**
- (4) Will be in harmony with the area in which it is to be located; and**
- (5) Will be in general conformity with the Nash County Land Development Plan;**

because the express purpose of the proposed berm is to protect the residential property located at 833 Frazier Rd from negative impacts related to water runoff from the immediately adjacent solar farm facility in accordance with UDO Article XII, Section 12-3, Subsection 12-3.2 (C) which states: “*Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads.*” and (D) which states: “*All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments.*”

The motion was carried 7 to 0 with Mr. Sandifer recused from the vote at his own request.

**BOARD ACTION:** Mr. Parker offered a motion, which was duly seconded by Ms. Pulley, to recommend approval of the request to amend Conditional Use Permit CU-141102 for consideration by the Nash County Board of Commissioners, subject to the following amended Permit Condition #4:

- (4) The developer shall construct an approximately three (3) foot high berm on the east side of the solar farm facility as depicted on the revised site plan along the shared property boundary with the immediately adjacent residential property located at 833 Frazier Rd in order to retain excess water runoff from the facility site within the existing wetland and to divert it from the residential property and into the existing drainage ditch located within the public right-of-way of Frazier Road.

The developer shall also construct a pond on the west side of the berm in order to increase the water storage capacity of the solar farm property, if or as permitted by the applicable state and federal regulations including, but not necessarily limited to, those of the N.C. Department of Environmental Quality, the U.S. Army Corps of Engineers, and the Occupational Safety & Health Administration (OSHA.)

The developer shall coordinate the construction of the berm and pond with the N.C. Department of Transportation District Office to ensure positive drainage.

The motion was carried 7 to 0 with Mr. Sandifer recused from the vote at his own request.

6. Conditional Use Rezoning CU-160302 Amendment Request made by Edward & Dixie LLC and 58 North Mini Storage LLC, the property owners, to rezone 2.25 acres adjacent to the property located at 4671 N NC Highway 58, Nashville, NC 27856 from A1 (Agricultural) to GC-CU (General Commercial Conditional Use) in order to expand the existing 58 North Mini Storage Facility and to accommodate the construction of a fifth self-storage warehouse building.

Mr. Culpepper presented the staff report and supplemental materials related to the request to amend Conditional Use Rezoning CU-160302 as submitted to the Board in the February 15, 2021 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered this request on February 2, 2021 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 not “spot zoning.”

Mr. Sandifer questioned the approximately 100-foot by 43-foot area highlighted on the site plan.

Mr. Culpepper explained that area would not be developed, but rather set aside as a conservation easement.

Mr. Sandifer asked if that area was part of a buffer.

Mr. Tyson explained that while the existing vegetation in that area would remain as a visual buffer for the facility, the actual purpose was to designate that area for conservation in order to offset the impervious surface being added to the property as required by the stormwater management regulations.

**BOARD ACTION:** Mr. Sandifer offered a motion, which was duly seconded by Mr. Parker, to recommend the following consistency statement related to the request to amend Conditional Use Rezoning CU-160302 for consideration by the Nash County Board of Commissioners.

**Consistency Statement:**

The request to amend Conditional Use Rezoning CU-160302 is reasonable and in the public interest because:

- (1) The request is 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 LDP supports the development of very limited commercial land uses within the Suburban Growth Area that meet specific locational criteria, including: frontage along and access to either a major state highway or secondary road, location at a major intersection, proximity to similar land uses, and spatial separation from non-compatible land uses such as existing residential development.
  - (c) The conditional use nature of the previously established GC-CU Zoning District qualifies it as a “limited” commercial land use because the development of the property is restricted to a self-storage warehouse facility only as well as being restricted to the specific design as authorized by the approved site plan only.
  - (d) The subject site has frontage along and direct access to N NC Highway 58, a major state highway.
  - (e) The subject site is located just north of the intersection of N NC Highway 58 and Boddie Mill Pond Road, which is identified by the LDP as a Rural Commercial Area. This means that it has been determined to be a key road intersection appropriate for the development of small-scale commercial and business services intended to serve a local customer base made up of the surrounding residential population.
  - (f) The subject site is located in close proximity to the large, industrially zoned Universal Leaf tobacco processing plant to the west, which is also an existing, significant nonresidential land use.
  - (g) While there are existing rural residences around the subject site, it is not located in close proximity to any dense, suburban-type residential development that may be incompatible with this limited commercial land use.
  - (h) The Nash County Board of Commissioners has previously determined on April 4, 2016 and January 7, 2019 that the existing self-storage warehouse facility is a low-intensity, freestanding, highway-oriented business establishment that is appropriate for this particular location.
- (2) The request is not considered “spot zoning” because it is an expansion of the immediately adjacent GC-CU (General Commercial Conditional Use) Zoning District previously established for the already existing 58 North Mini Storage Facility at 4671 N NC Highway 58, Nashville, NC 27856.

The motion was unanimously carried.

**BOARD ACTION:** Mr. Sandifer offered a motion, which was duly seconded by Ms. Pulley, to recommend approval of the request to amend Conditional Use Rezoning CU-160302 to rezone 2.25 acres located immediately adjacent to the existing 58 North Mini Storage Facility at 4671 N NC Highway 58 from A1 (Agricultural) to GC-CU (General Commercial Conditional Use) for consideration by the Nash County Board of Commissioners.

The motion was unanimously carried.

**BOARD ACTION:** Mr. Sandifer offered a motion, which was duly seconded by Mr. Parker, to recommend approval of the request to amend Conditional Use Permit CU-160302 to authorize the expansion of the existing self-storage warehouse facility located on the subject property based on the following recommended conclusions with supporting findings of fact and subject to the following amended permit conditions for consideration by the Nash County Board of Commissioners.

**Conclusions with Supporting Findings of Fact:**

The proposed expansion of the existing self-storage warehouse facility located at 4671 N NC Highway 58 to accommodate the construction of a fifth self-storage warehouse building:

- (1) Will satisfy the applicable requirements of the Nash County Unified Development Ordinance based on the review of the revised proposed site plan;
- (2) Will not materially endanger the public health or safety provided that it is constructed in accordance with all the applicable safety standards and code requirements;
- (3) Will not substantially injure the value of adjoining or abutting property due to the 100-foot wide existing natural vegetative screening buffer established on the north side of the facility as well as the greater than 100-foot separation distance to be established on the expanded south side of the facility;
- (4) Will be in harmony with the area in which it is to be located because the self-storage warehouse facility is a limited, low-intensity, freestanding, highway-oriented business establishment that is appropriate to serve a local customer base at this particular location; and
- (5) Will be in general conformity with the Nash County Land Development Plan for the reasons stated in the consistency statement adopted in relation to the request to amend Conditional Use Rezoning CU-160302.

**Amended Permit Conditions:**

- (1) The subject property is approved for the development of a “self-storage warehouse” (SIC 4225) facility only.
- (2) The subject property shall be developed in accordance with the revised site plan approved March 1, 2021 depicting an expanded total site area of 11.95 acres and five (5) self-storage warehouse buildings.
- (3) The 100-foot wide existing, natural vegetative screening buffer designated on the north side of the self-storage warehouse facility shall be preserved and maintained as necessary in order to provide effective visual screening of the facility.
- (4) The continued development of the property shall be subject to the approval and/or issuance of the following additional permits and documents by the Nash County Planning & Inspections Department:
  - (a) Recombination Plat (Recording Fee: \$21.00)

- (b) Deed Transferring 2.25 Acres to 58 North Mini Storage, LLC (Recording Fee: \$26.00)**
- (c) Low Maintenance Conservation Easement (Recording Fee: \$26.00)**
- (d) Stormwater Permit (Recording Fee: \$26.00)**
- (e) Zoning Permit (Permit Fee: \$10.00)**
- (f) Building Permit (Permit Fee to be Calculated Based on Review of Construction Plans)**

The motion was unanimously carried.

**7. Major Subdivision Sketch Plan with Waiver Request for the Williams Ridge Subdivision, Phase III submitted by Joyner Keeny, PLLC on behalf of the C. T. Williams Corporation, the property owner and developer, for the proposed development of eleven (11) new residential lots at the southeast corner of Stoney Hill Church Road and Chapman Road in the R-40 (Single-Family Residential) Zoning District with Lots 1-3 sharing a single shared driveway access easement.**

Mr. Tyson presented the staff report and supplemental materials related to the major subdivision sketch plan with waiver request for the Williams Ridge Subdivision, Phase III as submitted to the Board in the February 15, 2021 Nash County Planning Board agenda document. He noted that the Nash County Technical Review Committee (TRC) considered the sketch plan on February 2, 2021 and recommended approval, subject to a revision addressing the insufficient lot widths of Lots 1 & 2. He further noted that the waiver request proposing the shared access easement for Lots 1, 2, & 3 off Chapman Road was actually submitted later in direct response to the TRC's recommendation and the TRC did not have the opportunity to review the waiver request itself.

Mr. Tyson concluded the staff report by noting that Mr. Blair Alford with Joyner Keeny, PLLC and Mr. Cecil T. Williams, Jr. with the C. T. Williams Corporation were both present at the meeting to represent the request.

Mr. Sandifer asked if the owners of Lots 2 and 3 would be responsible for the property taxes related to the land within the proposed access easement.

Mr. Tyson responded that was correct.

Mr. Sandifer suggested the reconfiguration of Lot 1 to include the area of the proposed access easement, as that lot would receive the most benefit from the access.

Mr. Tyson responded that such a reconfiguration could potentially cause Lots 2 and 3 to have insufficient area to meet the minimum lot size requirement.

Mr. Glover asked if three lot owners could cooperatively manage a single driveway.

Mr. Tyson replied that the situation would not be unique in Nash County as the UDO permits up to four lots to be developed along a shared access easement under certain circumstances.

Mr. Glover asked if there were only two lots involved instead of three, could those two lots be granted access to Stoney Hill Church Road.

Mr. Tyson replied that it was his understanding that the NCDOT would not issue any additional driveway permits along Stoney Hill Church Road for this subdivision, but if the three lots were reduced

to only two lots, then there would be sufficient frontage along Chapman Road for each lot to have its own, separate driveway off that road.

Vice-Chairman Tobias asked why no additional driveways would be permitted along Stoney Hill Church Road.

Mr. Tyson explained that was a determination made by the NCDOT based on the large number of driveway permits already approved for that section of the road for the Williams Ridge and Williams Grove Subdivisions.

The Board discussed the status of Chapman Road as an existing unpaved state road, the requirements for its potential future paving, and the marketability of lots located along paved state roads versus those located along dirt roads.

Mr. Cecil T. Williams, Jr. and Ms. Moore discussed the possibility of petitioning the NCDOT to pave an existing dirt state road such as Chapman Road based on the number of existing homes already served by the road.

**BOARD ACTION: Mr. Sandifer offered a motion, which was duly seconded by Mr. Smith, to recommend approval of the major subdivision sketch plan with waiver request for the Williams Ridge Subdivision, Phase III subject to the following conditions and submittal requirements for future final plat approval for consideration by the Nash County Board of Commissioners.**

**Conditions & Submittal Requirements for Future Final Plat Approval:**

- (1) The developer shall either add a 50' Neuse Riparian Buffer along the existing ditch depicted as a stream feature on the Soil Survey Map of Nash County or submit a Stream Buffer Determination issued by the N.C. Department of Environmental Quality, Division of Water Resources, which verifies that the ditch is exempt from the buffer requirements.
- (2) The developer shall either have each of the proposed lots evaluated for the issuance of a wastewater permit by the Nash County Environmental Health Division or submit a soils report prepared by a licensed soil scientist verifying that each proposed new lot will be suitable for the installation of an individual private on-site septic system.
- (3) The private access easement shall be assigned a new road name to be reviewed and pre-approved by the Nash County Emergency Services Department in accordance with the Nash County Addressing Ordinance Sec. 18-29 (2)(c) because the easement is intended to serve three or more addressable structures.
- (4) The following note documenting the issuance of the requested subdivision waiver shall be added to the final plat:  
"This subdivision is approved subject to a waiver of the standards of the Nash County Unified Development Ordinance (UDO) Article X, Section 10-7.2 (F) "Lots on Roads with Capacity Deficiencies" granted by the Nash County Board of Commissioners on March 1, 2021 on the grounds that the waiver will result in equal or better performance in the furtherance of the purposes of the Ordinance in accordance with UDO Article X, Section 10-8 "Waivers" and subject to the restriction that Lots 1, 2, & 3 must be accessed only via the shared private access easement as shown hereon and no additional driveways shall be permitted for Lots 1, 2, & 3 along either Stoney Hill Church Road or Chapman Road."
- (5) The following certificates from UDO Appendix 2, Section A-2-2 shall be added to the final plat:
  - (A) Certificate of Ownership (For Use With Minor Plats Only)

- (C) Certificate of Minor Plat Approval
  - (F) Certificate of Survey and Accuracy
  - (H)(2) Private Roads Disclosure Statement (remove the “a” from the final phrase “maintain a easements.”)
  - (I)(1) Certification of Subdivision and Soils Report Review By The Nash County Health Department OR
  - (I)(2) Certification of Subdivision By The Nash County Health Department
  - (K) Public Water Supply Watershed Protection Statement
  - (L) Certificate of Purpose of Plat
  - (O) Review Officer Certification
  - (P) Riparian Buffer Note (If Applicable)
- (6) The developer shall submit one final mylar copy of the plat with the appropriate land surveyor and property owner signatures as well as two additional paper copies (no signatures required.)
- (7) The developer shall submit a signed and notarized Road Maintenance Agreement to be recorded concurrently along with the final plat, which designates the responsible party (presumably the future owners of Lots 1, 2, & 3) for the maintenance of the private access easement.
- (8) The developer shall pay the following fees at the time of final plat submittal:
- (a) Major Final Plat Review Fee: \$50.00 + \$10.00 Per Lot (Made Payable to “Nash County”)
  - (b) New Road Name Sign Fee: \$60.00 (Made Payable to “Nash County”)
  - (c) Plat Recording Fee: \$21.00 Per Plat Page (Made Payable to the “Nash County Register of Deeds”)
  - (d) Road Maintenance Agreement Recording Fee: \$26.00 for the First 15 Pages + \$4.00 Per Page for Any Additional Pages (Made Payable to the “Nash County Register of Deeds”)

The motion was unanimously carried.

## 8. Other Business.

Mr. Tyson provided the following update on the planning actions taken by the Board of Commissioners at its February 1, 2021 regular meeting.

Conditional Use Permit CU-190701 Amendment Request made to expand the Phobos Solar Farm on Frazier Rd to include two additional properties totaling approximately 342 acres was approved.

UDO Text Amendment Request A-210101 made to restore the cluster development of residential lots less than 20,000 square feet in area was denied.

General Rezoning Request Z-210101 made to rezone 91 acres on Stoney Hill Church Rd and Whitley Rd from R-40 to RA-20 was denied and the Board recommended that the applicant resubmit it as a conditional use rezoning request along with a proposed subdivision sketch plan to serve as the required site plan.

General Rezoning Request Z-210102 made to rezone approximately 58.29 acres on Red Oak Battleboro Road from R-30 to RA-20 was denied and the Board recommended that the applicant resubmit it as a conditional use rezoning request along with a proposed subdivision sketch plan to serve as the required site plan.

General Rezoning Request Z-210103 made to rezone approximately 47.05 acres on Old Smithfield Road from R-40 to RA-20 was denied and the Board recommended that the applicant resubmit it as a conditional use rezoning request along with a proposed subdivision sketch plan to serve as the required site plan.

Subdivision Waiver Request for the Property of Minnie Burt Heirs, Jehoshabeath Joyner Heirs, & Alvia Harris Tharpe made to subdivide three lots on S NC Highway 581 to include three existing residences with Lots 2 & 3 required to share a single driveway access easement was approved.

The Board discussed the number of potential items that could be on the agenda for the next regular meeting and determined that one longer meeting would be preferable to two separate but shorter meetings.

The Board asked Mr. Tyson to confer with Chairman Breedlove and to draft a public comment policy for consideration at the beginning of the next regular meeting.

## **9. Adjournment.**

There being no further business, Vice-Chairman Tobias adjourned the meeting at 8:01 p.m.