

421 Fayetteville St.

Suite 530 Raleigh, NC 27601

Attn: Nil Ghosh

WAKE COUNTY, NC 99  
TAMMY L. BRUNNER  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
02/08/2022 16:37:53

BOOK:018911 PAGE:02350 - 02356

STATE OF NORTH CAROLINA  
TOWN OF ROLESVILLE

BEFORE THE TOWN OF ROLESVILLE  
BOARD OF COMMISSIONERS  
SUP19-01

MITCHELL MILL ROAD INVESTORS, LLC &  
THE WATKINS FAMILY, LLC  
APPLICATION FOR SPECIAL USE PERMIT  
FOR 550-LOT RESIDENTIAL SUBDIVISION  
OFF ROLESVILLE ROAD

EVIDENTIARY HEARING  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

This request from Mitchell Mill Road Investors, LLC and The Watkins Family, LLC (together, the "Applicant"), pursuant to Rolesville Unified Development Ordinance (the "UDO") Section 3.6.2, for approval of a 550-lot residential subdivision off of Rolesville Road, Rolesville, North Carolina, known as "Kalas Falls" came twice before the Town of Rolesville Board of Commissioners (the "Board") on November 4, 2019, and again on November 19, 2019. The Applicant requested approval of a 550-lot residential subdivision on real property located off Rolesville Road, having Wake County Parcel Identification Numbers 1767-29-5866, 1757-99-4300, 1767-17-8299, and 1767-08-3228 (the "Property").

Based upon testimony of the witnesses, documentary evidence, exhibits, and other evidence presented at the November 19, 2019, public hearings, the Board finds the special use approved, with the Conditions set forth below. On November 19, 2019, the Board voted unanimously to APPROVE the use on the Property as a 550-lot residential subdivision.

The Board's decision to approve the special use permit application is based on the Findings of Fact and Conclusions of Law set forth below:

FINDINGS OF FACT

1. The Applicant is seeking special use permit approval for a 550-lot residential subdivision, no more than 95 of which shall be townhome lots, to be located upon the Property.
2. The Property is approximately 282.78 acres.
3. The application and other records pertaining to the special use permit application are part of the record.
4. Notice has been provided as required by law.
5. The Property currently is zoned Residential and Planned Unit Development Conditional Zoning ("R&PUD-CZ").
6. Pursuant to the UDO, a special use permit is required for a Master Plan development.
7. The Applicant submitted a Special Use Permit Application to the Town of Rolesville, requesting that the Town approve the development of a 550-lot residential community upon the Property (the "Application").
8. Following advertisement, the Board conducted a quasi-judicial public hearing on the Application on November 19, 2019 (the "Hearing").
9. The future land use classification for the Property is Medium Density Residential which is consistent with the request in the Application.
10. Portions of the Property previously were annexed into the Town's corporate limits and the remainder is within the Town's extraterritorial jurisdiction ("ETJ") and will have fire and police protection as well as public water and sewer.
11. All applicable sections of the UDO are satisfied and met by the proposed plan.
12. The following witnesses were qualified as experts in their respective fields: Barbara Todd, land planning; Jay Gilleece, civil engineering; Matt Peach, traffic engineering; and Tom Hester, real estate appraisal. Collectively, these expert witnesses' sworn testimony provided that:
  - a. Based upon market analysis, the proposed development will not have a negative impact on the value of adjoining property;
  - b. Based upon recent development approvals and trends in the area, the proposed development is compatible with the surrounding areas as to the scale, bulk, coverage, density, and character of the surrounding neighborhood;
  - c. The proposed use will not cause any foreseeable traffic issues related to flow or parking because of existing and planned transportation infrastructure, including the commitments contained within the Application related to road improvements;
  - d. The proposed development is consistent with the Comprehensive Plan, other applicable official plans, manuals, or documents adopted by the Town;

- e. The proposed use of the Property complies with applicable requirements of the UDO;
- f. The proposed use of the Property is appropriately located with respect to public facilities and infrastructure; and
- g. The proposed use will not materially endanger the public health or safety.

CONCLUSIONS OF LAW

1. Based upon the uncontroverted competent, substantial, and material evidence appearing in the record at the Hearing and in the Application, the approval criteria of a special use permit contained in Section 3.6.2 of the UDO have been met, specifically:
  - a. The proposed use of the Property will not materially endanger the public health or safety;
  - b. The proposed use of the Property will not substantially injure the value of adjoining property;
  - c. The proposed use of the Property will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
  - d. The proposed use of the Property generally conforms with the Comprehensive Plan and other official plans and manuals or documents adopted by the Town;
  - e. The proposed use of the Property is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities;
  - f. The proposed use of the Property will not cause undue traffic congestion or create a traffic hazard; and
  - g. The proposed use of the Property will comply with all applicable requirements of the UDO.
2. That based upon the foregoing, the Applicant is entitled to approval of the requested special use permit for a 550-lot residential subdivision on the Property.

CONDITIONS OF APPROVAL

The Special Use Approval is made subject to the following conditions:

1. OVERALL DEVELOPMENT CONDITIONS
  - a. All zoning conditions attached to the Residential Planned Unit Development Conditional Use Zoning District (R&PUD-CZ) as approved by Case: MA 19-02 shall comply with its PUD Master Plan.

- i. With respect to the zoning condition related to the traffic signal, if a signal is found to be warranted but the Town desires a roundabout or traffic facility other than a signal to address the intersection at Mitchell Mill Road and Rolesville Road, the developer agrees to contribute a payment-in-lieu equal to the cost of construction of the signal to the Town for the alternate traffic facility. The Town's acceptance of such payment-in-lieu shall be deemed a complete satisfaction of the zoning condition related to the traffic signal.
- b. The owner/developer reserves the right to drain the existing ponds on the property if it is determined that repair or reconstruction are not feasible of any of the ponds or will be unsafe for the surrounding area.
- c. To the extent possible, the developer shall stripe on-street parking spaces within the public right-of-way to allow for convenient access to the public greenway.

## **2. CONDITIONS FOR SINGLE-FAMILY RESIDENTIAL**

- a. General architectural requirements of the neighborhood will be governed by recorded conditions, covenants and restrictions. The developer shall submit a copy of the conditions, covenants and restrictions to the Town of Rolesville to allow the Town Attorney to review them before recordation.
- b. All required open space and drainage easements will be maintained by the Homeowners Association, with the exception of the public greenway.
- c. If unmarked human burials or human skeletal remains are encountered as a result of obstruction or agricultural activities, disturbance of the remains shall cease immediately and shall not resume without authorization from either the County Medical Examiner or the State Archaeologist.
- d. At no time shall development activities exceed the noise standards set for the in Rolesville Town Code of Ordinances Chapter 130.
- e. Subject to the approval of the United States Postal Service the developer shall provide at least two mail kiosks separated by at least 500 linear feet within the subdivision for mail service.
- f. Prior to issuance of the first building permit for any particular phase of the development, all greenways in that phase shall be completed including dedication of a thirty-foot public greenway easement, construction of ten-foot paved trails and all applicable signage. Once completed to the Town's satisfaction the Town will accept ownership and maintenance of the public greenway. This condition may be satisfied by posting a surety in the amount of 125% cost of the infrastructure improvement being deferred.
- g. Sidewalks to residences may extend from the residential driveways or from public sidewalks. It is not required that residential walks connect to public sidewalks.

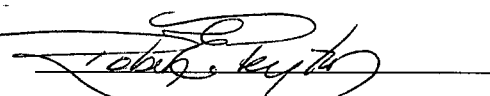
- h. Onsite amenities to include a community swimming pool and playground area shall be provided prior to the issuance of the 50th Building Permit in Phase II. The amenity site is subject to further review and approval by the Town through the site plan review process.
- i. Cul-de-sac length may exceed 250' due to topography and stream buffers of the site conditions.
- j. Garages may face the street.
- k. Two-car garage doors may be single or double.
- l. Development is not required to be in sequential phases.
- m. Because of existing difficult topography of the site, alleys are not required to serve every dwelling.

**3. CONDITIONS FOR RESIDENTIAL TOWNHOUSES**

- a. Conditions (a) through (h) in Paragraph 2, Condition for Single-Family Residential shall also apply to Townhouse development.
- b. If private streets are approved with the townhouse site plan, then the front façade of a townhouse unit or a townhouse garage may be set back eighteen feet (18') from the back of curb.
- c. No townhouse structure may exceed six units.
- d. At least one volleyball court shall be built at the same time that the public greenway is constructed.
- e. The back of a townhouse structure shall not be closer than 25' to another townhouse structure.
- f. Side setbacks between structures shall be no less than 16'.
- g. Garages and garage doors may be single or double.

ACCORDINGLY, based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW and subject to the foregoing CONDITIONS OF APPROVAL, the Town of Rolesville Board of Commissioners hereby approves the special use permit for a 550-lot residential subdivision on the Property off Rolesville Road in Rolesville, North Carolina.

This the 7<sup>th</sup> Day of January, 2020.

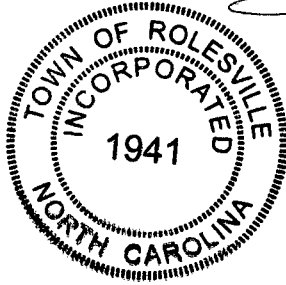
  
\_\_\_\_\_  
Town Clerk



**CERTIFICATION**

I, Robin E. Teyton, Town Clerk for the Town of Rolesville, North Carolina, do hereby certify the foregoing to be a true copy of a development order duly adopted at the meeting of the Town of Board of Commissioners held on the 7<sup>th</sup> Day of January, 2020.

In witness hereof, I have hereunto set my hand and caused the seal of the Town of Rolesville to be affixed this 7<sup>th</sup> Day of January, 2020.



Robin E. Teyton  
Robin E. Teyton

Rolesville Town Clerk



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**Please retain yellow trailer page**

It is part of the recorded document and must be submitted with the original for re-recording.

**Tammy L. Brunner  
Register of Deeds**

Wake County Justice Center  
300 South Salisbury Street, Suite 1700  
Raleigh, NC 27601

New Time Stamp

\$25 Non-Standard Fee

Additional Document Fee

Additional Reference Fee

**This Customer Group**

\_\_\_\_\_ # of Excessive Entities

\_\_\_\_\_ # of Time Stamps Needed

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