

**STATE OF NORTH CAROLINA
TOWN OF ROLESVILLE**

**BEFORE THE TOWN OF ROLESVILLE
BOARD OF COMMISSIONERS
PR 20-02**

**PRESERVE AT JONES DAIRY, LLC (Developer/
Applicant) & KIRBY V. PEARCE and spouse,
TERRY J. PEARCE & DANA M. JONES
and spouse, TERRY AYERS & KEVIN H. JONES
and spouse, REBECCA JONES (Property Owners)
APPLICATION FOR PRELIMINARY
SUBDIVISION PLAT APPROVAL
FOR 134 LOT RESIDENTIAL SUBDIVISION
LOCATED ON JONES DAIRY ROAD**

**EVIDENTIARY HEARING
FINDING OF FACT AND
CONCLUSIONS OF LAW**

This request from **PRESERVE AT JONES DAIRY, LLC & KIRBY V. PEARCE and spouse, TERRY J. PEARCE & DANA M. JONES and spouse, TERRY AYERS & KEVIN H. JONES and spouse, REBECCA JONES** (together, the “Applicant”), pursuant to Rolesville Unified Development Ordinance (the “UDO”) Section 6.3, for approval of a preliminary subdivision plat of a 134-lot residential subdivision located off Averette Road, north of Perry Farms Subdivision on two parcels for a total of 49.17 acres in Rolesville, North Carolina, known as “The Preserve at Jones Dairy Subdivision (North Section)” came before the Town of Rolesville Board of Commissioners (the “Board”) on October 20, 2020. The real property located off Averette Road, north of Perry Farms Subdivision, Rolesville, North Carolina having Wake County Parcel Identification Numbers 1850-93-1255 and 1850-92-2931 (the “Property”).

Based upon testimony of the witnesses, documentary evidence, exhibits and other evidence presented at the October 20, 2020 public hearings, the Board voted 6 - 0 to APPROVE the preliminary subdivision plat, with the Conditions set forth below, allowing the development of a 134-lot residential subdivision as required by Special Use Permit 18-07 and as reflected on said approved plat.

The Board’s decision to approve the preliminary subdivision plat application is based on the Findings of Fact and Conclusions of Law set forth below:

FINDINGS OF FACT

1. The Applicant is seeking Preliminary Subdivision Plat Approval for a 134-lot residential subdivision located off Averette Road, north of Perry Farms Subdivision, Rolesville, North Carolina known as “The Preserve at Jones Dairy Subdivision (North Section)”.
2. The Property is approximately 49.17 acres.
3. The application and other records pertaining to the Preliminary Subdivision Plat Approval application are part of the record.
4. Notice has been provided as required by law.
5. The Property currently is located in Residential and Planning Unit Development Zoning Districts (R&PUD).
6. Pursuant to the UDO, and in accordance with Special Use Permit 18-07, Preliminary Subdivision Plat Approval is required for The Preserve at Jones Dairy Subdivision (North Section) Subdivision.
7. The Applicant submitted Preliminary Subdivision Plat Approval Application to the Town of Rolesville requesting that the Town approve the preliminary subdivision plat reflecting a subdivision consisting of a 134-lot residential subdivision upon the Property (the “Application”).
8. Following advertisement, the Board conducted a quasi-judicial public hearing on the Application on October 20, 2020 (the “Hearing”).
9. The land use classification for the Property is R&PUD which is consistent with the request in the Application.
10. The Property is currently located in Town’s corporate limits or 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, including, but not limited to proposed public streets, sidewalks, greenway, mail kiosk parking, and contains 15.5% of open space area, 10% required by the UDO.
12. The proposed preliminary subdivision plat is following the approved SUP 18-07 PUD Master Plan for The Preserve at Jones Dairy Road (North).
13. The following witnesses were qualified as experts in their respective fields: George McIntyre – Civil Engineer with CAA Engineering; Rynel Stevenson – Traffic Engineer with Ramey Kemp Associates. 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 Preliminary Subdivision Plat contained in Section 6.3 of the UDO and as required by 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 the 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, wasted 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 and the approved SUP 18-07 PUD Master Plan for The Preserve at Jones Dairy Road (North).

2. That based upon the foregoing, the Applicant is entitled to approval of the requested preliminary subdivision plat for a 134-lot residential subdivision on the Property subject to those conditions set forth below.

CONDITIONS OF APPROVAL

The Preliminary Subdivision Plat is approved with the further conditions:

City of Raleigh Public Utilities has requested that the following comments be included as a condition of approval to be addressed during the appropriate construction drawing review.

- a. Before approval of CDs, the project engineer must submit a downstream sewer capacity study in compliance with the CORPUD Handbook for review and approval. Any identified sewer pipes exceeding allowable capacity must be permitted with the CDs for replacement.
- b. Before approval of CDs, the developer must obtain documentation from Duke Energy (encroachment agreement) for the rights-of-way with water/sewer utility crossing the existing 50' Duke Power Easement.
- c. Before approval of CDs, because this development is relying upon Elizabeth Springs to provide downstream sewer, if the downstream sewer outfall permitted with the Elizabeth Springs CDs is not constructed and accepted by Raleigh prior to the Preserve at Jones Dairy North CDs, the Preserve at Jones Dairy Road (North) will be responsible for including the design of the downstream sewer outfall and obtaining all necessary offsite sewer easements.

ACCORDINGLY, based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the Town of Rolesville Board of Commissioners hereby approves the preliminary subdivision plat for a residential subdivision consisting of 134 residential lots as set forth in application PR 20-02.

THIS THE 5th DAY OF January, 2020.



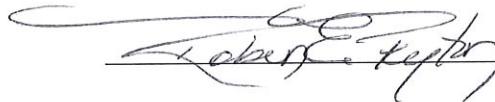
Mayor

CERTIFICATION

I, Robin E. Peyton, 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 5th 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 5th day of January, 2020.





Rolesville Town Clerk