

**STATE OF NORTH CAROLINA
TOWN OF ROLESVILLE**

**BEFORE THE TOWN OF ROLESVILLE
BOARD OF COMMISSIONERS
SUP 21-01**

**PRESERVE AT JONES DAIRY, LLC (Developer/
Applicant/Owner) & KB HOME RALEIGH-
DURHAM INC. (Owner)**

**SPECIAL USE PERMIT AMENDMENT OF
PHASING PLAN FOR NORTH, CENTRAL AND
SOUTH SECTIONS OF THE PRESERVE AT
JONES DAIRY SUBDIVISION**

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

This request from **PRESERVE AT JONES DAIRY, LLC & KB HOME RALEIGH-DURHAM INC.** (together, the “Applicant”), pursuant to Rolesville Unified Development Ordinance (the “UDO”) Section 6.3, for approval of amendment of the phasing plan for each section of the Preserve at Jones Dairy as follows:

- A. Preserve at Jones Dairy South (Case Reference SUP 18-05) – The request to amend the phasing and separate the Phase 1 into three separate phases of smaller size as follows:

- Phase 1A – 41 lots
- Phase 1B – 58 lots
- Phase 1C – 23 lots
- Phase 2 – 34 lots
- Phase 3 – 59 lots

- B. Preserve at Jones Dairy Central (Case Reference SUP 18-06) – The request is to amend the size of the first six phases and add three additional phases as follows:

- Phase 1 – 52 lots
- Phase 2 – 22 lots
- Phase 3 – 29 lots
- Phase 4 – 24 lots
- Phase 5 – 24 lots
- Phase 6 – 24 lots
- Phase 7 – 18 lots
- Phase 8 – 23 Lots
- Phase 9 – 35 lots

- C. Preserve at Jones Dairy North (Case Reference SUP 18-07) – The request is to amend and reduce the number of lots in the second and third phases, increase phase one by ten lots and add an additional phase as follows:

Phase 1 – 62 lots
Phase 2 – 24 lots
Phase 3 – 24 lots
Phase 4 – 21 lots

The three sections of Preserve at Jones Dairy are located on Jones Dairy Road and Averette Road in Rolesville, North Carolina and this request to amend the phasing plan for each section came before the Town of Rolesville Board of Commissioners (the “Board”) on July 8, 2021. The real property located on the Southside of Jones Dairy Road, Rolesville, North Carolina having Wake County Parcel Identification Numbers 1805-09-4753, 1860-00-0842, 1759-88-8905, 1759-88-8240 and 1759-78-6199 (the “Property”).

Based upon testimony of the witnesses, documentary evidence, exhibits and other evidence presented at the July 8, 2021 public hearings, the Board voted 5 - 0 to APPROVE the amendment to the phasing plan for each section of the Preserve at Jones Dairy as set forth above, with the Conditions set forth below, allowing the amended phasing as previously approved by Special Use Permits 18-05, 18-06 and 18-07; and as further reflected on said the amended plats presented at the public hearing.

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

FINDINGS OF FACT

1. The Applicant is seeking to amend the phasing plan for each section of the Preserve at Jones Dairy. The three sections of the residential subdivision are located on Jones Dairy Road and Averette Road, Rolesville, North Carolina and is known as “The Preserve at Jones Dairy Subdivision.”
2. The Property contained within all three sections is approximately 138.19 acres.
3. The application and other records pertaining to the amendment of the phasing plan 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 report of staff, and in accordance with Special Use Permits 18-05, 18-06 and 18-07 phasing change approvals of the Borad are required for all three sections of The Preserve at Jones Dairy Subdivision.

7. The Applicant submitted an application to the Town of Rolesville requesting that the Town approve the phasing changes to the preliminary subdivision plats reflecting the changes more particularly set forth above (the “Application”).
8. Following advertisement, the Board conducted a quasi-judicial public hearing on the Application on July 8, 2021 (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 amended phasing plan, including, but not limited to proposed public streets, sidewalks, greenway, mail kiosk parking, and open space area.
12. The proposed phasing amendment to the preliminary subdivision plat is following the approved SUP 18-05, 18-06 and 18-07 PUD Master Plans for The Preserve at Jones Dairy Road.
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 phasing amendments to the 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 phasing amendments to the development is compatible with the surrounding areas as to the scale, bulk, coverage, density and character of the surrounding neighborhood;
 - c. The proposed phasing amendments 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 phasing amendments to the development is consistent with the Comprehensive Plan, other applicable official plans, manuals or documents adopted by the Town;
 - e. The proposed phasing amendments to the Property complies with applicable requirements of the UDO;
 - f. The proposed phasing amendments to the Property is appropriately located with respect to public facilities and infrastructure; and
 - g. The proposed phasing amendments 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 the phasing amendments to the Preliminary Subdivision Plats contained in Section 6.3 of the UDO and as required by have been met, specifically:
 - a. The proposed phasing amendments to the Property will not materially endanger the public health or safety;
 - b. The proposed phasing amendments to the Property will not substantially injure the value of the adjoining property;
 - c. The proposed phasing amendments to 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 phasing amendments to the Property generally conforms with the Comprehensive Plan and other official plans and manuals or documents adopted by the Town;
 - e. The proposed phasing amendments to the Property is appropriately located with respect to transportation facilities, water supply, fire and police protection, wasted disposal and similar facilities;
 - f. The proposed phasing amendments to the Property will not cause undue traffic congestion or create a traffic hazard; and
 - g. The proposed phasing amendments to the Property will comply with all applicable requirements of the UDO and the approved SUP 18-05, 18-06 and 18-07 PUD Master Plans for The Preserve at Jones Dairy Road.
2. That based upon the foregoing, the Applicant is entitled to approval of the requested phasing amendments to the preliminary subdivision plat for the residential subdivision on the Property subject to those conditions set forth below.

CONDITIONS OF APPROVAL

The Special Use Permit Amendment is approved with all the original Special Use Permit Conditions and Preliminary Plat conditions to remain in effect. In addition, the Special Use Permit Amendment for phasing is approved conditioned upon the sub-phases being constructed in numeric and alphabetical order. Any improvements or conditions tied to the completion of Phase 1 of the South section will now be construed to mean the completion of Phase 1c of the South Section.

(Signature Page to Follow)

ACCORDINGLY, based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the Town of Rolesville Board of Commissioners hereby approves the special use permit amendment for a phasing amendments to the residential subdivision as set forth in application SUP 21-01.

THIS THE _____ DAY OF _____, 2021.

Mayor

CERTIFICATION

I, _____, 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 _____ day of _____, 2021.

In witness hereof, I have hereunto set my hand and caused the seal of the Town of Rolesville to be affixed this _____ day of _____, 2021.

Rolesville Town Clerk