



# Agenda Abstract

Department: Planning

Authorizing Signature: \_\_\_\_\_

Submitting Official: Jason Sullivan, Planning Director

Meeting Date:	November 7, 2011
Subject:	Request by Paul Messick on behalf of Capital Bank and The Legacy at Jordan Lake, LLC to adopt a <b>Resolution Accepting the Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phases Two and Three.</b>
Action Requested:	See recommendation.
Attachments: (List Individually)	<ol style="list-style-type: none"> <li>1. Request letter dated October 20, 2011 from Paul Messick, Attorney-at-Law.</li> <li>2. Copy of final plat approval letter dated November 21, 2006.</li> <li>3. Copy of A Resolution Accepting the Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phases Two and Three Recorded in Plat Slide 2006-494 and 498 of the Chatham County Registry, Pursuant to North Carolina Permit Extension Act of 2009 (Amended by Session Law 2010-177).</li> <li>4. Copy of Plat Slide 2006, Page 494—498.</li> <li>5. Copy of plat titled “Recombination Plat, The Legacy at Jordan Lake for The Legacy at Jordan Lake, LLC” prepared by CE Group, dated October 10, 2011.</li> </ol>

Introduction & Background:	<p>The North Carolina General Assembly enacted the Permit Extension Act of 2009 (amended by Session Law 2010-177) suspending the running of the period of approval for certain development permits during the four (4) year period from January 1, 2008 until December 31, 2011. The amended Permit Extension Act of 2009 states in part in Section 5, <i>“This act shall not be construed or implemented to: “ Item # 6, “Affect the ability of a government entity to revoke or modify a development approval <u>or to accept voluntary relinquishment of a development approval by the holder of the development approval pursuant to law.”</u></i></p> <p>The Legacy at Jordan Lake has a Conditional Use Permit for a Planned Unit Development. The approval was granted by the Board of County Commissioners in 2004. The Legacy is approved for 463 lots on 626 acres. Phase One consisting of 105 lots received final plat approval in 2005. Phase One is not a party to this request. Phases Two and Three received final plat approval in 2006 for 114 lots. There are 244 lots remaining with</p>
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<p>Discussion &amp; Analysis:</p>	<p>sketch design approval.</p> <p>Capital Bank and The Legacy at Jordan Lake, LLC are requesting to relinquish final plat approval of Phases Two and Three consisting of 114 lots, and requests that (1) the project revert back to preliminary plat approval, (2) Phases Two and Three be recombined with the undeveloped land by plat, (3) the Recreation Fees paid prior to final plat recordation be retained by the county to be credited to the developer towards the future development of the subject property, (4) the water availability fees paid prior to preliminary plat approval be retained by the county to be credited towards the future development of the subject property, (5) the water capacity associated with the payment of the water availability fees be reserved for future development of the subject property, (6) the two existing financial guarantees be released, and (7) that the county accept a financial guarantee for erosion control measures.</p> <p>The final plat submittal deadline for all remaining lots is December 31, 2015. Chatham County is holding two financial guarantees for the project in the form of Letters of Credit for the completion of infrastructure. The Phase Two letter of credit is in the amount of \$1,820,942.00 and Phase Three is in the amount of \$2,317,566.00. If the request for relinquishment is approved, the letters of credit will be released and a new letter of credit and contract will be submitted for erosion control measures. Once the Resolution is recorded in the Office of the Register of Deeds and a recombination map is recorded, the Tax Mapping Department will then map Phase Two and Three and the remaining acreage as one tract. The developer has previously appealed the tax value of the lots and they were reduced in value. The Tax Assessor's office estimates that since Phase Two and Three have already had the tax value of the lots reduced, that the recombination of the lots into one tract should not cause a loss of tax revenue and perhaps may provide a small gain.</p> <p>At the time of final plat approval of the 114 lots, the developer paid a Recreation Exaction Fee of \$105,564.00. The developer understands that the amount of the recreation exaction fee will be retained by the county, and requests that at such time that the final plat is re-submitted for review and approval (on or before December 31, 2015), the amount will be applied towards the recreation fee payment. The developer will be responsible for any increase in fees.</p> <p>At the time of preliminary plat approval of the 114 lots, the developer paid the water availability fees of \$3500.00 per lot. The developer understands that the water availability fee will be retained by the county and requests that at such time that the final plat is re-submitted for approval, the amount will be applied towards the water availability fees with the developer being responsible for any increase in fees. The developer also</p>
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	<p>requests that the water capacity associated with the payment of the water fees, be available for future use.</p> <p>There are no existing improvements currently on the property, however, there has been some land disturbance activity. Rachael Thorn, Chatham County Soil and Erosion Control Inspector, has visited the site and verified that the site has adequate erosion control measures. A financial guarantee will be submitted to the county by Capital Bank to insure the continued compliance with erosion control. Ms. Thorn has reviewed the cost estimate prepared by the engineer and found the estimate adequate.</p> <p>The engineer, Mark Ashness, CE Group, has provided staff information regarding the various regulatory permits associated with the property showing the expiration dates and has stated that the relinquishment of final plat approval will not adversely affect these permits.</p> <p>Paul Messick, Attorney, on behalf of Capital Bank and The Legacy at Jordan Lake, LLC is requesting that the Chatham County Board of Commissioners adopt the <b>Resolution Accepting the Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phases Two and Three.</b></p>
Budgetary Impact:	
Recommendation:	<p>The Planning Department is not making a recommendation on this request as this is a policy decision by the Board of County Commissioners. If the Board approves the request for relinquishment and accepts the Resolution, staff recommends the Board discuss whether the recreation exaction fees, water availability fees and water capacity will be retained as a credit to the project if the final plat submittal deadline of December 31, 2015 is not met and the subdivision approval expires and the project is then required to be resubmitted under current Subdivision Regulations as a new submittal.</p>