

..TITLE

Vote on a request by F-L Legacy Owner, LLC for subdivision Final Plat approval of **The Legacy at Jordan Phase 4A2-B** consisting of 29 lots on 8.06 acres, located off SR-1716, Big Woods Road, parcel 92463.

..ABSTRACT

Action Requested:

Vote on a request by F-L Legacy Owner, LLC for subdivision Final Plat approval of **The Legacy at Jordan Phase 4A2-B** consisting of 29 lots on 8.06 acres, located off SR-1716, Big Woods Road, parcel 92463.

Introduction & Background:

Zoning: R-1 with a Conditional Use Permit for a Planned Unit Development

Watershed District: WSIV-Protected & Jordan Lake Buffer Area

Water Source: public, Chatham County

Sewer Source: private, waste water treatment plant

Road type: private, paved

Within the 100 year flood plain: No floodable area in Phase 4A2-B

Reviewed: Under pre-2008 Subdivision Regulations

The Legacy at Jordan Lake Subdivision was approved by the Board of County Commissioners on March 15, 2004 as a Planned Unit Development for a cluster development. Modifications were made to the plan in 2005 to add 50.6 acres and change the number of lots to 463. The project is approved for 463 lots on 626 acres with an amenity center. Phase One received final plat approval in December 2005 for 105 lots. Phases Two and Three, consisting of 114 lots received preliminary / final plat approval in 2006. In 2011, the developer submitted a request to the Board of County Commissioners to relinquish the final plat approvals for Phases Two and Three (undeveloped); to recombine the 114 lots with the remaining undeveloped portion of the property into one parcel of land containing 402 acres; and to allow Phases Two and Three to revert to their approved preliminary plat status as of November 20, 2006. The BOC approved the request on November 7, 2011. The Resolution Accepting The Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phase Two and Three is recorded in Deed Book 1593, Page 272. The recorded recombination plat can be viewed at Plat Slide 2011, Pages 199 & 200 and at Plat Slide 2012, Page 10. The resolution stated that the recreation fees and the water availability fees previously paid by the developer would be retained by the county and credited toward any similar fees incurred by the developer in future submittals until December 31, 2015 or any later date required by an amendment to the Permit Extension Act.

To date 281 lots have received final plat approval. The tennis courts, playground, clubhouse and pool have been completed. The clubhouse and pool opened to the residents on September 9, 2017. *As part of a 2014 CUP revision, the completion date for the entire project is December 31, 2020.*

Discussion & Analysis:

The request before the Board is for final plat approval of The Legacy at Jordan Lake, Phase 4A2-B consisting of 29 lots on 8.06 acres with a financial guarantee. Phase 4A2-B received preliminary plat approval from the Board of Commissioners on September 18, 2017. The final plat conforms to the approved preliminary plat. The pre-2008 Subdivision Regulations allow a final plat to be submitted with a financial guarantee when a minimum of 40% of the total cost of improvement have been completed and when the public health and/or safety will not be endangered. Mitch Craig, PE, CE Group, submitted a cost letter with the final plat submittal certifying that 82% of the required infrastructure had been completed; that all roadways are private and will be constructed to NCDOT standards; that the waterline installation has been completed; and that the roadways are accessible to emergency vehicles. An updated cost letter may be submitted if additional work has been completed prior to recordation of the final plat to reduce the amount of the financial guarantee. The county attorney will review and approve the form of the contract and financial guarantee.

The roadways in The Legacy are private and to be constructed to meet NCDOT's Standards and Specifications, but not reviewed or approved by NCDOT. A third party testing agency has been retained to provide testing and certification. Those records will then be provided to the homeowners' association (HOA). Per Note 12 on the plat, maintenance of the private roads is the sole responsibility of The Legacy at Jordan Lake HOA, Inc.

Per Note 13 the maintenance of all park, common and meadow areas are the sole responsibility of The Legacy at Jordan Lake HOA, Inc.

The Technical Review Committee met on September 12, 2018 to review the request. Staff had no concerns or questions.

The submittal meets the requirements of the Subdivision Regulations.

There was one condition of preliminary plat approval as follows:

1. The road name 'Two Creeks Loop' be shown on the final plat.

This condition has been met.

Planning Board Discussion

The Planning Board reviewed this item during their October 2, 2018, meeting and discussion included private roads being released to the Homeowners Association, how many Pre-'08 developments are still under construction, and connectivity between subdivisions. Board members also had concerns that the stream buffer widths and stormwater pond weren't shown on final plat. The developer agreed to place the stormwater ponds on the plat. Steep slopes were also a concern, and untreated

stormwater running into Jordan Lake through the streams within the development. Discussion included that with steep slopes there's no volume control or treatment before water runs into a stream and over time erosion can occur that's destructive to streambanks. Stormwater could be redirected to flow into a stormwater pond instead of eroding the steep slopes. Board members commented that this is a pre-'08 development and this is a concern with developments that are allowed to proceed under old regulations. Pre-'08 developments are not subject to the county's stormwater ordinance. The developer responded that the development was approved without stormwater, but they voluntarily agreed to an extra 50' buffer and construct stormwater devices as part of the conditional use permitting process. A number of planning board members expressed concern about stormwater runoff in pre-'08 developments. The Planning Board considered a motion to approve the application with the following conditions: 1) add the stormwater pond location on the plat and 2) note #11 be revised to include additional information about maintenance responsibilities. The motion failed by a vote of 2-7 and an alternate motion was not offered.

Staff received a letter dated October 19, 2018, from Mitch Craig, P.E. with CE Group. Mr. Craig gave background information stating that Legacy at Jordan Lake was originally approved by the Chatham County Board of Commissioners on March 15, 2004 as a Planned Unit Development. In 2005 the prior owners voluntarily provided 100' buffers on all streams, but at the time the State and Chatham County's requirement were 50' buffers on streams within Protected Area and 100' buffers on streams within the Critical Area. In 2008, stormwater regulations were enacted and the prior owners voluntarily agreed to provide stormwater management facilities consistent with the regulation at the time for non-residential projects. Low-density residential projects didn't exist at the time and non-residential requirements were to draw down 1/2" stormwater.

The letter also included the following information:

Chatham County Erosion and Sedimentation Control Ordinance states the following:

§ 164.06 SLOPE STANDARDS.

(A) The county's GIS data shall be used to determine and indicate where steep, moderate and gradual slopes exist on a slopes map. Where the accuracy of these data is in question by the applicant, an on-site topographic survey may be provided to the county by a state registered land surveyor or a professional engineer licensed by the state to demonstrate compliance with this section. The county GIS map or on-site topographic survey must be submitted with the initial erosion and sedimentation control plan or prior to obtaining a residential lot disturbance permit pursuant to § 164.13.

(B) All land-disturbing activity for which an erosion and sedimentation control plan has not been approved prior to December 2, 2008 that requires a plan or a residential lot disturbance permit must meet the following slope standards.

(1) Steep slopes.

(a) No land-disturbing activity in excess of 5,000 square feet shall occur on any steep slope, except to the extent it is necessary and otherwise permitted by state law to be used for septic system needs, or for roadway crossings or

(b) utilities, where no practicable alternative exists; provided, however, that this limitation shall not apply to subdivision lots which have sketch, preliminary or final approval prior to December 2, 2008.

(b) All land-disturbing activity that will be permitted within areas of steep slopes as defined by this chapter and identified on the county GIS map must include the following standards on the erosion and sedimentation control plan and all sitework must conform to these standards.

Mr. Craig stated, "Per the above section of the Erosion and Sediment Control Ordinance and the attached email (dated October 11, 2018) from the Watershed Protection Director, Phase 4A2B is not required to adhere to this portion of the Ordinance".

Included with the letter was a steep slopes exhibit for this phase of the subdivision indicating that a total of 3% of the steep slopes were cleared and graded.

Mr. Craig concluded the letter by stating the voluntary stormwater controls on the project have been designed to capture concentrated flows from all roadways and lots draining to the roads. There are some lots within each phase that are below road grade and cannot drain to the roadway system. Most instances, roof top and driveway runoffs discharge into grass areas within the back yards which is referred to as disconnected runoff. This is conveyed across open space and through buffers into existing streams as non-concentrated flow. Stormwater ponds are sized to overtreat the watershed, taking into account the impervious coverage of the entire phase, regardless of whether the runoff actually is directed to the water quality measure. This approach of over treating and use of disconnected runoff is consistent with all subdivision projects in Chatham County including those subject to the current stormwater regulations.

How does this relate to the Comprehensive Plan:

The property is located in an area designated as Compact Residential. The designation is based on the existing approved Planned Unit Development for a cluster development.

Recommendation:

The Planning Board considered a motion to approve the final plat request which failed by a vote of 2 - 7. The Planning Department recommends granting final plat approval of The Legacy at Jordan Phase 4A2-B with the following conditions:

1. The county attorney shall review and approve the contract and financial guarantee prior to final plat recordation.
2. The final plat shall not be recorded until the engineer has certified that the roadway providing access to the parcels are accessible to emergency vehicles.
3. The final plat cover sheet, shall include Phase 5A3
4. The stream buffers shall be noted as part of the common area.
5. The stormwater pond shall be shown on final plat.

