

SUMMARY OF INFORMATION REGARDING
PARKER SPRING SUBDIVISION PRELIMINARY PLAT

The Parkers Springs subdivision is owned by Parker Springs, LLC, as successor to RLA Development Co., and will comprise approximately 87 acres located on the east side of Mt. Gilead Church Road, immediately south of the Monterrane subdivision. The preliminary plat for the subdivision (which is the first document attached) is on the agenda for the Commissioners' meeting on March 17, 2008.

As background, a subdivision sketch design consisting of 50 lots for the property was approved by this current Board of Commissioners at their January 16, 2007 meeting. (A copy of that approved sketch design is the second document attached.) When the sketch design was approved by the County Commissioners, the applicant agreed (and the motion to approve the sketch design incorporated that agreement) to prepare and submit to Chatham County an environmental impact assessment ("EIA") for the proposed subdivision, consistent with the requirements of Section 5.2A(1) of the Chatham County Subdivision Regulations. However, at the time of sketch design approval, the Subdivision Regulations did not specify the criteria for an EIA, standards by which an EIA should be prepared or would be reviewed, or who would review it.

Parkers Springs submitted a complete preliminary plat application to the County on January 11, 2008. As required by the Chatham County Ordinances, this application included documentation of all agency reviews and approvals as required for a preliminary plat review. Specifically, the required agency reviews and approvals were provided to the County as follows: NCDOT provided a Road Plan Approval on January 4, 2008; NCDOT issued a Commercial Driveway Permit on January 4, 2008; NCDOT provided an Encroachment Agreement on January 10, 2008; NCDENR issued an Authorization to Construct Waterline on December 17, 2007; Chatham County issued a Certificate of Approval of the Erosion Control Plan on December 18, 2007; US Army Corps of Engineers issued a Creek Crossing Permit (404 Permit) on November 30, 2007; and NC Division of Water Quality issued a 401 Water Quality Permit on December 3, 2007. Additionally, there have been other agency reviews of the preliminary plat. For instance, Thomas Boyce, Chatham County Soil Specialist, has reviewed the soil scientist report prepared by Mitchell Environmental, P.A., dated January 9, 2008, and found the information adequate for preliminary design, and the Chatham County Emergency Operations Office has approved road names for the subdivision. Furthermore, Parker Springs contracted for and obtained an Environmental Impact Assessment from ECS Carolinas, LLP. In addition, several representatives of Parkers Springs have met with Jane Pyle, Jim Wiggins and Bev Wiggins with the Chatham County Historical Association to look at the cemetery located on the property and to obtain input about upkeep and maintenance of the cemetery.

In addition, the subdivision will provide a significant benefit to the County as Parkers Springs, LLC will install (at no cost to the County) a 12-inch water line that serves as the last segment required to loop the County's water system in this part of the County. This looping will both significantly help in providing adequate water pressure to Chatham County residents in this area and allow continued water service even in the event of a blockage or break of either the lines along Big Woods Road or along Mt. Gilead Church Road – a risk that currently exists without this last segment in place. We have attached a letter from Roy Lowder, Utilities Director for Chatham County, explaining the benefit of the Parkers Springs subdivision to the County in this regard.

Prior to filing the preliminary plat application, an EIA for the subdivision was prepared and submitted to both the Planning Department and to Fred Royal, Chatham County Environmental Resource Director on November 29, 2007, in satisfaction of the sketch design condition placed on the subdivision.¹

It is important to also note that since obtaining sketch design approval, Parkers Springs has spent approximately \$500,000 for surveying, engineering, soils analyses, design, environmental assessments, and permitting in order to meet ordinance requirements and file for approval of the preliminary plat. Of that amount, Parkers Springs has paid \$175,000 to Chatham County, as required, for water connection fees (50 lots times \$3,500 per lot fee), which must be paid as part of the permitting process to be completed prior to submittal of the preliminary plat application. In addition, we understand that Parkers Springs has paid \$7,000 to Chatham County for its sedimentation and erosion control permit (14 acres times \$500 per acre fee) for activities relating to the soils assessment necessary for development of its septic plans as required for the preliminary plat application. These amounts were paid in reliance upon the fact that the Preliminary Plat is an administrative process through which subdivision plats are refined and approved so long as the applicant can satisfy all objective criteria of the subdivision ordinance.

After receiving and reviewing the preliminary plat documentation, the Chatham County Planning Department Staff found that the preliminary plat application met all requirements of the Chatham County Subdivision Regulations, and recommended preliminary design approval, with five conditions, all of which Parkers Springs has agreed to comply with. (A copy of the Planning Staff's report is attached hereto.)

We appeared for the Planning Board's February 5 meeting, and the Planning Board discussed the preliminary plat, but did not make a recommendation, at that time. From the time the EIA was provided to the County on November 29, 2007 until February 27, 2008, we received no written communications about any review of the EIA or any indication that there were any perceived problems with the EIA. On the afternoon of February 27, we received by e-mail from Keith Megginson a "draft" of the "Peer Review of Parkers Springs Environmental Assessment by the Chatham County Environmental Review Board" dated February 21, 2008. This draft ERB review concluded that the EIA contained insufficient information. Even though the EIA complied with all requirements contained in the ordinance and was consistent with industry standards, we provided a detailed response to the ERB's report in an effort to work cooperatively with the ERB. A copy of this response is attached. Despite having only a "draft" of the Peer Review of the ERB and despite the fact that some of the Planning Board members had not been able to review Parkers Springs' response to the ERB report, the Planning Board voted to recommend denial of the Preliminary Plat based upon an inadequate EIA.

We are requesting that the Commissioners approve Parkers Springs' preliminary plat since it meets all requirements of the Chatham County Subdivision Ordinance. As you know, Section 4.2(C)(1) of the Subdivision Regulations states that the purpose of the preliminary plat is to ensure

¹ To the extent that the North Carolina Court of Appeals has subsequently concluded in its decision in Marriott vs. Chatham County, ___ N.C. App. ___, 654 S.E.2d 13 (2007), that Section 5.2 was not validly enacted and is not enforceable, the applicant does not waive its legal rights to contest the continued validity and enforceability of this condition, if necessary.

that the proposed improvements meet the required standards, and the ordinance also lists the specific agencies that must review and approve the preliminary plat. As noted above, Parker Springs, has complied with every requirement of the Subdivision Regulations (and the Planning Staff has confirmed that the preliminary plat meets all requirements) and it has supplied all required information and obtained all necessary agency reviews and approvals.

Furthermore, Parkers Springs satisfied the condition of approval of sketch design by preparing a complete EIA in accordance with the Subdivision Regulations and industry standards and submitting it to the County for peer review. The ERB's report, which was only in draft form, raises numerous issues, assumes types of impacts, and/or requests information in ways that are in excess of and clearly not required by the Subdivision Regulations (and/or implies alternatives that are inconsistent with the zoning classification and approved sketch design). Significantly, the County has never adopted many of the standards contained in the ERB report (or, for that matter, any criteria for the ERB's review of EIAs). Therefore, there was no way that Parkers Springs (or any applicant) could know or anticipate standards that the ERB might attempt to impose upon it when planning the project and preparing the EIA.

The Parkers Springs subdivision will be a good project for the County as it has been planned and will be developed in an environmentally sensitive manner and in compliance with all County and State requirements and regulations. Specifically, Parkers Springs has taken the following measures to address environmental issues:

1. Parkers Creek is being protected with 100-foot buffers (twice the County's required buffer width at the time of sketch design approval) that will remain undisturbed. There will only be one road crossing of Parkers Creek, which has been reviewed and approved by both the DENR Division of Water Quality ("DWQ") and US Army Corps of Engineers. Copies of these permits, as well as the approval of the sedimentation and erosion control plan, are the last three documents attached. Parkers Springs is also providing 50-foot buffers on each side of the intermittent streams.
2. Since sketch design, Parkers Springs has adjusted some lot and street layouts and removed individual lot lines from the Parkers Creek buffers to minimize impact to water quality and aquatic habitat and to protect Parkers Creek. Parkers Springs is also protecting the intermittent streams by relocating roads to avoid driveway crossings of intermittent streams. (We have attached a copy of the sketch design plan for illustration of changes made in the preliminary plat.)
3. The cemetery located on the property is being protected as Parkers Springs has created a lot designated as open space or common space for the cemetery. The stone foundation on the property will also be protected as it will be included in the area for open/common space.
4. Parkers Springs is providing a 25-foot tree protection buffer and an additional 25-foot structure setback buffer along the boundary with the Monterrane subdivision.

Commissioner Thompson

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5. Parkers Springs has minimized the impact to the crossing of Parkers' Creek by the following measures: crossing the creek in a perpendicular direction; designing the crossing in a straight section of the creek; and installing the culvert below the stream bed to allow passage of stream life.
6. Parkers Springs has minimized impacts to water quality and aquatic habitats from stormwater runoff by limiting the impervious surface at buildout of the entire subdivision to only 12%. Even though an impervious surface percentage this low does not trigger any special Chatham County or State of North Carolina stormwater requirements, Parkers Springs will manage stormwater by utilizing V-ditch or grass swales consistent with the NC DWQ approved Best Management Practices (BMP) Manual. Furthermore, discharge points have been designed to ensure that pipe flows will be minimized and that sheet flow will be utilized
7. Parkers Springs received permission from NCDOT to design the streets of the subdivision in a way that allows the streets to generally follow the natural contours of the property and to minimize cut and fill grading for the roads. That design for streets will minimize the amount of coverage over the culverts at crossings which, in turn, will limit the amount of earth fill that will have to be placed in those areas.
8. During the sketch design approval process, Parkers Springs agreed to decrease the length of the cul-de-sac in the northern part of the subdivision to increase the depth of the lots near the Monterrane subdivision, at the request of residents of the Monterrane subdivision.

For all of these reasons discussed in this summary, we respectfully request that the Parkers Springs Subdivision Preliminary Plat be approved. Thank you for your consideration of this information.

Enclosures

Cc: Richard J. Rose, Esq. (w/ enclosures)