

PLANNING & ZONING REVIEW NOTES

VI. A.

SUBJECT: Request by Nicolas P. Robinson, Attorney-at-Law on behalf of Polk-Sullivan, LLC, for a three year (3) extension of the development schedule for **The Glens** (f/k/a McBane Property Subdivision) to extend the final plat deadlines for Phase 2 to August 2012, for Phase 3 to August 2013 and for Phase 4 to 2014.

ACTION REQUESTED: See recommendations.

ATTACHMENTS: The following may be viewed on the Planning Department website at www.chathamnc.org under Planning, Rezoning & Subdivision Cases, 2008.

1. Letter of request from Nicolas P. Robinson, dated November 7, 2008.
2. Email dated 11/11/08 from Chatham County Historical Association
3. Email dated 11/25/08 from Fred Royal, Chatham County Environmental Resources Director
4. E-mail dated December 31, 2008 from Nick Robinson, addressing Planning Board concerns.

INTRODUCTION / BACKGROUND / PREVIOUS BOARD ACTIONS:

The property is located on the west side of Old Graham Road, SR-1520, and north of Chapel Ridge Phase 3 and west of existing Rock Rest and proposed The Bluffs. The property was located in an unzoned portion of Chatham County but is now zoned RA-40 and a watershed district of WSIV-Protected Area. The Board of County Commissioners approved a sketch design consisting of 109 lots to be accessed by a public, state maintained roadway on July 17, 2006. Preliminary approval was achieved on May 17, 2007. A revision to the development schedule approved in July 2006 was denied on September 17, 2007. Final plat approval was achieved for Phase 1 on September 19, 2008.

ISSUES FOR FURTHER DISCUSSION AND ANALYSIS: A development schedule was submitted by the developer with the sketch design application. As stated above, sketch design was approved on July 17, 2006 including the development schedule and preliminary design approval was achieved on May 17, 2007. The developer requested a revision of the development schedule August 9, 2007 to extend the deadlines for all phases by one (1) year. The Board of Commissioners denied that request on September 17, 2007. At the preliminary stage of review and approval, infrastructure of the project has been designed and permits from other agencies have been received. The final plat for Phase 1 has received approval, and the developers are requesting a three (3) year extension for the final plat deadlines for Phases 2, 3 and 4. The reason for the request as stated in the applicant's letter is "related to the timeliness of installation of certain wastewater treatment facilities by third party developers..." The letter also states that the developer

Re: The Glens

ISSUES FOR FURTHER DISCUSSION AND ANALYSIS – cont.

is interested “in exploring the possibility of a redesign of The Glens subdivision under the new clustering provisions ...” See attachment # 1. Per the Chatham County Subdivision Regulations, Section 4.2 C (4) “Time Limit on Validity of Preliminary Plat Approval: Approval of a preliminary plat shall be valid for a period of eighteen (18) months following the date of preliminary approval by the Board of County Commissioners unless a request for an extension has received and approved by the Board of County Commissioners prior to the expiration of preliminary approval. Upon expiration of preliminary approval, a final plat of the same subdivision shall not be considered by the Board of County Commissioners unless said preliminary plat is submitted for preliminary approval based on standards in effect at the time.” Preliminary plat approval was received within the prescribed time frame of 18 months.

Section 4.2 C (5) states “Extension of Time of Preliminary Plat Approval: If the developer is unable to complete the improvements required for final approval within the specified time, he may present in writing to the Planning Board a request for an extension of time setting forth the reasons for the extension. The developer shall submit his request at two regularly scheduled Planning Board meetings prior to the date preliminary approval expires and no less than thirty (30) days prior to the expiration of preliminary approval. In the extent such an extension is recommended by the Planning Board and/or granted by the Board of County Commissioners, the Board of Commissioners shall state the time limit of the extension which shall be recorded in the minutes of the Board of Commissioners.”

The Chatham County Historical Association reviewed the project, and asked that the developer contact the Association about any historical structures that may be located on the site, and to receive the Historical Association’s Guidelines for Developers. If there are any structures present on the site, the Association would like to arrange a site visit. See Attachment 2.

The County is in the process of making changes relating to the Subdivision Regulations and threshold criteria for environmental impact assessments. These items are addressed within the Subdivision Regulations and the Zoning Ordinance. The Planning Department received comments from the County Director of Environmental Resources, who requested that the developer include stream buffers and stormwater facilities to comply with the proposed Ordinance revisions and new Stormwater Ordinance. See Attachment 3. The Glens, as currently approved, is not subject to these proposed changes.

The applicant’s request seems reasonable given the slow down in today’s real estate market and the stated cause of the delay being third party developers. Extending the time of final plat approvals for The Glens would allow the infrastructure required for the subdivision to be completed prior to final plat approval.

In the past, similar requests have been recommended for approval by the Planning Board and granted by the Board of County Commissioners. Previous requests were not made when the County was considering major ordinance text changes. This is a policy decision for the Board to consider. There may be legal implications for which the Board would want advice.

Re: The Glens

The Planning Board discussed this request at length at the December 2, 2008 meeting. Concerns raised by the Planning Board included length of requested extension, previous stream delineation(s), buffering of the ephemeral stream (previously not buffered), redesign of the project to meet current regulations, and lot size.

Mr. Robinson restated the developers reasons for the requested three (3) year extension which include the delay in the construction of the spray irrigation fields at the Parks at Meadowview. These spray fields are to serve the remaining 100 lots in The Glens and this delay is created by a third party and not the developers of The Glens. There is existing capacity to treat The Glens, Phase One lots consisting of nine (9) lots, 101 –109 which received final plat approval on 9-19-08. Also a cooperation agreement between The Glens developers and The Parks at Meadowview developers has not been finalized nor has the amenity facility been built within The Parks at Meadowview which is also to serve The Glens. Mr. Robinson stated that benefits to the County in approving the extension include buffering of the ephemeral channel running through lots 45 – 50 with a 50 foot wide per side buffer versus the required ephemeral buffer of 30 feet wide per side, elimination of two (2) lots, less impervious surface, and slow down in construction along Old Graham Road.

Adjacent property owners, Ken and Cynthia Crossen, addressed the Board with concerns including design of subdivision, density, and impact of Dry Creek. They also acknowledged the developer's willingness to consider buffering of the ephemeral stream.

The Planning Board made a motion to postpone the request until the following meeting (January 6, 2009) with the requirement that it come back at that time indicating what kind of changes would be made to meet all concerns. The motion passed unanimously.

Mr. Robinson submitted a response to the Board's concerns. See attachment # 4.

RECOMMENDATION: If the Board wants the development to proceed on the current time line under the existing regulations then the request should be denied. If the Board wants the development to proceed more slowly under the existing regulations with changes proposed by the developer, i.e. buffering of the ephemeral stream, and elimination of two lots then the request may be approved with the following condition:

The developer shall contact the Chatham County Historical Association about any possible historical structures that may be present on the site. The developer shall provide documentation from the Historical Association, including any possible recommendations, prior to final plat approval.

There may be opportunity to address the recently adopted Stormwater Ordinance, Erosion and Sedimentation Control Ordinance and Watershed Ordinance (stream buffers) with the applicant.