



**CHATHAM COUNTY
BOARD OF COMMISSIONERS
AGENDA ABSTRACT**

ITEM NUMBER:
MEETING DATE:
2-16-09

PART A

Subject:

Request by Nicolas P. Robinson, Attorney-at-Law on behalf of Polk-Sullivan, LLC, for a one year extension of the development schedule for **The Glens** (f/k/a McBane Property Subdivision) to extend the final plat deadlines for Phase 3 to August 2011.

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. **New- Letter from Nicolas P. Robinson dated Feb. 12, 2009.**
2. Letter of request from Nicolas P. Robinson, dated November 7, 2008.
3. Email dated 11/11/08 from Chatham County Historical Association
4. Email dated 11/25/08 from Fred Royal, Chatham County Environmental Resources Director
5. E-mail dated December 31, 2008 from Nick Robinson, addressing Planning Board concerns.
6. Phasing Plan approved by Board of Commissioners July, 2006.
7. Revision to lot count of phasing plan approved by staff January 22, 2008.

Submitted By:

Keith Megginson, Planning Director

Date

County Manager Review:

Charlie Horne, County Manager

Date

This abstract requires review by:

County Attorney

Date Reviewed

Finance Officer

Date Reviewed

Budget Officer

Date Reviewed

PART B

Re: The Glens

Introduction / Background / Previous Board Actions:

On January 26, 2009 the Board of Commissioners approved a two (2) year extension of Phase 2 to extend the final plat deadline for Phase 2 of ten lots to August 2011. The Board did not approve the extensions requested to Phase 3 and Phase 4. According to the Board's action Phase 3 of 27 lots will be due in August 2010 before Phase 2 and Phase 4 of 63 lots in August 2011.

This item has been placed back on the agenda so additional action may be considered by the Board.

The following are the agenda notes previously distributed for this item.

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 R-1 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 request for 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. On August 9, 2007 the developer requested a revision of the original development schedule 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 is interested "in exploring the possibility of a redesign of The Glens subdivision under the new clustering provisions ..." See attachment # 1.

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

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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.

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 developer's 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 of the three phases 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.

At the January 6th Planning Board meeting, the Board discussed Mr. Robinson's response along with the length of time requested.

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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, elimination of two lots, and redesign of the cul-de-sac, then the request may be approved.

Recommendation: The Planning Board recommendation on the original request for a three year extension on phases 2, 3 and 4 is as follows: The Planning Board (by vote of 6 for and 3 against) recommends granting a two (2) year 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 2011, for Phase 3 to August 2012 and for Phase 4 to 2013 with changes proposed by developer (i.e. buffering of the ephemeral stream, elimination of two lots, and redesign of the cul-de-sac) along with the following condition:

1. 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.

It appears reasonable to approve a one year extension of the final plat deadline to Phase 3 to August 2011 (all three phases of 2, 3 and 4 will be due at the same time) with the condition that there will be a reduction of two lots, buffering of the ephemeral channel, and redesign of the cul-de-sac as shown on the revised plan.