



CHATHAM COUNTY BOARD OF COMMISSIONERS AGENDA ABSTRACT

ITEM NUMBER:
MEETING DATE:
6-15-09

PART A

Note: This issue was tabled April 20 and May 18, 2009.

Subject: Request by Nicolas P. Robinson, Attorney-at-Law for a three (3) year extension of the development schedule for **Phase 1B of The Bluffs Subdivision** extending the final plat deadline from December 31, 2009 to December 31, 2012.

Action Requested: See Recommendations.

Attachments: The following may be viewed on the Planning Department website at www.chathamnc.org/planning Rezoning and Subdivision Applications, 2009.

1. Request letter dated March 12, 2009 from Nicholas P. Robinson, Attorney-at-Law.
2. Map showing Phase 1B of The Bluffs Subdivision.
3. Letter dated April 7, 2009 to Lynn Richardson from Samuel T. Oliver, Jr, Manning, Fulton & Skinner, P. A.
4. Letter from Robert D. Swain, Jr., Polk-Sullivan, LLC to Lynn Richardson regarding a request to modify lot counts.
5. Phasing map of The Bluffs

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 Bluffs, Phase 1B

Introduction / Background / Previous Board Actions:

The subject property is located in a portion of Chatham County zoned R-5 which requires a 3 acre minimum / 5 acre average lot size.

May 15, 2006: The Board of County Commissioners approved sketch design for “The Bluffs”, consisting of 112 lots on 597 acres along with a development schedule.

November 20, 2006: Preliminary plat approval of “The Bluffs, Phase 1”, consisting of 36 lots on 180 acres along with a modification of the existing development schedule as follows:

	<u>Submit Preliminary Plat</u>	<u>Complete Infrastructure</u>	<u>Submit Final Plat</u>
Phase 1: (35 lots)	2/28/07 (unchanged)	10/31/09	12/31/09
Phase 2: (47 lots)	10/31/09	10/31/11	12/31/11
Phase 3: (30 lots)	10/31/11	10/31/13	12/31/13

June 18, 2007: Commissioners approval to add two (2) additional lots to “The Bluffs” bringing the total number of lots to 114.

November 19, 2007: Final plat approval of “The Bluffs, Phase 1A”, consisting of 12 lots (a portion of the preliminary plat approval granted on 11/20/06).

February 28, 2008: The developer requested to modify the lot allocations within the current phasing schedule. The request was approved by staff. The revision is not an increase in the total number of lots or an extension of the final phasing date. See attachment # 4 for the current lot allocation for each phase and attachment # 5 for the phasing map.

September 30, 2008: A new map was recorded taking Phase 1A out of The Bluffs, changing the name from “The Bluffs, Phase 1A” to “The Estates at Laurel Ridge, Phase 2A”; renumbering the lots to be consecutive with the lot numbers for “The Estates at Laurel Ridge”; and upgrading the road from private to a public state maintained road. Staff received the NCDOT permit for the roadway change.

Issues for Further Discussion and Analysis:

The final plat submittal deadline for Phase 1B of The Bluffs, consisting of eight (8) lots is December 31, 2009. Nicolas Robinson, Attorney, is requesting, on behalf of the developer, a three (3) year extension of the development schedule for Phase 1B of The Bluffs Subdivision extending the final plat deadline from December 31, 2009 to December 31, 2012. The reason(s) for this extension request are as previously stated in the revision request for The Estates at Laurel Ridge, Ph 1B. Mr. Robinson states in his request letter, attachment 1, that the reason for the requested extension is due to “issues related to the timeliness of installation of certain wastewater treatment facilities

Issues for Further Discussion and Analysis – cont.

by third party developers.” The sanitary sewerage system for the project will be handled by low pressure sewers and the effluent will be treated at the Chapel Ridge Wastewater Treatment Plant. According to the project engineer, the plant currently has the capacity to handle the remaining lots in The Bluffs, Phase 1B, and there is sufficient certified spray field capacity within the Chapel Ridge complex to spray the treated effluent to be generated by those lots. The developer has advised, however, that negotiations continue between this developer, the developer of The Parks at Meadowview and Aqua (the public wastewater utility that owns the wastewater treatment plant) regarding the timing of the construction of the balance of the spray facilities needed to service the entire Chapel Ridge complex of neighborhoods. Acceptance of the Laurel Ridge pump station and collection system by Aqua appears to have been delayed until that resolution is reached. The developer’s extension request is based on the uncertainty as to the timing of resolutions of those issues. The developer is asking for the extension now because work would need to begin immediately on The Bluffs, Phase 1B lots if the December 31, 2009 development schedule is to be met.

Mr. Robinson, attorney for the developer, addressed the Planning Board and explained the request. Mr. Robinson provided the Planning Board with a copy of a letter that had been received, dated April 7th, from Samuel T. Oliver, Jr., Attorney for the developers Community Properties Inc. and Roanoke Investments, LLC. Mr. Oliver confirms in his letter that “the developers, along with third-party developers are parties to various agreements providing for the installation, conveyance and operation of the water and wastewater utility systems serving The Parks at Meadowview, Chapel Ridge and surrounding developments in Chatham County.””The developers of Laurel Ridge and The Bluffs are working cooperatively with the third party to cure the default; however, appropriate legal remedies are simultaneously in process. The issues resulting from the contract default of the third party developer are complex and will require considerable time to resolve.” The letter has been attached for the Board’s review. See attachment # 3.

Several adjacent property owners addressed the Planning Board with their concerns regarding the overall project and the extension request. The adjoining property owners were Alice Yeaman, Tom Marriott, and Jerry Markatos. They stated that much of the smaller size natural vegetation along the river has been removed by the developer, they would like to see an Environmental Impact Assessment performed on the entire Bluffs project, that they were opposed to the three (3) year extension request, and that the Jordan Lake Reservoir Nutrient Management rules were to be adopted by summer and that they wanted the project to be subject to these rules.

The Planning Board discussed at length the issues related to Aqua and the Planning Board’s concerns regarding environmental review of the property.

Re: The Bluffs, Phase 1B

Issues for Further Discussion and Analysis – cont.

Since the Planning Board meeting, staff has reviewed the current lot allocations within the phasing schedule, attachments 4 and 5, and it appears that if Phase 1B is approved for a three (3) year extension, extending the final plat deadline to December 31, 2012, then Phases 2-A will come due before Phase 1B. Access to Phase 2-A is provided through Phase 1-B which will require Phase 1-B infrastructure to be in place prior to submittal of Phase 2-A. The applicant is aware of this situation and has stated that if necessary they will be requesting an extension of Phase 2-A in the future so that the final plat deadline for Phase 2-A does not precede Phase 1-B.

In checking the Subdivision Regulations applicable prior to Dec. 1, 2008, Section 4.2 C (5), it appears that the Board is not restricted to the 60 day time frame for review of an extension request as specified for review of a preliminary plat in Section 4.7 B (1).

Recommendation: The Planning Department recommends granting the three (3) year extension as requested.

The Planning Board by vote of [6 – 1] approved a motion to deny the request and to instruct the developer to bring a new proposal that would enable them to continue with the development with an Environmental Assessment, safeguards for protecting water resources (such as the Haw River, Jordan Lake, and Dry Creek) and responsibly develop the project.