

HBP Properties, LLC

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(919) 851-2929 fax (919) 854-5427

June 23, 2009

TO: Chatham County Planning Department
Chatham County Planning Board
Chatham County Board of Commissioners

Please find enclosed our Legend Oaks Subdivision, Phase III Preliminary Subdivision Plat Submittal for Review and Approval.

Phase III of Legend Oaks was initially submitted for Sketch Plan Approval in April 2007. It was subsequently denied. However, it was reviewed further and eventually approved through litigation and a mediated settlement. A copy of the Consent Judgement And Settlement Agreement is attached hereto for reference.

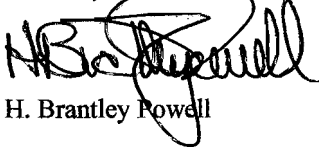
During the Sketch Plan Process, Phase III evolved through a number of adjustments and revisions that exceeded the County's Subdivision Regulations. These enhancements included the following:

- Abandonment of additional access onto Lystra Road.
- Reduction of lots by 14, from 71 to 57.
- Added 50' stream buffer along Cub Creek(perennial stream A)
- Added 50' stream buffer along Perennial stream B
- Added 50' stream buffer along Intermittent stream B
- Added 15' stream buffer along Perennial stream C

Since obtaining Sketch Plan Approval, we have obtained all of the necessary approvals and permits from the appropriate jurisdictional authorities. Although not required for Preliminary Plan Review, we also commissioned our Soil Scientist to perform individual Septic System Layouts for twenty-six of our lots to confirm suitable soils existed to support septic systems. Thus, we have produced a Preliminary Plat for review that contains substantially more detail and precision than is required at this stage by the County Subdivision Regulations. In addition, we have had a Cultural Resource Reconnaissance performed to accurately investigate the possible existence of cemeteries and other significant features associated with the property. This report, along with the other required submittal materials are for your review and consideration.

We appreciate this opportunity and look forward to the completion of this process and the development of Legend Oaks Subdivision. We also thank you for your time, consideration, and assistance.

Sincerely,



H. Brantley Powell

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

HBP PROPERTIES, LLC,

Petitioner,

v.

CHATHAM COUNTY, a body politic and
corporate; the CHATHAM COUNTY BOARD
OF COMMISSIONERS; CARL E.
THOMPSON; GEORGE LUCIER; ALLEN
MICHAEL CROSS; TOM VANDERBECK;
and PATRICK BARNES, in their official
capacities as members of the Chatham County
Board of Commissioners,

Respondents.

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2007 DEC 20 A 11: 507 CVS 560

CHATHAM COUNTY

BY

CONSENT JUDGMENT AND
SETTLEMENT AGREEMENT

CONSENT JUDGMENT AND SETTLEMENT AGREEMENT

It appears to the Court from the signatures of the parties below, that all matters and things in controversy between the parties have been resolved, compromised and settled and that the parties desire to enter into a Consent Judgment as set out below.

NOW THEREFORE, with the consent of the parties, the Court makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Petitioner HBP Properties LLC ("HBP") is a limited liability company organized and existing under and by virtue of the laws of the State of North Carolina. Petitioner's principal place of business is Wake County, North Carolina.

2. Respondent Chatham County is a political subdivision of the State of North Carolina (the "County").

3. Respondent Chatham County Board of Commissioners (the "Board") retains the authority to hear and pass on applications for approval of subdivision Sketch Designs.

4. Respondents Carl E. Thompson, George Lucier, Allen Michael Cross, Tom Vanderbeck, and Patrick Barnes are residents of Chatham County and Members of the Chatham County Board of Commissioners (hereinafter sometimes referred to as the "Commissioners"). These Respondents are parties to this action in their official capacities as Members of the Chatham County Board of Commissioners.

5. On April 30, 2007, HBP submitted a complete Major Subdivision Application (the "Application") to the County seeking Sketch Design approval to subdivide approximately 124.23 acres of land in Chatham County (the "Subject Property") as a residential development named "Legend Oaks – Phase III" (the "Sketch Plan").

6. On June 18, 2007, the Board denied HBP's Application.

7. On July 16, 2007, HBP filed a Petition for Writ of Certiorari and a Complaint for Declaratory Judgment and Mandatory Injunction (Writ of Mandamus) challenging the Board's denial (the "Lawsuit").

8. On October 24, 2007, the Parties mediated the Lawsuit before Tom Worth Esq. and agreed on the terms of a proposed settlement of the Lawsuit.

9. On October 29, 2007, as a condition of the proposed settlement, a County stormwater expert performed a field review of stream delineations and verified the stream delineations used to design HBP's Sketch Plan.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over the subject matter and the parties and the Court has the authority to enter this Consent Judgment and Settlement Agreement.

2. The Board is legally authorized to settle the Lawsuit on behalf of all Respondents.

3. On November 19, 2007, the Board approved the terms of this Consent Judgment and Settlement Agreement, which incorporates all of the terms and conditions of the proposed settlement agreed to during the October 24, 2007 mediation.

4. The Board has expressly authorized Kevin Whiteheart and Charlie Horne to execute this Consent Judgment and Settlement Agreement on behalf of the County.

5. The County and HBP agree that the Sketch Plan attached hereto and incorporated into this Consent Judgment and Settlement Agreement as **EXHIBIT A** shall constitute the approved Sketch Design for purposes of the County's Subdivision Ordinance and shall guide development of the Legend Oaks-Phase III development.

6. As part of the settlement, HBP has provided additional buffers along certain streams shown on **EXHIBIT A**, which additional buffers are in excess of the fifty (50) feet required under the existing County Subdivision Ordinance (the "Additional Buffers").

7. The County and HBP agree that construction of vertical (above ground) structures will be prohibited within the Additional Buffer, but subterranean utilities, including but not limited to septic facilities, will be allowed in the Additional Buffers.

8. The County and HBP agree that property contained within the Additional Buffers can be used to calculate minimum lot area.

9. The County and HBP agree that this Consent Judgment and Settlement Agreement constitutes final approval of HBP's Sketch Plan, and said Sketch Plan approval shall have an effective date of June 18, 2007 (the "Approved Sketch Plan").

10. The Approved Sketch Plan shall be governed by all applicable ordinances, including but not limited to, the "Chatham County Subdivision Regulations" and the "Watershed Water Supply Ordinance" in effect as of April 30, 2007.

11. The Approved Sketch Plan is consistent with all applicable ordinances, including but not limited to, the "Chatham County Subdivision Regulations" in effect as of April 30, 2007.

12. Future preliminary plats, and final plats for Legend Oaks-Phase III shall be governed by all applicable ordinances, including but not limited to, the "Chatham County Subdivision Regulations" in effect as of April 30, 2007.

13. The timing of construction phases, submittal of preliminary plats and final plats, and expiration of the Approved Sketch Plan will be governed by the development schedule attached hereto and incorporated herein by reference as **EXHIBIT B** ("Development Schedule").


14. This Court retains continuing jurisdiction over this cause in order to assure compliance with the foregoing terms and conditions, and to entertain appropriate motions necessary to enforce or otherwise administer this Consent Judgment and Settlement Agreement.

I have reviewed the terms and conditions of this Consent Judgment and Settlement Agreement. Finding the terms and conditions acceptable and satisfactory to the parties and to this Court, I adopt them in full. **IT IS SO ORDERED, ADJUDGED AND DECREED**, this 20 day of December, 2007.


Superior Court Judge Presiding

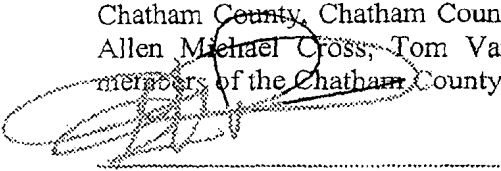
WE CONSENT TO THE FORGOING CONSENT JUDGMENT AND SETTLEMENT
AGREEMENT:

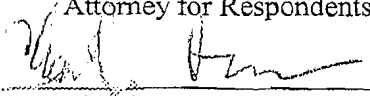
HBP Properties, LLC


By: H. Brantley Powell
Manager

WE CONSENT TO THE FORGOING CONSENT JUDGMENT AND SETTLEMENT AGREEMENT:

Chatham County, Chatham County Board of Commissioners, Carl E. Thompson, George Lucier, Allen Michael Cross, Tom Vanderbeck, and Patrick Barnes, in their official capacities as members of the Chatham County Board of Commissioners


By: Kevin Whiteheart, Esq.
Attorney for Respondents


By: Charlie Horne
County Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

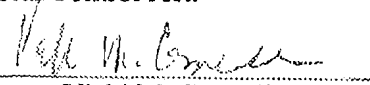

By: Vicki McConnell
County Finance Director

EXHIBIT B

Development Schedule for Legend Oaks - Phase 3

Because of the environmental permitting issues associated with the stream crossings in Phase 3 that may require mitigation and coordination of the stream crossing design with the North Carolina Department of Transportation, Preliminary Plans will be submitted for review by Chatham County by June 30, 2009.

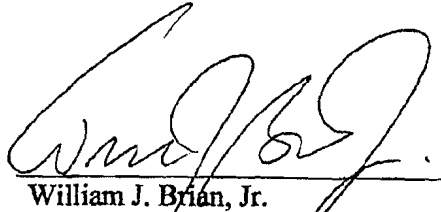
Within 18 months of Preliminary Plan approval, Final Plans will be submitted for review by Chatham County.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **Consent Judgment and Settlement Agreement** was served upon all parties by depositing a copy enclosed in a postpaid envelope in an official depository under the exclusive care and custody of the United States Postal Service, addressed as follows:

This the 20th day of December, 2007.

Kevin W. Whiteheart
Chatham County Attorney
984 Thompson Street, Suite E2
Pittsboro, NC 27312

A handwritten signature in black ink, appearing to read "Wm J Brian, Jr.", is written over a horizontal line.

William J. Brian, Jr.
North Carolina State Bar No. 16570
Kennedy Covington Lobdell & Hickman, L.L.P.
Post Office Box 14210
Research Triangle Park, NC 27709-4210
Telephone: (919) 466-1263