



## Agenda Abstract

Department: Planning

Authorizing Signature: \_\_\_\_\_

Submitting Official: Jason Sullivan, Planning Director

Meeting Date:	December 17, 2012
Subject:	Request by Brantley Powell for an extension of preliminary plat approval for Legend Oaks, Phase III, consisting of 56 lots on 99.23 acres, located off 15-501 North, Williams Township to extend the preliminary plat expiration deadline from July 1, 2013 to July 1, 2015.
Action Requested:	See Recommendation
Attachments: (List Individually)	<ol style="list-style-type: none"><li>1. Extension request letter from Brantley Powell, HPB Properties, LLC, dated September 13, 2012</li><li>2. Letter dated October 3, 2012 from Trenton D. Stewart, PE, Arcadia Consulting Engineers, PLLC, verifying status of existing permits</li><li>3. Petition for Second Entrance to Legend Oaks Subdivision</li></ol>

Introduction & Background:	<p><b>Zoning:</b> R-1</p> <p><b>Water Source:</b> public, Chatham County</p> <p><b>Watershed District:</b> WSIV-Protected Area</p> <p><b>Septic:</b> On-site, private</p> <p><b>Within 100 year flood plain:</b> no</p> <p>Legend Oaks Subdivision is reviewed under the Subdivision Regulations and the Watershed Ordinance in effect prior to December, 2008. Legend Oaks consist of three (3) phases. Phases I consisting of 31 lots received final plat approval on 7/17/06 and Phase II, consisting of 27 lots received final plat approval on August 20, 2007. There are completed homes as well as homes under construction in these phases. Phase III, consisting of 56 lots received preliminary plat approval on August 17, 2009. Senate Bill 831, The Permit Extension Act of 2009, "AN ACT TO EXTEND CERTAIN GOVERNMENT APPROVALS AFFECTING THE DEVELOPMENT OF REAL PROPERTY WITHIN THE STATE, states in Section 4 "For any development</p>
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	<p>approval that is current and valid at any point during the period beginning January 1, 2008 and ending December 31, 2010, the running of the period of the development approval and any associated vested right under G. S. 153A-344.1 or G.S. 160A-385.1 is suspended during the period beginning January 1, 2008, and ending December 31, 2010. In 2010, Session Law 2010 -177 (H683) extended Senate Bill 831 for an additional one year period.</p> <p><u>Based on the Permit Extension Act of 2009 and 2010, the preliminary plat approval for Phase III will expire on July 1, 2013 unless a request for final plat approval has been submitted on or prior to said date or an extension of time has been granted by the Board of County Commissioners.</u></p>
Discussion & Analysis:	<p>The developer, Brantley Powell, has submitted a request for a twenty-four (24) month extension of preliminary plat approval which, if approved, will extend the preliminary plat expiration deadline for all of Phase III (56 lots) from July 1, 2013 to July 1, 2015. See attachment # 1. Per Mr. Powell's letter, he is planning to submit a request for final plat review and approval of 13 of the 56 remaining lots in the near future, but, is concerned that the development of the balance of the lots may not occur prior to the expiration date.</p> <p>Trenton Stewart, PE, Arcadia Consulting Engineers, PLLC, has provided information on the expiration dates of the existing permits which are required for preliminary plat approval. See attachment # 2. As stated in the letter from the engineer, dated October 3, 2012, the Soil Erosion and Sedimentation Control Permit and the NCDENR Public Water Supply Permit will both expire prior to July 1, 2015. The developer will renew these two permits prior to the expiration date. If the extension request is approved by the Board of County Commissioners, it is staff's recommendation that the developer provide staff with a copy of the new/renewed permits. Water availability fees in the amount of \$192,500.00 have been paid to Chatham County. As stated in his letter, the developer has a substantial financial investment in the project and plans to bring the balance of the lots for final plat approval as the economy permits. As part of a mitigation process between the developer and Chatham County, additional buffers were added along water features that were not required by the Watershed Ordinance in effect prior to December, 2008.</p>



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If the extension request is denied and the final plat submittal for the balance of the 56 remaining lots is not received on or before July 1, 2013, the preliminary plat will expire. Any future requests would then be reviewed and processed under the current Subdivision Regulations and Watershed Regulations.

*The Planning Board discussed the request at their December 4, 2012 meeting. Brantley Powell, developer, Michael Birch, Attorney-at-Law, and Trenton Stewart, PE, attended the meeting to answers any question from the Board. Mr. Birch gave a brief history of the development and explained the extension request. He stated that Mr. Powell plans to submit a request for final plat approval of 13 of the remaining 56 lots early next year and the balance of the lots would be brought for final plat approval as the economy allows. Trenton Stewart, PE stated that two permits, Soil Erosion and Sedimentation Control and NCDENR Construction Plan Approval (water) that are scheduled to expire prior to July, 2015 will be renewed and he would provide staff copies of the renewed permits.*

*Several homeowners from Legend Oaks attended the meeting to voice their concerns (during public input) regarding the lack of a second entrance to the development, and stated that it is a safety concern for the residents and that they would like to see a second entrance established. They also stated that the additional traffic generated when Phase III is developed will cause additional safety impacts without a second entrance. The residents submitted a petition, see attachment #3. During the Planning Board discussion, Karl Ernst, Planning Board Chairman, stated that the roadway issue in Legend Oaks is a separate issue and was not part of the request before the Board. The residents stated that they understood, but, that they wanted the Board to be aware of their concerns. Michael Birch, Attorney, stated that the original sketch design plan included a second entrance out to Lystra Road, but that design was denied by the Board of County Commissioners and as part of a mediation, the second entrance was eliminated. He stated that at the that time Mr. Powell only had an option to purchase the property where the second entrance was to be located and that Mr. Powell does not currently own additional land that could provide a second entrance. Mr. Birch also pointed out that there is an existing stub road to the adjacent property to the north and that in the future if that property were to be developed, a second entrance would then be provided. The Planning Board briefly discussed the safety issues of only having one*



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	<i>entrance to a subdivision.</i>
Budgetary Impact:	None
Recommendation:	<p>The Planning Department did not make a recommendation on the request as this is a policy decision to be made by the Board of County Commissioners. If the request is approved, the Planning Department recommends that the developer provide staff with copies of any new or renewed permits.</p> <p>The Planning Board recommended approval by a vote of 7 – 2 of the request for a 24 month extension of preliminary plat approval to extend the preliminary plat expiration date from July 1, 2013 to July 1, 2015 and approved staff's request to be provided copies of all renewed permits.</p>