

## **..TITLE**

Vote on a request to approve F-L Legacy Owner, LLC for a Conditional Use Permit revision on the existing Planned Residential Development called The Legacy, located at Parcels 17378 and 89437, off Big Woods Rd., New Hope Township, to revise the site plan/sketch design to relocate the primary amenity area, relocate some residential lots, and to reconfigure some roads rights-of-way. This request will not be adding additional residential lots or new land areas.

## **..ABSTRACT**

### **Action Requested:**

A request by F-L Legacy Owner, LLC for a Conditional Use Permit revision on the existing Planned Residential Development called The Legacy, located at Parcels 17378 and 89437, off Big Woods Rd., New Hope Township, to revise the site plan/sketch design to relocate the primary amenity area, relocate some residential lots, and to reconfigure some roads rights-of-way. This request will not be adding additional residential lots or new land areas.

### **Introduction & Background:**

A quasi-judicial hearing was held on this request September 15, 2014. Planning staff presented the request. Also presenting were Patrick Bradshaw, attorney for the applicant, and Mark Ashness, CE Group. There were also comments made by current landowners inside the development. Concerns raised by the residents were moving the amenity area, adequate parking for the amenity, disrepair of the roads, construction traffic, and displeasure with the smaller lot configurations. There were several calls and complaints filed with the Planning Department stating the community meeting didn't reveal all the facts being presented in the application and they, the homeowners, wanted a voice in the development of the project.

Due to the amount of testimony and written and oral comments, as well as the current workload for staff, the Planning Department utilized its option to hold the matter for one month before forwarding the application to the Planning Board.

The Legacy was originally approved as a Planned Unit Development in March 2004. In the fall of 2005, an amendment was approved relocating the main amenity area to newly acquired property within the development. There are currently 463 lots in the 627 acre development. This amendment does not add any additional land to the project nor does it add any additional lots.

**The Planning Board met at their regularly scheduled meeting on November 3, 2014. There was discussion to further clarify and resolve issues with the residents currently residing in this subdivision. The applicant's attorney, Patrick Bradshaw, as well as the project engineer, Mark Ashness, briefly covered the various concessions that had been made since the proposal had been submitted**

for review. After the public hearing, an additional community meeting was held. At the Planning Board meeting there was more discussion concerning:

1. Lots are now too close to the amenity center which has been relocated back to its original location. The HOA may want to expand the amenity area in the future and they want to make sure they have room to get to the open space shown behind the lots.
2. The realignment of roads are not appealing like before. They are now straight.
3. Mail kiosk locations are not safe.
4. Concern over increased lots in certain areas changes the character of the original project.

Planning staff and the applicant's attorney addressed all of these concerns:

1. The lots closest to the amenity area will be shifted so that there will be 100 feet +/- for access to the open space area.
2. The realignment of certain roads has created a reduction in the amount of asphalt covered areas within the development, which decreases storm water runoff. There are no safety issues with the realignments.
3. The county currently has no standards over the location of mail kiosks or other cluster mailbox locations. Those are now required by the United States Postal Service in newly created subdivisions, or new phases of currently approved subdivisions, since door to door delivery is no longer provided. It was requested by a Planning Board member to see if the USPS would be open to direction from the county on where to locate these structures so that safety is a priority.
4. A Planning Board member asked if there had been an increase in the overall number of lots to which Mr. Bradshaw and Mr. Ashness stated no. There is an increase in the number of lots in a couple of the phases but a corresponding decrease in another. The overall lot count did not change. There is also more open space within the development than previously provided.

A revised site plan was provided to the Planning Department detailing the agreed upon changes to the overall master plan following the Planning Board meeting. This is attached for review and is also available on the Planning Department webpage under Rezoning and Subdivision Cases, 2014, Revised Site Plan (11/5/14).

#### **Discussion & Analysis:**

A conditional use permit revision must meet the required five findings as required by the Chatham County Zoning Ordinance. Those findings are addressed as follows:

**FINDING #1 – The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.**

Planned residential developments continue to be an approved use within the R-1 Residential zoning district. This finding continues to be supported.

**FINDING #2 – The requested conditional use permit is either essential or desirable for the public convenience or welfare.** Although the original submission shows a relocated amenity center, after an additional community meeting with the residents following the public hearing, the applicant has agreed to leave the amenity area where it is currently shown on the master plan. The revised site plan shows the area as currently approved. The revised plan does eliminate two stream crossings, reduces the total projected road length, and will create a development that meets the demands of the housing market. The revision does not otherwise change the support of this finding from the previous submissions and therefore continues to be supported.

**FINDING #3 – The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.** Due to no change in density and no change in the location of the amenity, no negative impacts have been identified. The proposed changes will reduce the area of development and create less environmental impact in on the property. The project will continue to be developed within the existing conditions, as currently approved, with only the revisions as noted. The overall project is not changing. This finding continues to be supported.

**FINDING #4 – The requested permit will be consistent with the objectives of the Land Use Plan.** To further enhance the connection between this project and the Land Conservation and Development Plan, this revision will create less environmental impact and will continue to support balanced growth by providing more housing options. The project will continue to support and encourage rural character and protection of surface and ground waters. This finding continues to be supported.

**FINDING #5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the county’s plans, policies, and regulations.** No change to the wastewater requirements are needed. No additional lots are being proposed. The two approved access roads connected to Big Woods Road are unchanged. All other requirements will continue to be met. This finding continues to be supported.

It is planning staff opinion all five (5) findings may be met.

**Recommendation:**

The Planning Board, by vote of 9-1, recommends approval of this request as revised and stated in the following conditions.

**Site Specific Conditions**

1. All previously approved conditions shall remain in effect with the exception of modifications included with this revision. This modification includes the shifting of

the lots closest to the amenity area to allow greater access to the open space noted on the site plan.

2. The revised site plan dated November 5, 2014 shall be the approved site plan for developing the project.

**Standard Site Conditions**

3. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
4. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

**Standard Administrative Conditions:**

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.
6. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
7. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
8. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.