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April 20, 2015

Ms. Lynn Richardson
Chatham County Planning Department
80-A East Street
Post Office Box 54
Pittsboro, North Carolina 27312

**Re: Cooper Subdivision – Request for an Extension of Time of
the Validity of the Preliminary Plat Approval**

Dear Ms. Richardson:

Our firm represents Contentnea Creek Development Co. (“Contentnea”), the owner of the Cooper Subdivision. (Contentnea is also the owner of Windfall and Pennington in Chatham County.) We are respectfully requesting a twenty-four (24)-month extension of the validity of the preliminary plat approval for the Cooper Subdivision pursuant to Section 4.3(C)(5) of the Chatham County Subdivision Regulations that were in effect prior to December 2008. (Please note that the Cooper Subdivision is reviewed under the Subdivision Regulations that were in effect prior to December 2008.)

I. Background Information

A. Rezoning and Conditional Use Permit

As background, the Cooper Subdivision consists of 130.48 acres, and it is located off SR-1714, Hatley Road in the New Hope Township. On October 16, 2006, the Board of Commissioners approved Contentnea’s request to rezone the property from RA-5 (that required a three-acre minimum and a five-acre average) to RA-90 (now considered R-2) and for a Conditional Use RA-90 Permit (“CUP”) for a 63-lot single family residential subdivision.

B. Agreement to Extend Water Line

The Cooper Subdivision is to be served by County water. As Contentnea prepared its rezoning and CUP applications, Contentnea was made aware of the County’s desire to have a water loop line from the Monterrane Subdivision to Windfall Creek to resolve significant water pressure problems in the Monterrane Subdivision. When Contentnea submitted its applications, Contentnea committed to extend the water line from Windfall Creek westward along Hatley Road to the Cooper Subdivision, and Contentnea remains committed to extending the water line. (Stipulation 3 of the CUP provides: “The owner/developer shall provide extension and installation of the Chatham County Water System to this property and provide easement access to adjacent properties for future connection to the water system.”)

M. Gray Styers, Jr.

Karen M. Kemerait

Adam H. Steele

Mary Penny Kelley, of Counsel

C. Approvals of Preliminary Plats and Development Schedules

On November 19, 2007, the Board of Commissioners approved the preliminary plat for Phase I of the subdivision and approval of a development schedule. Thereafter, on May 27, 2008, Contentnea Creek requested a revision to the approved preliminary plat for Phase 1, preliminary plat approval for Phases II and III, and a revision to the development schedule for the subdivision. One of the reasons that Contentnea requested a revision to the development schedule is because it had voluntarily agreed to perform an Environmental Impact Assessment (“EIA”) for Phases II and III of the project prior to preliminary plat submittal for those phases, and it wanted to ensure that it would have sufficient time to complete the EIA, work with the Environmental Review Board (“ERB”), and prepare preliminary plans that reflected changes based upon the EIA. (Please be aware that Contentnea used that the EIA as a “design tool” to redesign the entire subdivision, including Phase I, to lessen impacts to the property. After the EIA was completed, Contentnea did lessen impacts to the property by reducing the number of lots in the subdivision from 63 to 43, and eliminating five stream crossings.) The Commissioners thereafter approved Contentnea’s requests.

In 2009, Contentnea requested a modification to the previously approved preliminary plat and development schedule for Phase 1. On April 20, 2009, the Board of Commissioners allowed the revision to Phase I, allowed a revision to the development schedule for Phase 1, and provided preliminary plat approval for Phases II and III. Due to the revision to the development schedule, all three phases have the same expiration date for preliminary plat approval.

II. Initial Extension Request

Subsequent to the approval of the preliminary plat for the Cooper Subdivision, the real estate market experienced a severe decline. In response to that decline, in 2009, the North Carolina General Assembly passed the Permit Extension Act that suspended the expiration of development approvals that were current or valid at any point during a three-year period from January 1, 2008 through December 31, 2010. Thereafter, on July 10, 2010, the General Assembly enacted House Bill 683 that extended the tolling period for development approvals to December 31, 2011.

Prior to the expiration of the preliminary plat approval, on December 4, 2012, Contentnea requested a twenty-four (24)-month extension for the validity of the preliminary plat approval. Contentnea explained that the extension was necessary because the real estate market and the real estate finance sector had not fully rebounded from the recession. On December 17, 2012, the Board of Commissioners granted Contentnea’s request, and extended the validity of the preliminary plat for twenty-four (24) months.

III. Current Request for Extension of Preliminary Plat Approval

Unfortunately, Contentnea is in a position of requiring an additional twenty-four (24)-month extension to the preliminary plat approval. The Subdivision Regulations allow for the extension of preliminary plat approval, as Section 4.2(C)(4) states that approval of a preliminary plat shall remain valid if a request for an extension has been received and approved by the Board of Commissioners prior to the expiration of preliminary plat approval.

We believe that it is not only important for Contentnea that the County allow the extension of preliminary plat, but that it is also important to the County that the extension be granted so that Contentnea may proceed with developing the subdivision. Once developed, the Cooper Subdivision will be an asset to Chatham County, and it will be a very desirable place to live for Chatham County

residents. As noted previously, Contentnea showed its commitment to designing and developing a subdivision that would have as little environmental impact as possible. Even though Contentnea was not required to perform an EIA, Contentnea volunteered to perform an EIA, as it was committed to designing an environmentally sensitive project. The current preliminary plan incorporated improvements that were indicated by the EIA and recommended by the ERB.

Furthermore, the development of the Cooper Subdivision will be beneficial to Chatham County, as it will provide revenue to the County in property taxes and sales taxes. When Contentnea is able to begin development of the subdivision, Contentnea will again be able to provide work to homebuilders and other contractors to construct the infrastructure and homes as work begins in the subdivision.

Also, as mentioned above, Contentnea remains committed to extending the water line from Windfall Creek along Hatley Road to the Cooper Subdivision. The water line extension that is part of the development of the Cooper Subdivision will provide a benefit to the County, as it will provide a portion of the loop line to the Monterrane Subdivision, and it will benefit the Monterrane residents, as the loop line will allow for increased water pressure in the subdivision.

While Contentnea would certainly like to be in a position to submit final plat by June 20, 2015 and would prefer to not have to request this extension, this request is necessary as the real estate market has not sufficiently rebounded from the recession so that Contentnea can responsibly begin construction of roads and infrastructure in the subdivision. (In order to submit a final plat request, Contentnea would have to have completed at least forty percent (40%) of the improvements on the project.) In light of the practical hardships, it would be irresponsible for Contentnea to construct roads and install infrastructure in the Cooper Subdivision when homes are not ready to be built. We believe that an extension of twenty-four (24) months will provide sufficient time so that the Cooper Subdivision can be constructed.

IV. Status of Permits and Approvals

The following permits and approvals were obtained for the Cooper Subdivision:

- NCDOT -- Road plan approval;
- NCDOT – Road plan approval for the Hatley Road Extension;
- NCDOT – Commercial driveway permit;
- NCDOT – Encroachment agreement;
- Chatham County Soil Erosion and Sedimentation Control;
- NCDENR – Authorization to Construct (Hatley Road Extension);
- NCDENR – Water Main Extension;
- NCDENR – Authorization to Construct (Chatham County water system and internal water system); and
- NCDENR – Water main extension.
- NCDWQ – 401 Water Quality Certificate; and
- U.S. Army Corps of Engineers – 404 Stream Crossing Permit.

Contentnea will obtain all necessary extensions of the permits prior to submitting the final plat.

We appreciate the County's consideration of our request. Please let me know if you have any questions about our request.

Sincerely,



Karen M. Kemerait