



## Chatham County Planning Board Agenda Notes

Date: May 5, 2015

Agenda Item: VII.

Attachment #: 1-4

Subdivision

Conditional Use Permit

Rezoning Request

Other:

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<b>Subject:</b>	Request by Karen Kemerait, Attorney-at-Law, on behalf of Contentnea Creek Development Co., for a twenty-four (24 month) extension of the validity of the preliminary plat approval for the Cooper Subdivision to extend the preliminary plat expiration date from June 20, 2015 to June 20, 2017.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Request for an Extension of Time of the Validity of the Preliminary Plat Approval prepared by Karen Kemerait, Attorney-at-Law, dated April 20, 2015.</li><li>2. Copy of Resolution Approving an Application for a Conditional Use Permit Requested by Contentnea Creek Development Co., approved October 16, 2006.</li><li>3. E-mail from Larry Bridges, Public Utility Director</li><li>4. Cooper Permit Tracking Spreadsheet</li></ol>

**Introduction & Background & Previous Board Actions:**

Zoning: R-2 Water system: Public / County  
Watershed: WSIV-PA Sewer System: Private  
Within 100 year flood: No  
Reviewed: under pre-2008 Subdivision Regulations

**October 16, 2006:** Approval by the Board of County Commissioners to rezone 130 acres from RA-5 to RA-90 (now R-2) and for a Conditional Use RA-90 Permit for a 63 lot single family residential subdivision with site plan. There were 17 conditions of approval. See attachment # 2.

**November 19, 2007:** Approval by the Board of County Commissioners for subdivision preliminary plat approval for Phase I, consisting of ten (10) lots on 23 acres with revisions to the balance of the master plan (sketch design) and approval of a development schedule as follows:

Phase I - 10 lots - Prel. submitted by Oct 2007 - Complete construction +/- May, 2008

Phase II - 24 lots – Prel. approval by July 2008 – Complete construction +/- Jan, 2009

Phase III -26 lots – Prel. approval by Oct, 2008 – Complete construction +/- May, 2009

During discussion of the Phase I preliminary design request, with the Board of County Commissioners, the developer's attorney stated that the developer had voluntarily agreed to perform an Environmental Impact Assessment on the balance of the property, Phases II and III. This was not made a condition of approval.

**May 27, 2008:** Request by Karen M. Kemerait, Attorney with Blanchard, Miller, Lewis & Styers, P. A. on behalf of Contentnea Creek Development Co. for an approval of a revision to the existing development schedule for Cooper Subdivision. Ms. Kemerait's request letter stated that "Specifically, Contentnea Creek is considering redesigning the size and layouts of the lots to create a subdivision with larger and fewer lots than had been previously planned." During discussion with the Board, Ms. Kemerait stated that the developer was committed to performing an Environmental Impact Assessment of the property and was concerned about being able to meet the preliminary plat submittal deadlines for Phases II and III due to the amount of time necessary to complete an EIA along with the amount of time needed for review by Chatham County. The developer wanted to have sufficient time to complete this process, work with the recommendations of the ERB and present a preliminary plan to reflect changes based on the EIA.

The Board of Commissioners approved the request as follows:

*Phase Preliminary Plat Submittal Final Plat Submittal*

*Phase I Submitted October, 2007 18 months after preliminary plat approval*

*Phase II Submitted by April, 2009 18 months after preliminary plat approval*

*Phase III Submitted by April, 2009 18 months after preliminary plat approval*

**April 20, 2009:** Applicant requested a revision to the Conditional Use Permit for the Cooper Property to revise Condition # 4 and Condition # 10 of the zoning approval. The Planning Board recommended approval of the zoning request and the Board of Commissioners approved the zoning request on 4/20/2009. Condition #4 now reads "Public rights-of-way shall be established and dedicated by the time of final plat approval for future

public street access and utility connections to adjacent property to the west currently owned by Chatham Land & Timber". Condition # 10 now reads "The site shall be developed substantially in accordance with the plans revised and dated 3/18/2009."

**April 20, 2009:** The Board of Commissioners also approved a request for a revision to the approved preliminary plat for Phase I; a revision to the development schedule for Phase I; and preliminary plat approval for Phases II and III, consisting of 43 lots (total Phases I, II, & III) on 130.48 acres. An EIA was prepared by Burdette Land Consulting, Inc. and was used as a design tool to redesign the entire subdivision to lessen impacts to the property, i. e., reduced the number of lots from 63 to 43; and elimination of five (5) stream crossings. A major change was the elimination of crossings of Parker's Creek except for one shared driveway for access to two lots. All the water features were buffered per the revised Watershed Protection Ordinance including ephemerals and wetlands. The expiration date of the preliminary plat for all three phases would have been October 20, 2010.

The Permit Extension Act of 2009, Senate Bill 831 plus House Bill 683 extended the preliminary plat expiration date to June 20, 2013.

**December 17, 2012:** Prior to the June 20, 2013 expiration date, the developer requested a twenty-four month extension of the preliminary plat approval for Cooper Subdivision, to extend the preliminary plat expiration deadline from June 20, 2013 to June 20, 2015. The Board of Commissioners approved a request on December 17, 2012.

**Discussion & Analysis:** The request before the Board is for a 24 month extension of the preliminary plat expiration date to allow the final plat submittal date to be extended from June 20, 2015 to June 20, 2017. Unless the Board of Commissioners grants the request for an extension, the subdivision approval will expire on June 20, 2015 and any further development of the property will be reviewed under the current Subdivision Regulations, Watershed Protection Ordinance, Erosion and Sedimentation Ordinance, Stormwater Ordinance, etc. No work has currently commenced on the property.

In the previous discussion with the Board, the developer has stated that it is their intent to extend the county water line from Windfall Subdivision (off Big Woods Road) along Hatley Road to the Cooper Subdivision, and to provide utility easements to adjoining properties as required, and to bring the private portion of Hatley Road up to the NCDOT standards. Per an e-mail from Larry Bridges, Public Utilities Director, dated April 15, 2015, "The construction and completion of this subdivision is critical to the improvement and overall functionality from a flow and pressure standpoint of Chatham County's North Water System by connecting the water line down Mt. Gilead Church Rd. over to the Windfall Subdivision off of Big Woods Rd. This would also maintain optimal water quality as well. Chatham County Public works is strongly in favor of this extension." See attachment # 3. Water availability fees in the amount of \$150,000.00 (\$3500.00 x 43 lots) have been paid to Chatham County. Per the current extension request, the developer is still committed to extending the water line from Windfall Creek along Hatley Road to the Cooper Subdivision.

The adjacent property to the west owned by Chatham Capital, LLC is currently proceeding through the major subdivision process to create Copper Ridge which will have 50+/- residential lots and will be extending the county water line along Mt. Gilead Road south to serve their development. Per Mr. Bridges e-mail, once the Cooper Subdivision is completed with a water line extension from Windfall Creek Subdivision/Big Woods Road and a connection is made to the waterline that will have been provided by Copper Ridge, the overall functionality of the North Water System will be improved.

Condition # 3 of the Conditional Use Permit states "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." The 2009 preliminary plat shows a utility easement and public road access being extended to the adjacent property to the west now known as Copper Ridge to tie into their public road and waterline. Since Copper Ridge is now reviewed under the current Subdivision Regulations and Watershed Ordinance, the riparian buffer widths and types of features required to be buffered has changed and the previous roadway and utility easement location may not work due to a stream feature on Copper Ridge that now requires an undisturbed buffer.

The permits required to be obtained in 2008 and 2009 for preliminary plat approval of Phases I, II, & III are listed in the request. The engineer, John Harris, P.E., has provided a spreadsheet listing the permits and their current status. See attachment # 4. Per the request letter, Contentnea will obtain all necessary extensions of the permits prior to submitting the final plat. Staff recommends that prior to any land disturbing activity, any permits needing to be renewed, revised, or reissued be provided to staff.

**Recommendation:**

Staff is not making a recommendation on the extension request, as this is a policy decision by the Board of County Commissioners. If the Board of Commissioners approves the request, staff has the following recommendations:

1. Prior to any land disturbing activity, any permits needing to be renewed, revised, or reissued shall be obtained and provided to staff.
2. That Contentnea Creek Development, LLC work with the developer of Copper Ridge, Chatham Capital, LLC, to design the public road and public utility easement location(s) to provide interconnection between the two developments that meets the current standards and that the Public Works Director approve the location of the public utility easement and that a revised NCDOT road plan/permit be provided to staff, if necessary.