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Vote on a request by Arcadia Consulting Engineers, PLLC on behalf of HBP Properties, LLC for subdivision preliminary / final plat approval of The Estates at Legend Oaks, Phase 1C, consisting of 23 lots on 28.78 acres, located off 15-501 N. and Legend Oaks Drive, parcel #18773.

..ABSTRACT**Action Requested:**

Request by Arcadia Consulting Engineers, PLLC on behalf of HBP Properties, LLC for subdivision preliminary / final plat approval of The Estates at Legend Oaks, Phase 1C, consisting of 23 lots on 28.78 acres, located off 15-501 N. and Legend Oaks Drive, parcel #18773.

Introduction & Background:

Zoning: R-1

Watershed District: WSIV-PA

Water Source: Public, Chatham County

Septic: Individual on-site, private

Roadways: Public state maintained

Within 100 year flood plain: No

Legend Oaks Subdivision received sketch plan approval in 2005 for 60 lots and received preliminary plat approval in 2006 for 63 lots. All lots in the original Phases I and II have received final plat approval. In 2007, the Board of County Commissioners denied a request for sketch design of Legend Oaks, Phase III consisting of 71 lots. In 2007, based on a Consent Judgment and Settlement Agreement, a sketch plan for Phase III consisting of 56 lots was approved by the Board of County Commissioners. As a condition of the Consent Judgment, HBP Properties agreed to provide additional stream buffers measuring 50 feet in width, in excess of the 50 foot wide stream buffers required by the Chatham County Subdivision Regulations and Watershed Protection Ordinance in effect at the time of the application. In August 2009, Phase III received preliminary plat approval from the Board of County Commissioners for 56 lots. A portion of Phase III was sold to a different developer/builder, DR Horton, and the name of Phase III was changed to The Estates at Legend Oaks. To date, 33 of the 56 lots have received final plat approval. On December 15, 2014 the Board of Commissioners approved a request to extend the preliminary plat expiration for the balance of Phase III to July 15, 2017.

Discussion & Analysis:

This request is for a revised preliminary plat and a final plat approval of the remaining 23 lots. The request for a revision to the preliminary plat is based on the cemetery

location versus the roadway layout (see attachment # 2). Due to a surveying error during the preliminary plat review, the cemetery was shown on the southeast side of South Flanders Street, but is actually located on the southwest side. This caused a slight realignment of South Flanders Street and required another review by NCDOT and a revised permit was issued. The revised permit can be viewed on the Planning Department webpage at www.chathamnc.org/planning, Rezoning and Subdivision Cases, 2016. Per Larry Bridges, Public Utilities Director, the roadway revision did not warrant a revision to the approved water line plans.

In 2007, staff along with Bev Wiggins, Chatham County Historical Association, and Trenton Stewart, PE, visited the cemetery location so that the Historical Association could document the findings. The cemetery appears to contain approximately 60 graves and is believed to be the Riggsbee Cemetery. Most of the graves are marked by fieldstones at the head and foot and 4 of the graves have inscribed headstones. The names on the inscribed stones were Riggsbee and the dates ranged from 1896 to 1919. The cemetery lot will be a separate lot designated as common/open space and will be deeded to the homeowners association for maintenance. The Historical Association recommended that the cemetery be maintained in a natural, wooded state, with minimal tree and brush removal and no grass. The developer stated during the initial preliminary plat review that he was considering installing a fence around the perimeter of the cemetery with a gate to the public right-of-way for access.

The Subdivision Regulations states that when forty (40) percent of the total cost of improvements have been completed and when the public health and/or safety will not be endangered, the County may waive the requirement that the applicant complete all required improvements prior to the signing of the subdivision plat.....” See Section 3.1 B (1) of the Subdivision Regulations for the complete language. Trenton Stewart, P. E. has certified in a cost estimate letter, dated October 7, 2016 that approximately 62% of the required infrastructure has been completed. At this time there is not sufficient gravel on the roadbed serving Phase 1C for access by emergency vehicles so that the public health and/or safety will not to be endangered. Per the engineer, the roadway will have sufficient gravel prior to recordation of the final plat. Per the cost letter, the work completed to date exceeds the required 40%, so that the County may waive the requirement that the applicant complete all required improvements prior to the signing of the subdivision plat and accept a financial guarantee for the completion of the improvements. Staff recommends that the final plat not be recorded until sufficient gravel has been place on the roadway in order to protect the public health and safety; the engineer has provided a certification regarding emergency vehicle access; and the Chatham County Fire Marshal has verified that the condition has been met. The cost letter will be updated prior to final plat recordation.

Staff has received copies of each on-site individual septic and repair permit from Thomas Boyce, Lead Soil Scientist, Chatham County Environmental Health Department.

The Technical Review Committee met on October 12 to review the request. There were no issues or concerns. Staff requested several minor changes to the plat which have been made.

The Planning Board met on November 1, 2016 to review the request. Brantley Powell, owner/developer, Trenton Stewart, P. E., and Patrick Byker, Attorney-at-Law were present to answer questions. Mr. Lucier asked Mr. Powell if he planned to install a fence around the perimeter of the cemetery lot. Mr. Byker spoke and stated that it was still undecided at this time. Mr. Lucier recommended that, at a minimum, the developer install a fence along the common property lines between lots 40 and 41 and Mr. Powell agreed.

Mr. Elza asked why the stream segment between Phase 1B and 1C was not shown as common open space. Mr. Byker stated that Mr. Powell did not own that property, but any property under the control of HBP Properties that was located within the inter 50 foot riparian buffer area would be shown as common open space and deeded to a homeowners association. Mr. Elza stated that the stream segment in Phase 1B should be shown as common open space and deeded to a homeowners association for maintenance.

After the Planning Board meeting staff also realized that The Estates at Legend Oaks, Ph 1B final plat did not include the public roadway and dedication of right-of-way crossing the stream and stopping at the property line of Phase 1C. In order to correct this, the Phase 1C final plat will include that section of public road and dedication of right-of-way. The road crossing the stream has been built and paved to the NCDOT standards per the engineer. The developer for Phase 1B and the developer for Phase 1C will both sign the Certificate of Ownership and Dedication. Approval of the final plat for the Estates at Legend Oaks, Phase 1C by the Board of Commissioners accepts the dedication of right-of-way for the section of public road crossing the stream and Phase 1C.

Recommendation:

The Planning Department and Planning Board unanimously recommends granting preliminary plat revision and final plat approval of The Estates at Legend Oaks, Phase 1C with the following conditions:

1. The final mylar not be recorded until sufficient gravel has been placed on the roadway in order to protect the public health and safety and staff has received a sealed letter from the engineer certifying that the roadways are accessible to emergency vehicles and the Fire Marshal has verified that the condition has been met.

2. The final mylar not be recorded until the county attorney has approved the form of the contract and the financial guarantee.
3. The developer shall install a fence along the common property lines between Lots 40 and 41 and the cemetery.
4. The final mylar shall be revised to label the segments of riparian buffer area within Lots 24 & 46 that lie within the inner 50 feet of the buffer and are currently owned by HBP Properties as common open space to be deeded to a homeowners association.

The following 3 conditions were added by staff after the Planning Board meeting based on discussions between staff and the developer:

5. The note on the final mylar regarding common area shall be revised to state that "all common area is to be maintained by the homeowners association".
6. The final mylar shall show the correct spelling of the adjoining A. F. Riggsbee property.
7. Prior to recordation, the final mylar shall include that portion of public roadway crossing the stream.