



# Chatham County, NC

## Legislation Text

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**File #:** 18-2616, **Version:** 1

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Vote on a request by F-L Legacy Owner, LLC for subdivision Preliminary Plat approval of The Legacy at Jordan Lake - Phase 5A3, consisting of 17 lots on 9.36 acres, located off SR-1716, Big Woods Road, parcel #17378.

### **Action Requested:**

Vote on a request by F-L Legacy Owner, LLC for subdivision Preliminary Plat approval of **The Legacy at Jordan Lake - Phase 5A3**, consisting of 17 lots on 9.36 acres, located off SR-1716, Big Woods Road, parcel #17378.

### **Introduction & Background:**

**Zoning:** R 1 with Conditional Use Permit for a Planned Unit Development

**Watershed District:** WSIV Protected & Jordan Lake Buffer Area

**Water Source:** public, Chatham County

**Sewer Source:** private, waste water treatment plant

**Road type:** private, paved

**Within the 100 year flood plain:** No floodable area in Phase 5A3

**Reviewed:** Under pre 2008 Subdivision Regulations

The Legacy at Jordan Lake Subdivision was approved by the Board of County Commissioners on March 15, 2004 as a Planned Unit Development for a cluster development. Modifications were made to the plan in 2005 to add 50.6 acres and change the number of lots to 463. The project is approved for 463 lots on 626 acres with an amenity center. Phase One received final plat approval in December, 2005 for 105 lots. Phases Two and Three, consisting of 114 lots received preliminary / final plat approval in 2006 (54 lots in Phase Two and 60 lots in Phase Three).

In 2011, the developer submitted a request to the Board of County Commissioners to relinquish the final plat approvals for Phases Two and Three (undeveloped); to recombine the 114 lots with the remaining undeveloped portion of the property into one parcel of land containing 402 acres; and to allow Phases Two and Three to revert to their approved preliminary plat status as of November 20, 2006. The BOC approved the request on November 7, 2011. The Resolution Accepting The Voluntary Relinquishment of Final Plat Approvals of The Legacy at Jordan Lake, Phases Two and Three is recorded in Book 1593, Page 272. The recorded recombination plat can be viewed at Plat Slide 2011, Pages 199 & 200 and at Plat Slide 2012, Page 10. The Resolution stated that the recreation fees and the water availability fees previously paid by the developer would be retained by the county and credited toward any similar fees incurred by the developer in future submittals until December 31, 2015 or any later date required by an amendment to the Permit Extension Act. To date, 248 lots have been final platted with 193 occupied homes. The tennis courts, playground, clubhouse and pool have been completed. The clubhouse and pool opened to the residents on September 9, 2017.

As part of a 2014 CUP revision, the final plat sunset date for all phases is December 31, 2020. The Phase 5A3 layout shown on the 2017 CUP revised master plan consisted of 17 lots. The preliminary plat also consist of 17 lots, however, the lot layout has been modified.

The Board of Commissioners has 60 days to act on the request.

**Discussion & Analysis:**

The request before the Board is for preliminary plat approval of Phase 5A3, consisting of 17 lots on 9.36 acres. The developer has provided an update to the Conditional Use Permit conditions of approval. See attachment # 2. Phase 5A3 is being developed out of Tract 2 owned by F-L Legacy Owner, LLC and is adjacent to a perimeter property line. Per the applicant, the balance of Tract 2, approximately 62.124 acres, will be for future subdivision phases. Staff recommends that the final plat better illustrate Phase 5A3's proximity to the overall boundary and the conservation area along Parker's Creek and any other adjacent conservation area.

**Roadways:** Roadways within Phase 5A3 will be private, with a 50 foot wide right-of-way. The roadways will be paved to the NCDOT standards, but not reviewed and approved by NCDOT. Per Note 12 on the preliminary plat, the roads will be privately maintained by the Legacy at Jordan Lake, HOA.

**Permits:** Other agency permits as required for preliminary plat submittal have been received as follows:

|                                      |                        |                  |
|--------------------------------------|------------------------|------------------|
| Chatham County Environmental Quality | Erosion Control Permit | October 25, 2017 |
|--------------------------------------|------------------------|------------------|

Department - Watershed Protection Division

|       |                       |                  |
|-------|-----------------------|------------------|
| NCDWR | Wastewater Collection | February 9, 2018 |
|       | System Extension      |                  |

Copies of the permits can be viewed on the Planning Department webpage at [www.chathamnc.org/planning](http://www.chathamnc.org/planning) Rezoning and Subdivision Cases, 2018. This project predates the Chatham County Stormwater Ordinance; however, the 2005 CUP stated that "a stormwater management plan shall be approved by the County prior to issuance of a Zoning Determination Permit, and the developer is required to provide the County with final plans and an impervious surface calculation sheet. The developer shall construct storm water management control measures sufficient to serve the project area prior to issuance of a Certificate of Occupancy". The plan for Phase 5A3 was submitted to Brian Burkhart, PE, Chatham County Environmental Quality Director for review. Per Mr. Burkhart, "Based on the information submitted, the existing pond is sufficiently sized to treat the stormwater runoff from Phase 5A3 based on the 1/2" storm."

Mark Ashness, P. E., CE Group, engineer for the developer, has provided the following information regarding stormwater management for The Legacy at Jordan Lake:

The Legacy was submitted in 2005 and predated the County Stormwater regulations.

The applicant voluntarily provided the following at that time:

1. Additional 50' (100' each side) voluntary buffer on all blue line streams.
2. For portions of the project within the Jordan Lake Critical Area (this is a very small area near Big Woods Road) Treat for the 1YR 24 Hour Storm.

Phase 5A3 is not located within the Critical Area watershed.

**Water/Sewer:** the development is served by county water and a private wastewater treatment plant. The developer has placed the Certificate of Water Easement on both Sheets 1 & 2 as required by Chatham County Utilities. The certificate on Sheet 1 has incorrect road names. Staff recommends the certificate be corrected on the final plat to state the correct road name, Hidden Bluff Drive.

**Historical / Archeological:** Per the engineer, there are no cemeteries or historical structures, i.e. buildings, chimneys, fences, etc, 50 years or older located in Phase 5A3.

**Road Names:** The Emergency Operations Office has approved the road name *Hidden Bluff Drive* for submittal to the Board of Commissioners for approval.

**Conditional Use Permit Stipulations:** See attachment # 2.

**Water Features:** Phase 5A3 is adjacent to Parker's Creek. The area adjacent to Parker's Creek is owned by F-L Legacy and is in a conservation area (Area B). Parker's Creek is not part of Phase 5A3.

**Fire Marshal Review:** The Fire Marshal has reviewed the plans for Phase 5A3 regarding access for emergency vehicles and found the plans acceptable based on road widths. The development is a gated community and the fire department has been provided access if the gate is locked.

**Technical Review Committee:** The TRC met on February 14, 2018 to review the plans for Phase 5A3. There were no concerns from staff.

The Planning Board met on March 6, 2018 to review the request. Mark Ashness, P.E., CE Group was present to represent the developer. Mr. Wilfred Raymond, an adjacent property owner was present and addressed the Board and presented a power point presentation regarding his concerns (presentation has been posted on the planning website). Mr.

Raymond stated that he had concerns that the developer should have contacted him to explain the changes to the 2017 master plan; that the lot layout shown on the preliminary plan has changed from the 2017 master plan; that there were five (5) lots shown on the 2017 master plan adjacent to his property; that the preliminary plan submitted shows eight (8) lots now adjacent to his property; that he is concerned about loss of privacy and light pollution; that the project is too dense; that he would like a 100 foot perimeter buffer instead of a 50' perimeter buffer; that the riparian buffer along Parker's Creek should be increased to 150 feet; and requested the preliminary plat submittal request be tabled and that the developer needs to provide a better explanation of the changes to the plan and how it impacts the environment. Mr. Ashness addressed the Board and stated that when the developer added 50 acres to the development in 2005 no new lots were added; that the overall number of lots had been decreased by 20-25 lots; that the developers had already increased the riparian buffer width from the 50 foot per side required in 2004 to 100' per side; that notice was sent out to all the adjacent property owners in 2017 when the CUP was revised. Mr. Ashness stated that, totally independent of the concerns expressed by Mr. Raymond, that the developer was considering shortening the roadway by 100 feet and reducing the number of lots by two due to construction issues; and that the road alignment would not change. Mr. Ashness showed the Board a copy of an overlay map with the changes.

Several of the Board members expressed concern that the developer had plans to shorten the road and reduce the number of lots and this was a different plan than the one submitted for the Board's review. The Board also had concerns that the preliminary plan did not show the riparian buffer along Parker's Creek, the perimeter buffer, location of open space, or the existing stormwater pond. The Board voted to table the request until the April 3<sup>rd</sup> Planning Board meeting and requested Mr. Ashness to submit a revised plan

showing the changes to the road, changes to the lot layout, and address the concerns expressed by the Board.

On behalf of the developer, CE Group, Inc. prepared a revised preliminary plat. See attachment 6. A cover letter dated March 13, 2018 was also submitted, attachment 4, and states that the lot layout has been revised; that the number of lots was reduced from 17 to 15; that the length of the roadway, Hidden Bluff Drive, has been reduced from 1,097 LF to 966 LF; and that the number of lots adjacent to Mr. Raymond's property has been reduced from 8 lots to 1 lot. The preliminary plat shows the 50 foot perimeter buffer which is labeled 'undisturbed'; shows that the area where lots were previously located will now be open space; has shown the 50 foot required riparian buffer along Parker's Creek along with the additional voluntary 50' riparian buffer for a total width of 100'; and has shown the location of the previously approved stormwater pond. Along with the revised preliminary plat staff has received:

-- a copy of the revised erosion control permit dated March 13, 2018,

-- a confirmation from Sarah Bass, E. I. with the NC Public Water Supply Section, Division of Water Resources, that the modifications to the previously approved permit does not require a new waterline permit and can be simply noted within the certification for the project,

-- a confirmation from Christyn Fertenbaugh, P. E. with NC Division of Water Resources, Department of Environmental Quality, that if the overall length of the sanitary sewer line will not change by 10% or greater, that the modification can be noted on the record drawings and certification

-- a confirmation from Brian Burkhart, Environmental Quality Director/Stormwater Administrator, that the modification to the plan does not affect the approved stormwater plan.

Attachment # 5 is a Phase 5 & 6 Open Space Exhibit. The road name in the Certificate of Water Easement on Sheet 1 has been corrected.

The Planning Board met on April 3, 2018 to review the request. Mitch Craig, PE, CE Group, was present to represent the developer. Ms. Richardson presented the staff notes as stated above. The Board discussed the request and the revisions made to the preliminary plat. Some issues of concern were lots being created on steep slopes; only the first ½ of stormwater was being treated; proximity of the development to Jordan Lake; and what is allowed in the additional 'voluntary' 50 foot riparian buffer along Parker's Creek and other perineal streams within the project. After some discussion, a board member noted that The Legacy was approved in 2005 under different regulations and that the developer was already providing wider riparian buffers and additional stormwater controls than were required at that time and that the Board was bound by previous regulations in place at the time of approval. A board member asked staff if the additional 50 foot riparian buffer along Parker's Creek was required to be an undisturbed buffer by the Conditional Use Permit. Ms. Richardson stated that staff would review the CUP to see what was required. It was recommended by the Planning Board that the final plat label the entire 100 foot riparian buffer along Parker's Creek as 'undisturbed'.

Staff reviewed the 2005 Application for CUP. In the section titled Master Plan the application states "Approximately 52% of the project area will be left in open space, 25% of the project that includes drainageway buffers and other protected space will be left undisturbed."

It staff opinion that the plat meets the requirements of the Subdivision Regulations for preliminary plat review.

**How does this relate to the Comprehensive Plan:** The property is located in an area designated as Compact Residential. The designation is based on the existing approved Planned Unit Development for a cluster development.

**Recommendation:** The Planning Department and the Planning Board by a vote of 7 - 3 recommend granting approval of the road name, Hidden Bluffs Drive, and granting approval of the revised subdivision Preliminary Plat of The Legacy at Jordan Lake - Phase 5A3. The Planning Board also recommends the following condition:

1. The entire 100' riparian buffer area along Parker's Creek shall be labeled 'undisturbed' on the final plat.