

Forestar Group Inc.
Form 8-A12B
January 05, 2017

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-A

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES

PURSUANT TO SECTION 12(b) OR (g) OF THE

SECURITIES EXCHANGE ACT OF 1934

FORESTAR GROUP INC.

(Exact name of registrant as specified in its charter)

Delaware

(State of incorporation or organization)

26-1336998

(I.R.S. Employer
Identification No.)

6300 Bee Cave Road, Building 2, Suite 500

Austin, Texas

(Address of principal executive offices)

78746

(Zip Code)

Securities to be registered pursuant to Section 12(b) of the Act:

**Title of each class
to be so registered**

Preferred Stock Purchase Rights

**Name of each exchange on
which each class is to be registered**

New York Stock Exchange

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If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box. X

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box. O

Securities Act registration statement file number to which this form relates: **Not applicable**

Securities to be registered pursuant to Section 12(g) of the Act:

None

(Title of class)

Item 1. Description of Registrant's Securities to be Registered.

On January 5, 2017, Forestar Group Inc. (the *Company*) entered into a Tax Benefits Preservation Plan (the *Plan*) with Computershare Trust Company, N.A., as rights agent (the *Rights Agent*), and the Board of Directors (the *Board*) of the Company declared a dividend distribution of one right (a *Right*) for each outstanding share of common stock, par value \$1.00 per share, of the Company (the *Common Stock*), to stockholders of record at the close of business on January 17, 2017 (the *Record Date*). Each *Right* is governed by the terms of the Plan and entitles the registered holder to purchase from the Company a unit consisting of one one-thousandth of a share (a *Unit*) of Series B Junior Participating Preferred Stock, par value \$0.01 per share (the *Series B Preferred Stock*), at a purchase price of \$50 per Unit, subject to adjustment (the *Purchase Price*). The Plan is intended to help protect the Company's tax attributes, such as built-in losses and other tax attributes of the Company or any of its Subsidiaries (collectively, *Tax Benefits*) by deterring any person from becoming a 5-percent shareholder (as defined in Section 382 of the Internal Revenue Code of 1986, as amended (the *Code*) and the Treasury Regulations promulgated thereunder) (a *5% Shareholder*).

Rights Certificates; Exercise Period

Initially, the *Rights* will be attached to all *Common Stock* certificates representing shares then outstanding, and no separate rights certificates (*Rights Certificates*) will be distributed. Subject to certain exceptions specified in the Plan, the *Rights* will separate from the *Common Stock* and a distribution date (the *Distribution Date*) will occur upon the earlier of (i) 10 business days following a public announcement that a person or group of affiliated or associated persons (an *Acquiring Person*) has become a *5% Shareholder* (the *Stock Acquisition Date*) or (ii) 10 business days (or such later date as the Board shall determine) following the commencement of a tender offer or exchange offer that would result in a person or group becoming an *Acquiring Person*.

Until the *Distribution Date*, (i) the *Rights* will be evidenced by the *Common Stock* certificates (or, in the case of book entry shares, by the notations in the book entry accounts) and will be transferred with and only with such *Common Stock*, (ii) new *Common Stock* certificates issued after the *Record Date* will contain a notation incorporating the Plan by reference and (iii) the surrender for transfer of any certificates for *Common Stock* outstanding will also constitute the transfer of the *Rights* associated with the *Common Stock* represented by such certificates. Pursuant to the Plan, the Company reserves the right to require prior to the occurrence of a *Triggering Event* (as defined below) that, upon any exercise of *Rights*, a number of *Rights* be exercised so that only whole shares of *Series B Preferred Stock* will be issued.

The definition of *Acquiring Person* contained in the Plan contains several exemptions, including for (i) the Company or any of its subsidiaries; (ii) any employee benefit plan of the Company, or of any subsidiary of the Company, or any person or entity organized, appointed or established by the Company for or pursuant to the terms of any such plan; (iii) any person who becomes a *5% Shareholder* as a result of a reduction in the number of shares of *Common Stock* by the Company or a stock dividend, stock split, reverse stock split or similar transaction, unless and until such person increases his ownership by more than one percentage point over such

person's lowest percentage stock ownership on or after the consummation of the relevant transaction; (iv) any person who, together with all affiliates and associates of such person, was a 5% Shareholder on January 5, 2017, unless and until such person and its affiliates and associates increase their aggregate ownership by more than one percentage point over their lowest percentage stock ownership on or after January 5, 2017 or decrease their aggregate percentage stock ownership below 5%; (v) any person who, within 10 business days of being requested by the Company to do so, certifies to the Company that such person became an Acquiring Person inadvertently or without knowledge of the terms of the Rights and who, together with all affiliates and associates, thereafter within 10 business days following such certification disposes of such number of shares of Common Stock so that it, together with all affiliates and associates, ceases to be an Acquiring Person; and (vi) any person that the Board has affirmatively determined shall not be deemed an Acquiring Person.

The Rights are not exercisable until the Distribution Date and will expire at the earliest of (i) 5:00 P.M. (New York City time) on January 5, 2018, or such later date and time (but not later than 5:00 P.M. (New York City time) on January 5, 2020) as may be determined by the Board and approved by the stockholders of the Company by a vote of the majority of the votes cast by the holders of shares entitled to vote thereon at a meeting of the stockholders of the Company prior to 5:00 P.M. (New York City time) on January 5, 2018, (ii) the time at which the Rights are redeemed or exchanged as provided in the Plan, (iii) the time at which the Board determines that the Plan is no longer necessary or desirable for the preservation of Tax Benefits, and (iv) the close of business on the first day of a taxable year of the Company to which the Board determines that no Tax Benefits, once realized, as applicable, may be carried forward.

As soon as practicable after the Distribution Date, Rights Certificates will be mailed to holders of record of the Common Stock as of the close of business on the Distribution Date and, thereafter, the separate Rights Certificates alone will represent the Rights. After the Distribution Date, the Company generally would issue Rights with respect to shares of Common Stock issued upon the exercise of stock options or pursuant to awards under any employee plan or arrangement, which stock options or awards are outstanding as of the Distribution Date, or upon the exercise, conversion or exchange of securities issued by the Company after the Plan's adoption (except as may otherwise be provided in the instruments governing such securities). In the case of other issuances of shares of Common Stock after the Distribution Date, the Company generally may, if deemed necessary or appropriate by the Board, issue Rights with respect to such shares of Common Stock.

Preferred Share Provisions

Each one one-thousandth of a share of Series B Preferred Stock, if issued:

- will not be redeemable;
- will entitle the holder thereof to quarterly dividend payments of \$0.001 or an amount equal to the dividend paid on one share of Common Stock, whichever is greater;

- will, upon any liquidation of the Company, entitle the holder thereof to receive either \$1.00 plus accrued and unpaid dividends and distributions to the date of payment or an amount equal to the payment made on one share of Common Stock, whichever is greater;
- will have the same voting power as one share of Common Stock; and
- will, if shares of Common Stock are exchanged via merger, consolidation or a similar transaction, entitle holders to a per share payment equal to the payment made on one share of Common Stock.

Flip-in Trigger

In the event that a person or group of affiliated or associated persons becomes an Acquiring Person (unless the event causing such person or group to become an Acquiring Person is a transaction described under Flip-over Trigger, below), each holder of a Right will thereafter have the right to receive, upon exercise, Common Stock (or, in certain circumstances, cash, property or other securities of the Company) having a value equal to two times the exercise price of the Right; provided, however, that Rights are not exercisable following the occurrence of such an event until such time as the Rights are no longer redeemable by the Company as set forth below. Notwithstanding the foregoing, following the occurrence of such an event, all Rights that are, or (under certain circumstances specified in the Plan) were, beneficially owned by any Acquiring Person will be null and void.

Flip-over Trigger

In the event that, at any time following the Stock Acquisition Date, (i) the Company engages in a merger or other business combination transaction in which the Company is not the surviving corporation, (ii) the Company engages in a merger or other business combination transaction in which the Company is the surviving corporation and the Common Stock of the Company is changed or exchanged, or (iii) more than 50% of the Company's assets, cash flow or earning power is sold or transferred, each holder of a Right (except Rights that have previously been voided as set forth above) shall thereafter have the right to receive, upon exercise, common stock of the acquiring company having a value equal to two times the exercise price of the Right. The events set forth in this paragraph and in the next preceding paragraph are referred to as the Triggering Events.

Exchange Feature

At any time after a person becomes an Acquiring Person and prior to the acquisition by such person or group of 50% or more of the outstanding Common Stock, the Board may exchange the Rights (other than Rights owned by such person or group which have become void), in whole or in part, at an exchange ratio of one share of Common Stock, or one one-thousandth of a share of Series B Preferred Stock (or of a share of a class or series of the Company's preferred stock having equivalent rights, preferences and privileges), per Right (subject to adjustment).

Equitable Adjustments

The Purchase Price payable, and the number of Units of Series B Preferred Stock or other securities or property issuable, upon exercise of the Rights are subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Series B Preferred Stock, (ii) if holders of the Series B Preferred Stock are granted certain rights or warrants to subscribe for Series B Preferred Stock or convertible securities at less than the current market price of the Series B Preferred Stock, or (iii) upon the distribution to holders of the Series B Preferred Stock of evidences of indebtedness or assets (excluding regular quarterly cash dividends) or of subscription rights or warrants (other than those referred to above).

With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments amount to at least 1% of the Purchase Price. No fractional Units will be issued and, in lieu thereof, an adjustment in cash will be made based on the market price of the Series B Preferred Stock on the last trading date prior to the date of exercise.

Redemption Rights

At any time until 10 business days following the Stock Acquisition Date, the Company may, at its option, redeem the Rights in whole, but not in part, at a price of \$0.001 per Right (payable in cash, Common Stock or other consideration deemed appropriate by the Board). Immediately upon the action of the Board ordering redemption of the Rights, the Rights will terminate and the only right of the holders of Rights will be to receive the \$0.001 redemption price.

Amendment of Rights

Any of the provisions of the Plan may be amended by the Board prior to the Distribution Date except that the Board may not extend the expiration of the Rights beyond 5:00 P.M. (New York City time) on January 5, 2018 unless such extension is ratified by the stockholders of the Company prior to 5:00 P.M. (New York City time) on January 5, 2018. After the Distribution Date, the provisions of the Plan may be amended by the Board in order to cure any ambiguity, to make changes that do not adversely affect the interests of holders of Rights, or to shorten or lengthen any time period under the Plan. The foregoing notwithstanding, no amendment may be made at such time as the Rights are not redeemable, except to cure any ambiguity or correct or supplement any provision contained in the Plan which may be defective or inconsistent with any other provision therein.

Miscellaneous

Until a Right is exercised, the holder thereof, as such, will have no separate rights as a stockholder of the Company, including the right to vote or to receive dividends in respect of the Rights. While the distribution of the Rights will not be taxable to stockholders or to the Company, stockholders may, depending upon the circumstances, recognize taxable income in the event that the Rights become exercisable for Common Stock (or other consideration) of the Company or for common stock of the acquiring company or in the event of the redemption of the Rights as set forth above.

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This summary description of the Rights and the Plan does not purport to be complete and is qualified in its entirety by reference to the Plan, a copy of which is included as Exhibit 4.2 to this registration statement and incorporated by reference herein.

Item 2. Exhibits.

| Exhibit Number | Description |
|----------------|--|
| 3.1 | Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on December 11, 2007) |
| 3.2 | Amended and Restated Bylaws (incorporated by reference to Exhibit 3.2 of the Company's Current Report on Form 8-K filed with the Commission on December 11, 2007). |
| 3.3 | First Amendment to Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on February 19, 2008). |
| 3.4 | Second Amendment to Amended and Restated Bylaws (incorporated by reference to Exhibit 3.5 of the Company's Annual Report on Form 10-K filed with the Commission on March 5, 2009). |
| 3.5 | Third Amendment to Amended and Restated Bylaws (incorporated by reference to Exhibit 3.2 of the Company's Current Report on Form 8-K filed with the Commission on November 24, 2008). |
| 3.6 | Certificate of Ownership and Merger, dated November 21, 2008 (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on November 24, 2008). |
| 3.7 | Fourth Amendment to the Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on November 26, 2012). |
| 3.8 | Fifth Amendment to Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on September 28, 2015). |
| 3.9 | Certificate of Amendment to Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 of the Company's Quarterly Report on Form 10-Q filed with the Commission on November 6, 2015). |
| 3.10 | Certificate of Elimination (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on March 13, 2015). |
| 3.11 | Certificate of Designations, Preferences and Rights of Series B Junior Participating Preferred Stock of Forestar Group Inc. (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed with the Commission on January 5, 2017). |

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- 4.1 Specimen Certificate for shares of common stock, par value \$1.00 per share (incorporated by reference to Exhibit 4.2 of the Company's Current Report on Form 8-K filed with the Commission on January 5, 2017).
- 4.2 Tax Benefits Preservation Plan, dated as of January 5, 2017, between Forestar Group Inc. and Computershare Trust Company, N.A. (incorporated by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K filed with the Commission on January 5, 2017).

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

Date: January 5, 2017

FORESTAR GROUP INC.

| | | |
|-----|--------------------|---|
| By: | /s/ David M. Grimm | |
| | Name: | David M. Grimm |
| | Title: | Chief Administrative Officer, General Counsel and Secretary |

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