

MEMORANDUM

To: Lynn Richardson
Chatham County Planning

From: Kevin Hamak
Project Manager, Land Planning

Re: Briar Chapel Phase 4
Conditional Use Permit Stipulations
NEW-05041

PRELIMINARY PLAT

The following are our responses to the Preliminary Plat Stipulations which are in italics. The Phase 4 responses are in bold print.

Items to be changed or added to the final plat are as follows:

**Site data on the final plat shall include information regarding length of public and private roads.*

Site data on the final plat includes information regarding length of public and private roads.

**A note shall be placed on the final plat stating that the alleyways are private.*

A note has been placed on the final plat stating that the alleyways are private.

**A note shall be placed on the final plat stating the maintenance responsibility of the private roads and alleyways and define maintenance responsibility of the public roads until taken over for maintenance by NCDOT.*

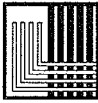
A note has been placed on the final plat stating the maintenance responsibility of the private roads and alleyways and defining the maintenance responsibility of the public roads until taken over for maintenance by NCDOT.

**Cul-de-sac radius shall be as required by the Chatham County Subdivision Regulations, Section 6.2 C (1) and 6.2 D (3) (h).*

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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 2 of 15

A note has been placed on the final plat stating that Cul-de-sac radius shall be as required by the Chatham County Subdivision Regulations, Section 6.2 C (1) and 6.2 D (3) (h).

**A note shall be placed on the final plat indicating the number of lots and lot numbers within each Pod.*

A note has been placed on the final plat indicating the number of lots and lot numbers within each Pod.

**Lots must be numbered consecutively throughout each Pod or Phase and the entire development.*

Lots have been numbered consecutively throughout each Pod or Phase and the entire development.

**Flood elevations along Polkberry Creek shall be shown on the final plat.*

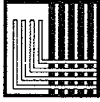
Flood elevations along Polkberry Creek has been shown on the final plat.

**Note regarding Dedication of Buffer as required in Section 9.2, Perimeter Buffer.*

A note has been placed on the final plat regarding Dedication of Buffer as required in Section 9.2, Perimeter Buffer.

**Note stating that the trail system will meet the requirements of the CCO regarding distances from edge of the stream and other requirements.*

A note has been placed on the final plat stating that the trail system will meet the requirements of the CCO regarding distances from edge of the stream and other requirements.



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 3 of 15

ZONING

The following are our responses to the Conditional Use Permit Stipulations which are in italics. The Phase 4 responses are in bold print.

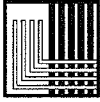
1. Construction Deadlines. This permit shall automatically expire on the second anniversary of its issuance unless (a) construction has commenced; or (b) a timely filed application for an extension of time has been approved by the County. This permit shall automatically expire on the fifteenth anniversary of its issuance unless the construction of all required improvements has been completed or extended by the County upon request prior to the expiration of the term.

Phase 4: A schedule titled 'Briar Chapel Phase 4 - Start and Completion Projections' has been provided with the Preliminary Plat application.

2. Land Use Intensity. This special use permit approves:

Gross Land Area	1589 acres
Max Impervious surface area	24%
Phase 4: Impervious surface area	2.9%
Maximum Number of Dwelling Units	2389
Phase 4: Number of Dwelling Units	323

3. Watershed Management. A detailed watershed protection plan for the entire project area which shall include impervious surface calculations, as well as a monitoring plan for each phase as it is submitted for plat approval, to assure compliance with the maximum impervious surface area allowed herein for the entire project, shall be approved by the Planning Department prior to issuance of a Zoning Determination Permit. Prior to issuance of a Certificate of Occupancy, the developer shall submit evidence



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 4 of 15

satisfactory to the Planning Department of compliance with the approved plan.

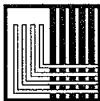
Phase 4: The JRM Water Quality letter submitted September 11, 2006 with the Phase 4 Preliminary Plat certifies that watershed and stormwater management requirements are being complied with and have been approved by NCDWQ. Prior to Certificate of Occupancy, the Developer shall submit evidence of compliance satisfactory to the Planning Department.

4. Storm Water Management. A storm water management plan shall be approved by the Planning Department prior to issuance of a Zoning Determination Permit for each phase of the project, and the developer is required to provide the Planning Department with final plans and an impervious surface calculation sheet. The developer shall construct storm water management control measures sufficient to serve each phase of the project area prior to issuance of a Certificate of Occupancy.

Phase 4: The JRM Water Quality letter submitted September 11, 2006 with the Phase 4 Preliminary Plat certifies that stormwater management requirements are being complied with and have been approved by NCDWQ. Prior to Certificate of Occupancy, the Developer shall submit evidence of compliance satisfactory to the Planning Department.

5. Fire flow. A fire flow report indicating adequate design be approved by the Chatham County Fire Marshal and Planning Department prior to issuance of a Zoning Determination Permit. Adequate fire flow shall be demonstrated prior to issuance of a certificate of occupancy. Any final plan shall indicate adequate access for pumper trucks.

Phase 4: The model has been completed and the Developer will provide confirmation of compliance from the Fire Marshal prior to issuance of certificate of occupancy.



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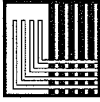
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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 5 of 15

6. Lighting Plan Approval. All area lighting shall meet County standards and not adversely affect adjoining residential areas.
Phase 4: The conforming lighting plan will be provided prior to the issuance of a Zoning Determination Permit.

7. Utility and Access Easements. Easement documents as required by the County for any public utilities used or furnished to the project area shall be recorded prior to issuance of a Zoning Determination Permit.
Phase 4: Utilities Director confirmation as to requirements prior to the issuance of a Zoning Determination Permit.

8. Unity of Development. Prior to issuance of a Zoning Determination Permit, guidelines for the future development of the project as a unified whole shall be approved by the Planning Department. Such guidelines shall delineate architectural elements relating to building materials, roof treatments, and low impact from water runoff and water quality. More particularly, such guidelines shall specify the following at a minimum:
 - (a) The dominant building material or combination of materials;
 - (b) The means by which the materials or combination is dominant;
 - (c) The dominant color or pattern of colors;
 - (d) The means by which the colors or pattern of colors is dominant and the use of color on the facades of any structures;



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 6 of 15

- (e) If selected, the dominant architectural feature or combination of features;
- (f) Architectural features such as roof treatments including style, materials, and color, facade treatments including fenestration patterns and ornamentation; and building form including overhangs, canopies, protected exterior walkways, and entrance treatments; and to the extent practicable, such features shall be consistent with the existing businesses in the area.
- (g) Provisions for the guidelines to be made applicable and binding upon all development within the project including all outparcels.

Phase 4: Per CUP conditions, compliance will be provided prior to issuance of Zoning Determination Permit.

Stipulations Regarding State and Federal Government Approvals

9. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NC DOT be obtained and copies submitted to the County prior to the issuance of a Zoning Determination Permit.
Phase 4: All permits required for Preliminary Plat have been submitted and a list is available from the Planning Department.
10. Improvements. Off-site improvements required by N.C. DOT or any other agency shall be constructed at no cost to the County including the traffic improvements as stated in the most recent TIA and others as ultimately deemed warranted by the NCDOT following its analysis. The County shall forward to NCDOT its peer review comments and request consideration thereof.



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 7 of 15

Phase 4: The Developer shall be responsible for all off-site improvements required for Briar Chapel in accordance with this stipulation.

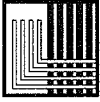
Stipulations Regarding Required Improvements

11. Parking and off-street loading areas. Parking and off-street loading areas shall be installed in accordance with the ordinances and policies of the County. Future submittals for preliminary subdivision plat approval will designate park-and-ride parking spaces (such as additional spaces in proposed parking lots above the minimum number required for retail or office uses) and transit stops, pedestrian and bicycle facilities, and traffic calming devices, as reasonable and necessary to accommodate then-existing multi-modal transit needs at those locations.

Phase 4: The future Community Center Site Plan will have off-street parking and has been previously submitted to the Planning department and received confirmation of compliance.

12. Streets. Roads will be stubbed-out and/or areas will remain underdeveloped as reasonably necessary to allow for future connections with currently undeveloped parcels, so long as such access takes into account physical features and other access points and are no more than necessary, and with the understanding that future connecting roads will be designed and constructed to approximately the same standards as the connecting roads in Briar Chapel. Where roads are constructed they will be built to required standards up to the perimeter buffer. The exact location of said roads may be determined during preliminary plat review. Signs shall be posted on the property advising of the future extension of said roads.

Phase 4: The streets shall be constructed as noted in CUP condition #12.



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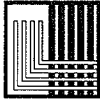
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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 8 of 15

13. Utilities.

Phase 4: These permits have been submitted with preliminary plat.

- (a) The developer shall demonstrate availability of adequate water and wastewater supplies to serve the property and plans for provision of the same shall be approved by the Planning Department prior to issuance of a Zoning Determination Permit for each phase. Such plans shall be in conformity with any County policies then in effect and the developer shall pay all fees and charges associated with the project, including then current utility fees, review and inspection charges prior to issuance of a Zoning Determination Permit or final subdivision plat approval for each phase, whichever is earlier. The entire cost of extending public utility services if desired or required under County regulations shall be borne by the developer.
- (b) Adequate water service may include the provision of an above-ground storage facility at a site satisfactory to the County if necessary to adequately provide fire flow pressures for the project and surrounding area.
- (c) Adequate wastewater service for the entire project area shall be determined and approved by the appropriate regulatory agency prior to issuance of a Zoning Determination Permit and constructed at no cost to the County.
 - (i) Equipment such as pumps and blowers will be appropriately insulated or buffered to ensure that no motor noise from them will be



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 9 of 15

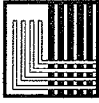
noticeable on a typical day at the boundary of the wastewater plant lot.

- (ii) A water circulation or aeration system and/or a surface-floating intake will be installed in the 110-day holding ponds.

14. Public Facilities.

Phase 4: These Public Facilities are not present in this phase and will be addressed in the future phases in which they are planned.

- (a) A fire station/EMC building site will be donated to Chatham County, but re-located and oriented to the entrance road to Briar Chapel, and a natural buffer will be undisturbed along the south side of Mann's Chapel Road at that location.
- (b) The applicant shall donate suitable sites for a water storage facility, library, charter and public schools, recreation facility acceptable to the County or the public body intended to benefit thereby, not substantially inconsistent with the approximate location and size as set forth in the master plan attached to the conditional use permit application and below. The applicant will cooperate with the County in the exact location and area of said facilities. Future maintenance of any public recreation facility shall be acceptable to the County. The school site shall be sufficient for an elementary or middle school facility up to 34 acres in area. The library facility, including parking and site work, shall be constructed by the developer, with input from the County, subject to satisfactory leaseback arrangements with the County or its assignee.



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 10 of 15

Stipulations Related to Landscape Elements

15. Landscaping/Screening. All required screening and buffers shall be in place prior to issuance of a certificate of occupancy. Existing vegetation may be used to fully or partial fulfill the landscaping and buffer requirements of the County. The extent to which the same can be used shall be determined by the Planning Department prior to issuance of the Zoning Determination certificate.

(a) At the time of construction of the road entering Briar Chapel next to the Tripp property, a six-foot opaque fence shall be erected along the east side of Ms. Tripp's property, consistent with NCDOT regulations, and landscaped on the side facing Ms. Tripp's property to the extent allowed by Ms. Tripp and landscaped with 6-8 foot tall trees on the east side of the fence. To the extent practicable, the developer shall meet and consult with Ms. Tripp to try to resolve any issues relating to the exact location and timing of the road in light of the stream buffer requirements and design criteria of the Compact Community ordinance as well as the requirements of NCDOT.

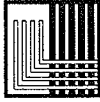
(b) There shall be constructed a pedestrian bridge and trail over Pokeberry Creek to connect Briar Chapel to Polks Landing Subdivision.

Phase 4:

(a) **The road adjacent to the Tripp property was removed via zoning modification in 2006.**

(b) **The Pedestrian Bridge is not present on this section of phase 4.**

Miscellaneous Stipulations



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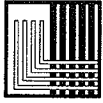
THE JOHN R. McADAMS COMPANY, INC.

Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 11 of 15

16. Archaeological Survey. A preliminary field reconnaissance archaeological survey to determine the existence or absence of any site of likely archaeological significance will be performed by a professional archaeologist (as listed on the NC Dept. of Cultural Resources website). The reconnaissance survey shall be performed in areas of ground disturbance which would adversely impact potential sites, such as areas of future roadways, active recreation areas to be graded, and lots to be developed (i.e. not including buffers, open space or irrigation areas). Areas determined by the NC Department of Cultural Resources, Archaeology/Historic Preservation Section as a low probability of likely significant sites are not required to be surveyed. Any site identified with likely archaeological significance shall have an intensive survey to determine significance. If a site is determined as a candidate for nomination to the "National Register of Historic Places" it shall be preserved or documented prior to being disturbed. The field reconnaissance survey shall be performed prior to preliminary plat submission. Any recommended intensive survey shall be performed prior to ground disturbing activity in the area of concern. The surveys shall be performed at Newland's expense.

Phase 4: The Archaeology Survey has been submitted with the Preliminary Plat.

17. Solid Waste Management Plan. A detailed solid waste management plan, including residential curbside recycling and solid waste pick-up, management for construction debris, and non-residential solid waste removal by a licensed contract removal company, shall be approved by the Planning Department prior to the issuance of a Zoning Determination Permit. The final plans shall include a detail of proposed service. Solid waste services shall be at least comparable to County-provided services, or make arrangements for differences in services.



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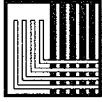
Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 12 of 15

Phase 4: The Solid Waste Management Plan shall be submitted prior to a Zoning Determination Permit.

18. Detailed Site Plan. A final detailed site plan, grading plan, utility/lighting plans, storm water management plan with hydraulic calculations, moderately priced dwelling plan and landscape plan for the entire project area as a unified development shall be approved by the Planning Department before the issuance of any Zoning Determination Permit and such plans shall conform to the plans approved in the application and demonstrate compliance with all applicable conditions hereof and of the County's ordinances. Non-residential subdivision of the project area shall also require the developer to comply with the site plan requirements of the County's subdivision regulations, including approval thereof by the Board of Commissioners. Such subdivision review may allow modification of the master site plan approved hereunder so long as not substantially inconsistent with this permit.

Phase 4: Per the CUP Conditions, this condition shall be complied with prior the issuance of the Zoning Determination Permit.

19. Stages. If desired, the applicant may construct the project in stages or phases. Each such stage shall be subject to approval by the County pursuant to its subdivision regulations. No final plat of a stage or phase of the development shall be approved if there is any uncorrected violation of any provision of this permit. Upon subdivision review of each phase, the applicable Recreation and Open Space, Community Facilities, Community Design, including housing, standards of the Compact Community Ordinance provisions shall be satisfied. Such subdivision review may allow mutually agreeable modification of the standards referred to therein so long as not substantially inconsistent therewith. For each phase, a "Zoning Determination Permit," as used elsewhere in this resolution,



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 13 of 15

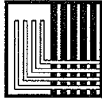
shall be issued by the Planning Department on a phase-by-phase basis, prior to the issuance of any building permit for structures in that phase.

Phase 4: Briar Chapel will be constructed in phases.

20. Moderate Income Housing. With the consent of the Applicant, and as an approximately equivalent alternative to and in lieu of the housing standards for Moderate Income persons set forth in Option A of the Compact Community Ordinance, the developer shall contribute 2.5% of the approved lots in the overall development, or each phase if developed in stages, for ultimate sale as directed by the County to persons or families whose income is 80% or less of the Area Median Family Income standard by family size and shall contribute \$1,100,000.00 to the County for the purpose of ameliorating the housing needs of Chatham County citizens. Said contribution shall be payable to Chatham County on a prorated basis upon final subdivision plat approval of each phase of the development. Such contribution represents the approximate value of 2.5% of the approved lots in said overall development or phase thereof as applicable.

Phase 4: This phase shall meet the required 2.5% Moderate Income Housing required for each phase of Briar Chapel.

21. Environment. The lots on Bennett Mountain shall be relocated to lessen the impact of the development on the primary and secondary environmental areas as described in the Natural Areas Inventory. The Bennett Mountain area will be one of the last areas for line installation and spray irrigation. If future regulatory changes, and/or approved system flow reductions, will ultimately result in this area not being needed for irrigation, lines will not be installed in this area unless otherwise required by the State. Before any lines are installed in the Bennett Mountain area, Newland will seek further flow



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 14 of 15

reduction approval or other necessary state permission under the then existing applicable regulations so as not to be required to install irrigation lines in this area in order to comply with permit requirements and the then existing applicable regulations.

Phase 4: All lots have been removed from Bennett Mountain. The Developer will comply with the requirements of this stipulation.

22. Erosion Control. If applicable, an erosion and sedimentation control plan be approved by the North Carolina Department of Environmental Health and Natural Resources or other authorized governmental entity and submitted to the Planning Department prior to the issuance of a Zoning Determination Permit.

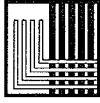
Phase 4: The Erosion Control Plan has been submitted with the Preliminary Plat.

23. Silt Control. The applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

Phase 4: Silt control was addressed as part of the Erosion Control Plan in order to obtain the permit.

24. Appeal. In the event it becomes necessary for the County to respond to or defend any action, cause of action, claim, or appeal involving this resolution or the decision taken herein, the applicant, its successors or assigns shall indemnify and hold the County harmless from all loss, cost or expense, including reasonable attorneys fees, incurred in connection with the defense of or response to any and all actions, causes of action, claims, demands, damages, costs, loss, expenses, and compensation, either known and unknown, resulting to or from this decision.

Phase 4: So Noted.



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Ms. Lynn Richardson
Briar Chapel Phase 4
September 19, 2007
Page 15 of 15

25. Fees. Applicant shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, building inspection, recreation and impact fees established from time to time. In addition to any fees or charges otherwise required by the County, the applicant shall pay or cause to be paid to the County as a voluntary contribution the sum of \$2,000.00 per dwelling unit upon the sale of each lot or unit.

Phase 4: So Noted.

26. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued Determination with the plans and conditions listed above.

Phase 4: So Noted.

27. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.

Phase 4: So Noted.

28. Non-Waiver. Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Phase 4: So Noted.