



## Chatham County Planning Board Agenda Notes

**Date: June 1, 2010**

**Agenda Item: VII. C. 2.**

**Attachment #: 4**

**Subdivision**

**Conditional Use Permit**

**Rezoning Request**

**Other: \_\_\_\_\_**

<b>Subject:</b>	Request by Bill Mumford, Project Manager on behalf of NNP Briar Chapel, LLC for final plat approval of <b>“Briar Chapel, Phase 5, South, Section 2, Subdivision, Easement Dedication &amp; Right-of-Way Dedication Plat”</b> , consisting of 32 lots on 6.72 acres, located off Andrews Store Road, S. R. 1528 and Parker Herndon Road, S. R. 1526, and Briar Chapel Parkway Baldwin Township.
<b>Action Requested:</b>	See Recommendation
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Major Subdivision Application.</li> <li>2. Final plat titled “Briar Chapel, Phase 5, Section 2, Subdivision, Easement Dedication &amp; Right-of-Way Dedication Plat”</li> </ol>

<b>Introduction &amp; Background</b>	
Zoning:	Conditional Use District / Compact Community
Water System:	Chatham County
Sewer System:	Private Wastewater Treatment Plant
Subject to 100 year flood:	No
<p>This request is a portion of the Briar Chapel Compact Community, consisting of 2,389 dwelling units on 1,589 acres, located off Hwy 15-501 N and Mann’s Chapel Road (SR-1532), approved by the Chatham County Board of Commissioners on February 15, 2005. A copy of <i>“An Ordinance Amending the Zoning Ordinance of Chatham County”</i> and <i>“A Resolution Approving An Application For A Conditional Use Permit For A Request By Mitch Barron On Behalf Of Newland Communities for Briar Chapel Planned Residential Development”</i> may be viewed on the Chatham County website at <a href="http://www.chathamnc.org/planning">www.chathamnc.org/planning</a>, then click on Rezoning &amp; Subdivision Cases, Miscellaneous Prior to 2005, Briar Chapel. A copy of the Compact Community Ordinance can also be found on the</p>	

Planning Division web page.

Phase 5, South, Section 2, consisting of 32 lots on 6.71 acres received preliminary plat approval from the Board of County Commissioners on March 15, 2010.

### **Discussion & Analysis**

The developer is requesting final plat approval of 32 lots to be accessed by Serenity Hill Circle off Briar Chapel Parkway. The Subdivision Regulations in effect prior to December 2008 apply to this project because the conditional use permit was approved prior to the amendments to the regulations. Serenity Hill Circle is a proposed state maintained roadway. A financial guarantee has been put in place previously on a portion of Serenity Hill Circle when Phase 5 South, Section 1 received final plat approval. Section 3.1 B. (1) of the Subdivision Regulations states that, "When either forty (40) percent of the total cost of improvements has been completed or when a statement of record for the subdivision has been filed in accordance with the Federal Interstate Land Sales Full Disclosure Act, 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, and that, as an alternative, the applicant post an adequate security at the time of application for final subdivision approval." See Section 3.1 B (1) for the entire language. County water is available for fire protection. A financial guarantee for the construction of the balance of Serenity Hill Circle to NCDOT standards along with clearing/grubbing, grading, retaining wall construction, erosion control, paving, curb/gutter, storm drainage, sanitary sewer, water distribution, striping, signage, sidewalk, seeding and final clean-up has been submitted for review. Per the engineer, Gregory P. Sallee, PE, 53.40% of the required work has been completed. The cost estimate letter dated April 27, 2010 states that the amount of incomplete work is \$299,601.91 and the amount of the bond required will be \$419,442.68 (includes 40% increase as required by the Subdivision Regulations). The Phase 2 roadway is currently a hard compacted surface, but is not graveled at this time. Staff recommends that the plat not be recorded until the engineer certifies that the roadway surface is sufficient to support emergency vehicle traffic. The county attorney will review and approve the form and amount of the financial guarantee prior to final plat recording

The number of lots in Phase 5 South, Section 2 does not match the Master Plan/ sketch plan for Briar Chapel approved in 2005. The Master Plan/sketch plan included 29 lots in Phase 5 South, Section 2. The preliminary and final plats include 32 lots for an increase of 3 lots in Section 2. Jason Sullivan, Planning Director, addressed the Board of County Commissions on February 1, 2010 concerning the increase of lots shown on preliminary and final plat versus what was shown on the Master Plan. Mr. Sullivan pointed out that Condition 18 and 19 of the Conditional Use Permit allows for the Board to approve modifications to the master plan/sketch plan as part of the subdivision review process, as long as the modification is substantially in compliance with the conditional use permit. The final plat is in substantial compliance with the Master Plan/Sketch design plan, in road design and lot layout and is an interior section. The increase in lots will not increase the overall approved lot number of 2,389.

There are no affordable housing lots in this section. An affordable housing payment of \$14,734.08 (\$460.44 x 32) will be made to Chatham County prior to recordation of the final plat. A note has been placed on the plat stating that no affordable housing lots located in Phase 5, South, Section 2.

Lots will be served by the Briar Chapel Wastewater Treatment Plant. Due to the small average daily flow to the plant generated by the current number of approved lots, the re-use ponds are currently being utilized versus the spray areas in order for all the storage ponds to have enough capacity to provide for landscaping irrigation over a dry summer. It is the intent to begin spraying later this fall or next spring. Per Lee Bowman, "all of the certified spray areas have been platted as common space with easements to provide for the spray operation." Lots are served by county water. Completion of the Section 2 water system is covered under the financial guarantee amount.

Lee Bowman has submitted a statement to staff stating that there are no cemeteries or old structures in or near Phase 5 South, Section 2.

Several of the lots in this section will have a retaining wall at the back of the lot as shown on the preliminary and final plats. On the preliminary plat, Lot 569 (shown as Lot 409 on the final plat) showed a retaining wall to be located out of the 10 foot wide no-build area along the edge of the 50 foot water hazard buffer. In discussion with the engineer, the retaining wall on Lot 409 has been constructed and a small portion of the retaining wall is located within the 10 foot no-build area. Per the Compact Community Ordinance, page 9, Section 9.1: Riparian Buffers, "Buildings and other features that require grading and construction shall be set back at least ten (10) feet from the edge of the buffer". Staff has instructed the developer that any portion of a retaining wall constructed within the 10 foot no-build area must be removed and verification provided by the engineer prior to final plat recordation. Maintenance easements for the retaining walls may be within the no-build area, but may not be within the water hazard area.

### **Recommendation**

The plat displays the necessary information and meets the requirements of the Subdivision Regulations with other agency approvals. The Planning Division recommends approval of Briar Chapel Phase 5 South, Section 2 with the following conditions:

1. The plat not be recorded until the county attorney has reviewed and approved the form and amount of the financial guarantee.
2. The plat not be recorded until an engineer certifies that the roadway surface is sufficient to support emergency vehicle traffic.
3. The plat not be recorded until an engineer certifies that the retaining walls are outside of the 10 foot no-build area adjacent to the water hazard / riparian buffer areas.

