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October 4, 2012

Brian Bock, Chairman
Chatham County Board of Commissioners
80-A East Street
Pittsboro, North Carolina 27312

RE: Request for Partial Reduction of 100' Perimeter Buffer and Waiver Request

Dear Board of Commissioners:

This letter serves as a formal request to memorialize an understanding reached between Planning Staff and NNP-Briar Chapel, LLC with regard to allowed uses within the perimeter buffer provided for by the Compact Communities Ordinance. As I am sure you recall, the Compact Communities Ordinance, Section 9.2, provides for a 100' perimeter buffer around the exterior boundary of a compact community, but also gives the Commissioners the discretion to reduce the perimeter buffer width up to 50% if it determines that the impact of the compact community is adequately mitigated by community design or topography. The Compact Communities Ordinance does not prohibit stormwater uses within the 100' perimeter buffer. Notwithstanding the lack of any express prohibition, NNP-Briar Chapel, LLC has previously voluntarily agreed that it will not design its stormwater system such that any actual physical structures (outlet piping, endwalls, velocity dissipaters or stormwater pond surface area) will encroach into the 100' buffer. However, because of the logical proximity of stormwater ponds and drainage systems to the perimeter of the project, stormwater easements, drainage and accesses will be required to encroach on interior portions of the 100' buffer in certain locations.

The requested clarification is bolstered by the language of the Compact Communities Ordinance which itself alludes to stormwater structures when it states that "farms, pastures and other traditional rural land uses owned by the developer. . . may be used to meet this [perimeter buffer] requirement." Of course, stormwater ponds are traditional rural land uses that are found all across Chatham County.

At the Planning Board meeting for approval of the proposed preliminary plat of Phase 6 North, the Planning Staff and the developer had differing points of view with respect to the extent to which stormwater easements, grading and access are allowed within the 100' perimeter buffer at Briar Chapel. The Planning Board recommended approval of the preliminary plat but

Letter to Board of Commissioners
September 25, 2012
Page Two

excluded the conditions recommended by the Planning Staff with respect to the stormwater controls and further recommended that Planning Staff and the developer meet to see if a compromise plan could be worked out ahead of the Board of Commissioners meeting.

The developer and Planning Staff met on Thursday, September 20, 2012. As a result of that productive meeting, a consensus was reached between the Planning Staff and the developer that a practical way of moving forward with regard to stormwater easements, drainage and access being allowed within certain limited, interior portions of the 100' perimeter buffer was reached. The developer and Planning Staff agreed that a reasonable resolution would be to request that the Board of Commissioners exercise its authority under the Compact Communities Ordinance to reduce the 100' perimeter buffer by 50% solely in respect of stormwater easements, drainage and access and that, to the extent necessary, the Commissioners exercise their authority to grant a waiver under Section 15 of the Compact Communities Ordinance in support of the aforesaid reduction.

As such, the enclosed proposed Order of the Board of Commissioners allowing the relief requested is submitted to the Board of Commissioners for a vote at its meeting of October 15, 2012. This is to request that the matter be put on the agenda ahead of the Phase 6 North preliminary plat approval request.

Please let me know if you have any questions or concerns regarding the above.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Nicolas P. Robinson', with a stylized, flowing script.

Nicolas P. Robinson

NPR:jbs

Enclosure

c: Jason Sullivan
Lynn Richardson
Lee Bowman

**ORDER OF THE BOARD OF COMMISSIONERS
OF CHATHAM COUNTY
AUTHORIZING A PARTIAL REDUCTION OF THE
100' PERIMETER BUFFER
FOR UTILITY EASEMENT, MAINTENANCE, GRADING AND ACCESS
BY NNP BRIAR CHAPEL, LLC**

WHEREAS, NNP Briar Chapel, LLC has applied for preliminary plat approval for Phase Six North of the Briar Chapel Compact Community;

WHEREAS, pursuant to Section 9.2 of the Compact Communities Ordinance, a 100' perimeter buffer (the "Buffer") for the purposes of visual obstruction of buildings is established;

WHEREAS, Section 9.2 also authorizes the Commissioners to allow a reduction in the Buffer width by up to fifty percent (50%) if it determines that the impact of the Compact Community is adequately mitigated by community design or topography;

WHEREAS, the Compact Communities Ordinance, Section 9.2, does not prohibit use of the Buffer for utility purposes;

WHEREAS, from time to time, based on topography, soils and other engineering considerations, it is important that the design of stormwater and other utilities allow for use of the interior 50' of the Buffer, said uses being limited to utility easements (including stormwater and drainage), maintenance, grading and access;

WHEREAS, NNP Briar Chapel, LLC has voluntarily agreed that no portion of the Buffer will be used to contain actual stormwater structures (such as outlet piping, endwalls, velocity dissipaters, or stormwater pond surface area);

WHEREAS, resolution of this issue in the manner set forth in this Order will both preserve the intent of the Buffer and resolve the issue with regard to future phases in the Briar Chapel Compact Community;

WHEREAS, the Board of Commissioners has determined that the impact of the Briar Chapel Compact Community is adequately mitigated by community design or topography;

WHEREAS, based upon the facts and circumstances considered by the Board of Commissioners and the intent of the perimeter buffer provisions of the Compact Communities Ordinance, the Board of Commissioners has concluded that the requirements for granting a fifty percent (50%) reduction, solely for the purposes enumerated herein, have been met and that, to the extent necessary, the requirements for granting to NNP Briar Chapel, LLC an adjustment, modification, reduction or waiver of the CCO Perimeter Buffer requirements, pursuant to Section 15 of the Compact Communities Ordinance, for these purposes have been met; and

WHEREAS, it appears to the Board of Commissioners, and the Board of Commissioners hereby finds, that the fifty percent (50%) reduction in the perimeter Buffer, solely for the

purposes enumerated herein and the adjustment, modification, reduction or waiver requested by NNP Briar Chapel, LLC are reasonable under the facts and circumstances and should be granted;

NOW, THEREFORE, BE IT ORDERED by the Board of Commissioners of Chatham County:

1. The recitals set forth above are incorporated in this Order.
2. A fifty percent (50%) reduction in the perimeter buffer solely for the purposes set forth in the recitals of this Order, such as utility easements (including stormwater and drainage), maintenance, grading and access, is hereby granted;
3. To the extent an adjustment, modification, reduction or waiver under Section 15 of the Compact Communities Ordinance is required in order to effectuate this resolution, the same is hereby granted;
4. No waiver or consent except those set forth in this Order is granted.

Adopted this the ____ day of October, 2012.

CHATHAM COUNTY BOARD OF COMMISSIONERS

By: _____
Brian Bock, Chair

ATTEST:

Sandra B. Sublett, CMC, NCCC, Clerk to the Board
Chatham County Board of Commissioners