



## Agenda Abstract

Department: Planning

Authorizing Signature: \_\_\_\_\_

Submitting Official: Jason Sullivan, Planning Director

Meeting Date:	July 16, 2012
Subject:	Request by the Chatham County Board of Commissioners to consider amendments to Section 12.3 Housing – Moderately Priced Dwellings of the Compact Communities Ordinance to provide a payment-in-lieu of providing lots for affordable housing option and use the funds to address the needs of low and moderate income residents.
Action Requested:	See Recommendations
Attachments: (List Individually)	Proposed amendment drafted by the County Attorney

Introduction & Background:	At their meeting on May 21, the Board of Commissioners held a public hearing for an amendment to the Compact Communities Ordinance (CCO) to include a provision in Section 12.3, Housing, to include an alternate option for moderately priced dwellings. Six people spoke at the public hearing; written comments from two of the speakers are posted on the Planning Department website with this item.
Discussion & Analysis:	<p>The CCO was adopted in 2004 to provide an additional option for a mixed use community to be developed in the zoned areas of the county and, as Section 3 states, to “provide greater environmental, economic, and social benefits to Chatham County when compared with conventional development.” Under the CCO, a developer can obtain increased density for a project, if they meet stringent regulatory standards that include provisions for affordable housing. The current provision requires the developer to dedicate lots for the provision of affordable housing. This amendment would allow for a payment-in-lieu option, instead of lots, which the Board of Commissioners could use to fund programs to address the needs of low and moderate income residents in the county.</p> <p>Only one project, Briar Chapel, has been approved under these standards since the adoption of the CCO in 2004. At the time of adoption of the conditional use permit in 2005, a condition was added modifying the moderately priced dwellings section of the ordinance. Briar Chapel intended to provide 5%, or 120, of the lots for development as affordable housing to comply with the ordinance; however, the county and developer</p>



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agreed to a condition allowing for a \$1.1 million payment-in-lieu for 60 of those lots. The condition further provided that the contribution represented the approximate value of 2.5% of the approved lots in the development, or \$18,333.33 per lot.

A portion of the remaining 60 lots are provided with each new phase of the development at the time of final plat approval, with 19 lots currently platted. Of the 19 lots, three have been transferred to the county and one has an affordable home that was constructed by Empowerment, Inc. Earlier this year, the Board of Commissioners approved the Community and Economic Development Coordinator to issue a request for proposals to allow affordable housing builders to submit proposals for constructing homes on the affordable lots. The Affordable Housing Advisory Committee reviewed the submittals and made a recommendation for a pilot program at the January 17<sup>th</sup> Commissioners meeting, but the Board has not acted on the recommendation.

At the public hearing Marcia Perritt, representing the Affordable Housing Advisory Committee (AHAC), urged commissioners not to adopt the proposed amendment as currently written. She stated that the CCO lays the groundwork for workforce housing in the Northern part of the county where it is needed for teachers, nurses, firefighters, etc. She also noted that the housing market has been abnormally slow in recent years, which has delayed developers of affordable housing and market rate developers alike. She stated the following issues: 1) the proposed language does not accurately reflect the history of affordable housing in Briar Chapel; 2) the proposed amendment does not guarantee the payment in lieu will be allocated to housing issues in the county 3) the language of the proposed amendment leaves many questions unanswered – for example, how will the funding from the payment in lieu be prioritized? Who will decide? According to what process? Who will oversee the expenditure of any such funding? 4) the proposed amendment calls for valuing a lot through open-ended negotiations between the developer and the BOC. AHAC believes that the exclusive use of a professional appraiser, certified in NC, makes better economic sense from the public's perspective and gives the public assurance that the process is fair.

She recommended the following: 1) review the AHAC's recommendation (delivered to the BOC on Jan 2012, per their request) and 2) allow more time to produce a plan with public participation.

Nick Robinson, an attorney representing NNP-Briar Chapel LLC, addressed the board and confirmed his client's commitment to fulfill the current obligation under the existing conditional use permit, which includes provision of 60 lots for affordable housing and payment of \$1,100,000 over



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the life of the development for ameliorating the housing needs in the county. He also stated the developer would be willing to consider a payment-in-lieu option for the affordable housing lots, if it was adopted. Four people spoke in favor of the existing ordinance provisions, including the prospective owner of the one affordable dwelling that has been constructed in Briar Chapel.

Unlike many of the adopted land use regulations in the county, the CCO is unique as a stand-alone ordinance that provides detailed standards for the development of a mixed use community that a developer voluntarily agrees to follow. The benefit to the developer is an increase in density, with a portion of those additional lots required to be dedicated for affordable housing. The board needs to consider whether it is essential to maintain some minimum level of affordable housing within a compact community, or if a payment-in-lieu option addresses that concern. If the text amendment is not approved, the Board of Commissioners will need to work with staff to outline a strategy to ensure that an affordable housing program has the capacity to utilize the lots. Other issues to consider are whether a payment-in-lieu should be based on the fair market value of a lot or whether it should be negotiated between the developer and the county, and how the funds would be spent.

The Planning Board discussed this item at their June 5 meeting and recommend approval of the amendment with the two conditions listed below. Their comments included that the funds could be used to support affordable housing elsewhere in the county, such as has been done with the fees paid by Newland Communities that have been used by Habitat for Humanity; that the requirement for affordable housing lots may be creating an artificial housing market; that the additional expenses, such as homeowner's association dues, associated with developments like Briar Chapel may cause problems for the affordable housing owners in the future. There was also a question whether there was information available about affordable housing needs specific to the county. Staff responded that the county conducted an affordable housing needs assessment update in 2008, which is available for download on the county website at <http://www.chathamnc.org/Index.aspx?page=878>.

Budgetary Impact:

Recommendation:

The Planning Board voted unanimously (6 members present) in favor of this request with the following two (2) conditions:

1. Fair market value for lots shall be determined through an appraisal by an independent North Carolina appraiser to determine the payment in lieu fee.



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2. All funds collected for the sale of said lots shall be set aside and prioritized to be used for affordable housing

The Affordable Housing Advisory Committee recommends denial of the amendment and request the following:

1. Review the AHAC's recommendation delivered to the BOC in Jan 2012.
2. Allow more time to produce a plan with public participation.