

## **..TITLE**

A request from NNP Briar Chapel, LLC for a text amendment to the Chatham County Compact Communities Ordinance, Section 7.2 Wastewater Treatment; Section 9.2 Perimeter Buffer; and Section 9.3 Viewshed Buffers.

## **..ABSTRACT**

### **Action Requested:**

A request from NNP Briar Chapel, LLC for a text amendment to the Chatham County Compact Communities Ordinance, Section 7.2 Wastewater Treatment; Section 9.2 Perimeter Buffer; and Section 9.3 Viewshed Buffers.

### **Introduction & Background:**

A legislative public hearing was held on this request April 21, 2014. Nick Robinson, attorney, presented the request to the Board of Commissioners. Mark Ashness with CE Group was also present to explain and address questions concerning the usage of reclaimed water and the treatment measures for the WWTP.

Planning staff met with Mr. Robinson prior to the submittal of the request in order to review the proposed changes for consistency and clarity. The submitted amendments have been reviewed and recommended as provided below.

**The Planning Board met and discussed the request at their regularly scheduled meeting on May 6, 2014. Staff referred one section of the proposed amendment to the County Attorney for additional review. Under Section 9.2 Perimeter Buffer, the County Attorney suggested the wording be modified to say “after consulting with the adjoining landowners”. Mr. Robinson, attorney for the applicant, recommended alternate language that states “after giving the adjoining property owners an opportunity to comment”. The Planning Board agreed with Mr. Robinson’s wording which has been incorporated in the appropriate section below. There were no other concerns.**

### **Discussion & Analysis:**

The following is a summary of the proposed changes in the Compact Communities Ordinance. The wording changes are noted under recommendations.

The first requested modification is in Section 7.2 Wastewater Treatment, General Design Standards. The proposed changes would allow for the continuance of treatment as currently permitted and also allow treatment from offsite properties to utilize the facility. Briar Chapel’s WWTP was designed to a capacity that could treat more than the uses within the community and should be treated as any other public utility. The change would also allow tertiary treated wastewater to be returned to the generating

site for spray. At present the off-site uses possibly earmarked for connection to the Briar Chapel WWTP are the US Steel property currently under review as a new conservation subdivision and a future school site. There may be other uses as time goes by that could also benefit from this allowance. It was noted all state rules would remain in effect as permitted. Briar Chapel Utilities is the owner of the WWTP which does have a customer base and any connection to the WWTP and system would become a customer of that facility.

The second requested modification is in regards to the perimeter buffer as noted under Section 9.2 Perimeter Buffer. This change would allow an applicant to request a reduction of 100% of this type of buffer provided the approved plan is being preserved and the adjoining property owners and the Board of Commissioners agree. Currently the ordinance allows for a 50% reduction if it is determined the impact of the compact community is adequately mitigated by community design or topography.

The third requested modification is in regards to the viewshed buffer as noted under Section 9.3 Viewshed Buffers. Currently, the ordinance allows a reduction of up to 50% and requires protection of existing native forest vegetation where practicable. The applicant has requested an exception making the requirement optional for the developer where the use adjoining the applicable roadway is a commercial, institutional or office use. The viewshed buffers were put into the ordinance in an effort to protect the existing scenic roadways where the non-residential uses would be located. The Compact Community Ordinance and the Zoning Ordinance both state preservation of existing, natural vegetation is recommended and encouraged. (Section 12.3 of the Zoning Ordinance, Screen C). Planning staff has modified the wording presented for this change as noted below.

### **Recommendation:**

#### **Consistency Statement**

The Planning Board, by unanimous vote, recommends adoption of a resolution approving the following consistency statement:

The request to amend the Compact Communities Ordinance is consistent with the adopted land use plans and regulations of the County, and therefore is approved as requested.

#### **Amendment**

Planning Board (by unanimous vote) and staff recommends adoption of an Ordinance Amending the Compact Communities Ordinance to amend the ordinance as follows:

Proposed wording changes are:

## **7.2 Wastewater Treatment**

### **General Design Standards**

~~The following are general wastewater options available for compact communities: Off-site: Send wastewater to existing municipal treatment plants or construct new centralized wastewater treatment facilities;~~

~~- Hybrid: Treat wastewater on-site and pipe treated water to an existing municipal treatment plant or new centralized wastewater treatment facilities; or~~

~~- On-site: Treat wastewater on-site and distribute treated water onto the land surface via irrigation system(s).~~

~~Wastewater treatment shall occur at centralized wastewater treatment facilities either on-site or at existing, previously permitted off-site facilities as permitted by the State of North Carolina Department of Environmental and Natural Resources (NCDENR). Spray irrigation may occur off-site provided that said use conforms to the uses allowed in the applicable zoning district.~~

Wastewater collection, treatment, distribution and storage systems for compact communities must apply technologies approved by the State of North Carolina, with facilities and operating programs approved by the State of North Carolina, and with operations that are effectively monitored by the State.

### **Location, Ownership, and Sizing of Wastewater Facilities and Spray Fields**

Compact communities shall be served by wastewater collection, treatment, distribution and storage systems that are adequate to serve the reasonable needs of the community and service area (as defined by the North Carolina Utilities Commission) and comply with all applicable regulations. The wastewater facilities may also serve neighboring areas. Compact communities shall:

~~and comply with all applicable regulations. Compact communities shall:~~

~~Locate the wastewater treatment facilities and infrastructure within the project boundaries;~~

- ~~• Show the location of all wastewater facilities spray fields needed for the compact community at build out in the sketch design submitted to Chatham County;~~

In the determination of adequacy, the County may consider any alternatives that provide reserve capacity in the wastewater system above the state required minimum, including but not limited to the following:

- Increasing the amount of wet weather storage to provide reserve capacity;
- Setting aside additional open space acreage for future spray irrigation to provide reserve capacity; and/or
- Limiting spray irrigation on a certain portion of open space acreage during specified times in order that the remaining capacity of the acreage to accept wastewater spray results in reserve capacity

### **9.2 Perimeter Buffer**

Perimeter buffers shall be utilized to minimize the impacts of each compact community on adjacent properties along the entire perimeter of the compact community. Table 9.2 lists the minimum buffer width allowable, depending on the proposed land use along the edge of the compact community and the existing land use in the adjacent property at any point along the perimeter.

Chatham County may allow a reduction in the perimeter buffer width required by this ordinance of up to fifty percent (50%) if it determines that the impact of the compact community is adequately mitigated by community design or topography. In addition, Chatham County may allow a reduction in the perimeter buffer from fifty-one percent (51%) up to one hundred percent (100%) after giving the adjoining landowners an opportunity to comment and Chatham County determines that the impact of the compact community is adequately mitigated by the community design or topography. A developer of a Compact community may request of the Board of Commissioners such a waiver or reduction at any time.

### **9.3 Viewshed Buffers**

Viewshed buffers shall be ~~utilitized~~utilized in order to minimize the impacts of compact communities on pre-development roadway views.

The developer shall map all roadway views into the project and delineate a continuous buffer of at least one hundred (100) feet in width. The buffer shall be measured at right angles to the edge of the roadway right of way into the compact community.

The Chatham County Board of Commissioners may allow a reduction in the viewshed buffer width required by this ordinance of up to fifty percent (50%) if it determines that the impact of the compact community is adequately mitigated by community design, topography, and/or guidelines for outdoor lighting such as those included in the proposed Chatham County lighting ordinance.

### **Dedication of the Buffer**

Once the viewshed buffer has been delineated, a deed restriction satisfactory to the County Attorney shall be filed with the Chatham County Register of Deeds that

permanently protects this land as a buffer and identifies the maintenance responsibility that rests with the homeowners association.

### **Viewshed Buffer Vegetation and Land Uses**

To the extent practicable, existing native forest vegetation shall be utilized for this buffer, except that this requirement is optional for the developer where the use adjoining the applicable roadway is a commercial, institutional, or office use. Farms, pastures, and other traditional rural land uses owned by the developer or protected with a permanent conservation easement may be used to meet this requirement. Topographic features such as hills, valleys, and planted berms owned by the developer may also be used to meet this requirement.

Before any native vegetation is removed a revised landscaping plan detailing what is proposed to be removed and the extent and type of replanting must be reviewed by the Chatham County Planning Department and the Chatham County Appearance Commission. Selective removal may be recommended in lieu of clearing the site of all existing native forested or vegetated areas.

Vegetative plantings in the buffer shall produce the effect of a natural forested area, using native species. The planting does not have to be opaque, but should function to significantly soften the visual impact of buildings, both initially and in the longer term. The visual buffering provided by vegetative plantings shall be effective in all seasons.