

BRIAR CHAPEL CONDITIONAL USE PERMIT AMENDMENT

JULY 2014

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TAB A

Explanation of Requested Amendment

General Overview

NNP-Briar Chapel, LLC (“Applicant”) hereby files its application for certain limited amendments to its existing Conditional Use Permit, as amended in June of 2012 (the “CUP”). The amendment requests and includes the following changes to the CUP:

1. **Certain updates and changes to the approved Master Plan as listed and shown at TAB D.** The CUP requires a periodic update of the Master Plan. This amendment accomplishes that update and incorporates other requested changes, including adding the Fire/EMS site, eliminating perimeter buffer along the U.S. Steel property line, increasing a portion of the Herndon Woods perimeter buffer, seeking a uniform viewshed buffer reduction along U.S. 15-501 as allowed by the Compact Communities Ordinance (“CCO”), and updating the Master Plan to add/revise information learned since the 2012 amendment.
2. **Increase the allowed number of residential units to add 111 units (increase from 2,389 to 2,500).**
3. **Amend the project table of uses as listed at Tab D including to allow up to 200 total multi-family/townhouse residential units as an allowed use within the SD-East, SD-North and SD-West districts.** Right now the CUP allows: (1) only commercial in the SD-East district and (2) commercial, plus 80 residential units in SD-North and SD-West. The amendment seeks the flexibility to have up to 200 multi-family/townhouse dwelling units within SD-N, SD-W and/or SD-E areas, provided, however, that if fewer than 200 units are ultimately used in those districts, Applicant will not be allowed to shift the unused multi-family/townhouse residential units to the rest of the development such that the total number of residential units in the balance of the property exceeds 2,389. In other words, the increase in residential units is intended solely to allow up to 200 multi-family/townhouse units within the SD-N, SD-W and SD-E areas.
4. **Update the language of the CUP to reflect these changes and acknowledge any requirements satisfied since the 2012 amendment.**
5. **Update responses to the CCO as necessitated by the proposed project changes and to acknowledge amendments to the CCO.**

Specific Explanation of Rationale for Increase of Allowed Residential Units

The requests to increase the number of allowed residential units by 111 and to allow a capped amount of multi-family/townhouse units within Special Districts (North, West and East) are related, reflect a specific response to market forces, and are compatible with the mixed-use objectives of the CCO.

As Applicant has pro-actively marketed the Briar Chapel commercial parcels, it appears that the most likely accelerator of commercial development of the commercial parcels will be allowing a limited number of multi-family/townhouse residential units within the Special Districts. The evidence will show that, increasingly, there is market desire to accommodate some residential uses among and within the commercial districts. In order to facilitate this truly mixed-use approach that is encouraged by the CCO, potential developers of these sites have repeatedly proposed injection of a multi-family/townhouse type use within the Special Districts.

The CUP has always provided for this mix as it currently allows for 80 multi-family/townhouse units within SD-N and SD-W. Developers have made it clear that, in order to be financially viable, the number of multi-family/townhouse units within the Special Districts needs to be approximately 200. Adding 120 residential units to the project, however, would put the project over the 2,500 unit maximum imposed by the CCO. Rather than seek a change to that number, Applicant has resolved to “borrow” from the previously approved 2,389 residential units in order to make a multi-family/townhouse project viable when or if such a 200 unit multi-family/townhouse proposal comes to fruition.

TAB B

Application Form for Revision of CUP (signed)

TAB C

General Application Requirements (from Submission Materials Checklist)

1. Location: See proposed Master Plan behind TAB D.
 - a. Public highways serving site. Unchanged.
 - b. Private roads serving site. Unchanged.
 - c. Current zoning. Remains CUD-CC. Only requested modification of allowed uses is to allow up to 200 multi-family/townhouse residential units within the Special Districts.
 - d. Watershed designation and impervious surface % allowed. Unchanged.
 - e. Major Wildlife Areas. Unchanged.
 - f. Size of site. Overall site size is unchanged at +/- 1,589 acres.
 - g. Current utility or other easements assigned to the site. Unchanged.
 - h. Current use of site. Unchanged.
 - i. Description of current contents of site. Unchanged as to undeveloped portion.
 - j. Other Conditional Use Permits for the site. None.
2. Description of Use. Overall, the use is unchanged. This will continue to be a Compact Community containing residential, commercial and open space.
3. Start and Completion Projections. The project has started development and is scheduled to be completed by December 31, 2025.
4. Reference to Existing County Plans. Unchanged.

TAB D

SITE PLAN REQUIREMENTS

Applicant incorporates the proposed Revised Master Plan behind this TAB D in substitution for the revised master plan approved in June 2012.

The proposed changes to the Revised Master Plan are as follows:

1. Proposed Fire/EMS site is added.
2. Previously approved 50' Viewshed Buffer reduction along highway fronting SD-North is added.
3. Perimeter Buffer along portion of boundary with Herndon Woods has been increased from 100' to 200' per prior agreement.
4. 100' Viewshed Buffer along 15-501 fronting SD-West and SD-East is proposed to be reduced to 50'.
5. Granite Mill Boulevard (in front of Margaret Pollard School) is straightened per pending request.
6. One riparian buffer channel length is proposed to be reduced based on updated drainage area calculations.
7. 100' Perimeter Buffer along a portion of the shared boundary with the adjoining Conservation Subdivision is proposed to be eliminated with the agreement of the adjoiner.
8. Buffer for stream located in the northwest section of the development is proposed to be added.
9. Land use intensity zones (color shaded) have been modified to reflect updated market projections.
10. Accordingly, the primary roadway connections have been updated consistent with the land use intensity updates.

The "Approved Development to Date" grid has been updated as well for consistency with the proposed changes as follows:

1. Total number of platted lots is updated through Phase 8 to reflect a total of 1,155 platted lots top date.
2. The bottom line number of total lots has been changed to 2,500 consistent with this request.
3. The T4-b Zone column has been modified to change the Single Family Cottage block from "Up to 30%" to "Up to 70%" to retain flexibility.

4. The asterisk and foot note regarding allocation of the 510,000 square feet of allowed commercial as between office space and retail has been deleted in order to allow flexibility.

All of the prior materials submitted in the way of site plan exhibits are re-incorporated herein except the prior Affordable Housing Map (originally Figure 11) which is deleted in its entirety based on the approved payment in lieu made in the interim. To the extent of any conflict or inconsistency between the Revised Master Plan and any prior site plan exhibits or application materials, the Revised Master Plan will control.

TAB E

ADDITIONAL INFORMATION REQUIRED

TAB F

SPECIFIC CONDITIONAL USE PERMIT REQUIREMENTS

(FIVE FINDINGS)

In addition to the below, Applicant re-incorporates the information regarding the Five Findings from its amendment application in 2012. The Briar Chapel project continues to meet all of the five findings.

Finding #1: The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.

- A. Validation of Use in Zoning Ordinance: A compact community continues to be a permitted use within the Compact Communities Conditional Use District. Nothing in this Conditional Use Permit Amendment Application has any impact on the fact that the compact community is a permitted use.

Finding #2: The requested conditional use permit is either essential or desirable for the public convenience or welfare.

- A. Need and Desirability: The requested revisions are essential or desirable. In the last two years, Applicant has received numerous proposals from potential developers of the highway commercial areas that involve multi-family/townhouse residential. Allowing up to 200 multi-family/townhouse residential units among the commercial areas will likely have the impact of expediting development of the balance of the commercial areas. Present and projected demands indicate the need and desirability for the requested additional usage in the Special Districts. The current approval allows for only 80 multi-family/townhouse residential units within SD-N and SD-W. Market demands demonstrate that a capped amount of 80 units is insufficient to allow multi-family/townhouse to be viable in these locations. Allowing up to 200 multi-family/townhouse residential units within the three Special Districts will be responsive to the market and, hence, necessary and desirable. Anticipated acceleration of commercial uses within the Special Districts should aid the County in developing its commercial tax base.
- B. Survey of Similar Uses: Instances of multi-family/townhouse units are few and far between in northeast Chatham County because they essentially can only happen within planned communities. With the exception of the Governors Village apartments and the Cole Park townhomes, Applicant is unaware of any other approved multi-family/townhouse uses in Northeast Chatham.
- C. Public Provided Improvements: No additional public improvements are needed to accommodate the requested changes.

Finding #3: The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community.

- A. Traffic: No significant traffic impacts are anticipated as a result of the requested changes. See attached letter from Kimley Horn traffic engineers.
- B. Visual Impact & Screening: As with all commercial aspects of the Briar Chapel project, there will be Appearance Commission review of proposed site plans. The buffers between the special districts and the adjoining residential properties remain unchanged, including the 300 foot buffer between SD-East and the lots in Ferrington Village.
- C. Lighting: The Chatham County lighting ordinance provisions will be followed. The requested changes do not alter that result.
- D. Noise: The requested changes do not change the fact that no noise exceeding allowed noise levels under the County Noise Ordinance are anticipated.
- E. Chemicals, Biological and Radioactive Agents: No change.
- F. Signs: No change.

In summary, the requested changes will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety or welfare of the community. The requested changes are minimal in impact.

Finding #4: The requested permit will be consistent with the objectives of the Land Conservation and Development Plan.

- A. Land Conservation and Development Plan Reference: No change.
- B. Watershed and Flood Considerations: No change. Impervious surface limitations and stormwater protections will continue to be implemented as previously approved.

Finding #5: Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

- A. Water Source and Requirements: It is anticipated that any substitution of residential for commercial will generate no overall increase in usage.
- B. Wastewater Management: It is anticipated that any substitution of residential for commercial will generate no overall increase in usage. Briar Chapel Utilities, LLC is permitted for sufficient capacity to treat of any wastewater incidental to the requested changes.
- C. Water/Sewer Impact Statement. It is anticipated that any substitution of residential for commercial will generate no overall increase in usage.
- D. Access Roads: No change.
- E. Stormwater Runoff: The current stormwater requirements for the project will be adhered to. The development will maintain the impervious coverage percentage limitations previously approved. No additional impact generated by the additional residential units is anticipated.

TAB G

AMENDED RESPONSES TO CCO

Applicant incorporates the Amended 2012 Responses except as revised below:

6.2 Maximum Size

No compact community shall include more than two thousand five hundred dwelling units.

Response: Applicant seeks to increase the approved number of residential dwelling units by 111 from 2,389 to 2,500 in order to accommodate up to 200 multi-family/townhouse dwelling units within the Special Districts. To the extent the full 200 multi-family/townhouse dwelling units are not ultimately used within the Special Districts, any remaining such units will not be used to increase the 2,389 residential units already approved for the portions outside the Special Districts.

6.3 Residential Density (Maximum and Minimum)

Each compact community shall be allowed a maximum overall residential density of no more than two (2) dwelling units for each acre of gross land area in the project. Accessory units shall count as one half (1/2) a dwelling unit for the purposes of this calculation. Spray fields located off the project area shall not count as part of the project for the purposes of the maximum residential density calculation.

The minimum net residential density shall be at least five (5) units per net acre as measured by the total number of residential units divided by the total area excluding community facilities, street rights of way, buffers, open space, and non-residential areas .

Response: With the potential addition of 111 units, 1.57 dwelling units per acre of gross land area are proposed. The potential addition of 111 lots increased the number of dwelling units per acre of gross land area from 1.5 units to 1.57 units, still well under 2.00. As to minimum net density (which must exceed 5 units per net acre), the current minimum net density addition of 111 units would increase the minimum density from 6.64 units per acre to approximately 6.94 units per acre, thus meeting the minimum.

6.5 Minimum Commercial Area

Each compact community shall include not less than one hundred thousand (100,000) square feet of commercial development.

At least twenty-five percent (25%) of the total planned commercial area) shall be developed before seventy-five percent (75%) of the maximum allowable dwelling units shall receive final subdivision plat approval.

At least fifty percent (50%) of the total planned commercial area) shall be developed before ninety percent (90%) of the maximum allowable dwelling units shall receive final plat approval.

Response: Clarifying an ambiguity in the prior responses and conforming the response to the prior amendment, including all forms of commercial development, these areas are approved for up to 510,000 of commercial square footage. Applicant believes that the proposed addition of up to 200 multi-family residential units to the Special Districts may have the impact of accelerating the commercial development timing. The commercial components of Briar Chapel will be developed in accordance with the Ordinance requirements. Applicant reserves the right to request a waiver or modification (as allowed under Section 15 of the CCO) of the timing requirements depending on the market conditions and circumstances at work.

7.2 Wastewater Treatment

Response: In addition to prior responses, Applicant will comply with the CCO wastewater treatment provisions as amended through the date of this application.

9.2 Perimeter Buffer

Response: All perimeter buffers will be as presently approved except that Applicant, with this application, seeks the following change as allowed by the CCO, as amended:

Eliminate perimeter buffer along the boundary with the adjoining Conservation Subdivision site. Applicant, as owner of both sites consents to the same and seeks Commissioner approval/waiver as provided for in the amended CCO. The area of reduction is as shown on the Revised Master Plan submitted herewith. In addition, Applicant has increased the perimeter buffer along a portion of Herndon Woods from 100' to 200' per prior agreement as shown on the Revised Master Plan submitted herewith.

9.3 Viewshed Buffer

Response: Applicant seeks to reduce the 100' viewshed buffers along 15-501 in front of SD-West and SD-East to 50' as allowed within the discretion of the Commissioners. If approved, the viewshed buffers will be as shown on the Revised Master Plan submitted herewith.

12.1 Performance Standards

Response: The Commercial Component responses are not modified except to the extent the requested up to 200 multi-family/townhouse residential units are allowed within the Special Districts.

General Response:

Applicant will comply with the CCO as amended through the date of this application.

TAB H

PROPOSED CUP REVISIONS

(see attached)