

## **..TITLE**

Vote on a request to approve NNP Briar Chapel, LLC for subdivision preliminary and final plat approval of Briar Chapel Development – SD North, consisting of 4 non-residential lots on 19.02 acres located off US Hwy 15-501 and Briar Chapel Pkwy, Baldwin Township, parcel #85632.

## **..ABSTRACT**

### **Action Requested:**

Request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision preliminary and final plat approval of Briar Chapel Development – SD North, consisting of 4 non-residential lots on 19.02 acres located off US Hwy 15-501 and Briar Chapel Pkwy, Baldwin Township, parcel #85632.

### **Introduction & Background:**

**Zoning:** Conditional Use District / Compact Community

**Water System:** Public, Chatham County

**Sewer System:** Private wastewater treatment plant

**Subject to 100 year flood:** No floodable area in SD North

**General Information:** Compact Community approved in 2005 for 2,389 dwelling units and commercial uses on 1,589 acres, permit revised in 2012 and 2014.

**Reviewed:** Under pre-2008 Subdivision Regulations.

The 2014 revisions to the Conditional Use Permit, Item # 5, Commercial Uses states *“The commercial component of the development shall be limited to 510,000 square feet in the locations shown on the Revised Master Plan, and the commercial uses allowed within the development shall be all those uses now allowed or later added as allowed in the December 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning District denominated as “O/I,” “B-1,” “NB,” “CB,” and “RB.” Irrespective of whether such uses are shown as permitted or as requiring a conditional use permit, all such uses shall be deemed allowed as of right within the Briar Chapel development. Applicant has agreed to this specification of allowed uses in order to bring clarity to the scope of allowed commercial uses with the express agreement of the County that the district-specific restrictions regarding maximum size of buildings and setbacks shall not apply. Signage for the commercial uses shall comply with the Design Guidelines from the original 2005 approval and the signage provisions set forth in the Chatham County Zoning Ordinance in effect on February 15, 2005 (original approval date). Commercial components of the Briar Chapel Development shall be accessible via public sidewalks, greenways, paths or trails. Pedestrian Access to SD North is substantially complete. Such pedestrian access shall be made to SD West.”*

### **Discussion & Analysis:**

**Request:** The request before the Board is for preliminary and final plat approval of four (4) commercial, non-residential lots on 19.02 acres located off US Hwy 15-501 and Briar Chapel Pkwy, Baldwin Township, parcel #85632. Per Section 4.4B, Item 14, of the pre-2008 Subdivision Regulations, “Plats of major subdivisions which do not include new

roads may be considered for preliminary and final approval simultaneously by each Board.” The request is for approval of the creation of the lots only. The uses proposed are not known at this time. Permitted uses are uses listed in the 2008 Zoning Ordinance list of permitted uses in the O/I (Office and Institutional); B-1 (Business); NB (Neighborhood Business); CB (Community Business); and RB (Regional Business) districts.

Per Section 6.4 C (3), states in part “Properties reserved or platted for commercial, institutional or industrial purposes shall be adequate in size to provide for the type of use and development contemplated.....Land subdivided for commercial, institutional or industrial use shall follow the major subdivision procedure with preliminary plat review by the Board of County Commissioners....”

**Roadways:** SD North Commercial area will be accessed off both Hwy 15-501 and Briar Chapel Parkway. A Commercial Driveway Permit and Encroachment Agreement have been issued by NCDOT for the entrance off Hwy-15-501. Per Richard Adams, PE, Kimley-Horn and Associates, Inc., NCDOT agreed that no driveway permit would be required for the entrance off Briar Chapel Parkway since that portion of roadway has not yet been accepted for maintenance and that NCDOT will accept that driveway when they actually adopt the street for maintenance. No new public roads are being constructed to serve the site. The internal roadway serving Lots A, B, & C will be a 40 foot wide private right-of-way along with 20 foot wide private access and utility easement currently serving Lot D. If the access easement serving Lot D is utilized in the future to serve additional lots, the easement may have to be named. See the final plat and/or the site plan for the road layout. Maintenance of the private R/W and private access & utility easement to be the responsibility of the developer and/or Briar Chapel Commercial Association, Inc.

**Site Plan:** Section 6.4C (3) requires that the subdivider can demonstrate the following:

- A. A site arrangement that prevents undue interference with through traffic.
- B. An integrated parking area.
- C. An insulation against any adverse effect on any present or future adjacent residences.
- D. A parcel size sufficient in area to allow future expansion.
- E. A plan that demonstrates that the first ½ inch of stormwater runoff will be managed on site, if more than six (6) percent of the lot area is covered with impervious surfaces such as buildings, parking, and drives.

Attachment # 3 is a general site plan prepared to demonstrate that the proposed lots will have adequate access and adequate internal traffic flow; that there is sufficient area for parking; that the 100' undisturbed perimeter buffer along the common

property line with parcel #2752 and the 50' viewshed buffer will insulate against any adverse effect on present or future owners; and that the parcel size will allow for future expansion. Briar Chapel has a Stormwater Management Plan prepared by McKim & Creed, Inc. and approved by NCDENR-DWQ that is designed to accommodate the residential and commercial development. The maximum Impervious surface area for both residential and commercial development is limited to 24% overall. The maximum impervious surface coverage of SD North is proposed to be approximately 1% of the overall impervious surface coverage of the development. The cumulative coverage for the overall development will be approximately 21.38% per Chris Seamster, RLA, with McKim & Creed. Prior to obtaining building permits on any of the lots, the owner/developer will present a specific site plan for review by the Zoning Administrator and the Appearance Commission. The site plan will be reviewed for adequate landscaping, conformance with the Chatham County Lighting Ordinance, adequate parking for the proposed uses, signage, etc.

**Permits:** Agency permits required for preliminary plat approval have been received. You may view a copy of the permits at [www.chathamnc.org/planning](http://www.chathamnc.org/planning) , Rezoning and Subdivision Cases, 2015.

**Water/Sewer:** County water is available and will be utilized. Sewer service will be provided by the Briar Chapel WWTP. Permits for the water main extension and authorization to construct and permit for the wastewater collection system extension have been issued.

**Historical / Archaeological:** Per the engineer, there are no cemeteries or structures eligible for the National Register within the project area. There was a gravestone for Lizzy Cheek located on the SD North property along with the Cheek house. The Cheek house was greater than 50 years old, but not considered eligible for the National Register. Per the developer, the house has been salvaged primarily for its doors and windows. The developer has worked with Bev Wiggins, Chatham County Historical Association, to determine if the remains of Lizzy Cheek were buried on the property or if they had been moved sometime in the past. Per a report by Terri Russ with Environmental Services, Inc., dated November 7, 2014, the Lizzy Cheek grave (31CH806\*\*) has been moved from the site on Briar Chapel Property to the Maplewood Cemetery in Durham and that a second grave marker is located within the cemetery. Per the report, it is typical to inter the original grave markers with the remains; however, if the original grave marker was particularly large, they may not have been able to include it with the remains. The headstone was left on the Briar Chapel property due to the size of the stone and the difficulty of removal. Briar Chapel contacted members of the Cheek family to see if they had any interest

in moving the stone, but they did not. Per the developer, the stone will be treated as typical rock waste in the earthwork operation.

**Road Name:** The road name 'Falling Springs Drive' has been reviewed and by the Chatham County Emergency Operations office for submittal to the Board of Commissioners for approval.

**Conditional Use Permit Stipulations:** See attachment # 2, for the update to the Conditional Use Permit Stipulations prepared by Chris Seamster, RLA, dated March 12, 2015.

**Water Features:** There is a stream located on the property that requires a 50 foot wide undisturbed buffer along with a 10 foot wide no build area as shown on the subdivision map and the site plan map. As shown on the maps, there will be a crossing of this water feature to access the Future Development area. A modification to the 2006 404 stream impact permit issued by the Army Corp of Engineers and subsequent 2007 modification was issued on August 21, 2009 for modifications to address impact amounts and location changes associated with roadway crossings in and near the development. Also, on August 31, 2009 there was an approval of a 401 Water Quality Certification with Additional Conditions - Modification to address this stream crossing.

**Fire Department Review:** The Fire Marshal has reviewed the plan for SD North and has stated "As the actual structure locations are not depicted on the plan, it is difficult to address whether the fire hydrants will be located in accordance with the North Carolina State Fire Prevention Code and in locations suitable for use by the fire department. It is also important to note, should a structure be built with an automatic fire suppression sprinkler system, it is important that a fire hydrant be located no more than 50' from the automatic fire suppression sprinkler system fire department connection." Prior to a building permit being issued for a structure, the Fire Marshal will have to review and approve the plan which will include fire hydrant placement and emergency vehicle access to the structure.

Staff recommends that prior to the mylar being recorded in the Office of the Register of Deeds, that the following changes be made:

--add names with deed book and page reference of adjacent property owner(s) of record across Hwy 15-501

During the Planning Board review, staff had requested that Note # 7 on the plat under Survey Notes be changed to read "Prior reference to this monument as a 'gravesite' or 'grave marker' have been removed with the permission of the Chatham County Planning Department based upon the conclusion that the remains have been

relocated per report dated November 7, 2014 by Terri Russ, Environmental Services, Inc. in reference to Briar Chapel-Lizzie Cheek Grave (31CH806\*\*).” The note has been revised to meet this recommendation.

The Planning Board met on April 7, 2015 to review the request. Nick Robinson, Attorney-at-Law was present to represent the developer along with Lee Bowman, Project Manager, and Chris Seamster, RLA, McKim & Creed. Mr. Bill Arthur had a concern about the new entrance off Hwy 15-501 and safety issues. Mr. Robinson explained that the entrance would be within the area of the existing deceleration lane and would be a right in-right out only turn, and would provide additional emergency vehicle access. The Board asked if specific uses had been identified at this time. Mr. Robinson stated that it was too early in the process to identify specific users. Placement of fire hydrants was discussed. Staff stated that when the site plan was presented for review for a specific use, the Fire Marshal would review to determine if the building would need to be sprinkled and if there was a fire hydrant within the required distance. Another question from the Board was who would be responsible for maintenance of the common area for SD North. Mr. Robinson stated that the commercial lot owners in SD North would have a separate owners association and that they would be responsible for maintenance after NNP Briar Chapel transferred the common areas to the owners association. The Board had no other questions or concerns.

**Recommendation:**

The Planning Board by unanimous vote and Planning Department recommends approval of Briar Chapel Development – SD North with the following conditions:

1. Add names with deed book and page reference of adjacent property owner(s) of record across Hwy 15-501.
2. The plat not be recorded until the county attorney has approved the form of the contract and financial guarantee.