

## **..TITLE**

Request by Nicolas Robinson, on behalf of NNP-Briar Chapel, LLC, for a Compact Community Ordinance (“CCO”) Waiver to Ratify Previously Installed Drainage Structures and Minimal Grading encroachments in riparian buffers near the Briar Chapel Waste Water Treatment Plant.

## **..ABSTRACT**

### **Action Requested:**

Request by Nicolas Robinson, on behalf of NNP-Briar Chapel, LLC, for a Compact Community Ordinance (“CCO”) Waiver to Ratify Previously Installed Drainage Structures and Minimal Grading encroachments in riparian buffers near the Briar Chapel Waste Water Treatment Plant.

### **Introduction & Background:**

Per the request letter NNP-Briar Chapel installed two storm drain pipes ten years ago, in 2005, in accordance with NCDENR standards, prior to delegation of the erosion control process to Chatham County. The installation of the storm drain pipes encroach into the 10’ no-build zone of one riparian buffer and into both the no-build zone and buffer area of the other riparian buffer locations.

Existing buffer locations were depicted in the 2005 Briar Chapel approved concept plan and reconfirmed with the associated 2012 and 2014 Conditional Use Permit revisions. The buffers are adjacent to a proposed roadway on the Master Plan, which is currently being used as an unpaved access road to the Briar Chapel Waste Water Plant.

NNP-Briar Chapel desires to formalize this roadway with approvals from NCDOT, so the future roadway may be added to the state-maintained system.

### **Discussion & Analysis:**

The Chatham County Compact Communities Ordinance states the following:

#### **Section 9.1 Riparian Buffers**

In all residential, commercial, and civic areas in each compact community, vegetative buffers of the following widths shall be permanently protected along each side of the following streams:

- At least one hundred (100) feet along all perennial streams;
- At least fifty (50) feet along all intermittent streams;
- At least fifty (50) feet along all ephemeral streams shown on the Soil Survey maps and having a drainage area of more than twenty-five (25) acres;
- At least thirty (30) feet along all ephemeral streams shown on the Soil Survey maps and having a drainage area of between ten (10) acres and twenty-five (25) acres.

**Section 15. Waiver**, “With the approval of the Board of Commissioners, the requirements of this ordinance may be adjusted, modified, reduced or waived based upon the absence of any reasonable relationship or nexus between the impact of the compact community development and the inclusionary or other requirements set forth herein.”

This waiver request is being submitted directly to the Board of Commissioners without review and recommendation by the Planning Board and follows the process outlined by the Board in a waiver request approved in August 2010. The waiver provision has been used to modify a condition in the original conditional use permit in 2005 and two requests in 2010 and 2012, respectively.

**UPDATE Since 6/15/15 Board Meeting:** Since the postponement of the waiver request at the June Board of Commissioners meeting, the applicant has received NCDOT approval for the grading work around the buffer area. The proposed retaining wall has been removed and the slope angles have been approved. There will be no additional disturbance in the buffer area. The exhibits of the buffers and proposed grading have been updated and are included as attachments.

It is acknowledged by both NNP-Briar Chapel and Chatham County that the storm drain pipes have been installed for a number of years and it may cause more damage to remove them than to leave them in the current location, therefore the waiver process is recommended.

**Recommendation:**

Discuss the waiver and consider for action.