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A request by NNP Briar Chapel LLC for a Conditional Use Permit for a recreation club with a minimum lot area of five acres to be located on Parcel No. 2177 (US Steele Subdivision), located off Half Dollar Road, Baldwin Township.

..ABSTRACT

Action Requested:

A request by NNP Briar Chapel LLC for a Conditional Use Permit for a recreation club with a minimum lot area of five acres to be located on Parcel No. 2177 (US Steele Subdivision), located off Half Dollar Road, Baldwin Township.

Introduction & Background:

A quasi-judicial public hearing was held on October 17, 2016. Presenting were planning staff, Attorney Nick Robinson for the applicant, and Ryan Jackson with David Weekly Homes, contractor within the development of Briar Chapel.

The recreation facility is to be located within a newly approved conservation subdivision identified as the US Steel tract. It is owned by Newland Communities, which is also developing the Briar Chapel compact community. The specific area where the recreation facility has been proposed is within Phase 1B which has obtained construction approval at this time.

Although the conservation subdivision identified two areas as a recreation sites, this proposal is not intended to be an amenity for the lots proposed in the US Steele subdivision. The US Steele residents will be allowed to utilize the existing amenity area located within the interior of the Briar Chapel compact community. The users of the new facility are intended for residents in the age restricted area currently identified as "The Encore", which is located within Briar Chapel Phase 16 immediately to the west of the US Steel subdivision. These will be 55 and older homeowners and per David Weekly Homes' representative, will be required to pay dues for this amenity. Briar Chapel was rezoned to Conditional Use Compact Community with a conditional use permit in 2005 and the US Steel property is zoned R1, Residential.

Because this is not an amenity that is accessory to the subdivision in which it is located, it considered under the category of "golf courses, tennis, and recreation clubs with a minimum of five acres" in the Zoning Ordinance that requires a conditional use permit within the R1, R2, and R5 residential zoning districts.

Planning Board review is in **BOLD**

The Planning Board met on November 1, 2016. There were a questions regarding where the US Steel residents would have access to recreational facilities, if the Encore residents would be required to pay dues to have exclusive rights to the

new recreation club, and if appropriate measures were being taken for the stormwater system and the capture of the back wash from the pool.

There was also a concern that the required number of ADA accessible parking spaces is met, the developer may want to consider adding addition spaces since the target residents were in the active senior phase of life.

Discussion & Analysis:

In reviewing and considering approval of a Conditional Use Permit, the Board must find that all of the following findings of facts are supported. Per the Zoning Ordinance “In considering an application for a conditional use permit the Board of Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied.” The findings are as follows:

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.

Recreational uses are listed as a conditional use within the R-1 Residential zoning district. **It is planning staff opinion this finding is supported.**

Finding 2 – The requested conditional use permit or revision to the existing permit is either essential or desirable for the public convenience or welfare. The county currently has four district parks located in the county. The towns of Siler City and Pittsboro also have recreational facilities available. The amenities vary from open spaces and trails to swimming pools and recreation fields. This facility would provide an additional option for those living within The Encore community to enjoy recreation that is within walking distance to their residential living area. The application states there would be reduced pressure on existing county recreation facilities for those living outside the community and that this facility would complement the current clubhouse and pool area within Briar Chapel. However, there is no net gain in recreational opportunities by allowing the residents of The Encore exclusive use of this facility and requiring the residents of the US Steel tract to use the Briar Chapel amenity recreational facility. A commissioner also questioned the limited use of the recreational club/facility for only The Encore residents and not the future residents of the US Steel tract subdivision.

The contractor for the proposed Encore age restricted phase of Briar Chapel, David Weekly Homes, has been constructing homes in Briar Chapel since 2011 and has built approximately 200 of the 500 proposed homes. This contractor will also be developing the recreational club/facility.

The creation of this recreational club/facility would create permanent and temporary job opportunities and increase the tax value of the property. There are no county required

improvements needed to support the site and NCDOT will maintain the roadway once completion is made. **It is planning staff opinion this finding is supported.**

One planning board member did not support this finding stating this facility does not serve the greater county residents as implied in the applicant's application materials.

Finding 3 – The requested permit or revision to the existing 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. Briar Chapel and the US Steel conservation subdivision are being developed by Newland Communities. The applicant has indicated the transition from Briar Chapel into the US Steel subdivision will be seamless meaning the general public will not know they have left the compact community of Briar Chapel. The same landscaping, street-scape, and other visual impacts will be consistent between the two developments. **The Chatham County Appearance Commission reviewed the overall site plan with landscaping, lighting, parking, and signage and recommended approval.**

Noise associated with the use will be what is considered customary with a recreational pool facility. Noise levels should not violate the current Chatham County Noise Ordinance administered through the Chatham County Sheriff's Office per the applicant.

Chemicals stored on the property will be those that are customary to recreational pool maintenance and grounds upkeep. **It is planning staff opinion this finding is supported.**

Finding 4 – The requested permit will be or remain consistent with the objectives of the Land conservation and Development Plan. Page 1 of the Land Conservation and Development Plan promotes developing integrated open space and recreation. This facility does that with respect to the Briar Chapel and US Steel subdivision communities. The conservation subdivision requires that 40% of the tract be preserved as open space. The applicant has preserved more than the minimum for that approval. The additional open space above the required 40% is where the recreational club/facility will be located. **It is planning staff opinion this finding is supported.**

Finding 5 – Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies, and regulations. The property will be served by the Chatham County public water system and supported by the wastewater treatment plant for Briar Chapel and managed by the Old North State Water Company. The roadway is to be developed in accordance with the required NCDOT specifications so that they will take over maintenance when appropriate.

Stormwater and erosion & sedimentation control review and permitting are to be integrated with the Briar Chapel community per the applicant.

The recreational club/facility supports the recreation and open space requirements set out in the Conservation Subdivision, the Compact Community Ordinance, and the Land Conservation and Development Plan. **It is staff opinion this finding is supported.**

It is planning staff opinion the request be approved by supported the five findings as noted.

Recommendation:

The Planning Board recommends approval by vote of 10-1 to the Board of Commissioners. Should the Board consider approval, the following conditions are provided for consideration.

Site Specific Conditions

1. The recommendations of the Chatham County Appearance Commission shall be followed as recommended. Required plantings shall be installed by the next optimal planting season following the issuance of a building permit.
2. A Certificate of Occupancy shall be obtained within two years of the date of this approval or the conditional use permit shall be null and void.

Standard Site Conditions

3. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place. These include but are not limited to landscaping, lighting, signage, parking, building construction, etc.
4. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Land and Water Resources, Environmental Health Division, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

Standard Administrative Conditions:

5. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspections.

6. Continued Validity – The continued validity and effectiveness of this approval is expressly conditioned upon the continued compliance with the plans and conditions listed.
7. Non-Severability – If any of the above conditions are held to be invalid, this approval in its entirety shall be void.