



**CHATHAM COUNTY PLANNING BOARD**  
**Minutes**  
**May 1, 2012**

The Chatham County Planning Board met in regular session on the above date in the Henry H. Dunlap, Jr. Building Classroom, Pittsboro, North Carolina. Members present were as follows:

Present:

Karl Ernst, Chairman  
B.J. Copeland, Vice-Chair  
Philip Bienvenue  
Philip Canterbury  
James Elza  
Mike Grigg  
Dwayne Howard  
Donna Kelly  
Cecil Wilson

Absent:

Kathryn Butler  
Timothy Keim

Planning Department:

Jason Sullivan, Planning Director  
Benjamin Howell, Planner  
Angela Birchett, Zoning Administrator  
Kay Everage, Clerk to the Board

- I. INVOCATION AND PLEDGE OF ALLEGIANCE: Mr. Copeland delivered the invocation and afterwards invited those present to stand and recite the Pledge of Allegiance.
- II. CALL TO ORDER: Chair Ernst called the meeting to order at 6:30 p.m.
- III. DETERMINATION OF QUORUM: The clerk stated that a quorum was present to begin the meeting (9 members).
- IV. APPROVAL OF AGENDA: See Item V. below.
- V. APPROVAL OF CONSENT AGENDA:  
Minutes: Consideration of a request for approval of the April 3, 2012 Planning Board minutes.

Above items IV and V were approved as submitted since the Board had no objections to either entry.

- VI. PUBLIC INPUT SESSION: Fifteen-minute time of public input for issues **not** on agenda. Speakers limited to three minutes each.

There were no requests to speak at this time.

## VII. ZONING AND ORDINANCE AMENDMENTS:

### Items Continued from April 3, 2012 Planning Board Meeting:

#### Quasi-Judicial

1. Request by Talitha Sanders and Ellen Martin for a conditional use permit on Parcel No. 75481, located at 235 Easy Street, Baldwin Township, on 4.564 acres for a daycare center for 15 or fewer children.

Ms. Birchett wasn't feeling well so Mr. Sullivan reviewed the agenda notes and the five (5) required findings for this request. He stated that the county attorney advised that any additional information submitted after the March 19, 2012 public hearing was post hearing evidence and **should not** be considered in making a recommendation unless the public hearing is re-opened; that staff recommendation was for denial based on finding #2 not being met; and that if the Planning Board was favorable to the request staff recommends the Ten (10) conditions listed in tonight's agenda notes. Mr. Sullivan noted the following two options the Board might consider; 1) re-opening the public hearing, or 2) adding a condition to the Conditional Use Permit to limit the in-home daycare to no more than five (5) children allowed at any one time.

Board discussion followed. Some specifics reviewed were:

- Finding #2 – *'The requested conditional use permit is either essential or desirable for the public convenience or welfare.'*
- Proposed property is a convenient location – near Perry Harrison Elementary School
- Applicant was agreeable to allowing a condition that limits the amount of children to five (5) for the in-home daycare
- Building codes and zoning requirements, i.e. setback requirements
- Board options – deny the request, re-open hearing to allow new evidence submitted, and/or approve with additional conditions

Talitha Sanders, applicant, stated that there is a huge need for additional daycare in Chatham County; that this proposal was supported by the Childcare Network; and that she has already started the transition for showing this as her primary residence as required by building code.

#### Motion to approve

Following discussion, Mr. Copeland made a motion to recommend to the Board of Commissioners that this request be approved as submitted and as recommended by staff; with a #3 'Site Specific Condition' stating that there be a limitation to five (5) children enrolled in this daycare facility. Mr. Wilson seconded the motion. There was no further discussion and the motion passed 8-1 with all Board members present voting in favor of the motion; except Mr. Elza who voted against. The 11 conditions are as follows:

#### Site Specific Conditions:

1. The site may have one non-illuminated sign no larger than four (4) sq. ft., which is larger than the applicant requested.

2. Recommendations by the CCAC and the Chatham County Design Guidelines shall be complied with as approved.
3. There shall be a limited of no more than five (5) children allowed at any one time in the daycare operations.

**Standard Site Conditions:**

4. Signage, parking, and lighting shall conform to the Chatham County Zoning Ordinance unless otherwise stated in a specific condition noted above.
5. The application and 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.
6. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Storm water Management, 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.
7. A certificate of occupancy shall be issued within two (2) years from the date of this approval or this permit becomes null and void.

**Standard Administrative Conditions:**

8. 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 inspection, established from time to time.
9. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
10. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
11. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

**Legislative**

1. Request by the Chatham County Board of Commissioners for text amendments to the Zoning Ordinance to modify the following sections as described below: - **See April 3 Agenda Notes**  
**Section 3**, Revise the bona fide farm exemption  
**Section 4**, Districts Established – Delete references to districts that will change to conditional zoning districts

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- Section 5**, Conditional Use Districts – Change section to refer to new requirements for conditional zoning districts
- Section 7**, Definitions – Modify definitions
- Section 10**, Schedule of District Regulations –Revise to refer to new conditional zoning districts
- Section 11.3**, Environmental Impact Assessment - specify that environmental impact assessment is only required for non-residential projects and mixed use districts.
- Section 13**, Lighting – allow internally-illuminated signs, delete amortization requirement for vehicular canopy lighting
- Section 15**, Regulations Governing Signs – Specify that signs in the right-of-way are regulated by NCDOT
- Section 17**, Conditional Use Permits – Revise procedures
- Section 18**, Board of Adjustment – delete Table 2
- Section 19**, Amendment to Zoning Ordinance – Revise provisions for parties that can apply for a rezoning, specify different procedures for citizen-initiated amendments and county-initiated amendments
- Section 20**, Enforcement – delete stop work order, clarify issuance of Notice of Violation
- Section 21**, Penalty for Violations – delete stop work order
- Section 23**, Effects Upon Outstanding Conditional Use Permits – add procedure for termination of conditional use permits
- Section 29**, Index – delete entire section

Mr. Howell reviewed the agenda notes for this request. He stated that the primary purpose of this proposal is to switch our conditional use district permit process to a conditional zoning process; and that staff is recommending an additional change based on review of the proposed amendments by the Transportation Planner as follows: Section 5.3 (B) (3) (f) – to read, “A traffic impact analysis of the proposed development prepared by a qualified professional”.

Mr. Elza submitted a hand-out titled, “Notes on Zoning Ordinance Amendment, Jim Elza, 4-5-12” listing his comments and suggestions regarding the above proposed amendments. A copy of these comments is filed in the Planning Department under Planning Board Correspondence 2012. Some specifics discussed were:

Section 23.1

Mr. Howell addressed proposed Section 23.1 – Cancellation by surrender of a Conditional Use Permit. Mr. Sullivan gave an example of a past occurrence regarding a lawn and garden business. See additional revision below.

Section 20

Mr. Howell addressed this section that states: Enforcement – delete stop work order, clarify issuance of Notice of Violation. He stated that this is based on the General Statutes; that it has not been very clear as far as who can issue stop work orders; that in the last few years it has been clarified by some court cases

and by the UNC School of Government that zoning is not authorized to issue stop work orders; but that Building Inspections would issue them.

Section 17.1

Mr. Elza suggested the following 12 uses be placed in the CUP category in the Table of Permitted Uses:

*Airports, Asphalt manufacture, Ammunition manufacture, Bulk gas storage, Industrial chemical manufacturer, Inert landfill, Junkyards, Mining, Rock crushers, Rodenticide manufacture, Tannery, and Tar manufacture.*

It was the consensus of the majority of the Board that more research is needed regarding this Section; and that the Table of Uses would be revisited when the Zoning Ordinance is reopened for additional revisions.

CUP – make more standardized

Mr. Bienvenue voiced concern that the conditional use permit needs to be more standardized.

Mr. Sullivan stated that staff presented several suggestions to the Board of Commissioners months ago; that the Commissioners agreed that all sections of the Zoning Ordinance need to be revisited; that the Commissioners asked staff to address conditional zoning (plus a few minor items) first; that staff would gradually review individual sections; and that these proposed revisions are just the first piece of that re-evaluation of the Zoning Ordinance.

Section 11.3

Following discussion, the Board recommended changing the title of Section 11.3 to “Environmental Impact Assessment”.

Motion to approve

Mr. Howard made a motion to recommend approval of the proposed Chatham County Zoning Ordinance amendments to the Board of Commissioners as submitted; and with three (3) additional revisions as follows:

- Revise language for Section 5.3(B)(3)(f) recommended by the Transportation Planner as noted above.
- Change title of Section 11.3 to “Environmental Impact Assessment”; and
- Add language in Section 23.1 (B) (3) to restrict cancellation of Conditional Use Permits by surrender to those that have an underlying general use zoning district.

Ms. Kelly seconded the motion. Discussion followed. Mr. Elza stated concern that some of these proposed revisions needed additional modifications before forwarding to the Commissioners. Mr. Copeland stated concern regarding provisions for dealing with future issues. He noted that staff has additional work to do with further revisions of the Zoning Ordinance. The motion passed 8-1 with all Board members present voting in favor of the motion; except Mr. Elza who voted against.

Additional work for Planning Staff

Following discussion, it was the consensus of the majority of the Board that staff should continue to work on modernizing the Zoning Ordinance and making the other changes that have been discussed.

Item from March 19, 2012 Public Hearing:

**Quasi-Judicial**

2. Request by NNP Briar Chapel, LLC for a revision to the existing conditional use permit for the Briar Chapel compact community to clarify certain language, acknowledge certain completed commitments, and revise the master site plan to provide additional flexibility with the remaining undeveloped lands.

Mr. Howell reviewed the following specifics relative to this request:

- agenda notes
- required five (5) findings that the conditional use permit must meet (as required by the Chatham County Zoning Ordinance), and
- 27 conditions recommended by staff.

Board discussed staff condition #14. (f) that states:

*“(f) Library: The County and the Applicant have agreed that, in lieu of contributing and preparing a library site within the development, the Applicant shall be required to make an \$80,000 in lieu payment to the County and the County will determine as to how to use that resource. Said payment shall be made within forty-five (45) days of final, unappealable approval of this amendment. Upon delivery of said payment to the County, condition 14(f) shall be deemed fully satisfied”.*

Mr. Howell explained that the above language was proposed by the applicant (including the \$80,000 figure) and that this is a matter for the Board of Commissioners and applicant to negotiate.

Nicolas Robinson, attorney, was present representing the applicant.

Mr. Robinson addressed the above condition and the applicant's contribution obligations included in the 2005 conditional use permit approval. He stated that it is unclear if the county would ever want a library site in this designated location; and that the county is not at all confident that there will be a need, desire or understanding of what their library need would be within this 2 year development timeframe.

Modify above referenced condition 14. (f) Library

Mr. Copeland suggested that a stipulation be made that this payment be used for the library. Mr. Howell stated that the Planning Board could recommend that the above condition be modified to require that the \$80,000 payment be used specifically for the library system.

### Revisions to staff conditions

Mr. Robinson submitted revisions to various staff conditions. (See 7 page document attached). Modifications **not** deemed acceptable by staff are shown in the document as underline/strikethrough. The subjects are listed below and those reviewed by Mr. Robinson and Mr. Howell are shown as shaded.

### **Stipulations Specific to the Development**

1. Construction Deadlines
2. Land Use Intensity
3. Watershed Management
4. Storm Water Management
5. Commercial Uses
6. Lighting Plan Approval
7. Utility and Access Easements
8. Unity of Development

### **Stipulations Regarding State and Federal Government Approvals**

9. Permits

### **Stipulations Regarding Required Improvements**

10. Improvements
11. Parking and off-street loading areas
12. Streets
13. Utilities (a)
14. Public Facilities (d)

### **Stipulations Related to Landscape Elements**

15. Landscaping/Screening (a)

### **Miscellaneous Stipulations**

16. Archaeological Survey
17. Solid Waste Management
18. Detailed Site Plan
19. Moderate Income Housing
20. Moderate Income Housing
21. Environment
22. Erosion Control
23. Silt Control
24. Fees
25. Continued Validity
26. Non-Severability
27. Non-Waiver
28. Inconsistencies
29. Applicable Zoning Ordinance

It was noted that these proposed revisions are acceptable to staff with the exception of conditions 7, 14(d), and 28.



Include provision for any inconsistencies

Mr. Robinson requested that the Planning Board recommend to the Board of Commissioners that a provision be included regarding any inconsistencies between the specific language of the amended conditional use permit and any documentation that exists to support the original 2005 approval; and that the amended conditional use permit supersedes any inconsistencies in the prior documentation. Mr. Robinson stated that the project development team was present at tonight's meeting. He asked that the Board propose a motion to approve the request with staff recommendation including the minor changes the applicant has requested.

Two (2) Adjacent Landowners Spoke

- Douglas Donald Roberts, 5015 Pine Cone Dr., Durham, NC 27707

Mr. Roberts spoke of concerns about the effect of the development on the Half Dollar Road area and the Dollar property in particular. Some specifics noted were:

- not be denied any provisions in the conditional use permit
- consistent zoning
- buffering
- fire protection, and
- utilities.

Mr. Howell explained that these provisions are not part of this amendment request. Mr. Robinson gave a brief history of the Dollar property relative to the Briar Chapel 2005 initial Conditional Use-Compact Community Zoning District (CU-CC) approval with an associated Conditional use Permit (CUP).

- Sandra Tripp, 1180 Andrews Store Road, Pittsboro, NC 27312

Ms. Tripp was pleased that a completion date was included in staff conditions as follows:

**'Stipulations Specific to the Development**

1. Construction Deadlines. This permit shall automatically expire on December 31, 2025 unless the construction of all required improvements has been completed or extended by the County upon request prior to the expiration of the term'.

Ms. Tripp noted that her property does have a 100 foot buffer.

Other properties in the conditional use permit not owned by Briar Chapel

Mr. Robinson stated that the only other properties were the Cameron Tracts which he pointed out on the overview map.

Motion to approve

Mr. Copeland made a motion; seconded by Mr. Grigg, to approve the application as recommended by staff; with issues (and language acceptable to all parties) negotiated between Planning staff, county attorney for Conditions 7, 14(d) and 28. There was no further discussion and the motion passed 8-1 with all Board members present voting in favor of the motion; except Mr. Elza who voted against. The 28 Conditions are as follows:



## **Stipulations Specific to the Development**

1. Construction Deadlines. This permit shall automatically expire on December 31, 2025 unless the construction of all required improvements has been completed or extended by the County upon request prior to the expiration of the term.

2. Land Use Intensity. This conditional use permit approves:

Gross Land Area 1589 acres

Max Impervious surface area 24%

Maximum Number of Dwelling Units 2389

3. Watershed Management. A detailed watershed protection plan for the entire project area, including impervious surface calculations, has been approved by the County. Prior to approval of a final plat for each phase of the project, the Applicant shall submit evidence satisfactory to the County Watershed Administrator of compliance with the approved plan. County acknowledges that the Briar Chapel development is exempt from the Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers (also known as the "Jordan Lake Water Supply Watershed Buffer Rules") (15A NCAC 02B.0267) as an "existing use." Applicant shall provide updated impervious surface calculations on a phase-by-phase basis at the time of each preliminary plat submittal.

4. Storm Water Management. A storm water management plan shall be approved by the County Stormwater Administrator prior to approval of a preliminary plat for each phase of the project. Such plan shall include final construction drawings for storm water management control measures and an impervious surface calculation sheet for that phase. The Applicant shall construct storm water management control measures sufficient to serve each phase of the project area prior to issuance of a Certificate of Occupancy.

5. Commercial Uses. The commercial component of the development shall be limited to 510,000 square feet and the 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 Districts 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.

6. Lighting Plan Approval. All area lighting shall meet County standards and not adversely affect adjoining residential areas.

7. Utility and Access Easements. Easement documents as required by the County for any public utilities used or furnished to the project area have been recorded. During the preliminary plat review process, the Chatham County Water Department shall review and approve any future water utility easement locations shown on a proposed preliminary plat.

8. Unity of Development. Guidelines for the future development of the project as a unified whole have been submitted to the Chatham County Planning Department.

#### **Stipulations Regarding State and Federal Government Approvals**

9. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NC DOT shall be obtained and copies submitted to the County prior to approval of a preliminary plat for each phase.

10. Improvements. Off-site improvements required by N.C. DOT or any other agency shall be constructed at no cost to the County including the traffic improvements as stated in the most recent TIA and others as ultimately deemed warranted by the NCDOT following its analysis.

#### **Stipulations Regarding Required Improvements**

11. Parking and off-street loading areas. Parking and off-street loading areas shall be installed in accordance with the ordinances and policies of the County. Future submittals for preliminary subdivision plat approval will designate park-and-ride parking spaces (such as additional spaces in proposed parking lots above the minimum number required for retail or office uses) and transit stops, pedestrian and bicycle facilities, and traffic calming devices, as reasonable and necessary to accommodate then-existing multi-modal transit needs at those locations.

12. Streets. Roads will be stubbed-out and/or areas will remain underdeveloped as reasonably necessary to allow for future connections with currently undeveloped parcels, so long as such access takes into account physical features and other access points and are no more than necessary, and with the understanding that future connecting roads will be designed and constructed to approximately the same standards as the connecting roads in Briar Chapel. Where roads are constructed they will be built to required standards up to the perimeter buffer. The exact location of said roads may be determined during preliminary plat review. Signs shall be posted on the property advising of the future extension of said roads.

13. Utilities.

(a) The Applicant shall demonstrate availability of adequate water and wastewater supplies to serve the property. Plans for provision of water supply

shall be approved by the County prior to issuance of a preliminary plat for each phase. Such plans shall be in conformity with any County water policies then in effect and the Applicant shall pay all water fees and charges associated with the applicable phase, including then current water fees, review and inspection charges, prior to submittal of the preliminary subdivision plat for each phase. The entire cost of extending public utility services if desired or required under County regulations shall be borne by the Applicant.

(b) In order to adequately provide fire flow pressures for the project and surrounding area, Applicant has provided and the County has accepted an above ground storage facility.

(c) Adequate wastewater treatment service for the entire project area shall be designed and approved by the appropriate regulatory agency prior to issuance of a preliminary plat for each phase and constructed at no cost to the County. Adequate facilities for the spray irrigation of treated effluent from each phase of the project shall be designed, approved by the appropriate regulatory agency, and constructed at no cost to the County prior to issuance of a Certificate of Occupancy for any building within that phase of the project.

(i) Equipment such as pumps and blowers will be appropriately insulated or buffered to ensure that no motor noise from them will be noticeable on a typical day at the boundary of the wastewater plant lot.

(ii) An aeration system has been installed in the 110-day holding ponds.

#### 14. Public Facilities.

(a) Water Storage Tank Site: Applicant has constructed and donated to the County a 1 million gallon capacity water storage tank which is in use and fully operational at this time. The water storage tank and site have been conveyed to the County. This obligation has been fully satisfied.

(b) Public School Site: Applicant has deeded the public school site to the County and the school is open and operational. This obligation has been fully satisfied.

(c) Charter School Site: Applicant has deeded the charter school site to the Woods Charter School entity and the school is constructed and operational. This obligation has been fully satisfied.

(d) Fire Station/EMS Site: Applicant has agreed to and shall tender to the County a special warranty deed for a minimum three (3) acre building site located at the northeastern corner of Mann's Chapel Road and Great Ridge Parkway. The deed shall include, among other things; (1) a covenant not to exceed 24% maximum impervious surface area on the site; (2) a provision allowing a septic system but also an easement sufficient to allow for installation, maintenance and repair of an appropriate sewer collection line for connection to the Briar Chapel Utilities waste water collection system and treatment plant as well as allocated sewer capacity in the amount of no more than 400 gallons per day; (3) a

covenant subjecting any structure to be constructed or placed on the site to applicable Briar Chapel Design Guidelines and Design Review Committee approval; and (4) a covenant restricting use of the parcel to Fire Station/EMS uses. North Chatham Fire Department shall have ten (10) years from the date of approval of this amendment to notify Briar Chapel of its intent to use the reserved sewer capacity. If the County fails to record the deed to said building site within one year of the date the deed for said building site is tendered to the County, the Conditional Use Permit obligation to donate said site shall be deemed immediately canceled and the unrecorded deed shall be returned to Applicant.

(e) Park Site: Park site has been constructed and is in process of being deeded to County.

(f) Library: The County and the Applicant have agreed that, in lieu of contributing and preparing a library site within the development, the Applicant shall be required to make an \$80,000 in lieu payment to the County and the County will determine as to how to use that resource. Said payment shall be made within forty-five (45) days of final, unappealable approval of this amendment. Upon delivery of said payment to the County, condition 14(f) shall be deemed fully satisfied.

(g) Applicant shall subject one of the commercial lots within SD North, SD East or SD West to a reservation of 5,000 square feet of shell space for the Chatham County Sheriff's Office for a satellite office (the "Reservation"). Because timing, size and potential commercial developers or tenants are unknown at the time of approval of this amendment to the Conditional Use Permit, the selection of which commercial lot that will be subjected to the Reservation shall be entirely in the discretion of Applicant. Applicant, however, shall make good faith efforts to reserve said space within the agreement to convey the first lot located within the portion of SD West located north of Taylor Road. Upon execution of an agreement by which Applicant intends to convey land subject to the Reservation to a developer, Applicant will forward said agreement to the County. It will then be up to the County and the developer of the lot(s) to be conveyed (not the Applicant) to determine whether they can reach an agreement regarding leasing/sale, upfit and all other commercially reasonable terms for the Reservation space. Applicant's obligation will be deemed fully satisfied upon closing of the conveyance called for in the agreement that contains the Reservation irrespective of whether the County declines the space or fails to reach an agreement with the developer of the space. The County acknowledges that, within any agreement with a developer of the space, the County will be responsible for the cost of the up-fit to the shell space for the offices and amenities required (i.e. restrooms, showers, storage, etc.).

Upon completion of the items listed in paragraphs 14 (d) through (g), Applicant shall be deemed to have fully discharged all of its responsibilities with respect to the Public Facilities required by Condition 14 for the Briar Chapel development.

### **Stipulations Related to Landscape Elements**

15. Landscaping/Screening. All required screening and buffers shall be in place prior to issuance of a certificate of occupancy or next optimal planting season after issuance of a certificate of occupancy. Existing vegetation may be used to fully or partially fulfill the landscaping and buffer requirements of the County. The extent to which the same can be used shall be determined by the Planning Department prior to issuance of the certificate of zoning compliance.

(a) A six-foot opaque fence has been erected along the east side of AKPAR parcel number 77798 (formerly referred to as the "Tripp property"), consistent with NCDOT regulations. Further, the fence has been landscaped on the side facing AKPAR parcel number 77798 to the extent allowed by the owner and landscaped with 6-8 foot tall trees on the east side of the fence. Applicant has satisfied all obligations with respect to AKPAR parcel number 77798.

(b) Applicant has satisfied the obligation to construct a pedestrian bridge and trail over Pokeberry Creek to connect Briar Chapel to Polks Landing Subdivision.

### **Miscellaneous Stipulations**

16. Archaeological Survey. All archeological survey requirements set forth in the original Conditional Use Permit have been satisfied.

17. Solid Waste Management. Solid residential waste is managed and shall continue to be managed by residential curbside recycling and solid waste pick-up. With regard to construction debris and non-residential solid waste removal, Applicant shall continue to contract with builders and contractors to dispose of the same appropriately.

18. Detailed Site Plan. The revised Master Plan attached hereto as Exhibit A (Exhibit D to the Application) and incorporated herein by reference is hereby approved as the applicable sketch plan and revised master plan for Briar Chapel (the "Revised Master Plan") in substitution for and replacement of the original master plan approved with the Conditional Use Permit. Briar Chapel is unique within Chatham County because it is the only compact community approved under the Chatham County Compact Communities Ordinance. The Revised Master Plan has less detail as to specific roadway locations and lot depictions than the original Master Plan. Due to topography, physical conditions, environmental concerns and market changes, over the course of development of Briar Chapel since February 2005 (original approval date), each phase that has been approved has been designed differently (to varying degrees) than it appeared in the original Master Plan. As a condition of approval of the proposed Revised Master Plan, Applicant agrees to meet with the Planning Department and the County Technical Review Committee (TRC) prior to applying for or receiving any permits for submission of preliminary plat. The purpose of this meeting will be to apprise the Planning Department and TRC members as to layout and configuration of roadways and lots to be shown on the proposed preliminary plat. The Applicant shall submit information to the Planning Department for this review at least twenty-one (21) calendar days prior to a TRC



meeting. This process is unique to Briar Chapel as a compact community. With regard to each phase, as it is submitted for preliminary plat approval, a detailed site plan, grading plan, utility/lighting plans, storm water management plan with hydraulic calculations, moderately priced dwelling plan and landscape plan for said phase shall be reviewed by Planning Staff for conformity with the Revised Master Plan and the terms of this Amended Conditional Use Permit. Applicant must submit to the Planning Staff an updated Revised Master Plan every two years from and after the approval date of this Amendment to reflect completed portions of the Revised Master Plan and projected future portions of the Master Plan. Non-residential subdivision of the project area shall also require the Applicant to comply with the site plan requirements of the County's subdivision regulations, including approval thereof by the Board of Commissioners. Such subdivision review may allow modification of the Revised Master Plan approved hereunder so long as not substantially inconsistent with this Amended permit.

19. Stages. If desired, the applicant may construct the project in stages or phases. Each such stage shall be subject to approval by the County pursuant to its subdivision regulations. No final plat of a stage or phase of the development shall be approved if there is any uncorrected violation of any provision of this permit. Upon subdivision review of each phase, the applicable Recreation and Open Space, Community Facilities, Community Design, including housing, standards of the Compact Community Ordinance provisions shall be satisfied. Such subdivision review may allow mutually agreeable modification of the standards referred to therein so long as not substantially inconsistent therewith.

20. Moderate Income Housing. With the consent of the Applicant, and as an approximately equivalent alternative to and in lieu of the housing standards for Moderate Income persons set forth in Option A of the Compact Community Ordinance, the developer shall contribute 2.5% of the approved lots in the overall development, or each phase if developed in stages, for ultimate sale as directed by the County to persons or families whose income is 80% or less of the Area Median Family Income standard by family size and shall contribute \$1,100,000.00 to the County for the purpose of ameliorating the housing needs of Chatham County citizens. Said contribution shall be payable to Chatham County on a prorated basis upon final subdivision plat approval of each phase of the development. Such contribution represents the approximate value of 2.5% of the approved lots in said overall development or phase thereof as applicable.

21. Environment. The lots on Bennett Mountain shall be relocated to lessen the impact of the development on the primary and secondary environmental areas as described in the Natural Areas Inventory. The Bennett Mountain areas will be one of the last areas for line installation and spray irrigation. If future regulatory changes, and/or approved system flow reductions, will ultimately result in this area not being needed for irrigation, lines will not be installed in this area unless otherwise required by the State. Before any lines are installed in the Bennett Mountain area, Newland will seek further flow reduction approval or other necessary state permission under the then existing applicable regulations so as

not to be required to install irrigation lines in this area in order to comply with permit requirements and the then existing applicable regulations.

22. Erosion Control. If applicable, an erosion and sedimentation control plan shall be approved by the County, North Carolina Department of Environmental Health and Natural Resources or other authorized governmental entity and submitted to the Planning Department prior to the issuance of a Zoning Determination Permit.

23. Silt Control. The applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.

24. Fees. Applicant 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, building inspection, recreation and impact fees established from time to time.

In addition to any fees or charges otherwise required by the County, the applicant shall pay or cause to be paid to the County as a voluntary contribution the sum of \$2,000.00 per dwelling unit upon the sale of each lot or unit.

25. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.

26. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.

27. Non-Waiver. Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

28. Applicable Zoning Ordinance. Unless otherwise specifically stated within this Amended Conditional Use Permit, the Chatham County Zoning Ordinance applicable to Briar Chapel is the Chatham County Zoning Ordinance in effect on February 15, 2005 (original approval date).

3. **Items for May 21, 2012 Public Hearing:**

Chair Ernst reminded Board members that items 1.,2., and 3. listed below are scheduled for the upcoming public hearing; and that information packets were distributed to the Board earlier tonight.

**Legislative**

1. Public Hearing request by Strata Solar for a text amendment to the Chatham County Zoning Ordinance, Section 7.2 Definitions, Section 10.13 Table of Permitted Uses, and Section 14.1 Off-street Parking Requirements to allow various provisions for solar energy.

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## Quasi-Judicial

2. Public Hearing request by Doug Piner on behalf of the Property Owner's Association for The Preserve for a revision to the existing conditional use permit to add an additional amenity area for the purpose of boat and recreational vehicle storage on Parcel No. 80601, on approximately 1-2 acres of the 63 +/- acre common, open space lands within the subdivision, located at the end of Broad Leaf Court adjacent to the WWTP.
3. Public Hearing request by GV Commercial, LLC for a revision to the existing conditional use permit under the Governor's Club PUD to change the use of Parcel No. 76561 (GV Parcel B-3), approximately 1.213 acres from commercial use to residential use, to change the maximum number of residential units from 1,975 to 1,981, to allow three (3) residential units approved for condominium or apartment units over retail and office uses to be used for residential condos on Parcel B-3, and to allow up to 15 residential condos on GV Parcel B-3.

## VIII. NEW BUSINESS:

No reports were submitted.

## IX. PLANNING DIRECTOR'S REPORTS:

### *1. Minor Subdivisions update*

The minor subdivision spreadsheet was included in tonight's agenda packet.

## X. BOARD MEMBER ITEMS:

### *1. Fire Marshall's Department – additional charges*

Mr. Bienvenue stated that he recently spoke with a new Pittsboro business owner who was ready to open his facility but was stopped by the Fire Marshall's office because he needed some additional permits that he was unaware of. Mr. Bienvenue was concerned with the lack of communication relative to the county's permitting process.

### *2. B.J. Copeland – honored at library*

Mr. Copeland invited everyone to stop by the front patio of the Pittsboro Library to see the brick engraved with his name. The Board was amused at Mr. Copeland's remark that, 'we could actually walk on him'.

### *3. Personal Note – Chair Ernst*

Chair Ernst thanked everyone for their words of encouragement and kindness during his recent illness.

### *4. Chatham County-Town of Cary Joint Plan*

Chair Ernst expressed appreciation to Board members for the diligence shown in completing review of the plan; and that he recently attended the Joint Issues Committee meeting along with Cecil Wilson.

XI. ADJOURMENT: Mr. Wilson made a motion; seconded by Mr. Grigg to adjourn the meeting. There was no discussion and the motion passed unanimously (9 members). The meeting adjourned at 8:51 P.M.

\_\_\_\_\_/\_\_\_\_\_  
Karl Ernst, Chair / Date

Attest: \_\_\_\_\_/\_\_\_\_\_  
Kay Everage, Clerk to the Board / Date