

*Vice Chair Hales asked the acreage of the school site. Ms. Toppe stated it is approximately sixteen acres.*

*Commissioner Howard asked what the purpose is of the change from low density to office and institutional. Ms. Toppe stated the school is going on a portion of the residential. Schools are permitted in office and institutional. What is triggering the Land Use Plan amendment is putting residential on the office and institutional portion.*

*Chairman Crawford opened the hearing:*

*Larry Ballas submitted the following comments:*

*This is in my backyard. I am very familiar with this, let me give you a quick history of it. When this land was being considered for annexation by Cary, they gave the reason, specifically Jennifer Robinson, that the only reason they were going to annex land in Chatham County was because there was a church and school going on that property. Eventually the Catholic Church had to sell the land. Then they presented a plan where there was going to be something like 250 houses. I said I have to go down to Cary and talk to them. I called out Jennifer Robinson and Mr. Smith and said if you remember right, the only reason you said you were going to annex this into Chatham County is because of a school and church and now you are saying there is going to be 250 houses. I said that was ridiculous. They threw up their hands and they told Mr. Futrell who bought that land to go find a school and go find a church. It has been like that for fifteen years. When I heard that the Catholic Church bought the land back and was going to build a church and possibly a school, it turned out to be wonderful for me. That is what Cary promised. I went down and thanked them for keeping their promise after about ten years. They were totally surprised at that. This is a project that should be approved. It has always been in the plan in some form. There is going to be a school there and it is going to attract good people to the area. You are not losing any tax base. You are just moving around some houses. There is going to be additional things coming in maybe across the street that will add some stores. But that will be Wake County. I am seriously recommending you approve this with the changes. It looks to me like the changes are being allowed for safety reasons for traffic.*

*Chairman Crawford closed the hearing.*

**This Agenda Item was referred to the Planning Board.**

[17-2168](#)

A Quasi-Judicial Public Hearing on a request by NNP Briar Chapel for a revision to the Conditional Use Permit to (1) revise the civic site at the intersection of Andrews Store Rd and Parker Herndon Rd (possible Chatham County elementary school site) on master plan to allow for full development of the site (rather than just 2 acres as shown), (2) create the possibility of having up to 2,650 residential units (currently approved for 2,500), (3) revise the master plan map to reduce the perimeter buffer (a) from 100' to 50' along the frontage with Chapel in the Pines church (at the church's request); (b) from 100' to 50' along the short boundary with Duke Energy ROW at SD-N; and (c) from 100' to 75' along Phase 15-S boundary to eliminate the need to build a retaining wall within the perimeter buffer, and (4) revise the color key table on the master plan map to reflect adjustments to residential densities in particular locations.

**Attachments:**     [More Information from Planning Department Website](#)  
[Applicant Presentation](#)

*Chairman Crawford administered the oath to those wishing to speak.*

*Chairman Crawford opened the hearing.*

*Zoning Administrator Angela Birchett reviewed the specifics of the request.*

*Ms. Birchett: This is a request for a conditional use permit revision to our compact community known as Briar Chapel. For the record I will read in the various things and I will try to circle them on the map here so that you can kind of understand where we are. The first thing is to revise the civic site I am referring to on Andrews Store Road and Parker Herndon Road, the possible Chatham County elementary school site on the master plan is to allow full development of the site rather than just the two acres shown. The second is to create the possibility of having up to 2,650 residential units. Previously the compact community was approved for up to 2,500. Three, revise the master plan to reduce the perimeter buffer from 100 feet to 50 feet along the frontage with Chapel of the Pines Church that is up here at Great Ridge Parkway. The church is kind of off this screen here, it rests up here. They are needing some additional space to expand their parking. There is also a request to take a buffer down from 100 feet to 50 feet along the short boundary with the Duke Energy right of way at SD North. Here is SD North right here on 15-501 where your restaurants and stuff are located. There is a lot four that they still haven't developed yet so they are wanting to remove the 50 foot, or reduce the buffer by 50 feet. Duke Power owns an easement that comes down the side of this property. Also a request to reduce the buffer from 100 feet to 75 feet along Phase 15 South to eliminate the need to build a retaining wall within the perimeter buffer. Earlier you approved a waiver that removed the buffer, that has already been removed here that connects to their property. They are also asking for a reduction of the buffer in this area of 15 South. Four, to revise the color key table on the master plan to reflect adjustments to the residential densities in other locations.*

*Ms. Birchett: As you heard earlier, there was a statement made through some concessions with Briar Chapel and the property owners that this purple area here that is currently according to the master plan scheduled to be multifamily dwellings. They have agreed to remove that from that particular area and they would be relocated and dispersed in the SD North, East or West sections. We already know there is one reason why this master plan is going to have to be revised during this process and that is to move that out, if it is Briar Chapel's intent to proceed on with that request. At this time I would like to turn it over to Briar Chapel and their attorney to give a presentation and then I would like to be able to come back to follow up.*

*Chairman Crawford: Absolutely*

*Nick Robinson, attorney for the applicant, gave a presentation to the Board.  
(Presentation attached)*

*Mr. Robinson: Good evening. Nick Robinson here from Bradshaw, Robinson and Slawter. 128 Hillsboro Street. Still the same office location as previously this evening. Again, Nick Robinson here on behalf of NNP-Briar Chapel, LLC, which is, as you know, the developer of the Briar Chapel compact community. As was mentioned by the Chairman, this is a quasi-judicial proceeding so we have evidence that we need to tender into the record in support of hopefully helping you all make the five findings you have to make in order to allow an amendment of an existing conditional use permit. We will be walking through that process. This will be our*

evidentiary presentation. The format we will follow is I will walk you through it. We have several members of our team here that are going to need to testify into the record. We will try to keep that moving as quickly as possible. I hope everyone recognizes that we have got some things that we just have to get in and we want to be able to do that well. If I can take just a moment to let you know, it is basically three steps we plan to go through. The first one is a general introduction of our presenters, a summary of the changes which Ms. Birchett has done a lot of it already. I should be able to skate through that and a highlight of our community meeting effort, that will be the first section. The second section will be the presentation of the evidence in support of the amendments that we are seeking. The third section, I'll review the five findings and how they apply to the evidence and then do a conclusion. I would respectfully request an opportunity to rebut any contrary evidence that occurs after it is put into the record, if any should occur. First things first. Our development team is here, many of them you know. I will just ask them to waive and say hello as I go through their names. Laurie Ford is the Senior Vice President. Lee Bowman is the Senior Project Manager at Briar Chapel. You may not know yet Dan Klausner who is here. He is the Director of Commercial Development and he will have a role to play tonight talking about the commercial areas we are dealing with. Tanya Matzen is there as well. She is a Project Manager at Briar Chapel and also a licensed North Carolina real estate broker. Those are the folks that work for NNP-Briar Chapel, LLC. In addition to that we have Lucy Gallo, who I am sure you'll recognize, principal from DPF. She'll be speaking on the economic impacts of the amendment. Richard Adams is here as well from Kimley Horne. He is a traffic engineer to address the traffic issues. Chris Huysman is a managing partner at Wetlands and Waters to address any environmental issues. Jeff Taylor is a MAI Appraiser and will follow up on the testimony that Tanya does about the impact on property values. Mark Ashness, who I am sure you all know, he is a Civil Engineer for the limited purpose of addressing utilities issues in this project. Chris Seamster who is a long time land planner and landscape architect for the project.

Mr. Robinson: So the summary of requested changes. I will try to make it as short as I can based on what Angela did already. A couple of things require a little further explanation. Angela went through some of these and I want to highlight them for you, in addition. The first thing is, and you may already know this, but this area down here that I am circling is the civic site, which has always been a civic site on the Briar Chapel plan. It was originally shown on the map as having a two acre development site. When the Chatham County School system expressed its interest in purchasing the property to put an elementary school there it was noted that you can't put an elementary school on two acres. The map would have to be changed to allow a potential school site on that property. As part of this process we are requesting that the map be changed to take off the two acre limitation on that piece of property so that it can potentially be used as a school site. The property is under contract with the school system at this time. They are in their due diligence period. Hopefully that will all work out. Another change is the one that Angie mentioned is shown a little bit better on this map. If you come north of the clubhouse and wind your way north on what is now a gravel road, you can make your way all the way up to Manns Chapel Road. This is where the water tower is that the developer built. This other parcel in red over here is a civic site that the developer donated to the County for its civic purposes. I don't think the County has decided how it will use that yet. It has been deeded over to the County. The buffer change request here for Chapel in the Pines is exactly what Angie said. You can see that there is a 100 foot buffer that has been shown there forever. This is an unusual buffer request. The usual buffer request is to say we have a 100 foot buffer and we want to reduce it to 50 feet from our property line so that we can use more of the interior portion of that buffer. This is the opposite of that. We have a 100 foot buffer and we want to keep the interior 50 feet as a buffer but we are going to let our neighbor use the exterior 50 feet of that buffer

because they asked to be able to do it for parking purposes. I think Mr. Raymond is here who is a representative of the church. They asked us if we would allow them to do that. We have always allowed them to have an easement off of this road to cross our property and get to their landlocked property. We will continue to do that and are willing, at your discretion, to allow them to use that for parking as well if the buffer is reduced. For a second I would like to call Chris Seamster up here to describe the other two buffer changes that have to do more with technical building concerns.

Mr. Seamster: The first one we are going to talk about is at SD North, the commercial site near the entrance of Briar Chapel Parkway at 15-501. The situation is that our lot four, the blue area that is under the s and the no, that is what we are calling lot four in SD North. At the northern end it abuts the Duke Energy right of way. Actually it is not a right of way, it is an easement that crosses the site. About 10,000 square feet of lot four is actually within the Duke easement. In the Duke easement there are no trees, no buffer, nothing in there. An even larger area of the Duke easement is on the adjoining property which is Riggsbee to the north. If the perimeter buffer is to protect the adjoiners, in this case reducing the buffer on the Briar Chapel property from 100 feet to 50 feet really does nothing because Riggsbee has 150 foot wide open space on the western edge and then 300 feet on the eastern edge going to the north to his property. That is the distance from basically the buffer on the south side to the edge of the Duke easement on the north side. There is a small triangle of trees on the eastern side of lot four. It is a small triangle between the Duke clearing and then our buffer line. Taking down a few trees on our side wouldn't be a perceptible impact on the adjoiner. Plus, there is also the giant high voltage transmission line that runs through there. That is the one buffer reduction request, basically to go from 100 to 50 in that area. The other request is a 25 foot reduction in Phase 15 South, right there, that is what the red text is pointing to. You can kind of see, the purple overlaps into the green buffer just a tad. That is representing the 25 foot encroachment into that buffer. There will still be 75 feet there. The main reason for the encroachment there is purely for slope. The existing slope there is nearly 25% behind there. Just in an effort to be able to tie in grades it would be helpful to impact that first 25 feet. There is in the original CUP from 2005, there is a revegetation buffer detail. There is a practice in which we can replant and that was approved as part of the original CUP for buffer reductions.

Vice Chair Hales: Is there a retaining wall there now?

Mr. Seamster: There is not, no.

Vice Chair Hales: Why does it say retaining wall area?

Mr. Seamster: If the buffer is reduced by the 25 feet there is a good chance that we would have to put the retaining wall in.

Vice Chair Hales: You would not?

Mr. Seamster: Yes, would not have to put it in.

Mr. Robinson: Thank you Chris. Ms. Birchett mentioned and you heard earlier this evening that another one of the changes we are requesting is to increase the number of allowed units from 2,500 for this compact community to 2,650. We'll talk more about that in a little while. I do want to reiterate the additional 150 units would only be in multifamily units and they would only be in SD West, East and North along 15-501. That is important because what that means is originally Briar Chapel was approved for 2,389 residential units and there will never be more than 2,389 residential units when you exclude the commercial areas. There is never going to be any more than

that. The other technical things, and I won't go into great detail in the applications as they are part of the record, we are updating language from the conditional use permit to reflect progress that has been made since the last time we were here in 2014. We are updating our responses to the Compact Community Ordinance provisions. When this was originally approved we made responses to every Compact Community Ordinance provision. For the purposes of this amendment we have had to edit some of those and those are included in the application as well. We are also, as Ms. Birchett pointed out, we are also going to be changing the density chart as well. But as she pointed out we have had some community meetings with some residents and made a few changes to this map that we originally submitted. I have a new map to show you tonight. I want to walk you through the community meeting process and then lay out in very specific details our commitment on those things that we met with the residents about. You may not know this but this project exists and breathes under the authority of the pre-2008 Zoning Ordinance. That ordinance doesn't require you to meet with the community or have any community meetings when you do a conditional use permit or an amendment. Briar Chapel did an amendment in 2012 and in 2014 and they have always had a practice of having an extremely fulsome community meeting. Some of the changes you are going to hear about tonight are a result of that process, which is a good process. We learned a lot from it. The details of that are pretty straight forward. We had five meetings. We sent notice of those meetings out to over 1,300 people and that included all of the current residents of Briar Chapel, every single adjoiner of the Briar Chapel project, every single resident of Herndon Woods which is a property that pre-existed Briar Chapel and is kind of embedded in it, and all of the adjoiners from Fearington Village to the commercial area. We sent letters to all of them. We had meetings, two on the 27th in the morning and the evening, two on the 28th of March in the morning and evening and another on the 29th in the evening. We had a pretty good response from it. We had over 100 interested people that showed up at those meetings all told and a lot of conversation. In the meantime Lee Bowman also met with the Fearington HOA board as NNP has been doing for years and years in order to keep them up to date because they are a good neighbor.

Mr. Robinson: What were the results of the community meeting efforts? We got a lot of input, you have already heard some of it. After communicating with some of the attendees the following decisions were made regarding the requests. I'll list them. We told in a letter that somebody brought up tonight and handed to you, that we had originally requested to allow up to 100 multifamily units in this area here. This is a good exhibit, I think it will be very helpful. This is the master plan as submitted with this application. At the bottom is the master plan as we have revised it effective tonight, to address the issues that the residents and others have brought up. As Ms. Birchett pointed out, if you look at this original application, what we have asked for is this dark color of purple up here in the top is a new color to our density scheme. That color was created solely for the purpose of possibly allowing 100 multifamily units up here in this locale. When we had our community meetings we heard from a lot of residents at Briar Chapel, many of them were not pleased with the idea of there being multifamily up there for a couple of reasons. I think they thought it might impact their property values and they also thought it might over crowd their amenities. We decided after that meeting that we were going to drop that aspect of the application and we will not seek to have any multifamily units in this section here, north of the present build out of the community up to Briar Chapel. That is reflected in this revised map. You can now see, here is the full part of Briar Chapel that has been built out. These bright purple areas are the parts that are going to be single family residential that have not yet been built out. Those have always been in those locations and there is no change to that. This area has always been available for single family development as well. So we have just changed this color back to the same color as you see down here. It will be developed as single family residential

only with no multifamily there. This map introduced into the public record and this proceeding is NNP-Briar Chapel's commitment to that change. In addition to that there was another concern raised by the residents and that was they didn't want their amenities, swimming pool and tennis courts, to have too many users. If you put multifamily there that was their concern. We had originally posited the possibility of saying what we will do is, we are going to make the commitment to you right now that none of the multifamily units, if we get them approved out by the highway, we have abandoned the multifamily inside the neighborhood, if we get the additional 150 multifamily units out by the highway we will commit to you that they will not be allowed to use the main clubhouse, the swimming pool and the sport courts. Our original idea was we will put a condition in the conditional use permit that says you can't do that. After meeting with the planning staff they said we are not in the business of enforcing private covenants for people in your conditional use permit. You are going to have to take a different approach. So we made the following commitment, we will introduce this document into the record of this public hearing so that it will be a public record of our commitment to do these three things to make sure that folks inside Briar Chapel know that if there are new multifamily units out by the highway the residents of those multifamily units will not be allowed to use the amenities that exist in Briar Chapel, being the sport courts, the clubhouse and the swimming pool. It is three steps. First step is to not submit any multifamily rental apartments to the residential declaration. In other words those apartments will not be members of the residential association. The second thing we would do is not use, right now NNP controls the Residential Property Owners Association until they get to the end of the development, they will not use their control of the Board of Directors of the Briar Chapel Community Association to cause the association to grant any right of access to pool, clubhouse, or sport courts to the owners or residents of the multifamily apartments by the highway. The third thing is they will record a covenant in the Chatham County Register of Deeds office on every multifamily parcel by the highway prior to conveyance by the declarant that would provide record notice to the owners of the apartment parcels that they are not members of the Briar Chapel Residential Community Association and they have no right to access or use the pool, clubhouse or sport courts operated by the Briar Chapel Community Association. We think those three things are holding your pants up with belts and suspenders.

Commissioner Dasher: You had mentioned before this is 350 multifamily units. Is that spelled out somewhere. I guess what I am getting at is we are going from 2,389 units that would have been using those facilities to 2,300. Am I figuring that right?

Mr. Robinson: I'll get you to the chart that you need for that. As we stand here today, without anything having been approved yet, Briar Chapel is approved for 2,500 residential units. We want to go up to 2,650. Right now 200 of those can be multifamily out in the special districts. Those are already approved. They can be anywhere in the special districts. What we are asking is to increase that number of allowed multifamily units out by the highway from 200 to 350. It is not going to change the number of residents that live inside Briar Chapel proper. It will change the amount of commercial space out by the highway that get used for residential as opposed to commercial. Another way to think about that is that if you don't approve this then there will not be 150 more apartments out by the highway but there is still going to be commercial in the space where those apartments would have been and you are having to listen to the testimony of Laurie and Lee about why it is that is better for everybody to have residential mixed in with the commercial up there rather than just commercial. Does that clarify?

Commissioner Dasher: I guess what I was getting out was the concern we have heard from a lot of folks about that there are more residences within the neighborhood proper and more use of those amenities.

*Vice Chair Hales: It is because with or without that extra 150 you still have 150, right? If you have 300 multifamily units but 150 are contingent upon the approval of the ordinance and the conditional use permit you still will have 150 units that will not have access to the amenities.*

*Commissioner Howard: Well 200. I think what you are saying is those will, unless we make a determination tonight that adds the additional 150 then you are obligating yourselves to take them out of that pool.*

*Mr. Robinson: That is correct. So essentially right now if you didn't change anything the 200 multifamily units that are available out by the highway could be allowed to use the amenity. But what we are saying is we are taking that 200 out and if the 150 are added we are also taking them out of the amenity. They will have no right to use the amenities that I described.*

*Commissioner Petty: Nick, would they move all 350 out of the Briar Chapel community and put them all out at SD North? All 350 around the commercial developed area and take them out of the other part, right?*

*Mr. Robinson: Correct. Now we didn't have any approval to put any multifamily inside the neighborhood proper. But what it would do is all 350 of those units would be dispersed between those three special districts. No more than 50 at SD North where Veranda is, you are familiar with that. No more than 200 on the east side, the Farrington side. No more than 350 on the west side.*

*Commissioner Petty: I think that is where the confusion came from the earlier presentation. The fact that you already had 200 approved. We were talking about doing 150. Then somewhere in your conversation you mentioned 350 and that is where part of the confusion came from. I think what clears that up is the fact that you will pull that 200 out and incorporate it with the 150 and keep them all within the commercial area of the development.*

*Mr. Robinson: That is correct. This chart, this is the density chart that we had as submitted and then as revised. What you can see is that this chart as submitted showed a dark purple section that would have allowed up to 50% multifamily in that area up by Manns Chapel Road. You can scroll down to the new chart and that dark purple is gone. Now all you have is what I have described to you. 50 dwelling units in SD North, etc. Up to 350 in SD West and up to 200 in SD East. Hopefully that clarifies. We want to leave tonight with everybody knowing that, do you have a question?*

*Commissioner Dasher: I am just curious what the existing attached townhomes, where do they...*

*Mr. Robinson: So there are existing attached townhomes located inside Briar Chapel proper. Nothing changes for them. They already have access to the amenities and they will forever. All we are saying is any new multifamily structures that are out by the highway will not have a right to use the amenities I mentioned.*

*Commissioner Dasher: Are you currently permitted to do more townhomes.*

*Ms. Ford: Inaudible*

*Mr. Robinson: We are allowed to do townhouses in the remaining area. Maybe Laurie can talk to that.*

*Mr. Bowman: Inaudible*

*Mr. Robinson: So multifamily is not permitted in that color but up to 25% could be townhouses.*

*Commissioner Dasher: But you can do more townhomes.*

*Mr. Robinson: Yes. Multifamily versus townhouses, that is a sticky wicket. What we are talking about when we say multifamily is essentially apartments out by the highway.*

*Vice Chair Hales: These are going to be rentals. Every one of these multifamily units is a rental.*

*Ms. Ford: Inaudible.*

*Mr. Robinson: Multifamily could be considered condominiums or for rent.*

*Chairman Crawford: At the SD North site, which is inside the Compact Community Ordinance area, are you sure you don't want to maintain some high density for that spot?*

*Mr. Robinson: We do. There are 50 units allowed there. That parcel that Chris Seamster was just showing is just south of the powerline right of way. That could be 50 residential units there near the shopping but we have to find the right developer for that and get that done. That has always been allowed and it would still be allowed.*

*Chairman Crawford: So the fact that you are changing the color coding will not affect that plan at all.*

*Mr. Robinson: It will not.*

*Chairman Crawford: I just wanted to check on that because I thought the color coding went with the Compact Community Ordinance area and that would have been one spot, if I understand your plans correctly, that would still have high density.*

*Mr. Robinson: Yes, it should. It has always had it and we don't intend to change.*

*Commissioner Howard: I have a question as well. Earlier this evening you had mentioned the possibility of the housing being available for students at our community college. Are you saying that this will be affordable housing?*

*Mr. Robinson: I don't know what the rate will be for those apartments. Much will depend on the type of developer. I know that Laurie and them, when they get their chance to get up and talk about what the vision is for it. I don't know exactly what an affordable apartment is to be honest. Market rate is the term that I am familiar with. If they will be market rate apartments I don't know if that will qualify as an affordable apartment or not.*

*Commissioner Howard: I just want to make sure that when we are talking about community college students that we are thinking about the same creature. Those are not traditionally people that can afford rents in the northeast part of Chatham County.*

*Ms. Ford: I do want to clarify that. The question that was asked of Nick, my name is Laurie Ford and I am with NNP-Briar Chapel. The question was asked of Nick could*



*these rental apartments be available for student housing. His answer was yes they could. We are not targeting those particular units for specifically as a student housing solution. That is not what we have in mind at this point in time.*

*Commissioner Dasher: Is there anything that actually commits these to be rentals as opposed to condominiums.*

*Mr. Robinson: No.*

*Commissioner Dasher: I just want to be clear on that.*

*Mr. Robinson: We got through the community meeting and we had those changes and we have now submitted as part of the record the revised master plan and the revised density chart. Those will be the ones we use going forward in this process and we have made our commitments to that. Hopefully that addresses the concerns of some of the folks that spoke earlier about that.*

*Mr. Robinson: So, the presentation of the evidence. First thing I want to say is a little bit of housekeeping. We want to incorporate as part of the record the entire application we submitted including these amendments as well as everything we have presented thus far and will present throughout the course of the evening. In addition, this is the original submittal from 2005 for Briar Chapel. We incorporate all of that as well as the two amendments, the evidence from the amendments from 2012 and 2014. With that I would like to hand it over to Lee Bowman who is the Senior Project Manager. He will give you an update and summary of where we have come.*

*Mr. Bowman: I definitely want to be mindful of everyone's time tonight. Good evening commissioners. My name is Lee Bowman. I have lived in the Baldwin Township for almost nine years. Let me get the site plan up. What I want to do is kind of walk you through where we are at since Briar Chapel started back in 2005. Just real quick run you through where we are at. We have talked through quite a few of these areas already but these areas that are kind of grayed out, those are areas of development that we have built out. You will see where my cursor is going, that is the central part of Briar Chapel and the southern part is down here. That makes about 1,200 occupied homes right now in those two areas. There is about 300 more lots to go in this area down by the great meadow. There is this linear part here (inaudible) but we hope to have those sold out within the next year. These two red areas down at the great meadow, that is our award winning school, Chatham County's own Margaret Pollard is right here where my cursor is there. To the right is Woods Charter and then across the street, I think we talked about it earlier today, but this is the Chatham park site, the sixty acre park we built and donated to the County years ago. Over here, we talked a little bit about this earlier too, the western parts of Briar Chapel. We have moved on and been before you recently with some of our plats for these areas. These are areas of development that will be happening now and in to the next couple of years. We are also starting to study this area in the northern part of Briar Chapel that connects to Manns Chapel. We will be studying that here soon and will probably be before you in the next few months with some plats for that area. We are really excited. Last year was our first offering of commercial. I think we talked a little bit already about SD North, we call that the Veranda if you have been by there you have probably seen it. It is fully built out with the exception of this potential housing area behind it. We've got about 40,000 square feet, or a little more than that actually. We have a top notch daycare that is owned by one of our residents in Briar Chapel. There are four great restaurants owned by folks that are local proprietors. There is quite a bit of medical and general office space. We are really excited about how that has provided great services that the county residents needed.*

*Mr. Bowman: As we have been studying the rest of the phases of the commercial at Briar Chapel a little further south, we are spending a lot of time talking about SD West and East. I wanted to show you all some renderings and some site plans of that. Here is an artist rendering of SD West. To kind of get you oriented this is the Taylor Road area. Along here would be 15-501. It is drawn with a flat line and as we know it is not very flat. Here is the Central Carolina Community College, an artist rendering of that. We are working with Central Carolina on having that pad ready by the end of this year and we are excited about the Health Sciences School that is going there. These are some pictures of what some apartments could look like in that area. Quite a mixed use type village concept. This area here is more of a smaller anchor site. We are talking to several grocers, both local ones and other ones, looking at Briar Chapel as an opportunity. Actually we think we have kind of flipped this site over to this direction. Regardless, there will still be several opportunities for quality retail offerings in addition to those I've mentioned. Then I will take you across 15-501 for a rendering of SD East. This is a drawing we have been working with the Appearance Commission on, primarily just this corridor, the viewshed buffer along 15-501. This just shows you a conceptual site plan of what the potential is out there. Here is Andrews Store Road and there is the Cruizers site and here is Taylor Road. SD West is right here if you follow along where the cursor is going. This is looking at the far south side of 15-501, a nursing home site. It is about ten or so acres in that area. This middle part could be some apartments as well as office buildings in this area. Finally, this smaller site is looking like it would be best suited to be a more retail site. That is just a quick update as to the progress we've made in Briar Chapel and what we are looking at on the horizon.*

*Chairman Crawford: How does the nursing home calculate into you unit count.*

*Mr. Bowman: It does not count as a unit.*

*Chairman Crawford: So it is a separate thing all together.*

*Mr. Bowman: It is commercial or O&I, office and institutional.*

*Chairman Crawford: And this area is outside the Compact Community Ordinance anyway.*

*Mr. Bowman: You have to have a certificate of need for that, so the folks we are talking to now have all that kind of stuff.*

*Mr. Robinson: A couple of follow ups with you real quick Lee. Lee, I am just going to ask you a couple of questions real quick. Do you think that the proposed amendments are desirable for the public convenience or welfare.*

*Mr. Bowman: Yes, definitely. Adding those 150 units to the highway area along 15-501 will be desirable for the public convenience and welfare.*

*Mr. Robinson: How did you arrive at that conclusion?*

*Mr. Bowman: A couple of different levels. We think by increasing those units the likelihood more quality commercial will come to that area and also be an accelerated basis there. Also, there are very few multifamily dwellings between Pittsboro and Chapel Hill. There is definitely a need there.*

*Mr. Robinson: Have you heard from anybody in the community about that.*

*Mr. Bowman: I have heard from several folks, knowledgable people in the*

community. They have provided their comments as well as feedback in letters.

Mr. Robinson: So you mentioned a couple of letters. I have here a letter from Colleen Jelley who is a resident and also a letter from Julie Cummins who is a local realtor. Are those two of the letters you are talking about?

Mr. Bowman: Correct.

Mr. Robinson: Do you want to take a look at those and make sure they are the letters you were referring to?

Mr. Bowman: Yes, these are the letters.

Mr. Robinson: I would like to submit these into the record as part of the public hearing evidence.

Mr. Robinson: Moving on to the next presenter Laurie Ford.

Ms. Ford: It is an hour and a half past my bedtime so I am going to make this quick. This is kind of a big deal from our perspective. We have been working really hard on the commercial aspects of this community. We think that the Compact Community Ordinance as it was envisioned is doing its job. We feel like we can see the end in sight and we feel like we need a little bit of a lift. Currently to date, Briar Chapel sits as the top selling community in the Triangle. It is the fortieth top selling community in the nation right now. There are a couple of really good reasons for that. We currently offer 1,200 new green certified homes in the community, which is a key differentiator. We've also worked really hard on bringing the right mix of recreational and amenity type improvements to this community. We've worked hard also in terms of making the right and appropriate contributions from a civic standpoint. We hope that we have been good partners and have been able to add value to not only just living in Briar Chapel but also to Chatham County. What we feel we've created is this beautiful, iconic community that does a phenomenal job of attracting a very diverse set of residents, from every type of lifestyle, life stage and income level. One of the things that I wanted to spend just a couple of minutes talking about, and that is the range of housing and the various types of housing that are actually offered in the community. Nick, there was a chart that we were going to share, do you have access to that? I am going to start talking about it while he is looking for it. We did a study to just kind of determine how Briar Chapel has been contributing to the price range of housing in Chatham County. What you may not know is that Chatham County actually has very high housing prices. If you look at what is actually listed in the multiple listing service the average price for homes that were closed in 2016, there were 428 homes closed in 2016. They averaged \$432,000. In 2017 eighty-three homes have closed so far this year in Chatham County and that is averaging \$436,000. If you look at active listings it is even higher than that, \$480,000. You compare that to Briar Chapel and the contributions we are making here. Our housing prices start in the low \$200,000's. They go to about one million. You'll start to see the breakdown here. I think one thing that was really interesting is if you look at 2016 you will see that in 2016 we actually sold thirteen homes between \$210,000 and \$245,000. Another fairly sizeable chunk of thirty-two homes in the \$250,000 to \$286,000 range. We are doing a significant, we are making a strong impact. When you start to pull Briar Chapel out of the numbers for Chatham County you will see what those numbers are looking like. They are over half a million. We are working hard. We think that the density solution is allowing us to get there. Some of those cottages we are producing are getting us there.

Ms. Ford: The other question that was brought up earlier has to do with affordable

housing. Briar Chapel's contribution from that perspective in addition to the density solution and offering homes in a much more affordable price range than you typically find in the county, is to offer a fee in lieu of actually building subsidized housing within Briar Chapel. If you recall early on there were some housing units that were built specifically to satisfy an affordable housing component and it was determined at that point that a fee in lieu was the more appropriate application within the county for Briar Chapel. The commitment was a two million dollar commitment to promote affordable housing in Chatham County, of which 1.6 million dollars has been collected by the County to date. There is another \$400,000 that will be collected between now and the life of the project. Let's talk for a minute about commercial. There are a number of requests in that application but the primary request has to do with those additional 150 units that we are talking about. The reason why we feel it is critical to make those 150 units become additive to the project is that we believe in the mixed use concept. We think that mixed use development as opposed to a pure commercial application is what is really going to produce the highest quality commercial, mixed use application. Based on our last year and a half of conversations that we have been having with a variety of users, developers, both multifamily and otherwise, that 200 unit limit is sort of a sticking point for a lot of them. Given the fact that Briar Chapel is the majority of the growth that is right now occurring in the Chatham County area, that marketing effort needs a lift. We believe that the addition of multifamily units will add value overall to the commercial and allow us to do a better job of bringing higher quality commercial at a more rapid pace to the area. One of the questions at one of our resident meetings was why do you think the commercial in the Veranda is doing so well when it seems like so much of the commercial along 15-501 seems to be struggling. There could be a whole series of answers to that question but I am convinced that one of them has to do with the quality of the environment that we are creating in the commercial spaces interior to Briar Chapel. There is a paradigm shift occurring in retail and commercial. There are commercial applications where the primary emphasis is convenience and discount pricing. The types of commercial that kind of fall into that category are Wal-Marts and fast food. Those are important components to commercial. Then there is another bifurcation which is strictly about creating the types of commercial environments where people want to stick around. They call them sticky places where we build in place making components and amenities to bring people together and create synergies between the residential and commercial. That is what we are trying to achieve within the Briar Chapel community. I think we have done a great job so far in the Veranda and that is the vision that we have in place for what we are wanting to accomplish at SD West and SD East. One of the first steps we took about a year ago, we actually hired a Director of Commercial Real Estate for Briar Chapel. His name is Dan Klausner. Dan has been working on the site for the last year and has been the one gathering the information from the various users and I would like to introduce Dan to share some of his evidence.

Mr. Klausner: Hello county commissioners, Planning Board, my name is Dan Klausner. My office is at 1342 Briar Chapel Parkway. I am employed by Newland Real Estate Group. As a professional engineer, LEED accredited professional, graduate of Keenan-Flager Business School, I have practiced real estate since 2004 in multiple jurisdictions in North Carolina under my own company as well as for other developers as well as nationally. I've worked on a range of development focused around mixed use projects ranging from suburban properties, such as Briar Chapel, as well as medical mixed use, mostly including retail, office, medical, multifamily and hospitality. In my capacity as Director of Commercial Real Estate with Newland I have been engaged in development of the commercial parcels of Briar Chapel for more than a year, as Laurie Ford said, as well as seven other properties in four other states ranging from twelve acres of commercial property up to 400 acres of mixed use. I've reviewed the existing CUP approvals and have been involved in multiple

ongoing discussions with potential commercial developers interested in Briar Chapel commercial acreage, including multifamily residential developers. As Laurie stated, there have been several overtures by developers that are very interested with the consistent thread is the desire to see the possibility of more onsite multifamily residential units, particularly for two reasons: To gain efficiencies of scale on both constructions and operations. That is something that comes from them every time we talk to them. The other point speaks to something we talked about a little bit earlier going back to the amenities for them to be able to offer amenities such as the pool that they would not be able to leverage within Briar Chapel. To go from 200 to 350 gives them the opportunity to offer those types of amenities to the residents. We have been studying this approach and over the last year have concluded that increasing the possibility of multifamily units from 200 to 350 is the best approach to secure the higher quality commercial development in the balance of the special area districts. Reasons given for why more multifamily residential units in the commercial areas are needed revolve around needing a critical mass of both day and off hour population to facilitate mixed use commercial development at the desired level. It is necessary to help to sustain surrounding retail development. When you think about mixed use and creating that activity throughout the course of the day, you have the community college with 400 students that will be there for daytime population. Then you have multifamily residential units that would be there at night and some working from home that would be there during the daytime as well to help keep that retail activated. We have gotten multiple requests, literally in the last week, from different groups that we are working with, particularly broker Rob Coleman who previously worked for Bell Partners and now works for Walker Dunlop that focuses strictly on multifamily residential. They have confirmed that they would be looking for the 300 multifamily units as they broker deals for this property at SD West. I received an email on Friday from Alliance Residential Company, one of their developers for this region, requesting additional units to make the efficiencies work for them as well as a broker from Colliers that has stated the same thing. There are more examples than that but this was in the last week of our discussions. This is consistent with what we are seeing regionally. Locations in Tampa, Atlanta and Wilmington. This is not unique to just this location. I think one of the key points too is that the infrastructure, water, sewer, schools are all available locally here as it exists. There wouldn't be that additional strain being put on the systems if it is located out on 15-501. The current availability of multifamily in this critical transportation corridor is essentially non-existent. One of our resources is looking at the units that are available and there is limited amount of anything over a twenty unit development that may be here and there but nothing of significant size that can create that kind of energy in a mixed use community.

Vice Chair Hales: When you are talking about developers looking for a larger number like the 350 units, would they also be attracted if those 350 units were dispersed among your east, west and north? In other words you wouldn't have a complex of 350 only in one place, at least that was the discussion I was hearing earlier. You would have some in east, west, and north. Is that correct?

Mr. Klausner: There are different developers that look for different things but the common thread is in one location. That could be a combination of SD West and SD East but typically they would be looking for a site that is centrally located in one location. We do also have interest for both market rate and senior apartments as well. There is interest on all levels but your point is well taken. Most would look for the 350 units in one site. In summary, my experience and the independent analysis that we have had from some people that have been looking at the site, results of our work in the market all confirm that the request for additional multifamily units are needed and would be helpful in ensuring high quality commercial to SD West, SD East, and SD North.

*Mr. Robinson: If I could ask you just one followup question. You mentioned a letter that you recieved from Rob Coleman. Is that a copy of that letter?*

*Mr. Klausner: Yes it is.*

*Mr. Robinson: I would like to introduce that into the record.*

*Mr. Robinson: It will move a little more quickly from here. We have gotten through some of the main things. One thing I wanted to point out that I skipped over, this is a small point, and I don't think anybody had any concerns about it but I do want to make sure you all know about it and it is in the record. Over the years, there has been an opportunity and an availability in Briar Chapel to try and create some commercial inside the center of the neighborhood. Some of the residents would really like to see that happen. We have never really been able to attract somebody that far off the highway into a small 10,000 square foot type use. We still keep the dream alive and we have been meeting with our residents a lot over the years on this and those three purple sites there that you see on the map there, I will circle them. Those three little ones are the spaces we want to reserve on this master plan for a potentially commercial area. Don't know if that will come to fruition but if we do do it would be in one of those locations. I would like to call now Lucy Gallo to talk about the economic impact of the requested changes.*

*Ms. Gallow: My name is Lucy Gallo. I am a principal with Development Planning and Financing Group, a national real estate consulting firm. I prepared the original Briar Chapel fiscal impact analysis in 2004 and have been preparing fiscal and economic analysis on the project ever since. A more detailed technical memorandum discussing the fiscal impact of the proposed Briar Chapel CUP amendment on Chatham County is being submitted. In our firm's experience multifamily component of a successful mixed use master plan community generally doesn't raise any significant fiscal concerns because the units generally generate significantly fewer people and fewer public school students than single family homes. Most public service costs in fiscal analysis are usually allocated on a per capita or per student basis. The fiscal impact of the addtional 150 multifamily units planned for Briar Chapel should be fiscally positive, particularly considering the \$2,000 per unit voluntary school impact fee which would apply to these additional 150 units or at a minimum fiscally neutral.*

*Mr. Robinson: The next person we would like to come up is Richard Adams who is a traffic engineer.*

*Mr. Adams: My name is Richard Adams. I am with Kimley-Horn and am a traffic engineer. What we have done in response to the potential CUP amendment is, I've gone through a similar process we did with the last CUP amendment. We looked at the change, in this case the change in units and what that would do to the overall trip impact considering a likely commercial development that would still remain on the project. With that we developed a trip generation calculation for the entire Briar Chapel development. I developed a letter report which we provided to the applicant who then provided it to the County. With that and based on that analysis and that comparison to the previous analysis, the TIA would continue to be a reasonable estimate of trip traffic impact for the development. When I say TIA I am talking about the original traffic impact analysis prepared for Briar Chapel which we did prepare. I did want to address one other matter that has come up and that is the potential for an elementary school on the property on Andrews Store Road and how that would impact traffic. That is a question that has come up and it is certainly a very valid question. I did want to mention that there is a traffic study that has been done or is in*

*the process of being done, I am not sure if it is finalized yet, that is being done on behalf of the school system for the new elementary school. We have talked a little bit with the consultant doing that study and our understanding is that it includes all of the relevant intersections that would be of concern on Andrews Store Road, including Granite Mill Boulevard, Woodland Grove Lane, and Parker Herndon Road as well as other intersections on that corridor. It will include the entire development of Briar Chapel and the new elementary school on top of that. That is really doing a deep dive into how that elementary school would work, what the access would be and what the improvements would need to be in order to make that school work.*

*Chairman Crawford: You don't happen to have an ETA on that study have you.*

*Mr. Adams: I do not have an ETA on that. I do know that NCDOT, as I am sure you are aware, all the relevant roads we are talking about are or will be NCDOT streets. NCDOT is helping scope that study. They will scrutinize it very closely. They have a special group in Raleigh that looks at school studies. That will get a thorough and rigorous review. In conclusion I did want to say that based on our review and the future analysis and associated improvements by the school system it is our opinion that from a traffic standpoint the requested amendment 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.*

*Commissioner Dasher: Have you or NNP looked at connectivity, particularly across 15-501 to the park, the schools? I am just wondering if you guys have considered a sidewalk or bike path arrangement there.*

*Mr. Robinson: Across 15-501 or across Andrews Store Road?*

*Commissioner Dasher: I guess I am thinking more across 15-501 and along Andrews Store Road.*

*Mr. Adams: I do know that Andrews Store Road is a very long corridor with a relatively narrow right of way and very little of that controlled by NNP. Short answer is no, we have not done a pedestrian analysis of that corridor or what might be needed to make that all connected from a pedestrian standpoint.*

*Commissioner Dasher: I guess what I am getting at is adding 350 units and having some connectivity for traffic to schools and the park.*

*Mr. Robinson: There has always been a requirement in the conditional use permit for Briar Chapel that there be....SD North that I am circling, there has always been a requirement to make sure that is connected by trail or some combination of trails or sidewalks back to the main community. That has occurred. There has also been a requirement that there be a connection at SD West by sidewalk or trail or some combination of the two back to the main development. That will definitely occur. There has also been a requirement that within SD North, SD West and SD East there be pedestrian walkability in each one of those three separate locations. There has never been a requirement that there be a crossing for pedestrians across 15-501, mainly for safety reasons. If you start at the 64 Bypass in Pittsboro and work all the way up 15-501 you will never find a cross walk all the way up to the Chatham County line. I think the first one might be past Chapel Hill actually. There has never been a requirement for that but what we are doing is connecting everything that we can connect within itself and then connecting the other two back to the neighborhood.*

*Commissioner Dasher: There was also never a plan to have 350 units over there.*

*Mr. Robinson: Yes. I think the most likely outcome is if you wind up with 350 units it is most likely that they are going to be in SD West sort of along the lines of what Lee showed you in that schematic near the community college. So they will be connected. Keep in mind that our density chart shows that there will not be more than 200 on the east side anyway. There will never be more than 200 multifamily units on the east side anyway. We think that fits in with the concept anyway of keeping those 200 people there near the commercial and keeping them safe. Everybody else can connect to the neighborhood. I would like to move on to Chris Huysman who has a very short presentation about the environmental issues.*

*Mr. Huysman: Thank you commissioners. Chris Huysman, Managing Partner of Wetlands and Waters. My office is at 170 Dew Drop Road, Sparta, NC. In light of this proposal, we reviewed the following documents. We reviewed environmental impact assessments that were developed in the original project. We reviewed US Army Corps of Engineers permits as they were issued, renewed and amended as well as the 401 water quality certification for that. We have then also queried the North Carolina and Natural Heritage database program for protected species and natural areas. We've reviewed the current documents for that as well as the State Historic Preservation Office. In conclusion, we find that the CUP amendment being sought by NNP, if approved, are not inconsistent with prior documents and the renewed permits.*

*Mr. Robinson: So I introduced you to Tanya Matzen before who is a North Carolina licensed realtor. Some of you may recall that we did a study back in 2014 where we looked at Southern Village. We said that is a neighborhood where there were residences already built and then they came in later and built a commercial area nearby. We did a study in 2014 showing that house prices on those pre-existing houses after the commercial came in, the house prices went up. What Tanya has done is updated that study from 2014 to 2017. She is just going to quickly summarize that.*

*Ms. Matzen: I am Tanya Matzen. I am the Project Manager for Briar Chapel and have been for the last three years. I am also a licensed North Carolina real estate broker since 2005. I did update the Southern Village case study from 2014 to 2017. Basically the analysis shows that home prices have steadily increased for both new homes during the time of new home construction and looking at the resale analysis have steadily increased. We started out with an average sale price of \$278,000 in the first four years of development introducing the first commercial properties in and around 1999. Today the average sale price is \$560,000. In this case study you can see that over time property values have maintained and even enhanced by their adjoining districts following the introduction of commercial properties. For similar uses proposed by Briar Chapel, this type of commercial development only enhances the property prices over time. There is no detrimental or erosion of property values with the introduction of this type of use. Residents thrive and flourish in a community that meets their retail, civic, and daily needs. This type of real estate continues to remain in high demand. Thank you.*

*Mr. Robinson: Tanya, in the process of doing that did you put together a written analysis to summarize what you just said?*

*Ms. Matzen: I did.*

*Mr. Robinson: Is this a copy of that?*

*Ms. Matzen: That is correct.*



*Mr. Robinson: I would like to introduce that into the record.*

*Mr. Robinson: Thank you Tanya. If I can, we are getting toward the end here. Just two more witnesses that should be brief. Jeff Taylor who is an appraiser, MAI, looked over Tanya's shoulder as a licensed realtor and is just going to make a brief statement about his review of that analysis that Tanya just gave.*

*Mr. Taylor: Good evening. My name is Jeff Taylor. I am a commercial real estate appraiser and North Carolina certified general appraiser. I've got my MAI designation from the Appraisal Institute. I have a letter that I wrote that is a review of that document that Tanya put together. I can submit this in a little bit. Basically in connection with this proceeding I was asked to review the Southern Village Single Family Home Market Study produced by Tanya Matzen, previously introduced into the public hearing. I have reviewed the summary report but have not independently verified this data. I have not provided my own independent analysis of this property. The sales data in this report by Tanya Matzen shows an overall increasing average sales price per square foot an increasing overall sales price for the single family homes throughout the construction of Southern Village. Given the proximity of Southern Village it is reasonable for Tanya to conclude that the same results would happen with Briar Chapel. This conclusion is based on limited information provided to myself. It is my opinion that when retail amenities are constructed, high quality retail amenities and retail tenants often have a positive impact on the demand and the sales prices of surrounding neighborhoods. Since I have not done my own impact analysis, I will not conclude an opinion on the impact of values in the neighborhood surrounding Briar Chapel, but with this being said the proposed plan, which is adding a higher multifamily density, should increase the attractiveness of this location to retail tenants, therefore improving the quality of retail amenities. Do you have any questions from me? Thank you.*

*Mr. Robinson: Is this a copy of your letter?*

*Mr. Taylor: This is the letter, yes sir.*

*Mr. Robinson: I would like to enter this into the record.*

*Chairman Crawford: Thank you.*

*Mr. Robinson: Ok, Mark Ashness, if you could just come up and talk about the utilities, that would be great.*

*Mr. Ashness: Good evening Board members and staff. Mark Ashness with the CE Group, 301 Glenwood Avenue, Raleigh, North Carolina. I am a registered professional engineer in the state of North Carolina. I have been engaged with NNP-Briar Chapel on the Briar Chapel project as a consultant for the utility related issues. I have reviewed the CUP amendment application, particularly the request to add 150 multifamily units to the already approved 200 multifamily units in the special district areas. With respect to finding number five regarding the adequacy of utilities necessitated by the proposed amendment, it is my considered opinion that there is adequate water and waste water capacity available to the project to more than accommodate the additional 150 multifamily units. Briar Chapel has adequate waste water capacity, an overall approval of up to 750,000 gallons a day currently permitted. The proposed density change will not increase the overall impervious coverage. Briar Chapel has also constructed a one million gallon elevated potable water storage tank within the project near Manns Chapel Road. That tank serves the community and extended neighborhoods outside of Briar Chapel as well. The existing county water system, which includes treatment, storage and line distribution*

*is more than adequate to serve the additional 150 multifamily units. Thank you.*

*Chairman Crawford: Any questions colleagues since this touches on the question of utilities? Often times that is a sticking point for us.*

*Mr. Robinson: Jason was asking if I had any extra copies to give to some of the Planning Board to pass around. There are a few extra copies there. A couple of additional things. I don't think the Planning Board would need to look at these but these are resumes of the various professionals that we have had come to testify for you tonight. One for Richard Adams. One for Chris Seamster. One for Lucy Gallo, Tanya Matzen, Jeff Taylor and Mark Ashness as well as Chris Huysman. I would like to introduce those into the record.*

*Mr. Robinson: That kind of brings us to the last stage here of the presentation. I think it would probably be useful too to introduce this most recent amended version of the master plan in a hard copy for the record.*

*Vice Chair Hales: Is this a revised map?*

*Mr. Robinson: Yes, this is a revised version. I would like to admit into the official record all of the evidence and testimony and tender the professionals that have testified as experts in this proceeding. The last thing that I want to do is to review the five findings of fact that you need to make in order to approve this amendment. I realize what time it is, it is late, and I don't know what else follows behind this so I am going to do this just as fast as I can. You all know that you have to make five findings in order to approve a conditional use permit amendment. The first finding is that the use requested is among those listed as an eligible conditional use in the district in which the subject property is located or to be located. A compact community continues to be a permitted use within the compact communities conditional use district. There is no problem there. Finding number two, the requested conditional use permit is either essential or desirable for the public convenience or welfare. There has been a lot of evidence in the record tonight about that. Certainly it will be desirable to revise the civic site to afford the possibility of a Chatham County elementary school site. The administration of Chatham County's School Board confirms by virtue of the fact that the property is under contract, that the new elementary school is needed. Their consultants list this location as within their targeted location area. That would make it, by definition convenient and desirable and in the best welfare of our students. The second subpoint under essentialness or desirability is the revision of the perimeter buffer for Chapel in the Pines. Certainly this buffer reduction by the impact the adjoiner will allow the church to accommodate more parking.*

*Commissioner Dasher: Sorry to interrupt. Are they intending to park on Briar Chapel's Property?*

*Mr. Robinson: Yes. What would happen is if the waiver is granted, we would then lease the property to them to allow them to use the property for that purpose. That is a good question. Then the addition of the residential units, the up to 150 additional multifamily units and allowing a total of 350 multifamily units among the commercial areas where 200 are already allowed will likely have the impact of expediting development, as Laurie Ford testified, of the balance of the commercial areas. Present and projected demands indicate the need and desirability for requested additional usage of multifamily in those districts as is warranted and testified to by Dan Klausner and others. We think that will be responsive to the market and hence necessary and desirable. I have included a lot of these comments in the written portion of the application that was submitted so I am not going through every detail now but I will just hit the highlights. The balance of the requests are minor apart from*

the ones that I have mentioned. Essentially we intend to show the progress we've made to date and facilitate continued development. I think it is also important for you all to note, and I won't go into the detail, the County asks us at this point of the proceeding in determining whether or not it is desirable to make a statement about a survey of similar uses. I think it is pretty important to note that there are no similar uses such as the multifamily that we are asking for anywhere near this location. I think it is important to have it in the location where the infrastructure exists. If that is a relevant inquiry to that finding then the evidence is going to show we really do need that there. The third thing the County asks us to discuss in connection with need or desirability is whether or not there will be a requirement of publicly provided improvements. The beauty of this request is there will be no publicly provided improvements. All of the improvements will be made by the developer itself thereby inherently making it more desirable.

Mr. Robinson: Finding number three. 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 and welfare of the community. There is a lot of evidence in the record about that. Nothing is changing with respect to the footprint of the development. If you look at SD East, which is down at the very bottom, there is a 300 foot buffer between there and Fearrington Village. None of that is going to change. That will remain the same. In addition there is a 200 foot buffer up here by Herndon Woods. None of that will change either. The places where the multifamily would go are still protected by those buffers. I think the evidence in the record tonight about traffic and the various other matters would indicate that the requested amendment would not be detrimental to the health, safety and welfare of the community and will not impair the integrity or character of the surrounding districts. The County asks us about lighting, noise, chemicals, signs, all of those and there is no change to any of that from our prior approvals. I think that is it for the third finding. The fourth finding. The requested permit will be consistent with the objectives of the land conservation and development plan. Certainly true, everything about Briar Chapel has three times been deemed consistent with the existing land development plan. A question you might have in your mind is whether or not it is consistent with what is presently proposed to be the Comprehensive Land Use Plan that has been in the works over the last couple of years. I am glad to report that this requested change is consistent with what we now know of that plan. For example, just a few quick points. The key recommendations under the new plan include providing equitable access to high quality education, which of course making that site available to the school system would do that. It also says to provide flexibility for developers to match target demographic, accommodate a mix of housing near transportation, utilities, and schools. This would certainly do that. We will have a park n' ride at SD East. We will have a multifamily in some of these districts and that will create transportation flexibility and it is certainly near the schools and certainly near the utilities as we've said. Another recommendation from the new plan is support development in planned growth areas. This is certainly a planned growth area. It is smack dab in the middle of the compact community corridor. The last finding is that there are adequate utilities, access roads, drainage, sanitation and or other necessary facilities have been or are being provided. That is certainly the case based upon the evidence that we have submitted thus far tonight.

Mr. Robinson: I am down to the very end. The last three things are housekeeping. First thing is my custom, I just want to make a general evidentiary objection because it does occur from time to time that there will be testimony following our presentation that may be inconsistent with the rules of evidence. It might be hearsay, it might be incompetent evidence. It might be otherwise not substantial material and I am not going to stand up and object every time that happens but I am lodging a general objection into the record to keep the efficiency of the proceedings moving to just note

that in the record. The other thing that I would say is we want to reserve an opportunity to respond to any opposing evidence if there is some. Other than that, thank you very much for your patience. I am sorry it is so late. We would request that you pass this along to the Planning Board and then back to you and hope that we can reach an approval. Thank you very much.

Chairman Crawford: Thank you. Before you leave are there any questions from the panel or from the Planning Board members who are here?

Dr. George Lucier (Chair of the Planning Board): Just two quick questions. What is the size of the school site with those limitations taken off of it? I couldn't find that anywhere. I know you are only two acres of developable property now but what will the available property for the schools be if this is granted?

Mr. Robinson: That is a great question. If you look at the site up there you can see first of all the parcels that would be sold to the school are a total of twenty-five acres approximately. There is a big portion of it down toward the southern side that has a giant riparian buffer on it, which would never be used. It is that part that you can see in that certain color right there and the developable part of that would probably be sixteen or seventeen acres. Mr. Lucier that is a good question. Right above this parcel right here is a small triangular piece, I am circling it with the cursor. It is about two acres. That is also owned by NNP-Briar Chapel and is also under contract with the school system but it is not subject to the conditional use permit. It is completely outside of it. That would give the school system a little more road frontage there as well.

Dr. Lucier: If this contract goes through, the school system will be a subtraction of the acreage from Briar Chapel?

Mr. Robinson: No. Oh, the two acres?

Dr. Lucier: Well, whatever...it must have been added in at some point and now it will be subtracted. Would the twenty-five acres be subtracted or just the two acres?

Mr. Robinson: No, it wouldn't be subtracted at all. It would be no different than selling a parcel to the office building, for example. It is still a part of Briar Chapel so for the purposes of all of the density calculations and the impervious surface calculations it would still be included.

Dr. Lucier: I assume that you have to use the extra 150 for apartments and they have to be in the special districts.

Mr. Robinson: Yes, that is correct.

Dr. Lucier: What you wind up having is 2,300. You can have no more than 2,300 single family residences...

Mr. Robinson: That is right. If we used all 350 units as apartments out in the business districts then inside the development proper there would be no more than 2,300 but if we use fewer than that there could be up to 2,389.

Allison Weakley (Planning Board member): The parking for these 350 units, where will that be?

Mr. Robinson: They would be wherever the multifamily units are built in accordance with the applicable requirements of the zoning ordinance.

*Ms. Weakley: Any changes in impervious surface?*

*Mr. Robinson: No.*

*Ms. Weakley: Is it required to accomodate that?*

*Mr. Robinson: I think the question is would there be any changes to the overall impervious surface for the project required by adding multifamily units. I think I understood that to be the question. No, the footprint is still exactly the same. We still can't use more than 24% of the overall footprint and as I mentioned before in SD West, for example, that is all going to be developed one way or another. It is either going to be an apartment or an office building or a restaurant. It is not going to change the footprint of where the buildings go.*

*Ms. Weakley: I also noticed that the stream in the southern-most portion of SD East, that buffered stream right there, one of your drawings that you had up previously showed it as a stormwater pond, and not a stream with a buffer.*

*Mr. Robinson: There is a stormwater pond down there but it is not in the stream.*

*Ms. Weakley: I just wanted clarity on that*

*Mr. Robinson: Good point.*

*Bill Arthur (Planning Board member): How high are you going to go up with these apartments?*

*Mr. Robinson: So there is requirement in all of Chatham County under the Zoning Ordinance of no higher than sixty feet. That would be three or four stories max. That is true throughout Chatham and it is also true throughout the compact community.*

*Emily Moose (Planning Board member): Can I ask if your goal is to have more multi-family units on the highway, why is the request not to just transfer some of the dwelling units you are committed for, over to that location?*

*Ms. Ford: Well obviously that could be a solution. We have actually quite a bit of land left available to develop and consistent with the type of housing we are offering in order to hit those price ranges that we think are sort of ... in demand in the marketplace, we need to acheive a certain amount of density on the balance of the land proper to Briar Chapel, outside of that commercial area.*

*Ms. Moose: Just one last question: what do you anticipate the average price to be for those multi-family rental units?*

*Ms. Ford: I don't know. It is quite possible they could be rental properties as opposed to for sale properties and I wouldn't want to guess at what that is.*

*Chairman Crawford: Now, the public hearing, we are ready to move to that. Anyone that signed up to speak please raise your hand.*

*Pat Meyers: For whoever is keeping the record my name is Pat Meyers and considering the hour I am going to decline to speak. Thank you.*

*Chairman Crawford: So we will start with the list.*

*Commissioner Petty: There was someone that signed up late and I dont know if they were here for the oath. Are they allowed to speak?*

*Clerk: Betsy Krauss?*

*Chairman Crawford: Could you stand up quickly and affirm that the evidence or the testimony that you are about to provide is factual and truthful to the best of your knowledge.*

*Ms. Krauss: I do*

*Chairman Crawford: Thanks Commissioner Petty, we have to make sure everything is straight. So the first name that we have then?*

*Clerk: Shelley Colbert*

*Ms. Colbert: Hi, Shelley Colbert again. Commissioner Crawford I promise I will be as brief as possible. Let me just restate some of the earlier objections that I raised with respect to the CCO itself, regarding the incrementalism and some of the other aspects that I think directly impact the five findings for the commissioners and later for the board. I submitted written comments to the board and rather than repeat what I have submitted to you, I will just leave it at that. Obviously that is part of the public record, that was uploaded on to the county website today. That said and still trying to be quick here I want to raise an objection that concerns the manner in which some of the information was disseminated to the public, including up to this evening where some of us are seeing for the very first time some of these changes and that makes it a little bit difficult for us to really provide the kind of public feedback that I think something of this nature warrants. I am really not too happy about that. Beyond that, I do want to note that, again going back to this incrementalist approach to things, certainly we have heard a lot of the positive side yet nothing negative, or no consideration of the potential negatives. I am sure the community would have a lot to say about that and I will have a lot more to say about that in terms of the five findings when we get to the Planning Board. I thank you for your time.*

*Clerk: Michael Cunningham*

*Mr. Cunningham: Good evening. I am Michael Cunningham. Like about twenty other people in Briar Chapel I am a licensed real estate broker. I have a vested interest in how Briar Chapel performed over the years. I whole heartedly approve of this project. As I guess a quasi-character witness for Newland, they have shown time and time again how they pivot and change with the market and as market demands change so does Newland. I believe they had their big opening party the day Lehman Brothers collapsed in 2008, which is probably the worst time in the history of the world to start a new planned community. They took that higher price point home and they changed it down to a lower price point because that is what the market demanded. I have access to the triangle MLS and I pulled some real estate stats. The average sales price in Briar Chapel from launch date to January of this year rose 37%. If you go into some less development, frankly, jurisdictions in the immediate area, Chapel Hill, they only had a 22% increase. That was back from January 2004 to January of this year. That was a twelve month rolling out versus just trying to smooth out any of the peaks. Chatham County wide over that same period, January 2004 to January 2017, a 39% increase. That was more in line with the entire region which is sixteen counties around Wake County. It rose 36%. I am a numbers nerd and I know it is late so I want to try and wrap this up just as soon as I can. If you take that average percent year over year increase, Briar Chapel was at 4.1% average sales price increase. They really, the product they create is in demand and is evident*

by supply and demand market forces. If you look in some other areas like Chapel Hill it was only a 1.69% increase. Orange County overall 1.89% increase. Chatham County overall in that same period was a 3% year over year average sales price increase. Newland and Briar Chapel really are listening to the market and it wouldn't make any sense for them, obviously, to build something no one wants to buy. They are in it to make property values higher. That is all I have to say about that. Thank you very much.

Clerk: Bruce Raymond

Mr. Raymond: I would like to say good evening but I would rather be saying good night. I am from Chapel in the Pines Presbyterian Church, which is the church that was asking the request from Newland Properties. We did have quite a few other people from our church but the hour has made it such that many of them are gone. Those that are still here, there are a few strong people. We are obviously in support of all of the changes that they are asking for. I don't know if you all have any questions about our request to Newland if there was an opportunity that I might answer or help you understand.

Vice Chair Hales: I attend concerts at the Chapel in the Pines.

Mr. Raymond: Then you know what a beautiful church we have.

Vice Chair Hales: It is absolutely breathtaking and I also have a problem with parking. I really understand your desire to increase the parking.

Mr. Raymond: And we are concerned from a safety point of view because our overflow ends up being on Great Ridge which once it becomes paved, that is a serious safety issue. I'll keep it brief and say good night.

Clerk: Besty Kraus

Ms. Kraus: Thank you for the opportunity to talk to you. I understand how you are feeling, I haven't had dinner either. I live off Andrews Store Road. I am concerned about traffic. I don't feel like the development's proposal has addressed traffic issues. We have right now two schools on the road. There have been close call accidents. There have been some people run off the end of there. I think there are some real public concerns as far as safety on that road that need to be addressed. That can only be addressed by actually having publically provided improvements because it is a state road. The county doesn't have funding for state road improvements. What do we do? We have two schools on the road now. There already are issues. We have two more schools coming, the elementary school and Willow Oaks, which is also from Newland's parcel collection. There is a problem here for traffic safety and I think we have a real opportunity now to solve it because we have two new schools coming in. We have a lot of build out happening in the development. We want everybody to work together to make the schools safe. I am sure Newland really feels strongly about that because it is one thing you use in your marketing, is the schools and how close they are and how the people are going to have walkability and bikability to the schools. I would like to propose that Briar Chapel commit to working with the county and with the community to provide a solution to the traffic problems that their development has created in our community. One thing you should consider is roundabouts at schools. Roundabouts have been shown to have a traffic calming affect and they slow people down. They have been shown to increase safety for motorists, pedestrians and bicyclists. We want a walkable community. I think that putting this sort of traffic issue as part of their planning process is an important thing for Briar Chapel and Newland to do. Thank

*you for your time. Here are my documents about safety and roundabouts.*

*Commissioner Dasher: Is it an appropriate time for me to follow up on her?*

*Chairman Crawford: No, not at all sir.*

*Commissioner Dasher: That is really what I think my concern is as well. I guess I want us to think, and I know a lot of these aren't Newland's responsibilities necessarily, but you are talking about a village that at build out will have seven to ten thousand residents probably. The idea that there are no crosswalks on 15-501, you are talking about adding a village of 10,000 people and I think connectivity and walkability and safety are real important issues. We need to figure out how to work with them to make sure that is all being addressed. I hope that we do that.*

*Chairman Crawford: That is right, it will be larger than Siler City.*

*Commissioner Petty: I think it is a good opportunity to reflect on our RPO meeting that we had earlier talking about the roads and improvements that is going to be coming to us to make sure that information is taken into consideration as we continue to do our road studies. The state moves pretty slowly when it comes to highways and things like that but there are five, ten, fifteen, twenty year plans that are looked at. As things like this come up we can start putting this in front of the state to be considered as one of the state projects. It is not being totally forgotten and it does take a while and that is the reason these plans go out as far as they do. It is one thing that can be looked at as we go forward.*

*Clerk: Cherie Dumphy*

*Ms. Dumphy: Thank you. This is my husband Frank Dumphy. Just a couple of things that I wanted to note as I was listening to people. One of the reasons that a lot of people move out to Chatham County, and I know a lot of people that have moved out, we moved out in 2009 onto twenty-nine acres, was because of the property taxes. Again I really implore the county to see what the impact fee might be on the property taxes as part of that infrastructure. The other thing is I know, we've got this school, it depends on the size of the multifamily units as to whether or not they are going to have school age children. There really needs to be a plan. There needs to be an impact study done on what they're planning. I did hear, they were describing how this commercial multi use development would thrive. I heard high end multifamily. Again, I am getting back to affordable housing. I am a little bit confused. I hear that we are talking about affordable housing. By the way, affordable housing I would define, for example, a public employee such as a teacher being able to rent an apartment. They have to make a third of their salary to pay for their rent. That is what I call affordable housing. Some people may not need to know that definition because they don't need to worry about it but a lot of people do. There is not much affordable housing in the area. Also, we talked about this traffic study with the elementary school but it sounded like it is not completed yet. I would implore us to get the final study on that. It sounds like a lot of these studies are done or engaged by NNP but perhaps there needs to be an independent analysis done on the traffic and the infrastructure by the county. Also, has the traffic study taken into account the new montessori school that is being planned? I doubt that it has. Andrews Store Road is three miles long. I know, I am a walker. I don't walk it anymore. I can't walk on that road anymore and I walk four miles a day. The other thing about the retaining wall; I am going to let my husband talk about that because it is not exactly at the back of our property but it is very close to the back of our property. We own the swamp and we own where our property goes along that creek on the back.*



*Frank Dumphy: My name is Frank Dumphy. My address to this body is primarily to buffers. You have discussed some buffers at this meeting. You discussed what I am going to call an internal buffer where a church parking lot is going to be made possible. That encroaches on Briar Chapel main property. I heard Mr. Robinson say that they were going to lease that property, to the church, I did not hear him say he would gift that parking lot to the church. I think that should be something you want to consider.*

*Chairman Crawford: We can't...*

*Mr. Dumphy: You can approve or disapprove depending on his decision.*

*Chairman Crawford: We can't...*

*Mr. Dumphy: That impacts on the desirable welfare of the community sir.*

*Chairman Crawford: I know but we can't do what you are asking.*

*Mr. Dumphy: Second, I heard him talk about the Duke Energy right of way. I consider that an internal buffer. They are encroaching on an electrical right of way, maybe not such a debatable issue. The most important right of way I want to discuss, and it is self serving, is the back of our property. There is a pristine creek and a riparian, 100 feet on each side. For those in this body that don't know what a riparian is, that is the 100 feet of woods and plants on either side of a creek. It functions to filter the water so that the water runs into the creek and is pristine. If you eliminate the buffer you end up fouling the creek. So that they don't have to build a retainer wall, because of the 25% slope, they want to encroach on the riparian. It is my self service but I am just bringing it to the body's attention. Excavation of a retainer wall and the construction is expensive. Moving dirt and building walls is expensive. To save money from building a retainer wall they want to encroach on the riparian. That either reflects what I would discuss as poor planning at best or at worst pure commercial desire to build on every postage stamp piece of land. That is a part of your density solution sir. What's theirs is theirs and your riparian and your buffers are theirs. That is what is happening at this meeting. I want you to think about that because you are entrusted with the public protection of the buffers. I will conclude by respectfully asking this body to not approve the buffer variance for the riparian at the back of the property so they don't have to have the expense of a retainer wall. Consider gifting to the church rather than leasing to the church. Don't forfeit your buffer for a desirable welfare of the community. Lets have some desirable welfare. I'll stop my discussion.*

*Clerk: That is all that signed up.*

*Chairman Crawford allowed Stacy Donelan to come forward.*

*Ms. Donelan: My name is Stacy Donelan.*

*Chairman Crawford: Do you affirm that the evidence or testimony that you are about to provide is factual and truthful to the best of your knowledge.*

*Ms. Donelan. Yes. I just had a couple of questions since we still have all of the experts here and people who gave the testimony. Sometimes when they were speaking one of their other group would speak up and correct them. I just wanted to make sure we were all on the same base. I think it was already cleared up that the Comprehensive Plan that includes all of Briar Chapel, that is what includes the entirety of the 2,650 units. Is that right? Lee, you had said at one point that the part*

down in SD East or West didn't but then you had said oh yes it does. Does that sound fair?

Jason Sullivan, Planning Director: Everything that is colored on the map is within that conditional use permit.

Ms. Donelan: Ok, great. I just wanted to make sure since the numbers were flying earlier that the Board was aware of that. Also, the 350 multifamily units, I know there were sort of these carrots that were being put out that we could sort of split those up between the SD areas but then we heard from another expert that said it is more desirable for the developers who are interested in building those multifamily units to build them all together at once. I guess my concern is that if they contract with someone who develops SD East or something for the entire 350, or West, because East said it was only going to be 200, one or two years down the line they are going to come back with another CUP amendment and say they found out they could build another 200. Just something for the Board to keep in mind there. Not that I am against that, I just want to make sure that we are looking at all the i's and t's as all of you decide to approve or disapprove this. The other thing I thought was said and I wanted to get clarification on was Mr. Robinson said that the amenities up in SD North, the commercial area, had connections to the greater Briar Chapel area through trails and that would also extend to the commercial areas that were to be built up in the future. To my knowledge, and again it is truthful as far as my knowledge, the trail that extends from Briar Chapel proper into SD North doesn't actually fully connect those areas. It is a woody trail and is very rough terrain as far as I know and it sort of just stops very close to where the SD North area is but if you had a walker or a wheel chair, even if you were me and not in great shape I don't think you could travel from where that stops into the commercial area at SD North. Some things were probably said in the best of intentions but might not be exactly true. I hope that when they do build out the other areas that everything might be connected with walking trails or biking trails. That is all. Thank you very much.

Mr. Robinson: Two very short statements. I just want to make one clarification. I fully respect the Dumphys on their concerns and hear them but I did want to clarify that the buffer reduction from 100 feet to 75 feet is not a riparian buffer. It is not on a stream. It is a perimeter buffer. The other thing I would say in response to Ms. Donelan that just spoke. I run, I am a runner. I've run from SD North all the way back into Briar Chapel on that trail. If there is any disconnection it is something we don't know about. Certainly the intent is for there to always be a connection by trail or sidewalk back into the neighborhood so I am not sure what she is talking about there but we will look into it.

Vice Chair Hales: What about, the other two that are disconnected.

Mr. Robinson: So SD West, which is the one where the CCCC campus will be, it is currently disconnected but it will have a greenway plan.

Commissioner Petty: You said earlier it wasn't currently but it was in the plan.

Mr. Bowman: It is in the plan. We've got a permit with the DOT to go with a right of way with a hard surface trail. The one at SD North is more of a mulch type trail. The one that connects SD West to the neighborhood will be a paved surface.

Vice Chair Hales: But east still doesn't have any trail connecting it to the others.

Commissioner Petty: Well you can't get across the highway.

*Commissioner Dasher: I was just going to ask is there any idea of how close you are to that stream that the Dumphys...*

*Mr. Bowman: I could probably look it up but I would just be kind of guessing. I believe if they say they own near the swamp, this is that swamp area that comes down to Andrews Store Road. I am not sure, our request is right here.*

*Chairman Crawford: Are we going to get a close up of the area?*

*Commissioner Dasher: I was just curious, if nobody knows...*

*Chairman Crawford: Sir you obviously want to speak again, you have the floor.*

*Mr. Dumphy: Did they just clarify for you what this buffer was? They didn't do it for me. I think they look confused.*

*Chairman Crawford: It is my understanding we are talking about a perimeter buffer and not a riparian buffer.*

*Mr. Dumphy: So I have a solution and I am just here complaining. Why don't we make that buffer 150 feet so you don't have to build your retainer wall? Or maybe 200 feet so you don't have to build your retainer wall. That might be good will for the community.*

*Chairman Crawford: If we made them do that we would be taken to Superior Court and it would be reversed...*

*Mr. Robinson: I would make one more comment and this is to the general thing and then I will sit down and be quiet. There has been a lot of discussion about traffic. Our traffic engineers have looked at this really carefully and I do want to say and hope that people will know and understand that there are multiple millions of dollars of roadway improvements being made by this development in Chatham County. We are not just plopping all those houses down there and then forgetting about them. I just wanted to make sure the record was clear on that.*

*Commissioner Howard: I want to ask about, this is a general question for us, the severability of the asks. There are seven or eight asks if you look at the individual ones on that fourth request. The ones on the buffers but there were also five...is each one of those addressed and decided upon individually.*

*Mr. Sullivan: You don't take separate votes on it but as far as your consideration when this comes back to you from the Planning Board, it is a negotiation with the developer at that point. If there are things you don't agree with as a Board that need to be taken out you can just say we don't agree that this particular request meets the findings and that needs to come out. They may disagree. If the applicant disagrees with either the removal of something they have requested or you may say you want to add additional conditions. If they disagree with those then we can't move forward. We would be left in a position of you would have to deny the request. If they agree to the modifications then you can certainly approve the conditional use permit with their agreement to whatever changes are made. It is truly an open negotiation. Does that answer your question?*

*Commissioner Howard: Yes. Then I want to make a little statement to us as we have this conversation. When we hear from a developer and they are talking about the benefit to residents or the advantages to accrue to residents they are not talking about current residents. As we are having that conversation we have to be thinking*

current residents. I am a newcomer and I moved into a neighborhood in the northeast, but when we are talking about a community like Briar Chapel, that is significantly newcomers. We are not actually addressing the need, when we discuss the need we are talking about the need of current residents. We are talking about affordable housing. We are talking about whatever is important to us. That is a very different population that we are contemplating than what a developer is contemplating. To say that, and I don't think anyone is being disingenuous, we just have a different audience. To say that something is necessary, essential, important to Chatham County residents, for us that is a very different creature than what I think a developer is contemplating. I think that we can't put that on the side. We can't discount that. I think once we are sitting here in this seat our responsibility is to the current Chatham resident. That is the only group that we are called upon to represent. Aside from if your developer lives in Chatham County you are still representing them as a resident of Chatham County. I think when we are making these decisions, I am glad to hear that they are severable to some extent, there are different ways that you arrive at your answer depending on who your audience is, who you are trying to benefit. Who the recipient of your grace is. For me, I am going, I am having a very difficult time thinking about how I make a decision in favor of my constituents which are not just residents of the northesat or the residents of Briar Chapel but really also the residents of the greater community when we talk about we need affordable housing. We need access to quality education. We need diversity for oportunities for living. We need communities that offer opportunities to a diverse community. Building that offers opportunity to a diverse community. I am not saying that I am arrivng at a decision but I am making a statement that we are talking about, Briar Chapel continues to be a community that reflects a very successful, upper middle class, educated portion of our population that has choices. I want us when we are talking about housing, are talking about affordability, talking about access, I want us to be thinking about people that aren't at the table when that negotiation is being done.

Chairman Crawford: That takes a lot of work outside the confines of sitting here in front of a live microphone. That is the kind of work that this board is being called to do, increasingly as we go forward. I will take issue, it is not the case of the residents versus the developer. The developer is an entity who represents future residents. We are called upon to mediate these different parties and while, obviously, the ones who are current residents are the ones who voted us in and will hold us accountable, twenty years ago they weren't here. Somebody back then made the decisions creating the processes by which we have come in here, if we are recent residents. You and I are by some people's reckoning. I am not so sure it is as cut and dry as you suggest.

Commissioner Howard: I don't think it is cut and dry. I think it is actually very nuanced and I don't think it is residents versus developers.

Chairman Crawford: I think we see this kind of energy being carried into the subcommittee work and the other things that need to be done to resolve this.

Commissioner Howard: I certainly hope you are not questioning my excitement and passion. I am not saying, and I hope that nobody in this room has any contention in what I am saying. Briar Chapel has been an excellent corporate neighbor. That community, there is a very strong sense of community. They have done wonderful things in Chatham County. They have their audience. They have their responsibility. They are very successful in what they are doing. I am saying that we have a different set of criteria and interests that we are looking at. I don't think it is versus but I think it is important to maintain the distinction between those two pools of people that we are looking to serve. You are right, I probably wouldn't have been elected in Chatham

County twenty years ago. I am a product of something that drew me here. These are the people that voted me in. I don't just represent the people who voted for me. I represent also who didn't vote. I think we need to keep these things at the forefront when we are thinking about who it is we are making a decision for.

Chairman Crawford: Other questions or comments colleagues?

Vice Chair Hales: There were only two things I noted for me and I am not sure we got an answer about that. We heard that the multifamily units will not have access to amenities. What about trails? A trail is an amenity. We heard not the pool, not the sport complex but they would have access to the trails. Then I also heard briefly that in looking at one of the multifamily developers if they get the size that they need they could possibly create their own amenity? They could create their own pool. Also, we heard Briar Chapel talk about, very proudly so and you should be, about green building. I would hope that would extend to the multifamily units so that you not only have green building process in the single family homes but you also try to incorporate as much as you can into multifamily. I still am troubled, and I know this will come out later, Commissioner Petty hit on this, we need a way to get pedestrians across the road. Siler City still has an enormous problem crossing highway 64. There is nowhere to do it because they have no crosswalks. They are working on it. That is one of their projects in the TARPO. To me, my concern is that isolates that community. If the only thing you can do is get in a car and drive across the street then you haven't achieved anything. Another thing, and I know that will come up later too is transit. I think we heard initially that we were going to have Chatham Transit on SD West. Did I hear tonight that it was East?

Mr. Robinson: There are eighteen guaranteed spaces for a park n' ride in SD West.

Vice Chair Hales: Thank you.

Chairman Crawford: Anyone else? Alright, Planning Director.

Mr. Sullivan: Good evening. We have several questions as staff that we would like to ask the applicant. We are going to start, well before I start that. There was a question or comment from one of the speakers tonight who said they would be able to provide additional comments on the five findings after the hearing tonight. I want to clarify with the quasi-judicial process. Once the hearing is closed you have the information that has been presented tonight. From a Planning Board standpoint they can ask for clarification but at the Planning Board meeting they are not going to be receiving any new information because it would violate that quasi-judicial process. I want to make sure everybody in the room is comfortable that if the hearing is closed tonight that you are comfortable with the information you have received since you can't receive any new information. If you are not comfortable then you need to continue the hearing to your next meeting.

Vice Chair Hales: Question about that. Shelley Colbert, and I believe she is gone. She had submitted a very detailed letter, I read it earlier today, to the commissioners and you, and she referred to it tonight but she did not go through all of the detail.

Commissioner Petty: She said it was posted on the County website so it is a public record.

Mr. Sullivan: It is not posted on our website because it is part of the quasi-judicial process. We had emailed her and let her know she needed to be here to present that information. The question is since she stated she provided her comments is it technically entered into the record or not.

*Vice Chair Hales: That is a question I would like answered.*

*County Attorney Jep Rose: It is not part of the record.*

*Mr. Sullivan: Her comments are not part of the record. Because of the way they were submitted, by email last week, that is why I responded to her and said you need to be here tonight to present your comments. It sounds like she is gone so you have her verbal comments for consideration.*

*Commissioner Dasher: Is the issue that there is not a written copy. Could I make a motion that her comments be submitted.*

*Commissioner Howard: The fact that she previously submitted the comments that she referred to it had to be a simultaneous submission.*

*County Attorney: She needed to be here.*

*Commissioner Howard: Could she have submitted the comments in writing and not have said anything?*

*County Attorney: She could have appeared and submitted her comments in writing.*

*Chairman Crawford: I have her email right here so I could read it into the record.*

*(Several comments made at one time that Ms. Colbert would have to be present to have her comments read into the record)*

*Mr. Sullivan: I know it is getting late but we do have a number of questions we would like to ask before you close the hearing tonight. This is in regard to fire access issues. North Chatham Fire Department is invited to all of our technical review committee meetings. They have expressed over the years a number of concerns with the fire truck turning movements within Briar Chapel. We have gone out in the field with the fire department and taken some video footage as well as some photographs. We want to run through some of the issues that they are experiencing so you can see that. We also have Tom Bender who is the Fire Marshal here who will provide some additional comments about the roadway widths within Briar Chapel. These were all taken on two different trips in May. We can provide the dates.*

*Ms. Birchett: The reason we are doing this is so that you know, you have heard a lot of discussion about why we need multifamily housing and all of these other great things that they want to add to Briar Chapel. When you open up a conditional use permit you open up everything about that conditional use permit. This is an opportunity for us as well as the County to discuss issues that have been arising over the last several years and problems that we know exist to see if we can come to some type of resolution or reconciliation on how we can fix some of these things that we know are going wrong. This is what we are bringing to you now.*

*Mr. Sullivan: This is just a photo of the ladder truck from North Chatham Fire Department. This is one of the roadways, this is a one way road with a two lane divided median section. This is a road that does have restrictions on parking. This is just to give you a feel for the size of truck that would be deployed in case of a significant event in Briar Chapel. This is a video taken from inside that same vehicle. This is coming into the main entrance of Briar Chapel. The speed is a little deceptive in this. We were probably going about thirty, thirty-five miles an hour but it appears we are going much faster. This is just to give you an idea of what it looks like in the*

*interior of the vehicle as you are driving on some of the main roads. This is within the development and inside the fire truck taking a turning movement off of one of the roads in the community onto another road in the community. You can see the wide turning radius.*

*Vice Chair Hales: And that is a two way road.*

*Mr. Sullivan: That is correct. This stretch doesn't have any designated on street parking until you get to this point. You'll see where there is on street parking provided. There is a wider roadway in this particular area. This is another video of another section of roadway in Briar Chapel. There is no designated on street parking but the on street parking is occurring in the development. He is a good driver, I was really impressed. This is just a photo showing where you have cars parked on both sides of the road. This is just showing some construction debris. This is what you would typically find at a construction site. These are things that are going to occur in any development where you have construction occurring. You are going to have things in the road. These are more temporary conditions where you have things that are a limited duration but we did want to show you some photos of that as well. This is a picture of the same truck moving between two vehicles. One of the things to point out in talking to the driver, when they set up for deploying this vehicle and set up at an event they have out riggers that have to come out on either side. They have got to have room for those to be deployed so that they can set up the equipment to use it. Just another example of turning movements, again this is with construction traffic and you also have a resident parked on the road. In this picture looking from the back just maneuvering that same construction trailer that had been parked on the road. Another picture of two vehicles parked on either side of the road. You can see it is somewhat narrow. Also, in these situations the driver had to slow down to almost a crawl to make sure they had the clearance. This is a picture where the out riggers are not fully deployed but just showing the issues that can arise. One, you have got the vehicle on the left that is an obstruction and then on the right hand side a deployment of that out rigger onto a grass area, which can create its own problems from a stability standpoint. Another picture of a turning movement. It is not that this is an exaggerated photo. The driver is having to deal with a number of things. One, they've got the projection of the ladder sticking out over the front of the vehicle but they also have to deal with the fact that the rear of the vehicle with the turning movement just doesn't turn like a car. You can see that picture as well. This is a video. This is turning from one of the roads that does have a restriction on parking onto a road that does not have a restriction on parking. The driver, it looks like they are kind of exaggerated turning movement but it is the fact that he has to deal with the back of the vehicle to make sure he is not running into things. You can also get a good perspective on how slow they are having to drive on this particular street.*

*Commissioner Dasher: What would you propose?*

*Mr. Sullivan: That is something when the Fire Marshal comes up, I think he will talk about some of the issues and maybe provide more perspective. I also have this video similar to what you have seen before. I will play this video. This was an interesting situation. There was a vehicle parked close to the intersection.*

*Commissioner Howard: Are there minimum road widths.*

*Mr. Sullivan: The Fire Marshal will cover some of that when he is up here on the fire code requirements.*

*Commissioner Howard: Are any of the videos in the newer section with the tighter home spacing?*

*Mr. Sullivan: I think this is a good representation of what is occurring in different sections. This is a video, you saw the previous video from inside the vehicle and this is looking from the rear. This gives you a good perspective on what they are having to deal with and why they are having to make the exaggerated turning movements. I will turn it over to the Fire Marshal at this point. Here are some sections of the fire code and if we need to we may need to blow them up.*

*Fire Marshal Tom Bender: Good evening commissioners and members of the Planning Board. I appreciate the work that Jason and his bunch did here. The code you are looking at up there is Code Section 503 of North Carolina Fire Prevention Code. Basically that code requires twenty foot width of unobstructed width of access. It is applicable to when you have three or more residential dwellings on a road. It is always applicable to commercial occupancies. Where it kicks in with the fire code with residential is when three or more one or two family dwellings. It requires a twenty foot wide access. Requires a thirteen foot six inch vertical clearance from trees and obstruction of that nature. Also requires an all weather driving surface that will withstand the 75,000 pound load on the pavement. That is what the fire code requires. A little background on the video you just saw. Tower two is approximately a forty-seven foot long truck. It has those outriggers as Jason alluded to, when they are expanded they go out fifteen feet from that vehicle. They cannot be short jacked because the vehicle is not designed that way. Placing the one out rigger on top of the grass or a sidewalk is not a safe thing to do. First of all, you don't know what is under the grass. You don't what compaction rate it is. You don't know if there are utilities under there. You don't know if you are going to go on the sidewalk if you are going to crush the sidewalk. It really is only practical to deploy those out riggers on the road. People have asked why this truck. It is bigger than the engines as some of you know. Why does this truck respond to a residential area like this? As you are probably all aware of, the building code allows for these buildings, and I am talking residential structures, six feet apart. We used to be able to take firefighters to protect the homes next to the one unfortunately burning, we used to take firefighters and place them between those houses. With a six foot distance you can't put fire fighters in there safely so we have, in this particular case this truck can produce 2,000 gallons of water to protect the two houses on each side of the one that is burning. The engines will be coming before the ladder trucks. The engines are normally thirty-four to thirty-six feet long. The things I am giving you are things I have recieved directly from Chief John Stroud of North Chatham Fire Department. He also anticipates that God forbid there is some sort of fire in an area like this, Carborro and Chapel Hill will also be bringing their ladder truck too. Any fire is congested. Time is a factor getting there and with as many vehicles as we can we want to get them there safely. The concerns of the Chief are listed here for the commissioners and the Planning Board. They would like to see in the future some consideration for the overswing of the aerial platform section such as signage and especially trees that are so close. You kept seeing the T 2 above where you were looking out, that is the actual platform and that is the thing that takes up so much room to move around trees and objects. The Chief has indicated his concern as POV's are parking on both sides of the street. POV's staggered on both sides of the street. Construction vehicles, same issues with the parking. Construction trailers unhooked and as Jason Sullivan said, that is kind of a temporary thing. I don't think things occur like that on a permanent basis. Construction vehicles blocking fire hydrants. On street parking needs to be wider. At T intersections no blocking. When we came to that T intersection, some sort of provision to take that parking away from that intersection where that truck can make that swing without having to do the backup, go forward, backup, then finally getting around the corner. The Chief has listed his main concern as mobility and accessibility of apparatus. I think he has some solutions and ideas to this and is glad to work with the County Commissioners and Planning Board and Newland*



Community. This is something that we wanted to bring forward and show you there is a concern here. If there are any other questions I am available for them.

Vice Chair Hales: Your primary recommendations have to do with parking?

Mr. Bender: I think in this case it is the parking. I am just going to throw this out. If there are places where there is no parking on some roads and only limited to one side that might be a remedy. I think you really have to look at a case by case basis in the locations, proximity and density. The density is going to be a concern with the new parts, the multifamily dwellings.

Vice Chair Hales: Didn't I hear there was a problem with some of the alley widths? I am forgetting if it was Briar Chapel or somewhere else.

Mr. Bender: In regards to the alleys we never, and I say we, me and the fire departments when we are reviewing the plans, the alleys were never intended to have a fire truck. The main reason there is the close proximity of the structures. Very few fire ground commanders will want to commit their trucks to a burning structure close to another structure where you can't get out.

Vice Chair Hales: So is this going to be brought to the Planning Board as well?

Inaudible

Mr. Bender: I thank you very much for your time.

Chairman Crawford: Thank you sir for staying with us so late.

Ms. Birchett: The next thing we are bringing up, and I apologize but these are things we need to get entered into the record. Some people don't know this evidently that all of our departments communicate and when something comes in they come and ask us is this ok. That doesn't always happen with some state agencies. The state kind of does what they want to how they want to and when they want to and there is no consideration to whether the county is ok with it or not. We were advised that Briar Chapel Newland Communities had applied with the Army Corps of Engineers in February 2017 to revise their 404 permit for stream impacts. That map is being brought up to you today. Environmental Quality came to us and asked us, hey do y'all know about this? Does this match what you currently have approved? We pulled the current existing master plan of which it does not. The proposed one that they have submitted into evidence tonight, their revised master plan, does not match the plan they submitted to the state. With that being said, the permit also shows there is an increase in total linear footage. The applicant advised Environmental Quality during a meeting that we had with them that it was a one to one swap. If we are going to take out this stream we are going to preserve this one. According to the review that we've had of the 404 permits that is not the case. There is an increase in linear feet of impacts to the water features in Briar Chapel. We are asking for an explanation for the discrepancy between the revised permits and master plan under consideration tonight. Are they considering submitting a waiver request in the future? Do you want me to go point by point or just through everything now? Point by Point? Ok.

Mr. Robinson: Couple of things. With regard from the testimony from the Fire Marshal. We appreciate that very much. It has certainly been an issue. To bring a little more information into the record. Some of you may know, some of you were here when it was approved and originally Briar Chapel was approved as part of the Compact Communities Ordinance there were some street guidelines called Traditional Neighborhood Design promulgated by the DOT. Those roads were even

more narrow than the roads that Briar Chapel ended up building. This issue came up early on in the development. We had an extensive conversation and negotiation with the Board of Commissioners and the North Carolina Department of Transportation which resulted in a letter which was sent by the Board of Commissioners of Chatham County to the State Highway Administrator. I will hand in a copy. I've highlighted that section and I'll tender that into the record. Basically there was a lot of back and forth and we need to make the streets safe and the streets wound up being twenty-seven feet from curb to curb. There was a whole set of internal street guidelines for Briar Chapel that was promulgated and the Board of Commissioners communicated to the DOT a letter, which said in part, we want it to be clear that the County supports these internal street guidelines and finds them consistent with the intent and approvals of Briar Chapel. NCDOT approval of the internal street guidelines is sufficient for Chatham County and in compliance with its ordinances. At its meeting on October 15, 2011 the Chatham County Board of Commissioners unanimously approved the contents of this letter. Hopefully this clarifies any ambiguity that may have existed as to our county position with respect to this issue. All of that to say, there is a whole history of how we got to where we are. I don't dispute what the Fire Marshal is saying about the fire code needing to have twenty foot widths. We've got more than that. I also don't dispute that there are some issues that you can see in the videos. I think it is important to say that we got to where we are through a very considered process that we relied on when constructing the neighborhood.

Chairman Crawford: I might have to stop you there and ask. This shows that the process allows to have this situation that we currently have obtained. My question is why aren't you, why don't you want to fix it? Why don't you want to inconvenience your people by saying only parking on this side? Put up the signs. It seems to me the safety issue kind of indicates your commitment getting those trucks in and out as fast as possible and if it means no parking on the street at all and then enforcing it then that solves the problem. This gives you permission to be wrong.

Mr. Robinson: I agree. All I intended that for was not to say this is not what we are going to do evermore. I intend that to say this was all considered a while ago and we received permission to do what has been done and built in accordance with the permission that was given. Certainly the conversation about are there some things that can be done to make it so that now in practice when there are people living in the houses and they have cars and some of them want to try to park them where they know they are not supposed to park them are the things that can be done. The answer to that I am sure is yes.

Chairman Crawford: You are an attorney. You know when the worst case scenario happens. I don't even want to bring it up. But that is what we are looking at in terms of emergency vehicles not being able to get to where they need to be and houses that are in close proximity.

Mr. Robinson: The other thing I want to do, and I can't remember now whether I introduced Lucy Gallo's report. Here is another one just in case.

Commissioner Petty: Nick, if I could back you up for just a second. Part of the problem too is the fire service is no different than any other entity that we deal with. As time goes things change. Trucks are bigger, they are longer, they have ladders on them that they didn't have at one time. I don't know what age this truck is but I dare say, was it in service in 2011?

Inaudible

Commissioner Petty: You don't always anticipate everything that you need to do. It

doesn't mean we don't need to do anything but obviously we've got an issue that needs to be dealt with. You don't have a crystal ball. You can't visualize all of these potential problems sometimes.

Commissioner Howard: There is also the issue of where do you park if you are visiting someone? If the only parking is your garage.

Mr. Robinson: There are all kinds of different neighborhoods with different arrangements in Briar Chapel. Some of them have a little cut out that you saw where you see where visitors could park. Others have enough space on the car pad that is outside the garage for more cars to park. Theoretically, if the kids haven't left the tricycle on the car pad then a visitor could park there. That is the idea. There is a solution for all these things. The other thing is Briar Chapel in the middle of all this conversation that occurred several years ago, Briar Chapel also voluntarily built a few satellite parking lots sprinkled around the areas where they have been building for exactly that. To allow visitors to park near where they are going but not exactly in front of it.

Commissioner Petty: Didn't we come back a few years later and redo some ordinances because we did the same thing where we went through and widened the street and made sure it was part of the development of future projects?

Inaudible

Chairman Crawford: Mr. Sullivan said that was for minor subdivisions.

Commissioner Petty: Because at the same time we dealt with eliminating only one way in and one way out. Having multiple paths, we dealt with that. Street width and all of that all at the same time a few years ago.

Mr. Sullivan: That primarily dealt with the issues of minor subdivision roads, which serve up to four lots, trying to make sure we were compliant with the fire code requirements. It was an opinion that was issued from the State Fire Marshal's Office that we needed to make sure we were in compliance with that. It didn't have an affect on DOT approved roads. We have kind of a unique situation here with Briar Chapel.

Commissioner Petty: But if we were to go through this same process again would we not use those same guidelines? This is something that was put in place before we knew it was an issue.

Mr. Sullivan: We wouldn't use the new guidelines that were approved to deal with minor subdivisions. We would be looking at a different issue with a high density development.

Commissioner Petty: Why would we not use the same guidelines for a high density development if they have the same problem?

Mr. Sullivan: The minor subdivision deals with up to four lots.

Commissioner Petty: The higher density just multiplies the problem.

Mr. Sullivan: These are public roads so you are serving more than four lots. It is just a unique situation we had to address with a minor subdivision.

Commissioner Petty: Ok

*Mr. Sullivan: I think with a UDO rewrite we are going to be reevaluating this specific issue. I do have one follow up question with regard to the letter that was handed out. This was a letter that was in response from Newland Communities to support their submittal to NCDOT for internal street guidelines. It is my recollection that those were not approved by the Department of Transportation. Is that your recollection?*

*Mr. Robinson: I remember that there was a booklet.*

*Mr. Sullivan: And DOT did not approve those standards.*

*Mr. Adams: Richard Adams again. I know that some of the departments saw them and I don't know if they issued a letter of approval but I do know that it went through their process and I don't believe they had any objection to them. We did go through a detailed process with DOT to agree upon the standard widths of the roads going forward. This was an issue that came to light and there was a great deal of debate and discussion went on. It is very much a trade off. With wider streets, obviously more impervious and the fire trucks can go faster and faster that means cut through traffic goes faster and faster. It is a trade off of a lot of different priorities. Lots of different places have gone through this type of discussion. As an example, where I live in the City of Raleigh I live on a twenty-seven foot wide road where the parking is allowed on both sides. I have seen fire trucks come up and down when my neighbors have made calls. The current Raleigh ordinance, which is actually a fairly new ordinance, does allow twenty-seven foot wide, they actually call it a neighborhood yield street. The whole idea is that opposing traffic, you don't necessarily always want them to be able to pass at high speeds. The neighborhood yield street does allow a twenty-seven foot wide road allowing parking on both sides in neighborhoods with the net effect of slowing traffic down. Yes, it does slow the fire truck down as well. You have to be very careful. You don't want it everywhere but on very local short streets it is in many places considered a very appropriate street width to allow parking on the streets. As the video demonstrated you really need to look at intersections, in particular, and make sure you don't create those problems that can occur. I do think that the twenty-seven foot wide street is appropriate with on street parking. Again, looking at it on a case by case basis making sure all those tight points are covered.*

*Vice Chair Hales: Is Briar Chapel twenty-seven or twenty-six?*

*Mr. Adams: I believe it is twenty-seven.*

*Vice Chair Hales: I thought I heard twenty-six.*

*Mr. Adams: Twenty-seven back to back which is exactly what the Raleigh code, back to back like back of a curb to back of a curb.*

*Mr. Robinson: With respect to the 401 and 404 permit revisions. Mr. Huysman is here and he was in charge of that and that is a whole separate permitting agency. We recognize that there are some elements of that permit that are different than what our master plan for Briar Chapel says. To the extent they are different we can't implement them unless we get the master plan changed to allow that. That would be done, historically speaking, either by a requested waiver where we came back to you and requested a waiver or it would be done by an additional amendment to the conditional use permit where we come back to you and ask for permission. That is what we would do. They don't have any present intent to request a waiver at this time.*

*Chairman Crawford: So the question I heard our staff ask is do you intend to file*

*waivers and your answer is at this point, no.*

*Mr. Robinson: Right, but that could change. I think too, we could in a year seek an amendment to the conditional use permit.*

*Chairman Crawford: So your answer is maybe.*

*Mr. Robinson: Correct. The main answer is we would have to come back to you.*

*Vice Chair Hales: It sounds like staff is wanting this aired because of the conditional use permit changes that you are requesting. What are the differences between what you had been permitted before and what you have one here now..*

*Mr. Huysman: First of all the Army Corps and state process, Chris Huysman, Wetlands and Waters. The Army Corps process is very different than a local process. What kind of confounds some of this is the Army Corps for their permitting purposes looks at a different project boundary than what the county is looking at. One instance is we had to include the US Steel property as part of our current Army Corps permit. According to our tallies we had a slight increase of just five feet of stream impacts when you net out what the permitted impacts were versus some of the temporary impacts. We increased the wetland impacts by seventy-two square feet. It is very trivial impacts. Then there is another whole layer of confusion that gets added in there when you talk about perennial streams and intermittent streams and what your mitigation ratios are. At the end of the day through their analysis being the Army Corps of Engineers, they essentially found that the permit modifications, which could basically be looked at as swapping some of those impacts around, were very minimal and they passed their findings. They passed the US Fish and Wildlife Service and the North Carolina Division of Water Quality. Everyone reviewed those and approved those. Again, as Nick stated, we have an Army Corps permit but you as a local controlling authority, you have the final say on where that gets applied.*

*Commissioner Dasher: So what instigated the new permit application?*

*Mr. Huysman: Our existing permit was in the process of expiring. So Army Corps permits are issued for durations where you then go in and get your permit revised.*

*Ms. Weakley: The Planning Board deliberated just last month a possible stream crossing that would link two neighborhoods within Briar Chapel. On the preliminary plan, it showed a bulb not a stub out. Staff thankfully reviewed the plan before it came to us, and realized that it was showing something that had previously not been approved, so Briar Chapel had to come before us to get a revised plan. I noticed on the 401/404 that stream is shown as an impact area. I feel like it's disingenuous when you are showing certain things on that plan and different things here, and coming back piece meal with waivers and changes. You obviously have a plan that you've gone through the process with the Corps to submit and get approved. I would think it should reflect what is going through the County process. Can you explain that?*

*Mr. Robinson: I appreciate the question. There are a lot of things as you can tell when you draw out a little further on this map, there are a lot of things on there. There are a lot of buffers that were, there were a lot of impacts that Briar Chapel was entitled to make to streams that it did not make. What is good for the goose is good for the gander sometimes. The Army Corps of Engineers acknowledged that and said yes, look you were allowed to impact this stream here and you didn't do it. You get some credit for that. Where we wind up is with this five foot differential on the streams and seventy-two foot differential on the wetlands. It is true that this shows an array of potential impacts that could occur but it doesn't necessarily mean that*

*they are ones that will occur. We have a big project. We had a time where we had to renew a permit on a large project with many different moving parts with a market that is constantly shifting. We have preserved for ourselves as developer options to do a number of things. Whether or not we come back and ask for permission to do those remains to be seen. That doesn't mean that we can't get a permit from another agency to allow it if we should decide to ask for it.*

*Ms. Weakley: My concern is that the Army Corps approves this stream crossing, and you then come back to us and say the Corp gave us permission so you should give us permission too.*

*Mr. Robinson: I just said that we would come back to you all...*

*Ms. Weakley: And then the pressure is on because you have a permit to cross the stream...*

*Mr. Robinson: I just disagree.*

*Ms. Weakley: ...this was the discussion we had at the Planning Board level about the stub out vs. the bulb. And the four of us who voted that evening [against approval] thought it should not be approved because of that very concern.*

*Ms. Birchett: On that same subject before I move on I will say that it wasn't just a permit with the Corps of Engineers, the applicant actually submitted plans to the subdivision administrator as well for the preliminary and final plat for Phase sixteen south, which originally included a stub out, the cul-de-sac which now shows a stub road to the riparian buffer indicating in some point in time a road crossing. Lynn Richardson is here. She is the one that caught that. It got issued in more than one spot and still never matched the master plan and we didn't know what was going on. So it is not just the Corps involved there was also official plans submitted to the subdivision administrator that showed this same change that never got approval from the Board or anyone to take care of. The next issue we want to raise is the revised master plan shows a reduction of the perimeter buffer from 100 feet to 75 feet where Phase South is proposed. They have submitted a preliminary plat application for that phase for the June Planning Board meeting, this is the one where they want the reductions to the retaining wall, which still shows the 100 foot buffer intact. The lots are platted. Land and Water Resources also has a plan that shows the retaining wall without the buffer reduction. We are really confused if this reduction is actually necessary and can they not do it the way they have submitted to the subdivision administrator?*

*Chairman Crawford: So you have paperwork where you are abiding by the 100 foot buffer but tonight we have a request to allow it to change in this one instance. How do we reconcile your asks? Which one do you really want?*

*Mr. Bowman: It was a timing request. Based on the timing of the submittals we went forward with the one with the retaining wall. We can get the plat approval from a preliminary standpoint, go back during the construction phase if we got the approval then we would do the construction without the retaining wall.*

*Ms. Birchett: Just as a side note. This was their second submittal. The first submittal was back in the first part of March, end of February, a couple months before that plan came in. The next clarification that we are asking for is, I think we talked about that earlier or at least we heard testimony earlier that the reduction, the actual need for the reduction in the perimeter buffer in SD North is for the proposed multifamily units. We don't know exactly why they need the buffer reduced. We are*

*still not clear as to why they need it other than is it just something that they want because our concern is if you put a three or four story apartment building on lot number four and you have taken out half of that buffer, it is going to be way visible because of the cleared transmission line easement that it backs up to.*

*Mr. Bowman: Let me see if I can pull that up here to kind of give you a visual. You can see kind of right here, this exhibit shows a proposed building and a stormwater pond and we have looked at a couple of different ways of how we can develop that. In getting this buffer reduction, that is the tower right there for the overhead power line, the only thing that we could do in the overhead power line easement is parking. That buffer reduction in the perimeter buffer would be used for parking. It wouldn't be for buildings, it wouldn't be for stormwater. Duke Power would allow for parking so that is the reason for the request. This drawing shows just a block but that is basically what the request would be for.*

*Mr. Sullivan: Could you provide an exhibit of the overlay of the utility right of way in relation to the buffer moving forward? I think that would give us a better idea if the entirety of the buffer is impacted or what part of it.*

*Mr. Robinson: I agree. I looked at an overhead of that and I wish I had an exhibit of it. A large chunk of the 100 foot buffer is already cleared because it is a part of that 300 foot powerline right of way. There is a small section in a corner because of the way the right of way cuts across the property that has some trees in it where they would put some parking. We can put this in the record. I don't expect anybody to be able to parse through it and see it but this will help lodge the place in the record for a more visible exhibit. What this shows, for the record, it shows that lot four, it shows the way that the 300 foot high voltage powerline right of way crosses it diagonally. It shows where the 100 foot buffer is. If you look at the line where the waiver would be given you can see the handful of trees that would be implicated in that. We will get a clearer exhibit of that to replace it with.*

*Ms. Birchett: Next question or concern for clarification. Since the Dollar property has been removed, let me just get the master plan pulled back up here. This white square in the middle was the Dollar property that got rezoned and pulled out of the compact community. Since it is no longer part of the compact community we are concerned as to why they are not showing a perimeter buffer around that property.*

*Mr. Robinson: Good question. It has been that way since 2012 when it came out, I think. It never has shown a perimeter buffer there. It is interesting because I don't know, it is an interior property and not a perimeter property so I am not sure technically if it requires one. To be honest with you I haven't thought of it.*

*Mr. Sullivan: In reviewing this, I think what brought it to our attention was the original application submittal showed the multifamily being in that area. It really raised something that we had missed previously in 2014 of asking should there be some type of buffer around that particular piece of property because it is a donut hole in the project now. Just something that we wanted to present to the Board and present it in the record if that is a point of discussion moving forward of whether or not there needs to be some mitigation for that property.*

*Vice Chair Hales: You are referring to the little white rectangle in the purple part there?*

*Mr. Sullivan: Yes.*

*Mr. Robinson: That property was originally part of the conditional use permit but the*

developers never could contract a purchase of that property. In 2014 the landowner of the white, we call it a donut but it is a square donut, applied on their own to have it zoned back to residential. Since that time we have never changed the land plan with respect to whether there was a buffer there or not.

Mr. Sullivan: I think we are nearing the end of our questions. Just a few more. The Compact Communities Ordinance includes a requirement for provision of affordable housing units in a compact community or approval of an alternative method. The original conditional use permit in 2005 provided for a payment in lieu option for 2.5% of the lots based on the maximum of 2,389 units. In 2014 the conditional use permit amendment included the remaining 2.5% allocation converted to a lump sum payment. At the same time the dwelling unit count was also increased by 111 units to 2,500 and there was no commitment for affordable housing for those additional units and then the application presented tonight includes an increase in the dwelling unit cap by an additional 150 units to 2,650 for a total. There is no indication that any of the additional units are allocated for affordable housing so how do you propose to address Section 12.3A of the Compact Communities Ordinance to address moderately priced dwelling unit requirement for the additional 261 lots?

Mr. Robinson: We haven't heard any of these questions before tonight. I may take a moment to confer. I hope I will get all this right. You all may not know this level of granular detail but for every lot at Briar Chapel that gets approved on a plat, every residential unit, they pay an affordable housing fee of \$460.44 per unit. That is an affordable housing fee that is paid to the county. In addition Jason mentioned the lump sum that was paid of \$900,000. For all of the additional units that we are requesting we would continue to pay the \$460.44 per unit. If it was implied that we weren't we didn't mean that and we certainly would have budgeted for that and anticipated doing that.

Commissioner Dasher: I thought there was a max amount that was agreed upon.

Ms. Ford: That two million probably did not incorporate the new units. I think whatever we would need to do to address the language for affordable housing...inaudible. It is our intention that the current system that is in place for affordable housing, which was a combination of a lump sum payment along with \$460.44 per unit would continue with any additional units that were added both in the previous update. What is it 261? 261.

Mr. Sullivan: To clarify on the way it worked previously. The original conditional use permit amendment we negotiated \$1.1 million for 2.5% of the original 2,389 units. That is where that \$460.44 came from. That represented 2.5% of the 2,389. The remaining 2.5% was a lump sum payment so for the additional lots, again I am not trying to hit you for more money, but I think the number would need to be increased because it would be 5% of the 261 new lots and not 2.5%, unless the Board is comfortable that the lump sum payment was still for the remaining 2.5%. We have a 5% requirement that would apply to the 261 units. I don't know if that makes sense for the Board. I just want to make sure everybody is on the same page. If everybody is comfortable with the \$460.44 I am comfortable with that. I just want to make sure we understand the ordinance provisions. The ordinance does provide for other alternative methods. Just want to make sure we are all on the same page moving forward and everybody is comfortable.

Commissioner Howard: Did the original arrangement extend to future increases in the cap?

Mr. Sullivan: It was just based on the 2,389. I think the way the condition was



worded it actually tied to the 2.5%. Which in theory the 2.5% for that portion could carry forward for the remaining 261 units. Then that leaves you a 2.5% gap that needs to be covered.

*Mr. Robinson:* I would reiterate what Laurie Ford said. I appreciate the comment. I think what we will do is bring more clarity to this at the Planning Board Meeting, just go back and look and make sure that the percentages you are talking about are right and make a presentation to the Planning Board about how to get back in the right on that. Whatever it might take to do that.

*Mr. Sullivan:* I think we are at the final question. This is in regards to the traffic information that was provided. I know Richard spoke tonight on the information that I think has been provided in the application. I do want to clarify for Richard's comments tonight the information that was submitted in the application was based on the multifamily units being in the northern property boundary or the northern area as well as possibly scattered within the commercial areas. Are you still comfortable that with all of the multifamily being allocated to the commercial areas that you still don't see any impacts as it relates to the original TIA? Similarly, I was just wanting clarification of whether or not, well I think the school was not included in the original study. I am sorry not the original study but your analysis in the application. Is that correct? Inaudible. Ok.

*Mr. Adams:* Again, Richard Adams. To answer the two questions. Regarding the specific location of the additional multifamily units. Yes, I am comfortable that if the multifamily units are located in the commercial areas along 15-501 that my statement still stands and my analysis. It was not specific to a particular part. It was a trip generation comparison. It is certainly still valid with the location specifically along the highway. The school question. We did not include the elementary school in our trip generation comparison but as I said before the TIA being done for the school system actually adds on to what we've done. Also to answer another question that came up earlier, it does include the Willow Montessori School. That traffic study is kind of the answer to the question about the elementary school. It does include all of Briar Chapel and it does include the Willow Montessori School as well.

*Ms. Birchett:* I just have one last one. There was an impervious surface calculation document that was given and the impervious surface is based on the resulted acreage from when the Dollar property was part of the CUP. They corrected the application to take that out but the impervious surface calculation sheet hasn't been changed. It also needs to incorporate the parking area that they are going to allow the church to have on their property as well. We need to see what those numbers are going to be. We need new impervious surface calculations for the whole project.

*Mr. Robinson:* We can certainly facilitate that for the Planning Board meeting too. We have a note to that affect. I am not sure what the status was of holding the hearing open for Ms. Colbert's comments to get in but if that is the only thing holding us up we would give consent to allow them in. I've never seen them but we would consent to allowing them in in order to keep the process moving.

*Vice Chair Hales:* Can we do that?

*County Attorney:* If he consents to it you can.

*Chairman Crawford:* He has consented to it so we will make sure her comments, which have already been distributed to this Board, will become formally part of the record.

Mr. Robinson: We would like to get a copy at some point.

Vice Chair Hales: Sure. The Clerk can do that.

Shelley Colbert submitted the following writtenn comments:

*I object to this application as follows, for failing to meet all requirements under the Conditional Use Permit Requirements (Five Findings). Below I quote the exact language that the county uses on its website and I have indicated (in caps) where the county version differs from the language submitted by the applicant under Tab F in the application:*

1. *"The use request is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located."*

- *The applicant too narrowly construes the meaning of the word "district" to render this requirement a meaningless tautology by ignoring the uses applicable to sub-districts within the CCO and clearly identified in the site plan. This finding is not met or addressed specifically at Tab D, which describes significant changes to use, especially with respect to multi-family housing in an area where it was previously prohibited.*

- *This application attempts to change a previously ineligible use to an eligible use within a specific portion of the master plan subject to the CCO.*

2. *"The requested conditional use permit OR REVISION TO THE EXISTING PERMIT is either essential or desirable for the public convenience or welfare." The applicant has not demonstrated the need or desirability for revisions as required under this finding except to assert it, without persuasive evidence, as follows:*

- *A-2 Buffer Request, to which I again restate the objection as noted on the CCO to the incremental approach to key components of the master plan such as buffers. Buffer waivers are deserving of your highest level of skepticism and scrutiny because the cumulative effect can be environmentally significant.*

- *A-3 Additional high density residential units are not desirable for public convenience or welfare in areas where they will negatively impact existing infrastructure, facilities, homes and residences. The applicant proposed to put up to 350 apartments in areas either previously prohibited for such use, or for which such scale would exceed prior unit limitations. A large-scale project as specifically described is not essential or desirable in any location within the CCO, especially with respect to related/impacted Finding Number 5.*

- *A-4 Revised Table of Uses should be rejected outright for reasons noted above under A-3 and below with respect to negative impacts under Findings 3, 4 and 5.*

- *The fact that there are no comparable high-density projects in Chatham shouldn't be much of an intellectual stretch in order for the applicant to consider negative impact given comparable examples available outside the county but within the commuting area/region. A large-scale apartment complex nearly double the size previously permissible (to 350 from 200) is incompatible with the character of Chatham County and would be a detriment to the public safety and welfare.*

3. *The requested PERMIT OR REVISION TO THE EXISTING PERMIT use 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 applicant's statements under this finding do not address at all the impact of revisions and changes to the Table of Uses for current residents of Briar Chapel, Mann's Chapel and Fearrington who would be affected directly by an increase to the number and density of units. Despite the fact that the CUP /CCO total represents a cumulative 11% increase of units to the master plan, this finding indicates "no changes" for traffic, lighting, noise, chemicals and signage, and is simply not credible on the face of it. Noise, for example, is addressed only as to volume but not*

frequency. More specifically with respect to traffic under 3A, the Kimley traffic study letter specifically notes its impact assessment "for the development as a whole" [emphasis added] without noting that significant impact will occur in certain areas of the community and surrounding neighborhoods involving hundreds of existing residential units.

- This application will, with certainty, negatively impact the integrity and character of the existing homes and business in the surrounding community and will be detrimental to the health, safety and welfare of the community. I invite the commissioners to visit the community and see firsthand how the already-narrow streets will not be able to safely absorb activity of all kinds (vehicle and pedestrian traffic, parking, emergency services, etc) caused by increased density and total units.

4. "The requested permit will be OR REMAIN consistent with the objectives of the Land Conservation and Development Plan."

- The CUP application is inconsistent with the land conservation and development plan and the "wild nature" setting for Chatham County. The proposed unit increase and densities revisions are not matched with ANY proposed increases to open space or recreational facilities. Putting a large apartment complex in the heart of (or adjacent to) an existing residential area, without adequate, identified access to public transportation subverts the planning requirements under this finding.

- In addition, I have previously contacted the commissioners concerning the applicant's poor stewardship of the existing Briar Chapel community on environmental issues, and its failure to execute its responsibilities for ensuring compliance with current CCO requirements for impervious surfaces, runoff, native plants, etc.

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."

- Astoundingly, despite a proposed cumulative increase to the CCO unit size by 11%, the applicant indicates "no change" to this requirement. I note that the applicant also changes the county's language of Finding 5 to "other necessary facilities" and omits specific reference to "recreation" and "open space" "consistent with the County's plans, policies and regulations" found on the planning website.

- This is no small omission. These incomplete assertions are inconsistent with county requirements and will negatively impact current and newer residents alike in their access to all facilities, recreation, open space and infrastructure in the community.

- This finding doesn't come close to being met in the application, since it makes no additional provisions to support a significant increase of population that could reasonably be extrapolated from the proposed increases and usage changes. I couldn't find any population projections in the application, but that's something I urge you to question the applicant about. (261 additional units to the original master plan would add at least 652 people at 2.5 persons per household/unit- which I suspect is a low estimate.)

The related Newland CCO and CUP applications before you do not meet the requirements under the five findings. The application doesn't adequately or completely explain the scope of changes and admits no foreseeable negative impact whatsoever (nor does it make any attempt to mitigate or address any negative impacts). The application(s) subverts the master plan with a piecemeal approach that threatens the quality of life for current and future residents, ignores environmental impacts, and fails to address any need for a commensurate increase to facilities, recreation, open space and infrastructure.

If approved, the applications will ultimately result in shifting the cost of the applicant's inadequacies onto the citizens of Chatham County. I urge you to reject them.

Chairman Crawford closed the hearing.

This Agenda Item was referred to the Planning Board.

**MANAGER' S REPORTS**

*The Manager had nothing to report.*

**COMMISSIONERS' REPORTS**

*The Commissioners had nothing to report.*

**ADJOURNMENT**

**A motion was made by Commissioner Howard, seconded by Commissioner Dasher, that this meeting be adjourned. The motion carried by the following vote:**

**Aye:** 5 - Chairman Crawford, Vice Chair Hales, Commissioner Petty, Commissioner Dasher and Commissioner Howard