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A request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision **Final Plat approval of “Final Subdivision, Recombination, Easement, and Private Right-of-Way Dedication Plat of SD West-Parcels 16-22 and Commercial Common Area # 5”**, consisting of 7 non-residential lots and 1 common area lot, on 25.248 acres, located off SR-1529, Taylor Road and US Hwy 15-501, parcel #86288.

..ABSTRACT

Action Requested:

Vote on a request by Lee Bowman, Project Manager, on behalf of NNP Briar Chapel, LLC for subdivision **Final Plat approval of “Final Subdivision, Recombination, Easement, and Private Right-of-Way Dedication Plat of SD West-Parcels 16-22 and Commercial Common Area # 5”**, consisting of 7 non-residential lots and 1 common area lot, on 25.248 acres, located off SR-1529, Taylor Road and US Hwy 15-501, parcel #86288.

Introduction & Background:

Zoning: Conditional Use District / Compact Community

Water System: Public, Chatham County

Sewer System: Private wastewater treatment plant

Subject to 100 year flood: No special flood hazard area in SD West

General Information: Compact Community approved in 2005 for 2,389 dwelling units and commercial uses on 1,589 acres, permit revised in 2012, 2014, & 2017. Current number of dwelling units allowed based on the 2017 CUP amendment is 2,650.

Briar Chapel is reviewed under the pre-2008 subdivision Regulations. The preliminary plat for SD West, consisting of 9 non-residential lots and 2 common area/stormwater pond lots was approved by the Board of Commissioners on February 20, 2017 with the following conditions:

1. The design of the greenway from Briar Chapel to SD West be completed and necessary permits be obtained prior to final plat submittal. *The design has been completed and approved by NCDOT. The applicant has received an executed Right of Way Encroachment Agreement which covers “The Installation of curb & gutter and sidewalk on SR 1529 in Chatham County, and any associated pre-construction work.” A copy of the Encroachment Agreement and design plan can be viewed on the Planning Department webpage at www.chathamnc.org/planning 2017, Rezoning and Subdivision Cases. Condition # 1 has been met.*

2. Condition # 11 of the 2014 CUP revision regarding designation of park-and-ride spaces and the bus shelter be resolved between Chatham Transit and NNP Briar Chapel, LLC prior to final plat submittal with the understanding that Briar Chapel has committed to at least 18 spaces. *Staff received confirmation from Dan LaMontagne, Assistant County Manager; Jep Rose, County Attorney; and Anna Testerman,*

Executive Director, Chatham Transit Network, that the park & ride spaces and bus shelter will be part of Lot D and 18 spaces will be provided. Condition # 2 has been met.

3. Condition 14 (g) of the 2014 CUP revision regarding reservation of 5,000 square feet of shell space, to be constructed and provided to the County at no cost or charge to the County, for the Chatham County Sheriff's Office for a satellite office (the "Reservation") be resolved between Chatham County and NNP Briar Chapel, LLC prior to final plat submittal. *With agreement of Jep Rose, County Attorney and Dan LaMontagne, Assistant County Manager, the language as stated in Item # 2 of the cover letter dated March 9, 2018 was added to the contract for the sale of the CCCC site (located in SD West, Lot 6, Plat Slide 2917, Page 411) Condition # 3 has been met. An additional note is recommended to be added to the final plat of SD West, Parcels 16-22. See recommendations.*

4. The final plat shall state the width of the riparian buffers and clearly designate the 10 foot no-build. *Condition # 4 has been met.*

5. The access and maintenance easement for the stormwater pond on Parcel A shall be located as shown on attachment # 4 in order to lessen the impacts on the viewshed buffer and adjacent property owners. *Condition # 5 was met with the approval of SD West, Lots A & D.*

In 2010 NNP Briar Chapel petitioned the North Carolina Department of Transportation to abandon state maintenance along a portion of Old Highway US 15-501. The request was approved by NCDOT on February 4, 2010. NNP also requested that Chatham County permanently close the same portion of the right-of-way of Old Highway 15-501 in Baldwin Township. The request was approved and an Order closing said portion of rofw was recorded in Deed Book 1514, page 251. The property in the rofw was recombined to the adjacent properties, both owned by Briar Chapel. The two parcels were combined into one tract, parcel #86288. Per the county attorney, the Order contained sufficient language to protect the rights of existing utility easements, i.e. Chatham County Utilities Department, Time Warner Cable, PSNC, AT&T, etc. that were located within the abandoned area of the rofw and any future relocation of said easements on Petitioners property to be selected by Petitioners. All utilities have been relocated and the temporary utility easement shown on the preliminary plat has been removed. Staff has received confirmation from all utilities that the relocation has been completed.

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

Discussion & Analysis:

The request before the Board is for final plat approval of 7 non-residential/commercial lots and 1 common area/stormwater pond lot. The request is for lot approval only. As stated above, there were 5 conditions of preliminary plat approval and these conditions have been met as addressed in the cover letter, attachment #2. The lot numbers listed on the preliminary plat have changed to allow for consecutive numbering of the commercial lots in Briar Chapel. The final plat request is being submitted with a request for a financial guarantee for the completion of required infrastructure. Under the pre-2008 Subdivision Regulations, a project must have a minimum of 40% of the infrastructure completed prior to submittal of a final plat and the roads must be accessible to emergency vehicles. The final plat is submitted with a request for a financial guarantee for completion of the necessary infrastructure for Parcels 16 – 22. Per the cost letter submitted by Chris Seamster, PLA, dated March 9, 2018 the improvements are 83% complete. An updated cost letter may be submitted prior to final plat approval if additional work has been completed. Staff recommends granting approval of the request for a financial guarantee. Staff also recommends that the final plat not be recorded until the engineer has certified that the roadway providing access to the parcels is accessible to emergency vehicles and recommends that the final plat not be recorded until the county attorney has reviewed and approved the form of the contract and financial guarantee.

The final plat displays the 200 foot wide perimeter buffer along the common boundary line with Herndon Woods Subdivision; the 50 wide viewshed buffer along Hwy 15-501 and Taylor Road and the 50 foot wide riparian buffer on both side of the stream on Common Area #5.

The flood panel number in Note # 5 under Survey Notes needs to be corrected to read "FEMA FIRM map panel # 3710977500K. The map date of 11/17/17 is correct.

Per Brian Burkhardt, Environmental Quality Director, the Stormwater Certificate on Sheet 1 of 2 should be removed. Notes 1 & 2 under Stormwater Notes are correct.

The Technical Review Committee met on March 14, 2018 to review the request. Staff discussion included public utilities relocations, stormwater easement encroachments, flood map panel numbers and dates.

How does this relate to the Comprehensive Plan: The subject property is located in an area designated as Community Center which allows retail hubs located along key roadway corridors and can accommodate regional retail tenants complemented by local-serving commercial development. Uses can include retail, restaurants, services, and office uses (+/-125-400K SF commercial). The area can also include up to 60% residential uses.

The Planning Board has 60 days to make a recommendation on the request.

Planning Board Discussion:

The Planning Board met on April 3, 2018, to review the request. Nick Robinson Attorney-at-Law, and Garretson Browne were present to represent the developer and answer questions from the Board. Mr. Lucier asked about Condition 5 in the recommendation and staff explained that the condition is for the sheriff department substation and since the condition hasn't been met the county attorney recommended that an additional note be added. Mr. Robinson stated that the 2012 Conditional Use Permit (CUP) reserve a 5,000 square foot sheriff's department substation in SD East. The provisions state that the shell would be built by the developer and that it would be up to the county or sheriff's department to up fit that space. The obligation was to put the reservation of the 5,000 square foot substation in the first lot sold, which happened to be Chatham County for the CCC site. Chatham County did not want to reserve the 5,000 square feet and asked that it be moved to the next lot. The issue Mr. Robinson had is the language is vague and there's a concern from a private stand point that by putting the language on the plat you create the impression that every lot is subject to this note when they are not. Mr. Robinson stated that he is comfortable that once Condition 14 (g) of the 2012 CUP has been satisfied, then they can submit an amendment to the plat to remove the language.

Recommendation: The Planning Department and Planning Board unanimously recommends granting the request for a financial guarantee and granting final plat approval of "**Final Subdivision, Recombination, Easement, and Private Right-of-Way Dedication Plat of SD West-Parcels 16-22 and Commercial Common Area # 5**" with the following condition:

1. The final plat not be recorded until the county attorney has reviewed and approved the form of the financial guarantee.
2. The final plat not be recorded until staff has received certification from the engineer that the roadway is accessible to emergency vehicles.
3. The final plat not be recorded until the flood panel number in Note # 5 under Survey Notes is corrected to read "FEMA FIRM map panel # 3710977500K.
4. The final plat not be recorded until the Stormwater Certificate on Sheet 1 of 2 is removed.
5. A note shall be added to the final plat to state "The parcels shown on the plat are subject to the terms of the September 18, 2017 Amended Conditional Use Permit, including without limitation, the reservation set out in Section 14 (g), as the same may be amended from time to time."