

## **Summary of Planning Board Deliberations and Recommendation for NNP Briar Chapel Final Plat Requests for Phases 13 and 14**

**October 1, 2020**

The Planning Board deliberated on the final plat request for Phase 13 Section 3 during our August and September meetings and for the Phase 14 request during our September meeting. The Planning Board voted unanimously (10-0) to deny both requests. The following summarizes the issues considered that formed the bases for our recommendation.

We received 14 public comments during our meetings. These public comments were fact based and informative including documents and photos. They focused on two issues; problems with sewerage spills and odor from the Briar Chapel wastewater plant and incursions in the perimeter buffer adjacent to neighboring residential properties.

### **Wastewater issues**

1. The Briar Chapel wastewater system has had 27 spills over the last four years totaling 80,000 gallons of sewerage released leading to 15 notice of violations. Briar Chapel when asked did not dispute these numbers. Eleven of the 27 spills have occurred in the first eight months of 2020 so the frequency of spills is increasing. In addition to the public health hazards, some of the sewerage spills have likely reached Pokeberry Creek which drains into the Haw River and then Jordan Lake.
2. Section 7.2 of the compact community ordinance (CCO) states, "The developer shall require the operator of wastewater systems to furnish the County with copies of any approved plans modifying said systems and to notify the County and the residents of the compact community of any violation or citations issued in connection with the operation within 30 days thereof." Moreover, the CCO requires the developer to notify Chatham County of any operational performance reports for the wastewater system prior to final plat approval. The developer has apparently failed to meet the public filing requirement of the CCO since spills were not reported to the county nor to residents of Briar Chapel. so those most effected were unaware of the hazards
3. In a July 27 email to Briar Chapel residents, John McDonald, the owner of Old North State Water Company, stated, "It is becoming clearer and clearer that the Briar Chapel water reclamation system is in dire need of upgrades to handle the increased size of the community and that the defective pipe is failing to meet the demands of the community today." Mr McDonald pledges to make corrective repairs and to replace the failing force main lines leading to the wastewater treatment plant. NNP Briar Chapel said that repairs by Old North State would be completed by thanksgiving but no written confirmation from Old North State of that date nor the specifications of the repairs were provided to us.
4. Spills have occurred from lift station A which sends wastewater to the treatment plant. Phase 13 sends wastewater to A from Lift Station B and Phase 14 also sends wastewater

to A from Lift station C. Lift Station A is not adequate to handle the volume of wastewater it is receiving so it must be upgraded.

5. It appears that Western Retention Pond has been used to store treated wastewater although a permit has apparently not been received from the State to do so.
6. There are frequent offensive odor problems emanating from the wastewater plant. This has been acknowledged by NNP Briar Chapel and it was also documented by Senator Valerie Foushee in a recent visit to Briar Chapel. The Compact Community Ordinance states that "Provisions should be made for sludge management and odor control that eliminates to the maximum extent possible adverse impacts to the compact community's residents and neighbors. The odor problems appear to be still occurring.
7. The Planning Board's Code of Ethics states that "Decisions and recommendations are reached through open debate and democratic vote considering the best interests of the **health, safety and welfare** of Chatham County. We take that statement seriously.
8. The attorney for NNP Briar Chapel, in his presentation to the Planning Board, said that the State preempts the County regarding wastewater permits and actions concerning violations. He also said that violations of the compact community ordinance cannot be used to deny applications through the subdivision ordinance. However, the Planning Board honors our pledge to do what we can to protect the health, safety and welfare of Chatham County residents. Therefore, we unanimously recommend that the two final plats in question be denied until appropriate corrective actions to the Briar Chapel wastewater system are completed. It is wrong to add 148 residences to a failing wastewater system until this is done. A fully functional, reliable and safe wastewater system should be available before approval is granted.

**Perimeter Buffer Incursions.** The compact community ordinance requires a 100 ft perimeter buffer between Briar Chapel and neighboring residential properties. We received five public comments from adjacent property owners stating that the perimeter buffer has been violated primarily by the construction of bike trails close to and sometimes on neighboring properties. In one case, a bike jump was constructed on an adjacent property. Public comments provided photos of the violations and they were not disputed by NNP Briar Chapel representatives at our September meeting. In fact, NNP Briar Chapel did not seem to be aware of the perimeter buffer issues and we believe that to be the case. They said that the trails were constructed without their knowledge. During the course of our September meeting, NNP Briar Chapel pledged to address the incursions and would not construct trails in the perimeter buffers. We strongly encourage the Briar Chapel HOA and NNP Briar Chapel to work with neighboring property owners to protect the perimeter buffers mandated by the CCO.

George Lucier, Chair, Chatham County Planning Board

