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Vote on a legislative request to approve by the Vickers Bennett Group LLC for a Conditional District Rezoning from R-1 Residential to CD-CCO Compact Community being approximately 101.8 acres located off US 15-501 between Vicker’s Rd and Jack Bennett roads, Williams Township.

..ABSTRACT

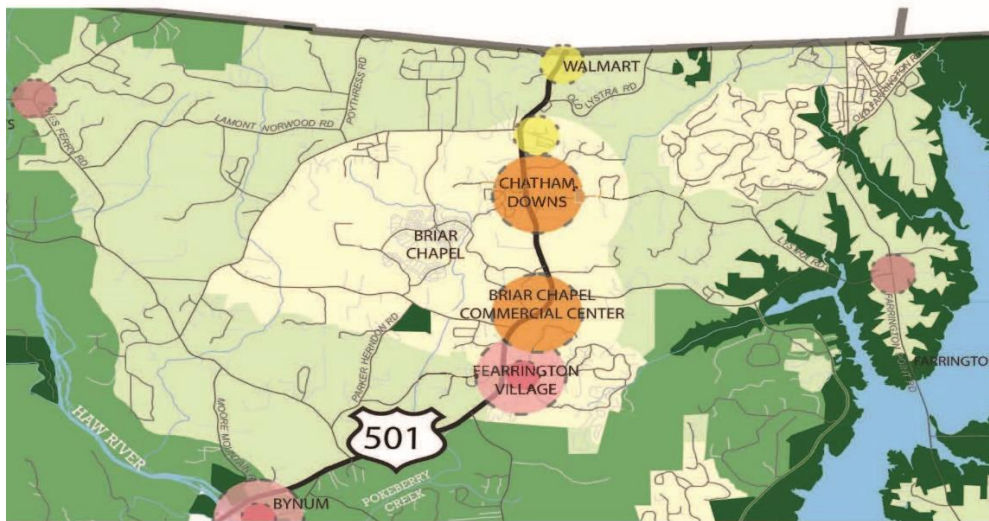
Action Requested:

Vote on a legislative request to approve by the Vickers Bennett Group LLC for a Conditional District Rezoning from R-1 Residential to CD-CCO Compact Community being approximately 101.8 acres located off US 15-501 between Vicker’s Rd and Jack Bennett roads, Williams Township.

Introduction & Background:

A legislative public hearing was held on August 16, 2021. Planning staff exercised their option for a month postponement to review information obtained at the public hearing and any subsequent information that has been requested and received. Planning staff and Commissioners have received fairly equal responses for support of the development as they’ve received recommendations for denial.

The Planning Board previously recommended approval of a map and text amendment to the Compact Community Ordinance to allow the integration all this project’s property into the area that is eligible for a compact community rezoning to be submitted. This area does fall within the Compact Residential node of the Chatham County Comprehensive Land Use Plan. Those maps are shown below for reference.



the CCO provides a mechanism for applicants to request a modifications, reductions, or waivers of provisions of the CCO. If the board agrees with the waiver requests, they can be incorporated into the conditions of approval.

Discussion & Analysis:

Application details -

Current zoning: R1, Residential

Proposed zoning: Conditional District Compact Community

Water: Chatham County

Sewer: Private wastewater treatment system with spray irrigation

Acreage: approximately 101 acres

Proposed dwelling units: 203

Proposed non-residential acreage: 20,000 square feet

To consider a rezoning to Conditional District Compact Community the standards and requirements for the Zoning Ordinance and Compact Communities Ordinance must be met. Additionally, the rezoning application should include support from the goals, guiding principles, and strategies of Plan Chatham. The supporting information provided by the applicant regarding the Compact Communities Ordinance are attached as a separate document. Any discrepancies or lack of support noted by planning staff will be included in the notes.

The Chatham County Appearance Commission reviewed the proposed concept plan on June 23, 2021. Their discussion included plant types and alternatives. One agreement between the applicant's representative and the commission is to have a 55-foot perimeter buffer instead of the 50-foot proposed by waiver. The submitted site plan does reflect that agreement as shown below in the concept plan.

WAIVER

9.2 Perimeter Buffer – The applicant is requesting a reduction of 50% along Jack Bennett Road, along Vicker's Road, and adjacent to other commercial property and mobile home park. All other areas will meet the 100-foot minimum requirement.

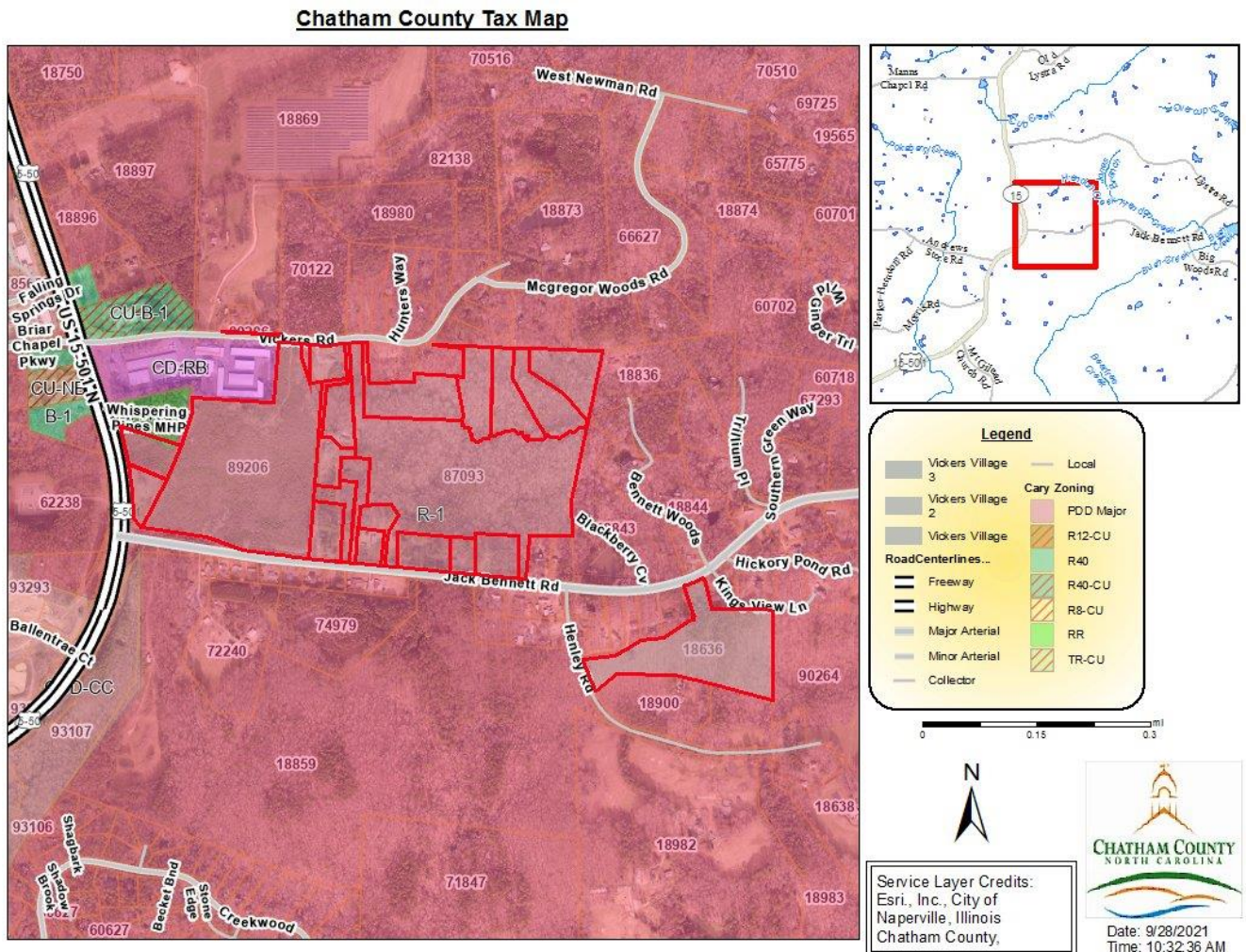
WAIVER

9.3 Viewshed Buffer - The applicant is requesting the area along US 15-501 around the corner of Jack Bennett that will front on the commercial portion, be reduced to the 55 feet agreed upon with the CCAC.

A Community Meeting was held on June 28, 2021 for this project. The report was provided in the application submittal packet. Four changes were agreed upon as a result of this meeting. They were:

- Southeastern land plan modified to move the WWTP and irrigation ponds to more internal location.
- Laney property acquired by applicant in order to alleviate proximity to WWTP and irrigation ponds.
- 100-foot perimeter buffer added to southwest corner near Driscoll property.
- Two-acre parcel on Vickers Rd conveyed to Laney's and the five single family lots previously shown there were relocated to Jack Bennett side.

This map shows the current zoning of the property as well as surrounding properties along US 15-501. The property is located next to a self-storage facility and diagonal from the commercial area of Briar Chapel



Property may be rezoned to a conditional zoning district only in response to and consistent with an application submitted in compliance with Section 5 of the Chatham County Zoning Ordinance. The findings are as follows:

1. **The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reason how the proposed amendment will correct the same.** The applicant is claiming no error in the Ordinance. The proposed use of Compact Community is allowed under Section 10.11 of the zoning ordinance.

Planning staff thinks this standard has been supported.

2. **The changed or changing conditions, if any, of the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.** In November 2017, the Board of Commissioners adopted Plan Chatham. This plan created a road map to guide development to areas best suited for various types and mixes of uses.

A Market Analysis has been provided and the applicant contends based on growth rates in the county and lack of townhomes, the proposed development will offer an additional housing types other than detached single-family dwellings that have been the majority of housing offered in the county. The offerings include townhomes and condominiums over business. This project has a reduced amount of commercial space than would normally be seen in a compact community due to the limited acreage for the development. A waiver has been requested to have the reduced commercial area also because the proposed development is a much smaller scale project than those with more acreage and numbers of homes.

WAIVER

6.5 Minimum Commercial Area – The minimum required square footing is requested to be reduced from 100,000 sq. ft. to 20,000 sq. ft. due to the smaller development footprint of this project. The timing of commercial development in connection with residential dwelling units is not feasible and is also requested to be waived.

An Environmental Impact Assessment was prepared by Sage Ecological Services, Inc., and peer reviewed by Johnson, Mirmiran & Thompson, Inc. There were several items that needed further review and corrections. On August 16, 2021, JMT advised their subsequent review was complete and that the EIA satisfied the requirements of the regulations and was considered complete.

There have been several meetings between County staff, County Attorney, and the development team regarding the Affordable Housing needs and compliance with Section 12.3, Housing, and the affordable housing requirement. A report from Stephanie Cruz-Watkins with the County has been attached. There is also a proposed condition where the county and applicant will enter into a contract regarding a “payment of support” affordable housing within the development. This contract is proposed to be decided between the County and the developers with hope of providing up to nine (9) townhome units under the Affordable Housing requirement. This item has been conditioned below.

WAIVER

The applicant has requested a waiver (Section 15 of the CCO, 12.1 Performance Standards) for a reduction of housing types from three to two. An apartment complex would not fit well into this village. They have offered two different sizes of townhome lots and single family lots to meet the requirement for including a variety of housing types in a compact community.

This project is projected to create approximately 49 permanent employment opportunities. No public improvements will be needed by the County. The developer will install and connect to the County water line located on US 15-501 and will construct a state regulated wastewater treatment plant and system to be operated by Aqua North Carolina.

The below map is the overall concept plan for Vicker’s Village



WAIVER

12.1 Performance Standards – A transit stop has been included within the development and approved by the Chatham County Transit Department. The waiver is to not require park and ride lots as it is not needed.

WAIVER

12.1 Performance Standards – Narrow streets – Compliance with NCDOT and the Fire Marshal of Chatham County must be met. Alleys, private roads, and satellite parking will be dedicated to the HOA.

WAIVER

8.5 Posting of Financial Guarantee – The applicant asked that in lieu of this statutorily prohibited requirements, that the restrictive covenants will provide for a reserve fund.

It is planning staff opinion that additional discussion is needed to clarify the affordable housing proposal.

- 3. The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.** The county's comprehensive plan, Plan Chatham, was adopted in November 2017. A future land use and conservation map was also included, and it identifies areas of the county where more intensive development may be supported under certain circumstances. This proposal is located within the area noted for mixed use and compact communities as shown on the map included in the Introduction & Background.

Chapter 2 of the Plan addresses the problem of housing mix disparities existing in the County. This project will offer 111 townhomes to increase these units that are currently about 5% of the total housing units. Chapter 2 also includes that up to 57% of Chatham residents commute outside of the county for work and retail. This project anticipates up to 49 jobs which will help to offset the jobs and retail imbalance that currently exists (pg 16).

In regard to Parks and Health the development plan includes a trail network through the open and conservation spaces as well as walkability within the development from the residential areas to the commercial area. This also supports Parks and Recreation Policy 3, p 122, by increasing the number of mileage of trails and greenways.

Please review the spreadsheet in the Required Information Narrative, Item C Plan Chatham Chapter 3: Goals/Objectives and Land Use Descriptions for more details and support from Plan Chatham. Mixed use developments are encouraged within Community Center nodes as shown in Land Use Policy 3, page 63. Land Use Policy 4 provides for the opportunity to incorporate transit stops which the developer has had reviewed by Chatham County Transit and as shown on the site plan.

It is planning staff opinion this standard has been supported.

- 4. The requested amendment is either essential or desirable for the public convenience or welfare.** A Traffic Impact Analysis (TIA) was provided, and peer reviewed by Gannett Fleming and found to be in reasonable conformance with NCDOT Congestion Management guidelines.

The Fiscal Impact Analysis was provided, and peer reviewed by Tischler Bise and found to bring a positive impact to the County.

This request also supports several goals and objectives that have been put into place for residential mixed-use growth as stated in the supporting information for standard #3. Vickers Village also provides an opportunity for a different housing model than normally submitted for consideration by the county and is within an area shown on the future land use map. There will also be job creation which is noted in several sections of Plan Chatham.

The site plan shows one 70' right-of-way with the remaining being 60' wide. The road cross sections provided with the First Plat application and more specifically the First Plat Details sheet dated July 23, 2021, indicates that the 70' right-of-way can accommodate on-street parking. This cross section only applies to entrance road accessing 15-501 and none of the remaining roads in the development. Planning staff has concerns about on-street parking with the development on the 60' right-of-way sections which has been an on-going issue within Briar Chapel. A condition has been provided requiring the applicant to meet with the Fire Marshal and North Chatham Fire Department to find a mutually acceptable solution to address emergency vehicle access within the development prior to preparation of construction drawings for the Construction Plan in the Subdivision Regulations. This may include changing the 60' cross section to 70' in certain areas of the development or additional off-street parking being provided in the development.

The CCO requires sidewalks within the development, and it is staff opinion the following condition be included: Sidewalks will be provided along both sides of all streets with residences or other buildings fronting them. Sidewalks will be provided along one side of all other streets that provide connections within the community but do not serve as building frontage. Street trees, either planted or preserved, will be provided along all

streets. If these tree plantings have not been reviewed and approved by the CCAC, they must do so before plant selection is made.

It is planning staff opinion this standard may be supported with conditions.

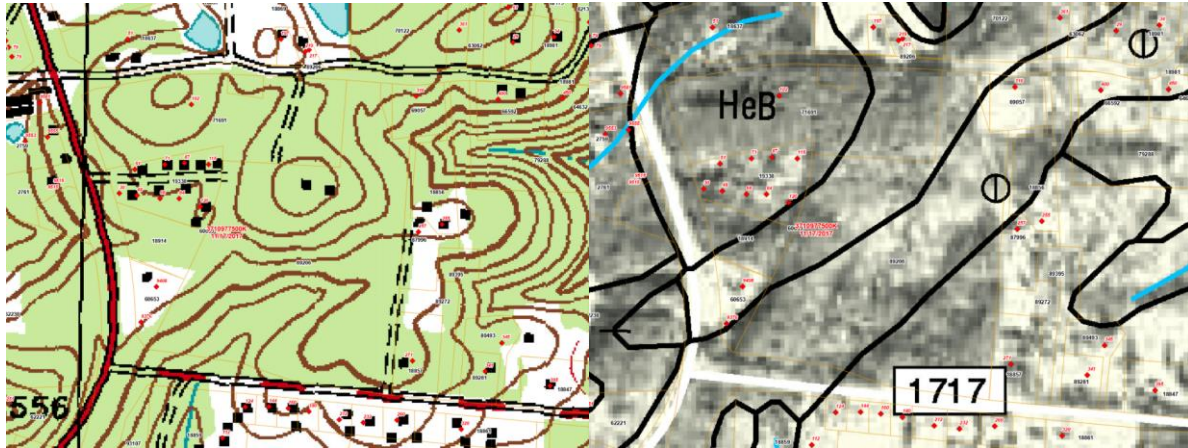
- 5. All other circumstances, factors, and reason which the applicant offers in support of the proposed amendment.** The Chatham County water system will serve the development and there will be three access points to existing roads: one each on US 15-501 N, Vicker's Road, and Jack Bennett Road. Stormwater standards will follow current regulations and are to be complied with at all times.

The parcel identified as AKPAR 18636, which is not contiguous to the development will be restricted to permanent natural space.

The watershed shed designation is WSIV-PA Jordan Lake which allows up to 36% impervious surface built upon area without curb and gutter. Because this is a proposed compact community, the project is limited to 24% BUA for the entire project.



The following are USGA and NRCS maps. Stream delineations have been conducted as required in Watershed Protection Ordinance and required buffers have been shown on the submitted plans.



The applicant has also provided CCO Compliance Response to each section of the ordinance. Please note that sections 8, Stormwater and 9.1, Riparian Buffers, are now superseded by the Chatham County Stormwater Ordinance and the riparian buffer standards in the Watershed Protection Ordinance. Planning staff also encourage board members to review Section 12, Community Design, and Attachment B, Compact Community Design Guidelines, in evaluating the application. There are seven waivers requested by the applicant that have been included in these notes for consideration.

It is planning staff opinion this standard has been supported.

Planning staff recommends approval of the rezoning contingent on resolution of a mutually acceptable condition addressing the affordable housing requirement of the Compact Communities Ordinance.

The Planning Board reviewed the request at their October 5, 2021, regular meeting. Some questions were raised and addressed either by staff or the applicant's attorney. They included but are not limited to:

- Sizing of the wastewater treatment plant (WWTP) – Mark Ashness stated it would be a small WWTP (50,000 gpd) serving only this project using membrane technology.
- Assurance the townhomes would be integrated into the community and not set apart because of the affordable housing component. Nick Robinson, attorney, confirmed with the client integration would be part of the development.
- Concerns over increased traffic
- Concerns over the reduction in perimeter buffer along Jack Bennett Road. It was thought the dwellings were townhomes. Staff advised those are single family dwelling units on smaller lots. The townhome section is interior to the development.

- Concerns over spray areas in resident's backyards, park area, or walkable areas. Mr. Ashness stated the system is a combination of spray and drip utilizing reclaimed water in those areas. He stated the run time would be about 7-8 minutes generally early mornings and possibly some other times as required for system operation. Jason Sullivan reminded the Board that the County is pre-empted by the state about the type of system that can be required. Caroline Siverson had concerns over spraying near steep slopes and creek areas. Regulations will not permit spraying at steep slopes.
- Concern over the street names being too close to other names already approved in the area.

By unanimous vote (11-0) the Planning Board voted to approve the consistency statement and the rezoning to Conditional District Compact Community as indicated below in the conditions.

How does this relate to the Comprehensive Plan: The requested conditional district rezoning meets the intent and spirit of Plan Chatham by (a) being located within an area identified by the Board as acceptable for further development of compact communities and (b) has supported the goals and objectives of the Plan and the Compact Communities Ordinance.

Recommendation:

The Planning Board by unanimous vote (11-0) recommends adoption of a resolution approving the following consistency statement.

The requested conditional district rezoning meets the intent and spirit of Plan Chatham by (a) being located within an area identified by the Board as acceptable for further development of compact communities and (b) has supported the goals and objectives of the Plan and the Compact Communities Ordinance.

The Planning Board by unanimous vote (11-0) recommends adoption of an ordinance amending the Zoning Ordinance approving a legislative request by the Vickers Bennett Group LLC for a Conditional District Rezoning from R-1 Residential to CD-CC Conditional District Compact Community being approximately 101.8 acres located off US 15-501 between Vickers Rd and Jack Bennett Rd:

Site Specific Conditions

1. The Master Plan, attached as Exhibit A, shall be the guide for all phases of the development. Any modifications, changes, alterations not allowed by

administrative approval, must be resubmitted as a CD-CCO Revision and all submittal requirements followed.

Total project area = 101.8 acres

Maximum Impervious Surface = 24%

Total Number of Dwelling Units = 203

2. The site plan/s for the commercial areas must be reviewed by the Chatham County Appearance Commission.
3. Landscaping/Screening. All required screening and buffers shall be in place prior to issuance of a certificate of occupancy or next optimal planting season after issuance of a certificate of occupancy. Existing vegetation may be used to fully or partially fulfill the landscaping and buffer requirements of the County. The extent to which the same can be used shall be determined by the Planning Department prior to issuance of the certificate of zoning compliance. It is strongly recommended that existing native vegetation be preserved where practical. Grading within buffers will be done in compliance with approved erosion control plans.
4. All required permits and/or authorizations from local, state, and federal agencies shall be submitted as part of the platting process and prior to any land disturbing activities covered under current ordinance, law, or regulation and before any such zoning determinations are approved. This includes but is not limited to Zoning, Planning, Building Inspections, Environmental Health, Fire Marshal, NC Department of Environmental Quality, NC Utilities Commission, Watershed Protection, NC Department of Transportation, Utilities, etc.
5. Phasing – Phasing is permitted with this approval. The development schedule states the following and shall be followed unless a new phasing schedule is approved. It is:
 6. Phases 1 a, b and c – at least 66 lots Final Plat submitted by 12/31/2024 (may be broken into sub-phases)
 7. Phases 2 a, b and c – at least 115 lots Final Plat submitted by 12/31/2026 (may be broken into sub-phases)
 8. Phase 3 – Commercial lot by 12/31/2027



9. The trail system shall be installed and accessible before or at 50% of lots have been platted.
10. Sidewalks will be provided along both sides of all streets (but not alleys) with residences or other buildings fronting them. Sidewalks will be provided along one side of all other streets (but not alleys) that provide connections within the community but do not serve as building frontage. Street trees, either planted or preserved, will be provided along all streets.
11. Solid Waste Management. Solid residential waste is managed and shall continue to be managed by residential curbside recycling and solid waste pick-up. With regard to construction debris and non-residential solid waste removal, Applicant shall continue to contract with builders and contractors to dispose of the same appropriately.
12. Commercial Uses. The commercial component of the development shall be limited to locations shown on the Master Plan, and the uses allowed within the development shall be all those uses now allowed or later added as allowed in the December 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning Districts denoted as "O/I," and "NB." 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 Vicker's Village development. Building signage for the commercial uses shall comply with the Chatham County Zoning Ordinance in effect of the original approval date. Monument signs shall be allowed substantially in the locations shown on the site plan and shall be limited to specifications shown on Site Details sheet provided with the application and dated July 2, 2021. Commercial components of the Vicker's Village development shall be accessible via public sidewalks, greenways, paths, or trails.

13. Lighting Plan Approval. All area lighting shall meet County standards and not adversely affect adjoining residential areas.
14. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NCDOT shall be obtained and copies submitted to the County prior to approval of a preliminary plat for each phase.
15. Improvements. Off-site improvements required by NCDOT of any other agency shall be constructed at no cost to the County including the traffic improvements as stated in the most recent TIA and others as ultimately deemed warranted by the NCDOT following its analysis, if required. The First Plat Submittal First Plat Details sheet provided with the Vickers Village First Plat application and dated July 23, 2021, as the same may be modified prior to approval, shall be incorporated into this conditional district rezoning approval. On-street parking shall only be permitted within the development on road cross sections meeting the "70' right-of-way" cross section shown on the First Plat Details sheet.
16. The applicant must reach an agreement with the Chatham County Fire Marshal's Office and North Chatham Fire Department regarding emergency vehicle access and on street parking restrictions prior to preparing construction drawings for the Construction Plan under the Subdivision Regulations. Off-street parking shall be provided for in accordance with Section 14 of the Chatham County Zoning Ordinance.
17. The Applicant shall demonstrate availability of adequate water and wastewater supplies to serve the property. Plans for provision of water supply shall be approved by the County prior to issuance of a Construction Plan for each phase. Such plans shall be in conformity with any County water policies then in effect and the Applicant shall pay all water fees and charges associated with the applicable phase, including then current water fees, review, and inspection charges, prior to submittal of the Construction Plan for each phase. The entire cost of extending public utility services if desired or required under County regulations shall be borne by the Applicant.
18. Adequate wastewater treatment service for the entire project area shall be designed and approved by the appropriate regulatory agency prior to issuance of a preliminary plat for each phase and constructed at no cost to the County. Adequate facilities for the spray irrigation of treated effluent from each phase of the project shall be designed, approved by the appropriate regulatory agency, and constructed at no cost to the County prior to issuance of a Certificate of Occupancy for any building within that phase of the project.
19. Equipment such as pumps and blowers will be appropriately insulated or buffered for noise reduction. Wastewater treatment plant blowers will be enclosed. All

motor noise from the wastewater treatment plant will be subject to the provisions and restrictions of the Chatham County Noise Ordinance.

20. Moderate Income Housing. With the consent of the Applicant, and as an approximately equivalent alternative to and in lieu of the housing standards for Moderate Income persons set forth in Option A of the Compact Community Ordinance, the developer shall do the following:

Affordable Housing Condition: Prior to final plat approval of any residential lots within Vickers Village, Applicant and Chatham County will either:

(A) enter into a contract providing that (i) Applicant will pay a \$43,500 per lot "Payment in Support" to the County for 5% of the total entitled lots developed, rounded down to the nearest whole number (e.g., 9 Payments in Support if 181 lots are developed or 10 Payments in Support if 203 lots are developed) upon sale of each of the affordable housing lots by Applicant to a developer; (ii) Applicant will cause the developer of the lots to waive its sales commission on any affordable housing townhome sold to the County's affordable housing designee; (iii) the County will enter into an agreement with Community Home Trust ("CHT") to allow CHT to purchase the designated affordable townhomes and incorporate each such townhome into its affordable housing program; and (iv) the parties will agree upon other terms and conditions facilitating the shared goals of integrating the affordable townhomes seamlessly into the Vickers Village townhome development;

OR, solely in the event and to the extent the "Payment in Support" model above cannot be implemented despite good faith efforts by the parties,

(B) contribute the remaining required amount either in the form of buildable lots, constructed dwellings or a payment in lieu in compliance with Compact Communities Ordinance Sections 12.3(A)(1), (2) or 12.3(B), respectively.

** The \$43,500 Payment in Support amount is derived from \$40,000 per lot and the \$3,500 impact fee per lot. The impact fee will be paid by the townhome developer and reimbursed by the County to the townhome developer in accordance with County Impact Fee Reimbursement Policy Concerning Affordable Housing.

21. A detailed tracking process shall be developed by the applicant and agreed to by county staff (Planning and Watershed Protection Departments) prior to any land disturbing activity occurring on the property. The tracking mechanism must ensure that the built upon area for the project is tracked for each subdivision or commercial lot and include any areas with impervious surface. The tracking

mechanism must also include a process for reconciling the final built upon area for each lot and include a linkage to the sizing of the stormwater devices. The tracking mechanism and all supporting documentation must be supplied to the county as part of any site plan or final plat submittal. Additionally, all documents must be provided to the county at the completion of the project and transferred to the Homeowner's Association. Upon completion of the project, the Homeowner's Association shall assume responsibility for tracking any additional built upon area allocations within the development. A detailed report of Built Upon Area calculations shall be provided by the developer to the County for each phase of the project to ensure the maximum 24% allowance is maintained.

22. A building permit shall be issued and remain valid at all times within three (3) years from the date of this approval becomes final and non-appealable or from the date any court order entered in an appeal regarding this approval becomes final and non-approvable, whichever is later. Failure to comply will void this approval and any site plans approved thereof and the project will be void.
23. The development may not be turned over to a Homeowner's Association until the county or other state regulatory agency has confirmed compliance with any required permitting.
24. The following waivers are approved as included in the application
 - 6.5 Minimum Commercial Area. The minimum required square footage is reduced to 20,000 square feet. Also, since this small project will have few phases, the commercial vs. residential timing of phasing requirement is not feasible and is waived.
 - 8.5 Posting of Financial Guarantee. In lieu of this statutorily prohibited requirement, the restrictive covenants will provide for a reserve fund.
 - 9.2 Perimeter Buffer. There is about 4,000' of 100' wide perimeter buffer, most of which is not required. The Perimeter Buffer around the mobile home park, where some dwellings are less than 40' from the property line, is reduced to 50'.
 - 9.3 Viewshed Buffers. The Applicant sought to mitigate the impact by design, berms, native plantings and other feature and proposed a reduction to 50" as allowed by the ordinance. The Appearance Committee reviewed it and recommended a buffer be 55' along 15-501 and Jack Bennett. That recommendation is accepted.
 - 12.1 Performance Standards. All performance standards are met, except the plan does need:
 - A reduction in the number of housing types required from three to

two. An apartment building would not fit well into this village. Applicant, however, has provided for two different sizes of townhome lots and two different sizes of single family lots to ensure a variety of housing types. In addition, it is possible that the commercial area will have up to 15 residential condominium units above retail/commercial.

- Park and ride spaces. There will be a transit stop within easy walking distance of all village dwellings. The residents will not have a need for a park and ride lot, so a waiver of this requirement is sought.
- Narrow Streets. This provision must be modified to comply with the requirements of NCDOT and the Fire Marshal. The “Streets” provision of Section 12.2 must be modified. (Note: Condition #16 has also been added to supplement this waiver)

Standard Administrative Conditions

25. Fees. Applicant shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, building inspection, recreation and impact fees established from time to time.
26. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
27. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
28. Non-Waiver. Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant’s property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.
29. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes to or variations from any requirements of this permit must be approved through the Planning Department or other approving board before any such changes can take place.