

**ORDER OF THE BOARD OF COMMISSIONERS
OF CHATHAM COUNTY
APPROVING BUFFER REDUCTION REQUEST OF NNP-BRIAR CHAPEL, LLC PER
SECTION 9.2 OF COMPACT COMMUNITIES ORDINANCE**

WHEREAS, Section 9.2 of the Compact Communities Ordinance sets out the perimeter buffer requirements within a compact community;

WHEREAS, Section 9.2 also authorizes the Commissioners to approve up to a 100% reduction of the perimeter buffer under certain circumstances;

WHEREAS, NNP-Briar Chapel, LLC (“NNP”) owns Parcel 20 which is a +/- 2.04 acre commercial lot in the SD-West section of the Briar Chapel Compact Community (AKPAR # 93297 (the “NNP Parcel”));

WHEREAS, the NNP Parcel is adjoined to the north by a parcel owned by Chatham County (AKPAR # 62221)(the “County Parcel”) and by a parcel owned by the North Carolina Department of Transportation (AKPAR # 94711)(the “NCDOT Parcel”);

WHEREAS, NNP has requested the Commissioners to approve two (2) modifications of the 100’ Perimeter Buffer along the northern parcel boundary of the NNP Parcel where it adjoins the County Parcel and the NCDOT Parcel as shown on **Attachment A** hereto;

WHEREAS, one of the requested modifications is on behalf of and at the request of the County itself in order to allow the County to install a sewer line within a 15’ easement that runs through the 100’ Perimeter Buffer located on the NNP Parcel the (“County Waiver”);

WHEREAS, the other requested modification is a reduction of the 100’ Perimeter Buffer from 100’ to 20’ along the boundary with the NCDOT Parcel and a portion of the County Parcel (the “NNP Waiver”);

WHEREAS, the Board of Commissioners has determined that the impact of the compact community is adequately mitigated by the community design or topography with respect to both the County Waiver and the NNP Waiver;

WHEREAS, based upon the facts and circumstances considered by the Board of Commissioners and the language of Section 9.2 of the Compact Communities Ordinance, the Board of Commissioners has concluded to grant the requested County Waiver and the requested NNP Waiver, each as described in the letter to the Board dated January __, 2021 and as reflected in **Attachment A** to this Order, and that the requirements for granting the request, pursuant to Section 9.2 of the Compact Communities Ordinance, have been met; and

WHEREAS, it appears to the Board of Commissioners, and the Board of Commissioners hereby finds, that the buffer reduction requests addressed herein are reasonable under the facts and circumstances and should be granted;

NOW, THEREFORE, BE IT ORDERED by the Board of Commissioners of Chatham County:

1. The recitals set forth above are incorporated in this Order.
2. The request to approve the County Waiver and the NNP Waiver, each as requested in the letter of January 20, 2022 and as shown in **Attachment A** to this Order, is hereby granted.
3. To the extent an adjustment, modification, reduction or waiver under Section 15 of the Compact Communities Ordinance is required in order to effectuate this resolution, the same is hereby granted;
4. No waiver or consent except those set forth in this Order is granted.

Adopted this the 7 day of February 2022.

CHATHAM COUNTY BOARD OF COMMISSIONERS

By:

Karen Howard
Karen Howard,, Chair

ATTEST:

Lindsay K. Ray
Lindsay Ray, Clerk to the Board
Chatham County Board of Commissioners



BRADSHAW ROBINSON SLAWTER LLP

ATTORNEYS AND COUNSELORS AT LAW

HALL-LONDON HOUSE

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January 20, 2022

Karen Howard, Chairperson
Chatham County Board of Commissioners
80-A East Street
Pittsboro, North Carolina 27312

Via Hand Delivery &
Electronic Mail

RE: Joint Waiver Request on Behalf of Chatham County and NNP-Briar Chapel, LLC:
Request for Compact Community Ordinance (“CCO”) **Perimeter Buffer
Reduction/Modification for Commercial Parcel #20, SD-West, Briar Chapel**

Dear Board of Commissioners:

This letter serves as a formal request by NNP-Briar Chapel, LLC (“Briar Chapel”) on behalf of both Briar Chapel and Chatham County (the “County”) for Perimeter Buffer Modifications under the CCO to (1) allow the County to run a sewer line through the Parcel 20 100’ Perimeter Buffer in order to provide sewer service to its EMS site that adjoins Parcel 20 (the “County Waiver”); and (2) reduce a portion of the 100’ Perimeter Buffer on Parcel 20 where it adjoins a County Parcel and a parcel owned by the North Carolina Department of Transportation (“NCDOT”) (the “NNP Waiver”). The County Waiver and the NNP Waiver are both as depicted on **Exhibit A** to this letter.

Section 9.2 of the CCO allows the County to approve a 100% reduction of a Perimeter Buffer “after giving the adjoining landowners an opportunity to comment and Chatham County determines that the impact of the compact community is adequately mitigated by the community design or topography.”

The County Waiver: With regard to the County Waiver, the location of the sewer line easement through the Perimeter Buffer and across Parcel 20 has been previously agreed to by the County and NNP and is established by a recorded Plat and easement which are attached hereto as **Exhibit B**. Thus, the impact of this waiver on the adjoiner is mitigated by the community design.

The NNP Waiver: The NNP Waiver is a very low impact modification due to the existing condition and terrain involved. As shown on the aerial map portion of **Exhibit A**, the majority of the waiver sought is comprised of cleared area where the former 15-501 NCDOT right of way still exists. The area is mostly cleared and currently contains overhead powerlines within it.

Letter to Board of Commissioners

January 20, 2022

Page Two

NNP desires to sell Parcel 20 to a purchaser for the purposes of constructing a daycare facility. The waiver area will be used for an outdoor play area for the daycare facility.

In accordance with the established waiver process, both the County and NCDOT will be notified of the Board of Commissioners Meeting at which this waiver request will be addressed.

Based on the foregoing, the enclosed proposed Order of the Board of Commissioners allowing the relief requested is submitted to the Board of Commissioners for a vote either at its meeting on February 7, 2022 or its meeting on February 21, 2022. This is to request of the County Manager that the request be placed on the Commissioners Agenda for the first available of such meetings.

Please let me know if you have any questions or concerns regarding the above.

Very truly yours,



Nicolas P. Robinson

NPR:amm

Enclosure

c: Dan LaMontagne, County Manager
Jason Sullivan, Planning Director
Tanya Matzen

EXHIBIT A TO JOINT WAIVER REQUEST



N/F
COUNTY OF CHATHAM
DB. 460, PG. 669

N/F
NC DOT
(former 15-501 RoW)

+/- 1,500 SQ FT
COUNTY WAIVER AREA

+/- 10,000 SQ FT
NNP WAIVER AREA

100' PERIMETER BUFFER

50' VIEWSHED BUFFER

NNP BRIAR CHAPEL LLC
AKPAR 93297
LOT #20
2.04 ACRES

BALENTRAE COURT

US 15-501 (SOUTHBOUND)

US 15-501 (NORTHBOUND)

PROPERTY BOUNDARY

UNSEED
G. AREA
(THERS)

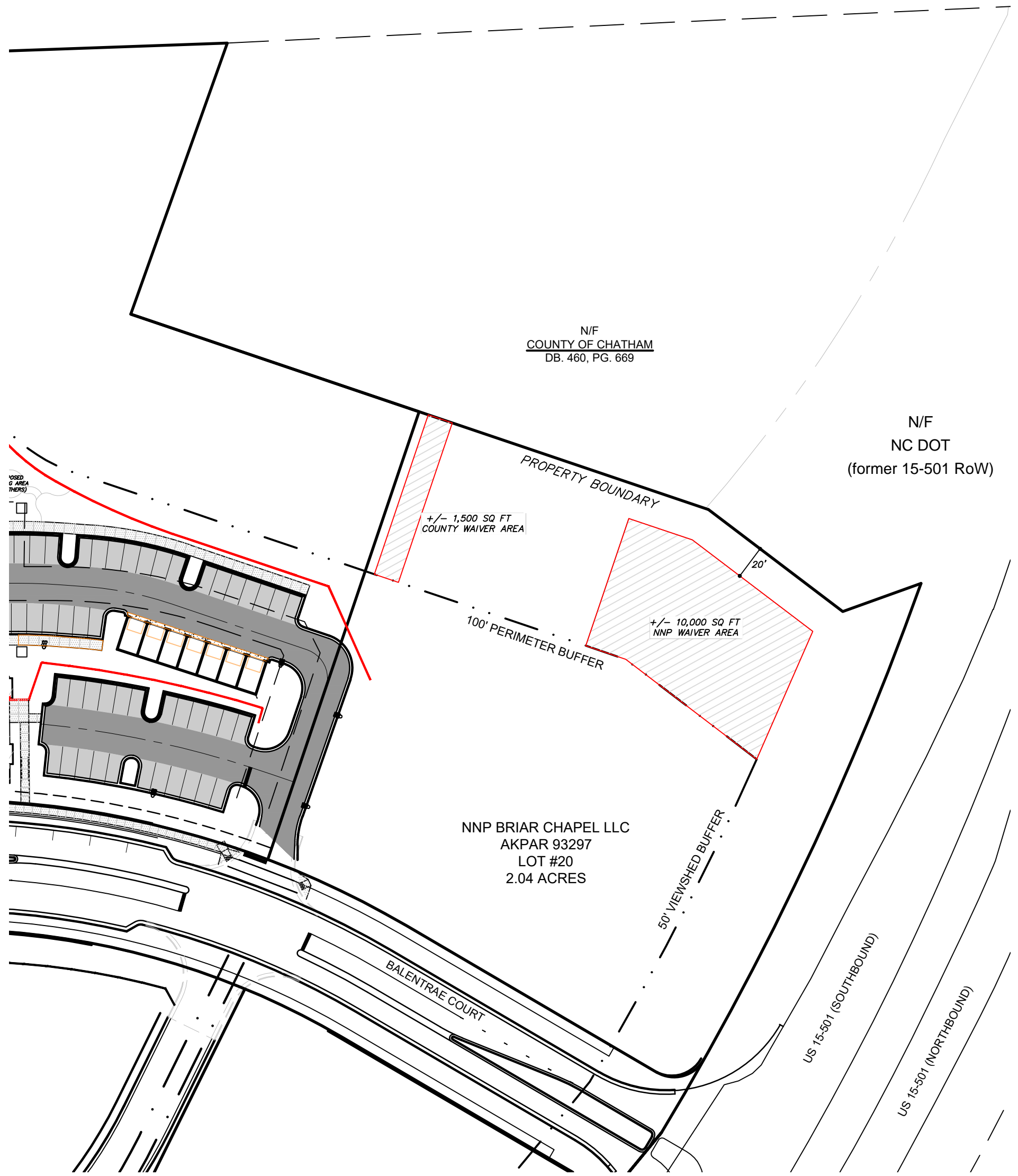


EXHIBIT B TO JOINT WAIVER REQUEST

FILED	Jun 22, 2021
AT	12:17:27 PM
BOOK	02224
START PAGE	0615
END PAGE	0619
INSTRUMENT #	09786
EXCISE TAX	\$0.00

Prepared by and return to: Bradshaw Robinson Slawter, LLP, Post Office Box 607, Pittsboro, North Carolina 27312

STATE OF NORTH CAROLINA
COUNTY OF CHATHAM

**AMENDED DEED OF EASEMENT
AND
TERMINATION OF EASEMENT OPTION AGREEMENT**

This AMENDED DEED OF EASEMENT AND TERMINATION OF EASEMENT OPTION AGREEMENT ("Amended Easement Agreement") is made and entered into the 15th day of February, 2021, by and between NNP-BRIAR CHAPEL, LLC ("NNP" or "Grantor"), and CHATHAM COUNTY, a body politic and corporate of the State of North Carolina ("Grantee"). The Grantor and the Grantee are sometimes collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, Grantor and Grantee entered into that certain Deed of Easement and Easement Option Agreement, dated February 19, 2019 and recorded at Book 2030, Pages 993-998 on February 20, 2019 (the "Original Easement Document"), providing for a 15 foot wide non-exclusive easement, appurtenant to Grantee's property known as AKPAR Parcel No. 62221 (the "Water Tank Site") for Grantee to install, operate, repair, replace and maintain a sanitary sewer line and associated appurtenances within an area defined therein as the "Easement Area";

WHEREAS, the Original Easement Document further provided for an option to relocate the Easement Area to another location within property owned by Grantor (the "Option");

WHEREAS, the parties desire to change the Easement Area location and description and, further, to abandon the Option to relocate the Easement Area as the same is described in the Original Easement Document;

NOW, THEREFORE, Grantor, for and in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby bargain, sell and convey, and by these presents does hereby give, grant, bargain, sell and convey to Grantee, its successors and assigns, a non-exclusive, perpetual easement (the "Easement") over and under the Easement Area, as hereinafter defined, for the purpose of allowing Grantee, its successors, assigns, mortgagees, licensees and invitees to install, operate, repair, replace and maintain a sanitary sewer line and associated appurtenances within an amended easement area (the "Amended Easement Area") and connecting the Water Tank Site improvements to the sanitary sewer collection system existing within the Ballentrae Court right of way on the NNP Property (the "County Sewer Line").

The "Amended Easement Area" referred to herein, which entirely replaces the Easement Area described in the Original Easement Agreement, shall mean the area shown on Exhibit "A" attached hereto and incorporated herein by this reference and described as that certain "New 15' Sanitary Sewer Easement" beginning at the Water Tank Site and running across Parcel 20 (as shown on Exhibit "A"), from the Water Tank Site until intersecting with the 76' Private Right of Way of Ballentrae Court and then within the 76' Private Right of Way of Ballentrae Court for the distance and along the route necessary to connect the County Sewer Line to the sanitary sewer system currently existing within the 76' Private Right of Way of Ballentrae Court at a convenient location. The precise location of the Easement Area within the 76' Private Right of Way of Ballentrae Court shall be compliant with applicable regulations and shall be agreed to by the Parties, such agreement not to be unreasonably withheld, conditioned or delayed.

TO HAVE AND TO HOLD said Easement to the Grantee and its successors and assigns forever. This Easement shall be appurtenant to and run with the title to the NNP Property. Grantee's easement rights set forth herein shall also inure to the benefit of Grantee's successors and assigns.

THE PARTIES FURTHER AGREE that, the Original Easement Document, including the Option and the Option Period thereunder, is hereby fully terminated and withdrawn and that Grantee hereby quitclaims and assigns its rights thereunder to Grantor effective upon recordation of this Amended Easement Agreement.

IN WITNESS WHEREOF, Grantor and Grantee have hereunto set their hands and seals, as of the date first above written.

[signatures follow on next page]

GRANTOR: NNP BRIAR CHAPEL, LLC, a Delaware limited liability company

By: *Tanya Matzen*
Tanya Matzen, Vice President

STATE OF NORTH CAROLINA

COUNTY OF Wake

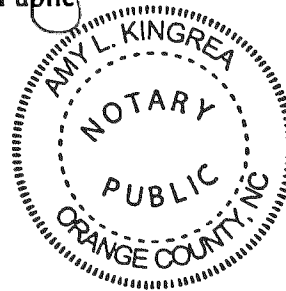
I, Amy L. Kingrea, a Notary Public of Orange County and State aforesaid do hereby certify that Mike Scisciani, Vice President for NNP BRIAR CHAPEL, LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company for the purposes therein expressed.

Witness my hand and official stamp or seal, this 4 day of February 2021.

Amy L. Kingrea
Notary Public

My commission expires: 6/23/2025

SEAL-STAMP



[signatures continued on next page]

GRANTEE: CHATHAM COUNTY, NC., a body politic and corporate of the State of North Carolina

By: [Signature]

Name: Mike Dasher

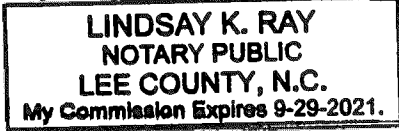
Title: Chair, Board of Commissioners

STATE OF NORTH CAROLINA

COUNTY OF Chatham

I, Lindsay K. Ray, a Notary Public in and for Lee County, North Carolina, certify that Mike Dasher personally came before me this day and acknowledged that s/he is Chair of CHATHAM COUNTY, NORTH CAROLINA.. a body politic and corporate of the State of North Carolina, and that by authority duly given and as a fact of such entity, the foregoing instrument was signed in its name by its Chair.

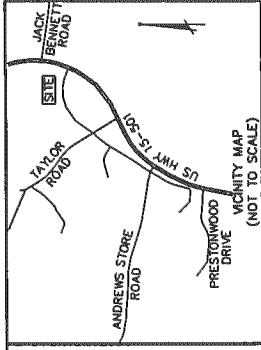
Witness my hand and official seal this 15 day of February, 2021.



Lindsay K. Ray
Notary Public

My Commission Expires: 09-29, 2021

SEAL-STAMP



I, DAVID S. CLARK, PLS. L-4729, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ORIGINAL SURVEY OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT SAID PROPERTY IS EXEMPT FROM THE SUBDIVISION REGULATIONS OF CHATHAM COUNTY BY DEFINITION. ANY LINES NOT ACTUALLY SURVEYED APPEAR AS DASHED LINES ON THIS PLAT. THE INFORMATION AS NOTED ON THIS PLAT THAT THE RATIO OF PRECISION AS CALCULATED IS BETTER THAN 1:10,000; THAT THE AREA UNDER THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-20 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER, AND DATE, THIS 21ST DAY OF FEBRUARY, 2021.



DAVID S. CLARK
PROFESSIONAL LAND SURVEYOR
L-4729

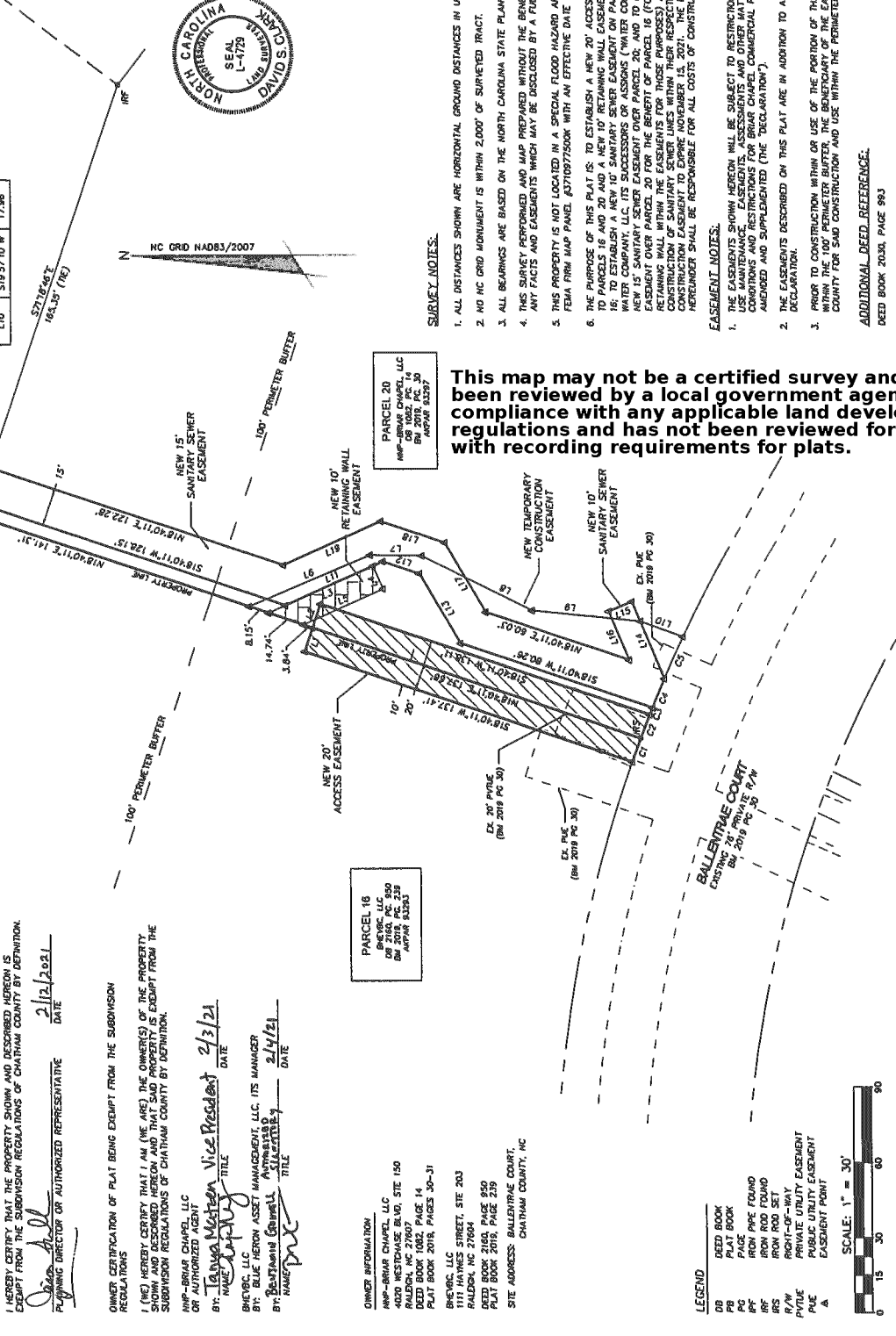
I, DAVID S. CLARK, PLS. L-4729, CERTIFY THAT THE SURVEY IS OF ANOTHER CATEGORY SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY, OR OTHERWISE TO THE DEFINITION OF A SUBDIVISION.

FILED Feb 12, 2021 09:48:47 am
PLAT SLIDE 02021 -- 0042
INSTRUMENT 02207

Line #	Direction	Length
L11	S24°02'25"E	42.86'
L12	S19°40'11"W	15.38'
L13	S59°36'17"W	32.18'
L14	N67°20'18"E	33.19'
L15	N22°39'42"W	10.00'
L16	S87°20'18"W	20.87'
L17	N59°36'11"E	32.18'
L18	N18°40'11"E	26.83'
L19	N24°02'25"E	42.86'

Line #	Direction	Length
L1	N71°19'49"W	10.00'
L2	S71°19'49"E	10.00'
L3	S54°02'28"E	45.83'
L4	S65°37'34"W	10.00'
L5	N24°02'28"W	34.99'
L6	S22°39'42"E	51.65'
L7	S00°50'34"W	20.52'
L8	S26°33'25"W	49.11'
L9	S05°32'30"W	43.23'
L10	S19°57'10"W	17.96'

Curve #	Radius	Length	Tangent	Chord Bearing	Ch. Length	Delta
C1	538.00'	10.00'	5.00'	S68°31'08"E	10.00'	0°01'03"55"
C2	538.00'	10.00'	5.00'	N68°47'11"W	10.01'	0°01'03"59"

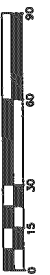


SURVEY NOTES:

- ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET (UNLESS OTHERWISE STATED).
- NO NC GRID MONUMENT IS WITHIN 2,000' OF SURVEYED TRACT.
- ALL BEARINGS ARE BASED ON THE NORTH CAROLINA STATE PLANE COORDINATE SYSTEM (NAD 1983/NAD83 2011).
- THIS SURVEY PERFORMED AND MAP PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THIS SURVEY IS SUBJECT TO ANY FACTS AND EASEMENTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.
- THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA. IT IS LOCATED IN ZONE "X", AS SHOWN ON FEMA FIRM MAP PANEL #2710972500K WITH AN EFFECTIVE DATE OF 11/17/2017.
- THE PURPOSE OF THIS PLAT IS TO ESTABLISH A NEW 20' ACCESS EASEMENT OVER PARCELS 16 AND 20 FOR ACCESS TO PARCELS 16 AND 20 AND A NEW 10' RETAINING WALL EASEMENT OVER PARCELS 16 AND 20. THE PLAT IS FOR THE NEW 15' SANITARY SEWER EASEMENT, NEW 10' RETAIL WALL EASEMENT, NEW 20' ACCESS EASEMENT, AND NEW 10' SANITARY SEWER EASEMENT. THE PLAT IS FOR THE NEW 15' SANITARY SEWER EASEMENT, NEW 10' RETAIL WALL EASEMENT, NEW 20' ACCESS EASEMENT, AND NEW 10' SANITARY SEWER EASEMENT. THE PLAT IS FOR THE NEW 15' SANITARY SEWER EASEMENT, NEW 10' RETAIL WALL EASEMENT, NEW 20' ACCESS EASEMENT, AND NEW 10' SANITARY SEWER EASEMENT. THE PLAT IS FOR THE NEW 15' SANITARY SEWER EASEMENT, NEW 10' RETAIL WALL EASEMENT, NEW 20' ACCESS EASEMENT, AND NEW 10' SANITARY SEWER EASEMENT.

EASEMENT NOTES:

- THE EASEMENTS SHOWN HEREON WILL BE SUBJECT TO RESTRICTIONS, CONDITIONS, COVENANTS AND PROVISIONS FOR SETBACKS, USE, MAINTENANCE, REPAIRS, REPLACEMENTS, AND REPAIRS FOR GREAT CHAPEL COMMERCIAL PROPERTIES, RECORDED AT BOOK 0081, PAGE 0001, AS AMENDED AND RESTRICTIONS FOR GREAT CHAPEL COMMERCIAL PROPERTIES, RECORDED AT BOOK 0081, PAGE 0001, AS AMENDED AND RESTRICTIONS FOR GREAT CHAPEL COMMERCIAL PROPERTIES, RECORDED AT BOOK 0081, PAGE 0001, AS AMENDED.
- THE EASEMENTS DESCRIBED ON THIS PLAT ARE IN ADDITION TO AND NOT IN LIMITATION OF ANY EASEMENTS DESCRIBED IN THE DECLARATION.
- PRIOR TO CONSTRUCTION WITHIN OR USE OF THE PORTION OF THE PARCEL 20 15' PUBLIC SANITARY SEWER EASEMENT LOCATED WITHIN THE 100' PERIMETER BUFFER, THE EASEMENT HOLDER MUST FIRST OBTAIN A WRITTEN FROM CHATHAM COUNTY FOR SAID CONSTRUCTION AND USE WITHIN THE PERMITTED BUFFER.



This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.

<p>REVIEW OFFICER CERTIFICATION</p> <p>STATE OF NORTH CAROLINA, COUNTY OF CHATHAM</p> <p>I, <u>David S. Clark</u>, REVIEW OFFICER FOR CHATHAM COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.</p> <p>REVIEW OFFICER: <u>David S. Clark</u> DATE: <u>2-12-2021</u></p> <p>BY: _____ TITLE _____</p>		<p>CERTIFICATION OF PLAT BEING EXEMPT FROM THE SUBDIVISION REGULATIONS</p> <p>I, HEREBY CERTIFY THAT I, AM (WE ARE) THE OWNER(S) OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT SAID PROPERTY IS EXEMPT FROM THE SUBDIVISION REGULATIONS OF CHATHAM COUNTY BY DEFINITION.</p> <p>PLANNING DIRECTOR OR AUTHORIZED REPRESENTATIVE: <u>David S. Clark</u> DATE: <u>2/12/2021</u></p>	
<p>OWNER INFORMATION</p> <p>NAME: <u>BNP-BRIAR CHAPEL, LLC</u> TITLE: <u>Vice President</u> DATE: <u>2/3/21</u></p> <p>BY: <u>David S. Clark</u> TITLE: <u>Surveyor</u> DATE: <u>2/12/21</u></p>		<p>OWNER INFORMATION</p> <p>NAME: <u>BNP-BRIAR CHAPEL, LLC</u> TITLE: <u>Vice President</u> DATE: <u>2/3/21</u></p> <p>BY: <u>David S. Clark</u> TITLE: <u>Surveyor</u> DATE: <u>2/12/21</u></p>	
<p>DEED BOOK</p> <p>PLAT BOOK</p> <p>PAGE FOUND</p> <p>IRON ROD FOUND</p> <p>IRON ROD SET</p> <p>RIGHT-OF-WAY</p> <p>PRIVATE UTILITY EASEMENT</p> <p>PUBLIC UTILITY EASEMENT</p> <p>EASEMENT POINT</p>		<p>DEED BOOK 2020, PAGE 983</p> <p>EASEMENT DEDICATION PLAT FOR BRIAR CHAPEL SD-WEST PARCELS 16 and 20 FOR NNP-BRIAR CHAPEL, LLC</p> <p>DATE: September 29, 2020 SCALE: 1" = 30'</p> <p>BALDWIN and WILLIAMS TOWNSHIPS CHATHAM COUNTY NORTH CAROLINA</p>	
<p>DATE</p> <p>REVISION</p>		<p>PROJECT # : 2735-0165</p> <p>PROGRAM : DSC</p> <p>DRAWING : BSC</p> <p>FIELD BK : 2224</p> <p>COMP. FILE : 16102-27350165.dwg</p> <p>SHEET # : 1 OF 1</p>	

DWG. # : 2021-42

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Raleigh, North Carolina 27608
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NC FIRM # F-1222
Internet Site: <http://www.mckimcreed.com>