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July 7, 2022

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

Via Hand Delivery &
Electronic Mail

RE: Waiver/Fee-in-Lieu Request by NNP-Briar Chapel, LLC: **Pedestrian Access
from Catullo Run to SD-West Section, Briar Chapel**

Dear Board of Commissioners:

This letter serves as a formal request by NNP-Briar Chapel, LLC (“Briar Chapel”) for a modification under the Compact Communities Ordinance (“CCO”) to allow Briar Chapel to pay a fee-in-lieu of constructing a greenway along Catullo Run and Taylor road to connect to the SD –West commercial area due to circumstances beyond Briar Chapel’s control. Briar Chapel has been one hundred percent committed to building a pedestrian access to SD-West along Taylor Road. However, after a recent review of approved plans, NCDOT has advised that it would prefer that the sidewalk not be built for reasons explained below. What follows is a summary of salient points related to this request:

REASONS FOR THE REQUEST

- The sidewalk was to be located along the route shown on **EXHIBIT A**.
- Although only a greenway or trail was required, Briar Chapel paid to design an approximately 3,300 linear foot sidewalk rather than a trail.
- Briar Chapel submitted the construction plans for the sidewalk as well as curb and gutter to NCDOT for Approval.
- NCDOT approved the construction plans and issued a signed Right of Way Encroachment Agreement on November 24, 2021 (copy, including construction plans, attached as **EXHIBIT B**).
- Prior to commencement of construction, Briar Chapel met with NCDOT representatives on-site whereupon NCDOT determined that the condition of Taylor dictated that constructing the curb and gutter and sidewalk would cause deterioration of the Taylor Road asphalt.
- NCDOT is not in a position to pursue a new asphalt overlay on Taylor Road that would be necessary to allow the sidewalk/curb and gutter project to go forward.

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- NCDOT prefers that the ditch/swale section be left in place for the longevity of Taylor Road rather than accelerating deterioration of the Taylor Road asphalt condition by installing curb and gutter.
- There is insufficient DOT right-of-way to install the sidewalk on the outside of the existing ditch/swale section.
- In addition there are utility conflicts that would necessitate tearing out sections of the sidewalk at a later time in order to install a County water line within the same right of way area.

BASIS FOR THE REQUEST

Section 12.1 of the CCO provides that “all commercial establishments shall be pedestrian-accessible to community residents.” Section 15 of the CCO allows requirements of a compact community to be “adjusted, modified, reduced or waived” with the approval of the Board of Commissioners.

OFFER OF VOLUNTARY FEE IN LIEU

Although the CCO modification/reduction provision in Section 15 does not require any fee-in-lieu, Briar Chapel offers payment of a voluntary fee-in-lieu in the amount of \$73,700.00 to the County which is the anticipated construction cost of the sidewalk. Briar Chapel has been entirely committed to installation of the pedestrian connection and had designed and permitted construction of the same. Given the unavoidable circumstances preventing construction, Briar Chapel would like to offer the cost of the sidewalk construction (\$73,700.00) to the County to be used in a way that it sees fit.

PROPOSED ORDER ATTACHED

Attached hereto as **EXHIBIT C** is a proposed Order of the Board of Commissioners allowing the relief requested which is hereby submitted to the Board of Commissioners for a vote either at its meeting August 15, 2022. This is to request of the County Manager that the request be placed on the Commissioners Agenda for the August 15, 2022 meeting.

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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
Chris Ferraguto