

**ORDER OF THE BOARD OF COMMISSIONERS
OF CHATHAM COUNTY
APPROVING WAIVER AND VOUNTARY FEE-IN-LIEU OF PEDESTRIAN ACCESS
ON CATULLO RUN/TAYLOR ROAD TO SD-WEST REQUEST OF NNP-BRIAR
CHAPEL, LLC PER SECTION 15 OF COMPACT COMMUNITIES ORDINANCE**

WHEREAS, Section 12.1 of the Compact Communities Ordinance (“CCO”) provides that “all commercial establishments shall be pedestrian-accessible to community residents”;

WHEREAS, Section 15 of the Compact Communities Ordinance allows requirements of a compact community to be “adjusted, modified, reduced or waived” with the approval of the Board of Commissioners;

WHEREAS, NNP-Briar Chapel, LLC (“NNP”), the developer of the Briar Chapel Master-Planned Compact Community (“Briar Chapel”) has fully designed and permitted a sidewalk connection to the SD-West commercial section of Briar Chapel along Catullo Run and Taylor Road (the “Sidewalk Project”);

WHEREAS, NCDOT had previously approved the Sidewalk Project and had issued a Right of Way Encroachment Agreement dated November 24, 2021 approving construction of the same;

WHEREAS, NCDOT and NNP have since jointly determined that construction of the Sidewalk Project would likely cause unnecessary deterioration to the integrity of the existing Taylor Road and that financially feasible alternatives are unavailable;

WHEREAS, NNP has requested the Commissioners to approve a waiver of the pedestrian access requirement to SD-West and has offered the anticipated cost of construction of the sidewalk (\$73,700.00)(the “Funds”) as a voluntary fee-in-lieu of the Sidewalk Project construction;

WHEREAS, the Briar Chapel Community Association, Inc. (“BCCA”), the property owners association for Briar Chapel, has filed a letter with the County Board of Commissioners seeking to have BCCA hold and administer the Funds in a segregated BCCA account to be applied by the Board of BCCA to projects within Briar Chapel that help to accomplish pedestrian-related and bicyclist-related goals of the CCO as well as other purposes set out in the CCO;

WHEREAS, NNP agrees with and supports the request of BCCA to have BCCA hold and administer the Funds in the discretion of the BCCA Board of Directors;

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 the pedestrian accessibility requirement along Catullo Road and Taylor Road;

WHEREAS, based upon the facts and circumstances considered by the Board of Commissioners and the language of Section 15 of the Compact Communities Ordinance, the Board of Commissioners has concluded to grant the requested waiver and to authorize NNP to deliver the \$73,700.00 voluntary fee-in-lieu to the Board of Directors of BCCA to be used within Briar Chapel to accomplish the purposes set out in Section 2(H) and other portions of the CCO; namely, to “establish a grid network of streets that provides multiple connections to different destinations, includes safe places for pedestrians and bicyclists to travel throughout the community, and allows for efficient transit service when and if it becomes available.”

WHEREAS, the requirements for granting the request, pursuant to Section 15 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 requested waiver and voluntary fee-in-lieu 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 NNP waiver and the voluntary \$73,700.00 fee-in-lieu payable to the BCCA, to be held in a segregated account and to be administered by, and at the sole discretion of, the Board of BCCA to effectuate within Briar Chapel the purposes set out in Section 2(H) of the CCO and other portions of the CCO is hereby granted.
3. Upon payment by NNP of the \$73,700 fee-in-lieu to BCCA, it is hereby ordered that any obligation of NNP to construct a greenway or sidewalk along Catullo Run and Taylor Road to connect the central portion of the Briar Chapel community to the SD East commercial area at the intersection of Taylor Road and US Highway 15-501 South, is hereby permanently waived. 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 ____ day of August, 2022.

CHATHAM COUNTY BOARD OF COMMISSIONERS

By:

Karen Howard,, Chair

ATTEST:

Lindsay Ray, Clerk to the Board
Chatham County Board of Commissioners
4876-5033-6047, v. 1