

..TITLE

Vote on a request to approve NNP-Briar Chapel, LLC, for a Compact Community Ordinance (CCO) Waiver for a 100% reduction of a 100 foot perimeter buffer adjacent to parcel #2832.

..ABSTRACT

Action Requested:

Request by Nicolas Robinson, on behalf of NNP-Briar Chapel, LLC, for a Compact Community Ordinance (CCO) Waiver for a 100% reduction of a 100 foot perimeter buffer adjacent to parcel #2832.

Introduction & Background:

NNP-Briar Chapel is requesting a waiver from the perimeter buffer requirements of the Compact Communities Ordinance as applied to Briar Chapel through the approved conditional use permit. Existing buffer locations were depicted in the 2005 Briar Chapel approved master plan and reconfirmed with the 2012 and 2014 Conditional Use Permit (CUP) amendments in the area where the elimination of the buffer is requested. The buffer for this request is located within an area along the project boundary south of the wastewater treatment plant (WWTP) on the approved master plan (copy of the currently approved master plan is attached). The specific request is to allow for 100% reduction of the perimeter buffer adjacent to parcel #2832 of approximately 496 feet.

Discussion & Analysis:

The Chatham County CCO includes the following standards:

9.2 Perimeter Buffers

Perimeter buffers shall be utilized to minimize the impacts of each compact community on adjacent properties along the entire perimeter of the compact community. Table 9.2 lists the minimum buffer width allowable, depending on the proposed land use along the edge of the compact community and the existing land use in the adjacent property at any point along the perimeter.

Chatham County may allow a reduction in the perimeter buffer width required by this ordinance of up to fifty percent (50%) if it determines that the impact of the compact community is adequately mitigated by community design or topography. In addition, Chatham County may allow a reduction in the perimeter buffer from fifty-one percent (51%) up to one hundred percent (100%) 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. A developer of a Compact Community may request of the Board of Commissioners such a waiver or reduction at any time.

Section 15. Waiver, “With the approval of the Board of Commissioners, the requirements of this ordinance may be adjusted, modified, reduced or waived based upon the absence of any reasonable relationship or nexus between the impact of the compact community development and the inclusionary or other requirements set forth herein.”

The request is to eliminate the 100’ buffer immediately adjacent to property currently owned by NNP Briar Chapel LLC (parcel #2832) to accommodate a road stub-out, additional residential lots, and sewer pump station (see attached drawings in the submittal materials. The cover letter references a waiver of the 100’ buffer along the shared boundary between Briar Chapel and the US Steele Tract, which was approved for a conservation subdivision. This waiver request was approved as part of the 2014 conditional use permit amendment and was not processed as a stand-alone request (refer to attached 2014 master plan) and there were no adjoining property owners affected by the perimeter buffer elimination.

The provision in section 9.2 allowing for the 100% reduction of the perimeter buffer reads: “In addition, Chatham County may allow a reduction in the perimeter buffer from fifty-one percent (51%) up to one hundred percent (100%) 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 cover letter does not indicate that neighboring property owners were contacted by the developer prior to submittal of the waiver request. There is also no explanation of how the request is “adequately mitigated by the community design or topography.” In particular, the road extension and pump station are located immediately adjacent to parcel #66186. It should also be noted that a portion of the 100’ buffer has already been cleared and a portion of an erosion control basin installed.

This waiver request is being submitted directly to the Board of Commissioners without review and recommendation by the Planning Board and follows the process outlined by the Board in a waiver request approved in August 2010. The waiver provision was used to modify a condition in the original conditional use permit in 2005. Additionally, requests in 2010, 2012 and 2016 were approved outside of the conditional use permitting process. A waiver request was submitted in 2015 and was ultimately withdrawn. A copy of the draft Order was provided to the County Attorney for review.

Recommendation:

Staff recommends denial of the waiver request for failure to address how the proposed elimination of the buffer, and subsequent infrastructure installation, is adequately mitigated by community design or topography.