

..TITLE

Vote on a request by Nicolas Robinson, on behalf of NNP-Briar Chapel, LLC, for a Compact Communities Ordinance (CCO) waiver for a perimeter buffer relocation from parcel #79946 to parcel #2715 to accommodate a school.

..ABSTRACT

Action Requested:

A request by Nicolas Robinson, on behalf of NNP-Briar Chapel, LLC, for a Compact Communities Ordinance (CCO) waiver for a perimeter buffer relocation from parcel #79946 to parcel #2715 to accommodate a school.

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, 2014, and 2017 Conditional Use Permit (CUP) amendments in the area where the relocation of the buffer is requested. The buffer location for this request is on the southwest corner of Andrews Store Road and Parker Herndon Road as depicted on the approved master plan (copy of the currently approved master plan is attached). The specific request is to allow relocate a portion of the 100' perimeter buffer from parcel #79946 to parcel #2715 and extend the 100' viewshed buffer.

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 relocate the 100’ perimeter buffer from parcel #79946 to parcel #2715 and also extend the 100’ viewshed buffer along the western property boundary (see map included with the waiver request). Parcel #79946 is part of the conditional use permit (CUP) issued for Briar Chapel; however parcel #2715 is not part of the permit and is zoned R1, Residential. The perimeter buffer requirement does not apply outside of the boundaries of the conditional use permit, which is the reason it has not been shown on parcel #2715 (see the 2017 master plan included as part of the recently adopted CUP amendment). Although the Compact Communities Ordinance (CCO) does not apply to parcel #2715, Newland Communities is requesting that the perimeter buffer be relocated to this parcel and agreeing to a restriction on the property. If the relocation is approved the perimeter buffer would become a viewshed buffer, however the standards are the same for both buffer types. The Chatham County School system has both properties under contract and the desire is to recombine them and use the property for an elementary school. The application of the perimeter buffer in the current location conflicts with the proposed school footprint. The architect for the school system has indicated that the building footprint cannot be adjusted in this location and the relocation of the perimeter buffer is necessary to properly site the building.

Although the request is to relocate the perimeter buffer to an adjoining property, it is technically eliminating the buffer within the conditional use permit boundary as shown the map included with the request. 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.” Letters were mailed to the property owners of the immediately adjoining properties where the buffer relocation is proposed

The 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, 2016, and 2017 were approved outside of the conditional use permitting process. Additional waiver requests were submitted in 2015 and 2017, but were ultimately withdrawn. A copy of the draft Order was provided to the County Attorney for review.

Recommendation:

Discuss the waiver and consider taking action on the draft Order prepared by the developer’s attorney.