



# Chatham County, NC

## Legislation Text

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**File #:** 17-2323, **Version:** 1

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Vote on a request to approve by Lee Bowman, Project Manager on behalf of NNP Briar Chapel, LLC for subdivision Preliminary Plat review and approval of **SD East**, consisting of 11 lots which includes 7 non-residential subdivision lots, 2 exempt over 10 acre lots, and 2 stormwater pond lots, located off US HWY 15-501, on 31.31 acres, Baldwin Township, parcel #18911

### **Action Requested:**

Request by Lee Bowman, Project Manager on behalf of NNP Briar Chapel, LLC for subdivision Preliminary Plat review and approval of **SD East**, consisting of 11 lots which includes 7 non-residential subdivision lots, 2 exempt over 10 acre lots, and 2 stormwater pond lots, located off US HWY 15-501, on 31.31 acres, Baldwin Township, parcel #18911

### **Introduction & Background:**

**Zoning:** Conditional Use District / Compact Community

**Water System:** Public, Chatham County

**Sewer System:** Private wastewater treatment plant

**Subject to 100 year flood:** No floodable area in SD East

**General Information:** Compact Community approved in 2005 for 2,389 dwelling units and commercial uses on 1.589 acres, permit revised in 2012 and 2014 and dwelling units increased to 2,500.

**Reviewed:** Briar Chapel is reviewed under pre-2008 Subdivision Regulations.

The 2014 revisions to the Conditional Use Permit, Item #5, Commercial Uses states "The commercial component of the development shall be limited to 510,000 square feet in the locations shown on the Revised Master Plan, and the commercial uses allowed within the development shall be all those uses now allowed or later added as allowed in December, 2008 Zoning Ordinance under Section 10.13 Table 1: Zoning Table of Permitted Uses under the Zoning District denominated as "O/I", "B-1", "NB", "CB", and "RB". Irrespective of whether such uses are shown as permitted or as requiring a conditional use permit.

### **Discussion & Analysis:**

The request before the Board is for preliminary plat approval of seven (7) non-residential subdivision size lots (Parcels 2A, 2B, 4, 5, 7, 8, and 9); two exempt parcels (over 10 acres in size) (Parcels 3 and 10); and two (2) stormwater pond lots (Parcels 1 and 6) on 29.20 acres located off Taylor Road, S. R. 1529 and US 15-501, Baldwin Township, parcel #18911. The request is for approval of the lots/parcels only at this time. The uses are not known at this time. Site plans for the specific uses will

be presented to the Planning Department for review of the lighting plan and signage prior to obtaining a building permit. Permitted uses are uses listed in the 2008 Zoning Ordinance list of permitted uses in the O/I (Office and Institutional); B-1 (Business); NB (Neighborhood Business); CB (Community Business; and RD (Regional Business) districts.

**Roadways:** The SD East Commercial area will be accessed by two entrances off Hwy 15-501. Per the cover letter, attachment # 2, the turning movements at the two entrances were required by the NCDOT as a synchronized street package prepared by Kimley Horn. See attachment # 2 for a description of the turning movements and a map of the turning movements, prepared by Kimley Horn is posted to the Planning Department webpage. An Encroachment Agreement and Commercial Driveway Permit have been issued for each entrance as part of the superstreet widening project for Hwy 15-501. A copy of the Encroachment Agreement for Curb and Gutter, Pavement Widening and Storm Drainage is included with the preliminary plat submittal. The internal roadway serving the lots is proposed as a 54 foot wide private right-of-way. The private r/w will be a portion of the individual parcels. Maintenance of the private R/W will be the responsibility of the developer and/or a commercial property owners association.

**Road Names:** The road names Market Chapel Road and Coharie Pines Drive have been approved by the Emergency Operations Office as suitable to submit to the Board of Commissioners for approval. The name Market Chapel Road will serve the two entrances off 15-501 and all other parcels except for Parcels 2A, 2B, and 3. The applicant has stated that Parcels 2A, 2B, & 3 may be recombined into one exempt, over 10 acre parcel in the future. Per EOC, if these lots/parcels are recombined, and the road name, Coharie Pines Drive, is not required to be used in SD East, the road name could be used elsewhere in the Briar Chapel Development in the future.

**Site Plan:** The pre-2008 Subdivision Regulations states in part in Section 6.4 C (3) "Properties reserved or platted for commercial, institutional or industrial purposes shall be adequate in size to provide for the type of use and development contemplated.....Land subdivided for commercial, institutional or industrial use shall follow the major subdivision procedure with preliminary plat review by the Board of County Commissioners. Land shall not be platted for commercial, institutional or industrial purposes unless the subdivider can demonstrate the following to the Board of County Commissioners:

- A. A site arrangement that prevents undue interference with through traffic.
- B. An integrated parking area.
- C. An insulation against any adverse effect on any present or future adjacent residences.
- D. A parcel size sufficient in area to allow future expansion.
- E. A plan that demonstrates that the first ½ inch of storm water runoff will be managed on site, if more than six (6) percent of the lot area is covered with impervious surfaces such as buildings, parking, and drives."

Attachment # 3 is a general site plan prepared to demonstrate that the proposed lots will have adequate access; adequate internal traffic flow; that there is sufficient area for parking; that the 50' wide viewshed buffer along Hwy 15-501 and the 300' foot wide perimeter buffer adjacent to Fearington Village and the Betty Stallings properties will insulate against any adverse effect on present or future owners; and that the parcel size will allow for future expansion. Parcel # 10 of

12.78 acres has a limited area for development due to the required buffers and shape of the property. A stormwater management plan for SD East was approved by NCDWR on July 5, 2017. The Briar Chapel development, including all residential and non-residential lots, is limited to 24% impervious surface coverage. Per the Impervious Surface Summary submitted with the preliminary plat application, SD East is proposed to have a maximum of 869,458 square feet / 19.96 acres of impervious surface coverage. The updated summary states that the project is proposed to have 23.01% overall coverage at build-out. Prior to obtaining building permits on any of the lots, the owner/developer will present a specific site plan for review by the Zoning Administrator for review of the lighting plan, signage, and adequate parking for the proposed use(s).

Staff recommends the final plat(s) include a note regarding cross access easements for all parcels. Per the cover letter, dated July 19, 2017, there will be no pedestrian access to SD East from Briar Chapel by way of 'sidewalks, greenways, paths or trails' due to development of the synchronized street plan for 15-501 in order to keep traffic moving; however, all commercial components will have sidewalk accessibility between and among the commercial elements of SD East.

**Permits:** Other agency permits required for preliminary plat approval have been received which include Chatham County Erosion Control, USACOE 404 Permit, NCDEQ Water Quality 401 Permit, NCDEQ DWQ Wastewater Collection System Extension Permit, NCDEQ DWQ Wastewater Treatment/Reclaimed Water/Spray Irrigation System, Chatham County Public Works Water Plan, NCDEQ Water Main Extension Permit, NCDEQ Authorization to Construct/Water System, and Stormwater Management Plan. The permits can be viewed on the Planning Department webpage at [www.chathamnc.org/planning](http://www.chathamnc.org/planning) <<http://www.chathamnc.org/planning>> , Rezoning and Subdivision Cases, 2017.

**Water/Sewer:** County water is available and will be utilized. Sewer service will be provided by the Briar Chapel WWTP.

**Historical / Archaeological:** Per the application, there are no cemeteries or structures eligible for the National Register within the project area of SD East nor any structures or cemeteries 50 years old or older.

**Conditional Use Permit Stipulations:** The applicant has provided an update on the 2014 Conditional Use Permit stipulations. See attachment # 4. As stated in the cover letter dated July 19, 2017, Conditions #11 and #14 G of the 2014 CUP Revision have been addressed in the final review of SD West, Lots A & D.

**Water Features:** The preliminary plat Overall Site Plan shows several water features. A portion of these features will be located within the individual parcels/lots. Staff recommends that the final plat (s) label the width of the riparian buffers and show the 10 foot no build area as required. There are two retaining walls shown on the preliminary plan. Both are shown located outside the 10 foot no build area along the streams as required.

**Stormwater:** There are two stormwater ponds shown on the preliminary plat, Parcel 1 and Parcel 6. Per Rachael Thorn, Water Quality Supervisor, the final plat needs to include the required stormwater note, approximate location of the stormwater BMP (using existing top of bank), label the stormwater

easement 'Private'; and specify the entity responsible for maintenance. During discussion of the request at the July 12, 2017 Technical Review Committee meeting, Ms. Thorn emphasized that the Compact Community Ordinance, the Chatham County Stormwater Ordinance, and the 2014 CUP Revision all require a stormwater management plan to be approved by the County Stormwater Administrator prior to approval of a preliminary plat for each phase of the project.

**Fire Department Review:** Prior to a building permit being issued for a structure, the Fire Marshal will review and approve the plan which will include fire hydrant placement and emergency vehicle access to the structure.

**Technical Review Committee:** The TRC met on July 12, 2017 to review the request. The discussion included emergency vehicle access to structures, access off Hwy 15-501 and turning movements, submittal of stormwater plans to Chatham County for review and approval, possible future recombination of lots to accommodate end users, and cross access easements for all parcels.

The Planning Board reviewed the request on August 1, 2017. Lee Bowman, Project Manager and Laurie Ford, Senior Vice President with NNP Briar Chapel were present to represent the developer along with Richard Adams, Kimley Horn, and Nicholas Robinson, Attorney-at-Law. Mr. Meyer Liberman was present to represent 131 Fearington Village residents. The Planning Board discussed the request and had concerns / questions regarding whether there would be single family residential use; sewer connection; riparian buffer widths & stream classification; would the two (2) retaining walls proposed interfere with flow of streams; that the stormwater plan was not sufficient to treat the amount of stormwater generated by the commercial development; review of the stormwater plan by the Chatham County Stormwater Administrator; impervious surface coverage; that pedestrian access from the Briar Chapel development, by way of sidewalks, greenways, paths or trails, is required to the commercial components of the development; trails from Fearington Village; and turning movements on access roads. Mr. Liberman spoke and stated that he represented 131 residents in Fearington Village and they had concerns regarding reduction of property values; the 300 foot wide viewshed buffer along the common boundary is not sufficient to buffer the Fearington residents due to topography of the SD East property; noise and light pollution; and that the developer should provide additional plantings along the common boundary. Ms. RoseMarie Roth a resident of Fearington Village could not attend the meeting but provided an e-mail to the Board members stating her concerns which included: significant safety and quality of life issues, and light and noise pollution due to increased population density and highway traffic. Ms. Roth stated in her e-mail that in the past the developer had offered to install a fence between the development and the boundary lines of Phases I & II of Fearington Village to protect community privacy and quality of life by dampening highway noise. Ms. Roth stated that the proposal for a sound proof-fence along the border of the affected areas of Phase I and II should be resurrected in order to ensure that the Newland development of the adjacent property not degrade the areas of adjacent Fearington Village properties and that the speed limit along 15-501 N be reduced to 45 mph for public safety. See posted e-mail dated August 1, 2017.

Mr. Robinson addressed the Board and stated that there would be no single family residential use on

the SD East property, but that there may be multi-family use such as apartments or condominiums since that use is considered commercial; that the sewer would be pumped under 15-501 to the private wastewater treatment plant; that riparian buffer widths and stream classifications would be shown on the final plat; that the placement of the retaining walls will not degrade the existing streams; that a stormwater permit had been issued by NCDEQ to treat the first 1" of stormwater; that the stormwater plans had been submitted to the Stormwater Administrator for review; that the impervious surface proposed would be distributed over the nine (9) lots as needed; that the 2012 and 2014 Conditional Use Permits both state that pedestrian access shall be made to SD West, which has been provided, and that pedestrian access cannot safely be made from Briar Chapel proper to SD East across 15-501 N.

Mr. Adams addressed the Board and stated that he did not know if there were trails within Fearington Village that could provide access to SD East and explained the turning movements of the two entrance points onto 15-501 N.

After the Planning Board meeting, a Planning Board member questioned whether Lot 3 of 14.48 acres is an exempt lot by size, as previously stated by staff, since the access road, Market Chapel Road was labeled as a private right-of-way. Staff reviewed the Definitions and Exemptions in Chapter 7 of Land Use Law in North Carolina which states in part "The statutory definition of a subdivision also includes the following four exemptions:

2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved".

Chapter 7 goes on to state "If all lots created by a subdivision exceed ten acres and there is no public right-of-way dedication involved, the subdivision is exempt from any and all county subdivision regulation". It is staff's opinion that Lot 3 is an exempt lot because there is no public dedication of right-of-way.

The Chatham County Stormwater Administrator, Brian Burkhart, reviewed and approved the stormwater plans and calculations on August 25, 2017.

**Recommendation:**

The Planning Board by a vote of 8-2 and the Planning Department recommend granting approval of the road names *Market Chapel Road and Coharie Pines Drive* and recommend granting preliminary plat approval of **SD East** with the following conditions:

1. The final plat(s) shall include a note regarding cross parking easement for all parcels.
2. The final plat(s) shall include the width of the riparian buffers and label the 10 foot no build area.
3. The final plat shall include the required stormwater note, approximate location of the stormwater BMP (using existing top of bank), label the stormwater easement 'Private'; and

specify the entity responsible for maintenance.

4. The County Stormwater Administrator shall review and approve the stormwater management plan prior to construction or installation of infrastructure pursuant to condition #4 of the conditional use permit. *(This condition has been met)*