



**Planning Board**  
**Regular Planning Board Meeting Minutes**  
**February 26, 2019 - 6:30 PM**

**Town Hall**

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**A. Call to Order/Roll Call**

The Chairman determined quorum, and opened the meeting.

Members Present: Jennifer Davis, Chairman, Stephen Swanick, Vice Chairman, Hal Bankirer, Catherine Graffy, Frank Gammon, Scott Hensley, Joe Sailers, and Susan Thomas.

**B. Approval of Minutes**

**B.1. Consider approval of the January Minutes**

J. Sailers made a Motion to Approve, and S. Hensley seconded the Motion. The Motion carried unanimously (8-0).

**C. Public Comment**

The public comment period was opened at 6:32 p.m., and closed. There were no individuals signed up to address the Board on non-agenda items. The public comment period was reopened at 8:59 p.m. and ended at 9:05 p.m. (see Item D.5.).

**D. Action Agenda**

**D.1. R18-16: South Huntersville Commercial Center, a request by Joseph Logano to rezone +/- 4.471 acres located at the intersection of Mt Holly-Huntersville Road and Center Lane from Corporate Business to Highway Commercial**

S. Hensley requested to be recused from participation. S. Swanick made a Motion to recuse, and F. Gammon seconded. The Motion carried unanimously (7-0).

Brian Richards, GIS Administrator, presented the request to rezone the property, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference. Staff explained the request with a brief history of the property and zoning. The proposed rezoning will allow for all uses permitted in the Highway Commercial (HC), which is more in line with existing business in the development. Staff noted the current businesses located in the development, and the cell tower located on 107 Center Lane, which will become a legal nonconforming use if the property is rezoned. The tower can remain, and the equipment can be repaired and replaced. Staff recommends approval.

Members raised concerns about the future commercial development, the cell tower, and the parcels listed in the application. Staff noted commercial plans are reviewed and approved by staff. The cell tower itself (frame structure) cannot be modified, but the equipment on the cell tower can be replaced for current technologies. Staff explained that Mecklenburg County has eight (8) tax parcels

identified for the five (5) lots within the development. All tax parcels are zoned the same.

H. Bankirer made a Motion to Approve as it is consistent with Policies ED-1 and 2 of the 2030 Community Plan. It is reasonable and in the public interest to approve the rezoning, because it is in line with the adjoining properties, and brings consistency for all five (5) parcels. S. Swanick seconded the Motion.

Comments after the Motion included that the rezoning gives flexibility for the future businesses in the development. Another concern was raised about a boundary line gap to which staff noted it is a mapping error, and the gap does not exist. Staff further identified all property lot lines, and clarified that Lot 3 has three (3) separate tax parcels.

The Motion carried unanimously (7-0).

S. Swanick made a Motion for S. Hensley to return to the dais, and J. Sailers seconded the Motion, which was unanimous.

**D.2. TA18-11: A request by Bank of America, N.A. to amend Article 3.2.9(c) Corporate Business District, Permitted Accessory Uses to Increase Multi-Family in CB.**

Meredith Miller, Senior Planner, presented the request and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B, and incorporated herein by reference. Staff gave a brief history of the ordinance, and noted, as written, it is only applicable to the vested area of the Huntersville Business Park (“The Park”). The proposal is to increase the gross acreage allowed to be single family or multi-family housing developments from 8% to 10%, and increase the number of residential developments from 2 to 4. Staff reviewed population projections, and unbuilt residential inventory. Staff stated that the request is not in keeping with Policies ED-1 and 2 of the 2030 Community Plan, and Object #1 in the Strategic Economic Development Plan (“SEDP”). Staff recommends denial.

Susan Irvin, Attorney at Law, spoke to the Board on behalf of the applicant, Bank of America, Trustee for the Pension Plan. She noted the 8% allowed now is 51 acres, and has currently used up 33 of those acres, leaving 18 acres available for development. The remaining tracts were noted and described, including topography, and challenge of use for commercial development. The proposal is to complete development in The Park. The 2030 Community Plan and the SEDP are broad, and can support the text amendment. There are provision in both plans that support residential around an employment center, which is an important part of both plans. Having the flexibility in adding another project in The Park such as townhomes or different type of multi-family will increase the quality of the development and bring a higher price to the participants in the Pension Plan.

Members raised questions concerning the remaining acreage, previous sales and demand, and the challenge of the lots identified. Addison Causey, Trustee of the Bank of America Pension Plan (applicant), responded to the Board, and informed of the marketing and sales of The Park over the past 30 years. There are

approximately 65 companies located in The Park who have bought and built space, and more when counting leases. The Park began as an industrial park with large buildings on flat parcels of land into a multi-dimensional horizontally mixed use development; i.e. hospital, research and technology, aerospace, office space. Mr. Causey described the lots and the challenges of topography, streams and wetlands, limitations, all of which creates difficulties for developing the lots for commercial use. The Park is looking to adjust the ordinance for more capability with multi-family above the 51 acres, and with a couple more projects to market one or two sites for this use. The Park will be flexible in tweaking the proposed ordinance in a way that is positive for The Park and the Town. Mr. Causey commented on sales and the northern two parcels, which are not multi-family sites due to size and would not be considered by any reasonable multi-family developer for a significant project. The southern parcels are best suited for multi-family. A concern about the parcels being topographically challenging for commercial use versus multi-family was raised, and Mr. Causey noted the parcel could be used for small office, but no interest from small office developers have shown an interest in these sites. The high cost for building small office space is not supported by rents in today's market place, especially with the added site cost for grading, etc. Mr. Causey described the current rents, costs, and footprints for smaller buildings and pads, and parking lots. Light industrial, flex and warehousing types are the interest in The Park, not office or medical office. For those types of facilities it is needed to have larger flat, rectangular parcel to support large buildings with 60-80,000 square feet, parking, and truck access. Mr. Causey described the sites in The Park and the Scandinavian companies who look and have purchased property in The Park.

Member questions to the applicant were made about restricting the percentage in the proposed amendment, without the additional two development sites, and staff added the amendment cannot be restricted to any certain parcel(s). Mr. Causey noted they are open to some adjustment. Another question was if the property would be workforce housing to support the businesses in The Park, to which Mr. Causey noted the property would be marketed to a multi-family developer. Regarding the current two (2) multi-family sites, The Park cannot control who leases the apartments, and does not know a percentage of leasees that work in The Park, but they are consistently full. Mr. Causey was asked how many lots are currently empty and undeveloped, to which he responded that there are a number of lots that have been sold and not yet built upon, which he further described locations and facilities. It was noted that the property owners could not change use without approval of the Property Owners Association and Town. The concern was expressed for the chance that the amendment, if approved, could apply to other undeveloped lots, and Mr. Causey noted that the amendment cannot be specific to particular lots, and the lots previously sold are not for multi-family developments. Concerning the housing inventory, staff indicated that the total multi-family units in The Park are built out, and the total for the Town is 2768 approved unbuilt units, some of which are age restricted (478). Staff reiterated the numbers for the residential inventory. There were no further questions.

S. Swanick made a Motion to Deny based on the amendment being inconsistent with ED-1 and 2 of the 2030 Community Plan. It is not reasonable and in the

public interest to amend, because it does not serve the community to downsize the limited commercial districts. S. Hensley seconded the Motion.

Discussion after the Motion included the maker's comments about compromising but not being able to limit the proposal to certain parcels. Another member added the objective in SEDP was included in staff's recommendation to deny, and read paragraph 1.d in its entirety ("Preserve Non-Residentially Zoned Land"), and requested its inclusion into the Motion, which was accepted as an amendment to the Motion to Deny by S. Swanick, and seconded by S. Hensley.

It was expressed that this should be allowed The Park, based on the stewards of the land and responsibility demonstrated to date, including location. If approved it could entice businesses and help existing businesses in The Park by providing housing opportunities for employees. It was also expressed to give latitude to The Park for at least one more site for multi-family without expanding the percentage. The amendment will further support the live and work relationship that was the original attempt of the ordinance.

The Motion to Deny was a split vote (4-4), with Swanick, Hensley, Davis, and Gammon in favor, and Bankirer, Graffy, Sailers and Thomas opposed.

Further member discussion included another Motion for consideration, and H. Bankirer made an Amended Motion to Approve. In considering the proposed amendment, TA 18-11, to amend Article 3.2.9(c) of the Zoning Ordinance, the Planning Board recommends approval of the amendment but finds the request inconsistent with Policies ED-1 and 2 of the 2030 Community Plan, and Object 1 of Management of Real Estate and Assets of the Strategic and Economic Development Plan. Therefore, we amend Ordinance 3.2.9(c) to increase the number of multi-family units from two (2) to three (3), taking into account the changed conditions in recommending approval; 1) full occupancy of the existing multi-unit dwellings in The Park, and 2) the ability not to increase the use of commercial property for residential use. It is reasonable and in the public interest to amend the Zoning Ordinance, because it provides the potential for jobs, provides support for a live and work environment within The Park, and 3) make use of the available land for completion of The Park, which supports Huntersville's reputation as a good place to do business. J. Sailers seconded.

It was mentioned that the Motion did not have a percentage. Staff noted that the Motion needs to clarify how the Policies that were found inconsistent are to be amended in the 2030 Community Plan. H. Bankirer added to his Motion to insert after the word *amend* the 2030 Community Plan, this is supported by Policy CD-1 and 3, and H3. The recommendation is 2 to 3, and 8%. J. Sailers seconded the Amended Motion. H. Bankirer commented that The Park has been great for the Town, for the citizens, and its occupants. The members again expressed their opinions in support and in opposition of the amendment.

The Amended Motion carried (7-1), with S. Swanick opposing.

**D.3. TA19-02 - A request by the Planning Department to modify Article 4 to allow Metal Paneling on Workplace Buildings**

Bradley Priest, Senior Planner, presented the request, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference. Staff noted that in 2014 the Highway Commercial (“HC”) building types were changed to allow Aluminum Composite Material (ACM). The need to allow the same type of material is being requested on workplace buildings. Staff recommends the amendment.

Member discussion and questions included current building facades with ACM, the 30% allowed, and colors. Staff indicated the ordinance for HC building types has worked well. The Town does not regulate colors. The 30% is for an accent to the building, and not a predominant material. ACM will be used more with the industrial and office type workplace building.

C. Graffy made a Motion to Approve based on the amendment being consistent with Policies CD-6 of the 2030 Community Plan. It is reasonable and in the public interest as it allows greater flexibility in commercial building design while maintaining the historical architectural building design of the Town. J. Sailers seconded the Motion. The Motion carried unanimously (8-0).

**D.4. Multi-building site - Northchar Lot 1 Flex Space, is a proposal for a multi-building site consisting of three (3) buildings on one lot of record, to accommodate 26 condominium units of flex/office space at 380 Seagle Street**  
Bradley Priest, Senior Planner, presented the request, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit D, and incorporated herein by reference.

**The Chairman called a recess at 8:18 p.m., and called the meeting back to order at 8:25 p.m.**

Staff continued presentation of the request, and noted the subdivision was previously approved by Mecklenburg County in 1989, and is vested. The developer will not have to do a Traffic Impact Analysis (“TIA”), no Urban Open Space is required, and no sidewalk or street trees are required. The proposal is for an office flex warehouse; one side of building will have parking with entrances for offices, and on the other side will be areas for trucks with rollup doors and warehouse space. The applicant is proposing to condo the units. Staff explained the site plan review process. Outstanding issues include tree mitigation, buffer, landscaping and lighting. There is also a sanitary sewer easement that the Town will grant to the applicant to access, which is not yet finalized. A new plan was submitted by the applicant with a note on the plan stating that mitigation is required, but none was proposed. Staff provided mitigation calculation in the Staff Report. Mecklenburg County has not yet reviewed the updated plan for storm water comments. Tree save along Seagle Drive was reduced. Elevations were shown to which staff has no outstanding comments. Staff recommends deferral until all elements are finalized. Staff explained the option of approval with conditions.

Members discussed the timeline, and if the deficiencies have been discussed with

the applicant by staff, and the TIA that is not required. Staff confirmed discussions with the applicant, who has requested to move forward. Staff will contact the Transportation staff for an estimate of traffic impacts (count trips) resulting from the development, but without a TIA staff does not have the ability to measure capacity of intersections. Jack Simoneau, Planning Director, commented and explained a Town wide TIA. A concern was expressed about the elements of the plan, and what is not required by the (vested) subdivision. Staff clarified the current ordinance and vesting was explained. It was requested for a list of such elements that are vested that members did not need to look at, versus a long list of elements to look at. Another concern about tractor trailer traffic was raised for accessibility to and inside the site, and staff noted that Public Works and Engineering, and the Fire Marshall will review the site plan. Transportation has not had any major comments.

S. Thomas made a Motion to Defer to March 26, 2019, to allow time to address comments, including the proposed tree save mitigation, storm water issues and the easement, and any other minor outstanding comments. S. Swanick seconded the Motion.

The Chairman called the applicant. Richard Tucker with Site Tec, spoke to the Board, and indicated that a deferral is not a problem. He explained the tree save in the buffer area, plus a BMP. They will mitigate with enough trees to make the buffer realistic. They will accommodate staff with whatever is needed. The traffic pattern has been reviewed with both the Fire Marshall, and Engineering.

The Motion carried unanimously (8-0).

**D.5. TA19-01: A request by the Planning Department to consider amending Articles 3.2.1 and 9 to allow Driving Ranges in Rural**

Bradley Priest, Senior Planner, presented the request, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit E, and incorporated herein by reference. Staff addressed the questions coming from the public hearing on February 18, 2019 (lighting, other qualifying parcels and parks, and removing parcels along boulevards). Staff modified the language for lighting and hours of operation to match. Staff recommends denial of the amendment. Most communities surveyed do not allow commercial use in the (lower) residential zones. The lighting proposed is not appropriate in the lower intensity areas, and not consistent with Policy E4 of the 2030 Community Plan. If the Town Board wants to allow the use at this specific location, then a Special Use Permit (“SUP”) should be used.

The Chairman called the applicant. David Jarrett, Jarrett Engineering, spoke on behalf of the petitioner, and noted they have no problems with text amendment, as written.

After staff’s presentation, and the applicant’s comments of Item D.5., the Chairman called the following individual for public comment:

Ben Bragg (16425 McAuley Road, Huntersville), stated the area is a conservation area, and noted his opposition to the text amendment and rezoning. In the

beginning of the process they did not oppose the project, but the more reading of the Staff Report, the more opposed. Mr. Bragg described the surrounding area, with nine (9) land owners giving development rights for conservation of 750 acres. Mr. Bragg noted that he believes in growth and development, and the project may be fantastic, but suggested the need open land. This is a special place, and this land will never change (McAuley Road). There is a lot of rural land around the area. There are 2 types of land; land that will be preserved and land that won't. This land will be preserved, and the land that won't will be developed to an area like Charlotte. Mr. Bragg described where he grew up in Ballantyne on a 25 acre farm with no traffic on the roads. The lights on the site will be pointing sideways and on until midnight, which is not consistent with the Rural designation. Mr. Bragg opposes.

Members discussed and questioned, 1) The lighting and foot candles, and staff explained lighting levels, and why 15 is appropriate level. 2) The other 30 parcels in the Rural district that could be used for this purpose. 3) A concern of spot zoning was raised, and staff recommended a special use permit. 4) The language paragraph 2f, to reduce glare, and staff clarified the meaning, that Town Board may modify *a* through *e* as long as modification is consistent with the intent of the ordinance. 5) Use "*at*" instead of *after 11 p.m.* 6) Paragraph 2d, it was suggested that the language for foot candle consistency (limited light trespass to the maximum extent possible) be modified, if needed. Staff prefers lighting to be shielded and pointed to not have glare, which can be enforced. 7) Should Article 7.5 be updated to support paragraph 7, and staff noted the different options in 7.5 for buffers and opaque screening, and concluded it could just say "opaque screen". 8) Ordinance requirements for buffers for this purpose. Staff noted that 7a will allow modifications by the Town Board for less than 50'. Jack Simoneau noted that if rezoned Special Purpose to allow a driving range the buffer required is 80' and opaque.

Staff was requested to summarize their reasons for denial, and staff stated, 1) it is a commercial use and not appropriate for the zone, and 2) the specific request and needs for the lighting, and how the lighting requested would be inappropriate in a low intensity rural residential zone.

A follow up question to paragraph 9 was made, and staff responded the accessory retail is for a snack shop, and noted that pro shops are not allowed in that zone, along with food trucks.

S. Hensley made a Motion to Deny based on the amendment being inconsistent with Policy E-4 of the 2030 Community Plan. It is not reasonable and in the public interest to amend the Zoning Ordinance because it is not consistent with the intent of the zoning district. F. Gammon seconded the Motion.

H. Bankirer requested a modification to the Motion in addition to the lighting (Policy E-4) that it be added the various inefficiencies as noted in the Staff Report, and SUP plan. Staff noted the hesitancy to combine discussion of the SUP since it is quasi-judicial, and staff recommends to keep the SUP separate. H. Bankirer commented that the text amendment is driven by all findings listed and form the basis for the verbiage in the text amendment. Members commented

with opinions of the text amendment, driving range, zoning, and location. Staff noted that a SUP stays with the property and future use has to conform with the SUP, unless withdrawn and removed. The request before the Board is for a text amendment to allow the use with a SUP. H. Bankirer restated his modification to the Motion, as follows: adding that the lighting will not be lit any later than midnight potentially on surrounding properties and wildlife; the existing vegetation buffer of 50' is not in strict compliance with the Ordinance, and poses a problem for surrounding properties; that golf balls may cross into adjacent properties or a public street to potentially causing a safety issue and annoyance; and there should be a finding of fact by the applicant about the golf balls as part of a justification for this item in the text amendment (paragraph 8). S. Hensley accepted the amendment to the Motion, and J. Sailers seconded the Motion. Opinions concerning the Motion to Deny were expressed as the use in the text amendment is not compatible in the Rural zone, and comments were made in favor of the amendment with a SUP, because the location for the SUP is next to a park, and the specific land is being repurposed as a viable opportunity. Questions of the 50' buffer were raised, and the language clarified by staff to allow the Town Board flexibility "as each property is unique". A concern was further expressed that this text amendment was tailored to this particular application, and opens up to 30 additional parcels within the Town.

The Chairman called for a vote. The Motion failed (2-6), with Bankirer and Hensley in favor.

S. Swanick made a Motion to Approve, based on the amendment being consistent with ED-1 of the 2030 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance, because this location adjacent to an existing park and few residences is an ideal spot for a driving range, and the Ordinance should encourage that sort of development; however, by moving through this process of requiring a Special Use Permit, we insure the Town has final control to prevent undesirable, unrestricted development. F. Gammon seconded the Motion.

Members discussed the Motion to Approve, and F. Gammon asked for clarification of the Motion. S. Swanick restated his Motion to Approve, as follows: It is reasonable and in the public interest to amend the Zoning Ordinance, because certain locations adjacent to existing parks and residences may provide an ideal spot for driving ranges, and the Ordinance should encourage such developments; moving it through this process of allowing with a SUP we insure the Town has final control to prevent undesirable, unrestricted development in specific locations. F. Gammon seconded.

Members further discussed the restated Motion to Approve, and expressed opinions of chipping away at the rural areas, and if approved there will be 30 additional places that can support driving ranges and par 3 courses in the Rural district.

The Motion carried (6-2), with Bankirer and Hensley opposing.

**D.6. SUP19-01: NC-73 Driving Range, a request submitted by the property owners of 16715 and 16401 Davidson-Concord Road for a special use permit**

Bradley Priest, Senior Planner, presented the request, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit F, and incorporated herein by reference. The text amendment allows driving ranges with the issuance of a Special Use Permit ("SUP"). Staff described the application, and property immediately east of Bradford Park on NC73. The requirements and findings of fact are in the Staff Report. Staff's concerns: the lighting plan submitted, including light levels over 15 footcandles; lighting on after 11:00 p.m. is not consistent with the adjacent park; the plan shows 30' buffers and staff recommends 50' buffers; the plan does not address the golf balls leaving the property (no netting on plan); staff is not clear on the lighting plan submitted. Staff reviewed the site plan issues as written in the Staff Report, which included no tree survey for tree save purposes was provided, the issue for a 50' buffer, and evergreen tree screening on Davison-Concord Road and NC73. There is a question about the historic home, and staff recommends that that property be left out of the SUP. NCDOT has not yet approved the driveway, and its location. Septic availability is unknown. The applicant is estimating existing trees and the amount to remove. Staff explained the tree save requirements in Rural (canopy, and specimen trees). The pond and tree save issue was raised by a member. The Chairman asked if the applicant would accept deferment because of the outstanding issues to address.

David Jarrett, with Jarrett Engineering, stated that the applicant was going through the rezoning process, and was asked by the Town Board to do something. The applicant feels they are 60 days behind now. If deferred, there are bank and lenders set up and ready to close next week. If delayed or deferred, they have lost the season and the economics would hurt. Everything would need to be in by July, or they lose this year and would not be able to open until next July. They would want to push forward and address all questions and concerns and move to an approval. Mr. Jarrett addressed the pond. It has not been sized, and hopes it will shrink down along the line. They are 45-55% tree gone/tree saved. They intend to meet the ordinance. Once this is approved they will go through the process for a tree survey. The pond is still up in the air. Mr. Jarrett addressed the footcandles, with a maximum of 30 something, and the average is 24 on the range and 13 as you get further out, and cannot get to the maximum of 15. Mr. Jarrett explained the top tracer system; to see the golf ball for the first 100' into the air. It is proposed to have 40' tall lights that shoot out. The ball has to be tracked. The area to the north will be a regular driving range that needs to be lit for night, but not to the maximum levels on the south. The exposure is being limited. All lights will be focused away from NC73 to minimize glare and impact to traffic, and toward the end of the driving range. A 30' buffer is proposed. Highway Commercial zone allows 30', and Special Purpose is 80'. With the surrounding uses (conservation land, ballpark), the applicant feels it is the best protection of the lighting for the property. The lights comes with shields, but they will point out. The intent now is to have 9-10 bases for the top tracer. From the stations behind the tee boxes, the distance is approximately 240 yards to the yellow line shown, and to the end of the driving range it is about 300 yards.

The members raised questions with staff. 1) Lighting with 15 footcandles will be noticeably different from the adjoining park, and staff responded that there is vertical lighting with different calculations, orientations and levels. Most levels

are measured at ground level, and there is a different measuring system with this plan.

David Jarrett commented that the applicant cannot meet the maximum 15 footcandles limit, and need a plan approved to modify based on the location of the site. The adjoin property uses 50-70 candles. The applicant is not asking for that much, with an average at 24 on the first 50' yards of the tee boxes. The lighting is necessary to tract the ball.

S. Swanick made a Motion. In considering the SUP, the Planning Board finds that the request does not meet the required conditions and specifications, specifically 9.60.2C. J. Davis seconded the Motion.

H. Bankirer made a Substitute Motion to Deny based on the amendment being inconsistent with 9.60.1, 9.60.2A, 9.60.2D and 2C, 9.60.7 and 7A, 9.60.8, 7.4.2, the property not being connected to city water and sewer services at this point, the questions about NCDOT requirements along NC73, the inclusion of the home on the corner of McAuley Road and Davidson-Concord Road or NC73; the findings of fact or where there are quantifiable requirements and the general uncertainties surrounding the request by the applicant to try to address these issues post approval of the Planning Board, and the Town Board, and this does not address the spirit of the 2030 Community Plan. S. Swanick seconded the Motion. The Motion carried 6-2, with J. Sailers and F. Gammon opposing.

Member opinions about impacting the Rural area was made, including too many outstanding comments to move forward.

**The Chairman called a recess at 10:23 p.m., and called the meeting back to order at 10:29 p.m.**

**The Chairman moved agenda item D8 up to D7.**

**D.7. TA18-10: A request by the Planning Department to amend Sections 2.000, 3.000, and 6.000 of the Subdivision Ordinance for expedited subdivision review**

Sierra Saumenig, Planner I, presented the text amendment, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit G, and incorporated herein by reference. The amendment is for consistency with Session Law 2017-10. Staff recommends approval.

F. Gammon made a Motion to Approve based on the amendment being consistent with Policy ED-14 of the 2030 Community Plan. It is reasonable and in the public interest to amend the Subdivision Ordinance to be consistent with Session Law 2017-10, which created Expedited Subdivision Review for qualifying subdivisions. C. Graffy seconded the Motion. The Motion carried unanimously (8-0).

**D.8. R18-14: EPCON Conditional District Rezoning Plan, a request by EPCON Communities Carolinas to rezone 34.77-acres located at 14211 Eastfield Road**

David Peete, Principal Planner, presented the rezoning plan, and entered the Staff

Report into the record, a copy of which is attached hereto as Exhibit H, and incorporated herein by reference. Staff reviewed the purpose of the application and significant points in the Staff Report; age restricted, the intensity zone, density, and the Eastfield Road Small Area Plan (“ERSAP”). Staff does not support the rezoning. It is not consistent with the 2030 Community Plan, ERSAP, and not in keeping with other developments in the area. There are modifications that have been requested for rear yard setbacks and driveway widths that staff does not support, and staff does not support allowing the buffer in private lots. The internal street cross sections are not ordinance compliant, and staff will not support a modification that does not provide adequate parking. There is a Deed gap, and the applicant believes it is a discrepancy in surveys and can be remedied. The Town Attorney will certify the applicant has ownership, or removed the gap from the application. There are redline comments that need addressed.

Members discussed and questioned the following: 1) improvements to Eastfield Road to which staff noted Transportation staff recommends a median, a 4’ bike lane along the frontage, a street trees. Charlotte Transportation Department was contacted about Eastfield Road, and would require a 5’ bike lane with an additional 3’ buffer (8’ total) if there is not curb and gutter. There is also a left turn lane in, and Charlotte will want a left turn out, with storage. 2) Block lengths. Staff indicated a modification was requested for Road B, and staff supports the waiver. 3) On street parking.

Mike Davis, Land Manager with EPCON, stated that with the age restricted homeowners there are not the typical issues with multiple drivers and cars, and multiple cars outside the garage. EPCON feels it is unnecessary in this scenario. Based on the public hearing, 16 additional spaces have been added for a total of 29 for the project. Members raised concerns with the parking, and noted the guest parking and clubhouse parking. People walk a lot and gather via walking. There is not normal traffic. Staff clarified there are 29 on street spaces and 12 spaces at the clubhouse for a total of 41. Brian Rossy, Engineer, noted the locations for parking.

Member discussion and questions to staff included, 1) Open Space locations, which were noted on the site plan, and meeting the ordinance for Urban Open Space. Staff commented there is common open space on the west, and the County owns adjacent land. EPCON is providing a private trail connection to the future greenway. 2) It was requested to reiterate the total parking spaces (41).

Mike Davis commented about the rear yard setback and buffer. Some interior lots have 15’ rear yards. Lots 1-9, 17-30, 56-66, and 68 have been adjusted and now only asking for modification on the interior lots for 15’ rear yards. The perimeter lots would be 25’. The reason is that it helps minimize the total area the HOA maintains, and cuts cost for the HOA. The other request is to have the buffer within a lot. The rear yards are passive space and not used by the owners, and the buffers will be left undisturbed and maintained by the HOA. The owners have a courtyard they can use. Member questions included why all similar lots are not being treated the same, and Mr. Davis noted the long ranch style homes on the lots. Staff noted the buffers on adjoining developments, and the transition

between developments. Staff does not recommend the request. Mr. Davis identified Courtyards of Huntersville with rear yards not used, and adjoining the Duke easement. EPCON is requesting the buffer be allowed in the lot itself, because the rear yards are not used. Mr. Davis commented that it is not clear in the ordinance that the buffer has to be in or outside of the lot. Staff noted that no matter how the property is managed the buffer(s) are not included in the lots, and they are to be planted. The issue of density was asked, and Mr. Davis responded that with age restricted communities there is about 50% less traffic than a single family community, and zero to little impact on the schools. Mr. Davis feels the density is compatible with Skybrook, and the impact is quite different, and that staff recommended the property meeting the Transitional Residential (“TR”), as it would support by right, and would be approved at 52 units. Mr. Davis discussed the total traffic count for a 52 unit typical single family residential development being 570 trips a day. This project has 85 units at 488 total trips per day, which is 82 trips per day less than recommended zoning. Mr. Davis compared the Skybrook parcel and traffic, and therefore density is not the same. Staff noted that Open Space cannot be taken away to get to the density, and 52 units is utilizing the 1.5 units per acres in TR. The Staff Report speaks to rezoning to TR-CD that may align more with the ERSAP. Staff explained the history to the Open Space (“OPS”) approach which became Rural and TR. Jack Simoneau commented about the church with NR zoning, now with single family lots. Staff noted that Eastfield Road is not in Charlotte’s CIP planning for improvements. Mr. Davis commented that the entrances on Eastfield Road have been pushed back to keep the rural feel, and the clubhouse is setting back as well. Staff noted there is dedicated right of way, and a buffer along Eastfield Road. Mr. Davis also noted that recordings would be made to correct the Deed gap. After being questioned, staff clarified the driveway width requirements, and the request is for 16’. Mr. Davis responded it is consistent with their other properties in Huntersville, and the taper to 14’ becomes problematic. Staff noted that the driveway length could be extended to accommodate mobility, and recessing the garage. The backyard is already being reduced with a long ranch home and they do not have room for everything.

H. Bankirer made a Motion to Deny based on the amendment not being reasonable and in the public interest, because it does not comply with the 2030 Community Plan, specifically Policies H-1, 5, and 9, and T-5, and the Eastfield Road Small Area Plan for Area B. It is not reasonable to amend the Ordinance because the density is not in keeping with other developments in the area; the rear yard setback is problematic, the internal street cross section is not ordinance compliant, a clarification is required for the “deed gap” area on the plan before rezoning can occur on the property, and all outstanding transportation and redline comments must be addressed. S. Swanick seconded the Motion.

Discussion after the Motion included the maker’s comments that he did not include the driveway issue in the Motion, and his concern with the buffers, the location not being appropriate, but noted the supporting infrastructure close by (shopping center, grocery store, etc.). Members expressed opinions in favor for the age restricted project but the location and zoning is not appropriate, and traffic on Eastfield Road.

The Motion carried 5-3. Gammon, Hensley, and Sailers opposed.

**E. Other Business**

The Chairman created a subcommittee for tree save mitigation, and appointed S. Thomas, F. Gammon, C. Graffy, and J. Sailers. The Chairman noted that Commissioner Boone would like to serve on the subcommittee.

**F. Adjourn**

Approved this 26<sup>th</sup> day of March 2019.

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Chairman or Vice Chairman

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Board Secretary