



**Planning Board**  
**Regular Planning Board Meeting Minutes**  
**May 28, 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, Hal Bankirer, Catherine Graffy, Frank Gammon, Scott Hensley, Jeff Sny, Susan Thomas, and Joe Sailers (arrived late).

The Chairman welcomed Tracy Barron, Board Secretary.

**B. Approval of Minutes**

B.1. Consider Approval of April Minutes

S. Thomas made a Motion to Approve, and C. Graffy seconded the Motion. The Motion carried unanimously (8-0).

**C. Public Comments**

Item D.1. Johnny Wallace (14842 Eastfield Road, Huntersville), Mr. Wallace expressed he was in favor of R18-14. He and his wife have 2.92 acres included in the EPCON purchase. Mr. Wallace, his wife, and parents viewed four EPCON properties, two in Huntersville, provided by EPCON representatives. They were impressed and thought this would be an ideal fit for this property. Currently, he utilizes Prosperity Church Road to access I-485 which is within two miles of the property.

Kim Aichele (9511 Cennelta Court, Huntersville), 20 year resident. We have lost a lot of trees and continue to lose our trees. D.1. will reduce tree save and specimen tree canopy from 50% to 10%. D.2. a loss in trees. D.3. I could not find information online so I don't know how many trees are included in this. I think we need to think in terms of holistic tree management versus tree mitigation here and there.

**D. Action Agenda**

D.1. **R18-14 is a request by EPCON Communities Carolinas to rezone 34.77-acres located at 14211 Eastfield Road (Parcel #s 02112213, 02112214 & 02112215) from Rural (R) to Neighborhood Residential - Conditional District (NR-CD). The rezoning request is for a proposed 70-lot, age-restricted single-family subdivision.**

David Peete, Principal Planner, presented the request to rezone the property with the additional proposed changes that have been submitted by the applicant to the site plan, and entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A, and incorporated herein by reference. Staff reviewed the modifications to the site plan including the reduction of total lots, proposed

increase of open space, proposed increase of tree preservation, proposed parking lot screening at clubhouse, a request to widen driveway width at the street right-of-way, and the proposed inclusion of the buffer within the private lots. Staff stated that the request is not in keeping with Policies H-1 and H-9 of the 2030 Community Plan, and Area B of the Eastfield Road Small Area Plan (SAP). Staff recommends denial.

The Chairman called the applicant to speak. Mike Davis, Land Development Manager, EPCON Communities spoke to the Board. He noted that the updated site plan has reduced density, added on-street parking, increased open space to 62%, and includes a view shed buffer along Eastfield Road. He went on to state that age-restricted communities have less impact than typical single-family communities. He introduced a traffic comparison using ITE (Institute of Transportation Engineers) reflecting 80 less trips per day for their proposed use, and an aerial rendering of their community showing that rear yards are for maintenance access only. The homeowners have their courtyard and everything outside of that courtyard is maintained by the HOA. He stated that there are 14 proposed lots where the buffer would need to be included in the lot. The 16' driveway width is preferred by their customer. The renderings were presented.

Bob Kardos, Regional President for EPCON Communities, Charlotte stated that EPCON has tried to listen and address concerns as demonstrated by concessions made in the proposed plans such as the 30% reduction in total number of lots to address concerns about density which EPCON believes is now within the spirit of the Eastfield Road Small Area Plan. Regarding density, it is their belief that age-restricted community density does not reflect the same impact as a non-age-restricted community of similar density given fewer trips per day, little to no impact on schools, a higher tax base, and active residents in the community. Additionally, with placing amenities at the street, no two-story product in the proposed community, adherence to the buffer and landscape screening, it is the belief of EPCON that the streetscape will be visually appealing.

Staff responded that the transportation research numbers presented by the applicant have not been submitted on a site plan; however, it is the accepted practice that age-restricted housing does generate less impact than single-family housing. Staff explained that the existing Huntersville EPCON properties are condominiums and therefore not a direct comparison to the proposed project. Staff clarified that the driveway width ordinances were established to maintain the pedestrian environment as desired by the 2030 Community Plan, and allow for off-street parking elements.

C. Graffy asked for clarification on the driveway width. B. Kardos stated that EPCON's consumers find the width of the driveway important. Their product has a 16' wide, two-car garage. Additionally, their site plan will not lose any on-street parking with 16' wide driveways versus 14' driveways. J. Sailors inquired and the B. Kardos confirmed that the developer would have to move the building back 5'-8' in order to work within the driveway width ordinance and not have vehicles with one wheel in the grass. S. Hensley asked how the Town arrived at the 14' driveway width requirement. Staff explained that state legislature changed indicating that local government could not prescribe where the garage must be

located. Staff worked with REBIC (Real Estate and Building Industry Coalition) to reach a compromise. The Town Board adopted the 14' driveway width.

F. Gammon inquired when the applicant envisions making the CDOT recommended improvements. B. Kardos stated that EPCON likes to put those improvements in as early as possible as they are important to their demographic. F. Gammon asked who would own the grass lots on the proposed 14 lots with the required buffer, and when the buffer would go in. B. Kardos stated that the lots would be fee-simple and owned by the homeowner. Homeowners are told within their CC&R (Covenant, Conditions & Restrictions) that they cannot place any type of structures back there. The 10' directly behind the house is strictly for maintenance access, the remaining is for buffers. The land is within a land easement that the HOA maintains and EPCON is fine with deed restricting those buffers. M. Davis confirmed that the buffer is undisturbed and additional plantings will occur where needed as determined by the Town. Staff reiterated that the proposed property has a fence at the back of the house and the resident may improve their courtyard while owning the lot that is maintained by the HOA. B. Kardos indicated that typically before clearing they identify and put tree save up with do not disturb signs. F. Gammon requested clarification to the four trees marked on the maps to be cut which on the tree table are marked as staying. Specifically, 'tree 5' a Willow Oak with a 50" diameter. B. Kardos stated that their intent is to try to work around 'tree 5' and save that tree. H. Bankirer suggested an amendment to the motion be included to ask applicant to have an arborist review the tree, determine if it is a heritage tree, Planning Board and Staff be notified about the fate of the tree. H. Bankirer then asked who would maintain the proposed trails. B. Kardos confirmed that they would be fully functional and complete prior to be turned over and the HOA would be budgeted to maintain these.

C. Graffy asked how the proposed HOA fees would be impacted by the reduction of total proposed lots with the same common area to be supported. B. Kardos stated that with the reduced proposed lots the clubhouse has been adjusted to a medium size clubhouse similar to Kinnamon Park and EPCON's goal is to stay at approximately \$250 month for the services provided in order to remain competitive. EPCON also typically drill wells which are donated to the HOA so the demand for irrigation is not on the public water system and to reduce the water fees. S. Thomas clarified that while open space has increased, one urban open space has been eliminated, what the applicants proposed timing of the amenities would be with the phase of construction, and in the applicant's experience, what is the timeline for the completion of a project of this size. B. Kardos confirmed the elimination of one urban open space, stated that EPCON prefers to sell from the amenity center to present the lifestyle to their residents so wherever possible they complete those amenities first, and typical Charlotte sales average 48 per year so the project is currently anticipated to be sold out in under two years. S. Thomas requested the applicant state what their commitment is to the trees beyond, 'we're committed to save as much as we can.' B. Kardos stated that keeping the trees is to everyone's benefit, a professional arborist will have to review the health of the trees and provide guidance on what would be involved in saving the trees in the rear buffers and common areas.

S. Hensley made a Motion to Approve based on the amendment being reasonable and in the public interests, and in compliance with the 2030 Community Plan, specifically policies E1, E2, E3, H5, T5, T6, T8, CD5 and PF2. This is made subject to a deed restriction being put in to protect the rear yards such that the owners cannot disturb the buffer area and that the developer will work to save as many of the specimen trees as possible. J. Sailers seconded the motion.

Discussion after the motion raised concerns about the zoning density in this area that will establish precedence that other area businesses will expect to be applied to their projects. H. Bankirer stated that he is now in favor of approval because, 1) in his opinion this exception makes sense since it meets an emerging need for this demographic and for additional reasons discussed. 2) The applicant has stated that they are willing to fulfill both the Town and CDOT road requirements. 3) The fact that there is increased open space, lowered total number of units, and density lowered to two per acre. S. Hensley asked about the 2030 Community Plan and the focus of the density plan and access to amenities as it relates to the proximity and availability provided by Charlotte given the location of this property has been stated as under two miles to I-485 and Prosperity Church. Staff stated that they believe proximity to Charlotte was considered in the 2030 Community Plan with the density plan being evaluated by the distance from I-77. S. Thomas stated that any time we see a rezoning of R to NR we try to balance canopy and tree save with the ongoing development of our community and that she would hope that the applicant would remain focused on the tree save that is in the proposal. C. Graffy stated that she does not feel that this decision would grandfather them in to a requirement in voting on future projects as a Board, each project is looked at individually.

F. Gammon requested the motion be amended to review to save additional trees specifically located in the buffer areas and tree T5 at the entrance. S. Hensley and J. Sailers accepted the amendment. The Amended Motion carried with a 6-2 vote with J. Davis and J. Sny opposing.

**D.2. Petition #R19-05, a request by Fairway Birkdale II, LLC to modify a Conditional District Rezoning Plan R97-22 located at 16633 and 16639 Birkdale Commons Parkway, Parcels# 00917184 and 00917186 to reduce the western buffer yard from 80' to 40'.**

Brian Richards, GIS Administrator, presented the request to modify the rezoning 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 reviewed the modifications to the western buffer. Staff stated that the request is in keeping with Policies ED-1 and ED-2 of the 2030 Community Plan. Staff recommends approval.

F. Gammon questioned if the remodeling or landscape plan would be presented to the Planning Board, and if existing vegetation would be cut off partially or entirely. Staff stated that the remodeling or landscape plan would not be brought to the Planning Board, and that there is a gas easement and there will be some grading but the plans that have been submitted show significant revegetation of that area.

F. Gammon made a Motion to Approve the proposed rezoning application R19-05 based on the amendment being consistent with economic development policies ED-1 and ED-2 of the 2030 Community Plan and that it is reasonable and in the public interests to approve the rezoning because it is in line with the adjoining properties. J. Sailers seconded.

Discussion after the motion questioned if the Staff knew what the applicant plans to vegetate at the new buffer line. Staff indicated it was a mixture of shrubs and trees. The preliminary plan exceeds the current minimum buffer requirements. The Motion carried unanimously (8-0).

**D.3. Tree Mitigation: Chapel Grove Phase II Tree Save Mitigation, is a request by Landworks Design Group, PA to preserve less than the required amount of canopy tree save associated with the Chapel Grove Subdivision.**

Meredith Nesbitt, Senior Planner, entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference. Chapel Grove was originally approved in December 2006. In April 2018, Staff approved a Sketch plan amendment with a few minor revisions. The Preliminary Plan for Phase I and II were subsequently approved. The Preliminary Plan for Phase II met tree save requirements by mitigation and that should have brought back to the Planning board for approval. Staff received a neighboring property owner concern that there was clearing going on that should not have been allowed. Staff investigated that concern and found that there were three specimen trees that were removed in Phase II. The applicant is compliant in their specimen trees preservation requirement despite this and their mitigation is for canopy. Staff recommends approval.

F. Gammon questioned if this was intentional by the applicant and reviewed that with the cutting of the three specimen trees this did not cause them to collectively drop below their specimen tree requirement therefore there is no penalty to pursue. Staff advised that the applicant's tree specimen credit was affected so their mitigation has been adjusted to be compliant. H. Bankirer questioned if the developer had professionally ensured that the quantity, type, and size of trees to be planted would actually allow them to thrive.

Scott Wilson, Plan Works Design Group spoke on behalf of the applicant. He is a licensed Landscape Architect and ensured that he indicated spacing in accordance with current good practice, and that the specimen of the tree is in accordance with the Huntersville approved list.

J. Sailers made a Motion to Approve and F. Gammon seconded.

Discussion following the motion began with S. Thomas questioning whether the Tree Save guidelines are really providing the long-term support for sustaining trees and canopy within Huntersville. H. Bankirer suggested that the Tree Save subcommittee and staff review the current approach and ordinance to consider assessing a 'price' for developers who deviate from approved plans as it relates to specimen tree and tree canopy requirements. J. Davis concurred that the lack of

tree save in our ordinance needs to be changed. J. Sailers agreed that a donation to the Tree Save fund by a developer who deviates would be met with greater approval, although not required by our current ordinance.

The Motion carried (6-2), with S. Thomas and H. Bankirer opposing.

**E. Other Business**

E.1. Zoning/Subdivision Ordinance Text Amendment

J. Sailers made a Motion to add this item to the agenda for action, and S. Thomas seconded. The Motion carried unanimously (8-0).

F. Gammon asked if we copied Mecklenburg County controls for Soil and Erosion, if the Huntersville water quality ordinance defines a qualified professional, and that he has a concern with Item J. “in a timely manner”. Staff explained that for Soil and Erosion control we adopted the Mecklenburg County plans with a few minor adjustments which must be adopted by the state, that a qualified professional requires a civil engineer, and that the recommendation of “timely manner” was made by Mecklenburg County due to the availability of some plants. F. Gammon requested that the timely manner be subjective to a responsible party. Staff suggested a correction to, “in a timely manner as determined by the Town of Huntersville staff.” S. Hensley asked if Huntersville’s new proposed fee schedule will remain below the proposed Mecklenburg county fee schedule. Staff confirmed that our proposed fee schedule is based on existing Mecklenburg and Huntersville fees being combined and does not include the major price hike that Mecklenburg is proposing for 2019/2020 and we will take a year or two to determine if the fee needs to be adjusted up or down.

F. Gammon made a Motion to Approve, and J. Sny seconded. The Motion carried unanimously (8-0).

**F. Adjourn**

Approved this 25th day of June 2019.

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Chairman or Vice Chairman

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Board Secretary