



**TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
BOARD OF ADJUSTMENT MEETING**

**October 30, 2023
6:00 PM**

AGENDA

1. CALL TO ORDER

- A. PUBLIC PARTICIPATION VIA ZOOM* - Harrisburg Town Hall's Council Chambers will be open for the public to attend the meeting in person. The public has the option to join the meeting virtually via the Zoom platform using the following link:

<https://us02web.zoom.us/j/83901210697?pwd=R1plZGJqMXFHSHd0eXE5OFNBRzlidz09>

Webinar ID: 839 0121 0697

Passcode: 476569

Or One tap mobile:

+19292056099,,83901210697#,,,,*476569# US (New York)

+13017158592,,83901210697#,,,,*476569# US (Washington DC)

Or by phone

312.626.6799

301.715.8592

*Anyone who wishes to participate in the meeting proceedings must be present.

2. CONSENT AGENDA

3. PUBLIC HEARINGS

- A. **H-2023-01-A:** Courtyards at Robinson Church - Appeal of Administrative Decision

4. OLD BUSINESS

5. NEW BUSINESS

6. ADJOURNMENT

7. CALL TO ORDER FOR BOARD OF ADJUSTMENT

Vision Statement

Harrisburg will be a distinctive, family-focused community where memories are made.

Mission Statement

Together, we enhance our quality of life by collaborating, planning, and investing to create our community of choice.



TOWN OF HARRISBURG

Agenda Item Details

Title:

H-2023-01-A: Courtyards at Robinson Church - Appeal of Administrative Decision

Presenting Personnel:

Zachary Gordon, Planning Director

Suggested Motion or Action:

Hold public hearing on H-2023-01-A: Courtyards at Robinson Church - Appeal of Administrative Decision

Description/Background:

Refer to the attachments for additional information.

Recommendation:

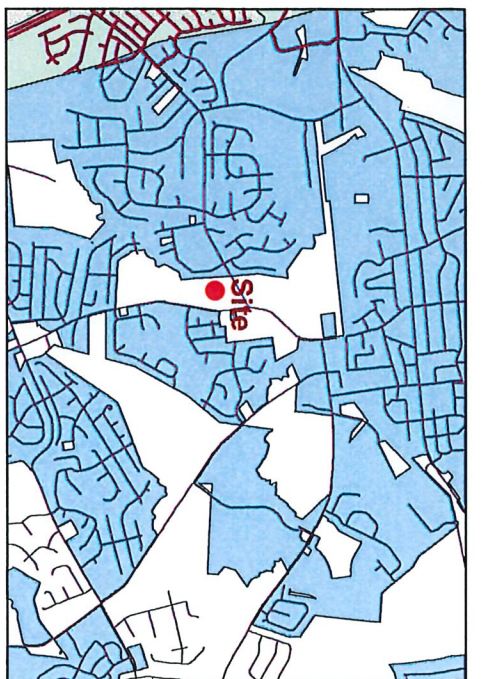
Following the public hearing, the Board of Adjustment should consider all facts and testimony and render a decision accordingly through the finding of facts to reverse or affirm, on the matter being appealed.

Fiscal Impact:

None

Attachments:

1. H-2023-01-A_Epcon Site Location Map
2. H-2019-03_Rezoning Approval Letter
3. H-2023-01-A_Appeal of Admin Decision_Pt. 1
4. H-2023-01-A_Appeal of Admin Decision_Pt. 2
5. H-2023-01-A_Appeal of Admin Decision_Pt. 3
6. Harrisburg UDO - Chapter 145.04.04, - Quasi Judicial Review Procedure - Appeal of Administrative Decision
7. Harrisburg UDO - Chapter 145.01.11.D - Appeal of Administrative Decision
8. Harrisburg UDO - Chapter 145.01.07 - Common Decision Criteria
9. H-2023-01-A - Public Hearing Letter EPCON



H 2023-01(A) Courtyards on Robinson Church

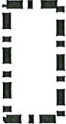
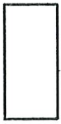
Epcon Communities

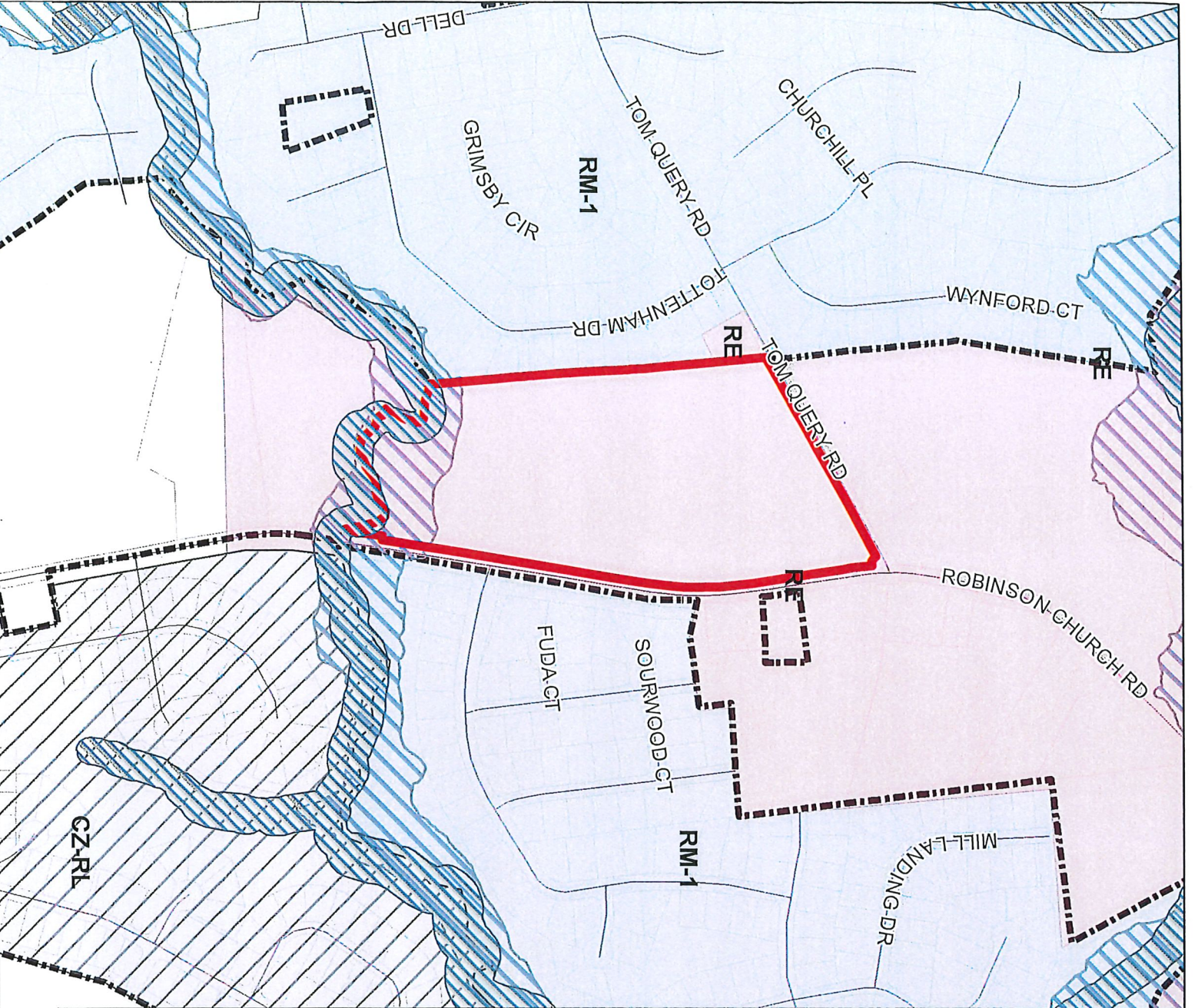
Applicant: Epcon Communities

Current Zoning: Conditional Residential Village
(CZ-RV)

Tab 1 - Page 1

Page 3 of 45

-  Site
-  Town Limits
-  Floodplain Overlay
-  Parcels





November 10, 2020

Epcon Communities
Attn: Mike Davis
[Via email]

Mr. Davis,

This letter is to inform you that the rezoning request H2019-03-(R) was **approved** by the Town Council on Monday, November 9th, 2020 meeting.

This property is located at parcel PIN# 5507508410, located at the southwest corner of Robinson Church Road and Tom Query Road intersection. The rezoning request H2019-03-(R) was to rezone approximately 32.85 acres from RE, Rural Estate to CZ-RV, Conditional Residential Village. The rezoning was approved with the following conditions.

1. Applicant agrees to obtain any and all applicable local, state, and federal permits required for development before any development activity can take place.
2. Applicant agrees the community will be age-restricted and require 90% of the home owners will be 55 or older, through deed restrictions.
3. Applicant agrees to restrict exterior cladding materials to non-vinyl products.
4. Applicant agrees to construct a ten (10) foot wide paved greenway trail connection and dedicate a twenty-five (25) foot wide easement to provide access to the greenway connection from the proposed development, to Robinson Church Road, and to the adjoining Fenton Dell community (including constructing the paved trail to Tottenham Drive).
5. Applicant agrees to install a pedestrian crosswalk and signal (Rapid Flashing Beacon) on the greenway crossing at Robinson Church Rd.
6. Applicant agrees to work collaboratively with the Town Staff and the NC Department of Transportation in identifying and participating in the development of right-of-way improvements on perimeter roads, including left and right turn lanes at site entrances, realignment of Tom Query Road at its intersection with Robinson Church Road, and a streetlighting plan.
7. Applicant agrees to identify any potential tree save areas (including heritage trees) on the site that might be able to be retained post-development.

The next step is to submit Preliminary Plat for review that meets the above conditions.

If you have any questions or concerns, please let me know.

Sincerely,

Sushil Nepal

Sushil Nepal, AICP
Planning & Economic Development Director
Town of Harrisburg

Quasi-Judicial Approval Application

1. Application Type (select all that apply)

☐ Variance ☐ Floodplain Variance ☐ Special Use Permit ☒ Appeal of Administrative Decision

2. Project Information

a. Project Name: Courtyards at Robinson Church H 2019-03-(R)

b. Project Location/Address: 7800 Robinson Church Road

c. Tax Map and Parcel Number (PIN): 01-016-0053.00 / 55075084100000

d. Zoning: Existing: CZ-RV Proposed: _____

e. Land Use: Existing: _____ Proposed: _____

f. Description of Request (attach separate sheet if needed):

The project received Rezoning Approval on November 9, 2020. The enclosed approval letter dated November 10, 2020, sets forth the rezoning conditions for the project. The Approved Rezoning Plan is also enclosed. Condition 6 reads: "Applicant agrees to work collaboratively with the Town Staff and the NC Department of Transportation in identifying and participating in the development of right-of-way improvements on perimeter roads, including left and right turn lanes at site entrances, realignment of Tom Query Road at its intersection with Robinson Church Road, and a street lighting plan." With respect to the intersection requirements, the Approved Rezoning Plan reads: "Tom Query Roadway Re-Alignment To Be Designed and Constructed By The Developer in Partnership With The Town of Harrisburg." The intersection realignment rezoning condition was discussed at the rezoning hearing on November 9, 2020, and at a prior rezoning hearing on April 13, 2020. At the rezoning hearing, the Applicant's financial responsibility for the intersection realignment costs was discussed as being limited to \$200,000.00 with the Town and others being responsible for the balance.

[Continued on Attached Letter]

3. Contact Information

a. Project Manager/Contact Person: Andy Gibbon

Company: Epcon Communities - Land Development Manager

Address: 11020 David Taylor Drive, Suite 105 City, State, Zip: Charlotte, NC 28262

Phone Number: 704-607-0152 Email Address: agibbon@epconcommunities.com

b. Applicant Name (if different than above): _____

Company: Epcon Robinson Church, LLC (Epcon Communities)

Address: 11020 David Taylor Drive, Suite 105 City, State, Zip: Charlotte, NC 28262

Phone Number: 704-200-4915 Email Address: kkardos@epconcommunities.com

c. Owner Name: Same as Applicant

Company: _____

Address: _____ City, State, Zip: _____

Phone Number: _____ Email Address: _____

4. Owner's Consent

Epcon Robinson Church, LLC ("Owner") certifies that it is the owner of the property located at 7800 Robinson Church Road ("Subject Property") and expressly consents to the use of the Subject Property as described in this application and to all conditions that may be agreed to as a part of the approval of this application, which may be imposed by the decision making board.

Owner hereby authorizes, Johnston, Allison & Hord, P.A. as agent, to file this application and represent Owner at any and all meetings and hearings required for the approval of this application.

Owner's Signature:  Date: 4/3/2023

5. Affidavit of Completeness and Accuracy (to be completed by the individual submitting the application)

Project Name: Courtyards at Robinson Church Submittal Date: April 13, 2023

STATEMENT OF COMPLETENESS AND ACCURACY:

I hereby certify all property owners have full knowledge the property they own is the subject of this application. I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related application material and all attachments become official records of the Planning and Zoning Department of Harrisburg, North Carolina, and will not be returned.

I understand that any knowingly false, inaccurate or incomplete information provided by me will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I further acknowledge that additional information may be required to process this application. I further consent to the Town of Harrisburg to publish, copy or reproduce any copyrighted documents submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Applicant Name: Epcon Robinson Church, LLC

Applicant Signature: 

6. Staff Use Only:

Record of Process

Date Received: 7/4/2023

Application Number: H 2023-01-A

Is Application Complete?

☒

Yes

☐

No

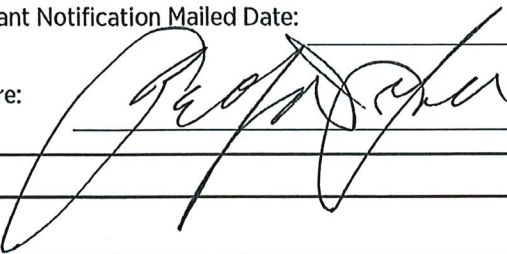
Public Hearing Date(s): 10-30-2023

Published Notice Date: N/A

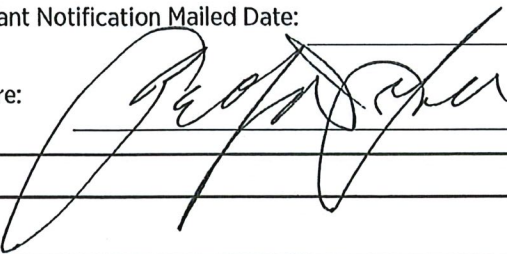
Mailed Notice Date: 10-20-2023

Posted Notice Date: 10-20-2023

Final Action Applicant Notification Mailed Date:

Town Staff Signature: 

Record of Decision

Reviewed By: 

Recommendation: ☐ Approve

☐ Deny

Final Action: ☐ Approve

☐ Deny

7. Required Attachments

All development application submittals must be accompanied by:

- Applicable fee(s) (see Master Fee Schedule in Appendix B of the Development Guidebook);
- Attachments listed in under the pertinent application;
- Case numbers of other related development applications; and
- Any additional information or attachments required by the Town Attorney, Director or other Town staff, Historic Preservation Commission, Planning and Zoning Board, Board of Adjustment, or Town Council.

Consult staff during pre-application meeting for any required paper copies consult staff during pre-application meeting for any required paper copies.

Variance 1. List of all abutting property owners' name, mailing address, and PINs 2. Sketch plan showing: a. Boundaries of property b. Size and location of all existing building(s) c. Size and location of all proposed buildings, parking facilities, and accessory structures d. Number, location, and type of any proposed screening or buffering 3. List of the UDO section(s) seeking relief from 4. Provide reasons for seeking variance 5. Explanation of how request meets the specific review criteria in UDO Section 145.04.01, <i>Variance</i>	Floodplain Variance 1. List of all abutting property owners' name, mailing address, and PINs 2. Sketch plan showing: a. Boundaries of property b. Size and location of all existing building(s) c. Size and location of all proposed buildings, parking facilities, and accessory structures d. Number, location, and type of any proposed screening or buffering 3. List of the specific section(s) in UDO Chapter 143 seeking relief from 4. Provide reasons for seeking variance 5. Explanation of how request meets the specific review criteria in UDO Section 145.04.02, <i>Variance, Floodplain</i>
Special Use Permit 1. List of all abutting property owners' name, mailing address, and PINs 2. Land use of all abutting properties 3. Explanation of how request meets the specific review criteria in UDO Section 145.04.03, <i>Special Use Permit</i> 4. Sketch Plan, Traffic Impact Study, etc. if determined necessary	Appeal of Administrative Decision 1. A written letter describing the request including applicant's interpretation of the provision(s) in question and reasons for that interpretation. Applicant may be required to prove any facts included in letter to the BOA

Cameron Todd Ware
Partner

WRITER'S E-MAIL ADDRESS:
tware@jahlaw.com

WRITER'S DIRECT DIAL:
704-998-2226

April 3, 2023

VIA ELECTRONIC MAIL AND HAND DELIVERY

Planning and Zoning Department
Zac Gordon, Planning Director
4100 Main Street, Suite 102
Harrisburg, North Carolina 28075
zgordon@harrisburgnc.org

Richard M. Koch
Harrisburg Town Attorney
3220 Prosperity Church Road, Suite 201
Charlotte, NC 28269
LawOffice@RichardKochLaw.com

Re: Courtyards at Robinson Church – H2019-03-(R)
Appeal of Administrative Decision to Town of Harrisburg Board of Adjustment

Mr. Gordon/Mr. Koch:

This letter and the enclosed Application are filed on behalf of Epcon Robinson Church, LLC (the "Applicant"), owner of the property located at 7800 Robinson Church Road (the "Property"), also known as Courtyards at Robinson Church (the "Project"). The Applicant hereby appeals to the Town of Harrisburg Board of Adjustment/Planning Board an administrative decision by the Town Manager related to interpretation of the rezoning conditions imposed on the Applicant and the Project through approved rezoning H2019-03-(R).

The Project received Rezoning Approval on November 9, 2020. The enclosed approval letter dated November 10, 2020, sets forth the rezoning conditions applicable to the Project. The approved Rezoning Plan is also enclosed. Condition 6 from the Rezoning Approval letter reads, "Applicant agrees to work collaboratively with the Town Staff and the NC Department of Transportation in identifying and participating in the development of right-of-way improvements on perimeter roads, including left and right turn lanes at site entrances, realignment of Tom Query Road at its intersection with Robinson Church Road, and a street lighting plan." In addition, with respect to the intersection realignment condition, the approved Rezoning Plan notes, "Tom Query roadway re-alignment to be designed and constructed by the developer in partnership with the Town of Harrisburg." Of note, Condition 6 does not state that a left turn lane from Robinson Church Road to Tom Query Road is required as part of the intersection realignment. Nor does the approved Rezoning Plan show a left turn lane from Robinson Church to Tom Query. The intersection realignment rezoning condition was discussed thoroughly at the rezoning hearing on November 9, 2020, and at a prior rezoning hearing for the Project on April 13, 2020. In those discussions, which were based on construction cost estimates provided by the Town, Applicant's financial responsibility for the costs

(construction and engineering) of the intersection realignment was limited to \$200,000.00, with the Town and others being responsible for the balance of the costs – the collaborative partnership with the Town referenced in rezoning condition # 6 in the Rezoning Approval letter and on the approved Rezoning Plan, not one where Applicant was primarily responsible with a relatively minor contribution from the Town. This understanding of the \$200,000 cost cap was later confirmed by Town Planning Director, Sushil Nepal, as further detailed below.

On August 9, 2021, nine months later, the enclosed preliminary subdivision plat and overall site plan for the Project was approved. As with the approved Rezoning Plan, the approved plat notes, “Tom Query roadway re-alignment to be designed and constructed by the developer in partnership with the Town of Harrisburg.” The approved plat also does not show a left turn lane from Robinson Church to Tom Query as part of the intersection realignment. However, the approved plat does show both a right and left turn lane from Tom Query onto Robinson Church, beyond the original scope contemplated at the rezoning hearings.

As Applicant moved through the full development approval process, including working collaboratively with the Town and NCDOT on the preliminary design of the intersection realignment improvements, the Town requested a left turn lane from Robinson Church to Tom Query. Although the left turn lane was not a requirement or condition of the rezoning or preliminary subdivision plat approval, Applicant was open to the concept, provided Applicant’s financial responsibility for the intersection realignment remained capped at \$200,000.00 (construction and engineering costs). Concerned that the scope and potential cost of the intersection realignment improvements were continuing to increase from what was originally contemplated at rezoning approval and shown on the approved Rezoning Plan and the approved preliminary subdivision plat, Applicant reached out to Planning and Economic Development Director Sushil Nepal to confirm Applicant’s interpretation of the rezoning condition related to the intersection realignment. In the enclosed email dated February 7, 2022, Mr. Nepal, acting squarely within his role as Planning Director, confirmed for Applicant that inclusion of a left turn lane from Robinson Church to Tom Query as part of the required intersection realignment would not impact the financial responsibility of Applicant for the intersection improvements – Applicant would continue to be capped at \$200,000.00, with the Town picking up the rest of the cost. Based on that understanding and confirmation, Applicant moved forward cooperatively with the Town and NCDOT on further preliminary design work for the intersection, including a potential left turn lane from Robinson Church to Tom Query.

In the spring of 2022, as the preliminary design for the intersection realignment continued to undergo changes and the process moved at an unreasonably slow pace, the Town began to imply that it did not intend to honor the confirmation and commitment provided by Planning Director Nepal in February 2022, that it would require a left turn lane as part of the intersection realignment, and that Applicant would be responsible for all costs, except for a \$200,000.00 reimbursement to be provided by the Town. Of course, the potential cost increase to Applicant, in the hundreds of thousands of dollars, was a major concern. At the time, Applicant and its engineers had prepared preliminary design of alternatives for the intersection, with and without an added left turn lane from Robinson Church to Tom Query and were continuing to work cooperatively with the Town and NCDOT to address design comments.

Concerned with the potential exponential cost increase for the Project, and the Town’s possible reversal on its commitment regarding the cost sharing, Applicant requested a meeting with Town Manager Robert Donham, Town planning and engineering staff and the Town Attorney. Applicant and the Town met in June 2022 to come to a mutual understanding and agreement on intersection realignment design and cost sharing so the Project could move forward with permits and approvals and commencement of construction. At the time, the only development related issue of which Epcon was aware was the design scope and

financial responsibility for the intersection realignment. Applicant's subdivision construction plans had been completed and submitted to the Town, with the Town having no further comment, as evidenced by the enclosed DRC Review Comment Memo dated May 24, 2022. At the June 2022 meeting, Town Manager Donham indicated that a left turn lane from Robinson Church to Tom Query would need to be installed if required to meet NCDOT safety design standards. Town Manager Donham also would not confirm that the Town would honor the previously confirmed \$200,000.00 cap on Applicant's financial responsibility, though he did offer to try to identify additional sources of funding for the Town's portion of the intersection improvements.

Following the June 2022 meeting, Applicant continued to work cooperatively with NCDOT on alternative intersection design features to see if the intersection realignment could be accomplished consistent with NCDOT design and safety standards without the need for including a left turn lane from Robinson Church to Tom Query. Those collaborative efforts resulted in a design being approved by NCDOT without such left turn lane. Applicant formally resubmitted the NCDOT-approved intersection realignment design to the Town on January 25, 2023. Despite having NCDOT approval of an intersection design without a left turn lane from Robinson Church to Tom Query, and the written opinion of NCDOT that the intersection realignment as a whole was premature and unnecessary at this time, the Town yet again implied that the left turn lane from Robinson Church to Tom Query was necessary and part of the intersection realignment condition.

On March 1, 2023, Applicant met with the Town one more time to gain clarity and resolution on the scope of the required intersection realignment and the cost sharing between Applicant and the Town. In attendance were Ken Kardos and Andy Gibbon on behalf of Applicant, Town Manager Robert Donham, Deputy Town Manager J. Lee Connor, Jr., Planning Director Zachary Gordon, and Interim Town Engineer Mallory Hodgson, on behalf of the Town, and Marc P. Morgan and Zachary Garner, on behalf of NCDOT. At that meeting, and notwithstanding NCDOT approval of an intersection realignment design without a left turn lane from Robinson Church to Tom Query, the Town for the first time requested Applicant perform a left turn lane warrant analysis to determine if the left turn lane from Robinson Church was required at the intersection. Town Manager Donham confirmed in the meeting that the left turn lane would not be required if the warrant analysis did not reach that conclusion. Town Manager Donham also verbally stated the Town's position that Applicant is responsible for the full cost of the intersection realignment, except for \$200,000.00 to be provided by the Town. Following the March 1st meeting, Applicant and Town Manager Donham exchanged the enclosed meeting minutes summary. The summary reflects some disagreements between the Town and Applicant as to what was specifically said at the meeting; however, the minutes summary reflects a common understanding of the two most important items of discussion and the focus of this appeal— whether a left turn lane from Robinson Church to Tom Query is required and how much Applicant is expected to contribute financially.

Following the meeting, Applicant promptly engaged a traffic engineer to conduct the left turn lane warrant analysis requested by Town Manager Donham. Noting that NCDOT does not require a left turn lane warranty analysis for signalized intersections, Applicant's traffic engineer nonetheless performed an analysis to demonstrate that the intersection level of service would not be impacted enough by the Project to justify a left turn lane from Robinson Church onto Tom Query. The traffic engineer's analysis and conclusion, that a left turn lane is not warranted by the Project, is set forth in the enclosed letter, which was provided to the Town on March 14, 2023. Town Manager Donham responded with a request of the Applicant to provide the left turn lane warrant analysis and associated plans to the Planning Department. Applicant complied, and on March 20, 2023, Senior Town Planner Craig Thomas confirmed receipt of the left turn lane warrant analysis and indicated the analysis had been associated with the intersection realignment plans previously submitted by Applicant to the Town on January 25th. When the NCDOT-

approved intersection realignment plans were submitted to the Town on January 25th, the Town vowed to do an expedited review. Yet, more than two months later, the Town has not provided any comments on, or approval of, the intersection realignment design plans. In fact, Applicant has not heard from the Town in over ten (10) days.

Applicant has no alternative but to file this appeal, challenging the following administrative decisions of the Town Manager. The enclosed email from Town Manager Donham dated March 14, 2023, states for the first time in writing, that the Town's current position on Applicant's financial responsibility for the intersection improvements is that Applicant is responsible for all costs, except for \$200,000.00 to be contributed by the Town. This is inconsistent with the two rezoning hearings, not supported by the rezoning conditions in the Approved Rezoning letter or on the approved Rezoning Plan, and a 180 degree turn from the Town's confirmed position and confirmation evidenced by the email from Planning Director Nepal dated February 7, 2022. The Town's current position on Applicant's required financial contribution for the intersection improvements is an erroneous and illegal interpretation of the rezoning conditions for the Project and the Town's zoning ordinance and is hereby appealed to the Board of Adjustment under North Carolina General Statutes §160D-405.

In addition, despite numerous written requests from Applicant, and the confirmation from the traffic engineer that a left turn lane from Robinson Church is not warranted at the intersection, the Town has not confirmed that the left turn lane is not going to be required of Applicant. Therefore, as an alternative ground for appeal, Applicant hereby challenges the Town's decision to require a left turn lane from Robinson Church as part of the intersection realignment improvements. A left turn lane from Robinson Church was not shown on the Approved Rezoning Plan or the approved preliminary subdivision plat, nor is it required by the clear and comprehensive language in the Rezoning Approval letter. The Town's attempt to require a left turn lane from Robinson Church as a condition of moving the Project forward is an erroneous and illegal interpretation of the rezoning conditions and the Town's zoning ordinance and is likewise hereby appealed to the Board of Adjustment under North Carolina General Statutes §160D-405. Should the Town confirm in writing that the left turn lane from Robinson Church is not being required, Applicant will promptly drop its appeal of that portion of the Town's administrative decision.

Please confirm the next steps with respect to this appeal to the Board of Adjustment, including the hearing date for the appeal, and provide the written record of decision as compiled by the Town under North Carolina General Statutes §160D-405. Please provide written confirmation of receipt of this appeal and acknowledgment that the appeal has been properly and timely filed.

Regards,

JOHNSTON, ALLISON & HORD, P.A.



Cameron Todd Ware



November 10, 2020

Epcon Communities
Attn: Mike Davis
[Via email]

Mr. Davis,

This letter is to inform you that the rezoning request H2019-03-(R) was approved by the Town Council on Monday, November 9th, 2020 meeting.

This property is located at parcel PIN# 5507508410, located at the southwest corner of Robinson Church Road and Tom Query Road intersection. The rezoning request H2019-03-(R) was to rezone approximately 32.85 acres from RE, Rural Estate to CZ-RV, Conditional Residential Village. The rezoning was approved with the following conditions.

1. Applicant agrees to obtain any and all applicable local, state, and federal permits required for development before any development activity can take place.
2. Applicant agrees the community will be age-restricted and require 90% of the home owners will be 55 or older, through deed restrictions.
3. Applicant agrees to restrict exterior cladding materials to non-vinyl products.
4. Applicant agrees to construct a ten (10) foot wide paved greenway trail connection and dedicate a twenty-five (25) foot wide easement to provide access to the greenway connection from the proposed development, to Robinson Church Road, and to the adjoining Fenton Dell community (including constructing the paved trail to Tottenham Drive).
5. Applicant agrees to install a pedestrian crosswalk and signal (Rapid Flashing Beacon) on the greenway crossing at Robinson Church Rd.
6. Applicant agrees to work collaboratively with the Town Staff and the NC Department of Transportation in identifying and participating in the development of right-of-way improvements on perimeter roads, including left and right turn lanes at site entrances, realignment of Tom Query Road at its intersection with Robinson Church Road, and a streetlighting plan.
7. Applicant agrees to identify any potential tree save areas (including heritage trees) on the site that might be able to be retained post-development.

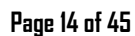
The next step is to submit Preliminary Plat for review that meets the above conditions.

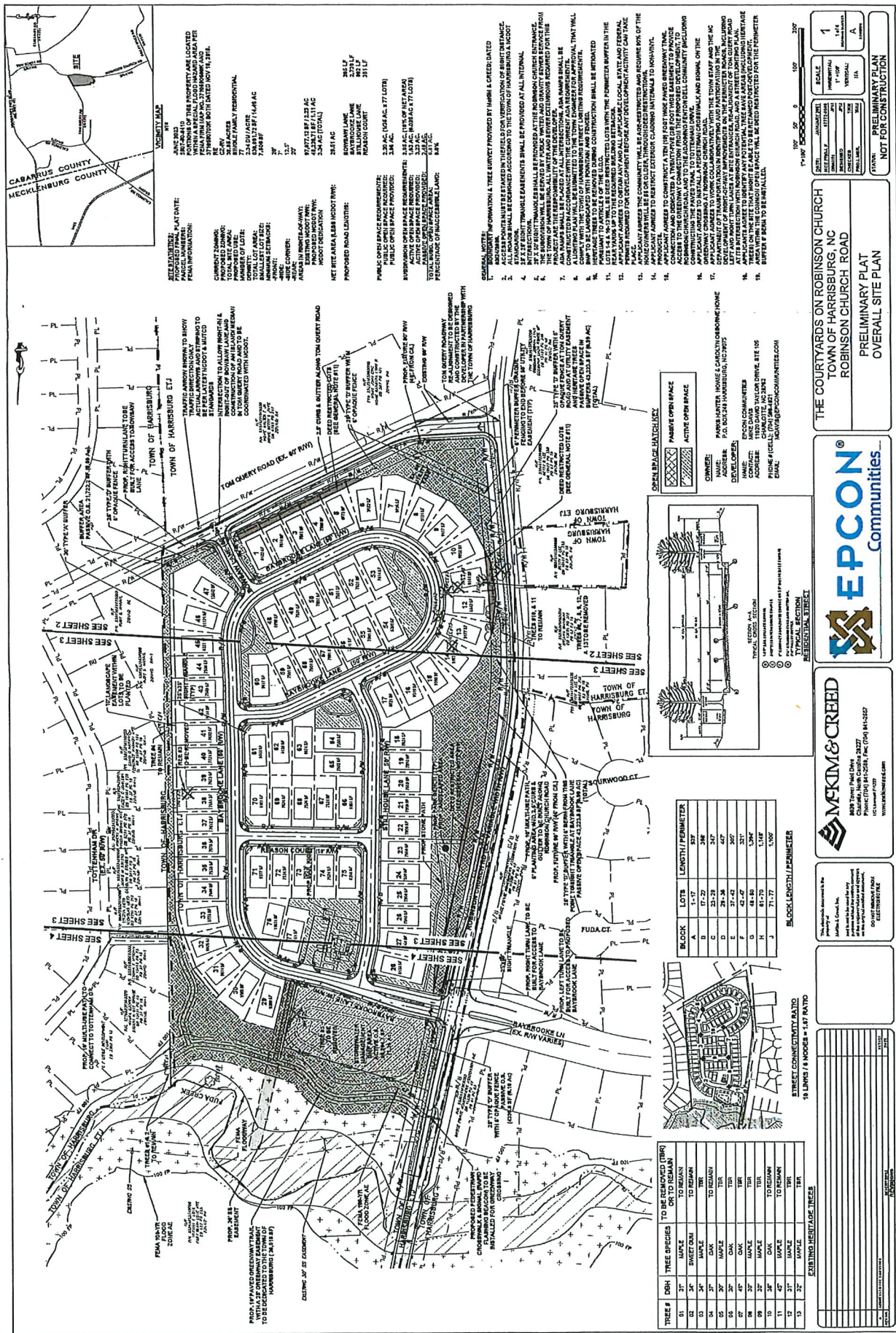
If you have any questions or concerns, please let me know.

Sincerely,

Sushil Nepal

Sushil Nepal, AICP
Planning & Economic Development Director
Town of Harrisburg









May 24, 2022

Re: Courtyards on Robinson Church

A review of your project that was received on May 2, 2022 has been completed by our Development Review Committee. The following comments, based on this review, should be addressed in the plans and re-submitted with a response letter indicating how each comment has been addressed:

Planning and Zoning, Craig Thomas cthomas@harrisburgnc.org; 704-455-0713

1. Planning review is complete.

Fire Department, Jeff Williams jwilliams@harrisburgnc.org; 704-455-3574

1. All comments addressed.

Engineering, Mallory Hodgson mhodgson@harrisburgnc.org; 704-206-8779

1. No comments.

NCDOT, Marc Morgan, mmorgan@ncdot.gov; 704-983-4360

1. Comments will be communicated directly to applicant from NCDOT.

The Town of Harrisburg Unified Development Ordinance (UDO) enables the Town to respond uniformly and consistently to development proposals and to promote the health, safety, and general welfare of residents. This comment response letter shall serve as an administrative tool to document plan revisions for development projects, as authorized by the UDO, the Town of Harrisburg Stormwater Ordinance, Stormwater Drainage Manual, Codified Ordinances and Engineering Guidelines, suggested comments will be noted as such. All comments shall be addressed in writing and a written comment response letter shall be provided with subsequent plan submittals. Please be advised that changes to the plans outside those specific to address the comments identified herein shall be specifically called out and brought to the Town's attention on the subsequent submittal's response letter. If plans are approved, and revisions have been made without this disclosure, these modifications will not be considered approved and the Developer will be required to make proper accommodations to ensure the improvements meet the intention of the approved plan and the Town's standards. It is the Developer's responsibility to ensure the plans meet all Local, Town, State, and Federal requirements and specifications, including the Town of Harrisburg Unified Development Ordinance, Stormwater Drainage Manual, Codified Ordinances and Engineering Guidelines. Review and acceptance of plans does not relieve the Developer of responsibility to meet these requirements should an issue arise at a later date.

Regards,

Craig Thomas
Senior Planner
Town of Harrisburg
P: 704-455-0713
E: cthomas@harrisburgnc.org

13 March 2023

Mr. Kenny Draffen, P. E.
McKim & Creed
8020 Tower Point Drive
Charlotte, NC 28227

SUBJECT: Left Turn Lane Warrants: SR 1168 (Robinson Church Rd) at SR 1166 (Tom Query Rd)

Dear Mr. Draffen,

As part of the design of the realignment of the intersection of SR 1168 (Robinson Church Road) at SR 1166 (Tom Query Road), Gannett Fleming was engaged to perform the traffic signal design. The current intersection design does not include a northbound left turn lane at this intersection.

It is my understanding that the Development Team has been asked to perform a "left turn lane warrant analysis" for the northbound SR 1168 (Robinson Church Road) Approach to this intersection. I will discuss turn lane warrants in the paragraphs that follow.

When determining whether dedicated left or right-turn lanes on an approach to an intersection are warranted, the first step is to determine if the intersection is signalized or unsignalized. For unsignalized intersections, there are charts provided in NCDOT's *Roadway Design Manual*, Chapter 8, and NCDOT's *Policy on Street and Driveway Access*, also known as the "Driveway Manual." In the case of left turns, these charts compare left turning volumes to the volume of traffic that "opposes" the left turns, typically the opposite direction through and right-turn traffic. Right turns are compared to the same direction through traffic.

For signalized intersections, recommendations for left and right turn lanes are made as mitigation treatments to improve levels of service to an acceptable level, decrease queues, or increase safety with multiple opposing lanes. This is usually done as part of a Traffic Impact Analysis (TIA) or Intersection Capacity Analysis. I have confirmed with NCDOT Congestion Management Section that there is no separate "Left Turn Warrant Analysis" for a signalized intersection.

Although a separate TIA was not performed for the Courtyards at Robinson Church Road development, there was a Capacity Analysis conducted for the intersection as part of the traffic signal design. The 2022 level of service for the northbound SR 1168 (Robinson Church Road) approach was determined to be "B" with 12.7 seconds of delay during the AM Peak Hour and "B" with 15.9 seconds of delay during the PM Peak Hour based on a traffic count taken in April 2022. This level of service does not indicate the need for the installation of a dedicated northbound left-turn lane. The queues at this intersection were not noted to be of a sufficient length to indicate a dedicated left-turn lane.

Additionally, there was a TIA conducted for the Camellia Gardens development, which analyzed this intersection. Under 2023 buildout conditions, the levels of service for the northbound SR 1168 (Robinson Church Road) were predicted to be "D" for both the AM and PM Peak Hour conditions, which did not trigger any mitigation by the development. No improvements, such as dedicated left turn lanes, were

Gannett Fleming, Inc.
22 S. Pack Square, Suite 800 • Asheville, NC 28801
t: 828-209-7104
www.gannettfleming.com

recommended for this intersection as a result of traffic that will be generated by the Camellia Gardens development.

For the preparation of this letter, Gannett Fleming conducted a trip generation exercise to determine the number of trips that will be generated by the Courtyards at Robinson Church Road development. The results of this exercise are shown in Table 1 below.

Table 1 - ITE Trip Generation Summary

Table 1 - ITE Trip Generation Summary												
LUC	Description	Density	Variable	PK HR	METHOD	Daily	In	AM Out	Total	In	PM Out	Total
251	Senior Detached Homes	77	Units	Adj	Rate	474	11	21	32	22	14	36
					Pass-by Adjustment AM (0%) PM (0%)		0	0	0	0	0	0
	Senior Detached Homes New Trips						11	21	32	22	14	36
	Total New Trips					474	11	21	32	22	14	36

The number of trips expected to be generated by the Courtyards at Robinson Church Road development are 474 daily trips. There will be a total of 32 trips during the AM Peak Hour, with 11 entering and 21 exiting, and 36 trips during the PM Peak Hour, with 22 entering and 14 exiting.

There are two entrances proposed for the Courtyards at Robinson Church Road development. Because the proposed entrance located on SR 1166 (Tom Query Road) is a right-in/right-out controlled intersection, no entering site traffic heading northbound on SR 1168 (Robinson Church Road) would make a left turn onto SR 1166 (Tom Query Road) at the intersection and then enter at the SR 1166 (Tom Query Road) access. Although a percentage of traffic exiting the site would be expected to exit at the SR 1168 (Robinson Church Road) access and turn left at the intersection of SR 1168 (Robinson Church Road) at SR 1166 (Tom Query Road), there are only 21 vehicles expected to exit the site during the AM Peak Hour, and 14 during the PM Peak Hour. If, for example, 20 percent of the exiting trips turn left onto SR 1166 (Tom Query Road), that would amount to 4 left turns during the AM Peak Hour and 3 left turns during the PM Peak Hour. These values would be relatively small in comparison to the total amount of existing left turns at this intersection and would have little, if any, impact on the left turning movement at this intersection.

Based on these level of service considerations, the installation of a dedicated left turn lane is not indicated as a result of the Courtyards at Robinson Church Road development.

Thank you for the opportunity to provide you with this information. Please contact me if you have any questions or concerns.

Sincerely,



Jeffrey H. Moore, P. E.
Traffic Engineering Manager

Attachments:
Synchro Report from Traffic Signal Design
Excerpt from Camellia Gardens TIA

From: Sushil Nepal <snepal@harrisburgnc.org>
Sent: Monday, February 7, 2022 1:40 PM
To: Andy Gibbon <agibbon@epconcommunities.com>; Burleson, Jeff A <jaburleson@ncdot.gov>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>
Cc: Craig Thomas <cthomas@harrisburgnc.org>; Kenny Draffen <KDraffen@mckimcreed.com>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Robert Donham <rdonham@harrisburgnc.org>
Subject: RE: Courtyards on Robinson Church Road

Andy, we do not have a standard agreement and can review what your legal draws up. In terms of cost up to \$200k, that amount is what Epcon would contribute towards design/delivery of project and remainder of costs would be Town and other sources – Town will reimburse Epcon anything beyond the \$200k cost agreed upon during the approval of the subdivision. An updated cost/scope review would be helpful. Thx

Sushil Nepal, AICP
Planning and Economic Development Director
Town of Harrisburg



From: Andy Gibbon <agibbon@epconcommunities.com>
Sent: Monday, February 7, 2022 12:47 PM
To: Sushil Nepal <snepal@harrisburgnc.org>; Burleson, Jeff A <jaburleson@ncdot.gov>; Tagliaferri, Anthony

<atagliaferri@ncdot.gov>

Cc: Craig Thomas <cthomas@harrisburgnc.org>; Kenny Draffen <KDraffen@mckimcreed.com>; Mallory Hodgson <mhhodgson@harrisburgnc.org>; Robert Donham <rdonham@harrisburgnc.org>

Subject: RE: Courtyards on Robinson Church Road

Sushil,

I understood the agreement the same way that you did, but this does bring up the important point of how we should be accounting for project costs. We have the skeleton of an agreement as indicated on the preliminary plat and as presented in the rezoning meeting. Namely, Epcon will design and construct perimeter improvements and make a 50% contribution up to \$200,000. Epcon's understanding was the Intersection realignment was a simple 2d exercise. Now we are designing a super elevated road with discussions about additional turn lanes on Tom Query and Robinson Church. I will work with McKim and Creed to get the engineering costs to date and will provide updates on Change Orders as the design scope continues to grow.

As for project management costs, construction costs, and potential Right-of-Way acquisition costs, I will have our legal department draw up an agreement if the stopping sight distance issue is solved. Does the Town have an example of a Private/Public agreement that has been used for similar projects in the past?

Andy Gibbon, PE
Land Development Manager
Epcon Communities
704.607.0152

From: Sushil Nepal <snepal@harrisburgnc.org>

Sent: Friday, February 4, 2022 2:52 PM

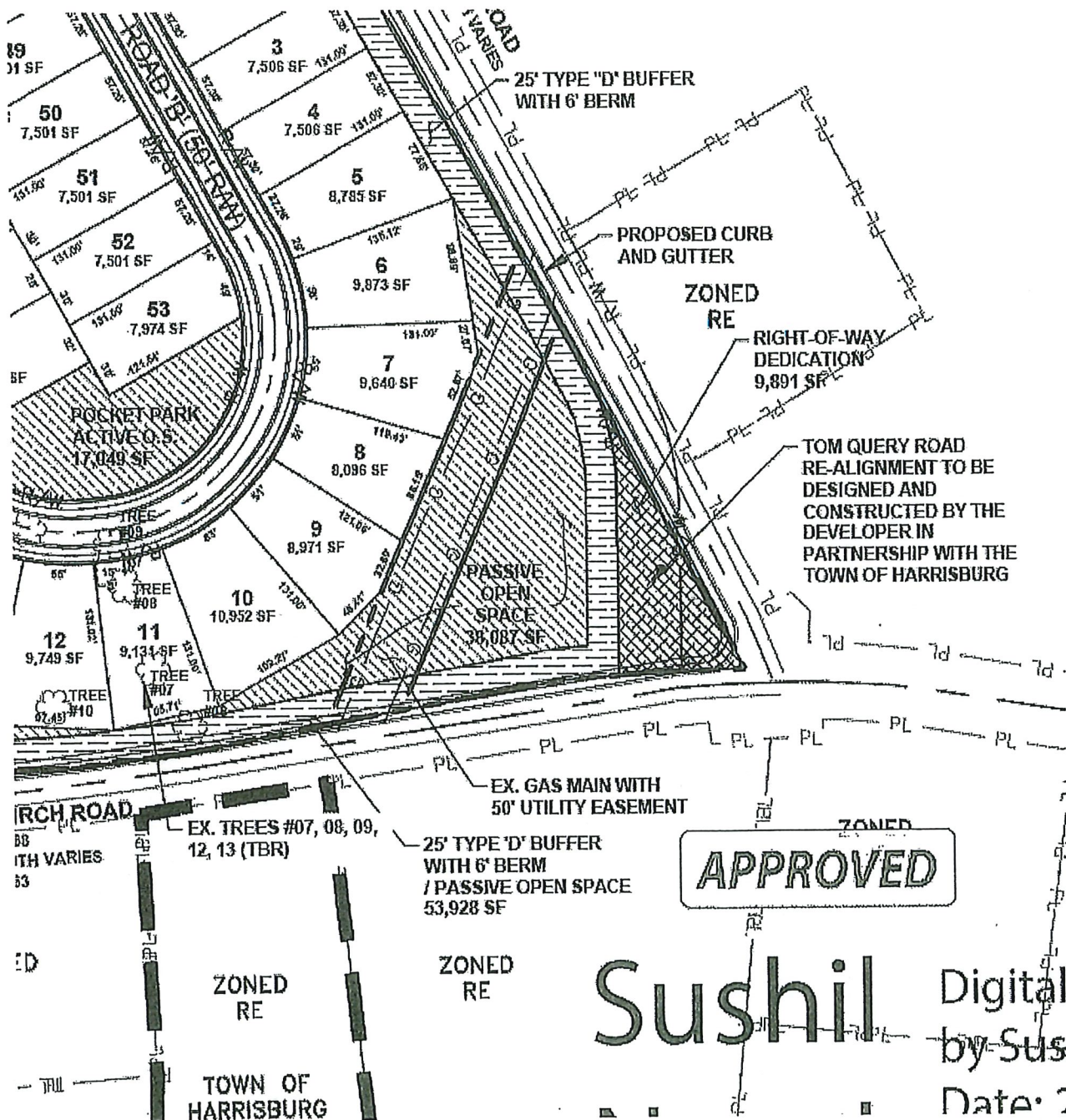
To: Andy Gibbon <agibbon@epconcommunities.com>; Burleson, Jeff A <jaburleson@ncdot.gov>; Tagliaferri, Anthony <atagliaferri@ncdot.gov>

Cc: Craig Thomas <cthomas@harrisburgnc.org>; Kenny Draffen <KDraffen@mckimcreed.com>; Mallory Hodgson <mhhodgson@harrisburgnc.org>; Robert Donham <rdonham@harrisburgnc.org>

Subject: RE: [External] FW: Courtyards on Robinson Church Road

Andy, we have been wanting to meet with Jeff and Tony to discuss this further but scheduling conflicts didn't allow us to meet this week. We will try to get together next week and follow up accordingly.

In response to your comments below, you are correct regarding the participation costs. However, it is clearly noted (as intended) on approved rezoning site plan and attached condition that the re-alignment is to be constructed by Epcon in partnership with the Town (see below snipped site plan). Hope this clarifies. Thx



Sushil Nepal, AICP
 Planning and Economic Development Director
 Town of Harrisburg



From: Andy Gibbon <agibbon@epconcommunities.com>
 Sent: Friday, February 4, 2022 2:41 PM
 To: Sushil Nepal <snepal@harrisburgnc.org>; Burleson, Jeff A <jaburleson@ncdot.gov>; Tagliaferri, Anthony

<atagliaferri@ncdot.gov>

Cc: Craig Thomas <cthomas@harrisburgnc.org>; Kenny Draffen <KDraffen@mckimcreed.com>

Subject: RE: [External] FW: Courtyards on Robinson Church Road

Sushil and Jeff,

Now that we have learned that realigning the intersection of Tom Query and Robinson Church road will decrease the stopping sight distance for northbound traffic on Robinson Church, we are stuck waiting for someone that has the authority and willingness to approve the design with a known deficiency. I've reviewed the video archives of the rezoning hearings and can see that Epcon has agreed to pay for 50% of the intersection realignment up to \$200,000.

To move us forward and to demonstrate Epcon's commitment to partner with Harrisburg on perimeter traffic improvements, I would like to propose the following:

1. Leave the intersection the way it is.
2. Epcon will dedicate Right of Way or contractually agree to dedicate Right of Way for a future intersection realignment.
3. Epcon will contribute all of the \$200,000 cost share cap agreed to in the rezoning hearing.

The approach above will preserve Harrisburg's ability to extend Tom Query in the future when it is warranted and not force anyone (NC DOT or McKim and Creed) to unnecessarily assume liability right now.

Andy Gibbon, PE
Land Development Manager
Epcon Communities
704.607.0152

March 1, 2023

Re: Town of Harrisburg and Epcon Communities
Courtyards at Robinson Church
Roadway Improvements Coordination Meeting Minutes

In attendance: TOH: Robert Donham, P.E. - Town Manager
J. Lee Connor, Jr., CPA, CGMA, MBA - Deputy Town Manager
Mallory Hodgson, P.E. - Dir. of Public Works / Interim Town Engineer
Zachary Gordon, AICP - Planning Director
NCDOT: Marc P. Morgan, PE, CPM - District Engineer, Div. 10, District 1
Zachary Garner - Traffic Engineer, Division 10
EPCON: Ken Kardos - Regional President, Charlotte Division
Andy Gibbon, P.E. - Land Development Manager, Charlotte Division

Epcon's initial meeting summary in "Black"
Town's first round comments in "Red"
Epcon's first round responses in "Blue"

Meeting started out with informal introductions and then the following items were discussed:

1) Scope of off-site roadway improvements:

Epcon asked the Town to confirm whether a left turn lane from Robinson Church Rd to Tom Query was a specific condition of Epcon moving forward with the subdivision. The Town responded that a left turn lane warrant analysis needed to be completed in order to answer that question.

Towns recollection is that the Town asked Epcon in response "are turn lanes needed?". Epcon responded that they did not know, and the Town asked what the Turn Lane Warrant results were. Epcon responded that they did not complete them because no one told them to do them.

This was the first Epcon had heard about a warrant analysis requirement,
This is inaccurate, the Town told Epcon this was accurate at this meeting. The Town has repeatedly told Epcon we need to know if they are needed and that the intersection would need to meet minimum design standards if they are.
Epcon had never previously been told, by the Town or NCDOT, that a left turn lane warrant analysis was required.

to which the Town responded that Epcon had skipped a step and the warrant analysis was part of the Town's design requirements for offsite roadway improvements design approval.

This is a part of basic intersection design to evaluate the capacity and queue lengths for which Epon is responsible. Epon has known this from the beginning and at a minimum had this clarified in our meeting held July 7, 2022. Epon was not required to perform a left turn lane warrant analysis as part of the rezoning process due to minimal traffic impact. Town expressed to Epon they are being disingenuous by pretending this is something they have been unaware of. Epon asked multiple times at the July 7, 2022, meeting if the Town would consider a lesser scope than a full left turn lane. Rob's consistent response was yes with qualifications for safety and compliance with minimum NCDOT requirements. Epon claimed that Marc Morgan had given them permission to skip that step because Marc thought this whole project was "premature" which the Town took as admission that they knew the turn lanes needed to be analyzed but skipped that step. Marc stated in a July 19, 2022 meeting with Epon that he felt that offsite roadway improvements, including a realignment of the intersection, were premature until the property across the street from Epon's project was developed to assure proper alignment with Tom Query Rd. Marc corrected the record and said that Epon "told him that the Town was ok with skipping that to narrow the scope" and that Epon was "working with the Town on negotiating that", which is the only reason they skipped it. Epon disagrees. Ken replied that "well I misunderstood that then". This statement was about right of way acquisition, not left turn lane warrant analysis requirement.

The Town asked Epon why they had submitted a design with turn lanes to NCDOT for approval if they had no clue about turn lanes. This question was about Epon's engineer inadvertently submitting the wrong file. A concept plan of a left turn lane was created after the February 7, 2022 email from the Town's Planning Director to Epon stating Epon would be capped at \$200,000 of financial responsibility for the intersection improvements. This does not equate to awareness of the Town's left turn lane warrant analysis requirement, which has not been previously articulated. Epon did not have a coherent answer. The Town pushed Epon further on why they submitted plans that were out of date, wrong information repeatedly etc. Epon finally conceded that they made a mistake sending NCDOT the plans with the turn lanes designed. A left turn lane design was never performed. Only a concept plan was created after the Planning Director's February 7, 2022 email.

Epon objected to this requirement based on a left turn lane never being a requirement of the rezoning approval. The Town reiterated the warrant analysis requirement. Town rejected this assertion and explained this was already discussed July 7th 2022 and the decision was made to see if any turn lanes are needed and then come back to discuss options.

Epon asked if the Town or NCDOT had any traffic count information that they could share with Epon to speed up the warrant analysis process. The Town said Epon could use a 2019 TIA from Shea Homes' "Camellia Gardens" development (approximately 0.9 miles northeast from the intersection of Robinson Church Rd and Tom Query Rd) which the Town will provide to Epon and NCDOT agreed. Epon then asked if the existing Robinson Church Road street profile could be maintained in the event of a left turn lane requirement (i.e., only cross section road widening requirement with no need for vertical adjustment). NCDOT confirmed there would be no requirement for vertical adjustment to the street profile. The Town acknowledged the same,

The Town did not express anything related to vertical design or adjustment. It is not something that has been submitted to us for review.

NCDOT stated that a left turn lane design would not need to include a vertical profile adjustment. The Town did not dispute this point.

and also agreed to work with Epcon to reduce lane widths and shoulder requirements to minimize potential ROW acquisition, including possibly reducing the turn lane cross section 6-7' by working with the engineers.

Town offered to help value engineer to minimize impacts if necessary as we do with all our project and as we have since July 7th 2022. Reducing turn lane cross section 6-7' is not accurate or possible, as it would leave a 5-6' wide turn lane which is well below minimum necessary for a travel lane. However the Town does believe there is significant room for value engineering compared to the intersection design plan that Epcon submitted to NCDOT that included turn lanes in the design.

Mallory stated that she felt 6-7' could be eliminated from the total road cross section.

Epcon asked for the Town's assistance in acquiring any necessary ROW if a left turn lane were ultimately required and the Town agreed to do so.

2) Epcon's financial contribution to off-site roadway improvements:

Epcon asked the Town to honor the \$200,000 cap on Epcon's financial contribution as discussed and agreed upon in the rezoning hearing. The Town stated that the only financial caps were on the Town's contribution and the contribution of Shea Homes (collectively capped at \$200,000) with Epcon being responsible for the balance if Epcon wanted the project to move forward. The Town also noted that the financial caps were based on the Town's 2017 \$400,000 cost estimate, which included construction costs and ROW acquisition, but did not include design costs.

Town stated the \$400,000 was construction cost including RW, but did not include any other cost like design, surveying, cost of money, overhead, legal fees and several other cost Epcon has tried to claim as project cost.

Epcon does not recall any mention of cost of money, surveying, overhead, or legal fees.

Epcon reiterated that it would build the intersection scope the Town wanted if the Town honored the \$200,000 cap from Epcon's rezoning approval. The Town reiterated that Epcon would be on the hook for the balance above the \$200,000 collective contribution from the Town and Shea Homes. It was noted by Epcon that Town representatives asserted at the rezoning hearing that the Town was going to do the intersection realignment regardless of developer participation. The Town had no response.

The Town had a long and detailed response to this about how we spent hours of our time on July 7th 2022 watching tapes going through notes and discussing this. The Town also expressed to Epcon that our Capital Projects are subject to change annually based on need and funding and that this intersection was counting on an 80% match from State or Federal grants if it were

to ever be built and if 80% grants were not obtained that the Town would not prioritize it over our other projects. Town also stated that if this neighborhood was not being built the intersection would not be realigned for many years if ever.

Rezoning hearing clarifies this matter.

- 3) Separating full subdivision approval and construction from Epcon's onsite from off-site roadway improvements:

Epcon asked the Town if onsite subdivision approval and work could be separated from the offsite roadway improvements project allowing Epcon to move forward unimpeded with land development, vertical construction, certificates of occupancy and home closings while the roadway improvement design plans and construction are finalized. The Town agreed to separate the two project scopes once the Town, NCDOT and Epcon agreed on the scope of work for the offsite roadway improvements following completion of the warrant analysis.

Town did not agree to anything, the Town said that if we have an agreement on scope and have an agreement and schedule for construction. Then the Town can consider moving site forward with offsite running concurrently but not holding up the start. The onsite would still have to go through all the other permitting processes necessary. Typically offsite improvements are tied to phasing and final plats. This would need to be discussed if the construction is separated, I would anticipate signal realignment completing being a condition of final plat like all our other projects.

Epcon heard Rob state that once the scope of work was agreed upon that the onsite and offsite projects could be separated.

From: Ken Kardos
Sent: Tuesday, March 7, 2023 9:30 AM
To: Robert Donham <rdonham@harrisburgnc.org>
Cc: mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov; Andy Gibbon <agibbon@epconcommunities.com>
Subject: RE: Harrisburg/Epcon - Roadway Improvements Coordination Meeting

Rob,

I agree that we are just gonna have to agree to disagree. With that said, I have provided a brief response to your comments for your review. Please let me know if you have any additional comments before we finalize the meeting minute.

Sincerely,

Ken Kardos
Regional President
Epcon Communities - Charlotte Division
11020 David Taylor Drive, Suite 105
Charlotte, NC 28262

Office (704) 997-8316
Cell (704) 200-4915

KKardos@EpconCommunitites.com
www.EpconCommunities.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please contact the sender and delete the material from any computer.

From: Robert Donham [<mailto:rdonham@harrisburgnc.org>]
Sent: Friday, March 3, 2023 2:37 PM
To: Ken Kardos <KKardos@epconcommunities.com>
Cc: mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>;

Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov; Andy Gibbon <agibbon@epconcommunities.com>
Subject: RE: Harrisburg/Epcon - Roadway Improvements Coordination Meeting

Ken,

We are just gonna respectfully disagree. The Town has no stated desire, we have asked repeatedly for at least 8 months if turn lanes are warranted and have said if they are not warranted we wont require them. It is my opinion that Epcon just does not want to do it and looks for ways to avoid the issue.

See my rough draft edits to the minutes.

All

Please review and add any additional information that you believe is relevant to the meeting minutes.

Thanks

Rob Donham, P.E.
Town Manager
Town of Harrisburg
4100 Main St., Suite 101
PO Box 100
704.455.0728
rdonham@harrisburgnc.org

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it may be considered public record and as such are subject to request and review by anyone at any time.

From: Ken Kardos <KKardos@epconcommunities.com>
Sent: Friday, March 3, 2023 2:16 PM
To: Robert Donham <rdonham@harrisburgnc.org>
Cc: mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov; Andy Gibbon <agibbon@epconcommunities.com>
Subject: RE: Harrisburg/Epcon - Roadway Improvements Coordination Meeting

Rob,

Not being disingenuous at all. There is a distinct difference between the Town's stated desire for the left turn lane versus the formal warrant analysis requirement that came up for the first time on Wednesday. However, per your request, we will evaluate and get back to the Town with our findings.

Thanks,

Ken Kardos
Regional President
Epcon Communities - Charlotte Division
11020 David Taylor Drive, Suite 105
Charlotte, NC 28262

Office (704) 997-8316
Cell (704) 200-4915

KKardos@EpconCommunitites.com
www.EpconCommunities.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please contact the sender and delete the material from any computer.

From: Robert Donham [<mailto:rdonham@harrisburgnc.org>]
Sent: Thursday, March 2, 2023 8:25 PM
To: Ken Kardos <KKardos@epconcommunities.com>
Cc: mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov; Andy Gibbon <agibbon@epconcommunities.com>
Subject: Re: Harrisburg/Epcon - Roadway Improvements Coordination Meeting

Hi Ken,

There are errors in part 1 and part 3 in reference to a few items. We will write a mark up of this letter for your information and use. Most obvious is that this meeting is the first time you have heard about a turn lane needing to be analyzed when we all met with legal council present and discussed it, and you team has also done preliminary design on it. I can't stress enough how disingenuous this "we didn't know" approach to the turn lane analysis is.

We can agree to disagree, but will send our understanding of the conversation as a letter markup just for the record.

Thanks

Rob Donham, P.E.
Town Manager
Town of Harrisburg
4100 Main St., Suite 101
PO Box 100
704.455.0728
rdonham@harrisburgnc.org

On Mar 2, 2023, at 7:58 PM, Ken Kardos <KKardos@epconcommunities.com> wrote:

Good evening Rob and Marc,

I have attached a summary of take aways from our meeting yesterday afternoon. Please review to confirm via email the accuracy of the summary or provide me with any comments, clarifications and/or additions you may have at your earliest convenience over the next few business days.

Sincerely,

Ken Kardos
Regional President
Epcon Communities - Charlotte Division
11020 David Taylor Drive, Suite 105
Charlotte, NC 28262

Office (704) 997-8316
Cell (704) 200-4915

KKardos@EpconCommunitites.com
www.EpconCommunities.com

<image001.png>

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please contact the sender and delete the material from any computer.

<Harrisbug-Epcon - Roadway Improvements Coordination Meeting Minutes KK 2023.03.01
v1.docx>

From: Andy Gibbon
Sent: Tuesday, March 14, 2023 5:16 PM
To: Craig Thomas <cthomas@harrisburgnc.org>
Cc: Ken Kardos <KKardos@epconcommunities.com>; mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov; Robert Donham <rdonham@harrisburgnc.org>
Subject: RE: Robinson Church Rd - Left Turn Lane Warrant Analysis

Craig,

Per Rob's request, can you associate the attached Robinson Church at Tom Query Left Turn Warrants Analysis Letter to the Intersection Realignment plans submitted on 1/25/23?

Andy Gibbon, PE
Land Development Manager
Epcon Communities
704.607.0152

From: Robert Donham <rdonham@harrisburgnc.org>
Sent: Tuesday, March 14, 2023 4:27 PM
To: Andy Gibbon <agibbon@epconcommunities.com>
Cc: Ken Kardos <KKardos@epconcommunities.com>; mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov
Subject: Re: Robinson Church Rd - Left Turn Lane Warrant Analysis

Ken said turn lane analysis were done and ready for review, send those along with whatever plans you have associated. If the 1-25-23 plans correlate with that reference that in the submittal.

Rob Donham, P.E.
Town Manager
Town of Harrisburg
4100 Main St., Suite 101
PO Box 100
704.455.0728
rdonham@harrisburgnc.org

On Mar 14, 2023, at 4:17 PM, Andy Gibbon <agibbon@epconcommunities.com> wrote:

Rob,

I believe that there are two sets of plans in question. 1. The subdivision plans. 2. The DOT plans.

The attached "DRC Comment Memo Courtyards on Robinson Church" indicates that Town staff doesn't have any additional comments on the Subdivision Plans.

Mallory acknowledged receipt of the DOT plans on 1/25/23 (see attached email).

What do you believe you are missing? What do you believe hasn't been sent to the planning department?

Andy Gibbon, PE
Land Development Manager
Epcon Communities
704.607.0152

From: Robert Donham <rdonham@harrisburgnc.org>
Sent: Tuesday, March 14, 2023 1:58 PM
To: Ken Kardos <KKardos@epconcommunities.com>
Cc: mmorgan@ncdot.gov; Lee Connor <lconnor@harrisburgnc.org>; Mallory Hodgson <mhodgson@harrisburgnc.org>; Zachary Gordon <zgordon@harrisburgnc.org>; zlgardner@ncdot.gov; Andy Gibbon <agibbon@epconcommunities.com>
Subject: Re: Robinson Church Rd - Left Turn Lane Warrant Analysis

Ken,

Please submit all plan review through the appropriate channels as we have instructed and continuously requested time and time again, we can not skip our plan review processes.

Our planning department is the appropriate place for that on behalf of the Town.

We can send a copy to NCDOT for review or you can submit directly to them as well and copy us on the NCDOT submittal.

Our staff will review and prepare and comments they have if any.

Request 2,3,4,5 are premature and inappropriate at this time. Please reference our corrections and response to the inaccurate minutes from our last meeting on clarifications to these requests.

Request 6 remains unchanged from our previous meetings and communications.

Thanks

Rob Donham, P.E.
Town Manager
Town of Harrisburg
4100 Main St., Suite 101
PO Box 100
704.455.0728

rdonham@harrisburgnc.org

On Mar 14, 2023, at 11:21 AM, Ken Kardos <KKardos@epconcommunities.com> wrote:

Good morning Rob,

Please see attached Left Turn Lane Warrant Analysis from our third-party traffic engineering consultant Gannett Fleming for Robinson Church Rd. Per their findings, a left turn lane is not warranted on northbound Robinson Church Rd at the intersection of Tom Query Rd. Based on this new information, we respectfully request that the Town of Harrisburg do the following: 1) promptly acknowledge that a left turn lane is not warranted; 2) separate the onsite work at The Courtyards on Robinson Church from the offsite intersection realignment as two separate projects; 3) allocate the necessary sewer capacity for our project; 4) approve our onsite construction documents and release our project for unimpeded land development, vertical construction and home closings; 5) complete review of the intersection realignment plans as previously submitted to NCDOT without a left turn lane; and lastly 6) clarify the Town's position on financial contributions and caps for The Town of Harrisburg, Shea Homes and Epcon Communities.

Sincerely,

Ken Kardos
Regional President
Epcon Communities - Charlotte Division
11020 David Taylor Drive, Suite 105
Charlotte, NC 28262

Office (704) 997-8316
Cell (704) 200-4915

KKardos@EpconCommunitites.com
www.EpconCommunities.com

<image001.png>

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and privileged material. Any review, retransmission, dissemination, or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this message in error, please contact the sender and delete the material from any computer.

<Robinson Church Road at Tom Query Road LT Warrants Letter GF 2023.03.13.pdf>

<mime-attachment>

<DRC Comment Memo Courtyards on Robinson Church.pdf>

TOWN OF HARRISBURG, NORTH CAROLINA CODE OF ORDINANCES

TITLE XV: LAND USAGE (HARRISBURG UNIFIED DEVELOPMENT ORDINANCE (UDO))

(Ordinance 08.09.21, 08/09/2021)

Chapter 145: Development Review Procedures

§ 145.04 Quasi-Judicial Review Procedures

145.04.04 Appeal of Administrative Decision

- A. **Applicability.** Appeals from the decisions of an administrative officer in which it is alleged there is an error in an order, requirement, decision, or determination in the enforcement of this UDO shall be made to the Board of Adjustment (BOA)..
- B. **Scope of Review.** The BOA's scope of review shall be limited to determining whether the decision or interpretation by the Director was in accordance with the intent and requirements of this UDO, and accordingly, the BOA shall affirm or reverse the decision, in part or in whole.
- C. **Notice of Appeal.** A notice of Appeal of an Administrative Decision shall be submitted to the Director within 30 days from receipt of the written decision. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. Notice given by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- D. **Specific Review Criteria.** In determining whether to reverse or affirm, in part or in whole, an Appeal of Administrative Decision, the applicable review bodies shall consider the provisions of Section 145.01.07, *Common Decision Criteria*, together with the following:
 - 1. *Record and Evidence.* The administrative decision was appropriate considering the written record of the case and the evidence presented; and
 - 2. *UDO Requirements.* The decision reflects the requirements contained in this UDO.
- E. **Burden of Proof in Appeals.** The BOA shall presume the appealed final decision to be valid. The appellant shall present sufficient evidence and have the burden to justify a reversal of the decision being appealed.
- F. **Effect.** In exercising its authority under this Section, the BOA shall have the final decision-making powers of the administrative official from whom the appeal is taken.

Effective on: 8/9/2021

TOWN OF HARRISBURG, NORTH CAROLINA CODE OF ORDINANCES

TITLE XV: LAND USAGE (HARRISBURG UNIFIED DEVELOPMENT ORDINANCE (UDO))

(Ordinance 08.09.21, 08/09/2021)

Chapter 145: Development Review Procedures

§ 145.01 Purpose, Applicability, and Common Review Procedures

145.01.11 Appeals of Legislative, Quasi-Judicial, and Subdivision Decisions

- A. **Generally.** Section [145.01.14](#), *Development Review Summary*, denotes the development review applications that are subject to appeal.
- B. **Appeal of Town Council, Board of Adjustment, or Historic Preservation Commission Decision.** Any party aggrieved by or alleging an error in a final decision of the Town Council, Board of Adjustment, or Historic Preservation Commission, or a final decision of the Planning and Zoning Board not related to a Preliminary or Final Plat, may appeal to a court of competent jurisdiction according to procedures set forth in the North Carolina General Statutes.
- C. **Appeal of Subdivision Decisions.** Appeals of Preliminary or Final Plats shall be subject to review by filing an action in a court of competent jurisdiction seeking appropriate declaratory or equitable relief by proceedings in the nature of certiorari in accordance with NCGS §[160D-1402](#). The appellant shall file the appeal within 30 days from receipt of the written notice of the decision.
- D. **Appeal of Administrative Decision.**
 - 1. *Generally.* Any party aggrieved by or alleging error in a final decision of an administrative official on a matter addressed in this UDO may submit an appeal to the Director for a decision by the Board of Adjustment in accordance with Section [145.04.04](#), *Appeal of Administrative Decision*.
 - 2. *Stays.* An appeal of a notice of violation stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal to a court of competent jurisdiction, unless the administrative official who made the decision certifies in an affidavit to the Board of Adjustment that, because of the facts of the decision, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court of competent jurisdiction. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed.

Effective on: 8/9/2021

TOWN OF HARRISBURG, NORTH CAROLINA CODE OF ORDINANCES

TITLE XV: LAND USAGE (HARRISBURG UNIFIED DEVELOPMENT ORDINANCE (UDO))

(Ordinance 08.09.21, 08/09/2021)

Chapter 145: Development Review Procedures

§ 145.01 Purpose, Applicability, and Common Review Procedures

145.01.07 Common Decision Criteria

- A. Generally.** In determining whether to approve, approve with conditions or modifications, or deny an application, the applicable development review bodies shall consider the basic review criteria denoted in Table 145.01.07-1, *Common Decision Criteria Applicability*. Additional review criteria may apply and are enumerated in the specific review procedures of this Section.

Table 145.01.07-1, Common Decision Criteria Applicability

Common Decision Criteria	All Applications ¹	Legislative Applications	Quasi-Judicial Applications ¹
The request complies with the applicable standards of this UDO and the Town Code, and the applicant has provided proof of compliance with any preceding and applicable county, state, or federal requirements.	♦		
The request substantially conforms to any associated prior approval for the development, including, but not limited to: Special Use Permit, Conditional Zoning, Site Development Plan, etc.	♦		
The request promotes the purposes of this UDO as established in 144.01.02, <i>Purposes</i> , and in other applicable purpose statements in this UDO.	♦		
The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare	♦		
The administrative body has considered the recommendation of Staff in the public meeting or hearing.		♦	♦
The request is consistent with applicable policies of the most recently adopted HALUP, any applicable utility plans, and adopted capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the HALUP, the request does not impair the implementation of the HALUP.		♦	♦
Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.		♦ ²	♦ ³
The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the essential character of the general vicinity of design, façade treatment, setbacks, building materials, and reasonably anticipated negative impacts.		♦ ²	♦
TABLE NOTES: ♦ = Basic review criteria applies ¹ Excluding Appeals of Administrative Decisions ² Excluding UDO Text Amendments ³ Excluding Variances			

**Harrisburg**NC*The right side of opportunity*

- B. Procedures With Common Decision Criteria.** Section [145.01.14](#), *Development Review Summary*, denotes the development review procedures that have common decision criteria.
- C. Written Findings.** Required findings for a legislative or quasi-judicial decision, based on basic and specific review criteria for an application, shall be in writing and shall be recorded in the minutes and records of the Planning and Zoning Board, the Board of Adjustment, or the Town Council, as applicable.
- D. Burden of Proof or Persuasion.** In all cases, where there is doubt or question, the burden is on the applicant to show that an application complies with applicable decision criteria.

Effective on: 8/9/2021



Notice of Public Hearing

To Whom It May Concern:

This letter is to inform you that Epcon Communities has filed an application to appeal an administrative decision made by the Town associated with the Courtyard at Robinson Church development plan. See map attached for project location reference.

A public hearing on this request will be held on October 30th, 2023, at 6:00 pm at Harrisburg Town Hall in the Town Council chambers. You are being notified of this public hearing in accordance with the requirements of Section 145.04.04 of the Harrisburg Unified Development Ordinance (UDO) and are invited to attend the meeting (in person or virtually) and provide input or ask questions. Please see instructions below on how to access this meeting virtually.

The number at Town Hall is 704-455-5614 if you have any questions prior to the meeting.

Virtual Meeting Information:*

Please click this URL to join.

<https://us02web.zoom.us/j/81125073986?pwd=NDlyWEJKZTkYU3YxcDgxRXNncGpRdz09>

Passcode: 637157

Or join by phone: (929) 205-6099

Dial: (929) 205-6099

Webinar ID: 811 2507 3986

*Anyone who wishes to participate in the meeting proceedings must be present.

H-2023-01(A) Courtyards at Robinson Church Appeal of Administration Decision Public Hearing

Date: Monday October 30th, 2023

Time: 6:00 PM

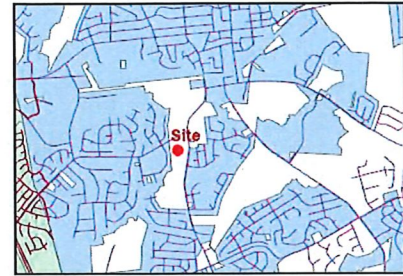
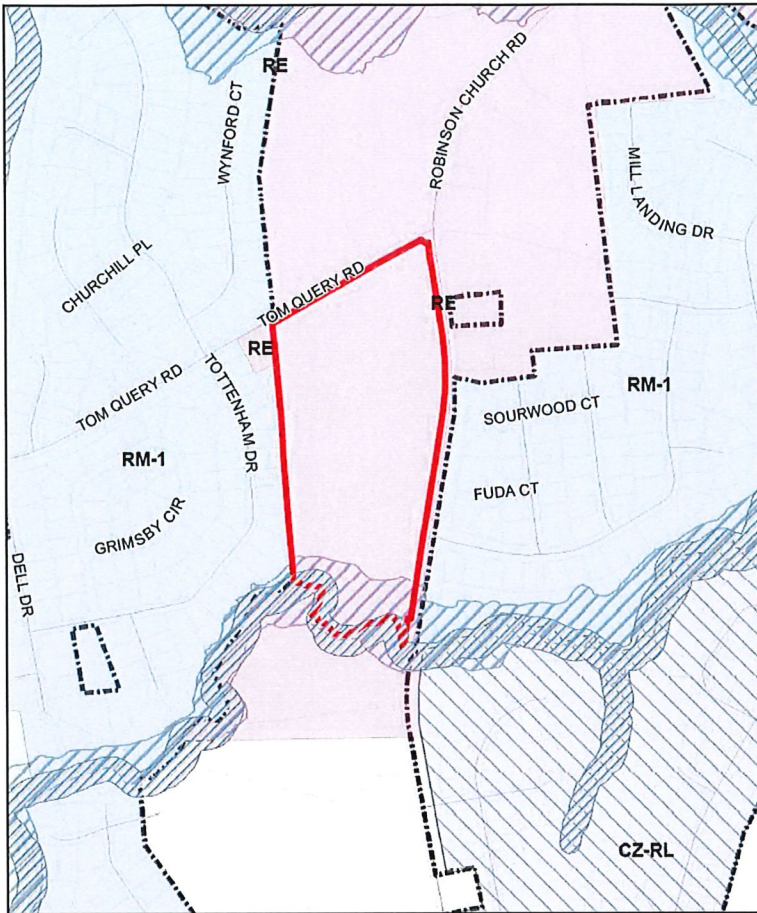
Location: Harrisburg Town Hall
4100 Main Street
Harrisburg, NC 28075

Sincerely,

Zachary D. Gordon, AICP (American Institute of Certified Planners)
Planning Director
Town of Harrisburg
704-455-0709

Notice Date October 20th, 2023

Appeal Request - Location Map



H 2023-01(A) Courtyards on Robinson Church Epcon Communities

Applicant: Epcon Communities

Current Zoning: Conditional Residential Village
(CZ-RV)

-  Site
-  Town Limits
-  Floodplain Overlay
-  Parcels



0 350 700 1,400 Feet

Notice Date October 20th, 2023