

**MINUTES OF THE MINT HILL PLANNING BOARD MEETING
JANUARY 23, 2023**

The Mint Hill Planning Board met in regular session on Monday, January 23, 2023, at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Tom Gatz

Members: Kenny Draffen, Scott Fandel, Roger Hendrix, Chip Todd, and Eric Tyson

Planning Director: John Hoard

Commissioner: Patrick Holton

Clerk to the Board: Savanna Ocasio

Absent: Jennifer Manchester

CALL TO ORDER AND INVOCATION

Chairman Gatz called the meeting to order at 6:30 p.m., declared a quorum present and the meeting duly constituted to carry on business. Mr. Hendrix gave the invocation.

ORDER OF BUSINESS

Approval of Minutes for the November 21, 2022 Regular Meeting: Upon the motion of Mr. Fandel, seconded by Mr. Hendrix, the Board unanimously approved the minutes of the November 21, 2022 Planning Board meeting.

Additions or Deletions of Agenda Items: None.

Reports of Committees, Members and Staff: None.

Old Business: None.

New Business:

A. Discussion and Recommendation on #ZC22-6, Filed by Epcon Communities, to request a Rezoning from R to R (CZD) and B-G to allow a single-family Subdivision for property located at 8612 Fairview Road, Tax Parcel Number: 197-201-14: Planning Director Hoard submitted the following memo to the Board.

EPCON Communities is proposing a single-family residential subdivision containing sixty-six lots. The application includes rezoning 2.78 acres (the portion fronting Fairview Road) to B-G. The applicant is offering to dedicate the 2.78 acres to the Town. Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning is a legislative procedure under which the Board of Commissioners has the authority to increase, tighten, add, vary, modify, or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions.

Plan Consistency:

- Land Use Plan (Hwy 218 Subarea Plan): YES
- Downtown Masterplan: N/A
- Pedestrian Plan: YES
- Comprehensive Transportation Plan: N/A

Staff Recommendation: FAVORABLE RECOMMENDATION

Bridget Grant, Moore & Van Allen Land Use Consultant, introduced herself stating she was before the Board on behalf of Epcon Communities. She stated her role as a land use consultant was to help the development team navigate through the conditional zoning process; she was not part of the development team. Ms. Grant provided a brief overview of the site stating the 32.84-acre site was located on Fairview Road and Quail Park Drive. Ms. Grant explained the existing zoning and future land use plan identified as mixed residential; mixed residential intended to provide a variety of housing types, not necessarily an increase in density. Ms. Grant stated her team originally came before the Board of Commissioners with a proposal for 67 units of age restricted senior housing on single family lots, also providing 2.78-acre dedication of land at the front of the site for the Town of Mint Hill to use in whatever capacity the developer wanted to as B-G zoning. Ultimately, after initial feedback, the applicant reduced the total number of units to 66 units to get them to two dwelling units per acre layout. The overall revised proposed schematic plan included:

- Commitment to a max of 66 age-restricted units
- Commitment to a dedication of 2.78 acres of B-G zoned land
- Access will be provided off Quail Park Drive
- Aligns with recently adopted land use plan
- Aligns with recently adopted small area plan and anticipated road infrastructure

Ms. Grant reviewed the plan benefits which included:

- Age restricted included in the deed restrictions, age-restricted communities generate less traffic than traditional communities, age-restricted communities had less impact on schools, 60% of the homes sold in first Courtyard Mint Hill project were existing Mint Hill residents, first community sold in six weeks, consistent with the adopted land use policy, provided housing walkable to the park, right-of-way reserved as identified in adopted small area plan, and sidewalks provided along site's frontage.

Ms. Grant stated anytime a development was looked at, it was a matter of traffic. She stated as a vacant site, they were not generating any traffic. She explained if the site were to be developed under the existing zoning, without the conditional zoning, it would still be zoned as residential; the difference being the applicant was seeking smaller lots which gave them the ability to provide more open space. Ms. Grant provided a trip generation comparison table stating if this development were developed as by-right versus age restricted, age restricted generated 39% less daily trips, 44% less peak morning trips, and 52% less peak evening trips than traditional single-family homes.

Ms. Grant stated the Courtyards at Quail Park expected to be a quality community, catering to the residents wanting to live there. She stated the homes were to be high quality, including amenities (both interior and exterior) accustomed to senior age targeted living. She presented an aerial perspective view showing homes with the signature courtyard which was the private open space included on each lot. Ms. Grant concluded by presenting the Board with a chart comparing the existing zoning of the lot, residential, to the proposed zoning, residential conditional:

R (Residential)

- Highest potential 1.5-2 units/acre (DUA) based on 20,000 sq ft lots
- Maximum of 65 units
- Traffic impacts higher with traditional neighborhood
- School impacts based on traditional neighborhood

R-CZ (Residential Conditional)

- Maximum density of 2 units/acre (DUA)
- 66 units
- Smaller lots/increased open space
- Conditional commitments (including age restricted, 2.78-acre dedication, new street reservation, certainty on architectural quality, decreased traffic, no school impacts, and crosswalk to park)

Mr. Todd thanked Ms. Grant for her presentation. He clarified there were two entrance points and one stub road as shown on the site plan. Ms. Grant said correct. He asked if a Homeowners Association (HOA) would be established by the developer; if so, at what capacity would the community take over. Ms. Grant stated yes, the HOA would be turned over at 98% capacity. Mr. Todd asked if the HOA would be mandatory. Mr. Ken Kardos, Epcon Regional President, answered yes.

Mr. Hendrix commended Ms. Grants presentation. He stated he had a few concerns, first being the wet retention pond. He asked if fencing would be installed around the pond as a safety measure. Ms. Grant stated at this point, they had not identified a fence to go around the pond. Mr. Kardos stated they had done some aluminum fencing around ponds if necessary. He explained the thing to consider was because their homes use side yard courtyards as the homeowners outdoor living space, the backs of the homes were all fenced from one home to the other so typically there was no pedestrian traffic back behind the residential homes; each homeowner would use their side courtyard for outdoor entertainment. He referred to Ms. Grant's presentation stating they typically referred to open space behind the homes fence as passive space; homeowners were not allowed to put anything behind their homes; rarely would anyone find the need to be past that point. Mr. Hendrix stated he was looking at the age requirement and grandchildren, stating the proximity to the park from the retention pond was another concern of his. He asked the applicant to consider installing a fence around the pond as the park was heavily used by children and there was an access point to the pond through the community. Mr. Kardos stated that was something they would take into account. Mr. Hendrix added he was concerned the Board was not presented with plans/requirements from NCDOT on Fairview Road as he did not see a report included in the presentation; he had an issue with approving a project with change being a possibility because of an NCDOT requirement. Ms. Grant thanked Mr. Hendrix for his comments. She stated they received feedback from NCDOT this afternoon, their preliminary response was they would like Epcon to provide a right-hand deceleration lane on Fairview Road, turning into Quail Park Drive, allowing traffic to keep moving freely on Fairview Road; the lane would front the commercial property. Mr. Hendrix clarified this was NCDOT's initial comment.

Ms. Grant said yes, they gave their first comment today in writing; they always reserve the right and will do as they request. Mr. Hendrix stated from the Planning Board standpoint, it was good to see the whole project, so the Board had an idea of what it would end up like versus how it “might” end up.

Mr. Draffen complimented Ms. Grant’s presentation.

Mr. Tyson asked what the price point of the homes were. Mr. Kardos stated upper 400’s – mid 600’s. Mr. Tyson clarified the homes were ranch-style, one story homes. Mr. Kardos stated they offered a bonus room above the garage, but the homes were considered a ranch product. Mr. Tyson asked Mr. Kardos to provide further information about the buffer along Quail Park Drive. Mr. Kardos stated typically, they would install some type of mounding in there and heavy landscaping. He stated they had another existing community a few miles from the proposed community that would show a similar landscape buffer. He explained they tried to focus on the aesthetics of the community, so the buffer would be heavily landscaped.

Chairman Gatz referred to the site plan stating the South end of the property was heavily wooded; he asked how much land would be cleared? Mr. Kardos stated they would do their best to minimize any impact to that natural area, but they would need to clear enough trees to create the dam embankment for the stormwater management pond. Chairman Gatz stated unfortunately, the Town of Mint Hill did not have a tree Ordinance, so the Board depended on the developer and builders to preserve as many trees as possible in this area. Mr. Kardos agreed and encouraged the Board to look at their existing communities as they preserved trees very well compared to most builders.

Chairman Gatz shared his concerns with turning into the proposed subdivision, along with turning left onto Fairview Road. He stated those turning out of this subdivision were going to be 55 and older and although he thought that was a young age, he felt they were developing a crash area. A suggestion of his was to install a median on Fairview Road to prevent left turns. Ms. Grant stated some people preferred full movement with the ability to breakthrough during less peak times so she would like to explore ideas with NCDOT. She stated U-turn movement had become more common as communities grew. Chairman Gatz asked Planning Director Hoard if Mint Hill Police reviewed proposed traffic patterns and made recommendations. Planning Director Hoard said no. Ms. Grant stated NCDOT usually had control.

Chairman Gatz referred to the stormwater pond stating as a child he would fish in the pond unless ran out by security and he felt other children would share the same idea due to its proximity from the park. He stated a fence around the pond may be a requirement. Ms. Grant assumed most of the residents would take ownership of making sure people who were obviously not supposed to be in the age restricted community were not there. She felt the pond would not be visible nor accessible from the public street due to the proposed street frontage. Chairman Gatz confirmed the stormwater basin would act as a pond. Mr. Kardos stated typically retention ponds were designed as an amenity to the community. Chairman Gatz asked if Mr. Kardos would be willing to install a fence around the pond to serve as an extra piece of security to keep people away from it. Mr. Kardos stated they would take a look at installing an aluminum four foot wrought iron type fence around the outside perimeter of the pond. Mr. Kardos asked if the Board would feel comfortable tying the fence into one of the backyard fencings making a U-shape connecting from one of the units fencing. The Board agreed that would make sense. Mr. Kardos stated that was something they would do.

Chairman Gatz asked Mr. Kardos to provide further information regarding the subdivision's amenities. Mr. Kardos stated for a community of this size they would offer a clubhouse with a fitness center, a pool, and pickleball courts.

Mr. Hendrix asked when the applicant expected to receive a concrete plan from NCDOT regarding their traffic plans. Ms. Grant stated she expected the comment they received from NCDOT today to be their final comment until they were in the construction drawings phase; she asked Planning Director Hoard how things were handled historically. Planning Director Hoard stated the applicant would know for certain once NCDOT signed off on the plans. Mr. Hendrix asked at what step did NCDOT generally sign off on plans. Mr. Kardos stated at the end, it was part of the final CD process. Mr. Hendrix stated he understood NCDOT made that decision, and he was not trying to make the decision for them, but he had an issue with not knowing how the traffic pattern was going to be. Chairman Gatz asked how long the turn lane would be. Ms. Grant stated at least 100 feet. Chairman Gatz asked if that was a requirement. Ms. Grant said yes, it was a requirement. She stated when she asked about a potential for a traffic signal there would not be a traffic signal; there was nothing else that indicated there would be something substantive that would change how traffic operated in this area in terms of their recommendation. Mr. Hendrix stated making a left turn onto Fairview Road would be difficult for anyone and everyone.

Mr. Draffen made a favorable recommendation, seconded by Mr. Fandel, and at a 5:1 vote, with Mr. Hendrix voting against, the Board agreed to send a favorable recommendation on the condition that a fence is installed around the pond as suggested, to the Board of Commissioners on #ZC22-6, Filed by Epcon Communities, requesting a rezoning to allow a single-family subdivision located at 8612 Fairview Road, Tax Parcel Number: 197-201-14.

B. Discussion and Recommendation on #ZC22-7, Filed by Lischerong Enterprises and Holdings, to request a Rezoning from R (CZD) to O-A (CZD) to allow construction of two Commercial/Office buildings, property located at 7135 Lebanon Road, Tax Parcel Number: 135-417-47: Planning Director Hoard submitted the following memo to the Board.

Carillion Assisted Living facility was approved by the Board of Commissioner on October 8, 2015. 11.58-acres was rezoned from R to R (CZD). On July 31, 2018, a final plat was recorded, creating the 3.081-acre lot out of the 11.58 property.

The applicant is requesting rezoning for the 3.081-acre property from R (CZD) to O-A (CZD). The proposal includes two commercial/office buildings. Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning is a legislative procedure under which the Board of Commissioners has the authority to increase, tighten, add, vary, modify, or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions.

Plan Consistency:

- Land Use Plan (Hwy 218 Subarea Plan): YES
- Downtown Masterplan: N/A
- Pedestrian Plan: YES

- Comprehensive Transportation Plan: N/A

Staff Recommendation: FAVORABLE RECOMMENDATION

David Klausman, V3 Southeast, introduced himself stating he was before the Board on behalf of the developer. Mr. Klausman stated this parcel was located North of the Lebanon Road and Margaret Wallace Road intersection, South of Lebanon Elementary School. The parcel itself was just over three acres and primarily wooded. He stated the proposed development had an approximately 7,200 square foot building fronting Lebanon Road, an approximately 10,000 square foot building near the rear of the property, which would be developed during phase two, and associated parking and storm water management on the bottom left corner of the property. They were requesting to rezone the property from R(CD) to O-A (CZD) which would allow the use of office/medical buildings. Mr. Klausman concluded by providing the Board with elevations and a conceptual rendering of similar use buildings the developer previously constructed.

Mr. Draffen asked if the applicant had spoken with NCDOT regarding this proposed project. Mr. Klausman stated he had spoken with NCDOT this afternoon and at a minimum, they required a left turn lane at the entrance of the site and potentially a right turn lane as well. Mr. Draffen asked if an evaluation had been done as far as how far back the left turn lane would go into the intersection of Lebanon Road and Margaret Wallace. Mr. Klausman stated there had been brief discussion in terms of how all three turn lanes would operate, the turn lane North of them as well as the turn lane into Morris Farms subdivision. Per his conversation with NCDOT, a possibility would be a three-lane cross section, but nothing was set in stone. Mr. Draffen stated he was concerned the required left turn lane would impact the intersection at Lebanon Road and Margaret Wallace. Mr. Klausman stated NCDOT's comment would be further looked at.

Mr. Hendrix echoed Mr. Draffen's road concerns.

Mr. Fandel agreed with Mr. Draffen and asked if reorienting the site and pushing the turn lane closer towards Lebanon Elementary School and further away from Margaret Wallace would be a possibility. Mr. Klausman stated he would check with NCDOT to see if Mr. Fandel's suggestion was a feasible alternative.

Mr. Todd asked how many units were in this complex. Mr. Klausman stated the first proposed building was expected to be a dentistry/orthodontics; he was unsure as to how many rooms they had. The second proposed building was to be determined as the developer did not currently have a tenant.

Chairman Gatz referred to the lack of NCDOT plans in both presentations presented and asked Planning Director Hoard how to go about receiving a detailed, full presentation, for Board members to obtain all information. Planning Director Hoard stated it depended on the level of detail the Board was seeking. He explained typically, an applicant coming before the Board presented general information about their plans. If the Board were seeking specifics, which typically came at a later stage, Staff would need to make changes as far as requesting each applicant to submit plans at a certain level before coming to the Board which would be a challenge. He explained applicants at this stage were asking permission to begin the project then once receiving approval from the Board of Commissioners, the applicant dug their heels in to begin refining and construction details but as far as having NCDOT give preliminary comments on paper, he thought that was fair. Historically with larger projects, Staff would try to obtain more clarity from NCDOT as that transportation information affected decision making but for smaller projects, what

comments NCDOT provided was Staff's anticipation but if the Board wanted to move in that direction, he was okay with it.

Mr. Hendrix reiterated the importance of receiving fuller plans and explained the Planning Boards role in decision making stating it affected everyone living in Mint Hill, so the Board needed as much information as possible to make credible recommendations to the Board of Commissioners. Chairman Gatz added NCDOT were the ones to do it, but they were not always correct. He asked Planning Director Hoard if the Board of Commissioners would see the same plans brought before them. Planning Director Hoard stated one of the Board of Commissioners asked the applicant specifically to see NCDOT comments or he would not approve the project so by the Board of Commissioners next meeting, February 9, the applicant should have those comments to show. Chairman Gatz asked what information the Board of Commissioners would see from NCDOT. Planning Director Hoard stated the applicant would convey a plan with a left turn lane signal to the Board. Chairman Gatz said the Planning Board would want to see paper stating NCDOT preliminarily says this project needed a left turn lane shown on a schematic. Planning Director Hoard took responsibility and said going further, he would ask applicants to show NCDOT's comments on plans. Chairman Gatz stated with the Planning Board making unfavorable/favorable recommendations to the Board of Commissioners, he wanted them to be all on the same page with what was being presented so NCDOT's plans were necessary in decision making. Chairman Gatz asked Mr. Klausman if he received an email with NCDOT's preliminary comment. Mr. Klausman stated he had a phone call with the reviewer but would request an email with the reviewer's minimum requirement at this time.

Upon the motion of Mr. Hendrix, seconded by Mr. Todd, the Board voted to send a favorable recommendation, pending the inclusion of an NCDOT report for the Board of Commissioners to consider based on this project, to the Board of Commissioners on #ZC22-7, Filed by Lischerong Enterprises and Holdings, requesting a rezoning to allow construction of two Commercial/Office buildings, located at 7135 Lebanon Road, Tax Parcel Number: 135-417-47.

Mr. Hendrix clarified the Planning Boards submittal discussion was not aimed at the applicant's project; they were just doing their job.

Other Business: None.

Adjournment: Upon the motion of Mr. Hendrix, seconded by Mr. Todd, and unanimously agreed upon, Chairman Gatz adjourned the meeting at 7:12 p.m.

Savanna Ocasio
Program Support Assistant

*A Called Meeting was held on February 2, 2023 to read the consistency statement for #ZC22-6 and #ZC22-7 into the record. The consistency statement was unintentionally omitted from the motion.