STATE OF NORTH CAROLINA COUNTY OF CABARRUS EPCON ROBINSON CHURCH, LLC, Plaintiff, v. TOWN OF HARRISBURG, a North Carolina body politic and corporate, Defendant.	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 23-CVS-_____ **COMPLAINT, REQUEST FOR DECLARATORY JUDGMENT AND PERMANENT INJUNCTION, PETITION FOR WRIT OF *MANDAMUS,* AND MOTION FOR ATTORNEYS' FEES AND COSTS**

Plaintiff Epcon Robinson Church, LLC ("Epcon"), complaining of Defendant Town of Harrisburg ("Defendant" or the "Town"), alleges and states:

1. This lawsuit arises from Defendant Town of Harrisburg's unlawful and unconstitutionally disproportionate effort to exact certain off-site public transportation improvements as a condition of both development permits and approvals and preliminary sewer allocation for Plaintiff Epcon's legally rezoned residential subdivision development, the Courtyards on Robinson Church (the "Project").

2. Notably, while the Town had legally confirmed the nature and the scope of Epcon's responsibility for off-site public transportation improvements required as a condition of rezoning approval for the Project, the Town has illegally repudiated such confirmation and breached its contractual agreement with Epcon, demanding increased responsibility from Epcon prior to the issuance of full development approvals and preliminary sewer allocation for the Project.

3. Epcon seeks relief including a declaratory judgment pursuant to the North Carolina Declaratory Judgment Act, N.C. Gen. Stat. § 1-253, *et seq.*, and N.C. Gen. Stat. § 160D-1401, *et seq.*, on the grounds that the Town has incorrectly and illegally interpreted and purported to apply

the rezoning conditions for the Project; the Town is not authorized to require disproportionate off-site public transportation improvements as a condition of administrative development approvals for the Project; the Town has imposed an unlawful exaction on, and subjected Epcon and the Project to, an unconstitutional taking in violation of Plaintiff Epcon's procedural and substantive due process rights in violation of 42 U.S.C. § 1983; and the Town is not authorized to withhold subdivision development approvals and preliminary sewer allocation for the Project from Epcon in the manner and on the conditions the Town has attempted to impose.

4. Epcon further seeks the issuance of a Writ of *Mandamus* from this Court, directing the Town to immediately issue subdivision development permits and approvals, and preliminary sewer allocation, for the Project, so that Epcon may proceed with the legally-approved use of the Property.

5. In addition to the injunctive relief sought by Epcon, it also seeks an award of damages from the Town for the expenses incurred and delays suffered by Epcon as a result of the Town's unlawful actions, exaction and its unconstitutional taking, pre-judgment and post-judgment interest, and reasonable attorneys' fees, costs, and expenses pursuant to N.C. Gen. Stat. § 6-21.7.

PARTIES, JURISDICTION, AND VENUE

6. Plaintiff Epcon Robinson Church, LLC is a limited liability company organized under the laws of the State of North Carolina, with a principal place of business in Charlotte, Mecklenburg County, North Carolina.

7. Epcon is a single-purpose entity, founded and established for the sole purpose of developing the Project on a 32.85 acre tract of land owned by Epcon and located at 7800 Robinson Church Road in Harrisburg, Cabarrus County, North Carolina (the "Property").

8. Defendant Town of Harrisburg is a municipality located in Cabarrus County, North Carolina and organized under the laws of the State of North Carolina.

9. This Court may properly exert jurisdiction over the parties to this action and the subject matter of the claims alleged herein.

10. Venue is proper in Cabarrus County, North Carolina.

11. This action is brought within all applicable statutes of limitation, and all conditions precedent to the initiation and maintenance of this action have been complied with, have occurred, or have been waived.

FACTUAL BACKGROUND

12. The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

13. In October 2019, Epcon submitted a rezoning request to the Town, Rezoning Request H2019-03, seeking to rezone the Property from RE, Rural Estate to CZ-RV, Conditional Residential Village (the "Rezoning Request"), in the manner shown on the rezoning plan submitted by Epcon with the Rezoning Request (the "Rezoning Plan").

14. The purpose of Epcon's Rezoning Request was to entitle a 55-and-older age-restricted residential community at the Property.

15. The Rezoning Plan originally submitted by Epcon was commented upon by Town staff and revised by Epcon in response to such comments.

16. The Rezoning Plan ultimately received the support of Town staff, as evidenced by the Staff Report dated April 2, 2020, and attached here as **Exhibit A** (the "Staff Report").

17. The Staff Report was presented at public hearings of the Harrisburg Town Planning Board in March 2020 and Town Council in April 2020, and again at public hearings of Harrisburg Town Council in October and November 2020.

18. The Staff Report, as it relates to off-site public transportation improvements, states: "The applicant also agreed to re-design and **participate** financially in the reconfiguration of the Robinson Church/Tom Query intersection, and to dedicate a portion of the site for the reconfigured intersection street right-of-way. This intersection improvement is prescribed in the Harrisburg Area Land Use Plan." (*Id.*, emphasis added).

19. The Rezoning Plan supported by Town staff also referenced the realignment of Tom Query Road, stating only "Tom Query road re-alignment be designed and constructed by the developer [Epcon] in partnership with the Town of Harrisburg." A copy of the Rezoning Plan is attached hereto as **Exhibit B**.

20. The Staff Report also confirms that a "TIA [Transportation Impact Analysis] was not required based on the lower amount of traffic generated by an age-restricted community." *See* **Exhibit A**.

21. The Staff Report and Rezoning Plan reflect Epcon's agreement and commitment to work in a good faith partnership with the Town to realign the intersection of Tom Query Road and Robinson Church Road. In turn, the Town and Epcon agreed to work jointly with the North Carolina Department of Transportation ("NCDOT") to design and permit the intersection realignment, as Tom Query Road and Robinson Church Road are part of the public State road system operated by NCDOT.

22. The Staff Report, Rezoning Plan, and the Rezoning Request were presented to Town Council in April 2020, again in October 2020, and for final decision on November 9, 2020 (collectively, the "Public Hearings").

23. At the Public Hearings, Mike Davis presented the Rezoning Request on behalf of Epcon, and answered questions of the Harrisburg Town Council regarding the Rezoning Request and the Rezoning Plan.

24. At the Public Hearings, Town staff was represented primarily by the Town's Planning and Economic Development Director Sushil Nepal ("Nepal"), who also answered questions of the Harrisburg Town Council regarding the Rezoning Request and the Rezoning Plan.

25. During the Public Hearings, the impact of the Project on adjacent roads and the perceived need for off-site public transportation improvements was discussed extensively among Epcon, Town staff, and the Harrisburg Town Council.

26. During the Public Hearings, there were multiple references to turn lanes to be installed at Project entrances, but at no time was a specific requirement for a left turn lane from Robinson Church Road to Tom Query Road suggested or agreed to by Epcon or otherwise imposed on the Project as a condition of rezoning consideration or approval.

27. At one of the Public Hearings, Planning Director Nepal was asked by a member of Town Council whether the offsite improvements being discussed for Tom Query Road and Robinson Church Road were "just a realignment, correct," to which Planning Director Nepal replied, "realignment with a signal," with no mention of a left turn lane.

28. During the Public Hearings, the issue of whether a TIA was required for the Project was also discussed, with Nepal confirming that a TIA was not required, confirming what was previously stated in the Staff Report.

29. During the Public Hearings, representatives of the Town made multiple declarations that realignment of the intersection of Tom Query Road and Robinson Church Road had been shown on Town and regional transportation plans for some time, that funding for the realignment had already been allocated from Town transportation bond funds, and that the Town was seeking to shift some of the cost to private developers.

30. During the Public Hearings, Epcon and the Town discussed the Town's estimated budget of $400,000.00 for the realignment of the Robinson Church/Tom Query intersection, as well as Epcon's financial participation in the realignment, with Epcon committing on the record to be financially responsible for no more than fifty percent (50%) of the total cost of engineering and construction for the intersection realignment, not to exceed a $200,000.00 total financial contribution, with Planning Director Nepal confirming that the balance of the costs of realignment of the intersection was to be borne by the Town and Shea Homes, the developer of a neighboring community, in the amounts of $100,000.00 each.

31. On information and belief, Rob Donham ("Donham"), the Town's current Town Manager, was present during the Public Hearings.

32. On information and belief, Mallory Hodgson ("Hodgson"), the Town's Public Works Director and Interim Town Engineer, was present during the Public Hearings.

33. At the November 9, 2020 Public Hearing, Epcon's Rezoning Request for the Project was approved, and on November 10, 2020, Nepal, duly authorized Town Planning and Economic Development Director, issued a letter to Mike Davis with Epcon, confirming approval

of the Rezoning Request, and the conditions of such approval. The Rezoning Approval Letter is attached here as **Exhibit C**.

34. The Rezoning Approval Letter for the Project imposes the following conditions on such rezoning approval:

a. That Epcon agree to obtain any and all applicable local, state, and federal permits required for development before any development activity were to occur;

b. That Epcon agree the community will be age-restricted and will require that 90% of the home owners will be 55 or older, through deed restrictions;

c. That Epcon agree to restrict exterior cladding materials to non-vinyl products;

d. That Epcon agree to construct a ten (10) foot wide 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 a paved trail to Tottenham Drive);

e. That Epcon agree to install a pedestrian crosswalk and signal (Rapid Flashing Beacon) on the greenway crossing at Robinson Church Road;

f. That Epcon agree 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; and

g. That Epcon agree to identify any potential tree save areas (including heritage trees) on the site that might be able to be retained post-development. *Id.*

35. The intersection of Robinson Church Road and Tom Query Road is not a site entrance for the Project, and there is nothing in the Rezoning Approval requiring a left turn lane at the intersection of Tom Query Road and Robinson Church Road. Furthermore, and consistent with the Staff Report, there is no requirement for a TIA as a condition of rezoning approval for the Project.

36. The Rezoning Plan, stamped approved by digital signature of Nepal on November 10, 2020, carried forward the note stating, "Tom Query road re-alignment be designed and constructed by the developer [Epcon] in partnership with the Town of Harrisburg." *See* **Exhibit B.**

37. At the time, Nepal had been serving as the Planning and Economic Development Director for the Town since October 2018, and Nepal would continue to serve in such capacity until approximately July 2022.

38. In his role as Planning and Economic Development Director, Nepal was the senior member of Town Staff, with the ultimate responsibility for processing rezoning and development applications to a final decision per the Town of Harrisburg Unified Development Ordinance.

39. Nepal was acting within his authority as the Town's Planning and Economic Development Director when he sent the Rezoning Approval Letter to Epcon, and stamped the Rezoning Plan as "Approved," and at all other times referenced herein.

40. The approved Rezoning Plan did not require Epcon, or any third party, to perform a TIA for the Project. *Id.*

41. On August 9, 2021, nine months after the Project received rezoning approval, the Town approved the preliminary subdivision plat and overall site plan for the Project (the "Approved Plat"), attached hereto as **Exhibit D**.

42. The language in the Approved Plat mirrors the language in the Rezoning Plan regarding off-site traffic improvements, stating "Tom Query roadway re-alignment to be designed and constructed by the developer in partnership with the Town of Harrisburg." *Id.*

43. The Approved Plat does not contain any reference to the installation of a left turn lane from Robinson Church Road to Tom Query Road. *Id.*

44. Following approval of the Approved Plat, through the fall of 2021, Epcon continued to work with the North Carolina Department of Transportation ("NCDOT") and the Town to complete design of the realignment of the intersection of Robinson Church Road and Tom Query Road.

45. On December 1, 2021, more than a year after the Rezoning Plan was approved and several months after plat approval, Hodgson, for the first time, made a formal request of Epcon to include a left turn lane from Robinson Church Road to Tom Query Road as part of the intersection realignment design.

46. In that same December 1, 2021 communication, Hodgson acknowledged and reiterated the Town's stance regarding a TIA in relation to the Project, stating "no TIA for this project as it didn't trigger the TIA threshold."

47. The Town's request for a left turn lane from Robinson Church Road to Tom Query Road understandably concerned Epcon, as it potentially represented an additional requirement for

the Project, one that could add significant cost to the intersection realignment due to the potential widening of the intersection and the need to purchase or condemn adjacent land.

48. Epcon agreed to consider the Town's request, on the condition that Epcon's financial responsibility for the intersection realignment remain limited to the previous maximum commitment of $200,000.00, consistent with Epcon's approved Rezoning Request and the related Public Hearings.

49. In the winter of 2021-2022, Epcon grew even more concerned that the Town did not intend to honor its agreement regarding Epcon's limited $200,000.00 share of financial responsibility for the intersection realignment, regardless of the scope of work to be completed.

50. On February 7, 2022, Epcon's Andy Gibbon contacted to Nepal to confirm Epcon's understanding that its financial responsibility would be limited to $200,000.00, regardless of whether a left turn lane from Robinson Church Road to Tom Query Road was to be included as part of the intersection realignment.

51. Nepal responded to Epcon the same day, stating "[i]n 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." (emphasis added). The email exchange is attached hereto as **Exhibit E.**

52. Nepal was acting within his authority as the Town's Planning and Economic Development Director when he sent the February 7, 2022, response to Epcon, confirming the Town's interpretation of the rezoning condition related to the intersection realignment and confirming the existing contractual agreement between the Town and Epcon in that regard.

53. Relying upon the Town's renewed confirmation and/or contractual agreement, and the rezoning approval for the Project, Epcon continued to work cooperatively and in good faith with the Town and NCDOT on design of the intersection realignment into the spring of 2022.

54. As of May 24, 2022, Epcon had submitted all Project subdivision construction plans to the Town, with no comments or proposed changes from the Town that would limit Epcon's ability to proceed with construction of the Project, as evidenced by the Town Development Review Committee document attached hereto as **Exhibit F**.

55. However, in June 2022, during a meeting with Town Manager Donham, Hodgson, and other Town representatives, Epcon's fears that that Town would disavow its prior contractual commitments were renewed.

56. During the June 2022 meeting, Donham stated the Town was seeking the incorporation of a left turn lane from Robinson Church Road to Tom Query Road as part of the intersection realignment, based upon Donham's own opinion that a left turn lane was warranted for safety reasons.

57. Further, in direct contradiction of the binding confirmation of Nepal and the already existing contractual agreement between the Town and Epcon, Donham, speaking on behalf of the Town, refused to confirm that Epcon's financial responsibility for the intersection realignment would be limited to $200,000.00.

58. Notwithstanding the Town's illegal attempt to back out of its commitment and contractual agreement regarding Epcon's financial responsibility, Epcon continued to work with NCDOT on designing the realignment of the intersection.

59. On July 19, 2022, Epcon met with NCDOT representatives, who not only confirmed that a left turn lane at the intersection was not warranted, but opined that realignment

of the intersection of Robinson Church Road and Tom Query Road alone was unwarranted and premature.

60. NCDOT did not request or require a TIA for the Project or intersection realignment – not at the July 19, 2022 meeting, nor at any time during the design and plan review process, through and including the date of this Complaint.

61. In late 2022, NCDOT indicated no further comments on an intersection design without a left turn lane from Robinson Church Road to Tom Query Road, with final approval being subject only to the Town signing and returning normal and customary utility encroachment agreements related to the Project. *See* **Exhibit G** attached hereto.

62. On January 25, 2023, Epcon formally resubmitted design plans to the Town for the realignment of the intersection, which did not include a left turn lane from Robinson Church Road to Tom Query Road.

63. The resubmitted plans had been fully reviewed and commented on by NCDOT as to design, with final approval of such design being conditioned only on return of the encroachment agreements by the Town.

64. In response to such formal resubmittal, Town Attorney Rich Koch, informed Epcon, through counsel, that the Town would perform an expedited review of the resubmittal, though the Town had thirty days to review and respond.

65. Over the ensuing several weeks, the Town failed to respond to the resubmittal or otherwise act on granting permits and approvals for the Project and continued to insist that a left turn lane from Robinson Church Road to Tom Query Road be further studied, if not required, in the intersection realignment.

66. On March 1, 2023, representatives of Epcon met with representatives of the Town, including Donham and Hodgson, in an effort to understand the Town's demands regarding the intersection realignment and the potential left turn lane.

67. Marc P. Morgan and Zachary Garner attended the March 1, 2023 meeting on behalf of the NCDOT.

68. For the first time, more than two (2) years after the Staff Report and Town Council's initial consideration of Epcon's Rezoning Request, more than a year and a half after plat approval, Donham demanded that Epcon perform a "left turn lane warrant analysis" to determine if a left turn lane from Robinson Church to Tom Query Road was required at the intersection.

69. Donham confirmed during the meeting that if the warrant analysis did not conclude that a left turn lane was necessary, the Town would not require one.

70. In addition, in a complete and unlawful reversal of the Town's prior confirmation of the rezoning condition and the contractual agreement of the parties, and contrary to Nepal's confirmation more than a year prior, Donham stated that Epcon would be responsible for the full cost of the intersection realignment, except for $200,000.00 to be provided by the Town and Shea Homes, who would contribute $100,000.00 each.

71. Following the March 1, 2023, meeting, Epcon promptly engaged Jeffrey H. Moore, a traffic engineer with the firm of Gannett Fleming, to perform the requested left turn lane warrant analysis.

72. Mr. Moore's report, attached here as **Exhibit H**, initially notes that for signalized intersections, such as the intersection of Robinson Church and Tom Query Road, NCDOT traffic engineering guidelines do not require or contemplate turn lane warrant analyses, indicating the

Town had requested something inconsistent with NCDOT engineering guidelines relevant to the subject intersection.

73. Nonetheless, and despite the Town's unlawful, unreasonable and unfounded request, Moore performed an analysis of traffic at the intersection of Tom Query Road and Robinson Church based on a previous TIA provided by the Town (unrelated to the Project), and more recent traffic data reported by NCDOT, and concluded 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 Road.

74. On March 14, 2023, Epcon submitted Moore's left turn lane analysis and conclusion to the Town.

75. In response to Epcon's submission, Donham asked Epcon to submit Moore's analysis and the associated intersection plans to the Town's Planning Department. On March 20, 2023, the Town confirmed receipt of both Moore's analysis and Epcon's resubmission of the intersection realignment plans.

76. On April 20, 2023, the Town informed Epcon that the Town was performing a traffic study (ostensibly a TIA) related to the Project.

77. The Town's initiation of a TIA at this late stage can only be for the improper and unlawful purpose of attempting to justify a requirement for a left turn lane at the intersection of Robinson Church Road and Tom Query Road, despite the Project not being subject to a TIA requirement, as set forth in the Staff Report and later confirmed by Town Project Manager Hodgson.

78. Despite the passage of nearly two months since Epcon's last resubmittal of intersection realignment design plans acceptable to NCDOT, the Town continues to delay and

withhold necessary development permits and approvals for Epcon to begin construction of the Project.

79. From and after the Town's approval of the Approved Plat in August 2021, the Town has unreasonably and unlawfully deferred and denied Epcon's request for preliminary sewer allocation for the Project, despite such allocation being consistent with the Town's Wastewater Allocation and Commitment Policy.

80. On information and belief, the Town's continued refusal to grant development approvals and preliminary sewer allocation for the Project is based exclusively on the Town's unlawful insistence on a left turn lane from Robinson Church Road to Tom Query Road as part of the intersection realignment, and the Town's attempted illegal exaction from Epcon of all but $200,000.00 of the cost of such off-site public transportation improvements.

81. On April 3, 2023, pursuant to N.C. Gen. Stat. 160D-405, Epcon appealed the Town's administrative decision interpreting the rezoning conditions for the Project to the Town Board of Adjustment, objecting to the Town's unlawful insistence of a left turn lane from Robinson Church Road to Tom Query Road as part of the intersection realignment, and the Town's illegal exaction from Epcon of all but $200,000.00 of the cost of such off-site public transportation improvements.

82. Despite the Town having been in possession of Epcon's appeal to the Board of Adjustment for more than six (6) weeks as of the filing of the instant action, the Town has taken no action on Epcon's appeal and has failed to schedule a public hearing regarding the appeal.

83. Notwithstanding Epcon's pending appeal to the Board of Adjustment, N.C. Gen. Stat. § 160D-1403.1 entitles Epcon to bring the instant action as a separate action, without limitation, challenging the constitutionality and statutory authority of Defendant's actions.

FIRST CAUSE OF ACTION
(Declaratory Judgment – NC Gen. Stat. 160D-804)

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

84. Pursuant to N.C. Gen. Stat. § 160D-804, as a condition of subdivision approval, a municipality such as the Town is only authorized to require a developer to provide funds or dedicate right of way for the construction of roads outside of the developer's subdivision.

85. N.C. Gen. Stat. § 160D-804 further requires that a developer's contribution of funds must be "based on the trips generated from the subdivision or development," that is, any required contribution must be proportionate to the impact of the developer's subdivision.

86. N.C. Gen. Stat. § 160D-804 does not permit the Town to require Epcon to construct traffic improvements outside of the Project, nor does it permit the Town to require Epcon to pay more than its proportionate share of any such off-site traffic work, including intersection realignment.

87. The Rezoning Approval Letter requires only that "Tom Query road re-alignment be designed and constructed by the developer [Epcon] in partnership with the Town of Harrisburg." *See* **Exhibit B.**

88. Over one year after the Rezoning Plan was approved by the Town, and after preliminary subdivision approval had been received for the Project, the Town imposed additional off-site public transportation improvement obligations upon Epcon, including, without limitation, the inclusion of a left turn lane from Robinson Church Road to Tom Query Road.

89. Long-standing and well-settled law in North Carolina holds that N.C. Gen. Stat. § 160D-804 does not empower a municipality to require developers to build streets and highways outside the boundaries of its subdivision as a condition of subdivision approval. That which a

municipality cannot do as a condition of subdivision approval can certainly not be required by the municipality following such subdivision approval.

90. Pursuant to N.C. Gen. Stat. § 160D-804(d), "[a]ny formula adopted by a local government to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development."

91. North Carolina law requires that the cost imposed on Epcon for the construction of road improvements outside the Project must be proportionate to the impact of the Project on such off-site roads.

92. The Town's eleventh-hour requirement that Epcon design, build, and construct a left turn lane from Robinson Church Road to Tom Query Road where one did not previously exist violates N.C. Gen. Stat. § 160D-804.

93. The Town's requirement that Epcon pay all costs of intersection realignment above $200,000.00 is disproportionate to the trips to be generated by the subdivision, and thus violates N.C. Gen. Stat. § 160D-804(d).

94. For the foregoing reasons, Epcon is entitled to a declaration that the Town lacked authority under N.C. Gen. Stat. § 160D-804 to belatedly require Epcon to install a left turn late at the intersection, and/or to require Epcon to bear a disproportionate level of the costs of the off-site public transportation improvements.

SECOND CAUSE OF ACTION
(Declaratory Judgment – Violation of Procedural Due Process)

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

95. At the time the Town provided Rezoning Approval to Epcon in November 2020, it made such decision at a Public Hearing following multiple Public Hearings, during each of which

Epcon was afforded the opportunity to be heard and the parties reasonably discussed Epcon's obligations in order to obtain rezoning approval.

96. During the Public Hearing in November 2020, the Town and Epcon agreed only that Epcon "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."

97. During the Public Hearing in November 2020, the Town and Epcon agreed that Epcon's financial contribution toward the off-site public transportation improvements would amount to no more than 50% of the cost, not to exceed $200,000.

98. Nepal, Epcon's Planning and Economic Development Director, reaffirmed the parties' agreement, in writing, in February 2022.

99. Between 2022 and the present, the Town, without basis and without providing Epcon an opportunity to be heard, unilaterally changed Epcon's obligations under the Rezoning Approval.

100. The Town, without basis and without providing Epcon an opportunity to be heard, unilaterally changed the parameters and requirements of the intersection realignment, resulting in a significant increase in the cost of the same.

101. The Town, without basis and without providing Epcon an opportunity to be heard, unilaterally changed Epcon's financial obligations for the off-site public transportation improvements.

102. Epcon was not afforded any procedural due process protections necessary in the Town making such changes to Epcon's obligations.

103. The Town thus violated Epcon's procedural due process rights.

104. Epcon is entitled to a declaration that the Town was required to afford Epcon procedural due process, and that its failure to do so invalidates any alleged or purported obligation by Epcon to construct a left turn lane as part of the intersection realignment or to bear a disproportionate cost for the intersection realignment.

THIRD CAUSE OF ACTION
(Declaratory Judgment – Violation of Substantive Due Process – 42 U.S.C. § 1983)

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

105. Epcon has a fundamental interest in the Property and the Project, along with the substantial amounts of money it has paid to date in furtherance of the Town's requirement that Epcon fund off-site public transportation improvements.

106. Epcon has rights under state law to not be subjected to unlawful exactions by the Town as a condition of development approvals.

107. The off-site public transportation improvements, particularly the realignment of the intersection of Robinson Church Road and Tom Query Road, do not have any rational or proportionate relationship to the impact of the Project on the Town's infrastructure.

108. The off-site public transportation improvements, particularly the incorporation of a left turn lane from Robinson Church Road to Tom Query Road as part of the intersection realignment, do not have any rational or proportionate relationship to the impact of the Project on the Town's infrastructure.

109. The Town's requirement that Epcon bear the non-specific and indeterminate amount of all costs in excess of $200,000.00 for the off-site public transportation improvements

does not have any rational or proportionate relationship to the impact of the Project on the Town's infrastructure.

110. The Town's requirement of the off-site public transportation improvements, as well as the Town's imposition of costs against Epcon, were undertaken under color of law, and violated Epcon's substantive due process rights.

111. The Town's requirement of the off-site public transportation improvements, as well as the Town's imposition of costs against Epcon, was an unconstitutional taking under Article I, § 19 of the North Carolina Constitution.

112. The Town's violation of Epcon's due process rights, undertaken under color of law, violate Epcon's substantive due process rights under the United States Constitution.

113. Epcon has suffered financial losses, including, without limitation, the cost of traffic engineers and construction designers, as a result of the Town's unlawful conduct.

114. Epcon has been deprived of its constitutional right to the lawful use of its property due to the Town's unlawful conduct.

115. Epcon is entitled to a permanent injunction prohibiting the Town from requiring the off-site public transportation improvements as a condition of issuance of subdivision approvals and preliminary sewer allocation for the Project.

116. Epcon is further entitled to a refund of all amounts it has paid in connection with the Town's unlawful requirement that Epcon engage in disproportionate or otherwise unlawful off-site construction, in an amount in excess of $25,000.

FOURTH CAUSE OF ACTION
(Monetary Damages – NC Gen. Stat. 160D-106)

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

117. Epcon has spent substantial amounts of money in furtherance of the Town's unlawful requirement that Epcon fund off-site public transportation improvements.

118. Specifically, Epcon's financial losses include hiring traffic engineers and construction designers, as a result of the Town's unlawful conduct.

119. Pursuant to N.C. Gen. Stat. § 160D-106, the Town must return any illegally imposed tax, fee, or monetary contribution for a development approval not specifically authorized by law, plus interest of six percent per annum.

120. Epcon is entitled to reimbursement of all amounts it has paid in connection with unlawful off-site construction requirements imposed by the Town, in an amount that exceeds $25,000, pursuant to N.C. Gen. Stat. § 160D-106, plus interest at the rate of six percent (6%) per annum.

FIFTH CAUSE OF ACTION
(Anticipatory Breach of Contract/Breach of Covenant of Good Faith and Fair Dealing)

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

121. Pursuant to the discussions between the Town and Epcon at the November 9, 2020 Public Hearing, the parties entered into an enforceable agreement as to Epcon's responsibilities for off-site public transportation improvements, and Epcon's financial responsibilities regarding the same.

122. On November 10, 2020, Nepal sent Epcon a written Rezoning Approval, confirming Epcon's responsibilities for the off-site public transportation improvements.

123. On February 7, 2022, Nepal sent Epcon a written confirmation that Epcon's financial obligations toward the off-site public transportation improvements would amount to no more than 50% of the cost, not to exceed $200,000.

124. Epcon has performed all of its duties pursuant to the Rezoning Plan.

125. The Town has unlawfully continued to withhold development approvals and preliminary sewer allocation for the Project from Epcon, despite Epcon's completion of all conditions precedent to receipt of such approvals and allocation.

126. The Town's unilateral and unlawful revision to the Project's rezoning conditions and Epcon's related financial obligations, by and through its representatives Donham and Hodgson, stating that Epcon shall be responsible for all costs in excess of $200,000.00 for the off-site public transportation improvements, is a breach of the parties' agreement.

127. The Town's unilateral and unfounded revision to the Rezoning Plan, by and through its representatives Donham and Hodgson, requiring that Epcon design and construct a left turn lane from Robinson Church Road to Tom Query Road, is a breach of the parties' agreement.

128. The Town's unilateral and unfounded revisions to the Parties' original agreement, by and through its representatives Donham and Hodgson, is a breach of the covenant of good faith and fair dealing.

129. Epcon has suffered and continues to suffer damages as a result of the Town's breach of contract, delays, and other unlawful conduct in amount in excess of $25,000.

PETITION FOR WRIT OF MANDAMUS

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

130. Epcon has satisfied all of its precedent obligations for the issuance of subdivision permits and approvals and preliminary sewer allocation for the Project, including, without limitation, all of its obligations under the Rezoning Plan.

131. Epcon is entitled to the issuance of subdivision permits and approvals and preliminary sewer allocation so that it may initiate construction of the Project on the Property.

132. The Town has a legal obligation to issue subdivision permits and approvals and preliminary sewer allocation, as Epcon has satisfied its obligations under the Rezoning Plan and the Town has approved Epcon's preliminary subdivision plat.

133. The Town does not have discretion to arbitrarily withhold subdivision permits and approvals and preliminary sewer allocation from Epcon under the circumstances set forth herein.

134. The Town has the present ability to issue subdivision permits and approvals and preliminary sewer allocation to Epcon so that it may begin construction of the Project on the Property.

135. The Town has arbitrarily refused to issue subdivision permits and approvals and preliminary sewer allocation to Epcon, based upon its unfounded and unlawful revisions to the Rezoning Plan and breach of contract regarding Epcon's financial obligations toward off-site public transportation improvements.

136. Epcon therefore requests that this Court issue a writ of *mandamus,* directing the Town and its relevant staff members to immediately take all necessary measures to issue subdivision permits and approvals and preliminary sewer allocation so that Epcon may proceed with construction of the Project on the Property without further delay.

MOTION FOR REASONABLE ATTORNEYS' FEES AND COSTS
(N.C. Gen. Stat. § 6-21.7, § 1-263)

The allegations included in the preceding paragraphs are realleged and incorporated herein by reference.

137. The Town has acted outside the scope of its legal authority and abused its discretion through the unlawful conduct alleged herein.

138. N.C. Gen. Stat. § 6-21.7 provides, in relevant part, that "[i]n any action in which a city or county is a party, upon a finding by the court that the city or county violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action."

139. The North Carolina Declaratory Judgment Act, N.C. Gen. Stat. § 1-263, provides that "[i]n any proceeding under this article the court may make such award of costs as may seem equitable and just."

140. The Town's obligations as set forth herein are not warranted by existing law, and in fact the Town is bound by unambiguous law not to engage in the conduct complained of by Epcon herein.

141. Epcon is entitled to the recovery of its reasonable attorneys' fees, costs, and expenses pursuant to N.C. Gen. Stat. § 6-21.7 and N.C. Gen. Stat. § 1-263.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Epcon Robinson Church, LLC respectfully prays the Court for the following relief:

1. That on Plaintiff's First Cause of Action, the Court enter a declaration that the Town lacked authority under N.C. Gen. Stat. § 160D-804 to require Epcon to realign the intersection of Robinson Church Road and Tom Query Road, to require Epcon to install a left turn late at the intersection, and to require Epcon to bear a disproportionate level of the costs of the off-site public transportation improvements.

2. That on Plaintiff's Second Cause of Action, the Court enter a declaration that the Town was required to afford Epcon procedural due process, that the Town failed to afford Epcon

procedural due process, and that its failure to do so voids Epcon's obligations to construct off-site traffic improvements and bear a disproportionate cost of the same;

3. That on Plaintiff's Third Cause of Action, the Court enter a declaration that the Town's conduct violates Epcon's substantive due process rights, and that its failure to do so voids Epcon's obligations to construct off-site traffic improvements and bear a disproportionate cost of the same; issue permanent injunction prohibiting the Town from requiring the off-site public transportation improvements as a condition of subdivision approvals and preliminary sewer allocation for the Project;

4. That on Plaintiff's Fourth Cause of Action, the Court enter judgment of compensatory damages against the Town and in Epcon's favor, in an amount in excess of $25,000, plus interest accruing at the legal rate from the date of judgment until paid;

5. That on Plaintiff's Fifth Cause of Action, the Court enter judgment of compensatory damages and other contractual damages against the Town and in Epcon's favor, in an amount in excess of $25,000, plus interest accruing at the legal rate from the date of judgment until paid;

6. That the Court issue a Writ of *Mandamus* to the Town of Harrisburg and its staff, directing it to immediately issue necessary development approvals and preliminary sewer allocation for the Project, so that Epcon may proceed with construction of the Project on the Property without further delay.

7. That the Court award Epcon its reasonable attorneys' fees and costs of prosecuting this action pursuant to N.C. Gen. Stat. § 6-21.7, § 1-263;

8. That there be a trial by jury on all issues so triable; and

9. For such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 19th day of May, 2023.

JOHNSTON, ALLISON & HORD, P.A.

/s/ David Carson

B. David Carson, NC State Bar No. 15795
dcarson@jahlaw.com
David E. Stevens, NC State Bar No. 54706
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1065 E. Morehead Street, Charlotte, NC 28204
Telephone: (704) 332-1181
Facsimile: (704) 323-4516
Attorneys for Plaintiff

EXHIBIT A

Harrisburg NC
The right side of opportunity

Town of Harrisburg
Planning and Economic Development Department
Rezoning Staff Report

DATE: April 02, 2020

SUBJECT:

Request H-2019-03-(R):	To rezone approximately 32.85 acres from RE, Rural Estate to CZ-RV, Conditional Residential Village
Location:	The subject property is located at the southwest corner of the intersection of Robinson Church Road and Tom Query Road. (PIN 55075084100000)
Applicant:	Epcon Communities on behalf of owners (Parks and Carolyn Howie)
Staff Report Prepared by:	Sushil Nepal, AICP, Planning & Economic Development Department
Neighborhood Meeting:	Held November 21st, 2019

BACKGROUND:

Area:	±32.85 acres Total
Existing Land Use:	Vacant/Single-Family Residential
Zoning within 500 feet:	North – RE, Rural Estate South – RE, Rural Estate East – RE, Rural Estate – RM-1, Residential Medium Density West – RE, Rural Estate – RM-1, Residential Medium Density
Land Uses within 500 feet:	North – Vacant and Single-Family Residential South – Vacant and Single-Family Residential

East – Single-Family Residential
West – Single-Family Residential

APPLICATION SUMMARY:

- The applicant proposes to develop a 77-lot single-family age-restricted (55 and above) subdivision. To achieve this, the applicant is requesting that the property be rezoned from the current Rural Estate (RE) district to Conditional Residential Village (CZ-RV) in accordance with the site plan submitted with the application.
- The proposed density of the site is 2.34 dwelling units per acre. The RV district has a maximum density of 8 dwelling units per acre but upon approval of this rezoning, the density will be capped at 2.34 unit/acre and the site plan will be attached with the land.
- Per the Town subdivision regulations, the applicant is providing dedicated public open space. The applicant proposes the development of 6.3 acres of open space as part of the development.
- The applicant agreed to install a ten (10) foot wide paved greenway trail near the southern boundary of the site along Fuda Creek and to dedicate a twenty-five (25) foot wide greenway easement to complete a segment of the Fuda Creek Greenway. The greenway would directly link to both the proposed development and the Fenton Dell community immediately to the west, and to the existing greenway across Robinson Church Road to the east. The applicant also proposes to construct a pedestrian grade crossing (including pedestrian signal) crossing Robinson Church Road that will link the proposed segment of the greenway to the existing greenway across Robinson Church Road.
- The applicant also agreed to re-design and participate financially in the reconfiguration of the Robinson Church/Tom Query intersection, and to dedicate a portion of the site for the reconfigured intersection street right-of-way. This intersection improvement is prescribed in the Harrisburg Area Land Use Plan.
- As a conditional zoning request, the applicant has submitted a site plan along with the request for rezoning, which is attached for your consideration.
- The property is in the Town's Extra-Territorial Jurisdiction (ETJ), applicant has also submitted a Petition requesting Annexation for the subject property which is contiguous to the current Town of Harrisburg corporate limits.

APPROVAL CRITERIA:

1. **The size of the tract in question;**

   The subject property is approximately 32.85 acres in size.

2. **Whether the proposal conforms with and is in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the goals, objectives and policies of the Ordinance;**

Per the Unified Development Ordinance, the intent of the proposed district depicted on the submitted site plan is as follows:

> ***RV:*** *The RV district is established to provide areas for detached and attached single family homes, with a maximum of eight (8) dwelling units per acre, in areas where large-lot development is discouraged and adequate public facilities and services are available. RV supports the principles of concentrating urban growth and reinforcing existing community centers.*

Per the Harrisburg Area Land Use Plan, the subject property is located in an area designated on the future land use map as Medium Density Residential. The description of Medium Density Residential is as follows:

> *"This area is comprised of predominantly single-family detached homes but may include attached single family units, such as townhomes and duplexes. The mix of housing types are intended to create neighborhoods with a density range of 3 to 4 dwelling units per acre. Improved open spaces are interspersed and the streetscape is more formal."*

Based on the description of the Medium Density Residential land use classification, the proposed development, at 2.34 dwelling units per acre would fall within the threshold of 2 to 3 dwelling units per acre that has been set for this area in the Land Use Plan.

With regard to the overall goals of the Land Use Plan, **recommendation LU-5** states that the Town should "Expand Housing Options" to appeal to a broad range of audiences. It specifically mentions offering a housing product that could appeal to residents wishing to age in place. The Plan's demographic section documents that "the Planning area has a growing mature population with more than 40 percent of households being over the age of 55". The Market Conditions Projections section states that close to half of the future demand for for-sale housing will be for homes and villas on smaller lots.

Recommendation LU-7 of the Plan recommends consistency between the Town's zoning regulations and the adopted Future Land Use Map. A table included as part of this goal establishes the "appropriate" zoning districts to use when making zoning decisions based on the Future Land Use Map. The map, as previously stated, designates this area as Medium Density Residential. The table indicates that the RV district is appropriate for this land use classification.

3. **The benefits or detriments for the owner, neighbors and surrounding community;**

The benefits to the owner of the property would be that single-family residential development at the proposed density of 2.34 dwelling units per acre could be achieved under the proposed zoning. The existing zoning restricts density to 1 dwelling unit per acre.

Detriments to the neighbors and surrounding community are consistent with those expected with additional residential development, such as generation of additional traffic

and potential traffic congestion during peak times. Since the proposal is for an age-restricted community, traffic generation is less compared to traditional single-family subdivision and that there should be no impact upon student populations in the schools.

Benefits to the neighbors and the surrounding community include the dedication and construction of an additional segment of the Fuda Creek Greenway and installation of a greenway pedestrian crossing across Robinson Church Road, and the re-alignment of Tom Query Road at its intersection with Robinson Church Road to make it a safe intersection.

4. **Whether the proposed request is in compliance with the adequate public facilities criteria;**

   a. **Utilities:**

      Utilities are available in this area, and are sufficient to meet the needs of this property. Water and sewer access are located along Robinson Church Road, and will be available to the development upon annexation. Any utility line extensions or upgrades necessary to serve this development will be the responsibility of the developer.

   b. **Transportation:**

      A TIA was not required based on the lower amount of traffic generated by an age-restricted community. However, several transportation-related improvements will be completed as part of this development. In addition to the afore-mentioned greenway and intersection improvements, the developer has committed to installation of sidewalks along the Robinson Church and Tom Query frontages, and some perimeter road widenings to accommodate turn movements into the development.

   c. **Safety and Sanitation Services:**

      Adequate police, fire, and sanitation services are available for the proposed use, and will be provided upon annexation.

   d. **Schools:**

      The proposal is for an age-restricted (55 plus) adult community, so the generation of school-age populations is extremely unlikely. In recognition of the community's characteristics, Cabarrus County Schools states that they do not estimate students from age-restricted communities.

5. **The relationship of the uses envisioned under the new zoning and the uses currently present in adjacent tracts. The Commission shall consider the following:**

   a. **Whether the proposed zoning is compatible with the surrounding area or whether there will be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or**

environmental impacts that the new use will generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting or other nuisances;

The density of the proposed development (2.34 dwelling units per acre) is slightly higher than the observed density of the newer developed neighborhoods to the east and west of the site (although those neighborhoods are the same RV zoning as being requested for this site). Although such a density is not uncommon with an age-restricted community. The development proposes 6.3 acres of the site be devoted to open space. With regard to specific uses, the single-family homes proposed for this development would not be incompatible with surrounding land uses.

Properties to the north and south of the site are currently exists as rural homesteads, so the proposed development would represent a change compared to those areas.

b. Any change of character in the area due to installation of public facilities, other zoning changes, new growth changes, deterioration, and development;

Sizable portions of the Robinson Church Road corridor continue to remain rural or undeveloped in character although the Harrisburg Area Land Use Plan prescribes medium density residential uses for the portion of the corridor north of Rocky River Road. Several residential developments including Bridge Pointe to the east of the site suggests increased development interest and pressure in this part of Harrisburg.

Like all other development activity in this area, the development of this land would convert former farmland and forestland into residential neighborhoods, while preserving appropriate area for open space/tree save.

c. The zoning districts and existing land uses of the surrounding properties;

The areas around this property are generally zoned for low to medium density residential use. Existing land use patterns in the area typically consist of low to medium density residential neighborhoods and vacant forested land and land previously used for agricultural purposes.

d. Whether the subject property is suitable for the uses to which it has been restricted under the existing zoning classification;

The property is suitable for the uses which it has been restricted to under the existing zoning classification.

e. Whether the rezoning is compatible with the adjacent neighborhood, especially concerning neighborhood stability and character;

As previously mentioned, the specific use of the property, single family residential, is consistent with surrounding neighborhoods. The primary point of potential inconsistency would be the introduction of smaller lots into this area, which however is in alignment with the Land Use Plan.

f. **The length of time the subject property has remained vacant as zoned (if applicable);**

This property has been used for residential and agricultural purposes.

g. **Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs;**

Land supply is not a direct issue in this area.

6. **Whether the existing zoning was in error at the time of adoption.**

The existing zoning was not in error at the time of adoption.

Furthermore, as a Conditional Zoning request, the Board must consider the following criteria:

7. **The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the current Land Use Plan.**

The rezoning application to RV district to the property, with the proposed density limitation, is consistent with the density and lot size standards established for the base RV Zoning District in the Unified Development Ordinance and Medium Density Residential land use classification in the Land Use Plan.

The development proposal accompanying the rezoning request would restrict permitted uses to single family residences, which are appropriate in this area.

8. **The use(s) requested are among those listed as an eligible permitted or conditional use in the general use district as included in the rezoning request.**

The applicant is seeking for the following uses to be allowed in this Conditional Zoning District:

- Single-Family Detached Residential; this use is allowed in the RV District.

9. **The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare and vibration and not create a nuisance.**

The applicant intends to work collaboratively with both Harrisburg town staff and the NC Department of Transportation in identifying and implementing roadway improvement measures on perimeter roadways intended to mitigate adverse transportation impacts associated with the proposed development. Currently two vehicular site access points are planned, one onto Tom Query Road (planned as a right in/right out intersection) and one full-movement access point onto Robinson Church Road to be aligned opposite Baybrooke Lane.

Furthermore, the re-alignment of the Tom Query/Robinson Church intersection will provide benefits to both residents of the proposed development as well as to citizens and motorists of the larger community. Finally, the planned extension of the Fuda Creek Greenway will provide residents in the area greater bicycle and pedestrian mobility alternatives.

Landscaping buffers shown are adequate to meet the needs of the adjacent properties, and town staff is working with the applicant to identify any prospective tree save opportunities on the site that could be incorporated into the final planting plan.

10. **The use limitations and conditions as proposed and/or imposed for the requested district can reasonably be implemented and enforced for the subject property.**

    The conditions proposed and imposed for this district can be reasonably implemented on this site.

11. **When implemented the proposed and/or imposed use limitations and conditions will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general zoning district. If any standards are proposed that are different from the underlying zoning district, the applicant must clearly demonstrate that the overall resultant project is greater than that which is typically allowed by the general district.**

    All proposed conditions recommended by staff are to bring the site into conformance with applicable local and state regulations.

12. **The applicant has agreed to accept the use limitations and conditions as proposed and/or imposed for the requested district.**

    The applicant will need to agree to all conditions listed in this staff report. Any additional conditions placed on this property will need the acceptance of the applicant before a decision can be made on this application.

13. **For an approval, the Board must adopt a consistency statement that the amendment being considered is either consistent or inconsistent with the adopted land use plan and that the Board considers the action to be reasonable and in the public interest.**

    Both the Planning Board and the Town Council will need to adopt a consistency statement when a recommendation or decision is made on this item.

APPROVAL WITH CONDITIONS:

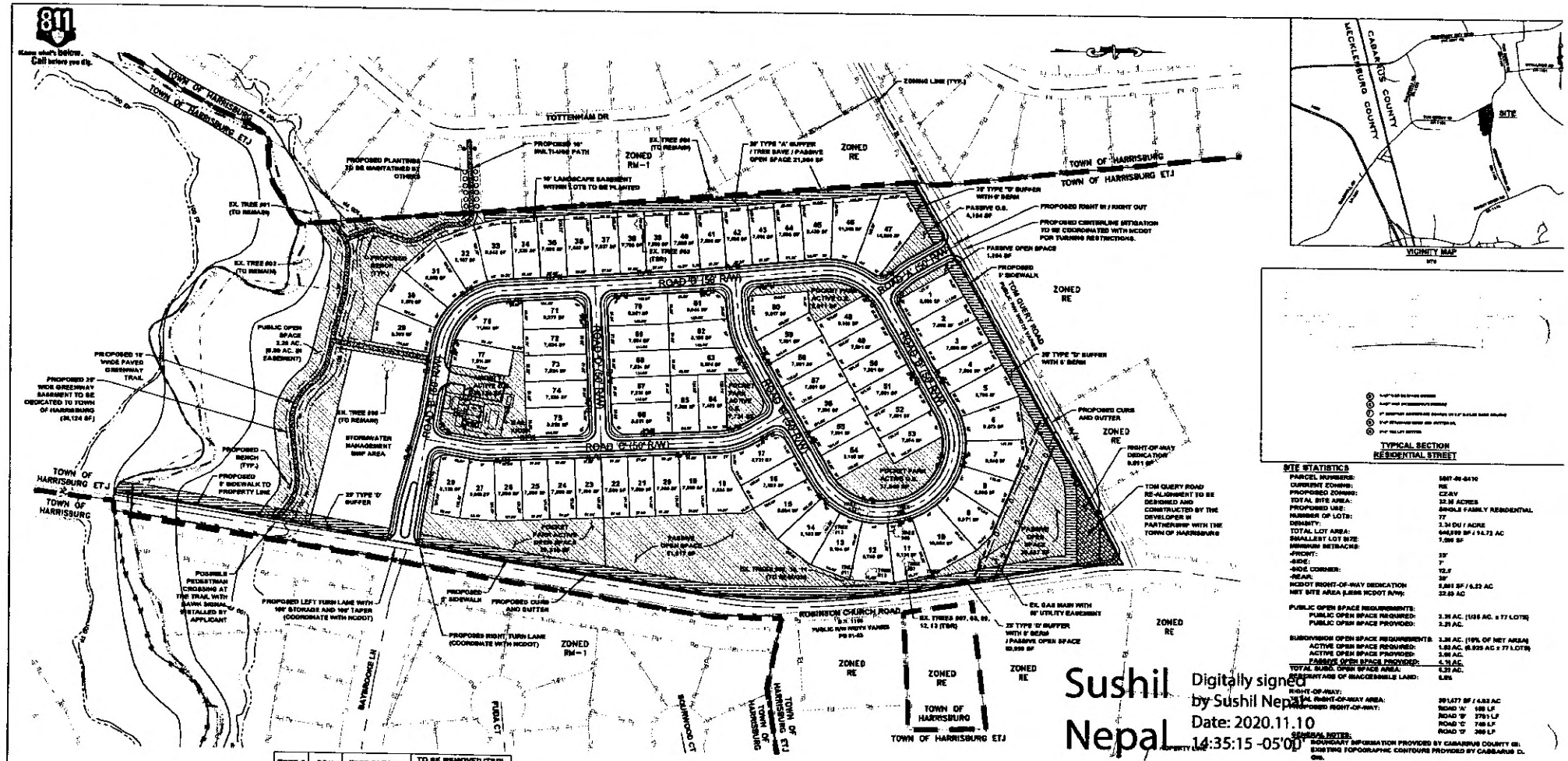
The proposal is a conditional rezoning request. Conditions *may* be imposed on the zoning action; staff recommends that the following conditions be placed on this project. Applicant agrees to the following:

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 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, re-alignment 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.

RECOMMENDATION:

With the conditions proposed, the rezoning request is consistent with the Harrisburg Area Land Use Plan. Planning and Zoning Department staff supports approval of the rezoning request with conditions.

EXHIBIT B



VICINITY MAP

TYPICAL SECTION
RESIDENTIAL STREET

SITE STATISTICS

PARCEL NUMBER:	4697-49-8416
CURRENT ZONING:	RE
PROPOSED ZONING:	CZAV
TOTAL SITE AREA:	32.38 ACRES
PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
NUMBER OF LOTS:	77
DENSITY:	2.34 DU / ACRE
TOTAL LOT AREA:	644,899 SF / 14.73 AC
SMALLEST LOT SIZE:	7,000 SF
MINIMUM SETBACKS:	
-FRONT:	25'
-SIDE:	7'
-SIDE CORNER:	12.5'
-REAR:	20'
NCDOT RIGHT-OF-WAY DEDICATION	0.261 SF / 6.23 AC
NET SITE AREA (LESS NCDOT R/W):	32.03 AC

PUBLIC OPEN SPACE REQUIREMENTS:

PUBLIC OPEN SPACE REQUIRED:	3.36 AC. (108 AC. x 77 LOTS)
PUBLIC OPEN SPACE PROVIDED:	3.21 AC.

SUBDIVISION OPEN SPACE REQUIREMENTS: 3.36 AC. (10% OF NET AREA)

ACTIVE OPEN SPACE REQUIRED:	1.83 AC. (0.023 AC. x 77 LOTS)
ACTIVE OPEN SPACE PROVIDED:	2.00 AC.
PASSIVE OPEN SPACE PROVIDED:	4.19 AC.
TOTAL SUBD. OPEN SPACE AREA:	6.20 AC.
PERCENTAGE OF INACCESSIBLE LAND:	6.8%

RIGHT-OF-WAY:

TOTAL RIGHT-OF-WAY AREA:	261,477 SF / 6.03 AC
PROPOSED RIGHT-OF-WAY:	ROAD 'A' 100 LF
	ROAD 'B' 2753 LF
	ROAD 'C' 740 LF
	ROAD 'D' 300 LF

GENERAL NOTES:

1. BOUNDARY INFORMATION PROVIDED BY CABARRUS COUNTY GIS. EXISTING TOPOGRAPHIC CONTOURS PROVIDED BY CABARRUS CO. GIS.
3. ACCESS POINTS MUST BE STAKED IN THE FIELD FOR VERIFICATION OF SIGHT DISTANCE.
4. ALL ROADS SHALL BE DESIGNED ACCORDING TO THE TOWN OF HARRISBURG STANDARDS.
5. 20' X 20' SIGHT TRIANGLE EASEMENTS SHALL BE PROVIDED AT ALL INTERNAL INTERSECTIONS.
6. 20' X 90' SIGHT TRIANGLES SHALL BE PROVIDED AT THE ROBINSON CHURCH ENTRANCE.
7. THIS SUBDIVISION WILL BE SERVED BY PUBLIC WATER AND GRAVITY SEWER SERVICE FROM THE TOWN OF HARRISBURG. ALL WATER AND SEWER EXTENSIONS REQUIRED FOR THIS PROJECT ARE THE RESPONSIBILITY OF THE DEVELOPER.
8. ADA RAMPS SHALL BE PLACED AT ALL INTERSECTIONS. ADA RAMPS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CURRENT ADA REQUIREMENTS.
9. PORTIONS OF THIS PROPERTY ARE LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FIRM MAP NO. 3710568600K AND 3710568700K BOTH DATED NOV 16, 2015.
10. A LIGHTING PLAN WILL BE SUBMITTED TO THE TOWN ENGINEER FOR APPROVAL THAT WILL COMPLY WITH THE TOWN OF HARRISBURG STREET LIGHTING REQUIREMENTS.
11. RMP TO BE LANDSCAPED WITH FOUNTAIN AND FENCED.
12. HERITAGE TREES TO BE REMOVED DURING CONSTRUCTION SHALL BE MITIGATED PURSUANT TO ARTICLE 6 OF THE U.D.O.

TREE #	DBH	TREE SPECIES	TO BE REMOVED (TBR) OR TO REMAIN
01	31"	MAPLE	TO REMAIN
02	34"	SWEET GUM	TO REMAIN
03	34"	MAPLE	TBR
04	37"	OAK	TO REMAIN
06	36"	MAPLE	TO REMAIN
08	30"	OAK	TO REMAIN
07	48"	OAK	TBR
09	30"	MAPLE	TBR
10	30"	MAPLE	TBR
11	38"	OAK	TO REMAIN
12	48"	MAPLE	TO REMAIN
13	31"	MAPLE	TBR
14	32"	MAPLE	TBR

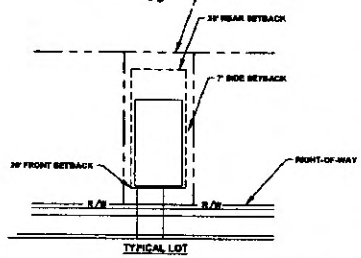
EXISTING HERITAGE TREES



STREET CONNECTIVITY RATIO
16 LINKS / 5 NODES = 1.67 RATIO

BLOCK	LOTS	LENGTH / PERIMETER
A	1 - 17	1,600'
B	17 - 22	382'
C	23 - 26	347'
D	26 - 36	449'
E	37 - 42	309'
F	42 - 47	309'
G	48 - 60	1,400'
H	61 - 70	1,148'
J	71 - 77	1,100'

BLOCK LENGTH / PERIMETER



TYPICAL LOT

CONCEPT POCKET PARK FOR ACTIVE OPEN SPACE

Sushil Nepal
Digitally signed by Sushil Nepal
Date: 2020.11.10 14:35:15 -05'00'

REVISIONS		

This electronic document is the property of McKim & Creed, Inc. and is not to be used for any purpose without the written consent of the engineer whose seal appears on the original sealed document. DO NOT REMOVE FROM ELECTRONIC FILE

McKIM&CREED
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Charlotte, North Carolina 28227
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www.mckimcreed.com

EPCON Communities

TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

SKETCH PLAN

DATE	SCALE	
DESIGNED	HORIZONTAL: 1"=100'	1
DRAWN	VERTICAL: NA	
CHECKED		
FINAL SIGN		

SKETCH PLAN
NOT FOR CONSTRUCTION

S:\07772\0003_SD - ENG\TDAP_MASTER - ROBINSON CHURCH SD 03312020.DWG ---- 04/02/2020 14:03:21

EXHIBIT C

Harrisburg NC

The right side of opportunity

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.

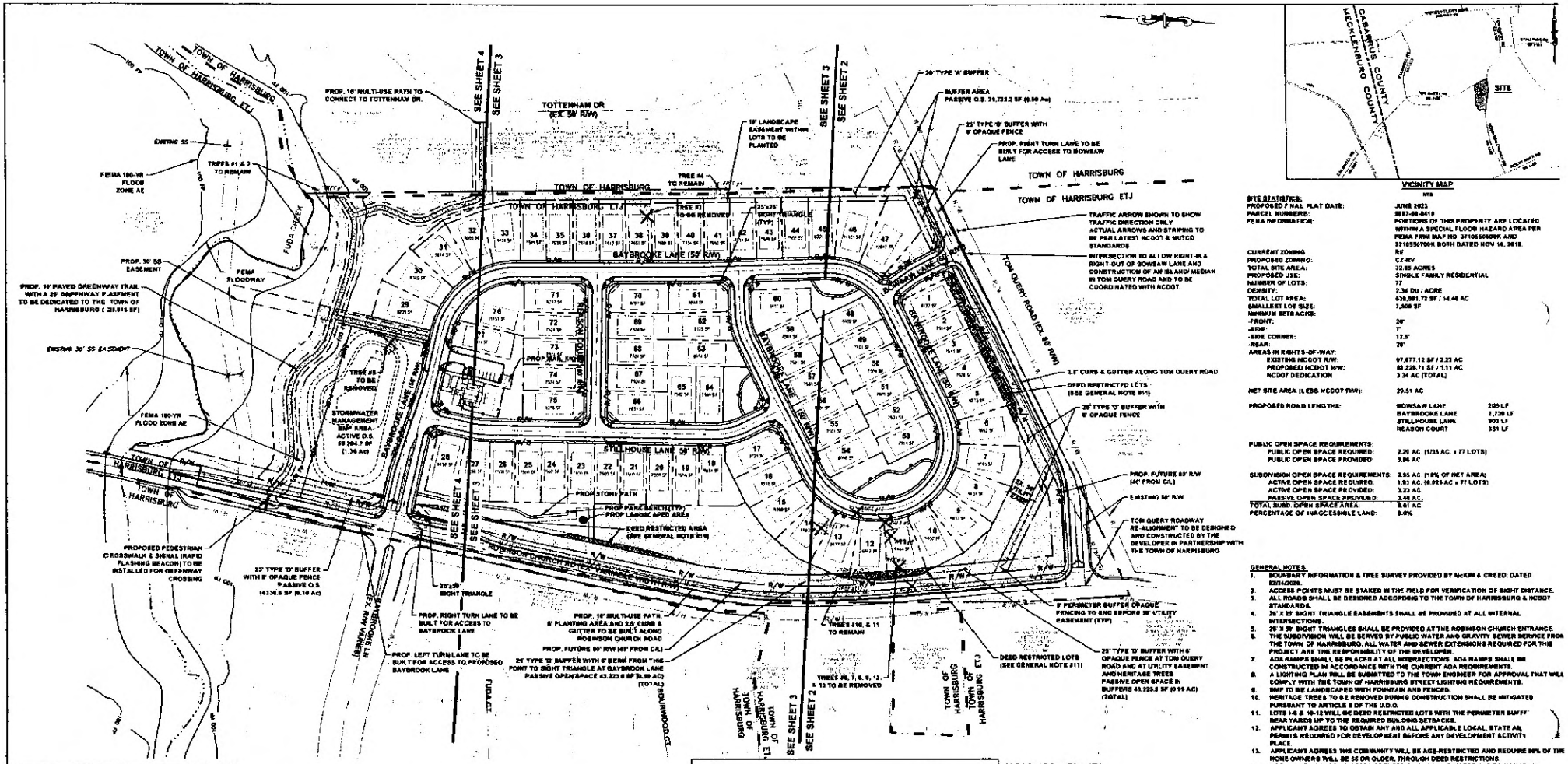
If you have any questions or concerns, please let me know.

Sincerely,

Sushil Nepal

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

EXHIBIT D



VICINITY MAP

SITE STATISTICS:

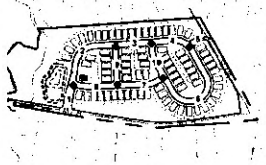
PROPOSED FINAL PLAT DATE:	JUNE 2023
PARCEL NUMBERS:	5697-68-9419
FEMA INFORMATION:	PORTIONS OF THIS PROPERTY ARE LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA FIRM MAP NO. 3710556909K AND 3710559709K BOTH DATED NOV 16, 2018.
CURRENT ZONING:	RE
PROPOSED ZONING:	CZ-RV
TOTAL SITE AREA:	32.83 ACRES
PROPOSED USE:	SINGLE FAMILY RESIDENTIAL
NUMBER OF LOTS:	77
DENSITY:	2.34 DU / ACRE
TOTAL LOT AREA:	638,981.72 SF / 14.46 AC
SMALLEST LOT SIZE:	7,508 SF
MINIMUM SETBACKS:	
-FRONT:	20'
-SIDE:	7'
-SIDE CORNER:	12.5'
-REAR:	20'
AREAS IN RIGHTS-OF-WAY:	
EXISTING NCDOT R/W:	97,677.12 SF / 2.23 AC
PROPOSED NCDOT R/W:	48,229.71 SF / 1.11 AC
NCDOT DEDICATION	3.34 AC (TOTAL)
NET SITE AREA (LESS NCDOT R/W):	29.51 AC
PROPOSED ROAD LENGTHS:	BOWSAW LANE 285 LF; BAYBROOKE LANE 2,730 LF; STILL HOUSE LANE 907 LF; REASON COURT 351 LF
PUBLIC OPEN SPACE REQUIREMENTS:	
PUBLIC OPEN SPACE REQUIRED:	2.20 AC. (1/35 AC. x 77 LOTS)
PUBLIC OPEN SPACE PROVIDED:	3.86 AC
SUBDIVISION OPEN SPACE REQUIREMENTS:	2.65 AC. (18% OF NET AREA)
ACTIVE OPEN SPACE REQUIRED:	1.91 AC. (0.025 AC x 77 LOTS)
ACTIVE OPEN SPACE PROVIDED:	3.23 AC.
PASSIVE OPEN SPACE PROVIDED:	3.48 AC.
TOTAL SUBD. OPEN SPACE AREA:	6.61 AC.
PERCENTAGE OF INACCESSIBLE LAND:	0.0%

GENERAL NOTES:

1. BOUNDARY INFORMATION & TREE SURVEY PROVIDED BY McKIM & CREED; DATED 02/24/2020.
2. ACCESS POINTS MUST BE STAKED IN THE FIELD FOR VERIFICATION OF SIGHT DISTANCE.
3. ALL ROADS SHALL BE DESIGNED ACCORDING TO THE TOWN OF HARRISBURG & NCDOT STANDARDS.
4. 25' X 25' SIGHT TRIANGLE EASEMENTS SHALL BE PROVIDED AT ALL INTERNAL INTERSECTIONS.
5. 35' X 35' SIGHT TRIANGLES SHALL BE PROVIDED AT THE ROBINSON CHURCH ENTRANCE.
6. THE SUBDIVISION WILL BE SERVED BY PUBLIC WATER AND GRAVITY SEWER SERVICE FROM THE TOWN OF HARRISBURG. ALL WATER AND SEWER EXTENSIONS REQUIRED FOR THIS PROJECT ARE THE RESPONSIBILITY OF THE DEVELOPER.
7. ADA RAMPS SHALL BE PLACED AT ALL INTERSECTIONS. ADA RAMPS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CURRENT ADA REQUIREMENTS.
8. A LIGHTING PLAN WILL BE SUBMITTED TO THE TOWN ENGINEER FOR APPROVAL THAT WILL COMPLY WITH THE TOWN OF HARRISBURG STREET LIGHTING REQUIREMENTS.
9. BMP TO BE LANDSCAPED WITH FOUNTAIN AND FENCED.
10. HERITAGE TREE 5 TO BE REMOVED DURING CONSTRUCTION SHALL BE MITIGATED PURSUANT TO ARTICLE 8 OF THE U.D.O.
11. LOTS 1-6 & 16-12 WILL BE DEED RESTRICTED LOTS WITH THE PERIMETER BUFFS' REAR YARDS UP TO THE REQUIRED BUILDING SETBACK.
12. APPLICANT AGREES TO OBTAIN ANY AND ALL APPLICABLE LOCAL, STATE AN PERMITS REQUIRED FOR DEVELOPMENT BEFORE ANY DEVELOPMENT ACTIVITY PLACE.
13. APPLICANT AGREES THE COMMUNITY WILL BE AGE-RESTRICTED AND REQUIRE 80% OF THE HOME OWNERS WILL BE 55 OR OLDER, THROUGH DEED RESTRICTIONS.
14. APPLICANT AGREES TO RESTRICT EXTERIOR CLADDING MATERIALS TO NON-VINYL PRODUCTS.
15. APPLICANT AGREES TO CONSTRUCT A TEN (10) FOOT WIDE PAVED GREENWAY TRAIL CONNECTION AND DEDICATED 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.
16. APPLICANT AGREES TO INSTALL A PEDESTRIAN CROSSWALK AND SIGNAL ON THE GREENWAY CROSSING AT ROBINSON CHURCH ROAD.
17. 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 THE PERIMETER ROADS, INCLUDING LEFT AND RIGHT TURN LANES AT SITE ENTRANCES, RE-ALIGNMENT OF TOM QUERY ROAD AT ITS INTERSECTION WITH ROBINSON CHURCH ROAD, AND A STREETLIGHTING PLAN.
18. APPLICANTS AGREE TO IDENTIFY ANY POTENTIAL TREE SAVE AREAS (INCLUDING HERITAG TREES) ON THE SITE THAT MIGHT BE ABLE TO BE RETAINED POST-DEVELOPMENT.
19. AREA WITHIN THE COMMON OPEN SPACE WILL BE DEED RESTRICTED FOR THE PERIMETER BUFFER 6' BERM TO BE INSTALLED.

TREE #	DBH	TREE SPECIES	TO BE REMOVED (TBR) OR TO REMAIN
01	31"	MAPLE	TO REMAIN
02	34"	SWEET GUM	TO REMAIN
03	34"	MAPLE	TBR
04	37"	OAK	TO REMAIN
05	39"	MAPLE	TBR
06	36"	OAK	TBR
07	45"	OAK	TBR
08	30"	MAPLE	TBR
09	36"	MAPLE	TBR
10	39"	OAK	TO REMAIN
11	48"	MAPLE	TO REMAIN
12	31"	MAPLE	TBR
13	32"	MAPLE	TBR

EXISTING HERITAGE TREES

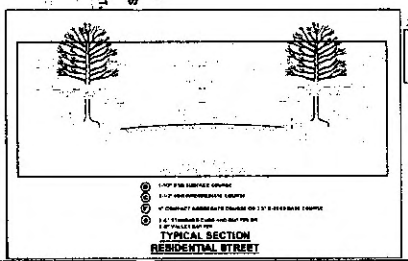


STREET CONNECTIVITY RATIO

10 LINKS / 6 NODES = 1.67 RATIO

BLOCK	LOTS	LENGTH / PERIMETER
A	1 - 17	939'
B	17 - 22	398'
C	23 - 28	347'
D	29 - 36	447'
E	37 - 42	305'
F	42 - 47	321'
G	48 - 60	1,394'
H	61 - 70	1,148'
J	71 - 77	1,100'

BLOCK LENGTH / PERIMETER



TYPICAL SECTION
RESIDENTIAL STREET

OPEN SPACE HATCH KEY

PASSIVE OPEN SPACE

ACTIVE OPEN SPACE

OWNER:

NAME: PARKS HUNTER HOWE & CAROLYN OSBORNE HOWE
ADDRESS: P.O. BOX 242 HARRISBURG, NC 28075

DEVELOPER:

NAME: EPCON COMMUNITIES
CONTACT: MIKE DAVIS
ADDRESS: 11020 DAVID TAYLOR DRIVE, STE 105
CHARLOTTE, NC 28262
PHONE # (CELL): (704) 588-4521
EMAIL: MDAVIS@EPCONCOMMUNITIES.COM

100' 50' 0 100' 200'
1"=100'

McKIM&CREED
8220 Tower Point Drive
Charlotte, North Carolina 28227
Phone: (704) 841-2588, Fax: (704) 841-2587
NC License # P-1087
www.mckimcreed.com

EPCON Communities

THE COURTYARDS ON ROBINSON CHURCH
TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

PRELIMINARY PLAT
OVERALL SITE PLAN

DATE	JANUARY 2021
PER PRELIM.	07/23/2021
DRAWN	JRH
DESIGNED	JRH
CHECKED	TMM
PROJ. ENG.	TMM

SCALE: HORIZONTAL 1" = 100'; VERTICAL: N/A

1 of 1

STATUS: PRELIMINARY PLAN NOT FOR CONSTRUCTION

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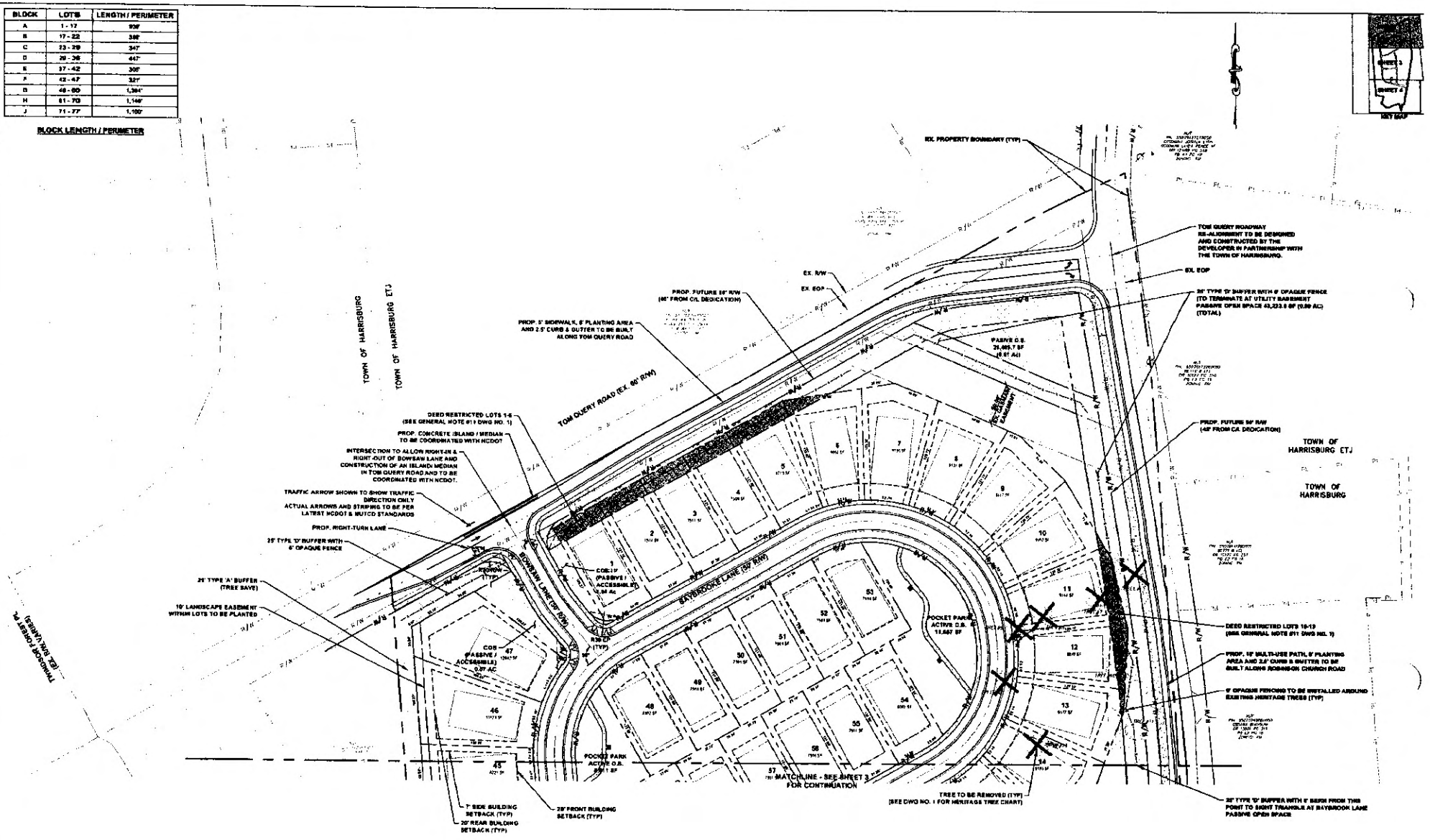
\\D7727\0009\ENG\80-DWG\86-DESIGN\PLAN SHEETS_PRE PLAT.DWG ---- 07/08/2021 14:33:12

BLOCK	LOTS	LENGTH / PERIMETER
A	1 - 17	936'
B	17 - 22	386'
C	23 - 29	347'
D	29 - 36	447'
E	37 - 42	306'
F	43 - 47	327'
G	48 - 60	1,364'
H	61 - 70	1,149'
J	71 - 77	1,100'

BLOCK LENGTH / PERIMETER



REVISIONS			
NO.	DESCRIPTION	DATE	
A	ADDRESSED TRC COMMENTS	05/15/23	

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NC License # 1827
www.mckimcreed.com

EPCON Communities

THE COURTYARDS ON ROBINSON CHURCH
TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

PRELIMINARY PLAT
ENLARGED SITE PLAN

50' 25' 0 50' 100'
1"=50'

DATE:	JANUARY 2023
DES. PROJ. #	0777-0008
DRAWN	JTH
SUBMITTED	JTH
CHECKED	TMM
FINAL SIGN	TMM

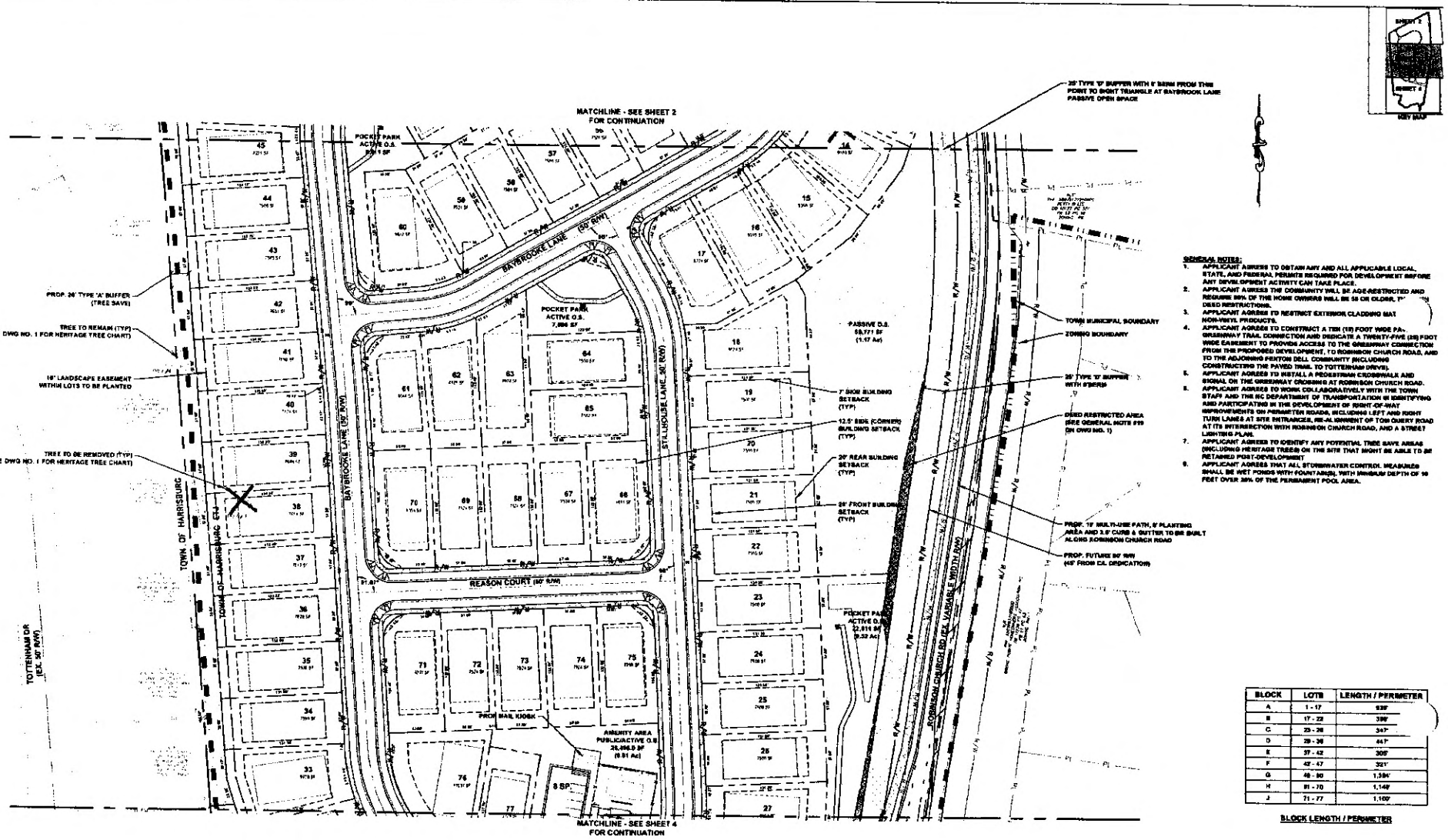
SCALE
HORIZONTAL: 1" =50'
VERTICAL: N/A

2
2 of 6

A

STATUS: PRELIMINARY PLAN NOT FOR CONSTRUCTION

G:\777\0008\PRO\ARCHD_PWD\BG-RESOURCE SHEETS_PR_01.DWG 01/26/2023 14:21:20



GENERAL NOTES:

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 80% OF THE HOME OWNERS WILL BE 55 OR OLDER, 7[illegible] DEED RESTRICTIONS.
3. APPLICANT AGREES TO RESTRICT EXTERIOR CLADDING MAT NON-VINYL PRODUCTS.
4. APPLICANT AGREES TO CONSTRUCT A TEN (10) FOOT WIDE PA 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 ON THE GREENWAY CROSSING AT ROBINSON CHURCH ROAD.
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, RE-ALIGNMENT OF TOM QUERY ROAD AT ITS INTERSECTION WITH ROBINSON CHURCH ROAD, AND A STREET LIGHTING 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.
8. APPLICANT AGREES THAT ALL STORMWATER CONTROL MEASURES SHALL BE WET PONDS WITH PERMANENT WITH MINIMUM DEPTH OF 10 FEET OVER 35% OF THE PERMANENT POOL AREA.

BLOCK	LOTS	LENGTH / PERIMETER
A	1 - 17	938'
B	17 - 22	398'
C	23 - 26	347'
D	29 - 36	447'
E	37 - 42	305'
F	42 - 47	321'
G	48 - 60	1,584'
H	61 - 70	1,149'
J	71 - 77	1,109'

BLOCK LENGTH / PERIMETER

50' 25' 0 50' 100'
1"=50'

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EPCON Communities

THE COURTYARDS ON ROBINSON CHURCH
TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

PRELIMINARY PLAT ENLARGED SITE PLAN

DATE: JANUARY 2021
SCALE: HORIZONTAL: 1" = 50' VERTICAL: N/A
3 of 6
STATUS: PRELIMINARY PLAN NOT FOR CONSTRUCTION

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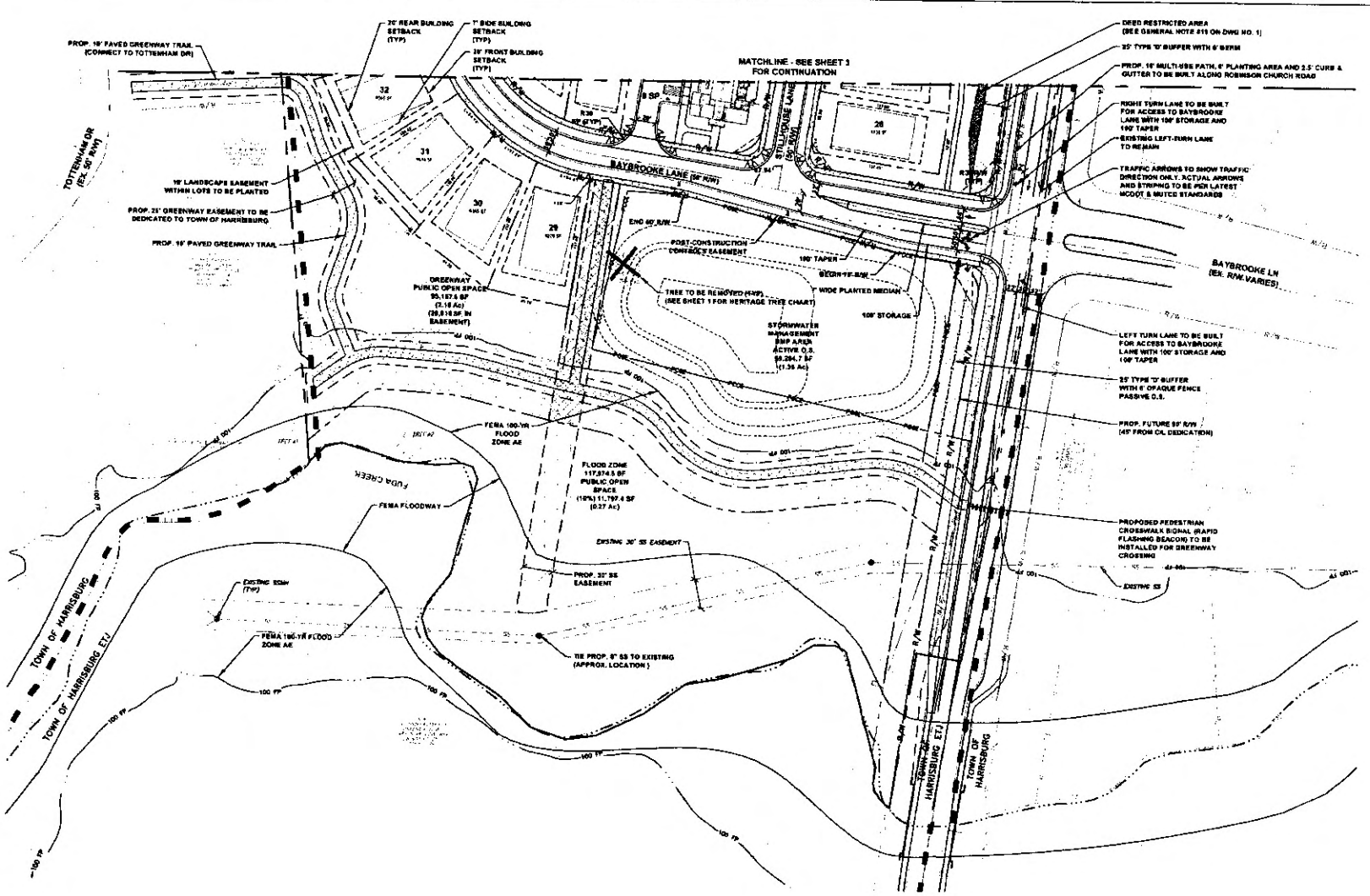

BLOCK	LOTS	LENGTH / PERIMETER
A	1 - 17	930'
B	17 - 22	390'
C	23 - 28	347'
D	29 - 36	447'
E	37 - 42	300'
F	42 - 47	321'
G	48 - 69	1,384'
H	69 - 70	1,140'
J	71 - 77	1,100'

BLOCK LENGTH / PERIMETER

REVISIONS		
A	Addressed Mc Comments	

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EPCON Communities

THE COURTYARDS ON ROBINSON CHURCH
TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

PRELIMINARY PLAT ENLARGED SITE PLAN

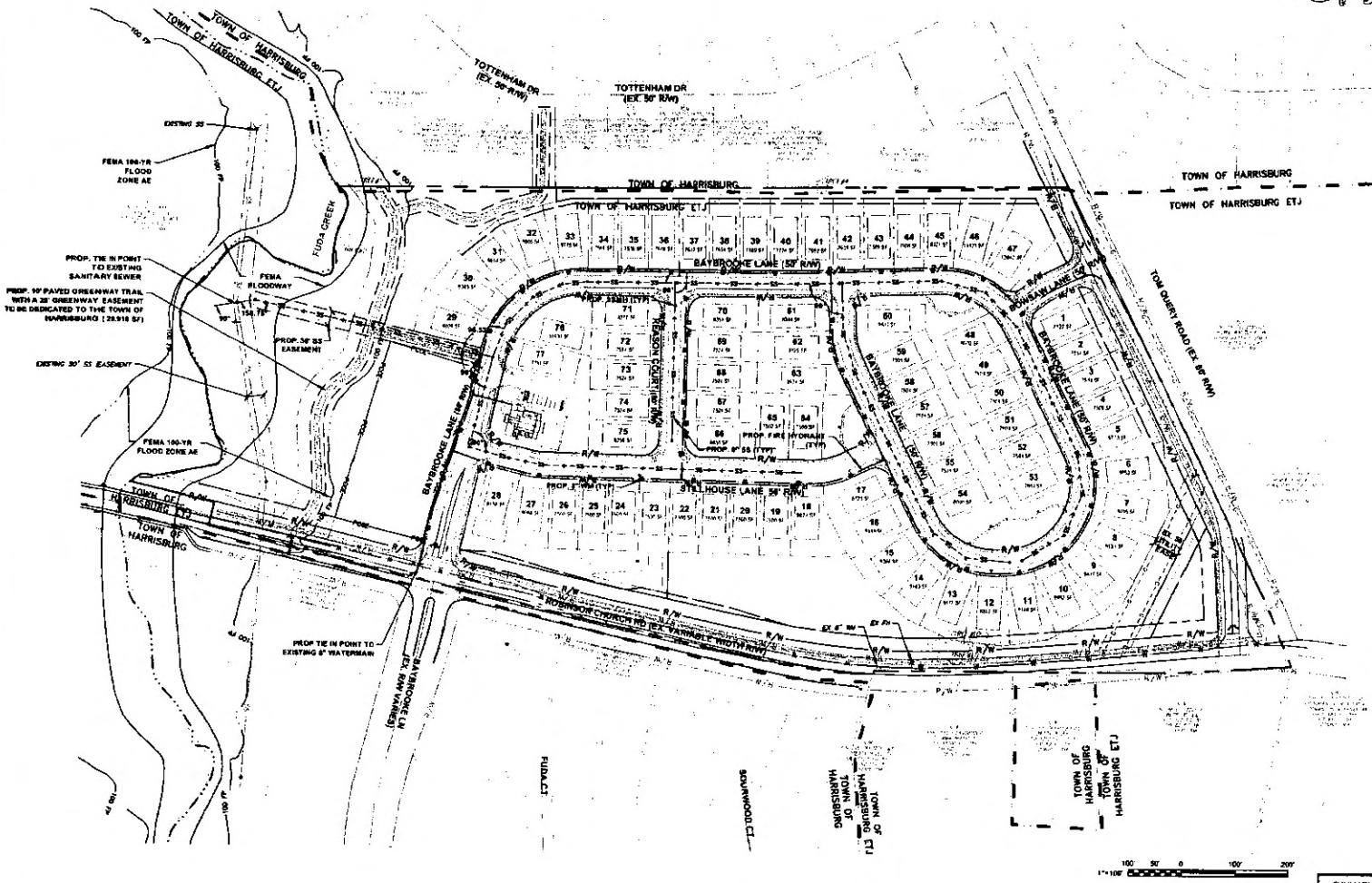
DATE:	JANUARY 2021
SCALE:	HORIZONTAL: 1" = 50' VERTICAL: N/A
DESIGNED	JPM
CHECKED	TMB
PROJ. MGR.	TMB

4 of 5

A

STATUS: PRELIMINARY PLAN NOT FOR CONSTRUCTION

C:\07772\0009\ENG\80-DWG\05-DESIGN\PLAN SHEETS_PRE PLAT.DWG ---- 07/08/2021 14:23:34



SUMMARY OF WATER MAINS & FIRE HYDRANTS				SUMMARY OF SEWER MAINS & MANHOLES			
SIZE	LENGTH	SIZE	LENGTH	SIZE	LENGTH	SIZE	LENGTH
8"	4,052 LF			8"	3,061 LF		
TOTAL NO. OF FIRE HYDRANTS: 7				TOTAL NO. OF MANHOLES: 30			
TOTAL NO. LOTS SERVED: 77				TOTAL NO. LOTS SERVED: 77			
PROJECT NAME: THE COURTYARDS ON ROBINSON CHURCH				PROJECT NAME: THE COURTYARDS ON ROBINSON CHURCH			
SCALE: 1" = 100'				SCALE: 1" = 100'			
JOB NO:				JOB NO:			
DATE OF ACTIVATION:				DATE OF ACTIVATION:			
DATE AS BUILT:	BY:			DATE AS BUILT:	BY:		

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EPCON Communities

THE COURTYARDS ON ROBINSON CHURCH
TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

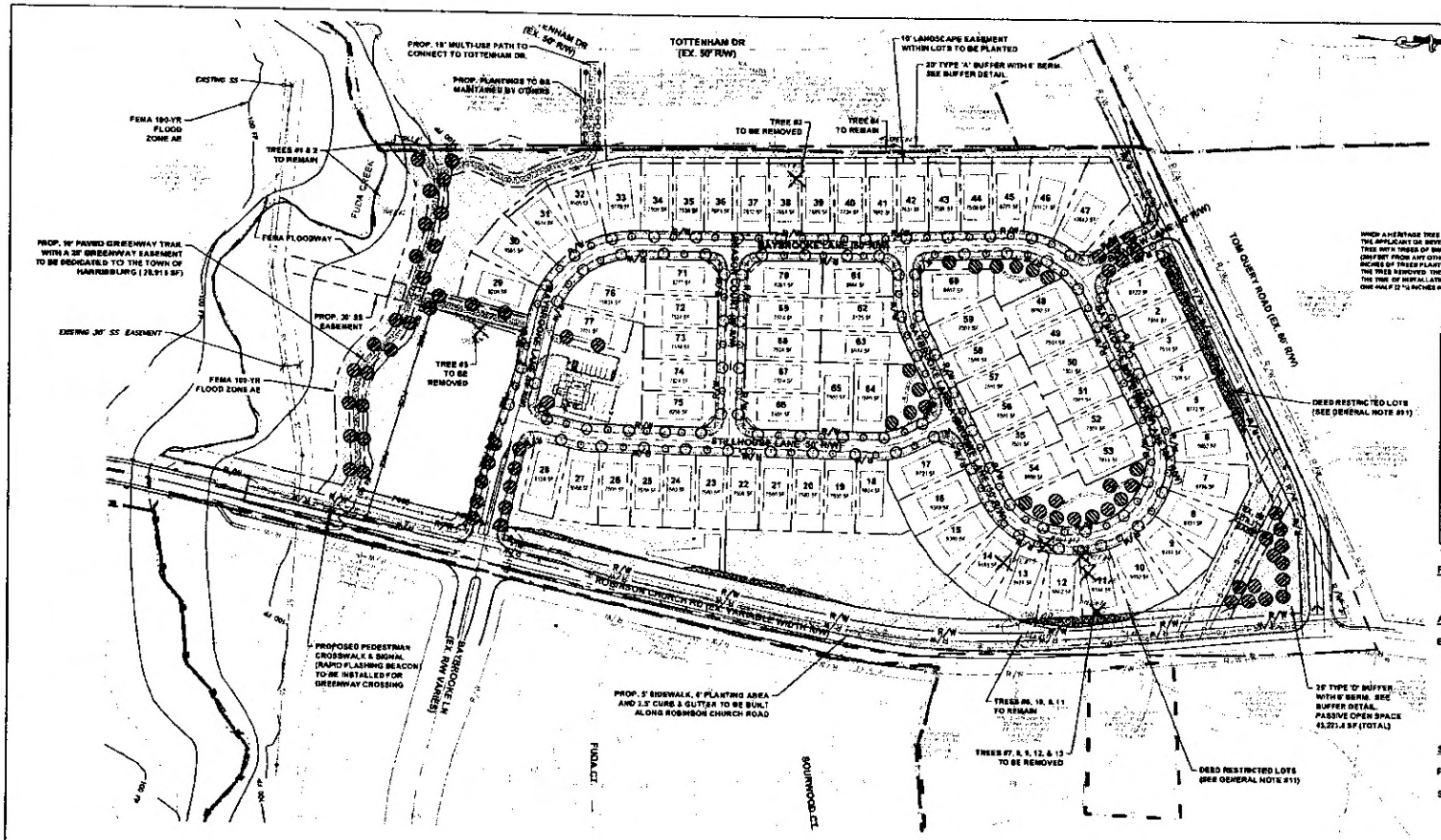
UTILITY PLAN

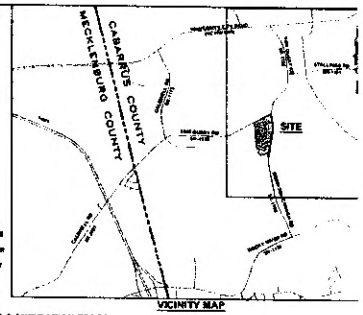
DATE: JANUARY 2021
DESIGN: BDT
DRAWN: BDT
CHECKED: TBM
PROJ. MGR.: TBM

SCALE
HORIZONTAL: 1"=100'
VERTICAL: N/A

5
A

STATUS: PRELIMINARY PLAN NOT FOR CONSTRUCTION





VICINITY MAP
NTS

WHEN A HERITAGE TREE IS REMOVED DURING CONSTRUCTION, THE APPLICANT OR DEVELOPER SHALL REPLACE SUCH HERITAGE TREE WITH TREES OF SIMILAR TYPE PLANTED AT LEAST THREE (3) FEET FROM ANY OTHER TREE SUCH THAT THE TOTAL CALIPER INCHES OF TREES PLANTED IS NO LESS THAN THE CALIPER INCHES OF THE TREE REMOVED. THE SIZE OF SUCH REPLACEMENT TREES AT THE TIME OF INSTALLATION SHALL BE A MINIMUM OF TWO AND ONE-HALF (2 ½) INCHES IN CALIPER.

EXISTING HERITAGE TREES & MITIGATION TREES

TREE #	DBH	TREE SPECIES	TO BE REMOVED (TBR) OR TO REMAIN	MITIGATION TREES PROPOSED*	TOTAL PR CAL. IN
01	31"	MAPLE	TO REMAIN		
02	34"	SWEET GUM	TO REMAIN		
03	34"	MAPLE	TBR	(10) 3" + (2) 3" RED MAPLES	
04	37"	OAK	TO REMAIN		
05	30"	MAPLE	TBR	(10) 3" RED MAPLES	30"
06	30"	OAK	TO REMAIN		
07	45"	OAK	TBR	(15) 3" OAKS	45"
08	30"	MAPLE	TBR	(10) 3" RED MAPLES	30"
09	30"	MAPLE	TBR	(10) 3" RED MAPLES	30"
10	36"	OAK	TO REMAIN		
11	45"	MAPLE	TO REMAIN		
12	31"	MAPLE	TBR	(9) 3" + (2) 3" RED MAPLES	33"
13	32"	MAPLE	TBR	(10) 3" + (1) 3" RED MAPLES	33"

* TREES PROPOSED FOR MITIGATION TO BE PLANTED AT ENTRIES AND IN COMMON OPEN SPACE AREAS

PLANTING NOTES:

1. ALL LANDSCAPING PER THE TOWN OF HARRISBURG UDO ARTICLE 7.

AMENITY LANDSCAPING (PLANS TO BE PROVIDED IN SEPARATE SUBMITTAL)

BUILDING YARD: .5 POINTS/LF
60 LF (.5) = 30 POINTS REQ.

REQUIRED: 1 ORN. TREE / 30 LF
8 SM/MED SHRUBS / 30 LF

PROVIDED: 2 ORN. TREES (8 PTS.) = 12 POINTS
4 MED (2 PTS.) = 8 POINTS
12 SM (1 PT.) = 12 POINTS
32 POINTS

OPEN SPACE HATCH KEY
PASSIVE OPEN SPACE
ACTIVE OPEN SPACE

STREET TREE CALCULATIONS

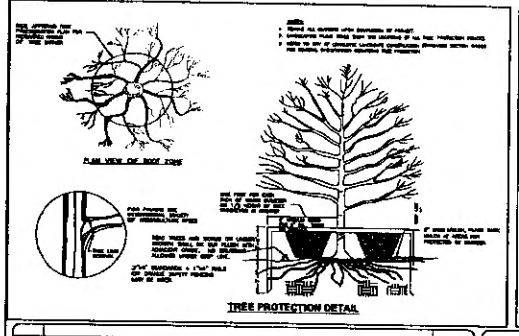
PROPOSED ZONING: C2-RV

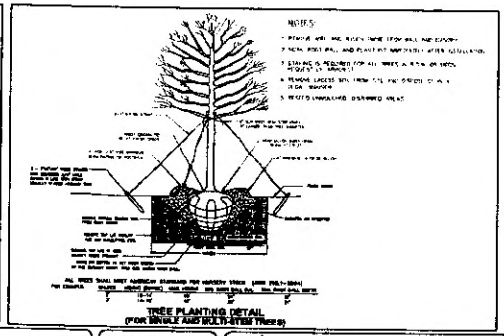
STREET YARDS: CLASS 2
PROPOSED PLANTING AREA: 8' WIDE
REQUIRED SHADE TREES: 1 per 75 LF
REQUIRED ORNAMENTAL TREES: 1 per 100 LF
REQUIRED POINTS/LF: .2

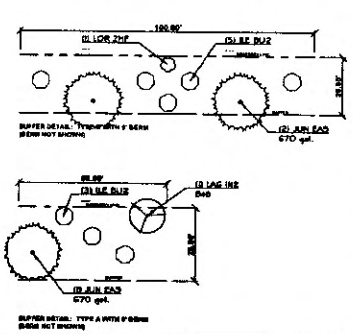
ROAD NAME	LENGTH (LF)	SHADE TREES REQ'D*	SHADE TREES PROVIDED*	ORNAMENTAL TREES REQ'D*	ORNAMENTAL TREES PROVIDED*	POINTS REQ.* PROVIDED* (RATIO)
BOWSAW LANE	148.5	2	3	1	1	26.3
BAYBROOKE LANE	2,604	36	36	27	28	530 / [illegible]
STILLHOUSE LANE	748	10	10	7	8	150 / 168 (.22)
REASON COURT	301	4	4	3	3	60 / 66 (.22)

* TREES REQ. / PROVIDED PER SIDE

PLANT SCHEDULE STREET TREE / MITIGATION TREES







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EPCON Communities

THE COURTYARDS ON ROBINSON CHURCH
TOWN OF HARRISBURG, NC
ROBINSON CHURCH ROAD

OVERALL LANDSCAPE

1"=100' (180' 90' 0 100' 200')

DATE: JANUARY 2021
SCALE: HORIZONTAL 1" = 100' VERTICAL N/A
SHEET 6 of 9
STATUS: PRELIMINARY PLAN NOT FOR CONSTRUCTION

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EXHIBIT E

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

HarrisburgNC
The right side of opportunity

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 <mhodgson@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.

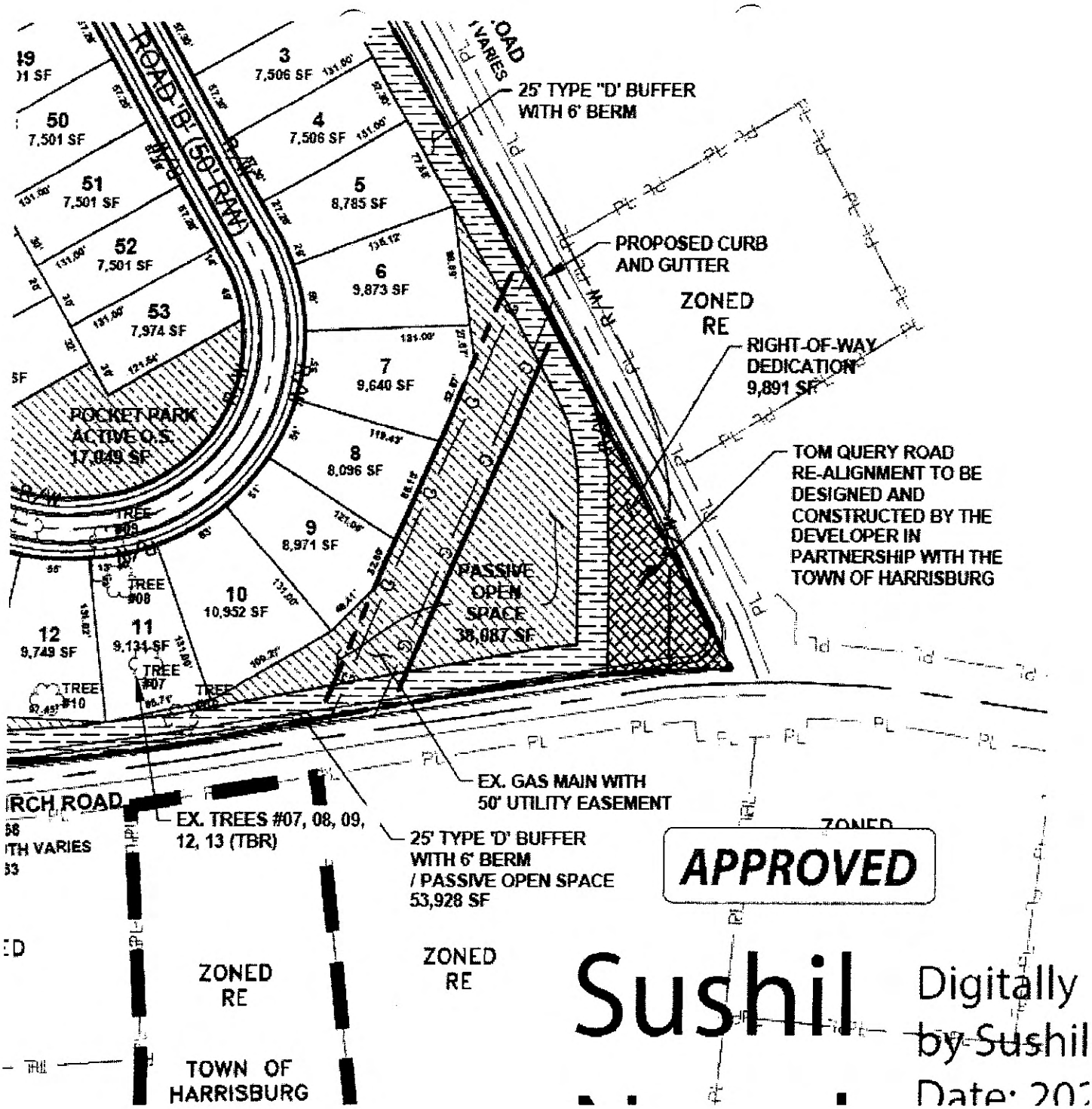
As for project management costs, construction costs, and potential Right-of-Way acquisition costs, I will have our legal department draw up an agreement if the stopping sight distance issue is solved. Does the Town have an example of a Private/Public agreement that has been used for similar projects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

Harrisburg NC
The right side of opportunity

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

Harrisburg NC

The right side of opportunity

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

EXHIBIT G

Subject:	RE: [External] FW: E101-013-22-00212 Applicant response needed for Epcon Robinson Church, LLC in Cabarrus County
Date:	1/6/2023 2:32 PM
From:	"Kenny Draffen" <KDraffen@mckimcreed.com>
To:	"Faulkner, Jason S" <jsfaulkner@ncdot.gov>, "Mallory Hodgson" <mhodgson@harrisburgnc.org>
Cc:	"Andy Gibbon" <agibbon@epconcommunities.com>, "Mari H. Argo" <MArgo@mckimcreed.com>

Thanks Jason, that is typically the way we have done it in the past as well.

Mallory, can you sign the Encroachment Agreement?

Thanks,

Kenny

From: Faulkner, Jason S <jsfaulkner@ncdot.gov>
Sent: Friday, January 6, 2023 1:14 PM
To: Kenny Draffen <KDraffen@mckimcreed.com>; Mallory Hodgson <mhodgson@harrisburgnc.org>
Cc: Andy Gibbon <agibbon@epconcommunities.com>; Mari H. Argo <MArgo@mckimcreed.com>
Subject: RE: [External] FW: E101-013-22-00212 Applicant response needed for Epcon Robinson Church, LLC in Cabarrus County

Kenny,

Three party agreements must be signed before we can approve the permit. This is not only a requirement, but it lets us know that the third party accepts what is proposed and they approve of the plans. We have received three party encroachments signed from all municipalities and utility owners in our two counties in the past when they are first submitted, that is the first thing we look for. I hope this helps. I am copying Darin on this email, he handles encroachment reviews for our office.

Thanks,

Jason S. Faulkner
Engineering Specialist 1
Division 10 / District 1
North Carolina Department of Transportation

704 983 4360 office
704 982 9659 fax
jfaulkner@ncdot.gov

615 Concord Rd
Albemarle, NC 28001

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Kenny Draffen <KDraffen@mckimcreed.com>
Sent: Friday, January 6, 2023 12:56 PM
To: Faulkner, Jason S <jsfaulkner@ncdot.gov>; Mallory Hodgson <mhodgson@harrisburgnc.org>
Cc: Andy Gibbon <agibbon@epconcommunities.com>; Mari H. Argo <MArgo@mckimcreed.com>
Subject: [External] FW: E101-013-22-00212 Applicant response needed for Epcon Robinson Church, LLC in Cabarrus County

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to Report Spam.

Below is a response we received this morning indicating the submittal is incomplete. After Mari looked into it, it appears Darrin Bratton of NCDOT indicated the reason for deeming the application incomplete is due to the fact that the Encroachment Agreement has not been signed by Harrisburg. As a result, we need NCDOT and Harrisburg to establish a solution for the chicken and egg conundrum. Can either of you provide a solution?

The only option we can identify is for NCDOT to issue an email indicating everything has been approved awaiting signature from Harrisburg allowing Harrisburg to sign the Encroachment Agreement so the permit can be issued.

Kenny

From: Service - DOT_encr <encr@ncdot.gov>
Sent: Friday, January 6, 2023 9:58 AM
To: Patrick Needham <PNeedham@mckimcreed.com>; Kenny Draffen <KDraffen@mckimcreed.com>
Cc: Kenny Draffen <KDraffen@mckimcreed.com>; Mari H. Argo <MArgo@mckimcreed.com>
Subject: E101-013-22-00212 Applicant response needed for Epcon Robinson Church, LLC in Cabarrus County

Workflow Notification

Hello Kenny Draffen,

Encroachment ID E101-013-22-00212 has been reviewed by the NCDOT and is considered incomplete for the following reasons:

- Other: See comments

Please click the blue **SEND BACK TO DOT** button on the request when your update is complete.

If you have any questions or need further assistance, please contact Darin K.

Bratton (dkbratton@ncdot.gov) in the Division 10 - District 1 office at 704-983-4360.

Thank you

Disclaimer

This e-mail and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error please notify the system manager. Please note that any views or opinions presented in this e-mail are solely those of the author and do not necessarily represent those of the company. Finally, the recipient should check this e-mail and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this e-mail.

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EXHIBIT H

GANNETT FLEMING

Excellence Delivered As Promised

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												
							AM			PM		
LUC	Description	Density	Variable	PK HR	METHOD	Daily	In	Out	Total	In	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



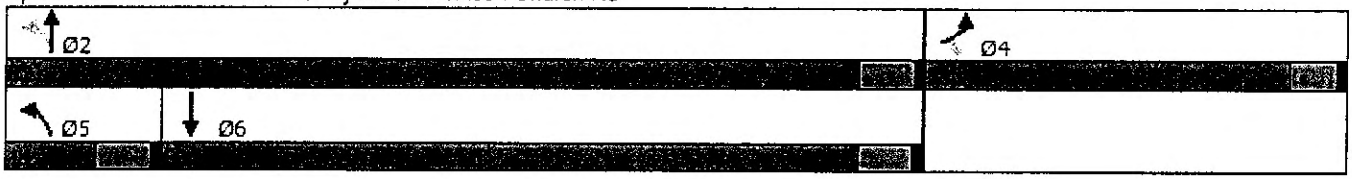
Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Volume (vph)	214	55	90	319	222	170
Future Volume (vph)	214	55	90	319	222	170
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Storage Length (ft)	0	200	0			0
Storage Lanes	1	1	0			0
Taper Length (ft)	25		25			
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Frt		0.850			0.941	
Flt Protected	0.950			0.989		
Satd. Flow (prot)	1593	1425	0	1658	1578	0
Flt Permitted	0.950			0.823		
Satd. Flow (perm)	1593	1425	0	1380	1578	0
Right Turn on Red		Yes				Yes
Satd. Flow (RTOR)		61			48	
Link Speed (mph)	45			45	45	
Link Distance (ft)	2347			1198	1586	
Travel Time (s)	35.6			18.2	24.0	
Peak Hour Factor	0.90	0.90	0.90	0.90	0.90	0.90
Adj. Flow (vph)	238	61	100	354	247	189
Shared Lane Traffic (%)						
Lane Group Flow (vph)	238	61	0	454	436	0
Turn Type	Prot	Perm	pm+pt	NA	NA	
Protected Phases	4		5	2	6	
Permitted Phases		4	2			
Detector Phase	4	4	5	2	6	
Switch Phase						
Minimum Initial (s)	7.0	7.0	7.0	12.0	12.0	
Minimum Split (s)	14.0	14.0	14.0	19.0	19.0	
Total Split (s)	38.0	38.0	14.0	82.0	68.0	
Total Split (%)	31.7%	31.7%	11.7%	68.3%	56.7%	
Yellow Time (s)	4.4	4.4	5.0	5.0	4.8	
All-Red Time (s)	1.0	1.0	1.0	1.0	1.1	
Lost Time Adjust (s)	0.0	0.0		0.0	0.0	
Total Lost Time (s)	5.4	5.4		6.0	5.9	
Lead/Lag			Lead		Lag	
Lead-Lag Optimize?			Yes		Yes	
Recall Mode	None	None	None	Min	Min	
Act Effct Green (s)	15.4	15.4		36.8	36.9	
Actuated g/C Ratio	0.24	0.24		0.57	0.57	
v/c Ratio	0.63	0.16		0.58	0.47	
Control Delay	33.3	8.7		12.7	9.3	
Queue Delay	0.0	0.0		0.0	0.0	
Total Delay	33.3	8.7		12.7	9.3	
LOS	C	A		B	A	
Approach Delay	28.3			12.7	9.3	
Approach LOS	C			B	A	
Queue Length 50th (ft)	76	0		93	70	
Queue Length 95th (ft)	214	31		237	183	

Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Internal Link Dist (ft)	2267			1118	1506	
Turn Bay Length (ft)		200				
Base Capacity (vph)	890	823		1311	1415	
Starvation Cap Reductn	0	0		0	0	
Spillback Cap Reductn	0	0		0	0	
Storage Cap Reductn	0	0		0	0	
Reduced v/c Ratio	0.27	0.07		0.35	0.31	

Intersection Summary

Area Type: CBD
Cycle Length: 120
Actuated Cycle Length: 64.8
Natural Cycle: 60
Control Type: Actuated-Uncoordinated
Maximum v/c Ratio: 0.63
Intersection Signal Delay: 15.4 — Intersection LOS: B
Intersection Capacity Utilization 76.3% — ICU Level of Service D
Analysis Period (min) 15

Splits and Phases: 1: Tom Query Rd & Robinson Church Rd





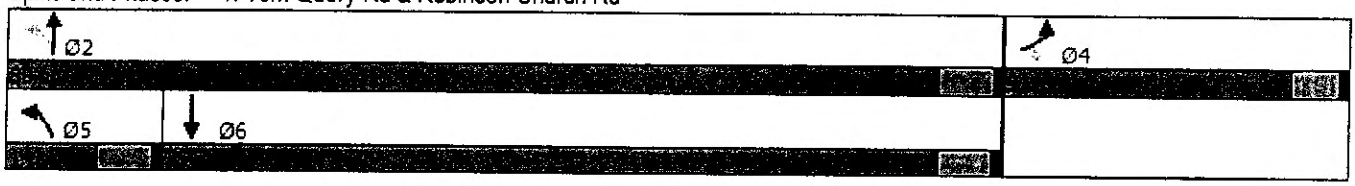
Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Traffic Volume (vph)	244	94	90	412	360	239
Future Volume (vph)	244	94	90	412	360	239
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Storage Length (ft)	0	200	0			0
Storage Lanes	1	1	0			0
Taper Length (ft)	25		25			
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Frt		0.850			0.946	
Flt Protected	0.950			0.991		
Satd. Flow (prot)	1593	1425	0	1661	1586	0
Flt Permitted	0.950			0.723		
Satd. Flow (perm)	1593	1425	0	1212	1586	0
Right Turn on Red		Yes				Yes
Satd. Flow (RTOR)		104			47	
Link Speed (mph)	45			45	45	
Link Distance (ft)	2347			1198	1586	
Travel Time (s)	35.6			18.2	24.0	
Peak Hour Factor	0.90	0.90	0.90	0.90	0.90	0.90
Adj. Flow (vph)	271	104	100	458	400	266
Shared Lane Traffic (%)						
Lane Group Flow (vph)	271	104	0	558	666	0
Turn Type	Prot	Perm	pm+pt	NA	NA	
Protected Phases	4		5	2	6	
Permitted Phases		4	2			
Detector Phase	4	4	5	2	6	
Switch Phase						
Minimum Initial (s)	7.0	7.0	7.0	12.0	12.0	
Minimum Split (s)	14.0	14.0	14.0	19.0	19.0	
Total Split (s)	31.0	31.0	14.0	89.0	75.0	
Total Split (%)	25.8%	25.8%	11.7%	74.2%	62.5%	
Yellow Time (s)	4.4	4.4	5.0	5.0	4.8	
All-Red Time (s)	1.0	1.0	1.0	1.0	1.1	
Lost Time Adjust (s)	0.0	0.0		0.0	0.0	
Total Lost Time (s)	5.4	5.4		6.0	5.9	
Lead/Lag			Lead		Lag	
Lead-Lag Optimize?			Yes		Yes	
Recall Mode	None	None	None	Min	Min	
Act Effct Green (s)	20.5	20.5		64.1	64.2	
Actuated g/C Ratio	0.21	0.21		0.66	0.66	
v/c Ratio	0.81	0.27		0.70	0.63	
Control Delay	59.1	9.9		15.9	11.6	
Queue Delay	0.0	0.0		0.0	0.0	
Total Delay	59.1	9.9		15.9	11.6	
LOS	E	A		B	B	
Approach Delay	45.5			15.9	11.6	
Approach LOS	D			B	B	
Queue Length 50th (ft)	180	0		208	211	
Queue Length 95th (ft)	#334	47		350	330	

Lane Group	EBL	EBR	NBL	NBT	SBT	SBR
Internal Link Dist (ft)	2267			1118	1506	
Turn Bay Length (ft)		200				
Base Capacity (vph)	458	484		1005	1254	
Starvation Cap Reductn	0	0		0	0	
Spillback Cap Reductn	0	0		0	0	
Storage Cap Reductn	0	0		0	0	
Reduced v/c Ratio	0.59	0.21		0.56	0.53	

Intersection Summary

Area Type: CBD
Cycle Length: 120
Actuated Cycle Length: 97
Natural Cycle: 80
Control Type: Actuated-Uncoordinated
Maximum v/c Ratio: 0.81
Intersection Signal Delay: 21.0 Intersection LOS: C
Intersection Capacity Utilization 96.3% ICU Level of Service F
Analysis Period (min) 15
95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Splits and Phases: 1: Tom Query Rd & Robinson Church Rd



6.1 ROBINSON CHURCH ROAD AND TOM QUERY ROAD

Table 6.1 summarizes the LOS, control delay and 95th percentile queue lengths at the signalized intersection of Robinson Church Road and Tom Query Road.

Table 6.1 - Robinson Road and Tom Query Road					
Condition	Measure	EB	NB	SB	Intersection
		EBLR	NBLT	SBTR	
AM Peak Hour					
2018 Existing	LOS (Delay)	E (56.6)	B (15.4)	A (9.9)	C (23.4)
	Synchro 95th Q	245'	224'	249'	
2023 Background	LOS (Delay)	E (65.4)	D (35.5)	B (11.3)	C (32.8)
	Synchro 95th Q	#317'	#409'	289'	
2023 Build	LOS (Delay)	E (66.9)	D (40.5)	B (11.9)	D (35.0)
	Synchro 95th Q	#325'	#431'	316'	
PM Peak Hour					
2018 Existing	LOS (Delay)	E (56.8)	B (16.2)	B (12.7)	C (25.3)
	Synchro 95th Q	#368'	280'	303'	
2023 Background	LOS (Delay)	E (65.5)	D (35.7)	B (15.3)	C (34.7)
	Synchro 95th Q	#432'	#496'	378'	
2023 Build	LOS (Delay)	E (68.2)	D (46.9)	B (16.0)	D (39.4)
	Synchro 95th Q	#451'	#526'	396'	

95th percentile volume exceeds capacity, queue may be longer

As shown in **Table 6.1**, the eastbound approach is expected to operate with long delays in both peak hours both with and without site traffic. The overall intersection is expected to drop from LOS C to LOS D with the addition of site traffic, with an overall intersection delay increase of 2.2 seconds and 4.7 seconds in the AM and PM peak hours, respectively.

Because the site is not expected to significantly impact delay at this intersection, it is not recommended that the site constructs improvements at this intersection. However, it is recommended that the proposed site contribute 25% to the overall cost of the planned Town improvements (not to exceed $100,000) at this intersection to mitigate the drop in LOS.

23 CV 031692

STATE OF NORTH CAROLINA

CABARRUS County

File No. 23-CVS-_____

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1
EPCON ROBINSON CHURHC, LLC,
c/o Johnston, Allison & Hord, P.A., 1065 E. Morehead Street
Charlotte, NC 28204

Name And Address Of Plaintiff 2

GENERAL CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

VERSUS

Name And Address Of Defendant 1
TOWN OF HARRISBURG
Harrisburg Town Hall
4100 Main Street, Suite 101
Harrisburg, NC 28075

Summons Submitted
☒ Yes ☐ No

Name And Address Of Defendant 2

Summons Submitted
☐ Yes ☐ No

Name And Address Of Attorney Or Party, If Not Represented *(complete for initial appearance or change of address)*
B. David Carson
Johnston, Alison & Hord, P.A.
1065 E. Morehead Street
Charlotte, NC 28204

Telephone No.	Cellular Telephone No.
704-332-1181	

NC Attorney Bar No.	Attorney Email Address
15795	dcarson@jahlaw.com

☒ Initial Appearance in Case ☐ Change of Address

Name Of Firm	Fax No.
Johnston, Alison & Hord, P.A.	704-376-1628

Counsel For
☒ All Plaintiffs ☐ All Defendants ☐ Only: *(list party(ies) represented)*

☒ Jury Demanded In Pleading ☐ Complex Litigation ☐ Stipulate to Arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Assess Costs (COST)
- ☐ Answer/Reply (ANSW-Response) *(see Note)*
- ☐ Change Venue (CHVN)
- ☒ Complaint (COMP)
- ☐ Confession Of Judgment (CNFJ)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL)
- ☐ Contempt (CNTP)
- ☐ Continue (CNTN)
- ☐ Compel (CMPL)
- ☐ Counterclaim (CTCL) *Assess Court Costs*
- ☐ Crossclaim *(list on back)* (CRSS) *Assess Court Costs*
- ☐ Dismiss (DISM) *Assess Court Costs*
- ☐ Exempt/Waive Mediation (EXMD)
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Failure To Join Necessary Party (FJNP)
- ☐ Failure To State A Claim (FASC)
- ☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- ☐ Improper Venue/Division (IMVN)
- ☐ Including Attorney's Fees (ATTY)
- ☐ Intervene (INTR)
- ☐ Interplead (OTHR)
- ☐ Lack Of Jurisdiction (Person) (LJPN)
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
- ☐ Modification Of Child Support In IV-D Actions (MSUP)
- ☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
- ☐ Petition To Sue As Indigent (OTHR)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Sanctions (SANC)
- ☐ Set Aside (OTHR)
- ☐ Show Cause (SHOW)
- ☐ Transfer (TRFR)
- ☐ Third Party Complaint *(list Third Party Defendants on back)* (TPCL)
- ☐ Vacate/Modify Judgment (VCMD)
- ☐ Withdraw As Counsel (WDCN)
- ☐ Other *(specify and list each separately)*

NOTE: *All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.*

(Over)

CLAIMS FOR RELIEF

- ☐ Administrative Appeal (ADMA)
- ☐ Appointment Of Receiver (APRC)
- ☐ Attachment/Garnishment (ATTC)
- ☐ Claim And Delivery (CLMD)
- ☐ Collection On Account (ACCT)
- ☐ Condemnation (CNDM)
- ☐ Contract (CNTR)
- ☐ Discovery Scheduling Order (DSCH)
- ☐ Injunction (INJU)
- ☐ Limited Driving Privilege - Out-Of-State Convictions (PLDP)
- ☐ Medical Malpractice (MDML)
- ☐ Minor Settlement (MSTL)
- ☐ Money Owed (MNYO)
- ☐ Negligence - Motor Vehicle (MVNG)
- ☐ Negligence - Other (NEGO)
- ☐ Motor Vehicle Lien G.S. Chapter 44A (MVLN)
- ☐ Possession Of Personal Property (POPP)
- ☐ Product Liability (PROD)
- ☐ Real Property (RLPR)
- ☐ Specific Performance (SPPR)
- ☒ Other *(specify and list each separately)* Federal and state constitutional violations, including procedural and substantive due process claims; violation of state land development statutes; declaratory judgment.

Date 5.19.23 *Signature Of Attorney/Party*

FEES IN G.S. 7A-308 APPLY
Assert Right Of Access (ARAS)
Substitution Of Trustee (Judicial Foreclosure) (RSOT)
Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY
Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	☐ Additional Plaintiff(s)

No.	☐ Additional Defendant(s) ☐ Third Party Defendant(s)	Summons Submitted
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

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23 CV 1 1 4 2

STATE OF NORTH CAROLINA

CABARRUS County

File No. 23-CVS-_____

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff EPCON ROBINSON CHURHC, LLC,	**CIVIL SUMMONS** ☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)**
Address c/o Johnston, Allison & Hord, P.A., 1065 E. Morehead Street	
City, State, Zip Charlotte, NC 28204	
VERSUS	G.S. 1A-1, Rules 3 and 4
Name Of Defendant(s) TOWN OF HARRISBURG, a North Carolina body politic and corporate	*Date Original Summons Issued* *Date(s) Subsequent Summons(es) Issued*

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1	*Name And Address Of Defendant 2*
TOWN OF HARRISBURG c/o Mayor Jennifer Teague, Harrisburg Town Hall 4100 Main Street, Suite 101 Harrisburg, NC 28075	TOWN OF HARRISBURG c/o Mayor Jennifer Teague 7132 Bovine Lane Harrisburg, NC 28075

IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!
Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)	*Date Issued*	*Time*
B. David Carson Johnston, Allison & Hord, P.A. 1065 E. Morehead Street Charlotte, NC 28204	5.19.23	4:16 ☐ AM ☑ PM
	Signature [signature]	
	☑ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*	

	Date Of Endorsement	*Time*
☐ ENDORSEMENT (ASSESS FEE) This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.		☐ AM ☐ PM
	Signature	
	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*	

NOTE TO PARTIES: *Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is $25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.*

(Over)

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RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid	*Signature Of Deputy Sheriff Making Return*
$	
Date Received	*Name Of Sheriff (type or print)*
Date Of Return	*County Of Sheriff*

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STATE OF NORTH CAROLINA

File No. 23-CVS-_____

CABARRUS County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff	CIVIL SUMMONS
EPCON ROBINSON CHURHC, LLC,	☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)
Address: c/o Johnston, Allison & Hord, P.A., 1065 E. Morehead Street	
City, State, Zip: Charlotte, NC 28204	G.S. 1A-1, Rules 3 and 4
VERSUS	
Name Of Defendant(s): TOWN OF HARRISBURG, a North Carolina body politic and corporate	Date Original Summons Issued / Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1	Name And Address Of Defendant 2
TOWN OF HARRISBURG c/o Town Manager Robert W. Donham, II 4100 Main Street, Suite 101 Harrisburg, NC 28075	TOWN OF HARRISBURG c/o Town Manager Robert W. Donham, II 107 Gage Drive Mooresville, NC 28115

IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!
Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)	Date Issued	Time	
B. David Carson Johnston, Allison & Hord, P.A. 1065 E. Morehead Street Charlotte, NC 28204	5-19-23	4:16	☐ AM ☑ PM
	Signature		
	☑ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court		

☐ ENDORSEMENT (ASSESS FEE)
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement	Time	
		☐ AM ☐ PM
Signature		
☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court		

NOTE TO PARTIES: *Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is $25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.*

(Over)

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RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid	*Signature Of Deputy Sheriff Making Return*
$	
Date Received	*Name Of Sheriff (type or print)*
Date Of Return	*County Of Sheriff*

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STATE OF NORTH CAROLINA

CABARRUS County

File No. 23-CVS-_____

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff	
EPCON ROBINSON CHURHC, LLC,	
Address	**CIVIL SUMMONS**
c/o Johnston, Allison & Hord, P.A., 1065 E. Morehead Street	☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)**
City, State, Zip	
Charlotte, NC 28204	G.S. 1A-1, Rules 3 and 4
VERSUS	
Name Of Defendant(s)	Date Original Summons Issued
TOWN OF HARRISBURG, a North Carolina body politic and corporate	Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1	Name And Address Of Defendant 2
TOWN OF HARRISBURG c/o Town Clerk, Janet Rackley 4100 Main Street, Suite 101 Harrisburg, NC 28075	TOWN OF HARRISBURG c/o Town Clerk, Janet Rackley 3863 Stough Road SW Concord, NC 28027-8958

IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!
Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)	Date Issued	Time
B. David Carson Johnston, Allison & Hord, P.A. 1065 E. Morehead Street Charlotte, NC 28204	5.19.23	4:16 ☐ AM ☒ PM
	Signature: Arianne Ohma	
	☒ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court	

☐ ENDORSEMENT (ASSESS FEE)
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement	Time
	☐ AM ☐ PM
Signature	
☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court	

NOTE TO PARTIES: *Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is $25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.*

(Over)

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RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid	*Signature Of Deputy Sheriff Making Return*
$	
Date Received	*Name Of Sheriff (type or print)*
Date Of Return	*County Of Sheriff*

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