

**MINUTES OF THE MINT HILL PLANNING BOARD MEETING  
SEPTEMBER 20, 2021**

The Mint Hill Planning Board met in regular session on Monday, September 20, 2021 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

**ATTENDANCE**

Chairman: Tom Gatz  
Members: Kenny Draffen, Roger Hendrix, Chip Todd, and Eric Tyson  
Planning Director: John Hoard  
Clerk to the Board: Savanna Ocasio  
Commissioner: Dale Dalton  
Absent: Scott Fandel and Jennifer Manchester

**CALL TO ORDER AND INVOCATION**

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

**ORDER OF BUSINESS**

**Approval of Minutes for the August 16, 2021 Regular Meeting:** Upon the motion of Mr. Hendrix, seconded by Mr. Todd, the Board unanimously approved the minutes of the August 16, 2021 Planning Board meeting.

**Additions or Deletions of Agenda Items:** None.

**Reports of Committees, Members and Staff:** None.

**Old Business:** None.

**New Business:**

**A. Discussion and Recommendation on #ZC21-11, Filed By Square A Land Holdings, for property located at 11118 Business Lane, tax parcel number: 139-092-25, Conditional Zoning Approval to allow development of the property:** Planning Director Hoard submitted the following memo to the Board.

The applicant is requesting Conditional Zoning approval. The Zoning Plan indicates a 2,085 sq ft 2-story office building and a 6,000 sq ft storage building. Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning is a legislative procedure under which the Board of Commissioners has the authority to increase, tighten, add, vary, modify, or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions.

Favorable Recommendation. Industrial uses are supported in the Land Use Plan and existing zoning district.

Mr. Eric Hampton, BGE Incorporated, introduced himself to the Board. Mr. Hampton was representing Square A Construction as the applicant. He stated they were proposing a 4,000 sq ft office building. This was a relocation of their existing facility which was located at 11525 Rocky River Church Road. He stated Square A was renting at the Rocky River location but owned and was relocating to the property in question, 11118 Business Lane. The proposal was for a 4,000 sq ft office building which was located at the bottom left on the site plan presented. He stated the two larger structures located at the top right would be a 6,000 sq ft indoor storage building to house Square A's equipment. Mr. Hampton came before the Board as part of the overall Conditional Rezoning which required any development that occurred within the overall industrial park to come before the Planning Board with a site plan for their consideration. He stated all proposed conditions conformed to the Towns zoning. On the far right of the site plan, he stated they were preserving 100 ft undisturbed buffer at that location. One of the rezoning's that came in while they were in this process was to reduce that buffer from 100 to 50 ft. He stated they were maintaining the original 100 ft like it was in the overall industrial park.

Mr. Draffen asked why the BMP access easement was wrapped around. Mr. Hampton stated if looked at in 3D, noticing the topography they had there, it was to allow that access to be a reasonable slope to get a maintenance vehicle down to that location. Mr. Draffen asked if 12.79 feet was adequate for BMP maintenance. Planning Director Hoard said he was not familiar with that since it was administered through Mecklenburg County. He added that since the County reviewed it, they most likely would have commented on it if there was an issue.

Mr. Tyson asked if Square A had any plans for the open space near the easement. Mr. Hampton stated that overall area was not a gentle slope, so a lot of the area had been mass graded to allow overall earth work. He stated when entering from the side it fell off pretty quick, so in order to pick both of the buildings up to get gravity sewer service, they needed to lift both of the finished floors in those buildings. To do so, they used the material onsite. They mass graded that area primarily to pick those two buildings up to allow for sewer service.

Mr. Hendrix asked if the 4,000 sq ft office building was on a 2,000 sq ft pad. Mr. Hampton said yes, it was a two story, 2,000 sq ft pad. Mr. Hendrix asked if that was because of topography or design. Mr. Hampton said design, the second story would be primarily used as a training room for Staff.

Chairman Gatz asked if this area was going to be fenced. Mr. Hampton said no, not that he was aware of. Chairman Gatz stated anytime the Board was presented with sediment basins, they always worried about water in there and then somehow kids come in from a neighborhood and get into the area which had always been a safety concern. Mr. Hampton stated it was not a wet basin, it would hold water temporarily, but it was not a wet detention pond.

**Recommended Consistency Statement: The application was consistent with the Land Use Plan. The proposed industrial use was supported in the existing zoning district.**

**Mr. Hendrix made a favorable recommendation, seconded by Mr. Todd, and the Board unanimously agreed to send a favorable recommendation to the Board of Commissioners on #ZC21-**

11, Filed by Square A Land Holdings, LLC, to request Conditional Zoning approval to allow development of the property.

**B. Discussion and Recommendation on #ZC21-12, Filed by Harris Development Group, for property located at 6902 Matthews-Mint Hill Road, tax parcel number: (part of) 195-182-45, to seek a Code Exception for the Requirements of a Building to Front on a Public Street or Public Open Space as Required in the DO-B District:** Planning Director Hoard submitted the following memo to the Board.

The applicant is requesting an exception to the Downtown Code 1.2 B. All buildings, except accessory structures, shall have an entrance opening onto a street or public open space... Exceptions to the provisions of this Ordinance (except for Permitted Uses and Excluded Uses) may be approved as a Conditional District rezoning approval by the Board of Commissioners upon a recommendation by the Planning Board. In granting a Conditional District rezoning approval as an exception to these provisions, the Board shall first determine that: a. No practical design alternatives exist; and b. The variations/exceptions requested are consistent with the purpose and intent of this District as well as Section 1.2 General Building Design Guidelines. Conditional District decisions shall be made in consideration of identified relevant adopted land use plan. Conditional District rezoning is a legislative procedure under which the Board of Commissioners has the authority to increase, tighten, add, vary, modify, or waive specific conditions or standards. In approving a petition for the rezoning of property to a Conditional District the Board of Commissioners may request reasonable and appropriate conditions

Mr. Brian Smith, Urban Design Partners, introduced himself. Mr. Smith was representing Harris Development Group for the proposed request. He stated the parcel in question was a portion of the Mint Hill Festival shopping center; between Showmars and an existing retail building. Within the DO-B, there was a requirement for all buildings to front on a public street or public open space. He stated this area was a leftover of the shopping center so there was an inability to meet that requirement, so he was before the Board to request a code exception. He stated they had lots of conversations with Town Staff about what may or may not be considered open space so in lieu of a theoretical debate, they were before the Board to seek an exception. Mr. Smith presented the site plan approval from 1985 to the Board. He stated their proposal was for an 18,000 sq ft fitness center, which would share the parking lot with the shopping center.

Mr. Todd asked Mr. Smith if he had data on the peak hours of the facility. He stated he asked due to the large amount of traffic on Highway 51 with people turning in and out of the Mint Hill Festival Shopping Center, he was curious as to how this facility would affect the traffic. Planning Director Hoard said the proposed facility did not require any type of traffic study. Mr. Smith stated the facility would be a 24-hour fitness center. Mr. Steve Harris, Harris Development Group, stated with it being a fitness facility, most people go in the morning, lunch time, and evenings. He stated they did not have any specific data since a traffic study was not done. Although, he did say the shopping center was designed with significant parking anticipating this parcel would be developed.

Mr. Hendrix asked Planning Director Hoard what the necessity was for the exemption. Planning Director Hoard stated as Mr. Smith mentioned earlier, this shopping center was approved before the Downtown was even thought of so around the 1980's, then the Downtown code was created around 2001-02. The Downtown code required that all new buildings had either public road frontage or fronted public open

space. He stated obviously, there was no way to get a public street there nor would the Town want it. Planning Director Hoard and the Harris Development Group had been working together for over a year, trying to figure out a way to front open space. He stated there had been no real precedent on this because at this point, there was no building that fronted commercial buildings or open space. He understood the intent of the Ordinance but there were no guidelines in the Ordinance on what the open space was. He stated there were photographs and discussions about fronting open space and they looked at finding a spot on the side of the building, but even that was pretty narrow. They then flipped their idea to the front and Staff tried to work with the Harris Development Group but when it came down to it, they could not come to an agreement on what was meant by public open space. Staff suggested they ask for an exception and come through this process so that way the code establishes the rules and the administrator had very little flexibility in it. So, any exception to that code required the applicant to go through this Conditional Zoning process. Mr. Hendrix stated he understood that Staff did not approve. Planning Director Hoard stated with exception requests, Staff did not make a recommendation at all. Mr. Hendrix asked Mr. Harris what the least mitigating factor was as far as the need for the exemption. Mr. Harris stated clearly, it was anticipated that this site would be utilized. He stated to have an outparcel in a shopping center that did not front a public street, or an open space was very common. Mr. Smith stated as Planning Director Hoard mentioned, they had several discussions as to what measurements would consider an area "open space". Mr. Hendrix stated he understood they had an earlier site plan and that this Ordinance was not new. Mr. Hendrix had been on the Planning Board for quite a while, and this was the first time he could remember having this particular issue come up. He stated it was important to be careful with the Towns Ordinances, as the Town could not just change everything. He stated he was not trying to hamper their project, he thought it was a good idea. He just wanted to get an understanding and the Town was not willing to say just yet that the open space they had left with the larger sidewalk at the front would be adequate, that was the exception. Planning Director Hoard said as he previously stated, there had been no precedent set for what a commercial building could front as far as open space. Their concern was imagining in theory, one could have a new commercial center tucked way back from the street. They could have a sidewalk that was in front of the building, which was almost in front of every commercial building anyway, and they could say that was their open space. He stated referring back to the site plan, Staff was not in opposition to this idea, they knew of the older site plan, and they did pursue that. However, after running it by the Town Attorney, Attorney Bringewatt did not feel comfortable since the site plan was approved in the 80's so he thought it was a bit too long ago. That was the decision made from a legal standpoint which brought Staff to ask the Harris Development Group to come before the Planning Board for an exception. Mr. Hendrix stated he was concerned about the precedent because this was not a new Ordinance. He emphasized he was not opposed to the project by any means, he was just trying to understand so if this came up again, he could address it fairly to everyone. Mr. Smith stated he thought it was a unique situation since it was such an old shopping center with the Ordinance that came in after the fact. The code exception did apply to this specific location.

Mr. Draffen asked if Mr. Smith could speak on pedestrian interconnection. Mr. Smith stated there was sidewalk connection to the shopping center but there was no pedestrian connection headed back to Highway 51. Planning Director Hoard stated there was no clear Ordinance in this situation to apply but, keep in mind this was conditional zoning so this was an appropriate discussion point and could be conditioned on the property but there was no Ordinance he could refer to. He stated if this was approved administratively, there would be no way for him to apply any type of pedestrian connectivity in this case.

Chairman Gatz stated he thought it would be better if they took the whole thing about open space out of this. He stated if the Planning Board approved this, it was not because of the open space, it was because of the lack of ability to connect to a street. He stated the open space left them up to a precedent in the future where somebody could come in and say well the Planning Board gave them an open space, why wouldn't they give us an open space. Planning Director Hoard stated he thought this was why administratively, Staff did not do it. Chairman Gatz stated right. In the motion, should the Board not put emphasis on the design of this facility as there was no way it could connect to a street. Planning Director Hoard stated remember the Ordinance was either or, so it would be both. The question was could they front a public street; the answer was no.

**Mr. Hendrix made a favorable recommendation, seconded by Mr. Todd, and the Board unanimously agreed to send a favorable recommendation to the Board of Commissioners on #ZC21-12, Filed by Harris Development Group, to seek a code exception for the requirements of a building to front on a public street or public open space as required in the DO-B district.**

**Other Business:** None.

**Adjournment:** Upon the motion of Mr. Hendrix, seconded by Mr. Todd, and unanimously agreed upon, Chairman Gatz adjourned the meeting at 7:00 p.m.

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Savanna Ocasio  
Program Support Assistant