

**MINUTES OF THE MINT HILL PLANNING BOARD MEETING
AUGUST 15, 2022**

The Mint Hill Planning Board met in regular session on Monday, August 15, 2022 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: Patrick Holton

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 April 18, 2022 Regular Meeting and July 18, 2022 Regular Meeting: Upon the motion of Mr. Hendrix, seconded by Mr. Tyson, the Board unanimously approved the minutes of the April 18, 2022 and July 18, 2022 Planning Board meeting.

Additions or Deletions of Agenda Items: None.

Reports of Committees, Members and Staff: None.

Old Business: None.

New Business:

A. Discussion and Recommendation on #ZC22-3, Filed by Chris Hertz, for property located at 10815 Clear Creek Commerce Drive, Tax Parcel number: 137-152-64, to request Site Plan and Architectural approval, including Building Materials: Planning Director Hoard submitted the following memo to the Board.

Clear Creek Business Park's initial rezoning in 2001 established the following condition: The front facades shall be constructed of masonry or brick material. In addition, all buildings visible from the street must also be masonry or brick on side and rear. On November 14, 2019, Albemarle Road Associates, LLC, was approved to amend the condition to read: The Front façade shall be constructed of masonry, brick, stone, precast concrete panels, glass and/or tilt wall concrete panels. In addition, all buildings visible from the street shall be masonry, brick, stone, precast concrete panels, glass and/or tilt wall concrete panels.

The applicant is requesting site plan and architectural approval, including building materials. Site Plan and architectural approval is typically an administrative process for Clear Creek. The issue causing the plan to go through the Conditional rezoning process is the introduction of a building material currently not allowed in the list of approved materials. The Front façade shall be constructed of masonry, brick, stone, precast concrete panels, glass and/or tilt wall concrete panels. In addition, all buildings visible from the street shall be masonry, brick, stone, precast concrete panels, glass and/or tilt wall concrete panels. 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

Planning Director Hoard provided the Board with a brief introduction of the request. He explained when the Clear Creek Business Park was originally rezoned in the early 2000's, there was a Condition placed stating the front façade of all buildings shall be constructed of masonry or brick material. In addition, any side or rear visible from the street must also meet that requirement. Fast forward to 2019, the developer of Clear Creek Business Park came before the Board to add the following materials to the list: stone, precast concrete panels, glass and/or tilt wall concrete panels. In addition, all buildings visible from the street shall be masonry, brick, stone, precast concrete panels, glass and/or tilt wall concrete panels. Planning Director Hoard stated after Staff reviewed the plans, he sent out a note to the applicant asking a question about the materials being used, which lead the applicant to come before the Board to propose the addition of a new material and elevations.

Chris Hertz, WHN Architecture, introduced himself to the Board and began his proposal. Mr. Hertz presented an approval letter stating the elevations he presented at last weeks Board of Commissioners meeting were approved by the Architectural Review Board of the Clear Creek Business Park. When presenting the site plan, he explained the East side of the building faced the street, the South side of the building had a sidewalk along the exits, and loading docks along with a drive-in door were located on the North side. Mr. Hertz showed the Board the durable insulated metal panel he was proposing to use on the front and two sides of the building.

Chairman Gatz asked which side of the panel would be the interior. Mr. Hertz stated the metal side; the exterior emulated tilt and EIFS. He added the panel was expensive.

Mr. Hertz provided the Board with the revised elevations. He stated the front elevation would consist of brick, EIFS on the office level, the doors and windows would be store front, and on the higher back portion there would be TextureClad Wall Panel that had a stucco like appearance. He explained he was before the Board to request using the panel presented around three sides of the building. At last weeks Board of Commissioners meeting, there were discussion of the other metal building panel they proposed to use on two sides of the building, but the Board made it clear they did not want a panel that was easily dented so tonight he proposed a sturdy and durable panel. Mr. Hertz added they received a Foundation Footing Permit from Mecklenburg County, and they were anxious to get the project rolling.

Mr. Todd asked what the building backed up to. Mike Johnson, Ascent Construction Group, introduced himself to the Board. He referred to the site plan and stated there was a 10-foot-tall berm on the back side

of the property which backed up to the Rocky River High School Athletic Fields. Mr. Todd asked how durable the material was, could it be painted? Mr. Johnson stated yes, the product was durable and could be painted. Due to the Kynar paint finish, this panel was more durable to fading overtime. He added the product had a twenty-five-year warranty on it.

Mr. Hendrix asked where Mr. Johnson had previously used this product as this was his first time seeing it. Mr. Johnson stated he had previously used this product on industrial type facilities in Winston-Salem. Mr. Hendrix asked if there was much of the product. Mr. Johnson stated due to the expense of the product, it was not common. Mr. Hendrix asked how the price of this product differed from other building materials. Mr. Johnson stated using this product was less expensive than using tilt, but more expensive than the average metal siding. He explained with the proposed building, they were up against economics as they were already one million dollars over budget. Mr. Hendrix asked how the applicant was one million dollars over budget. Mr. Johnson stated they were hit with inflation. Mr. Hendrix stated the material was nice, but he was concerned with the building not matching its surroundings and with the material not being as well known and used compared to other products. Mr. Johnson explained their thought process. He stated from a distance, the proposed material gave the same aesthetic as a tilt wall building which was why the Architectural Review Board gave their approval. Mr. Hendrix asked where this panel could be found in Charlotte. Mr. Johnson stated he would reach out to his supplier, Metl-Span, to see where in Charlotte this product could be seen.

Mr. Draffen stated he agreed the material looked similar to a concrete stand-up panel, but he was concerned about the warranty not lasting as long as other materials.

Mr. Tyson asked how seams were handled between panels with this particular material. Mr. Johnson showed the Board how the panels would interlock, stating it was a concealed fastener type system. Mr. Tyson confirmed there would be no metal runner to conceal it. Mr. Johnson said correct, all that would be seen was the panel presented.

Chairman Gatz asked if the back metal panel would be seen from the Rocky River High School Athletic Fields. Mr. Johnson stated there may be some visibility, but not a lot due to this specific parcel sitting up high and the 10-foot-tall berm. Mr. Johnson gave a brief explanation of how the building was designed. Chairman Gatz asked what the history of the proposed panel was. Mr. Johnson stated this specific panel had been around for approximately twenty-five years. Chairman Gatz asked what the price difference was between the proposed panel and regular metal panels. Mr. Johnson stated the proposed panel was 4-5 times more expensive than regular metal panels. Chairman Gatz expressed his thoughts on the back of the building and shared he did not like it. Mr. Johnson stated he understood the other buildings in the Business Park were allowed to have metal on the backsides of their buildings. Chairman Gatz asked if those buildings were visible from the Rocky River High School Athletic Fields. Mr. Johnson said no, the buildings he referred to were located in the front of the Business Park. Chairman Gatz asked if the color of the metal panel being used on the back of the building matched the proposed panel color. Mr. Johnson said yes, it would be a similar color.

Mr. Hendrix asked how long it took Mr. Johnson to order and receive the proposed material. Mr. Johnson stated approximately one year. Mr. Hendrix asked if the applicant ordered the lighter steel for the building. Mr. Johnson stated this building was a pre-engineered metal building so by nature it was designed as light as possible. Mr. Hendrix stated knowing what the building required, he did not understand why this

proposal was before the Board at this time. Mr. Johnson stated his understanding was their proposal had to be presented to the Architectural Review Board for approval. He stated there was a major misunderstanding when they were communicating with MPV Properties that they had the responsibility of their Architectural Review. He explained they were blindsided when they submitted their permit through the Town and Planning Director Hoard contacted them explaining their standards. Mr. Hendrix stated he understood their dilemma but felt like they were putting their dilemma in the Town's hands which concerned him.

Mr. Hendrix asked Planning Director Hoard if the Architectural Review Board was not aware of their requirements. Planning Director Hoard stated this proposal was one of two that were being brought to Staff's attention. He stated Mr. Hertz was correct as to there being miscommunication; once the applicant received the approval from the Business Park, they thought they were good to go but Clear Creek later said they had a disclaimer reading they needed the Town's approval which the applicant was unaware of. He stated the material requirements had been in place since the beginning with additional materials being added in 2019. Mr. Hendrix stated he did not have an issue with the back panel being metal for expansion reasons, his problem lied with adding this building with the proposed materials rather than what the park currently had.

Chairman Gatz asked Planning Director Hoard if the Board approved this request, were they setting a precedent or could this be a onetime approval. Planning Director Hoard stated this request was specific to this property only. He explained even if the Board of Commissioners approved the proposed material and allowed the applicant to follow through with the elevations requested, it would only apply to this site. If someone were to come before the Board with the same request, they would be subject to the rules set for the Clear Creek Business Park without the material allowance the current applicant was requesting. He stated the Business Park could have come before the Board requesting to change the material for the whole park, but they did not. Chairman Gatz asked if the Clear Creek Architectural Review Board understood the required standards. Planning Director Hoard stated not only did they understand it, they wrote it in 2019.

Mr. Hendrix referred to Planning Director Hoard mentioning this situation happened twice, he asked how so? Planning Director Hoard explained there was another site near the site being discussed that brought all of this to his attention. Chairman Gatz asked what the Clear Creek Architectural Review Board said about the other site. Planning Director Hoard said both sites were given the chance to present their case in front of the Board for Town approval with the second site possibly coming before the Board at a later date.

Mr. Johnson addressed Mr. Hendrix concerns explaining the product presented was created to provide a hard coat look. He stated while Mr. Hendrix mentioned it was a metal panel, but what would be seen was a nice-looking textured coat finish which was better than paint with it being factory applied. Mr. Hendrix stated he understood as he owned two metal buildings himself. He explained his issue was with the Town being responsible to fix the situation when the applicant was unaware they had to request approval from Local Government. He stated the Board had been down the road of people making mistakes and once the Board stepped in to help, it created a domino effect of everyone requesting a change. Mr. Hendrix was shocked the Review Board did not communicate properly with the applicant and thought the bone the applicant needed to pick was with them, not the Town.

Chairman Gatz stated if it was up to him and the panel was brought to the Board ahead of time, he would have agreed with Mr. Johnson that it looked just like a tilt panel, but he had to disagree as the Board felt they were caught in the middle.

Mr. Todd asked what the availability was of the presented product. Mr. Johnson stated it was manufactured with the building and would be available if they received approval from the Town. Chairman Gatz asked if the applicant proposed to use the presented panel on the front of the building when it went through to the Clear Creek Architectural Review Group. Mr. Johnson said the panel would be used on the higher elevation behind the office. He explained what would be seen was the façade with a raised parapet on the front office side and then a bit of the panel on the front of the building due to the step-up. Chairman Gatz stated from the get-go, the applicant had the wrong materials. Mr. Johnson stated from his understanding, these were the materials discussed and decided on with the Architectural Review Board as he understood that was whom they received approval from. Chairman Gatz stated the Board had Ordinances to follow and the only ones capable of changing those were the Board of Commissioners, so he felt this decision needed to come from them.

Mr. Hendrix agreed with Chairman Gatz stating he did not think it was the Planning Boards responsibility to grant such a thing as their job was to enforce the rules, not make them.

Upon the motion of Mr. Hendrix, seconded by Mr. Todd, the Board voted to send an unfavorable recommendation to the Board of Commissioners on #ZC22-3, Filed by Chris Hertz, to request site plan and architectural approval, including building materials. The vote was 3:2 with Chairman Gatz, Mr. Hendrix, and Mr. Todd voting in agreement with the motion, and Mr. Draffen and Mr. Tyson voting in opposition of the motion.

Other Business: None.

Adjournment: Upon the motion of Mr. Hendrix, seconded by Mr. Todd, and unanimously agreed upon, Chairman Gatz adjourned the meeting at 7:15 p.m.

Savanna Ocasio
Program Support Assistant