

**Mayor and Commissioners  
Special Meeting Minutes-Amended  
December 11, 2018**

**ATTENDANCE:** Mayor Ashby, Commissioner Ryan, Commissioner Linkey, Commissioner Reich, Commissioner Taylor, Fred Sussman- Town Attorney, Denise Breder- Town administrator, Dianna Battaglia- Planning Director, Amanda Hickman- P&Z Coordinator.

**Special Meeting called to order at 6:00pm.**

**The purpose of this meeting is to continue discussion regarding the PR2018-01, Planned Infill Redevelopment request for the property located at 68 Heather Lane.**

Mayor Ashby begins the meeting by explaining that the post card that residents in the area received was not sent out by the Town and the origination is unknown at this time. We will also be keeping comments to a two minute limit to ensure everyone is heard.

Maureen Danos, of Brown, Brown and Young, representing SK Realty and the owners Sambenheather LLC. She briefly reiterates that the purpose of this meeting is to approve/disapprove the zoning change request and is not an approval of a specific use, it is strictly a zoning amendment approval.

Commissioner Reich asks if we are voting on this tonight. Mayor Ashby says no.

Tori Pierce, of Frederick Ward Associates, explains that the plan is to completely demolish the current outlet building and construct a warehouse facility. Access will remain the same for the property, the new building will be 357,000 sq./ft and what we are proposing the use to be is for warehouse distribution and/or light industrial use. The application provides provisions for parking, landscape buffering, stormwater management. Right now the developed area is 80% of the north, there is about a 20% expansion to the South. The commissioners asked for a follow-up traffic study and noise analysis which we have completed and provided following the previous public hearing. We are here to answer any questions.

Mark Heely, of Traffic Concepts, explains that the first thing he did was look at trip generation for a warehouse use and compare that against other permitted uses. A shopping center of 250,000 sq./ft would generate over 1000 am peak hour trips, a factory outlet center would generate several hundred pm trips, a 10,000 sq./ft restaurant would generate 100 peak hour trips. This proposed warehouse would generate 50 peak hour trips. We contacted the state highway administration to confirm the threshold for a traffic impact study at 50 trips, making us under the requirements to conduct a traffic impact study which is why originally that study was not provided. However, upon request from the Mayor and Commissioners a study was then conducted. We analyzed two immediate intersections, 222 at Heather Lane and then Heather lane with the Royal Farms and Truck Stop entrances. The counts were done October 23<sup>rd</sup> 2018 from 6am-9am and then 4pm-6pm. The am peak hours are 7am-8am and the pm peak hours are from 4:45pm-5:45pm. We then looked at State highway counts that had been conducted along this corridor are in line with the peak hours that we studied. We followed the same State Highway traffic study standards and guidelines for analysis. We analyzed the existing conditions and then added 23 future conditions- including a growth rate of 2% which is based on State Highway counts, we also added the potential site traffic which is based on standards accepted by State Highway and Cecil County plus a 50% increase during peak hour trips. The 50% increase was to try to account for the potential increase from truck traffic from a proposed warehouse. We tried to create the worst case scenario to generate appropriate numbers. Most of the traffic would be from workers and 15% of the traffic would be from trucks directly and the majority would be turning left onto 222 to access 95. We found that the capacity analysis indicates that the intersection is a level service C or better. Another point to mention is that the new interchange between Belvedere Rd. and I95 will alleviate traffic from 272 and 222, we didn't originally account for that.

Brief discussion between Commissioner Reich and Mark Heely regarding whether or not other future projects in the County were taken into account.

Mr. Heely continues explanation of the numbers and the analysis.

Georgia Galicki asks if the traffic that is coming up from the Hatem Bridge was considered in these counts. Mark responds that only 222 and Heather Lane were looked at because that is the intersection that will be impacted and any and all traffic that came through the intersection was counted. Meaning that whatever traffic came from the Hatem and up 222 would have been included in those counts. The conclusion of the study was that the intersection of 222 at Heather lane has ample capacity even after the redevelopment of the property.

Dianna Battaglia explains that her staff report is available and that all of the phone calls, emails and general inquiries that were received from concerned residents have been included and are a part of the record. The rezoning standards and the staff report are online.

Julie Mitchell asks for clarification of staff report. Mrs. Battaglia responds.

Catherine M. expresses concern over the potential uses and that if the owners decide not to go with a warehouse they could instead decide to go with manufacturing. Mrs. Battaglia responds that the uses themselves will be reviewed as well and that would be a separate process once the zoning change is made.

Mr. Reeves of Pertucci Company, co-developer, explains that the noise/sound study was done in accordance with State of MD Noise Ordinance. Per that code the daytime noise restriction is 65 decibels or less at a residential property and the evening at 55 decibels or less. 7am-10pm are daytime hours and 10pm-7am are evening hours. We looked at other similar warehouse properties that we own to measure noise generated. We looked at number of trucks, how many were idling, how many were backing up, how many were connecting to trailers, how many were unloading, all circulation of trucks and other factors to create our model. The daytime scenario projected at this location includes 26 trucks idling at once, 10 trucks were driving around, several were backing up and several were connecting with the trailers. Nighttime scenario used 13 trucks idling, 4 driving around and several backing up and connecting. The scenarios that were run are 4 times greater than actual noise at other similar warehouses that were looked at. We tried to create the worst-case scenario to obtain numbers. We found that during the daytime the warehouse would generate sound below the state requirements of 65 and 55 decibels. The sound study indicates what the sound would be at a home at a 5 ft and second story elevation from the property line to the home itself. The homes on Penny Lane, assuming no trees, during the daytime period would hear from 55-58 decibels and in the evening 39-53 decibels.

A resident voices concern regarding the operation of trucks at night because he can hear the trucks currently at the neighboring MDTA property in the middle of the night.

Mr. Reeves Responds and notes that the MDTA property is closer to the residential property than the proposed development.

Mayor Ashby asks if there are questions from the Commissioners.

Commissioner Linkey questions the noise levels and explains that when she looked up decibels of truck noises and such, they are much higher than the 55-65 decibels. George responds that yes that is accurate however the noise at the source and the noise at the destination are different, noise dissipates as it travels. So, at source the truck beeper may be 100 decibels but by the time it reaches the second floor of the neighboring property it would be less. Commissioner Linkey also asks for clarification of traffic. Are the 29 trips per hour, making 1 every 2 minutes? And of those 85% will go to the left out to I95 from Heather Lane. Mark Heely responds that the trips are inbound and outbound and 85% of the outbound trucks will go left to I95.

Brief discussion regarding traffic flows between 155, 222 and Route 40.

Mayor Ashby points out that the trucks that are currently entering 222 and causing the traffic impact are not from the potential development and they are not avoiding the toll on I95. They are coming from APG, the VA, and other areas from the Hatem, the developers have no control over current traffic and only completed a study based on the areas that their development would directly impact.

Commissioner Ryan asked for clarification regarding daytime and evening noise study hours. Mr. Reeves responds with 7am-10pm and 10pm-7am. Commissioner Ryan also asks for clarification regarding the 29 trips and whether they are all trucks or not. No, they are not necessarily all trucks, they will be a combination of cars and trucks with an estimate of 20% being trucks and will depend on the official use once determined.

Commissioner Reich asks how many bays will be on the building. Mr. Reeves responds 51.

Commissioner Linkey comments that no matter what the use or what the estimated trips are at the end of the day it's still more trucks and more traffic. Commissioner Reich echoes her concern and says he has a difficult time believing the traffic study.

### **From the Floor**

Jodi Shivery asks if a representative of the organization who mailed the post card is present tonight. I found the card to be very divisive and not representative of our Town. We are talking about potential smart growth and the card didn't make sense. Growth is inevitable and this card was too divisive and she would like us to think logically and long term. The project is a win-win.

Charles Hynar expresses concern over the traffic count. It has increased significantly over the last several years. I support the project but the impact from other developments plus this is going to really hurt 222 and that it just isn't wide enough to accommodate the traffic.

Lynn (?) says the tractor trailers drive recklessly already. She also wanted to know if the noise was considered at 222 and Heather Lane, to which the answer was no.

Multiple individuals speak to the same affect concerning the current truck drivers and how aggressive they are as well as their use of weight restricted roads. Concern regarding the environmental impact from the trucks is expressed as well.

Karen Eastridge expresses concern over the noise of the trucks as well as the run off from the potential development.

Howard Stevens hopes that the town controls the timing of the traffic light at the end of Heather Lane. Also would like the police to pay more attention to the trucks that run the yellow light at that same intersection.

Tom Seato asks if any pollution studies were done pertaining to the trucks and voices concern over the environmental impact they could have. Mayor Ashby responds with a description of the emissions restrictions on newer trucks.

Irene Smith expresses concern over the speed of the trucks.

Mayor Ashby explains that we should be discussing the development itself instead of just traffic. No matter what we allow to be in this location there will be additional traffic on 222.

The question is asked from the audience regarding what does the Town want to be known for. Instead of warehousing we should be looking for retail.

Katherine Preston notes that the trees along the road are gradually being removed so the buffer will no longer be there protecting the homes along 222.

Donna Menes says she has friends who live on Penny Lane and would like to know if shields can be put on the lights from the property to lessen the light pollution on neighboring properties.

Ruth Young points out that the new building is much larger than the current outlet building and if the current zoning is already commercial highway why do we need to add other uses.

Todd Young mentions that he believes the reason so many people have shown up tonight was because of the postcard itself. He questions the validity of the traffic study and questions why a zero grade factor was used for 222.

Mark Heely explains that the entirety of 222 was not part of the study, it was strictly the intersection of 222 and Heather Lane because that is the area that will be immediately impacted.

Dennis Iracki requests clarification regarding the actual zoning request. How do we know that with this change in the future this building won't have light manufacturing in the future.

Dianna Battaglia explains that a specific list of uses have been determined and will be attached to the rezoning. Once the specific use is determined by the owner they will have to return to the Town for permission.

Brian Toby asks for clarification regarding the rezoning and the process. Is there a zone change or is there a floating zone above the current zoning. Dianna Battaglia explains the process and purpose of the PIRD. The planning commission has established the potential list of uses however its impossible to list every single use.

Significant discussion ensues and comments are received from the public regarding traffic impact, the list of uses, the environmental impact to the air and neighboring wells, zoning, property values, public benefit, noise etc.

Faith Barr says, we back up directly to the plaza did you take into account the topography of the area, I can sit outside my house and hear a conversation through the trees at the truck plaza and we have a lot of trees. Second, the pollution, my house is grey but you wouldn't know it because its almost black from the particles from the tires from the trucks and cars going up and down 222. We have to wash it every year. My mother in law is right across 222 at the light and can no longer use her front porch because of the black dust. Thirdly, at the last meeting I asked about a water study because when the plaza was built three people had to re-drill wells and I want to know potential impact to the neighboring wells I want to know if I will be affected.

Mr. Reeves responds that yes the topography was taken into account.

Mayor Ashby questions that in the event that a well should be negatively impacted on a neighboring property directly because of the development who would be responsible.

Tory Pierce responds that the owner would be responsible if the construction is the cause for impact.

Trish Davis asks if voting can be delayed until the owner identifies a tenant.

Fred Sussman responds that it is at the discretion of the board.

Trish Davis asks how many new jobs can be expected as a result of the warehouse. George replies with 200-300.

Creg McDowel explains that he is responsible for sending. Reads from written speech (attached to minutes).

Commissioner Linkey points out that all meetings are open to the public, are listed on our website and social media accounts and are held on a monthly basis. The information is available but you do have to seek it out and notices will not be mailed out for every single meeting unless required by law.

Steve Feazell explains that the proposed use for this site is the most minimal impact that we will see. C2 provides for many unfortunate uses already. We all have a wish list but unless you buy the property yourself and put something there this is what is available and the best use of the property.

### **Closing Comments**

Commissioner Taylor thanks everyone for coming out and reminds everyone that every meeting is listed publicly and encourages people to attend.

Commissioner Reich touches on the enterprise zone incentives and reminds everyone of the meetings and encourages everyone to attend. If you visit our website you can also sign up for alerts.

Commissioner Ryan echoes the board in encouraging attendance to future meetings. We are also bound by ethical standards and must be open with potential conflicts of interest. I have a dual concern as a Commissioner and the Fire Chief but everything will be considered and we will do what's best for the Town.

Mayor Ashby thanks everyone for attending and explains that the board is doing their due diligence regarding this request. It is not being taken lightly. Yes, there are many other potential uses however no other parties have been interested in the property to date.

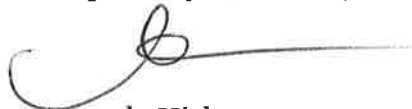
**Motion** to adjourn to closed session so the mayor and commissioners may consult with counsel to obtain legal advice made by Commissioner Ryan. Seconded by Commissioner Reich.

**All in favor, Motion carried.**

### **Adjournment:**

Without objection the special meeting adjourned at 8:08 p.m.

Respectfully Submitted,



Amanda Hickman  
Planning & Zoning Coordinator

**TOWN OF PERRYVILLE**  
**FORM OF STATEMENT FOR CLOSING A MEETING**  
(FROM OPEN MEETINGS MANUAL - APPENDIX C)

Location: Town Hall (515 Broad St.) Date: 12/11/18 Time: 8:08pm

Motion By: Comm. Ryan Seconded By: Comm. Reich

**VOTE TO CLOSE SESSION:**

	AYE	NAY	ABSTAIN	ABSENT
Mayor Ashby	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Linkey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Reich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**STATUTORY AUTHORITY TO CLOSE SESSION**

General Provisions Article §3-305(b):

- (1) To discuss:
  - (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or
  - (ii) any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of an individual with respect to a matter that is not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including:
  - (i) the deployment of fire and police services and staff; and
  - (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;

(12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;

(13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;

(14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

**FOR EACH CITATION CHECKED ABOVE, THE REASON FOR CLOSING AND THE TOPICS TO BE DISCUSSED:**

To further discuss the PIRD application and proposed project for Perryville Outlet site.

  
Signature of Presiding Officer