



MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

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Minutes of a Special Meeting of The Mount Joy Township Zoning Hearing Board Wednesday, March 9, 2023

1. Chairman Thomas N. Campbell called the meeting to order at 6:00 P.M. in the Elizabethtown Area School District Middle School Auditorium, 600 East High Street, Elizabethtown, PA 17022.

2. Meeting Attendance:

- Members Present: Thomas N. Campbell, Gregory R. Hitz, Sr., and Robert F. Newton, Jr.
- Members Absent: James E. Hershey
- Alternate Member Present: None
- Township Representatives: Josele Cleary, Esq., Township Solicitor and Justin S. Evans, Township Manager/Zoning Officer
- Lancaster County Court Reporter: Veronica Johnston-Gouck
- Zoning Hearing Board Solicitor: John P. Henry, Esq. of Blakinger Thomas

3. Approve & ratify the minutes of the February 15, 2023 meeting

A motion was made by Gregory R. Hitz, Sr. and seconded by Robert F. Newton, Jr. to approve and ratify the February 15, 2023 meeting minutes. All members present voted in favor of the motion.

4. Procedural briefing by the Zoning Hearing Board Solicitor

5. Old Business:

Zoning Case #230001: [Continued from the January 17, 2023 and February 15, 2023 meetings]

- a. Applicant: PDC Northeast LPIV, LLC
- b. Landowner: Franklin B. Greiner, Jr.
- c. Property Location: 2843 Mount Pleasant Road, Mount Joy, PA 17552; Tax Parcel ID #461-89922-0-0000
- d. Zoning District: LI, Light Industrial District
- e. Special Exception Requests:

- 1) Chapter 135, Article XVII, §135-163.B & §135-163.C to permit an industrial use on the subject property.

Attorney William Cluck, representing opposing party Joelle Myers, presented John A. Nawn, PE as an expert witness in traffic engineering with 36 years of experience. Mr. Hitz asked for clarification with Mr. Nawn's work experience as stated on his CV.

A motion was made by Gregory R. Hitz, Sr. and seconded by Robert F. Newton, Jr. to accept Mr. Nawn as an expert in traffic engineering. Mr. Nawn was sworn into the hearing and his CV was marked as Exhibit Myers-2. Attorney Esch McCombie, representing the applicant, challenged some of Mr. Nawn's recent professional experience in the areas of litigation support and transit planning. While Attorney McCombie did not object to Mr. Nawn being accepted as a transportation expert, he did call attention to the last ten years of experience being geared towards forensics and rail. All members present voted in favor of the motion.

Mr. Nawn spoke about the requirement in Section 135-383 that involves determining peak traffic generation through the Institute of Transportation Engineers' Trip Generation Manual. The applicant used land use code 150, warehousing, to

determine trip generation. A trip involves a vehicle coming to or originating from a site. The applicant's report projected 1,629 vehicles on an average weekday with 144 trips in the a.m. peak hour and 147 trips in the p.m. peak hour. Mr. Nawn reviewed the ITE manual's definition of land use code 150 and related uses. ITE relied upon 31 studies with an average size of 292,000 sf., which is roughly 29% of the proposed warehouse. The largest warehouse studied was 560,000 sf.

He disagreed with the applicant's use of land use code 150 for the proposal. Alternatives include Land Use Code 154, high-cube transload/short term warehouse; Land Use Code 155, fulfillment center warehouse; Land Use Code 156, high-cube parcel hub warehouse; and Land Use Code 157, high-cube cold storage warehouse. Since nothing is in the application to suggest there will be cold storage, #157 can be eliminated from consideration. Land Use Code 155 typically involves e-commerce like an Amazon warehouse and he recommends a condition that the warehouse, if approved, be prohibited from use as a fulfillment center in conjunction with the applicant's prior testimony as such.

Mr. Nawn described a cross-dock facility as one where a truck enters the facility, is unloaded and processed, then cargo is loaded onto another truck. Based upon review of the applicant's testimony in the prior hearing, the proposed warehouse would be a cross-dock facility. Page 2-3 of Mr. Nawn's Trip Generation Analysis report marked as Exhibit Myers-3 defined a high-cube warehouse greater than 250,000 sf. with a particular configuration of the doors across from one another. He reviewed the report's comparison of peak traffic generation based on Land Use Codes 150, 154, and 156. Cross-dock facilities are specifically mentioned in the definition of a high-cube parcel hub warehouse, Land Use Code 156. There is nothing in the applicant's testimony that would exclude #156's applicability.

The table on page 6 of Mr. Nawn's report compared trip generation for Land Use Codes 150, 154, and 156. #150 generated 1,629 weekday trips, #154 generates 1,410 trips, and #156 generates 4,662 trips. A.m. peak hour trips are 144 for #150, 131 for #154, and 886 for #156. P.m. peak hour trips are 147 for #150, 171 for #154, and 715 for #156. Not enough information was provided by the applicant to determine the proper land use. However, the applicant's testimony that the warehouse will be built speculatively should result in using the largest traffic-generating code. More specific information could include data or the North American Industrial Classification System code for the proposed tenant or type of tenant and use. The use within the warehouse is key to determining the applicable code for trip generation.

Section 135-383 also speaks to accommodating the peak traffic generated in a safe and efficient manner or providing improvements to effect the same. It was Mr. Nawn's opinion that it was not possible to make this determination without a traffic impact study. Applying the estimated trips to the road network through such study would result in an understanding of the level of service impacts to affected intersections and roadways. A trip generation analysis does not provide this level of detail.

All ITE Land Use Codes used in the report result in greater than 100 peak hour trips on an average weekday or in the a.m. and p.m. peak hours. This triggers an obligation to prepare a traffic impact study in many land use ordinances and PennDOT procedures. An excerpt from a PennDOT guidance document regarding traffic impact studies was marked as Exhibit Myers-4. Section 135-310 establishes the parameters for a traffic impact study when required by the Zoning Ordinance, generally referring to provisions contained in the Subdivision and Land Development Ordinance. Mr. Nawn felt there was no way to demonstrate compliance with Section 135-383's concerns with health, safety, and public welfare without a traffic impact study. He read his three opinions found on page 7 of the report submitted as Exhibit Myers-3:

- The applicant's Traffic Evaluation does not provide sufficient information to determine whether the proposed use will be detrimental to the health, safety, or welfare of the neighborhood in accordance with Section 135-383 of the Mount Joy Township Code.
- The applicant's Traffic Evaluation does not provide sufficient information to determine whether the peak traffic generated by the subject of an application can be accommodated in a safe and efficient manner in accordance with Section 135-383 of the Mount Joy Township Code.
- A full Traffic Impact Study, prepared in accordance with Section 119-32 of the Mount Joy Township Code, would be required to evaluate whether this application complies with the special exception requirements of Mount Joy Township and determine whether the proposed use will be detrimental to the health, safety, or welfare of the neighborhood and whether the peak traffic generated by the subject of the application can be accommodated in a safe and efficient manner.

He added that Section 119-32 of the SALDO requires non-residential development of a building in excess of 1,000 sf. to provide a traffic impact study. Construction of a warehouse in excess of 1,000,000 sf. necessitates a study under the SALDO.

Attorney McCombie's cross-examination pertained to Mr. Nawn's expertise in zoning, to which he responded with experience as a Township Supervisor and other work interpreting zoning codes. Additionally, he questioned whether the Zoning Ordinance specifically requires a traffic impact study for this application. It does not, but the SALDO does. The

SALDO regulates the land development process, not the special exception process. The applicant, through Attorney McCombie, expressed a willingness to conduct a post-occupancy study in addition to a pre-development traffic impact study as a condition of approval. This would ensure consistency with the pre- and post-development numbers. He reviewed page 4 of Mr. Nawn's report to confirm the different assumptions between peak hour trips generated from Land Use Codes 150, 154, and 156.

Attorney Cluck asked Mr. Nawn to confirm his testimony stating that a traffic study is required because the proposal exceeds 100 trips. He stated that the effects of peak traffic and accommodation thereof cannot be known without a traffic study. Attorney McCombie asked him about PennDOT's role in the process. They review the traffic study and determine required improvements as part of the Highway Occupancy Permit process. Any improvements required are typically determined and required in the land development stage.

Mr. Campbell asked what the Township would do with a post-occupancy traffic study. Joe Peters of Panattoni Development Company recalled examples in the past where an agreement with the municipality required additional improvements if the actual trips exceed the pre-development estimates. Attorney Josele Cleary, representing the Township, asked Mr. Peters to confirm that the applicant would agree to a condition that there be a post-occupancy study to determine the actual trip generation numbers and that the applicant would make any improvements required by such study. Mr. Peters confirmed this.

Mr. Hitz asked if the full traffic study will consider the interchange. Mr. Nawn noted that the applicant's traffic evaluation simply calculates trips and does not evaluate the impacts of those additional trips on the roadway network. Intersections including the interchange need an evaluation of pre- and post-development levels of service for the Board to properly make their decision. There was an exchange between Attorney McCombie and Mr. Nawn regarding the timing of studies and improvements with respect to the special exception and land development processes.

Mr. Campbell asked if the traffic study considers the weight of vehicles. Mr. Nawn said not typically. It is also unknown if the current roadway surface and construction can handle various weights, however, it is the volume of truck traffic that affects roadways most. There are various ways for municipalities to study these matters and tie a developer to making repairs related to their impacts. Mr. Hitz asked if the eastbound and westbound interchanges will be considered in the traffic study. The ordinance is not specific to a particular radius for the study but the Township and PennDOT will determine what is appropriate. Attorney McCombie and Mr. Nawn engaged in a discussion about the timing and determination of traffic improvements. Attorney Cluck stated that compliance with the provisions in Section 135-383 cannot be confirmed without a traffic study.

Randy Stevens, resident at 2541 Mount Pleasant Road, asked Mr. Nawn to clarify PennDOT's trigger for a traffic impact study. Mr. Nawn reiterated that this information is needed to protect the health, safety, and welfare of the public.

Attorney Cluck presented Alan S. Peterson, MD as an expert in environmental and community health with respect to air pollution, noise pollution, and light pollution. A motion was made by Gregory R. Hitz, Sr. and seconded by Robert F. Newton, Jr. to accept Dr. Peterson as an expert witness in environmental and community medicine. All members present voted in favor of the motion.

Dr. Peterson was sworn in. He stated that noise pollution has an adverse impact on community health and the character of the neighborhood. Effects include hearing loss, cardiovascular disease, and chronic stress. Each 10-decibel increase over 50 can cause an 8% rise in cardiovascular disease risk through stress hormones. Diabetes is another effect, with a 6% rise in risk per 5-decibel increase over 50 decibels due to increased stress hormones that can lead to insulin resistance and metabolism problems. Pregnancy and childbirth can be adversely affected through the mother's increased stress, which can decrease sleep and lead to low birth weights.

Air pollution associated with warehouse development and increased truck traffic impacts community health through asthma attacks, heart attacks, lung cancer, and premature death disproportionately affecting vulnerable populations. This also includes premature births, stroke, anxiety, and depression. Increased airway reactivity to allergens and bronchitis can be caused by air pollution. Prenatal and postnatal exposure to various air pollutants has been associated with reduced cognition, attention problems, and autistic traits in childhood. An estimated 150 million Americans live in areas that do not meet Federal air quality standards. Heavy duty trucks are a major source of this pollution, including nitrogen oxides and carbon dioxides.

Particulate matter, or soot and smog, are the most prevalent forms of air pollution. Most result from fossil fuels and can be very small. The smaller the particulate, the further it can travel into the lungs. Particle pollution can increase the risk of heart disease, lung cancer, and asthma attacks. Short term exposure ranging from hours to days can be deadly as well. Older adults risk higher levels of injury and death from respiratory and cardiovascular diseases. He referenced a recent article in The Guardian that listed Lancaster County as one of the ten worst places to live in America for air pollution

due to agriculture, transportation, and various industries. Census tract 109, which includes Mount Joy, reported 11.7 micrograms of 2.5 per cubic meter compared to the World Health Organization's safe air standard of 5.0.

Ground-level ozone, or O₃, is a primary component of smog and is formed when sunlight reacts with nitrogen oxides and volatile organic compounds primarily from vehicle and industry emissions. O₃ inflames and damages airways and makes the lungs more susceptible to infection. Elevated O₃ levels can lead to chest tightness, coughing, and shortness of breath. Rhinitis is another disease associated with negative air quality. He discussed how these standards are established and measured. Last year, Lancaster County received a grade of "C" for ozone and "F" for particle pollution. The development of the warehouse would only lead to increased pollution, especially in the vicinity of the site. Approving a warehouse over 20 times the size allowed by right will only lead to decreased air quality in the area.

Attorney Cluck asked if the Commonwealth of Pennsylvania requires air permits for warehouses. Dr. Peterson was unsure. Are air emissions from land development regulated by the Commonwealth? He was unsure.

Dr. Peterson spoke to light pollution having adverse impacts on community health in rural areas. Light pollution, or artificial light at nighttime, has been linked to sleep disorders, obesity, depression, metabolic disorders like diabetes, breast cancer, and cardiovascular disease. Artificial light can interrupt sleep and the circadian rhythm that affects internal processes such as the production of melatonin. Increased light can decrease melatonin production and produce negative impacts. Blue light from LEDs is especially impactful, even if it is not bright.

He recommended creation of a buffer zone approximately 1,000-1,500' between light pollution sources and a sensitive receptor. Sensitive receptors include homes, schools, agricultural lands, streams, and wetlands. Electrified warehouse bays and trucks would minimize emissions from idling trucks. A dense tree buffer would help mitigate air pollution. A white roof or "green roof" could reduce heat and air conditioning needs. Dr. Peterson stated that an environmental assessment of the warehouse is absolutely critical. Sound barriers, berms, and lower lights and deflectors help mitigate noise and light pollution, as well as constraining the hours of operation.

Attorney McCombie cross-examined the witness, asking if Dr. Peterson prepared the notes he read from. Some of the notes he prepared himself, others were prepared by Attorney Cluck. The data was gathered from a number of sources including the New England Journal and the American Medical Association. He agreed that many uses result in various levels of pollution. Agriculture is a common source of air pollution. All warehouses produce some level of these pollutants, as do roads and highways. He was unsure what DEP regulates in terms of various types of pollution.

The following exhibits were submitted into evidence:

- Ex. Myers-2: CV for John A. Nawn, PE, PTOE, F. NSPE
- Ex. Myers-3: Trip Generation Analysis report prepared by John A. Nawn, PE, PTOE; dated March 9, 2023
- Ex. Myers-4: Excerpt from PennDOT guidance document pertaining to Traffic Impact Studies
- Ex. Myers-5: CV for Dr. Alan S. Peterson, MD
- Ex. Myers-6: Google Earth map noting the location of the objectors' residences

Attorney McCombie did not object to the exhibits but noted that Exhibit Myers-6 does not contain an accurate reflection of the proposed warehouse. Attorney Cluck accepted this stipulation and noted that the intent is to locate the residences but not to portray the warehouse in any detail.

Attorney Cluck called Joelle Myers, resident at 2706 Mount Pleasant Road as a witness. Her presentation slides were labelled Exhibit Myers-7. Ms. Myers noted that she lives across the road from the subject property, which is currently an agricultural field. She and her family constructed their home five years ago at 2706. She grew up in a nearby residence on Homestead Road and has strong ties to the area.

Has the applicant proven that the application will not be detrimental to the health, safety, and general welfare of the community? Air pollution, specifically particulates and carbon dioxide, has been linked to numerous health issues and will be exacerbated by the warehouse. Light pollution from a 1,000,000-sf. warehouse with tractor trailers accessing the site on a 24/7 basis is a major concern, especially at the boundary of the Light Industrial District. Noise pollution from a facility of this size will be a nuisance to nearby residences on a continuous basis.

Ms. Myers stated that the warehouse is located within 600' of "residential development" as opposed to the claim made in the application package and as determined by the Zoning Officer. Has the applicant proven that the warehouse will not be a detriment to the surrounding neighborhood or that public services like police, fire, and power supply are capable of serving the site? What is the credible evidence establishing that crime in the area will not be increased, volunteer fire

departments can respond to a large fire, or that the power grid will not be compromised for facilities like Norlanco Medical Center?

How will a 500% increase in traffic compared to the current condition on Mount Pleasant Road affect nearby residents and the congested Cloverleaf Road interchange? The plan submitted with the zoning application does not show the roadway improvements proposed by the traffic study that is part of land development plan application. The 1,000,000-sf. warehouse is not compatible with the intent behind the property's rezoning to Light Industrial and will drastically change the character of Mount Joy Township.

Mr. Newton asked where the traffic count data for the Cloverleaf Road interchange came from. A neighbor helped her obtain the figures containing the data.

Mr. Stevens asked if Ms. Myers recalled discussions from prior Board of Supervisors meetings about the shortfall of ambulance and fire department staff levels. She did. Are the local fire departments that serve Mount Joy Township all volunteer? What are the number of volunteers available and at what hours? No answer. Mr. Stevens stated that Rheems has 10,000 man hours and 40 volunteers. Elizabethtown Borough has 5,500 man hours and 60 volunteers. Conoy Township has 25 volunteers. In your opinion, would it be detrimental to health, safety, and welfare if fire service cannot be provided in this area? Absolutely.

Exhibit Myers-7, Joelle Myers' presentation slides, was submitted into evidence.

Allen Sollenberger, resident at 1437 Grandview Road, gave a presentation. He began by orienting the development site with Greiner Industries and nearby farms including his own and those of Kennedy/Thompson, Mummau/Hidden Valley, Usner, and Grandview Winery. Several of those properties are also preserved farms. He pointed out the existing forested area to be removed from the subject property as noted on the applicant's plan sheets. He made comments about the loss of farmland and the potential effect on food production in our area.

Mr. Sollenberger provided data from published PennDOT average daily trip counts, including 559 trips per day in 2012; 802 trips per day in 2021; and 829 trips per day in 2022. He compared that to the 1,629 truck and car trips per day proposed to be added to Mount Pleasant Road. Concerns include narrow roadways in the area, changing the character of the neighborhood, and pollution from additional traffic. He noted that the applicant still has not addressed specific impacts to the two residences located across Mount Pleasant Road from the site.

Additionally, two residential developments located approximately two miles away on Campus Road propose 489 residences on one side of the road and 377 on the other side. This will add approximately 1,632 vehicles to the roadways assuming 1.5-2 cars per household. Effects also extend to the Cloverleaf Road interchange of Route 283. Another developer has applied for sewer service for 124 housing units on the other side of Campus Road.

The American Lung Association's State of the Air Report published in April 2022 stated that particle pollution led to more unhealthy air days than the previous year in Lancaster County. Lancaster County is one of the worst metropolitan areas for air pollution and was graded "F" for short term particle pollution two years in a row. The county also received a "C" for ozone pollution that can result in asthma, emphysema, and chronic bronchitis. How many people fall ill to air pollution before saying no to polluters?

Mr. Sollenberger discussed stormwater management, flooding, and groundwater displacement in well water. A slide showing the applicant's stormwater management proposal was displayed. The runoff generally flows around the perimeter of the site to the north and east toward Stauffer Road. Approximately 25 acres of roof runoff and over 668,000 sf. of parking lot area (or 15 acres) will result from the project. A 1" rain event from the 40 acres of new coverage will produce approximately 1,086,160 gallons of runoff.

He presented several photos of recurring flooding on two unnamed tributaries flowing through or nearby the site. The elevation and topography of the surrounding areas funnels runoff to these tributaries. He used the photographs to demonstrate the flow path around the site and through lands to the east that get flooded several times per year. Those downstream lands are the farms he described earlier, including his own.

Mr. Sollenberger and Attorney Cluck noted that the printed presentation slides in Exhibit Sollenberger-1 include a sheet with three photographs. Those photographs of waterways in or after rain events were shown on three separate slides in the visual presentation to the Board and audience. Mr. Sollenberger found it hard to believe that the applicant could actually reduce the amount of runoff from the site after it is developed as compared to the existing agricultural use. Mr. Sollenberger expressed concerns with the volume and water quality of the runoff while displaying the applicant's stormwater management calculations. He concluded with questions about impacts from 1,629 new vehicular trips per day to the roadway network, as well as the hazards of air and water pollution on the local population and agricultural operations. Wildlife including deer and birds should be considered when habitat is displaced.

Exhibit Sollenberger-1, Allen Sollenberger's presentation slides, was submitted into evidence. Mr. Campbell asked Mr. Sollenberger to submit the revised exhibit to the Township before the next hearing.

Attorney McCombie asked Mr. Sollenberger about his qualifications as an engineer and in stormwater design. He did not have any. Attorney McCombie then asked about his observations on the runoff patterns from the site. Depending on the soil type and other characteristics, Mr. Sollenberger reiterated his concern with removing 40 acres of farmland and woodland then replacing it with developed area that would increase stormwater runoff. He replied affirmatively to a question whether a DEP-approved stormwater management plan would alleviate some of his concerns regarding runoff from the site.

Mr. Stevens asked Mr. Sollenberger what kind of cave is near one of the waterways and if it is recognized by anybody. He was familiar with the cave on an adjoining property and understands that it extends a half-mile underground.

Diane Edmond, resident at 2622 Mount Pleasant Road, asked if the traffic problems would be solved if Mount Pleasant Road was widened in the area. He estimated it would take extra right-of-way near her property which has a home located approximately 12' from the roadway.

Bobbi Thompson, resident at 8226 Elizabethtown Road, asked if it would be detrimental if her farm on Stauffer Road added livestock with flooding in the area. He stated that cattle generally avoid floodwaters, but calves of his highlander cattle herd have experienced health issues in the past when nursing on cows standing in muddy pools left from receding waterways. He has since fenced off the streamside area.

Attorney Henry announced a continuance of the hearing to Tuesday, April 18, 2023 at 5:00 p.m. at the Elizabethtown Area School District Middle School Auditorium.

10. Next regular meeting is scheduled for Wednesday, April 5, 2023, beginning at 7:00 p.m.
11. A motion was made by Gregory R. Hitz, Sr. and seconded by Robert F. Newton, Jr. to adjourn the meeting at 8:56 p.m. All members present voted in favor of the motion.

Respectfully Submitted,



Justin S. Evans, AICP
Township Manager/Zoning Officer

For: Gregory R. Hitz, Sr., Secretary
Mount Joy Township Zoning Hearing Board