

Public Hearing

1. Consideration for rezoning petition from applicant Daniel Dahlke for the rezoning of a 14.7-acre tract with parcel number 0736074 from M-2 (Heavy Industrial) with conditions to M-2 (Heavy Industrial). *Phillip Trocquet, Town Planner*

Mr. Trocquet shared that applicant Daniel Dahlke submitted the rezoning petition on behalf of property owner, Scott Moore for the rezoning of parcel number 0736074. The intent from the applicant was to rezone to allow construction on the lot in the form of a concrete facility. Mr. Trocquet added that the property was the largest tract of Phase VIII of Shamrock Industrial Park which had a zoning condition on it since 2000. The zoning condition placed a moratorium on the occupancy and construction of any properties in Phase VIII of Shamrock Industrial Park until a secondary emergency ingress/egress drive was constructed to the industrial park. He added that the secondary access had not been constructed although much effort had been put into finding opportunities for the construction of the emergency ingress/egress drive. He shared that there was still only one way in and out of the industrial park over the active CSX rail line. Due to railroad construction, emergencies, or other situations, the train had blocked that crossing for hours at a time at least 2-3 times a year. To date, no emergency had occurred simultaneous with the blocking of the crossing, but it had disrupted business operations causing traffic delays on both sides of the crossing.

Mr. Trocquet shared that the current zoning for the property was M-2 (Heavy Industrial) with conditions. The proposed zoning was M-2 (Heavy Industrial) with the construction moratorium condition removed. The existing land use was Vacant Production & Employment. The surrounding zonings were AR and M-2. He detailed that the property history was part of Phase VIII of Shamrock Industrial Park Zoning conditions were placed on the property in 2000, per staff's summary. He added that the property was fourteen acres.

Mr. Trocquet shared that regarding the compatibility with the Future Development Map and the Comprehensive Plan, the petition to M-2 was consistent with the Future Development Map and Comprehensive Plan in general. He added that the property was within the Production and Employment character area which permitted, M-2 zoning. The property was also located adjacent to the other M-2 zoned properties. Specific site conditions, zoning considerations, and property history should be taken into account for the determination. He shared that the Planning Commission recommended maintaining the construction moratorium on the property until secondary emergency access was provided. The recommendation was approved 3-1 with Commissioner Duncan in opposition.

Mr. Trocquet stated that under normal hazard and access conditions, the proposed zoning would permit suitable uses with surrounding properties to the south and west. He added that the property was adjoined by residential on the north and eastern portions of the property, and a one-hundred-foot buffer would be required.

He shared that also under normal hazard and access conditions to the industrial park, the zoning would not adversely affect adjacent properties to the west and south. Residential properties to the north and east may be affected adversely, however, development conditions including buffers would be present on the property to protect the impact on adjoining residential properties. The petition would also adversely affect the other property owners in Phase VIII who would be disproportionately burdened with the current zoning conditions if they were lifted for select properties and not others.

Mr. Trocquet informed Council that given that there was a construction moratorium placed on the property, reasonable economic use had been suspended until safety conditions via secondary access had been provided to the industrial park. The sale of the property had occurred multiple times since the zoning condition was placed on the property in 2000. The condition (and subsequent value as a result) of the property had been known by each owner. He also shared that the proposed removal of the construction moratorium without the provision of a secondary ingress/egress point into the industrial park would exacerbate the current burden on emergency and police services to access the businesses and people in the industrial park in the case of an emergency with a train blocking the primary entrance. Mr. Trocquet recommended maintaining the construction moratorium on the property until a secondary emergency ingress/egress was provided to the industrial park. He added that if Council desired approval, staff recommended tabling the petition until such a time that all property owners in Phase VIII would submit a rezoning petition to remove the construction moratorium conditions.

Mayor Dial opened the public hearing for anyone that wished to speak in favor of the item.

Mr. Scott Moore, the applicant spoke. He stated that he owned the last tract in Shamrock Industrial Park for approximately 4-5 years. Before purchasing, he was aware of the moratorium and was led to believe that it would not be difficult to remove. He shared that he was being held, hostage. This was the last tract of land in the entire industrial park and everyone was going about their business every day within the park, the moratorium was a hindrance to him. Other business owners did not care. He added that he owned Platinum Trucking. He shared that his trucks were parked at Georgia Masonry every day. He stated that over four companies within the park were worth over a billion dollars, he was just a small business owner.

Mr. Moore stated that if you look at the original plat, there was no place for a second entrance/exit. The power company would not release land for that purpose. He asked, why he has to be the only person in the park not to build his business, it was unfair to him and his family.

Ms. Sharon Griffies, who has a business on Mallory Court in the industrial park spoke in favor of the petition. Ms. Griffies shared that she was the controller for DeBeer Granite and Marble, she was speaking on behalf of the owner, Izak DeBeer. She stated that she had spoken to Mr. Perkins in the past regarding the history of the property. She added that it was her understanding that the developer was given permission to develop the land without an additional entrance/exit at the time. She stated that recently, her staff was made to stay at work until 7:00 pm due to CSX blocking the entrance. She believed that the developer should have been made accountable when developing the property, that was when roads and curbing were normally placed. Mr. Moore should not be accountable for making this happen. Ms. Griffies shared that having one way in and out affected her employees at lunch also. They were unable to return to work due to the blockage. She shared that she had spoken with other business owners and they were unlikely to contribute financially for another ingress/egress due to the low impact on their business. She added that many businesses such as theirs contribute to the Town of Tyrone, they generate business, house fifty employees, and produce sales tax. Their business positively impacted Tyrone. She encouraged Council to vote in favor of Mr. Moore's request and added that their business was pleased to be an active member of the business park.

Mayor Dial opened the public hearing for anyone that wished to speak in opposition of the item. No one spoke.

Mayor Dial began a lengthy discussion regarding another option for Mr. Moore. Peachtree City placed a condition on the Cresswind development for access onto their property for an emergency exit from the industrial park. It was agreed upon, that the strip of land needed to be purchased and an emergency exit could be placed. Mr. Moore shared that he did not understand how Aabby could build a new facility near his property a couple of years ago and he was not allowed to continue. Mr. Trocquet stated that the moratorium was placed on Phase VIII. Mr. Moore clarified that he was being asked to purchase an additional piece of property in Phase I, put in an emergency road, to be able to begin his development. Mayor Dial stated that if the industrial park had a Business Owners Association, it would be up to them to finance and continue. Mr. Moore restated that the remaining business owners knew what needed to be accomplished, but they would not participate because they do not have to. This fell on him alone, it was not fair. Mayor Dial shared that the issue had a long history.

Council Member Campbell reminded everyone that the second entrance through Cresswind was through the efforts of the Mayor, Mr. Perkins, and Mr. Trocquet, not solely Peachtree City. He added that business owners had also been contacted from the Town to move toward other options. Mayor Dial added that a landscape company also attempted to reach business owners by phone. Mr. Moore stated that all efforts should have been accomplished at the beginning of the development.

Council Member Hill asked if there were additional options, other than lifting the moratorium and the additional emergency exit through Cresswind? Mayor Dial stated, not to his knowledge. Council Member Furr asked Mr. Moore if he had reached out to business owners with the new option through Cresswind. Mr. Moore shared that he had reached out to several businesses and they were not interested. He added that this should be left to the governing body, not the landowner. Mr. Perkins stated that anytime the train tracks were blocked, we hear from business owners. He added that a year ago, CSX had planned to temporarily shut down the crossing for repairs, he and the Mayor had reached out to several stakeholders to discuss an alternative, no one wanted to meet. We had accomplished what we could as the government to assist the business owners. We have reached out to businesses, offered resources, looked at maps, and worked with Peachtree City. The goal was to remind businesses that the crossing could be closed at any time for repairs, or that CSX had the power to permanently shut down the crossing, which was unlikely. This benefits all industrial park business owners; this was not only Mr. Moore's problem or the Town's. The Town had accomplished what it could.

Mr. Moore stated that he understood that the crossing would be closed at times. He asked if there was a law requiring two entrances/exits within a development? Mr. Trocquet shared that the Town had the liberty to make land development decisions according to safety issues. Mr. Moore added that since the development began, nothing had been accomplished concerning the issue. Mayor Dial countered that a lot had been accomplished during this time. Mr. Moore restated that it was unfair to hold him hostage with his 14-acres of land, give a small guy a break. Council Member Hill asked if staff could send a letter to the business owners to explain all of the details and the new development with Cresswind? Mr. Perkins shared that essentially business owners had been contacted, not all with the new development. Council Member Furr asked how many acres were in Phase VIII. Mr. Trocquet shared that there were approximately 20-acres that made up Phase VIII.

The discussion began regarding the adjacent property owner, Miguel Almanza, and how the site was currently being used as a dumpsite.

Council Member Furr asked Mr. Moore how many employees he had. He stated that he employed twenty-two. He added that eighteen were contracted by Georgia Masonry, his biggest customer. He shared that he had paid years of property taxes, and most of his employees were already stationed within the industrial park. Council Member Campbell stated that essentially, Mr. Moore was already established in the park and working. Mr. Moore stated that he did not have the money to place an additional road within the park and he should not have to. He asked why it was taking so long to get something accomplished. He had also spoken with Georgia Power regarding their easement, to no avail. Why continue kicking the can down the road?

Mayor Dial inquired about the Fire Marshall's response to the issue. Mr. Perkins stated that the Fire Marshall had no issue with lifting the moratorium. Mr. Trocquet shared that initially Fire Marshall, David Scarborough supported the moratorium. Mr. Perkins shared that during his tenure as Police Chief, the Fire Marshall at the time was fine with lifting the moratorium. He added that he was on board with the Fire Marshall's decision. If there were an emergency, there would be no problem with getting in and out of the park, that was his position as Police Chief. He added that he would not speak for Chief Mundy. Mayor Dial clarified that multiple Fire Marshalls had agreed to lift the moratorium. Mr. Trocquet also clarified that the original intent was for the primary developer to create an ingress/egress on the property.

Council Member Campbell asked for Mr. Davenport's opinion. Mr. Davenport reminded Council of a similar situation with the Market Hill (Greencastle Road) business park off Dogwood Trail and Highway 74. He shared that a condition was placed when the development was approved, due to the number of parcels and it only has one entrance. The subdivision was slated for thirty lots and Council placed the condition for no more than fifteen lots until an additional entrance was added. The GDOT owned the right-of-way along the property line. The Town received several new property owner phone calls regarding building on their lots. The Town maintained the condition. Between them, they contracted a traffic study. The traffic in 1992 had not risen to the level that was anticipated in the future. The original traffic condition did not match the initial condition placed on the development. Also, GDOT had placed a limited easement on the right-of-way, which made an additional entrance cost approximately \$750,000. Essentially, the businesses joined together to form an association and raised a portion of the needed funding, including the traffic study. The Town recognized that the entrance was cost-prohibitive and the traffic did not currently, at the time, match the original projection. The Planning Commission revisited the project, held a public hearing, and recommended the removal of the condition from each property within the development. Council then held its public hearing and approved the removal of the condition.

Mr. Davenport echoed that the Town and his firm had spent through the years, numerous hours on the Shamrock Industrial Park situation. The reason the property had changed hands so many times was that the risk of not being able to develop the property was apparent. He added that it may seem that the Town was not working with Mr. Moore, however, Mr. Moore knew the condition placed on the property before the purchase. The difference in the situations was that the businesses worked together, and provided an additional traffic study indicating that traffic did not call for the additional entrance, they also worked together to raise funding on their own. They did the research.

Mr. Davenport added the Town had provided an additional option. He reminded everyone that the access to Cresswind only needed to be an access, not a sanctioned road. Normally, a road would cost \$100,000 per mile. What factors have been brought to Council to remove the condition? Mr. Davenport cautioned Council that even if the condition of Mr. Moore's property was lifted, that did not mean that the entire park's conditions had been lifted. He added that if an established property were to have a fire or other irreparable damages, and would need to rebuild, they could not due to the condition in place. Similar to Market Hill, public hearings would need to be held for each property in the industrial park for the condition to be lifted. The hardship did not fall on one individual, it fell on the entire park. He added that he had been involved with the Shamrock Industrial Park's second entrance since 2008. At that time the message that the Town gave the developer was that a second entrance needed to be placed before any further development took place.

Council Member Howard mentioned that the developer did not get the message early on as he continued to sell the property within the industrial park. Mr. Davenport disclosed that his firm had represented Mr. Guthrie in the past, but not at this time. Mr. Guthrie did attempt to build the road in question, but there were wetlands within the path and he did not obtain the proper permits at the time, the Environmental Protection Department placed a stop-work order around 2006.

Mayor Dial shared his thoughts that similar to Market Hill, there was an option. That option may not be cost-efficient. He would rather the property owners research the cost of a gravel road, then come back to Council. Mayor Dial asked Mr. Moore if he would be willing to do the research. Mr. Moore stated that he would, however, the strip of land would cost more to gravel than his entire property.

Council Member Furr asked when the road would be available through Peachtree City? Mr. Perkins shared that the developer was currently cutting into that section. Mayor Dial stated that two years ago, the developer of Cresswind was being a little resistant. He said that the cut would be available within 3-4 months at that time.

Council Member Furr asked for the distance between properties. Mr. Trocquet stated that the property in question was 1,200 feet long, 1.73 acres, and was sold in 2020 for \$0. The value throughout the years was \$100,000, \$79,000, and \$42,000.

Council Member Campbell clarified that Mr. Moore would not be the sole purchaser of the land, it would be a collective effort from all Shamrock Industrial Park property owners. Together they could raise the money for the property and place the gravel emergency exit for the park, and maintain it.

Mr. Trocquet created a visual from the Fayette County GIS mapping system. He indicated that C.W. Matthews also had an access to the Cresswind property. Both properties abut each other and the Peachtree City property. Mr. Perkins declared that the owner of the strip in question for the gravel road (KH Peachtree, LLP) was a subsidiary of the property owned by Cresswind (Cresswind Peachtree City Community Association, Inc). All agreed that ownership could be problematic regarding access to the property. Mr. Davenport stated that the shape of the land indicated that there were no utilities and it could not be developed. Being that it was purchased by a subsidiary of the developer indicated that a road could be prevented from being established outside of the development. He added that it also indicated that they were not actively following the condition of the development which could jeopardize their zoning. He added that currently no facts had been retained, so no conclusion could be determined at this point regarding the Cresswind cut-through. Council Member Hill asked if the item should be tabled.

Council Member Campbell stated that there were two separate issues, lifting the moratorium, and the emergency exit. Mr. Davenport agreed that the presence of a road would relinquish the moratorium. He added that even if Council decided to lift the moratorium it would have to be lifted from each property within the park.

Mr. Moore began a discussion regarding the moratorium. He stated that his parcel in Phase VIII was the only parcel with the moratorium attached. Mr. Davenport reiterated that if a catastrophe were to occur, the other properties in the park would not be allowed to rebuilding due to the moratorium. Council Member Howard asked for clarification regarding new buildings versus rebuilding. Mr. Davenport declared that as long as buildings were outside of Phase VIII, and had not been built upon, building could occur due to its location outside of Phase VIII. If an existing building experiences fire damage, property owners would be unable to rebuild due to the lack of a second entrance. Mr. Moore shared that Aabby built a new building and the muffle shop rebuilt due to a fire. Mr. Davenport stated that he would be happy to sit down with Mr. Moore regarding the issue.

Council Member Furr restated a question if any building in the park were to burn down, could they rebuild? Mr. Davenport restated that with his experience and a condition of this such nature in place, damage would create the potential of a nonconforming lot, due to the absence of the emergency exit. He added that the condition was geared particularly toward Phase VIII, and Phase VIII was barred. It raised the specter of all other businesses being able to rebuild.

A discussion began regarding steps Council should take by moving forward. Mr. Davenport suggested taking action as Council did in the past with the Market Hill subdivision. Council Member Furr asked Mr. Moore if he would be willing to put in the work to communicate with property owners if they would contribute to the outcome. Mr. Moore stated that yes, he would continue to seek information. Discussion continued regarding the process. Mr. Davenport stated that if the petition was denied and Mr. Moore came to Council with information regarding the inability to create a second exit, Council had the authority to advertise all properties for the August Planning Commission meeting and the following Council meeting to remove the condition for all properties. He then explained to Mr. Moore that if Council chose to deny the petition, there would be a six-month hold on the petition to return for another rezoning. However, if he came back to Council with information stating that all means and research for an emergency exit were exhausted, and Council agreed, they could then begin the process to remove the condition. Council had the authority to instruct staff to file a petition on behalf of all property owners for Planning Commission and Council public hearings. This could occur as early as early September for a vote.

Council Member Furr made a motion to deny the petition.

Council Member Campbell seconded the motion. Motion was approved 4-0.

Council instructed staff to communicate with Mr. Moore to assist him in a way that was proper. Mr. Perkins reminded everyone that Mr. Moore needed to reach out to the property owner of the strip of land that was under discussion if it was for sale and for how much, also the cost of the emergency exit and to contact C.W. Matthews regarding their potential access.

Public Comments

Mr. Sanak returned to the podium and asked Council for an answer regarding the Air B&B. Mr. Perkins shared that during public comments, was not a time for the public discussion on matters. It was not meant for a back-and-forth discussion with Council and staff.