

**Town of Milton  
Planning & Zoning Meeting  
Milton Library, 121 Union Street  
Tuesday, October 18, 2011  
7:00 pm**

**Minutes are not Verbatim  
Transcriptionist: Helene Rodgville**

1. Call Meeting to Order

2. Roll Call of Members

Gene Steele	Present
Bob Heinrich	Present
Lynn Ekelund	Present
Don Mazzeo	Present (Chairperson)

3. Additions/Corrections/ to the Agenda

Don Mazzeo: Do we have any additions or corrections to the Agenda as it has been posted?

4. Approval of agenda

Don Mazzeo: Seeing none, do I have a motion to accept the agenda?

Lynn Ekelund: Motion to accept.

Bob Heinrich: Second.

Don Mazzeo: All in favor say aye. Opposed. Motion is passed.

5. Approval of minutes – None Available

Don Mazzeo: There are no minutes from the previous meeting. They are not available at this point in time. I will defer to Robin to find out when they may be, certainly within the next week or two at the very latest.

Robin Davis: Next meeting.

Don Mazzeo: Next meeting.

6. Business

Don Mazzeo: Tonight we have a business meeting. It is not for public comment. For all of those of you who are out there who thought they might want to speak, you are not eligible for speaking this evening. That section of the meeting was closed last session. We have business.

**a. Proposed Comprehensive Plan Amendment, and**

**b. Rezoning Application**

Don Mazzeo: Both of these items, as they are related to County Tax Map

Parcel # 2-35-20.00-53.00. It is currently designated as a Residential and Large Parcel District overlay and the proposed amendment would change the designation to Light Industrial. The second portion of our meeting will be for the rezoning of that particular parcel from R1/LPD to Light Industrial. Since our last meeting, I believe there were some additional letters being submitted to this Commission. Unfortunately, because that public portion has been closed, they are not admitted at this point in time; however, I believe Robin has indicated they will be part and parcel of any motions and commentary at the Council public portion of this meeting; taking place in December.

Seth Thompson: In December. That's correct Mr. Chairman, that again at the Planning & Zoning Commission level there will be a Public Hearing for any comments to be received on the Council level in December.

Don Mazzeo: At this time I will ask the members of the Commission if there are any questions of our professionals in town; for any clarification on anything that has been submitted. Lynn do you have anything that you are requesting to get clarification on?

Lynn Ekelund: I had asked Seth to look into whether should the rezoning not be granted, either at this level or at the Town Council level, if a Conditional Use would be possible.

Seth Thompson: And I did look at that and let me pull up the exact section regarding your Conditional Uses. It's Section 220-80 in the Code and really it's a very general provision; it allows for a Conditional Use for any use that is not permitted in a zoning district for which it is intended. For example, businesses, commercial stores, or light industrial uses. Section 220-80 lays out the standard by which that would be judged. I'll just remind everyone, obviously, that's not the application that is presently before us, but that is the answer to that particular questions.

Lynn Ekelund: Thank you.

Seth Thompson: Mr. Chairman, if you want, I could walk through the section of the State Code that applies; that might help prompt discussion.

Don Mazzeo: For clarification, absolutely, please.

Seth Thompson: Title 22, Section 303 of the Delaware Code is the governing statute. It discusses the fact that regulations shall be made in accordance with the Comprehensive Plan; obviously at this point we are considering a Comprehensive Plan Amendment as well as the rezoning. So in accordance with the Comprehensive Plan and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare. To promote adequate light and air. To prevent the overcrowding of land. To avoid undue concentration of population. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration among other things; as to the character of the district and it's

peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

Don Mazzeo: Thank you Mr. Solicitor. Also, for the record to be advised, that we have received from the State Planning Office a copy of the Plus documentation. Are there copies of that available for the public in the back, Robin?

Robin Davis: No.

Seth Thompson: Will it be available on the website?

Robin Davis: It's on the State Planning website.

Seth Thompson: And it's dated October 11, 2011.

Don Mazzeo: October 11, 2011 and it's actually written and addressed to Robin Davis who is at my right side. In brief, I think it might be advantageous to just go over a couple of points. Basically I'm going to read some of this, right off the paper. The developers will also need to comply with any Federal, State, Local regulations regarding this property. We also note that as the Town of Milton is the governing authority over this land, the developers will need to comply with any and all regulations and restrictions set forth by the County. Under strategies for state policies and spending – this is considered a Level One spending area and it reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available and where future redevelopment or infield projects are expected and encouraged by state policy. It also indicates that there have been comments and calls directed to the State Planning from residents in the vicinity and that they suggested, which of course we've already done; that we have meetings with the folks within that area; specifically Cannery Village. Basically, our previous Public Hearing allowed your input for that purpose. There are a few other small items that I don't think I really want to get into. Underground blah blah blah blah blahs.

Gene Steele: Mr. Chairman, I would point out too that the comments regarding development are tentative, as no Site Plan has been seen; so anything recommended here, is only tentative until a Site Plan is finally available.

Don Mazzeo: Absolutely. Absolutely. And as a general comment; because we are looking at an Amendment to the Comprehensive Plan, does not mean that it's going to impact negatively or positively on anyone; it's just a recommendation. This is a recommending Commission. Please remember that. Number 2, the Comprehensive Plan is a living document. It does not stay static. It continues to change as the world changes. We are just a microcosm of the world and if we don't change, our plan doesn't change, then we become stagnant. So for the purposes of understanding the Comprehensive Plan is a living document. Okay? Do we have any other questions, comments, concerns from the Commission? I don't see

any. Have each of you had the opportunity and taken the opportunity to go over the vast amount of information that was presented, both by the applicant and input from our residents?

Gene Steele: Yes.

Bob Heinrich: Yes.

Lynn Ekelund: Yes.

Don Mazzeo: I would like to make just a few comments before I will ask for a motion. These are for the Commission. Has the applicant provided significant and compelling reasons to recommend approval for their application, or is this an accommodation and spot rezoning within town limits? My second question is, will this change if the Comprehensive Plan and subsequent rezoning enhance and benefit Dogfish Head or Milton? Will these changes provide the long term growth and plan promoting Milton and it's characteristics as we see it today; or where we want it to be? And also, please recognize, that once this property is rezoned to Light Industrial, any and all of the types of the businesses that are listed in our zoning ordinances, are eligible and legally able to produce whatever it is they want to do on that property. These things will include contractor yards and equipment; general business offices; self-storage facilities; trucking terminals; non-vehicular repair shops and vehicle rental facilities along with many, many other items. Again, that was my commentary to you and as part of your thought pattern as we move forward. At this time, I would open the table for a motion.

Bob Heinrich: I will make a motion to vote for the approval of the change to the Plan and the application for rezoning; but with the caveat that Dogfish Head must understand; that when the Site Plan comes back to Planning & Zoning, if it ever should; that this Commission will doggedly scrutinize every aspect of that Site Plan to ensure the residents that the expansion will not create any burden on them.

Seth Thompson: Mr. Chairman, the one thing I would want to note too; I'm going to have to produce a written report so the record, as well as your discussion, need to reflect your reasons for voting one way or the other; therefore, I can both write it down and also so the record is clear if anyone is reviewing this, why people voted one way or the other.

Bob Heinrich: Would you like me to continue with my statement?

Don Mazzeo: Before you do, we have a motion that needs to be seconded.

Lynn Ekelund: Is your motion complete?

Bob Heinrich: Yes.

Lynn Ekelund: I second it.

Don Mazzeo: Okay, there is a motion on the table to approve the change of our Comprehensive Plan, incorporating the R1/LPD Overlay to a Light Industrial. At this point, I would like to take a roll call vote. As we progress down the table, make sure that you are voting not only yes or no; but provide the reasons why you are voting in that manner. And Seth has

something to add.

Seth Thompson: I'm sorry. I just want to be clear, especially as I go to write this up; that the motion is again, to recommend approval.

Don Mazzeo: Recommend.

Seth Thompson: The other element is that... Recommend to Mayor and Council, obviously. The other element is that I believe there was a caveat attached to that, but not a condition. In essence...

Bob Heinrich: Exactly. I'll repeat that again, if you would like me to.

Seth Thompson: I just wanted it to be clear that it's more a notice element.

Bob Heinrich: I just want the applicant to understand that part of my motion is to assure the resident's as well that when and if the Final Site Plan is produced, that this Commission will doggedly scrutinize every bit of that Site Plan to ensure that the residents are protected, as well.

Seth Thompson: Right. Thank you.

Lynn Ekelund: I have a question. Since my understanding is if we approve amending the Comprehensive Plan, we'll then move to approve recommending the change in zoning from R1 to L1.

Seth Thompson: And I might have misunderstood the motion. I thought that both were encapsulated.

Bob Heinrich: The motion was to state a) recommendation for the amendment to be added to the Comprehensive Plan, and, b) to allow the applicant to apply for the rezoning.

Seth Thompson: The applicant has already applied for the rezoning. To recommend approving...

Bob Heinrich: To recommend approval to send to the Council.

Seth Thompson: I see.

Lynn Ekelund: Okay. That's what I was wondering. So when we're stating our reasoning, we're stating our reasoning for both portions. We're not going to have to...

Don Mazzeo: A and B would be inclusive on your vote.

Lynn Ekelund: Gotcha.

Seth Thompson: And I think it would be difficult to parse out reasons why one would make sense; for one portion and not the other.

Lynn Ekelund: I did too. I just didn't understand.

Seth Thompson: Commission Members are certainly free to adopt prior Commission Member's comments; that, in essence, you don't have repeat everything that the person before you said. If you agree, you can simply say that you concur with their reasoning and if you have anything else to say, then you can certainly add that.

Lynn Ekelund: I resecond that motion.

Don Mazzeo: We have a motion and a second. A roll call vote will start with Mr. Steele:

Gene Steele

I say yes to the change to the

Comprehensive Plan. It's a difficult decision, but I feel that it will help Milton in some ways; it will hurt a little bit, but I feel that Dogfish Head will assist the town in many ways so my vote is yes.

Seth Thompson: And I'm sorry, again, I don't mean to be very picky, but you said you voted in favor of the amendment. Were you in favor of the motion, as well?

Gene Steele  
Bob Heinrich

I am in favor of the motion, as stated. In my opinion, proper planning for business and residential growth is important to any municipality. The Comprehensive Plan, as the Chairman said, is a work in progress and nothing on that plan should ever be considered etched in stone. Dogfish, I believe, has done nicely so far, with an attractive facility and campus and I see no reason why they would change their approach to an attractive coexistence with it's neighbors; and they also need to take advantage of their business climate at this point, as well. They are doing well with their business and for us to not permit them an attempt to expand their operation for future success, I think we would be failing Milton in that regard. Corporations all over the place, all over the country, all over the world, I guess; go before Planning Boards like this all the time, to accomplish exactly what Dogfish Head is attempting here and there's nothing at all unusual about it. Zoning change requests are not at all uncommon. The State has made certain recommendations to the proposed Dogfish expansion and some of those things are good for the economic growth according to that plan. But as mentioned earlier, their response to the Plus statement is only tentative with regard to any Site Plan that may be developed later. So even though we have a letter from the State, it doesn't necessarily hold anything important until

such time as the Site Plan is submitted. I finally also suggest to the Dogfish planners, that every effort be made in their future site planning, to incorporate something of a benefit to the resident's of Cannery Village; such as the creation of berms, planting of trees; that will only serve to beautify the Dogfish property, as well as the residential properties as well. For these reasons, I think Dogfish will do a good job in their expansion; everything I've seen that they've done here so far is first class and I see no reason for them to change their course in that regard. So these are the reasons for my vote.

Lynn Ekelund

I too vote in favor of amending the Comprehensive Plan and recommending approval of Dogfish's request to rezone the parcel from R1 to L1. I am doing so, again, I struggled with it. I thought about it and I really reviewed a lot of the notes that I took during the presentation earlier this month. I do believe that rezoning to L1 will eliminate the 150 residential units; which will reduce demand on Milton's services of roads, schools and water. The most important thing for me is that the rezoning, hopefully, will reduce the truck traffic in town. What I heard about the new Dogfish Head traffic pattern through 3A out to Cave Neck, I thought was great and I think a lot of people in the audience also appreciated that. Finally, I think the rezoning is in keeping with the general character of Milton at that end of town. I think it was mentioned that the parcel immediately next to Phase 3A, Dogfish Head, is already zoned L1; so we have L1 very compatible with R1. Milton has already found it compatible; I don't think that there's a problem with extending that compatibility to the 3A phase. For those reasons, I do believe that it's an appropriate land use and I vote yes.

Don Mazzeo

And as Chairman of this Committee, I vote no. My reasoning is quite simple. While I absolutely agree that it is important for both Milton to grow and certainly Dogfish to grow; I believe it's in the wrong place at the wrong time and there are perhaps different places that might not have been explored that they perhaps could have purchased either in town; that might be already in a zone called L1; or certainly perhaps just outside of town; and perhaps annexed in. I did not hear any testimony that forces me to think otherwise; that Dogfish would do a poor job. I really think they will do a nice job there; however, it's being surrounded by an R1 district and the long term plans of this town; are they going to be commercial, industrial; or do we want them to be industrial residential; or do we want them to be something altogether, totally different? My input is that I would like to see it more residential. This is where it is today and growing Dogfish I believe was still a positive; but not there. And for that reason I vote no on this recommendation to change the Comprehensive Plan and subsequent zoning.

Don Mazzeo: And based on that, we have a 3 to 1 vote. We now have a recommendation that needs to be written; moving forward to Mayor and Council that indicates that Planning & Zoning Commission has recommended a change to the Comprehensive Plan and subsequent rezoning to Light Industrial for the parcel that's under discussion; I'm not going to read the numbers again.

Seth Thompson: I will prepare a written report for the Commission's review at the next scheduled hearing. It needs to be approved and turned into Council I believe by their December hearing date, if not a little bit before.

Don Mazzeo: Very good.

Robin Davis: They have a December 15<sup>th</sup> meeting scheduled.

7. Adjournment

Lynn Ekelund: I make a motion to adjourn at 7:23 p.m.

Bob Heinrich: Second.

Don Mazzeo: We have a motion and a second to adjourn. All in favor say aye.  
Opposed. Motion carried. Thank you all.