

Town of Milton
Public Hearing Meeting Minutes
May 25, 2006

Public Hearing for Chestnut Properties, Dr. White Annex Meeting was held in the Milton Theatre, 110 Union Street.

OPEN FLOOR (6:35 p.m.):

Mayor Bushey called the public hearing meeting to order at 6:35 p.m.

Mayor Bushey called roll.

PRESENT: Councilman Frey
Councilman Harris
Councilman Dvornick
Councilman Betts
Councilman Meltson

ABSENT: Councilman Prettyman

Others Present:

Public hearing in regard to an application from James and Nancy White for the annexation and rezoning of Sussex County tax map 2-35-14.00 parcel 132.00, 132.01, 132.02, 132.03 located along Atlantic Avenue in Milton, Delaware. The applicant is requesting zoning of R1 and R3 at this same time. I will turn it over to the applicant now.

My name is Craig Dyer and I am a member of Chestnut Properties. With me this evening are the other two members, Joe Reed and Blake Thompson to my right, also with me this evening are some of our team members Assistant Dave Aker of Townscape Designs, he was responsible for the design of this project in the concept plan. Mr. Aker is a well known planner and designer. He is currently working on over 30 projects in excess of over 15,000 units throughout the country. Also with us this evening is Mark Davidson of D. C. Group. He is providing all of the engineering of this project and will also be supplying some of the information. As you are aware, this is a request for annexation of the Doc White property, which is 76.05 acres in total size. As you are also aware, currently, 14.01 acres of the Doc White property currently lie within the town corporate limits and are zoned R1 and will retain that zoning designation. We are requesting the balance of the site, which is 62.04 acres with the annex into the town with two separate zoning designations, namely, the first being 25 acres to be zoned as R3 and 37.04 acres as R1. I would like to give you a brief history. When we first submitted the petition for annexation, we requested that the entire 62.04 acres be zoned as R3. We supplied a concept plan at that point and we had various discussions through the planning process as well as individual discussions. The plan, which is a concept plan, depicted 530 units in total, which was 7 units per acre. It included a large commercial area and had a very large amount of high rise ? It was approximately 3-story high condominium project along and facing the waterfront. We did have a number of conversations regarding that plan and then we have before you this evening the plan which was the revision. The fabric of the plan which is before you and which was before planning and zoning also as a concept

plan is really a combination of all of the input from the towns' constituency both individually and as a whole and also the design elements that were suggested to us by our consultant, Mr. Aker. At this point Mr. Aker will review all of the aspects and considerations, the design elements and the specific considerations that went into the plan that is before you this evening, which is a concept plan, to be used as support for the annexation.

Good evening, for the record, my company is also the [redacted] and my new company, M.C. Design, working here in Delaware, Maryland, Pennsylvania and Virginia and there are 35 of us in this area. A little bit about the company and what we do, our goal is not to create suppositions and [redacted]. That is why I am here to talk to you tonight about a very nice neighborhood and place [redacted]. What I want to talk to you about is as Mr. Dyer mentioned the context of the property, which is important, the attributes of the site, which we draw from in the design, position, which we discussed with the revised plan for you tonight, and a series of design prints, I think that it is important that you take vision and ideas, put it into written design principles and we brought along a graphic and a [redacted] plan that depicts those principles and I will walk you through each one of those. I will walk you through some of the key elements so that you understand some of the thinking behind what we did. First of all, as you know, you are obviously very familiar with the site, let me go through several of the elements. This site has, and I will refer to the zoning map with the town and briefly describe some of the surrounding [redacted]. As you know, we are located south of Atlantic Avenue, we have frontage [redacted] and you will see frontage across the river, to the south, we have the marina area, some of the town center, some LTD zoning, [redacted] Village, with a portion across the river, to the west and to the left on the plan, single family homes, R2 zoning, but there are single family R1 zoning, R2 zoning and to the east, we have the [redacted] site, which is commercially zoned and we have the Wells farm as an expectation. We tried to design, and I'll talk to you in more detail, [redacted]. Site opposite the drain to the river is [redacted] along the southern edge of the site along the river, changing gradient 5 to 15 feet, that's generally where some of the [redacted] Sites are. We analyzed the port on the site, [redacted] on the port, the port down along the river along [redacted] it's very important and you can focus that into the design [redacted]. Obviously, we are close to the downtown, from this point here, with proper [redacted] you can have a five minute walk and you can walk to this portion of the town area, which is, I think, is a great opportunity. Also, we are cognizant of the fact that we do have single family homes we're not going to see [redacted] to be matched up with [redacted] single family homes along [redacted] as well. A couple of other features on the site, there is the brick kiln site on the [redacted] point, I'll show you on the plan. We've incorporated that into a clubhouse area to be part of the gardens and [redacted] public displays, signs explaining the history of the site. This addition that we talked about has three basic components. The one [redacted], the one [redacted] established a design similar to [redacted] and one enhancing a camping community, not only [redacted]. But the broader community of Milton through the advantages that we have on the site we have frontage [redacted]. We took that vision we have five key principles that we developed and as a result of that they included the community fabric block characteristics, focus on the river as you see in the plan, pointing towards the river is the extension of some of the roads used in the town today. We didn't privatize the riverfront, which is typical to divide it. There would be two or three very special people would be able to have that up to the water but what we did was reversed that. We made that riverfront public. We have a series of [redacted], walking trails, we have what we call a marine activity center, where a small commercial component, I'll get into that detail later, then we have a clubhouse and the [redacted] court. We were very cognizant trying to make this an opportunity for everyone, not just a select few. The community is stale, apparently on this side of town, but also we wanted

the streets pedestrian friendly. What I mean by that is, what we could have done is just have a series of byways ? . What we are proposing is the kinds of plants ? we get a great walking experience along the street. Something like down here uninterrupted by a series of ? . Contingent to that we have sidewalks and sidewalks in the trail system for normal use on the trail. Finally we wanted to provide a variety of housing that we felt to be offered with that opportunity so we have single family homes, we have twin homes and we have some family homes. Generally speaking, the context is we have an onion skin approach to this, where the high density activity center is at the central portion of the site we have a layered fence around that ? so that when you approach that activity area and then the outer skin of the onion, then the single family homes and the open space for that ? of backing up board to board with an open space in the fence. We are not ignoring our neighbors, we kind of being compatible with them.

Benedict Acres are between the rear frontage here, what we call ? including a walking trail, with a link up with the regular streets and the sidewalks ? so that if you live on an internal street you may not have river frontage but you may have a back up wall but you still have visual access to a part of it. I think that is very, very important. You have two pedestrian connections, one clear potential and one here to the Broadkill. This found that those pedestrian connections are a good thing and can be incorporated into the normal feed to the downtown. We've provided that opportunity so this community can be linked to the downtown.

We have several open spaces in the community, one which is a multipurpose open field or a player ? . That is what we refer to as our Main Street, it comes down and terminates at the small bridge front setting on the water. The marine area that you ? walking trails, club house ? and we have a couple of green areas, so we think that is important that these folks have a convenient walk to this area, they have access to the river and they have great opportunities for social interaction and ? for community is something that makes sense.

Let's go over the use of the plan and go over quickly some numbers ? when you take out streets and get into the calculations of an LTD, typically ? 13 – 18% if you are conservative and 25% if it's a high number in your code. Use the 6.6 ? and we can compare that, we have a study here, we have different blocks in towns, we have you negative in that area so actually another consultant did this, and they fell in the range of ? but there are four different places in this town ? .

First area here is labeled area B on this plan, that area is fronted by Orchard Street, ? Street and Mulberry Street and it has a combination actually of fields, ? , and ? . That area is 10.7 acres, ? , approximately 5.6 ? in that acre.

The next thing I have is ? that is surrounded by pavement, ? onto Walnut and that is approximately 1.8 acres and that was 7.7 ? per acre.

? plan, we have Broad Street to the north, Union Street to the east, Mulberry to the west. That is approximately 2.6 acres and ? 16.9. Finally, is the Holter Federal on Chestnut, has 90 running units and is approximately 1.4 acres and that is 6.4 ? . All four examples are ? period Milton, older Milton. They are established communities, they have been around for years. That is correct, they are not new.

The next area of consideration was after we amended the process planner, how best to present the annexation request in a formal plan to you. From implementation, we first looked at your town's zoning ordinance as well as your comprehensive plan. We have the existing 14 acres, which is already in town and we examined the annexation area of approximately 62 acres. When you look at the overall plan, you have a copy of this in your packet and if you will look at the black and white pictures, the overall dimensions with the R1 and R2 visitations. What we did was we examined your expansion area within your comprehensive plan, we know that that particular 62 acres was earmarked residential expansion. As a result of your comprehensive plan, we then looked at the state strategy for spending map, which is a very, very unique plan, as best we can tell we are within a level 2. I think the best that the correct designation, and again, that's very important from an implementation point of view so that it is something that is consistent with those guidelines that you have presented to the state for their approval with your comprehensive plan. This is required under livable Delaware and it is appropriate for us then to take that into consideration for annexation request review. At that juncture, we examined the density study which has been performed by Rogers consultant and we looked at the compatibility of the existing developments, the existing neighborhoods and existing characteristics within the older sections of the town. At that point, we had some guidelines for our plans and zoning. Plans and zoning in a previous ? suggested 6 – 8 units per acre. That was actually the basis upon which the first plan was submitted, which was 7 units per acre. When we then examined the compatibility of the existing uses, which Mr. Aker just reviewed, when we see the areas along Atlantic and Bay Avenue, it's a predominance of single family with a scattering of multi family and then that seemed to give the earmarks of compatibility with our one. So when you look at the zoning map, you can see that that area which is closest to Atlantic Avenue, with the very appropriate in our minds, affordant R1 designation. When you then come forward on the property, as you gradually along the boundary line of the preserve on the Broadkill, again, that would be the compatibility of single family, there are some duplexes in that area so it suggests a protection of the buffer along that side of the preserve for single family which our concept plan incorporates that as well as on the opposite side with the Wells farm being an added preservation, again a very important ingredient to provide the consistency with that use as well. As we come forward, the predominance of the characteristics of the riverfront would be dominated by the marine resource use district. And, while we do think that that would be entirely appropriate for us to seek from you, we did think of many of the attributes of the marine resource use district would be appropriate. The initial concept of the commercial has been retained through the inclusion or the retention of the restaurant. By doing that, what we are trying to do would be to encourage the public access, I think that is very important. We are not trying to duplicate a commercial downtown district, but we are trying to encourage the people from the community to still be part of and be able to enjoy the riverfront. I think that was a very good compromise. We didn't want to be devoid of any type of an attraction from the outside. The other factor that Mr. Aker was very adamant about was the pedestrian access. In fact, we made an economic decision to follow that when we purchased the preserve on the Broadkill, phase II, and in doing so, sought to have a connection point for the community. The consideration for that has and still continues to be something that I think was brought out in the survey that was presented before council at the last meeting and that was the feeling of community as opposed to them being a separate development that is not part of town. So we very much want to encourage in any respect the pedestrian access and feel that this is being integrated into the overall fabric of the town as opposed to being separate. At the juncture of trying to decide what would be appropriate in the dividing line between R1 and R3, we struck a very diagonal line across

the property and it comprises 25 acres. You may ask why would that figure. As you are aware, until we come before the town with an LTD overlay and until we have had the ability to address your concerns through a master plan, then, in order to achieve a density that we feel is consistent with the studies that have been done in the historic part of town that we decided that that amount would give us the flexibility that we would need to achieve that. The consideration here is that we are giving you the opportunity to limit this to that 25 acres as opposed to the original request for the entire portion of the property being R3. We think it is very appropriate because, as the use departs from Atlantic Avenue you can see as it opens up to the riverfront, in the concept plan, we have kept the density in the middle, we have protected both sides of the property and concentrated and focused the density where it appropriately should be. Now the plans assumes that an LTD overlay would be granted because in order to do that those multi family uses would appropriately have to be spread out among the entire property and, in this case, be centralized within it. So, we had the analysis that it wasn't appropriate for the entire property to be R3, but then we still had the objective of trying to give you the security of saying we are willing to grant 25 acres R3, but what protection does this town then have because, as you are aware, R3 could be a maximum of 10.8 ? per acre. That's when we came forward with the suggestion that we would file a voluntary deed restriction. The voluntary deed restriction has been submitted as part of our request to ? it has been reviewed by the town attorneys and the effect of the voluntary deed restriction is to provide the protection for the town that this property with or without an LTD overlay would not exceed 370 units total. I think that that is necessary for us to do. I've used this successfully in other jurisdictions in the county as well, because in your consideration, if you were to say we think that it is appropriate to have a certain degree of R3, but we're not really comfortable with what the magnitude of that could be. In this case, you know that we have voluntarily posing it on ourselves. It gives you the protection of having that ceiling so that day one if you tack on this favorably, day one that limitation is running in perpetuity with the project. We think that is very important in order for you to be able to give us due consideration.

The next element that we considered really focused on the natural features that Mr. Aker, I think he does a very good job in explaining to you what his considerations were for us as well as the ones that we moved to incorporate. The value of the property it greatly enhances we all know, by its adjacency to the river. What we have done, capping the waterfront and making it more public as opposed to backing units up to that and having a much higher valued unit for that particular footage of frontage for the waterfront. Mr. Aker has convinced me as well as the other members that the availability of the public access to the waterfront enhances both the residents within the community as well as the opportunity to attract people via the restaurant and also be part of the town. I think that's a very strong feature to the overall plan. Many of these details are such that they would be presented at the LTD master plan. The reason that I am going into this detail, is that we are basically putting ourselves at risk. The reality is at risk that the LTD overlay will not be approved. We don't have any reservations doing that because we feel that the strength of this plan will dictate that the LTD is appropriate because the end result is what an LTD is crafted to do. That is to spread the density out in the appropriate fashion as opposed to having all of it just located within the 25 acres of the R3. That is something that we are willing to do. Our concept plan, as indicated, includes 115 single family detached, 96 single family attached and 159 town homes for a total of 370 units. The plan also shows and does meet your 35% minimum ? requirement, which is 26.61 acres. At this point, I would like Mark Davidson of D.C. Group to explain the environmental and engineering design issues for the sight.

We are the engineers and surveyors and we performed the boundary survey and we also did the referencing for the project. Site # of 7.9 acres of non-titled wetlands, which use frontage along the Broadkill river. For the wetlands # we did hire out the # With the state of Delaware and the governor thought maybe we should have # the Army Corp of Engineers for their approval. The overall design concept for this site, for shore management, it, what we are going to take a look at here is # on the site. # is very well drained soil. There is sandy soil and with some of the existing vegetation that was on site and with the proposed vegetation that we are looking at doing this project we are going to be able to come with a conservation type design for # management. As you know, the Broadkill river is a tidal water, with that in the state of Delaware, that affords us is to be able to do a water quantity # , under the # radiation for the state of Delaware. What we end up having to do is concentrating on water quality at the # development of this site. We will be using a conservation type design, part # design where we take # it will be designed like a rain garden type structure for the site. For the rain garden, we will use the current vegetation along the street. We were showing trees along the roadway but then at the site they are all # and there are some areas that we are going to be looking at new vegetation and in this area there will be provided conservation type design with the # system # . We have taken a look at this and with the oncoming # and compiled the best available technology and the best managing practices and we will be using those for this site. Prior to any discharge offsite, which the primary discharge from here would be the waste and all this design and all the applications will be accrued # .

The other aspect of consideration is the economic impact of the annexation of this property with regards to the town. A few things to note and Mr. Reed is going to review that analysis and, I think, noteworthy is from the inception of the annexation agreement when we first learned of the new fee structure, we incorporated that new structure into the annexation agreement, we in no way, disputed or had an issue, we incorporated that on the face of the ordinance and we have incorporated that we can discuss an # agreement at length if you so desire, but I just wanted to let you know, that from our perspective, to issue an annexation agreement we think that things dealt with in a very favorable response as well as the inclusion of all the considerations that are before you. At this time, Mr. Reed would like a cursory review of the economic implication.

Chestnut properties – I think it is self-explanatory # that we pay \$8,000 per acre annexation fee, which is \$496,320, the now current sewer tax fee of \$8,000 a unit with 370 units would be \$2,960,000.00, water # fee is \$1450 a unit for \$536,500 in water and tax fees for the town and the other items regarding construction costs and billing # fees, based on the assumption that # conservership # important considerations for the town would be a transfer tax and, again, that is based on an average of a sale price of \$400,000, and that is on the conservative side, # 4.4 million dollars in transfer taxes of which the town receives half of that and the state of Delaware receives the other 2.1 million dollars. # to develop the property, to being annexed, # to the town of Milton. Thank You.

In conclusion, I have said this in several different jurisdictions and I sincerely mean it and that is that many times in development it is a challenge to make sure that we listen to the governed jurisdiction and my concept has been as a developer to endeavor to both listen and react and I think that is really indicative of the effort that we have tried to maintain of listening, I am not saying that we have done that perfectly, but we have also tried to avail ourselves of the best planners in the area and Mr. Aker was staying very humble, he has

designed all over the country. His company is now working on several very large projects. I really do believe that we have tried to listen and tried to react. It is not an easy thing to come before you and ask for an annexation, that, at the same time, has implications to the town and that is why we try to replicate what currently exists. We are not trying to do something different, we don't think that this is going to be better than the town, but we certainly want it to be considered part of your town and something that we will be proud of and, hopefully, you will as well. The response of planning and zoning and their recommendations, I think that speaks volumes to where we are this evening. The voluntary deed restriction is something that I believe is necessary for you to feel comfortable by limiting the total maximum units. Again, we have the entire LTD process to go through and be within and stiffer than the guidelines. I am comfortable that we can do that, I have gone through that at some depth and we have, in fact, recorded those aspects with them. The preservation of the waterfront is very important to us and I know it is equally or perhaps it is more important to the town and to the residents of the town. It is something that we feel extremely fragile and very beneficial to everyone and that is what we tried to incorporate. We respectfully request that you would act favorably on this annexation request with the 25 acres of R3 and the 37 acres of R1. Available for questions.

I have a question on parcel 132. On the drawing, you have approximately 4,000 ? of undefined wetland. Tell me what the setback are? On one map it looks like you have the boardwalk right on the river. ? setbacks should have 4,000 ? ? The 4,890 feet is the actual property line that runs along the wetlands. On the map, it wasn't designated, that's why I'm questioning it. It's just that portion.

Council, do you have any questions? Mr. Dyer, when was your original application made? July, 2005. What is your estimated time for ? of 370 units? I would estimate between 6 – 7 years would be a realistic build out.

You are building the Broadkill phase II, correct. Do you have an agreement with ? to have access through their property or ? gain access through phase II under the White property agreement. Originally, we designated an area through a portion of ? on the broadkill, but the access point that we thought we were going to gain access to, ? two properties, we haven't been successful in gaining that access. That was the original intent. That was the purpose of ? . There's a property in between that we have not been successful in accessing. Your treatment of the forestry areas, are you planning on thinning them, clearing them, clearing the undergrowth, how are you going to leave them? Again, we had an analysis of the forest done and the area in the one portion along the river and then the stand of trees in that area is a much higher quality of tree and that's where the brick kiln is as well, we've left a larger portion of the stand of those trees as well as, in some of the other projects we have done, I've learned that the property joined with ? that allowing the continuity of the quality forest as opposed to the ? along the eastern side of the property. In the wetland area, there would be, and we have a study of looking at what would be the implication of use. We don't have, at this point, selective thinning endeavor to do this, but certainly not doing a complete clearing, you would destroy the value of the project as well.

Access to public and open spaces, is there anywhere on the property that you have recreation facilities, playgrounds for the children to use? Yes, there are several areas and that is something that Mr. Aker is very good at in locating the pocket parks and mews and different degrees of open space, that is something that we would have throughout the

project. Again, our desire is to encourage the public access in order for the restaurant to be beneficial. We would certainly want that to happen as well as the area where the marine activity basis would be, we are looking at not a marina, by any means, but we are looking at the possibility of canoe, kayak, something of that nature and we also would have the availability of the walking paths, which will be connected throughout the property both from the connection point, assuming that we can get that to the town as well as throughout the community. And those areas are open to all residents of the town, as well as those residents in that community. That is correct. As well as riverfront will have access. Correct. Your swim water facilities are tough enough, that is biofiltration. Yes.

How much commercial, just the restaurant? Yes. This may be a Tim Willard question. Since we are doing a deed restriction on the number of houses, is it possible to do a deed restriction on open space of the 26.61 acres as a deed restriction into the deed? Simply because some of the developments that we see now, years later, it seems like there is an encroachment of more development and it is unclear whether that land can be developed or not? So if we put a deed restriction into that amount of open space, anybody, no matter who is sitting there, it would be easy to research, just to protect us for the future. We have no opposition whatsoever to making that into the deed restriction. I was seeing, Mr. Dyer, if the restrictive covenence addressed that, they just addressed density, I think. Wouldn't that be under the ordinance. What makes and has been touched on and what makes this application unique, it truly has evolved in planning and zoning, and when you annex property you annex and you zone it and then the applicant would go at it to design it and get a site plan for a subdivision. In this case, the applicant has conceded, if you will, or listened and reacted and responded by the annexation agreement, number one, which commits the applicant to file an LPD within 60 days and it also requires them to file this concept plan. And as this goes through the master plan procedure, both town council and planning and zoning will have a whack at it and, obviously, will get more specific, you'll see this and will be able to enforce that. There will be one other step past that that is the final site plan approval. That will give the town the security to insure the open space.

Are there going to be any benefits in that community that would not be offered to any citizen? The club house will be mandatory for residents of the development and we are open to making that available at a particular price to the community.

What I just wanted to ask of the public, if there was any interest that quickly can be done, anybody that would like to walk up here and review this you are certainly welcome to do it, but, otherwise, we will take any questions now from the public, but if you want to take a closer look of what you want to see.

The impact on Atlantic Street, as that area built is out and the increase on traffic, has that been taken into consideration? Yes, the ? has already been submitted to Deldot. Have there been any recommendations what they suggest they could do to that area? I don't know .

Any questions before I close it?

John Collier: the last time we had a public hearing in this town for an annexation of this size there was an impact study to moving ahead, has one been done on this development staff. No, because I would assume for one thing that the small size that is being

comparable to any of the other developments that currently the one that you are talking about was a major impact of 4,000 residential units so there was not one requested for this one.

Jeff Lowe: The ? of the wetlands, is that including the wetlands or are they taking the wetlands out of that? You said 6.61 is wetlands ? . That is actually two questions there. There is 4.87 units per acre gross, there is no state wetlands, in your LTD ordinance you are required to deduct state wetlands, there are no state wetlands on this property, there are federal section 404 of the clean water act of wetlands so the answer to the question is as to the gross, no it is not deducted as to the net under the LTD, the state wetlands don't exist so they wouldn't be deducted there as well.

The calculation for LPD is consistent with the numbers that we have submitted and, additionally, I would tell you that in other jurisdictions, they don't require the "wetlands" be netted out either.

Any further questions before we close this public hearing? I call the public hearing closed at 7:40 p.m.

Respectfully submitted,

Stephanie Coulbourne