

**Town of Milton
Planning & Zoning Commission
Annexation Committee
March 14, 2007
7:00 p.m.**

Members Present:

Louise Frey Ginny Weeks Michael Filicko

Others Present:

Robin Davis Bob Kerr Debbie Pfiel

Louise Frey opened the meeting. The time is 7:05 and the date March 14, 2007. Roll call: Mrs. Weeks – here, Mr. Filicko – here and I’m here, Louise Frey and also present are Bob Kerr (Town Engineer), Debbie Pfiel (Town Planner) and Robin Davis (Project Coordinator).

1. The applicant, Key Ventures LLC, is requesting the annexation of 86.58 +/- acres of land located on Sam Lucas Road further identified by Sussex County Tax Map and Parcel # 2-35-21.00-44.00.

Louise Frey: I would like to turn the meeting over to Debbie Pfiel from URS.

Debbie Pfiel: You’re Town Solicitor was unable to attend but there was a statement he wants me to start the meeting with and that he wants in the record. The first thing, just for the audience is this is an Annexation Committee meeting, their goal tonight is to discuss the committee report they will forward to the Town Council for consideration. The Public Hearing and the public comment period is open for the April 2nd Public Hearing meeting at 7:00 and we have agendas up here for the Public Hearing meeting for you to take with you. So the Public Hearing for public comment, you can make written or verbal comments at that Public Hearing on April 2nd. The meeting will be at the Milton Theater. If you would like to see the application or any comments or the Annexation Committee Report after tonight, under the Freedom of Information, you are more than willing to come up to Town Hall and gather that information. This committee tonight is to make recommendations, pros and cons, which you will hear us discuss, formalize the Committee Report, forward that to Town Council and that will be read into record at the council meeting as well. The developer will be present the night of the Public Hearing to do a presentation and the public will be asked for comments. That will close the public comment portion of it, after that Public Hearing. The public comment period started with the introduction to the Council in February and it’s still open until April 2nd after the Public Hearing meeting. I do want to read this into the record, as the Attorney has forwarded it to us, Freedom of Information enables citizens to have notice and attend meetings of public bodies to watch the discussion of public business but does not afford the public any rights to participate in the meeting. Our office has always encouraged public bodies to have open meetings by answering questions by the citizens at public meetings but the plain language of FOIA does not require public participation, only that citizens have timely notice of public meetings so they can monitor and observe the elected officials discuss matters of public concern. That was the Attorney General’s opinion, I have that in writing and copies will be ready and available tomorrow. We do want to encourage people to attend the April 3rd public hearing meeting to voice your opinion

or if you would like to provide written record, I'm sorry April 2nd, if you would like to provide written comment, you can make them to the attention of the Town Manager or the Project Coordinator and they will be forwarded in the packet to the Council prior to that meeting. You were presented packets in advance and the items that we have forwarded to you are what the State has to say about this particular property in the State strategies, what the County has to say in their Comprehensive Plan. Tonight you would need to determine if it's in compliance with your Comprehensive Plan and form an Annexation Committee Report, which you have a draft in front of you. You can remove items, add items, it's open for discussion. Your job tonight is for you to go through the pros and cons of annexing this property in, with compliance of the State, County and Municipal Comprehensive Plan and come up with the recommendation. This record will then be drafted tomorrow, you will have an opportunity to review it and it will be presented to the Town Attorney next week. Are there any questions from the committee?

Ginny Weeks: Under the property data, the last bullet, is that it is requesting zoning that is general and multi family residential.

Debbie Pfeil: Correct.

Ginny weeks: Is that for the entire parcel?

Debbie Pfeil: Right now the applicant has not provided where the split will be on the property. What we want to look at tonight is the State Comprehensive Plan and what they recommendation the zoning be. The Committee may recommend a zoning and it's a recommendation to the Town Council to determine. But it is open for discussion for the Annexation Report. I will start with the State first. As you are aware, the application has submitted comments and affidavits and a supplement that has been open as public record at the Town Hall since 12/20/06. Anyone from the public that wanted to read that information, it is readily available. Under the State classification, you are required to have a Plan of Services submitted to the state and this application has been submitted by the Town and the comment will be given back from the State for the Plan of Services for the Mayor and Council to take into consideration before they vote. We are anticipating that information to be readily available prior to the Public Hearing but they have 20 working days. So it will be read at that Public Hearing. The Delaware Strategies for State Policies and Spending document, dated July 2004, identifies this parcel as investment level 1 and 2. Investment level 1 overall, it is the states' intent to use its' spending and management tools to maintain an enhanced community character, to promote well designed and efficient new growth and to facilitate redevelopment in investment level 1 areas. The investment level 2 area, overall the State's intent is use its spending and management tools to promote well designed developments in these areas. Such developments provides for a variety of housing types, user friendly transportation systems and provides essential open space and recreational facilities, other public facilities and services to promote a sense of community. This is within the level investments 1 and 2 which is not an area that is out of play. So the State will endorse this project as not being a level of concern, a level of out of play according to their mapping system. Any questions? You have with your application, a letter from the Delaware Electric Coop. Service for the capacity to supply electric to that parcel of land. You also have a letter from The Milton Fire Department stating we presently service this parcel and have no problems serving the property in the future. They are the two service providers that needed to be notified by State law. As far as the County Comprehensive Plan, the Sussex County Comprehensive Plan dated 2002, depicts the location of this parcel within the Sussex County growth area for the Town of Milton. Sussex County stated this annexation doesn't directly impact county services or properties outside the town limits and the Town is encouraged to negotiation of the Annexation Agreement. That is a quote from the PLUS review by the County. I've given you information that is available on the website for the Sussex County Comprehensive Plan that relates to these growth

areas as well as a chart that states Milton, they are using your existing town boundaries and using your development area from the Milton plan. Any questions?

Michael Filicko: You mentioned the PLUS committee, is that report in here?

Debbie Pfeil: It is not in this application, it will be part of the site plan process. The application has the option to go to PLUS at any time and they have the option to come into the town or county. That is a site plan related process. The Plan of Services is an annexation related process by State law. So you will see the PLUS comments if this property is annexed into the Town, you will see the PLUS comments and the applicant's response to the PLUS comments, if and when they come through the site plan or subdivision process.

Michael Filicko: In the past, we were provided with the PLUS report prior to voting. Is that correct?

Bob Kerr: Yes, this applicant is a little different. The last two major annexations have come in with a site plan at the time they wanted to be annexed. They sped the process up a little bit by providing more information than is actually required. There is no requirement, as far as I know, by either State law or Milton code that says you have to see anything about a site plan at this time.

Debbie Pfeil: You will see that information. A lot of people choose to give site plans because you cut out one of your processes. They do have the right to come in as raw land as long as they adhere to the State, County and Town Comprehensive Plans. They have not submitted a site plan to the town officially that I'm aware of. Is that correct Robin?

Robin Davis: Not that I know of.

Debbie Pfeil: Just an annexation with a map. The Town Comprehensive Plan Map Exhibit G, which is your future land use, identifies this parcel in your potential expansion area. The designated land use category that was chosen is residential. The application is contiguous to the existing town limits to the northwest, touching the adjacent parcel located across Sam Lucas Road. The annexation request is in compliance with the Town's current Comprehensive Land Use Plan regarding the future land use potential expansion area and identified future land use category. So the map that we look at is the one adopted September 2003, your Comprehensive Plan was adopted and at that time there were Public Hearings held and this is your growth area that has been determined as areas where the Town wants the right to be able to hear first if they want to annex the property into Town. It does comply with that and the future land use category stated is residential. So if the applicant wanted to come in with commercial, they would not comply with the current Comprehensive Plan. We provided a general checklist, steps 1 – 14 that will be verified by the Town Attorney, just to let you know the steps in the process. We have 90 days to forward our comments to the Council from the time of your appointment. In your packet, you will find a review from URS as far as the planning, we do not review the infrastructure capacity or engineering. You will see some considerations for the Annexation Agreement that have been brought up or discussed, there are some recommendations that can be taken to Town Council to consider. We are here tonight to formalize the report and to discuss the pros and cons, what your recommendation is so the Council can move forward. You see the Annexation Committee Report, we started with the first topic which is property data. The property data states the parcel, how far the property is from the intersection, the acreage, the zoning currently in the county is AR-1, the requested zoning is general and multi family residential. When you see the schedule listed below, the Annexation Application was submitted to the town on December 20, 2006. The Town Council appointed the Annexation Committee on January 8, 2007 and the written report is due to Mayor and Council not later than 90 days following the report. The Annexation Committee meeting is on March 14th to prepare the written report and the Annexation Committee's deadline to submit the written report to Mayor

and Council is April 6th, which will be 88 days from the appointment. I have gone into detail as you see on the report, everything was just read into the record. The part where we would ask input from you, questions, comments, pros and cons is your committee findings. These are usually standard findings for an Annexation Committee, there are columns of advantages and disadvantages for or against annexing this into Town. This is completely up to you as to what you want in the columns, what you want in your report which will be taken to the Council. I gave you some opinions to get you started but don't take this as I'm writing your report and this is what you have to follow, this section is 100% your input. We can go over what is on the list or the ones you want to go on the report. That is up to the chairperson.

Louise Frey: I think we would like to have our own.

Debbie Pfeil: Do we want to start with the advantages?

Louise Frey: Yes.

Debbie Pfeil: We recommend that they not be listed in any particular order, just make your recommendations as to what the advantages would be to bring this into town.

Louise Frey: Mrs. Weeks, what do you think the advantages are?

Ginny Weeks: I can't find any disadvantage to this, Milton has to grow and we need to manage the growth and the way to do that is to have it come in and be annexed into the town so that the sub divisions and zoning comes before us and the Town Council. It's the tax benefits and the transfer fees benefits and the different fees that will be payable. The schools seem to have space for students. The police I think can handle this and the Fire Department and the Electric Company feel they can handle it so I find it hard in a general sense to find any disadvantage at this point.

Michael Filicko: I would have to concur with what Ginny has just said. However, just some questions I may have. Should we annex this property into Town, there will be an opportunity by the Planning & Zoning Commission when they come back to for their site plan approval. Right now we are working on a tree ordinance and I don't want, should we permit this property to come into town, I don't want that to give the property owner carte blanche to go out there because its less expensive for he or she to put in their infrastructure to destroy any old growth trees that are on the land.

Debbie Pfeil: I think that's a good recommendation and that's a site plan process. I would also advise that when a developer comes in to submit if they follow all the requirements and the laws that would passed at that time. You can work with the developer but if it is not adopted at the time of submittal, the schedule will never be the same.

Michael Filicko: If we give this property approval to go before Mayor and Council, where do we stand as far as the changes that we are trying to put into our codes?

Debbie Pfeil: Until they're adopted, it is still a draft or work in progress. If they annex it on April 2nd or at the next meeting and your ordinances are not passed or your processes are not in place, I hate to use the word "grandfathered" but these applicants will not be subject to those.

Bob Kerr: I think I have to disagree a little bit. It is what ordinances that are in place when they submit their site plan so if they submit a site plan the day after annexation is approved, it is the ordinances in affect at that point. If the property sets there for a year and then they submit a site plan, it's the ordinances at that point and time.

Michael Filicko: I think all of us here want what is best for the Town of Milton and the town has grown so fast and we have made some compromises in the past that I would not make now. I just want to make sure the integrity of the Town is not compromised in any way if we vote to send this, our approval, to Mayor and Council. A major concern of mine is if we would say we are not going to do this and the party goes to the county. Their regulations are not anywhere near

as stringent as what ours are. I know what we have in front of us is land use only. I'm still not as comfortable as I would like to be.

Debbie Pfeil: Do you have any advantages or disadvantages that you want written in the report?

Michael Filicko: The disadvantage would be if it went to the county that would be a disadvantage for the Town because they would still be using our municipalities if there were fire, police.

Ginny Weeks: The one thing I'm concerned about is that they are requesting an R-3 zoning and that's not what the Comprehensive Plan shows. The Comprehensive Plan shows an R-1 and I would not be comfortable recommending it as an R-3 zoning without seeing where the R-3 zoning would be and where the R-1 zone would be and where the multi family, not a sub division, but I want to see what percentage of the land is going to be R-3 and what percentage is going to be R-1.

Bob Kerr: They've only asked for R-3 and I believe the Comprehensive Plan just identifies residential, it does not say R-1, R-2 or R-3.

Ginny Weeks: I'm a little uncomfortable recommending R-3 because I don't want it to look like downtown Rehoboth or vast apartment houses. I would rather see us do it as an R-1 and have them come back with a plan for rezoning into R-3.

Michael Filicko: I agree 100% with that statement.

Louise Frey: Wouldn't the planning board be able to control the density in an R-3?

Debbie Pfeil: If you are recommending they bring it in R-1 and if the Council agrees with that and the property is brought into Town as R-1, they would be allow the density in an R-1 and the designs which you have in your current codes. If they wanted to go with a different zoning code, since your land use says residential, it could be any of your R-codes. They could come back and request an R-3 zoning and be in compliance with your Comprehensive Plan and then you would work out the site plan issues together.

Ginny Weeks: I would say I would be comfortable voting for this as R-1.

Debbie Pfeil: Do you concur with that?

Michael Filicko: Absolutely.

Louise Frey: I feel the same way.

Debbie Pfeil: We will definitely mention that. Is that one of conclusions on the last page or do you want to put that in as an advantage or disadvantage?

Ginny Weeks: Both places.

Michael Filicko: It is something we want to see. Our recommendation, if approved, is that it be zoned R-1.

Ginny Weeks: The whole reason for the annexation is to help manage the growth of Milton.

Louise Frey: It would be an improvement to the area and it is in our Comprehensive Plan growth area. I agree with Ginny and Michael that it should only be an R-1.

Debbie Pfeil: Do you want to stick with the recommendations in the report?

Louise Frey: Why don't you read them.

Debbie Pfeil: Committee findings.

Advantages

1. Property Taxes – These lands would be taxed based on the Town assessment following the annexation. The assessment would be based on the value of the land and improvements per Town zoning. No real estate property taxes can be determined until the Town assessment occurs. The Town hires a professional assessor to determine the value of assessment on lands. These will be based on improvement and land values that are subject to change per improvements

and changes in zoning. The Town's property tax rate is currently \$.41 per \$100.00.

2. Transfer Taxes – Each time a property is sold within a local government's jurisdiction, a property transfer tax in the amount of 1.5% of the total purchase amount is collected. Some properties may be subject to exemptions based on the regulations set forth by the State of Delaware.
3. Local Control – By having municipal authority over the property, the municipal codes control development.
4. Municipal Police – This area would be served by the Milton Police Department, which will reduce property owner confusion and minimize dispatch time. The area is currently served by the State Police, which can be confusing as the Town provides service across Sam Lucas Road and to the north.
5. Land Use Regulations – The governing body that will be the most impacted by the land use decisions will be making those decisions.
6. Increase Revenues – When this property is developed, the Town will collect various additional fees including building permit fees, a potential increase in business license fees, site and/or subdivision fees, impact fees, etc.
7. Improvement to Area – The neighborhood area has been faced with criminal activity and is now gathering neighbors to work together to prevent these happenings and improve the overall character to the area. This development will improve the area and could potentially increase the quality of life in the neighborhood.

Disadvantages

1. Increased Services – With continued growth, the Town will have to expand personnel to provide all of the expected services, potentially in multiple departments.
2. Increase Operating Budget – The expansion may increase the operating and capital budgets as it will remain a greater area for the Town Departments to serve.
3. Increase In Traffic – While the jurisdiction for the roadways is with the Delaware Department of Transportation, it is recommended the required Traffic Impact Study area be determined with the developer, DelDOT and the Town. This area should address any potential increase in traffic demands that may occur on any existing Town and State maintained roadways.

Miscellaneous

1. Streets and Roadways – The Department of Transportation must approve any new entrances onto Cave Neck Road and Sam Lucas Road. Any proposed development of the parcel has the potential of imposing additional traffic on the adjoining road and intersections. The applicant is planning on developing the property and is encouraged to contact the Delaware Department of Transportation prior to formulating their plans or purchases.
2. Storm Water Drainage – there is no municipal storm water system in close proximity to these lands. Any storm water management system to serve these lands will have to be designed by the developer and approved by the Sussex Conservation District office and the Town Engineer. As in all projects, the regulations require the site to discharge the same quantity of storm water post-development as the property discharges pre-development. The prevailing

regulations of the Sussex County Soil Conservation District will be imposed on this project.

3. Sewer – Sewer service will be provided by the Town or Tidewater Utilities, depending on the time of construction, with the collection system and connection to the existing system at the developer's expense unless determined otherwise by the Town.
4. Water – The water service will be reviewed and provided by the Town of Milton at the developer's expense unless determined otherwise by the Town. This is an opportunity for the water main to loop through the area for future service connections.
5. Easements – The developers will need to provide the Town the necessary easements prior to acceptance of water and sewer mains. These should include a survey sealed by a Delaware surveyor with a written legal description of lands being given. The easement document must stipulate that no permanent structure can be built within the easement area. The Town requires street rights-of-way to be deeded to the Town.

Disclaimer

1. The Annexation Committee reviews solely the annexation of lands into the territorial limits of the Town of Milton. It does not review the project for any endorsement as part of the annexation process. Any projects that might be presented for the land, if it is annexed into the Town, will follow the required process for development, including Planning and Zoning Commission and Town Council Public Hearings to allow the public the opportunity to comment on the project proposal.

Debbie Pfeil: Those are some considerations if you wanted to add or remove, the miscellaneous doesn't have any advantages or disadvantages. The bottom of page 4 is blank. We said, based on the State Strategies for Policies and Spending dated July 2004, the Sussex County Comprehensive Plan dated December 2002 and the Town of Milton Comprehensive Plan dated October 2003, this Annexation Application complies with all three planning documents. The Annexation Committee has concluded this Annexation Application is, after your discussion tonight you would take a vote if you feel it is advantageous or disadvantage, both to the Town and to the territory proposed. The following recommendations, here are three standard recommendations you could use:

1. It is recommended that all adjoining property owners receive written notice of the proposed annexation so they may attend the Public Hearing or submit written comments to be included in the Public Hearing record.
2. The Public Hearing shall be held to fully explain what area is being proposed to be annexed into the Town of Milton.
3. The Public Hearing will allow the full reading of the Annexation Committee Report and be reflected in the minutes of the Public Hearing as an exhibit.

Debbie Pfeil: Those are three recommendations you can add, I think tonight you basically said you wanted to definitely add the R-1 zoning there and also as comments.

Bob Kerr: One thing you may want to consider adding, typically the Town is annexed to the centerline of the road. That became a real issue in front of the school and Heritage Creek. One

of your recommendations might be to annex all of Sam Lucas Road so that the police have the authority to police the street.

Ginny Weeks: By annexing it in doesn't mean we have to maintain it.

Debbie Pfeil: No, it still will be a state maintained roadway.

Bob Kerr: I meant to ask John last night about annexing Sam Lucas Road because there is a little piece of this that touches Sam Lucas so it would be nice to go from that point back to Cave Neck. That makes a little enclave piece that the State has acted differently on that lately. I wanted to run that by him from a legal stand point.

Debbie Pfeil: I think he needs to determine if you can take in a part of the roadway.

Ginny Weeks: I don't think that is up to us to determine.

Debbie Pfeil: Both sides of the roadway can be a recommendation but as far as how far it goes, how big it is, is going to be up our lawyer to write into our Annexation Agreement. If you want us to add that as number 5, just let us know.

Ginny Weeks: I have no objections to that if the engineer feels that is something that needs to be considered.

Bob Kerr: The sewer is up the air because of what the Town is going through as far as bringing someone else on board. Water, this will place additional demand on the city, as part of the last comprehensive plan, there was a population figure at which additional facilities would have to be built. When Cannery Village and Heritage Creek are built out, most of those things are going to be needed anyway so this doesn't add a large impact on capital improvements. If anything it adds additional ways to pay for the capital improvements. As the Town grows, there will be a need for additional wells.

Debbie Pfeil: Any other comments.

Michael Filicko: I was informed that some of the residents out in that area were starting a committee to improve that area. I'm very happy to see a committee involved to improve that area.

Louise Frey: If this is approved, that will be an improvement to the area.

Michael Filicko: Absolutely, it will increase the property values on Sam Lucas Road.

Bob Kerr: One of the things when the Comprehensive Plan for water was developed and Bernice worked with us on that. The State Division of Public Health has talked to the Town in the past about trying to provide water service out there. With this development, water is that much closer, the problem has always been the nearest point to connect to the Town and run out there was so expensive for the limited number of houses. As you add more homes along the path and in this case the developer would extend water almost to the midpoint of Sam Lucas Road.

Heritage Creek is coming the other direction, the Comprehensive Plan would like to see the water main looped so that's moving forward to the point where it becomes affordable to provide water out there should the Town, State and some of the agencies be able to work together and make that happen.

Michael Filicko: I would really like to complement the citizens that live out there because at one point, it's my understanding, there was an open air drug market and I don't think that takes place any longer. So that's a great thing that the citizens have done.

Debbie Pfeil: That will be noted in the minutes of the meeting unless you want to vote to put it in the Annexation Committee Report. If you want that as an advantage or disadvantage or just put in the minutes.

Michael Filicko: Just note it in the minutes that it is an advantage. The people have worked so hard that live there.

Louise Frey: I think that Bob's statement about the water is also an advantage.

Debbie Pfeil: That is all I have. If the Committee wants to accept the report, deny the report, we will type that up based on your minutes.

Ginny Weeks: I move that we accept the draft as written and amended for our review, pending the amendments that we spoke about, I move that we accept it and recommend advantageous.

Michael Filicko: I agree.

Roll Call Vote:

Ginny Weeks: Yes

Michael Filicko: Yes

Louise Frey: Yes

Debbie Pfeil: Your report will be forwarded to you and again the Public Hearing will be April 2nd at 7:00 for comments to be heard for this annexation.

Motion to adjourn.