

Town of Milton

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**TOWN OF MILTON
ORDINANCE NO. 0005**

AN ORDINANCE TO AMEND THE ZONING MAP OF THE TOWN OF MILTON FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO R-3/LPD LARGE PARCEL DEVELOPMENT DISTRICT FOR A CERTAIN 86.58 ACRE PARCEL OF LAND IDENTIFIED AS SUSSEX COUNTY TAX PARCEL 2-35 21.00 44.00 AND TO RATIFY THE MAY 17, 2008 APPROVAL OF THE TOWN COUNCIL OF AN INITIAL ZONING DESIGNATION AND THE AUGUST 6, 2007 APPROVAL OF THE TOWN COUNCIL OF THE APPLICATION FOR A CHANGE OF ZONE SUBMITTED BY DELAWARE LAND VENTURES, LLC AND KEY VENTURES, LLC.

WHEREAS, on December 12, 2006, an annexation application was filed on behalf of Delaware Land Ventures, LLC and Key Ventures, LLC for an 86.58 acre parcel of land identified as Sussex County Tax Parcel No. 2-35 21.00 44.00 (hereinafter the "subject parcel"), together with the submission of an Annexation Agreement and a request to have the parcel annexed as R-1 Single Family Residential; and

WHEREAS, on May 17, 2007, after duly held public hearings and proper notice thereof, and receipt of requisite reports from the Annexation Committee of the Planning and Zoning Commission recommending the annexation, the Town Council for the Town of Milton approved Resolution 2007 05-0004 annexing the subject parcel into the Town with a R-1 Single Family classification; and

WHEREAS, on July 17, 2007, a public hearing was held, after proper notice, before the Town's Planning and Zoning Commission on an application for re-zoning of the parcel from R-1 to R-3/ LPD with a condition that 20 acres of the parcel be dedicated to the Town for a wastewater treatment facility, at which time the Planning and Zoning Commission voted to recommend approval of the application to the Town Council; and

WHEREAS, on August 6, 2007, after duly held public hearings and proper notice thereof, and upon receipt of requisite recommendations of the Planning and Zoning Commission, the Town Council, by a vote of three in favor and two against, approved the re-zoning application based upon the following rationale as expressed by Mayor Post, Councilperson Prettyman and Councilperson Abraham:

The application promotes managed growth and the parcel is located within Milton's Growth Area. The proposal will provide the citizens of Milton with much need infrastructure improvements associated with growth and it will also bring in impact fees to help with much needed sewer infrastructure. (C. Abraham)

The approval is in the best interest of the Town. Revenue to the Town will be approximately One Million Dollars that will help pay for capital improvements, street improvements, parks and recreation equipment and hopefully a new meeting place for the Town, Senior Center and Boys and Girls Clubs. Approval will provide for a sewer plant within the Town limits that might otherwise be located elsewhere. Residents on Sam Lucas Road will have the opportunity of accessibility to the Town. (C. Betts)

The approval provides the Town the opportunity to build the sewer plant within the Town that will resolve a serious and costly problem for the taxpayers of Milton. The Town faces potential fines of Ten Thousand Dollars per day as described in correspondence from the State of Delaware. Taxpayers are currently paying almost One Hundred Thousand Dollars annually to haul sludge from the current sewer plant, a plant that is almost to capacity due to pre-sold EDUs.

The proposed development is manageable. R-3/LPD is zoning that currently exists in the Town that the developer could apply for with or without providing the twenty acres to the Town of Milton. The zoning was recommended for

approval by the P&Z for R-3/LPD. The re-zoning will increase the property tax base for the Town of Milton. The location is beneficial to the Sam Lucas area and provides good solutions to a troubled area. The proposed development will provide land as well for recreational use for the Town of Milton. (Mayor Post); and

WHEREAS, it is the present intent and purpose of the Town Council to ratify the May 17, 2007 approval of the application for initial zoning and the August 6, 2007 approval of the application for re-zoning, for the reasons set forth at said meetings and more specifically at the August 6, 2007 meeting and vote (as restated hereinabove), in ordinance format in order to amicably settle and resolve the litigation filed by opponents to challenge the annexation and re-zoning approvals as set forth in the complaint entitled Coalition for Transparent Government et al. v Town Council of the Town of Milton, Key Ventures, LLC, Tidewater Environmental Services, Inc, et al., Court of Chancery Civil Action No. 340-CC;

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MILTON IN COUNCIL MET HEREBY ORDAINS:

Section 1. The Zoning Map of the Town of Milton be amended by inserting the current designation of R-3/LPD District as it applies to the subject property hereinafter described.

Section 2. The subject property is described as Sussex County Tax Map No. 2-35 21.00 44.00.

Section 3. This Ordinance shall ratify the decisions of the Town Council dated May 17, 2007 and August 6, 2007 to approve the initial zoning designation and later change of zone application for the reasons set forth at the meetings on May 17, 2007 and August 6, 2007 respectively, as set forth hereinabove and shall take effect immediately upon its adoption by a majority of the vote of all members of the Town Council of the Town of Milton.

ADOPTED by the Town Council of the Town of Milton, Delaware on the 23 day of

October A.D., 2008.

Das Post

Mayor

Spencer Abraham

Secretary, Town Council