

Town of Milton

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Milton, DE 19968



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ORDINANCE NO. 2020-006

AN ORDINANCE RELATING TO AN EXTENSION REQUEST REGARDING THE APPLICATION OF PHOENIX RHCS HOLDINGS, LLC FOR THE REZONING OF FIVE PARCELS ADDRESSED AS 423 MULBERRY STREET, 415 MULBERRY STREET, 413 MULBERRY STREET, 402 REED STREET, AND 401 REED STREET, FURTHER IDENTIFIED AS TAX/MAP/PARCELS 235-14.19-31.00, 235-14.19-32.00, 235-14.19-43.00, 235-14.19-39.01, AND 235-14.19-42.00; AND FOR THE PROPOSED AMENDMENT TO THE TOWN COMPREHENSIVE PLAN FOR THE SAME PARCELS.

WHEREAS, Section 29(1) of the Charter of the Town of Milton vests power in the Mayor and Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, Section 29(19) of the Charter vests power in the Mayor and Town Council to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material, and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code; and

WHEREAS, the Mayor and Town Council has previously found it appropriate and proper to enact a zoning ordinance, codified as Chapter 220 of the Town Code, and adopt an official Zoning Map; and

WHEREAS, Article XIV of Chapter 220 establishes an amendment process that includes Section 220-103's 60-day timeframe from the receipt of the advisory report from the Planning and Zoning Commission by which the Mayor and Town Council is to render its decision on a proposed amendment, including a boundary amendment request, frequently referred to as a rezoning; and

WHEREAS, at its June 15, 2020 meeting, the Mayor and Town Council received the Planning and Zoning Commission's advisory report on the above-captioned rezoning application; and

WHEREAS, a public hearing on the above-captioned rezoning application has been scheduled by prior Resolution for August 3, 2020; and

WHEREAS, notice of the aforementioned public hearing's time and place has been published at least 15 days in advance in a paper of general circulation in the Town, as required under 22 Del. C. § 304;

WHEREAS, on July 14, 2020, the Town received a continuance request from counsel for the applicant indicating that, due to the present Declaration of Emergency resulting from the ongoing COVID-19 pandemic, the applicant is unable to proceed with the public hearing for the above rezoning application on August 3, 2020, and thus the applicant requests that the application's public hearing be continued to early September; and

WHEREAS, the Mayor and Town Council take public health concerns seriously, especially in these unique times, and want the applicant and the Town's citizens and parties in interest to be afforded a fair opportunity to be heard on the matter; and

WHEREAS, the Mayor and Town Council received comment on August 3, 2020 with respect to the aforementioned continuance request;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Town Council of the Town of Milton, as follows:

Section 1. For the reasons stated at the meeting on August 3, 2020, the 60-day timeframe under Section 220-103 of the Town Code is hereby extended for the above-captioned application. Specifically, the timeframe is extended until November 2, 2020, to allow for a public hearing, followed by Mayor and Council's consideration of the matter; provided, however, that the Mayor (or, in his absence, the Vice Mayor) may grant an additional extension of the timeframe in the event of a civil emergency, pursuant to Chapter 17 of the Town Code.

Section 2. This Ordinance shall become effective immediately.

I, THEODORE J. KANAKOS, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 3rd day of August, 2020, following a duly noticed public hearing, at which a quorum was present and voting throughout and that the same is still in full force and effect.

TOWN OF MILTON

BY: 

MAYOR

DATE: 8/27/20