

THE TOWN OF MILTON PLANNING AND ZONING COMMISSION

IN RE:)
)
REQUEST FROM MILTON) TAX PARCEL NOS
ATTAINABLE HOUSING, LLC) 235-14.00-123.00 AND 123.01 AND
) 235-14.16-1.00, 2.00, 3.00 AND 4.00

ADVISORY REPORT

To: Mayor and Town Council
115 Federal St.
Milton, Delaware 19968
c: Thomas Quass, Project Coordinator

By Resolution 2020-004, signed on February 18, 2020, the Mayor and Council of the Town of Milton (“the Town”) referred the above-captioned application to the Planning and Zoning Commission (“P&Z” or “the Commission”).

Pursuant to Milton Town Code Section 220-99, the Commission shall report in writing its recommendations on any proposed amendments of the regulations or districts under the Town Zoning Ordinance (codified as Town Code Chapter 220) to the Town Council and the Code Enforcement Officer. This is the advisory report from the Commission on the above-captioned matter (“this Request”), which seeks: 1) rezoning of portions of parcels currently in Town; 2) amendment to the Future Land Use/Potential Expansion map of the Town’s 2018 Comprehensive Plan (“the Comprehensive Plan”); and 3) zoning designation for the parcels and portions of parcels currently outside of Town limits.

In support of the application, Milton Attainable Housing, LLC (“the Applicant”) submitted the following documents: a conceptual plan; a color-coded map of the area showing the proposed changes; a letter dated March 25, 2020 from the Office of State Planning with comments from the various state agencies addressed to the Applicant’s engineer, W. Zachary Crouch of Davis, Bowen

& Friedel, Inc.; a map labeled Existing Zoning Plan; a map labeled Proposed Zoning Plan; a more detailed Rezoning Exhibit focusing on the existing and proposed commercial areas; and metes and bounds descriptions for each of the proposed commercial and residential areas. These documents are attached hereto collectively as Exhibit A and incorporated by reference.

The above-captioned parcels total approximately 26.587 acres. The first two parcels listed have frontage on Route 16 a/k/a Broadkill Road. The last four parcels have frontage on Country Road. The current Town boundary bifurcates the two largest parcels, 235-14.00-123.00 (“TMP 123”) and 235-14.16-4.00 (“TMP 4”). The portion of TMP 123 in Town is approximately 5.715 acres and zoned C-1 Commercial and Business Use District (“C-1”), with a use classification in the Comprehensive Plan as “Other Open Land.”¹ The portion of TMP 4 in Town is approximately 1.16 acres and zoned R-1 Single-Family Residential Use District (“R-1”), with a use classification in the Comprehensive Plan as “Other Open Land.” Bordering TMP 123 to the west are R-1 and C-1 areas. The vast majority of lands in Town bordering Route 16 are zoned C-1. Bordering TMP 4 to the south is R-1 and to the west is R-3 General and Multifamily Residential Use District (“R-3”).

The other four parcels are currently not in the Town limits but are the subject of an annexation petition, being considered by the Town concurrently with this Request. Exhibit G of the Comprehensive Plan, a map of Future Land Use/Potential Expansion,² shows these four parcels, as well as the remainder of TMP 123 and TMP 4, within the growth area but with a residential use. The areas currently outside of Town are zoned AR-1 Agricultural Residential by Sussex County.

¹ See the Comprehensive Plan’s Existing Land Use and Zoning map, attached hereto as Exhibit B.

² Attached hereto as Exhibit C.

With respect to the Town's current Zoning Map, "the Applicant requests that a portion of TMP 123 be rezoned from C-1 to R-3, with the northern portion remaining C-1, and requests that TMP 4 be rezoned from R-1 to R-3. The Applicant is also requesting that the Town amend the Comprehensive Plan's Future Land Use/Potential Expansion map from residential to commercial for a portion of TMP 123 and for 235-14.00-123.01, so that the end result, upon annexation and zoning/re-zoning is an area of approximately 5 acres of commercial area fronting along Route 16, backed by approximately 21.587 acres of R-3 . Thus, if the Town were to approve this Request and the annexation application related to the project,³ the net result would be a reduction in the number of commercially zoned acreage from 5.715 to 5 acres, shifted to be more parallel to Route 16. The conceptual plan reflects one entrance from Route 16 into the commercial area, with flow-through access into the residential area behind that, and with a single southern point of ingress and egress onto Bay Avenue.

LEGAL STANDARD

Title 29, Chapter 92 of the Delaware Code controls the PLUS process.

The legal standard for a zoning decision is codified in 22 *Del. C.* § 303, which provides:

The regulations shall be made in accordance with a 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 provide 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 its 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.

Town Code § 220-4A then also provides, in pertinent part, that the zoning "chapter and use districts... are made for the purpose of protecting the character of the community in terms of its

³ The Applicant only seeks the rezoning if the project as a whole is approved, including annexation.

design, mix of uses, scale, architecture and history, helping implement the Town of Milton Comprehensive Plan and facilitating community economic development in terms of job development, retention and investment.”

Finally, Town Code § 220-4D provides:

All such zoning regulations and maps shall be enacted for the purposes of:

- (1) Preserving and promoting the health, safety and welfare of the citizens of the Town of Milton.
- (2) Protecting and preserving the architectural and historic character of Milton's built environment and extending this character as growth occurs within the Town or through annexation.
- (3) Guiding the future growth and development of the Town in accordance with the Town of Milton Comprehensive Plan in a manner which results in positive and beneficial land use relationships among residential, nonresidential and public areas.
- (4) Providing for the orderly growth and development of the Town and its environs in a manner which will protect, conserve and stabilize the value of land, structures and neighborhoods.
- (5) Providing adequate light, air and privacy to building areas and lots, securing safety from fire and other danger and preventing overcrowding of land and undue congestion of population.
- (6) Providing for coordination between the use of land and structures and the street and highway system in order to avoid congestion in the streets and to promote safe and convenient traffic circulation.
- (7) Regulating and coordinating development activities to provide for the adequate provision of public facilities and services.
- (8) Providing for a diversity of housing types in varied living environments.
- (9) Providing open space to protect the archeological, historic, scenic and natural features of the Town, as well as providing recreation spaces for existing and future needs.
- (10) Facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public facilities.
- (11) Preserving farmland and the agricultural land base.
- (12) Providing for the preservation and protection of high tidal and freshwater ponds, lakes, and rivers.

APPLICATION

The Commission makes the following findings as reasons for the recommendation:

- (1) This Request is in accordance with the Comprehensive Plan, provided that the Future Land Use/Potential Expansion map is amended to change 235-14.00-123.01 and the northern portion of TMP 123 along Route 16 from residential to

commercial. The proposed rezoning/zoning to R-3 is consistent with, and helps to implement, the Comprehensive Plan goal of the Affordable Housing Plan.

(2) This Request should lessen congestion in the streets by shifting the commercial acreage to run parallel with Route 16 – while limiting the likelihood of multiple points of ingress and egress off of Route 16, as well as slightly lessening the acreage. That same accessibility enhances safety from fire, panic, and other dangers.

(3) Having State Route-oriented commercial acreage promotes the health and general welfare of the Town by providing retail and other commercial enterprises in a manner accessible to visitors and travelers using Route 16 to get to the beaches and other destination points. This facilitates adequate and appropriate transportation. Along the same vein, locating multi-family housing close to State Route 16 and not far from its intersection with State Route 5 places more dense housing near these main roads. The State Route orientation encourages commercial uses in the most appropriate locations in Town. Those commercial uses then foster the local economy with additional employment opportunities.

(4) A larger-scale project with residential uses behind commercial acreage and controlled access promotes adequate light and air and avoids overcrowding.

(5) This Request is in keeping with the character of the district and the neighboring uses, including existing C-1 and R-3, and is a logical extension thereof. The proposed rezoning/zoning to R-3 also promotes a diversity of housing throughout the Town as a whole.

(6) Land immediately to the east of the project is permanently protected through the State's Agricultural Lands Preservation Program. Thus, this project is likely

the endpoint in that direction for commercial and more dense residential uses, keeping a lack of congestion and the overall adequacy of air, light, and public facilities intact when viewed on a slightly broader scale.

CONCLUSION

For the reasons stated herein and on the record at a duly noticed meeting on April 21, 2020, the Commission voted 7-0 to recommend approval of the above-captioned application without modifications/conditions. Specifically, the Commission recommends approval of the rezoning of the parcels currently in Town, the amendment to the Comprehensive Plan's Future Land Use/Potential Expansion map, and the zoning designations requested for the area currently outside of Town upon annexation approval.

Respectfully Submitted,

Chair
Dated: _____

Commissioner
Dated: _____

April 22, 2020

Mr. Tom Quass
Project Coordinator
Town of Milton
Milton, DE 18868

Dear Tom:

Included in this document are the approved digital signatures for the Advisory for Milton Attainable Housing, LLC. As indicated by Mr. Thompson in our last meeting this should suffice in having the Milton Planning and Zoning Committee sign of on the approved Advisory. Please include this with the Advisory package.

/s/ Richard Trask 4/22/2020

Chair

/s/ George G. Cardwell, AICP, PTP 4/22/2020

Commissioner

/s/ Larry Lieberman 4/22/2020

Commissioner

/s/ Donald A. Mazzeo 4/22/2020

Commissioner

/s/ Lynn E. Ekelund 4/22/2020

Commissioner

/s/ Maurice McGrath 4/22/2020

Commissioner

/s/ David Allin 4/22/2020

Commissioner

Respectfully,

Richard Trask

