

Town of Milton

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ORDINANCE NO. 2020-008

AN ORDINANCE TO AMEND THE COMPREHENSIVE PLAN AND THE OFFICIAL ZONING MAP OF THE TOWN OF MILTON FOR ANNEXATION OF PARCELS LOCATED AT THE SOUTHWEST CORNER OF BROADKILL ROAD AND COUNTRY ROAD, SAID PARCELS IDENTIFIED AS 235-14.00-123.01 (24700 BROADKILL ROAD), 235-14.16-1.00, 235-14.16-2.00, AND 235-14.16-3.00, AND THE REMAINING PORTIONS OF PARCELS 235-14.00-123.00 (24716 BROADKILL ROAD), AND 235-14.16-4.00, AND FOR A PROPOSED AMENDMENT TO THE TOWN ZONING MAP FOR THE SAME PARCELS.

WHEREAS, the Town of Milton, Delaware (“the Town”), has received an Annexation Petition (“the Petition”) from Milton Attainable Housing LLC for the above-captioned parcels that total approximately 26.5 acres (“the Project”); and

WHEREAS, the current Town boundary bifurcates the two largest parcels, 235-14.00-123.00 (with approximately 5.715 acres in Town and currently zoned C-1) and 235-14.16-4.00 (with approximately 1.164 acres in Town and currently zoned R-1), which the Petition seeks to rezone; and

WHEREAS, pursuant to Title 22, Section 702 of the Delaware Code, the Town adopted, and the State certified, the Town’s 2018 Comprehensive Plan, which may be revised or amended pursuant to the aforementioned Section of the Delaware Code; and

WHEREAS, the Project’s unincorporated areas are contiguous with the Town and within the growth area of the Town’s 2018 Comprehensive Plan and therefore eligible for annexation into the Town, pursuant to Title 22, Section 101 of the Delaware Code; and

WHEREAS, Section 3 of the Town Charter identifies the procedure for annexation; and

WHEREAS, pursuant to Section 3 of the Town Charter, a Special Review Committee investigated and reported back to the Mayor and Town Council, and the Mayor and Town Council voted to accept the report and referred the Petition to the Planning & Zoning Commission; and

WHEREAS, the Planning & Zoning Commission reviewed the Petition, including the zoning classification requested for the area to be annexed and the requested rezoning for the areas currently in Town, and issued an Advisory Report recommending annexation of the

currently unincorporated area with the requested zoning, as well as the rezoning of the area currently in Town; and

WHEREAS, the Office of State Planning Coordination has reviewed the Petition, accepted the completed Plan of Services, and confirmed the Town's completion of all relevant annexation requirements; and

WHEREAS, via Resolution 2020-014, the Mayor and Town Council then scheduled a public hearing on the Petition, including the Project's zoning; and

WHEREAS, the Charter of the Town of Milton 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 may, from time to time, amend by ordinance the boundaries of the Town's zoning districts, pursuant to Chapter 220, Article XIV of the Town Code; and

WHEREAS, said public hearing was duly noticed and held on September 21, 2020; and

WHEREAS, having considered the Petition and public comment, the Mayor and Town Council has determined, based on the findings of facts attached hereto and for the reasons stated on the record, that the amendments to the Comprehensive Plan and Zoning Map are in accordance with the Comprehensive Plan and promote the health, safety, morals, and general welfare of the Town;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Town Council of the Town of Milton, with an affirmative vote of at least 2/3 of all the members present and voting, as follows:

Section 1. The following amendments are hereby made to the Town's Comprehensive Plan:

- Exhibit G: Future Land Use/Potential Expansion is amended to remove the classification of "Residential" and substituting in lieu thereof the classification of "C1" for 235-14.00-123.01 and the portion of 235-14.00-123.00 not previously in Town.
- Exhibit G: Future Land Use/Potential Expansion is amended to remove the classification of "Residential" and substituting in lieu thereof the classification of "R3" for 235-14.16-1.00, 235-14.16-2.00, 235-14.16-3.00, and the portion of 235-14.16-4.00 not previously in Town.

Section 2. The Annexation Petition is accepted.

Section 3. The Official Zoning Map of the Town, adopted by reference in Town Code Section 220-10, is amended to: 1) reflect the aforementioned designations on the amended Exhibit G: Future Land Use/Potential Expansion for the annexed areas; 2) remove the classification of R-1 and substituting in lieu thereof the classification of C-1 for the portion of 235-14.16-4.00 already in Town; and 3) remove the classification of R-1 and substituting in lieu thereof the classification of R-3 for the portion of 235-14.00-123.00 already in Town and below the proposed division line shown on Exhibit A; with all of such amendments taking effect upon the annexed areas being considered part of the Town.

Section 4. This Ordinance is adopted subject to the following condition(s), approved by at least a simple majority vote of the Mayor and Town Council:

- The Town and applicant mutually agree upon an Annexation Agreement.

Section 5. If the aforementioned conditions are met, this Ordinance shall become effective on the 31st day after its passage, provided no proper petition for referendum has been filed with the Town Manager or designee, pursuant to Section 3(j) of the Town Charter, and upon any approval required by the Office of State Planning Coordination. Upon this Ordinance becoming effective, the Mayor and Town Council shall, by Resolution, cause a description and a plot of the Property to be recorded in the Office of the Recorder of Deeds, with the Property being considered part of the Town from the time of recordation.

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 5th day of October, 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: 10/7/20

SYNOPSIS

This ordinance amends the Town's comprehensive plan and official zoning map to reflect the Clifton Project proposed by Milton Attainable Housing LLC.