

THE MAYOR AND COUNCIL OF
THE TOWN OF NEW MARKET

ENGLAND WOODS. REZONING

ORDINANCE NO. 2023-010

AN ORDINANCE TO AMEND THE ZONING MAP

The Mayor and Council of The Town of New Market adopt the Findings of Fact and Analysis incorporated into this Ordinance by reference and appended hereto as an attachment.

IT IS ORDAINED by the Mayor and Council of The Town of New Market that, for the reasons set forth in the adopted Findings of Fact and Analysis that the lands described therein comprised of 91.689 acres on the north side of Old National Pike/State Route #144/County Route #1317 that includes Frederick County Tax Assessment Map 0080 Parcel 0206 and Parcel 0009 which are 35.012 acres and 55.677 acres respectively, are rezoned from Residential (R-1) for Parcel 0206 and Economic Development Flex (EDF) for Parcel 0009 to Planned Development District (PDD), subject to the limitation that the maximum residential density shall be 5.87 dwelling units per acre.

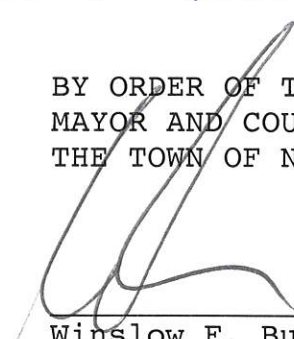
AND IT IS FURTHER ORDAINED, that this Ordinance shall become effective on the 29th day of November, 2023.

ATTEST:

BY ORDER OF THE
MAYOR AND COUNCIL OF
THE TOWN OF NEW MARKET



Town Clerk



Winslow F. Burhans, III, Mayor

Council Members:

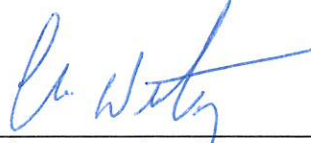
Shannon Rossman, Council Member



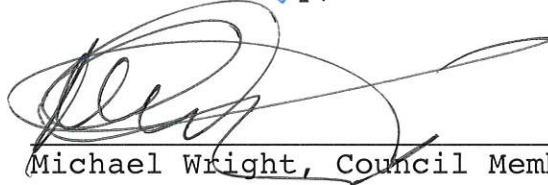
Matthew Chance, Council Member



Dennis Kimble, Council Member



Chris Weatherly, Council Member



Michael Wright, Council Member

INTRODUCED: October 12, 2023

ENACTED: November 9, 2023

EFFECTIVE: November 29, 2023

The Town of New Market



ANALYSIS AND FINDINGS OF FACT Ordinance 2023-10 England Woods PDD Floating Zone Rezoning/ Map Amendment

BACKGROUND & OVERVIEW

Permit # 1874-B requests that the Town approve a Planned Development District (PDD) Floating Zone Map Amendment on the England Woods Property. The Applicant is DR Acquisitions LLC. The England Woods Property was annexed into the Town in 2022. It is a 91.689-acre tract on the eastern most edge of Town. It is located on the north side of Old National Pike (State Rte. 144 and County Route 1317. The Property includes two parcels of land identified on the Frederick County Tax Assessment Map 80 as Parcels 206 and Parcel 9. Parcel 206 is 36.012 acres and is zoned R-1. Parcel 9 is 55.677 acres and is zoned EDF. The tract has no street address and is currently used as farmland.

The Applicant further requests approval of a maximum residential density of up to 5.87 dwelling units per acre (DUA).

The New Market Land Development Ordinance 09-01 (LDO) Article IV Section 15.2.1,2,3 and 4 requires that the Town Council consider several items and make certain findings before considering approval of a zoning map amendment for the PDD floating zone. Staff and the Planning Commission offer the following analysis and recommends the following findings of fact:

LDO Article IV Section 15.2.1

- Per Section 15.2.1 The applicant will collect sufficient information to provide the Town Council with a basis to approve the overall concept of the project and to amend the zoning map and set a maximum permitted land use density for the PDD.
- Finding: The applicant has provided the submittal items required in Section 15.2.1. The provided concept complies with PDD zoning requirements. It generally identifies the location, densities, and acreage of all proposed land uses as required.

LDO Article IV Section 15.2.2

Per Section 15.2.2 The Town Council will consider certain criteria to determine whether an amendment to the zoning map allowing the establishment of a PDD should be approved or disapproved.

(1) The relationship of any development with the Comprehensive Plan, zoning regulations, and other established development policy guidelines.

Findings of Fact: The Town's 2016 Master Plan, LDO and other policies envision the type of compact walkable development proposed by the application. The applicant's Justification Statement states the relationship of the Subject Property to the Town's 2016 Master Plan, LDO and other policies. The Schematic Plan shown in Exhibit B is consistent with Town plans, regulations and policies. The Town's 2016 Master Plan, LDO, and other policies envision the type of infill illustrated in the Schematic Plan. Further the 2021 Annexation Agreement was written to anticipate this PDD rezoning.

Analysis: The Town's regulations and development policies have been written to facilitate such development. The 2016 Master Plan states that the Town should be a pedestrian/bicycle friendly and that the area of the town east of Rte. 75 should: be designed to "create a complete mixed-use neighborhood". The Master plan and LDO policies call for new development to make a positive contribution to the Town. The provided fiscal Impact analysis in Exhibit H projects that the proposed development will create a net increase in Town revenues after new Town expenses have been considered.

(2) The general location of the site and its relationship to existing land use in the immediate vicinity.

Findings of Fact: Exhibit A provides a plan showing 20-foot contours, existing natural and man-made features. Exhibit F identifies adjacent owners. Exhibit D shows the existing zoning in the Property and surrounding properties and vicinity, it places the site in context of the Town as a whole. Exhibit E shows the proposed relationships with the existing land uses in the immediate vicinity. The site's physical characteristics, its size and location along Old National Pike and adjacency to a cluster of community-oriented retail uses make it suitable for PDD zoning.

Analysis: Based on several community meetings with the surrounding community the schematic plan Exhibit B provides landscape buffers as well as vehicular and pedestrian connections that reflect community concerns.

(3) The long-term implications the Town Residential/Commercial Mixed-Use District (TRC) would have on subsequent local development patterns and the demand for public facilities and services in the surrounding area.

Findings of Fact: The Project will support the long-term vitality of the downtown and the Town as a whole. It will improve the critical mass of residents within an easy driving distance of the Main St. businesses district. Demand for public facilities and

services in the surrounding area roads parks, utilities, and library will increase but are either adequate to support the demand or are anticipated to be reasonably mitigated by the applicant during future site development process. Impacts on schools will be very limited due the Annexation Agreement requirements regarding senior housing.

Analysis: This is supported by the Traffic Impact Assessment, the Annexation Agreement requirements regarding senior housing and commitments to fund road improvements and the Annexation Plan's analysis of public facility impacts. It is further supported by the application statements on Exhibit B that the HOA will own and maintain the shared common areas recreation areas, lighting, private alleys, parking lots, drives and storm water facilities on site. The HOA will handle waste collection as well. The Town's obligation to maintain new facilities will be limited to maintenance of approximately 2.39 miles on new public streets.

Currently it appears there is adequate water and wastewater treatment capacity available to serve this project based upon the presented uses. The applicant will be required to address Frederick County water/sewer APFO and adequate downstream sewage conveyance capacity during the future site development process.

(4) The topography and relationship to existing natural and man-made features, both on site and in the immediate vicinity.

Findings of Fact: As shown on Exhibit B, the site is farmland with a wood lot, there are no occupied structures and no modern storm water detention facilities. No floodplains exist. A small wetland area mapped on the National Wetlands Inventory exists. The applicant states on Exhibits B that the wetland will not be disturbed. The site has generally gentle topographic conditions. It has a few areas of steep slopes. The existing conditions of both the site and vicinity pose no undue restrictions on the site rezoning and redevelopment under the PDD zone.

Analysis: This finding is supported by Exhibit B which shows the existing natural and manmade conditions on the Property and immediate vicinity. A field review of the site was conducted by Town staff to confirm reported existing conditions.

(5) The PPD's proposed phasing schedule and how it relates to the provision of public services and facilities necessary to serve the TRC.

Findings of Fact: The applicant states that the Project will have two phases, all of the single family homes and the attached villa homes will be built in the first phase, the Multifamily area will be built in the second phase, and that further details regarding the construction sequence will be provided during the approval process.

Analysis: This is supported by the Justification Statement in Exhibit C.

(6) The availability and suitability of vehicular access.

Findings of Fact: The Property is located at the Eastern end of Town close to the MD 75 and I-70 intersection. It has vehicular access available as it fronts onto Old National Pike/Rte. 144. These roads are suitable to support development under the PDD zoning category.

Analysis: This Finding is supported by the applicant's Justification Statement provided in Exhibit C and by Exhibit G, Traffic Impact Analysis. Further information regarding current and proposed conditions is provided by Exhibit B the Schematic Plan. A full review of a Traffic Impact Analysis is a required part of the Master Plan review process.

(7) The availability of water and sewer facilities including a point of discharge and water appropriation.

Findings of Fact: There is adequate water and wastewater treatment capacity available to serve this project based upon the presented development uses.

Analysis: This is supported by County Water and Sewer Master Plan which designates this site for planned service. The applicant will be required to address water/sewer service capacity needs and adequate downstream sewage conveyance capacity during the future site development process.

LDO Article IV Section 15.2.3

Per 15.2.3 The Planning Commission has reviewed the proposed zoning map amendment at a public hearing and makes this recommendation to the Town Council for approval or disapproval of the PDD application. This recommendation includes a recommendation for a land use density for the project.

Finding: The Planning Commission voted on October 5th, 2023, to recommend approval of the PDD zone and the requested maximum residential land use density of 5.87 dwelling units per acre. Their recommendation is attached.

LDO Article IV Section 15.2.3

Per 15.2.4 The Town Council shall determine the feasibility and desirability of the zoning map amendment at a public hearing. The Town Council shall approve or disapprove the PDD map amendment and, if approved, set a maximum land use density. The maximum land use density approved can only be retained through excellence of design. The Planning Commission and Staff recommends approval of the request for a 5.87 DUA maximum density. This request is consistent with the Town Council approved Annexation Agreement which anticipated density of up to 6.00 DUA. It is justified based on Subsection 15.6.3 of the PDD zoning category which states that there is a required minimum residential density of 3.5 DUA but no maximum residential density required.

Determination: The zoning map amendment is both feasible and desirable based on the Recommendations of Staff and the Planning Commission as well the fact that this request is anticipated by and consistent with the Council approved Annexation Agreement dated November 10th 2022.

Attachment

Planning Commission Recommendation on the Matter of England Woods PDD Floating Zone Rezoning/ Map Amendment & Maximum Residential Density

On October 5, 2023, the New Market Planning Commission passed the following motion:

Based on the evidence submitted on this matter the Planning Commission finds the following:

- 1. That a public hearing has been held on October 5th, 2023, before the Planning Commission and the evidence was submitted into the record.*
- 2. That the public has had the opportunity to comment at the public hearing.*
- 3. That the applicant has collected sufficient information to provide the Town Council and the Planning Commission with a basis to approve the overall concept of the project, to amend the zoning map and set a maximum permitted land use density for the PDD.*
- 4. That the proposed PDD zoning map amendment and the proposed Development Concept meet the Criteria for Approval, comply with the Town's Master Plan, and are consistent with the Principles of Smart Growth and the Purpose of the PDD Zone.*
- 5. That a maximum residential density of 5.87 DUA is recommended for this Property,*

The Planning Commission recommends that the Town Council approve the proposed England Woods PDD zoning map amendment, the overall concept of the project and a maximum land use density of 5.87 based on the gross site area.

PLANNING COMMISSION FINDINGS OF FACT

Considerations before amending the Town Zoning Map, LDO Article III Section 3.4:

Is there a public need for the proposed amendment? Yes, there is a public need for this map amendment. The requested zoning would help to achieve a number of public needs identified in the Town's Master Plan's Chapter 2 Vision, Objectives and Fundamentals. Specifically, it would:

- a. Help to create an increased tax base sufficient to support the long-term financial stability of the Town.
- b. Ensure that Town growth pays for itself and is a source of ongoing revenue to the Town.

The requested zoning would support the Town's vision and goals to revitalize downtown by attracting retired people who may have the time and income for daytime shopping through the week, the interest to run or work in small businesses and the inclination to participate as volunteers in town organizations, committees, and events.

The requested zoning would help to achieve the State's 12 Smart Growth Visions as stated on page 8 Chapter 1 of the Town Master Plan as it would:

- Concentrate growth in an established Town and in an area planned for water and sewer service infrastructure.
- Contribute to the creation of a mixed-use walkable community dense enough to meet the minimum density threshold for residential areas in the State's Priority Funding Area.

Improve the diversity of housing in Town and broaden the Town's age profile as it proposes housing types of the Town lacks including professionally managed rental apartments, for-sale townhouses, purpose-built homes for seniors and affordable housing.

Is the proposed amendment consistent with the Town Master Plan? Yes, the Master Plan states on page 41 that this Property is part of a group of properties designated as the "Mixed Use Area East of MD-75" which represents a "growing mixed residential, commercial, and industrial area along the Old National Pike corridor.

The municipal growth element of the Town Master Plan projects increases in both residential units and in population over the next 20 years. The proposed addition of 550 new senior residential units is within the Town's projections for both units and population as stated on page 29 of the Master Plan. Table 9 on page 29 reports the existence of 471 Town housing units in 2015, it projects the existence of 701 units by 2020 and 1700 homes by 2035. The 2020 Census reported the existence of only 590 homes in Town or 119 more units since 2015. This leaves 1110 yet to be built per the projection. The provided Fiscal Impact Study envisions full build-out/occupancy of the proposed 550 new homes by the year 2030. This represents about one half of the Town's remaining projected increase in that time frame.

The Town Master Plan projects a town population of 4505 people by 2035. The Town had 1525 people in 2020 and an average household size of 2.63 people according to the US Census. The Petitioners project a resident population of 1027 people on their site by the year 2030 based on their build-out analysis and an average of 1.87 people per household in their new units. This represents about one third of the Town's planned population growth. The difference between the increases in units versus in population is due to this project's anticipated senior demographic and smaller average household size.

Is the property in question suitable for the uses permitted under the proposed zoning? Yes, the proposed land use is residential, specifically for an age restricted over 55 residential community with up to 550 residential units. There are no large environmental features, the land includes no steep slopes and is currently used for agriculture. Much of the land has been tilled for row crops. An isolated wood lot exists. The property has direct access to Old National Pike and is close to Rte. 75 and I-70.

Consideration and findings of fact with regard to the matters enumerated in Article 66B, §4.05(a) (2) of the Annotated Code of Maryland (Now the MD Land Use Code). The proposed zoning is consistent with Maryland's 12 visions of Smart Growth which are restated in Chapter II Master Plan Challenges of the 2016 Town Master Plan. The visions to be considered include concentrating growth in existing centers, creating compact mixed use pedestrian friendly communities, provision of a range of housing types and public participation in the planning process.

CRITERIA FOR PDD FLOATING ZONE APPROVAL Article IV, Section 15.2.2.a to g

(2) The relationship of any development with the Comprehensive Plan, zoning regulations, and other established development policy guidelines;

Findings of Fact: The Town's 2016 Master Plan, LDO and other policies envision the type of compact walkable development proposed by the application. The applicant's Justification Statement states the relationship of the Subject Property to the Town's 2016 Master Plan, LDO and other policies. The Schematic Plan shown in Exhibit B is consistent with Town plans, regulations, and policies. The Town's 2016 Master Plan, LDO, and other policies envision the type of infill illustrated in the Schematic Plan. Further the 2021 Annexation Agreement was written to anticipate this PDD rezone.

Analysis: The Town's regulations and development policies have been written to facilitate such development. The 2016 Master Plan states that the Town should be a pedestrian/bicycle friendly and that the area of the town east of Rte. 75 should: be designed to "create a complete mixed-use neighborhood". The Master plan and LDO policies call for new development to make a positive contribution to the town. The provided fiscal Impact analysis in Exhibit H projects that the proposed development will create a net increase in town revenues after new expanses have been considered.

(2) The general location of the site and its relationship to existing land use in immediate vicinity;

Findings of Fact: Exhibit A provides a plan showing 20-foot contours, existing natural and man-made features. Exhibit F identifies adjacent owners. Exhibit D shows the existing zoning in the Property and surrounding properties and vicinity, it places the site in context of the Town as a whole. Exhibit E shows the proposed relationships with the existing land uses in the immediate vicinity. The site's physical characteristics, its size and location along Old National Pike and adjacency to a cluster of community-oriented retail uses make it suitable for PDD zoning.

Analysis: Based on several community meetings with the surrounding community the schematic plan Exhibit B provides landscape buffers and vehicular and pedestrian connections that reflect community concerns.

(3) The long-term implications the Town Residential/Commercial Mixed-Use District (TRC) would have on subsequent local development patterns and the demand for public facilities and services in the surrounding area;

Findings of Fact: The Project will support the long-term vitality of the downtown and the Town as a whole. It will improve the critical mass of residents within an easy driving distance of the Main St. businesses district. Demand for public facilities and services in the surrounding area roads parks, utilities, and library will increase but are either adequate to support the demand or are anticipated to be reasonably mitigated by the applicant during future site development process. Impacts on schools will be very limited due the Annexation Agreement requirements regarding senior housing.

Analysis: This is supported by the Traffic Impact Assessment, the Annexation Agreement requirements regarding senior housing and commitments to fund road improvements and the Annexation Plan's analysis of public facility impacts. It is further supported by the application statements on Exhibit B that the HOA will own and maintain the shared common areas recreation areas, lighting, private alleys, parking lots, drives and storm water facilities on site. The HOA will handle waste collection as well. The Town's obligation to maintain new facilities will be limited to maintenance of approximately 2.39 miles on new public streets.

Currently it appears there is adequate water and wastewater treatment capacity available to serve this project based upon the presented uses. The applicant will be required to address water/sewer APFO and adequate downstream sewage conveyance capacity during the future site development process.

(6) The topography and relationship to existing natural and man-made features, both on site and in the immediate vicinity;

Findings of Fact: As shown on Exhibit B, the site is farmland with a wood lot, there are no occupied structures and no modern storm water detention facilities. No floodplains exist. A small wetland area mapped on the National Wetlands Inventory exists. The applicant states on Exhibits B that the wetland will not be disturbed. The site has generally gentle topographic conditions. It has a few areas of steep slopes. The existing conditions of both the site and vicinity pose no undue restrictions on the site rezoning and redevelopment under the PDD zone.

Analysis: This finding is supported by Exhibit B which shows the existing natural and manmade conditions on the Property and immediate vicinity. A field review of the site was conducted by Town staff to confirm reported existing conditions.

(7) The PPD's proposed phasing schedule and how it relates to the provision of public services and facilities necessary to serve the Town Residential/Commercial Mixed-Use District (TRC);

Findings of Fact: The applicant states that the Project will have two phases, all of the single family homes and the attached villa homes will be built in the first phase, the Multifamily area will be built in the second phase, and that further details regarding the construction sequence will be provided during the approval process.

Analysis: This is supported by the Justification Statement in Exhibit C.

(6) The availability and suitability of vehicular access;

Findings of Fact: The Property is located at the Eastern end of Town close to the MD 75 and I-70 intersection. It has vehicular access available as it fronts onto Old National Pike/Rte. 144. These roads are suitable to support development under the PDD zoning category.

Analysis: This Finding is supported by the applicant's Justification Statement provided in Exhibit C and by Exhibit G, Traffic Impact Analysis. Further information regarding current and proposed conditions is provided by Exhibit B the Schematic Plan. A full review of a Traffic Impact Analysis is a required part of the Master Plan review process.

(7) The availability of water and sewer facilities including a point of discharge and water appropriation.

Findings of Fact: There is adequate water and wastewater treatment capacity available to serve this project based upon the presented development uses.

Analysis: This is supported by County Water and Sewer Master Plan which designates this site for planned service. The applicant will be required to address water/sewer service capacity needs and adequate downstream sewage conveyance capacity during the future site development process.

Maximum Land Use Density

Findings of Fact: The applicant proposes to utilize 44.98 acres of the property for residential uses and 29.28 acres for common open space. They propose to build up to 550 dwelling units. They have requested a maximum residential density of 5.87 (dwelling units per acre on the Property. This density is consistent with the Town Council approved Annexation Agreement. Per Subsection 15.6.3 of the PDD zoning category there is a required minimum residential density of 3.5 DUA but has no maximum residential density required.

Analysis: This is density request is consistent with the Town Council approved Annexation Agreement and is justified based on Subsection 15.6.3 of the PDD zoning category which states that there is a required minimum residential density of 3.5 DUA but no maximum residential density required. It is supported by the 2016 Master Plan. It is part of the Town's designated growth area within the Town boundary. As the site is located near a cluster of community oriented commercial businesses, it is advantageously placed to accommodate residents without requiring all traffic to travel long distances for day-to-day needs.

Development Concept/Schematic Plan

Findings of Fact: The applicant has provided a Schematic Plan as Exhibit B. The provided concept complies with PDD zoning requirements. It generally identifies the location, densities, and acreage of all proposed land uses as is required.

Analysis: The Schematic Plan as Exhibit B plan includes:

- The site exceeds the minimum required size of 2 acres.
- Required open space 25% (23.43 acres) - proposed open space 31.2% (29.28 acres)
- Required active recreational open space 2.34 acres- proposed open space 2.58 acres.
- 5.17 miles (27,350 linear feet) of trails and sidewalks on site