

The Town of New Market



TO: New Market Planning and Zoning Commission
FROM: Pat Faux, Zoning Administrator and Shawn Burnett Town Engineer
August 25, 2023

RE: Staff Report
Permit # 1874 – England Woods Property Rezone to PPD Floating Zone

Dear All,

On June 7th, 2023 the Town received an application for a rezone to the Planned Development District (PDD) floating zone for the 93.739 acre England Woods property. A hard copy of the rezone application materials is available for viewing at Town Hall. The materials are available for online viewing on the Town website. This property was annexed into the Town effective November 10th 2022. The approved Annexation Agreement anticipated this Rezone application, the Annexation materials can be seen on the Town website at:
<https://www.townofnewmarket.org/mayor-town-council/england-woods-annexation>.

Staff notes that the rezone Applicant materials includes the previously presented traffic assessment and fiscal Impact statement. These have been posted for the Planning Commission's (PC) consideration but are for informational purposes only at this time. After a rezoning decision is made by Town Council (TC) these materials will be brought forward for Planning Commission consideration as a part of a subsequent Master Plan review.

Staff supports the Planning Commission scheduling of a public hearing on this matter at the next regular meeting of October 5th 2023. In accordance with the Town Land Development Ordinance (LDO) Article IV 15.2.3, the Commission shall review the proposed zoning map amendment at a public hearing shall then make a recommendation to the Town Council as to approval or disapprove the PDD application. A recommendation for approval will be accompanied by a recommendation for a land use density for the project. Also per the LDO the Planning Commission is required to consider several items and make several Findings of Fact. These are as follows:

Consideration of four items before amending the Town Zoning Map per LDO Article III Section 3.4:

- (1) Is there a public need for the proposed amendment;
- (2) Is the proposed amendment consistent with the Town Master Plan
- (3) Is the property in question suitable for the uses permitted under the proposed zoning, and
- (4) Consideration and make findings of fact with regard to the matters enumerated in Article 66B, §4.05(a) (2) of the Annotated Code of Maryland.

The Town of New Market



Consideration of seven Criteria for rezone to the (PDD) floating zone per LDO Article IV section 15.2.2 to determine whether an amendment to the zoning map allowing the establishment of a PDD should be approved or disapproved:

- a. The relationship of any development with the Comprehensive Plan, zoning regulations, and other established development policy guidelines;
- b. The general location of the site and its relationship to existing land use in immediate vicinity;
- c. The long term implications the PDD would have on subsequent local development patterns and the demand for public facilities and services in the surrounding area;
- d. The topography and relationship to existing natural and man-made features, both on site and in the immediate vicinity;
- e. The PDD's proposed phasing schedule and how it relates to the provision of public services and facilities necessary to serve the PDD;
- f. The availability and suitability of vehicular access;
- g. The availability of water and sewer facilities including a point of discharge and water appropriation.

STAFF RECOMMENDATIONS

After a review of the provided Rezone application materials staff has determined that the application is complete and meets the PDD Rezone submittal requirements.

According to LDO Article IV Section 15.0 an application for the PDD floating zone will collect sufficient information to provide the Town Council and the Planning Commission 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. The application must include four items at the time of application:

1. A plan at showing 20 foot contours, all existing natural and man-made features, existing zoning and vicinity map.
2. A schematic plan generally identifying location, densities and acreage of all proposed land uses.
3. A requested land use density and justification for the total project.
4. A statement that addresses the considerations to be addressed by the Planning Commission and the Town Council as listed in the LDO.

Staff recommends that the Commission schedule a Public Hearing on this application and that after hearing from the public, the Commission make Findings and a Recommendation to the Town Council.

The Town of New Market



1793

Staff offer the following Analysis and Recommended Findings of Fact for Planning Commission consideration and notes that these findings build on similar findings made at the time of Annexation last year.

ANALYSIS & RECOMMENDED FINDINGS OF FACT

Permit # 1874 requests that the Town approve a Planned Development District (PDD) Floating Zone Map Amendment on the England Woods Property. The Applicant is The Verdant Companies. The England Woods Property was annexed into the Town in 2022. It is a 93.739 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. It is bounded on the North and East by farm land protected by agricultural conservation easements. On the West it abuts by the Meadows residential subdivision and commercial subdivision with the Food Lion grocery store and other commercial businesses. To the South are several existing and planned commercial and industrial businesses.

The Property includes two parcels of land owned by the applicant and identified on the Frederick County Tax Assessment Map 80 as Parcels 206 and Parcel 9. The tract has no street address and is currently used as farm land. The 36 acre Parcel 206 is currently zoned R-1 Low Density Residential and the 55.69 acre Parcel 9 is zoned EDF Economic Development Flex.

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 day time 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:

The Town of New Market



1793

- 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 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 house hold 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 MD Rte. 75 and I-70.

The Town of New Market



1793

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

(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 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.

The Town of New Market



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 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 with in 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 transportation network 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. Thus the Town's obligation to maintain new facilities will be limited to maintenance for 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.

(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

The Town of New Market



1793

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 desk top 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 be built in one 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.

The Town of New Market



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 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 travels 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 exceed 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

This schematic design will be brought back to the Planning Commission at later stages of project development for further review and approval. Added details, refinements will be provided and adjustments made at those stages in order to conform to LDO requirements if or when the Commission formally reviews applications for a Master Plan, Preliminary Subdivision Plan and Site Plans.

The Town of New Market



Staff Recommendations

Based on the evidence submitted on this matter staff offers that the applicant has collected sufficient information to provide the Town Council and the Planning and Zoning 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.

Based on the analyses provided in the above report and the public comments made at the public meetings held to date, staff recommends approval of this zoning map amendment as submitted

Staff offers the following possible motion for the Planning Commission consideration after hearing from the public on October 5th:

DRAFT MOTION

I make a motion that:

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

1. That a public hearing has been held on October 5th 2023 before the Planning and Zoning Commission and the evidence was submitted into the record.
2. That the public 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 and Zoning 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 meets the Criteria for Approval, complies with the Town's Master Plan, is 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,

Further I motion that the Planning and Zoning Commission make a recommendation 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.

The Town of New Market



1793