

Thurmont Commons

Revised Annexation Proposal and Summary of Issues Raised

April 5, 2007

During the most recent Thurmont Planning and Zoning Commission (“P&Z”) meeting on March 22, 2007, the Planning Commission asked the Thurmont Commons applicant, HKB Myers Land, LLC for the following:

1. To revise the annexation proposal for the new plan (which includes commercial retail/office and agricultural lands – NO residential),
2. To submit the revised annexation proposal to the Town (which could then be posted on the Town’s website) for all interested parties to review, and
3. To hold another “open house” and/or P&Z workshop whereby interested citizens could hear from the applicant and their consultants about the revised proposal.

After the open house or P&Z workshop, the Commission would hold another public hearing and would potentially make a recommendation on the revised annexation petition to the Town Commission.

As part of the revised annexation proposal, HKB Myers Land, LLC, thought it would be beneficial to first review and highlight the key questions raised over the last several months and to reiterate the answers provided. This is not meant to be an all encompassing list, but rather a synopsis of what we have heard. In addition, these issues are in no order of importance. We view all of these issues as equally important.

Unfortunately the annexation process in Maryland is not perfect. Ideally every resident would like to have all of their questions answered to their satisfaction before making a decision on whether a piece of property should be annexed into their Town. The applicant would also like to provide the residents with complete and accurate answers to all their questions. Many detailed and thoughtful questions have been asked – answers to which are typically provided after a rigorous civil engineering review that is an integral part of the Town’s subdivision entitlement process. Additionally, this same entitlement process is also a key component of determining whether or not a proposed project complies with the Town’s Adequate Public Facilities Ordinance (“APFO”). It is critical to remember that this is only the first step in a long approval process – not the last. If the Town decides to annex the Myers farm, nothing will change for at least a year as the applicant, the Town, the County, the State, and the Town residents work through a very detailed site planning approval process. As is the case with all development throughout the state, the Town has the power to approve or deny this application throughout the entire approval process, not just at the time of annexation.

Finally, it is important to mention that the applicant has been involved in, or has closely monitored, most of the public presentations over the last year regarding the Town's updated Master Plan, as well as the other annexations that the Town is currently considering. HKB Myers Land LLC has spent a lot of time to make sure they understand the issues of Town residents to ensure that the proposed Myers farm annexation will make sense for both the applicant and the Town.

With this background in mind we have identified the following critical issues and provide the following answers:

Land Use and Zoning

- The property is currently in Frederick County.
- The 1995 Thurmont Region Plan generally identifies and/or designates a significant portion of the property - that is proposed by the petitioner to be commercial retail and office - as "Limited Industrial". The property proposed to remain as agricultural is shown as agricultural on Exhibit "B", Zoning Plat.
- The Frederick County Zoning Map designates portions of the annexation property assemblage west of Route 15 as either: Highway Services, General Commercial or Agricultural. The remaining portion of the annexation property west of North Franklinville is currently zoned agricultural.
- The Frederick County 20 Year Water and Sewer Service Area plan classifies the proposed commercial retail and office area as W-5/S-5 DEV.
- Although the existing land use and zoning designations are not exactly the same as what the petitioner has requested, they are generally the same type of use, and the proposed area of development is basically the same as what is planned to be developed by the existing land use and zoning plans. In other words, the 1995 Thurmont Region Plan envisioned some level of development on a portion of the subject property by virtue of the current land use designation, current zoning classification, future community growth limits and future water and sewer service category.

Traffic

- The proposed development, if annexed, would be subject to the TOWN of THURMONT's 1995 Adequate Public Facilities Ordinance. The Town would therefore retain control of the traffic study area limits, the intersections to be included in the study, and the level of service that the developer would have to meet in order to move forward with the proposed project. This would not be left to the County or State – the Town of Thurmont will have the control over what is ultimately approved within the municipal limits of the Town.
- Unfortunately the applicant has been unsuccessful in securing a meeting with the State Highway Administration ("SHA") to discuss specific findings and recommendations for road improvements along Route 15 to assuage community safety concerns. SHA has stated that it will not provide specific comments or commit to the contents of our feasibility study until the annexation is settled.

- The proposed development would be built in phases, not all at once. Traffic improvements would be developed to handle the traffic from each phase. Initial phases may only require minor improvements. The ultimate build out of this proposed annexation project coupled with the potential construction of the Industrial Parkway may require another Route 15 interchange. The applicant is willing to dedicate the land necessary for an interchange at this property (which accounts for a significant portion of the total cost of an interchange) and is willing to work with the State, County, and Town to do whatever possible to ensure that an interchange is built.
- One objective of a subsequent P&Z workshop on the Thurmont Commons annexation would be to review the applicant's Route 15 road improvements and to offer feedback and/or alternative improvement design suggestions.

Water

- The proposed water usage from the new plan (commercial, retail and office only) is substantially less than what could be permitted based on present state water allocation regulations.
- By present Maryland Department of the Environment (MDE) allocation methodologies, the proposed properties in total could be allocated up to 90,000 gallons per day (gpd). The present build out plan calls for a water demand of approximately 33,000 gpd.
- MDE has clear regulations that applicants must follow when developing and permitting new public water supply wells in Maryland. These regulations include evaluation of: 1) the reasonableness of the appropriation request; 2) the reasonableness of the impact on the water resources of the state; and 3) the reasonableness of the impact on existing users of the resource. The applicant's hydrogeologist will design, oversee and perform field tests and prepare a hydrogeologic report for review by MDE addressing these three major concerns.
- Specifically for the above noted item, applicants are required to solicit monitoring from representative domestic wells within 1,500 feet of a proposed production well (in crystalline rock) and within 3,000 feet of a proposed production well (in sedimentary rock). This monitoring is done at no cost to the adjacent homeowners. The purpose of this work is to assess the possibility of adverse off site impacts. Water levels in these domestic wells will be monitored during the course of aquifer testing. The results will be incorporated into the final hydrogeologic report.

Sewer

- As offered in the original annexation proposal made to the Town Commission on October 25, 2006, the developer proposes the construction of an Enhanced Nutrient Removal ("ENR") Waste Water Treatment Plant ("WWTP") that is fully compliant with the State of Maryland's nutrient removal requirements.

- The WWTP will be sized to accommodate the anticipated wastewater flows for the new plan. Additionally, the WWTP may be designed to accommodate potential future demand.
- The Developer will be fully responsible for the design, permitting, construction and operating deficit funding of the WWTP until such time as the plant is turned over or dedicated to the Town or sold to a third party entity.
- The Developer is committed to diligently pursuing the integration of the on-going operation of the WWTP into the overall Low Impact Development (“LID”) strategy for the proposed annexation, whereby the treated effluent is reused on site for irrigation, cooling towers, water closets etc.

REVISED ANNEXATION PROPOSAL

We respectfully submit the following request to the members of the Thurmont Planning and Zoning Commission and to the Thurmont Town Commission for the annexation of the proposed Thurmont Commons project into the Town of Thurmont. If the general terms of this proposed annexation outline are acceptable, the applicant will draft the required Annexation Agreement for the review and approval of the Town Commission. Accordingly, we offer the following revised proposal outline for your consideration:

1. Annexation by the Town of all properties, as highlighted in the attached Exhibit B – Zoning Plat, and portions of Route 15 from the subject property to the current Town Boundary.
2. The Land Use Designation of approximately 81 acres (highlighted in blue on Exhibit B – Zoning Plat) shall be General Business and shall be zoned B3. Designation of the remainder of the property assemblage that is generally west of North Franklinville Road (highlighted in green on Exhibit B – Zoning Plat) shall be Agriculture and zoned A1.
3. As outlined in the October 25, 2006 proposal, the petitioner offers the following to the Town of Thurmont:
 - a. Construction of Waste Water Treatment Plant (WWTP) to service the needs of this proposed annexation project. The proposed WWTP would be built to comply with ENR standards.
 - b. Project Developer will provide 100% of the anticipated average water demand via on-site well development. Alternatively, the Project Developer will provide up to **\$500,000** for the purchase and development of well water capacity, that is adjacent to existing Town water line infrastructure. Any additional capacity generated by these proposed wells would be given to the Town.
 - c. Upon annexation of the Myers Farm into the Town of Thurmont, the developer would donate **\$45,000** to the Lion’s Club Trolley Line initiative.

- d. Upon annexation of the Myers Farm, the developer will reimburse the Town for costs, not to exceed **\$50,000**, associated with the review and approval of the Myers Farm annexation.
 - e. Within 60-90 days of the annexation of the Myers Farm, the developer would commit up to **\$50,000** for the planning and determination of environmental constraints related to the construction of the Industrial Parkway from the eastern portion of town north to Route 15.
4. If the Town Commission votes in favor of the applicant's revised annexation request, the Town and the developer will coordinate and cooperate in all future communications with the State of Maryland and with Frederick County on all annexation and subsequent subdivision entitlement matters. This coordination and cooperation shall include, but not be limited to, a request on behalf of the Town to the Frederick County of a waiver of zoning inconsistency.

Next Steps – We propose the following meeting schedule to assist the P&Z Commission and the Town Commission in their deliberations.

- ◇ Open House and/or P&Z workshop on various aspects of the proposed annexation.
- ◇ Thurmont Planning and Zoning Commission public hearing on the recommendation of the proposed annexation, as revised, into the Town of Thurmont.
- ◇ Town Commission Public Hearing on the proposed annexation, as revised, into the Town of Thurmont.
- ◇ Formal Town Commission vote on the annexation petition and annexation agreement.