



Resolution No.: 03-22-22-102

Date: March 22, 2022

RESOLUTION NOTIFYING PROPERTY OWNERS AND RESIDENTS OF THE TOWN OF CHESWOLD OF PROPOSED ANNEXATION INITIATED BY LIBORIO III, LP, SETTING PUBLIC HEARING DATE, AND INITIATING AMENDMENTS TO ZONING MAP

WHEREAS, the Charter of the Town of Cheswold (“Charter”), Section 3.1.1, provides that any property owner holding record fee title to real property in territory contiguous to the existing limits of the Town may petition, in writing, the Town Council to annex that certain territory;

WHEREAS, on October 18, 2021, property owner Liborio III, LP (“Liborio”) submitted a written petition on the form Cheswold Annexation Request Application and Data Form, including an “Annexation Agreement for Cheswold” that is still subject to approval by the Town Council, which has been assigned Application # 2021-10-18-106, and relates to Tax Parcel No. 04-00-03700-01-1300-000, with the legal description: “NE SD HWY BISHOP’S COR & SMYRNA 47.0 A” (“Property”);

WHEREAS, said parcel is more fully described as 54.26 acres lying parallel on its west side to US Route 13 North, and is bounded on the north by Map ID’s: 4-00-03700-01-1100-000; 4-00-03700-01-1101-000; 4-00-03700-01-1201-000; 4-00-03700-01-1202-000; and is bounded on the south by Map ID’s: -00-03700-01-1302-000; 4-00-04602-01-4300-000; 4-00-03700-01-1901-000; 4-00-04600-01-0800-000; 4-00-04602-01-4101-000; 4-00-04602-01-4200-000 and is bounded on the east by DE Route 1 South.

WHEREAS, on December 9, 2021, the Planning Commission at its regular monthly meeting reviewed Liborio’s Annexation Application requesting R-3 Zoning (Multi-Family/Town House Residential), and by unanimous vote elected to recommend to Town Council that it accept Liborio’s Application (#2021-10-18-106) and submitted to Town Council its Memo 2021-006;

WHEREAS, on January 10, 2022, upon recommendation of the Planning Commission, (Memo 2021-006), and pursuant to Section 3.1.1 of the Charter, Town Council by majority vote within 90 days of its submission, voted to accept Liborio’s Application (#2021-10-18-106) and proceed with the Annexation Procedure described in Section 3.2 of the Charter;

WHEREAS, Section 3.2.1 of the Charter requires Town Council to adopt a Resolution notifying property owners and residents of the Town and the territory to be annexed that the Town proposes to annex certain territory which adjoins to its corporate limits, and such resolution must identify the territory proposed to be annexed, fix a time and place for public hearing on the subject of the proposed annexation, and shall be published in its entirety in accordance with that section;

WHEREAS, Section 3.2.2 of the Charter requires Town Council to sit and hear comments and opinion from any concerned party regarding the proposed annexation, which shall be for the purpose of obtaining public opinion and legislative fact finding, though Town Council is not bound to act in response to the information or comments presented at the public hearing;

WHEREAS, pursuant to Section 3.2.8 of the Charter, a material part of the Annexation Application includes a proposed "Annexation Agreement for Cheswold," and the annexation is subject to its terms. A copy of the Annexation Agreement, and any amended version(s) as may be adopted during the pendency of the annexation proceedings, is available upon request at the Town Hall, and in summary provides that:

1. Liborio is the record title owner ("Owner") of the subject parcel consisting of approximately 54 acres contiguous to the eastern boundary of the Town of Cheswold;
2. The Town has duly considered and determined that annexation is in the Town's best interests;
3. Agreement is contingent upon R-3 zoning in the annexed tract;
4. Owner intends to develop the tract in accordance with the Project Description contained in the Agreement;
5. Owner intends to bear the costs of connecting to the central water distribution and sanitary systems constructed and operated by Artesian Water and Kent County, respectively;
6. Owner shall cooperate with the Town in preparing and submitting the Plan of Service, as required by the State of Delaware, Office of State Planning Coordination;
7. Infrastructure and adequate public facilities improvements will be funded by the developer in agreement with the Town or other public bodies;
8. Owner will identify improvements to be dedicated to the Town, and Town will accept such dedication;
9. Owner will reimburse the Town for fees and costs necessary to accomplish the annexation, which shall be paid in full prior to the final action of Town Council on the annexation; and
10. Pursuant to the Town Charter, the Term of the Annexation Agreement shall expire seven (7) years from the date of the final annexation resolution, except that Owner may at any time, in writing release the Town from any of its obligations under the Agreement.

WHEREAS, upon final adoption and approval of the annexation, the Town Council shall cause the Zoning Map of the Town of Cheswold Land Use Ordinance to be revised to reflect the addition of the annexed property, along with the associated R-3 Zoning Code;

NOW THEREFORE BE IT RESOLVED, by a majority vote of the Town Council and agreement of the Mayor, by Resolution duly adopted by the Town Council and Mayor, at the Town of Cheswold Town Council Monthly Meeting, held on Monday, April 4, 2022, that the Town desires to proceed with the Annexation Procedure described in Section 3.2 of the Charter, initiated by Liborio pursuant to its Application # 2021-10-18-106;

BE IT FURTHER RESOLVED that the Ordinance adopting the revised Zoning Map to reflect the addition of the annexed property will be presented for review by the Planning Commission at its next regular meeting on Thursday, May 12, 2022, at 5:00 p.m. in the Cheswold Town Hall, 691 Main Street, Cheswold, DE 19936, and any comments will be forwarded to the Town Council prior to the Public Hearing date set forth herein;

BE IT FURTHER RESOLVED that a Public Hearing shall be held on Monday, June 6, 2022, beginning at 5:00 p.m. in the Cheswold Town Hall, 691 Main Street, Cheswold, DE 19936, before the regular Town Council Meeting to consider annexation of the Property;

BE IT FURTHER RESOLVED that the parties in interest and citizens shall have an opportunity to be heard at such Public Hearing;

BE IT FURTHER RESOLVED that a comment period, as required by Title 22, Section 101 (5) of the Delaware Code, shall commence immediately upon the adoption of this Resolution and shall conclude upon the close of business on June 6, 2022, during which comment period, interested persons may submit comments on the proposed annexation to Cheswold Town Hall, P.O. Box 220 or at 691 Main Street, Cheswold, Delaware 19936. All written comment received during this period shall be filed with the Delaware Office of State Planning Commission, along with the Town's response thereto, if any; and,

BE IT FURTHER RESOLVED that upon completion of the Public Hearing, and a review of the public comment(s) concerning the proposed annexation, a vote to approve or deny this annexation will be held by the Town Council at the Town Council Monthly Meeting, held on Monday, June 6, 2022, at 5:00 p.m. in the Cheswold Town Hall, 691 Main Street, Cheswold, DE 19936;

WHEREAS, this Resolution is duly adopted by the Town Council and Mayor, at the Town of Cheswold Town Council Monthly Workshop Meeting, held on Monday, April 4, 2022, at 5:30 p.m. p.m., at Cheswold Town Hall, 691 Main Street, Cheswold, DE 19936;

I, SANTO FARONEA, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by an affirmative majority vote of the Town Council at the Monthly Council Meeting, held on, Monday, April 4, 2022, at which a quorum was present and voting throughout, and that the same is still in force and effect.

CERTIFIED: [Signature]
SANTO FARONEA - Mayor

Date: April 4, 2022

ATTEST: [Signature]
THEON CALLENDER - Secretary/Treasurer

Date: April 4, 2022

Agreed: [Signature]
MICHAEL WYSONG - Vice-Mayor

Date: April 4, 2022

Agreed: [Signature]
JUDITH JOHNSON - Councilperson

Date: April 4, 2022

Agreed: [Signature]
MARK MOXLEY - Councilperson

Date: April 4, 2022

Agreed: [Signature]
MAXWELL AMOAKO - Councilperson

Date: April 4, 2022

NOTARIZED: [Signature]
SHADINA JONES - Town Clerk

Date: April 4, 2022

