

April 14, 2004

Ms. Karen Emory Brittingham
City Planner, City of Milford
P.O. Box 159
Milford, DE 19963

RE: PLUS review – PLUS 2004-03-02; City of Milford Comprehensive Plan
Development

Dear Ms. Brittingham:

Thank you for meeting with State agency planners on March 24, 2004 to discuss the proposed plans for the City of Milford comprehensive plan amendment. According to the information received, you are evaluating amending 5 areas of your current comprehensive plan to allow for the potential annexation and/or development of 16,150+/- acres surrounding the City of Milford, currently both inside and outside the Greater Milford Area as defined by your comprehensive plan. It should be noted that the materials submitted were very schematic in nature, and did not reflect individual parcels or specific areas. Although we were shown some more detailed maps during the PLUS meeting, we have not reviewed them and therefore these comments reflect the review of the information originally submitted.

If the City moves forward with this amendment, the State would want to work closely with the City as you determine future land uses for the area. The final comprehensive plan amendment will have to go through the PLUS process for a complete review before it may be certified. We will also require some of the development projects to go through the PLUS process independently so that we can comment on the specific development.

The office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

The State Planning Office is encouraged that the City of Milford has chosen to involve the State at such an early stage in their planning process for this amendment. We will continue to work with the City and with the State Agencies as this plan amendment is developed and considered for certification. At this time we would like to make a few

overall comments based on our review of the materials submitted and the discussion at the PLUS meeting:

- This is a very large annexation area, and we are encouraged that the City is planning to upgrade its utilities, services, and administrative capacities as a part of this plan update process. We will be expecting a description of these updates in the final comp plan amendment.
- The annexation area to the south of the town should be coordinated with the ongoing 113 North/South Study. This plan update is timely as it may allow the State, County, and the City to consider master planning for this area to identify future land uses and necessary road alignments. We look forward to working with the City, the County and DelDOT in this regard to develop an annexation plan that is reasonable in scope, reflects the realities of development pressures, and takes necessary transportation enhancements into account. It is recommended that the City consider adopting this plan in conjunction with the results of the US Route 113 North/South Study working group. Adopting the annexation plan amendments in accord with the North/South Study will also provide time necessary for additional study to occur for the SR1/SR30 interchange, for which a workshop was recently held. A decision regarding a preferred interchange alternative will also be key in the master planning in this area.
- Our office is concerned about the northern annexation portion of the plan. This annexation area may conflict with future agricultural preservation and resource conservation efforts from various State Agencies. We would like the opportunity to review this proposed annexation area in more detail with the City. Once you have a more detailed, parcel based proposal north of Milford we recommend that you contact our office to review the proposal.
- Due to the scope of the proposed annexation plan, it is strongly recommended that the plan amendment develop a clear phasing plan to allow the City to extend infrastructure and utilities in an orderly fashion. Such a phasing or timing plan would also help the City reduce the incidence of “leap-frog” development (development which is otherwise discontinuous with existing urbanized areas of the city). The area represented by the proposed annexation plan is so large that discontinuous, leap-frog development is a possibility, and if not managed properly could result in utility or service delivery issues for the City.
- The comprehensive plan amendment will be required to go through the PLUS process once it is completed and formally submitted for review.
- Depending on the ultimate size and scope of the amended annexation plan, this plan amendment may require review through the Governor’s Advisory Council on Planning Coordination (aka the “Livable Delaware Advisory Council) for a recommendation, and then on to the Governor for certification. Our office is

enabled to certify municipal plans that are in compliance with the State Strategies for Policies and Spending. Some of the areas shown in the schematic diagrams submitted for review, and the detailed maps shown at the PLUS meeting are not in compliance with the State Strategies.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

There are no National Register listed properties in or near the areas being considered for annexation.

Department of Transportation – Contact: Bill Brockenbrough 760-2109 or Monroe Hite 760-2120

DelDOT commends the City of Milford for their efforts to address growth and annexation pressures as part of a comprehensive planning process. Regarding the City's proposed amendments to the potential annexation areas in their Comprehensive Plan, DelDOT offer the following comments:

- On Route 1, north of Tub Mill Pond, DelDOT seeks to work collaboratively with the City in reviewing alternative access, revisiting crossover locations, consolidating driveways, and more broadly developing a plan for managing access.
- It is suggested that if additional development or annexation is considered in this area that it be focused west of rather than along the Route 113 Corridor. DelDOT would like to work with the City to preserve the capacity of the corridor in this area. The Department has a corridor plan along Route 1 from the Dover Air Force Base to Nassau. The goal of this plan is to preserve capacity and convert Route 1 to a limited access highway. This highway is limited access from the Air Base North to Wilmington. The Thompsonville Road and Little Heaven interchanges are examples of CTP projects that have been planned and funded to improve the capacity and safety of the corridor. Signals and other access points and entrances degrade the capacity of the corridor, and are not encouraged as part of the plan. Typically access is denied along this corridor and the Department considers purchasing the property interests of the owner rather than allowing access in most cases. Additional annexation and development along this corridor, if it is to occur, must be based upon a plan that avoids direct access to or from Route 1. DelDOT is prepared to work with the City in this regard.
- At the intersection of Routes 1 and 30, DelDOT will continue to work with the City so that the plans for an interchange in that area are consistent with the City's development plans. Planning for this interchange will be coordinated with the work of the Route 113 North South Study team.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

TMDLs

It is expected that a Total Maximum Daily Load (TMDL) will be developed by 2007 for the Mispillion sub-watershed. Bacteria and nutrient loadings to surface waters are of primary importance in terms of water quality.

Some of the parcels within the comprehensive plan amendment have the potential to impact headwater streams associated with the Mispillion sub-watershed of the Delaware Bay. Undisturbed headwater streams are critically important for the maintenance and preservation of the water quality and the ecological function of the larger downstream area. Undisturbed headwater riparian areas and their associated forest lands not only protect and enhance water quality, they provide migratory corridors and habitat for a variety of wildlife species. The Department recommends that efforts be made to increase buffer widths beyond the recommended 100 feet minimum distance.

It should also be acknowledged that undisturbed upland forests are often an integral component in the maintenance/preservation of water quality and/or habitat integrity ecosystem integrity for a given watershed. Efforts to maximize the preservation of existing upland forested acreage are strongly recommended.

Wetlands

According the Statewide Wetland Mapping Project (SWMP) mapping the following wetland types were mapped on subject site:

- palustrine scrub-shrub,
- palustrine forested,
- palustrine unconsolidated bottom, and
- lacustrine unconsolidated bottom.

It is recommended that the City of Milford require a minimum 100-foot buffer width from landward edge of all isolated or riparian wetlands. In cases where natural buffer vegetation has been removed or reduced by past development or farming activities, the city is encouraged to make future development contingent upon the restoration and establishment of buffers with native herbaceous and/or woody vegetation .

A wetland delineation and determination is highly recommended before commencing any site development of the proposed parcels within the geographic limits defined by the City of Milford's Amendment to the Comprehensive Plan.

Soils and Groundwater Recharge Potential

The following is a summary of mapped soils found within the proposed construction area and are grouped on the basis of drainage class:

- Excessively well drained – Evesboro
- Well drained - Sassafras, Rumford
- Moderately well drained - Woodstown
- Poorly drained (**hydric**) – Fallsington
- Very poorly drained (**hydric**) – Swamp & Johnston (associated with floodplains)

According to the Delaware Geologic map of Ground-water Recharge Potential for Kent and Sussex County the proposed annexations are located within areas of good to excellent recharge potential. It is recommended that the City of Milford consider areas of excellent recharge in terms of source water protection.

Habitat

A review of the database indicates that there are numerous species and/or communities at or adjacent to the project site. As the design phase of this project moves forward, efforts should be made to avoid any impacts to the species listed in the tables below:

Note: Please refer to the attached map for location of areas A-E. There are currently no records of state-rare or federally listed plants, animals or natural communities at or adjacent to areas A and D.

The applicant / City of Milford requested more information on the location of these species. These will be provided, however, DNREC will need a data manager or planner for the City of Milford to contact us directly for the information. Please contact Karen Bennett at Karen.Bennett@state.de.us, or call 653-2883. This information cannot be provided until at least late June 2004.

Area B:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Carex mitchelliana</i>	Mitchell's Sedge	Plant	S2		G3G4	
<i>Juncus pelocarpus</i>	Brown-fruited Rush	Plant	S2		G5	
<i>Eleocharis equisetoides</i>	Horsetail Spike-rush	Plant	S2		G4	
<i>Notropis chalybaeus</i>	Ironcolor Shiner	Fish	S2		G4	
<i>Rhynchospora alba</i>	White Beak-rush	Plant	S2		G5	
<i>Enneacanthus chaetodon</i>	Blackbanded Sunfish	Fish	S2		G4	

Area C:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Helonias bullata</i>	Swamp Pink	Plant	S2		G3	LT
<i>Rynchospora scirpoides</i>	Long-beaked Bald-rush	Plant	S2		G4	
<i>Drosera rotundifolia</i>	Roundleaf Sundew	Plant	S2		G5	
<i>Rynchospora alba</i>	White Beak-rush	Plant	S2		G5	
Adjacent to:						
<i>Schoenoplectus subterminalis</i>	Water Bulrush	Plant	S2		G4G5	
<i>Sarracenia purpurea</i>	Purple Pitcher Plant	Plant	S2		G5	
<i>Alnus maritima</i>	Seaside Alder	Plant	S3		G3	
<i>Nymphoides aquatica</i>	Big-floating Heart	Plant	S1		G5	
<i>Chamaecyparis thyoides-Acer rubrum</i>	Delmarva Atlantic White Cedar Swamp	Community	S2		G?	
<i>Leptodea ochracea</i>	Tidewater Mucket	Freshwater Mussel	S1	E	G4	
<i>Anodonta implicata</i>	Alewife Floater	Freshwater Mussel	S1		G5	

Area E:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Helonias bullata</i>	Swamp Pink	Plant	S2		G3	LT
<i>Elatine Americana</i>	American Water-wort	Plant	S2		G4	
<i>Acer rubrum-Quercus spp./Magnolia</i>	Red Maple-Mixed Oak Swamp Forest	Community	S3			
<i>Alnus maritima</i>	Seaside Alder	Plant	S3		G3	
<i>Schoenoplectus subterminalis</i>	Water Bulrush	Plant	S2		G4G5	
<i>Rynchospora alba</i>	White Beak-Rush	Plant	S2		G5	
<i>Enneacanthus chaetodon</i>	Blackbanded sunfish	Fish	S2		G4	
<i>Notropis chalybaeus</i>	Ironcolor shiner	Fish	S2		G4	
<i>Eleocharis equisetoides</i>	Horsetail Spike-rush	Plant	S2		G4	
<i>Sarracenia purpurea</i>	Purple Pitcher Plant	Plant	S2		G5	
<i>Rynchospora scirpoides</i>	Long-beaked Bald-rush	Plant	S2		G4	
<i>Juncus pelocarpus</i>	Brown-fruited Rush	Plant	S2		G5	
<i>Juncus militaris</i>	Bayonet Rush	Plant	S2		G4	
<i>Lyonia mariana</i>	Stagger-Bush	Plant	S2		G5	
<i>Chamaecyparis thyoides-Acer rubrum</i>	Delmarva Atlantic White Cedar Swamp	Community	S2		G?	

State Rank: S1 - extremely rare within the state (typically 5 or fewer occurrences); S2 - very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; **State Status:** E – endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state; **Global Rank:** G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T_ - variety or subspecies rank; Q – questionable taxonomy; **Federal Status:** LE – endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT – threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; PS – proposed status.

Public Service Commission – Contact: Kevin Neilson 302-739-4247

The Public Service Commission noted that no action by their agency is required unless the annexed parcels are within CPCN areas already granted. Local government are required, by law, to report to the PSC, and lands that are annexed into their territory.

Any electric utility service that is take-over through annexation must be resolved and the PSC notified of the solutions reached for their approval.

State Fire Marshal’s Office – Contact: Kevin McSweeney 739-3696

It is difficult for the Fire Marshal to comment without the proposed use and site plan; however, they have noted the following information that will need to be depicted in the plans at the time of formal submittal. They also noted that this information is for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office.

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for (Storage/Industrial/Mercantile) sites, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories or more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.

- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
 - If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- d. **Gas Piping and System Information:**
- Provide type of fuel proposed, and show locations of bulk containers on plan.
- e. **Required Notes:**
- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
 - Proposed Use
 - Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
 - Square footage of each structure (Total of all Floors)
 - National Fire Protection Association (NFPA) Construction Type
 - Maximum Height of Buildings (including number of stories)
 - Note indicating if building is to be sprinklered
 - Name of Water Provider
 - Letter from Water Provider approving the system layout
 - Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
 - Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Mark Davis 739-4811

DDA is concerned that allowing municipalities to amend approved annexation plans within 18 months of their approval negated the planning process. Milford’s request to amend their annexation plan comes too soon after that annexation plans approval. If this trend continues, the entire municipal annexation process is crippled. In order to efficiently and effectively plan for and implement agricultural preservation, DDA needs

definitive local planning. If this does not occur, conflicts over appropriate land use near urban centers will become more frequent and heated. In general, we object to amending the Milford Annexation at this time. Specifically, we strongly object to amending the annexation plan to the north of the current town boundaries. This area is a mix of large lot suburban and rural uses. Appropriate municipal development densities do not fit with the area's character and would have negative impacts to the viable agricultural community as well as the natural environment. Regarding the area to the south of current town boundaries, DDA believes there may be a legitimate case for amending the current annexation plan. However, the designating the large area depicted on maps shown at the March 24, 2004 Plus Meeting is overly ambitious. DDA believes the state and the town can draft a compromise solution for this area which will address the town's concerns in relation to the proposed residential, commercial and transportation projects without designating the entire area for annexation in the near future. If when the town revises their annexation plan in four years, situations have changed; those new factors can be addressed at that time.

Delaware State Housing Authority – Contact: Karen Horton 739-4263

The City is considering an amendment to their certified comprehensive plan due to the numerous requests for annexation that are located beyond their annexation area. During the meeting's discussion, the City expressed their intent to annex all residential parcels into the town as low density. We are very concerned with this proposal for several reasons:

- The *Strategies for State Policies and Spending* characterize towns and cities as areas that have a mix of uses and a variety of housing types. To designate land proposed for annexation into a city as low-density runs counter to the intent of the *Strategies*.
- Land that is zoned for low-density residential development is typically not affordable to low- and moderate-income households.
- Once land is zoned low-density, it is extremely difficult to rezone land for higher densities at a later date.

As a result, DSHA recommends that when communities annex, they proactively zone upfront for a variety of housing types to better reflect the existing character of the community and to meet the housing needs for the community's low- and moderate-income households.

Delaware Economic Development Office – Contact: Dorrie Moore 739-4271

The Delaware Economic Development Office (DEDO) supports the Comprehensive Plan Amendment for Milford. One business that will be impacted by the annexation is Baltimore Air Coil (BAC). This company has had sewer issues for the past few years and they have been working with the City of Milford to be connected to the town sewer line. The annexation will not cause any problems for BAC and my understanding is that BAC

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agreed to the annexation as part of the deal to get the sewer line connected to their property.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

Constance C. Holland, AICP
Director

CC: Sussex County
Kent County