



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

March 16, 2005

Ms. Karen Brittingham
City of Milford
201 S. Walnut Street
P.O. Box 159
Milford, DE 19963

RE: PLUS review – PLUS 2005-02-04; City of Milford Comp. Plan Amendment

Dear Ms. Brittingham:

Thank you for meeting with State agency planners on March 2, 2005 to discuss the proposed City of Milford Comprehensive Plan Amendment.

Please note that changes to the amendment, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting

The following are a complete list of comments received by State agencies:

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

1. The “Greater Milford Area” on map 1 is a bit too great. We appreciate the City looking at growth patterns in the region, but are unsure what the intention is of this map. The research that went into developing this map should be described in the text, and the map should be re-drafted as a simple radius around the town. The current maps specificity makes it appear that the City intends to annex this area at some point in time. Please be advised that by the State is not recognizing that this is anything other than a regional planning map. It will not be considered justification for any future annexation plans.
2. We question the application of the “urban mix” designation for the large parcel on the western edge of the City, along Milford / Harrington Hwy and along 113.

- What is intended here? We strongly recommend design guidelines such as a “traditional neighborhood development” ordinance be in place to ensure design quality if they are truly to be mixed use places. The concept of “Urban Mix” deserves some description in the text, and also to be implemented by ordinances.
3. Map 5 shows a “suggested apartment complex” along NE Front St. The underlying land use is residential. This should be changed to “apartments / townhomes” or the future apartments will potentially be in conflict with the comp plan.
 4. Map #9 – small annexation in southern part of town along Rehoboth Boulevard for the gas station is still shown as residential. This should be commercial if the City still intends to annex it as commercial property.
 5. Map #9 – we question the large commercial area in the southern part of town (Earl Fannin), which is reputed to be the site of the regional mall. We suggest the following be added to the plan:
 - a. The land use should be “community commercial” rather than regional commercial. The commercial use would serve the surrounding neighborhoods, not be a shopping destination that would draw traffic from Dover or the beaches.
 - b. Consider design overlays so that the commercial use is of a distinctive and high quality. Consider requiring a “lifestyle” center which would be designed with a pedestrian oriented main street approach rather than allowing a typical strip mall.
 - c. Consider the effect this commercial area might have on efforts to revitalize commercial areas along Route 113; also consider impacts on 113 corridor complex.
 - d. Emphasize that no access will be permitted along Route 1 directly. All access should be via service roads or designated intersections.
 6. Our office does not support the commercial area along Route 1 in the vicinity of the Fannin parcel, or the two small commercial parcels in the southern annexation area. There is no planning rationale for those parcels as commercial property in the plan. Development of these as commercial areas will likely have a detrimental effect on transportation resources in the area without any corresponding benefit to local residents. Local commercial needs should be met on the larger community commercial parcel. These commercial areas should be deleted from the plan.
 7. Map #10 – We recommend changing the green parcels designation from “Not Expected” to something such as “Already developed, annexation if requested.” Failure to do so will create future problems with plan compliance when and if any of these parcels petition for annexation.
 8. Our office does not object to the inclusion of the southern annexations proposed in the “Current Study Area” provided that text in the plan details how the City

will manage annexation requests in this area while the study is going on. Some suggestions:

- a. The City not allow annexation requests until the alignment is selected.
 - b. The City could entertain annexation requests, but require annexation agreements that indicate the owners understanding that ROW must be reserved pending the outcome of the study.
 - c. The annexation agreements could indicate that the owners agree to the dedication of ROW at pre-annexation land prices.
 - d. The City could, and probably should, defer all land development plan approvals until the study is complete. Annexation agreements could allow owners to move forward at their own risk – meaning that they are aware that their plans may have to change pending the results of the study.
 - e. The final language and protocol should be developed and approved jointly by the City and DelDOT.
9. Map #9 – suggest that the small commercial parcel on the extreme western boundary of Milford along Rt. 14 be re-designated as “urban mix” to incorporate this parcel with the larger “urban mix” area proposed. It should be covered by the same design guidelines / ordinances as the rest of the urban mix areas.
 10. The southern area is not designated as a growth zone in the Sussex County Comprehensive Plan. We will need a “letter of no objection” from Sussex County before we certify the revised plan.
 11. We need more detail from the water and sewer sections to demonstrate ability to serve annexation areas. Some discussion is necessary regarding the sewer treatment agreement between Milford and Kent County, as well as the County’s ability to accommodate additional flows from new land uses.
 12. p123 – plan indicates that annexations would be recommended in the area of concern. This is not acceptable, and we will not certify the plan with this text in it. The area of concern is not considered an annexation area. We will work with the City and the County to discourage growth in this area.
 13. Our office is willing to consider the inclusion of the Route 1 frontage in the vicinity of the Thompsonville Rd. area in the annexation plan provided that the plan fully describe the access management strategy for the area. And discussions with and agreements between the City and DelDOT should be fully described in a relevant section of the text and on the transportation plan map as necessary. The Thompsonville interchange should be the northernmost point of the City limits
 14. Our office objects to the remainder of the additional northern annexation area. This area is not logically a part of Milford, and the plan does not clearly indicate that City utilities and public services are available. This area also conflicts with an agricultural preservation district. The northern annexation area should be scaled back to the area of the existing certified plan. It should be noted that the City has not yet to date succeeded in annexing all of these properties.
 15. Provide documentation in the final plan to indicate that the public has been notified and involved in the plan amendment process, and that other jurisdictions have been notified and have been given the opportunity to make comments and participate in the plan review process. We consider the other relevant

- jurisdictions to include both Kent and Sussex Counties, and any municipality that is impacted by your “Greater Milford Area” shown on Map 1.
16. Once these changes have been made please re-submit a complete plan and map series to our office for review. The final plan must include all appendixes, including Appendix 8 which is a previously adopted plan amendment. We will require 20 working days for our review. Once we verify that all issues raised in this PLUS letter have been addressed we will notify the City in writing. Upon adoption of the revised plan by the Planning Commission and Council we will certify the plan amendment.
 17. The re-certification will not alter the original certification date of February 25, 2003. A complete plan update will be due on February 23, 2008. Based upon the extensive nature of this plan amendment, we strongly encourage the City to work on plan implementation from this date through 2008. We don't encourage, or expect, these type of extensive plan amendments on a regular basis.

State Historic Preservation Office (SHPO) – Contact: Alice Guerrant 739-5685

A number of the lots proposed for various uses or for annexation may have archaeological resources and/or historic buildings. The State Historic Preservation Office would be happy to work with the City of Milford to avoid any adverse effects on such historic properties at the time project planning begins.

One area is proposed for an overlay architectural review. Approximately half of this area lies within the boundary of the Southwest Milford Historic District (S-9817), determined eligible for the National Register of Historic Places by this office. The SHPO architectural historians would be happy to discuss different ways to approach architectural design review for this area. They have also increased the eligible boundaries for other historic districts in the City, and would be happy to provide this information.

The City of Milford has always been a strong supporter of historic preservation, as shown in the certified plan. The SHPO hopes to continue working with you on these issues in the future.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) The discussion of transportation issues in Chapter 8, and perhaps elsewhere but notably on pages 86, 88 and 89, there are references to DeIDOT's Statewide Long-Range Transportation Plan (SLRTP) and the Multimodal and Management Investment Areas discussed therein. The SLRTP was first adopted in 1997. Subsequently, in 1999, the Strategies for State Policies and Spending were established. In 2002, DeIDOT revised the SLRTP, and in so doing they eliminated their separate set of Investment Areas in favor of those in the Strategies. Since then, the Strategies have been updated and the treatment of the

Investment Areas have been changed somewhat. DeIDOT recommends that any discussion of the SLRTP and the Investment Areas therein be updated.

- 2) On pages 88 and 89, there are references to Photos 1 and 2, respectively. It appears that Photos 2 and 3 were meant.
- 3) On pages 90 and 91 there is discussion of the US Route 113 N/S Study. Two aspects of that discussion that should be changed:
 - a) There is a statement that the alternative of a western by-pass has been dropped from consideration. That is incorrect. DeIDOT is finding relatively more support for eastern by-pass alternatives and most of their recent efforts has been concentrated there, no alternatives have been eliminated yet.
 - b) The discussion references an area of study shown on Map No. 14. The map delineates an area that includes the land where the DeIDOT eastern by-pass alternatives are located. However, the discussion, and to their knowledge the rest of the plan, lacks a statement regarding development in that area. DeIDOT expects to select a by-pass alignment within the next year and they would like to see a commitment from the City that they will not act on land development proposals within that area until DeIDOT has done so.

The City may contact Mr. Monroe Hite, the DeIDOT project manager for the study, regarding specific wording for this discussion. He may be reached at (302) 760-2120.

- 4) DeIDOT understands that Growth Area 1, on the west side of the City, is a location where the City wants to encourage development and they are not opposed to their doing so. However, DeIDOT's review of the traffic impact study for the Bennett's Ridge development identified a potential for future congestion on Delaware Route 14 between US Route 113 and Delaware Route 15. DeIDOT urges the City to work through the Dover/Kent County Metropolitan Planning Organization (MPO) to see that their needs for this area are included in the MPO's Transportation Improvement Program and subsequently DeIDOT's Capital Transportation Program.
- 5) Map No. 5, Future Land Use within the City of Milford, shows a triangular area, bounded by Delaware Route 1, Delaware Route 30 and Wilkens Road (Sussex Road 206) and designated for commercial use. Because of the existing congestion problem in that general area, would be opposed to commercial development there.
- 6) Map No. 14, the Transportation Plan, shows proposed service roads on the east side of Delaware Route 1 north of New Wharf Road (Kent Road 409) and on the

west side of US Route 113 south of Seabury Avenue (Sussex Road 36A). However, two other proposed service roads are missing. One would extend the road proposed on the east side of Route 1 south of New Wharf Road to tie into Carpenters Pit Road (Kent Road 408A). The other would parallel Route 1 on the west side north of Tub Mill Pond Road (Kent Road 119). DelDOT has been working with the City to plan these roads and do not understand why they were omitted.

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

General Comment

Overall, the environmental plan section is not clear and its intent not fully explained. It should contain clear information linking the goals of the City for environmental protection and resource conservation to future ordinances. The environmental plan and subsequent ordinances should consider all of the following: wellhead protection, groundwater recharge, riparian buffers, wetland protection and buffering, water quality through implementation of best management practices throughout site design and through retro-fits, conservation of forests, conservation of species and preservation of vistas and aesthetic corridors. It should also set forth preferences for long term preservation and maintenance of land set aside for conservation during the development process.

Specific Comments

1. Page 63 references the development of a “resource conservation ordinance” to “support the environmental plan”. The text states that the ordinance will address wellhead protection, groundwater recharge areas, preservation corridor setback, and buffer requirements. Chapter 9 describes the environmental plan; but its intent and implementation are not clear. A “preservation corridor setback requirement” is discussed, but not explained. It also states that a riparian buffer standard could be an “alternative” to setback or screening requirements.
2. The correct technical term is “designated uses” not “reasonable uses.” The sentence in Chapter 9, page 94 should say, “The goal of this legislation is to achieve water qualities which support designated uses, such as fishing, boating, swimming and other activities.”
3. The sentence below Table 15, page 95, should include the word “Tributary.” It should read, “As the process continues to the actual TMDL development stage, a “Mispillion Tributary Action Team” will be established to include stakeholders (municipalities, farmers, concerned citizens and industries).”
4. The Area of Concern identified on the Growth Strategy Map contains significant natural resources. The future use of this land is not discussed, except in terms of

bringing public utilities to an existing sub-division. The plan should clearly state that the surrounding tract of land is inappropriate for development and that preservation and conservation is the goal for this area.

Wetlands

The City should require a wetlands delineation including a state and federal jurisdictional determination prior to subdivision approval.

Riparian and Wetland Buffers

DNREC would like to see on-going efforts to protect water quality within the Mispillion River watershed. This is especially important considering the rare species mentioned above and the number of state-owned ponds within the Milford 'chain of lakes' that provide recreational opportunities. This could be accomplished by including efforts to preserve forested areas and requiring 100-foot buffers (preferably forested) along riparian areas and around wetlands. Without protection, water quality could be affected considering the cumulative impacts from the current level of development.

Water Supply

The Source Water Protection Program has reviewed the revisions to the City of Milford's revisions to their comprehensive land use plan and found the following item(s):

1. (Chapter 8 – City Infrastructure) Table 13: City of Milford Public Water Supply Wells (page 73) was inconsistent with data that DNREC has on hand for their wells. More specifically, the pumping rates for wells 10 & 11 should be 250 gpm and 100 gpm respectively. Also the screen interval for well 11 should be 317-335 (not 215-254).
2. DNREC is glad to see text in their Comprehensive Plan (Chapter 9 Environmental Issues – page 103) indicating that they plan to develop regulations to protect wellhead protection areas and excellent ground-water recharge areas under a new Environmental Preservation ordinance. One change in wording that we would like to suggest would be to correct the second sentence to indicate that it is not DNREC Regulations that are requiring Source Water Protection, but the Source Water Protection Law of 2001 (SB 119, 141st General Assembly, 2001) which called for the protection of wellhead protection areas, source water watersheds, and areas of excellent ground-water recharge.

The Source Water Protection Program would gladly welcome the opportunity to discuss options with the City on ways that protection can be achieved without greatly impeding development around these areas.

Drainage

Note: These comments may be more appropriate to include in an ordinance rather than the Comprehensive Plan, but would apply to any lands being designated for development.

The Drainage Section strongly recommends any drainage conveyance between two parcels within a subdivision be dedicated as a drainage easement and such easement be designated as passive open space, not owned by individual landowners. The easement should be of sufficient width to allow for future drainage maintenance or the reconstruction of drainage conveyances as described below:

- Along an open ditch or swale, the Drainage Section recommends a maintenance equipment buffer of 25' measured from the top of bank on the maintenance side, and a 10' setback buffer measured from top of bank on the non-maintenance side. These buffers should be vegetated and maintained to aid in the reduction of sediment and nutrients entering into the drainage conveyance. Grasses, forbs and sedges planted within these buffers should be native species, selected for their height, ease of maintenance, erosion control, and nutrient uptake capabilities. Trees and shrubs planted within the maintenance buffer should be native species spaced to allow for drainage maintenance at maturity. Trees should not be planted within 5 feet of the top of ditch to avoid future blockages from roots.
- Along a stormwater pipe, the Drainage Section recommends a maintenance equipment buffer of 15' each side of the pipe as measured from the pipe centerline. This buffer should be vegetated and maintained to aid in the reduction of sediment and nutrients entering into the drainage conveyance. Grasses, forbs and sedges planted within these buffers should be native species selected for their height, ease of maintenance, erosion control, and nutrient uptake capabilities. Trees and shrubs planted within the maintenance buffers should be spaced to allow for drainage maintenance at maturity.

The above-mentioned easement and buffer widths are necessitated for the maintenance and/or reconstruction of drainage conveyances. For the further enhancement of water quality, and the protection and preservation of green infrastructure, the Drainage Section encourages additional buffer widths within the Mispillion River and Cedar Creek watersheds.

The Drainage Section recommends any drainage/utility easement owned by an individual landowner should not have structures, decks, buildings, sheds, kennels, fences or trees within the drainage easement to allow for future drainage maintenance.

The Drainage Section requests all existing ditches on the property to be developed be checked for function and cleaned if needed prior to the construction of homes. Wetland permits may be required before cleaning ditches.

The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

Rare Species

DNREC comments are the same as those submitted for the comprehensive plan in March of 2004. There are rare species on some of the parcels designated for development or as 'purchased development rights' and we would like to see efforts to avoid impacts to those species employed. Exact locations of these species can be obtained by contacting the Natural Heritage Program at 653-2880.

State Fire Marshal's Office – Contact: John Rossiter 739-4394

The Delaware State Fire Marshal's Office has not objections to the amendments to the Comprehensive Plan. Site plan approval is required from the DE State Fire Marshal's office prior to any recordation and or construction.

Department of Agriculture - Contact: Mark Davis 739-4811

The Department of Agriculture is opposed to the annual updates and amendments to Milford's comprehensive plan. The City of Milford is encouraged to focus on plan implementation rather than plan amendments at least through 2008. With that being stated, DDA focused our attention on the annexation portion of the comprehensive plan.

Although DDA does not support the southern expansion of the annexation plan at this time, they do not oppose it either. Regardless of the jurisdiction responsible for the area south of Milford, DELDOT would need to have agreements in place with landowners to hold the land for possible by-pass options. Whether or not those agreements require county or municipal buy-in is not relevant. Regardless of the bypass options, DDA was pleased to learn that the City of Milford does not desire to grow outside of the city fire district to the south. It is the hope of DDA that the OSPC will hold the town to this intent.

DDA strongly opposes any northern expansion of the city limits. This area to the north is not logically or intuitively a part of the city of Milford's. This area is still agricultural. In fact, this area is a thriving and viable agricultural area, whether or not it is a part of the ridiculously large Kent County growth area. In addition, there are recently enrolled agricultural preservation district which lay adjacent to the current town northern limit. These districts should serve as a natural northern boundary for the City of Milford.

Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Delaware State Housing Authority – Contact Karen Horton 739-4263

The City of Milford Comprehensive Plan Amendment modifies the Land Use Plan and expands the Annexation Plan in Kent and Sussex Counties. The plan proposes directing commercial and industrial development to the northwestern quadrant of the City in response to the proposed transportation improvements in the area. The plan also proposes expanding zoning classifications and codes to allow mixed use and cluster development to preserve open space. Furthermore the plan proposes to ease residential development demand in the southeast quadrant through annexation under lower density residential classification as well as consideration of urban mix land uses.

The annexation of land at lower density creates difficulty in rezoning land for higher densities in the future. DSHA encourages the annexation of land that allow for the greatest density to permit a variety of housing options and prices. DSHA also supports the plan's proposed urban mix land use zone because it blends commercial and residential together, thereby locating housing near existing markets and services. This, in concert with DSHA's "Live Near Your Work" initiative, will provide incentives for new and existing homebuyers to locate in the City, close to schools, recreation, and cultural amenities.

Delaware Emergency Management Agency – Contact: Don Knox 659-3362

The City of Milford addresses Public Safety issues such as adequate police, fire, and medical coverage in the Comprehensive Plan Amendment. They also followed a recommendation of the Milford Hazard Vulnerability Assessment, completed under a grant from DEMA in 2000, to move the Water & Wastewater Department from the banks of the Mispillion River, into a new Public Works Center designed to accommodate emergency operations for the Police Department, in the event of severe flooding at the Police Station. In addition, they are working to control growth in flood prone areas through proper zoning and building codes.

Delaware Economic Development Office – Contact: Dorrie Moore 739-4811

The Delaware Economic Development Office (DEDO) has no objections to the 2005 Plan Amendment but would like to ask the City of Milford to seriously consider leaving the remaining Business Park land north of Airport Road zoned "Industrial". The rezoning of this land to "Institutional/Public" will limit economic development opportunities at the site.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

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March 16, 2005

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

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the printed name and title.

Constance C. Holland, AICP
Director

CC: Davis, Bowen & Friedel
Kent County
Sussex County