



**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION**

April 23, 2012

Mr. Gary Norris  
City of Milford  
201 S. Walnut Street  
Milford, DE 19963

RE: 2012-03-04; City of Milford Comprehensive Plan Amendment

Dear Mr. Norris:

Thank you for meeting with State agency planners on March 28, 2012 to discuss the proposed City of Milford draft comprehensive plan amendment to include mapping changes to the Urban Growth boundary map and the Future Land Use map to add a portion of parcel number 130-6.00-94.00 so that this parcel can be considered for annexation into the City of Milford. If annexed, the City intends to use the site for a city electric substation.

Please note that changes to the plan, 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.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: 739-3090**

The parcel that is the subject of this plan amendment is split by the urban growth boundary. It is the intention of the City of Milford to consolidate the entire parcel in the urban growth boundary with a common land use designation. Upon adoption of the amendment, the City intends to annex the parcel in its entirety and utilize it for a public utility use. The portion of the parcel located outside of the current urban growth boundary is in Investment Level 3. Our office has no objections to this plan amendment.

**State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685**

- There are no known cultural or historic resources of any kind, including an Archeological Site or National Register-listed property on this parcel. However, if there is going to be any type of development or construction project in the future, the developer

should be aware of Delaware's Unmarked Human Burials and Human Skeletal Remains Law, which is outlined in Chapter 54 of Title 7 of the Delaware Code.

Abandoned or unmarked family cemeteries are very common in the State of Delaware, and often they are on historic farm sites, rural areas or open space lands. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law (Delaware Code Title 7, Chapter 54), and such remains or discoveries can result in substantial delays while the procedures required under this law are carried out. The Division of Historical & Cultural Affairs recommends that owners and/or developers have a qualified archaeological consultant investigate their project area for the presence of such a cemetery. If a cemetery is discovered, it is very costly to have it archaeologically excavated and the burials moved. In the event of such a discovery, the Division of Historical & Cultural Affairs recommends that the plans be re-drawn to leave the cemetery on its own parcel or in the open space area of the development, with the responsibility for its maintenance lying with a homeowners association or development. If you need or would like to read more information that pertains to cemeteries or unmarked human remains, please go to the following websites for additional information at [www.history.delaware.gov/preservation/umhr.shtml](http://www.history.delaware.gov/preservation/umhr.shtml) and [www.history.delaware.gov/preservation/cemeteries.shtml](http://www.history.delaware.gov/preservation/cemeteries.shtml).

Prior to any demolition or ground-disturbing activities (such as development or construction activities), the developer should consider hiring an archaeological consultant to examine the parcel for archaeological sites, such as a cemetery or unmarked human remains.

- If there is any federal involvement with the project, in the form of licenses, permits, or funds, the federal agency, often through its client, is responsible for complying with Section 106 of the National Historic Preservation Act (36 CFR 800) and must consider their project's effects on any known or potential cultural or historic resources. Owners and developers who may plan to apply for an Army Corps of Engineers permit or for federal funding, such as HUD or USDA grants, should be aware of the National Historic Preservation Act of 1966 (as amended). Regulations promulgated for Section 106 of this Act stipulate that no ground-disturbing or demolition activities should take place before the Corps or other involved federal agency determines the area of potential effect of the project undertaking. These stipulations are in place to allow for comment from the public, the Delaware State Historic Preservation Office, and the Advisory Council for Historic Preservation about the project's effects on historic properties. Any preconstruction activities without adherence to these stipulations may jeopardize the issuance of a permit or receipt of funding if it is determined that such opportunity to comment has been foreclosed. If you need further information or additional details pertaining to the Section 106 process and the Advisory Council's role, please review the Advisory Council's website at [www.achp.gov](http://www.achp.gov).

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle  
739-9071**

**Hazardous Waste Sites**

- If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C., Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware *Regulations Governing Hazardous Substance Cleanup* shall be followed.
- Should a release or imminent threat of a release of hazardous substances be discovered during the course of future development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.
- Although the Site Investigation and Restoration Section (SIRS) has no specific comments regarding the proposed comprehensive plan at this time, if any future development occurs on sites with previous manufacturing, industrial, or agricultural use, SIRS strongly recommends that the land owner(s) perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (including a title search to identify environmental covenants) in accordance to Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.
- There is one SIRS site located within a ½ mile radius of the proposed amendment area: Fitzgerald Auto Salvage (DE-1315). A Site Investigation was performed on the Site in 2005. The investigation found some exceedances in soil and groundwater. The Site is involved in negotiations to join the Voluntary Clean-up Program (VCP).
- There are no Groundwater Management Zones (GMZs) within a ½ mile radius of the proposed amendment area.

***Approval Procedures:***

1. Once all edits, changes and corrections have been made to the plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.

2. The City shall report back to the Office of State Planning Coordination regarding adoption of any Review or Amendment, and forward the office any relevant meeting minutes, resolutions, ordinances and a copy of the final Plan Review or Amendment text and maps as adopted.

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

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP  
Director, Office of State Planning Coordination