



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

December 23, 2015

Mr. Rob Pierce
City of Milford
201 Walnut Street
Milford, DE 19963

RE: PLUS review 2015-11-01, City of Milford Comprehensive Plan Amendment

Dear Rob,

Thank you for meeting with State agency planners on November 25, 2015 to discuss the proposed comprehensive Plan Amendments for the City of Milford. The amendment changes the Future Land Use designation of certain parcels along the east side of Route 1 within the Southeast Neighborhood Master Plan.

Recommendations: Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

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

This proposal represents an amendment to the Southeast Neighborhood Master Plan. The SE Neighborhood Master Plan was the result of a broad and inclusive planning process that took over three years to complete. The process was unique in that the City and various State agencies, including the OSPC, DelDOT, DNREC and the DDA, entered into a partnership to create the Master Plan. An extensive public participation element was a part of the process, with local residents and property owners actively giving input and responding to various model land use scenarios. In the end, the entities prepared plan elements based upon their areas of expertise and the plan was ultimately adopted by the City of Milford. To demonstrate the agencies continued commitment to implement the Master Plan, the Cabinet Secretaries and Directors of the OSPC, DDA, DNREC, and DelDOT signed an agreement along with Milford's Mayor.

With this as background, it is our recommendation that the City reconvene the parties to the Master Plan to more thoroughly evaluate this proposed land use change. This is a significant

deviation from the land use concept proposed in the Master Plan, and a change such as this could have impacts on other plan elements including transportation, environmental protection, agricultural preservation and the proposed TDR program. It is also highly recommended that the public be fully engaged and consulted about this proposed Master Plan amendment.

The OSPC will fully participate, and will work with the relevant State Agencies to coordinate their activities and participation in this process.

Here are some initial thoughts about the proposed land use change:

- Some of these parcels (probably all except 3-30-11.00-56.00) were considered for commercial use during the initial phases of the Master Plan. Commercial use for these parcels was not ultimately recommended due to difficulty gaining road access and the proximity to low density residential uses. It was also decided to place a higher density “TDR Receiving Area” in this location. The location is important due to the link to the proposed public transportation network (transit loop) and the need to include a higher density “node” with capacity to absorb TDR credits.
- The access issues were discussed at a meeting with DelDOT on July 29, 2015. At that meeting DelDOT reviewed a number of legal and technical impediments to gaining commercial access in this location. These issues will have to be addressed and resolved through the Master Planning Process.

Finally, it will be important for the City of Milford to address the Master Plan amendment and the overall Comprehensive Plan update in a methodical fashion. This is the third plan amendment proposed and reviewed through PLUS since May of 2015. Comprehensive Plans and Master Plans are long range planning documents, and should not be amended on a regular basis or in a piecemeal fashion. It is recommended that the City of Milford work on an overall schedule to complete the update to the comprehensive plan and the Master Plan that avoids incremental and piecemeal amendments. In this way, predictability will be ensured while also allowing for due process through the participation in the update cycles.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- DelDOT has no regulations that directly affect the City with regard to the proposed amendment. However, DelDOT does have regulations that bear on how the subject lands can be accessed and that access may influence the City’s consideration of the proposed amendment.

Section 1.2 of DelDOT’s Development Coordination Manual contains the policy with regard to entrance location (Section 1.2.1) and deeded access rights (Section 1.2.2). In accordance with these sections, the subject lands can be accessed as follows. The Mr. Wiggles property (Tax Parcel No. 3-30-11.00-56.00) can obtain access only on Bucks Road (a.k.a. Beaver Dam Road, Sussex Road 210). The Thawley property (collectively Tax Parcel Nos. 70.00, 70.02, 70.03, 70.05, 70.06 and 70.07) has access at a single point on Delaware Route 1 for the purpose of maintaining the existing farm on Parcels 70.00,

70.02 and 70.03 and one house each on Parcels 70.00, 70.05, 70.06 and 70.07. The Thawley property also has access for the same purposes at the south end of Thawley Lane in Knollac Acres. Parcel 70.03 could obtain access for commercial purposes on Cedar Neck Road (Sussex Road 206) although DelDOT acknowledges that a bridge approach may limit what can be built along the frontage of the Thawley Property on Cedar Neck Road.

Delaware Code Title 17, Section 145, authorizes DelDOT to develop and maintain a Corridor Capacity Preservation Program (CCPP) by which DelDOT manages access along high-volume roads included in that program for the purpose of maintaining the flow of through traffic. Delaware Route 1, from Dover Air Force Base to Nassau, is in the CCPP. Therefore, because the subject lands have other access as discussed above, DelDOT will not permit these lands to have commercial access on Route 1.

While DelDOT respects the City's right to designate future land uses and zoning as it sees fit, we suggest that there may be other locations in the city better suited for highway commercial development. As mentioned above, some limited commercial access to Tax Parcel No. 70.03 is possible on Cedar Neck Road. However, the assembled parcels would total about 118 acres and access suitable for serving this much commercial development on the Thawley property is only possible on Bucks Road, about 1.2 miles from the Route 1 interchange at Delaware Route 30 and about 1.7 miles from the Route 1 interchange at Delaware Route 36. While the subject parcels are visible from Route 1, in DelDOT's experience most highway commercial uses want more direct access.

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

With the exception of new comments on sea level rise, the comments that DNREC submitted in March 2011 on the Milford SE Planning Area are still valid.

Sea Level Rise.

- Portions of the City of Milford and its surroundings will be subject to direct and permanent inundation from sea level rise (<http://www.dnrec.delaware.gov/Pages/SLRMaps.aspx>). Sea levels in Delaware have risen by about a foot over the past century (NOAA, 2014). This rate of sea level rise is likely to accelerate in the coming decades as a result of global climate change and local subsidence. Accelerated sea level rise will result in permanent flooding of low-lying coastal areas, increased risk of flood damage during storms and increased frequency of nuisance flooding (DNREC, 2012).

Recommendations:

1. The City should consider additional land use controls for the areas subject to 1.5 meter of sea level rise.

2. To reduce the costs of providing infrastructure the City should consider not permitting roads, sewer or water to be extended into areas subject to 1.5 meter of sea level rise.
3. The City should consider avoiding new structures within a mapped Sea Level Rise Area. Where such development cannot be avoided, new structures should be built with an additional 18 inches of freeboard to protect the health, safety and general welfare of people occupying and using the structures.
4. If you would like any additional information please contact Delaware Coastal Programs at (302) 739-9283.

References:

NOAA (National Oceanic and Atmospheric Administration). (2014). Mean Sea Level Trend, Lewes, DE. Retrieved from http://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?stnid=8557380.

DNREC Delaware Coastal Programs. (2012). Preparing for Tomorrow's High Tide: Sea Level Rise Vulnerability Assessment for the State of Delaware. Dover, DE: Department of Natural Resources and Environmental Control. Retrieved from <http://de.gov/slrva>.

State Historic Preservation Office – Contact: Terence Burns 7367404

There is an existing 19th-c. agricultural complex (S03743) on one of the parcels proposed for commercial rezoning. This complex is not eligible for the National Register of Historic Places. However, documentary research done in this area notes the presence of the Hill Family Cemetery on the parcel to the north of this complex. The exact location is not known.

Abandoned and unmarked family cemeteries are common on farms in Delaware. Disturbing unmarked burials triggers Delaware's Unmarked Human Burials and Human Skeletal Remains Law of 1987 (7 Del. Code Ch. 54). Such discoveries can result in substantial delays while the procedures required under this law are carried out. DHCA recommends that owners and/or developers have a qualified archaeological consultant investigate their project area for the presence of such a cemetery. If one is discovered and delineated, it is very costly to have it archaeologically excavated and the burials moved. DHCA recommends that in the event of such a discovery, the plans be redrawn 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 owner. (For further information, see <http://history.delaware.gov/preservation/umhr.shtml> and <http://history.delaware.gov/preservation/cemeteries.shtml>)

Please note that changes to the plan, could result in additional comments from the State. Additionally, the lack of comments reflect only issues that are the responsibility of the agencies represented at the meeting.

Once a decision has been reached on this proposed comprehensive plan amendment, please forward a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan.

Thank you for the opportunity to review this Comprehensive Plan 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". The signature is written in black ink and is positioned above the typed name and title.

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