STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF STATE PLANNING COORDINATION

October 25, 2023

Thomas Quass
Town of Milton
115 Federal Street
Milton, DE 19968

RE: PLUS review – 2023-09-02; Milton Comprehensive Plan Amendment to Future Land Use/Expansion Map

Dear Mr. Quass:

Thank you for meeting with State agency planners on September 27, 2023 to discuss the proposed Milton comprehensive plan amendment. According to the application, the Town desires to amend Exhibit G: Future Land Use/Potential Expansion Map to expand the Growth Area Boundary to the north, south, and west to include large parcels previously identified for the Large Parcel Development (LPD) Overlay.

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: Dorothy Morris (302) 739-3090

As part of the 5 year review, the Town of Milton is proposing to add approximately 1,700 acres to Exhibit G, Future Land Use and Potential annexation, map of the comprehensive plan. These town has also identified the parcels to be added with a future land use of Large Parcel Development.

After review of the amendment and the discussion at the PLUS meeting, our office has some significant questions and concerns about the proposal. The Town has not provided any evidence that the planning process involved meaningful analysis of the potential benefits and impacts of including the additional lands in the annexation area. When asked for evidence of the planning process the Town forwarded documents related to the proposed Transportation Improvement District (TID) that were developed

by DelDOT. However, as is detailed below the proposed new annexation area is not consistent with the TID, and in fact it is our concern that the annexation area may undermine the effectiveness of the TID. There is no evidence that the Town has engaged in meaningful intergovernmental coordination with Sussex County. And finally, multiple parcels totaling over 800 acres are currently located in Investment Level 4 of the *Strategies for State Policies and Spending* and the Town has provided no rationale to help our office evaluate whether it is justified to support these lands moving into a growth and annexation area.

Here is some additional details about our concerns and questions:

1. The town is currently in the final planning stages of a Transportation Improvement District Agreement with DelDOT. The original land use modeling has been completed; however, the proposed amendment includes 5 additional parcels which were not included in the TID planning. If approved, the Department of Transportation would need to reevaluate the land use models to include these additional parcels before and agreement can move forward.

2. In order to include the proposed properties into the TID agreement the properties must be part of the town boundary or Sussex County must agree to be a participant in the TID. If an agreement cannot be reached with the county, the town would have to focus on the annexation of well over 1,700 acres of property proposed, in the addition to any land that would make these proposed properties contiguous to the existing town boundary For the parcels to be included within the proposed TID. The information included with the application discusses the TID and the land use forecasts/modeling done for the TID agreement. It did not include minutes or discussions by the town to evaluate the effects such an aggressive annexation plan will have on the towns infrastructure, staffing, etc. If these properties are not annexed into the town the development would be at the discretion of the county.

3. Sussex County did not comment on the PLUS review. The information included with the application showed no evidence of intergovernmental coordination regarding these properties and the future land use that is proposed under county control vs development under Milton control.

4. Of the over 1,700 acres proposed for this amendment over 800 acres are included in the proposed amendment that were not initially included in the proposed TID boundary. These 800 acres are located within a Level 4 area according to the 2020 Strategies for State Policies and Spending. In addition, almost 200 acres are located within Level 3 and 4 according to the Strategies. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer-term future, or areas that may have environmental or other constraints to development. Investment and Level 4 indicates where State investments will support agricultural preservation, natural

resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4. Level 4 area are often comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be, and in many cases have been preserved.

From a fiscal responsibility perspective, development of this site is likewise inappropriate. The cost of providing services to development in rural areas is an inefficient and wasteful use of the State's fiscal resources. Over the longer term, the unseen negative ramifications of this development will become even more evident as the community matures and the cost of maintaining infrastructure and providing services increases.

5. As noted below by DNREC, there are environmental concerns on many of the properties proposed for annexation/development.

While the State understands the towns desire to control the growth happening around its existing borders, we request that the town table this amendment until further discussions can be had with state agencies and the county to reconcile the growth planned in and around the Town and align it with the currently proposed TID area. One path forward may be to master plan this area to determine how to accommodate growth and infrastructure investments in the future while also protecting and preserving the agricultural and natural resources that are present in the Level 4 areas.

We look forward to meeting with the Town and other entities to continue the discussions about this amendment. Please be advised that if the town decides to move forward with the amendment as submitted, the Office of State Planning Coordination reserves the right to object to the approval as per Title 29, Section 9103 (d) of the Delaware Code. Such an objection would begin a 45-day negotiation period and could result in a referral of the matter to the Cabinet Committee on State Planning Issues for Dispute Resolution.

<u>Department of Transportation – Contact Stephen Bayer (302) 760-4834</u>

- DelDOT has no comments on the specific amendment to the Future Land Use/Potential Expansion Map. If these locations are developed in the future, it may be necessary to apply for applicable permits.

- If the Comprehensive Plan Amendment is ultimately approved, the TID boundary should be revised to match the new growth area more closely, especially to include the additional parcels on the south side that are not presently in the TID. This TID boundary change should be coordinated by Town staff with DelDOT and Sussex County, prior to the development of the additional TID elements, such as the list of transportation improvements and fee schedule.

The Town will need to provide parcel-specific future land use information for the additional parcels to DelDOT for inclusion in the TID traffic modeling. Ms. Sarah Coakley, Principal Planner for DelDOT's Statewide & Regional Systems Planning, can answer additional questions related directly to the TID. She can be reached at 302-760-2236 or sarah.coakley@delaware.gov.

Department of Natural Resources and Environmental Control – Contact Beth Krumrine (302) 735-3480

Disclaimer Clause: Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the project submitted for PLUS review. The absence of comments regarding specific resources does not indicate that there are not additional constraints or environmental issues on site, nor does it indicate DNREC support of a project. Developers and municipal officials are encouraged to reach out to Beth Krumrine at (302) 735-3480 or Beth.Krumrine@delaware.gov if they have any specific requests for information.

Growth and Expansion
According to the DNREC Surface Water Discharges Section, the Town of Milton may be subject to future permitting requirements through Delaware's Municipal Separate Storm Sewer System (MS4) Program depending on the outcome of the next census. Visit https://dnrec.alpha.delaware.gov/water/surface-water/npdes/municipal-storm-sewers/ for more information. Please direct any questions to the DNREC Surface Water Discharges Section at 302-739-9946.

Annexation of Proposed Parcels
The Broadkill River and Wagamons Pond lie at the heart of Milton, so protecting water quality is vital if such areas are to be developed in the future. Proper environmental ordinances should be put into place to protect environmental features such as mature forest, Natural Areas, and rare/endangered species. It is also recommended to establish 100-foot buffers from all wetlands and waterways.

A detailed environmental analysis was not conducted at this time due to mislabeling and/or misinterpretation of the GIS map provided in the original application. For further assistance with ordinance development and/or refining the findings herein, please contact Beth Krumrine with the DNREC Sustainability Team at (302) 735-3480 or Beth.Krumrine@delaware.gov.

Parcels 235-20.00-2.00, 235-19.00-37.00, 235-25.00-1.00, 235-25.00-11.00, 235-25.00-35.00, 235-25.00-46.00, 235-25.00-56.00, and 235-26.00-16.00 contain or lie within one or more of the following:

- Broadkill River Natural Area
- Key Wildlife Habitat

- State Wildlife Management Areas
- Delaware Ecological Network
- Forested wetlands
- Mature forest
- Rare habitats
- Rare and endangered species

Broadkill River Natural Area

Natural Areas contain lands of statewide significance as identified by the Governor's Natural Areas Advisory Council. Reduce environmental impacts in and near Natural Areas by avoiding development or disturbance to sensitive natural features such as wetlands, mature forests, and riparian buffers.

For more information, contact the DNREC Division of Parks and Recreation, Office of Nature Preserves at (302) 739-9039.
Website: https://dnrec.alpha.delaware.gov/parks/natural-areas/

Key Wildlife Habitat

Habitat is considered to be Key Wildlife Habitat in the Delaware Wildlife Action Plan when:

- The habitat is rare within the State of Delaware;
- There is the potential for Species of Greatest Conservation Need on the site; or
- The area is part of a larger wetland complex or larger forested.

For more information, contact the DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.
Website: https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/

State Wildlife Management Area (Wegamons Pond)

One parcel proposed for annexation lies within 0.5 miles of Wegamons Pond, a State Wildlife Area managed by the DNREC Division of Fish and Wildlife. Development within the vicinity of this area could impact both the quantity and quality of wildlife habitat in the State Wildlife Area.

Please contact the Regional Wildlife Biologist, Rob Gano, at (302) 539-3160 to discuss ways to minimize negative impacts from future development on nearby State Wildlife Area lands.

Delaware Ecological Network

The Delaware Ecological Network is a statewide network of interconnected lands of significant ecological value. This GIS data layer is based on principles of landscape ecology and conservation biology, providing a consistent framework to identify and prioritize areas for natural resource protection. Removing forested areas within the Delaware Ecological Network should be avoided to the greatest extent possible. These areas provide wildlife habitat, uptake nutrients, infiltrate stormwater, and improve water quality.

For more information, contact the DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.
Website: https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/

Forested Wetlands

Forested wetlands support an array of plants and animals, most notably wetland dependent species such as amphibians.

For more information, contact the DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.
Website: https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/

Mature Forest

Mature forests have likely maintained some degree of forest cover since 1937. Mature forests possess the potential for rare, threatened, or endangered species that rely on this type of habitat.

For more information, contact the DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.
Website: https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/

Rare Habitats

Rare habitats have been identified one or more of the parcels above.

- Some of the parcels have the potential to contain a rare habitat type called Coastal Plain Seasonal Pond, typically found in forested wetlands. Such isolated wetlands are not afforded regulatory protection but possess high ecological value. This wetland type provides breeding habitat for a variety of animals such as frogs and salamanders, and often supports a unique assemblage of plants and animals that are rare to Delaware.

- One parcel possesses Atlantic white cedar communities, a state-rare wetland type. These trees typically grow under unique hydrological conditions which also provides specific habitat for certain rare species. These areas are sensitive to sedimentation and changes in water quality, so minimizing disturbance to these areas is of utmost importance.

- Select parcels have the potential to contain a rare habitat type called Sand Ridge Forest. These forests are typically composed of several species of oak, as well as species of hickory and pine. The sand ridge forest type is often home to several state-rare plant species and one species in particular, wild lupine, and is the host plant for a state-listed endangered and globally rare butterfly, the frosted elfin. More surveys are needed; however, there is potential for other rare and uncommon insects and animals to be found within this forest type.

For more information, contact the DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.
Website: https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/

Rare and Endangered Species

Rare and endangered species have been identified one or more of the parcels above.

- One parcel lies within potential habitat for the Delmarva fox squirrel. Threatened mainly by loss of forested habitat and overhunting, this species was federally protected from 1967 to 2015. It now remains on the Delaware list for state endangered species.

- The ironcolor shiner and black-banded sunfish are state-rare species that have been documented directly adjacent to one of the parcels above.

- Several state-rare plant species have been documented downstream from one parcel, including the grassleaf arrowhead, water bulrish, cutleaf water-milfoil, big floatingheart and the prickly coontail.

For more information, contact the DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600.
Website: https://dnrec.alpha.delaware.gov/fish-wildlife/conservation/

Delaware Emergency Management Agency – Contact Phillip Cane (302) 659-2325

- DEMA has no objections, concerns or comments for the comprehensive plan map amendment.

State Historic Preservation Office – Contact Carlton Hall (302) 736-7400

- The Delaware SHPO has no comments at this time. If there are any questions, inquiries, or concerns, feel free to contact the Delaware State Historic Preservation Office for assistance.

Delaware State Fire Marshall's Office – Contact Duane Fox (302) 739-4394

- The DE State Fire Marshal's office has no objection to amend the Future Land Use/ Potential Expansion Map to expand the boundaries.

Once the amendment is voted on by Planning and Zoning and/or Town Council, please forward a copy of the decision regarding the amendment to this office for our files. Thank you for the opportunity to review this amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David L. Edgell, AICP
Director, Office of State Planning Coordination