

**CITY OF MILFORD  
PLANNING COMMISSION**

*Minutes of Meeting  
April 21, 2009*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, April 21, 2009.

PRESIDING: Chairman Brendon Warfel

IN ATTENDANCE: Commissioners Chuck Rini, Kim Stevenson, Dirk Gleysteen, Karen McColley, Marvin Sharp, John Kramlich, Jamie Burk

ALSO: City Planner Gary Norris, Department Administrative Assistant/Recording Secretary Christine Crouch, and Electric Department Superintendent Rick Carmean

COUNSEL: City Solicitor Timothy Willard

Mr. Warfel called the meeting to order at 7:00 pm.

***APPROVAL OF MINUTES***

With a motion by Mrs. Stevenson, seconded by Mr. Kramlich, the minutes from the March Planning Commission meeting were approved as written.

***UNFINISHED BUSINESS***

***Amendment to City of Milford Signage Requirements/Chapter 230; Zoning Code***

Warfel confirmed this item would be discussed as the last item on the agenda.

***NEW BUSINESS***

***Proposed New Lighting Requirements/Q&A with Electric Department Superintendent Rick Carmean***

Mr. Warfel explained the commission has been working on a new ordinance for lighting and have with us the Electric Department Rick Carmean here so we can have question and answers with him. Mr. Norris had previously provided Mr. Carmean a copy of the proposed lighting ordinance that Mrs. Stevenson had given the commission and Mr. Norris was interested in Mr. Carmean's thoughts on it. Mr. Carmean stated the ordinance will come into play because his department is working on an LED lighting for the City. The pole cut off lighting or the dark sky lighting, back in 2000 and have been replacing on an as needed basis. The only few issues he has concern the height requirements of the lighting. He would need it stay above the phone and cable tv wires are on the poles. That usually puts the lighting in at the 30' mark. The wattage is going to change, and he is unsure how the wattage is going to work when the City goes to LED lighting. For right now we are using 100 and 400 watt street lights. There are a few 150 watt lights also.

Mr. Norris asked if there is anything in the proposed ordinance that Mr. Carmean finds objectionable or out of line. Mr. Carmean stated no. He only commented he would like the City street lights to remain above the phone and cable lines. In regards to new construction lighting on free standing poles, he feels most poles are on the property line so if the poles are in the middle of the two poles, it will be in someone's front yard and look like a picket fence. There would be alternating light poles and then electric poles.

Mrs. Stevenson felt all questions were answered by Mr. Carmean, particularly with how high things should go and if the ordinance would be a hardship.

Mr. Gleysteen asked for Mr. Carmean's opinion on the prohibition of overhead electrical lines for new construction. Mr. Carmean stated most new construction is underground, so that rule does not bother the Electric department. When an upgrade is done though, it is overhead usually.

Mr. Rini asked if holiday lights could remain on display for 45 days instead of 30 days. No one felt that would be a problem.

Mr. Rini questioned what the City's perspective is on "good repair" of a lighting fixture. Mr. Carmean explained the maintenance of lighting would be a Code Enforcement issue, not an electric department issue. The electric department handles anything owned by the City, but Code Enforcement handles privately owned issues. Mr. Norris felt the property maintenance code would speak to the maintenance of such things. Mr. Carmean was not familiar with a light standard for the City but has been trying to push smaller security lights instead of the 30' pole with a 100 watt security light mounted on it, for residential areas anyway. This ordinance would assist in that effort.

Mr. Norris felt the next step would be to take these comments and revise the proposed ordinance and get into an ordinance layout and have Mr. Willard review and comments on it.

### **Davis, Bowen and Friedel, Inc on behalf of Silicato-Wood Partnership, LLC**

#### **Final Review and Recommendation of a Major Subdivision**

**14.45 +/- Acres into five lots at the corner of NE Tenth St and State Route 1 (608 NE Tenth St)**

**Tax Map MD-16-174.15-01-01.00 & MD-16-174.00-02-10.00; C-3 District**

#### **Adoption of Resolution PC09-009**

Mr. Randy Duplechain was present to represent the application. He explained all necessary approvals have been obtained. Mr. Warfel confirmed the plans look to be consistent with what has been approved by the city up to this point, i.e. preliminary major subdivision, site plans, conditional uses.

Mr. Duplechain explained the only change from the original submission to this one is the location of the Royal Farms from one end to another. The roadway alignment is essentially the same, and per DelDOT's requirements. Mr. Warfel asked if the area to the south is where the pump station is located, as well as the stormwater management pond. Mr. Duplechain confirmed.

Mr. Duplechain mentioned instead of sidewalks for this subdivision, DelDOT has required a multi modal path which is a 10' wide path. This has been consistent with what has been presented all along.

Mr. Norris requested an explanation of who is responsible for the road construction. Mr. Duplechain stated the developer will install the roadway system, which will then be turned over to DelDOT for maintenance. It will be built to DelDOT standards. The storm drainage will drain toward the highway, which is where it drains now, it will then be conveyed south to the stormwater management pond which is on the NKS property. Mr. Norris asked if there will be an HOA agreement for the maintenance of the stormwater pond. Mr. Duplechain stated yes.

Mr. Norris confirmed when the site plans come in, there will be landscaping for each lot.

Mr. Norris confirmed for Mr. Warfel the applicant has all required approvals, the lots are conforming and there are no changes since the original submission. The hotel lot has it's variance already.

Mr. Rini questioned the location of the termination of the walkway on lot 1 which curves around and starts going down 10<sup>th</sup> Street. Mr. Duplechain explained the termination location, stating where it is shown on plans

is correct, as per DelDOT's requirements. Mr. Kramlich confirmed these will be DelDOT maintained roads, not City maintained roads.

Mr. Warfel called for public comment. Hearing none, he closed the public hearing.

Mrs. Stevenson asked if anyone else is worried about safety with the second entrance in the middle, between NKS and Silicato property. She thinks once the bypass is in, it will be fine. Mr. Duplechain stated that in and out entrance is exactly as presented before. Mr. Warfel explained that DelDOT had already addressed this issue, stating once this is installed, it will increase the level of safety at the 10<sup>th</sup> Street intersection by taking traffic off of that intersection.

Mr. Rini made a motion to approve resolution PC09-009, seconded by Mr. Gleysteen. Motion carried with the following 7-0-1 vote:

Yes- Burk, Rini, Kramlich, Sharp, Gleysteen, Stevenson, Warfel

No-

Abstain- McColley

### **William & Virginia Jackson and Thomas & Tanja Payton**

#### **Final Review and Recommendation of a Change of Zone**

**.292 +/- Acres at 805 N DuPont Blvd**

**Tax Map MD-16-174.17-01-09.00, R-1 District to a C-3 District**

#### **Adoption of Resolution PC09-010 & Recommendation of Ordinance 2009-6**

Mr. William Jackson, the owner of the property, was present to represent the application. Mr. Warfel asked why he is asking for a change of zone. Mr. Jackson stated he feels the property is ideal for an attorney's office or a public accountant. Mr. Jackson does have something in mind. Mr. Warfel made Mr. Jackson aware if the change of zone is approved, a site plan review will be required, which will require DelDOT approval, which because of the location on the highway may be more difficult than a city street. It will be up to DelDOT. Mr. Jackson understands after the change of zone is approved, he will then to talk to Mr. Norris regarding the site plan process, which is when DelDOT approval, Soil Conservation approval and Fire Marshal approval is needed.

Mr. Norris stated this change of zone is in compliance with the new Comprehensive Plan but not the old one. It is in compliance with the 2008 Comp Plan, future land use. The expected certification will be in June. Mr. Warfel confirmed Mr. Jackson understood this change of zone would be contingent upon the 2008 Comp Plan certification.

Mr. Willard asked if any other commercial activity is near or neighboring this property. Mr. Jackson stated the bowling alley is near, the Dickinson medical center is across the street, Arby's, Sonic and the old Happy Harry's is a little bit down the street. The area is commercial, with the exception of Rogers Drive, which is residential.

Mr. Warfel called for public comment.

Ms. Virginia Van Tine of 901 Roosa Road stated this area has been residential as long as she has been alive and before that. This is her home and does not currently reside there full time, her husband is a pastor and so they move around. When they retire, they plan to move and live at 901 Roosa Road. She does not see the purpose of putting a commercial property in the middle of a residential district. She does not know anything about the new comp plan, has not heard a word about that, but just feels it's an inappropriate use of the property. The property itself is an odd shaped piece of property and there is not a lot of room for parking. She believes that with all of the extra unused commercial property that is south of this property, there is no need to change the

zoning for this house. Mr. Warfel stated he is familiar with Roosa Road and asked where Ms. Van Tine lives. She explained her home is right on the end as it comes to Rt 113, a white two story home.

Mr. Kramlich asked Mr. Norris if there is commercial on either side of this property. Mr. Norris stated not at this time. Mr. Kramlich felt this would be an island of its own then, if the zoning is changed to commercial.

Mrs. Stevenson mentioned if the comp plan is certified then the City has to rezone all property within 18 months to make them consistent with the comp plan. Mr. Willard explained although the language says that, no municipality has done that, and the City will not either. The certification of the comp plan will not automatically generate changes in zoning. Property owners will still have to come before the council to request it. The City uses the future land use map of the comp plan as a guide for people who want to rezone their property.

Mr. Tom Payton of 20576 Wilson Dr, Milford, asked if based on the comp plan, is it a requirement that property be rezoned within 18 months? Mr. Willard again explained per Title 29 of the Delaware Code, the City should adopt a comp plan every five years, etc. Although the law reads the zoning should be changed to match the certified comp plan within 18 months of adoption, it has not been done and towns only use it to make sure the applications are consistent with comp plan. Mr. Warfel confirmed the City has never demanded or required anyone to change their zone. However, if someone asks to change their zone and it is not consistent with the Comp Plan, the City would say no.

Mr. Warfel called for any additional public comments. Hearing none, closed the public hearing.

Mr. Kramlich made a motion to deny the change of zone application and resolution based on the residents' concerns and although there are other commercial across the road and down the road, it is in the middle of residential property.

Mrs. Stevenson asked if C3 is Highway Commercial and confirmed it incorporates C2 and C1.

Mr. Warfel called for a second to the motion.

Mr. Rini asked if since the commission has everything in the form of resolutions, shouldn't they make a motion to vote on the resolution and not say in favor of or opposed to since when voting they vote in favor or against? Mr. Willard explained any member is free to can make any motion they wish to, whether to deny or otherwise, due to strategic reasons or personal reasons or political reasons. If the motion is not seconded it doesn't move forward and if it is seconded, then the vote is taken. If the motion fails, that means another motion needs to be made.

Mr. Warfel called for a second to the motion to deny.

Hearing no second, the motion fails. Mr. Warfel called for another motion.

Mr. Sharp stated there are several residents that are out there and he respects the lady that came up, but there is only one person that showed up. Mr. Sharp then made a motion to approve resolution PC-010 pending the adoption of the 2008 comp plan. Mr. Gleysteen seconded the motion. Motion carried with the following 6-2 vote:

Yes- Burk, McColley, Rini, Sharp, Gleysteen, Warfel

No- Kramlich, Stevenson

**1175 S DuPont Blvd****Tax Map 1-30-6.00-099.01**

Mr. Warfel explained a preliminary site plan approval is valid for one year, at which time the project must receive either final approval or request an extension, which is why Mr. Geyer is here.

Mr. Bruce Geyer, the owner of the property, was present to represent the application. He explained he is seeking a one year extension on the Geyer Commercial complex. The preliminary site plan was obtained May 20, 2008 and he is still working to obtain outside agency approvals, primarily DeIDOT and Conservation District. Mr. Norris confirmed Mr. Geyer still intends to go through with the project. Mr. Geyer stated it is going slower, but still moving.

Mr. Warfel stated one year seems like a long time to get final approvals, but honestly when in the process of trying to develop something, one year goes by quickly. The one year approvals on preliminary site plan approvals are a good thing though because it keeps things in front of the commission and council.

Mr. Geyer stated the Slenker property behind his has had problems. Back when Mr. Geyer first came for approval, the original idea was to share some stormwater management, but now that they may or may not proceed, he questioned whether the City foresees a problem with him coming back for another extension if the issues with the stormwater are not resolved in a year. Mr. Warfel felt it would not be a problem because it does not cost the city any money, typically, to grant it. Mr. Norris stated the project would have to be presented to council where they would want to know exact reasons why a development has not proceeded. If Mr. Geyer can convince them based on agency approvals, that might be a reason for them to grant it. The only other advice Mr. Norris can offer is, since Slenker is not moving, may have to develop the stormwater facility on his own property. Mr. Geyer understood, and all the options are still being looked at.

Mr. Rini questioned the time table for the project. Mr. Geyer felt late fall, maybe November or December.

Mr. Warfel called for public comment. Hearing none, closed the public hearing.

Mrs. McColley made a motion to approve a one year extension on the Preliminary Site Plan, seconded by Mrs. Stevenson. Motion carried by unanimous roll call.

**Proposed Ordinance 2009-7/Chapter 230; Zoning/Source Water Protection District**

Mr. Norris explained that while this ordinance was previously written and approved by the commission and council, it is back before the City because during the comp plan review by DNREC, they felt some changes needed to be made. They have held their approval of the City's comp plan until the Source Water Protection District ordinance is revised and adopted. This is why the comp plan has not been signed by the Governor. Mr. Norris reviewed the changes DNREC has requested, which are in red.

**ORDINANCE NO. 2009-7**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 230, ZONING, SECTION 19.2 SOURCE WATER PROTECTION DISTRICT, BY ADDING PROHIBITED USES.**

**NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:**

Section 1. Amend §230-19.2 to read as follows:

## §230-19.2 Source Water Protection District

## D. Source Water Protection Standards.

## 5) Zone 1 Requirements

## a. Permitted Uses

1. Infrastructure, equipment, buildings, access and other uses associated with the well, distribution and treatment facilities of the water system and their maintenance.
2. Wells existing prior to December 31, 2007. No other structures or uses shall be permitted in Zone 1 unless the application, which shall demonstrate the proposed structure or use will not harm or potentially harm the public drinking water supply, is approved as a Conditional Use by City Council.

**b. Prohibited Uses**

1. ***See Table 01: Land Use Restrictions and Uses Source Water Protections Areas***

## 6) Zone 2 Requirements

## a. Permitted Uses

1. Uses permitted in the underlying zoning district may be permitted under an approved Conditional Use that protects the public drinking water supply for the City and meets the minimum requirements for stormwater management, impervious cover, above ground and underground storage tanks.

**b. Prohibited Uses**

1. ***See Table 01: Land Use Restrictions and Uses Source Water Protections Areas***

**c. Stormwater Management**

1. Stormwater shall be treated by an approved stormwater quality management practice in accordance with current requirements of the *Delaware Sediment and Stormwater Regulations* dated October 11, 2006 or as later revised.
2. For all new construction, all structures shall be required to discharge roof drains into recharge systems. Recharge systems shall be in accordance with Section 10.0 of the *Delaware Sediment and Stormwater Regulations* dated October 11, 2006 or as later revised.

**d. Impervious Cover**

1. Wellhead Protection Areas should not exceed 20% impervious cover. New development in this Zone may exceed the 20% impervious cover threshold within Wellhead protection Areas, but shall be no more than 50% impervious cover, provided the applicant submits an Environmental Assessment Impact Report as provided for in §230-19.2F indicating the additional impervious area will not have an adverse impact on the drinking water supply.

**e. Underground Storage Tanks (UST)**

1. Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained, and operated in accordance with the *Delaware Regulations Governing Underground Storage Tank Systems*, or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.) The property owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.
2. Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained and operated in accordance with the *Delaware Regulations Governing Underground Storage Tank Systems*. (NOTE: Regulated USTs must be constructed with secondary containment of the Tanks and piping and must have continuous monitoring for releases.) The property owner

shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.

*f.* Above Ground Storage Tanks

1. Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene shall be permitted in a delineated wellhead area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in the Delaware *Regulations Governing Aboveground Storage Tanks*.

7) Zone 3 Requirements

a. Permitted Uses

1. Uses permitted within the underlying zoning district unless prohibited by this Section.
2. Hazardous Waste Storage, Treatment, and Disposal Facilities, Hazardous Waste Generators, Sanitary and Industrial Facilities as defined in the Delaware Regulations Governing Hazardous Waste, Vehicle Repair, Salvage Operations, Waste Sludge Storage or Application, Solid Waste Landfills, Tire Piles and Dredge Spoil Sites shall not be permitted in Zone 3.

*b. Prohibited Uses*

1. *See Table 01: Land Use Restrictions and Uses Source Water Protections Areas*

*c.* Stormwater Management and Impervious Cover

1. There are no requirements contained in this section in order for the development to occur provided the impervious cover of that portion of the parcel within the excellent recharge area is thirty-five (35) percent or less.
2. Impervious cover of that portion of the parcel within the excellent recharge area *that is* ~~or~~ greater than thirty-five (35) percent but no more than sixty (60) percent is allowed provided the applicant demonstrates through a report prepared by a registered professional geologist or registered professional engineer familiar with the hydro geologic characteristics of the City of Milford and the surrounding areas using climatic water budget that post-development recharge quantity will meet or exceed the existing (pre-development) recharge quantity. Efforts to mitigate discharges to *pervious* ~~impervious~~ surfaces shall count towards the formula used to compute post-development mitigation of any discharges.
3. ~~For all new construction where the impervious surfaces exceed sixty (60) percent or where the level of post-development recharge is less than pre-development recharge, all structures shall be required to discharge roof drains into underground recharge systems or permeable surfaces that allow the discharges to infiltrate into the ground. Efforts to mitigate discharges to impervious surfaces shall count towards the formula used to compute post-development mitigation of any discharges.~~

*For all new construction, infill, and redevelopment within the Town Center as defined in Figure 14D Neighborhood Map-Town Center as it is delineated in the 2008 Comprehensive Plan impervious cover may exceed sixty (60) percent. All structures are required to discharge roof drains into underground recharge systems or permeable surfaces that allow discharges to infiltrate into the ground. The site plan is to consist of BMPs that include such items as pervious pavers, pervious concrete and infiltration practices designed to assure that recharge is maximized. The practices shall address water quality as well as overall water quantity.*

4. Discharge from roof drains, containment areas or impoundments that have run-off from an area that may contain contaminants from mechanical systems shall be segregated and treated prior to discharge.

*d.* Underground Storage Tanks (UST)

1. Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in a designated wellhead area if the USTs are

designed, constructed, maintained, and operated in accordance with the Delaware *Regulations Governing Underground Storage Tank Systems*, or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.) The property owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.

2. Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in zone 3 if the USTs are designed, constructed, maintained and operated in accordance with the Delaware *Regulations Governing Underground Storage Tank Systems*. (NOTE: Regulated USTs must be constructed with secondary containment of the Tanks and piping and must have continuous monitoring for releases.) The property owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.

*e.* Above Ground Storage Tanks

1. Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene shall be permitted in Zone 3 if the ASTs are designed, constructed, operated and maintained with the applicable requirements in the Delaware *Regulations Governing Aboveground Storage Tanks*.

**Table 01: Land Use Restrictions and Uses Source Water Protections Areas.** Activities shall be subject to the land use restrictions contained within this ordinance that will protect the quality and quantity of ground water supplies. All uses not permitted in the underlying zone district are prohibited. No – Prohibited; Yes – Allowed; C – Conditional

| <i>Land Use</i>  | <i>Well Head Protection Area</i> |               | <i>Excellent Ground-Water Recharge Potential Area</i> |
|--|----------------------------------|---------------|---|
|  | <i>ZONE 1</i>                    | <i>ZONE 2</i> | <i>ZONE 3</i>   |
| <i>Aboveground Storage Tanks</i>                                     | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Automobile body/repair shop</i>                                   | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Chemical processing/storage facilities</i>                        | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Dredge Spoil Sites</i>  | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Dry cleaner</i>   | <i>NO</i>                        | <i>NO</i>     | <i>NO</i>   |
| <i>Electrical/electronic manufacturing facility</i>                  | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Equipment maintenance/fueling areas</i>                           | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Fleet/trucking/bus terminal</i>                                   | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Gas station</i>   | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Hazardous Waste: Treatment, Storage &amp; Disposal Facilities</i> | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>† Dry Wells/sumps</i>   | <i>NO</i>                        | <i>C</i>      | <i>YES</i>  |
| <i>†† Injection wells</i>  | <i>NO</i>                        | <i>C</i>      | <i>C</i>  |
| <i>Junk/scrap/salvage yard</i>                                       | <i>NO</i>                        | <i>NO</i>     | <i>NO</i>   |
| <i>Machine shop</i>  | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Metal plating/finishing/fabricating facility</i>                  | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Mines/gravel pits</i>   | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>On-Site wastewater treatment and disposal systems</i>             | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Salvage operations</i>  | <i>NO</i>                        | <i>NO</i>     | <i>NO</i>   |
| <i>Sanitary and Industrial Landfills</i>                             | <i>NO</i>                        | <i>NO</i>     | <i>NO</i>   |
| <i>Tire Piles</i>  | <i>NO</i>                        | <i>NO</i>     | <i>NO</i>   |
| <i>Underground storage tanks</i>                                     | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Vehicle repair</i>  | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Vessel storage</i>  | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Waste sludge storage or application</i>                           | <i>NO</i>                        | <i>NO</i>     | <i>C</i>  |
| <i>Wood preserving/treating facility</i>                             | <i>NO</i>                        | <i>NO</i>     | <i>NO</i>   |

*† Dry wells/sumps, except for single-family residences directing gutter downspouts to a drywell*

*†† Injection wells other than those used in the remediation of ground water contamination that inject oxygen-releasing compounds*

**Section 2. Dates.**

Introduction to City Council: 04/27/09

Planning Commission Public Hearing: 05/19/09

Projected Adoption Date by City Council: 05/26/09

Projected Effective Date: 06/05/09

Mr. Gleysteen confirmed a change in ownership of property will not mandate compliance of this ordinance.

Mrs. Stevenson asked if city has a choice to not approve this ordinance to begin with. DNREC is basically not moving the comp plan forward until this ordinance changed. She asked what happens if the comp plan is not certified. Mr. Willard explained Smyrna had that issue and, under the previous administration, a withholding of funds is what they saw.

This ordinance will be seen at next month's commission meeting, where a motion will be made.

### **Amendment to City of Milford Signage Requirements/Chapter 230; Zoning Code**

Mr. Norris has included design standards for signs for the commission, per commission's request, as follows:

#### **Signage /Corporate Identification**

The architecture of the building should be viable and appropriate for its location and use regardless of the business identity. Commercial signage plans should reflect a balance between allowing adequate signage for business identification while protecting the visual aesthetic of Milford's streetscapes. Other forms of branding or business identity not falling under the sign ordinance will be viewed as architectural elements and features and evaluated as such.

1. Business identity, either by awnings, accent bands, paint or other applied color schemes, signage, parapet details, decorative roof details or materials should not be the dominant architectural feature. Accent colors should be used judiciously.
2. All signage should be architecturally integrated with their surroundings in terms of size, shape, color, texture, and lighting so that they do not visually compete with the architecture of the building and design of the site. Signs should be integrated as such that they become a natural part of the building façade.
3. When multiple tenants share one site, signs should be integrated as one unit to create shared identity for the property to the extent permitted by the ordinance or be located and/or designed as a package where signs do not visually compete with each other.
4. New construction design should anticipate signage. Designs should provide logical sign areas, allowing flexibility for new users as the building is re-used over time.
5. Repetitious signage information on the same building frontage should be avoided.
6. Signs composed of individual letters are encouraged. Back lit or indirectly lit individual letters are generally desirable.
7. Visible raceways and transformers for individual letters are discouraged.

### **COMPREHENSIVE SIGNAGE PROGRAM AND DESIGN**

#### **1. INTENT**

- (a) To establish comprehensive signage programs coordinating the design and placement of signage with site and architectural design objectives.
- (b) To encourage coordinated sign programs governing multiple buildings and development sites.

#### **2. GUIDELINES**

- (a) All signage is subject to the regulations of the City of Milford
- (b) Commercial developments with multiple tenants and /or multiple pad sites shall submit a Common Signage Plan, including both identity and directional signage. The Common Signage Plan shall be

inclusive of the largest practicable project area such as subdivisions, business campuses, shopping centers, or building groups. The Common Signage Plan shall indicate the following information:

- Proposed or allowed locations for all ground and building mounted commercial signage.
- Computation of total maximum sign area as allowed by the City of Milford
- Sign heights.
- Proposed or permitted sign sizes, types and illumination.
- Standards for consistency among all signs affected by the plan with regard to locations on buildings, colors/architecture and illumination.

(c) The use of internally illuminated signs is encouraged.

(d) Internally illuminated awnings shall not be permitted.

(e) No advertisements shall be permitted on fences. No advertisements other than identification signs for owners and tenants shall be permitted on walls. Identification signs on freestanding walls shall be treated as wall signs for the purpose of sign regulation.

(f) In residential areas and mixed-use developments that include residential uses, or commercial developments that abut residential uses, signage shall be located and illuminated in such a way as to avoid adverse impacts such as light or glare into residential units or yards.

(g) Signs shall be carefully integrated with the site, landscape and architectural design context within which they are located. Size, shape and proportions shall be compatible with the size and scale of the surroundings and shall not compete with or obscure other design features of the site, landscape or structures. Signage shall be of compatible colors and materials.

Mr. Norris asked the commission to determine what distance between LED signs they would like to see. The distance was 5,000 feet on the last recommendation from him and commission felt that was too much. Mrs. Stevenson commented after riding around Rehoboth beach, 5k feet isn't looking so bad.

Mr. Sharp has spoken with people in Camden and a contractor he knows states it's very restrictive and he doesn't want to see Milford as restrictive.

Mr. Warfel asked what the restrictions on LED signs are now. Mr. Norris stated they are currently not permitted, but are proposed in the revised sign ordinance, with restrictions in size and distance between them.

Mr. Norris asked the commission to decide what they would like to see for new commercial development. Mr. Gleysteen preferred a pole sign, but Mrs. Stevenson and Mrs. McColley preferred a monument sign. Mr. Gleysteen suggested one pole sign with all businesses and the rest monument signs, and the sizes of the signs be based on the square footage of the business maybe.

Mr. Kramlich does not see how the City could tell businesses they had to be first one in to get a pole sign and the rest a monument, like Camden does. He further felt no matter what changes the city makes to the sign regs, there will still be the same number of variances. He understands addressing the LED signs, but thought the city should leave the sign regulations as they are. Mr. Norris commented the sign regulations in residential districts should be changed. Two square feet for a sign is much too small. Mr. Kramlich would rather see the variances come from the residential side than the commercial side, so leave it as it is and if someone wants a larger than permitted sign in a residential district, they can request a variance. He does not want to see a 4'x6' sign next to him if the neighbor wants a hair salon, for example. Same thing with churches. He will vote no unless the commission can address the LED signs. But if it's a package deal, he will be a no vote.

Mr. Rini thinks we need to change the residential to be more restrictive on signage. He believes the commissioners have been showing that we have a direction to make sure that anything that comes before us for approval is of better quality and better beautification, landscaped, etc. So we are addressing all of the concerns that many people in Milford have that applicants have to do better than what the commission has seen in the past. However, to support Mr. Sharp's comments, he does not want to get us to a point to where we are limiting progress in the town where we might scare someone away because of the sign regulations. It almost has to be done on a case by case basis and he doesn't have the answer to what the zoning requirements are. If someone comes in with a sign package, and it's good for the area, good for the business, good for the town, then we could approve it. On the other hand, we can go through variances for everything, which in his opinion doesn't look good either.

In regards to LED definitions, Mr. Rini feels we need to include more than LED. Maybe anything that is changeable electronic signs, etc.

Mr. Norris directed the commission to determine what height they want to see on pole signs.

Mr. Warfel commented he has not heard too many people complaining about the issue. He agrees with Mr. Kramlich in that he is concerned with electronic sign because that is something new. He has spoken to many business owners that have expressed their concerned about any changes the City may make to the sign regulations. He thinks that is who the commission should be trying to get input from. The commission agreed.

Mr. Willard advised the commission he spent about three hours this week in JP Court 6 defending Milford's sign ordinance. Referencing the chart, if the city is keeping that method, where it says N/A, we need to define what the different signs are that are N/A. Also, in the notes section, it states "*All signs whose primary function it is to direct attention to the identity of the business, professional or industrial activity and which describes said nature of such operation shall be deemed a business sign...*" This needs to be more clear as to whether the sign in question identifies the business or activity on that property. A billboard, regardless of size, may be a sign that advertises Pepsi or South of the Border, which is not directing attention to the business or activity on that property in which the sign is located. Mr. Willard asked the commission to clear up those issues.

Mr. Willard also commented that there was some talk about whether businesses have to come into compliance with the new ordinance, if the sign ordinance is changed. He's not so sure that would be legal.

Mr. Norris requested permission for him to write a letter to the Milford business owners to request their opinion. The commission felt that would be a good idea. Mr. Norris will work on another draft of the sign ordinance and bring it back to the commission when it's ready.

### **City Planner's Monthly Report**

Mr. Norris provided the commission with some reading materials he came across, for their information. He also encouraged the commissioners to attend a three day Mobile Workshop that is being offered by the Delaware APA. The workshop will travel one day to New Castle County, the next to Dover, and the third day to Sussex County to review developments in those areas. Mr. Norris is a presenter for the Sussex County tour.

Mr. Warfel asked if Mayor Marabello, who was in the audience had received the letter Mr. Warfel had submitted to the City Manager. Mayor had not received it, but was aware of it. Mr. Warfel read the letter for the record.

*For the past five and a half years I've had the privilege of serving the City of Milford, Mayor and Council as Planning Commissioner and Chairman. I believe together we have risen to the challenges of planning in growth and I'm honored to be a small part of it. However at this time in my life, I feel I need to step down, as my focus needs to be in other areas.*

*Please accept this as my resignation effective May 1, 2009. May God bless our City.*

Mr. Warfel explained he has really enjoyed this commission and he personally needs to be in other places right now.

The Mayor expressed his appreciation to Mr. Warfel for all he has done and he will miss him. The Mayor hopes if this stepping down is long term, he will consider coming back in the future, if the time arises that he can give Milford his time again. He again expressed his appreciation toward Mr. Warfel and everything he has done and he is sorry Mr. Warfel is leaving. Brendon is a valuable asset to our City.

Mr. Warfel thanked the Mayor and explained there is a season for everything.

Mrs. McColley felt that everyone on the commission will miss him but we understand and we will probably be calling him for information. Mr. Warfel explained there is no easy way to resign, but wanted the commission and council to know it is not because he's mad, he's not upset about anything, and has really appreciated the opportunity and the disagreements and discussions and he will miss it. Mr. Kramlich stated the commission has enjoyed working with Mr. Warfel too and we are all sorry to see him go.

Mrs. McColley made a motion to make a formal acknowledgement of all of Brendon's dedication and hard work for the Commission.

He has put in a tremendous amount of hard work and shown a lot of patience with the new commissioners and it should be acknowledged because there are a lot of very dedicated people in government service and unfortunately they don't always get the recognition they deserve.

Mr. Kramlich seconded the motion.

Mr. Sharp offered an amendment to include dedicating a page in the minutes just for the motion. Mrs. McColley amended her motion, seconded by Mr. Kramlich.

Mr. Rini called for a vote. Motion carried unanimously.

Mr. Rini commented Mr. Warfel has given him personally an extreme amount of guidance and took him under his wing and showed him the ropes. He understands Brendon's reasons, and is a firm believer in people doing what they personally have to do in life because it's too short. Brendon is one hell of a guy and will be missed.

With no further business, a motion to adjourn by Mr. Rini was seconded by Mrs. McColley. The meeting adjourned at 8:38 pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Christine Crouch". The signature is written in a cursive, flowing style.

Christine R. Crouch

Department Administrative Assistant/Recording Secretary