

*MILFORD CITY COUNCIL
MINUTES OF MEETING
February 25, 2008*

A Meeting of Milford City Council was held in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware on Monday, February 25, 2008.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: Assistant City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Rogers called the City Council Meeting to order at 7:15 p.m.

Ms. Wilson left the meeting temporarily.

Results of Bond Referendum/Special Election - Assistant City Manager David Baird

Assistant Manager Baird read the following report of the Special Election Board into record:

CERTIFICATE OF SPECIAL ELECTION

To all persons whom these presents concern, Greeting:

This certifies that

*A Bond Referendum was held in the City of Milford at the
Milford Parks and Recreation Building at 207 Franklin Street, Milford, Delaware, on
Saturday the 23rd day of February 2008.*

The Results were as Follows:

*For The Proposed Borrowing: 135
Against the Proposed Borrowing: 50*

Given on the above stated date, by the Special Election Board constituted to hold the aforesaid Election.

Mr. Ambrose moved for acceptance of the Certificate of Special Election, seconded by Mr. Kramlich. Motion carried by a unanimous 7-0 roll call vote.

Mayor Rogers thanked those voters for coming out to support the borrowing, noting the importance of keeping our infrastructure up to date which will allow the City of Milford to continue providing the best possible services to our residents.

Mispiration Greenway Phase 21 Proposal

Ms. Wilson returned at this time.

Of the \$300,000 project cost, Parks and Recreation Director Gary Emory recalled council approving supplemental funding of \$60,000 for the design services for Phase 21 of the Mispiration Greenway. Since that time, Landscape Architectural Services was selected through a competitive bid process. This supplements a \$240,000 federal grant acquired last year to build a pedestrian bridge linking the greenway to Goat Island.

Mr. Emory recommends approval of the proposal.

Mr. Brooks moved for approval of the Landscape Architectural Services proposal, seconded by Mr. Morrow. Motion carried by a unanimous roll call vote.

With no further business, Mayor Rogers adjourned the Special Meeting at 7:21 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is written in a cursive, flowing style.

Terri K. Hudson, CMC
City Clerk/Recorder

*MILFORD CITY COUNCIL
MINUTES OF MEETING
February 25, 2008*

The City Council of Milford met in Workshop Session on Monday, February 25, 2008 in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: Assistant City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Rogers convened the Workshop Session at 7:21 p.m.

Historic Preservation Ordinance Draft

Purpose; Definitions.

A. These regulations are applicable to structures used for residential purposes.

B. The purpose of this Article shall be to accomplish the following:

(1) To assist in preserving the historic character and the historic fabric of the City of Milford.

(2) To safeguard the heritage of the City by preserving the elements which reflect the cultural, social, economic, political or architectural history of the City.

(3) To promote the use and preservation of the values as established by the City of Milford Comprehensive Plan.

(4) To recommend alteration or new construction in keeping with the Historic District.

(5) To recommend restoration rather than demolition of contributing structures or historic properties.

(6) To encourage the proper maintenance, preservation and, when necessary, alteration of structures in the Historic District.

C. Definitions. In this Article, the following definitions shall be applicable unless the context clearly indicates to the contrary:

ALTERATION(S): Any activity requiring a building permit, the approval of the Building Official, and/or any change in the exterior appearance (other than maintenance) or structural change, including but not limited to construction, reconstruction, renovation, modification, alteration, moving or demolition to a non-commercial structure within the Historic District of the City of Milford.

COMMERCIAL STRUCTURE/SITE: Any structure or site which is currently used primarily for commercial activities and not primarily for residential uses.

CONTRIBUTING STRUCTURES: Structures that are judged to add to the Historic District's sense of time, place and historic development under criteria established by the HPC including historical significance, integrity and context. Such structures are so designated because they meet an architectural test (i.e., compatible with surrounding buildings or represent an architectural style identified with the City of Milford's history) and a longevity test (more than fifty (50) years old). No buildings individually listed on the National Register of Historic Places or listed as a Historic Property within or without the designated Historic District, or those buildings that may be candidates or are currently pending for such status, will be approved for demolition unless deemed by the Building Official to be a public hazard.

DEMOLITION: Destruction, razing, commencement of the work or steps of total or partial destruction with the purpose of completing the same, includes any willful neglect in the maintenance and repair of a structure, that does not result from a financial inability to maintain and repair the structure and threatens to result in substantial deterioration of the exterior features or the structural integrity of the building.

HISTORIC DISTRICT: An overlay zoning district on the City of Milford Zoning Map designating that area of the City identified and designated as having historic importance and included in Appendix A. (Historic District Map)

HISTORIC PROPERTIES: Non-commercial structures and sites, public rights of way or areas designated by City Council as having importance in the history of the City of Milford as listed in Appendix B. These properties may be within or not within the designated Historic District (see Appendix A, to be added).

IN PUBLIC VIEW: That portion of a structure that is visible or could be visible but for a fence or landscaping from a public right of way or public or Private Street.

MAINTENANCE/REPAIR: Ordinary repairs and maintenance, including, design, materials, features or finishes of a structure which do not alter the exterior appearance of the structure and have no material effect on the historical, archaeological or architectural significance of the structure. Paint color is included in this definition regardless of the effect on exterior appearance.

MAYOR AND CITY COUNCIL: Hereinafter known as City Council.

NON-CONTRIBUTING STRUCTURE: Structures that do not add to the Historic District's sense of time, place and historic development. Such structures are so designated because they are not listed or pending to become listed on the National Register of Historic Places or do not meet either an architectural test (i.e., compatible with surrounding buildings or represent an architectural style identified with history) or longevity test (more than 50 years old). Non-contributing structures will be identified by the Historical Society/Historical Society member or by a Historical Preservation Official selected by the Historical Preservation Committee.

RESIDENTIAL STRUCTURE: Any structure or site currently used primarily for residential living.

STRUCTURE: A combination of materials to form a construction that is stable, including, but not limited to: buildings, sheds, outbuildings, fences.

Historic Preservation Commission; Composition, Qualifications, Appointment.

A. There is hereby established a commission to be called the "Historic Preservation Commission" (hereafter "HPC").

B. The HPC shall consist of seven (7) members to be appointed by the Mayor of the City of Milford, subject to confirmation by a majority of the elected members of the City Council for a term of three (3) years. The terms of the members of the HPC first appointed pursuant to this Chapter shall expire as follows: three (3) members shall be appointed for a term of three (3) years; two (2) members shall be appointed for a term of two (2) years; and two (2) members shall be appointed for a term of one (1) year. Appointments shall be made with consideration of the diverse talents and communities represented in the City of Milford; priority consideration for appointments shall be given to representatives from the field of building construction and architectural design, as well as a representative of the Milford Historical Society and the Milford Museum. At least three (3) members shall be residents of, or own property in the Historic District, and all members shall be residents of, own property in or be leaseholders of public lands within the City of Milford.

C. The City Planner shall be an ex officio member of the HPC. An ex officio member may exercise all the powers of the regular members of the HPC except that he/she shall not have a vote. No ex officio member shall hold an office on the HPC.

D. The HPC shall elect annually a chairperson, vice-chairperson, and a secretary from among its own members and may utilize experts, clerks and such other assistance that its fiscal appropriations may permit. The HPC may also appoint, by and with the prior approval of the City Council, a custodian of its plans and records who may be the City Manager or his/her designee or the City Planner.

E. The HPC shall establish its own rules and procedures and determine the times of its meetings. All meetings and actions of the HPC shall be open to the public except appropriate executive sessions. All records of the HPC shall be public except those otherwise required to be confidential.

F. The HPC shall schedule semi-monthly meetings. If no agenda items are available or requested three (3) days prior to the time of the scheduled meeting, such meeting may be cancelled.

G. The HPC will hear all applications that meet the above criteria at its regularly scheduled meetings. The Chair will establish the meeting agenda for reviewing applications according to the scope of the project in the following order: minor changes, resubmissions, major changes, and new construction or demolition. The Chair will reserve the right to modify the sequence when necessary.

Procedures.

A. Before the construction, alteration, reconstruction, moving or demolition of any dwelling, residence or related structures on property within the Historic District or on Historic Properties not within the Historic District (see Appendix A) that would affect the exterior appearance of a structure visible or intended to be visible from an adjacent public way, the owner, agent or representative proposing to construct or change shall file with the Building Official of the City of Milford an application for permission from the HPC to construct, build, alter, reconstruct, move, demolish or make the addition.

B. Actions not requiring review by the HPC. Ordinary repairs and maintenance that do not constitute a change to the

appearance of the structure include:

- (1) Repair of existing windows and doors, using the same material, including the installation of storm windows that will not alter the exterior appearance of the structure.*
- (2) Maintenance and repair of existing roof material, involving no change in the design, scale, material or appearance of the structure.*
- (3) Repair of existing roof structures, such as cupolas, dormers and chimneys, using the same materials that will not alter the exterior appearance of the structure. These types of repairs and materials will be left up to the owner of the property*
- (4) Replacement of existing shingles, clapboards, or other siding, maintaining the exterior appearance of the structure. These types of repairs and materials will be left up to the owner of the property.*
- (5) Maintenance and repair of existing shingles, clapboard or other siding, using the same materials that are being repaired or maintained.*
- (6) Repairs to existing shutters, fences, or retaining walls, using the same materials for those items being repaired.*
- (7) Change of paint color.*

C. Application and approval procedures

- (1) The applicant shall apply for a Building Permit; if the proposed site is in the Historic District, the Building Official will notify the applicant that his/her project must be approved by HPC (unless the project falls under Subsection B above) and will give him/her a HPC application and a "user friendly" brochure describing the application process. (To be developed)*
- (2) For the initial application, the applicant shall fill out the application, attach four (4) copies of plans that include a site plan along with all existing structures, changes, and elevation drawings, of the proposed change, construction, alteration, or modification including a description of the type and texture of the materials to be used for the exterior; current photographs of the property in question and of adjacent and neighborhood properties, including the streetscapes of both sides of the street on which the subject property is located. An application is deemed complete when these items have been submitted. After the review process is completed, the HPC will return two (2) sets of plans to the applicant and retain two (2) for its records.*
- (3) The HPC will meet at regular intervals to ensure timely consideration of all applications pending before the HPC. Completed initial applications submitted to the Building Official two weeks (10 working days) prior to a regular scheduled meeting will be heard at that next scheduled meeting.*
- (4) The HPC shall endeavor to arrive at a decision at the first meeting at which the application is presented; however, if the HPC decides that it needs more information or time in which to make a decision, it shall either place the application on the agenda for the next meeting or schedule a special meeting. The HPC shall grant or deny the application as expeditiously as possible, but in no event later than the second meeting at which the application is on the agenda and the applicant appears; failure to act within said time frame shall be deemed to be approval of the application as submitted; however, an extension may be granted if agreed to by both the applicant and the Commission.*
- (5) If, after review of the application by the Building Official, he/she determines that the proposed activity will require a variance, the Building Official shall notify the applicant and provide information on the process for application to the Board of Adjustment. If no application to the Board of Adjustment is made by the applicant within thirty (30) days after notice has been given by the Building Official, the application shall be deemed to have been withdrawn. However, if the applicant desires to have the HPC review an application prior to applying to the Board of Adjustment, the applicant shall request the Building Official to forward the application to the HPC.*
- (6) As its decision, the HPC may either grant approval, grant approval with conditions, or deny the application. A denial shall include the reasons that the proposal does not meet the criteria in this Article. The applicant shall have the opportunity to resubmit his/her application with modifications; such resubmissions shall meet the same requirements as the original. If the second submission of the application is denied, the applicant may either modify the application for another submission or appeal the denial to the Board of Adjustment. In no event may the HPC make recommendations for changes that will require violation of other requirements of this chapter.*
- (7) Written notice of the decision of the HPC will be forwarded promptly by the HPC to the applicant and to the Building Official. Upon approval by the HPC, the applicant will be advised. The notice will inform the applicant to meet with the Building Official to complete the application for a building permit. Approval shall be valid for one (1) year for the approved project; if the project is commenced but not completed before the end of that period, the owner shall apply to the Building Official for an extension that may not exceed an additional period of one (1) year.*
- (8) Substantive changes to the HPC approved project prior or during construction shall require review and approval by the HPC. For such changes, the applicant shall submit one (1) copy of the original application and a description of the*

proposed changes as well as any supporting documentation to illustrate the effect or non-effect of such proposed changes. A subcommittee of the HPC may be designated to handle the review of such changes. If, in the view of the members of the subcommittee, the changes require the attention of the full HPC, consideration of those changes shall be placed at the top of the HPC's agenda at the next regularly scheduled meeting, or at a special meeting, if appropriate.

D. Demolition. If the structure or any part thereof is deemed to be "contributing" and therefore has historic and architectural significance, no demolition may take place for up to sixty (60) days from the date the application is placed on an agenda of the HPC, during which period the HPC shall meet and discuss with the owner to find a means either to mitigate or to eliminate the demolition. The HPC shall schedule a public hearing before the end of the sixty (60) day period. A decision shall be made at the end of the sixty (60) day period; provided, however, that such time may be extended by mutual agreement of the applicant and the HPC. If the HPC finds that the structure has no historic or architectural significance or is non-contributing, the HPC may approve the application for demolition.

E. Interior features. The HPC shall consider only exterior features and shall not consider interior arrangements except to the extent that an interior alteration affecting the exterior is required by law or disability of owner or tenant.

F. Designation of Historic Properties. Owners of property outside the boundaries of the Historic District may request his/her/their property be designated a Historic Property. Before any such designation may be assigned, specific procedures, information required and recordation procedures and requirements shall have been determined. Such procedures shall include reference to the guidelines of the Preservation Office of the State of Delaware and National Register of Historic Places.

G. Appeals. Any person aggrieved by a decision rendered by the HPC shall have a right to appeal to the Board of Adjustment of the City of Milford.

Criteria; Standards.

A. Criteria. In reviewing the plans for any construction, change, or demolition, the HPC shall give consideration to:

- (1) Historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;*
- (2) Relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding neighborhood. Distinctive stylistic features or examples of skilled craftsmanship shall be preserved, if possible and left up to the property owner.*
- (3) General compatibility of exterior design, arrangement, texture and materials proposed to be used with other structures contributing to the established character of the Historic District of Milford;*
- (4) When application is made to demolish a structure of any part thereof, the impact of its removal from the area in which it is located, and its structural condition and the economic feasibility of alternatives to the proposed demolition.*
- (5) When application is made to move an historic structure, the potential loss of history to its original site and to the Historic District as a whole, and the reasons for not keeping the structure at its present location.*
- (6) The effect of the structure on the health, safety and general welfare of the City.*
- (7) Other factors that the HPC deems to be pertinent, consistent with the Code of the City of Milford.*
- (8) When owners of structures in the Historic District that have been or are designated as "non-contributing" make application to the HPC for approval for alteration or demolition, the HPC evaluation shall be based on the potential impact on the streetscape setting of the property, rather than the potential impact on the property itself. When owners of structures in the Historic District designated as "contributing structures" make application to the HPC for alteration or demolition, preserving the property will be the HPC's primary criterion in evaluating the application. The HPC may require the applicant to submit both financial and construction details in support of any proposed demolition.*
- (9) A proposed new structure or any alteration to an existing Historic Property shall be permitted to expand to the height and yard setbacks permitted in the underlying district.*

B. Standards. A proposed new structure or any alteration to an existing structure or Historic Property shall conform to the Code of the City of Milford. The following standards shall be used by the HPC in preserving the District's architectural integrity and insuring the compatibility of new construction and alterations with the existing body of distinctive Milford historic building styles. (The Secretary of the Interior's Regulations, "Standards for Rehabilitation" including Reference Drawings, as designated in Appendix C include broad guidelines covering rehabilitation projects of historic buildings and should be referred to in a reasonable manner, taking into consideration economic and technical feasibility. (To be included).

(1) Roofs, Pitch, Dormers and Types: The roof and the pitch of the roof shall be in keeping with traditional roof types and styles in use in Milford in new structures and alterations. The roof types traditionally found in Milford include:

- [1] Gable including such variations as the "clipped gable" and the "saltbox";
- [2] Gambrel or "barn roof";
- [3] A traditionally framed mansard with dormers incorporated into the roof design; and
- [4] Hip including variations on hip roofs such as "gable on hip". Any of these traditional roof types is acceptable without the need to duplicate the predominant roof type of a specific neighborhood since part of the charm of the Milford streetscapes lies in the variation of roof styles and pitches within these basic roof types. Modern variations of these roof types that clearly bear no resemblance to the traditional styles and pitches will not be approved.
- (2) Roofing materials: Acceptable materials include wood, slate, metal, asphalt shingles. Repair materials shall be compatible with the existing roofing material. When a flat roof is otherwise consistent with the design criteria established in this Article, i.e., porches, decks, widow's walks or cupolas, then rubber membrane or similar material may be used.
- (3) Siding material: All materials used shall be consistent with and appropriate in design, texture and other visual qualities to the style and period of the structure. Man-made siding (brick, stucco and cedar shake could all be considered man-made or manufactured) is acceptable, although, if used, it should have a traditional profile.
- (4) Foundation material: The traditional type of foundation in use in the Milford Historic District is brick or ballast stone. The use of brick, or a brick veneer over a block foundation is strongly recommended. Other acceptable materials are natural stone and pargeting (stucco) sufficient to disguise the block joints.
- (5) Chimney styles and materials: Chimneys in public view should be of brick or pargeting (stucco). Metal chimneys are acceptable for use in non-public view.
- (6) Porches: If a porch is to be included in new construction or alteration, it shall adhere to the height line and average depth of other porches in the surrounding neighborhood. When existing structures with traditional porches, either one of two story are renovated, owners are encouraged to preserve both the porch and its architectural detailing. An open porch in public view that encroaches into the setback shall not be converted into living space.
- (7) Windows: New structures or alterations to existing Historic Properties and construction or alterations of structures in the Historic District shall have windows that are compatible with existing and surrounding structures. Vinyl clad windows may be acceptable after review by the HPC
- (8) Architectural details: The term "architectural details" applies to such building features as window and door trim styles, cornices, ornamental brackets, porch and entrance balustrades, porch pillars, corner pilasters, gable peak ornamentation, lattice work, traditional paneled and louvered wooden shutters and similar details. The applicant is encouraged to extend the design motif of the existing structure to any addition, and, in the case of alteration of an existing structure, the architectural details on the exterior shall be preserved.
- (9) Walls, fences and gates: Materials shall be of a type compatible with the architecture of the Historic District and Historic Properties. Natural materials are recommended; chain link fences are prohibited.
- (10) The current or future color of a structure of any part of the exterior of a structure in the Historic District shall not be reviewed or considered by the HPC.
- (11) The HPC shall not deny the addition of items such as solar panels or other inventions that are designed to generate or conserve energy except to designate reasonable alternative design and/or placement.
- (12) The HPC shall not deny any reasonable accommodation for a disability, compatible with this Ordinance; however, the HPC may suggest reasonable alternative design and/or placement.

Assistant Manager Baird presented the updated version of the proposed historical preservation ordinance which creates a Historic Preservation Commission to review and make recommendations on alterations or demolition of historic buildings in Milford. He advised that City Planner Gary Norris was unable to attend tonight's meeting because he was away at a planning conference in Arizona. This is being presented following councils' previous comments.

City Solicitor Tim Willard advised that the City of Lewes reviewed a similar ordinance for approximately two years. One of the issues that continued to be discussed was the residency of the historic commissioners as was recently addressed with Milford's Planning Commission. Mr. Willard then referred to a portion of paragraph B which addresses the issue and reads as follows:

At least three (3) members shall be residents of, or own property in the Historic District, and all members shall be residents of, own property in or be leaseholders of public lands within the City of Milford.

Mayor Rogers informed council this ordinance is still in draft form and will be later discussed when Mr. Norris is able

to attend.

Mr. Crouch expressed concern that the ordinance only deals with residences and asked if the commercial establishments in historic districts can be added. Mr. Ambrose agrees noting there are a number of structures in these districts considered commercial that the city would prefer preserving. He feels a simple amendment can add commercial establishments to the ordinance.

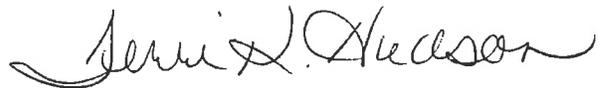
Mr. Ambrose again emphasized that he wants the ordinance to be as least intrusive as possible. He said the main objective is to set up the advisory committee to allow historic property owners to run their ideas by the commissioners. Though they cannot say no, they may be able to offer some alternative thinking on how best to preserve these buildings.

Mr. Baird will relay the newest recommendation to City Planner Norris to incorporate into the draft.

At this time, there is no scheduled date for any formal action on the ordinance.

With no further discussion, the Workshop Session concluded at 7:29 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Terri K. Hudson". The signature is written in a cursive style with a large, sweeping initial "T".

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 25, 2008

A Public Hearing on the following matter was scheduled to be held in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware on February 25, 2008:

Change of Zone - Steve Buckles on behalf of Joy Courtney
820 Seabury Avenue
Tax Map 1-30-3.11-055.01
From R-1 to O-C

Because a final recommendation has not yet been received from the City of Milford Planning Commission, the Public Hearing has been postponed until March 24, 2008, after which time, Council may take final action on the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 25, 2008

A Public Hearing on the following matter was scheduled to be held in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware on February 25, 2008:

Conditional Use - Tutse Tonwe, M.D.
1011 North Walnut Street
Tax Map MD-16-174.14-01-31.00
Physician's Office

Because a final recommendation has not been received from the City of Milford Planning Commission, the Public Hearing has been postponed until March 24, 2008, after which time, Council may take final action on the application.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terri K. Hudson".

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 25, 2008

A Public Hearing was held before Milford City Council on Monday, February 25, 2008 in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware, to consider the annexation proposals of the following properties:

Land of: Silicato-Wood Partnership, LLC (Dennis E. Silicato Acting on Behalf of Owner of Record)

Tax Map MD-00-174.00-02-50.01-000

Location: On the southwesterly side of State Route 1 and being located in the Milford Hundred, Kent County, State of Delaware, as shown on a plot entitled 'Lot Line Adjustment of the Lands of the State of Delaware Parcel 4' said piece or parcel of land being more particularly described as follows to wit: Beginning at an iron rod and cap set at a point formed by the intersection of the southwesterly right-of-way line of State Route 1, 300 feet wide, with the southeasterly line of lands now or formerly of Dennis E. and Carolyn E. Silicato, h/w, as recorded in the Office of Recorder of Deeds, Deed Book N-38, Page 259.

Size: 2.236 Acres

Existing zoning AR-1; Proposed zoning C-3.

Land of: State of Delaware (Department of Transportation Planning Director Ralph Reeb Acting on Behalf of Owner of Record)

Tax Map MD-00-174.00-02-50.00-000

Location: On the northwesterly side of North Front Street and being located in Milford Hundred, Kent County, Delaware, as shown on a plat entitled "Annexation Survey of the lands of N.K.S. Distributors, Inc. & State of Delaware", as recorded in the Kent County Office of the Recorder of Deeds; said piece or parcel being more particularly described as beginning at a point formed by the intersection of the northwesterly right-of-way line of North Front Street, width varies, with the southwesterly right-of-way line of State Route 1, 300 feet wide.

Size: 10.313 +/- Acres

Existing zoning AR-1; Proposed zoning C-3.

Land of: NKS Distributors, Incorporated (Christopher Tigani Acting on Behalf of Owner of Record)

Tax Map MD-00-174.00-02-57.01-000

Location: On the northwesterly side of North Front Street and being in Milford Hundred, Kent County, Delaware, as shown on a plat entitled "Boundary Survey of lands of N.K. S. Distributors, Inc." as recorded in the Kent County Office of the Recorder of Deeds; said piece or parcel being more fully described as beginning at a point by the intersection of the northwesterly right-of-way of North Front Street, width varies, with the southwesterly line of lands of, now or formerly, State of Delaware, as recorded in said Office of the recorder of Deeds in Deed Book H-26, Page 152.

Size: 2.902 Acres

Existing zoning AR-1; Proposed zoning C-3.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Clifford Crouch,
Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: Assistant City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Rogers called the Public Hearing to order at 7:04 p.m..

Davis, Bowen and Friedel Engineer Randy Duplechain presented the annexation petitions on behalf of the owners of record. A map of the sites, also showing adjacent properties, was presented and was followed by a brief review of each proposed annexation area.

Mr. Duplechain also referred to a small block of Route 1 not presently in the incorporated area of city limits which Chief Hudson was aware of.

Mr. Crouch referred to a letter from DELDOT Planning Director Ralph Reeb which stated the department is not seeking this annexation. He asked who is requesting the annexation because the land is owned by the State of Delaware.

Mr. Ambrose explained that the state cannot formally request an annexation though they can support another person's request. Mr. Duplechain added that Mr. Reeb indicated the state was unable to legally petition the city, but does support the request. The letter clearly states that DELDOT is not opposed to the annexation.

No one from the public spoke for or against the annexations.

Mr. Duplechain then advised that though the plan of services had been submitted to State Planning, their comments have not yet been received. He is requesting council approve the annexation and zoning contingent upon the receipt of the plan of services from the state.

City Solicitor Tim Willard believes the applicant is correct. He informed council that for annexations, state statute requires the land be contiguous, the land be consistent with the current comprehensive plan and that a plan of services has been prepared. Mr. Willard said that in the past, an annexation has been accepted contingent upon the plan of services. State statute also requires a zoning ordinance be adopted at the time of the final approval. Prior to the meeting, he spoke to the city clerk who was aware the plan of services had not been received back from the state so an ordinance was not prepared for the zoning. He further explained that an ordinance that designates the zoning is required upon final annexation. Because an ordinance has not been prepared, he feels that any action should be deferred until the ordinance and resolution can be added to the agenda.

Mr. Duplechain asked if a vote can be taken contingent on the plan of services. The city solicitor stated that because the ordinance is not on the agenda and the charter clearly requires the ordinance must be prepared in writing, it is his recommendation we not deviate from that regulation.

Mr. Morrow asked why council is hearing the matter at this point if the proper documents were not prepared. Mr. Willard explained a public hearing is required which must be properly posted and published in advance and neighboring property owners advised.

Ms. Hudson then stated the correct procedure is for the ordinance and final resolution to be added to the agenda once the plan of services has been received. It is not unusual to hold a public hearing before final action can be taken by council. However, as soon as the comments are received, those items will be added to the next agenda as has been done in the past.

Mr. Baird noted that the plan of services is not considered complete until the state comments are incorporated.

Mr. Kramlich moved that a final vote on the Silicato, State of Delaware and NKS annexations be deferred until after the plan of services are received from state planning and an ordinance and resolution prepared and properly placed on the agenda, seconded by Ms. Wilson. Motion carried with no one opposed.

Mayor Rogers adjourned the Public Hearing adjourned at 7:15 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder