

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 10, 2008

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, November 10, 2008.

PRESIDING: Vice Mayor Katrina Wilson

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr., Owen Brooks, Jr. and James Starling, Sr.

ALSO: City Manager David Baird, Police Lieutenant Kenneth Brown and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

CALL TO ORDER

Vice Mayor Wilson called the Monthly Meeting to order at 8:07 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE

Following the Pledge of Allegiance, Councilman Starling gave the invocation.

APPROVAL OF MINUTES

Mr. Brooks moved for approval of the October 1, 13, 15, 27 and 30, 2008 minutes as submitted with Mr. Starling seconding.

When asked for questions, Mr. Spillane said that on October 13, 2008, they were discussing a subject and City Solicitor Willard said he owned some ground or property at Hearthstone. He said he wants it clear that he does not own any property. Mr. Spillane advised it was on page four of the October 13, 2008 minutes. City Solicitor said he stands corrected and apologized. Mr. Spillane wanted it made clear he does not own property.

Also on the October 13, 2008 minutes, Mr. Spillane wants to reflect his understanding of the intent and approval of Hearthstone II. He said he recalled we voted on the approval of Hearthstone II Extension for a new period of one year with the clear understanding that all current taxes do have to be paid and that the company is up to date on them as well as there are no code problems with them. He said it has been brought to his attention through a taxpayer that the city was to comment on this company that we were talking about and if it is in compliance with both of these items in this process. Mr. Spillane asked the city manager to bring council up to date on that because he does not think it was brought up that the company was in compliance with their code and their current status of paying taxes on the Hearthstone Manor issue.

When asked to restate his question, Mr. Spillane said that on Hearthstone II, he read back over it and a couple of people called him and said they did not understand and thought we were supposed to bring it up that companies are paid up in code enforcement before council will approve anything. He said we didn't bring that up and he wants to clear it up that the company is up to date on the code and all of that. He just wants David to comment on that because he doesn't think it was talked about in the minutes. We didn't certify the company was up to date.

Mr. Baird said he is trying to find the place in the minutes that this relates to. When asked where in the minutes Mr. Spillane was referring to, he said it was in the Hearthstone II section in the October 13th minutes. He said he was just trying to clarify that the company was up to date on taxes.

Mr. Baird asked the exact location in the October 13th minutes. After several minutes, Vice Mayor Wilson said for lack

of not knowing exactly where this is located, she asked Mr. Spillane if it is something they can get back with him to prevent discussing a matter that no one is able to find. She does not want to speak incorrectly.

Mr. Ambrose said he is confused because we are in the process of approving the minutes. He asked if the minutes accurately reflect what was said. He explained approving the minutes has nothing to do with what Mr. Spillane thinks is in the code. The minutes need to be approved if they reflect what occurred. Mr. Spillane said he remembers someone asking a question if all of the codes were enforced and that it was paid up on all the taxes. He remembers hearing a response but he does not see it in the minutes. He is just trying to clarify it and that we are clear on this.

Mr. Oechsler then advised Mr. Spillane that Hearthstone II was discussed during the October 27th meeting. He believes it starts on page one or two.

Mr. Starling suggests that if someone wants to discuss or question something and it is brought before council, that information needs to be ready to be presented. By looking for this, council is wasting time because of how long it is taking to find where Mr. Spillane is talking about.

Mr. Spillane then said it starts on page 109. He said he was questioned about that by several people and he wants to make sure it is in the minutes.

Vice Mayor Wilson directed the city clerk to go back and review the previous recording for the missing information Mr. Spillane is referring to.

Mr. Spillane then apologized for giving the wrong page number and then said it actually starts with the extension request on page 115. Mr. Spillane asked Mr. Baird to just tell us real quick.

The city solicitor then explained that from what has been said, it appears to be a compliance issue and the motion was to grant the extension with this condition. If the approval was based on that issue, the recording needs to be reviewed. He agrees that if the minutes do not have this in them, then the tape will need to be reviewed to determine what information is missing.

Mr. Spillane emphasized that if it does not have it in it, we will need to go back and address it again.

Vice Mayor Wilson asked Mr. Spillane if it would be all right for Mr. Baird to get back with Mr. Spillane at a later date. Mr. Spillane said yes.

Motion then carried with no one opposed.

Mr. Spillane then confirmed that this matter will be checked into.

Mr. Brooks questioned the solicitor as to what just occurred. Mr. Willard said there was a motion on the table to approve the minutes which was seconded. When the vice mayor asked for questions, the motion was called and then carried unanimously. In between, there was a discussion to check the tape to see if something is missing in reference to a condition on Hearthstone's taxes. If that is what happened, after reviewing the tape, the city clerk will need to report on whether or not those minutes should be amended to reflect the missing information. Council approved the minutes except for that discussion item.

Mr. Workman said with that in mind, we should look back over this. However, he agrees with Mr. Starling that if a councilperson brings an issue before council, they need to be prepared with the information so it can be addressed right away so that council can attend to the business of the meeting. In that way, we will save a lot of time.

RECOGNITION

Vice Mayor Wilson then recognized the officers from Carlisle Fire Company.

MONTHLY POLICE REPORT

Mr. Starling moved for acceptance of the monthly police report submitted by Chief Hudson, seconded by Mr. Workman. Motion carried.

The vice mayor acknowledged Lieutenant Kenneth Brown who was present on behalf of Chief Hudson who was attending an out-of-state training conference.

CITY MANAGER'S REPORT

City Manager Baird submitted the following report for November:

Residential Rental License Ordinance

A public hearing has been scheduled on this issue for Monday, November 24, 2008.

FOP Negotiations

I have met twice with the new negotiating team representing the FOP. I am pleased to report that progress is being made toward reaching a resolution. The negotiating team is in the process of sharing the proposals with the bargaining unit and I am awaiting their response.

Electric and Sewer Bond Issue

We continue to stay in regular contact with our bond counsel on the issuance of the bonds for these projects. We continue to hold our position on not issuing the bonds until the municipal bond market rates improve to a level that are appropriate for the City to issue the bonds. This is not causing any delays to the projects as we continue to move forward on the planning for the water, sewer and electric improvements.

Leaf Collection

City crews have started leaf collection. Residents are reminded to place leaves on the curb for collection by the City.

UD Milford Campaign

David Stevenson has asked Mayor Marabello and me to sit on the steering committee for this campaign. The committee met for the first time on Wednesday, November 5th to discuss opportunities that exist for such an effort in Milford. The committee is expected to meet for the next three to four months and plans to present its findings and recommendations to City Council in early 2009. In the interim, I will continue to keep the Council updated on the progress of the group.

Mr. Brooks asked the status of any new electric contract due to the decrease in fuel prices. Mr. Baird advised that DEMEC President Pat McCullar continues to purchase power as he indicated when he last spoke to council. They are working on purchasing up to 90% versus 70% on our current contract. At last report, he was just above the 70% level and DEMEC meets again on November 19th. Another update will be provided at that time.

Vice Mayor Wilson said she is pleased that discussions continue with the University of Delaware and is anxious to hear that they have agreed to build a campus in Milford.

Mr. Ambrose moved to accept the city manager report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Charter Review Committee

Chairman Spillane advised the committee is moving slow even though it has been a very thorough review. The next meeting is Wednesday, December 3rd at 10 a.m.

Mr. Brooks noted there have been four two-hour meetings and the city clerk has done an outstanding job with the minutes which accurately reflects the discussion and proposed changes and recommendations.

City Hall Needs & Assessment Subcommittee/Relocation of City Departments to Lower Level

Chairman Workman reported a committee meeting was held on October 30th. There is still a great deal of information being collected though a lot of useful information was provided at that time.

He announced that at 6:00 p.m. on Tuesday, November 18th, the committee will hold a second meeting at which time public comment will be taken on which direction they feel the city should go. He asked the newspapers to publish this date and time.

COMMUNICATIONS

Vice Mayor Wilson announced the following upcoming events included in the council packet:

*Sussex County Council Night of Tribute to Outgoing Council Members - Saturday, November 22, 2008

*Chamber of Commerce Mixer Hosted by Gooden's Florists - Thursday, November 13, 2008

*Chamber of Commerce 2008 Holiday Auction and Tastes of Milford - Thursday, November 20, 2009

She also referred a letter of appreciation from Milford Public Library for the city's support in their expansion project.

UNFINISHED BUSINESS

Adoption of Ordinance 2008-12/Subdivision Code/Chapter 200

The city manager recalled the numerous discussions that have taken place regarding this ordinance. He added that public comment has also been taken and this is being presented for councils' discretion at this time.

Mr. Spillane said he has several issues. He advised we had the open space and the storm drainage and things like that can't count as open space. Then we go down to the topsoil ordinance, which he said was on page 72 and is number G. He said he discussed this several times and came in and council said we were going to look into this.

He said he had done quite a bit of work on what topsoil is because there were problems in several areas. Some people said topsoil is the earth on the top of the ground. So he went out and did a lot of work and talked to quite a few people and came up with what topsoil should be and how much topsoil should be put on the ground so that sod and grass seed can grow and have a chance.

Mr. Spillane then said it is still not in the ordinance and he knows he talked about it several times and discussed about bringing the paperwork to write it up. He said things were sent back and forth and it was almost done and he was supposed to see it but nothing was changed on it.

The city manager recalled that during the past few meetings when this issue was discussed with council, it was explained this specific language would be included in the standards specs and not in the subdivision code. Mr. Spillane again indicated that a lot of people don't know where the other specs are and he can't find them in there so it isn't in that area.

Mr. Baird explained that section is currently being changed by City Engineer Mark Mallamo. Tonight the subdivision code is being considered. Mr. Spillane said he thought it was going to be changed and it was agreed it would be put in this.

Vice Mayor Wilson confirmed that the standard specs were previously discussed as the document the developers or builders use. Mr. Spillane noted that section G was changed though he does not know why because six inches was in there before and a lot of the homeowners don't get to see it and don't know where the other part is. He said, we, as a homeowner, need to have it where the homeowners can go to the code section.

When Ms. Wilson asked the reason it was removed, the city planner also recalled the previous discussion about including the topsoil requirements in the specifications which contains similar information. The two major amendments to the ordinance, since it was originally presented, are to the definition of open space which Mr. Spillane recommended as well as adding the requirement for curbs and sidewalks on both sides of the streets.

Mr. Ambrose also remembered those conversations and feels that specific building requirements such as lumber and insulation requirements should be included in the standard specification document. He does not understand why topsoil requirements should be included in the subdivision code. The contractors and builders are aware of the specification manual which is referred to in the subdivision code.

Mr. Spillane referred to section G which he said had six inches taken out and is now left up to the city to determine how much soil will be put on the ground. He does not understand how you can put six inches in one section and put here that the city can determine the amount that could be put on the ground. He said some people are confused and he wants it clear.

Mr. Oechsler asked why a line wasn't drawn through it if it had been removed. Mr. Spillane said that other areas of the ordinance were stricken through and he is worried about council saying one thing and the city coming back with another thing.

Mr. Willard said that generally when an ordinance is amended, you italicize what is added and the item being removed is crossed through. However, he thought the six-inch topsoil issue was originally not in this amendment.

Mr. Baird advised it is in the current ordinance, but was never proposed in the code.

Mr. Baird then said that language could be added that says **THAT NO TOPSOIL SHALL BE REMOVED FROM THE SITE OR USED AS FILL. TOPSOIL MOVED DURING THE COURSE OF CONSTRUCTION SHALL BE REDISTRIBUTED SO AS TO PROVIDE ADEQUATE COVER AS DETERMINED IN THE CITY'S STANDARD SPECIFICATIONS.**

Mr. Spillane said he prefers that the six inches stay. Mr. Workman asked Mr. Baird if the specifications state six inches of topsoil; the city manager explained that City Engineer Mark Mallamo is currently revising the standard specification manual. However, he does not know exactly what language is proposed though it will address adequate cover to ensure it is stabilized. Mr. Workman then asked if six inches can be added.

Mr. Baird asked if that is the wishes of city council. Mr. Spillane said yes and asked why we are changing the ordinance because the six inches needs to stay. Ms. Wilson asked if it is possible our city professionals may not have felt six inches was adequate. Mr. Spillane said he has all the experts agreeing it is six inches and everywhere he goes it is six inches. In section G, the city can decide on the amount of topsoil which does not address the six inches.

Mr. Starling asked how much topsoil it should be and would two, four or eight be better.

It was explained that the current ordinance required six inches of topsoil and the new draft did not state six inches. Mr. Workman feels it should be put in there. Mr. Baird again explained it was proposed to be added to the specs because that is where most of these details are located.

Mr. Spillane then said there is also a problem with what topsoil is so he got what it is from the experts and it needs six inches. He said it is not just what someone else said because he went to the experts.

After a lengthy conversation regarding how to amend an ordinance, Mr. Willard advised the ordinance can be adopted after a motion is made for an amendment to the proposed ordinance with the six-inch topsoil requirement.

Mr. Spillane moved to amend the ordinance and put in the six inches and what topsoil is as it says in the letter from the experts, seconded by Mr. Starling. When asked for questions, Mr. Baird referred to Mr. Spillane's motion noting that the conversation referenced six inches of topsoil but he has now added additional information. Mr. Baird asked if council has seen the additional information Mr. Spillane is referring to. Mr. Brooks then asked who the experts are Mr. Spillane keeps referring to.

Mr. Workman believes Mr. Spillane gave that information to the city manager to be added to the specs. Mr. Baird added that is a separate issue which Mr. Mallamo is working on. Council members agreed.

The city solicitor directed Mr. Spillane that if a motion is made to amend a proposed ordinance, it needs to be specific and in reference to this section, it should include to DELETE the word ADEQUATE COVER, AS DETERMINED BY THE CITY ENGINEER and INSERT THE WORDS AT LEAST SIX INCHES OF COVER.

Mr. Spillane again asked Mr. Baird why this was not done. Mr. Workman explained it is being included in the specs which the city engineer is working on.

Mr. Spillane then revised his first motion and moved that the part of the city engineer be taken out and six inches of topsoil be put in. Mr. Willard added that specifically, the language be stricken from ADEQUATE to ENGINEER, and to INSERT THE WORDS AT LEAST SIX INCHES OF COVER. Mr. Starling seconded the motion.

Motion carried.

Therefore, the section would read as follows:

Section 200-5 (H) Improvements

(g) Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide ~~adequate cover, as determined by the City Engineer,~~ (INSERT) AT LEAST SIX INCHES OF COVER to all areas of the subdivision and shall be stabilized by seeding or planting.

Mr. Willard then referred to the revised definition of open space:

Open Space-Areas of land designated for public or private recreational use, limited to such items as parks, plazas, landscaped areas, gardens, walkways and trails, organized sporting event areas and passive recreational areas. Wetlands or storm water management facilities, etc. cannot be counted as open space. Open space prohibits flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments and are maintained by an HOA, not any individual property owner.

The solicitor recommended that the word "etc." be removed from the section because it is ambiguous. Mr. Norris said he was referring to drainage easements. Mr. Willard recommends drainage easements be added.

Mr. Willard also questioned the last sentence that states 'open space prohibits flag pole areas, medians, signage areas or required front, side or rear yards of proposed residential developments and are maintained by an HOA, not any individual property owner.' He does not feel that is clear. Mr. Norris explained this was the result of a developer who had counted a flag pole area as open space and signage areas. Mr. Willard also asked how 'and are maintained by an HOA' fits in. He feels that 'and are maintained by an HOA, not any individual property owner' be removed for clarity.

Mr. Norris feels that some language should be added that open space is not counted as land maintained by an HOA. Mr. Willard feels that most open space is generally maintained by an HOA as it would be a common area. His suggestion is to DELETE 'Open space prohibits' and in the spirit of parallel structure and INSERT 'FLAG POLE AREAS, MEDIANS, SIGNAGE AREAS OR REQUIRED FRONT, SIDE OR REAR YARDS OF PROPOSED RESIDENTIAL DEVELOPMENTS CANNOT BE COUNTED AS OPEN SPACE.

Mr. Willard then referred to the following section:

§ 200-6. *Variances and waivers.*

Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 230, and the Planning Commission may, at its discretion, recommend to City Council the varying or waiving of said requirements and request conditions that substantially secure the objectives of the requirements so waived. Upon the findings of the City Council that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the City Council may vary or waive said requirements, provided that such variance or waiver shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the Official Map, Chapter 230, Zoning, the Development Plan or this chapter. In varying or waiving certain requirements, the City Council may specify such conditions at will, in its judgment, secure substantially the objectives of the requirements so varied or waived.

Mr. Willard said the current subdivision code has a section that allows the planning commission to recommend variances and waivers from 'these regulations'. The new section states ' *Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 230*'. Mr. Willard feels it could be troublesome because Chapter 230 is the zoning code. If a developer wants to subdivide and asks for consideration of a waiver in Chapter 230, it could be almost anything. The current code referred to 'these regulations' which limits the regulations in the subdivision code. He does not feel that the planning commission or council should be given the right to waive the provisions of the zoning code.

Mr. Norris said he believes there is a variance procedure in the subdivision ordinance. Mr. Willard agrees that exists in the current code but only refers to a variance or waiver for 'these requirements'. He noted there is a very specific provision for the board of adjustments for variances in the zoning code which is also dictated by state statute. He asked why that was changed to Chapter 230.

It is Mr. Norris' opinion that if there is a proposed waiver or variance from the rules of the subdivision ordinance, it may also reflect the rules contained in the zoning ordinance, for example, lot size, front and side yard requirements, etc. There could be a situation in which it was explained to council and recognized as a waiver from the subdivision and zoning ordinance, instead of going through the variance procedure.

Mr. Willard's concern is Title 22 of Delaware Code which establishes the board of adjustment along with a great deal of case law dealing with hardships, which is a higher bar because there are more important regulations dealing with land use which council has authority over. The subdivision regulations may be more specific to engineering systems and those type matters. He feels there the variance waiver should be limited to the subdivision code only.

Therefore, it is Mr. Willard's recommendation to delete the number '230' and replace with '200'.

Mr. Workman moved to delete the word 'etc.' in Section 200-3, Definitions, Open Space, and change the next sentence by removing 'Open Space Prohibits' so that it reads '*Flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments*' and insert '*CANNOT BE COUNTED AS OPEN SPACE*' and delete 'and are maintained by an HOA, not any individual property owner' and in Section 200-6. Variances and waivers, Delete 'Chapter 230' in the first sentence and insert '*Chapter 200*', seconded by Mr. Oechsler. Motion carried.

When asked for questions, Mr. Spillane asked to discuss swales and sidewalks again. He wants to make sure sidewalks are allowed. Council agreed that it was included in the ordinance and pointed out to paragraph B of Section 200-5 entitled sidewalks and curbs.

Mr. Ambrose then moved that Ordinance 2008-12, Subdivision Code, as shown below, be adopted in its entirety, seconded by Mr. Workman:

AN ORDINANCE TO AMEND the Code of the City of Milford by deleting and repealing Chapter 200, thereof, Subdivision of Land, and replacing it with a new Chapter 200, to be entitled Subdivision of Land, which chapter promotes and protects the public health, safety, convenience and general welfare; ensures the orderly growth and development of the City, the

conservation, protection and proper use of land and adequate provisions for housing, recreation, circulation, utilities and services; and safeguards the City from undue future expenditure for the maintenance of streets and public spaces.

The City of Milford hereby ordains:

Section 1.

The Code of the City of Milford is hereby amended by deleting and repealing Chapter 200, Subdivision of Land, in its entirety.

Section 2.

The Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Chapter 200, hereinabove repealed, to be Chapter 200, Subdivision of Land, to read as follows:

§ 200-1. Purpose.

These regulations are adopted in order to promote and protect the public health, safety, convenience and general welfare; ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces.

§ 200-2. Title.

These regulations shall be known and may be cited as the "City of Milford, Delaware, Land Subdivision Regulations."

§ 200-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMISSION — The Planning Commission of the City of Milford, Delaware.

OPEN SPACE — Open Space—Areas of land designated for public or private recreational use, limited to such items as parks, plazas, landscaped areas, gardens, walkways and trails, organized sporting event areas and passive recreational areas. Wetlands or storm water management facilities (INSERT) OR DRAINAGE EASEMENTS etc. cannot be counted as open space. ~~Open space prohibits~~ Flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments (INSERT) CANNOT BE COUNTED AS OPEN SPACE and are maintained by an HOA, not any individual property owner.

PLAT — The final drawing on which the subdivision plan is presented to the City Council for approval and submitted to the County Recorder of Deeds for recording.

PROPERTY OWNERS ASSOCIATION — An association established by the subdivider as a non-stock corporation to provide for the perpetual maintenance of the common property in the subdivision.

ROADWAY — The paved portion of the street primarily used for vehicular traffic.

A. ARTERIAL STREET and HIGHWAY — A street primarily used for fast and/or heavy traffic.

B. COLLECTOR STREET — A street carrying traffic from minor streets to arterial streets and highways, including the principal traffic and entrance streets of a residential development.

C. MINOR STREET — A street primarily used for access to the abutting properties.

D. MARGINAL ACCESS STREET — A minor street paralleling and adjacent to an arterial street or highway and providing access to abutting properties and protection from through traffic.

E. DEAD-END STREET or CUL-DE-SAC — A street closed at one end and having only one connection with any other

street.

F. HALF STREET — A street paralleling the boundary of a subdivision and lying partly in an abutting tract.

STANDARD SPECIFICATIONS FOR INSTALLATION OF UTILITY CONSTRUCTION PROJECTS AND SUBDIVISION PAVEMENT DESIGN — The current specifications regulating subdivision design and construction as adopted by the City.

STREET — All land between property lines, whether designated as a street, highway, throughway, thoroughfare, avenue, boulevard, road, parkway, right-of-way lane, place, court or any similar term.

SUBDIVIDER — Any person, firm, corporation, partnership or association or duly authorized agent who or which shall apply to the Commission for approval of the layout of any subdivision.

SUBDIVISION — The division or redivision of any tract of land into two or more lots or parcels for immediate or future sale or for building development.

SUBDIVISION, MINOR — Any subdivision fronting on an existing street, not involving any new street or road, not involving the extension of any municipal water or wastewater mains, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the development plan, Official Map, Chapter 230, Zoning, or this chapter; limited to four lots.

SUPERBLOCK — An oversize residential block wherein private open spaces, closed to automobile traffic, are provided for the common use of all residents in the block.

ALLEY — A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

RIGHT-OF-WAY — A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, gas pipelines, and water line, sanitary storm sewer, and other similar uses.

§ 200-4. Application procedure.

A. Preliminary approval.

(1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions or recommendation of denial, the application shall be scheduled to be heard by the City Council.

(4) City Council shall grant preliminarily approval of the application with or without conditions, deny the application, or table the application.

(5) Preliminary approval from City Council shall be void after one year, unless an extension is requested by the owner and approved by City Council prior to the expiration.

B. Final approval.

(1) A final plat and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions, or recommendation of denial, the application shall be scheduled to be heard by City Council.

(4) City Council shall approve the application with or without conditions, deny the application, or table the application.

(5) Within 90 days of final approval from City Council, the subdivider shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Four sets will be returned to the subdivider.

(6) Upon recordation of the plat, the subdivider shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.

(7) Failure to record the approved plat within one year from the date of City Council approval shall void the final approval. In order to obtain final approval after it has been voided, the subdivider must make application for final approval again.

(8) Failure to record the approved plat in more than one year from the date of City Council approval shall void the preliminary approval and final approval. In order to obtain preliminary and final approval after they have been voided, the subdivider must make application for and receive preliminary approval, then make application for and receive final approval.

§ 200-5. General requirements and design standards.

The following shall be deemed to be minimum requirements and may be varied or waived by the Commission only under circumstances set forth in § 200-6:

A. Streets.

(1) The layout, character, extent, width, grade and location of proposed streets shall be established with due regard to:

(a) Public convenience and safety.

(b) Proposed uses of the land to be served by said streets.

(c) Proper relation and connection with and continuation and projection of streets in the adjacent areas, whether these streets are existing or proposed in another subdivision in a neighborhood plan, in the development plan or in the Official Map, as approved or adopted by the Commission.

(d) Topography and other land features.

(2) The layout of proposed streets shall furthermore be arranged in a manner acceptable to the Commission and City Council.

(3) Minor streets shall be laid out so as to discourage their use by through traffic.

(4) Where a subdivision abuts or contains an existing or proposed arterial street, limited access highway or railroad, the City Council may require marginal access or service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line and deep lots with rear service alleys or other treatment, such as parks, which may be necessary for the protection of residential properties and for separation of through and local traffic, with due regard for the requirements of future approach grades and grade separations.

(5) Where a tract of land is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit

future resubdivision in accordance with the requirements of this chapter.

(6) Reserve strips controlling access to streets shall be prohibited except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the City Council such as provided in Subsection A(4) above.

(7) Certain proposed streets may be required to be extended to the boundary line of the subdivision to provide access to tracts which may be subdivided in the future. Wherever necessary, when a street is carried to the boundary line of the subdivision, the City Council may require a temporary turnaround improved to the satisfaction of the City Engineer and of the size specified in Subsection A(16) below at the stub end.

(8) The creation of dead-end or loop streets and superblocks will be encouraged wherever the City Council finds that such layout will not interfere with traffic convenience and safety. The City Council shall determine the number of connections of streets in the proposed subdivision with existing streets. At least two such connections shall be provided, except where a proposed subdivision only contains one dead-end street.

(9) Street jogs shall be prohibited. Street intersections, where center lines do not meet, shall have centerline offsets of 150 feet or more.

(10) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.

(11) Street right-of-way lines deflecting from each other at any point shall be connected with a curve, the radius of which for the inner right-of-way lines shall not be less than 750 feet on arterial streets, 300 feet on collector streets and 100 feet on minor streets. The outer right-of-way line shall be parallel to said inner right-of-way line.

(12) Streets shall be laid out so as to intersect as nearly as possible at right angles. The inner right-of-way line of a street intersecting another street at an angle of less than 90° shall be tangent to and follow a curve with a minimum radius of 150 feet centered on the nearest right-of-way line of the intersecting street. The outer right-of-way line shall be parallel to said inner right-of-way line.

(13) Street right-of-way lines at intersections shall be connected with a curve, the radius of which shall be 25 feet.

(14) Right-of-way widths.

(a) Street right-of-way widths shall be as shown on the Official Map or development plan, and, if not shown thereon, said widths for the various street types between face of curb or edge of road shall not be less than as follows:

Street Type	Right-of-Way Roadway	
	(feet)	(feet)
Arterial	80 to 110	As required by DelDOT
Collector	60	28
Minor, for townhouses and apartments	60	30
Minor, for other residences	50	25
Dead-end	50	22
Marginal access	30	16
*Alley	20	12

* If utilities are present in an alley, the City reserves the right to modify the minimum right of way and roadway widths.

(b) Subdivisions utilizing open swale drainage shall have a ten-foot drainage easement along the front of each property to accommodate the back slope of the drainage swales.

(15) Half streets shall be prohibited except where essential to the reasonable development of a subdivision in conformity with the requirements of this chapter and where the Commission finds that it shall be practicable to require the dedication of the other half when the abutting property is subdivided. Wherever an approved half street shall be adjacent to a subdivision, the other half of the street shall be platted within said subdivision.

(16) Dead-end streets, designed to be so permanently, shall not be longer than 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of 76 feet and a street right-of-way diameter of 100 feet.

(17) Street names.

(a) Street names shall be selected so as not to duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission. It is recommended that all new streets shall be named in the following manner:

General Direction	Long	Short (under 1,000 feet)
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<i>North and south</i>	<i>Streets</i>	<i>Places</i>
<i>East and west</i>	<i>Avenues</i>	<i>Courts</i>
<i>Diagonal</i>	<i>Roads</i>	<i>Ways</i>
<i>Curving</i>	<i>Drives</i>	<i>Lanes or circles</i>

(b) Arterial streets shall be named boulevards.

(18) Street grades shall not exceed 5%.

(19) Street grades shall be not less than 0.5% wherever feasible.

(20) Changes in street grades shall be connected by vertical curves of suitable length.

(21) The width of streets adjacent to areas designed, proposed or zoned for nonresidential use shall be increased by such amount as may be deemed necessary by the Commission to assure the free flow of through traffic without interference by parked or parking cars and to provide adequate and safe parking space.

(22) All required roads shall be constructed in accordance with the standard specifications as issued by the City Engineer.

B. Sidewalks and curbs.

(1) Sidewalks shall be required in all subdivisions on both sides of the street. Sidewalks shall have the following widths:

(a) In residential subdivisions: four feet unless otherwise specified.

(b) In commercial and industrial subdivisions: from the curb to property lines unless otherwise specified.

(2) Curbs or drainage swales conveying stormwater shall be required in all subdivisions.

(3) All required sidewalks shall be constructed in accordance with standard specifications as issued by the City Engineer.

C. Easements. Where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream, there shall be provided a stormwater easement or drainage right-of-way of such width as will be adequate for the purpose, in accordance with requirements specified by the City Engineer. Parallel streets or parkways may be required in relation thereto.

D. Blocks.

(1) The lengths, widths and shapes of blocks shall be determined with due regard to:

(a) The provision of building sites suitable to the needs of the type of use contemplated.

(b) Zoning requirements as to lot sizes and dimensions.

(c) The control, safety and convenience of pedestrian and vehicular traffic.

(d) The characteristics of topography.

(2) Block length shall not exceed 1,200 feet.

(3) Block widths shall be not less than 275 feet nor more than 450 feet and shall be planned to provide two rows of lots.

(4) Pedestrian walkways other than in streets may be required where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Said walkways shall be not less than four feet wide.

(5) Alleys shall be provided if required by the City Engineer.

E. Lots.

(1) Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.

(2) Lot sizes shall conform to the requirements of Chapter 230, Zoning.

(3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in Chapter 230, Zoning.

(4) Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements. Corner lots shall have two front yard setbacks fronting each street, one side yard setback, and one rear yard setback.

(5) All lots in a subdivision shall have frontage on a public street.

(6) Double-frontage lots shall be avoided. Reverse-frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic