

CITY OF MILFORD  
PLANNING COMMISSION

*Minutes of Meeting*

*December 20, 2016*

A workshop meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, DE on Tuesday, December 20, 2016.

**PRESIDING:** Chairman Marvin Sharp  
**IN ATTENDANCE:** Andrew Fulton, Sara Pletcher, Raymond Lynch, Michael Boyle  
*Also:* Planning & Economic Activities Coordinator Rob Pierce, Deputy City Clerk Christine Crouch

Chairman Sharp called the meeting to order at 5:33 pm noting the absence of Mr. Holloway and Ms. Mims.

**NEW BUSINESS**

*Comprehensive Plan-Review Chapters 5-7 (Housing, Transportation, Economic Development)*

Mr. BJ DeCoursey of the University of Delaware explained there was a workshop recently between the City, University of Delaware (UD) and Delaware Department of Natural Resources and Environmental Control (DNREC) regarding climate change and sea level rise. Information gathered will be included in the comprehensive plan as we get to that part in the Plan.

Mr. DeCoursey then presented a PowerPoint presentation and an amended Vision/Objective chart from the current Book Two of the Plan, both of which will be included in the minutes. The PowerPoint gave a “to do” for the evening which included:

- Update on climate change vulnerability work, which was just reviewed.
- Review of submitted draft chapters.
- Neighborhood plan recap
- Housing, Transportation and Economic Development discussion.
- Discussion of upcoming chapters-Implementation, Environment, Parks & Open Space, Recreation.

Mr. Holloway arrived at 5:37 pm.

The amended vision/objective chart shown on the overhead projection included Economic Development, which was discussed at the last workshop. No changes were needed to what was presented, per the commission.

Regarding Review of Submitted Draft Chapters:

Based on discussions held in previous Planning Commission workshops, amendments to Chapters 1-4 have been made. (Attached to the minutes)

Regarding Neighborhood plan recap:

Mr. DeCoursey asked the Commission to ensure the descriptions for the neighborhoods is still the way the Commission foresees them, beginning on page 11. WalMart (inaudible).

Regarding Chapter 5, Housing:

Mr. DeCoursey presented proposed changes to Chapter 5, which begins on page 30 of the attached. No changes were needed, per the Commission, to the PowerPoint and vision/objectives.

Referencing page 33 of the attached, it was noted the already approved housing types is more than adequate for future needs. Of course, the market will dictate what will be built.

Milford's housing stock, compared to Kent and Sussex Counties, hasn't risen as fast however Milford ranks very well in terms of affordable housing.

Mr. Boyle confirmed the 5,800 units, as shown on slide 4 of the PowerPoint equates to the number of dwelling unit approved to be built.

Mr. Fulton requested the baby-boomer ages be corrected to years 1946-1964 on page 33 of the attached.

Regarding Chapter 6, Transportation:

Mr. DeCoursey presented proposed changes to Chapter 6, beginning on page 36 of the attached.

Mr. James Galvin, Principle Planner with Dover/Kent MPO explained the federal regulators want us to have a defensible priority system. DelDOT has to agree and then that trickles down to the municipalities. Dover/Kent MPO just finished their long range plan which gives a list of projects and in conjunction developed a priority system for said projects. It includes criteria for projects included in a communities' Comprehensive Plan or that a community has stipulated as a project with priority.

For example, when Camden was trying to develop their bypass around town, DelDOT had developed a concept but it was an issue with the Mayor. Dover/Kent MPO suggested Camden adopt the bypass into their Plan and prioritize it. Essentially, Mr. Galvin is recommending the same thing for Milford.

Identify a couple of projects that are particularly important and need to be addressed and prioritize them. Identify them specifically in the Plan. For example, we all hear about Airport Road. That it needs to be widened, resurfaced or re-constructed. It needs a bike lane. We all here have heard this.

Mr. Galvin explained the DelDOT will not give the community more points for identifying the projects, but they give the community extra points for having the project identified as a higher priority in the MPO plan.

The southeast area transportation, crosswalks, and railroad crossings were discussed among the commission.

Regarding Chapter 7, Economic Development:

Planning Coordinator Pierce reviewed slide 11 of the PowerPoint with the Commission and they had no changes. In addition, proposed changes to Chapter 7 begin on page 45 of the attached.

As a general comment, Mr. Boyle requested an acronym listing be included.

Regarding upcoming chapters for Implementation, Environment and Parks & Open Space, Recreation:

All of these chapters are being reviewed next for the upcoming January workshop. Mr. DeCoursey asked if there was anything he needed to be aware of when amending these chapters.

Mr. Lynch asked if a central park with a playground and walking trails needed to be added somewhere in the City. That is a magnet for residents as was discussed in a recent article he read naming the Top 50 small towns. Mr. DeCoursey thought it could be addressed with the former Middle School property.

## **ADJOURN**

With no further business, the meeting adjourned at 7:07 pm.

Respectfully submitted,

Christine R. Crouch, CMC  
Deputy City Clerk

CITY OF MILFORD  
PLANNING COMMISSION

*Minutes of Meeting  
December 20, 2016*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, DE on Tuesday, December 20, 2016.

PRESIDING: Marvin Sharp  
IN ATTENDANCE: Ed Holloway, Andrew Fulton, Sara Pletcher, Raymond Lynch, Michael Boyle  
*Also:* Associate City Solicitor Jason W. Adkins, Esq., Planning & Economic Activities Coordinator Rob Pierce, Deputy City Clerk Christine Crouch

Chairman Sharp called the meeting to order at 7:13 pm noting the absence of Ms. Mims.

**APPROVAL OF MINUTES**

Planning Coordinator Pierce explained an attendee at the November meeting had requested the draft minutes be corrected to reflect Milford Rent All LLC instead of Inc and Milford Mini Storage Inc and not LLC. Planning Coordinator Pierce handed the Deputy City Clerk the revised minutes, however as Mrs. Crouch explained the attendee reached out to her as well and as was explained to him the minutes must read what was stated at the meeting, not the intent, therefore the minutes presented are what must be reviewed.

The minutes from the November 2016 Planning Commission were approved unanimously as presented.

**UNFINISHED BUSINESS**

**NEW BUSINESS**

*Becker Morgan Group Inc on behalf of Bayhealth Medical Center Inc; Project 15-231  
Extension 1 / Preliminary Site Plan  
Wilkins Road and Cedar Neck Road  
Tax Map 3-30-15.00-050.01, -050.11, -058.00, -058.01, -058.03, -058.04, -059.00 & -059.01  
Zoning: IS (Institutional Service District)*

Planning Coordinator Pierce explained the Planning Commission approved the preliminary site plan for the Bayhealth Health Campus about a year ago. He expects the final site plan approval to come before the commission in the next few months.

Mr. Greg Moore with Becker Morgan Group was present to answer any questions. Outside agency approval were just obtained.

Mr. Boyle confirmed this is just a normal approval and Mr. Fulton confirmed the applicant does not need to go before Council for this extension.

A motion by Mr. Holloway, seconded by Mr. Boyle, to approve the one year preliminary site plan extension carried unanimously.

*Ordinance 2016-15/Chapter 230; Creating C2-A Riverfront Development District Zoning Category*

As has been discussed, this ordinance will create a new zoning district. Planning Coordinator Pierce referred to a memo and map in the packet that further explains the proposed ordinance. This should accommodate most of the recommendations by the commission in the previous meetings regarding this zoning category.

Ms. Pletcher noted a grammatical error in Section 3 of the ordinance, in the purpose statement. And under D of the same section it should read *stories* not *stores*.

Chairman called for public comments. Hearing none, he closed the public hearing.

A motion by Mr. Fulton to recommend approval of Ordinance 2016-15 was seconded by Mr. Holloway. Motion carried unanimously.

ORDINANCE 2016-15  
CODE OF THE CITY OF MILFORD  
PART II-GENERAL LEGISLATION  
CHAPTER 230-ZONING  
ARTICLE II-DESIGNATION OF DISTRICTS &  
ARTICLE III-USE AND AREA REGULATIONS  
Creates C2-A/Riverfront Development District

WHEREAS, the City of Milford deems it necessary to classify, regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location, use and extent of use of buildings, structures and land for residence, trade, industry and other purposes; and

WHEREAS, the City creates districts for said purposes; and

WHEREAS, the City of Milford proposes the purpose of the Riverfront Development District is to create an atmosphere that encourages mixed use residential and commercial development along riverfront properties in the downtown area. The district shall preserve the character of the adjacent central business district and historic areas while providing an attractive and convenient combination of shopping and living units.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 230 entitled Zoning by adding a new zoning category.

Section 2.

Article II-Designation of Districts, 230-5.-Types of Districts is hereby amended as follows:

For the purpose of this chapter, the portions of the City of Milford included within the Zoning Map adopted under this chapter are divided into ~~45~~ **16** types of districts as follows:

Designation	Characteristic Description
R-1	Single-Family Residential District
R-2	Residential District
R-3	Garden Apartment and Townhouse District
C-1	Community (Neighborhood) Commercial District
C-2	Central Business District
<b>C-2A</b>	<b><i>Riverfront Development District</i></b>
C-3	Highway Commercial District
H-1	Institutional Development District
I-1	Limited Industrial District
I-2	General Industrial District
OC-1	Office Complex District
OB-1	Office Building District
BP	Business Park District
IS	Institutional Service District
IM	Institutional Medical District
R-8	Garden Apartment and Townhouse District

Section 3.

Article III-Use and Area Regulations is hereby amended by adding the following:

***§ 230-13.1 C-2A Riverfront Development District***

*In a C-2A District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.*

- A. Purpose. The purpose of the Riverfront ~~d~~ Development District is to create an atmosphere that encourages mixed use residential and commercial development along riverfront properties in the downtown area. The district shall preserve the character of the adjacent central business district and historic areas while providing an attractive and convenient combination of shopping and living units. The district shall be limited to those properties adjacent to the Mispillion River and shall be prohibited along North and South Walnut Street, Northwest Front Street and shall not be allowed within any of the historic districts.***

- B. Permitted uses. In a C2-A district, land, buildings or premises shall be used by right for one or more of the following:*
- (1) General merchandise stores, including such uses as department stores, apparel and accessories, hardware, shoes, drugs and variety stores.*
  - (2) Specialty retail stores, including such uses as gifts, antiques, crafts, newspapers, beer, wine or liquor, tobacco, flowers, sporting goods, books, jewelry, leather goods and stationery stores.*
  - (3) Personal service establishments, including such uses as barbers, beauticians, shoe repair and tailors.*
  - (4) Financial institutions, loan companies and banks.*
  - (5) Restaurants, excluding fast-food or franchised food service operated restaurants.*
  - (6) Retail food stores, including bakeries, confectionery, candy or gourmet shops, small convenience grocery shops (without gas pumps) and meat, fish or produce stores.*
  - (7) Professional services and administrative activities, including such uses as offices of agents, brokers, physicians, dentists, attorneys, architects, engineers, musicians and artists and governmental offices serving the public.*
  - (8) Libraries, museums, art galleries and public information centers.*
  - (9) Fraternal, social service, union or civic organization.*
  - (10) Studio for artists, designers, photographers, musicians, sculptors and related uses.*
  - (11) Municipal and public services and facilities, including City Hall, municipal parking lots, water storage towers, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, sewers (storm and sanitary), street rights-of-way, utility transmission and distribution lines, public transportation bus or transit stops, police and fire stations and substations for electric, gas and telephone facilities.*
- C. Conditional uses subject to special requirements. The following uses are permitted subject to receiving a conditional use permit by the City Council as provided in Article IX of this chapter:*
- (1) Commercial indoor recreation activities, including amusement arcades, indoor theaters, social clubs, youth clubs or similar facilities.*
  - (2) Laundromats and dry-cleaning establishments.*
  - (3) Fast-food or franchised food service operated restaurants.*
  - (4) Day-care centers.*
  - (5) Community residential treatment program.*
  - (6) Multifamily residential when part of a mixed-use development, with commercial uses in the same building and/or on the same site.*
  - (7) Nano or microbrewery with or without associated pub.*
- D. Area and bulk requirements.*
- (1) Maximum number of units per acre shall be 16.*
  - (2) Minimum lot area shall be 5,000 square feet.*
  - (3) Minimum lot width shall be 50 feet.*
  - (4) Maximum building coverage shall be 60%*
  - (5) Front yard setback shall be 15 feet minimum*
  - (6) Side yard setback shall be 14 feet aggregate total with a minimum of 6 feet.*
  - (7) Rear yard setback shall be 20 feet.*

- (8) *Height of buildings shall not exceed four ~~stores~~ stories or 50 feet.*
- (9) *Minimum separation distance between dwelling structures on the same lot shall not be less than 15 feet.*
- (10) *Parking shall comply with the requirements provided in Article IV of this chapter.*
- (11) *Signs shall comply with the requirements for C-2 Central Business District as provided in Article VI of this chapter.*
- (12) *For mixed use residential and commercial projects, off-street parking, parking beneath buildings, front, side and rear setbacks, landscaping and buffering, lot coverage, number of units per building and building separation shall be as determined by the Planning Commission.*

#### Section 4. Dates.

Planning Commission Review and Public Hearing: December 20, 2016

City Council Introduction: December 12, 2016

City Council Review and Public Hearing: January 9, 2017

Adoption: January 9, 2017

Effective: January 19, 2017

This ordinance shall take effect and be in force ten days after its adoption.

A complete copy of the Code of the City of Milford is available by request through the City Clerk's office or by accessing the city website at [www.cityofmilford.com](http://www.cityofmilford.com).

Advertised: Beacon 112316

#### *Ordinance 2016-27/Chapter 230; Adding a Conditional Use to Allow Chickens*

Planning Coordinator Pierce referred to a memo in the packet to further explain the ordinance. Essentially residents are seeking to keep chickens as pets and for their eggs and an amendment needed to be made to Chapter 230 in order to allow chickens in City limits. Hence, chickens being kept in the city are proposed to be a conditional use with additional requirements as outlined in the ordinance.

Chairman Sharp called for public comments.

Suzannah Frederick-405 S Walnut St-stated she is one of the residents that would like to have a small flock, backyard chickens. She has just over 1/3 acre of land, and this proposed change requires one acre. She requested 1/3 acre of land be considered.

Planning Coordinator Pierce thought a motion could be made to change the minimum lot size requirement to 1/3 acre, however what is before the Commission this evening went through the Community Affairs Committee, which is comprised of three council persons. He knows the size limitation on the land, he originally had 1/4 acre like the City of Dover, but they were not... he did not get general support from them for 1/4 acre which is when he revised it to one acre minimum.

Mr. Lynch asked if something could be changed to allow for unique properties to have chickens when they are less than one acre.

Mr. Boyle referenced the numbers as well. Would that then allow a chicken and 1/3? It has to relate to the numbers.

The Commissioner's packet included a letter from Mr. Phillips which refers to the City of Dover's ordinance where he states 25 chickens are permitted. Mr. Lynch asked if that is correct however Planning Coordinator Pierce did not believe that was completely accurate based on the information he was provided by the City of Dover. He confirmed ¼ acre is what Dover allows though.

Again, the original draft that went before the Community Affairs Committee showed ¼ acre; they were not in agreement with that, so he modified it to one acre. So with the advice of the Community Affairs Committee, this is what he has drafted. Not to say the Commission could not recommend something different.

Associate Solicitor Adkins stated minor deviations, such as acreage, could be recommended, but cannot recommend pigs as well because that is not within the scope of what is being discussed. But if the Commission would like to consider a limit lower than one acre, his opinion is that is within the scope.

Planning Coordinator Pierce asked if the Commission did recommend a smaller lot size, could Council approve the ordinance without the smaller lot size and Associate Solicitor Adkins replied yes. Council is not obligated to approve the recommendations of the Commission.

Ms. Pletcher asked if the lot size is changed, can the number of chickens be reduced as well? So if the land is one acre, four chickens are ok and if the lot is ½ acre, two chickens are ok.

Chairman Sharp asked if anyone else wished to speak.

Mr. Joseph Phillips-2 Causey Ave-stated he has the Causey Mansion Bed & Breakfast on 3.14 acres and wants to have something extra for guests who come to town to spend money. He researched stipulations in Dover via the internet and they could be incorrect. He would like to offer fresh eggs for customers.

Mr. Lynch noted Mr. Phillips requested 16 but is fine with 12. He thought a deal was being made at the Community Affairs Committee meeting he attended.

Mr. Lynch questioned if Dover had any negative feedback for ¼ acre lot size. Planning Coordinator Pierce felt the Community Affairs Committee was concerned about trying to narrow it down enough that you wouldn't have chickens on every property in Milford.

Mr. Fulton stated being as Milford's economic base is lower, there is a possibility of increased chicken production.

Hearing no additional public comments, Chairman Sharp closed the public hearing.

Mr. Fulton asked the commission felt about adding another section item under C.13(a) to read: "Special waivers may be granted for lot sizes less than one acre, no smaller than 1/3 acre, in size."

Associate Solicitor Adkins explained it would be difficult to prove the hardship case, as this line states a waiver may be granted, which is a variance approval via the Board of Adjustment. It is unclear, should one acre be adopted, if someone who has less than one acre could apply for a variance as either a use variance or an area variance.

Again, Associate Solicitor Adkins suggested the Commission modify the lot size as part of their recommendation and Council may accept that recommendation or not.

Mr. Fulton felt the one acre size may have been put in there because of avian flu, which was a problem last year. If someone's chickens are found to be carriers or sick, since the chickens are registered by the Department of Agriculture, there is a quarantine area around the domicile of a three mile radius because we have such a large poultry industry here. The quarantine area must stay dormant for six months, every chicken slaughtered and mulched into the ground. These are still active regulations in case another epidemic comes.

So one of the concerns with recommending less than one acre lot size is that more people will have chickens and what will this do to our community if another avian flu type outbreak occurs. While Mr. Fulton doesn't have a problem with people having chickens and getting the fresh eggs, he understands that if an epidemic similar to avian flu came to Delaware it would severely impact our poultry industry and create massive economic turmoil.

Mr. Boyle confirmed the Community Affairs Committee has already seen this proposed ordinance and one acre was acceptable to them and is safe footing. When asked if other lot sizes were discussed, again Planning Coordinator Pierce stated 1/4 acre was first drafted for their review and it was changed to one acre based on discussion with the Committee. There was no discussion of any other lot size.

Mr. Holloway stated there are several subdivisions within the City that have deed restrictions. He asked how those developments would be affected by this ordinance. Associate Solicitor Adkins stated this ordinance does not prevent deed restrictions in a community from prohibiting chicken coops. Deed restrictions are at least as restrictive as City Code and can be more restrictive. In addition, this ordinance is a conditional use, so a public hearing would be required.

Mr. Holloway questioned whether this would open Pandora's Box whereby someone wants to declare a snake as a pet, or rabbits or squirrels.

A motion by Mr. Fulton, seconded by Mr. Lynch, to recommend approval of the ordinance subject to changing the lot size to 1/3 acre as follows:

*(13) Keeping of Chickens for individual domestic purposes subject to the following restrictions:*

(a) *Keeping of chickens shall be an accessory use and not permitted on lots smaller than ~~one~~ 1/3 acre in lot area.*

Motion failed with the following votes:

Mr. Holloway-No on anything less than one acre.

Mr. Fulton-Yes because the smaller acreage requirement is still above most subdivisions which are ¼ acre and it would allow for the production of eggs for personal consumption.

Ms. Pletcher-No. Must need one acre.

Mr. Lynch-Yes. It is more strict than Dover and maybe other municipalities and it will allow residents to have fresh eggs.

Mr. Boyle-No. The fact Community Affairs Committee has discussed this in detail, there is a reason for the one acre.

Chairman Sharp-No. It doesn't make good sense.

A motion by Mr. Boyle, seconded by Mrs. Pletcher, to recommend approval of the ordinance as presented. Motion failed with the following votes:

Mr. Holloway-Yes based on the recommendations from the Community Affairs Committee.

Mr. Fulton-No because it is too restrictive.

Ms. Pletcher-Yes based on the Community Affairs Committee recommendations and access to fresh eggs.

Mr. Lynch-No because it is too restrictive.

Mr. Boyle-Yes for reasons given.

Chairman Sharp-No. He just doesn't think we need chickens.

A motion to postpone the ordinance to the January Planning Commission meeting after the Community Affairs Committee has discussed possible changes in lot size was made by Mr. Boyle and seconded by Mr. Fulton. Motion carried unanimously.

ORDINANCE 2016-27

CHAPTER 230

AN ORDINANCE AMENDING CHAPTER 230 ZONING OF THE CODE OF THE CITY OF MILFORD BY INCLUDING A CONDITIONAL USE TO ALLOW CHICKENS FOR INDIVIDUAL DOMESTIC PURPOSES IN A RESIDENTIAL ZONE

WHEREAS, The Community Affairs Committee (Committee) recognizes the benefits of locally produced food; and

WHEREAS, The City of Milford currently prohibits the keeping of chickens in its corporate limits; and

WHEREAS, the Committee deems it to be in the best interest of the City of Milford to allow residents to keep a limited number of chickens for providing eggs for personal consumption in its residential districts; and

WHEREAS, The Committee recommends the City Council (Council) of the City of Milford modify the Zoning Chapter by adding a conditional use to allow chickens that are used for individual domestic purposes, subject to certain regulations as set forth, and said Council finds such actions reasonably further the health, safety and general welfare of the residents of the City of Milford.

NOW, THEREFORE, the City of Milford hereby ordains:

#### Section 1. Purpose and Authority

The purpose of this Ordinance is to amend Chapter 230 Zoning Code of the City of Milford by modifying Section 230-9 R-1 Single Family Residential District, Subsection C by including Paragraph 13 Keeping of Chickens for Individual Domestic Purposes, as follows:

#### §230-9. R-1 Single-Family Residential District.

In an R-1 District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.

- A. Purpose. The intent of the R-1 Residential District is to preserve the spacious residential atmosphere and quality of living of existing low-density residential development, to provide for the orderly and appropriate development of new low-density housing and to allow related uses that would not be detrimental to the residential character of the district.
- B. Permitted uses.
- C. Conditional uses subject to special regulations. The following uses may be permitted with the approval of a conditional use permit by the Milford City Council in accordance with the provisions in Article IX of this chapter:

*(13) Keeping of Chickens for individual domestic purposes subject to the following restrictions:*

- (a) Keeping of chickens shall be an accessory use and not permitted on lots smaller than one (1) acre in lot area.*
- (b) No more than four (4) chickens per acre shall be permitted on a residential lot with a maximum of twelve (12) chickens allowed on a single property.*
- (c) Chickens shall be registered with the Delaware Department of Agriculture.*
- (d) Chickens shall be penned in a coup that shall be at least four (4) square feet per chicken.*
- (e) All chicken coups shall be located in a rear yard and shall be a minimum of 20 feet from the side and rear property lines.*
- (f) Any odor associated with the chickens shall not be discernable from the property lines.*
- (g) Keeping of roosters shall be prohibited.*

- (h) Slaughtering of chickens shall be prohibited.*
- (i) Violations of these restrictions may lead to the revocation of the conditional use approval.*

Section 2. Dates.

City Council Introduction: December 12, 2016

Planning Commission Review & Recommendation: December 20, 2016

City Council Projected Adoption Date: January 23, 2017

Effective Date: Ordinance 2016-27 shall become effective at the expiration of ten (10) days following adoption or at any later date specified by City Council.

To review the entire chapter or a complete list of City of Milford ordinances, please access the City of Milford website at [cityofmilford.com](http://cityofmilford.com) or contact the City Clerk's Office at 302-424-3712.

Advertised: Beacon 11/09/16

**ADJOURN**

With no further business, the meeting adjourned at 7:57 pm.

Respectfully submitted,

Christine R. Crouch, CMC  
Deputy City Clerk