

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 6, 2014

A Meeting of the Annexation Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, February 6, 2014.

PRESIDING: Chairperson Katrina Wilson

IN ATTENDANCE: Committee Members: Councilman Douglas Morrow, Councilman S. Allen Pikus
and Planning Commission Chairman James Burk

City Clerk/Recorder Terri Hudson

Chairwoman Wilson called the Annexation Committee Meeting to order at 8:15 a.m. to review the petition submitted by Anna M. Legates and Jo Ann Currey:

*CITY OF MILFORD
Planning and Zoning Department
201 S. Walnut Street
Milford, DE 19963*

Attn: Mr. Gary Norris, AICP

Request - Petition for Annexation of Property

*Tax Map No. MD-00-174.00-02-27.00
Site Address: Carpenter Pitt Road and State Hwy 408A*

Ladies and Gentlemen:

We are requesting the above-referenced tax parcel be annexed into the City of Milford from Kent County, 6.48t +/- Acres, currently zoned AR.

General Location Description: The property is located east of DE Route One, situated between State Hwy 408-A (east) and Carpenter Pitt Road (north). The parcel is contiguous to lands within the City of Milford (north).

The reason for our request is to bring the property into compliance with the City of Milford's Comprehensive Plan. We are applying for C-3 Zoning, Highway Commercial, which is consistent with Milford's Plan.

An enclosure titled 'Reasons to Annex - Supplementary' provides additional rationale. We believe there are many potential benefits to the City of Milford represented by this application.

Also enclosed are the annexation application, land use application cover sheet, sealed survey, deed, legal description, two aerial maps indicating the features of our unimproved land with abutting properties and roadways and a map from the comprehensive plan. A check for the required fees is attached.

We extend a special thank you to City employees who assisted us, in person or by telephone, as we assembled the required documents. Your knowledge, guidance, and patience are appreciated.

Representing the City of Milford, Senior Planner Debbie Pfeil of URS advised that she has reviewed the application as requested. She reported that the property is requesting to come in as vacant land so there is no proposal or recommendation for land use. If this was a developed project proposing specific things at a site plan, more detail would be required.

Ms. Pfeil reviewed the petition noting the property consists of approximately 6.481 +/- acres in Kent County. It fronts both

County Road 408A to the east and Carpenter Pit Road to the north, both of which are maintained by the State of Delaware. Access approval would be required from DelDOT at the time of development.

Storm water management on the parcel will be controlled by the Kent County Soil Conservation District at the developer's expense.

The area proposed to be annexed is currently zoned A-R (Agricultural Residential) under the Kent County Zoning Ordinance. The applicant requests the property be zoned C-3 (Highway Commercial) under the City of Milford's Zoning Ordinance. Proposed development is unknown and is currently a vacant lot.

The area proposed to be annexed would be connected to the city sewer system and treated at the Kent County Regional Sewer Authority. All costs for utility extensions will be at the expense of the developer; upon completion, utility lines would be transferred to the city for incorporation into the city's wastewater system. Wastewater capacity cannot be guaranteed until a final site plan has been approved by the Milford Planning Commission or a subdivision application has been approved by Milford City Council.

The area proposed to be annexed would be connected to the city water system. All costs for utility extensions to this property will be at the expense of the developer. Upon completion, the utility lines will be transferred to the city for incorporation into the city water system. Water capacity cannot be guaranteed until a final site plan has been approved by the Milford Planning Commission or a subdivision application has been approved by Milford City Council.

Building permits will be required and scheduled impact fees are to be remitted to the city at that time.

The electric department has three-phase electric currently serving Lighthouse Estates and running down Carpenters Pit Road.

The Department of Transportation will most likely require a traffic impact study based on commercial trip generations and further require entrance permits for the property. The developer will pay the related costs.

Ms. Pfeil advised the traffic impact study (TIS) threshold was lowered about two years ago so the majority of commercial projects require a traffic impact study. When this project goes for a TIS, she recommends the city meet with the applicant and DelDOT to discuss the surrounding neighborhood connection areas and increased traffic.

The area north of this parcel is zoned mixed use and the Hampton Inn is zoned C-3.

The U.S. Army Corp of Engineers will control provisions under Section 404 of any wetlands on the parcel though the applicant has not determined wetlands exist at this time. Map Figure 3 titled "Natural Features" in the 2008 Comprehensive Plan do not delineate wetlands on this site. However, that will need to be determined prior to the site plan review.

The parcel is located in a poor recharge area. The developer will have to comply with the excellent recharge area requirements and conform to the provisions of that code. According to Map 3A "Natural Features" of the 2008 City of Milford Comprehensive Plan, the property is not located in a Well Head Protection Area.

The area proposed to be annexed is located east of Delaware Route 1 and between County Road 408A (east) and Carpenter Pit Road (north). Lands to the north and located in the City of Milford have been developed as Lighthouse Estates subdivision and zoned R-3 (multi-family). Lands to the west and east are out of the city limits with scattered single family home sites and vacant parcels. They are all zoned A-C (agricultural conservation) under the Kent County Zoning Ordinance.

She wanted to bring one parcel to the attention of the annexation committee. Parcel 5-00-174.00-02-27.01 is not within city limits and is directly to the west of this property. City limits are across the highway and to the north. This annexation could create an enclave, which is considered a 'pocket'. During the planning process, she anticipates the state will

negatively comment on the creation of a pocket. All the other properties will be within the legal boundaries of the city with the exception of this piece.

If and when they are ready, the city should encourage that property owner to annex once the utilities are in place which typically prompts people to annex.

The Carlisle Fire Company currently provides fire protection and ambulance service. Police protection is primarily provided by the Delaware State Police with assistance from the Milford Police Department. Upon annexation, the Milford Police Department would become the primary police agency.

The State Fire Marshal's Office would regulate construction issues relating to fire protection.

The state will review Milford's Comprehensive Plan when the plan of services is provided. The property has been in the City Urban Growth Boundary since the 2008 plan and is titled "Future Land Use". It is further identified in the Neighborhood-North Map Figure 14A and Map 10.

Ms. Pfeil explained that the city has recommended if and when this property wants to annex, it should be designated Highway Commercial or C-3.

She noted that this is general planning information for consideration. When the annexation is reviewed by the state, state law would apply. She recalled the concern expressed by state officials regarding development east of Route 1. The property is in the growth area of the comp plan certified by the state in 2008.

Ms. Pfeil felt there was a need to add a new section entitled Strategies for State Policies and Spending in the annexation report. She explained the property is State Strategy Level 3 which is an area the state does not want to invest a lot of money in. She stressed the importance of Milford being aware of this and noted that the property located to the north is in Level 1. Level 1 is an area where the state wants growth and development and where they are willing to spend money. This is generally where services, utilities and infrastructure are found.

She clarified that Investment Level 3 falls into two categories. The first category covers lands that are long-term growth plans of the county and municipalities where development is not necessary to accommodate expected population for five years. In these instances, development in Investment Level 3 may be least appropriate for new growth and development in the near term.

Ms. Pfeil wants the city to understand that because this is in the state's 2010 plan which trumps the city's 2008 comp plan. It is important the state is aware there has been an investment and that utilities and infrastructure exist at the property to the north which is classified as Level 1. Because this property abuts that, it does not make sense that this property would remain a Level 3. To change that state strategy is difficult though it is important the state is made aware this does not make sense for the City of Milford.

She also reported that when state strategies are considered for updating, they are supposed to honor the comprehensive land use plans. In 2010, the state strategies did not honor Milford's comp plan as being in the growth area for these specific properties. The three lands in the enclave area do not match the state strategy and should have followed the city's plan.

Ms. Pfeil is ready to represent Milford at the state level when needed.

When asked what the state could say, Ms. Pfeil predicts the state will say it is Level 3 which is out of play because they feel it is not the right location for development. As a result, they will not put any state resources into it and she has not seen any state resources put into these areas in a long time. As far as roadways and utilities, that is the responsibility of the developer.

In this case, she is sure the city will receive a comment back. Unfortunately, their state strategies did not follow the municipality's adopted plan. For the other communities she represents, she took the state strategy map when they asked

for comments, reviewed these items very carefully. She made sure the state strategies matched the boundaries of her clients because once it is adopted, it is final.

The bottom line is Milford's current comprehensive plan, which is signed by the governor, does not match the state strategies.

Since this property is currently under consideration for development at this time and there are no specific plans, we cannot sell the potential. Ms. Pfeil feels there is the potential for jobs, transfer taxes and development.

She stated that the only sustainable revenue is the current assessment of \$244,804, which has an annual property tax liability of \$1,126. Presently, the gain to the city would be property taxes. However, when this property is developed, there will be a much larger advantage.

Advantages to the city are as follows:

- * The property would be within the planning area of the City of Milford.
- * The City would receive revenues (property tax, real estate transfer tax, building permits, etc.) if and when the property becomes developed.
- * Potential for additional water, sewer, and electric customers (at the developer's cost).
- * Identified within the Urban Growth Boundary Area of the 2008 Comprehensive Plan.
- * Consistent with the Future Land Figure of the 2008 Comprehensive Plan
- * Increases the amount of development opportunities within the city limits, which have the potential to spur other economic benefits to the city.

At this time, Ms. Pfeil is unable to find any disadvantages. She initially felt the enclave could be a disadvantage though it is not a disadvantage to an annexation. This is in her report only because we should consider other future annexations of the property.

The recommendation, based on the issues and comments discussed in this report, is approval of the application. The annexation is consistent with the comprehensive plan use and the property is contiguous (by a roadway). Any changes to the property are subject to the approval of the city planning commissioner and city council. The property would be served by city electric, water and sewer at the expense of the developer. It should be clarified the utilities are not available to the site.

Ms. Pfeil highly recommends an executed annexation agreement prior to the final approval by city council.

The municipal annexation plan of services is usually submitted after consideration by the city council. However, the plan of services takes 30 calendar days and she recommends the plan be submitted as soon as possible for consideration.

Ms. Pfeil confirmed the land is vacant and not being farmed. The majority of the property is wooded.

She recommends the property be annexed with the C-3 zone.

Through the planning process, Ms. Pfeil was unable to find any disadvantages.

She emphasized the need to have an executed annexation agreement. She explained that the developer will bear the cost of the infrastructure which is typically unknown at this stage. She agrees that every jurisdiction/municipality would love the ability to install water and sewer in the ground for free to bring in new commercial or new residential property.

However, that will need to be worked out among those properties being served through grants, loans and borrowing powers. The utilities are put in the ground not to only serve one property. Instead, it will be installed to serve the capacity of the area. Ms. Pfeil said the more people that will have access, the better it is for everyone.

The annexation agreement will provide the city a recorded document outlining the cost to the developer. If the city ever came up with funding mechanisms or grants or loans, which can be rare though they are sought all the time in engineering and planning, that can be considered above and beyond what is in the agreement. At this point, it is very important that it be clear that there is nothing in the budget to cover the costs of an annexation and services and that is not something borne by the taxpayers of the city.

Ms. Pfeil said the report is ready to go to the state for comments. She is also prepared to represent Milford for any concerns of the state with the discrepancies with the state strategies.

When asked for comments, Planning Commission Chair agrees with Ms. Pfeil's presentation adding it is a reasonable request. The next step would be to present the annexation/zoning request to the planning commission.

Mr. Burk agrees with Ms. Pfeil's comments that the city proceed with the annexation. Mr. Morrow agrees and Mr. Pikus stated this is a no-brainer and only advantageous to the city.

Ms. Wilson said the applicants would like this to be a smooth and quick process. Their intent is to be good neighbors to the city and they are in for the long haul. They are no prospects and no hidden agenda. When someone becomes interested in the property, the owners want to make sure they will fit in with the City of Milford.

She also emphasized that the City of Milford does not go out and seek annexations. Instead, we like for our neighbors to approach the city with that intent as was done in this case.

Ms. Pfeil asked to make a comment. She said she is sure that Milford's City Council and Planning Commission have had ethical training. She stated she is required to state this for the record. This application is going through due process. She would recommend that the annexation is not discussed off the record with the applicant, annexation committee and council and planning commission. This allows fair due process and by handling in this manner, it cannot be contested or result in any potential litigation in the future.

She emphasized that comments made outside the due process meeting can be contested for litigation in the future.

The planner wants on record the potential consequences of any talk outside a formal meetings. She stressed that she is not accusing anyone in particular but needs it stated for the record.

It was noted this parcel would become part of the Third Ward.

Mr. Morrow moved to accept the report as given by Ms. Pfeil and that the city proceed with the annexation, seconded by Mr. Pikus. Motion carried by roll call vote.

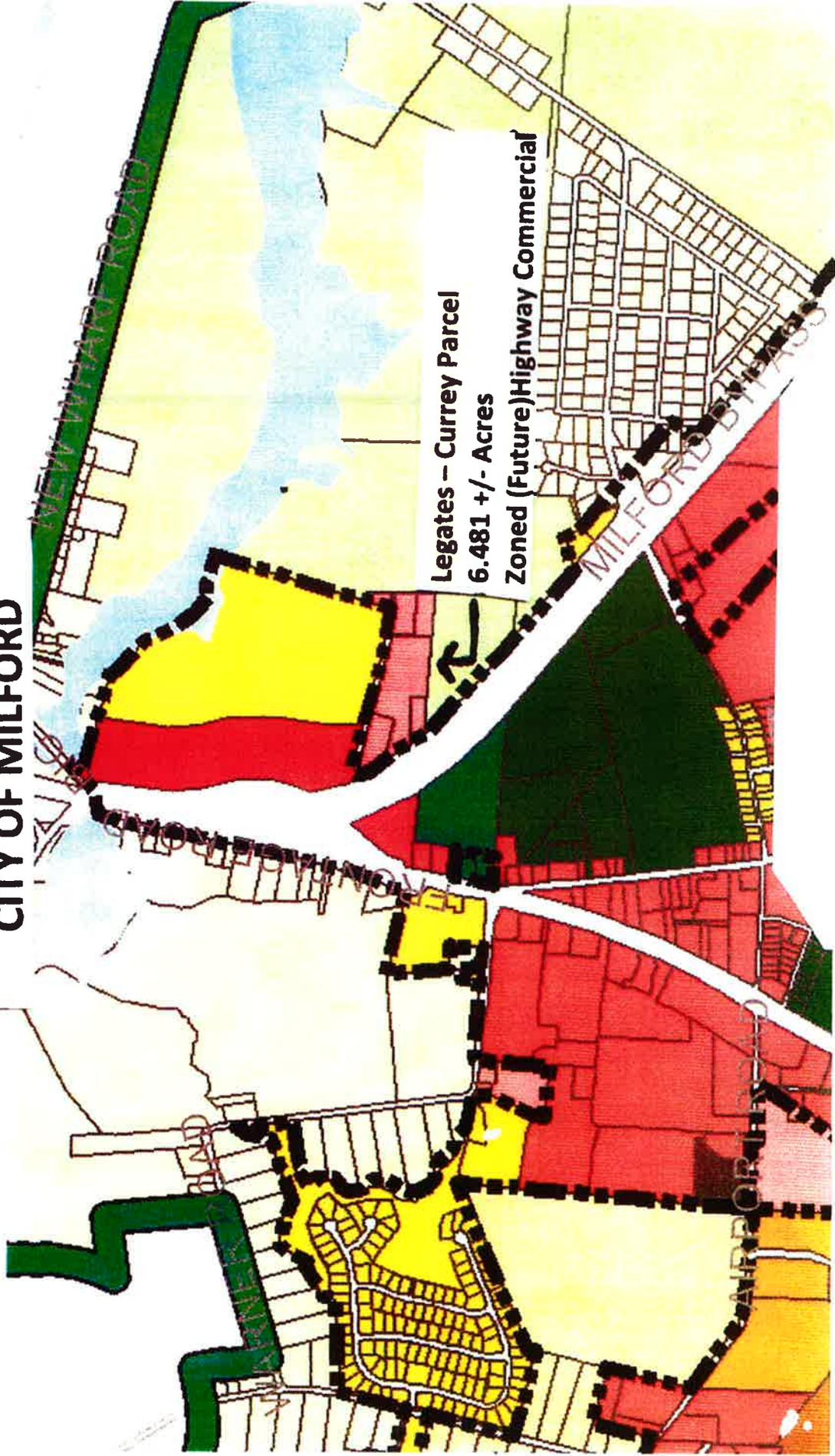
With no further business, the Annexation Committee Meeting adjourned at 8:51 a.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/ Recorder

COMPREHENSIVE PLAN CITY OF MILFORD



Supplement to Annexation Request - November 2013



Legates – Currey Annexation





Legates – Currey Annexation

