

*MILFORD CITY COUNCIL
MINUTES OF MEETING
July 19, 2010*

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 Monday, July 19, 2010.

PRESIDING: Chairwoman Katrina Wilson

IN ATTENDANCE: Committee Members Douglas Morrow and S. Allen Pikus
Planning Commission Chairman Chuck Rini

City Clerk/Recorder Terri Hudson

Chairwoman Wilson called the Annexation Committee Meeting to order at 7:06 p.m. to review the following request submitted by Walter N. Thomas II dated May 4, 2010:

It is our understanding that in order to annex a property into the City of Milford a formal letter must be submitted to you requesting this action to take place. With this stated, and by virtue of this letter, we hereby formally request that the property be annexed into the City of Milford.

More specifically described, the property, located at 1335 Milford-Harrington Highway, consists of tax parcels 62.00 and 62.02, block no. 1, as shown on tax map 173.00 in the Milford Hundred of Kent County, Delaware. Currently the property is zoned AC in Kent County and is comprised of 71.92 acres of land. The property is contiguous to the City of Milford municipal boundary both to the north and south.

Please refer to the enclosed City Annexation Exhibit for additional information including bearings and distances of the subject parcels and a location map. As indicated to Gary Norris via e-mails from Mr. Phillip Tolliver, P.E., we are requesting an R-3 zoning designation in the City of Milford. As you know, the approved City of Milford comprehensive plan does include the subject property as an immediate annexation area.

As time is of the essence, we would respectfully ask that you expedite this process. Should you have any questions or comments regarding this issue, please feel free to contact Mr. Phillip Tolliver, P.E. with Morris and Ritchie Associates, Inc. at 302-326-2200.

Ms. Wilson advised that City Planner Norris was not in attendance due to another obligation.

She then announced the land is located on the south side of the Milford Harrington Highway (State Route 14) near the intersection of Canterbury Road/Holly Hill Road and Milford Harrington Highway with parcels and acreage noted below:

Tax Parcel 5-00-173.00-01-62.00-00001
64.362 Acres Parcel of Land

Tax Parcel 5-00-173.00-01-62.02-00001
7.556 Acre Parcel of Land

The property is currently zoned A-C in the county; the requested zoning is R-3.

The following report was prepared by City Planner Norris:

<i>Property Owner:</i>	<i>Phillip Tolliver of Morris and Ritchie Associates on behalf of Walter N. Thomas II</i>
<i>Location:</i>	<i>The south side of Milford Harrington Highway near the intersection of Canterbury Road/Holly Hill Road and Milford Harrington Highway.</i>
<i>Size:</i>	<i>72 +/- Acres</i>
<i>Existing Zoning:</i>	<i>AC: Agricultural Conservation</i>
<i>Proposed Zoning:</i>	<i>R-3, with a maximum residential density of 10 units per acre</i>
<i>Tax Map and Parcel Number:</i>	<i>MD-00-173.00-01-62.00, MD-00-173.00-01-62.02</i>

APPLICANT

An application by Phillip Tolliver of Morris and Ritchie Associates on behalf of Walter N. Thomas II for the annexation of 71.92 acres into the corporate limits of the City of Milford.

LOCATION

The property is identified as Kent County tax parcels MD-00-173.00-01-62.00 and MD-00-173.00-01-62.02 and would be located in the Fourth Ward of the City of Milford.

STREETS

The property fronts the Milford-Harrington Highway which is maintained by the State of Delaware. Access approval will be required from DelDot. There is one single family detached dwelling located on the property.

DRAINAGE

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

ZONING

The area proposed to be annexed is currently zoned AC in Kent County under the Kent County Zoning Ordinance. The application requests the property to be zoned R-3 Moderate Density Residential under the City of Milford's Zoning Ordinance. Proposed development is a residential community with 768 residential units.

SEWER

The area proposed to be annexed would be connected to the City of Milford's sewer system and then be treated at the Kent County Regional Sewer Authority. All costs for utility extensions to this property shall be completed at the expense of the developer and upon completion, the utility lines 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 City Council, building permits issued, and the scheduled impact fees are remitted to the City.

WATER

The area proposed to be annexed would be connected to the City of Milford's water system. All costs for utility extensions to this property shall be completed at the expense of the developer and upon completion, the utility lines transferred to the City for incorporation into the City's water system. Water capacity cannot be guaranteed until a final site plan/subdivision has been approved by City Council, building permits issued, and the scheduled impact fees are remitted to the City.

ELECTRIC

The Electric Department has 3 phase electric currently running down RT 14. It would make it easier to get to the development beside the BAC plant on Holly Hill Rd if we could get an easement.

TRAFFIC

The Department of Transportation may require a traffic impact study and entrance permits for project. The developer will pay the related costs.

ENVIRONMENTAL ISSUES

The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel. The applicant has not determined if wetlands are on the property at this time, however according to maps in the 2008 Comprehensive Plan there are wetlands shown on this site. This parcel is located in an excellent and good recharge area. The southern third of property is located in an excellent recharge area and the northern part of the parcel is in a good recharge area. The developer will have to comply with the Excellent Recharge Area Ordinance of the City of Milford and conform to the provisions of this ordinance. According to Map 3A Natural Features, of the 2008 City of Milford Comprehensive Plan, this property is not located in a Well Head Protection Area.

AREA LAND USES

The area proposed to be annexed is located on the south side of the Milford-Harrington Highway or Route 14. Lands to the north are located in the City of Milford, undeveloped, and zoned R-3 with a PUD designation. Lands to the west and east are out of the City's limits with scattered single family home sites on parcels of land and are zoned AC under the Kent County Zoning Ordinance.

FIRE AND POLICE

The Carlisle Fire Company, Inc currently provides and would continue to provide fire protection. Police protection is primarily provided by the Delaware State Police with assistance from the Milford Police Department. Upon annexation, primary police service would be provided by the City of Milford Police Department. The Carlisle Fire Company would provide ambulance service. The State Fire Marshall's Office would regulate construction issues relating to fire protection

COMPREHENSIVE LAND USE PLAN

The City of Milford's Comprehensive Plan identifies this section as the Neighborhood- North. The property is recommended in the Comprehensive Plan as Moderate Density Residential or R-3.

PROPERTY TAXES AND OTHER ECONOMIC CONSIDERATIONS

According to John Darsney, Land Management Data Manager for the City of Milford, there are no farmland assessments or preservation districts on the parcels under consideration. The site as surveyed, 72 acres at the requested R-3 zoning district, with no subdivision approval, would have an assessment estimate of \$600,000, with an annual tax liability of \$2,760. It is anticipated that the property taxes, after development, will increase on this property and the City would benefit from the revenues received from building permits and real estate transfer taxes. Construction costs as well as user service fees cannot be determined at this time, as the applicant has not proposed a project to assess.

ADVANTAGES TO THE CITY

- 1. The property would be within the planning area of the City of Milford.*
- 2. The City would receive revenues (property tax, real estate transfer tax, building permits, etc.) for activity on the property.*
- 3. Potential for additional water, sewer, and electric customers.*
- 4. Identified within the Urban Growth Boundary Area of the 2008 Comprehensive Plan.*
- 5. Increases the amount of development opportunities within the City limits, which have the potential to spur other economic benefits to the City.*

DISADVANTAGES TO THE CITY

- 1. Concerned about the increase in population and the demand for additional services with possible increase in the cost of services for this annexation.*

2. *Cost associated with the maintenance of expanded infrastructure.*
3. *Unknown impact on the neighboring properties and infrastructure.*

RECOMMENDATION

Based on the issues and comments discussed in this report, the Annexation Committee of the City of Milford recommends approval/disapproval of the application, with the following comments:

Chairman Rini then presented an oral report on behalf of City Planner Norris. He advised that access approval will be required by DelDOT. The petitioner is proposing a residential community with an R-3 zoning with a maximum residential density of ten units per acre which calculates upward of 768 residential units.

The proposed area to be annexed will be connected to the City of Milford sewer system with treatment through the Kent County Regional Facility. Water will be provided by the City of Milford. In order to provide electric, the electric superintendent recommends an easement from Holly Hill Road to serve the development.

DelDOT may require a Traffic Impact Study and entrance permits for the project.

The southern third of the property is located in an excellent recharge area; the northern part of the parcel is in a good recharge area. The developer will need to comply with the section of the Zoning Ordinance of the City of Milford that addresses groundwater recharge areas. According to Map 3-A, the Natural Features Map in the city's comprehensive plan, this property is not located in a well head protection area.

The site will be served by Carlisle Fire Department. Currently served by the Delaware State Police, police protection will be solely provided by Milford Police Department.

Mr. Rini then read the advantages into record adding there are no disadvantages.

It was confirmed that R-1 is a single family district and R-2 permits housing at a greater density than the R-1 by providing low to medium-density housing.

Mr. Pikus asked why R-3 is being referred to as moderate density. He said his understanding was that R-1 was low density, R-2 was moderate and R-3 should be considered high density.

Mr. Morrow asked if an R-3 with a PUD would be considered high density emphasizing that would require conditional use approval.

That matter was deferred to be later clarified by the city planner.

Phil Tolliver with Morris and Ritchie Associates spoke on behalf of the application reporting his firm is representing the fee simple owner and the equitable owner. He explained the fee simple owner of record is Walter Thomas II; the equitable owner is Eric Dunn or Hickory Glen Holdings LLC. Mr. Dunn does not legally own the property but plans it purchase in the very near future.

Mr. Tolliver explained the property is in the 2008 Comprehensive Plan and has been identified as an immediate annexation parcel. That package was reviewed by State Planning Director Connie Holland and her staff after which the plan was certified. As a result, the request is consistent with the comprehensive plan which called for a moderate density property to be zoned R-3. He feels this is consistent with the zoning on the southern property, known as the Amberwood Project, which they also engineered. He referenced another property across the road, known as the Fry Farm, also zoned R-3.

The engineer advised the property is comprised of 71.92 acres based on an actual boundary survey they conducted.

He further explained that approximately six months ago, a minor subdivision was done that created a smaller parcel within the large parent parcel which is the reason for the two parcel numbers. He said the objective is to develop the property in accordance with the zoning code and R-3 designation. The zoning code specifies an allowable density based on the use; an apartment project, the code allows up to 16 units per acre, a townhouse project 10 units per acre and a single family project would permit 4 units per acre or something similar.

He then questioned Mr. Norris' report which indicated the proposed zoning has a maximum residential density of 10 units per acre. Mr. Tolliver pointed out the R-3 permits up to 16 units per acre. He believes that may be the proposed density of 768 units divided by 71.92 acres. Mr. Pikus answered that would be slightly less than 11 units but more than 10.

Mr. Rini advised the city planner's report specifically states an R-3 zone with a maximum residential density of 10 units per acre. He agreed that may have been based on the application that was submitted. Mr. Tolliver stated they submitted the application for a proposed 768 units. He added that other factors, including open space and similar areas, cannot be developed.

Ms. Wilson prefers to have clarification from our city planner. Mr. Tolliver then confirmed it specifically works out to 10.68 units. He said this would be a multi-phase project and annexation is only the infantile stage of the process. Once this is completed, the preliminary plan, site plan, etc. will follow.

Mr. Tolliver said there was a reference in the report about a Phase 3 electric easement which would help the city to run electric to this property and provide service to the Amberwood project.

Chairman Rini confirmed that Mr. Norris was referencing the Baltimore Air Coil site which is across the road from this property noting an easement would permit power to other side.

Mr. Pikus pointed out the Fry property, across the street from this site, was proposed for 1,227 houses. The Forest property to the southeast was proposed for 216 units. He then verified there is a sales agreement on this property.

Mr. Pikus pointed out there are approximately 6,000 units in Milford that received approval for development that are sitting idle. Therefore, he is skeptical about the R-3 zoning.

Mr. Tolliver explained that if the land does not receive the R-3 zone, the prospective land purchaser would back out of the agreement. He said one reason he was asking for the R-3 zone is because it was consistent with the comprehensive plan. He emphasized that the comp plan was approved by city council and the state. It is also consistent with the zoning of the Forest property to the south and the Fry farm to the north. He believes that a lower density at this site would not make sense when it was surrounded by R-3 zoning.

He then addressed the second issue brought up by Mr. Pikus and whether there was a need for more R-3 in the city. Mr. Tolliver referred to another client with an apartment project in Georgetown. Construction for two buildings with 180 plus units started approximated eight months ago and 143 have already been pre-leased. There has been no advertising except for a billboard in front of the site. When asked where the renters are coming from, the developer indicated that about 40% are coming from the Milford area. He confirmed the apartments are market rate.

Mr. Tolliver explained that following that conversation, he started looking around the area for apartment sites noting there are not a lot of available apartments in Milford. He is unaware of any with a clubhouse, pool or tennis courts. He did see a number of older apartment complexes that appear to be fully booked. He added they called everyone within a five-mile radius. Mr. Dunn saw this property and took into consideration the people moving from Milford to rent in Georgetown.

When asked if this will involve rental properties or units that could be purchased, Mr. Tolliver said they do not know

for sure right now it appears they will be rentals. However, it could end up being a mix of townhouses and apartments. The objective is to get an R-3 zone and without that, it will not work.

He agrees that 768 appears to be a large number and it will most likely be developed in phases. That would allow them to test the market to see if it works. If the market does not respond, they could come back and re-engineer to townhouses or singles.

Mr. Tolliver said to make this work, the property must be purchased at the right price. A lot of the vacant parcels Mr. Pikus is referring to were bought at the wrong time. He said this will allow the construction costs and rents to be lower which would make the project go forward.

It was confirmed that property owners within 200 feet of the applicant property will be notified of the Planning Commission and City Council Public Hearings.

Ms. Wilson announced that confirmation was received from the city planner the R-3 zoning does permit up to 16 units per acre.

Ms. Wilson then pointed out that for thirty years, Milford had very little growth. She is familiar with many individuals who have moved or want to move to Milford and have found housing a major issue at every level. She remembers when several developers wanted to come to Milford and build and council saw that as an opportunity. They began annexing property and all of a sudden, Milford was growing. Now in 2009 and 2010, the economy has hit rock bottom and many of the plans for those projects have fallen apart. This could be the chance to turn things around. As a member of this committee for a number of years, she has reviewed each of these petitions to ensure they were appropriate, benefitted the area, met the criteria for zoning and if everything fit, the committee would recommend proceeding with the annexation.

Mrs. Wilson said that based on the zoning of the surrounding properties and the location of the site in relation to city lands, the committee should recommend this property be annexed into the City of Milford with an R-3 zone.

Mr. Morrow added that this is the first annexation committee meeting in several months and he hopes it is a positive sign there is some new interest in the market. In addition, accepting this property into the city will increase our tax revenues which will benefit all our property owners. He is firm believer of free enterprise and though many developments have been approved, the one that is organized and ready to proceed is the one that should succeed. In addition, the request complies with the current comprehensive plan which means it fits into the city's future growth plans.

Mr. Rini also emphasized that in addition to complying with the comprehensive plan, he is a firm believer that a development this close to the city should be annexed to allow the city to have control over the land versus it being in the unincorporated area and the county having control.

Mr. Tolliver added that the developer did discuss a possible PUD in the county. He said they could petition the county which would be permitted by the Kent County Code as long as it was within 1,000 feet of a municipality or the growth zone of the county so that public sewer could be provided. He feels if that happened, Artesian or Tidewater would be extremely happy to have the franchise rights for service to this property. He emphasized that they prefer dealing with the City of Milford. He said if a project is built, the City of Milford Police Department will respond to any complaints because it is so close. All of the city services would be there so it makes no sense to let the county get the benefit of the connect and impact fees instead of the city.

Ms. Wilson advised that public comment will be provided at the Planning Commission Meeting on August 17, 2010 at 7:00 p.m. A second public hearing will be scheduled before City Council on September 27, 2010.

Mr. Morrow then moved to recommend council proceed to approve the annexation of the Walter N. Thomas II

properties with an R-3 zone. Mr. Rini seconded motion.

Motion carried by the following 3-1 vote:

Yes-Morrow, Rini, Wilson
No-Pikus

Mr. Pikus is voting no to the zoning and prefers it come in with an R-1 or R-2 based on his knowledge of the real estate in that area. He said there is more R-3 planned than the city is capable of handling in the next thirty years. He is pro-growth and pro-economic growth adding we need lots of businesses and lots of companies to come to town. Companies do bring with them requests for housing. He said Milford is working hard to get business to come here to bring new jobs. We currently have 6,000 units zoned residential. He pointed out if those 6,000 units are filled, this community will truly become a city. At this point, he has a problem with the R-3. He has also talked with seven of the neighboring property owners. Most have no problem with the annexation, but do have a problem with the density. An R-1 or R-2 would allow larger lots and nicer homes adding there are many apartment complexes and condos planned though very few quarter or half-acre lots.

With no further business, Ms. Wilson adjourned the Committee Meeting at 7:42 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk