



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
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OFFICE OF THE
SECRETARY

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June 30, 2009

Mr. David Baird
City of Milford
PO Box 159
Milford DE 19963

Dear Dave:

As a follow-up to your June 18 meeting with the state, I would like to reiterate both DNREC's support for your intent to master-plan your southeast annexation area and our willingness to work with you to protect key resources in that area. At the meeting, I mentioned several areas of opportunity to be proactive and promote best practices, as well as a few concerns:

- 1) **Water quality, wetlands and habitat.** The Mispillion watershed is impaired, and efforts are underway to develop the tools and a regulatory framework for protecting that watershed by implementing Total Maximum Daily Load requirements. Rather than letting development exacerbate pollution before the TMDL requirements are implemented, the master plan presents an opportunity to be proactive, take a watershed approach, and head off pollution through buffers, impervious cover limitations, green stormwater best management practices and other methods.

Rather than expensive structures and treatments, adequate buffers are an effective and natural means of protecting water quality. They can be designed into developments as an attractive amenity. I am enclosing a practical "Planner's Guide to Wetland Buffers for Local Governments" from the Environmental Law Institute, but DNREC experts are also available to make recommendations.

There also appear to be expansive tidal and nontidal forested wetlands, particularly on the southernmost parcel along Cedar Creek. Besides the issue of state and federal regulation of these areas, we urge you to work with DNREC to preserve these resources and consider clustering future development away from them.

We also ask that you make it standard practice to request that DNREC's Natural Heritage Program inventory these sites to document vegetative communities and rare/endangered species. As the approving authority, you can make this request on our behalf.

- 2) **Stormwater management.** A regional stormwater management plan that includes DeIDOT is essential to controlling runoff over such a vast swath of land where large-scale development and infrastructure is planned. It could also save money and require less land than if each parcel managed its own stormwater individually. As stormwater requirements are changing at the federal and state levels, it would be prudent to engage DNREC very early in a discussion of how to meet these fairly stringent stormwater program needs on a regional basis. I would be happy to facilitate a meeting with our Sediment and Stormwater program to initiate discussions.
- 3) **Excellent recharge areas.** I have met with the developers of Innovation Park and gave them a GIS map depicting flood zones and a large excellent recharge area running along the north and east boundary of the proposed site plan. As they are interested in a campus-like setting for their facilities, we hope that it will be fairly easy to avoid excessive impervious cover in the excellent recharge area.
- 4) **Air quality.** Often, the main focus of citizen response to development plans is traffic, followed by appropriateness of the development in an existing area, with some concern for natural resources and habitat. The impact on air quality often is not considered at all. Buildout of this annexation area, and the resulting traffic, would have a tremendous impact on air quality, and I have asked our Air Quality Management Section to model the anticipated emissions as they do for PLUS projects.

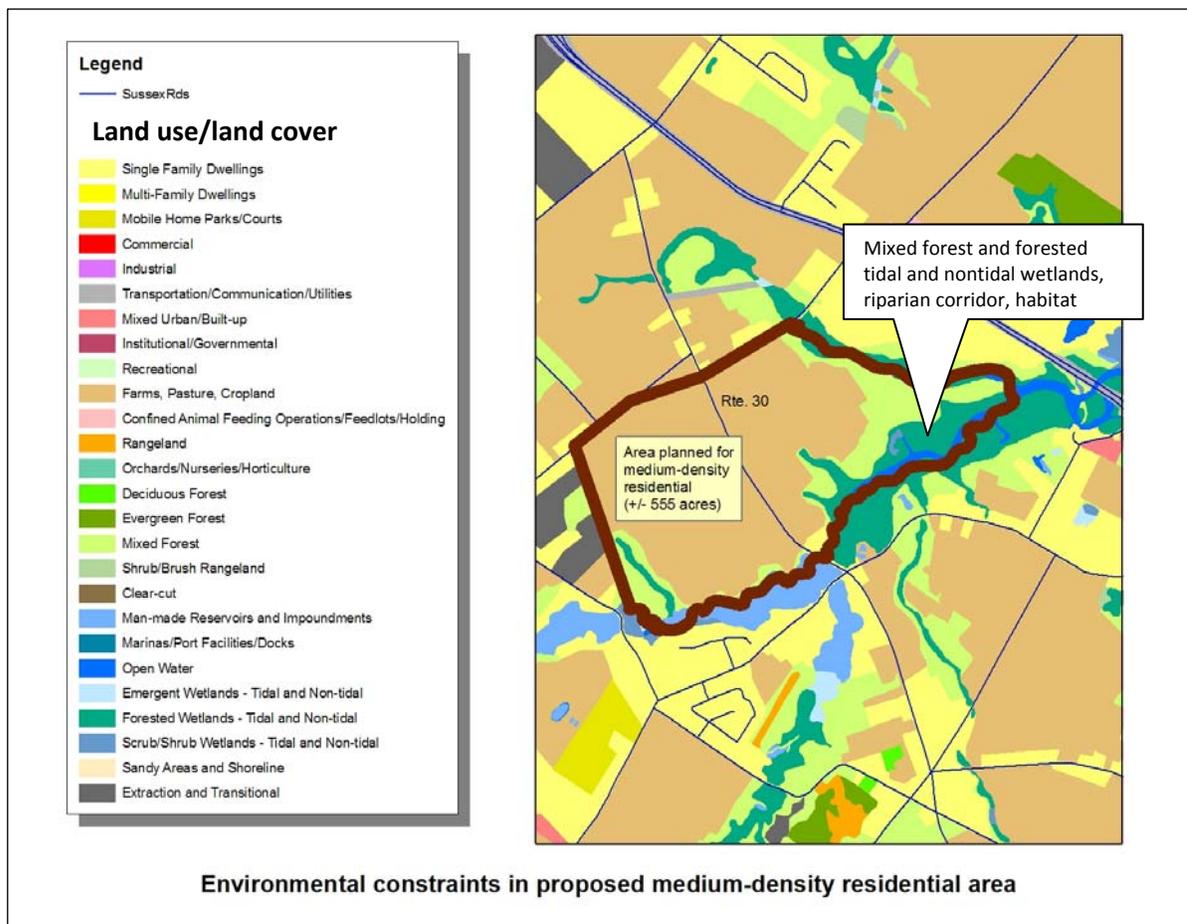
Because Sussex County, like the rest of the state, is in violation of federal ozone standards, we ask that the city consider requiring some mitigation such as energy-efficient appliances and other features, interconnectivity between developments and biking/hiking paths, tree plantings, and offering renewable energy options such as solar and geothermal. We also ask DeIDOT to plan for enhanced public transit as this area builds out.

- 5) **Zoning and TDR.** We are eager to endorse the use of Transfer of Development Rights to protect resources on the eastern and southern edges of this annexation area. However, while the city plans to consider TDR on the easternmost portion of the annexation area (east of Route 1), it appears to be planning a potential TDR receiving area on the southernmost end of the area (up to Cedar Creek Millpond). While Milford has alluded to a "transect" approach to zoning, with uses growing increasingly more intense and dense as one moves from the more rural edge of town toward the center, putting high-density development on the southern fringe is not consistent with this approach. Also, these parcels have significant environmental constraints (see map below).

Also, a by-right density of up to 16 units per acre, perhaps increasing to 24 units per acre under the city's proposed TDR ordinance, is extraordinarily dense for Sussex, Kent and even suburban

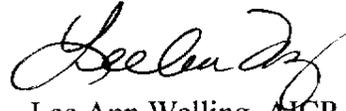
New Castle counties. If the city wishes to apply TDR successfully in its annexation areas, it should annex the area at the county’s base density of two units per acre and require TDR for an upzoning. Why would any developer use TDR if he or she can get 16 units per acre by right?

For an area that is to be master-planned, there is leapfrogging of zoning categories across the map – from moderate-density to low then back to moderate on the southern edge. Likewise, we support the planned “open-space” zoning for the easternmost area across Route 1, but we don’t see how that can truly be accomplished without downzoning those parcels.



We raise these issues with the understanding that Milford has the statutory authority to control its own destiny, if their citizens agree. That being said, we would like to partner with the town to proactively protect key natural resources in the southeast annexation area and recognize its potential to be a model of both planning and conservation best practices at the watershed level.

Sincerely,



Lee Ann Walling, AICP
Chief of Planning

cc: Connie Holland
Ralph Reeb
Mark Davis