

City of Milford



AGENDA

Council Meeting

October 28, 2013

Milford City Hall - Joseph Ronnie Rogers Council Chambers - 201 South Walnut Street, Milford, Delaware

7:00 P.M.
PUBLIC HEARINGS

Community Development Block Grant Program - Sussex & Kent County - Fiscal Year 2014
Adoption of Resolutions 2013-21; 2013-22; 2013-23; 2013-24; 2013-25

Young, Conaway, Stargate & Taylor LLP on behalf of CCM-Koelig LLC
Final Major Subdivision/Wickersham
Route 1 & Johnson Road
Area of Petition is 40.68 +/- Acres; Current Zoning is R-3; Tax Map 3-30-16.00-005.00.

2013 City of Milford Comprehensive and Annexation Plan

Adoption of Ordinance 2013-9/Shawnee Farms LLC on behalf of Cypress Hall (Commercial)/Redner's Market
Conditional Use-Gasoline Pumps

COUNCIL MEETING

Call to Order - Vice Mayor Douglas E. Morrow, Sr.

Invocation

Pledge of Allegiance

Recognition

Tribute 2013-15/Foreign Exchange Student Maxi Petzold

Proclamation 2013-13/Red Ribbon Week

Proclamation 2013-14/Pancreatic Cancer Awareness Month

Communications

Unfinished Business

New Business

Reminder/November Monthly Meeting Date

DBF Engineering Services Proposal/Seabury Avenue Well Abandonment & Boring Project

FY 2013/2014 Budget Adjustment/Sewer Reserves Transfer/Washington Street Sewer Pump Station*

Adjourn

WORKSHOP

Call to Order - Vice Mayor Douglas E. Morrow, Sr.

Proposed Ordinance/Electric Wheelchairs/Reflective Material Required

Adjourn

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

PUBLIC HEARING

The **City of Milford, Delaware**, in cooperation with the Sussex County Council, the Levy Court of Kent County, Delaware, and the Delaware State Housing Authority (DSHA), will hold a public hearing on **Monday, October 28, 2013 at 7:00 p.m. at the City Hall, 201 South Walnut St., Milford, Delaware** for the purpose of providing any interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant (CDBG) Program. In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals.

This Federally funded program will provide grants amounting to \$2,000,000. (funding level subject to change), to support Community Development Activities in eligible local governments in Kent and Sussex Counties.

For further information on this hearing, please contact Sussex County Department of Community Development at 855-7777 or the Kent County Department of Planning at 744-2480.

Editor: Please publish the above Public Notice in the Legal Advertisement Section of the Thursday, October 17, 2013 edition of the Milford Chronicle and forward the bill for publication to the City of Milford, City Hall, 201 South Walnut Street, Milford, DE 19963.

Please forward the affidavit of publication to Kent County Department of Planning Services, 555 Bay Rd., Dover, DE. 19901, Attention: Albert Biddle.

September 16, 2013

MEMORANDUM

TO: Eligible Communities and Kent & Sussex Counties

FROM: Andrew J. Lorenz

SUBJECT: **Draft FY14 CDBG Program Guidelines**

Attached is a draft copy of the FY14 Community Development Block Grant (CDBG) Program Guidelines, Application Package, and a Notice of Public Meeting to be published as part of the process. The Program Guidelines and Application Package have **been changed from last year as follows:**

- **A new Section III.A.1.a.10. has been added to encourage applicants to support the statewide initiative to hire minority-, veteran- or women-owned businesses;**
- **Under Section III.A.1.a.1., applicants must submit pictures of the first four houses on each waiting list;**
- **Under Section I.E.2.c., a substandard dwelling unit is defined as failing to meet the standards of the Delaware State Housing Code or the housing code adopted by the jurisdiction where the unit is located;**
- **Under Section III.A.1.f., the CDBG subgrantee must coordinate its housing rehabilitation waiting lists with the Delaware Weatherization Assistance Program waiting list, and the waiting lists of all other agencies that offer emergency home repair programs;**
- **Under Section III.A.1.g.4., a five-year lien must be placed against all properties receiving more than \$5,000 in CDBG emergency home repair funds;**
- **All target area information must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on January 23, 2014;**
- **Under Section IV.A., applications for the State's FY14 CDBG Program must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on February 27, 2014; and,**

Eligible Communities and Kent & Sussex Counties
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- **ONE Signed Original and ONE Signed Copy of the application must be submitted.**

Please review this draft and submit any comments by October 9, 2013. Comments will also be received at the public meeting scheduled for October 9, 2013, at 10:00 a.m. in our conference room at 18 The Green in Dover.

If you need additional copies of the Draft Program Guidelines or application, please contact me at the Community Development Section 739-0261 or via e-mail at andy@destatehousing.com. Thank you.

ajl:mjh

Attachments

STATE OF DELAWARE
DELAWARE STATE HOUSING AUTHORITY
DELAWARE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
DRAFT PROGRAM GUIDELINES FOR FY2014

I. GENERAL

A. Scope and Applicability

These Program Guidelines describe the Delaware Community Development Block Grant (CDBG) Program for Kent and Sussex Counties in Delaware. Funds for this program, when appropriated by the U.S. Congress, are provided in a block grant to the state by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 106 of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, and in accordance with HUD rules, regulations and program memoranda.

B. Administration

The Delaware State Housing Authority (DSHA) administers the Delaware CDBG Program. The purpose of DSHA is to provide affordable, decent, safe, and sanitary housing to low- and moderate-income persons.

C. Program Design and National Objectives

The Delaware FY2014 CDBG Program has been designed so as:

1. to give maximum feasible priority to activities which will benefit low- and moderate-income families;
2. to aid in the prevention of slums and/or blight; and
3. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.

Each CDBG activity must be an eligible activity, and it must comply with one of the above three national objectives. Subgrantees shall ensure that the following records are maintained and kept up to date: 1) records demonstrating that each activity undertaken meets one of the national objectives; and 2) a full description of each activity carried out (or being carried out) in whole or in part with CDBG funds, including the nature and purpose of the activity, its location (if the activity has a geographical location) and the amount of CDBG funds budgeted, obligated and

expended for the activity.

EXCEPT THAT the aggregate use of Title I funds received by the state during the period of Federal Fiscal Years 2013, 2014, and 2015 shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit low- and moderate-income persons. In order to comply with the 70 percent principal benefit requirement, it is further agreed that not less than 70 percent of the total FY14 CDBG Grant shall be utilized for activities that benefit low- and moderate-income persons as defined in Section I.D. of these Program Guidelines.

D. Low- and Moderate-Income Definition

1. Low- and moderate-income persons are those persons whose incomes do not exceed the income limits for lower-income families pursuant to Section 8 of the United States Housing Act of 1937 as amended, and provided to the State of Delaware by HUD in a table of income limits as set forth by dollar amount and family size. (These income limits are periodically revised by HUD and are made available by DSHA to all units of general local government and counties in Delaware eligible for this program. See Attachment "A" to these Program Guidelines for the most recent figures dated 12/11/12.)
2. Low- and moderate-income households are all persons occupying the same housing unit, regardless of their relationship to each other, whose combined incomes do not exceed the income limits described in paragraph I.D.1., above.

E. Documentation of National Objectives and Low- and Moderate-Income Benefit

1. Documentation of National Objective.

a. Infrastructure (public works) Activities:

For each activity determined to benefit low- and moderate-income persons based on the area served by the activity, subgrantees must maintain records containing: 1) the boundaries of the service area; and 2) a summary of the income characteristics of the persons in the service area showing that at least 51 percent of area residents are low/moderate income.

b. Housing Rehabilitation Activities:

For each direct benefit activity determined to directly benefit low- and moderate-income persons based on the household income of those directly benefiting and where the activity involves the submission of an application or the completion of a personal record, subgrantees must maintain sufficient evidence to ensure such benefits would

accrue to low- and moderate-income persons, the income limits applied, and the point in time when the benefit was determined.

Individual household incomes must be thoroughly documented to verify that they are 100 percent low to moderate income before each housing unit is provided housing rehabilitation assistance. No rehabilitation assistance shall be provided to households that are not low to moderate income, except as provided under Section III.C.2.c. of these Program Guidelines (urgent need).

Subgrantees must maintain records including the number of units to be rehabilitated, and the amount to be spent on each unit to be rehabilitated.

c. Housing Code Enforcement/Demolition:

Documentation to be maintained by subgrantees for each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area must include: 1) the boundaries of the area; and, 2) a description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the requirements in 24 CFR 570.208(b)(1).

Documentation to be maintained by subgrantees for each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area must include a description of how the threats to public health and safety are to be corrected.

d. Transitional Housing Construction/Rehabilitation:

For each activity determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use predominantly by low- and moderate-income persons, subgrantees shall maintain sufficient evidence to ensure that the predominant users would be low- and moderate-income persons.

e. Urgent Needs:

For each activity determined to meet a community development need having a particular urgency, subgrantees shall maintain documentation including: 1.) the nature and degree of seriousness of the conditions requiring assistance; 2.) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; 3.) information on the timing of the development of the serious condition;

and, 4.) evidence confirming that other financial resources to alleviate the need were not available.

2. Target Areas

- a. Community-wide low- and moderate-income percentages are noted in Attachment B to the Program Guidelines. The list is **from HUD's Low/Moderate Income Summary Data estimates for FY2013**. These community-wide low- and moderate-income percentages will normally be used only for infrastructure activities such as a town well.
- b. Infrastructure (public works) activities must utilize either the community-wide low- and moderate-income figures noted in Attachment B, a survey following the methodology contained in the 7/26/06 HUD Notice CPD-05-06, "(HUD) Suggested Survey Methodology to Determine the Percentage of Low- and Moderate-Income (LMI) Persons in the Service Area of a Community Development Block Grant-Funded Activity," or the available Census data at the tract or block group level, to show that target area residents are 51 percent low/moderate income. Census maps can be found at: <http://factfinder2.census.gov>. Past surveys not utilizing the HUD methodology will not be accepted.
- c. Housing rehabilitation activities no longer have to document that the target area residents are 51 percent low/moderate income. Instead, the target area will be defined on the basis of the number of substandard dwelling units contained within its boundaries. The total number of dwelling units shall also be enumerated. Documentation of these figures shall normally be accomplished through a windshield survey. **A substandard dwelling unit is defined as failing to meet the standards of the Delaware State Housing Code or the housing code adopted by the jurisdiction where the unit is located.**

Where no discernible target areas exist within a community's corporate limits, the entire community may be identified as a rehab target area. The total number of dwelling units, and the number of substandard dwelling units, shall be documented as for any other target area.

d. Housing Code Enforcement/Demolition:

Unless housing code enforcement/demolition activities meet the national criteria for slum and blight, these activities require target area determinations utilizing the HUD Survey Methodology or Census data documenting a 51 percent benefit to low/moderate-income persons.

e. DSHA Pre-Approval:

All target area survey instruments, descriptions of how surveys were conducted, survey results, maps clearly indicating service area boundaries, a rationale/justification for the service area determination, and a rationale for the method used to determine low- and moderate-income benefit (if Census information is not used) must be approved by DSHA prior to the submission of an application. Census data must be used to the maximum extent feasible for determining the income of persons residing in service areas. Target areas must have at least four eligible units per target area. All target area information must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **January 23, 2014**.

f. Service Area Determination guidance can be found at the Section titled "Determining the service area" on pages 3-9 to 3-11 of the "Guide to National Objectives & Eligible Activities for State CDBG Programs," available from DSHA, or at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/library/stateguide.

g. Areas of Minority Concentration

To affirmatively further Fair Housing, DSHA will provide up to 5 points **in the Application Review scoring at Section V.B.1.d.** to applications that target areas having disproportionate housing needs by race and ethnicity. Areas of racial and ethnic minority concentration are defined as geographic areas where the percentage of a specific minority or ethnic group is 10 percentage points higher than in the jurisdiction overall, **as of the 2010 Census**. In Kent County there are 8 Census tracts identified as having concentrations of Black residents, including 402.03, 405.01, 410, 412, 414, 415, 425, and 433. Kent County also has one Census tract having a concentration of Hispanic residents: 425. In Sussex County, there are five Census tracts having concentrations of Black residents: 501.05, 502, 504.06, 504.07, and 518.02. Sussex County also has four Census tracts having concentrations of Hispanic residents: 501.04, 505.03, 505.04, and 514.

F. Program Outcome Performance Measurement

On pages 11470 to 11481 of the March 7, 2006 Federal Register, HUD published a "Notice of Outcome Performance Measurement System for Community Planning and Development Formula Grant Programs". This Notice on Performance Measurement is to be followed in establishing and reporting outcome performance measures for each activity for FY2014. Subgrantees are required to provide proposed outcome/objective statements for each activity in their CDBG applications, and actual outcome/objective statements with indicators in their quarterly and closeout reports.

G. Affirmatively Furthering Fair Housing

In addition to typical reporting requirements, in an effort to affirmatively further fair housing, DSHA will increase monitoring and require increased reporting relative to Fair Housing issues. Eligible jurisdictions will be required to submit reports (1) detailing addresses of beneficiaries and their membership in protected classes and (2) a narrative report updating DSHA about progress on meeting objectives outlined in the Statewide Fair Housing Plan and other efforts to affirmatively further Fair Housing, such as training, outreach and new programs.

II. General Information for Applicants

A. Eligible Applicants

Eligible applicants are units of general local government in Kent and Sussex Counties, the Kent County Levy Court and the Sussex County Council.

B. Number and Type of Applications

Each unit of local government and each county government may make only one application for funds in each program year, with the exception of applications for emergency activities and infrastructure for new housing development. An application from the Kent and Sussex County Governments may include unincorporated portions of the county, as well as those incorporated areas whose governing bodies have specifically requested to be included in the county's application. Written evidence of that request must be included with the county's application. If a local government has requested to be included in a county application it may not make a separate application, except applications for emergency activities and infrastructure for new housing development submitted after the normal application deadline.

C. Activities Outside an Applicant's Boundaries

An applicant may apply for CDBG funds for eligible program activities, which are partially outside its boundaries if it can be demonstrated that these activities are appropriate to meet the applicant's needs and objectives. Such activities must be consistent with State and local law, and the county or municipality within which these activities will take place must agree to such activities.

D. Activities Within an Application

Within a single application or fiscal year, an applicant may seek funding for activities, which address more than one community development need, as long as the total does not exceed the maximum allocation of \$1,100,000. The CDBG funds requested, either by themselves or in combination with other funds, must be sufficient to complete the proposed activities. An allocation exceeding \$500,000 would have to be extremely competitive.

E. Eligible Activities

The 2014 program will provide funds to units of general local government and to counties not entitled to receive CDBG funds directly from HUD to undertake eligible approved activities, as listed in these Program Guidelines. The program is competitive in nature and it is anticipated that the demand for funds will far exceed the total amount available to the State. Therefore, eligible applicants selected for funding will be those communities and counties whose applications best address locally-determined needs of low- and moderate-income families as contained in the Delaware Consolidated Plan dated May, 2010, and which are also consistent with the 51 percent principal benefit requirement or otherwise meet one of the three National Objectives, and which meet one or more State priorities.

Applicants should be aware that proposed activities, which do not meet a State priority will be deemed unresponsive and not considered by the review panel, unless sufficient fundable activities meeting a State priority are not received by DSHA.

III. State Priorities and Set-Asides

The following are the State's priorities and set-asides for FY14 CDBG funding:

A. Maintenance of Existing Housing

1. Rehabilitation of substandard residential properties occupied by 100 percent low- and moderate-income households.

a. General

- 1) Applicants must submit a list of all residential properties to be rehabilitated, with each property identified as owner- or renter-occupied. However, local governments with current waiting lists containing at least twice the number of applicants than are proposed for assistance may simply submit a certification to that effect, without submitting the normal list of properties to be rehabilitated. **Applicants must submit pictures of the first four houses on each waiting list.**

For the FY14 program year, if rehab applicants are exhausted in targeted areas before funds are exhausted in those areas, excess funds from those areas can be transferred to other target areas. If all eligible rehab applicants are exhausted in all target areas before funds are exhausted in those areas, then the excess funds from those areas can be transferred to scattered site rehabilitation.

- 2) All residential properties receiving CDBG assistance must be rehabilitated up to the standards of the Delaware State Housing Code **or the local equivalent code**, except that those properties only receiving assistance under a funded Emergency Home Repair activity under Section III.A.1.g. do not need to be brought completely up to code at the time the emergency repair is completed. All CDBG applicants must include a clause in their rehabilitation contracts, which enables them to rescind the contract in the event it is determined during the course of construction that the proposed rehabilitation is not feasible due to unforeseen conditions not known at the time the contract was executed.
- 3) All applicants requesting CDBG rehabilitation assistance must have adopted and be enforcing a housing code equivalent to or more restrictive than the Delaware State Housing Code. (Municipalities may be under contract for the enforcement of the code by county government.) The CDBG subgrantee must certify that the property is up to housing code standards when rehabilitation is completed.

- 4) A ten year lien must be placed against all properties rehabilitated with CDBG funds; a five-year lien is required on properties owned and occupied by a person(s) aged 62 years or older; a five-year lien is required on manufactured housing receiving less than \$10,000 in CDBG rehabilitation assistance; and no lien will be required to be placed on properties receiving only water/sewer hookups or meter installations costing \$3,500 or less for the physical work and associated permits.
- 5) The applicant must have adopted a rehabilitation manual containing all forms and procedures to be used, including: procedures for coordinating with similar rehabilitation programs and an executed Programmatic Agreement (PA) with the National Advisory Council and State Historic Preservation Office.
- 6) Applicants may use up to 50 percent of their CDBG funds for community-wide rehabilitation. Counties proposing to use their community-wide funds in incorporated communities must obtain a resolution from that community authorizing such rehabilitation to be done.
- 7) Applicants must use 51 percent of their CDBG funds in designated DSHA-approved target areas. Subject to DSHA approval, where no identifiable smaller target areas exist, the target area requirement may be waived for a particular community.
- 8) Except in cases of emergency rehabilitation, applicants must certify that units to be rehabilitated will be insured for at least the amount and period of the rehab loan.
- 9) Local officials shall determine the suitability of providing rehabilitation assistance to any given residential property.
- 10) **Applicants are encouraged to support the Statewide initiative to hire minority-, veteran- or women-owned businesses. The company must be (a) 51 percent owned by minority, Veteran and/or woman or (b) 51 percent managed by minority group, service disabled veteran/veteran and/or woman and (c) certified as a MVWBE (or home state equivalent) in home state of**

business as for-profit business. For further information please refer to <http://gss.omb.delaware.gov/osd/index.shtml>.

- b. Lead-Based Paint: This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate-income households constructed prior to January 1, 1978 receiving Federally-funded project-based assistance.
- 1) Grantees shall follow the lead-based paint regulations found at 24 CFR part 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures.
 - 2) In cases where evaluation or hazard reduction or both are undertaken, the subgrantee shall provide a notice to occupants in accordance with Section 35.125.
 - 3) Subgrantees must provide a lead hazard information pamphlet to all families receiving assistance living in pre-1978 housing, and obtain a signed acknowledgment from occupants that they have received the pamphlet.
 - 4) Lead-based paint inspection, risk assessments, testing, hazard reduction and abatement and treatment are eligible expenses.
 - 5) Inspection/risk assessment/testing reports must be kept by the subgrantee for a period of three years.
 - 6) The subgrantee must conduct paint testing or presume the presence of lead-based paint, in accordance with Section 35.930.
 - 7) CDBG administration funds may be used for rehabilitation subgrantee lead-based paint certification training. No matching funds are required for administrative funds used for CDBG subgrantee lead-based paint certification training.
- c. Rental Rehabilitation of housing units occupied by 100 percent low- and moderate-income households.
- 1) A maximum of \$15,000 per unit may be provided for CDBG rental rehabilitation.
 - 2) CDBG rental rehabilitation loans will be financed at 3 percent amortized over a period of 10 years and will not be deferred.

Exception: CDBG rental rehabilitation assistance used to provide up to 25 percent of the total cost of the work to be accomplished in conjunction with a Housing Rehabilitation Loan Program (HRLP) loan shall be in the form of a 0 percent deferred loan forgiven after 10 years.

- 3) Only 75 percent of the rehabilitation cost may be financed by CDBG funds. The remaining 25 percent must be financed through private funds.
 - 4) The servicing of 3 percent CDBG rental rehabilitation loans shall be handled by DSHA through an agreement with a private servicing agent. The costs to DSHA of providing servicing will be reimbursed from principal and interest payments made by the owner to the subgrantee. All principal and interest for rental rehabilitation loans shall be repaid on a regular monthly schedule after completion of the work.
 - 5) All rental units financed with CDBG funds must be occupied by low- and moderate-income persons at affordable rents throughout the duration of the loan agreement. Affordable rents are defined as Fair Market Rents (FMR) published periodically by the Federal HUD Section 8 Existing requirements. See Attachment D to these Program Guidelines for the most recent figures dated 10/01/13.
 - 6) All CDBG rental rehabilitation must utilize the forms and procedures contained in Delaware CDBG Rental Rehabilitation Procedures dated 10/21/92.
- d. The rehabilitation of manufactured housing occupied by 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing, except that the following additional requirements apply:
- 1) There shall be a limit of \$15,000 per manufactured home rehabilitated on rental lots. There shall be a limit of \$18,000 per manufactured home rehabilitated where the owner owns both the manufactured home and the lot it is situated on;
 - 2) The CDBG subgrantee must certify that the property will have at least 10 years of habitable life after rehabilitation is completed;

- 3) The CDBG subgrantee must obtain documentation that the manufactured home is in place and installed in accordance with local environmental, zoning and housing/building code requirements, prior to starting work on the property;
 - 4) For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, the unit must have a permanent foundation in order to be eligible for rehabilitation funds. If no permanent foundation exists, then the total rehabilitation contract specifications for a unit must include the installation of the foundation. For manufactured housing situated on rental lots, the permanent foundation requirement does not apply; and
 - 5) For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, and where the manufactured housing unit is beyond economical repair, the CDBG Subgrantee receiving HOME rehabilitation funds may only use HOME rehabilitation funds to replace the unit with a manufactured housing unit not more than 20 years old. All manufactured housing to be replaced must have been condemned by the applicant's code enforcement official, and the replacement unit must meet the standards of the Delaware State Housing Code or the local housing code. A ten-year lien must be placed against all properties where manufactured housing is replaced with HOME funds. For manufactured housing situated on rental lots, the replacement option does not apply.
- e. Water and/or sewer hookup of 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing rehabilitations, including the documentation of low- and moderate-income household according to the definition provided in Section I.D.2, above.

- f. Energy Efficiency: This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate-income households. To the maximum extent feasible and cost-effective, subgrantees' work write-ups and specifications for rehab work necessary to bring the dwelling unit up to housing code standards shall require ENERGY STAR qualified products and procedures. Subgrantees shall utilize HUD's "**How to Promote ENERGY STAR Through CDBG**" website at: <http://www.hud.gov/energystar/cdbg.cfm> or the Energy Star website **directly** at: <http://www.energystar.gov/> to determine the recommended energy-efficient specifications for rehabilitation and remodeling. The recommendations on these websites shall be followed for all required work and materials, including, but not limited to: windows, heating and air conditioning systems, ventilation, insulation, air sealing, water heaters, light fixtures, lighting, and doors. **The CDBG subgrantee must also coordinate its housing rehabilitation waiting lists with the Delaware Weatherization Assistance Program waiting list, and the waiting lists of all other agencies that offer emergency home repair programs.**
- g. Emergency Home Repair of residential properties owned and occupied by 100 percent low- and moderate-income households. For the FY 2014 program year, CDBG applicants may apply for a separate Emergency Home Repair category of housing rehabilitation funds to address an emergency condition threatening the health or safety of an owner-occupied household's occupants. Emergency Home Repair is separate from emergency rehabilitation under Section III.C.2. of these program guidelines. Repairs that generally qualify as emergency home repair include: heating, plumbing, electrical, roofing, and structural problems.
- 1) An emergency is defined as an unexpected occurrence or combination of events calling for immediate action. Unsafe electrical wiring, a non-working heater in winter, or structural conditions that are a major defect or are life-threatening and considered unsafe are examples of true emergencies.
 - 2) A minimum of \$500 and maximum of \$7,500 may be provided per home in CDBG emergency home repair assistance.
 - 3) Homeowners must meet all eligibility requirements to participate in the program.

- 4) A five-year lien must be placed against all properties receiving more than **\$5,000** in CDBG emergency home repair funds.
2. Housing code enforcement in areas of slum and blight (as defined in state regulations) or which benefit an area of at least 51 percent low- and moderate-income persons. **(Also note Section I.E.2.d.)**
 - a. Applicants proposing housing code enforcement activities must certify that they will maintain during the period of the CDBG contract, in addition to their expenditures for carrying out any program assisted with CDBG funds, a level of expenditures for code enforcement activities at not less than their normal expenditures for such activities in the year prior to the execution of the CDBG Contract.
 - b. Applicants requesting CDBG assistance for code enforcement must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
3. Demolition of substandard structures in areas of slum and blight (as defined in state regulations) or which benefit 51 percent low- and moderate-income persons on an area or spot basis. Applicants for demolition funds may use up to 50 percent of such funds for community-wide demolition.
 - a. All structures to be demolished must have been condemned by the applicant's code enforcement official. Applicants requesting CDBG assistance for demolition must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
 - b. Demolitions to be accomplished with the voluntary consent of the owner and at the discretion of the community, must be in the form of a permanent 0 percent deferred loan, that is not forgivable, unless new housing constructed on the property becomes exclusively: 1) owned and occupied as the principal residence(s) of low/moderate-income household(s); or, 2) rented by low/moderate-income household(s) for a period of at least ten years.

- c. For non-voluntary demolitions, the governing body of the applicant must provide evidence that it has exhausted other available legal procedures to secure remedial action by the owner of the structure(s) involved, that demolition action is required, and that it has the legal authority to demolish the structure(s).
 - d. The applicant requesting CDBG assistance for non-voluntary demolitions must agree to place a tax lien on the property so that monies expended for razing, demolition, and removal of eligible structures or part(s) thereof, may be collected in the same manner as other real estate taxes. All such monies recovered shall be deemed to be program income.
 - e. Demolition liens, whether in the form of a 0 percent deferred loan, or a real estate tax lien, may be subordinated to a new mortgage on the property if the property is sold or transferred for the purpose of low/moderate-income housing. The lien will then continue in the original form until such time as the property is converted to a use other than for the purpose of low/moderate-income housing, at which time the lien will be required to be repaid; or, until such time as the property is actually used to house low/mod-income household(s) as described in Section III.A.3.b., above, at which time the lien will be forgiven.
4. Construction or rehabilitation of emergency/transitional/permanent supportive housing serving of at least 51 percent low- and moderate-income limited clientele.
- a. Applicant must provide evidence that the construction or rehabilitation will benefit at least 51 percent low- and moderate-income persons. This evidence must demonstrate that at least 51 percent of daily normal users of the facility are principally low- and moderate-income persons.
 - b. Applicant must certify that it will not charge any fees for accessing such assisted facilities so as to have the effect of precluding low- and moderate-income persons from obtaining said access.

- c. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook.
 - d. No such activities will be funded unless additional funding has been secured for the provision of services which are complementary to the programmatic purpose of the activity.
 - e. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested such as building codes, insurance, and the State architectural accessibility standards prescribed by the State of Delaware Architectural Accessibility Board.
 - f. If the facilities to be assisted are publicly owned, the facilities must be nonresidential buildings which are not used for the general conduct of government such as "city halls, county administration buildings, state capitol or office buildings, or other facilities in which the legislative or general administrative affairs of government are conducted." (Section 102 (a)(21) of the Act); and which meet the requirements of 24 CFR 570.200 (5)(b).
 - g. If the facilities to be assisted are privately owned by a nonprofit organization, the organization must meet the requirements of 24 CFR 570.204 (c)(1), and be operated so as to be open for use by the general public during all normal hours of operation and otherwise meet the requirements of 24 CFR 570.200 (5)(b).
 - h. The applicant must comply with all restrictions and limitations regarding the use of CDBG funds by nonprofit organizations which are church-related found at 24 CFR 570.200(j).
5. Relocation assistance as required under the Uniform Relocation Act, Delaware Code, and 24 CFR 570.
 6. Substantial reconstruction of housing occupied by 100 percent low- and moderate-income households.

A unit of general local government may use CDBG funds to reconstruct residential structures (i.e. rebuild the structure on the same site) having a low- and moderate-income owner/occupant and consisting of one dwelling unit if either:

- a. The need for the reconstruction was not determinable until after rehabilitation on the structure had already commenced; or
 - b. The housing that is being reconstructed is part of a neighborhood rehabilitation effort in which the unit of general local government is carrying out or proposes to carry out housing rehabilitation activities, and the housing to be reconstructed would otherwise be a part of the housing rehabilitation in that neighborhood; and the unit of general government determines:
 - 1) That the housing to be reconstructed is unsuitable for rehabilitation based upon severe structural deficiencies and an estimated cost of rehabilitation of \$25,000 or more;
 - 2) The estimated cost of reconstruction is at least 20 percent less than the estimated cost of purchasing comparable newly constructed housing (including land) located in that neighborhood or in a comparable neighborhood of the unit of general local government; and
 - 3) The estimated cost of the reconstruction is less than the fair market value of the reconstructed housing and land based on an appraisal obtained before reconstruction.
 - c. The unit of general local government shall document the basis for each of the determinations noted above.
7. Provision of housing-related services in conjunction with activities noted above. Such housing-related services could include: training in housekeeping, fair housing and homeownership counseling, and other housing-related services not provided by other social service agencies, but that support the programmatic purpose of the activities noted above.

8. Set-aside: 60-90 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Existing Housing set aside will be dependent upon the quality and type of applications received in FY14.

B. Infrastructure benefiting at least 51 percent low- and moderate-income persons

The following activities in support of this State priority for low- and moderate-income persons are eligible:

1. Definition of infrastructure: The installation or improvement of water systems, sewer systems, streets, storm drainage systems, sidewalks. This includes all related activities such as engineering, land surveys, site acquisition (for housing development), planning studies, relocation assistance, etc.;
2. Architectural/engineering studies for infrastructure directly related to housing development, including feasibility studies, site tests and soil borings;
3. Preparation of grant applications to other grantor agencies;
4. Acquisition of land for new housing development, in accordance with the requirements of the Uniform Relocation Act of Delaware Code;
5. Clearance and site preparation for new housing development for low- and moderate-income persons;
6. Installation or improvement of infrastructure benefiting service areas of at least 51 percent low- and moderate-income persons, including: water, sewer, streets, sidewalks;
7. Planning studies, including comprehensive plans and zoning ordinances, which clearly by their intent and design, encourage the provision of affordable housing for low- and moderate-income persons; and
8. For items 1-7 as applicable above:
 - a. The applicant must provide evidence that it will provide a minimum cash or in-kind match for each activity, as described below. Cash matches may be provided through other sources

of funding for the same activity;

Infrastructure Match Requirements

<u>Total Activity Cost</u>	<u>Cash Match</u>	<u>or In-Kind Match</u>
Up to \$100,000	10% of Activity	15% of Activity
\$100,000+ to \$199,999	15% of Activity	20% of Activity
\$200,000+	20% of Activity	25% of Activity

- b. Applicant must provide evidence that at least 51 percent of the persons benefited by the activity are in fact low- and moderate-income persons;
 - c. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds. The term special assessment is defined to mean a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties;
 - d. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
 - e. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested.
9. Set-aside: 10-40 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Infrastructure for Housing Development and Maintenance set-aside will be dependent upon the quality and type of applications received in FY14.
- C. Emergency activities (water, sewer, housing rehabilitation and demolition), which have a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community and other financial resources are not available to meet such needs.

1. For emergency water and sewer activities:
 - a. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds;
 - b. The nature, degree of serious and immediate threat must be documented by letters from appropriate agencies such as the State Division of Public Health, DNREC, State/local fire officials, etc.;
 - c. The serious and immediate threat must be of recent origin or recently became urgent, that is, the condition developed or became critical within 18 months of a certification that must be made by the applicant in its application;
 - d. Applicant must certify and document that it is unable to finance the construction of these facilities without CDBG funds. Such documentation shall include: (a) if appropriate, letters from other grantor agencies such as the Department of Natural Resources and Environmental Control, Department of Transportation, Division of Public Health, etc., confirming that funds were not available; (b) appropriate financial statements showing the lack of local funds; and (c) a financial analysis of why the activity is not feasible through use of other methods of local funding such as the proceeds of general obligation bonds, special assessments, etc.;
 - e. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
 - f. The applicant must certify that it will obtain all necessary permits and will comply with all federal, State and local standards and regulations that pertain to the type of activity requested.
2. For emergency rehabilitation and demolition:
 - a. Required as a direct result of a natural disaster, such as a tornado, flood, hurricane, or similar catastrophe;

- b. State has made a formal request to the Federal Emergency Management Agency for preliminary damage assessment and/or for which federal disaster assistance has been officially sought by the State;
 - c. At the discretion of the DSHA Director, rehabilitation assistance may be provided to persons not of low/moderate income when the need for such assistance is clearly documented;
 - d. Emergency rehabilitation and demolition activities will only be provided to cover losses not covered by insurance; and
 - e. Both emergency rehabilitation and demolition assistance will utilize the same liens and contracts as used for regular rehabilitation and demolition programs.
3. Set-aside: 0-7 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the emergency activities set aside will be dependent upon the quality and type of applications received in FY14.

D. Administration

- 1. At least 50 percent of the administrative cost of the activity(ies) must be provided by the local funds of the applicant.
- 2. Matching Requirements

These local funds may be drawn from local operating appropriations, nonprofit organization funds, proceeds of general obligation revenue bonds or other funds expended for the same purpose as the CDBG funds are expended. Any costs incurred by the applicant for activities that directly benefit the CDBG activity and meet the requirements of OMB Circular A-87 may be used to meet this match requirement. However, these funds must be spent in the same consecutive twelve-month period as the CDBG funds. For the purpose of this match requirement an applicant is considered to be: (a) a county's application for its unincorporated areas; (b) incorporated areas applying on their own; or (c) incorporated areas under a county's application.

3. Administrative Costs Limits

Administrative costs allowable to participating units of general local government under the CDBG Program shall be governed by the matching requirement in Paragraph 2. above, the contract budget and by the federal requirement that the State and its CDBG subgrantees are limited to an aggregate amount of administrative costs that represent twenty percent of the State's total grant from HUD in any given federal fiscal year. It should be noted that the total amount of CDBG funds available for administration in FY14 may be less than the amount currently allocated, depending upon the number and quality of applications received, and the amount of funding allocated by HUD. The maximum allocation for all administrative and program delivery costs for any single applicant shall not exceed **\$162,000** in any program year. Applications shall provide the salaries of all program administration personnel to be funded through CDBG funds. DSHA may separate rehabilitation specialists' salaries from general administration costs and allocate funding for those salaries as rehabilitation program delivery costs.

IV. Application Submission

A. Submission Date

Applications for the State's FY14 CDBG Program must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **February 27, 2014**. Applications for emergency activities and infrastructure for housing development will be considered at any time during the program year, subject to the following conditions: sufficient unallocated CDBG funds must be available to fund the activity(ies); assuming the availability of CDBG funds, a review panel will be convened to evaluate such proposals as well as those activities which were not originally recommended for full funding; and the need for CDBG funds must have arisen after the application deadline and be required for immediate use. **ONE SIGNED ORIGINAL AND ONE SIGNED COPY of the application must be submitted.**

B. Application Content and Format

Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA, and include all forms and questionnaires as may be applicable to the specific proposed activity.

C. Documentation and Certifications

Application for CDBG funds must include all such documentation and certifications as may be prescribed in these Program Guidelines and in the application instructions prescribed by DSHA.

D. Program Performance Period

All applications for 2014 funds shall be to finance CDBG-eligible activities that shall be initiated after July 1, 2014, and completed no later than June 30, 2015.

V. Application Review

A. DSHA Staff

1. The DSHA staff will review all applications for completeness and to determine whether the applications meet the minimum threshold requirements for all applications.
2. If the assessment by the DSHA staff indicates that an application fails to meet any of the applicable threshold requirements, and the applicant has not provided the requested information to make the application complete, DSHA staff will prepare a report on each such application and submit it to the Director of DSHA. If the Director of DSHA agrees with the assessment by DSHA staff, the application will be considered unresponsive. Such applications will not be forwarded to the review panel(s) referred to below, but will be returned to the applicant with a reason for the rejection. Any application that has been assessed as unresponsive shall be precluded from any further consideration in the FY14 CDBG Program, unless it is modified after July 1, 2014 to meet the threshold requirements for activities having a particular urgency or infrastructure for new housing development, and provided it falls within the requirements for a request for "recaptured/remaining funds" after July 1, 2014 as specified in Section VI.D. of these Program Guidelines.
3. It is essential that the amount of CDBG funds requested in each application be reflected in a budget which is both reasonable and realistic, and which conforms with all the requirements for such budgets contained in these Program Guidelines and the instructions for CDBG applications. Because of this, DSHA staff may, after determining that an application has met all the applicable threshold requirements, enter into direct negotiations with an applicant to reach agreement on any budgetary modifications that should be

made before the application is presented to the review panel(s) that will evaluate the proposal(s).

4. The DSHA staff shall provide the review panel(s) with a separate staff report on each application that will at a minimum include the following:
 - a. Certification that the application/applicant has met all applicable threshold requirements, including evaluation of low- and moderate-income benefit;
 - b. Certification that the proposed budget represents a realistic/reasonable budget which conforms to all applicable instructions and policies;
 - c. The conformance of the proposed activities to the goals and objectives of the Delaware Consolidated Plan; and
 - d. An evaluation of the applicant's capacity, and past performance under the CDBG Program.

B. Review Panel(s)

1. The review panel(s), composed of persons with the appropriate background and experience, shall evaluate each proposed activity, based upon the following criteria. A maximum total of 100 points may be received by an application.
 - a. Low- and Moderate-Income Benefit (Provided by DSHA staff):
Applications showing a greater benefit to low- and moderate-income persons for similar activities will be rated higher than those showing a lesser benefit to low- and moderate-income persons. Up to 25 points as follows:
 - (1) 90-100% L/M = 25
 - (2) 80-89% L/M = 20
 - (3) 70-79% L/M = 15
 - (4) 60-69% L/M = 10
 - (5) 51-59% L/M = 5
 - (6) 0 -50% L/M = 0
 - b. Management Capacity (provided by DSHA staff): Each applicant's management capacity for each of the activities proposed will be evaluated on the basis of the most recent monitoring report(s), current or proposed staff qualifications, progress achieved in completing its current CDBG Program (if applicable), and most recent audit report(s) (if applicable). Up to 5 points as follows:
 - (1) outstanding = 5
 - (2) above standard = 3

- (3) standard = 1
- (4) below standard = 0 (no allocation)

c. Cost/benefit of Activity: Each proposed activity will be evaluated on the basis of the following factors. Up to 70 points as follows:

- (1) severity of need, including the number, percent and geographic concentration of low/moderate-income families; number, percent and geographic concentration of substandard housing; number, percent and geographic concentration of housing needing public facilities; emergency status:

<u>Points</u>	<u>Need</u>
1	not documented
8	moderate
15	severe

- (2) holistic impact of activity, meaning, the degree (percentage, from Section IV. B. and C. of application) to which the identified need(s) for the activity(ies) is/are proposed to be addressed:

<u>Points</u>	<u>Impact</u>
1	low
8	moderate
15	high

- (3) cost reasonableness, meaning, the reasonableness of the proposed program activity costs taking into account construction estimates and the availability of other resources:

<u>Points</u>	<u>Cost/Reasonableness</u>
1	low
8	moderate
15	high

- (4) leveraging of other resources, meaning extent to which other firm, committed funding sources are identified:

<u>Points</u>	<u>Other Resources</u>
1	minimal or no match
8	moderate match
15	significant match

- (5) suitability/feasibility of work plan, meaning the extent to which the applicants proposed scope of work will realistically be accomplished within the next fiscal year:

<u>Points</u>	<u>Plan Feasibility</u>
1	poor
3	fair
5	good

- d. Targeting Areas of Minority Concentration: Applications showing a greater benefit to areas of minority concentration (see Section I.E.2.g.) for similar activities will be rated higher than those showing a lesser benefit to areas of minority concentration. Up to 5 points as follows:

<u>Points</u>	<u>Minority Targeting</u>
1	poor
3	fair
5	good

- e. An oral presentation by the applicant to the review panel will supplement the application scores and serve as a factor in the panel's final decision.

2. Review Panel Recommendations

DSHA staff will prepare a summary evaluation of all applications received, which will include the scores for each proposed activity as described in V.B. above, and a descriptive summary of the review panel's comments and recommended priorities for funding.

C. Director of DSHA

The Director of DSHA will make the final decisions on allocating CDBG funds, based upon the review panel(s) recommendations and any additional relevant information obtained subsequent to those recommendations. Such additional information will only be considered if it reflects a substantive change in the application review criteria noted in Section V.B.1. above.

D. Allocations

Allocations to specific activities will be based on approved contract budgets. The maximum allocation for any single applicant shall not exceed \$1,100,000 in any program year. Applicants should be aware that a total of approximately \$2,000,000 is expected to be available for program activities. An allocation exceeding \$500,000 would **need to** be extremely competitive.

VI. Additional Funding

A. Program Income Returned to Unit of Local Government

1. Program income means amounts earned by a unit of general local government or its subrecipient that were generated from the use of CDBG funds allocated by the State in a contract with a unit of general local government.
2. The use of program income is subject to all the applicable requirements of federal law, HUD regulations and program memoranda, and the general requirement of these Program Guidelines, which are consistent with said law, regulations and program memoranda. Additionally, the specific requirements for Program Income as are contained in the State's Financial Handbook shall also apply.
3. Program income retained by the unit of local government will:
 - a. be added to funds committed to the activity and used to further the same program activity as the income was derived;
 - b. not be used to pay administrative costs; and
 - c. be expended before additional funds are drawn down from DSHA for the same activity.
4. Program income not authorized for retention and expenditure by the unit of local government will be returned to the State.

B. Program Income Returned to the State of Delaware

Section 104(i) of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, authorizes States to distribute program income when such income has been returned to the State. Program income returned to the State shall be disbursed to communities under open CDBG Contracts prior to making additional draws from the U.S. Treasury. The funds thus freed up shall be allocated in accordance with Section VI.D. below.

NOTE: Program income generated by CDBG rental rehabilitation loan repayments is considered program income of the unit of local government, even though such repayments are made directly back to DSHA through its loan servicing agreement. All such program income will be distributed to the appropriate unit of local government in accordance with the provisions of Section VI.A. above.

C. Reallocated/Supplementary Funds

Reallocated funds are those HUD has recaptured from a Small Cities subgrantee and "reallocated" to Delaware. If Delaware should receive any "reallocated funds" from HUD for distribution as part of the FY14 CDBG Program, these funds shall be allocated in the same manner and under the same conditions as described in Section VI.D. below. Supplementary funds are those funds that HUD may award to the State after July 1, 2014, and shall also be allocated in the same manner and under the same conditions as described in Section VI.D. below.

D. Recaptured/Remaining Funds

1. Recaptured funds are those CDBG funds which remain unobligated after a CDBG contract has either been closed out or terminated; or after it has been determined that the total amount of CDBG funds originally allocated in a given contract are not required to complete the proposed activity for which they are allocated.

Remaining funds are funds for which a method of distribution was contained in a prior year's Program Guidelines, but which have not been, and are no longer intended to be so distributed. Remaining funds may also be an amount left over after the state has awarded all of its contracts, but the left over amount is too small to fund an application.

2. Recaptured/remaining funds that shall be received from its recipients by June 15, 2014, shall be included as part of the FY2014 allocations in accordance with all applicable requirements of these Program Guidelines.
3. Recaptured/remaining funds that shall be received from its recipients after June 15, 2014 shall be set aside for the following purposes:
 - a. To provide additional funding for any activity already under contract so long as the total amount of funds allocated does not exceed the \$1,100,000 maximum allocation for any single applicant; in those cases where an unforeseen situation may have arisen after the original contract budget had been approved (the burden of proof will rest with the applicant); or when the activity has not been funded in the total amount originally requested;
 - b. To fund emergency activities and infrastructure for housing development that were not previously submitted as part of the FY2014 CDBG Program and the need for which may have arisen after the deadline for FY 2014 applications has passed. The \$1,100,000 maximum allocation of CDBG funds for any single applicant in any program year shall apply;

- c. At the discretion of the Director of DSHA, eligible applications not originally recommended for funding because of limited resources may be reconsidered for funding after approved activities noted in (a) and (b) above have been funded; and
- d. The priorities for distributing funds under this part shall be in accordance with the state's method of distribution found in Section V.

E. Combining Other Funding to Comprehensively Address Rehabilitation Needs

- A. Again in FY14, greater emphasis will be given to applications, which take a holistic approach to community development through comprehensively combining all funding sources, one community at a time. DSHA expects applications responsive to this change in emphasis to combine smaller CDBG funding requests with HRLP AND HPG funding in target areas. Where these other sources of funding are used to comprehensively address rehabilitation needs and to lessen the demand on CDBG rehabilitation funding, greater consideration will be given to CDBG infrastructure requests. As a result, rehabilitation needs will be comprehensively addressed, more CDBG funds will be available for infrastructure activities, and community development needs in general will be holistically addressed. In the scoring of applications, strong emphasis is given to leveraging, and, leveraging funds must be shown and identified in activity budgets. Letters of commitment signed by a majority of the board/council committing the match, and including the source of the match, must accompany any applications claiming to have matching funds.

VII. Waivers of Policy

The Director of DSHA may waive any requirement of these Policies not required by federal/state law or federal regulation, whenever it is determined that undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Delaware CDBG Program. Waivers shall be made in writing, citing the policy provision to be waived, the authority for the waiver, and be supported by documentation of the pertinent facts. Where only a portion of the policy provision is to be waived, the waiver must expressly limit itself to that portion.

Attachment A to the Delaware CDBG Program Guidelines

REVISED INCOME LIMITS
(EFFECTIVE 12/11/12)

	<u>Kent County</u>			<u>Sussex County</u>		
	30% of Median	Low	Moderate	30% of Median	Low	Moderate
1 Person	\$13,950	\$23,250	\$37,150	\$12,500	\$20,850	\$33,350
2 Person	\$15,950	\$26,550	\$42,450	\$14,300	\$23,800	\$38,100
3 Person	\$17,950	\$29,850	\$47,750	\$16,100	\$26,800	\$42,850
4 Person	\$19,900	\$33,150	\$53,050	\$17,850	\$29,750	\$47,600
5 Person	\$21,500	\$35,850	\$57,300	\$19,300	\$32,150	\$51,450
6 Person	\$23,100	\$38,500	\$61,550	\$20,750	\$34,550	\$55,250
7 Person	\$24,700	\$41,150	\$65,800	\$22,150	\$36,900	\$59,050
8 Person	\$26,300	\$43,800	\$70,050	\$23,600	\$39,300	\$62,850

Higher income limits apply to families with more than eight persons, although they are not included in the printed State lists because of space limitations. The lower income limits for families larger than eight persons are determined by adding 6.25 percent of the four-person income limit base to the eight-person limit for each person in excess of eight. For very low-income limits, 8 percent of the four-person base is added to the eight-person limit for each person in excess of eight (e.g., the nine-person very low limit equals 1.4 (1.32 + .08) times the four-person limit.) The limits developed by the use of these factors are to be rounded to the nearest \$50.

Attachment B to the Delaware CDBG Program Guidelines

LIST OF LOW/MODERATE-INCOME BENEFIT FIGURES
IN KENT AND SUSSEX MUNICIPALITIES (FY2013 HUD LMISD)

<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>	<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>
07250	Bowers	42.1%	60290	Rehoboth B.	26%
10760	Camden	30.1%	64320	Seaford	50.5%
14660	Cheswold	58.7%	64840	Selbyville	43.6%
15440	Clayton	33.5%	67050	Slaughter B.	40.9%
21387	DAFB Housing	54.7%	67700	S. Bethany	12.3%
25840	Farmington	36.6%			
26620	Felton	35%			
28440	Frederica	49.4%			
33120	Harrington	53.5%			
33250	Hartly	51.9%			
36760	Houston	40%			
39100	Kenton	51.7%			
41700	Leipsic	45.5%			
42870	Little Creek	44.6%			
44430	Magnolia	32.1%			
47420	Milford	47.5%			
67310	Smyrna	44.1%			
74330	Viola	26.3%			
80830	Woodside	31.4%			
81350	Wyoming	25.8%			
05690	Bethany Beach	18.5%			
05820	Bethel	35.3%			
06730	Blades	55.7%			
08680	Bridgeville	55.6%			
18950	Dagsboro	38.9%			
20380	Delmar	55.3%			
20900	Dewey Beach	19.6%			
24020	Ellendale	44.7%			
26880	Fenwick Island	21.3%			
28310	Frankford	49.6%			
29090	Georgetown	54.9%			
31560	Greenwood	47.8%			
33900	Henlopen Acres	9.2%			
41310	Laurel	55.8%			
41830	Lewes	24.7%			
47420	Milford	47.5%			
47940	Millsboro	53.8%			
48200	Millville	35.5%			
48330	Milton	46.6%			
53920	Ocean View	24.8%			

Attachment C to The Delaware
CDBG Program Guidelines

CERTIFICATIONS BY APPLICANTS
FOR
THE DELAWARE CDBG PROGRAM

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required.
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
 - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.);

- 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated May 15, 2010 and Section 508 of the Housing and Community Development Act of 1987; and
 - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

"...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals..."
- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the applicant certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
 - (e) Its chief executive officer or other officer of the applicant approved by DSHA:
 - (1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1 (a)(3) and carry out this responsibility in accordance with the "Overview of Environmental Review Procedures" issued for the Delaware CDBG Program and dated July 1989; and meet the requirements of 24 CFR Part 58 and 24 CFR 570.604; and
 - (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.
 - (f) The program will be conducted and administered in compliance with:
 - (1) Title VI of the Civil Rights Act of 1964 (Pub. L 88-352) and implementing regulations issued in 24 CFR Part 1;
 - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
 - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);

- (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
- (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the State review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
- (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
- (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
- (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;
- (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
- (10) The labor standards requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
- (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
- (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
- (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
- (14) Section 106 of the National Historic Preservation Act of 1966, as amended via the Advisory Council on Historic Preservation's Regulations, Protection of Historic and Cultural Properties (36 CFR 80);
- (15) The provisions of the Hatch Act, which limits the political activity of employees; and

- (16) The lead-based paint requirements of 24 CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).
- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with the HUD Standards of Conduct issued on November 1, 1985.
- (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.
- (i) It will give HUD, DSHA, the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.
- (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended, and agrees to participate in fair housing planning by cooperating in any analysis to identify impediments to fair housing choice within the jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and to maintain records reflecting the analysis and actions in this regard.
- (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts.

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY14 Program Guidelines shall govern the use of the assistance provided by the State to local government units in FY14-FY15.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
 - 2) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income, who are not persons of very low income.

- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).

Signature of Authorized Official Date

Title of Official

Attachment D to the Delaware
CDBG Program Guidelines

DSHA-35

SECTION 8 EXISTING FAIR MARKET RENTS
AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

I. FAIR MARKET RENTS - (Revised 10/1/13)

KENT COUNTY					
0-BR	1-BR	2-BR	3-BR	4-BR	Manufactured (Mobile) Home Space
600	768	910	1,274	1,608	364

SUSSEX COUNTY					
0-BR	1-BR	2-BR	3-BR	4-BR	Manufactured (Mobile) Home Space
603	616	834	1,138	1,608	333

II. CONTRACT RENT ANNUAL ADJUSTMENT FACTORS FOR UNITS WITH NO
TURNOVER - (Effective 5/22/13 - Revised 5/22/13)

HIGHEST COST UTILITY		
	Included	Excluded
Southern Region	1.026	1.024

NOTE: The Annual Rent Adjustment Factors shown above may be used by investors/owners after the first year of the rehabilitation loan. However, the rents charged by investors/owners may not exceed the current Fair Market Rents for the duration of the loan.

**DELAWARE STATE HOUSING AUTHORITY (DSHA)
FY14 DELAWARE CDBG APPLICATION FORM**

I. General Application Information

A. Name, address, phone number, DUNS number, and EIN number of Applicant:

B. Name, position and signature of Person Submitting Application:

Signature and Date:

C. Application on behalf of:

--

Name and position of authorizing official:

Signature and Date:	

D. For "On Behalf of" applications, written documentation authorizing each "on behalf of" application request must be attached as Exhibit 1. If information contained in a county's application for its unincorporated areas is to be repeated in the body of the "on behalf of" applications, e.g. administrative budget, management capacity, etc., then these sections contained in the "on behalf of" applications may simply reference the appropriate section in the county's application.

E. Name, address and phone number of Contact Person (if different from B above):

--

F. Summary of Request:

(Attach cost breakdown for each activity requested on page two. Activities must be in order of priority).

Total Units/Low-Moderate Income Units Served: _____ / _____
Total CDBG Program Funds Requested: \$ _____
Total Cash Matching Funds: \$ _____
Total In-Kind Match Value: \$ _____
Total Program Cost (if different from amount requested) \$ _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____ / _____ Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____ / _____ Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____ / _____ Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____ / _____ Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____ / _____ Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

(Attach additional pages as necessary.)

II. Low/Moderate-Income Benefit:

LOW/MODERATE-INCOME BENEFIT TABLE – INSTRUCTIONS

The amount of benefit to low- and moderate-income persons must be calculated for each activity, as described below:

1. In column 1, list the activity.
2. In column 2, show the total number of persons that the activity will serve.
3. In column 3, show the number of low- and moderate-income persons that the activity will serve.
4. In column 4, divide column 3 by column 2 to show the percent of low- and moderate-income persons that the activity will serve.
5. In column 5, show the amount of funds requested for the activity.
6. In column 6, multiply column 4 by column 5 to show the amount of those funds that will be used to benefit low- and moderate-income persons.
7. List the source of data used to calculate benefit in the space provided at the bottom of this page. If a local survey was conducted, briefly summarize the survey method used and attach a copy of the survey instrument. (DSHA should be contacted before the survey is conducted to assure that the acceptable survey methodology is being used, or that prior surveys are still valid.)

LOW/MODERATE-INCOME BENEFIT TABLE

1. Activity	2. Total Persons Activity Will Serve	3. L/M Persons Activity Will Serve	4. % L/M Persons Activity Will Serve	5. Amount Requested For Activity	6. Amount L/M Benefit

Source of Data:

III. Management Capacity

A. List the person(s) to be responsible for administering the CDBG Program, and title(s):

<u>CDBG Personnel</u>	<u>Title(s)</u>

- B. Attach resumes or other supporting documentation for the personnel of new applications and new CDBG Program managers, which establishes the capacity of the personnel above to effectively manage a CDBG Program. **Attach the salaries of all program administration personnel to be funded through CDBG funds.**
- C. If the applicant proposes to contract out any portion of its administration, a copy of the proposed subcontract **must be** attached.
- D. Past performances under the Delaware CDBG Program will be evaluated by DSHA based upon past monitoring reports, audit findings, and timely completion of contracts. No additional documentation is required of the applicant under this section.

IV. Application Work Plan

Each proposed program activity must address each of the following areas. Failure to specifically address any of these elements will make the application incomplete, forcing DSHA to consider the application unresponsive.

- A. Each program activity must be addressed separately. Program activities must be listed in order of priority with the program activity of highest priority first. This order of priority for program activities must be followed on all forms contained in this application.
- B. Each program activity must be fully described. For rehabilitation programs, this description must include THE NEED FOR THE PROPOSED ACTIVITY, the numbers of units to be rehabilitated, any special population groups the rehabilitation program will address, the target area, the NUMBER OF UNITS NEEDING REHABILITATION ASSISTANCE, THE PERCENTAGE OF UNITS NEEDING ASSISTANCE THAT ARE TO RECEIVE ASSISTANCE, AND THE PROPOSED OUTCOME.
- C. For public infrastructure projects, a detailed description of the work to be accomplished, the need for the proposed activity, the target area, the linear footage of what type and size of infrastructure to be provided, the NUMBER OF UNITS NEEDING INFRASTRUCTURE ASSISTANCE, THE PERCENTAGE OF THE UNITS NEEDING ASSISTANCE THAT ARE TO RECEIVE ASSISTANCE, THE PROPOSED OUTCOME, the location of what type and size of land acquisition, the matching funds to be provided, and the population groups to be addressed must be provided.
- D. Provide a timetable showing monthly milestones for completion of each activity. All FY14 Contracts will commence on July 1, 2014 and terminate on June 30, 2015.
- E. Attach maps indicating target areas.
- F. Attach drawings, plans, or other documentation necessary to describe program activities.
- G. Describe each activity's conformance with the goals and objectives of the Delaware Consolidated Plan.
- H. Describe the extent to which the proposed project(s) will result in a measurable concrete reduction of one or more significant problems identified in the Delaware Consolidated Plan.
- I. Describe the extent to which the project builds upon previous work or supplements other work that will be funded from other sources.

- J. Analyze the reasonableness of total cost in view of the cost benefit(s) to be achieved.
 - K. Describe source and amount of any funds used to leverage the CDBG portion of the project. Indicate when these funds will be available. Attach documentation of any match.
 - L. Describe any in-kind resources to be applied to the project. Attach documentation of any match.
 - M. Attach documentation of any match. Matching resolutions must be signed by a majority of Board/Council members and must include the source of funds.
 - N. For infrastructure projects, a description of why the jurisdiction is unable to pay for the activity without CDBG assistance.
- V. Each application should also describe the following:
- A. Describe any plans for the provision of housing for existing residents and anticipated growth for the area;
 - B. Describe any plans for the provision of adequate sites with supporting infrastructure for future housing, including housing for low/moderate-income residents of the area; and
 - C. Describe any efforts to coordinate with businesses regarding the development of the community as it affects low/moderate-income residents of the area.
- VI. Application Submission
1. Submission Date for the FY14 CDBG Program
Applications for the state's FY14 CDBG Program must be received in DSHA's office at 18 The Green, Dover, Delaware 19901 no later than **4:00 p.m on February 27, 2014** ONE SIGNED ORIGINAL AND TWO COPIES of the application must be submitted.
 2. Application Content and Format
Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA, and include all forms as may be applicable to the specific proposed activity.
- VII. Additional Requirements
- A. Re-Use Plan.
 - B. Rehabilitation Manual.
 - C. Target Area Approval.
 - D. Boards and Commissions Reporting Form.
 - E. Form HUD-2880 (Disclosure/Update Report).

STATE OF DELAWARE
 DELAWARE STATE HOUSING AUTHORITY
DELAWARE CDBG PROGRAM – PROJECT COST SUMMARY

CONTACT PERIOD – FROM: _____ TO: _____

Summary of Program Activities
 Amount of Source

I. PROGRAM ACTIVITIES	CDBG/HOME PROGRAM FUNDS	LOCAL FUNDS	OTHER FUNDS	TOTAL
A.				
B.				
C.				
D.				
E.				
F.				
G.				
H.				
I.				
J.				
TOTAL PROG. ACTIVITY COST				
II. ADMINISTRATION				
A. SALARIES				
B. OTHER EMPLOYMENT COSTS				
C. TRAVEL				
D. CONTRACTUAL SERVICES				
E. SUPPLIES & MATERIALS				
TOTAL ADMINISTRATION COSTS				
III. TOTAL PROGRAM COSTS				

NOTES:

1. * Denotes Cash Match
2. ** Denotes In-kind Match
3. List Sources of Each Match Amount on Additional Page

CERTIFICATION BY APPLICATIONS
FOR
THE DELAWARE CDBG PROGRAM

The application hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of Federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required.
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
 - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.);
 - 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated May 15, 2010 and Section 508 of the Housing and Community Development Act of 1987; and
 - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

“...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals...”
- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low-and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the application certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
- (e) Its chief executive officer or other officer of the applicant approved by DSHA:
 - (1) Consents to assume the state of a responsible Federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1(a)(3) and carry out this responsibility in accordance with the “Overview of Environmental Review Procedures” issued for the Delaware CDBG Program and dated July 1989; and meet the requirement of 24 CFR Part 58 and 24 CFR 570.604; and

- (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.
- (f) The program will be conducted and administered in compliance with:
- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations issued in 24CFR Part 1;
 - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
 - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);
 - (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
 - (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the state review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
 - (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
 - (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
 - (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;
 - (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
 - (10) The labor standard requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
 - (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
 - (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
 - (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of Federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
 - (14) Section 106 of the National Historic Preservation Act 1966, As amended via the Advisory Council on Historic Preservation's regulations, Protection of Historic and Cultural Properties (36 CFR 80);
 - (15) The provisions of the Hatch Act, which limits the political activity of employees;
 - (16) The lead-based paint requirements of 24CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).

- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with HUD Standards of Conduct issued on November 1, 1985.
- (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
- (i) It will give HUD, DSHA and the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.
- (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended, and agrees to participate in fair housing planning by cooperating in any analysis to identify impediments to fair housing choice within the jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and to maintain records reflecting the analysis and actions in this regard.
- (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts:

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY14 Program Guidelines shall govern the use of the assistance provided by the state to local government units in FY14-FY15.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low-and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
 - 2) for purposes of assessing any amount against properties owned and occupied by persons of low- and moderate-income who are not persons of very low income.
- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).

Date

Signature of Authorized Official

Title of Official

VIII. Exhibits

- A. The following exhibits should be attached to the application, as applicable, in order noted below:
1. Authorization for “on behalf of” applications.
 2. A copy of the notice of public hearing and summary of comments received.
 3. Activities Under the Existing Housing Set Aside:
 - a. Rehabilitation:
 - 1) Copy of rehabilitation manual;
 - 2) Re-use plan for program income generated by rental rehab;
 - 3) DSHA target area approval attached;
 - 4) Identification of amount of funds and number of units to be accomplished in approved target areas and community-wide; and
 - 5) Identification of mobile home units to be rehabilitated including number owner-and/or renter-occupied.
 - b. Demolition:
 - 1) Amount of funds and units to be accomplished in approved target areas and community-wide identified; and
 - 2) Re-use Plan for program income from demolition liens attached.
 4. Activities Under Infrastructure Project Set Aside:
 - a. Water and Sewer:
 - 1) Letters from appropriate agencies documenting serious and immediate threat attached;
 - 2) Documentation attached demonstrating community’s inability to finance project without CDBG funds, including
 - a) letters from other grantor agencies
 - b) financial statements
 - c) financial analysis
 - 3) Letters from community or appropriate agencies documenting commitment and source of matching funds.
 5. Activities Under Emergency Project Set-Aside:
 - a. Water and Sewer:
 - 1) Letters from appropriate agencies documenting serious and immediate threat attached;
 - 2) Documentation attached demonstrating that condition developed or became critical within 18 months of application; and
 - 3) Documentation attached demonstrating community’s inability to finance project without CDBG funds, including
 - a) letters from other grantor agencies
 - b) financial statements
 - c) financial analysis

TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

October 1, 2013

The Honorable Joseph Ronnie Rogers, Mayor
City of Milford
P.O. Box 159
Milford, DE 19963

Dear Mayor Rogers:

Please be advised that the Sussex County Council has authorized the Sussex County Community Development Office to assist local governments in Sussex County in preparation of Community Development Block Grant (CDBG) applications. In an effort to bring as much CDBG funding to Sussex County as possible, Director Brad D. Whaley, is prepared to offer assistance to your community in applying for CDBG funding. The only financial responsibility for the town is to pay for advertising the public hearing.

Last year the Delaware State Housing Authority proposed to keep CDBG minimum target area numbers, as well as, the remainder of the guidelines the same as FY 13. This means that your community must have **a minimum of 4-targeted homes** to be eligible for the CDBG housing rehabilitation program.

In order to be considered, Infrastructure projects must be in a predominately low to moderate-income area. A house-by-house income survey must be complete to prove area household incomes. Additionally, we require a complete set of engineering plans, cost estimates, documentation of existing matching funds, and a letter stating that the requested project will be completed within one year (see enclosed CDBG Infrastructure requirement sheet). Sussex County Council's highest priority is housing rehabilitation assistance for Sussex County.

The process, if accepted by your Council, would have Sussex County apply for the CDBG funding on your town's behalf, and if funded, Sussex County would administrate the projects for you. All administrative cost would be paid for by grant and County funds.

We are required to schedule public hearings in each city or town that is applying for the funding during November or December to be able to meet the application deadline. I respectfully request that if your community is interested in participating with the County

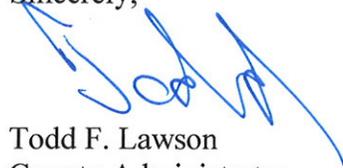


The Honorable Joseph Ronnie Rogers, Mayor
October 1, 2013
Page Two.

in a CDBG application, please notify Brad D. Whaley, at the Sussex County Community Development and Housing Division at 855-7777 by October 16, 2013.

Do not hesitate to contact me if you have any additional questions.

Sincerely,



Todd F. Lawson
County Administrator

TFL/nr

pc: Mr. Brad D. Whaley

City of Milford



RESOLUTION 2013-21 Sussex County

Council Member _____ submitted to the Council the following Proposed Resolution:

ENDORISING PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AUTHORIZING DAVID B. BAKER, SUSSEX COUNTY ADMINISTRATOR TO SUBMIT APPLICATION.

WHEREAS, the City of Milford resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants State of Delaware Program for Block Grants as contained in Sections 570.488-499 24 CFR U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Milford has met the application requirements of (Attachment E Delaware Community Block Grant Program Policies and Procedures) Citizen Participation requirements; and

WHEREAS, Sussex County plans on accomplishing the requested projects with CDBG funds; and

WHEREAS, the City of Milford hereby agrees to allow Sussex County to accomplish the projects in the targeted areas of Milford; and

WHEREAS, the City of Milford and Sussex County are in agreement with this activity.

NOW, THEREFORE, BE IT RESOLVED by the City of Milford and Sussex County that they endorse and grant permission for the following activity:

APPLICATION: Rehabilitation/Infrastructure/Demolition

Total Infrastructure project cost is \$_____, total CDBG grant request is \$_____. Matching funds in the amount of \$_____ will be provided by the City of Milford general funds.

NOTE: To be used for Infrastructure projects only.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED BY THE CITY OF MILFORD, SUSSEX COUNTY, ON THE 28th DAY OF OCTOBER 2013.

WE GIVE MAYOR AUTHORIZATION TO SIGN RESOLUTION:

Council Members

Bryan Shupe	Owen Brooks, Jr.
Garrett Grier, III	Douglas Morrow
S. Allen Pikus	James Starling, Sr.
Dirk Gleysteen	Katrina Wilson

Joseph Ronnie Rogers
Mayor

I DO HEREBY CERTIFY THAT THE FOREGOING TITLE OF RESOLUTION ADOPTED BY THE CITY OF MILFORD IS THE SAME TITLE OF RESOLUTION NO. _____ ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE _____ DAY OF _____

Robin A. Griffith
Clerk of the County Council

City of Milford



Resolution 2013-22
CITIZEN PARTICIPATION
CERTIFICATE OF ASSURANCE
Sussex County

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware, has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- 1) made available information concerning the amount of funds that may be applied for;
- 2) made known the range of activities that may be undertaken with these funds;
- 3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;
- 4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies and others in a timely manner; and
- 5) provided a summary of other important program requirements.

The City of Milford has held a Public Hearing on October 28, 2013 with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals.

The City of Milford has by resolution and after one Public Hearing, endorsed this application.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



RESOLUTION 2013-23 Requirement for Fair Housing Sussex County

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the City of Milford, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on October 28, 2013.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



RESOLUTION 2013-24

Authorizes Levy Court of Kent County to Submit Application

The City Council of Milford, Delaware, hereby authorizes its Mayor, Joseph Ronnie Rogers, to submit the Fiscal Year 2014 Community Development Block Grant (CDBG) application and all understandings and assurances therein contained, and furthermore authorizes the Levy Court of Kent County to Act as the official representative of the City of Milford in connection with the submission of the Fiscal Year 2014 CDBG applicant and to provide such additional information as may be required. In the event the City of Milford's application is funded, the Levy Court of Kent County is hereby authorized to administer the funded application on behalf of the City of Milford.

This resolution was passed by a majority of the Council of the City of Milford on October 28, 2013.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



RESOLUTION 2013-25 Requirement for Fair Housing Kent County

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the Kent County Levy Court, when acting as administrators of a Community Block Grant for the City of Milford, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on October 28, 2013.

Mayor Joseph Ronnie Rogers

Attest _____

City of Milford



PUBLIC NOTICE CITY OF MILFORD CITY COUNCIL HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, October 28, 2013 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware, to take final action upon the matter of:

Young, Conaway, Stargate & Taylor LLP on behalf of CCM-Koelig LLC for a Final Major Subdivision for Wickersham. Property is located on the northwesterly side of State Route 1 and the north side of Johnson Road (County Road 207), southwest of the State Route 1 and County Road 207 intersection. Area of Petition is 40.68 +/- Acres; Current Zoning is R-3. Tax Map 3-30-16.00-005.00.

All parties of interest are hereby notified to be present and to express their views before a final decision is rendered. If unable to attend, written comments will be accepted up to one week prior to the hearing. Anyone with questions or comments should call Christine Crouch at 302.424.3712 extension 308.

By: Christine Crouch
Deputy City Clerk

080513

City of Milford



PUBLIC NOTICE CITY OF MILFORD PLANNING COMMISSION HEARING

NOTICE IS HEREBY GIVEN that the following applicant has filed a land use application with the Planning Department of the City of Milford:

Young, Conaway, Stargate & Taylor LLP on behalf of CCM-Koelig LLC for a Final Major Subdivision for Wickersham. Property is located on the northwesterly side of State Route 1 and the north side of Johnson Road (County Road 207), southwest of the State Route 1 and County Road 207 intersection. Area of Petition is 40.68 +/- Acres; Current Zoning is R-3. Tax Map 3-30-16.00-005.00.

A Public Hearing is scheduled for Tuesday, September 17, 2013 at 7:00 p.m. in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

All parties of interest are hereby notified to be present for the review and recommendation by the Planning Commission to City Council. Final action will be taken by City Council.

If unable to attend, written comments will be accepted up to one week prior to the hearing. Anyone with questions or comments should call Christine Crouch at 302.424.3712 extension 308.

By: Christine Crouch
Deputy City Clerk

080513



Land Use Application Cover Sheet

CITY OF MILFORD

File Name: Wickersham

Date Stamp
JUL 30 2013

File Number: 08-013

RECEIVED

Instructions for Applicants:

Please read and follow all instructions on your application carefully. If you have any questions about the process or your project, it is strongly recommended that you speak with staff prior to submitting your application to help ensure that processing can advance in a timely manner. Every application must include this cover sheet, the application/checklist and all required items. No applications will be accepted if violations exist or if any fees owed the City are delinquent.

Specify Type of Land Use Application to be submitted (check all that apply):

- Preliminary Site Plan
- Preliminary Major Subdivision
- Final Minor Subdivision
- Final Site Plan
- Final Major Subdivision
- Variance/Appeal
- Change of Zone
- Conditional Use
- Annexation

Please Type or Print Legibly

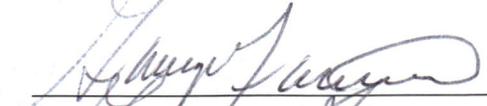
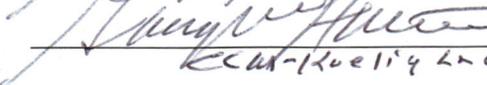
Property Owner: <u>CCM-Koelig LLC</u>			Phone: <u>302-998-9463</u>
Address: <u>4600 New Linden Hill Road</u>			Cell: <u>302-562-4804</u>
City: <u>Wilmington</u>	State: <u>DE</u>	Zip: <u>19808</u>	Fax: <u>302-998-2926</u>
E-Mail: <u>GM FARRAR 1 @ AOL.COM</u>			
Contact Person For This Application: <u>GARY FARRAR</u>			Phone: <u>302-998-9463</u>
Address: <u>4600 New Linden Hill Road</u>			Cell: <u>302-562-4804</u>
City: <u>Wilmington</u>	State: <u>DE</u>	Zip: <u>19808</u>	Fax: <u>302-998-2926</u>
E-Mail: <u>GM FARRAR 1 @ AOL.COM</u>			
Applicant Name and/or Company: <u>John Tracey-Young, Conway, & Taylor</u> ^{StarGate}			Phone: <u>302-571-6740</u>
Address: <u>1000 N. King St</u>			Cell: <u></u>
City: <u>Wilmington</u>	State: <u>DE</u>	Zip: <u>19801</u>	Fax: <u>302-576-3382</u>
E-Mail: <u>jtracey@ycst.com</u>			
Site Address: <u>Coastal Hwy</u>			Zoning: <u>R-3</u>
Tax Map & Parcel Number (s): <u>3-3016.00-005.00</u>			Acreage: <u>40.6856</u>
Description of Proposal: <u>Major Subdivision for Wickersham</u> <u>205 Townhouse Lots</u>			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant: <u>[Signature]</u>			Date: <u>07/30/13</u>
Signature of Property Owner: <u>[Signature]</u>			Date: <u>07/30/13</u>

REVISED: 11.15.11

- A. Date, scale, north arrow and acreage of the entire site;
 - B. The name of the final plat, subdivision, or dedication;
 - C. The name and address of the owner(s), developer, and any other parties of interest;
 - D. A layout of the subdivision including each parcel/lot location, lot number, lot square footage, lot setbacks including front, side and rear, buffering, open space, parking, street and alley names;
 - E. Location and size of the proposed utilities (water, sewer, and electric) and any easements for such;
 - F. Names, locations, and widths of streets and alleys.
- 9. A list of waivers from the Code of the City of Milford and their corresponding code locations, *as approved by City Council during Preliminary Approval.*
 - 10. A copy of any deed restrictions and restrictive covenants proposed by the subdivider.
 - 11. A CD with all of the above information saved in .pdf format, except the legal description and deed restrictions saved in Word format.
 - 12. Application fee.

cc	

I/We certify that the information provided in this application, including all submittals are attachments, is true and correct to the best of my/our knowledge.

Signature of Applicant:  Date: 07/30/13
 Signature of Property Owner:  Date: 07/30/13
CCM-Quelley LLC

	FOR STAFF USE ONLY			
	DAC	Planning Commission	City Council	BOA
Owner	n/a	09.17.13	10.28.13	n/a
Contact				
Applicant				

REVISED: 01.11.12

July 29, 2013

City of Milford
201 South Walnut Street
Milford, Delaware 19963
ATTN: Richard Carmean, City Manager

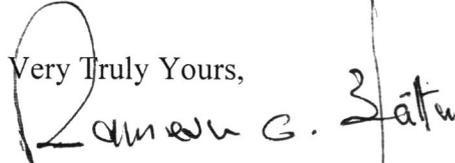
RE: Wickersham – Entrance/Exit Facility

Dear Mr. Carmean:

As per our conversation, I am writing this letter with respect to the onsite design at Wickersham. All of the onsite design has been concluded, submitted, revised and approved with the exception of the Entrance/Exit Facility Plan to and from Johnson Road (Delaware Route 207). The entrance/Exit Facility Plan has not been finalized. We anticipate that the Entrance/exit Facility Plan will be concluded and a submission made to DeIDOT within thirty (30) days.

Should you have any comments and/or questions please do not hesitate to contact me.
Thank you in advance for your time and attention.

Very Truly Yours,



RAMESH C. BATTA, P.E., P.L.S.

Cc: Mr. Gary Farrar (By hand delivery)
RCB/sam1



OFFICE OF STATE FIRE MARSHAL



2307 MacArthur Road
 New Castle, DE 19720-2426
 Phone: 302-323-5365
 Fax: 302-323-5366

Technical Services
 1537 Chestnut Grove Road
 Dover, DE 19904-9610
 Phone: 302-739-4394
 Fax: 302-739-3696

22705 Park Avenue
 Georgetown, DE 19947
 Phone: 302-856-5298
 Fax: 302-856-5800



FIRE PROTECTION PLAN REVIEW REPORT

Plan Review Number 2013-04-0171-MJS-02 Tax Parcel Number 3-30-16.00-5.00
 Review Status NOT APPROVED AS SUBMITTED Review Date 04/03/2013

PROJECT

WICKERSHAM		
Phase#	Building #	Unit # 205
RT 1 & JOHNSON RD MILFORD, DE 19963		

SCOPE OF PROJECT

Project Type <u>MJS Major Site</u>	Occupant Load _____
Number of Stories _____	Occupancy Code <u>9602</u>
Square Footage _____	Fire District <u>42</u>
Construction Class _____	

APPLICANT

OWNER

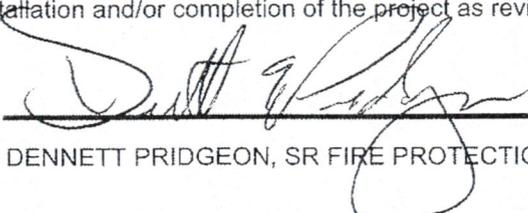
RAMESH C BATTA ASSOC, PA	CCM-KOELIG II LLC
4600 NEW LINDEN HILL RD STE 103 WILMINGTON, DE 19808	4600 NEW LINDEN HILL RD WILMINGTON, DE 19808

This office has reviewed the plans and specifications of the above described project for compliance with the Delaware State Fire Prevention Regulations, in effect as of the date of this review.

A Review Status of "Approved as Submitted" or "Not Approved as Submitted" must comply with the provisions of the attached Plan Review Comments.

Any Conditional Approval does not relieve the Applicant, Owner, Engineer, Contractor, nor their representatives from their responsibility to comply with the plan review comments and the applicable provisions of the Delaware State Fire Prevention Regulations in the construction, installation and/or completion of the project as reviewed by this Agency.

This Plan Review Project was prepared by:


 DENNETT PRIDGEON, SR FIRE PROTECTION SPECIALIST

FIRE PROTECTION PLAN REVIEW COMMENTS

Project Name WICKERSHAM

Plan Review Number 2013-04-0171-MJS-02

Tax Parcel Number 3-30-16.00-5.00

Review Status NOT APPROVED AS SUBMITTED

Review Date 04/03/2013

PROJECT COMMENTS

- 1002 This project has been reviewed under the provisions of the Delaware State Fire Prevention Regulations (DSFPR) Effective December 11, 2012. The current Delaware State Fire Prevention Regulations are available on our website at www.statefiremarshal.delaware.gov. These plans were not reviewed for compliance with the Americans with Disabilities Act (ADA). These plans were not reviewed for compliance with any Local, Municipal, nor County Building Codes.
-
- 1040 This site meets Water Flow Table 2, therefore the following water for fire protection requirements apply: Main Sizes: 6" minimum. Minimum Capacity: 1,000 gpm @ 20 psi residual for 1 hour duration. Hydrant Spacing: 800' on center. (DSFPR Regulation 702, Chapter 6, Section 3)
-
- 1500 All plans must be reviewed and approved by this Agency prior to any work. Plan review status shall remain "NOT APPROVED AS SUBMITTED" until the following items have been received and approved by this Agency:
- NOTE: When revised plans are required to be resubmitted, a narrative letter does not suffice.
-
- 1081 Location and diameter of all water mains supplying fire protection water
- SHOW WATER MAIN AND HYDRANTS FROM WATER SOURCE (CONNECTION TO CITY WATER MAIN WITH WATER IN IT).
- WE CAN'T APPROVE PLANS WITHOUT SUPPLY TO SYSTEM SHOWN.
-
- 1140 Provide a letter from the supplying water company or municipality which approves the proposed water distribution system.
-



October 20, 2010

Mr. Ramesh Batta
Ramesh C. Batta Associates
4600 new Linden Hill Road
Wilmington, DE 19808

RE: Wickersham Townhouses

Mr. Batta:

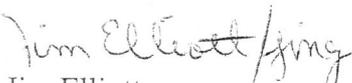
The Sussex Conservation District has reviewed the sediment and stormwater management plans submitted for the above referenced project. The District has found the submittal to be acceptable, please provide the District with the following:

- Submit 5 sets of plans for approval (*Please include one complete set of drawings for District files*).
- Submit a final paper and electronic copy of the project's report and complete construction set.
- The plans are to be signed and sealed by a qualified design professional.
- The SCD Owner's Certification Statement is to be signed on each set of plans.
- Provide the District with an inspection fee of \$8,000 and a maintenance fee of \$1,500 (these fees can be combined into one check).

Plans are approved every Tuesday and are to be picked up by the end of the week they are permitted. If plans are submitted with any of the above items missing, they will **not** be approved. Be advised if there are any deficiencies which can not be addressed within 72 hours the plans will be considered withdrawn and therefore, you will need to entirely resubmit. We appreciate your cooperation in this matter as we are trying to maintain a professional and structured office to better serve you.

If ownership is going to change, the District will require a new application and two sets of plans with the new owner's information and signed certification statement. In addition, the authorization to discharge stormwater under the regulations *Part 2 Special Conditions for Storm Water Discharges Associated with Construction Activities* must be transferred by the original owner to the new owner, please contact DNREC at 302-739-9921 for assistance.

Sincerely,
SUSSEX CONSERVATION DISTRICT


Jim Elliott
Plan Reviewer



ENGINEERING DEPARTMENT
302.422.1110, FAX 302.422.1119

www.cityofmilford.com

180 VICKERS DRIVE
MILFORD, DE 19963

June 9, 2010

RAMESH C. BATTA ASSOCIATES, P.A.
Brownstone Plaza, Suite 102
4600 New Linden Hill Road
Wilmington, DE 19808

RE: Wickersham Final Engineering Review

Dear Ramesh,

I have reviewed the plans for the Wickersham subdivision. No comments are provided on drawing sets completed for review by others such as the sediment and erosion control plans, or the entrance details for DelDOT. Overall the sewer and water utility plans and details as presented meet City standards, and the notes are generally clear and detailed. However as you are aware there is currently no water or sewer service in the vicinity of the project. Therefore those connection details cannot be guaranteed acceptance until design of the regional systems is complete. Please inform the project owner that there could be some minor redesign cost in the future to adjust for those final design locations and elevations. Please address the following comments and resubmit final plans after all outside agency reviews are complete;

- Sheet 36 Note 9. Please change this to state all sanitary sewer will be air tested
- Sheet 42 MH-1 is adjacent to Cedar Creek Road not Johnson Road
- Although I did not see a detail for catch basin grates, please provide bicycle safe grates, DelDOT type 3 or equivalent
- Fire hydrants located in the alleys do not appear to have a valve as required by City standard details. Please add valves and place within 10 feet of the hydrant.

Prior to starting construction the City will require an executed Development Agreement and a performance bond for 125 % of the construction cost of Phase 1, and construction management and inspection fees at 4% of the construction cost. The bond and inspection fees are based on an engineers estimate to build the proposed infrastructure. The estimate must provide quantities and associated costs for all materials to construct Phase 1. The City will require 4 complete sets of construction drawings for our files and all drawings used for bidding or construction will need a City of Milford stamp indicating

approved for construction. The City Electric Department will need AutoCAD files of the proposed subdivision with sufficient detail to allow the design of the electrical distribution network. Please contact Rick Carmean at 422-1110 for this submission.

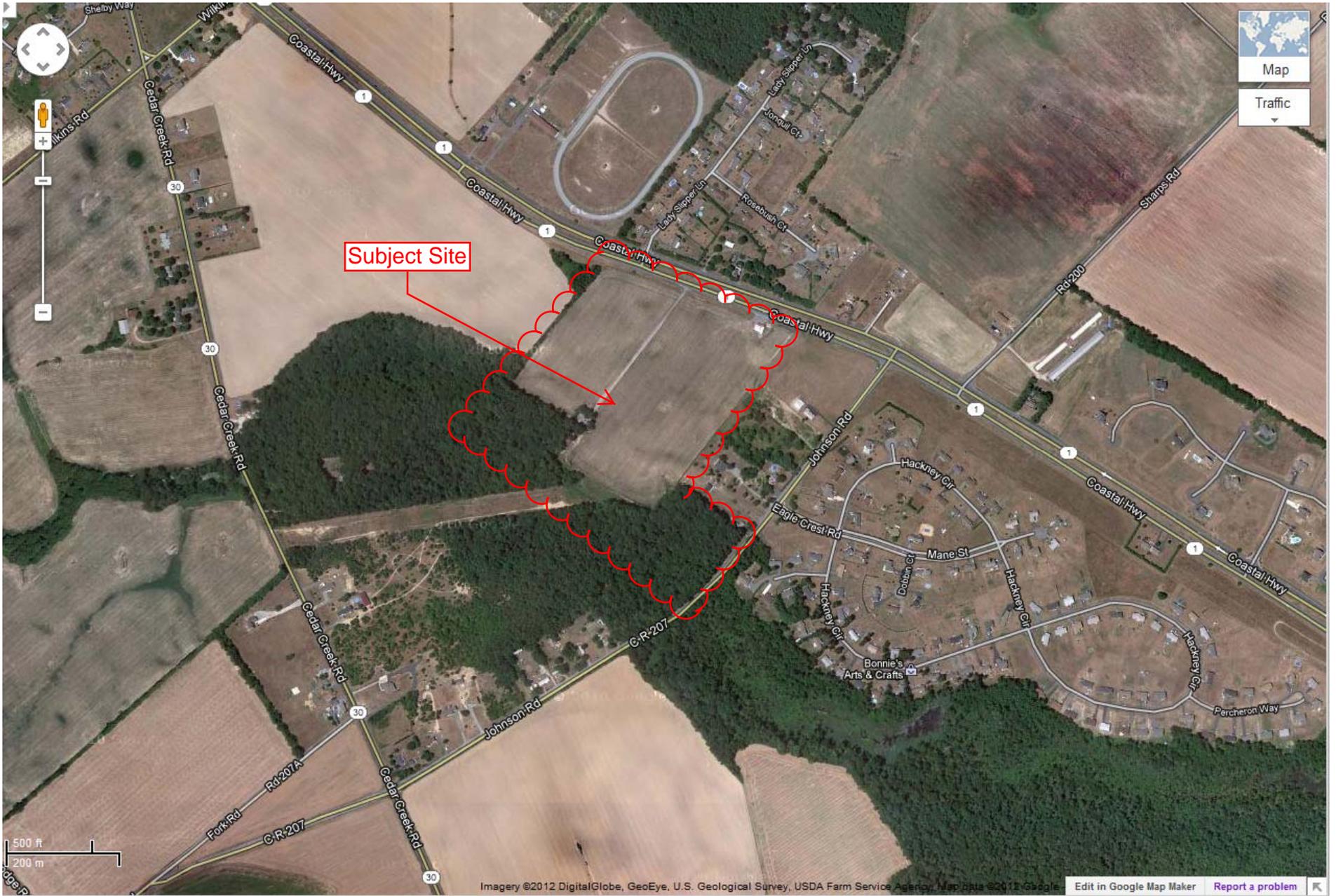
I look forward to working with you as the regional sewer and water systems are planned and this project proceeds to construction.

Best Regards,

A handwritten signature in black ink, appearing to read "Mark S. Mallamo", with a long, sweeping horizontal line extending to the right.

Mark S. Mallamo P. E.
City Engineer

Cc: David Baird, City Manager
Brad Dennehy, Public Works Director
Rick Carmean, Electric Department Superintendent



Annexation

~~City of Milford
Milford Independence Commons
Tax Map MD-00-173.00-02-09.01-000
Requested Zoning: OC-1
Land: 11.845 acres, more or less~~

City Planner Gary Norris advised the city believed this parcel was part of the north side of the business park and had been annexed into the city when the balance of the property was annexed. Further investigation revealed differently and is the basis for this request. This is the site the Hospice is developing for their facility.

Mr. Workman confirmed the City of Milford owns the property which is under contract to Hospice. Mr. Norris said the site plan was previously approved by the planning commission though it will go back through for a final review following its annexation.

Mr. Workman moved that the city proceed with the annexation process for the legal owner City of Milford on behalf of the equitable owner Delaware Hospice, seconded by Mr. Crouch. Motion carried.

~~Patrick J. Emory and Judy K. Emory
Tax Map No (s): 3-30-15.00-62.00; 3-30-15.00-62.01; 3-30-15.00-62.02
Requested Zoning: R-3
Land: 28.07 acres, more or less~~

~~Equitable Owner Koelig, Incorporated on behalf of Owners of Record R. Dale Benson and Michele M. Benson
Tax Map 3-30-16.00-5.00
Requested Zoning: R-3
Land: 40.68 acres, more or less~~

Attorney John Tracey of Young, Conaway, Stargatt and Taylor, was present to represent Equitable Owner Koelig, Incorporated on behalf of Owners of Record R. Dale Benson and Michele M. Benson and the Emory property. He asked that both of the petitions be addressed simultaneously because the sites abut each other and the one is contingent upon the other.

A concept plan was distributed for the annexation's review noting the Emory piece would need to be annexed in order for the Benson property to be contiguous.

Mr. Tracey advised the properties are located in the southeast annexation corridor adjacent to Route 1. The first annexation request for the Emory property was submitted in the April of 2004 and the Benson property followed shortly thereafter. There was a waiting period while the comprehensive plan was updated to include this area. The city then put a moratorium in place while examining some zoning and development issues. Both of those issues have since been resolved and the annexations allowed to proceed.

As indicated in the comprehensive plan maps, this is shown in the future annexation area and the growth strategy maps identified for residential development. The maps also show the Benson property as being targeted for annexation in 2005 to 2006 and the Emory property targeted for annexation in 2006 to 2007.

He noted the Benson property is 40 acres and sits to the east of the Emory property and is bordered to the east by Route 1 and to the north by lands currently in Sussex County but targeted for future growth and future annexation.

The Emory property is bordered by Cedar Creek Road with the same constraints on the other side.

They are requesting both properties be annexed with the R-3 zone to allow a townhouse, workforce housing type development. The code currently allows 16 dwelling units per acre though townhouses cannot exceed 12 units per acre. However, they are not requesting more than 7 units per acre.

The plan is not to overburden the property and instead create a pleasing community that works well with the goals the city is trying to obtain. They are also aware the city is currently considering some revisions to some of its ordinances and planned units developments. This will not be a planned unit development though they plan to incorporate a lot of those design features into the subdivision.

More open space will be provided than is required by the code with the Benson property at 51%. Active recreational areas will be incorporated including walking trails. Sidewalks are planned for both sides of the streets. What they are presenting for the Benson property Mr. Tracey feels is a good depiction of what they can accomplish. Surveying, topographies, wetland delineations, etc. have been completed.

The plan shown for the Emory property is a concept based on some old aerial photography and delineations. Though they believe the property can handle it, until a more thorough examination is done, that will remain to be seen. However, the cap for the development will be far below the maximum density for a townhouse development. It is believed this is in the best interest of all parties including the city. All city services will be utilized along with the benefits from real estate property tax revenues. This annexation will also give the city the ability to control the property adjacent to it.

When asked how many units are planned, Mr. Tracey noted there are roughly 80 units shown on the Emory property which works out between 2 and 3 units per acre. The Benson property is showing 220 units which is approximately 6 units per acre though that allows some flexibility and whose number will be more firm once they start the subdivision process. It was noted this will continue the R-3 zone has already been established in this area.

When asked if there is the capability of connectivity between the two developments, Mr. Tracey explained the Stapleford Branch (wetlands) runs between the two sites and would prevent vehicular access or even a pathway.

City Planner Norris advised that townhouses require rear loaded alleys with Mr. Tracey stating he was willing to discuss that further. He said it could be done with rear alleys though they feel there are valid reasons not to consider them particularly because they will not have units backing up to one another. Regardless, if alleys are required, the plan will include them.

Mr. Norris asked if there is any consideration of limited commercial in that area and it was verified that has not been proposed and the plan is for a straight residential community.

Mr. Norris questioned the inclusion of fences, decks, etc. and the problem with getting the lawnmower from the front to the back.

Mr. Tracey said part of that concern can be addressed through the homeowners' documents with the creation of easement rights. With new communities, there is a lot of investment in the homeowners' association and planning correcting is to the benefit of the regulations working.

The other concern the city planner has is the distance from Route 1 to the townhouses. Engineer Ramesh Batta of Ramesh Batta Associates, P.A. stated it is showing 100 feet with some additional buffering and plantings between.

Only one entrance into each development was shown on the plan with one off Cedar Creek Road for the Emory parcel and one off Johnson Road for the Benson parcel.

Mr. Brooks asked where Mr. Emory planned to put a billboard. Mr. Emory explained there is a small piece of land on the other side of the power liens though he understands billboards are hard to obtain approval. That was part of the original 2004 request and Mr. Tracey advised that many of the conditions listed in the 2004 are no longer part of the request.

Mr. Tracey emphasized the plan presented is a concept plan. Some of the ideas such as the increase in open space, active recreational areas, etc. were obtained from the proposed RD-1 zone. He said that each unit backs up to open space and not to another house. He feels that adds character and flow to the design.

They plan to do the different type facades as is required in the ordinance though they do not want a planned unit development. As a result, the RD-1 does not apply because that calls for mixing of different housing types.

Mr. Crouch said that though the concept is for 6 per acre, if it is approved as an R3, it can increase to 16 units. Mr. Tracey said they are very willing to conditioning the approval on the 7 units per acre as initially stated. They are leaving some flexibility because if alleys are required, some changes will need to be made. However, they did not intend to approach the 12 or 16 units per acre.

Mr. Crouch is unsure if the approval can be conditioned with a maximum of 7 per acre because the R3 specifically allows 16 units. Mr. Ambrose believes the comprehensive plan, which is a governing document, is capping the R3 at 8 per acre.

Mr. Tracey said that if the comprehensive plan states that and the zoning code states something else, that may be a conflict. The courts often look at the zoning code as the controlling law. However, the developers do not have a problem and are willing to be capped at 7. They do not have a problem if the recommendation to council says it must be limited at 7. All of his clients are in attendance, as well as the engineer, and they will state for the record that they will not exceed 7 units. Even the Emory property is unable to approach those numbers.

If the committee does not feel they have the power to condition it, he will state that as a commitment on behalf of himself and his clients that they will not exceed 7 units per acre.

Mr. Ambrose said the problem occurs if the property later flips and the new owner wants to max the property out. Mr. Norris agrees that is a concern and once it is zoned R3, it could be maxed out if a new owner took over. It is next to Route 1 and low density residential would be inappropriate.

Mr. Tracey offered to put some type of formal documentation into the record stating they would agree not to exceed 7 units per acre.

Mr. Crouch moved to recommend the Emory and Benson annexations proceed with R-3 but be limited to 7 units per acre and that a formal document be filed stating the same, seconded by Mr. Workman. Motion carried.

With no further business, Chairman Crouch adjourned the Annexation Committee Meeting at 7:35 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

11.21.06
P.C.

Mr. Johnson expressed his feeling of forty cars being too many for that particular site.

Mr. Marvel questioned the number of employees he would have onsite at any one time.

Mr. Swartzentruber stated there would most likely be two sales people there.

Mr. Marvel asked is someone was required to be there to operate the car wash.

Mr. Swartzentruber stated no. There is a mechanic that comes in and does house cleaning. We do provide other services as well.

Mr. Marvel stated he did not feel there would be adequate parking for the site for employees as well as people looking at the vehicles for sale.

Mr. Masten expressed that it is a small site to navigate. Feels this would make things too tight and would be a recipe for disaster.

Mrs. Stevenson made a motion to accept the conditional use as presented with a maximum of thirty cars for sale. Mr. Warfel seconded the motion.

Mrs. Stevenson	YES
Mr. VanGorder	NO – Too many vehicles on the lot.
Mr. Warfel	YES
Mr. Masten	NO – Too many vehicles and not enough parking.
Mr. James	NO – Not enough parking for people looking at cars.
Mr. Johnson	NO – Too many vehicles and not enough room.
Mr. Marvel	NO – Too many vehicles and not enough room.

The application was denied with a 5 to 2 vote at 8:21 p.m.

6. Patrick J. and Judy K. Emory
Annexation & Zoning Recommendation
Requested Zoning R3
East side of RT 30
TAX MAP # 3-30-15.00-62.00, 3-30-15.00-62.01, 3-30-15.00-62.02

7. R. Dale and Michele M. Benson
Equitable Owner Koelig, Incorporated
Annexation and Zoning Recommendation
Requested Zoning R3
TAX MAP # 3-30-16.00-5.00

Mr. Willard reviewed the annexation process for the Commission.

John Tracy stated he would be representing the application. The Emory piece and the Benson piece go hand in hand and he represents this one as well.

Mr. Marvel stated that it would need to be two separate votes but did not see any problem with them being presented together.

Mr. Tracy stated this property was considered by the annexation committee a couple of weeks ago which issued a favorable recommendation with regards to the annexation. The Emory piece is the piece that is currently contiguous to the City. The one right behind it would be the Benson property. The Benson property is bordered to the East by RT 1. When we were before the annexation committee, we were requesting R3 zoning for these properties. We are proposing a town house development on each of the properties knowing that the Commission and Council are in the process of considering a new PUD ordinance. We were trying in advance to incorporate some of the requirements of the proposal into the design such as sidewalks on both sides of the street and an increase in open space. We are showing about 10% more open space than the ordinance does require. As it was discussed, the sole issue for consideration tonight is the proposed zoning and we are requesting R3. Under the R3 zoning as currently in the town code, we could do up to sixteen units per acre and if doing town houses it could be up to twelve per acre. When we were before the annexation committee, we represented that we would not be planning to build more than seven units per acre on this property. We were asked by a member of the annexation committee to submit a letter to that affect. He did submit that letter during the meeting to the Commission. The letter was signed by both property owners as well as the applicant. Again, no more than seven units per acre. Would have no problem with a condition to that affect. Within the town, the property directly across the street from us is zoned R3 and the piece to the north of that is zoned commercial for purposes of development of a shopping center.

Mr. Norris questioned the open space and the amenities that would be provided.

Mr. Tracy stated they are proposing 51% open space. They have done a fair amount of topographical and survey work on the Benson property but have not done so on the Emory property. The Emory property has a lot on constraints on it as well. What you are seeing is a concept plan. As we are showing it now it is 51% on the Benson piece and there would most likely be some active recreation areas but there is no clubhouse or

swimming pool being proposed. We are trying to have open space around all of the properties not just located in one spot.

Mr. Norris questioned the requirement for rear access in terms of alleys.

Mr. Tracy stated that they had discussed that at the last meeting. The concept plan does not show that but they can incorporate alleys into the plan. We have some reason for suggesting not to include alleys and that is primarily to increase the amount of open space and reduce the amount of impervious but do recognize as we move through the process and get into the subdivision process that would be a subject matter for discussion. We are not asking for a waiver for that.

Mr. Norris asked if they felt comfortable with the various distances between the buildings, in terms of sixty feet from face to face.

Mr. Tracy stated they felt real comfortable. With the Benson property, what you are seeing is a very educated concept so we obviously have very good ideas about that property. Until we actually survey the other property, we do not have any idea. But again, we do not intend to ask for any waivers on that.

Mr. Norris questioned the buffer being proposed along RT 1.

Mr. Tracy expressed there would be a berm.

Mr. Marvel questioned Mr. Willard about an annexation agreement. Is that a valid way to approach this?

Mr. Willard stated this was something that was being wrestled with for several applications. The applicant has provided a letter stating no more than seven per acre but feel that might not be enough. If the property is sold, that could change. If Council zones the property R3 than the owner of the property would have the right to apply for a subdivision as long as it met the requirements of the R3 zone. The letter would not follow the sale of the property. An annexation agreement would be documented and recorded and would follow the property. Do not feel that a letter would give the town the security to enforce.

Mr. Tracy expressed that they would have been happy to have a formal condition placed on the application. It was asked at the last meeting to produce something that would further indicate our intent. The letter was not meant to be the formal document. We would be happy to execute whatever formal document the Commission would want us to execute so that everyone feels comfortable. We are not asking for anything more and we

won't come in with a plan after the fact that shows a bunch of four story buildings with sixteen per acre. He was looking for any way to offer assurance to the Commission.

Mr. Willard stated that annexation agreements have been recognized. It is possible to turn this into an annexation agreement and it would run with the land and be recorded with Sussex County. Any successor or assign would be bound by that limitation.

Mr. Tracy stated that they would have no problem with that. We were looking for whatever mechanism the City wanted to see in place that would cap the density. We would be happy to work with the City in doing so.

Mr. Marvel questioned if that would be going down the path of contract zoning.

Mr. Tracy stated he did not see it as contract zoning. Contract zoning tends to be when you take something right in the middle that does not fit and you barter and trade. Here we have R3 zoning across the street and commercial zoning right next to it. We are also aware that the town has been pursuing a path that says we want to take a look at our ordinances and we want to adjust the densities and we want to be proactive in that regard.

We are not trying to do multi-family dwellings but we have simply proposed a work force town house community. We want to give the City their comfort level.

Mr. Willard stated that contract zoning is maybe the City is giving something they otherwise would not be giving because they want some type of consideration. This is an annexation that is coming in.

Mr. Tracy stated again, that they are not looking for anything special from the town. We are just looking to say that concerns have been expressed and we want everyone to be sure of the number we are coming in with.

Mr. Kramlich stated that he was part of the annexation committee and he does not believe that it was recommended for anything other than the R3. There was no condition placed on the application. This letter was not a condition of the recommendation.

Mr. Masten stated that his feeling is that the R3 a high density zone, the units per acre is only part of that zoning. It is the housing type as well. He disagrees with sticking R3 way out in the middle of a rural area. We have also had this debate on east of RT 1. This case is a little bit different because you already have R3 and commercial across the street. Looking at the properties on an individual basis, we need to draw the line somewhere. In his opinion, because the Emory piece has the wooded buffer all the way around it and it is adjacent to the R3, maybe that is where we draw the line. The Emory property should be the R3 with the limit on the housing type but the Benson property which seems to be completely surrounded by single-family houses should be something else.

Mrs. Stevenson expressed that she agreed with Mr. Masten. It seems that we are getting further out from the core of the City.

Mr. Norris stated that based on the Comprehensive Plan and the existing zoning map there is considerable amount of highway commercial that is already out there. Certainly a commercial area could support higher density.

Mr. VanGorder questioned if any thought had been given to the fire service for the town. They are at their maximum right now. There is a need for a substation out in that area.

Mr. Marvel stated there had been some discussions but it comes back to a funding issue.

Norman Wilthson stated he lives on Bucks Road. Does the Commission realize that they would be setting a precedent that anyone with a farm could come in and ask for the same zoning. It is something to think about.

Sunny Vuono stated he lives in Lincoln and the reason he is attending the meeting was because this land was annexed from Lincoln. All the homes in Lincoln are all single-family homes and these people have been there for generations. They are satisfied with how they live in Lincoln. Leave Lincoln alone – we want single-family. We resent the intrusion of Milford coming into Lincoln and annexing because Lincoln is an unincorporated town. Lincoln is now looking into incorporating the town because we are forced to.

Paul Goldstein stated that the fact that Mr. Tracy agreed to annexation agreement stating no more than seven units per acre should stand up for something. Think they have done the right thing. Feel the letter should be filed with Sussex County.

Planning Commission

Page 15

November 21, 2006

Mr. Masten made a motion to recommend the R3 zoning on the Emory property with the agreement of no more than seven units per acre. Mrs. Stevenson seconded the motion. The motion passed with a 6 to 1 vote at 9:13 p. m. Mr. Johnson voted no because he does not feel comfortable with the density out in that area.

Mr. Masten made a motion to recommend the R2 zoning on the Benson property. Mr. James seconded the motion. The motion passed unanimously at 9:15 p.m.

~~Mr. Marvel noted that the annexation and zoning recommendation for Silicato-Wood would be postponed.~~

~~8. City of Milford~~

~~X. Section R-210.1 - Exit doors required. Not less than 2 exit doors shall be provided for each single family dwelling unit. The required exit door shall provide for direct access from the habitable portions of the dwelling to the exterior without requiring travel through a garage.~~

~~(a) Section R-211 - Door type and size. The required exit doors shall be, as a minimum, a door no less than 36" in width and 6'8" in height.~~

~~(b) Section R-212 - Landings at doors. There shall be a floor or landing on each side of each exit door. The width of each landing shall not be less than the width of the door(s) served. If sliding glass or French doors are installed, the landing width should include the width of both doors (regardless if one panel is fixed or not). The minimum size of each landing shall not be less than 36" x 36". Exception: Where a stairway of two or fewer risers is located on the exterior side of a door, a landing is not required for the exterior side of the door.~~

~~(c) Section R-213 - Stairways. All exit doors should be served by a stairway (steps). Stairways shall not be less than 36" in clear width. Current Building code should be consulted in regards to height of risers and tread depth.~~

~~(d) Section R-214.1 - Guards and handrails required. Current Building code should be consulted in regards to: height of guardrails, height of handrails, continuity of handrails, projection of handrails into stairway and grip size.~~

Section IV. Dates.

Adopted: December 27, 2006

Effective: January 6, 2007

Motion seconded by Mr. Crouch. Motion carried the following 7-0 unanimous roll call vote:

Mr. Ambrose	Yes
Mr. Kramlich	Yes
Mr. Workman	Yes
Mr. Crouch	Yes
Mr. Brooks	Yes
Mr. Morrow	Yes
Mr. Starling	Yes

Emory and Benson Annexation Review

The City Manager referred to the annexation agreements included in the packets mailed last week.

The planning commission recommended an R-2 zone on the Benson site with a limit of seven units to the acre. Though it is in the agreement, it is not clear that the zoning is R-2 if council chooses to approve the annexation agreement.

Mr. Crouch noted that though the planning commission recommended the R-2 zone, his committee had recommended the R-3 with a limitation of seven units to an acre.

Mr. Brooks recalled the total number of units planned for the Emory parcel came out to only three units per acre though the recommendation was a higher number.

Mr. Kramlich added that the plan presented at the last meeting showed somewhat lower than seven units per acre for the Benson property and the conceptual plan for the Emory site resulted in around three units per acre. However, the maximum number recommended was seven units per acre.

Mr. Carmean said the purpose of presenting the agreement is to show the actual format of the annexation agreement should council decide an annexation agreement is needed on the two parcels.

Mr. Crouch confirmed the agreement was drawn up by the city solicitor.

Mr. Norris explained that the difference in the R-2 and R-3 zone is that condominiums are permitted in the R-3 zone and would be excluded in the R-2 zone.

The proposal submitted was for a townhouse community. The city manager verified the developers are continuing to pursue an R-3 zone but do not want more than seven units per acre. They feel the R-2 zone would meet their needs.

Council will make the final decision on which zone that would be applied at the time of the final vote.

The City Manager advised another public hearing would be held prior to the final vote is taken on the Emory and Benson properties. Though comments were solicited throughout the hearing, complaints were made that everyone was not able to make public comment that evening.

A final vote will not be taken until the plan of services has been accepted by the State of Delaware.

DELDOT--NKS Proposed Annexation

Mr. Carmean explained that he did not have a drawing of this project to add to the packet though he had the clerk add it to the agenda in order to discuss the situation with council.

Mr. Carmean referred to an area map showing where New Wharf Road and Route 1 intersect and the 15-acre site adjacent to Hitchens Tire Service that is presently owned by DELDOT. It was initially purchased by them for a proposed cloverleaf that could still be constructed sometime in the future.

He reported that the governor's office had sent a representative to find some land for NKS Distributing Company to build a new facility because at their present site they were landlocked. The concern was over the potential loss of jobs should the enterprise be moved to another area outside of Milford or worse yet, another community.

Mr. Carmean took them to the industrial areas of town though for various reasons these areas did not suit their needs. In turn, DELDOT decided not to use this site and opted to sell this parcel to NKS. NKS wanted to be in the city because of sewer, water and other services.

Mr. Silicato has applied for annexation for another parcel which is adjacent to this site.

When we heard nothing on the annexation request, Mr. Carmean learned it is DELDOT's policy not to request annexation of any easements or right-of-ways the State of Delaware owns. However, the municipalities can ask DELDOT to request the annexation. As a result, the city will need to ask DELDOT to apply for the annexation which is backwards from our normal procedure.

Once council agrees to consider the annexation for the use by NKS, DELDOT will forward a petition requesting annexation.

If council chooses, the city manager or mayor will write a letter to DELDOT requesting they submit their request to begin the process.

He also noted that the state is currently discussing the possibility of putting a service road through the property.

Mr. Carmean confirmed that NKS wants to expand their facility which should provide additional jobs.

Mr. Crouch moved that a letter be written to DELDOT asking they submit a petition requesting the annexation of this site, seconded by Mr. Ambrose. Motion carried.

Hiring of Assistant City Manager

Mr. Carmean recalled the executive session in which he spoke to council about the assistant city manager position.

Mr. Crouch moved the Benson property be zoned R-3, contingent upon the annexation agreement limiting the density to seven units per acre, seconded by Mr. Starling.

Motion carried the following 6-2 roll call vote:

Mr. Ambrose	Yes
Mr. Kramlich	No
Mr. Workman	No
Mr. Crouch	Yes
Mr. Brooks	Yes
Mr. Morrow	Yes
Mr. Starling	Yes
Ms. Wilson	Yes

Mr. Kramlich stated he votes no and will uphold the planning and zoning recommendation of R-2.

Mr. Workman said he votes no to coincide with the planning and zoning recommendation also.

Mr. Crouch stated he is voting with the annexation committee of council which recommended the R-3 zone and does not understand the differences in the two zones as explained by Planning Chairman Marvel.

Mr. Morrow votes yes and confirmed that at the time the planning and zoning, they did not have the legal opinion. If they had the information, they would have approved the R-3.

Mr. Crouch moved for adoption of the following resolution, seconded by Mr. Starling:

*Annexation/Land of: Equitable Owner Koelig, Incorporated
on behalf of Owner of Record R. Dale Benson and Michele M. Benson
Tax Map 3-30-16.00-5.00
Requested Zoning: R-3*

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City all that certain piece or parcel of land situate in Broadkill Hundred, Sussex County, and State of Delaware being Tax Parcel No. 3-30-16.00-5.00 and as surveyed by Ramesh C. Batta Associates, P.A., Consulting Engineers, Planners, and Land Surveyors, shown on Plan No. 89560-C-17280, dated January 11, 2006, as follows to wit:

Beginning at a point on the northwesterly side of Route 1 right-of-way, at 175.00 feet wide, the said point being a common corner for Thomas W. Bennett, Sr. and lands herein being described, the said point of beginning being the following three courses and distances from a fillet joining the said side of Route 1 with the westerly side of Johnson Road, Delaware Road 207, at 50.00 feet wide:

- 1. North 31 Degrees, 22 Minutes, 02 Seconds West, 51.25 feet to a point;*
- 2. By an arc of a circle, to the left, having a radius of 2730.94 feet and an arc distance of 200.65 feet to the point of tangency;*
- 3. North 70 Degrees, 20 Minutes, 52 Seconds, 285.94 feet to a point;*

Thence from the said point of beginning the following six courses and distances:

- 1. South 38 Degrees, 56 Minutes, 48 Seconds West, 370.03 feet to a point;*
- 2. South 38 Degrees, 42 Minutes, 55 Seconds West, 144.45 feet to a point;*
- 3. South 37 Degrees, 48 Minutes, 27 Seconds West, 226.87 feet to a point;*
- 4. South 37 Degrees, 53 Minutes, 50 Seconds West, 220.00 feet to a point;*
- 5. South 37 Degrees, 53 Minutes, 50 Seconds West, 151.97 feet to a point;*
- 6. South 51 Degrees, 06 Minutes, 25 Seconds East, 512.82 feet to a point on southwesterly side of said Johnson Road, at 50.00 feet wide;*

Preliminary

Major

Subdivision

Approval

- ~~Mr. Hayes Yes, with reservations.
 Mr. Gleysteen Yes, have to trust that the proper state agency do their job thoroughly and address the neighbors concerns.
 Mrs. McColley Yes, with reservations.
 Mr. Johnson Yes, with reservations.
 Mr. Rini Yes, with the feeling that the neighbors concerns will try to be addressed.
 Mr. Warfel Yes, have met all the requirements.~~

~~The motion passed unanimously at 9:48 p.m.~~

4. Ramesh C. Batta Associates, P.A. on behalf of CCM-Koelig LLC
 Wickersham
 Preliminary Major Subdivision Review
 Northerly side of Johnson Road, Road 207
 Zoned R-3
 TAX MAP # 3-30-16.00-5.00

John Tracy with Young, Conaway, Stargate and Taylor stated he would be representing the application. This is a straight by right subdivision application. For those of you who were on the commission at the time that this property was actually annexed by the City of Milford in the spring of 2007. There were two pieces, this piece as well as the Emory piece. The Emory piece is not currently moving forward with anything. This is the Benson property and is bordered to the north by RT1, to the east by Johnson Road and some residential out parcels, to the south by the Stapleford Branch and to the west by the Emory property and the Hall property. This is a 41 acre piece and is presently zoned R-3 under the City's code. The proposal calls for a 205 unit town home community a number that translates into a density of approximately 5 units per acre. That is significantly less than the code with a maximum of 12 units per acre and is also less than what we were capped at our annexation agreement which was 7 units per acre. In fact what you see in front of you is essentially the plan that we showed you at the time and what the commission and council were considering at the time of annexation. There will be a single boulevard entrance off of Johnson Road. Currently the property is accessed off of RT 1 and that is going to be disappearing as part of this. The property is proposing 47% open space, which is approximately 20 acres including a big center green area which will be the site of some active recreation. There are also walking paths around the perimeter of the community which will tie into the sidewalk network that is in there. It will be served by both streets which are 60 foot right-of-ways and alleys which are 20 foot right-of-ways. We have reached out to DELDOT in part based on the DAC comments and no traffic impact study is required for this project because it doesn't meet the minimum threshold level for a traffic impact study. Each of the parcels will have two off street parking spaces. One of the different things you will see in this is that you will notice there are 100 additional off street parking spaces and they are dispersed throughout the community to make them more accessible to the different houses. There will be a single car garage as well as a parking pad next to that. The storm water management is being dispersed throughout the community although this is preliminary at this stage although we do anticipate some infiltration being able to occur up in the portion adjacent to RT 1. There will be a landscaped berm running along RT 1 as well. There are some wetlands on the property -- they are at the very southern edge of the property -- we are not disturbing any of those wetlands and we are maintaining a 50 foot buffer off of the wetlands as well. There will be a homeowner's association created as part of this which would be responsible for maintaining the open space in the common facilities within. We are not seeking any waivers in front of this body but we are going to go before the Board of Adjustment next month for a design waiver. If that is denied it does not affect anything in the plan in terms of the units, the density or the lot sizes. What we are attempting to do is get a variance from the front yard setback and the rear yard setback in order to spread the house and the garage out to allow for a private courtyard, kind of a useable lawn area for each of the units. It is a design feature that has been well received in a number of jurisdictions. Again, we are at the preliminary stage. Mr. Warfel has made it clear the approvals we would need in hand before we come back before you.

Mr. Norris asked when this would go before the PLUS. Mr. Tracy stated next week. Mr. Norris asked if there was any consideration for an emergency entrance or exit because there is only one entrance into the property. Mr. Tracy stated they really only have access in this area right here unless it was suggest by someone that they wanted to see a fire access or something like that off of RT 1. There would not be any other location with which to put it. Mr. Norris asked Mr. Tracy to show the walkway and the height of the berm along RT 1. Mr. Tracy stated that the berm is approximately 3 to 4 feet right now with landscaping on top. The walkway goes around the perimeter of the property down to here. There is a sidewalk network throughout the community on both sides of the street. Mr. Norris questioned if the walkway would be continued along the front. Mr. Tracy stated he did not know of anything prohibiting it if that is something the commission would like to see. Think the reason it was stopped was because there were some residential parcels here and sometimes they don't like to necessarily like to see a walkway continue along the back of their property. It does not impact us one way or another if we want to carry it through. Mr. Norris asked if there had been any consideration of using the open space for storm water retention so it would serve a dual purpose. Mr. Tracy stated they had not looked at that from a design area. Think the idea is to make that center open space usable open space, active recreation of some sort. Because we are dispersing the storm water in different areas we thought that we would need to use this as a dual purpose. Obviously when we go through the engineering we may decide that we need additional storm water management. Again, it remains an option. Bob Sevensky stated that there is a ridgeline going through the center of the site and the water is actually spreading in both directions. Actually that site might be the least ideal unless we try to force it there. Mr. Norris stated that he thought it could be multi-purpose and than you would not need such large retention ponds.

Mr. Warfel questioned if they had been in contact with Mark Mallamo. Mr. Tracy stated he spoke with Mr. Mallamo about a week and a half ago and followed up with a letter trying to get information on some of the additional folks that are involved in the process of the sewer and water. We obviously would like to see it move forward as quickly as possible so we will certainly be reaching out. Mr. Warfel asked if some of the other projects don't move forward, does it affect this project. Mr. Tracy stated it ultimately depends on sitting down with Mark and seeing what the ultimate goals are. We would like to be able to move forward when the plan gets approved. Mark has advised us that he views it as being eighteen months to two years out.

Mr. Norris asked if they had considered using some sort of porous pavers for the driveways so that the water can infiltrate. Mr. Tracy stated they have not discussed it but it is something that they can discuss. Mr. Norris stated that the front yard for the townhouses is going to be 10 feet but that 10 feet will also be utility easement. Mr. Tracy stated that is correct and the area that is outside of the setback. The 10 feet between the property line and the setback line. Mr. Norris stated they would need approval from the Board of Adjustment for that. Mr. Tracy stated that is correct. Mr. Norris stated that his recommendation is that the 10 foot be put on each deed. Mr. Tracy expressed that they would not have a problem with doing that. He can also incorporate that into the homeowner's association documents. Mr. Norris stated if that is in each deed than the utilities are going to go into that 10 foot easement. If someone plants a tree or bush in that easement and we dig it up at least it is in the deed. Mr. Norris asked if Mr. Tracy had consulted with Rick Carmean. Mr. Tracy expressed that they had reached out to him post the DAC meeting. We have been in contact with him since before we submitted the application. One of the confusing things was there was a suggestion that the water and sewer was going to be in the alleys – it is actually going to be in the streets. Mr. Norris asked Mr. Tracy to explain where the utilities are going to be. Mr. Sevensky stated that the water and sewer are in the main streets as opposed to the alleys. The electric and cable will be in the first green area immediately behind the right of way. Mr. Sevensky was in touch with Mr. Carmean and have emailed back and forth and he is satisfied. Mr. Norris questioned if they meet the other requirements in the ordinance about the face of building and the architectural requirements. Mr. Tracy stated yes and they have no problem adhering to those.

Mr. Warfel stated all they have come forward with tonight is a subdivision application. They have presented us with a lot more than that but they would be coming back with a preliminary site plan. Mr. Willard expressed that they could come back for final if this is approved. Mr. Tracy stated this is preliminary major subdivision review. Mr. Willard stated this is an R-3 zone and in R-3 they allow townhouses and townhouses have certain other requirements involving open space and most important is the size of the lot and they meet the open space requirement. When they say they have asked for a variance, which means that they have to go before the Board of Adjustment because there is something in the code and in this case it is the setback where the Board of Adjustment has jurisdiction over. That just involves the placement of the garage. This can be preliminarily approved and the only thing that will be uncertain as far as the plan is where those houses will be placed. As you can see they want the garage right on the edge of the alley so they are asking for 10 feet there and they want the townhouse closer to the road. If the commission approves this preliminarily and you see it again for final and it has a different footprint for the house it is because they did not get what they wanted from the Board of Adjustment. Mr. Tracy stated that is correct. Nothing about the Board of Adjustment impacts the lots or the layout. The layout can be designed either way. In the commission approves this tonight, by the time we are at council next month, we would know whether or not we have gotten the Board of Adjustment variance or not. Had this been a PUD we would be asking you for that because it would be within your jurisdiction. Mr. Norris asked if they had contacted the school district. Mr. Tracy stated yes we are reaching out to them. We would obviously be designing whatever they want. Mr. Rini expressed that usually the school district does not say anything about it. Mr. Rini would like to have some sort of covered bus stop. Mr. Tracy stated there is the nice center area and could foresee that being a good location in the center of the community. Mr. Rini questioned if they anticipated any mail center or individual mail delivery. Mr. Tracy expressed that they have not totally figured it out but were thinking individual delivery. Mr. Rini stated just as a personal note, Knotts Landing does have a mail center and it doubles as a covered school bus stop and works out beautifully.

Mrs. McColley expressed that duplexes are not moving as fast and who is the target market for these. Mr. Tracy stated this is not age targeted but more towards first time homebuyers/workforce housing. The price would be somewhere around \$200,000. Mrs. McColley had some questions about lighting. Mr. Tracy stated that they would be submitting a lighting plan as part of the whole package that comes in for final.

Mr. Warfel stated that only major issue is the Board of Adjustment. Mr. Tracy stated that is a minor issue. Mr. Norris expressed that they have met all the requirements for subdivision. Mr. Norris stated that he has seen with other townhouses, a 5 foot pedestrian easement between packs. Mr. Tracy stated that is something they can take a look at; they make have the flexibility to do that. Mr. Norris asked if they were two stories. Mr. Sevensky stated a full three. Mr. Warfel questioned the size of the units. Mr. Sevensky stated approximately 1800 to 2000 square feet.

Mr. Warfel opened the discussion up to the public. No comments were received.

Mr. Hayes made a motion to approve the preliminary major subdivision as presented. Mr. Johnson seconded the motion. The commissioners were poled.

Mr. Hayes	Yes
Mr. Gleysteen	Yes
Mrs. McColley	Yes
Mr. Johnson	Yes
Mr. Rini	Yes, it meets the requirements.
Mr. Warfel	Yes, it meets the requirements.

The motion passed unanimously at 10:17 p.m.

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 24, 2008

A Public Hearing was held before Milford City Council on Monday, January 28, 2008 in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware, to take final action upon:

Ramesh C. Batta Associates, P.A. on behalf of CCM-Koelig LLC for a Preliminary Review of the Major Subdivision of 40.60 +/- acres into 205 lots, in an R-3 Zone, to be known as Wickersham, on the northerly side of Johnson Road, Road 207, approximately 600 feet north of the intersection of U.S. Route 1 and Johnson Road, Milford, Delaware. Tax Map No. 3-30-16.00-5.00.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Douglas Morrow, Owen Brooks, Jr. and Katrina Wilson

ALSO: City Manager Richard Carmean, Assistant City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Rogers called the Public Hearing to order at 8:32 p.m.

Councilman Morrow arrived at this time.

X John Tracy of Young, Conaway, Stargatt and Taylor represented CCM-Koelig. Gary Farrar from CCM-Koelig and Ramesh Batta, P.A., engineer of record, were both present.

Mr. Tracy recalled that this property was annexed in the spring of 2007 and is now seeking preliminary approval for a major subdivision. It was considered by the planning commission who unanimously recommended the plan on February 19th. This plan proposes 205 townhouse units on 41 acres of land; it supports the initiatives of the Governor's Livable Delaware Program by providing work force and first time home buyer housing as opposed to the larger lot single subdivisions.

The zoning is R-3 though the density is roughly five units per acre. A PUD allows up to sixteen units per acre and townhouse units can have a maximum of twelve units an acre, though this is capped at seven units an acre per an annexation agreement. However, this development is actually below that at five units per acre.

The proposed entrance is on Johnson Road approximately 1/4 mile southwest of Route 1. They are proposing 47% open space which is almost twenty acres. This includes a central green, over two acres in size, which will be the main open space area. Additional open space areas will also be spread throughout the community. Walking trails will tie into the sidewalks on both sides of the streets. It will contain 60-foot roads and 20-foot wide alleys. All homes will be accessed by rear loaded garages off the alleys. They have worked with DELDOT though no traffic study is required.

Each house will have two off street parking spaces, a single car garage as well as a parking pad adjacent to it. In addition, over one hundred additional off street parking spaces will be disbursed throughout the community. Stormwater management is spread throughout the community through several stormwater basins. The Stapleford Branch is shown on the drawing and runs along the bottom. The wetland areas will not be disturbed. A homeowners' association will be created who will maintain all the open spaces as well as the alleys which will be private.

The plan was reviewed by state PLUS at the end of February and was universally well received.

The applicant is seeking a variance from the Board of Adjustment. However, this waiver has nothing to do with the unit count, density or size of the lots. Under the code, there is a 30-foot front yard requirement for townhouses and a 15-foot rear yard requirement which makes the house and garage closer. It does not provide a meaningful backyard the residents can use. They are proposing to move the houses forward and the garages back toward the alley which will create a fenced-in courtyard effect for all properties.

The garages will end up being two-feet off the alley, which on both sides of the street, will leave a 24-foot wide alley and the houses would be 10 feet off the front yard. This has been reviewed by the utility departments who did not foresee any problems.

The design waiver has been discussed with the Office of State Planning and other state agencies involved in PLUS and was very well received. Two of the PLUS agencies provided letters of support of the variance request.

Mr. Tracy read a couple of quotes from each of those letters, the first being from the Office of State Planning:

‘The Office of State Planning supports the design approach as it is consistent with well established urban design practices described in the Better Models for Development in the Delaware Manual. Moving the townhouses closer to the street and replacing parking in the rear will greatly enhance the attractiveness of the streetscapes and improve the connectivity of the sidewalk network. While the streetscapes and open space areas will be public amenities for the development, it will be similarly important to provide small but meaningful private open spaces on the lots to enhance individual homeowner enjoyment of their units. These relatively simple design elements will greatly increase the functionality and attractiveness of this townhouse development.’

The Delaware State Housing Authority also provided a letter which was forwarded to City Solicitor Tim Willard, though it did not arrive until after the Board of Adjustment hearing. The letter stated as follows:

‘We support the proposed design for this development at a reduced setback distance. The developer will be using this reduced setback to create a courtyard backyard environment for new homeowners. Well-designed communities create psychological benefits for residents such as pride in their home and neighborhood. This leads to better maintenance of the property and homes. Homes that are well designed not only provide immediate benefits to the homeowners, but also throughout the years. DSHA applauds the developer and staff in their efforts to design a housing community that will be adaptable over time and allow flexibility for all populations to enjoy. Overall, good affordable housing design creates numerous benefits for the community.’

Mr. Tracy said the hearing before the Board of Adjustment occurred a couple of weeks ago. He felt the members of the board appreciated this was a variance request where they were not seeking additional density or additional units, but were simply looking within the lots created by the plan to provide some flexibility to create a backyard environment for the residents.

The board is currently considering the application. Part of the reason action was deferred was because City Solicitor Tim Willard did not have the opportunity to review the state housing letter and this variance request was unusual in comparison to what the board normally sees.

For purposes of council this evening, Mr. Tracy explained that the size of the development and the size of the lots will not change regardless of what the board of adjustment decides. If the variance is granted, they are able to move the garage and house apart creating the desired backyard environment. If it is not granted, it can be built with the house and garage closer together. Simply put, the front yards will be larger.

Mr. Kramlich asked if the variance was supposed to have been approved by this hearing. Mr. Tracy had hoped the board would have made a ruling on the day of the hearing. Because the city was not accustomed to seeing a subdivision wide variance, some additional research was needed. Mr. Tracy had provided several Delaware cases to Mr. Willard that involved similar requests; Mr. Willard is considering those and the item will be back on the April agenda.

Mr. Tracy emphasized that should the Board of Adjustment deny the variance, the developer will still move forward.

The city manager said that as a member of the Board of Adjustment, a development-wide variance was something they had never seen before. The planning commission sent this forward and actually liked the design. It appears to be a better project with smaller front yards, but more rear yards with greater outdoor living possibilities. He explained the board was not comfortable making a decision at that time and preferred that council review the plan first. The solicitor felt it was advantageous to look at some similar cases.

Mr. Willard explained the court cases Mr. Tracy presented were from New Castle. He felt the consensus of the board was to protect the integrity of the code and hardship variance law is supposed to take unique situations though that has been whittled away over time. However, the rarity in this case is this is a subdivision wide variance. He feels that a better way of handling this is to change the code. If everyone likes the design and setback for an alley garage situation, that is what should be added. The board of adjustment will make the decision and he will render his legal opinion at that time.

Mayor Rogers said that being the third member of the board of adjustment, he likes the concept, the look and feels it will work nicely for the residents. However, he agreed that council needed to see the design before a decision was made.

Mr. Kramlich asked if it would be appropriate to vote on this without an answer from the board of adjustment. Mr. Willard advised that the only way it would not be appropriate would be if the applicant requested it not be acted on.

Mr. Tracy emphasized the variance does not have an impact on what they will do. If the variance had an effect on the layout council is seeing as far as numbers or types of lots, that would be a problem if the board were to come back and say no after council said yes. But in this case, what they are talking about is internal and within the lots. Council is seeing the overall subdivision. The developer does not have a problem with a vote tonight.

Mr. Kramlich moved that the preliminary site plan for Wickersham Subdivision be approved, seconded by Ms. Wilson. Motion carried by unanimous vote.

Mayor Rogers declared the Public Hearing adjourned at 8:49 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

Variance

CITY OF MILFORD
DELAWARE



"THE GARDEN CITY OF TWIN COUNTIES"

PLANNING & ZONING DEPARTMENT
(302) 422-6616
FAX (302) 424-5933

201 S. WALNUT STREET
PO BOX 159
MILFORD, DELAWARE 19963

April 18, 2008

Ramesh C. Batta Associates P.A.
4600 New Linden Hill Rd
Wilmington, DE 19808

RE: Board of Adjustment on Wickersham

Dear Mr. Batta:

As you know, the Board of Adjustment for the City of Milford considered your request to allow for a 20 foot encroachment into the front yard setback and a 13 foot encroachment into your rear yard setbacks for all 205 lots in the development to known as Wickersham the purpose of constructing new townhouses and detached garages on Johnson Rd, approximately 600 feet north of the intersection of Rt 1 and Johnson Rd. To accomplish this, it was determined that the Board must allow a variance from the thirty foot minimum front yard setbacks and the fifteen foot rear yard setbacks.

The Board considered the request on April 10, 2008. They ultimately granted a variance from a front yard setback of 30 feet to allow for an encroachment of 20 feet and from a rear yard setback of 15 feet to allow for an encroachment of 13 feet at the subdivision to be known as Wickersham. I have attached a copy of the minutes of the meeting to document the testimony and understanding of the Board members.

The Zoning Ordinance does not specifically require action within a time period after a variance has been granted. It allows the Board of Adjustment to establish a time period during the hearing, at their discretion. The minutes do not indicate that a time period was established.

If I can provide any other information, please contact me at 302.422.6616, ext 174.

Sincerely,


Gary J. Norris, AICP
City Planner

/crc

Cc: CCM-Koelig, LLC
62 Rockford Rd, Ste 10
Wilmington, DE 19806

The Board of Adjustment of the City of Milford held a Public Hearing on Thursday, April 10, 2008 at 10:00 am in the Meeting Room at Milford Parks & Recreation, 207 Franklin Street, Milford, Delaware to consider the following variance request:

Application of Ramesh C. Batta Associates P.A. on behalf of CCM-Loelig LLC requesting 20 foot encroachments into 30 foot front yard setbacks and 13 foot encroachments into 15 foot rear yard setbacks for all 205 lots in the subdivision to be known as Wickersham. Property is located in an R-3 District on Johnson Road, approximately 600 feet north of the intersection of Rt 1, Milford, DE 19963. Tax Map 3-30-16.00-005.00

Present: City Manager Richard Carmean
Also: City Planner Gary Norris, Administrative Assistant & Recording Secretary Christine Crouch

Mr. Carmean announced due to an unexpected turn of events, Mayor Rogers and Mr. Willard are unable to make the hearing this morning therefore we do not have a quorum. The meeting will be postponed until 3:00 pm today, at this same location. No one from the audience was present, and all applicants and representatives present felt 3:00 pm time would be suitable.

At 3:00 pm the meeting continued.

Present: City Manager Richard Carmean, Mayor Joseph Rogers
Also: City Planner Gary Norris, Administrative Assistant & Recording Secretary Christine Crouch

Mayor Rogers called the hearing to order at 3:14 pm. Mr. John Tracey was present to represent the application.

Mr. Norris explained the reduction in the front yard will bring the townhouses closer to the street and the reduction in the rear yard will allow for detached garages closer to the alleys creating a courtyard affect in the rear of each town home. He feels it will make an excellent plan. People will have more of rear yard and less of a front yard. This design does comply with the Livable Delaware theory where front doors face front doors and people can talk to their neighbors.

Mayor Rogers comments the drawings discussed at the last meeting showed a much more pleasant environment for a subdivision.

Mr. Tracey reiterated there is no discernable advantage being granted to the client by reducing the setbacks. The same number of units will be in the development, whether the setbacks are reduced or not. The variance does not grant more lots and higher density, this only affects how the buildings will be placed on the lots. The Office of State Planning has affirmatively supported the proposed Wickersham development as presented to this board, as well as the Delaware State Housing Authority. Copies of those letters of support have been provided to the City.

Discussion was held regarding whether to change the code to allow a development like this or because of how infrequently this has occurred, how to handle this type of application. Further discussion will be held with our City Solicitor, who is not present today due to an unexpected court hearing.

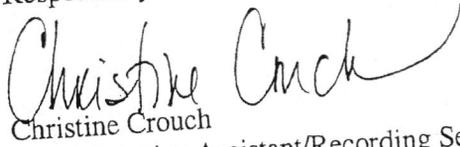
Mr. Carmean stated he has spoken at length with Mr. Willard regarding this application and how it does not present a hardship. He feels however it just makes so much sense because of the end product being better. Planning Commission has reviewed the application and approved of it, it's just that our ordinance would not allow for it, which is why it is here today. Council liked it, but again it needs a variance. Mr. Willard will review our code to see if this type of development could be included. Whether or not the code is changed, or if because this issue of a subdivision-wide variance comes along so very seldom that this might be the vehicle to do it with. He further stated he sees how granting a whole subdivision a variance is maybe not the best way of granting variances, however the project will end up being such a better place to live.

Board of Adjustment

Mr. Carmean made a motion to approve the encroachments in this subdivision. Mayor Rogers seconded the motion adding there is no betterment for the developer, just a better design for the people that buy into Wickersham. Mayor Rogers noted no one was in the audience either for or against the application. Motion carried.

Meeting adjourned at 3:23 pm.

Respectfully Submitted,



Christine Crouch
Administrative Assistant/Recording Secretary

Preliminary

Major

Subdivision

EXTENSION 1

Mrs. McColley agreed with Mr. Sharp in that the commission needs to be consistent. The railroad being in the area also persuades her. The lot size, however, fits fine in the area and she does not feel that is as big an issue.

Mr. Rini question who will be responsible for maintaining grinder pump. Mr. Wolfe understood it is his responsibility as the property owner.

Mr. Annand asked where the location of the sidewalk would be required on Dixie Ave, if required. Mr. Norris stated it would be in the public right of way. Mr. Wolfe was not certain there would be enough room along Dixie Ave to do that, as the street is narrow.

Mr. James felt the commission needs to be consistent with the sidewalk requirement.

Mr. Rini called for public comment. Hearing none, he closed the public hearing.

A motion by Mr. Sharp to approve resolution PC09-007 with the condition that sidewalks be installed on Delaware Ave and Dixie Ave, was seconded by Mr. James. Motion carried with the following poll of the commissioners.

- Mrs. McColley Yes
- Mrs. Stevenson No. This would create non-conforming lots.
- Mr. Kramlich Yes. He sees no need for sidewalks along Dixie Ave, but the commission needs to be consistent. He has no problem with the lot sizes.
- Mr. Sharp Yes. Lots were probably combined by the county.
- Mr. James Yes. Lots were probably combined by the county.
- Mr. Rini Yes

X Wickersham Preliminary Major Subdivision/Approval Extension Tax Parcel 3-30-16.00-05.00

Mr. John Tracey was present to represent the application. This parcel was annexed in March of 2007 and received preliminary major subdivision approval in March of 2008. The final major subdivision is on hold not so much because of the economy but because city water and sewer are not in the area yet. Water however is coming along, from a design standpoint though, according to the City Engineer Mark Mallamo. There are however a number of other parcels along the way to this property that need to be considered for the sewer, which is why it is taking so long. Before the property owner can apply for the final major subdivision approval with the City, the engineers for the project need to know how the utilities will come to the property. The engineers for the project won't know that until the water and sewer are to the property.

Mr. Norris asked if the extension is approved will final major subdivision application be applied for soon. Mr. Tracey stated as soon as the infrastructure is available, they can submit very quickly. Without that key piece of information, they cannot complete final major subdivision plans.

Mrs. Stevenson asked if there will be sidewalks in the development. Mr. Tracey stated there will be – on both sides of the streets.

Mr. Rini called for public comment. Hearing none, he closed the public hearing.

Mrs. Stevenson made a motion to recommend approval of the extension request, which was seconded by Mrs. McColley. Motion carried with the following votes.

- Mrs. McColley Yes
- Mrs. Stevenson Yes

Mr. Kramlich	Yes
Mr. Sharp	Yes
Mr. James	Yes
Mr. Rini	Yes

**Element on behalf of Nephrology Associates, Inc
Preliminary Site Plan - Medical Facility/Office
3.05 +/- Acres at 201 West Liberty Way, Lot 17, Independence Commons
Tax Map MD-16-173.00-01-02.21; OC-1 District
Adoption of Resolution PC09-006**

Mr. Doug Warner and Mr. Matthew Peterson with Element Engineering on behalf of Nephrology Associates were present to represent the application. Mr. Warner provided an overview of the project and presented a powerpoint presentation to the commission. They are proposing a one story "L" shaped building to take up roughly half of the site, with the other of half of the site available for future development. There are existing utilities on site and stormwater management is provided at the park as well. Because this is a corner lot, they have provided for the required two front yard setbacks and are meeting the rear and side yard setback as well as required parking. The impervious surface is proposed at 28% of the site. The signage was discussed at the DAC meeting and after reviewing the Independence Commons deed restrictions have been relocated to come into compliance with them.

Extra parking is being proposed because it will provide more accessibility for the patients. This is a very straight forward site plan, including landscaping. More renderings of the building will be provided at final site plan submission.

Mr. Norris confirmed all of the DAC comments have been addressed, including sidewalks and signage. He questioned if there are any other nephrology offices in Delaware. Mr. Warner stated there is one in New Castle County and one in Georgetown, but this site is looking to expand into dialysis as well, which would be in an additional building in the future.

Mrs. Stevenson commended Mr. Warner and Mr. Peterson on their work and asked if sidewalks could be added along Airport Road. Mr. Warner felt the owner would be agreeable to that request.

Mr. Norris explained the commission must be consistent when other parcels come in for site plan approvals in Independence Commons.

Mr. James also commended the applicant on their work.

Mr. Rini called for public comment.

Mr. Mark Mallamo, the City Engineer, explained there may be technical difficulty with installing sidewalks on Airport Rd because it is open swale system and does not have the drainage to accommodate sidewalks. He has requested additional funds in his budget to have a multi modal path installed along Airport Rd, since it is a City maintained street.

Mr. Sharp asked if Mr. Mallamo could address those difficulties prior to the application coming back for final site plan approval. Mr. Mallamo felt the difficulties would be too extensive. He remembered a month ago when Response Computer Group was approved for a preliminary site plan and sidewalks on Airport Road were not mentioned to them.

Mr. Baird said the intent was to have the matter discussed in executive session. He then talked with the parties involved. Mr. Spillane brought the issue to him, which in his opinion was unfounded while raising some very serious accusations. The first person this information was shared with was city council and Mr. Willard. The subsequent conversation with Mr. Willard was to go to executive session under FOIA but council would need to vote to do that. However, when you are dealing with individuals, the individual who is being accused, has the right to discuss it in executive session or open session. He understands that council feels it could have been handled differently, but the facts, which include the information from Mr. Spillane raising a very serious charge, whether founded or unfounded, was put on the table. Then Mr. Willard, the accused, said he was willing to talk about it in open session which is his choice under FOIA.

Mayor Marabello pointed out the item was on the agenda; if council had a problem before it was discussed, a motion could have been made to go into executive session.

Mr. Workman emphasized that he feels the conversation between Mr. Willard and Mr. Baird should have been shared with council because the solicitor works for city council. Also, the information was already out in the public once the packet was prepared. If, after council went into executive session, Mr. Willard chose to have it discussed publicly, he would not have had a problem. He feels the entire matter could have been handled in a much easier manner in executive session.

Mr. Baird then referenced a Delaware Attorney General ruling with regard to a similar situation at the City of Newark that determined that city solicitors are not deemed employees of the municipality. He understands that council appoints the solicitor, but in the opinion of the Attorney General, they are considered employees of the town under Delaware Law.

Mr. Workman reiterated the city solicitor is appointed by city council.

Mr. Baird then recommended that city council close this issue one way or the other.

Mr. Morrow feels we need to move on and feels council is spending too much time on frivolous issues which is an unfortunate waste of time for both council and our citizens. He personally does not see a conflict of interest.

Mr. Brooks said he spoke with Mr. Baird who explained the situation and he sees no problem with Mr. Willard.

Ms. Wilson agrees with Mr. Workman and Mr. Starling and feels we need to move on. She does not see a conflict of interest at all.

Mr. Ambrose said he will respectfully disagree it should have been discussed in executive session only because Mr. Willard wanted this out in the public and feels it was to his advantage to prove it was frivolous matter. He agrees we need to move on.

Mayor Marabello agreed and announced the matter is officially closed.

Wickersham Preliminary Major Subdivision/Approval Extension Tax Parcel 3-30-16.00-5.00

The following letter from Attorney John Tracey, dated January 12, 2009, was presented to city council:

As you are aware, the above-referenced project received preliminary approval from the City Council on March 24, 2008. Since that time, again as you know, we have received a variance from the Board of Adjustment to permit us to vary some of the internal lot designs within the project. As you are also probably aware, we have been working with the City in terms of its plans for the provision of utilities to this portion of the City limits. This has begun to move forward after periods of long delay.

Unfortunately, the delays caused by the decisions with regard to infrastructure necessitates me to request an extension of the preliminary major subdivision approval which is currently set to expire on March 24, 2009. While plans are now moving forward, they are not moving forward in such a way we will be able to have final approval by the March 24, 2009 date.

Therefore, we are respectfully requesting an extension of our approval until March 24, 2010.

City Planner Gary Norris reported this was reviewed by the planning commission and their recommendation was to grant the extension for a year to allow time for the city to work on utility extensions that need to be in place to start and complete this development.

John Tracey of Young, Conaway, Stargatt and Taylor, LLP was present to answer any questions.

Mr. Baird said there has been a lot of discussion between the developer and the city. He explained the property is somewhat isolated which is why it is taking longer to determine what is best for the city and the applicant to move forward.

Mr. Tracey agreed noting there have been substantial discussions with the city engineer and area property owners. Their understanding from Mr. Mallamo is the design and plans for the water have actually moved very far along though the sewer is lagging behind. The work cannot be completed until some conclusions are reached.

Mr. Ambrose moved to grant the extension until March 24, 2010, seconded by Ms. Wilson.

When questioned how much longer this will take to prevent another extension request next year, Mr. Tracy explained he does not know stressing it is in the hands of the city. Once the designs are worked out, the developer is ready to move forward.

Motion carried by unanimous roll call vote.

With no further business, Mr. Ambrose moved to adjourn the council meeting, seconded by Mr. Morrow. Motion carried.

The Council Meeting was adjourned by Mayor Marabello at 7:40 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

~~Mr. Baird said that though it is complicated, it will allow things to move forward today but also add some provisions to accommodate later development in that southeast area.~~

~~Mr. Adkins confirmed the city will spend \$110,000 for the engineering project though it could take ten years before they decide to move forward. He asked if the engineering work would still be accurate. Mr. Duplechain said yes, unless they decide to change something in the area.~~

~~Mr. Duplechain noted the \$110,000 would be reimbursed back to the city by the developer.~~

~~Mr. Baird explained the agreement in the packet for the design needs to be approved by city council. Before he takes it to council, he will have a second agreement with Key Properties outlining how they will pay the city. In that manner, council will see both agreements before they would approve the engineering work.~~

~~Mr. Duplechain reiterated the city would not be out of the money other than the interim.~~

~~Mr. Duplechain again confirmed that this project includes the Route 1 East pump station and associated force main to Meadows at Shawnee, the replacement of the Shawnee Acres pump station along with some improvements downstream of the Shawnee Acres station.~~

~~Mr. Baird advised the city is receiving immediate pressure from Milford Housing and Wickersham on the Benson and Emory properties. Both have indicated they are ready to proceed.~~

~~Mr. Duplechain added that the developer of the Hall property plans to follow the timeline of DelDOT with the overpass.~~

~~Mr. Brooks asked if each of these developers will be talked to individually or as a group. Mr. Baird said they have been here at one time when the overall concept presented. The majority stated they are ready to proceed once the city lets them know what to do. Some work was needed to see how it could be put together and he wanted this committee made aware of these projects and to share the plans to move forward.~~

~~Mr. Spillane asked what it is the financial responsibility of the city for the new water tower when it is needed to accommodate new development in this area. Mr. Baird said the tower was needed before any development is considered. It justifies the additional need though there is already a need in the current water system, not only from a storage capacity, but to ensure pressure and fire flow in all areas of the city.~~

~~Adding a fourth water tower in this area will help offset some of the demand we are seeing from the center part of the city. Mr. Baird added there are system-wide benefits by having all these developments tied in.~~

~~The mayor asked if the new water tower will be up and running before the other two are repaired; Mr. Baird said possibly though there may be some work done on the exterior of the existing towers. It makes sense to have the additional storage before the other tank has to be drained for interior work.~~

~~It was confirmed that the Washington Street tower is a critical component to our water system and though it is old, it can be rehabbed and does not have to be removed. Mr. Duplechain said that though there was some discussion about removing it at one time, it would definitely be needed if there was a downtown fire. Otherwise, we would have to rely on the Caulk tower and trying to draw water from the other two tanks. The preference is to keep it up and running.~~

~~Mr. Baird sees the next step is to move forward with Key Properties on the design. He will then present this to council, along with some guarantees to ensure the bill will be paid. They will continue to map out the layout as well as work with the other property owners in the area.~~

~~Mr. Brooks said he is comfortable with it as long as it understood the majority of the costs will be paid by the developer.~~

Preliminary

Major

Subdivision

EXTENSION 2

Mayor Marabello advised there is still a replacement needed from Ward I. This remains on the agenda to prevent it being overlooked; any future unfinished business items will continue to be added to the agendas until their conclusion.

He advised that in addition to Charles Goswick of Hearthstone Manor, Patty Atkinson of Matlinds Estates is also still interested. The mayor suggested a quick interview at the next workshop and if acceptable, council will confirm the appointment of the ninth planning commissioner.

Mr. Workman suggested it be filled as soon as possible.

Snow Removal Reimbursement Request-Hearthstone Manor

Mr. Spillane recalled that the streets at Meadows at Shawnee were plowed during the recent snow storms though they had not been accepted by the city while other city streets were overlooked. He feels that some sort of reimbursement is needed because taxpayers' money should not have been used to maintain the streets before they were officially dedicated.

Mr. Spillane moved the Meadows at Shawnee reimburse the city for the costs of plowing their streets during the snowstorm. Motion failed for lack of a second.

Councilman Spillane then stated a number of residents have questioned why Phases I, II and III were not being plowed noting they were properly paved.

Mr. Baird said the city has never plowed in Hearthstone Manor because those streets were not dedicated. He explained that Meadows at Shawnee has been plowed for a couple of years because the project was finished. He reiterated that Phases I, II and portions of III of Hearthstone are completed but have not been dedicated. At this time, the developer is not interested in dedicating it.

Mr. Spillane confirmed the problem is not the city but is the developer. Mr. Baird agreed stating they have discussed the possibility with the developer though the last couple of months, it has not been a priority due to a lack of interest.

Mr. Spillane asked how that can again be considered so that Hearthstone residents would receive the same services as the Meadows at Shawnee. He asked what Hearthstone and other areas not yet accepted get for the taxes they pay and asked if that can be considered.

Mayor Marabello suggested it be added to the next agenda in an effort to resolve it.

NEW BUSINESS

Preliminary Major Subdivision Extension Request/Wickersham

City Planner Norris noted the primary reason for the extension is because the city continues to work on utility extensions to this area though it has not been completed. It was confirmed this property is located at the corner of Route 1 and Johnson Road and are at the end of the line. In order to proceed from a cost standpoint that will work, property owners are needed to participate between their site and where the current utilities exist. Those property owners will need to determine how best to finance that which is the primary reason for the delay.

Mr. Brooks moved to approve the extension until March 23, 2011, seconded by Mr. Morrow.

Motion carried by unanimous roll call vote.

Cascades Subdivision/Ingerman Group Presentation

David Holden of Ingerman Group based out of Wilmington, stated the Ingerman Group develops, builds and manages affordable housing in Delaware, Maryland, Pennsylvania and New Jersey.

Mr. Pilla moved to table the project until April 20, 2010, seconded by Mrs. Stevenson. After polling the commission the motion carried unanimously.

John Tracey on behalf of CCM Koelig LLC; Project 08-013
Extension of a Preliminary Major Subdivision to be known as Wickersham
Johnson Rd
Tax Map 3-30-16.00-5.00; 40.69+/- acres; R-3 Zoning
Adoption of Resolution PC10-004

Mr. John Tracey with Young, Conoway, Stargate & Taylor was present to represent the application. He was here this time last year, seeking the first extension for this project. The primary reason for that extension is the City is coming up with an overall sewer and water plan for that area and he was unable to progress because that plan has not been finalized. Since that time, two things have happened. First, there was a collective meeting of developers, property owners, the City and others in August or September of last year to try to generate some momentum towards finalizing the plan, although nothing further has occurred after that. In addition, the City has annexed the property to this project's immediate North, which is a commercial site on Rt1 signaling a further intent to want to do things in this area. Construction drawings have been submitted by his client in hopes of spurring some conclusions in regard to sewer, but none have been forthcoming as of yet. This brings the project to the time period where another extension is necessary. He does know his clients have spoken to Randy Duplechain of Davis, Bowen & Friedel, who he understands is the City's Engineer, about some alternatives that would allow this project to get moving so the plans can be finished and be recorded. His client does want to get moving on this project and start building.

Mr. Norris concurred with Mr. Tracey.

Mr. Sharp asked where the location of the property is. Mr. Tracey replied at the intersection of Johnson Road and Rt 1.

Mr. Rini stated he knows when this project goes to council, they will ask if the project has extreme hardship conditions and asked for greater elaboration on those as well as maybe project what might be seen happening between now and when the extension would end.

Mr. Tracey replied the hardship is waiting on the City to making a decision with regard to how to provide utilities to that area. The only reason they have not moved forward with a final subdivision plan is because no decision has been made on utilities. He would find it difficult to deny an extension when the applicant has been doing everything it can to move a project forward, but being unable to do so due to lack of direction from the City.

Mr. Rini asked what the time table would be upon receiving a decision from the City on utilities. Mr. Tracey would like to say less than six months. DelDOT and Fire Marshal approval is still necessary though.

Mr. Tracey asked if the City has given Mr. Tracey a time table on the utilities. Mr. Tracey replied not to his knowledge. He reiterated the meeting in the fall with the group of area property owners is the last he has heard from the City.

Mr. Norris had no additional information to offer as far as the time table goes and confirmed Mr. Tracey is correct in the issues that have prevented the project from progressing to final approval and recordation.

Mr. Rini called for public comment. No one came forward.

Mr. Pilla confirmed no site work has begun.

Mr. Rini asked if Mr. Tracey needs a full year extension. Mr. Tracey felt that would be the safest time period.

Mr. Rini stated Council's opinion is to keep on top of these extensions because contact can be lost in a year's time. Mr. Tracey stated they have been in very good contact over the past year.

A motion by Mr. Campbell to recommend a one year extension of the preliminary major subdivision, Resolution PC10-004 was seconded by Mr. Burk. Following a poll of the commission, the motion carried unanimously.

Mr. Rini confirmed with Mr. Willard the extension will be valid until March 23, 2011.

~~Ordinance 2010-1/Chapter Zoning Code/EMB Sign/Public Hearing~~

~~Mr. Norris began by stated the planning commission has reviewed this extensively for the last six months. It was introduced to City Council and has since been pared down per the commission's comments. He recommendation is to make a recommendation to City Council.~~

~~Mr. Rini called for public comment. No one came forward.~~

~~Mr. Rini stated the Commission did a lot of work on this ordinance and came up with something that was not mentioned at all in the code that needed to be there. He thinks the commission cooperated with not only the people in the City but also the outside business world. Under Mr. Sharp's guidance a subcommittee was created worked with the downtown business association and worked well with them which is a sign of working in the right direction in the future.~~

~~Mrs. McColley made a motion to recommend approval of Ordinance 2010-1 to City Council, seconded by Mr. Burk. The motion carried with the following votes:~~

~~Yes-Pilla, Sharp, Stevenson, Campbell, McColley, Burk, Rini~~

~~No- Gleysteen believes they should be permitted in the C1 and C2 districts.~~

UNFINISHED BUSINESS

~~Review and Recommendation Ordinance 2009-17/Chapter 230; Zoning Code/Open Space~~

~~Mr. Rini stated Ordinance 2009-17 and 2009-18 will be discussed together and voted separately.~~

~~Review and Recommendation Ordinance 2009-18/Chapter 200; Subdivision Code/Open Space~~

~~Mr. Norris noted the commission has reviewed these ordinances extensively. To his recollection Mr. Emory spoke to the commission and was in favor of the ordinances. Mr. Norris's recommendation is to recommend approval of the ordinances to City Council for approval and adoption.~~

~~He asked if Mrs. Stevenson was still interested in more options be made available to developers. Mrs. Stevenson explained she wants it clearly written as to when the fee in lieu of open space can be utilized. After discussing the changes to the ordinance, it was determined that option was removed from the ordinance to prevent that option from being used.~~

~~The discussion then turned to whether to use eight units or lots as the threshold for requiring recreational uses in an R3 district. Open space will be required no matter how many lots or units are created, but currently the ordinance reads that any subdivision creating eight or more lots will require recreational uses. After discussing~~

Preliminary

Major

Subdivision

EXTENSION 3

~~Ms. Wilson votes no and agrees with the concerns Mr. Starling and Mr. Adkins have expressed. She thinks that any professional that knows something is wrong needs to do something about it. They need to always allow for consequences. With that amount of money and this big a project, that work should not have proceeded. Therefore, she feels both parties are at fault and votes no.~~

~~Mayor Rogers votes yes stating he agrees there was confusion. He also feels that if Mr. Reed had thought there were problems, he should have stated that instead of proceeding with the job. When he looked at the job, it was not properly done. If Mr. Reed felt he was being encouraged to get the job done, he had the right to stop the work and express those concerns. This agreement will allow the city to move forward and correct the problems out there which he feels must be done.~~

~~*FY2010-11 Budget Transfer/General Fund-Fund Balance/Live Near Your Work Program*~~

~~Mr. Baird explained the city has received another Live Near Your Work Program notice where a Perdue employee had purchased a home on Brady Drive. The city's contribution is \$1,000 which will be used toward the closing costs of that home.~~

~~Ms. Wilson moved to approve the budget transfer of \$1,000 from General Fund/Fund Balance, Account 101-0000-399-10.00 to pay the city's contribution and place that into the new line item 101-1110-411-68-31, Live Near Your Work Program. Motion seconded by Mr. Morrow and carried by unanimous roll call vote.~~

~~NEW BUSINESS~~

~~*Wickersham Preliminary Major Subdivision Extension*~~

~~Attorney John Tracey of Young, Conaway, Stargatt and Taylor was present on behalf of the application. Mr. Tracey reported the project is at the corner of Johnson Road and State Route 1. He is seeking for a third extension for the same reasons presented during the first and second requests. Initially, the project was delayed during the utility design phase in order to serve the property. More recently, DeIDOT is working on the overpass which is immediately to the north and will take a portion of that parcel, but will also provide a route for the utility services.~~

~~He recalled that when this was first being considered, the city was looking at a global sewer service in that area. The economy has reeked havoc on businesses including his client. A number of the parties originally participating in that project have since disappeared which has resulted in a redesign of the project it was designed to serve. There is now an agreement though his client has been tasked with the preliminary estimates for the design and build of the system which will be submitted to the city for its approval. Following that, they hope to work with the city in hopes of a recoupment to allow his client and any other participating property owners who plan to tie into the system at a later date.~~

~~For those reasons, they have been unable to move forward with the final design because they were unsure where the final utility routes would be. He reiterated this should be the last extension needed. He feels there is about seven to eight months of work needed for final approval.~~

~~Mr. Brooks moved for approval of a one year extension for the Preliminary Major Subdivision for the Wickersham Subdivision, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.~~

~~*MBI Development Company/Cascades Housing Development/Tax Abatement Request/David Holden*~~

~~The Ingerman Group, through its affiliate, MBI Development Company, is the equitable owner of the Cascades Housing Development. City Manager Baird recalled that Development Principal David Holden discussed this project in March of 2010 and requested tax relief from the city to assist in their Delaware State Housing Authority (DSHA) application.~~

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
February 15, 2011*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, February 15, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Commissioners George Pilla, Archie Campbell, Jamie Burk, Kim Stevenson
ALSO: City Solicitor David Rutt and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 7:00pm noting Mr. Sharp, Mr. Lane, Mrs. McColley, and Mr. Gleysteen were absent. He informed the commission Mr. Norris is out due to surgery.

APPROVAL OF MINUTES

The minutes for the January 2011 regular monthly planning commission meeting were approved as submitted with a motion by Mr. Burk, seconded by Mr. Campbell.

CHAIRMAN MONTHLY REPORT

Mr. Rini informed the commissioner's that at last night's council meeting, an ordinance regarding recreational vehicles was introduced. The ordinance may to workshop before it is reviewed by planning commission to make recommendations.

NEW BUSINESS

John Tracey on behalf of CCM-Koelig LLC; Project No 08-013
Third Extension Request for a Preliminary Major Subdivision
Wickersham
State Route 1 & Johnson Road
Tax Map 3-30-16.00-5.00; Area of Petition 40.69 +/- Acres; R-3 Zoning
Adoption of Resolution PC11-001

Mr. John Tracey of Young, Conaway, Stargate & Taylor was present to represent the application. He recalled how this seems to be an annual event for him, but is optimistic this will be last request for an extension. As the commission will recall, utilities have not been extended to the site as of yet, which is the reason for the numerous extension requests. Sewer was originally a regional concept, however economy has derailed leaving the regional developers not interested in expanding. A new route has been agreed to and the cost estimates are being obtained in partnership with the Bolis property, which is adjacent. The other two issues include the water tower location, which seems to be resolved, and DelDOT's proposed Rt 30 bypass location. It appears the bypass location will be on the Bolis property, and will likely move forward. Now that the parties involved, including the City, know where the utilities are able to come from and go to.

Mr. Rini asked how long Mr. Tracey believes the final major subdivision application will take to submit. Mr. Tracey felt between six to nine months once the extension is granted. Mr. Rini also

P. Commission

02/15/11

commented that Mr. Norris had informed him the developer has been working closely with the City regarding the utilities.

Mr. Campbell asked where the electric will be coming from. Mr. Tracey explained from the property to the immediate North, Bolis property. It is fairly close to Rt 1.

Mrs. Stevenson asked if Mr. Mallamo had any comments, seeing as he was present this evening. Mr. Mallamo had no comments.

Mr. Rini called for public comment. Hearing none, closed the public hearing.

Mrs. Stevenson made a motion to approve resolution PC11-001, seconded by Mr. Burke. Following a poll of the commission, motion carried unanimously.

~~Davis, Bowen & Friedel and Two Farms Inc on behalf of Silicato-Wood Partnership LLC;
Project No 08-085
Final Site Plan
Royal Farms
108 Silicato Parkway
Tax Map MD 16-174.15-01-01.05; Area of Petition 3.09+/- Acres; C-3 Zoning
Adoption of Resolution PC11-002~~

~~Mr. Jamie Sechler of Davis, Bown & Friedel was present to represent the application. This is for a Final Site Plan of Royal Farms. Preliminary approval was given in December of 2008 and there were extensions granted. A sign variance was approved by the Board of Adjustment earlier this month as well. This is referred to as an "S" type store with eight fuel dispensers, three diesel dispensers, and one car wash. There are two access points to the site; one from Rt 1 and the other from Silicato Parkway. With all approvals in hand, pending tonight's, he anticipates two months until they are ready to begin construction and three months until the store is open.~~

~~Mr. Rini referred to a letter from Mr. Mallamo dated 01/28/11 and confirmed the changes have been made based on this letter.~~

~~Mrs. Stevenson asked if Kent Conservation approval had been obtained. The letter in her packet was not an approval. Mr. Sechler said approval has been obtained and a copy can be emailed to the city.~~

~~Mr. Pilla confirmed the carwash is automatic where the driver stays in the car.~~

~~Mr. Rini questioned what the store will look like. Mr. Sechler held up a color rendition and stated it will look like the one in Ellendale, not like in Felton, and will have a stone façade.~~

~~Mrs. Stevenson asked if Mr. Mallamo had any comments. He did not.~~

~~Mr. Campbell questioned how a fuel spill is contained. Mr. Sechler explained Royal Farms has a plan of action of their own but essentially each dispense island has a separate tank where oil is slicked off to. Royal Farms would call the Carlisle Fire Department for further instructions on how to proceed. The Fire Chief determines if DNREC needs to be notified. After additional~~

Preliminary

Major

Subdivision

EXTENSION 4

**John Tracey on behalf of CCM-Koelig, LLC; Project No 08-013
Preliminary Major Subdivision Ext 4; Wickersham
State Route 1
Tax Map 3-30-16.00-005.00; 40.69 +/- Acres; R-3 Zoning
Adoption of Resolution PC12-005**

Mr. John Tracey of Young, Conaway, Stargatt & Taylor LLP was present to represent the application. This is the fourth venture before the commission and council seeking an extension. For those unfamiliar with the project, Mr. Tracey provided a brief summary of the project. The hold up on the development is the sewer and water being available at the site. Back when the subdivision received its original preliminary approval, there were large other large subdivisions planned in the area and the City felt water and sewer would be extended soon than now. Since the slow down in the economy, most of the other developments have all but stopped with their plans to develop. Wickersham however is still willing to move forward, provided the water and sewer are extended. DeDOT designs for the overpasses have now been resolved since the preliminary subdivision approval.

In order to design the final subdivision plans, Wickersham needs to know where water and sewer are going to be placed in order to incorporate that in their design. Without knowing that, the project cannot move forward.

Chairman Rini stated typically the maximum number of extensions the commission is willing to recommend approval for is 3, however he understands the hardship for this development, in that it is not their fault.

Mr. Norris has spoken with the City Manager regarding this extension request and based on that conversation Mr. Norris recommended approval of the extension.

Chairman Rini called for public comments. Hearing none, he closed the public comment session.

A motion by Mr. Sharp to approve PC12-005 was seconded by Mr. Lane. Motion carried unanimously following a poll of the commission.

City Planner Monthly Report

Mr. Norris had nothing to report this month.

With no further business, a motion to adjourn by Mr. Lane was seconded by Mr. Pilla. The meeting adjourned at 7:28 pm.

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary

Preliminary Major Subdivision Extension -John Tracey/CCM-Koelig, LLC on behalf of Wickersham

Planning Commission Chairman Chuck Rini advised that extension #4 was approved by the planning commission by a vote of 7-0. He stated that typically they prefer not giving more than three extensions, but in this case, the hardship was a result of a utility concern that involved the city.

City Manager Carmean advised that one of the reasons they were unable to move forward was due to the condition of the economy. In this case, the developers remain the same with the same intention.

Mr. Carmean said he also spoke with them about the possibility of placing the water tower in this area. A test boring will be done within the next few days.

Attorney John Tracey was present on behalf of the applicant. He confirmed the two big drivers of why they have not been able to move forward is because there has been no resolution on how they will obtain sewer and water. As soon as the city has a plan in place, they will immediately proceed with their plans.

Mr. Tracey said he received a recent e-mail from the city's consultant who informed him the location chosen for the water tower did not work out and the city is looking for a new site in this area.

He said they remain committed and the same property owner in 2006 at the time of annexation remains the one behind this project.

Mr. Brooks moved for approval of a one year extension for the Preliminary Major Subdivision, seconded by Ms. Wilson. Motion carried by unanimous roll call vote with Mr. Gleysteen stated that reluctantly he is voting yes and only because of the extenuating circumstances.

~~EXECUTIVE SESSION~~

~~*Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements.*~~

~~Mr. Pikus moved to go into Executive Session reference discussions on site acquisitions, seconded by Mr. Grier. Motion carried.~~

~~Mayor Rogers recessed the Council Meeting at 9:15 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.~~

~~*Return to Open Session*~~

~~City Council returned to Open Session at 9:24 p.m.~~

~~*Executive Session Matter*~~

~~Mr. Pikus moved to authorize the city manager to proceed with the assessments of two properties discussed, seconded by Ms. Wilson. Motion carried with no one opposed.~~

ADJOURN

With no further business, Mr. Johnson moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

Meeting adjourned at 9:25 p.m.

Respectfully submitted,

Preliminary

Major

Subdivision

EXTENSION 5

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
March 19, 2013*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, March 19, 2013.

PRESIDING: Chairman James Burk
IN ATTENDANCE: Marvin Sharp, Archie Campbell, Kerri Fry, Deborah O'Neill, Ed
Holloway, William Lane
ALSO: Department Administrative Assistant Christine Crouch

Chairman Burk called the meeting to order at 7:00 pm noting the absence of Ms. Mims and Mr. James.

APPROVAL OF MINUTES

The minutes for the February 2013 regular monthly Planning Commission meeting were approved as submitted with a motion by Mr. Lane and seconded by Mr. Sharp.

CHAIRMAN MONTHLY REPORT

Chairman Burk reported the City Council Annexation Committee met to review a submission by Mr. & Mr. Renzi. The committee voted to move forward with the annexation so it will soon be presented to the Planning Commission for recommendation on zoning.

He also encouraged the commissioners to attend City Council meetings.

NEW BUSINESS

**John Tracey on behalf of CCM-Koelig, LLC; Project No 08-013
Preliminary Major Subdivision Ext 5; Wickersham
State Route 1
Tax Map 3-30-16.00-005.00; 44.50 +/- Acres; R-3 Zoning
Adoption of Resolution PC13-002**

Mr. John Tracey, Esq. was present on behalf of the property owners. He explained it seems like an annual pilgrimage he takes to Milford each spring to request an extension for Wickersham's preliminary major subdivision, however this year he is pleased to report he is 99% positive this will be the last extension request.

For those who are unfamiliar with this project, the annexation of this property took place in 2006 and in 2008 it received its preliminary major subdivision approval from the city. The reason for the extension requests have been due to DelDOT needing to install the overpass and the City needing to get water and sewer to the area.

There have been multiple discussions regarding the water and sewer. It was determined that when DelDOT started the overpass, the City would install the sewer at the same time however the water installation was an issue to do needing a tower in the area to serve the SE area. There

are other developments in this SE area that are in need of water, and sewer for that matter, as well, but none were willing to work with the City to provide a location for the tower. Ultimately Mr. Tracey's client was willing to work with the City and has provided a location on their property for the City's water tower.

At present, DelDOT has begun the overpass work and the City has finalized their sewer layout for the area and are ready to begin installation. The water plans are in their final stages of approval. Wickersham has already begun requesting the outside agency approvals so they will be ready to come back to the city for final major subdivision approval.

While Mr. Tracey does not see the need for a one year extension, since that is the typical time granted, he would prefer to be safe than sorry and respectfully requests a one year extension on the approval.

Mr. Campbell asked if the new water tower and lines will affect existing subdivisions. Mr. Tracey explained it would not. It will serve new development in the SE area and will tie into the City's existing water lines.

Mr. Burk called for public comments.

Mr. Erik Retzlaff with Davis, Bowen & Friedel stated his firm has been trying to get the water tower location established for years and get it built. Wickersham has been instrumental and very helpful with this project and it is appreciated.

With no further public comments, Mr. Burk closed the public comment session.

A motion by Mr. Lane to approve resolution PC13-002 for a one year extension of the Wickersham preliminary major subdivision was seconded by Mr. Sharp. Motion carried unanimously following a poll of the commissioners.

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

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary

- 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ -0- under the terms offered by the Government; that the Mayor and City Council of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas-6 Nays-0 Absent-2

IN WITNESS WHEREOF, the City Council of the City of Milford has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 25th day of March 2013.

Motion carried.

Preliminary Major Subdivision Extension-CCM-Koelig, LLC on behalf of Wickersham Subdivision

City Manager Carmean confirmed it is the fifth extension though he is aware that at least once, they were unable to get their recordation because the city could not confirm we could extend utilities to the site. He explained that Sussex County is very stringent about recordation without verifying the city is able to serve the development. Now that the Southeast Milford project is underway and we have received the funding, the applicant presented the application to the planning commission for another extension.

Mr. Carmean confirmed that Wickersham will pursue recordation once this extension is approved; Mr. Rutt stated he would hope so.

The city manager also pointed out this site will be the location of our tower. The Wickersham developers have agreed to engineer the sewer main, sewer pumping station and other services going to this location.

Though DBF Engineer Randy Duplechain has been working on the Water Tower Agreement with Wickersham and the transfer of property, it has not been finalized as of this date. Mr. Carmean believes it will be a separate agreement because a transfer of property will be involved. The city worked with Nelson Hall to obtain easements and right-of-ways in order to get to this property. They would not get services if they did not follow through though he has no reason to believe that will occur.

Mr. Grier asked who is going to pay to extend the sewer to this area and how close it will end in relation to this property; Mr. Carmean said the sewer will either come out at West Shores and tie in from the main at Hearthstone, come down Wilkins Road and go down Route 30 to the property and back to their property.

Mr. Grier asked if they would be splitting the costs; Mr. Carmean explained that Wickersham will pay the entire bill. However, there are other lands owned by Milford Housing and Wilson Contracting who will share in the costs at the time they request services.

Mr. Brooks moved to approve the Preliminary Major Subdivision Extension of CCM-Koelig, LLC on behalf of Wickersham Subdivision, seconded by Mr. Wilson. Motion carried.

EXECUTIVE SESSION

Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed.

Mr. Grier moved to go into Executive Session reference personnel matters, seconded by Mr. Johnson. Motion carried.

Mayor Rogers recessed the Council Meeting at 7:15 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Open Session

Council returned to open session at 7:49 p.m.

Executive Session Matter

No action required.

ADJOURN

With no further business, Ms. Wilson moved to adjourn the Council Meeting, seconded by Mr. Gleysteen. Motion carried.

Meeting adjourned at 7:50 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

§ 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 (DAC) 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 final 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.

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC13-012

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
MILFORD, DELAWARE, RECOMMENDING TO CITY COUNCIL OF
THE CITY OF MILFORD
THE APPROVAL OF A FINAL MAJOR SUBDIVISION FOR
WICKERSHAM
AT COASTAL HIGHWAY
FOR A **XXX** LOT, 205 UNIT SUBDIVISION
CONSISTING OF 205 TOWNHOMES
IN AN R-3 ZONING DISTRICT
TAX MAP 3-30-16.00-005**

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on September 17, 2013; and,

WHEREAS, by a vote of _____ recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

1. Fire Marshal Approval & DelDOT Approval must be submitted to the planning department prior to recordation.

APPROVED: _____
Jamie Burk,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Deputy City Clerk

GENERAL NOTES

- THE BOUNDARY INFORMATION SHOWN HEREON IS IN ACCORDANCE WITH THE BOUNDARY, TOPOGRAPHIC AND WETLANDS DELINEATION PLAN PREPARED BY RAMESH C. BATTA ASSOCIATES, P.A., PLAN NO. C-17280 DATED JANUARY 11, 2006.
- BASE TOPOGRAPHY SHOWN HEREON IS IN ACCORDANCE WITH THE BOUNDARY, TOPOGRAPHIC AND WETLANDS DELINEATION PLAN PREPARED BY RAMESH C. BATTA ASSOCIATES, P.A., PLAN NO. C-17280 DATED JANUARY 11, 2006. DATUM: N.A.V.D. 88. BENCHMARK: N.G.S.P.I.D #HU2680 ABOUT 1.2 MI EAST OF MILFORD AT THE SOUTHWEST END OF THE OVERPASS AT THE JUNCTION OF ROUTES 1 & 36; ELEVATION: 35.25.
- THE WETLAND BOUNDARIES SHOWN HEREON WERE DELINEATED IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THE 1987 U.S. ARMY CORPS OF ENGINEERS' WETLAND DELINEATION MANUAL AND ARE SHOWN IN ACCORDANCE WITH THE BOUNDARY, TOPOGRAPHIC AND WETLANDS DELINEATION PLAN PREPARED BY RAMESH C. BATTA ASSOCIATES, P.A., PLAN NO. C-17280 DATED JANUARY 11, 2006.. WETLANDS WERE FIELD DELINEATED BY CLEMMYS ENVIRONMENTAL INC., IN APRIL, 2007 AND WERE FIELD LOCATED BY RAMESH C. BATTA ASSOCIATES, P.A. FOR WETLANDS PROFESSIONAL CERTIFICATION STATEMENT REFER TO THE WETLAND DELINEATION REPORT PREPARED AUGUST 18, 2005 FOR THIS SITE BY CLEMMYS ENVIRONMENTAL SERVICES, L.L.C.
- THIS SITE IS LOCATED IN ZONE X (DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN) ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 100050050J, PANEL 50 OF 660, DATED JANUARY 6, 2005.
- ACCORDING TO DNREC, DIVISION OF PARKS AND RECREATION, OFFICE OF NATURE PRESERVES, THIS PARCEL DOES NOT CONTAIN ANY NATURAL AREAS CURRENTLY LISTED ON THE STATE'S NATURAL AREAS INVENTORY, NOR IS IT WITHIN AN IDENTIFIED STATE RESOURCE AREA.
- ACCESS TO ALL LOTS, SHALL BE FROM INTERNAL SUBDIVISION STREETS ONLY, AND DIRECT ACCESS TO US ROUTE 1 AND JOHNSON ROAD IS PROHIBITED FROM INDIVIDUAL LOTS.
- ALL NEWLY CREATED STREETS ARE TO BE PUBLIC RIGHTS-OF-WAY AND WILL ULTIMATELY BE MAINTAINED BY CITY OF MILFORD.
- UNLESS SPECIFIED OTHERWISE:
 - A UTILITY EASEMENT, 10 FEET WIDE, SHALL BE ESTABLISHED ALONG EACH FRONT LOT LINE PROPOSED BY THIS PLAN. THESE EASEMENTS SHALL BE AVAILABLE FOR ANY UTILITY USE AND ARE ESTABLISHED 10 FEET WIDE ALONG STREET FRONTAGE.
 - STORM DRAINAGE EASEMENT, 20 FEET WIDE, 10 FEET FROM THE CENTERLINE OF THE PIPE, SHALL BE ESTABLISHED WHEREVER A STORM SEWER EXISTS OUTSIDE OF A STREET RIGHT-OF-WAY, UNLESS SPECIFIED DIFFERENTLY BY THESE PLANS.
- WATER SUPPLY FOR THIS PROJECT IS TO BE PROVIDED BY THE CITY OF MILFORD, AND IS SUBJECT TO THE APPROVAL OF THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND THE DIVISION OF PUBLIC HEALTH.
- SANITARY SEWER IS TO BE PROVIDED BY THE TOWN OF MILFORD AND IS SUBJECT TO THE APPROVAL OF CITY OF MILFORD AND DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.
- THERE SHALL BE NO DEBRIS DISPOSAL ON THIS SITE.
- ENTRANCE/EXIT FACILITIES ARE SUBJECT TO THE FINAL APPROVAL OF THE DELAWARE DEPARTMENT OF TRANSPORTATION.
- ALL PROPOSED LOTS ARE SUBJECT TO 'DECLARATION OF RESERVATIONS, RESTRICTIONS, COVENANTS, AND EASEMENTS' RECORDED FOR THIS SUBDIVISION AT THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE, ON _____, AT DEED BOOK _____, PAGE _____, ET SEQ.
- ALL MATERIALS AND CONSTRUCTION SHALL MEET THE REQUIREMENTS OF THE STANDARD SPECIFICATIONS AND DETAILS OF CITY OF MILFORD, DEPARTMENT OF PUBLIC WORKS AND DELAWARE DEPARTMENT OF TRANSPORTATION FOR THE HIGHWAY ENTRANCE.
- ALL FIRE LANES, FIRE HYDRANTS, AND FIRE DEPARTMENT CONNECTIONS WILL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE PREVENTION REGULATIONS.
- DRAINAGE, STORMWATER MANAGEMENT, AND EROSION AND SEDIMENT CONTROLS SHALL BE IN ACCORDANCE WITH THE DELAWARE SEDIMENT & STORMWATER REGULATIONS OF 1991. MAINTENANCE OF DRAINAGE, STORMWATER MANAGEMENT, AND SEDIMENT & EROSION CONTROL PRACTICES WILL BE THE RESPONSIBILITY OF THE SITE CONTRACTOR DURING THE CONSTRUCTION PHASE OF THE PROJECT. WHEN THE PERMANENT DRAINAGE AND STORMWATER MANAGEMENT PRACTICES HAVE BEEN COMPLETED TO THE SATISFACTION OF THE APPLICABLE AGENCIES, MAINTENANCE WILL ULTIMATELY BECOME THE RESPONSIBILITY OF THE WICKERSHAM HOMEOWNERS ASSOCIATION.
- SEDIMENT AND EROSION CONTROL SHALL BE IN ACCORDANCE WITH THE DELAWARE EROSION & SEDIMENT CONTROL HANDBOOK (2005). THE SUSSEX CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, MODIFY OR DELETE ANY EROSION AND SEDIMENT CONTROL MEASURE AS DEEMED NECESSARY.
- WHEN CONSTRUCTION ACTIVITIES CEASE ON THIS SITE LONGER THAN 14 DAYS, ALL DISTURBED AREAS WILL BE VEGETATIVELY STABILIZED USING TEMPORARY SEEDING, STRAW OR MULCH.
- DEVELOPER IS RESPONSIBLE FOR ANY FUTURE ROADWAY AND OFF-SITE IMPROVEMENTS, INCLUDING SIGNAL AGREEMENTS, AS MAY BE REQUIRED IN THE APPROVED OPERATIONAL ANALYSIS.
- A VARIANCE WAS GRANTED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MILFORD ON APRIL 10, 2008 FROM A FRONT YARD SETBACK OF 30 FEET TO ALLOW FOR AN ENCROACHMENT OF 20 FEET, AND FROM A REAR YARD SEBACK OF 15 FEET TO ALLOW FOR AN ENCROACHMENT OF 13 FEET FOR ALL 205 LOTS.

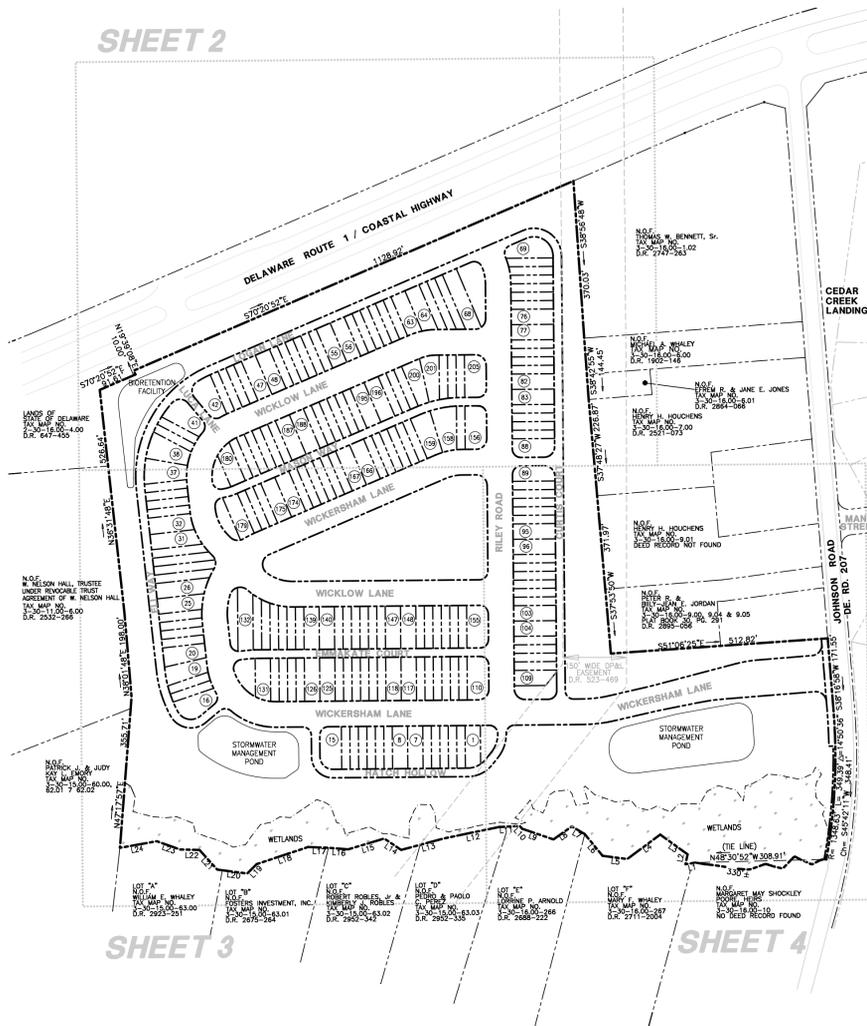
RECORD MAJOR SUBDIVISION PLAN

FOR

WICKERSHAM

CITY OF MILFORD - SUSSEX COUNTY - DELAWARE

SHEET 2



LOT #	AREA (SF)	ACRES									
1	3,508	0.0805	53	2,000	0.0459	105	2,000	0.0459	157	2,041	0.0469
2	2,000	0.0459	54	2,000	0.0459	106	2,000	0.0459	158	5,004	0.1149
3	2,000	0.0459	55	3,600	0.0826	107	2,000	0.0459	159	4,540	0.1042
4	2,000	0.0459	56	3,600	0.0826	108	2,000	0.0459	160	2,034	0.0467
5	2,000	0.0459	57	2,000	0.0459	109	3,183	0.0731	161	2,034	0.0467
6	2,000	0.0459	58	2,000	0.0459	110	4,982	0.1144	162	2,034	0.0467
7	3,600	0.0826	59	2,000	0.0459	111	2,040	0.0468	163	2,034	0.0467
8	3,600	0.0826	60	2,000	0.0459	112	2,040	0.0468	164	2,034	0.0467
9	2,000	0.0459	61	2,000	0.0459	113	2,040	0.0468	165	2,034	0.0467
10	2,000	0.0459	62	2,000	0.0459	114	2,040	0.0468	166	3,661	0.0840
11	2,000	0.0459	63	3,631	0.0834	115	2,040	0.0468	167	3,661	0.0840
12	2,000	0.0459	64	3,889	0.0893	116	2,040	0.0468	168	2,034	0.0467
13	2,000	0.0459	65	2,374	0.0545	117	3,672	0.0843	169	2,034	0.0467
14	2,000	0.0459	66	2,542	0.0584	118	3,672	0.0843	170	2,034	0.0467
15	4,821	0.1107	67	2,709	0.0622	119	2,040	0.0468	171	2,034	0.0467
16	4,450	0.1022	68	5,275	0.1211	120	2,040	0.0468	172	2,034	0.0467
17	2,003	0.0460	69	4,464	0.1025	121	2,040	0.0468	173	2,034	0.0467
18	2,003	0.0460	70	2,153	0.0494	122	2,040	0.0468	174	3,661	0.0840
19	3,958	0.0909	71	2,054	0.0472	123	2,040	0.0468	175	3,661	0.0840
20	3,962	0.0910	72	2,007	0.0461	124	2,040	0.0468	176	2,034	0.0467
21	2,000	0.0459	73	2,000	0.0459	125	3,672	0.0843	177	2,034	0.0467
22	2,000	0.0459	74	2,000	0.0459	126	3,672	0.0843	178	2,040	0.0468
23	2,001	0.0459	75	2,000	0.0459	127	2,040	0.0468	179	3,741	0.0859
24	2,025	0.0465	76	3,600	0.0826	128	2,040	0.0468	180	3,360	0.0771
25	3,834	0.0880	77	3,600	0.0826	129	2,040	0.0468	181	2,001	0.0459
26	4,295	0.0986	78	2,000	0.0459	130	2,037	0.0468	182	2,026	0.0465
27	2,696	0.0619	79	2,000	0.0459	131	3,491	0.0801	183	2,026	0.0465
28	2,912	0.0669	80	2,000	0.0459	132	5,172	0.1187	184	2,026	0.0465
29	2,825	0.0649	81	2,000	0.0459	133	2,481	0.0570	185	2,026	0.0465
30	2,539	0.0583	82	3,600	0.0826	134	2,272	0.0522	186	2,026	0.0465
31	4,047	0.0929	83	2,000	0.0459	135	2,128	0.0489	187	3,647	0.0837
32	3,950	0.0907	84	2,000	0.0459	136	2,040	0.0468	188	3,647	0.0837
33	2,000	0.0459	85	2,000	0.0459	137	2,003	0.0460	189	2,026	0.0465
34	2,000	0.0459	86	2,000	0.0459	138	2,000	0.0459	190	2,026	0.0465
35	2,000	0.0459	87	2,000	0.0459	139	3,600	0.0826	191	2,026	0.0465
36	2,001	0.0459	88	4,170	0.0957	140	3,600	0.0826	192	2,026	0.0465
37	4,739	0.1088	89	3,380	0.0776	141	2,000	0.0459	193	2,026	0.0465
38	4,903	0.1126	90	2,000	0.0459	142	2,000	0.0459	194	2,026	0.0465
39	2,003	0.0460	91	2,000	0.0459	143	2,000	0.0459	195	3,647	0.0837
40	2,004	0.0460	92	2,000	0.0459	144	2,000	0.0459	196	3,647	0.0837
41	4,825	0.1108	93	2,000	0.0459	145	2,000	0.0459	197	2,026	0.0465
42	4,658	0.1069	94	2,000	0.0459	146	2,000	0.0459	198	2,026	0.0465
43	2,000	0.0459	95	3,600	0.0826	147	3,600	0.0826	199	2,026	0.0465
44	2,000	0.0459	96	3,600	0.0826	148	3,617	0.0830	200	3,744	0.0860
45	2,000	0.0459	97	2,000	0.0459	149	2,000	0.0459	201	3,818	0.0876
46	2,000	0.0459	98	2,000	0.0459	150	2,000	0.0459	202	2,060	0.0473
47	3,600	0.0826	99	2,000	0.0459	151	2,000	0.0459	203	2,016	0.0463
48	3,600	0.0826	100	2,000	0.0459	152	2,000	0.0459	204	2,001	0.0459
49	2,000	0.0459	101	2,000	0.0459	153	2,000	0.0459	205	4,880	0.1120
50	2,000	0.0459	102	2,000	0.0459	154	2,000	0.0459			
51	2,000	0.0459	103	3,600	0.0826	155	4,928	0.1131			
52	2,000	0.0459	104	3,600	0.0826	156	4,982	0.1144			

CERTIFICATION OF OWNERSHIP

_____, HEREBY CERTIFY THAT CCM-KOELIG L.L.C. IS THE OWNER OF THE PROPERTY WHICH IS THE SUBJECT OF THIS PLAN AND THAT CCM-KOELIG L.L.C. AUTHORIZES THIS PLAN TO BE RECORDED ACCORDING TO LAW AND IN ACCORDANCE WITH THE REGULATIONS OF THE CITY OF MILFORD ZONING AND SUBDIVISION CODE.

DATE _____ CCM-KOELIG L.L.C. MANAGING MEMBER

CERTIFICATION OF ACCURACY

I, RAMESH C. BATTA, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF DELAWARE, AND THAT ALL OF THE INFORMATION ON THIS PLAN, CONSISTING OF 4 (FOUR) SHEETS, IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY ACCEPTED SURVEYING STANDARDS AND PRACTICES.

DATE _____ RAMESH C. BATTA, P.L.S. DELAWARE LICENSE NO. 388

PLANNING COMMISSION CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN HAS MET WITH THE APPROVAL OF THE PLANNING COMMISSION OF THE CITY OF MILFORD.

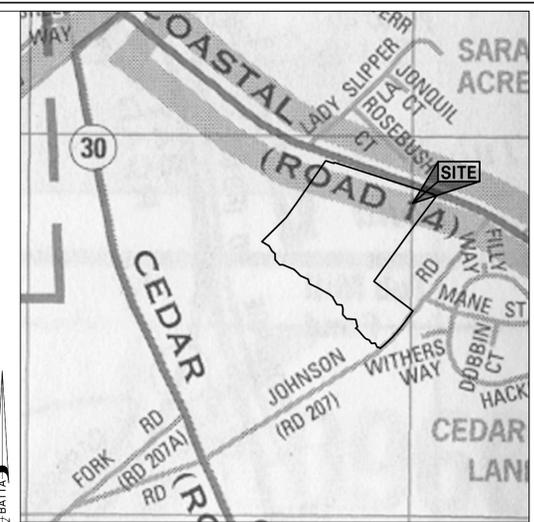
AUTHORIZED MEMBER _____ DATE _____

CITY COUNCIL CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN HAS MET WITH THE APPROVAL OF THE COUNCIL OF THE CITY OF MILFORD.

AUTHORIZED MEMBER _____ DATE _____

LINE	BEARING	LENGTH
L1	N56°53'20"W	23.71
L2	N5°45'52"E	23.90
L3	N11°23'55"W	79.47
L4	N83°31'56"W	96.82
L5	N39°34'55"W	58.66
L6	N03°23'02"E	66.04
L7	N16°50'00"W	35.50
L8	N87°18'26"W	52.79
L9	N28°20'43"W	77.87
L10	N02°19'22"E	8.70
L11	N49°52'20"W	49.03
L12	N58°44'04"W	131.83
L13	N62°04'30"W	105.37
L14	N13°16'35"W	47.88
L15	N63°40'48"W	88.87
L16	N42°36'30"W	46.71
L17	N45°03'34"W	48.22
L18	N65°27'53"W	127.63
L19	S88°01'41"W	31.19
L20	N39°41'19"W	71.60
L21	N00°41'02"E	62.12
L22	N45°46'08"W	45.65
L23	N27°40'58"W	58.55
L24	N57°14'37"W	88.23



LOCATION MAP SCALE: 1" = 800'

SITE DATA

TAX MAP PARCEL NO: 3-30-16.00-5.00
 EXISTING ZONING: R-3 GARDEN APARTMENT AND TOWNHOUSE DISTRICT
 PROPOSED USE: TOWNHOUSES
 DATUM: HORIZONTAL: NAD 83 VERTICAL: NAVD 88
 SOURCE OF TITLE: D.R. BOOK 2630, PAGE 174
 WATER SUPPLY: CITY OF MILFORD
 SANITARY SEWER: CITY OF MILFORD
 OWNER: CCM-KOELIG L.L.C.
 4600 NEW LINDEN HILL ROAD
 SUITE 102
 WILMINGTON, DE 19808
 (302) 998-9463
 FAX: (302) 998-2926
 TOTAL SITE AREA: 40.6856± ACRES
 TOTAL WETLANDS AREA: 3.4650± ACRES

PROPOSED DEVELOPMENT:
 TOTAL NO. OF LOTS SHOWN: 205
 JOHNSON ROAD ROW DEDICATION: 0.1179± ACRE (00.29%)
 TOTAL AREA IN LOTS: 12,369.2± ACRES (30.40%)
 TOTAL AREA IN STREETS: 9,506.8± ACRES (23.36%)
 TOTAL OPEN SPACE AREA: 18,698.0± ACRES (45.96%)
 MINIMUM LOT SIZE: 2,000 SF / 0.0459 AC
 GROSS DENSITY: 5.04 DU/ACRE
 AVERAGE LOT AREA: 0.0603± ACRE
R-3 GARDEN APARTMENT AND TOWNHOUSE DISTRICT:
 MINIMUM LOT AREA: 2,000 SF
 MAXIMUM BUILDING HEIGHT: 3 STORIES/35'
 BUILDING SEPARATIONS:
 30' @ END WALLS
 60' @ FACING WALLS
 10' (SEE NOTE #20)
 FRONT SETBACK:
 SIDE SETBACK TO STREET: 30'

RECORD MAJOR SUBDIVISION PLAN
WICKERSHAM
 CITY OF MILFORD SUSSEX COUNTY DELAWARE
 SCALE: 1" = 200'
 JANUARY 11, 2010

BATTA
RAMESH C. BATTA ASSOCIATES, P.A.
 CONSULTING ENGINEERS • PLANNERS • LAND SURVEYORS • LANDSCAPE ARCHITECTS
 4600 NEW LINDEN HILL ROAD SUITE 102 BROWNSTONE PLAZA WILMINGTON, DELAWARE 19808
 PHONE: (302) 998-9463 FAX: (302) 998-2926
 20169 OFFICE CIRCLE SUITE 112 GEORGETOWN PROFESSIONAL PARK GEORGETOWN, DELAWARE 19947
 PHONE: (302) 856-2581 FAX: (302) 856-0974
 APPROVED BY _____ PROJECT NUMBER 89560 PLAN NUMBER C-18108 SHEET 1 OF 4

NO.	DATE	REVISION (COMMENT)	BY

RAMESH C. BATTA ASSOCIATES, P.A. IS NOT RESPONSIBLE FOR ANY MODIFICATIONS TO THIS PLAN AND/OR ELECTRONIC FILE WITHOUT WRITTEN AUTHORIZATION.

City of Milford



NOTICE OF PUBLIC HEARINGS

2013 City of Milford Comprehensive and Annexation Plan

The Planning Commission of the City of Milford is currently in the process of updating the 2008 Comprehensive Plan, as amended.

The 2008 City of Milford Comprehensive Plan, as amended, consists of a document of text and maps describing its physical, demographic and economic conditions and includes policies, statements, goals and planning components for public and private uses of land, transportation, economic development, housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and other elements in accordance with present and future needs of the city, is currently under review by the City of Milford Planning Commission. The document serves as a guide to all future action concerning land use and development regulations and such revised plan shall become the force of law. No development shall be permitted except as is consistent with the plan.

The amended plan will be publicly addressed on the following dates and times:

Planning Commission	September 17, 2013	7:00 p.m.
City Council	September 23, 2013	7:00 p.m.

Testimony will be taken at that time. Citizens are encouraged to submit comments in writing via mail or e-mail. Comments can be sent to Christine Crouch at Milford City Hall, 201 S. Walnut Street, Milford, Delaware or e-mailed to ccrouch@milford-de.gov no later than September 6, 2013. Following direction from the commission, revisions will be made and presented to City Council. City Council ultimately decides on the acceptance, rejection or revision of the plan. Adoption of the plan is by ordinance.

All hearings will be held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

Terri K. Hudson, MMC
City Clerk

Municipal Annexation Plan of Services

Pursuant to Title 22, Delaware Code, §101, any city or town proposing to extend its boundaries, irrespective of any municipal charter provisions, whether such extension is proposed by action of the General Assembly or pursuant to the provisions of a home rule charter, must submit a Plan of Services to the Office of State Planning Coordination. The Plan of Services must be received by our office for review and acceptance at least 20 working days prior to the final discretionary action taken by the municipal legislative body. Please review your charter to identify the final discretionary action for your particular jurisdiction. For example, in some municipalities, the act of voting to hold a special election obligates the jurisdiction to annex the property in advance, pending the outcome of the election. For your information, provisions of the Delaware Code applicable to annexations are attached at the end of the Plan of Services.

- If you complete the form electronically, the template will expand as you type. You must also send a signed original form through the regular mail. To submit attachments electronically, place your cursor in the area indicated at the end of the document and use the Insert function on your toolbar.
- A completed Plan of Services demonstrates the ability of your municipality to provide utilities and public services to the area proposed for annexation. We welcome the inclusion of supplemental materials that illustrate the character of the site, any proposed development, and the impact the proposed annexation will have on your community.
- The form and all attachments must be fully completed at the time of submission. The Plan of Services will not be reviewed unless all attachments have been provided. You can use the list below to be sure all attachments have been included with the Plan of Services.

Attachment Checklist

Locator map	<input checked="" type="checkbox"/> attached	
Annexation map from comprehensive plan	<input checked="" type="checkbox"/> attached	
Water facilities plan	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> on file with OSPC
Water provider letter	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> not applicable
Wastewater facilities plan	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> on file with OSPC
Wastewater provider letter	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> not applicable
Electric provider letter	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> not applicable
Police, Fire, EMS letters	<input type="checkbox"/> attached	
Current municipal budget	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> on file with OSPC
Current municipal audit	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> on file with OSPC
Annexation agreements	<input type="checkbox"/> attached	<input checked="" type="checkbox"/> not applicable
Planning or Annexation Committee report	<input checked="" type="checkbox"/> attached	
Signatures of Mayor and Town Engineer	<input checked="" type="checkbox"/> attached	

NOTES:

MUNICIPAL ANNEXATION PLAN OF SERVICES

1. Property Information

1.1 **Property name/description:** Louis J & Shirley L Renzi

1.2 Tax parcel identification number(s): 3-30-15.00-059.00; 3-30-15.00-059.01

1.3 Address: 7296 Cedar Creek Road
 City : Lincoln State: DE Zip code:19960

1.4 Total acreage: 3.00

1.5 Locator map which clearly shows the parcel(s) and demonstrates contiguity attached.

1.6 Annexation map from the certified municipal comprehensive plan which clearly indicates the location of the parcel(s) attached.

1.7 Name of petitioner for annexation: Louis J & Shirley L Renzi
 Address: 7296 Cedar Creek Road
 City : Lincoln State: DE Zip code:19960

1.8 Municipality name: City of Milford Contact person: Gary J. Norris, AICP
 Address: 201 S Walnut Street
 City : Milford State: DE Zip code:19963
 Phone: 302.424.3712 E-Mail: gnorris@milford-de.gov

2. Planning Information

2.1 Is the property developed? Yes No

2.2 How is the property identified in the certified municipal annexation plan?
 Annexation area Short-term annexation area Long-term annexation area
 Other (define):

2.3 What is the land-use designation in the certified municipal annexation plan? Commercial

2.4 Current use: Single Family Residential Current county zoning: AR-1

2.5 Proposed use: Commercial Proposed municipal zoning: C3

2.6 Proposed density: 4 units per acre Maximum allowable density: 4 units per acre

2.7 EDUs within current municipal boundaries:
 Vacant acreage within current municipal boundaries:

Utility/Service:	Provider:
Water	City of Milford
Wastewater transmission	City of Milford
Wastewater treatment	Kent County
Electricity	City of Milford
Police	City of Milford
Fire	Carlisle Fire Company
EMS	Carlisle Fire Company
Road maintenance and repair	City of Milford
Other:	

3. Abbreviated Plan of Services

Indicate if any of the following conditions apply to the proposed annexation area and proceed to Section 9. If none apply, proceed to Section 4.

<input checked="" type="checkbox"/>	The property is an enclave ¹ of five (5) acres or less.
<input type="checkbox"/>	The property is ten (10) acres or less and more than 50% is within municipal boundaries.
<input type="checkbox"/>	The property has been subdivided and fully developed and utilities and services are currently provided by the municipality.
<input type="checkbox"/>	The property has been subdivided and fully developed and utilities/services are provided by the municipality or another public utility. The public utility must supply a letter of concurrence describing their ability to provide necessary services to the proposed annexation area.

4. Water System

4.1 Check here if the municipality will provide water to the proposed annexation area, attach relevant sections of the most recent water facilities plan and complete Items 4.2 through 4.7. If not, proceed to Item 4.8.

4.2 Current municipal system capacity (maximum gpd without capital expenditure):

4.3 Average municipal water usage (gpd):

4.4 DNREC permit allocation (gpd): DNREC permit #:

4.5 Estimated future water demand (gpd) within current municipal boundaries based on approved EDUs and full build-out of vacant acreage under current zoning:

4.6 Estimated future water demand for the proposed annexation area (gpd) based on EDUs for proposed density or maximum allowable density under the proposed zoning:

4.7 If the current infrastructure cannot meet the estimated demand of the proposed annexation area, indicate how this will be addressed:

4.8 If the municipality does not provide water, attach statement(s) from the water provider indicating their ability to serve the proposed annexation area and briefly describing system capacity and capital improvements needed to support either the proposed density or maximum allowable density under the proposed zoning. The provider should detail specific phasing plans or other special arrangements needed to supply service to the annexation area. letter attached

5. Wastewater System

5.1 Check here if the proposed annexation area will be served by a public wastewater system and complete Items 5.2 through 5.8. If not, complete Items 5.8 and 5.9.

5.2 Check here if the municipality will transmit and treat wastewater from the proposed annexation area, attach relevant sections of the wastewater facilities plan, and complete Items 5.3 through 5.8.

Check here if the municipality will transmit wastewater to another treatment operator and proceed to Item 5.9.

Check here if wastewater will be transmitted and treated by another treatment operator and proceed to Item 5.9.

5.3 Current municipal treatment capacity (daily maximum gpd without capital expenditure):

5.4 Current municipal average wastewater flow (gpd):

5.5 DNREC permitted discharge (gpd):

5.6 Estimated future wastewater demand (gpd) within current municipal boundaries based on approved EDUs and full build-out of vacant acreage under current zoning:

- 5.7 Estimated future wastewater demand for proposed annexation area (gpd) based on EDUs under the proposed density or maximum allowable density under the proposed zoning:
- 5.8 Describe any municipal or developer funded infrastructure improvements necessary to transmit and/or treat waste from the proposed annexation area.
- 5.9 If the municipality does not provide wastewater transmission and/or treatment, attach statement(s) from the wastewater service provider and/or treatment operator indicating their ability to serve the proposed annexation area and briefly describing system capacity and capital improvements needed to support either the proposed density or maximum allowable density under the proposed zoning. The provider should detail specific phasing plans or other special arrangements needed to supply service to the annexation area. letter attached

6. Electricity

- 6.1 Check here if the municipality will provide electric service to the proposed annexation area and complete Items 6.2 and 6.3. If not, proceed to Item 6.4.
- 6.2 Date of the most recent municipal electrical facilities plan:
- 6.3 Describe electrical upgrades underway or planned within the next 5 years for the proposed annexation area:
- 6.4 If electrical service is to be provided by another jurisdiction or a public utility regulated by the Delaware Public Service Commission, attach a statement from the provider indicating their ability to serve the proposed annexation area and briefly describing phasing plans or special arrangements needed to support either the proposed density or maximum allowable density under the proposed zoning. letter attached

7. Public Safety

- 7.1 Public safety and other non-municipal authorities are obligated to serve their territories and are to be notified of proposed annexations. Attach copies of notification letters and any responses to and from non-municipal police, fire, EMS, county or other authorities having jurisdiction in the proposed annexation area. letters attached

8. Fiscal Information

- 8.1 Attach a copy of the municipality's current fiscal year budget.
 budget attached budget on file with Office of State Planning Coordination
 budget not available; the fiscal management practices of the municipality are described as follows :
- 8.2 Attach a copy of the most recent audit prepared for the municipality.
 audit attached audit on file with Office of State Planning Coordination audit not available
- 8.3 If applicable, attach copies of any annexation agreement(s) with owners, potential buyers or developers, and/or service providers pertaining to the proposed annexation area.
 agreement(s) attached not applicable
- 8.4 If applicable, use the following table to indicate the source of funds to construct infrastructure necessary to develop the annexation area to either the proposed density or maximum allowable density under the proposed zoning. not applicable

Capital Infrastructure Improvements	Impact Fees or Annexation Fees from Developer or Public Utility	Other Municipal Funds
Water system	<input type="checkbox"/>	<input type="checkbox"/>
Wastewater transmission	<input type="checkbox"/>	<input type="checkbox"/>
Wastewater treatment	<input type="checkbox"/>	<input type="checkbox"/>
Electrical system	<input type="checkbox"/>	<input type="checkbox"/>
Public streets	<input type="checkbox"/>	<input type="checkbox"/>

8.5 If applicable, use the following table to indicate the source of funds to maintain the annexation area when developed to either the proposed density or maximum allowable density under the proposed zoning. not applicable

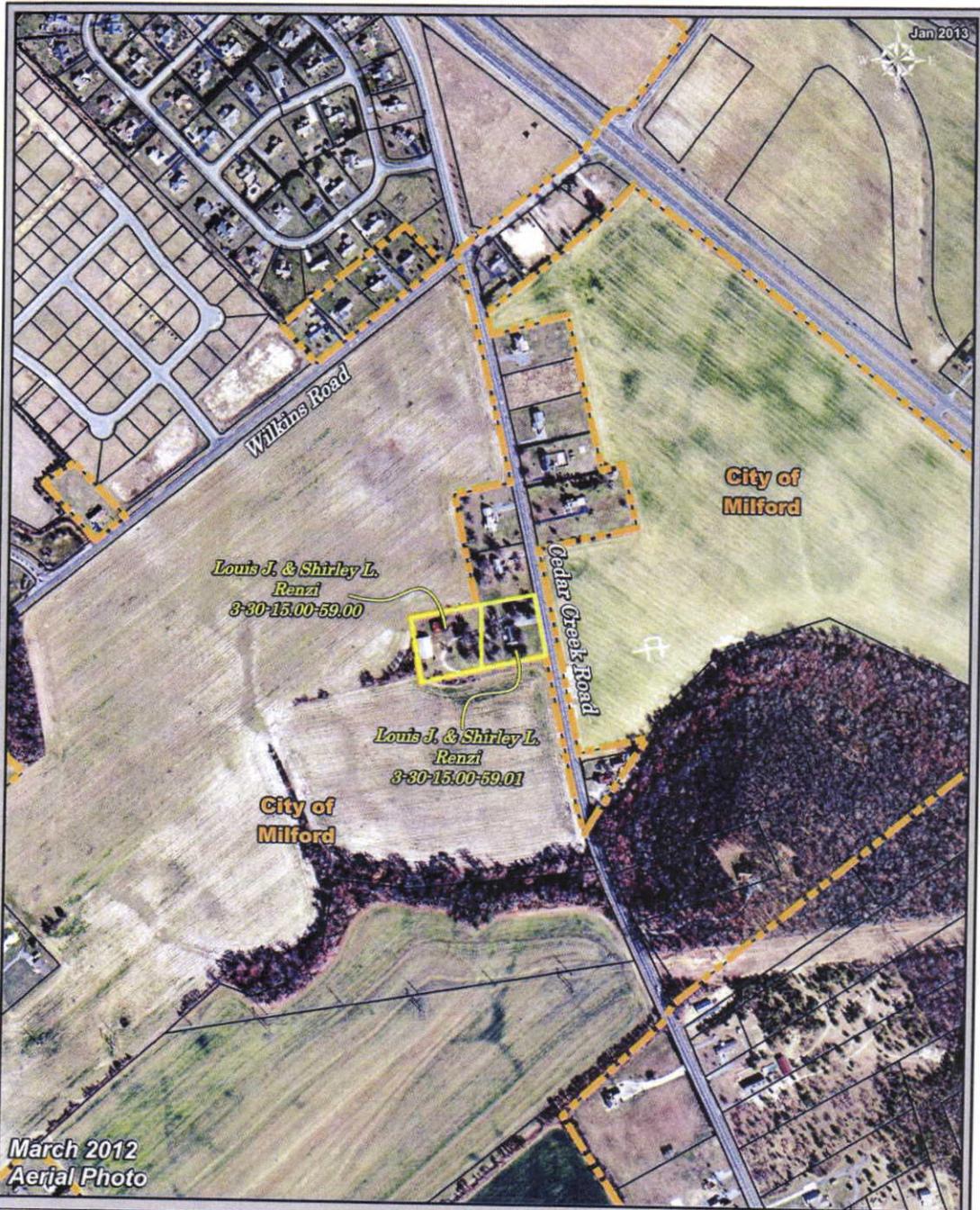
Operating and Maintenance Costs	Homeowner or Condominium Association Fees	Public Utility Fees or Enterprise Funds ²	Other Municipal Funds
Water system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wastewater transmission	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wastewater treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electrical system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public streets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Certifications

The undersigned certify that the information provided in this Plan of Services is complete and accurate to the greatest extent practicable and that all letters required from service and utility providers are attached.

Mayor Joseph R. Rogers Town Engineer B. Kennedy
 Public Works Director

Place your cursor below this line and use the Insert function on your toolbar to attach documents electronically.



March 2012
Aerial Photo

Sources:
Tax Parcels per Sussex County
Aerial Photograph Courtesy of the USGS

Renzi Property
City of Milford, Sussex County



¹ The Office of State Planning Coordination has final discretion and is available to help your municipality evaluate whether specific parcels meet these guidelines or merit additional consideration due to unusual boundary configurations or other special factors. An enclave is defined for the purpose of evaluating this Plan of Services as an individual lot, piece or parcel of land, a group of parcels or an entire subdivision of record; where

a. the boundaries are not less than 50% contiguous with the boundaries of an annexing municipal corporation; and which is designated by the municipality's most recent certified comprehensive plan as an annexation area; and

b. is lawfully accessible by vehicular traffic over lands lying within the annexing municipal corporation; and

c. is receiving public services such as water, sewer, electric, police protection, fire protection or trash collection, from the said municipal corporation, its municipal electric company, or any water and/or sewer authority of which the said municipal corporation is a member; or

d. in addition to item B, is not currently receiving public services but will have available such public services as are provided to other properties within the annexing municipal corporation whether by the said municipal corporation, its municipal electric company, any water and/or sewer authority of which the said municipal corporation is a member, or by a public utility regulated by the Delaware Public Service Commission.

² Enterprise funds, typically for municipal utilities, are financed by user fees for the utilities. The purpose of enterprise funds is to provide services to consumers at a price that will cover both the current cost of operations and the maintenance and financing of necessary capital assets.

Provisions of the Delaware Code Applicable to Annexations

Title 22 § 101 Annexation by city or town

Any city or town proposing to extend its boundaries, irrespective of any municipal charter provisions, whether such extension is proposed by action of the General Assembly or pursuant to the provisions of a home rule charter, except any proposed annexation that has been submitted to the Office of State Planning Coordination prior to the effective date of this Act for review, shall conform to the following provisions:

(a) All annexations must be consistent with the most recently adopted municipal comprehensive plan meeting the requirements of Title 22, Chapter 7, Delaware Code. The area(s) being considered must be depicted as area(s) for future annexation on the adopted plan. If a municipality does not have an adopted comprehensive plan, or if its adopted comprehensive plan does not depict areas for future annexation, it shall prepare and adopt a plan or plan amendment within 12 months of the effective date of this Act. The municipality shall not approve any annexations until such plan or plan amendment is adopted, notwithstanding any other charter provisions; except that during the 12-month period a municipality may consider an annexation of already developed parcels where the proposed use(s) will not change from that currently authorized in the adjacent jurisdiction and where the primary purpose of the annexation is to address existing public health or safety issues such as, but not limited to, failing on-site wastewater disposal systems or contaminated or inadequate drinking water. In such cases the provisions of §101(b) through (f) of this section shall not apply.

(b) A city or town shall prepare a plan of services indicating those services it expects to provide to the newly annexed area, how such services will be provided, and the fiscal and operating capabilities of the municipality to provide such services. Should any services be provided by another jurisdiction or a public utility regulated by the Delaware Public Service Commission, the written comments of such provider on the provider's ability to provide the necessary services for the proposed annexation shall be obtained and included in the plan of services. The study shall be conducted in accordance with standards or criteria established by the Cabinet Committee on State Planning Issues as administered

by the Office of State Planning Coordination.

(c) At the time of annexation the jurisdiction shall by ordinance rezone the area being annexed to a zoning classification consistent with the adopted comprehensive plan or development strategy.

(d) A municipality proposing annexation must fully comply with the provisions of Chapter 92, Title 29, Delaware Code as to State notice, and must demonstrate that it has notified all other affected jurisdictions, conducted a public hearing, and provided a comment period of at least 30 days before formal annexation. The city or town proposing annexation shall file with the State Office of Planning Coordination any written comments received concerning such proposed annexation together with any response(s) thereto.

(e) The Advisory Council on Planning Coordination shall establish a mechanism for resolving disputes between jurisdictions regarding annexations. The mechanism developed by the Council shall address: determination of how the costs for the dispute resolution process are born among the parties; timeline for the dispute resolution process; and extent to which the dispute resolution process will be enforceable.

Title 22 § 702. Comprehensive development plan

(a) A planning commission established by any incorporated municipality under this chapter shall prepare a comprehensive plan for the city or town or portions thereof as the commission deems appropriate. It is the purpose of this section to encourage the most appropriate uses of the physical and fiscal resources of the municipality and the coordination of municipal growth, development and infrastructure investment actions with those of other municipalities, counties and the State through a process of municipal comprehensive planning.

(b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land within the community, and critical community development and infrastructure issues. The comprehensive planning process shall demonstrate coordination with other municipalities, the county and the State during plan preparation. The comprehensive plan for municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction, a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements, goals and planning components for public and private uses of land, transportation, economic development, affordable housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and such other elements which in accordance with present and future needs, in the judgment of the municipality, best promotes the health, safety, prosperity and general public welfare of the jurisdiction's residents.

(c) The comprehensive plan shall be the basis for the development of zoning regulations as permitted pursuant to Chapter 3 of this title.

(d) After a comprehensive plan or portion thereof has been adopted by the municipality in accordance to this chapter, the comprehensive plan shall have the force of law and no development shall be permitted except as consistent with the plan.

(e) At least every 5 years a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas. The adopted comprehensive plan shall be revised, updated and amended as necessary, and re-adopted at least every 10 years.

(f) Municipalities shall file their adopted comprehensive plan with the Office of State Planning

Coordination within 90 days of the effective date of this section, and within 90 days after any re-adoption or revision, update or amendment thereto. Municipalities shall further provide to the Office of State Planning Coordination by December 31 of each year a report describing implementation of their comprehensive plan and identifying development issues, trends or conditions since the plan was last adopted or amended.



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

September 24, 2012

Mr. Gary Norris, AICP
City of Milford
201 S. Walnut Street
Milford, DE 19963

RE: PLUS 2012-03-04 Milford Comprehensive Plan Amendment

Dear Mr. Norris,

This letter is to confirm that we received your PLUS response letter for this amendment dated August 27, 2012 and the revised future land use map that accompanied the letter. Upon the receipt of these two items the PLUS review for this project has been completed, and we have accepted the amendment to Milford's certified plan.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Constance C. Holland".

Constance C. Holland, AICP
Director

cc: Richard Carmean
Christine Crouch

From: Edgell, David (OMB) [<mailto:David.Edgell@state.de.us>]
Sent: Friday, October 11, 2013 3:24 PM
To: John W. Paradee [JWParadee@Prickett.com] (JWParadee@Prickett.com); Gary J. Norris;
gar7@comcast.net; Barbara and Gary (bargar7@comcast.net)
Cc: Holland, Connie (OMB); Richard D. Carmean; Christine R. Crouch
Subject: Milford Comp Plan - MOA comments

Gary / John,

Attached are our comments on the proposed MOA for the master plan at NE Front Street / New Wharf Rd. View the Word document in "Track Changes" mode to see the edits and comments.

We are also OK with the boundary map as prepared by Gary. I think this is a good initial effort to identify the area impacted by the construction of the grade separated intersection. You will see in the MOA edits that we have suggested language to enable us to adjust those boundaries at the time the master plan is scoped. As you will recall, we did just that with the Southeast Neighborhood plan.

Unfortunately, I have not been able to get in touch with Drew Boyce of DelDOT Planning this week to get his comments. If he has anything to add or any comments, I will forward them to you ASAP. When I spoke with him on the phone a week or so ago he was supportive of the concept of the master plan and an MOA. I forwarded him this draft and the map for his review, and am waiting to hear back from him.

David L. Edgell, AICP
Principal Planner
Delaware Office of State Planning Coordination
122 Martin Luther King Jr. Boulevard, South
Dover, DE 19901
(302) 739-3090
(302) 739-5661 fax
<http://stateplanning.delaware.gov/>

PROPOSED LANGUAGE
FOR
AMENDMENT TO CITY OF MILFORD COMPREHENSIVE PLAN

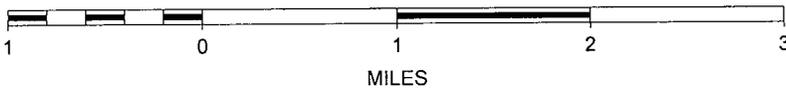
RE: LANDS OF JOHN R. LYNCH & DEWEY C. LYNCH

It is recommended that all those certain lands and premises owned by John R. Lynch and Dewey C. Lynch, identified as Tax Parcel # #5-00-174.00-02-64.01-00001 and comprising approximately 96+/- acres of land (the "Lynch Property") be annexed into the territorial limits of the City of Milford and zoned for commercial use, provided that: (1) absent the approval of City Council, no more than 38 acres of the Property shall actually be rezoned for commercial use, it being understood that approximately 32 acres of the Property is tidal wetlands and approximately 26 acres of the Property will likely be condemned by the Delaware Department of Transportation ("DelDOT"), in order to construct a planned interchange for State Route 1; and (2) no subdivision, site plan, or other land use application for the Property may be submitted or entertained by the City of Milford until such time as (a) a Master Plan for the Property is prepared, approved, and adopted by the City of Milford, and (b) a contract is awarded for the construction of DelDOT's planned interchange for State Route 1.

Kent County GIS Project



SCALE 1 : 62,141



5.00 - 174.00 - 02 -



KENT COUNTY, DELAWARE

555 Bay Road, Dover, Delaware 19901-3615
 (302) 744-2300 -- FAX (302) 736-2279

"Serving Kent County With Pride"

PROPERTY INFORMATION

Planning and Building Permits Information

Reference #	MD MILFORD HUNDRED	Card # 1 of 1
Location ID 106124	Map Number 5-00-17400-02-6401-00001	
Tax ID	Deed BVP 0000 0000 IS 0023 0336 IS 0023 0227	
Parcel ID 105260	Property Code F - FARMLAND	
Current Owner LYNCH, JOHN R. 8517 APPELS RD LINCOLN, DE 19960	Property Location NEW WHARF RD MILFORD , DE 19963	Acres 96.10
	Zoning AR	
Additional Owner	LYNCH, DEWEY C.	

Sub-Division

Sales History			Liv.Sq.Ft	.0000
Date	Price	Assessment	Total Rooms	
6/24/10	0	Land	Bedrooms	
7/01/10	0	Buildings	Full Bath	
		Total	Half Bath	

Base Tax Due	.00	Last Billing Detail	History	Farm Info
Tax Penalty	.00			
Total Tax Bal.	.00			
Sewer Balance	.00	Sewer Account #		
Neighborhood #	00500	Coordinates	0502533 E 0337070 N	
Land Use		Lot Dimensions	0000020.80	
Living Units		School District	40	MILFORD
Class	Farm	Fire District	42	CARLISLE (MILFORD)
Plat Book Pg	0114 0073	Sewer District	00	NONE
Topography	Level	Ambulance District	42	CARLISLE (MILFORD)

Street or Road	Paved	Trash District	
Fronting	Residen	Light District	
Improvement	VACANT	Commissioner Dist	4TH
		Tax Ditches	NONE

IMPROVEMENT KEY	
MANUF HM	Manufactured Home
MANUFCC	Manufactured Home Class C Assessment
MNFHMRT	Manufactured Home Retired Title

Property Description

S.E. SD. SHR 409
 NEW WHARF RD
 96.075 A.

Year Built **Type** NO DATA **Energy Adj.**
Style **Fire Places** **Design**

	Type	Percentage	Type	Percentage
Ext. Walls		0		0
Roof Cover		0		0
Floor Cover		0		0
Heat/Cool		0		0
Plaster Int.		0		
Foundation				
Sub-floor				

	Y/N	Unfinished	Basement Living Area	Rec Room
Basement		0	0	0

	Type	Sq.Feet	Wall	Floor
Garage 1		0		
Garage 2		0		
Bas Gar		NO DATA	NO DATA	NO DATA
Porch 1	NO DATA	0		
Porch 2	NO DATA	0		

History

Dimensions 0 X 0

Skirting Type

Skirting Lin Ft 0

Tip Out Sq Ft 0

Serial Number

Manufacturer

Model

Color

OUTBUILDINGS			
Type/Dimn	Description	Type/Dimn	Description



Kent County
Betty Lou McKenna
Recorder of Deeds
Dover, DE 19901

Instrument Number: 2010-171803

Recorded On: June 24, 2010

As-Deed

Parties: THOMPSON BILLIE LYNN

To LYNCH JOHN R

of Pages: 5

Comment:

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

Deed		76.00
	# of Pages	4
	# of Parcel IDs	1
Total:		76.00

Realty Tax Information

Affidavit Attached-No		
STATE AND COUNTY OF KENT		EXEMPT
	Value	
State of Delaware		0.00
County of Kent		0.00
		0.00

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Kent County,

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

File Information:

Record and Return To:

Document Number: 2010-171803
Receipt Number: 275697
Recorded Date/Time: June 24, 2010 03:09:20P
Book-Vol/Pg: BK-RE VL-5449 PG-328
User / Station: C Yerkes - Cashier 4

HUDSON JONES JAYWORK AND FISHER
225 SOUTH STATE STREET
DOVER DE 19901



Betty Lou McKenna

Tax Parcel No.: Part of
Prepared By: SML
HUDSON, JONES, JAYWORK & FISHER, LLC
225 South State Street, Dover, DE 19901

DEED

THIS DEED, Made This 11th day of June, in the year of our Lord Two Thousand Ten (2010),

BETWEEN,

BILLIE LYNN THOMPSON, individually and as Substitute Trustee of the Estate of William F. Dickerson and as the legal representative of the last surviving partner of Bowens Mill Landing, a Delaware Partnership, which dissolved by operation of 6 Del. C. § 1531, in effect on May 8, 1990, upon the death of George C. Chaney and where she became the legal representative, of the last surviving partner upon the death of William F. Dickerson, who died on July 28, 1995, **JOHN R. LYNCH**, and **DEWEY C. LYNCH**, parties of the first part,

-AND-

JOHN R. LYNCH, as to an undivided one-half interest in the whole and **DEWEY C. LYNCH**, as to an undivided one-half interest in the whole, parties of the second part,

WTTNESSETH, That the said party of the first part, for and in consideration of the sum of One (\$1.00) Dollar lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said parties of the second part, their heirs and assigns:

ALL THAT certain tract of land situate at the East corner of State Route One and New Wharf Road (County Road 409), Milford Hundred, Kent County, Delaware, being bounded on the West by Delaware Route One (Bay Road) and in part by lands now or formerly of the State of Delaware, on the North by New Wharf Road (County Road 409), on the East by lands about to be conveyed to Billie Lynn Thompson, and on the South by the Mispillion River, and being more particularly bounded and described in accordance with survey by Charles M. Murphy Associates, Inc., Land Surveyors, Milford, Delaware, dated April 17, 2008, as follows, to-wit:

BEGINNING at the intersection of the East side of State Route One (Bay Road) (108 feet from the centerline) and the southerly side of New Wharf Road (82.1 feet from the centerline); thence proceeding from said point and place of beginning and proceeding along the southerly side of New Wharf Road (County Road 409) [New Wharf Road having various widths] the following five (5) courses and distance, to-wit: (1) North 42 degrees 16 minutes 02 seconds East, a distance of 357.30 feet, (2) North 34 degrees 52 minutes 39 seconds East, a distance of 303.36 feet, (3) North 43 degrees 24 minutes 30 seconds East, a distance of 100 feet, (4) North 46 degrees 35 minutes 33 seconds West, a distance of 5 feet, and (5) North 43 degrees 24 minutes 30 seconds East, a distance of 709.84 feet to a set capped rebar; thence turning and running along line of lands about to be conveyed to Billie Lynn Thompson the following two (2) courses and distances, to-wit: (1) South 51 degrees 27 minutes 07 seconds East, a distance of 1,674.00 feet to a set capped rebar, and (2) South 35 degrees 56 minutes 58 seconds East, a distance of 960.09 feet to the northerly side of the Mispillion River. Thence turning and running along the northerly side of the Mispillion River the following six (6) courses and distances, to-wit: (1)

South 88 degrees 33 minute 25 seconds West, a distance of 179.36 feet, (2) South 35 degrees 52 minutes 09 seconds West, a distance of 203.95 feet, (3) South 34 degrees 29 minutes 07 seconds West, a distance of 203.04 feet, (4) South 31 degrees 41 minutes 05 seconds West, a distance of 201.56 feet, (5) South 24 degrees 28 minutes 28 seconds West, a distance of 108.74 feet, and (6) South 13 degrees 56 minutes 48 seconds West, a distance of 324.87 feet to a point; thence turning and running along line of lands now or formerly of the State of Delaware (Deed Record Book H-26-63) the following four (4) courses and distances, to-wit: (1) North 59 degrees 54 minutes 00 seconds West, a distance of 300.57 feet, (2) North 61 degrees 26 minutes 00 seconds West, a distance of 254.15 feet, (3) South 78 degrees 24 minutes 10 seconds West, a distance of 335.27 feet, and (4) North 81 degrees 35 minutes 44 seconds West, a distance of 173.80 feet to a point; thence turning and running along the easterly side of State Route One (varying widths) the following two (2) courses and distances, to-wit: (1) North 40 degrees 53 minutes 47 seconds West, a distance of 363.00 feet and (2) North 41 degrees 04 minutes 30 seconds West, a distance of 950.99 feet, back to the point and place of beginning and containing a total area of 96.075 acres (64.056 acres of fast lands and 32.019 acres of wetlands).

AND BEING a part of the same lands and premises as were acquired by William F. Dickerson and George C. Chaney, trading as Bowen's Mill Landing, a Delaware partnership, by Deed from George C. Chaney, et al. dated November 18, 1985, said Deed being recorded in the Office of the Recorder of Deeds in and for Kent County, State of Delaware, in Deed Record Book L. Volume 41, Page 338.

George C. Chaney thereafter died testate May 8, 1990 and by his Will recorded in the Office of the Register 01 Wills, Kent County, State of Delaware, in Will Book W, Volume 6, Page 183 he did devise his interest in said lands unto his wife, Dorothy Leona Chaney. The said Dorothy Leona Chaney thereafter died intestate April 24, 2004 (see Kent County Register of Wills Book C, Volume 9, Page 300) leaving as her sole heirs at law John R. Lynch (a Grantor herein) and Dewey C. Lynch (a Grantor herein).

William F. Dickerson died testate July 28, 1995 and by the terms of his Last Will recorded in Sussex County, Delaware, in Will Book 274, Page 334, he did devise his interest in said lands unto Billie Lynn Thompson (a Grantor herein).

The aforesaid configuration of said lands and the conveyance of same is joined into by Billie Lynn Thompson as the legal representative of the last surviving partner of Bowens Mill Landing, a Delaware Partnership, effectuates dissolution or winding up of business and affairs of Bowens Mill Landing Partnership, which had been effectively terminated upon the death of George C. Chaney as directed by the Order of the Court of Chancery dated the 5th day of May, 2009 as confirmed by Order of the Supreme Court of the State of Delaware dated February 25, 2010 (Billie Lynn Thompson, et al. v. John R. Lynch, et al, (Supreme Court No.: 429, 209, C.A. No. 2488).

SUBJECT, however, to the reservations, restrictions, conditions and covenants of record and subject to such state of facts as an accurate survey and/or inspection of the lands and premises will disclose; the operation and effect of any zoning laws, and building restrictions imposed by public authority; and easements and public utility grants of record.

SUBJECT, however, to the provisions set forth in the Master's Final Report dated the 5th of May, 2009, which mandate that JOHN R. LYNCH, and DEWEY C. LYNCH, together with their successors and assigns, shall not oppose annexation of the eastern parcel, owned by Billie Lynn Thompson.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Witness [Signature]

[Signature] (Seal)

Billie Lynn Thompson,
Individually and as Substitute
Trustee of the Estate of William
F. Dickerson as a legal representative of the
last surviving partner of Bowers Mill Landing
a Delaware Partnership

Witness [Signature]

[Signature] (Seal)

John R. Lynch

Witness [Signature]

[Signature] (Seal)

Dewey C. Lynch

STATE OF DELAWARE :
: ss.
COUNTY OF Sussex :

BE IT REMEMBERED, that on this 26th day of May, A.D. 2010, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, BILLIE LYNN THOMPSON, individually and as Substitute Trustee of the Estate of William F. Dickerson as a legal representative of the last surviving partner of Bowers Mill Landing a Delaware Partnership, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

[Signature]
Notary Public

Joan L. Tyndall

Notary Public

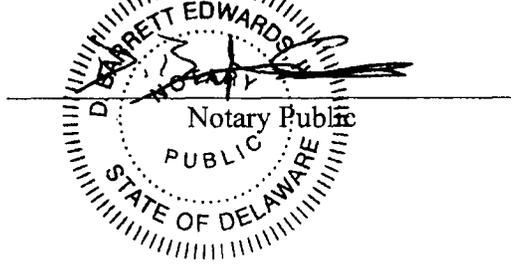
State of Delaware

My Commission Exp. 2-9-2013

STATE OF DELAWARE :
: ss.
COUNTY OF :

BE IT REMEMBERED, that on this 11th day of June, A.D. 2010, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, JOHN R. LYNCH, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed.

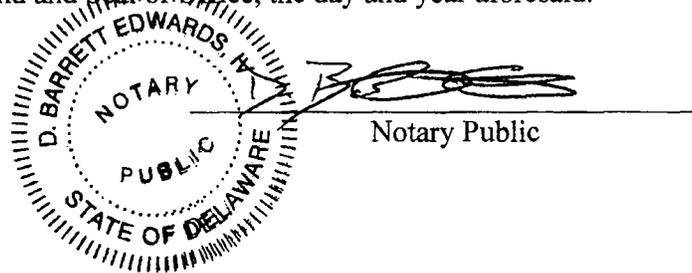
GIVEN under my Hand and Seal of Office, the day and year aforesaid.



STATE OF DELAWARE :
: ss.
COUNTY OF :

BE IT REMEMBERED, that on this 11th day of June, A.D. 2010, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, DEWEY C. LYNCH, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.



PRICKETT, JONES & ELLIOTT

A PROFESSIONAL ASSOCIATION

**11 NORTH STATE STREET
DOVER, DELAWARE 19901**

TEL: (302) 674-3841

FAX: (302) 674-5864

http://www.prickett.com

JOHN W. PARADEE
NICOLE M. FARIES

WILMINGTON OFFICE
1310 KING STREET, P.O. 1328
WILMINGTON, DE 19899
TEL: (302) 888-6500
FAX: (302) 658-8111

Writer's E-Mail Address: JWParadee@prickett.com

September 19, 2013

VIA ELECTRONIC & REGULAR MAIL

The Honorable Joseph "Ronnie" Rogers
Mayor, City of Milford
201 S. Walnut Street
Milford, Delaware 19963

***RE: Proposed Amendment to the City of Milford Comprehensive Plan
Property Owned by John R. Lynch & Dewey C. Lynch
Tax Parcel #5-00-174.00-02-64.01-00001 (96.075+/- acres)***

Dear Mayor Rogers:

I represent John R. Lynch and Dewey C. Lynch, the owners of 96.075+/- acres of unimproved land, located on the east side of and adjacent to State Route 1, south of New Wharf Road and north of the Mispillion River, otherwise identified as Tax Parcel #5-00-174.00-02-64.01-00001 (the "Lynch Property").

As you may be aware, the City of Milford Planning Commission adopted a Resolution on February 18, 2013, expressing support for an amendment to the City's Comprehensive Plan which would designate the Lynch Property for future annexation and rezoning to commercial use. Thereafter, in furtherance of this Resolution, the City determined to file and pursue an application with the Office of State Planning Coordination ("OSPC"), seeking to amend the City's Comprehensive Plan accordingly. Unfortunately, that application mistakenly proposed that a total of 192+/- acres located on the south side of New Wharf Road – including lands *not* owned by the Lynch Family – be annexed into the City and rezoned for commercial use. ***This was not what the Lynch Family had proposed.***¹ Nor did the Lynch Family ever suggest that the

¹ The statement attributed to City Planner Gary Norris, at paragraph 4 on page 1 of OSPC's May 21, 2013 PLUS letter ("Gary Norris informed us at the PLUS meeting that the applicant has altered his request and now seeks to zone all 194 acres highway commercial.") is simply not correct. If Mr. Norris did make this statement, then he was severely mistaken in saying so, as the Lynch Family *never* made any such request. In fact, it is categorically impossible that the Lynch Family ever made any such request, for the simple reason that the Lynch Property is comprised of no more than 96.075 acres. The balance of the property comprising the "194 acres" (the total acreage is actually 192.15 acres) is owned by Billie Lynn Thompson, and Ms. Thompson has absolutely no interest in annexing her property into the City limits.

Lynch Property should be annexed and rezoned prior to construction of DelDOT's planned interchange for State Route 1 and N.E. Front Street/New Wharf Road. Indeed, the Lynch Family understood then (and understands now) that DelDOT will likely require utilization of 26+/- acres of the Lynch Property in order to construct its planned interchange, and further, that another 32+/- acres of the Lynch Property is inundated with tidal wetlands which cannot possibly be developed for any use. Thus, the Lynch Family merely proposed then (and merely proposes now) that 38+/- acres of the Lynch Property be considered for possible commercial use, and even then, only *after* a Master Plan for the area is Property is prepared, approved, and adopted by the City of Milford *and* a contract is awarded for the construction of DelDOT's planned interchange. Unfortunately, none of these significant qualifiers were ever presented to OSPC during its PLUS process review of the proposed amendment to the City's Comprehensive Plan. It should therefore come as no surprise, then, that OSPC's May 21, 2013 PLUS comments letter concluded that annexing 192+/- acres of land east of State Route 1, before a Master Plan is developed for the area and before DelDOT's planned interchange is constructed, is simply "too much, too soon".

What is doubly frustrating to the Lynch Family here is that, ever since OSPC issued its PLUS comments letter on May 21, 2013, the Lynch Family and their representatives (in particular, Dave Kenton) have been trying to set the record straight and clarify their intentions, only to be dismissed or ignored. Enclosed herewith you will find a series of letters and e-mail correspondences – commencing in the Fall of 2012 – which evidences that, from the very first expression of the Lynch Family's interest in exploring the possibility of annexation of the Lynch Property into the City limits (and as repeatedly and consistently expressed thereafter), the proposal has always been (and remains) a request to annex no more than 96.075 acres, with no more than 38+/- acres designated for eventual commercial rezoning.

All of which leads me to the purpose of this letter....

On the evening of Tuesday, September 17, 2013, I appeared at the City Planning Commission's public hearing upon the City's presently-pending Comprehensive Plan Update, in an effort to set the record straight and correct the misinformation regarding the nature of the Lynch Family's request. As I explained to the Planning Commission, the Lynch Family is merely asking that the City designate the Lynch Property for future annexation into the City limits, with the express understandings that: (1) absent the approval of City Council, no more than 38 acres of the Lynch Property shall actually be zoned for commercial use, recognizing that approximately 32 acres of the Property is tidal wetlands and approximately 26 acres of the Property will likely be needed DelDOT to construct its planned interchange, and (2) no subdivision, site plan, or other land use application for the Lynch Property may be submitted or entertained by the City of Milford until such time as (a) a Master Plan for the Property is prepared, approved, and adopted by the City of Milford, and (b) a contract is awarded for the construction of DelDOT's planned interchange for State Route 1.

The Planning Commission seemed interested in reviewing this clarified proposal further, and therefore, the Planning Commission voted to table the City's presently-pending Comprehensive Plan Update in order to give the proposal due consideration. At this juncture, all

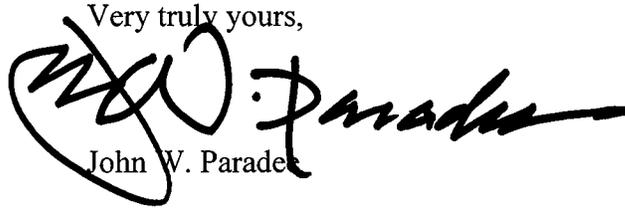
The Honorable Joseph "Ronnie" Rogers
September 19, 2013
Page 3

that I ask the City Council to consider is doing the same – that is, the City Council should likewise table City's presently-pending Comprehensive Plan Update until such time as the Planning Commission has given the proposal due consideration and made its recommendation to City Council. Thereafter, City Council should also give the proposal due consideration.

Regrettably, I will not be able to attend the September 23, 2013 meeting of the City Council, as my attendance is required at a Board of Adjustment Hearing before another jurisdiction that very same evening. I would therefore respectfully request that this letter and its enclosures be read into or otherwise included within the record of the City Council's September 23, 2013 meeting.

Thank you very much for your courtesy and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "John W. Parade". The signature is stylized and written over a circular stamp or mark.

John W. Parade

JWP/lwr

Enclosures

cc: John R. Lynch
Dewey C. Lynch
David Kenton

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: deweylynch@comcast.net Sent: Wed, 08 Aug 2012 10:42:09 -0000 (UTC) Subject: Re: Lynch Family - New Wharf Farm Request Pete: I think Gary Norris is dragging his feet, but I know he will get the letter to us early next week. Dave K. On Tue, Aug 7, 2012 at 9:13 PM, wrote: > Thanks Dave for keeping on top of things! > > Pete > > _____ > > From: "Dave Kenton" > To: gar7@comcast.net > Cc: deweylynch@comcast.net, jlynch163@comcast.net > Sent: Tuesday, August 7, 2012 9:46:40 AM > Subject: Re: Lynch Family - New Wharf Farm Request > > Gary: > > It would really help to have a letter from your office of City > planning stating the sequence of events we have discussed for the New > Wharf farm owned by Randy & Pete Lynch. The court needs some formal > document proving that the Lynch brothers are moving toward annexation > and zoning change with all due diligence. We need to prove the City > of Milford has received our request for annexation, but modification > to the City Comprehensive Plan must be completed before annexation can > move forward. > > I can pick up the letter whenever you have time to get it done, or you > can send it to my home at 200 Lakeview Ave. in Milford. Thanks for > our help with this request. > > Dave Kenton - Sperry Van Ness > > > > On Tue, Aug 7, 2012 at 9:37 AM, wrote: >> Dave: Is there anything else I can do regarding the Lynch property? Do you >> need a letter from me or will the email suffice? Gary >> >> _____ >> From: "Dave Kenton" >> To: "Gary Norris" >> Sent: Monday, July 30, 2012 9:20:28 AM >> Subject: Lynch Family - New Wharf Farm Request >> >> Gary: >> >> Thanks for the early update regarding Delaware PLUS plans for the >> upcoming Comprehensive Plan changes for Milford. I spoke with Pete >> Lynch, co-owner of the 96-acre New Wharf farm, about the sequence of >> events that needs to happen prior to his annexation application. The >> Milford P&Z hearing and your recommendations for annexation for the >> New Wharf farm will help move the process forward in early 2013. >> >> Part of the Chancery Court partition agreement issued in 2012 that >> divided the 192-acre New Wharf tract between the Lynch heirs and >> Dickerson heirs stipulates that the Lynch family must provide to >> Chancery court specific evidence that they are moving expeditiously >> toward a commercial rezoning and development of their 96-acre parcel. >> The Court requires a written update of progress in early September, >> 2012. >> >> Can you provide Pete & Randy Lynch with a letter from the City of >> Milford Planning department that acknowledges their progress toward >> annexation and zoning change for their parcel? They would like to >> have some assurance for the court that they have made application for >> annexation following the normal comprehensive plan modifications that >> need to be accomplished first. A letter from your office describing >> their request and a schedule of the procedure would be very helpful to >> submit to Chancery Court in September, 2012. Thanks for your help. >> >> Dave Kenton - Sperry Van Ness- >> >> -- >> Dave Kenton >> Senior Advisor >> Sperry Van Ness -Miller Commercial >> 34634 Bay Crossing Blvd. >> Lewes, DE 19958 >> >> 302-227-0768 Office >> 302-745-7600 Cell > > > > -- > Dave Kenton > Senior Advisor > Sperry Van Ness -Miller Commercial > 34634 Bay Crossing Blvd. > Lewes, DE 19958 > > 302-227-0768 Office > 302-745-7600 Cell -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 34634 Bay Crossing Blvd. Lewes, DE 19958 302-227-0768 Office 302-745-7600 Cell



PLANNING & ZONING DEPARTMENT
302.424.3712, FAX 302.424.3558

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

August 7, 2012

Dave Kenton
200 Lakeview Ave
Milford, DE 19963

RE: Lynch Farm Property

As I have mentioned to you in my email, I have spoken with David Edgell of the Office of State Planning regarding the update of the 2013 Comprehensive Plan for the City of Milford and the inclusion of the Lynch Property.

According to the Office of State Planning, the City does not have to do a full blown Comprehensive Plan but an Amendment to the approved 2008 Comprehensive Plan. Accordingly I have started the process of preparing a draft of the Amendment. The preliminary timetable would be as follows:

1. Introduction of the Draft to the City of Milford's Planning Commission in the fall of this year concerning the Amendment and revising the appropriate maps which would include the Lynch property.
2. Hold a Public Hearing by the Planning Commission recommending approval of the submitted Amendment in the winter.
3. Submission of Amendment to the State PLUS committee for their review and comment.
4. Hold a Public Hearing by City Council to adopt the 2013 Comprehensive Amendment in 2013.

The Land Use Maps have to be changed regarding your property from Open Space to Commercial and Residential. Once the Amendment to the 2008 Comprehensive Plan has been changed and approved by the Office of State Planning then you can submit for annexation, etc. Hopefully this is helpful to your clients.

If you need anything additional, please feel free to contact me.

Sincerely,


Gary J. Norris, AICP
City Planner

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: deweylynch@comcast.net, jlynch163@comcast.net Sent: Mon, 13 Aug 2012 15:05:49 -0000 (UTC) Subject: City of Milford Progress Letter - Gary Norris Pete & Randy: Attached find the progress letter sent to us from Gary Norris, City of Milford Planner, regarding the New Wharf farm you are planning to develop in 2013. I will deliver the original letter to Crystal Lynch at ReMax later today. The PDF copy is attached for your records. I hope this is sufficient proof of your efforts to satisfy the judge at Superior Court. Dave Kenton - Sperry Van Ness -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 34634 Bay Crossing Blvd. Lewes, DE 19958 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: Gary J. Norris <gnorris@milford-de.gov> Cc: jlynch163@comcast.net, deweylynch@comcast.net Sent: Wed, 12 Sep 2012 16:13:52 -0000 (UTC) Subject: Re: Revision to Comp Plan Gary: Thanks for the update. I will forward tax map and survey plots of the division we are requesting for the New Wharf property owned by Randy and Pete Lynch on Rt. 1 in Milford. Since Milford zoning code permits residential uses within its C-3 zoning classification category, should we request 66 acres of C-3 and ask for R-3 use during the site-plan review with P&Z, if needed? Would it help your request to State Planning for a Comprehensive Plan modification if we asked for 30 acres of C-3 and 36 acres of R-3? The entire parcel is 96 acres, however, 30 acres is wetlands along the Mispillion river and would not require a zoning change. It seems like a similar request to me. What is your preference? Dave Kenton - Sperry Van Ness On Wed, Sep 12, 2012 at 11:50 AM, Gary J. Norris wrote: > Dave: I am getting the engineering Company to revise our Comprehensive Plan > Maps showing a different land use classification for your properties east on > Del 1. Would you please resent what your clients want. As I remember they > want the frontage C-3 and the rear R-3. Please confirm with the appropriate > maps. Thanks Gary -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 330 Rehoboth Ave Rehoboth Beach, DE 19971 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: ilynych163@comcast.net, deweylynch@comcast.net Sent: Thu, 13 Sep 2012 19:25:54 -0000 (UTC) Subject: New Wharf Tract - 96 acres - Zoning Classification Randy & Pete: The email I received from Gary Norris, City Planner, yesterday suggested he would prefer we request part of the 96-acre New Wharf farm to be changed to C-3, commercial zoning and part be changed to R-3, multi-family residential zoning. Gary seemed a bit reluctant to change the entire 64-acre parcel to C-3 and relying on a site-plan change if you decided to build a residential housing development in the rear at a later date. With your approval, I'm planning to ask Bob Nash to provide a new survey plot with a survey line dividing the 64 acre portion of your land into two equal sections of 32 acres each. Gary wants us to designate the 32 acre parcel along Rt. 1 bypass as proposed C-3 commercial zoning and 32-acres in the rear as proposed R-3, multi-family residential. He wants us to leave 32-acres of wetlands along the Mispillion as AR-1 zoning. If we can get Bob Nash to draw the correct lines on the updated survey plot, I could submit it to Gary Norrris as our requested zoning designation after the annexation is completed. Gary needs this plot to submit to State Planning Office for our requested Comprehensive Plan revision. Let me know if this request is what you want for the property. Dave Kenton - Sperry Van Ness -Commercial -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 330 Rehoboth Ave Rehoboth Beach, DE 19971 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message -----

From: Dave Kenton

To: gnorris@milford-de.gov

Cc: 'Yvonne Lynch'

Sent: Tue, 11 Dec 2012 20:01:09 -0000 (UTC)

Subject: Lynch -New Wharf Farm -

Gary:

Thanks for your email requesting a good meeting time to help move the Lynch property forward with annexation and zoning change. I would be interested in any comments you have heard from State Planning Office. I have requested a divided survey plot from Bob Nash to delineate the two parcels for which we are requesting a zoning change. Bob is still working on the plot, but we are requesting 32 acres of C-3 commercial along the northbound Rt. 1 bypass and 32 acres of R-3, multifamily residential for the 32 acres behind the road frontage. The balance of 32 acres owned by Pete & Randy Lynch will remain AR-1 zoning. It is entirely wetlands along the Mispillion river.

I am available Friday, January 4, 2013 at 9:00, 10:00 or 11:00 a.m.

I am available Tuesday, January 8th at 9:00, 10:00 or 11:00 a.m.

I can also meet Wednesday or Thursday, January 9 or 10th.

Please note my email change to dave.kenton@oasir.com. My company has changed from Sperry Van Ness.

Dave Kenton – Sotheby's

----- Forwarded Message -----

From: Dave Kenton

To: 'Gary J. Norris'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Thu, 03 Jan 2013 00:16:37 -0000 (UTC)

Subject: Appointment Confirmation - Lynch -New Wharf Property

Gary:

My schedule shows we are still set to meet in your office at **Milford City Hall at 9:00 a.m. on Friday, January 4, 2013**. Pete & Randy Lynch are planning to attend this meeting to hear your comments regarding changes in the comprehensive plan that will enable the annexation and proposed zoning change to move forward as soon as practicable. Let me know if this date and time are still OK.

Dave Kenton – Sotheby's

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

Dave.Kenton@oasir.net | www.oasothebysrealty.com

----- Forwarded Message -----

From: Dave Kenton

To: jlynch163@comcast.net, deweylynch@comcast.net

Sent: Mon, 07 Jan 2013 15:42:56 -0000 (UTC)

Subject: New Wharf Property - 96 acres

Randy & Pete:

I spoke to George Pierce, DELDOT representative, today about progress for the proposed New Wharf overpass that will impact your property on Rt. 1 and New Wharf road. George has suggested a meeting with you and him to discuss the potential impact of their project on your land prior to the scheduled meeting at Milford High School set for **Monday, January 28, 2013 from 4:00 -7:00 p.m.**

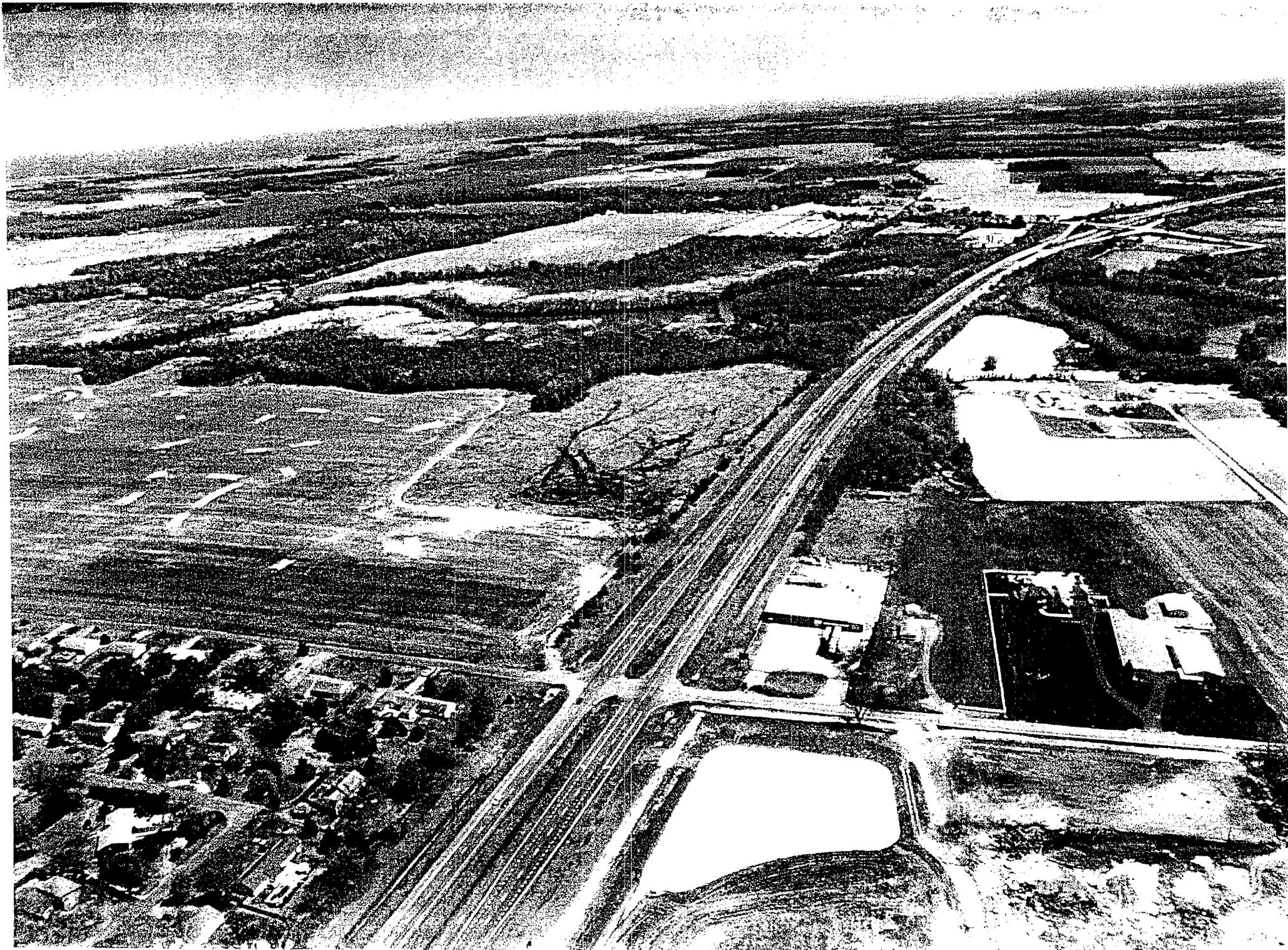
George told me DELDOT was in the planning stages for the overpass and funding was in place for the project set to begin in spring 2016. Although the date is three years away, it is still good news that the overpass will be built. I feel DELDOT plans for the overpass will significantly help our request for modification of the City of Milford comprehensive plan and annexation of the parcel with C-3 and R-3 zoning.

George also told me he would check with the maintenance section of DELDOT to determine if they can remove the line of scrub trees along their right-of-way boundary with your 96-acre parcel. I expect to have an answer within two weeks.

I will write a draft letter to Dave Edgell, State Planning Office, this week that will counter his comments in a letter to Gary Norris stating his objections to annexation and zoning change we have requested with City of Milford.

Thanks for your cooperation. Let me know what days would suit you to meet with George Pierce this week or next week prior to the DELDOT workshop at Milford High School on January 28, 2013.







----- Forwarded Message -----

From: Dave Kenton

To: deweylynch@comcast.net, jlynch163@comcast.net

Cc: 'Gary J. Norris'

Sent: Mon, 07 Jan 2013 17:58:08 -0000 (UTC)

Subject: Draft letter -State Planning Office- Dave Edgell

Randy, Pete & Gary Norris:

Attached find a preliminary draft letter we could send to Dave Edgell at State Planning Office to outline our case for reconsideration of our request for an amendment to the City of Milford Comprehensive Plan. Please review this letter and let me know how it could be improved or changed.

I want the letter to be direct, but positive and not confrontational . Let me know what we should say to Dave to get him to reconsider his objection to our request.

Dave Kenton -

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

Dave.Kenton@oasir.net | www.oasothebysrealty.com

DSM COMMERCIAL REAL ESTATE SERVICES

January 10, 2013

Mr. David Edgell
State Planning Office
The Green
Dover, DE 19901

Dear Mr. Edgell:

I represent Randy & Pete Lynch in their effort to develop a 96-acre tract of land they own at the southeast corner of Rt. 1 and New Wharf road (Rt. 409) on the Milford bypass in Milford, DE.

During the first Milford Comprehensive Planning sessions held in 2008 notices were placed in local news media publications requesting input from Milford citizens regarding the future of properties along the perimeter boundary of City of Milford limits. No direct effort was made to contact individual property owners where zoning maps impacted boundary lands. Many property owners had no knowledge of the future impact State Planning actions might play in designating properties as "open space" in Milford's first Comprehensive Plan.

Because of changes in Milford's Comprehensive Plan made in 2008, 64 acres of highly valuable land located along the east side of Rt. 1 bypass has been designated as "open space." The owners of this parcel had pursued commercial development of the tract for five years prior to Milford's Comprehensive Plan implementation. A project known as **Bowen Landing** had been proposed and was under-contract for development prior to the last economic collapse of real estate values in 2008.

In January, 2012 my clients requested City of Milford annexation and zoning changes for 64-acres of the 96-acre tract to permit future commercial and residential development of the site. We expected to request this annexation and change-of-zoning at the normal 5-year upgrade of Milford's Comprehensive Plan due in February, 2013.

During a recent meeting with City of Milford Planning director, Gary Norris, it was brought to our attention that the 64-acres planned for future development was designated "open space," in 2008 and a change to the current Comprehensive Plan update was not welcomed by the State Planning Office.

My clients are requesting the legal right to develop this property that has been considered as a prime expansion area for City of Milford annexation since the Milford bypass was constructed in 1971. State Planning guidelines have long allowed commercial development within 500 ft. of all major highway corridors in Delaware. We are at a loss to understand how this land was ever designated "open space," for future generations and why the property owners were never notified directly of this potential devaluation of their property rights by State Planners in 2008.

Major development has moved forward on the east side of Rt. 1 bypass in Milford with development of the Hampton Inn/Lighthouse Christian church parcel on Carpenter Pit road near Lynch Heights in 206-2008. Sewer & water was extended under Rt. 1 to this site for the hotel, church and residential subdivision.

In 2011, State Planning officials participated in a "plan-for-services" for 1,000 acres of land on the east side of Rt. 1 at the proposed **Wilkins Road Overpass** location. **Innovation Park** is proceeding according to plan with City of Milford services and infrastructure extended to the east side of Rt. 1 for new development of that area with medical arts, commercial and residential uses.

Mispillion Marina project was approved by City of Milford in 2006 and remains a prime area for development with 65-acres of C-3 land annexed and zoned at the intersection of Rt. 1 and Rt. 36 (Cedar Beach Road).

For these reasons we respectfully request a re-evaluation of objections offered by the State Planning Office to changes requested by the Lynch family for 64-acres of their property on New Wharf road. The owners are cooperating with plans for a new overpass scheduled by DELDOT for construction in the spring of 2016. Portions of the Lynch property will be needed to complete the DELDOT project for the benefit of all Milford citizens and travelers.

City of Milford's planning and zoning committee and City Council has agreed to cooperate with an annexation request and zoning change for this site provided highway improvements are made to alleviate traffic congestion along New

Wharf road and the entrance to **Woods Haven** development. We expect the new overpass to provide highway upgrades required by the area east of Rt. 1 for future development.

What is required to allow the Milford annexation request to proceed is an amendment to Milford's Comprehensive Plan that will designate the New Wharf property as a site for future highway and area development.

The owners feel strongly they were denied their rights to a fair hearing when this property was designated "open space," without their specific input in 2008. We are requesting the State Planning Office support the City of Milford's request for an amendment to permit this property to be considered through the normal Planning & Zoning and City Council process in 2013.

We appreciate your consideration and look forward to your cooperation with Milford's request for an amendment for this property.

Dave Kenton - Broker
Lynch Family Lands - Milford

DWK/encl

----- Forwarded Message -----

From: Dave Kenton

To: 'Pierce George A (DelDOT)'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Tue, 08 Jan 2013 16:18:39 -0000 (UTC)

Subject: New Wharf Parcel - Milford - Meeting

George:

I spoke to Pete & Randy Lynch regarding a meeting next week in Milford to discuss DELDOT plans for an overpass at New Wharf road intersection.

We would like to meet next **Wednesday, January 16, 2013 at Milford Museum at 9:00 a.m.** if your schedule can accommodate that date and time. We could also meet Friday, January 18, 2013, if that date is better. Let me know when you can stop down to tell us what will be done on the New Wharf property as your project moves forward.

Dave Kenton – DSM Commercial Real Estate

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

----- Forwarded Message -----

From: Dave Kenton

To: 'Pierce George A (DelDOT)' , deweylynch@comcast.net, jlynch163@comcast.net

Cc: 'Banez Tom (DelDOT)'

Sent: Thu, 17 Jan 2013 16:59:24 -0000 (UTC)

Subject: RE: NE Front Street Project Website

Tom & George:

Thanks for taking time to give Pete & Randy Lynch an early look at the preferred intersection overpass planned for New Wharf road in Milford sometime in 2016. We appreciate the cooperation with our effort to annex and develop the residual property on the east side of the cloverleaf on the Lynch farm. We expect to hear from the acquisition section sometime next year with their appraised value for the approximately 25 acres that will be purchased for DELDOT right-of-way for the project.

I was unable to get the preferred design to print on my office printer using the DELDOT link to the design photos. Am I doing something wrong with the PDF files?

Dave Kenton – Sothebys'

From: Pierce George A (DelDOT) [mailto:georgea.pierce@state.de.us]

Sent: Wednesday, January 16, 2013 10:09 AM

To: 'Dave Kenton'; deweylynch@comcast.net; jlynch163@comcast.net

Cc: Banez Tom (DelDOT)

Subject: NE Front Street Project Website

Gentlemen,

Thanks again for taking the time to meet with us this morning. In follow up, attached is the link to the project website. It will be updated with the exact concept you saw after the Public workshop on January 28th at the

Milford Library from 4-7. In the interim, concept 6 from the following page closely follows the proposed alternative:

http://www.deldot.gov/information/projects/sr1_northeast_front_st/index.shtml

Thanks and let me know if there is anything else you need.

George Pierce, PE

Project Engineer, Project Development South

Delaware Department of Transportation

800 Bay Road

Dover, DE 19903

Phone: (302) 760-4825

Fax: (302) 760-2362



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

January 28, 2013

Mr. Dave Kenton
DSM Commercial Realty
910 S. Chapel Street
Newark, DE 19713

RE: New Wharf Development Farm (Lands of Randy and Pete Lynch)

Dear Mr. Kenton,

I am in receipt of your letter dated January 17th, 2013 regarding you and your client's proposed development of a 96 acre tract of land in the vicinity of New Wharf Road and Rt. 1 adjacent to Milford. As stated in your letter, you and your clients intend to annex this property into the City of Milford in order to develop the property with residential and commercial uses.

As you note, the City of Milford has classified this area as "Open Space" in the annexation plan of the City's certified comprehensive plan. The City of Milford has the discretion to propose a plan amendment or update to that plan. If the City chooses to do so, the amendment or update must be submitted by the City to our office for review through the Preliminary Land Use Service (PLUS) process. The City of Milford has not submitted a plan amendment or update for review as of the date of this letter. Should the City submit a plan amendment or update in the future we will review it and comment on its merits at that time.

Please do not hesitate to contact me if I can be of any further assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Edgell".

David L. Edgell, AICP
Principal Planner

cc: Connie Holland
Dorothy Morris
Gary Norris, City of Milford

122 Martin Luther King Jr. Blvd. South – Haslet Armory · Third Floor · Dover, DE 19901
Phone (302)739-3090 · Fax (302) 739-5661 · www.stateplanning.delaware.gov

----- Forwarded Message ----- From: Dave Kenton <dave.kenton@oasir.net> To: 'Gary J. Norris' <gnorris@milford-de.gov> Cc: deweylynch@comcast.net Sent: Sat, 02 Feb 2013 11:50:50 -0000 (UTC) Subject: Dave Edgell - State Planning Office Reply Gary: Attached find the response I received from Dave Edgell, State Planning officer, regarding my letter to solicit his support for the pending amendment to the Milford Comprehensive Plan for 2013. This letter seems to indicate that Office of State Planning will consider the change, provided it is supported by City of Milford Planning & Zoning and City Council. Pete & Randy Lynch want to pursue their request for annexation and change of zone to C-3 for 39 acres of cleared land on the northeast corner of Rt. 1 bypass and New Wharf road as soon as practicable. They have met with DELDOT's project manager regarding the site and have tentatively agreed to permit DELDOT to purchase about 23-25 acres of land on the corner for the merge-off northbound lane and cloverleaf for the new overpass. Since the DELDOT's acquisition is substantially greater than the 5-acres of land they projected would be needed, their request for R-3 zoned land in the rear is withdrawn in favor of commercially zoned land for the residual lands after DELDOT completes the overpass. The total cleared area is 64 acres according to the survey plot. Please keep us advised regarding your progress with City Council. Randy & Pete would be happy to make their case in person before P&Z committee or City Council, if required. We appreciate your support and look forward to getting the annexation moving before June 1, 2013 and zoning change prior to September 1, 2013, if possible. Dave Kenton - Sothebys -----Original Message----- From: Christine Flynn [mailto:CFlynn@dsm1800.com] Sent: Friday, February 01, 2013 2:03 PM To: Dave Kenton Subject: FW: Dave, This came in the mail for you. I can send the original if you would like it for your records.

----- Forwarded Message -----

From: Dave Kenton

To: 'Yvonne Lynch' , jlynch163@comcast.net

Sent: Tue, 12 Feb 2013 16:44:54 -0000 (UTC)

Subject: Comprehensive Planning -Meeting -Milford Planning Commission

Gary:

Thanks for the advance notice. I will be at the February 19, 2013 meeting and will invite Pete & Randy, if they have time to attend. I'm assuming there will be other meetings to follow. The meeting starts at 7:00 p.m., right?

Dave Kenton - Sothebys

From: Gary J. Norris [mailto:gnorris@milford-de.gov]

Sent: Tuesday, February 12, 2013 11:03 AM

To: Dave Kenton

Subject: meeting

Dave. On 2/19 the Planning Commission will begin the review of the Draft Comprehensive Plan for 2013. Gary

----- Forwarded Message -----

From: Dave Kenton

To: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Tue, 19 Feb 2013 17:26:26 -0000 (UTC)

Subject: FW: The Milford Review for February 19, 2013...

Randy & Pete:

Attached find the article in the local paper regarding the annexation request sent by Gary Norris to City Council on February 11, 2013 for consideration. City Council referred this request to the Planning & Zoning meeting that meets tonight at 7:00 at City Hall. P&Z must recommend a change to the comprehensive plan before Council can move forward with the annexation request. If we have the opportunity tonight, the P&Z committee may ask how this property got zoned Agricultural preservation five years ago. You may want to review the history of the parcel with plans for "Bowen Mills." No one ever asked you for permission to designate this land AC. It was a blatant power-grab by the State Planning Office and should be corrected. See you tonight at 7:00 p.m. at City Hall.

Dave Kenton - Sothebys

From: Bryan Shupe [mailto:bryan@milfordlive.com]

Sent: Tuesday, February 19, 2013 10:40 AM

To: dave.kenton@oasothebysrealty.com

Subject: The Milford Review for February 19, 2013...

This Week's *The Milford Review*

Welcome to this week's edition of The Milford Review -- the week that was in Milford, DE! The positive feedback and constructive criticism has been immensely helpful to us. Please keep the ideas flowing on our Facebook page and via email at bryan@milfordlive.com.

Remember: most of the advertising in The Milford Review is "clickable," meaning that if you click on the ad, you can visit the advertiser's web site and get more information. Try it out!

Thanks, and enjoy this week's issue.

The issue is delivered in a downloadable PDF format. Nearly all computers have the ability to read PDF files, but if you don't, you can [click here to download free Adobe software](#), which will allow you to read our newspaper. Also, if you are not on our free email subscriber list, you can [click here to visit our signup page](#). We encourage you to invite your friends and spread the word as we continue our efforts to bring together the Milford community and make MilfordLive.com and the Milford Review the online hub for Milford and its surrounding communities.

[Click here to download and read
this week's Milford Review.](#)

About MilfordLive.com

MilfordLive.com and The Milford Review are part of a local operation designed to bring together the Milford community around a single online hub. Based in Milford and published by MHS graduates Bryan Shupe and Dave Burris, MilfordLive.com and The Milford Review are your source for news, information and stories today and in the future.

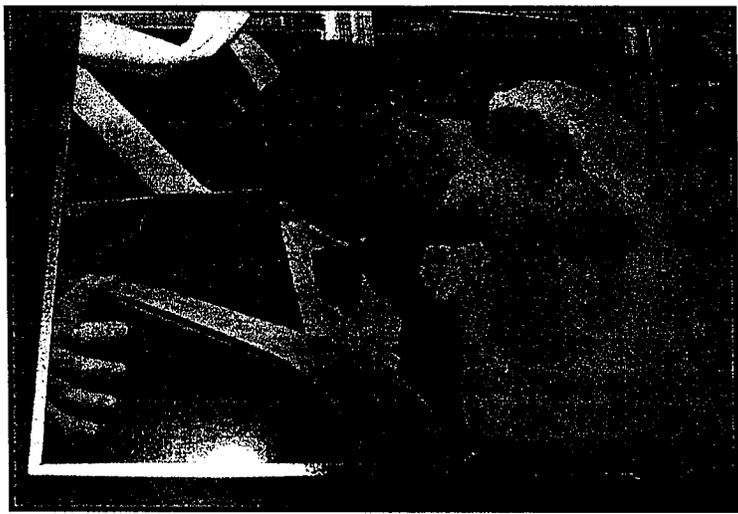
Contact Bryan via email at Bryan@MilfordLive.com or by phone at 542-9231.

For text email readers, or if you are unable to download the issue, today's issue can be found at:
<http://www.milfordlive.com/review/MilfordReview021913.pdf>

This message was sent to dave.kenton@oasothebysrealty.com from:
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MILFORD CELEBRATES VALENTINES DAY

Milford Review and MilfordLIVE.com readers shared photos of their sweetheart as they celebrated their love on Valentine's Day Thursday, and we're sharing them with you. Photos begin on page 12 and continue on MilfordLIVE.com.

Council Discusses Two Annexation Requests

By Terry Rogers

At the regular meeting of the Milford City Council on February 11, 2013, City Planner Gary Norris presented information regarding two requests for annexation. The 2008 Comprehensive Plan states that the city has no plans for annexation, but that the town would entertain requests for annexation from property owners. During an update to council regarding the Comprehensive Plan on December 10, Norris discussed that the Lynch family requested annexation of property currently designated as open space on the plan. Should the city choose to agree to annex this request, the Comprehensive Plan would need to be amended. The second request, related to property

More on page 4

Coworkers Wait On Kidney Donor List

By Bryan Shupe

Milford residents Nadine Holleger and Cleveland Whidbee share a unique disorder called polycystic kidney disease that affects the body's ability to filter waste products that can become harmful to the person it inflicts. Working together at the Delaware Veteran's Home in Milford, the pair have shared their stories and knowledge of the disease with each other in an effort to overcome the disorder that affects nearly 1 in every 1,000 Americans.

More on page 2

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ANNEXATION from page 1

owned by Louis and Shirley Renzi, is already part of the Comprehensive Plan.

The Lynch property includes about 100 acres of land east of Route 1 and north of New Wharf Road. They are requesting that the land use designation be changed from agricultural to highway commercial, while approximately 30 acres would remain open space. Norris reported that the State Planning Office expressed concerns about changing the designation due to the development east of Route 1. Norris also explained that the property could not undergo development until the New Wharf Road overpass is completed by DelDot, which will take about 10 acres of the land.

“The first step toward annexing this particular parcel of land is to amend the comprehensive plan and change the designation from open space to highway commercial,” Norris explained. When asked by Councilman Skip Pikus if the land was solely zoned as agriculture, Norris explained that the designation was agricultural preservation. Richard Carmean, City Manager, responded that the Lynch’s had already deforested a large portion of the area. Dave Edgel of the Office of State Planning expressed concerns as the land is not close to the core of the city. In addition, the state has concerns about the size and density of the land.

“Can we as council annex the land as open space now and then convert it to commercial and residential later?” Councilman Pikus asked. Norris respond-



The Renzi property (USGS photo)

ed that the zoning must be in compliance with the plan, and if it is annexed as open space, it cannot be changed later.

Norris explained that the next step in the process is to send the request to adjust the Comprehensive Plan to the Planning and Zoning Committee on February 19, who will then make recommendations to council.

The second request, from Louis and Shirley Renzi, is included in the 2008 Comprehensive Plan. The Renzi’s are requesting the annexation of three acres on Cedar Creek Road, and to have the land zoned highway commercial.

“The Renzi land is surrounded by other commercial land and is considered an enclave,” Norris explained. According to Timothy Metzner of Davis, Bowen and Friedel, who filed the application for annexation for the Renzi’s, this request is simply to have the property be more consistent with the city’s comprehensive plan.

City Council voted unanimously to send the request to the city’s Annexation Committee for review at their next meeting.

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----- Forwarded Message -----

From: Dave Kenton

To: 'Gary J. Norris'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Tue, 12 Mar 2013 15:33:21 -0000 (UTC)

Subject: Lynch Annexation Request - New Wharf Road

Gary:

I saw that City Council voted this week to annex the Renzi property on Rt. 30 at the recent City Council meeting. When is City Council scheduled to vote on the Lynch family request for their New Wharf development property to support a change in the 2008 Comprehensive Plan?

Planning & Zoning voted to approve the annexation and City Council must support that request before we can appear before State Planned Use Committee in Dover (PLUS) for an amendment to the Comprehensive Plan. Will it be on an upcoming agenda for City Council? Should we plan to attend that Council meeting?

Dave Kenton – Sotheby Realty

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

Dave.Kenton@oasir.net | www.oasothebysrealty.com

----- Forwarded Message ----- From: Dave Kenton <dave.kenton@oasir.net> To: 'Gary J. Norris' <gnorris@milford-de.gov> Cc: deweylynch@comcast.net, jlynch163@comcast.net Sent: Sun, 17 Mar 2013 22:47:00 -0000 (UTC) Subject: RE: Lynch Annexation Request - New Wharf Road Gary: Thanks for the clarification. It is still a bit confusing to me, but I think I understand the process. David Rutt, City Solicitor, covered the steps during our last meeting with Planning & Zoning at City Hall.

The next step for the Lynch family is to attend the PLUS hearing in April, 2013 in Dover. The PLUS Committee will approve the amendment to the Milford Comprehensive Plan or deny the change. If they deny the change the Lynch family only has the option of legal action to change the zoning. If PLUS approves the amendment to the Comprehensive Plan, then Milford Planning & Zoning considers C-3 zoning. If P&Z recommends the C-3 zoning, then the annexation can proceed with a vote of City Council. Does this describe the process, or do I need another detailed briefing? Let me know when you return from vacation. Thanks for your support and help in this request. Dave Kenton- Sothebys

-----Original Message----- From: Gary J. Norris [mailto:gnorris@milford-de.gov] Sent: Sunday, March 17, 2013 4:44 PM To: Dave Kenton Cc: Christine R. Crouch Subject: Re: Lynch Annexation Request - New Wharf Road David: I will be back at the end of March, but Christine did send the draft of the the amended Comprehensive Plan for a PLUS meeting in April. Once I have the date I will notify you. David, I think you are wrong. Council accepted the decision of the Annexing Committee, but it has to the Planning Commission for their recommendation on the Zoning then back to City Council for their approval. Gary Sent from my iPad On Mar 12, 2013, at 8:18 AM, "Dave Kenton" <DAVE.KENTON@OASIR.NET> wrote: Gary: I saw that City Council voted this week to annex the Renzi property on Rt. 30 at the recent City Council meeting. When is City Council scheduled to vote on the Lynch family request for their New Wharf development property to support a change in the 2008 Comprehensive Plan? Planning & Zoning voted to approve the annexation and City Council must support that request before we can appear before State Planned Use Committee in Dover (PLUS) for an amendment to the Comprehensive Plan. Will it be on an upcoming agenda for City Council? Should we plan to attend that Council meeting? Dave Kenton – Sotheby Realty Dave Kenton | Senior Advisor Ocean Atlantic Sotheby's International 330 Rehoboth Avenue Rehoboth Beach, DE 19971 Office 302.227.6767 | Fax 302.227.6349 Cell Phone 302.745.7600 Dave.Kenton@oasir.net | www.oasothebysrealty.com Delaware Real Estate rules require agents and brokers to provide a Consumer Information Statement to all prospects prior to establishing an agency relationship. Please review these guidelines and sign and return this form to my office, if you decide to move forward with this property. <http://dpr.delaware.gov/boards/realestate/documents/RSPFpage.pdf>

----- Forwarded Message -----

From: Dave Kenton

To: 'Christine R. Crouch'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Mon, 18 Mar 2013 13:23:04 -0000 (UTC)

Subject: RE: Lynch Annexation Request - New Wharf Road

Christine:

Thanks for the clarification. I think I have it straight now. City Council must vote on the proposed changes to Milford's Comprehensive Plan and PLUS must agree before the new plan can be certified. If that all happens, then annexation and zoning change can be requested through the normal process.

Thanks for the help. We will try to keep all this straight in our minds. It seems like the State Planning Office is one extra step that simply slows up the process, which I suspect is the point of their entire office.

Dave Kenton -Sothebys

From: Christine R. Crouch [mailto:CCrouch@milford-de.gov]

Sent: Monday, March 18, 2013 8:40 AM

To: Gary J. Norris; Dave Kenton

Subject: RE: Lynch Annexation Request - New Wharf Road

Good morning Mr. Kenton.

I think there is some confusion as to what has taken place with the Lynch property.

At the February Planning Commission meeting, the commission voted to approve the change in the future land use designation of the Lynch property ~ they did not vote on whether or not to annex the property.

The first step in the process, as Gary has explained, is to have the property identified in the Comprehensive Plan as commercial. In order to accomplish this, the commission and council must agree it should be identified as commercial in the future land use plan. Then the office of state planning must agree, and the comprehensive plan must then be certified by the state and adopted by the city.

Once that is complete, the annexation process may begin.

To answer your question, City Council will be reviewing the changes to the future land use designations after Mr. Norris has spoken with DelDOT, according to the February 11th City Council minutes.

Christine Crouch

302.424.3712 x308 | F 302.424.3559

www.cityofmilford.com

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Delaware Real Estate rules require agents and brokers to provide a Consumer Information Statement to all prospects prior to establishing an agency relationship. Please review these guidelines and sign and return this form to my office, if you decide to move forward with this property.

<http://dpr.delaware.gov/boards/realestate/documents/RSPFpage.pdf>

----- Original Message -----

From: Dave Kenton

To: deweylynch@comcast.net

Sent: Wed, 27 Mar 2013 22:29:00 -0000 (UTC)

Subject: RE: Lynch Annexation Request - New Wharf Road

Pete:

I will stop by City Office tomorrow and ask Christine Crouch if the date has been set yet with PLUS in Dover.

Dave Kenton – Sothebys

From: deweylynch@comcast.net [mailto:deweylynch@comcast.net]

Sent: Wednesday, March 27, 2013 5:23 PM

To: Dave Kenton

Subject: RE: Lynch Annexation Request - New Wharf Road

Hi Dave,

I didn't know if you had heard any date set for April's meeting in Dover for the New Wharf road property?

Pete

----- Original Message -----

From: Dave Kenton <dave.kenton@oasir.net>

To: 'Christine R. Crouch' <CCrouch@milford-de.gov>

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Mon, 18 Mar 2013 13:23:04 -0000 (UTC)

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Writer's E-Mail Address: JWParadee@prickett.com

October 18, 2013

VIA ELECTRONIC & REGULAR MAIL

The Honorable Joseph "Ronnie" Rogers
Mayor, City of Milford
201 S. Walnut Street
Milford, Delaware 19963

RE: Proposed Amendment to the 2013 City of Milford Comprehensive Plan Update

Dear Mayor Rogers:

I represent John R. Lynch and Dewey C. Lynch, the owners of 96.075+/- acres of unimproved land, located on the east side of and adjacent to State Route 1, south of New Wharf Road and north of the Mispillion River, otherwise identified as Tax Parcel #5-00-174.00-02-64.01-00001 (the "Lynch Property").

As you may be aware, I have been working diligently with Gary Norris (on behalf of the City of Milford) and David Edgell and Connie Holland of the Office of State Planning Coordination ("OSPC") to craft a proposed amendment to the 2013 City of Milford Comprehensive Plan Update (the "2013 Comp Plan Update") which calls for a Master Plan to be developed and adopted by the City, with coordination and approval from the OSPC, for an area defined as the "North East Milford Planning Area". Mr. Norris has prepared a Map which we would propose be added as an exhibit to the 2013 Comp Plan Update, in order to identify the specific properties proposed to be included within the North East Milford Planning Area (see Exhibit "A" enclosed), and Mr. Edgell has drafted a Memorandum of Agreement (the "MOA") between the City, the OSPC, and DeIDOT regarding the North East Milford Planning Area (see Exhibit "B" enclosed), similar to the MOA which the City and the OSPC recently executed for the South East Milford Planning Area. It is my understanding that although none of these documents were prepared and available in time to be included within the record the City of Milford Planning Commission's deliberations upon the 2013 Comp Plan Update, the Planning Commission has nevertheless endorsed the concept of creating a Master Plan for the North East Milford Planning Area and recommended that the City Council consider same. Toward that end, I have drafted proposed language for insertion into the 2103 Comp Plan Update (see Exhibit "C" enclosed), modeled after similar language that was employed by the City with regard to the Master Plan for the South East Milford Planning Area, and Connie Holland of the OSPC has blessed of this proposed language.

The Honorable Joseph "Ronnie" Rogers

October 18, 2013

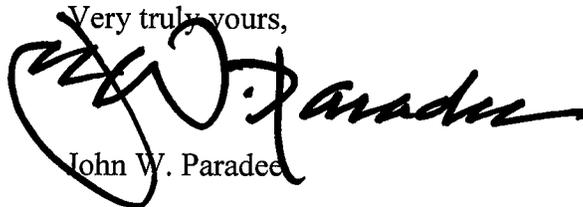
Page 2

Based upon my discussions with Mr. Norris, Mr. Edgell, and Mrs. Holland, it is my understanding that both Mr. Norris and the OSPC support my client's request to amend the 2013 Comp Plan Update to provide for the development of a Master Plan for the North East Milford Planning Area, as defined and contemplated by the enclosed Map and MOA (Exhibits "A" and "B"). Accordingly, I do hereby respectfully request that the City Council, at its October 28, 2013 meeting, give favorable consideration to amending the 2013 Comp Plan Update, as proposed herein, by (1) approving adoption of the enclosed Map prepared by Mr. Norris (see Exhibit "A"), (2) approving adoption of the enclosed language for insertion into the 2013 Comp Plan Update (see Exhibit "C"), and (3) thereafter, once the OSPC has certified the 2013 Comp Plan Update, as amended, executing the MOA drafted by Mr. Edgell (see Exhibit "B").

Regrettably, I will not (in all likelihood) be able to attend the October 28, 2013 meeting of the City Council, as my attendance is required at a meeting of the Board of Directors of Bayhealth Medical Center that very same evening. I will endeavor, however, to have my Associate, Nicole M. Faries, Esquire, attend the meeting in order to answer any questions which may arise. In any and all events, I respectfully request that this letter and its enclosures be read into and/or otherwise included within the record of the City Council's October 28, 2013 meeting.

Thank you very much for your courtesy and consideration.

Very truly yours,



John W. Paradee

JWP/lwr

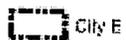
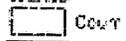
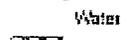
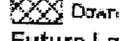
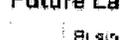
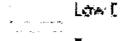
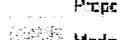
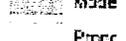
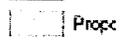
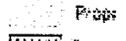
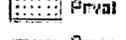
Enclosures

cc: David Edgell (Office of State Planning Coordination) (w/enclosures)
John R. Lynch (w/enclosures)
Dewey C. Lynch (w/enclosures)
David Kenton (w/enclosures)

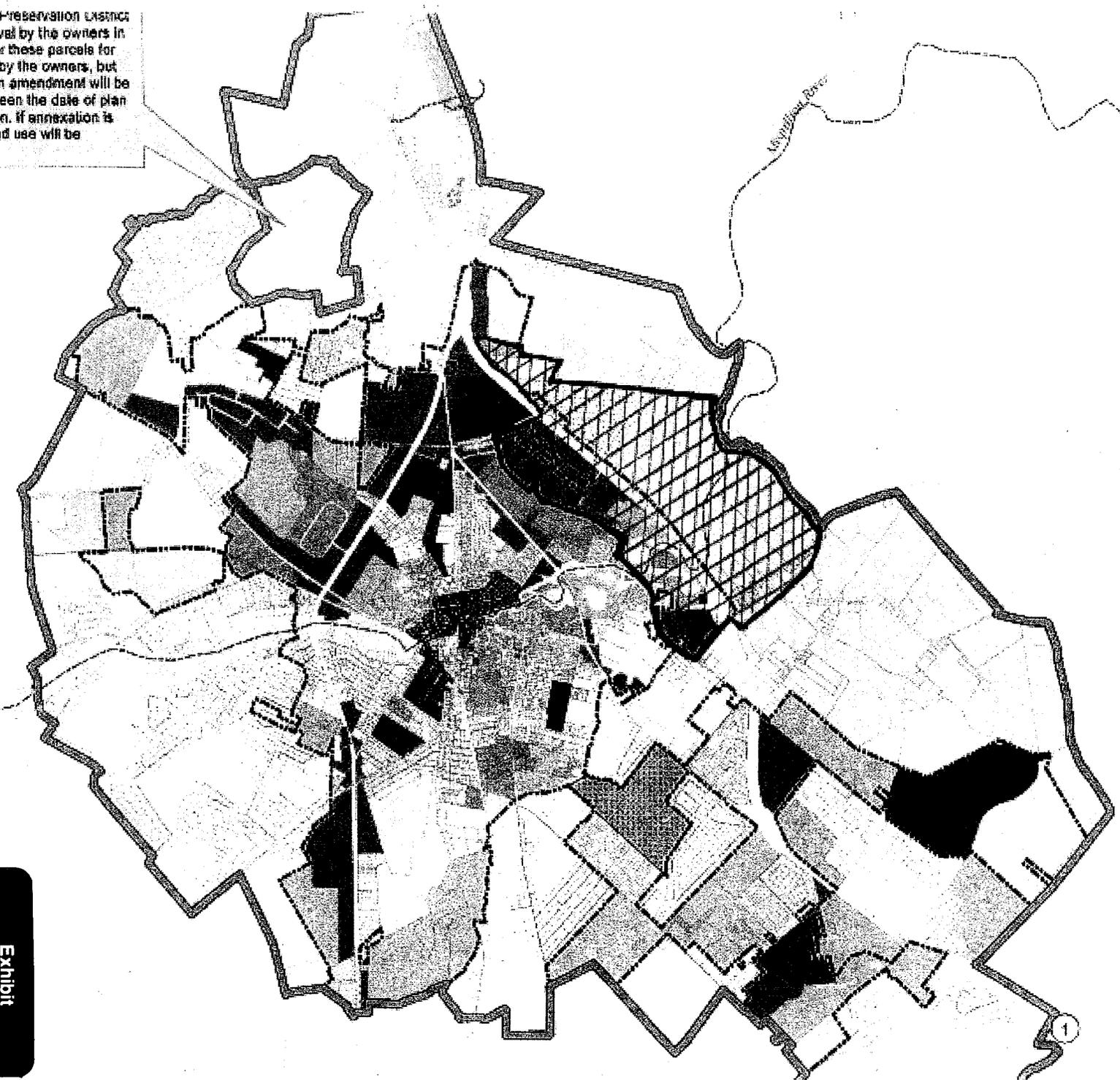
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MEMORANDUM OF AGREEMENT

BETWEEN

THE STATE OF DELAWARE

AND THE

CITY OF MILFORD, DELAWARE

FOR

THE COMPREHENSIVE MASTER PLANNING OF THE

"NORTH EAST MILFORD PLANNING AREA" AND ENVIRONS

THIS MEMORANDUM OF AGREEMENT ("MOA") is hereby made by and between the State of Delaware ("the State") and the City of Milford ("the City"), a municipal corporation of the State of Delaware and states as follows:

WHEREAS, the Milford Southeast Neighborhood Master Plan was completed and adopted in July of 2011 and represents a model approach of collaborative planning for infrastructure, environmental protection, and land use that the State and the City would like to emulate;

AND WHEREAS, the City is in the process of preparing its 2013 Comprehensive Plan Amendment, and intends to reconsider its land use and annexation plan as it relates to lands located in the vicinity of the proposed grade separated intersection at NE Front Street and New Wharf Roads, show on the map attached hereto as "Exhibit A" and known hereinafter as the "North East Milford Planning Area";

AND WHEREAS, the City has initiated this plan amendment process due to development pressure in the North East Milford Planning Area as a result of the anticipated construction of a

new public grade separated intersection for State Route 1 which the State of Delaware Department of Transportation ("DelDOT") proposes to construct in the future;

AND WHEREAS, it is the City's position that any development in the North East Milford Planning Area will ultimately impact the City in many ways, including but not limited to the provision of additional public roadways and police and fire services;

AND WHEREAS, the City desires to integrate this area into the municipal limits in order to provide any future development with utilities and municipal services, while also capturing tax revenue to offset the City's cost in providing those services;

AND WHEREAS, much of the North East Milford Planning Area is located in Investment Level 3 according to the Strategies for State Policies and Spending, and the development of this territory has the potential to negatively impact the State transportation network and sensitive natural resources;

AND WHEREAS, all parties agree that if development of this area is contemplated it should be planned and implemented in a fashion that protects critical natural resources, maximizes needed infrastructure investments, provides sufficient tax revenue to support city services, and integrates into the transportation network to ensure safe and convenient travel for all current and future residents of Milford;

AND WHEREAS, upon certification of the City's 2013 Comprehensive Plan Amendment and subsequent annexation, the North East Milford Planning Area will be considered to be in compliance with the Strategies for State Policies and Spending, and the City of Milford will have the legal right and obligation to manage the development of any lands within its boundaries through zoning and other land use regulations;

NOW, THEREFORE, BE IT RESOLVED that the State and the City, intending to be legally bound, do hereby agree:

- 1) To work cooperatively through the planning process to produce a comprehensive regional Master Plan to include land use policies and the transportation, sewer, water, and other community facilities plans needed in order to best accommodate future growth in the North East Milford Planning Area and Environs (the "Planning Area").
- 2) A scope of work will be developed as an initial step in the Master Plan process, and will be subject to the mutual consent of all signatories of this agreement. At this time the boundaries of the project area as depicted on "Exhibit A" may be adjusted, subject to the mutual consent of all signatories of this agreement.
- 3) To actively involve other key stakeholders in the preparation of the Master Plan for the Planning Area. The Master Plan is to be coordinated with these stakeholders to the maximum extent that is possible, depending upon their interest and ability to be actively involved in the planning process. Key stakeholders include, but are not limited to, Kent County, the Milford School District, emergency service providers such as the Carlisle Fire Company and Kent County EMS, and any relevant State agencies.
- 4) To work cooperatively and coordinate these planning efforts to ensure that property owners, residents, business owners, developers of proposed developments in the Planning Area, other interested parties, and the general public have an opportunity to participate in development of the Master Plan.
- 5) That it is the intent of the parties to ensure that sewer, water, or other public utility infrastructure is not extended into areas outside designated area to serve new development, unless the City, State, and Kent County agree to such extensions as part of a future certified Comprehensive Plan. The parties agree to use all technical,

administrative, and legal means available to ensure that this is achieved. The parties reserve the right to consider health, safety, and welfare issues related to existing uses, such as remediation of failing septic systems, on a case-by-case basis.

- 6) To work collaboratively to determine the needed transportation improvements to serve the intended uses and densities in the Planning Area, and to integrate those needs in the Master Plan document as a detailed circulation element. The State, the City, private developers, and land owners will work jointly to develop cost estimates, funding strategies, implementation plans, and land use controls to ensure that new development activity is implemented in conjunction with needed transportation improvements.
- 7) That it is the goal of the parties to recognize and protect the important natural resources in the Planning Area, and to include strategies and implementation mechanisms in the Master Plan that foster the preservation of these areas.
- 8) To consider and encourage a variety of appropriate and complimentary land uses in the Planning Area, including but not necessarily limited to commercial and/or residential uses intended to serve the local area.
- 9) To institutionalize a process for continual communication and monitoring of plan implementation that includes regular information sharing, developing a set of indicators for the timing of new infrastructure investment, and acting on such indicators in order to provide the infrastructure when needed.
- 10) That the City may consider the annexation of properties in the Planning Area at any time after certification of the City's 2013 Comprehensive Plan Amendment.

- 11) That the none of the parties will give any subdivision, site plan, development approvals, or permits for new development activities prior to (a) adoption of an approved Master Plan for the Planning Area (and then only in compliance with the Master Plan), and (b) DeIDOT awards a contract for the construction of its intended grade separated intersection for the Planning Area.

- 12) To review the provisions outlined within this Agreement regularly as construction of necessary infrastructure and private land development commences.

DRAFT

Signature Page

The Honorable Joseph R. Rogers
Mayor, City of Milford

Date

Shailen Bhatt
Secretary, Delaware Department of Transportation

Date

Constance C. Holland
Director, Office of State Planning Coordination

Date

(placeholder for DNREC Secretary)

Date

Proposed Language
for the
City of Milford 2013 Comprehensive Plan Update

North East Milford Planning Area and Environs

The North East Milford Planning Area is comprised of approximately _____ acres of land located on the east side of State Route 1 and east of the current City of Milford limits, including but not limited to a residential subdivision and 96+/- acres known as the “Lynch Property” (see the cross-hatched area delineated on Map #___). The area includes a significant amount of wetlands, including but not limited to sensitive wetland areas along the Mispillion River. The State of Delaware Department of Transportation (“DeDOT”) anticipates constructing a new interchange in the Area which will connect both Northeast Front Street (on the west) and New Wharf Road (on the east) to State Route 1. The State and the City anticipate entering into a Memorandum of Agreement (MOA) regarding master planning for development of the Area, contemporaneous with the adoption of this Comprehensive Plan Update. The MOA will describe the ongoing planning for this Area in cooperation with various stakeholders, including the Office of State Planning Coordination (“OSPC”), DeDOT, Kent County, the Milford School District, emergency service providers such as the Carlisle Fire Company and Kent County EMS, and any relevant State agencies. The City looks forward to working with the OSPC regarding this important planning venture. A copy of the MOA is included within the Appendix to this Comprehensive Plan Update.

Challenges and Opportunities:

- The intersection improvements to State Route 1, Northeast Front Street, and New Wharf Road by the construction of an overpass/interchange in the Area.
- Future commercial, residential, and/or other development in the Area.
- The need for additional public utilities to serve the Area.
- The need for additional public services, such as police and fire protection, to serve the Area.

Exhibit

C

From: Christine R. Crouch

Sent: Monday, October 21, 2013 8:47 AM

To: Terri Hudson

Cc: Gary J. Norris; David Rutt (dnrutt@mooreandrutt.com)

Subject: FW: Comp Plan Amendment

Terri,

Please include with the Council packet for 10/28/13.

This was not received in time for the planning commission meeting so they have not reviewed. According to Mr. Rutt that is not a problem in having his request reviewed by Council.

Thank you.

Christine Crouch

Executive Assistant | Deputy City Clerk

302.424.3712 x308, F 302.424.3558

www.cityofmilford.com

October 17, 2013

City of Milford Planning & Zoning
c/o Gary Norris, City Planner
201 South Walnut Street
Milford, Delaware 19963

RE: Request For Comprehensive Plan Change

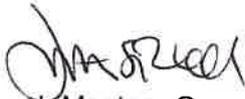
Property Address: Vacant Lot Adjacent to Brookstone Trace,
Near Old Shawnee Road, Milford, Delaware 19963
Owner: Mispillion Realty, LLC & Frank Emmi (To be acquired by Mispillion Realty, LLC)
Tax Parcel # 1-30-3.00-80.02 (Emmi will be combined to total 2 Acres; Survey Attached)

Dear Gary,

It is my understanding that the future comprehensive plan for the City of Milford is currently being updated. This letter serves as a formal request to update the new comprehensive plan on the above parcel(s). The Brookstone subdivision is zoned R-3 so I request that this parcel have the same possibilities. I believe the comprehensive category is moderate density residential. I plan to request annexation in the near future.

Thank you for your assistance. When possible, can you confirm receipt of this letter. Call with any questions or clarifications, if necessary.

Sincerely,



James J. Masten, Owner
Mispillion Realty, LLC

cc: Christine Crouch



DATA COLUMN:

TAX PARCEL:	1-30-3 00-79 00 (PART OF)
	1-30-3 00-80 02 (ALL OF)
AREA PRE ADJUSTMENT	
PARCEL 79 00	75,773 SQ FT ± (1.74 AC±)
PARCEL 80 02	43,369 SQ FT ± (1.00 AC±)
AREA POST ADJUSTMENT	
PARCEL 79 00:	32,527 SQ FT ± (0.75 AC±)
PARCEL 80 02	86,599 SQ FT ± (1.97 AC±)
FRONTAGE:	
PARCEL 79 00	102.87' (NO CHANGE)
PARCEL 80 02	N/A (NO CHANGE)

NOTES:

THE APPROVAL OF THIS SUBDIVISION PLAN DOES NOT CONSTITUTE A SEPARATE BUILDING LOT AND IS INTENDED TO BE COMBINED WITH AN ADJACENT PROPERTY IN THE SAME OWNERSHIP.

NO EASEMENTS OR RIGHTS-OF-WAY PROVIDED.

LANDS OF BRIAN T. WARNOCK & FRANK EMMI Jr. c/o ROBERT T. WILLIAMS	
CEDAR CREEK HUNDRED	DATE: 31 AUG 2013
SUSSEX COUNTY, DELAWARE	W.O.: 13-8-112
 Bob Nash ASSOCIATES Surveying & Land Design P.O. Box 269 - Millard, DE 19963 (302) 422-7327 P.L.S. 561	T.M.: 1-30-3-79 & 80.01
	F.B.: 12-59
	DISK: brookstone.dwg
SCALE: 1" = 50'	



PUBLIC NOTICE

Notice is hereby given the following ordinance is under review by the Milford Planning Commission and Milford City Council and Public Hearings have been scheduled as indicated.

Ordinance 2013-09
DBF on behalf of Shawnee Farms LLC
for a Modification to an Existing Conditional Use at Cypress Hall (Commercial)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE APPROVING A MODIFICATION TO A CONDITIONAL USE WHICH WILL ALLOW THREE GASOLINE PUMPS AT REDNER'S MARKET IN A C-3 DISTRICT AT 28253 LEXUS DRIVE, MILFORD, DELAWARE.
TAX PARCEL 1-30-3.00-261.00

Whereas, the City of Milford Planning Commission reviewed the application at a Public Hearing on August 20, 2013 and has presented item to be considered by the City Council; and

Whereas, Milford City Council held an advertised Public Hearing on September 23, 2013 to allow for public comment and review of the application; and

Whereas, it is deemed in the best interest of the City of Milford to allow a Conditional Use for Three Gasoline Pumps as herein described.

Now, Therefore, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, Cypress Hall Commercial on behalf of Legal Owner Shawnee Farms LLC is hereby granted a Conditional Use Permit in accordance with the application, approved plans and any conditions set forth.

Section 2. Construction or operation shall be commenced within one year of the date of issuance or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council 09-23-13
Planning Commission Review & Public Hearing 10-15-13
City Council Review & Public Hearing 10-28-13

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

Ordinance 2013-09 is scheduled for adoption, with or without amendments, at the scheduled City Council Meeting on October 28, 2013. Should you have questions, please contact the City of Milford Planning Department at 302-424-3712 Extension 308.

City of Milford



Certificate of Honorary Citizenship

*GREETINGS: ON BEHALF OF THE CITIZENS OF THE CITY OF
MILFORD, DELAWARE, USA, WE WELCOME:*

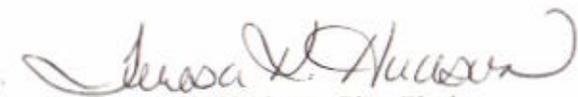
MAXI PETZOLD

Foreign Exchange Student-Country of Germany



By virtue of the power vested in me as Mayor, and on behalf of the City Council of Milford, Delaware, I am indeed honored and pleased to bestow upon you, this Honorary Citizenship. Given under my hand and Seal of the City of Milford, this 28th day of October 2013.


Joseph Ronnie Rogers, Mayor
City of Milford, Delaware


Teresa K. Hudson, City Clerk
Milford Tribute 2013-15

City of Milford



PROCLAMATION 2013-13 RED RIBBON WEEK

Whereas, cities across America have been plagued by the numerous problems associated with alcohol, tobacco, and other drug use; and

Whereas, there is hope in winning the War on Drugs, and the hope lies in the hard work and determination of our communities to create a drug free environment; and

Whereas, local leaders, in government and in the community, know that the support of the people in the neighborhoods is the most effective tool they can have in their efforts to reduce use of alcohol, tobacco, and other drugs by Delawareans; and

Whereas, success will not occur overnight, our patience and continued commitment to drug education and prevention are imperative; and

Whereas, the red ribbon was chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration agent, who was murdered in the line of duty and has come to represent the belief that one person CAN make a difference; and

Whereas, the Red Ribbon Campaign was established by Congress in 1988 to promote this belief and encourage a drug-free lifestyle and involvement in drug prevention efforts; and;

Whereas, October 23-29, 2013 has been designated National Red Ribbon Week calling on all Americans to show their support for a drug-free state by wearing a red ribbon and participating in drug-free activities during that week:

NOW, THEREFORE, BE IT RESOLVED THAT I, JOSEPH R. ROGERS, MAYOR OF THE CITY OF MILFORD, do hereby proclaim October 23-29, 2013, as Red Ribbon Week in honor of the Lower Delaware Detachment of the Young Marines and encourage all citizens, businesses, public and private agencies, media, religious and educational institutions to wear and display red ribbons and participate in drug-free activities throughout that week, joining the rest of the state in promoting the Red Ribbon Celebration and a drug-free America.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 21st day of October in the Year of our Lord Two Thousand and Thirteen.

Mayor Joseph R. Rogers

Attest _____

City of Milford



PROCLAMATION 2013-14

DECLARING THE MONTH OF NOVEMBER "PANCREATIC CANCER AWARENESS MONTH" IN THE CITY OF MILFORD

WHEREAS:

in 2013, an estimated 45,220 people will be diagnosed with pancreatic cancer in the United States and 38,460 will die from the disease;

pancreatic cancer is one of the deadliest cancers, is the fourth leading cause of cancer death in the United States, and is the only major cancer with a five-year relative survival rate in the single digits at just six percent;

when symptoms of pancreatic cancer present themselves, it is late stage, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 94 percent of pancreatic cancer patients die within the first five years;

approximately 120 deaths due to pancreatic cancer will occur in Delaware in 2013;

the incidence and death rate for pancreatic cancer are increasing and pancreatic cancer is anticipated to move from the fourth to the second leading cause of cancer death in the U.S. by 2020;

the U.S. Congress passed the *Recalcitrant Cancer Research Act* last year, which calls on the National Cancer Institute to develop a scientific frameworks, or strategic plans, for pancreatic cancer and other deadly cancers, which will help provide the strategic direction and guidance needed to make true progress against these diseases; and

the Pancreatic Cancer Action Network is the national organization serving the pancreatic cancer community in the city of Milford and nationwide through a comprehensive approach that includes public policy, research funding, patient services, and public awareness and education related to developing effective treatments and a cure for pancreatic cancer;

the Pancreatic Cancer Action Network and its affiliates in the city of Milford support those patients currently battling pancreatic cancer, as well as to those who have lost their lives to the disease, and are committed to nothing less than a cure;

the good health and well-being of the residents of the city of Milford are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments;

NOW, THEREFORE, BE IT RESOLVED, THAT, I, Joseph Ronnie Rogers, Mayor of the City of Milford, do hereby proclaim the month of November 2013 as "Pancreatic Cancer Month" in the City of Milford.

Mayor Joseph Ronnie Rogers

Attest:

City Clerk

Adopted: October 28, 2013



Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

Town of Bethany Beach

Town of Bethel

Town of Blades

Town of Bridgeville

Town of Dagsboro

Town of Delmar

Town of Dewey Beach

Town of Ellendale

Town of Fenwick Island

Town of Frankford

Town of Georgetown

Town of Greenwood

Town of Henlopen Acres

Town of Laurel

City of Lewes

City of Milford

Town of Millsboro

Town of Millsville

Town of Milton

Town of Ocean View

City of Rehoboth Beach

City of Seaford

Town of Selbyville

Town of Slaughter Beach

Town of South Bethany

Sussex County Council

MEETING NOTICE

LOCATION: Lewes Yacht Club
2701 Cedar Avenue, Lewes

DATE: Wednesday, November 6

TIME: 6:00 p.m. – Social
6:30 p.m. – Dinner

HOST: City of Lewes

SPEAKER: Carol Wzorek and Barbara Vaughn
Greater Lewes Community Village

COST: \$34.00

MENU: Green Salad
Grilled Salmon with Dill Sauce
Chicken Marsala
Roasted Red Potatoes
Green Bean Almandine
Assorted Desserts

Please RSVP to Alice Erickson - 645-7777 (ext. 108) or aerickson@ci.lewes.de.us

RSVP BY NOON ON WEDNESDAY, OCTOBER 30TH.

Make checks payable to the City of Lewes.

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**DELAWARE LEAGUE OF LOCAL GOVERNMENTS
MONTHLY DINNER MEETING
NOVEMBER 21ST, 2013
DOVER DOWNS HOTEL
2ND FLOOR, FESTIVAL BUFFET A
1131 NORTH DUPONT HIGHWAY
DOVER, DELAWARE**

SOCIAL HOUR: 6:00 P.M. - 6:45 P.M.
 OPENING: 6:45 P.M. - 7:00P.M.
 DINNER: 7:00 P.M. - 7:30 P.M.
 PROGRAM: 7:30 P.M. - 8:00 P.M.

PROGRAM

Bill Brockenbrough from DelDOT will be presenting the topic of Transportation Improvement Districts (TID). He will discuss the benefits to municipalities and counties once TID's are established. In spite of what you may have heard, they are not mandatory. TID's currently exist in Delaware, such as Westtown in Middletown.

La Donna Norvell from Delmarva Foundation of Medical Care will provide information for your residents on the major features of the new healthcare law and what changes are coming. She will also discuss the Delaware Health Insurance Marketplace Program.

NEXT MEETING: THURSDAY JANUARY 23RD, 2014

Special diets can be accommodated with 24 hours notice

WE MUST HAVE YOUR RESERVATIONS NO LATER THAN November 11th, 2013

Mail To: Delaware League of Local Governments
 P.O. Box 484
 Dover, Delaware 19903

Telephone: 302-678-0991 Fax: 302-678-4777 Email: gwright@udel.edu

_____ will have _____ attendees
 (Municipality/County/Agency)

PLEASE LIST THE NAMES OF THOSE ATTENDING

<u>Name</u>		<u>Title</u>
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____

- () Check enclosed for () dinners @ \$30.00 each
- () Please direct bill the Municipality/County/Agency
- () Payment will be made at the door
- () Enclosed for () dinners @ \$30.00 each

REMINDER-

Due to the Veterans Day holiday, the
Monthly Meeting will be held

TUESDAY, NOVEMBER 12th at 7:00 PM

*Michael R. Wigley, AIA, LEED AP
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA
Jason P. Loar, P.E.
Gerald G. Friedel, P.E.*

October 9, 2013

City of Milford
201 S. Walnut Street
Milford, Delaware 19963

Attn: Mr. Richard Carmean
City Manager

RE: PROPOSAL
Seabury Avenue Well Abandonment and Exploratory Pilot Bore
Milford, Delaware
DBF #P0052A13.006

Dear Richard:

In response to the City's recent agreement with Redner's Market, Inc., Davis, Bowen & Friedel, Inc. (DBF) is pleased to present this proposal for providing engineering services for the above-referenced work. As part of a cost sharing agreement with Redner's Market, Inc., we understand the City would like to abandon the existing shallow well (Well No. 9) and perform an exploratory pilot bore at the Seabury Avenue site to determine if a confined satisfactory formation exists to provide for replacement of the production loss from the abandonment of Well No. 9. Should the results of the exploratory bore be positive, additional work including the installation of a test well and possible production well will be performed under a separate proposal at a later date.

A description of our proposed scope of services and associated lump sum fees for each portion of the work is as follows:

A. WELL NO. 9 ABANDONMENT

Our office will contract with A.C. Schultes of Delaware, Inc. and oversee the abandonment of the approximately 75 foot deep well (Well No. 9). All work will be performed in accordance with State of Delaware regulations including removal of existing pump, motor, drop pipe and wiring prior to filling the well with bentonite material. The following fee shall also include the submission of the well abandonment report to DNREC as required.

Lump Sum Fee: \$6,250.00

Mr. Richard Carmean
October 9, 2013
Page 2

B. EXPLORATORY PILOT BORE

Our office will contract with A.C. Schultes of Delaware, Inc. and oversee the installation of an approximately 600 foot deep bore hole for the purpose of locating and determining aquifer characteristics in the area of the Seabury Water Plant. The work shall include obtaining the required bore permit from DNREC, performance of the 6 3/4" diameter bore hole, sampling of the bore material at specific locations, electric logging of the bore hole, sieve analysis of selected samples, and abandonment of the bore hole in accordance with state requirements.

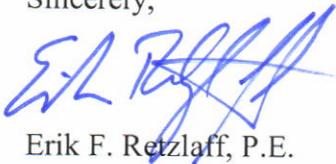
Lump Sum Fee: \$14,500.00

We propose to perform the above described work for the lump sums listed above. Billing will be submitted monthly based on the percentage of work completed the previous month. Additional services beyond the above scope as authorized by the City will be performed on an hourly basis in accordance with the enclosed Schedule of Rates No. 44. Payment terms shall be in accordance with our attached rate schedule.

Should you find this proposal acceptable, please execute below and return one (1) copy to us for our files. Receipt of a signed copy will be considered as our authorization to proceed.

On behalf of Davis, Bowen & Friedel, Inc., we appreciate the opportunity to offer our services and look forward to continuing our work with you on this project. If you should have any questions or need additional information, please call.

Sincerely,



Erik F. Retzlaff, P.E.
Associate

\\Proposals\Municipal\Milford\P0052A13.006 Seabury Ave Well Aband-Exploratory Bore

ACCEPTED BY:

Signature

Date

Printed Name

DAVIS, BOWEN & FRIEDEL, INC. ("DBF")
SCHEDULE OF RATES AND GENERAL CONDITIONS
 SCHEDULE NO. 44
 Effective June 1, 2006

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Senior Architect	\$135.00
Architect	\$105.00
Senior Landscape Architect	\$135.00
Landscape Architect	\$105.00
Senior Engineer	\$135.00
Engineer	\$105.00
Senior Planner	\$135.00
Planner	\$85.00
Construction Administrator	\$105.00
Traffic Engineer	\$105.00
Geologist	\$105.00
GIS Specialist	\$95.00
Senior Surveyor	\$135.00
Associate Surveyor	\$105.00
Surveyor	\$100.00
Senior Designer	\$100.00
Computer Graphics Designer	\$85.00
Designer	\$95.00
CADD I	\$80.00
CADD II	\$70.00
Computer Administrator	\$85.00
2 Man Field Crew	\$130.00
3 Man Field Crew	\$165.00
GPS Unit (1 man)	\$100.00
GPS Unit (2 man Crew)	\$140.00
GPS Unit (3 man Crew)	\$180.00
Resident Project Representative	\$80.00
Clerical	\$50.00
Travel	\$0.50
Direct Expense	Cost + 10%
Prints (In-house Reproduction)	\$2.50/sheet

GENERAL CONDITIONS

INVOICES & PAYMENT

Invoices are sent monthly or sooner if project is complete. Payment Terms: Net 30 days of invoice date. Any invoice not paid within 30 days shall bear interest at 1.0% per month (12% annually). If required to engage legal counsel to collect an overdue invoice, DBF shall be entitled to recover also its costs of collection, including counsel fees and expenses. DBF reserves the right to adjust its schedule of rates annually. Any such adjustments will be effective within 30 days after written notification to the client.

TERMINATION OF CONTRACT

Client may terminate this agreement upon seven days' prior written notice to DBF for convenience or cause. DBF may terminate this Agreement for cause upon seven days' prior written notice to client. Failure of client to pay invoices when due shall be cause for immediate suspension and ultimate termination of services, at DBF's sole discretion. This agreement may be terminated by either party for any reason with 30 days advance notice.

LIMITATION OF LIABILITY

Client agrees to limit DBF's liability related to any errors or omissions to a sum that shall not exceed the total professional fee for the project.

INDEMNIFICATION

Client and DBF each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorney's fees caused by the other's negligence. To the extent such claims, losses, damages or expenses are caused by the joint or concurrent negligence of client and DBF, the same shall be borne by each party in proportion to its negligence. This shall in no way affect the limitation of DBF's liability expressed in the preceding paragraph.

FORCE MAJEURE

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

CONSTRUCTION PHASE SERVICES

If this Agreement provides for any construction phase services by DBF, it is understood that the contractor, not DBF, is solely responsible for the construction of the project, and that DBF shall not be responsible for the acts or omissions of any contractor, subcontractor or material supplier; for safety precautions, programs or enforcement; or for construction means, methods, techniques, sequences and procedures employed by the contractor, its subcontractors or suppliers.

OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by DBF pursuant to this Agreement, including electronic media, are instruments of DBF's professional service, and DBF shall retain an ownership and property interest therein. DBF grants client, during the period of DBF's service, a license to use such documents for the purpose of constructing, occupying and maintaining the project. Reuse or modification of any such documents by client or client's agents, without DBF's written permission, shall be at client's sole risk; and client agrees to indemnify and hold DBF harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by client or by others acting through or with the consent of client.

USE OF ELECTRONIC MEDIA

Copies of documents that may be relied upon by client are limited to the printed copies (also known as hard copies) that are signed or sealed by DBF. Files in electronic media format or text, data, graphic or other types that are furnished by DBF to client are only for convenience of client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, DBF makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, computer hardware or of a protocol differing from those in use by DBF during the period of this agreement.

SUCCESSORS & ASSIGNS

The client and DBF bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

MISCELLANEOUS PROVISIONS

Unless otherwise specified, this Agreement shall be governed by laws of the State in which the work is performed, and the courts of such State shall have exclusive jurisdiction over any disputes hereunder. Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. If this schedule is incorporated or referenced in an agreement with client, the terms of this schedule shall prevail in the event of any conflict with the terms of such agreement.

REIMBURSABLE EXPENSES

Other expenses known as direct expenses incurred in the interest of the project (including travel, toll communications, postage, delivery, photographs, subcontract engineering, testing or other consultants, renderings, models, etc.) will be billed monthly at DBF's actual cost plus ten percent.

*Michael R. Wigley, AIA, LEED AP
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
W. Zachary Crouch, P.E.
Michael E. Wheedleton, AIA
Jason P. Loar, P.E.
Gerald G. Friedel, P.E.*

October 28, 2013

City of Milford
201 South Walnut Street
Milford, Delaware 19963

Attn: Richard D. Carmean
City Manager

RE: **Sewer Reserve Transfer Request**
Wash. St. Sewage Pumping Station Rehab project
City of Milford, Delaware
DBF # 052A155

Dear Dick:

In order to successfully complete the Washington Street Sewage Pumping Station Rehabilitation project, it is recommended that \$75,000 be transferred from Sewer Reserves to the project to cover costs of additional work not included in the original scope. The \$75,000 amount is less than 10% of the awarded amount of \$762,400.00. This supplemental funding of \$75,000 is commensurate with a project of this type considering the structure is 35 years old and this is the first significant project since its installation.

The requested amount can be broken down as follows:

\$22,000.00 Brick Replacement

In the original project scope, the Contractor was responsible for repairing the cracks in the mortar. The Contractor was also to salvage the brick veneer from the concrete block ell that was removed and reapply to the structure. During the removal of the concrete block ell, it was determined that the brick veneer was not connected to the actual building. This is why the mortar had cracked in the first place. Any work to repair the cracks would only be a temporary fix. The Contractor will be providing a 6" stainless steel brick ledge that will be anchored into the building along the entire perimeter. A new brick veneer will be installed to match that of the Milford Public Library across the street.

- \$13,000.00 Grinder Channel Repair
In the original project scope, the Contractor was to remove the existing grinder or “comminutor” and install a new grinder per current technology. Once the old unit was removed, the channel walls were found to be in extremely poor condition. They are not structurally sound nor are they the waterproof barrier they were intended to be. Installing the unit in the existing channel is not recommended and would most likely lead to the failure of the existing block walls in the very near future. The Contractor is to remove the existing block walls and pour-in-place new concrete channel walls with waterproofing and reinforcement that will be tied into the existing structure.
- \$10,000.00 Infiltration Repair
In the original project scope, the Contractor was responsible for repairing one area where groundwater infiltration was evident. However, not all of the areas within the pumping station could be inspected for infiltration until the sewage flows were redirected. Once this occurred, a number of additional leaking areas were identified and have been subsequently repaired via pressure grouting.
- \$5,000.00 Bypass Pump Impeller Upgrade
After the project had been awarded, we were informed of an impeller upgrade for the Bypass Pump that would prevent clogging. This upgrade was not available when the contract documents were prepared or it would have been included originally. The upgrade will allow for more reliable operation of the bypass pump.
- \$5,000.00 Concrete Surface Repair & Coatings Inspection
Once the sewage had been diverted, we were able to enter the wet well of the pumping station. Upon inspection, we identified areas of the concrete structure requiring repair and coating to provide longevity. To ensure proper repair and surface preparation for the coating systems, a certified inspector is needed. This is an estimated fee based on the anticipated scope of work.
- \$12,500.00 Additional Inspection Fees
All of the items listed above are additional to the original scope of work. As the scope of work has increased, so has the amount of inspection required. This cost is an estimated fee and the City will only pay for those services necessary to complete the project.
- \$7,500.00 Additional Construction Administration Fees
Similar to the additional inspection fees above, all of the construction items listed above are additional to the original scope of work. As the scope of work has increased, so has the amount of construction administration required. This cost is an estimated fee and the City will only pay for those services necessary to complete the project.

For clarification, please find attached some photos of the items discussed above. Should you have any questions or need additional information, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Retzlaff", with a horizontal line extending to the right from the end of the signature.

Erik F. Retzlaff, P.E.
Associate

Enc.

Milford\052A155\Wash St PS\Construction Admin\Sewer Reserve Transfer Request

cc: Brad Dennehy, City of Milford











08/14/2013



10/24/2013



10/24/2013





09/18/2013





09/18/2013

09/18/2013

10/16/2013





09/10/2013