

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
October 24, 2016

Milford City Council held Public Hearings on Monday, October 24, 2016 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan W. Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Arthur Campbell, Lisa Ingram Peel, Owen Brooks Jr., Douglas Morrow and James Starling Sr.  
  
City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe called the Public Hearing to order at 7:01 p.m.

*Final Authorization for the Borrowing (As Set Forth in Ordinance 2016-19)  
of Amount Not Exceeding \$9,800,000 for the Refunding Program Pay Certain Costs Associated  
with the Issuance of its General Obligation Bonds Series of 2016 (the "2016 Bonds")  
Adoption/Resolution 2016-16*

*Authorizing a Certain 2016 Refunding Project and Incurrence of Indebtedness;  
Authorizing the Issuance of General Obligation Bonds, Series of 2016 (The "2016 Bonds");  
Providing Funds for and toward such Refunding Project; Setting Terms of the 2016 Bonds  
Adoption/Ordinance 2016-19*

City Manager Norenberg recalled the previous presentation provided by the City's Financial Advisor regarding the refinancing. He reminded Council this is not new debt but existing debt for electric and sewer bonds. The process requires multiple steps as outlined in the City Charter and tonight a Resolution and Ordinance must be adopted in order to proceed. The updated presentation is included in the Council packet.

City Bond Counsel Timothy B. Anderson from the Law Firm of Dinsmore & Shohl LLP then addressed Council reporting that his colleagues were here two weeks ago. At that time, they presented the potential for refunding the City's 2011-A Bonds and the issuance of 2016 Bonds. In order to issue the new bonds, the City is required to adopt a resolution tonight, in addition to an ordinance that will authorize the issue of the bonds based upon maximum perimeters that will establish a maximum principal amount of \$9.8 million, maximum interest rate of 5% and set a final maturity date of January 1, 2037.

Mr. Anderson further explained that the estimated savings are in the neighborhood of \$568,000 based upon the most recent evaluation. The ordinance would propose the issuance and authorize the proper City officials to proceed toward the bond issuance which includes setting the pricing date. At that point, a contract would be entered into, rates locked and other action taken to proceed toward the closing and signing of the various legal documents.

The Bond Attorney anticipates a potential closing date around December 6, 2016.

The City Manager then pointed out the potential savings amount is lower than what was discussed two weeks and is based on the fluctuation in interest rates. However, that savings amount will be finalized at the time the bonds are sold and the interest rate is locked in.

Mr. Norenberg also reported that last week, Mayor Shupe, Finance Director Jeff Portmann and he participated in a conference call with Standard and Poor's to discuss the City's updated rating which is expected later this week.

Mr. Anderson concluded by pointing out this will be the last formal action by City Council on this matter. Assuming the

resolution and ordinance are approved, the designated officers of the City will then move ahead with the bond purchase and closing process.

Councilmember Campbell verified the City is proceeding with Option 1 that provides the savings up front and will be used toward the Smart Meter Project.

Mayor Shupe then opened the floor to public comment. With no one responding, Mayor Shupe closed the public hearing. The Mayor then returned the floor to Council for further deliberations.

There being none, Councilmember Brooks moved to adopt Resolution 2016-16, seconded by Councilmember Morrow:

#### RESOLUTION 2016-16

WHEREAS, the City Council of the City of Milford, Delaware ("City Council") has been advised that the City of Milford can achieve present value debt service savings by refinancing a portion of the City's outstanding General Obligation Bonds, Series A of 2011 (the "Refunding Program").

NOW, THEREFORE, BE IT RESOLVED, and it is resolved that the City Council of the City of Milford, Delaware, after a public hearing held this day, does hereby provide final authorization for the borrowing (the provisions of which shall be set forth in an Ordinance) of an amount of money not exceeding \$9,800,000 for the Refunding Program described above, and to pay certain costs associated with the issuance of its General Obligation Bonds, Series of 2016 (the "2016 Bonds"). The average rate of interest on the 2016 Bonds shall not exceed 5.00%. The 2016 Bonds shall be secured by the full faith and credit of the City, shall be paid or funded by available revenues of the City and shall in all instances comply with the terms and conditions of a certain ordinance enacted this day in connection with the issuance of the 2016 Bonds.

s/Mayor Bryan W. Shupe

Attest: s/City Clerk Teresa K. Hudson

Motion carried by unanimous roll call vote.

Mayor Shupe then reopened the floor for public comment on Ordinance 2016-14. No one from the public responded, the floor was closed for public comment and returned to City Council.

Councilmember Morrow moved to adopt Ordinance 2016-19, seconded by Councilmember Starling:

#### ORDINANCE 2016-19\*

AUTHORIZING A CERTAIN 2016 REFUNDING PROJECT HEREIN DESCRIBED AND THE INCURRENCE OF INDEBTEDNESS; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES OF 2016 (THE "2016 BONDS") TO PROVIDE FUNDS FOR AND TOWARD SUCH REFUNDING PROJECT; SETTING FORTH TERMS OF THE 2016 BONDS; PROVIDING FOR BOOK-ENTRY ONLY BONDS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A PAYING AGENT AGREEMENT AND PROVIDING FOR THE APPOINTMENT OF A PAYING AGENT; COVENANTING TO BUDGET, APPROPRIATE AND PAY DEBT SERVICE ON THE 2016 BONDS AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE CITY FOR PAYMENT OF THE 2016 BONDS; SETTING FORTH THE SUBSTANTIAL FORM OF THE 2016 BONDS; PROVIDING FOR THE EXECUTION AND AUTHENTICATION OF THE 2016 BONDS; CREATING A DEBT SERVICE FUND FOR THE 2016 BONDS; PROVIDING FOR THE SALE OF THE 2016 BONDS AND AUTHORIZING THE ACCEPTANCE OF A BOND PURCHASE AGREEMENT FOR THE PURCHASE OF THE 2016 BONDS, SETTING FORTH THE MAXIMUM INTEREST RATE AND UNDERWRITER'S DISCOUNT ON THE 2016 BONDS; SETTING FORTH CERTAIN FEDERAL TAX COVENANTS; PROVIDING FOR THE APPLICATION OF 2016 BOND PROCEEDS; AUTHORIZING OFFICERS TO ACT; APPROVING THE CONTENT AND FORM OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING THE DISTRIBUTION THEREOF AND AUTHORIZING THE PREPARATION, EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT AND THE UNDERTAKING OF

CERTAIN CONTINUING DISCLOSURE; SETTING FORTH BOND INSURANCE PROVISIONS; SETTING FORTH THE DATE OF THE 2016 BONDS AND OTHER DOCUMENTS; PROVIDING FOR AN ESCROW AGREEMENT; AUTHORIZING OTHER NECESSARY ACTION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL INCONSISTENT ORDINANCES; AND STATING THE EFFECTIVE DATE

Motion carried by unanimous roll call vote.

*Code of the City of Milford*  
*Part II-General Legislation*  
*Chapter 230-Zoning Code*  
*Article III-Use and Area Regulations*  
*§230-14 - C-3 Highway Commercial District (Height Increase)*  
*Adoption/Ordinance 2016-14*

City Planning Coordinator Rob Pierce explained this is an amendment to the C-3 Highway Commercial Zoning District. The intent of the zoning is to provide height exceptions for hotels, motels and a potential aquarium in the C-3 zoning district. Currently the height restriction in the C-3 zone is three stories or 35 feet. Those investors who would like taller structures are required to go through the Board of Adjustment variance process.

He explained the proposed amendment would allow a height exemption for those uses over three stories but not over five stories and not exceeding sixty feet.

An aquarium is also proposed to be added to the list of conditional uses in the C-3 zoning district.

Mr. Pierce said the ordinance was reviewed by the Planning Commission at their September meeting at which time they recommended approval by a vote of 6-1.

With no questions from City Council, Mayor Shupe opened the floor to anyone from the public wishing to speak in favor of the ordinance. No one responded and he then asked if anyone wished to speak in opposition of the ordinance.

Pat Wagner of 6509 Cedar Neck Road, Milford, asked if this relates to the next application which involves a specific property already zoned C-3 or if it is the result of the Mr. Wiggles and Thawley properties being considered for C-3; Mr. Rutt explained this is an amendment to the height requirement and a general zone ordinance. He stated it has nothing to do with the next application. Ms. Wagner disagreed and pointed out that the next property is being considered for a C-3 zone and if adopted, this ordinance would definitely impact that property, as well as any property zoned C-3 in the City of Milford.

Mr. Rutt stated that is correct.

Ms. Wagner stated for the record she is opposed to this ordinance.

Norman Wilfong of 6039 Bucks Road stated he is opposed to the ordinance and is against commercial development along Route 1. It was determined Mr. Wilfong was referring to the next application and agreed to postpone his comments until the public comment portion period is opened at that time.

Lucius Webb of 20516 Sapp Road said he feels the City fathers should not have blanket approval for anything up to sixty feet as is allowed in the rest of the County. However, they should have judicial thought when something comes forward. It can be decided at that time whether or not they want a structure to be sixty feet tall. He feels there are a number of factors that should be considered including light pollution that comes with that type of development. He feels that should apply on any parcel, including the land being discussed during the next hearing. He does not believe something should be approved for that height unless it is made public what is going to be built on the property.

Planning Coordinator Rob Pierce clarified the three uses (hotel, motel and aquarium) are all conditional uses. Those type

items that Mr. Webb discussed could be addressed during the actual site plan review and it determined whether or not they would have an adverse impact to the neighboring properties with light pollution, property screening, buffering, etc.

Pat Wagner returned to podium and asked Council if they would call for a show of hands of those that are present tonight that would not be in favor of the change to the C-3 zone.

Solicitor Rutt then explained that if you look at the ordinance in its entirety, it relates to commercial uses. He further explained that in the ordinances, there are certain conditional uses. Conditional uses are not simply permitted and under that, motels and hotels require a minimum lot size of three acres. Aquariums would be added as a conditional use. Since all three apply as conditional uses, they have to go through an application and approval process which requires a public hearing. As a result, the applicant would be required to show the necessity of having excessive heights.

Mr. Rutt reiterated the height requirement being proposed strictly applies to conditional uses and that nothing can taller than three stories, other than those uses proposed tonight. He stated that the process requires the Planning Commission to review it and they can either agree or disagree to the additional height. It would then require a second public hearing before City Council.

Ms. Wagner pointed out the change in the ordinance will make the process much easier for that to happen in any C-3 properties in the future. She asked for clarification of the uses that would be permitted to be built to five stories or sixty feet. Mr. Rutt answered that a motel, hotel or aquarium are the only uses in the City Code that would be permitted to apply for the sixty feet height but only through the conditional use process. All other uses must be thirty-five feet or less.

Ms. Wagner asked if a potential C-3 property wants to build a hotel, they can come before Council through the conditional use process and ask for the sixty feet. Mr. Rutt stated they are able to request it, but it is not an automatic.

Ms. Wagner then asked those present to raise their hands if in opposition; a number of people present raised their hands.

There being no further public comments, Mayor Shupe closed the floor.

Councilman Brooks then asked if five stories is needed if the City gets an aquarium; Mayor Shupe said not necessarily and that depends on what they ask for. Councilman Morrow said more than likely they would ask for that height.

There being no further questions from City Council, Councilman Morrow moved to adopt Ordinance 2016-14, seconded by Councilman Mergner:

*WHEREAS, the City of Milford deems it necessary to provide for larger-scale commercial uses that may require large amounts of parking space or have a high traffic impact. These uses generally require locations on major arterial routes and serve both local and regional customers; and*

*WHEREAS, the City creates districts for said purpose and establishes a Board of Adjustment; and*

*WHEREAS, the City imposes penalties for violations, so as to lessen congestion in the streets; secure safety from fire, panic and other dangers; provide adequate light and air; prevent undue concentration of population and overcrowding of land; facilitate the adequate provision of transportation, water, sewage, school, park and other public requirements; conserve the value of buildings and encourage the most appropriate use of land; and promote the health, safety, morals and general welfare of the City of Milford.*

*NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:*

*Section 1.*

*An Ordinance to Amend the Code of the City of Milford by Amending Chapter 230 entitled Zoning.*

*Section 2.*

*Article III-Use and Area Regulations, 230-14 C-3 Highway Commercial District, C. Conditional Uses is hereby amended as follows:*

*C. Conditional uses subject to special requirements. The following uses are permitted subject to receiving a conditional use permit by the City Council as provided in Article IX of this chapter:*

*(1) Motels or hotels with a minimum lot size of three acres.*

***(19) Aquarium***

*Section 3.*

*Article III-Use and Area Regulations, 230-14.-C-3 Highway Commercial District, D. Area Regulations is hereby amended as follows:*

*D. Area regulations.*

*(1) Minimum lot area shall be one acre.*

*(2) Maximum lot coverage shall be 80%.*

*(3) Minimum lot width shall be as follows: for an interior lot 150 feet and for a corner lot 170 feet.*

*(4) Height of buildings shall not exceed three stories or 35 feet, **with the following exception: a motel, hotel, or aquarium may be erected to a height of over three stories, but not over five stories, and not exceeding 60 feet.***

*Section 4. Dates.*

*Planning Commission Review and Public Hearing: September 20, 2016*

*City Council Introduction: October 10, 2016*

*City Council Public Hearing and Adoption: October 24, 2016*

Motion carried by the following unanimous vote:

Councilmember Mergner - yes

Councilmember Campbell - yes

Councilmember Peel - yes

Councilmember Brooks - yes

Councilmember Morrow - yes

Councilmember Starling - yes

Councilman Morrow stated that he feels this will work because of the conditional use process that is in place that begins at the Planning Commission level.

*Amending and Adopting by Ordinance A Third Amendment to the 2011 Southeast Master Plan of the 2008 City of Milford Comprehensive Plan East of Route 1:*

*Mr Wiggles LLC (3-30-11.00-056.00)*

*Change of future land use designation from low density residential to highway commercial.*

*Country Life Homes Incorporated (3-30-11.00-070.00 & 3-30-11.00-070.03)*

*(Former Beverly Thawley Lands)*

*Change of Future Land Use Designation from Low Density Residential to Highway Commercial*

*Adoption/Ordinance 2016-17*

Mayor Shupe then asked Solicitor Rutt to explain the public hearing process for the comprehensive plan change.

The City Solicitor then stated the following:

*There are a lot of people here this evening and everyone will be given an opportunity to be heard. He wants to provide some ground rules to make the process go smoothly.*

*When Council holds public hearings on zoning applications, they are legislative hearings because Council will use the information gathered during the hearings to decide whether to adopt or deny an ordinance to amend and, in this case, the Comprehensive Zoning Map and the Southeast Milford Master Plan as was requested by the applicant.*

— *Milford in its zoning and land use decisions does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the Council in its deliberations.*

*After each application has been announced by the Mayor as has been in this situation, Planning Coordinator Rob Pierce will review with Council the minutes and testimony from the Planning Commission hearings and those minutes will become part of the record, along with any exhibits introduced at the Planning Commission hearings, and any recommendation made by the Commission.*

*The applicant will then be called on to present and explain its application and present reasons for supporting the application. Council, through the Mayor, may question the applicant and any of the applicants' witnesses.*

*After the applicant has presented its application, Council will provide an opportunity for anyone else in favor of the application to speak.*

*After that, any persons who oppose or question the application will be allowed to state the reasons for their opposition or questions. Following that, there will be no rebuttal per say by the applicant or applicants' counsel and the hearing will be closed unless the Council decides to seek answers to specific questions that arise from the opposing position to find out any further facts they may need.*

— *Further, the applicant will not be allowed to question persons who speak in opposition; and persons who speak in opposition will not be allowed to question the applicant or its witnesses. They will all be directed to the Mayor who will be conducting the public hearing.*

*If you intend to speak, please come to the front and stand at the podium, state your name and home address before you make your statement. Because of the number of people in attendance, please use the microphone which can be adjusted to allow everyone to hear you. If you represent or speak for a group or organization, please identify whom you represent. When you make your statement, please be concise and do not repeat yourself. If you have a written statement, you can hand it to me and it will be made part of the record. If there is more than one witness for the applicant or more than one person in opposition, please do not repeat points that the prior speaker has already stated. However, you may make a statement similar to supporting another speaker's stance, for example. If you wish to rely on a letter rather than speak, you may do so.*

*All persons in attendance should conduct themselves in an orderly fashion. No applause, no cheers, no jeers or other disruptive behavior that will prolong the hearing or negatively affect the record being made. If you have a cell phone, pager, beeper or other telephonic device with you, please take the time to turn it off or switch it to silent service.*

*At the conclusion of the public hearing, Council will take the application under consideration and may either approve it, deny it or defer it to a later date. The procedure will be explained at that time.*

*A copy of Title 22 entitled Municipalities and specifically Chapter 7 Planning Commission was provided to City Council.*

*Title 22 Municipalities Chapter 7 Planning Commission Section §702(b) reads as follows:*

— *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 (applies to Milford) 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.*

*Speakers need to keep in mind what the comprehensive plan is to encompass which is something for the applicant and the opposition to consider and to present into the record.*

Mayor Shupe then asked that City Planning Coordinator Rob Pierce establish the advertising that was done, as is required by law.

Mr. Pierce explained that Ordinance 2016-17 was advertised in the Milford Beacon on September 21, 2016. Letters were sent to property owners within 200 feet of the subject parcels. An information workshop was also held on October 12, 2016 at which time approximately forty people attended. This process meets the advertising and notification requirements.

The Planning Coordinator referred to the packet which included a staff report, comments resulting from the PLUS process and the Office of State Planning, along with various exhibits.

Mr. Pierce then referred to the overhead showing the site location and current zoning of the area. The three subject parcels include the Mr. Wiggles property, which is currently in city limits and consists of 70 acres zoned R-1 residential. It also includes the Thawley Farm property which is outside the City of Milford and in Sussex County's jurisdiction. The third property was annexed into the City and consists of nine acres and is already zoned C-3 highway commercial.

He then read the following report into record:

*In October 2014, Key Properties Group LLC submitted an application to rezone parcel numbers 3-30-11.00-56.00 (70.07 +/- acres of land known as the Mr. Wiggles property) from R-1 Single Family Residential to C-3 Highway/Commercial. Accompanying the rezoning application was a second application to annex five parcels of land, known as the Thawley farm properties and located in the middle of the three properties, into the City as C-3 Highway/Commercial. These five parcels have since been combined into parcel 3-30-11.00-70.00 as shown in the packet. As mentioned, parcel 3-30-11.00-70.03 is already located within the City of Milford and is designated C-3 Highway Commercial.*

*The applications were reviewed by Davis, Bowen & Friedel, Incorporated in November 2014 where it was determined that the requests were not in compliance with the Comprehensive Plan and the Southeast Master Plan future land use exhibits. Comments were forwarded to Key Properties Group in November 2014.*

*On August 27, 2015, Key Properties Group submitted a letter to the City requesting an amendment to the land use exhibits for the Southeast Master Plan, requesting a change of the previously-described parcels from Residential Low Density to Highway Commercial.*

*City Staff prepared the State-required PLUS application for an amendment to the Comprehensive Plan. The application was presented for informational purposes only to both the Planning Commission and City Council in October 2015. The application was then submitted and reviewed by the State in November 2015. PLUS comments received by the City in December 2015 are included in the staff report. In addition to the proposed land use changes, the amendment application included relocating the TDR (Transfer of Development Rights) sending areas, currently located on the Mr. Wiggles property, to the Red Cedar Farms parcel along Bucks Road. Currently, the City does not have an active TDR program though something that will be worked on in the near future.*

*In August 2016, Key Properties and the City met with representatives from DelDOT to discuss transportation and property*

*access concerns.*

*On September 22, 2016, parties of the original Southeast Master Plan, including the City, Office of State Planning Coordination, DelDOT, DNREC and the Delaware Department of Agriculture, met to review the proposed future land use amendment. Updated agency comments dated October 3, 2016 are also provided for review in the Council packet.*

*A public workshop was held on October 12, 2016 from 5:00 to 7:00 p.m. at City Hall where City staff and the City Manager provided additional information regarding the proposed comprehensive plan amendment to the general public.*

Mr. Pierce then provided information on items that were included in the Staff report for consideration under the Analysis Section:

*The 2011 Southeast Master Plan was an amendment to the City's Comprehensive Plan and is used to guide growth and development in this area of the City. The goal of the Master Plan was to provide predictable, shovel ready development and proactive preservation. The Master Planning process included an extensive public participation effort with input from local residents and property owners. As mentioned in the 2015 PLUS comments, the subject parcels were considered for commercial land use during the initial phase of the Master Plan, but commercial was not ultimately recommended due to difficulty in gaining road access to the property and its proximity to low density residential. The Master Plan was approved by City Council and certified by the State of Delaware in 2011.*

*Also included in the packet is an overview map of the city zoning identifying large areas of undeveloped C-3 Highway Commercial properties. As shown, there is approximately 275 acres of land, currently within City limits that are zoned C-3 and undeveloped from a commercial perspective.*

*The surrounding transportation network around the subject properties, including Cedar Neck Road, Bucks Road and State Route 1 are State-maintained. Access to these roads will require DelDOT approval. DelDOT comments related to road access can be found in the attached 2015 PLUS comments and correspondence dated October 3, 2016. Statements from October 2016 are newer and provide additional information in comparison to what was provided in the November 2015 PLUS comments*

*The Knollac Acres subdivision is located within the unincorporated areas of Sussex County and is directly east of the subject property. The subdivision is not fully built-out and contains single family detached units. According to Sussex County tax maps, the Thawley property, that is under consideration for annexation, has limited access through Knollac Acres via Thawley Lane which was a concern expressed during the public workshop.*

*A portion of the current Bayhealth site, consisting of 110 to 115 acres, was a property owned by the applicant and was originally zoned C-3. The applicant wants to relocate that particular commercial use in the Southeast neighborhood. When Bayhealth moved their health campus to the west side of Route 1, that eliminated approximately 110 acres of C-3 Highway Commercial land.*

*No one from DelDOT is present this evening though they attended the Planning Commission meeting and were able to answer questions regarding access.*

Mr. Pierce then explained this is only the first step in the process that would allow future land use applications to be processed by the City. If approved this evening, the proposal would require additional public hearings for the annexation and change of zone request. They would subsequently be followed by public hearings for a site plan and/or subdivision plan, based on the future use of the property.

Included in the packet is a copy of the October 18, 2016 Planning Commission meeting. The Planning Commission recommended a denial of the application to amend the Comp Plan by a vote of 6 to 0.

Mr. Pierce concluded by referring to the support correspondence from Bayhealth and Ocean Atlantic Sothebys International Realty included in the Council packet.

When questioned about access to the proposed site(s), Mr. Pierce then read into record the following and most recent comments from the Office of State Planning Coordination:

*This message is to provide DeIDOT's comments on a proposed amendment to Milford's Southeast Regional Master Plan. The amendment would re-designate an assemblage of parcels, presently designated for residential use, to commercial use with the intent of permitting the development of a regional shopping center or mall. The parcels, known as the Thawley and Mr. Wiggles Properties, are located on the east, or north side of Delaware Route 1 and the north, or west side of Cedar Neck Road. As we understand it, one of the parcels, on the northwest corner of Route 1 and Cedar Neck Road, is already zoned for commercial use.*

*DeIDOT does not regulate land use. Commercial development on these parcels would require significant road improvements that have yet to be fully determined, much less included in our planning for the area.*

*Presently, the access to these parcels from Route 1 is limited to a single driveway, the use of which is limited to the existing farm and its residential use on the existing residential lots. The intersection of Route 1 and Cedar Neck Road is grade-separated, and the geometry of that grade separation is such that direct access from Cedar Neck Road would be difficult, if not impossible. Therefore, commercial development on these parcels presently would need to be by way of Beaver Dam Road. (Initially called Beaver Dam Road, Mr. Pierce believes that DeIDOT is referring to Bucks Road though its name was changed after access onto Route 1 was eliminated).*

*Commercial development of the sort contemplated would require significant improvements to Beaver Dam Road and Cedar Neck Road, and likely Bucks Road, Sapp Road and Cedar Beach Road. Specific improvements would need to be determined either through a Traffic Impact Study or Land Use and Transportation Study associated with the Transportation Improvement District that DeIDOT and the City are now contemplating for this area.*

*We have discussed, with the City, some ways in which a developer could improve their access to the subject land. One way would be to acquire a pair of residential properties on Cedar Neck Road across from the northbound Route 1 ramps, and thereby obtain access at that ramp intersection. Another way, might be to modify the existing flyover ramp, from northbound Route 1 to northbound Route 14, to allow for access into the land. Approval for this modification would be necessary from the Federal Highway Administration as well as from DeIDOT. Finally, a bridge could be built across Route 1 to reconnect the two halves of Beaver Dam Road.*

Councilman Brooks asked if that plan would require access through the rear yards of Meadows at Shawnee. Mr. Pierce said not if the only improvements were made to the northbound side. However, it is the flyover that dumps traffic onto Route 1A just south of the Meadows at Shawnee entrance.

The Planning Coordinator noted there is a transportation engineer in attendance with the applicant who may be able to share some additional thoughts.

Mr. Pierce reconfirmed the plan does not necessarily require access through the rear yards of the residents. He noted that if DeIDOT representatives were present, they could clarify their previous comments. He emphasized that any proposals at this point are only hypothetical.

Councilman Campbell asked how many access roads have been considered besides going through Knollac Acres. Mr. Pierce explained that DeIDOT provided three potential options. He again reviewed the three options:

- (1) One way would be to acquire a pair of residential properties on Cedar Neck Road across from the off ramp from Route 1;*
- (2) Access the site off Bucks Road;*
- (3) Major improvements to Route 1 that would have to be approved by DeIDOT and the Federal Highway Administration.*

Councilman Campbell asked DNREC's involvement and if there is potential for water runoff. Mr. Pierce answered that

DNREC made recommendations though they were not major comments which is typical during the PLUS reviews. They are concerned about any type of intense development and the development of approximately 150 acres could potentially result in a considerable amount of impervious cover which could have negative impact on water quality and stormwater management.

Mr. Pierce reiterated these are general statements that are typically made about any development.

Councilman Brooks stated the State indicates there is a potential for up to 80% of the land under consideration to be impervious coverage causing a negative impact on area water quality and stormwater management. Mr. Pierce pointed out that per the City code, the C-3 zoning district permits up to 80% coverage though the development could use less than that amount. Depending on if this it is in an excellent recharge area, there are provisions within the City code to protect such areas.

When asked for more clarification, Mr. Pierce explained that typically during the site plan or subdivision review process, there is a need to determine if the area has been designated by DNREC as an excellent groundwater recharge areas. That involves sandy soils that allow water to percolate down into the aquifers for drinking water. Those areas need to be kept free from development so that the groundwater source can be replenished.

He reiterated there are provisions in the code for such areas with even more restrictions in terms of impervious coverage and that proof will be required that pre-development and post-development conditions will be similar.

Councilman Campbell asked how far the potential access road going through Knollac Acres would be from the residential properties. Mr. Pierce stated there has not yet been an access point determined on the property and it is only in the preliminary stages. The State has stated that access to this property would be difficult but not impossible. The main concern from many of the residents at the informational workshop and Planning Commission Public Hearing was the use of Thawley Lane through Knollac Acres. That could be closed off or not used depending on what occurs with the development plan.

Mr. Campbell asked how this could potentially impact Meadows at Shawnee. Mr. Pierce commented that any access to the site is only hypothetical at this point. He has not yet seen anything on paper showing improvements to the interchange or the flyover ramp. Councilman Campbell confirmed that realistically no one knows at this point.

With no further questions for Mr. Pierce, Mayor Shupe called the applicant to comment.

Attorney James Griffin from Griffin and Robertson, P.A. was representing applicants' Country Life Homes and Key Properties and stated that he owns two residential units in Milford.

Mr. Griffin asked to start with a clarification on what Mr. Rutt was reading from the Delaware Code as to the areas and guidelines that are considered when adopting or amending a comprehensive development plan. At the very end {Section 702(B)}, it talked about the things that can be considered, the planning components, transportation, economic development, community facilities, community design, adequate water and sewer. He said that is followed by the words "in the judgment of the municipality, best promote the health, safety, prosperity and general public welfare of the jurisdictions' residents".

He asked Council to keep in mind that the jurisdiction is the City of Milford and the residents of this jurisdiction are those that live within its borders. When a comprehensive plan is adopted, it is done for the people in that City to better promote the growth of the City and to provide a good standard of living to those people living within its borders. He mentions that because he is not sure the Planning Commission held those precepts in very high regard when they voted.

Mr. Griffin recalled the hearing that was held here last week, pointing out there were eighteen people who spoke against the proposal. Of the eighteen, fourteen were nonresidents of the City and of the fourteen who spoke in opposition, 78% were nonresidents opposing the change. Only 22%, or four people, were residents of the City. He stated that the applicant had a presentation and people also spoke in their favor.

He said he is not trying to cast aspersions on the intentions of the many people who were nonresidents who came and spoke.

He then asked Council to be very clear and when talking about amending a comprehensive plan, it is a play to pay proposition. Council is acting in the highest regard for the City's residents and not promoting quality of life for people outside the borders.

He feels Delaware Law is very clear on that and talks about what is best for the City residents.

Mr. Griffin pointed out there have been several prior annexations of land east of Route 1 including the seventy-acres Wiggles property and the nine-acre Thawley piece. Under the 2008 City comp plan, all three pieces totaling approximately 120 acres were shown as C-3 highway commercial. He said it is not as if these commercial properties have never been C-3 highway commercial.

He noted that the 2011 Southeast Master Plan essentially downgraded the future land uses of two of those parcels and left the nine acres as C-3 highway commercial.

Mr. Griffin stated that when the Planning Commission voted, the findings that were given by them did not emphasize any of the touchstones or guidelines that are in Delaware Law for amending a comp plan. The findings that were given by those Commissioners who stated their findings, picked and chose negative comments out of the 2016 PLUS review and really did not give any play to the September 2016 PLUS comments which are more favorable. Their findings cited and relied heavily on the proximity to low density, existing planned residential communities such as Knollac Acres and major impacts on established communities, such as Knollac Acres and residential housing along Bucks, Cedar Neck and roads east of these properties.

Mr. Griffin reiterated there have been several annexations east of Route 1. In connection with those annexations, opportunities would have been given for a number of the folks that live there but who are not city residents and don't want this to happen to themselves and do not want to become citizens of the City. They obviously did not chose to do that and if they had, they would be paying City taxes and City utilities.

He is asking Council to focus on tonight taking this first step that would allow the applicant to come back at a later date with a fully developed plan. He stated that many of the comments that Council will hear tonight deal with issues that would not even come up in the planning process until someone presents a site plan though Council is well aware of that having approved a number of site plans. He said you will hear things such as what happens if you do this and it gets zoned for a shopping center and if there is a McDonalds and I'm trying to sleep and we can hear the microphone from people placing orders twenty-four hours. Those are things that would not come up until this gets in the site plan review.

The attorney stated that this step would simply restore a future land use designation that existed for several years before the 2011 downgrade. If you understand the 2011 downgrade history, that happened at a time when the economy was in a free fall between 2008 and until 2011. At that time, there was a mindset on the part of the State Planning Office not to allow commercial development east of Route 1.

He believes that has changed which is evident from the fact that the comments from the 2016 State Planning Commission review have become more favorable. In 2015, there were concerns from DNREC and if one reads the comments from the September 2016 comments that DNREC identified three areas of environmental concern back in 2015. The comments today as of September are saying none of those are located anywhere near these three parcels of ground.

Mr. Griffin said in other words, these three parcels of ground do not infringe on that. Regarding impervious cover and related issues, DNREC is now saying they recommend the developer use native grasses and named a number of other recommendations that the developer could follow and they would be obliged to say that would satisfy the issues of water runoff.

In addition, he pointed out that DeIDOT's comments from 2015 were more negative. He believes there was a comment in the 2015 report that the Office of State Planning basically said there could be a better piece of ground somewhere else for this type of use. In the September 2016 DeIDOT comments, they very clearly point out there are options for access. It is not a negative thing the State would have to approve the options for access and instead is a good thing. It is also not a negative thing the federal government could be involved and that is understandable because the money to build Route 1 was

either an 80/20 federal/state or a 70/30 federal/state match of funds.

He said of course any changes to Route 1 for access will be through either of the overpasses so tying into this development would have to be approved by the federal government. It would extend the time for obtaining those approvals and he believes that in the planning process for updating the comp plan is ten years in terms of vision.

The project, according to Mr. Griffin, will probably be within that time frame. There could be two to three years of obtaining official approvals necessary for the site plan, which would have to come with a preliminary site plan though a final site plan could not be acquired until all the governmental agency approvals are received. He anticipates that to be a fairly lengthy process.

Mr. Griffin said if they get through all of those steps, they then begin construction and locating possible uses. He said this could take a five to seven year buildout which would dovetail with the City's considerations of what is good for the residents of the City over the next ten years.

He then referred to Section 702(E) of Delaware Title 22 which states at least every five 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...

Mr. Griffin mentioned that because the Southeast Master Plan that was adopted in 2011, has been amended four times in four years; once in 2012 and three times in 2015. Therefore, it would be difficult to say it is inappropriate to make another amendment. In his opinion, the number of changes suggest the 2011 Southeast Master Plan possibly is not in keeping with the direction in which the City is moving and perhaps some consideration should be given to doing away with the 2011 update and restoring the future land use designation as it existed in the 2008 comp plan.

He stated that his client's reason for asking that the Southeast Master Plan be changed to restore the highway commercial uses that previously existed under the 2008 comp plan is because his client wants to relocate the commercial zoning it had planned for the Bayhealth parcel which is about 160 acres compared to the 120 acres that make up the Thawley and Mr. Wiggles properties. For a number of years prior to the slowdown in the economy, some of Council may remember that his client did a considerable amount of work to market the City of Milford as an appropriate location for a major shopping facility with the idea of locating it on the property the hospital chose to go. He would clearly like to fulfill that dream on the other side of the road which is Route 1.

He recalled that the City approved that concept and the use for that parcel back before it was sold to Bayhealth. The seventy acres of Mr. Wiggles property is already in the City but its land use was downgraded from highway commercial to residential. The nine acres of the Thawley property is also in the City and was designated for highway commercial though it is not a very large parcel of ground. In terms of any type of use that could be made of that property as a C-3 highway commercial parcel, given the fact it does not a very deep depth limits its use to something that would be not be very desirable in that area.

Mr. Griffin continued by explaining the City code highway commercial definition talks about a fairly wide variety of uses and includes a strip shopping center though there seems to be a lot of that in Milford on Route 113, Route 14 and other areas of the City. Something at least more comprehensive than a strip center would be more in keeping with the direction in which the City wants to go as far as future development. It could be something like a mini storage or a warehouse which are uses that are not the most attractive type of use but could involve extended usage.

His client is thinking of something that is more complimentary and would serve the need of not only the people that reside in the southeast quadrant of the City but also serve the need of the users of the hospital complex. Once that is built out, people coming will need a place to stay, a place to eat and a place to buy soft goods. All of that could play into a very nice orderly planned area on both sides of Route 1 and be within City limits.

With the seventy acres and the nine acres already in the City, the only one that needs to be annexed is the forty acres in between the other two which is the site of the former Thawley Property.

Mr. Griffin stated that as Council knows, redesignating the future land use to restore what it was before 2011 does not mean his client gets permission to do anything. It only means that his client would then have the right to ask that application that was filed two years ago and has sat dormant for two full years be allowed to take the orderly process of going to hearings before the Planning Commission and City Council, all of which involves the opportunity for public input.

He said they are not here tonight to tell Council what his client is going to do to a certainty and every use that will be put there because it is all theoretical. It would be mute unless the uses were restored that existed until 2011. At that time, there were no issue with the seventy and forty acres being designated highway commercial before the 2011 change.

Mr. Griffin said they have heard, which was part of the City Planner's presentation, the City has 275 acres of undeveloped commercially-zoned land which is a lot. However, very little of that is east of Route 1 though one of the pieces is the nine acres of the Thawley property.

He emphasized that development will happen and money will be invested in commercially-zoned area that is desirable for development. The fact there is 275 acres does not mean this is not a good location and he reminded Council they thought it was a good location for highway commercial until 2011.

Mr. Griffin asked Council to consider the big picture and not get focused on the fact that there is other land that has not been developed. If there were investors clamoring to invest monies in the 275 acres, Council would be seeing those applications. Some may be in the process though he is unaware of that, but it should be a point of consideration and it is an area the developer is willing to bear his fair share of the infrastructure costs and make the investment necessary to make it possible.

He noted that his client is not, under any stretch of imagination, asking that the residents of the City of Milford to bear any of the costs of any infrastructure that would only serve his development.

Mr. Griffin then informed Council that if they say they will not consider restoring the highway commercial designation these two properties enjoyed for a number of years before they were downgraded. His client did not own the properties at that time and did not have the right to come in and say hold up, what are you doing. He said that Council may be saying no to a developer contribution that would pay for the extension of utilities to the east side of Route 1 and infrastructure improvements required to bring electric and sewer to that side of Route 1. He believes there may already be a 12-inch water main that has been installed.

He pointed out that Council would be saying no to the developer paying its fair share of the City's engineering fees, utility impact fees, building permit fees and the possibility of benefitting from roadway infrastructure improvements financed by the developer who would pay his fair share of contributions necessary to make those roadway improvements.

He said if the Federal and State Highway is changed to benefit only one development, that developer has to pay for all of it. If there is an after-analysis by those agencies and those infrastructure improvements serve that development but also promote the better flow of traffic, the accessibility of traffic in and out of the city, then there is a formula for accessing the part the developer has to pay versus the part being paid by the Federal and State governments.

Mr. Griffin further stated that if Council says they will not consider this, they are saying no to the receipt of transfer taxes on the sale and to the lease of out parcels and pad sites; they are saying no to the payment of City property taxes and utility user fees from the developer and the tenants of this commercial center.

Statistics have shown that many seniors must continue working through their retirement years due to inadequate savings or increases in cost of living or health issues, not covered by insurance. A shopping facility of this type would provide employment to many seniors who reside in the City. He will ask other speakers who are part of their presentation to explain that.

Mr. Griffin reiterated that his client is not trying to pass along the cost of improvements that would be needed to develop these properties to the City or the residents of the City.

Mr. Griffin noted that the comments of the Planner basically state that the proposed commercial land use area will replace

the previously designated commercial area changed to employment center as part of the Bayhealth submission earlier this year. The City anticipates ancillary commercial needs close to its planned medical campus. This development would provide those ancillary commercial needs.

— Mr. Griffin then presented a petition signed by 41 people of which 39 are residents and live within the town limits of the City of Milford. Two are non-residents.

Mr. Griffin then asked City Council if they had any questions.

It was confirmed that no site plan has been presented. Mr. Griffin explained it is not anticipated or required at this level. It would only be something that his client is required to do if the comp plan is upgraded and his client goes through the hearings for annexation. In connection with annexing the forty-acre property, the zoning status is assigned and at that level, site plans are expected and required. They have not been asked to do that because they know it would be irrelevant if the future land use of highway commercial is not restored.

Councilman Campbell asked about the comments in which the State objected to the fact that the City wanted to revise the comprehensive plan in this area; Mr. Griffin confirmed if what Councilman Campbell is referring to is connected to his client's applications. Mr. Griffin explained that when his client filed these application back in 2014, one reason for the long delay is that State law requires an application that involves a different zoning category, for instance changing from residential to commercial, is only made possible if the comprehensive plan shows the future land use development for the piece involved to match. Instead it showed the City downgraded these parcels from highway commercial to residential in 2011 making an inconsistency with the 2008 comp plan. They were told they could only proceed to the level of annexation and zoning if they could get City Council to restore the land uses that existed before 2011.

— Mr. Griffin asked if Councilman Campbell is referring to the Office of State Planning discouraging frequent amendments to the comp plan. He said that as he pointed out, the City has done four amendments in the last four years, three within 2015 alone. As a result, that argument loses credence when it was found necessary and reasonable to make four amendments in four years to a plan that comes up for renewal in 2018. The Office of State Planning only oversees this; the City determines the uses and zoning categories within the City limits. If Council agrees to restore the highway commercial uses before they were downgraded, the Office of State Planning is obligated to respect that and that will become part of the City code and the fact that these properties could then be used for a commercial purpose. The Office of State Planning has no right to overrule the City's decision on land use and the City is paramount.

Solicitor Rutt asked to clarify one of Mr. Griffin's statements. Mr. Rutt said Mr. Griffin has been talking the 2008 comp plan versus the 2011 amendment. He confirmed that Mr. Griffin's client did not purchase the property until after the 2011 amendment. Mr. Griffin stated yes. Mr. Rutt asked if Mr. Griffin is looking for a by-right type of restoration. Mr. Griffin stated no he is making the point that up until 2011, these properties had the commercial use category that his client is now trying to ask be restored.

Mr. Rutt asked if Mr. Griffin was aware there was a Memorandum of Understanding (MOU) between the City of Milford and the State of Delaware that there would be no approval granted for any development east of Route 1 until the master plans had been adopted.

Mr. Griffin asked the date of the MOU. The solicitor deferred to City Planning Coordinator Rob Pierce who stated it was signed in March 2008. Mr. Griffin pointed out that was about the same time the update was completed. He said regardless of that, there have been four updates made in four years since that time so he does not see where that Memorandum of Understanding was followed.

Mr. Rutt emphasized the MOU specifically related to the properties east of Route 1 and those updates have not occurred.

— Mr. Rutt then pointed out that Mr. Griffin indicated that his client wants to restore the commercial development opportunity he lost as a result of the hospital land purchase. The Solicitor asked if the property that Bayhealth is now developing was not just gifted but instead was sold to the hospital; Mr. Griffin agreed it was sold.

Mr. Rutt noted then there was a realization of the use of that commercial property though not for shopping centers or something to that effect. Mr. Griffin said that is why the City changed it from C-3 back to the employment center designation.

Mr. Rutt then stated that even though the property east of Route 1 might not be commercial, it could still be used as residential; Mr. Griffin said that is how it is currently zoned. Mr. Rutt said that would require improvements of infrastructure, impact fees, permit fees, utility extension, etc. Mr. Griffin said not to the extent the City would have with a commercially developed center.

Mr. Rutt asked if Mr. Griffin is aware that the City is in the process of updating its comp plan so that it will meet the 2018 date; Mr. Griffin answered as is every other City.

Mayor Shupe asked if Council had any other questions.

Councilman Campbell stated that when he was reading the State Agency comments, many red flags came up. The review by the Office of State Planning, the Department of Transportation and the Department of Natural Resources all raised very serious concerns as to the advisability of amending the plan to change the designation to commercial. The Office of State Planning made comments that summarized that the request represents a significant deviation from land use, concept put forward, in the comprehensive and master plan that could result in a domino effect theory with wide ranges of consequences upon other elements that include transportation, environmental, agricultural and preservation issues. Commercial use of this property is not recommended in either the comprehensive plan or the master plan due to the difficulty of road access and proximity of low density, existing planned residential communities.

Mr. Griffin said he is familiar with those which were part of the December 23, 2015 comments from the Office of State Planning. As he suggested earlier, that is what the Commission focused on. But if you look at the more recent comments from the Office of State Planning, they do not repeat those comments. The portion that was given to City Council relates to the position taken now, as of last month, by DelDOT, saying there are ways the developer could improve access to the land and they describe the options. Also DNREC states the proposed amendment to the master plan changing some lands east of Route 1 from residential to commercial zoning does not occur in or near their three areas of environmental concern.

He emphasized the comments were quite different in 2015 when it appeared that the clear effort of the Office of State Planning was to not move forward. If you look at the comments in September 2016, they do not say that. It says the message is to provide comments on the Southeast Regional Master Plan amendments. It basically says that DelDOT or the Office of State Planning does not regulate land use and instead the City of Milford does. If City Council says they want to designate those areas back to the commercial they were at one time, then they will have to accept that and the State will have to work with the City and cannot overrule the City.

Councilman Campbell said he is not arguing that but is only bringing up facts and is trying to figure out how this would fit. There continues to be a lot of unanswered questions on the City side as well as the State's side. In the meantime, Mr. Griffin is not giving any information that helps him. Mr. Griffin said he does not speak for the Office of State Planning. Hopefully, Council would hold in advance an opinion on these issues until all the information comes in from the hearing and this is thoroughly discussed by all of Council and the votes are given.

Mr. Griffin then called Mark Muller of Sierra US and asked him to explain who he is, his employment and how he would be involved in the effort to develop this property in a commercial fashion if the City sought to change the future land use designation as it was prior to 2011 and the processes of rezoning and annexing if this is approved.

Mark Mueller of 364 Point to Point Road, Bel Air, Maryland 21015 stated he is a commercial real estate broker who has been involved actively in development and leasing of retail real estate, both in Maryland and Delaware for 35 years. He has leased approximately two million square feet of retail space during that time. He works in partnership with another brokerage firm, KLN Retail. Mr. Kevin Barrett, who is very familiar with the applicant, also worked with the applicant the first time around when they were trying to develop the site that has since become the hospital campus. He was also with KLN and left that company in 2010 though he and Mr. Barrett continue to work closely on various projects including this project.

Mr. Mueller explained the whole goal is to look at a site in its entirety from a critical mass. He cannot speak for any of the retailers specifically though they have talked to some in the past that needs a site with some size. The nine-acre site is too shallow and would probably be developed similar to a Royal Farms or Grottos Pizza considering the depth is not there.

He agreed there is retail on Route 113, but retailers prefer access, visibility and parking. Those retailers do not have the best visibility on Route 113 according to Mr. Mueller.

He reported that they represent several retailers including a movie theater chain and a home center that have expressed an interest in Milford in the past. However, they want to be seen from the road.

In addition, Mr. Mueller noted that a large piece of parcel is needed to develop some kind of mixed use. That could involve a combination of entertainment with the theater or it could be the home center. It could also have some soft uses such as offices that would be relative to the hospital.

They also see soft goods as a good potential. Currently the town only has Walmart and Peebles as far as department stores. They think there are definite users like a Kohls, though they have not yet expressed an interest. However, that type of junior box store could have some interest in coming to Milford.

He said this has to be developed properly and the same concerns that everyone has expressed about access are the same concerns these retailers have. The current access would not work and no national retailer would even consider it. It has to be a carefully planned design for it to take place.

Mr. Mueller said the recession took its toll and there were several retailers that Mr. Barrett was working with that backed out because their entire expansion program was stopped. That is no longer the case and he believes that a number of large retailers could be interested. However, it has to be of a sizable nature and he cannot see anything in the nine-acre range that would be anywhere close to accommodating the needs of these retailers.

He confirmed this would be a large project. If retailers don't see something that is easy to get to, they will not develop there. Therefore, a joint effort is needed to ensure it is properly developed.

Mr. Griffin asked Mr. Mueller, based on other centers in which they have found customers for, and considering this will be in the range of 100 to 120 acres, what examples of other type stores would be attractive to similar sized centers. Mr. Mueller explained that he was involved locally in the Capano Shopping Center, where Dollar Tree recently opened though that is a 60,000 to 80,000 square foot shopping center. A center that would attract retailers like they want to get into Milford will most likely require a 300,000 to 400,000 square feet center.

Mr. Griffin asked Mr. Mueller what types of stores or brands he would attempt to attract; Mr. Mueller answered Kohls, Lowes Home Center and possibly Home Depot. They think one thing that is needed is a better restaurant and beyond those normal restaurants you see on Route 113. They believe chains such as Cheddars and other lifestyle restaurants would express an interest.

Mr. Mueller said a combination of home goods, soft goods, convenient services and other softer semi-office users would most likely go there.

Mr. Griffin said before you can attract specific tenants to a center not in existence, are you required to have approvals in place approvals for zoning as well as access plans. Mr. Mueller explained these retailers receive submissions constantly from perspective developers across the country. They only have so much time and if you send them a site that is not properly zoned or does not have an access plan, they are not going to give you the time of day. A very specific site plan is needed to attract retailers and it must be zoned properly to do that. They would not attempt to approach that with those items in place.

Mr. Griffin then asked if Mr. Mueller has put together a booklet he would like to make available to City Council. Mr. Mueller stated yes adding this is a booklet that highlights the location of the three parcels and provides some architectural treatments. He added that retailers and consumers no longer want to see the same old big box shopping centers. Design

elements that are state of the art must be included and examples have been included in the booklet.

Mr. Griffin asked if the design elements include any proposed housing units; Mr. Mueller said it is possible to have housing on the second and third stories and apartments above some of the service-oriented retailers. However, that would not happen with national chains like Kohls. This would be a mixed use element of everything including residential, offices and retailers.

Councilman Brooks then asked if Mr. Mueller has visited the site and is familiar with the surrounding roads and asked if they are sufficient; Mr. Mueller stated he has observed the roads and the road are absolutely not sufficient. Councilman Brooks asked about access off Bucks Road into this property. Mr. Mueller said he is not an engineer and would assume there would be a secondary access though that is not his area of expertise. He said the site is large enough to justify retail as far as the market but they would not go on the site with the current access and would have to be a situation that satisfactory to them and DelDOT.

Councilman Brooks pointed out that DelDOT has limited access on Route 1 from New Castle County to Nassau. Mr. Griffin said he will have a traffic engineer that will later testify with regard to that statement.

Councilman Campbell responded to Mr. Griffin's earlier comment regarding the residents who live outside the City and the fact they are not paying City taxes. He said they are bringing revenue into the City and are shopping in Milford and supporting our restaurants and their children go to school here. He feels that was an inappropriate statement.

Councilman Mergner asked Mr. Mueller if there is a certain distance or time expectation for retailers such as a Home Depot in relation to exiting from a highway and getting to their store. Mr. Mueller said they want access, visibility and parking. The retailers have to put themselves in a consumer's shoes. If a center is difficult to get in and out, they ask themselves if people will really want to shop there. There is no scientific method but more of a feel in his opinion.

Councilman Brooks then referenced the State Planning comments stating Delaware Code Title 17, Section 145 authorizes DelDOT to develop and maintain a Corridor Capacity Preservation Program (CCPP) on Delaware Route 1 from Dover Air Force Base to Nassau. Because the subject lands have other access as was discussed, DelDOT will not permit these lands to have commercial access on Route 1.

Mr. Griffin responded by saying that DelDOT in September 2016, discussed with the city ways in which the developer can improve their access to the subject land. He said what Councilman Brooks is reading is in conflict with what DelDOT is saying now. He said to be honest about it, DelDOT cannot say to a person who owns land that they don't have access to their road and if they do say that, they have to buy your land and pay you fair market value for it.

Councilman Brooks again referenced Delaware Code Title 17, Section 145 which authorizes DelDOT to develop the CCPP and that commercial development will not be permitted access off Route 1. Mr. Griffin reiterated DelDOT is saying access is there and it may be expensive, but it is there and there is a means to get it. He suggests that Councilman Brooks ask the City's esteemed Counsel for an interpretation of that. He added he is not allowed to give Councilman Brooks legal advice.

Mr. Griffin then called Alex Schmidt of 694 Milford Neck Road, Milford, Delaware. Mr. Schmidt stated he is an employee of Century Engineering and is present on behalf of Key Properties. He is a registered professional engineer in the State of Delaware and his entire career has been spent working on projects with DelDOT and project development.

Mr. Schmidt stated that Key Properties initially approached them in July of this year and informed them they had parcels on the east of Route 1. They informed him they had been before DelDOT and had discussions with DelDOT who had taken the stance that no access would be allowed to these parcels.

Key Properties asked him to discuss the access issues with DelDOT. A meeting followed with himself, DelDOT Assistant Planning Director Drew Boyce, Corridor Capacity Preservation Program Manager Tom Felice and Mark Cote' Subdivision Engineer Development Coordination. The purpose of the meeting was to discuss these parcels and whether access could be granted. DelDOT first asked what the developer was planning to propose at this site. Mr. Schmidt said they do not know because the developer cannot get any interest until they get through this process first.

Mr. Schmidt then explained that DelDOT cannot make a commitment until the point when the developer can say there is a potential to put something specific on this property. They were able to discuss some very basic concepts of what could go there. There were a couple of options that DelDOT brought up and a couple that Mr. Schmidt suggested. One was access off Bucks Road and DelDOT stated that the Routes 36 and 30 interchanges are there to provide access east of Route 1 and a plan that calls for improvements to the local roads in that area. The developer would then be able to utilize Bucks Road to get to that site.

He said the developer is concerned about that, as Council will hear from many people tonight, because that will have a large impact on all the local residents in that area. The preference would be for access directly off Route 1. DelDOT initially stated, as Councilman Brooks earlier mentioned, that there will be no access off Route 1 to properties east of Route 1. However, they understood the position the developer was in and agreed there were some alternatives that could be explored.

He reported that three options were discussed. One would be realigning the Route 30 interchange as was mentioned. Another would be improvements to the Route 1 Business/South Rehoboth Avenue interchange which is a flyover; the third would be the construction of a collector distributor road along the east side of Route 1 though that is a unique situation. The engineer explained it could actually collect many exits and distribute them separately.

Mr. Schmidt explained the Route 30 and 36 and State Route 1 business interchanges would all be separated from Route 1 and combined into one exit that would also have a local road with access to the site.

The engineer further reported that these are not unusual configurations and there is actually one being proposed for Dover Mall from Scarborough Road and south of Dover Downs. The purpose of that is exactly what the developer is asking for in this situation which is to provide better access to Dover Mall and Dover Downs.

He recalled that at the workshop held a couple weeks ago, a lot of people expressed concern about the existing interchange for Route 1A/South Rehoboth Avenue. The existing flyover allows people to come off Route 1 at highway speeds and get dumped directly in front of the Meadows at Shawnee doing 70 miles an hour. If the developer were allowed to move forward with his plan, they could go back to DelDOT with concepts that would help address those traffic concerns that exist in the area.

Mr. Schmidt stated the one key item he wants to leave Council with is that DelDOT has said there are options available and while they will not be easy and will require DelDOT review and approval and the Federal Highway Administration involvement, there are options that exist and there is potential.

In regard to the PLUS comments, Mr. Schmidt explained that one of their concerns is that the PLUS review focuses on a very broad high level view and is informational only. The original comments in 2015 stated that no access would be allowed. After they met with DelDOT and showed them a little more about what the developer was willing to do, the comments changed to say there is a potential for access. As this project moves further along, those comments will begin to align more with what those options the developer can do. As the State receives more information, they will be able to provide better comments.

Mr. Schmidt stated that Thawley Lane is a concern as is the road that goes through Knollac Acres. The developer is willing to commit to not using that road for commercial access. Potentially, it could become a three-way intersection with no commercial traffic using Thawley Lane.

Councilman Brooks then questioned the three-way intersection; Mr. Schmidt explained that would be on Thawley Lane coming from Bucks Road through Knollac Acres. Currently it has deeded access onto the parcel that the applicant now owns. The applicant is willing to cede that access so the residents in Knollac Acres will not have commercial traffic coming through their development.

Mr. Griffin confirmed that Mr. Schmidt is saying there will be no interconnection between the developed commercial land and Knollac Acres. Mr. Schmidt stated that is correct. He referenced Thawley Lane on the map that continues onto the parcel. He noted that currently there is a potential for it to be utilized for access to the parcel. The developer is willing to cede that option and turn at a three-way intersection so that no traffic would utilize the subdivision to access the commercial

parcels.

Councilman Brooks asked if Mr. Schmidt is stating that in this situation, Bucks Road would not be needed.

Mr. Schmidt referenced a map showing Bucks Road and Thawley Lane. He said he did not want to get into too much detail, but local roads could be used with access through a private parcel and traffic coming off the two interchanges and accessing the parcel.

He said the two options discussed—one being the collector distributor road that could provide access on the east side and not require the acquisition of any privately owned property, are based on the concepts discussed with DelDOT.

The other option is the reconfiguration of the interchange that would provide northbound Route 1 access onto and off the commercial property without acquiring any private property. The Route 1 southbound access would need to be considered requiring a lane behind Meadows at Shawnee and a crossover to get to the property.

Mr. Schmidt feels that is the only one he can really see that would potentially require the acquisition of private property and something the developer would have to deal with. He noted that the developer does not have the right to condemnation.

Councilman Campbell asked where the Meadows at Shawnee fit into this scenario. Mr. Schmidt said that is the only development he would be concerned about if a southbound ramp was needed to exit. If they were unable to do that, the developer would have to decide if this could be done without Route 1 southbound access directly onto the site. In that situation, vehicles would have to travel to the Route 30 interchange, exit, come back and cross over.

Mr. Griffin stated that according to the procedures explained by the City Solicitor, the applicant has no right of rebuttal after the people speak in opposition of this amendment. Therefore, he wants to make some remarks to try and summarize what has been presented.

Mr. Rutt then explained that everyone will have an opportunity to speak even if the hearing lasts until 1:00 a.m.

Mr. Griffin then asked Council not to make a snap decision on this. He said there is a lot of information that needs to be considered. He referenced his earlier comment about the State law that states Councils' decision should be for the benefit of its residents. He explained that he was in no way being critical of people who do not live in the City but only informing Council what the law says.

Mr. Griffin asked that Council consider deferring the decision considering all the issues and comments and what would be to the best interest of the City and its residents. They are asking Council to decide differently from the recommendation of the Planning Commission and are asking Council to approve the amendments to the 2011 Master Plan that would designate two properties—the 70 acres Mr. Wiggles property and the 40-acre Thawley property to have the land uses they had until 2011.

He asked other people who were present to speak in favor of this amendment.

Solicitor Rutt noted that Mr. Griffin provided two documents. One being the petition he presented and one document from KLBN Retail which become part of the record.

Mayor Shupe then asked for anyone wishing to speak in favor of the application to come forward. No one responded. Mayor Shupe repeated the request for anyone in favor of the amendment to come to the podium.

Henry Lacaillade of 4402 Fullerton Court, Hearthstone Manor, stated he is in favor of the plan being returned to what it should have been in 2011. He said this could be an opportunity missed for potential income into the City of Milford. He said the City of Milford should consider themselves, first and foremost.

No other person responded to speak in favor of the amendment.

Mayor Shupe then stated Council will now hear testimony from those persons opposed to the application.

Mr. Ken Naegeli of 20949 Surrey Court stated the following:

We moved down here four years ago from Pennsylvania. When anyone asks them where we live, we say we live in Milford, Delaware. My nephew is a junior college soccer coach and I got him a player from Milford High School. We pay taxes to Milford School District and just got a tax increase probably for higher than most people in Milford because of the property values in this development. We have put a lot of money into our properties even though we are not rich by any means. We did things frugally during our lifetime and this was a good place to bring our grandchildren who visit Grampy and Grammy a lot more because we are down by the ocean and were fortunate to be able to afford it.

We are very close to Milford and we go to church in Milford and we buy everything in Milford and the same applies to everyone in our development. We don't go to Lewes or Dover and instead we choose to shop, eat and get our cars fixed in Milford and just support the community of Milford. We hire a plumber and other repair people from Milford. I believe in supporting the local community. For that gentleman to slyly say that we are outside the City limits and Council needs to do this for Milford residents. Well guess what? We are Milford and I don't like that at all.

The gentleman talked about Thawley Lane. He said we are going to cede access to Thawley Lane. This is a private development and we have rules in our development and he cannot just say he is going to cede access and we won't allow access to that. We can change our bylaws and somewhat shut it off if we want to. He does not know where he is coming from to be able to do this because commercial traffic has no relevance there.

Down the road, if Milford ever wants to annex Knollac Acres, we are a private development and have rules. We don't want that to happen because we don't want to change and make our happy people unhappy. DelDOT at the meeting the other night, suggested no related access from Route 1. They did not say it was impossible but said that they would not suggest it at all. The Planning Commission at length not only voted against it, but talked quite a bit before they voted no. They talked about safety. There are safety issues with any kind of commercial development. If they wanted to, they could go with the conditional uses for special requirements. They could put a methadone clinic in there if they really wanted. This is something we are concerned with.

The planning commission voted unanimously to keep the zoning on the three parcels on east of Route 1. They referenced a commercially approved area on Route 1 adjacent to the new hospital and suggested that site. Safety issues were brought up by the Planning Commission relating to future mission statements for the City of Milford. This was the current mission statement they somewhat adopted and is the direction they wanted to go. Many times in that process they mentioned safety. We don't have protection from the Milford Police Department and have to go through the State Police. If you were living in that development and I ask you, would you want this to happen to you? Would you be comfortable with it? Because you could very well end up in that situation too.

What we have is the State Police and their response time. We had an alarm go off at the house and it took the State Police 2½ hours to show up. If someone is coming through our development that is a problem because increased crime is always an issue with commercial. Do you want the increased crime on the perimeter of your City and a little further away from your downtown? I do not think so. That should be a major issue.

If someone is stealing something or shoplifting and running or driving through our area and through our yards because someone is chasing them, they could potentially get into our house with a gun and we could do nothing about it. There is a lot just on the mind play and psych issues involved with this plan. There is a lot of anxiety.

The valuation lost to our homes is an automatic. We had a developer who abandoned our development and nothing was being done. I was trying to get the community going and I used to cut the community grass that was supposed to be handled by the developer. We were going to get the potholes fixed because we wanted people to come and invest into this community. It is a very nice community and we were at that point when a new developer finally came in and did that. The main reason he did that is because the hospital will be built and he sees the potential and wants to make some money. He is building some nice houses and we are meeting with him on Thursday.

There will also be major increases in noise and light pollution to the community which is inherent with any commercial project. There is the probability of increasing crime to our community and to the City of Milford itself. It will require the Milford Police Department to go on the east side of Route 1 which will take them away from other areas. It is not a quick and easy access for them from the west side of Route 1.

We had no advance warning of development by the developers and absolutely zero communication. I respect the Hearthstone Manor residents, who at the Planning Commission meeting, spoke against this development. The previous gentleman talked about 24 emails he received in favor of it and that he had only received one against it. Basically the other residents said we thought it was a joke and don't want to get involved but most of the people in that area don't want it. I am sure there will be people here tonight from Hearthstone that will speak against it.

They were asked to poll the Hearthstone residents to ask what type of stores they would want. As noted by the people speaking for the Fannins, nobody asked anyone east of Route 1 and this will be beside us. Why was that? There is no known plan as to what will go onto the land and it is somewhat subjective at this point. Once you get the approval, they can more or less do what they want with it. It will eventually receive some kind of approval.

Our development is a private development and the State would not take over the roads. If this is developed commercially, it will stop houses from being built and people will not want to live next door to a big shopping area. We will never get to the point where the State will take the road maintenance over and now the development has to deal with doing it ourselves.

There is also a fiduciary responsibility relating to the Thawley commitment and I believe there was something in writing that says she has to look out for the well being of the Knollac Acres development and homeowners. I think we have a legal issue and will look into that and whether it can be purchased for a commercial use.

I ask you to consider living in Knollac Acres and how you would feel about this intrusion. There are a lot of areas on Route 113 that could be developed and other areas around Milford that would not have this kind of impact to the surrounding residential areas. This is not just Knollac Acres but includes the houses on Bucks Road, Cedar Neck Road and other areas. There are a lot of people here from those areas. Many of these people have lived there a lot longer than I have and some have lived in this area fifty and sixty years. Could they be displaced? Sure.

One person said that cars travel 70 miles an hour on the flyover exit and he has got to be kidding. That exit has a 90-degree turn and if you were going 70 miles an hour you would be up in the air traveling off of it. You might pick up speed when you come off the ramp and enter Alternate Route 1, but definitely not when you exit on Route 1.

The attorney mentioned the comments from the Office of State Planning from December 2015 to September 2016. There was no need to mention it again. It was already stated and nothing changed.

Thank you very much. I appreciate your time.

Debbie Campbell of 103 Hickory Branch Court, Hearthstone Manor, provided the following statement:

I reiterated everything that Mr. Naegeli stated including the quality of life issues. A lot of the things presented tonight I don't need to reinforce because everyone has heard the proposals as far as the details on how it will impact this area. The thing I want to say is I moved here almost ten years ago from upstate New York. Basically I moved here for quality of life. I came by myself and I have no family here. I used to vacation here and actually started to look in Lewes and Rehoboth and loved it there. I came up here and this was where I wanted to be immediately. I seriously researched for almost two years before I bought a home here. I feel a bit betrayed because I bought my home from Country Life Homes and I expected to live in the country. I have cow fields down the road from me and it smells like the country and I love it.

The culture in the area I love. We have yards, we have music and we have a theater in town. We have stores. I tell all of my family that everything I want is seven minutes from home. If I need something that is not in town or if I am shopping for a wedding, I can go north to Dover in thirty minutes or thirty minutes south to Rehoboth. But I don't want to live in those places. I want to live here and I want to live in the country and have the life that Milford offered us. It somewhat

upsets me that the applicant is someone that sold my home and that was my expectation to live here. When I mentioned upstate New York where I came from, I lived about 80 miles north of New York City. After 9-11, New York City just exploded into my area and I don't even recognize it today and I seriously mean that. It is now elevated highways and a new shopping mall. What happened? Not only the old downtown but even the downtown of the seventy's, which was somewhat like we have on Route 113, all died. Everything moved to another area and all the businesses that previously had supported the area where I lived, went away or became empty buildings or warehouses. So we got nothing from it. Before everything was invaded, there was a ten minute ride to my local hospital. Where I worked, now takes a half hour to forty-five minutes at night because of having to sit through all the traffic lights. I do not want that here and I do not think most of us want that. The convenience of shopping is here and available.

I am all in favor in change. I think change is good but it has to be well planned and well thought out and just as important, it has to be welcomed. I do not think that most of us welcome this kind of change.

It is sad when someone buys property and they cannot do with it what they want. But that property was purchased by the developer after the developer knew it was zoned residential. Those developments are all in place and I suspect that part of why that zoning may have changed is because of all the residential development in that area. It is not that we have no commercial property available for development. If those properties have already been improved, then that is part of the City's master plan and that is where the future development should go. I do not think we should be turning property that is in the middle of a big residential area and is going to impact the country roads. I think the hospital will already change a lot of the area where we live. My back yard is Wilkins Road and that is something we will have to deal with. But to throw a major shopping mecca in the middle will bring people from all over and through our town to get to it. I just think this is not meeting the dreams of the people who live here. Thank you.

Komba Kpakiwa of 30063 Stage Coach Circle, Milford provided the following statement:

Could I please ask the planner to bring back the pictures from the area I live?

Ladies and gentleman, I live in this neighborhood and my lot is right there. You can see what they are trying to ask for and the zoning change. I have to tell you one thing before I proceed. If you look at the house, it currently sits on a farm. The farmer has a requirement to have a buffer between my property and the farm. Guess what? When I moved there in 2007 and bought the property, there was a buffer between my house which was larger than you can find today. Guess what they did? They said according to County law, he had the right to take 132 feet of my land to meet the zoning requirement for the farm.

I will be making some comments here but this reminds me of something. You see everyone sitting here? Anybody who is familiar with the comprehensive plan knows it is nothing more than something we can imagine we would want to be like in five years, ten years or twenty years. That is why anybody who is familiar with comprehensive planning or economic development planning, has a temporary limit on describing what they are going to do.

In 2007, we made sure that the land that was adjacent to mine was zoned R-1 residential. That made my wife and me to invest every penny we had in Delaware after 32 years of work with the State of Pennsylvania. I had a lady that said she did her research. My background is planning, policy. If I came down here, not only did I want to know what the City looks like, I wanted to know from the FBI statistics and where I should live. At that point, I didn't have any problem. Milford became my home and I moved here.

Now you want to change the land use. Why do you need to change it? It was changed to R-1 and the comprehensive plan says that in the future there would be no commercial on that side of Route 1. What changed? I know what changed. Somebody sold the commercial area which is the land that we are all happy about having a hospital there and love it. I don't have to go to Baltimore, don't have to go all the way up north to the hospital or back to Hyattsville to find a doctor. That is wonderful and I am going to be near a hospital.

To be fair with you, I am not here to tell you about the impact of the hospital and the potential impact on the economy and currently my land. Anybody who is coming here with planning has to tell you if they are honest. Just like a realtor says

location, location, value. When I bought my house in 2007, in fact that was before the market went down, it was valued at more than \$700,000 and has 5,200 square feet, sits on 1.025 acres because I love the country. When I was in Harrisburg between Hershey, I lived on 3.5 acres. When I decided to come down here, I liked to live somewhere that I can eat my spaghetti and my neighbors are not going to smell it. Seriously. So I decided to move there. Milford was perfect for me. But now what you are trying to do to me, if you look at what I just showed you, and the current value of my land will go way down. Which means you are basically telling me that you should call me and ask to rezone my property commercial. That way I can keep the value. But I know you guys are too busy.

A few things for discussion. I have already told you about the comprehensive plan. There was a comment about residents and non-residents of Milford. I kept looking at you guys and somebody probably put a big smile on your face. What are you talking about? You are a lawyer. In this country, the way to happiness is through the constitution and you know what it says? Liberty, freedom, justice. He did not care what his client was going to do to us. That is not representative of what you and I believe of that constitution.

I can stand here and say the constitution will let me sue them. Take them to court. But you and I know, the most explicit thing to do in this country, even though the constitution guarantees that I can sue you, is the cost of suing you won't stop me from taking anything from you. So if you are big enough and have enough money, you can walk all over me. I will probably go back and sit in my house and start crying. I don't have money. But you can protect the little guy and I don't have money to take Key Properties on.

At this point, you can prevail just like the Planning Commission did. They talked about the adverse impact on our properties and our quality of life. I think you see the quality of life. I thought the comprehensive plan was supposed to maintain that.

Are we forgetting? I recall I told you I came here for quality of life. Why would you entertain the thought and indiscretion about calling me 'not in Milford'? My taxes just went up almost \$900. You tell me why I pay my money. I am not a kid. I am 71 years old. I know people that live in Hyattsville but it's cheaper to pay my taxes here. Could the gentleman really consciously think in the context of this great country, then turn around and tell me that I am not from Milford? Guess what? You cannot take my land without due process. Even if you were to say you want my land for public use, we have to bargain. That commercial land will devalue my property. If Key Properties wants to buy up this place, they need to work it. He is a guy with a deep pocket. Buy all of these properties then we will see. Buy them all. Go for them. Then we are out. But don't ask these honorable people to cover your responsibility.

Yes, we love business. But I don't think business should be an inconvenience to us or destroy us, when we are too old or could die. I am 71 and I don't have any more money. I live on a fixed income. The last time the Planning Commission talked about the income impact and we all sat down here and listened to a lecture about impact and businesses. Is the gentleman aware of the facts that some of us have done this before? What information Key Properties presented to you here should be resolved by site analysis.

The gentleman who came from Maryland to talk about the economic impact on the City forgot that people live in the City. You have to stop it. If your conscience says no, you should support the Planning Commission.

Finally, I know we don't have time but I am going to end this by explaining this to you or at least making sure you understand where I'm coming from. One more time. In this great country of ours, the way to happiness is through happiness. Liberty is freedom. Liberty and justice for all. You will not be doing us justice if you allow this to go ahead. You already know, the State agency has said no. It does not take into account the comprehensive plan because he forgot to make the transportation analysis. Do you have anything in front of you? Anybody? I don't think so. All they can say is --here's a big shopping plan. We have this honorable guy from Maryland who is going to make this wonderful place. Someone asked how fast would you be exiting from the highway into that development. No, he is not a transportation analyst. And if you look at the engineer, he came theoretically. You are dealing with people's lives, not theory. I am asking you one more time. Like your Planning Commission said, that project is a no go. Please save us and keep us happy. That is what the constitution says. Thank you.

Bill McTheny of 5567 Bucks Road stated the following:

I am very concerned about both sides of the project. I don't know how many of you have been on Bucks Road. But let's face it, those roads are very narrow. When they were built, they were literally farm roads. I had an opportunity the last time when Bucks Road and Sapp Road were repaved, to talk with the supervisor. In the conversation I had with him, he said these roads are too narrow. Ideally, they should be at least a foot or two feet wider than they were built.

Traffic out there even now is horrendous. There are people that drive up and down that road 45 to 50 miles an hour. There are a number of people in that area, including me, that walk our dogs, we walk, we run, we ride our bicycles in those areas. That is a gift to me.

The other factor is years ago, when DelDOT closed off both sides of Beaver Dam Road and the side east of Route 1, it was my understanding the reason they did that is because they wanted to make Route 1 as limited an access to the highway as they could for beach traffic and all other traffic. If you have stood out there on Sunday afternoon watching the traffic going north, it can be horrendous.

My understanding is that when it was closed, DelDOT intended to make it as limited an access as they possibly could. If any of the projects go forward, it seems like it would be reversing what DelDOT has intended this to be for all of those years.

Those are the two reasons I am very, very opposed to this. I am concerned about the impact to my side as well as the other side. I am afraid the quality of life would just go down hill tremendously if these projects move forward.

Norman L Wilfong of 5396 Bucks Road stated the following:

The other people have done all the complaining I wanted to say. The only thing I want to add is the property is not in the City limits. We are thankful for that. They told me when I bought that property from the State that they would not annex that area. They have annexed in the area and right in the front on my road but the property we own is not in the City. And we are thankful because of the recent tax increase as a result of Milford School District. So we cannot afford to pay any more property taxes.

The roads are not adequate to accommodate more traffic. We have too much traffic now with Knollac Acres and the apartment house that is there now.

They had to have a reason for DelDOT not to want any commercial property to have access off Route 1. When he bought his property, they told him that no commercial would be allowed east of Route 1. They had reasons because there are all kinds of commercial developments in Milford. Anything you want, you can get there. I can't see any reason to have a commercial development in this area with all the children out there who will be jeopardized by all the additional traffic.

As far as the road, they have never been blacktopped. DelDOT put stone down and sprinkled a little oil on top and that is what the road is made of. How in the heck are you going to have big tractor trailers coming in there and running up and down the road? They will demolish the roads.

I have been in construction all my life. These engineers will do anything to make a dollar.

That one councilman has my respect for asking all those questions. Nobody else has sense enough to do that.

Sara Donald of 38 Lexington Drive, Shawnee Acres, stated the following:

I want to acknowledge what everyone else has said. I don't want to take up too much time because it is late. I found some things really interesting tonight. I have voiced a lot of my concerns about living in Shawnee Acres and things that were done with the Hearthstone Community by this developer that were not done the way they were supposed to be done. The land was attempted to be taken from people in Shawnee Acres because the buffer zones weren't allowed and there were other issues. I am not sure all of that is in the minutes but it is concerning. I do think that is going to happen with Knollac Acres residents and I do think that the overpass being turned into a flyover will be a concern for the Meadows at Shawnee residents.

To listen to a developer with a prior history of not completing things the way it was supposed to be done is something that should be taken into consideration.

The other interesting thing is that Mr. Mueller is from Bel Air, Maryland where I grew up. I lived right across the street from him on Hunters Drive and my sister lived in Point to Point Square. I don't know if he was involved in any of the development that occurred in Bel Air, but I lived there twenty years ago and go back multiple times every year. And I cannot stand the traffic.

My grandfather owned a little car dealership called Luby Chevrolet. It was a place where my dad grew up. Everyone knew everyone. It was a lot like Milford. You went to the same family restaurants. We all go to Abbots and Arenas. I saw the Mayor at the International Food Festival last week in the park. Those things do not happen when you bring in retail or commercial space like is being considered. We don't need a Cheddar's but we still need Abbots. We don't need a Lowes because we go to Ace Hardware and we can travel if we need something bigger. Losing those little family places and the people is what is going to happen. Though we may not technically live in the City limits, my kids go to school in the same place that City Councils' kids go to school. They don't know or care if I pay the same taxes you do. It doesn't matter. Milford is a family regardless of your tax situation.

I think we really need to remember that when we make these decisions, we are going to impact future generations. Do you want them to grow up in a place like downtown Wilmington, Dover or Bel Air as it exists today? Or do we want them to grow up in the Milford that we all know and love where we can go to Irish Rose and get cool Christmas presents for someone and where we know the shop owner? Where we do the Holiday Stroll and we all see each other and know who everybody is. We are supporting local business and I find it really interesting the City brought in a consulting firm to discuss what we need to do to revitalize our downtown. And the meeting before the last hearing was about what was needed to make this a more attractive place and a better family place and a place that doesn't have empty retail downtown. On the other hand we want to create more highway commercial and take all that business away from those businesses downtown.

It does not make sense. If you bringing in a firm and you decide to change the zoning, then you might as well let them go. It is just an oxymoron. I just want you to remember the Milford that we live in and what it could become if Council approves this change.

Joanne Burbage of 32 Hidden Meadows Terrace, Milford stated the following:

I have been a resident of Delaware for 72 years, 42 of which have been spent in Milford. First we lived in Woodshaven, then on a small poultry farm, I raised my children here and who are all grown, then I retired and we now live in Hidden Meadows. My children attended Avenue Church Preschool, attended Milford Public Schools where they graduated. They went to college and I have great gratitude to the Milford School District, their coaches and the roots of Milford. I think that is part of the legacy and the heritage that we have here in Milford.

Also, I would like to ask a quick question. Can you tell me the population as listed in the City of Milford versus the population of the Greater Milford area? In the reports, projects and places we have been, there are two statistics and I have a reason for asking that.

Mayor Shupe said the population is just under 10,000 in the City limits and anticipates the Greater Milford area to be approximately 25,000 which includes City of Milford residents.

Ms. Burbage continued by stating:

The first time I experienced the people of Milford, and not just the City, but the countryside and contiguous beaches, and there was a vote to preserve the areas of Milford including the marshes, the beaches and farmlands east of Route 1. Back in the 60s, there was a proposal for wind-powered turbines and offshore oil facilities along the coastal beaches like Slaughter Beach. The City people of Milford rejected it. I was not a resident at the time but was here teaching a night course at Milford High School in archeology and was with the Archeological Board of Delaware. The people of Milford welcomed us, opened their farms for excavation and gave us a preview of the artifactual collections. All the excavations and artifacts

provided great information of the history of Milford and the State of Delaware. It was then provided to the Smithsonian. But all these people spoke at that time. There was a petition and the project was rejected and the outcome was there would be no commercialization east of Route 1.

The people understood that we are more than just the City and all the outlying areas including the farms, coast and wetlands and we just don't have the Delaware Bay, but instead go all the way to the Chesapeake Bay.

Every Native and Aboriginal who was transported through here knows that process and we know it too. It is not just what we do here, but it connects and touches everyone.

In the 1960s, Milford was ahead of everyone. Then in the 1970's, the Coastal Zone Act was enacted. The first sentence of the Coastal Zone Act says "It is hereby determined that the Coastal Areas of Delaware are most critical for the future of this State in terms of the quality of life."

That is what resonated through the last meeting here and all the conversations that Milford cares and has a heritage which is something they want to preserve, protect and pass on.

Consider Route 1 and the east side and the west side. The requested zoning for the approximately 120 acres of commercialization east of Route 1 is in an area that if you went from Route 1 and 113 at the north end of Milford, to Nassau straight down linear miles would be about 20 miles. There is no heavy commercialization along that strip. What is east of Route 1 is 50,000 acres of the Delaware Bay, Milford Neck Wildlife area, woods, fields, DuPont Nature Center, wetlands, Marvel Preserve at Slaughter Beach, farms, golf course, residences, Prime Hook Wildlife Refuge, Fowler Beach, Shorts Beach, Broadkill Beach and Rum Island Nature Preserve. These are things east of Route 1. To put a spot commercial 120-acre development within that 50,000 acres of farmland, residential and wetlands is contrary to every principal the people for Milford rejected fifty years ago. Milford has been very wise in trying to zone commercially and zone historically with preservation in mind. I feel they have done a wonderful job and it is now the responsibility of the people of Milford and our planners to respect that.

There is adequate commercial property available in other places and Key properties probably has other lands they can develop commercially. Commercial on the west side perhaps should be considered. But on the east side in the coastal zone area does not seem appropriate. It is possible they are not aware of the history that Milford has had in preserving and protecting and even going ahead of the State in preserving this area. It is very possible they do not understand that is a legacy of Milford and they might not understand the environmental impact. It is very possible they could consider alternatives to their zoning requests and embrace and contribute and support the stewardship and guardianship east of State Route 1 to the bay. Thank you very much.

Angela Muncie of 30036 Stage Coach Circle, Knollac Acres stated as follows:

When my family moved to Knollac Acres seven years ago, there were few children in our neighborhood. But I had hoped for a thriving community. Today that wish has come true. There are more than fifty children in Knollac Acres with the majority between the ages of 6 to 12. That number is growing because of U&I Builders who is building many new homes in our neighborhood. Our children run from yard to yard, riding bikes throughout our development. Many of these people live in Knollac Acres and know my family is seen walking around the neighborhood every night with my dogs, my children and my baby stroller. It is our modern day Mayberry. I stand here today and ask you to vote against this plan for us because it butts up against our development and there is absolutely no buffer as Mr. Komba says between the farm and our community.

For decades, concerns over residential market impacts from commercial land uses have been discussed in a wide array of academic literature and political debates and agendas such as this. The potential negative spillover effects are the primary rationale for zoning in many American cities is an effort to protect the residential neighborhoods such as ours from noise pollution, traffic, excessive night lighting and aesthetic deterioration. We ask that you follow the same sound judgment of many cities before you that have encountered the same dilemma. With the addition of the new hospital, there is a growing need for nearby residential neighborhoods who can meet the needs of the new doctors, nurses and medical staff moving to

this area. Knollac Acres is one of these communities. Please don't risk the safety and welling being of our children, a growing number of fifty children, by bringing into our front yards a commercial development. Help us keep our Mayberry.

Mr. Griffin says the people that are outside the City limits don't matter. If that is true, who is fighting for us and who is going to be our voice. My children go to Lulu Ross School and I am a member of the PTP and I promote this town's events to the 150 members of my Mom's Club of Coastal Delaware. I shop locally and I think my money and I think my family matters. I think the people in this room and their discretionary income matters too. I hope you feel the same. Thank you.

Kathy Stetson of 147 Hickory Branch Court, Hearthstone Manor stated the following:

I am a fairly new resident in Milford and I concur with the testimony that was previously mentioned. I want to remind the Council that good planning must consider adjacent uses and buffers even if the occupants aren't residents of the City. Buffer zones in planning are vital. One usually does not put commercial uses right next to low density. It is usually buffered up to even medium density, higher density, residential uses and on up. A commercial development is going to have a very big impact. If you look at the map, it creates this designation and would create an island of commercial zoning in a sea of residential zoning which does not make sense from a planning perspective.

I thought it was interesting that the zoning of these properties were designated as low density at the time the current owner purchased the property. He presumably understood what that meant and the limitations on what type development could be done. If you look at the map, that whole area could be residential which makes much more sense and there would be much less impact to the current development that exists there. Someone mentioned that the new hospital will require some places for these people to live. It seems like there is a market there. Now is the time to protect this property before it goes any further. I think that in 2011 when the designation was changed, it seemed like that was a good decision.

Chad Roberts of 20951 Surrey Court, Knollac Acres stated as follows:

One of the Councilmembers asked how close the road would be and that answer is 15 feet, which is just about as close as you and I are. That is how close the road would be if it came through that development. I agree with the quality of life concerns that everyone has stated. I love Knollac Acres and I love Milford and I have lived here longer than I have anywhere else during my life.

I just want to reiterate a couple of things. The 2011 decision to reverse that future land use back to R1 residential seems like the logical thing to do. Back before then when development was going buck wild, it could have been a good idea to make that commercial. But if you look at the map like Ms. Stetson just stated, it makes perfect sense for that land to stay residential. I am personally for development and I talked to the City Planner at the meeting a couple weeks ago and yes, I am dying for a movie theater. I am not against development and if I was against development, I would not be living in Knollac Acres but instead would still be living in the house that was taken from us for the Route 30 overpass.

We were not forced to move from that property, but volunteered to go early. We specifically picked Knollac Acres because it is on the east side of Route 1 where we were assured that no commercial development would ever happen. That is the reason we moved there.

There was some mention of complimentary commercial areas for the hospital. I am looking at a map now and I see a gigantic red piece of C-3 property right next to the hospital. That seems like a pretty easy place to put those needs instead of way on the other side of Route 1 where you will have all kinds of issues getting to and from it.

One other quick thing. I was also talking to Mr. Pierce about the thru way on Thawley Lane because I was one of the ones that was very concerned about that. I understand the deeded access is restricted to R1 which means it is conditionally deeded to residential. They are ceding something or giving away something that is not theirs to give.

Tom Chilton of 38 Meadow Lark Drive, Milford, stated the following:

I live at the Meadows at Shawnee that is right across from the property proposed to be zoned commercial. I am extremely

worried about the drainage in the area of the Meadows at Shawnee. A few weeks ago we had a major rain and water filled up both ponds and it was basically flowing directly from the farm and across Route 1, through our development and partially next to my yard. When we had frozen weather like we did in the spring, there was a tremendous problem because the water had no place to go except right through all the properties.

I am very worried about drainage and just as worried about traffic. There are a lot of kids on the road, a lot of schools buses and I have no idea how they would make the traffic pattern re-circle back to Route 1 to this commercial property. I just don't understand how Council could even consider making that land commercial tonight without some sort of a site plan. These guys say the site plan will come, but some sort of a plan should be presented together to show how the traffic could be managed, how the drainage could be managed with engineered input. It could show where a bridge might be built.

I just don't know how this can even be considered at this point. Once this land is changed to commercial and all the arguments start about what goes here and there, it is pretty much a done deal as has been the case in the past.

I do not support making the land commercial.

Kay Webb of 5536 Cedar Neck Road stated the following:

I am a lifelong resident of Delaware of which 44 years have been spent in Milford. My husband and I have the Century Farm on Cedar Neck Road which runs down Sapp Road and Bucks Road. Our children are the fifth generation on our farm. At any given time, we have 300 to 400 beef animals on the farm. We raise grain and we have vegetables.

Mr. Griffin said there is City electric. We are City of Milford electric and have three electric meters on our farm. One for just our grain tanks so you can imagine what we pay the City of Milford. I agree with everything that everyone else has said. I don't really need to go over it. I think Milford does need to preserve the farming aspect east of Route 1 which is called Cedar Neck. The City always said it was going to remain residential and farming. So I just ask you to reconsider and really think hard, but we are Delaware Century Farm and were one of the first ones in the State of Delaware to get that designation. Thank you.

Mayor Shupe asked to check for lobby area for anyone that wished to speak.

Karen Gillespie of 6552 Cedar Neck Road stated the following:

I agree with everything everyone has said. I am in their court. I want to bring out my background. My grandmother was Indian. She moved every two years. She has lived in just about every house in the City of Milford during the 1960's and 1970's. My dad took up that same trait and moved our family every two to three years. I have been to several schools in Milford, then we moved over the line and I ended in Milton. Then we moved into the Lake Forest School District. I made up my mind that when I got married and had kids, I wanted to go somewhere and stay. I did not want to move. When we built the house we built, we did that with the intention that we were going to stay there until we died.

We have been there since 2000 and wanted to buy the land that was next door to the property we were on. We were told by Mrs. Beverly Thawley that if we would move next door, she would take \$1,500 off the price of the land. She said that land was going to be made a dead-end road and that there would never be another home beside us and there would never be anything built on that side of us. That is what she told us when we bought the land though all of that has changed now.

I was one of the advocates to try to get the bypass or intersection fixed because our first two to three years, we saw many accidents and deaths. The overpass built in front of our house has greatly changed our way of living. I am not as safe there with my grandchildren playing in the front yard and we have many people that come up to our home that don't belong there. It has just brought a lot more people and cars into this area. I do not feel as safe as I used to living there even though I don't regret that decision based on the number of people who were suffering from accidents and the number of people that were killed at that intersection. There wasn't one night I didn't worry about what was going to happen at that intersection until my kids were safe at home because I knew they had to cross that intersection. I don't know why we need a Lowes when I can be at Lowes in 20 minutes if I go north or 20 minutes if I go south. What is going to happen to 84 Lumber in Milford

if Lowes comes here? I think if this is approved, we are going to see a lot of the area businesses suffer.

I may not be in City limits, but our land butts up against the property where they are planning to build and I believe that should be considered.

When the overpass was being built, it created damage to our home. And everyone walked away and no one would claim responsibility for it because they knew we did not have the money to fight them. My husband was recovering from a brain trauma injury and they knew that. I had a spider bite and almost lost my right leg and they knew that. But everyone walked away and we were unable to get any help with the house damage that was a result of the overpass construction. I don't think we could take a lot more construction next door to us and don't want to go through that again.

I agree with everyone's concerns and you see the representation that is here who are against it. No one is against the City of Milford and I have lived here since 1965 and have always supported the stores and businesses in this area. We raised our kids in this area and love this area.

I only ask that you vote for the people.

Bill Pfaffenhauser of 25 Goldenrod Circle, Milford stated as follows:

We should preface the concerns by keeping in mind the number of accidents that have occurred at the Route 1 and 206 intersection prior to the overpass and the results of those horrific accidents we all remember. We all like to beat up on DelDOT but the end results of their efforts speak for themselves by the life savings difference it has made for the residents east of Route 1. Going forward now that the overpass is complete would be a crime to even think about putting people's life and limbs in jeopardy again in that vicinity.

We have heard a lot of talk about how traffic could be routed into the area that is under consideration. As far as routing that traffic through residential areas, we have heard plenty of reasons from a road standpoint and how they were never built for commercial traffic to the impact that would have on people's property values and sanity.

That leaves the options of accessing by a collector distributor, or the modification to Route 1 flyover. Not having seen any proposed route for the collector distributor road, one can only conjure up images of lights on the east side of the Route 1/206 overpass and the resurgence of accidents we had at the intersection prior to the grade separation.

The problem with the lights is that it won't look and feel like what I thought the City seemed to want east of Route 1. As far as modifying the flyover, think of the issues raised with traffic coming from the south on Route 1. Residents east of Route 1 will all converging at, or near the flyover ramp, in order to get into the commercial area or onto South Rehoboth Boulevard.

Imagine the confluence of moving vehicles during the holidays or Sunday-homebound summer traffic.

Furthermore, we have heard a lot about getting into the area. How are people going to get back onto Route 1? If it is going to be by a C-D road, we are we are back to the traffic light or intersection that was previously eliminated. If it is by the flyover solution, I can only imagine it would need to be directly onto Route 1 from the commercial area. If that is going to be anything like the entrance to Route 1 from the Royal Farms site that was built between NE Front Street and Tenth Street, it will surely end up being another death trap given the blind spot created by the curve the flyover is on.

In conclusion, have we as a community become so preoccupied with shopping and so tight on time that we cannot drive the ten minutes to take advantage of the shopping opportunities available to all of us west of Route 1? Is the land in question truly big enough for any kind of shopping complex per say and if not, are we looking at yet another strip mall when the ones we have in town are not full to capacity? Perhaps as part of the effort to re-energize Milford, the City needs to offer seminars helping us to adjust our lifestyles in order to enjoy that river town, art town and hometown feeling the City is promoting. Thank you.

Howard Webb of 5536 Cedar Neck Road, Milford stated the following:

I am a nonresident but I buy electric from the City and I feel fully engaged as a citizen of Milford. I would like to touch on three points.

Sixty-six years ago I started school here. The school bus route was Bucks Road. I think I am as familiar with Bucks Road as anyone here or possibly could be. The flyover bridge that is being discussed will not make any significant improvement. And I think the State has it right when it says there are significant access problems off Bucks Road.

The second thing is this developer did a good deed when he sold his commercial property for a new hospital. But he sold it at a profit. So we are not obligated to provide him C-3 on another property that will destroy our neighborhoods—yours or mine.

Third point is, if this was a good idea, in July of 2011, this Council unanimously approved a TDR program in southeast Milford. The area under consideration now was a sending area where they would have to buy the increased density. We are not talking about residential density tonight but we are certainly talking about density of atmosphere which is not much difference. Thank you.

Mr. Pasquale Visioli of 6294 Bucks Road, Milford stated the followed:

Everybody took the wind out of my sails. They covered everything I wanted to talk about. But I want to expand on something that Mr. Rutt spoke about earlier when he mentioned that Mr. Fannin sold the property to the hospital. Also, Mr. Griffin tonight, and last week, stated that Mr. Fannin had a dream for a regional shopping center. Well I am old school and I still read the paper and I didn't embrace the electronic age. I still read the paper, especially the business section. The so-called anchorage, Macys, Sears and JC Penney are all phasing down and some stores are being closed. So Mr. Fannin's dream regional shopping center, I think would have turned into a nightmare, if it wasn't for the hospital taking that land off of his hands.

Could I have the map back up please? If you put a legitimate service road through Mrs. Thawley's property, it will take up quite a bit of space and the only thing you will be left with is another strip mall in that section. We have five strip malls in Milford now and I don't think we need another strip mall. When we talk about a service road, are we talking about a legitimate service road or are we talking about two white lines down the middle of the parking lot? That is what we have at Milford Plaza where Peebles and Advance Auto is located. Just a traffic line being used to depict a road.

The other point I want to make is about the flyover. One of the flyovers that was discussed last week would be at the corner of where Bucks Road makes the sharp right turn at the point of the Mr. Wiggles property. That is the point where the City of Milford Electric Department extends around and down Bucks Road and serves the front of approximately ten to eleven properties down Bucks Road.

Using Mr. Griffin's logic that you should only take care of people inside of your corporate lines, I am glad the City of Milford's electric department decided to come down Bucks Road and not ignore those residents because they are not inside City limits.

The other point I want to make is that Mr. Griffin said that Mr. Fannin is going to pay for all the utilities and whatever expenses are required. He is not doing that out of the bigness of his heart, because he is going to pass those expenses along to the tenants and someone else is going to pick up those costs. That will not be coming out of Mr. Fannin's pocket.

What I am asking you to do is think across the line and not just listen to Mr. Griffin. If you do, you will have to stop at the corporate line. He somewhat contradicts himself and in one sentence he is saying what you decide here tonight is for the benefit of the area and then he gets upset because 40 people last week who were opposed lived outside of the City limits. If he takes a head count tonight, he is really going to be upset. I ask you to use common sense and make the right decision. Thank you.

Lucius Webb of 20516 Sapp Road stated the following:

The reason why I am here tonight is to give you a perspective of a realtor and talk about the trend in retail and what kind of money does a developer really makes when they buy a property and then having it rezoned. I have great respect for Mr. Fannin's ability to make money. He buys a property like Mrs. Thawley's for about \$15,000 an acre. Once it is rezoned, it is worth about \$500,000 an acre. Pad sites are worth even more than that.

We can be enticed and say, well, we really need a Cheddars. If we really need a Cheddars, Mr. Silicato has sufficient space up by Grottos. We do not need a Cheddars in this area when we have much more appropriate land by Royal Farms and Grottos. Regarding the trends in retail, retail is really on the demise and most people are shopping on line and especially the younger people who have adapted technically.

We have some sadness in that retail front with Kmart and Sears' stores basically going out of business. Macy's is closing a hundred stores next year. Kmart is closing 78 stores; Ralph Lauren is closing 50 stores and Sports Authority is closing 400 stores. Walmart is closing 289 stores and it goes on and on. I have been working with developers trying to have a property rezoned and we are not getting there because the interest of retailers no longer exists. Milford does not have the economic base for the type of retailers they would really like to have as were once espoused by the sales staff at Hearthstone. People were told at one time when they walked in that there was going to be a Neiman Marcus where the hospital is now being built. Neiman Marcus would never think about coming to Milford. I could go on and on but I have great admiration for the Mayor and what this City Council is doing and their focus on downtown Milford. There is true promise for our community. Please stay focused. Thank you.

Tammy Sturgeon of 6246 Bucks Road. Milford stated the following:

I am probably the poor person on the block. I live right next door to the Wiggles Farm and I guess my concern is how are you guys going to protect me from big business. When I moved there, there were very few houses. The community has built up and it is a nice little community. When I walk, I see people walk their dogs and we all say hi to one another. It is just a very scary thing happening and I have to put my trust in you guys and hope you do the right thing by protecting me. Thank you.

Mayor Shupe asked if anyone else who wished to provide testimony in opposition of the application. No one responded.

The Mayor then asked if there is anyone else who would like to give testimony that are not opposed nor in support of the application. No one responded.

Mayor Shupe then asked for a show of hands for those in favor of the application. It was noted there were five people who raised their hand.

Mayor Shupe then asked for a show of hands of those persons who are opposed to the application. Solicitor Rutt counted 67 persons whose hands were raised in opposition.

Mayor Shupe stated that after hearing and accepting testimony from the applicant and representatives, those in favor of the change to the comprehensive plan and those opposed to the comprehensive plan, he closed the public comment portion of the meeting.

Solicitor Rutt asked to raise a point of order before the Council discussed the matter. He stated that under the City Code Section 230-58(d), in the event there had been an unfavorable report or recommendation for denial by the Planning Commission, such amendment or change shall not become effective except by a favorable vote of three-fourths of City Council. He explained that since the City Planning Commission denied the application, to overturn their recommendation would require the affirmative vote of six members of City Council.

Mayor Shupe then provided City Council the opportunity to ask additional questions or to discuss the matter before them.

There being no comments or questions, Solicitor Rutt informed Council there are three options:

- \*Vote to deny the application;
- \*Vote to reverse the recommendation of the Planning Commission who recommended denial;
- \*Table the matter and consider it at a later date.

Councilwoman Peel then moved to deny the application, seconded by Councilman Campbell. Motion carried by the following 6-0 vote:

Councilmember Mergner stated as followed:

I vote to deny the application. It does not make sense and for me to sit here representing my ward which is Ward One who had a number of residents present tonight who were opposed and a lot of other residents who are not present. They have expressed their opinion by opposing the proposal to have this area be developed commercially. I am also in a younger area in my development where we do want change and I want change. I would not mind some commercial but it has to be in the right area and planned the right way. This area is not adequate for this type of development and many of the people are not in favor it because of safety issues, traffic issues and there was a little support so he does not support the application and votes to deny.

Councilmember Campbell stated as follows:

I also vote to deny the application mainly because of the situation with the developments and access roads and I think that being a representative of Ward One makes this a definite no in my eyes along with my constituents. Because of the comments from the State, the Planning Board recommendation and the red flags raised by the Planning Commissioners and being a former Commissioner, I feel it is important to support their concerns and recommendation.

Councilmember Peel states as follows:

I agree with what was mentioned and vote to deny the application on behalf of all the residents of Milford and those that are here and the concerns they have expressed tonight. Because we value their business, we value their citizenship and we want them to be a part of Milford and that to me, includes much more than the in-town area and I appreciate everyone being here to share those concerns.

Councilmember Brooks states as follows:

I vote to deny the amendment for the same reason Councilman Mergner, Councilman Campbell and Councilwoman Peel stated and also comments that DNREC made during the State planning process, as well as the safety concerns that have been mentioned. And I agree with the people there are problems with Bucks Road as was stated and I vote to deny it.

Councilmember Morrow states as follows:

I vote to deny the amendment based on the reasons stated by my other four colleagues and also based on the recommendation of the Planning Commission and feel it is very important to support their recommendation.

Councilmember Starling states as follows:

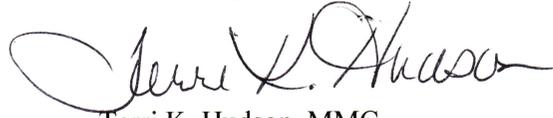
I vote to deny the amendment because of the reasons that have been stated by the residents who are here opposing it as well.

Mayor Shupe reported the motion to deny the proposed change to the comprehensive plan that is before City Council passed by a 6 to 0 vote of City Council.

There being no further business, Councilman Mergner moved to adjourn, seconded by Councilman Brooks. Motion carried.

The Public Hearing adjourned at 10:21 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC  
City Clerk/Recorder

Attachment:

Comp Plan Amendment Support/Petition

CITIZEN PETITION

THE UNDERSIGNED RESIDENT PROPERTY OWNERS OF THE CITY OF MILFORD RESPECTFULLY PRESENT THIS PETITION AND REQUEST THAT CITY COUNCIL REJECT THE RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION REGARDING PROPOSED CITY ORDINANCE 2016-17 AND REQUEST THAT COUNCIL VOTE IN FAVOR OF AMENDING THE 2011 S.E. MASTER PLAN AND THE 2008 MILFORD COMPREHENSIVE PLAN FOR THE AREA EAST OF ROUTE 1 TO CHANGE THE FUTURE LAND USE DESIGNATIONS FOR THE PROPERTIES KNOWN AS MR. WIGGLES, LLC ( TAX PARCEL #3-30-22-056) AND THE FORMER BEV THAWLEY LANDS (TAX PARCELS #3-30-11-70 AND 70.03) FROM LOW DENSITY RESIDENTIAL (R-1) TO HIGHWAY COMMERCIAL (C-3).

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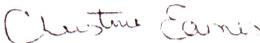
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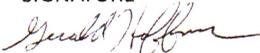
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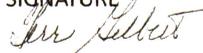

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SIGNATURE *Donna King* MAILING ADDRESS *32 Clearview Dr., Milford, DE 19963*

SIGNATURE *Bob Jones* MAILING ADDRESS *151 Arden Ct., Milford, DE 19963*

SIGNATURE *Dane C. King* MAILING ADDRESS *4401A Dullerton Ct, Milford, DE 19963*

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CITIZEN PETITION

THE UNDERSIGNED RESIDENT PROPERTY OWNERS OF THE CITY OF MILFORD RESPECTFULLY PRESEI THIS PETITION AND REQUEST THAT CITY COUNCIL REJECT THE RECOMMENDATION OF THE PLANNI AND ZONING COMMISSION REGARDING PROPOSED CITY ORDINANCE 2016-17 AND REQUEST THAT COUNCIL VOTE IN FAVOR OF AMENDING THE 2011 S.E. MASTER PLAN AND THE 2008 MILFORD COMPREHENSIVE PLAN FOR THE AREA EAST OF ROUTE 1 TO CHANGE THE FUTURE LAND USE DESIGNATIONS FOR THE PROPERTIES KNOWN AS MR. WIGGLES, LLC ( TAX PARCEL #3-30-22-056) AI THE FORMER BEV THAWLEY LANDS (TAX PARCELS #3-30-11-70 AND 70.03) FROM LOW DENSITY RESIDENTIAL (R-1) TO HIGHWAY COMMERCIAL (C-3).

SIGNATURE

*Henry LaSaille*

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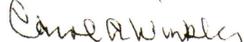
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CITIZEN PETITION

THE UNDERSIGNED RESIDENT PROPERTY OWNERS OF THE CITY OF MILFORD RESPECTFULLY PRESENT THIS PETITION AND REQUEST THAT CITY COUNCIL REJECT THE RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION REGARDING PROPOSED CITY ORDINANCE 2016-17 AND REQUEST THAT CITY COUNCIL VOTE IN FAVOR OF AMENDING THE 2011 S.E. MASTER PLAN AND THE 2008 MILFORD COMPREHENSIVE PLAN FOR THE AREA EAST OF ROUTE 1 TO CHANGE THE FUTURE LAND USE DESIGNATIONS FOR THE PROPERTIES KNOWN AS MR. WIGGLES, LLC ( TAX PARCEL #3-30-22-056) AND THE FORMER BEV THAWLEY LANDS (TAX PARCELS #3-30-11-70 AND 70.03) FROM LOW DENSITY RESIDENTIAL (R-1) TO HIGHWAY COMMERCIAL (C-3).

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SIGNATURE

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MAILING ADDRESS

#1 LITTLE BIRCH DRIVE MILFORD DEL

SIGNATURE

*Harvey Carr*

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#1 LITTLE BIRCH DRIVE MILFORD DEL <sup>HEALTHY ZONE</sup> MANOR

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