

# City of Milford



## CITY COUNCIL AGENDA

Wednesday, December 19, 2018

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

**Council Meeting-5:30 P.M.**

Call to Order - Mayor Archie Campbell

Invocation

Pledge of Allegiance

Approval of Previous Minutes

### ANNEXATION PETITIONS & PUBLIC HEARINGS:

ORDINANCE 2018-29 <sup>Ⓟ</sup>

ORDINANCE 2018-30\* (Rescheduled)

Annexation of Lands belonging to Simpson, Gilbert & Irene

Change of Zone of Annexed Lands

5919 South Rehoboth Blvd

Tax Parcel 3-30-11.00-043.00

1.90 +/- Acres

Current Zone AR1/Proposed Zone C1

ORDINANCE 2018-32 <sup>Ⓟ</sup>

ORDINANCE 2018-33

Annexation of Lands belonging to Derek R. Parker and Shawn L. Bernhard

Change of Zone of Annexed Lands

7195 Cedar Creek Road, Lincoln, DE 19960

Tax Parcel 3-30-11.00-006.15

1.01 +/- Acres

Current Zone AR1/Proposed Zone C3

Adjournment

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

<sup>Ⓟ</sup> *Public Comment, up to three minutes per person, will be accepted.*

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MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 13, 2018

A Meeting of the City of Milford Community and Economic Development Committee was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, November 13, 2018.

PRESIDING: Chairman Christopher Mergner

IN ATTENDANCE: Committee Members:  
Councilmembers Owen Brooks Jr. and Katrina Wilson

Councilmembers Lisa Ingram Peel and Todd Culotta

Mayor Arthur Campbell

City Manager Eric Norenberg and Deputy City Clerk Christine Crouch

CALL TO ORDER

Chairman Mergner called the Committee Meeting to order at 5:30 p.m.

City Planning Director Rob Pierce was also in attendance.

*Vineyard Shipyard Presentation by Dan Bond and Sher Valenzuela/Feasibility Study Contribution Request*

Task Force Member Dan Bond provided the following info related to the presentation to the Committee:

*For about 150 years, starting as early as 1760, the history of Milford was intimately tied to its shipbuilding industry.*

- At the industry's peak at the end of the nineteenth century, seven shipyards were active, employing three-quarters of the town's workforce.*
- More than 300 wooden ships were built in the Milford shipyards between 1680 and 1927.*
- Milford produced more wooden ships than any of the other seven significant wooden ship building centers in Delaware, including Wilmington.*
- The Vinyard Shipbuilding Co., founded in 1896, is the last of the seven Milford shipyards to survive today.*
- It is also the last surviving wooden ship building facility on the Delaware Bay.*

*In its early years, the Vinyard ships were built outside along the banks of the Mispillion. These were ships – not boats. The Edith (1908) was 117 feet long.*

*In its early days the Vinyard Shipyard built tugboats & sailing vessels.*

*In World War I the shipyard produced 110' subchasers for the Navy.*

*During the 1920s Prohibition period, "Sixbitters" – 75-foot U.S. Coast Guard patrol boats – were built to be used to chase "rumrunners."*

*In World War II the Vinyard shipyard was contracted again by the U.S. Navy and built 14 wooden-hull subchasers, which became know as the "splinter fleet" making Milford one of its major producers.*

*Starting in 1927 and continuing after World War II until 1951, the Vinyard shipyard produced luxury yachts.*

*The last of the Vinyard yachts was built in 1951, but the shipyard continued in business repairing ships & building wooden boats until 1973. Delaware Marine & Manufacturing built boats here from 1973-83. Then the shipyard gradually fell in ruin and was condemned in 1995 and would likely have been torn down.*

*In 1996 Joan & Sudler Lofland purchased the shipyard and restored it over the next several years and used it for ship and*

*boat repair and restoration. Mr. Lofland also built a large pole barn that he primarily to store his collection of boats, motors and antique wheels.*

*In recent years they have collected documents and artifacts, written books, produced videos, and created a museum to display this rich history. While it is a private museum and only open for special events. Mrs. Lofland recently published a book of photos and history of the Vinyard shipyard.*

*They also purchased three of the Vinyard yachts – Vignette (1951), Kismet (1938) & Augusta (1927) - and restored them at the Shipyard.*

*In 2016, the Vinyard Shipyard was recognized as a State Historic Landmark and a plaque was installed at the shipyard's entrance. The shipyard has been on the National Register of Historic Register as the key element of the Milford Shipyard Historic District since 1983.*

*Today, the shipyard consists of the offices and warehouse, the mold/sail loft, which was built around 1900 and the boat house, built around 1929, and the machine shop, built around 1930. The Loflands have also build their home on the site and opened their museum in an adjacent building.*

*Mrs. Lofland recently published a book of photos and history of the Vinyard shipyard.*

*The Loflands have also acquired the nearby historic Mulholland Spoon Factory are working on its restoration.*

*Vinyard Shipyard Existing Facilities – 34,144 SF in total*

- *Two-story Mold Shop (woodworking) & Sail Loft (1900) – 4,256 SF*
- *Tool crib (now attached to Boat House) (1920) - C 1,000 SF*
- *Boat House (1929) – 12,572--- SF*
- *Machine Shop (1920) – 2,592 SF*
- *Pole Building - Storage Shed – 4,000 SF*
- *8 & 10 Columbia Ave (Museum located in 10) – 6,064 SF*
- *Lofland House at 6 Columbia Ave – 3,660 SF*

*All in excellent condition!*

*Total Acreage of site – 2.75 acres*

*An effort is now underway to ensure these assets continue to be maintained and to expand their public use. This effort is a natural continuation of the decade's long expansion of Milford's renowned Mispillion Riverwalk Greenway and could be a core element of a 50+ acre recreation and cultural complex envisioned along both sides of the Mispillion River directly East of the City's historic downtown.*

*A grand vision of the Milford community in the early 1970s to clean up the banks of the Mispillion and turn it into a public greenway has resulted today in the City's most valuable public resource.*

*Milford now has the opportunity to develop and expand the eastern half of the Riverwalk Greenway into a major recreation and culture complex.*

*Future Mispillion Recreation & Culture Complex*

*Task Force for Vinyard Shipyard Project*

- *Matt Babbitt, Abbott's Pond Site Manager, Delaware Nature Society*
- *Daniel Bond, Property developer in downtown Milford*
- *Gary Emory, former Director of Milford Parks & Recreation Department*
- *Lisa Fitzgerald, U.S. Department of Agriculture, Business & Community Programs Specialist*
- *Rob Pierce, Milford City Planner*

- *Sher Valenzuela, Co-Owner, First State Manufacturing*
- *Murrie Zlotziver, Executive Director, DMI*

*RFP for Consultant Study*

- *RFP issued June 11, 2018 for consultant to undertake a study.*
- *RFP distributed to a large group of firms from a list compiled by DMI with assistance from Rob Pierce, Milford City Planner and Delaware government agencies.*
- *Three proposals received, each from a consulting firm that had assembled a group of specialists with project planning, design, engineering, historic preservation, landscape design, & project financing expertise.*
- *A selection committee chose Architectural Alliance, Inc. as the preferred group and the DMI Board approved the selection.*

*TASK 1*

- *Complete a detailed Strengths, Weakness, Opportunities & Threats (SWOT) analysis.*
- *Determine possible uses of the shipyard that preserve the site and how the property and its assets can be integrated into the surrounding public investments, including the Mispillion Riverwalk, Memorial Park.*
- *Determine possible private and public partners that could assist with implementation and long-term operation of the possible uses.*

*TASK 2*

- *Review the possible uses with the client to determine a preferred use.*
- *Provide an estimated cost to implement the preferred use, including property and asset acquisition.*
- *Provide an annual estimated operational budget to maintain the property and its assets.*

*Funding the Study*

- *Architectural Alliance estimates the study will cost \$56,100.*
- *While DMI has contracted for the study, the Task Force will raise the funds needed so as not to require funding from DMI.*
- *The task force is initially asking for funding from the City of Milford, Kent County and Sussex County - seeking at least \$10,000 from each.*
- *Additional funding will be sought from the public (directly and via “crowd funding”), grants, fund raising events, etc.*
- *It is planned that Architectural Associates will begin work in early 2019.*

*Potential Benefits for Southern Delaware*

*Recreational – Support boat building activities for young and old; facilitate greater use of the Mispillion for boating.*

*Educational – Support training in wood & metal crafts for all ages; serve as a venue for teaching about Delaware’s shipbuilding history.*

*Cultural – Preserve a unique example of Southern Delaware’s history.*

*Community Building – Provide facilities for art, music, theater, festival, & fair events which draw the community together.*

*Key new driver of tourism for Milford-DE Turf Sports Complex*

- *DE Turf has been highly successful. Next year they have tournaments scheduled for almost every weekend starting in February.*
- *These weekend tournaments draw in visitors from the entire Mid-Atlantic region.*
- *Attendance varies from 500 to 2,000 or more for each.*
- *They usually stay for two or three days and have plenty of free time between events.*
- *In order to maintain its competitiveness DE Turf needs new attractions nearby.*
- *DE Turf is only seven miles from downtown Milford.*
- *As a result, new restaurants and hotels are already springing up nearby.*
- *A Mispillion recreation & culture complex could become a big draw.*

Task Member Valenzuela referenced the community stakeholders and the amount of excitement because of what is happening in Milford. She recalled DMI’s strategic plan referenced the shipyard as a major asset in Milford and how it could become an economic development driver for all businesses in Milford and particularly in the downtown area.

Task Member Emory referenced a document he created that captured the journey beginning in 1974 when a commission was formed to create the Parks and Recreation Department and their vision for the Mispillion Greenway. Though it was always his goal, he retired three years ago but wants to encourage Milford to continue moving and he is willing to stay around to see it come to fruition.

Milford Museum Claudia Leister then added that the museum has welcomed approximately 3,000 visitors from 25 states and five foreign countries. She said people are coming to Milford and are looking for things to do and believes this would fill a big voice in Milford and actually put them on the map.

Councilman Brooks then asked how this compares to Cooperstown (New York). He reported that he and his wife used to go to Cooperstown every summer and took boat rides and trains and visited the Baseball Hall of Fame. He said that was successful because all the stores were open Saturday and Sunday. He understands this is going to take a lot of grants, but he feels the stores downtown need to be open on Sunday to make it work. If they continue to close on Saturday at five o'clock until Monday morning, it will not attract visitors. His opinion is they have to be open Saturday and Sunday.

Councilman Brooks said the sign on the highway says come to Milford and that is needed to be successful.

Mr. Bond said DMI has been working with DE Turf to get the word out to try and figure out how to advertise downtown Milford and their businesses. They have a plan of how to do that primarily through Kent County Tourism. DE Turf said they do not allow any type of advertising unless a field is paid for and that business or individual's name on it. However, Kent County Tourism has a bus that travels around and goes to the big weekend sports events for at least one day. DMI is putting together a brochure and working on a strategy to use that bus to get the information out. They feel the visitors at DE Turf knowing about our downtown will help.

Mr. Bond agrees that the downtown must be open to be successful and currently, it is basically closed in terms of shopping. But the demand needs to be there before the shop owners are willing to stay open. It also needs more businesses.

Chairman Mergner asked if the task force has reached out to the schools and colleges yet; Mr. Bond answered not yet, but they have a long list of contacts. Delaware schools are definitely on that list to be contacted.

Mr. Bond also talked about the expense of school trips but feels that having something like this in Milford would be a rewarding experience for a very small fee.

He encouraged people to call the Loflands to make appointments to visit their museum.

Mr. Bond commended Dave Burton who had played a big part in the Greenway's success, largely by bringing the library downtown. In the video Mr. Burton said it's like a magic plan that was created in the very early 1970's. But that was created piece by piece over many decades. Goat Island was the first piece of land purchased back in 1976 even though that was only recently developed by the current Parks and Recreation staff.

Councilmember Wilson said she is familiar with the shipyard and her father, who is now in a nursing home, was part of the museum and the documentary that was put together. She is supportive of the project and knows it has been a long time in the making and is in awe of the very impressive ships that are housed there. She recalled that one of her uncles also worked at the shipyard.

Matt Babbitt, Abbott's Pond Site Manager, stated they currently have a contract with Milford School District for their pre-k through fifth grades to visit their site, in addition to Slaughter Beach. They are directly tied into their preschool curriculum standards through a number of projects. They are part of Delaware Nature Society and serve schools from Pennsylvania, Maryland and from other areas in Delaware as well.

Mr. Babbitt added that they offer activities based on engineering and the history of the mill tying into the agricultural community with educational programs also offered to middle and high school students.

When asked how this ties into the downtown master plan, Planning Director Pierce advised that this project was included in

the Downtown Master Plan as a key priority project. They looked for ways to incorporate this into the greenway and preserve it for a long time for use by the community.

City Manager Norenberg asked the status of the conversations the task force has had with Kent and Sussex County; Mr. Bond said they are returning to meet with Kent County officials after Thanksgiving. Their next step is to set up a group meeting with Sussex County. Their goal is to get to all three government organizations on board very quickly though Milford is the most important.

They promised Mr. and Mrs. Lofland they would move fast which is the reason for the task force and meetings with the community versus only with themselves.

Mr. Bond said that he is asking Councilmembers Culotta and Peel, who promised they would take this to City Council and request grant support by December. He thanked them for co-sponsoring the request.

Councilmember Peel stated that as Mr. Bond stated, timing is everything and recalled when in 1976, Mr. Emory began to consider Goat Island for this purpose. She feels that this has developed at a faster pace in recent years and sees things happening around Milford and wants to make sure we are keeping up with what needs to happen around that river.

Chairman Mergner agreed. He agrees it should be presented to City Council and asked the City Manager to speak on the funding and how much is possibly to put toward this project. It is a great project and there is a need to stand behind it from an economic development standpoint. He feels this is exactly the type of attraction that could create additional foot traffic downtown.

City Manager Norenberg believes there are unobligated funds in the economic development fund. He also noted that the next agenda touches on the future sales of properties in the business park and Independence Commons that could assist. He believes that we can consider a \$10,000 request though that needs to be verified through our finance department so it can be ready to be acted upon in a future Council agenda.

Councilmember Wilson prefers funding projects like this that will benefit Milford versus funding projects outside of Milford in the county area. Chairman Mergner explained that is whom they are working with and Milford is providing them money to generate economic development in Milford. That is the reason for the \$30,000 contribution and this task force will also be asking them for money.

Councilmember Peel asked if they are asking them for money or will it be requested from Kent County Levy Court; Mr. Bond confirmed it will be from Levy Court.

The consensus of the committee was to move forward with the funding request to City Council.

*Independence Commons Lot Sales Update from R&R Realty  
OC-1 Zoning Code Amendment Request/I-Realty*

Economic Development and Planning Director Pierce referenced the memo in the packet, stating that we receive an inquiry from R&R Realty that will be discussed. He wants Realtor Keith Walpole and Broker Charlie Rodriguez to have an opportunity to provide an update of the marking and promotional contract for commercial real estate.

Mr. Walpole said they were given the Greater Milford Business Park and Independence Commons' listing in July 2018. It has been advertised on LoopNet and has had more than 1,000 hits and 40 detailed views. They also advertised on several other sites, including Sussex and Kent Counties MLS. Email blasts have been done and approximately 15 to 20 calls have been received. Most of those interested buyers asked what they could do with the property. In most cases, the use they were considered was prohibited which did not align with typical commercial and business park uses. Instead it is designated for general office type uses as was requested by the Veterans Home and Boys and Girls Club when they first developed.

Mr. Walpole recommends waiving some of the stricter regulations which would allow the properties to sell. He is encouraged by the amount of hits and hopes this will allow a more competitive market and a successful sale.

Councilmember Brooks recalled when the business park land was purchased for the purpose of bringing jobs to Milford. He is unsure it can be loosened up unless the State agrees. He saw where a storage facility wanted to go there and he does not feel that will bring jobs to Milford. He does not think a doctor's office wants to be next to a storage unit and he wants the State to agree to allow it. He was hoping that Dave Burton would be here tonight so that Council could ask him if that could be loosened up.

He reiterated that no one works at a storage center.

Mr. Pierce reported that an inquiry was received from I-Realty in September who was interested in a lot. When he reviewed the uses, it was not permitted. However, there is an avenue, as has been done in the past, that allows a person to pay an application fee to submit an amendment to the zoning code. That would require a public hearing process before both the planning commission and city council.

He was given the same information and looked through some of the old minutes from when it was changed from a business park designation, which was designed for job creation, to the OC-1 (Office Complex), which is a quieter, low volume type setting.

Mr. Pierce also noted that the business park has been in existence for almost twenty years and it has been very difficult to attract interested buyers on this side. He feels the land is priced appropriately so the problem has to be the restrictions of uses.

Mr. Rodriguez then addressed the committee adding that they have provided the lot/land information to Linda Parkowsky at Kent Economic Partnership. In Kent County, they are seeing a lot of fulfillment centers and logistic centers who are interested and opening throughout Delaware. A lot of retailers are working with fulfillment companies and believe this may be an opportunity for Milford to create jobs. But an interested developer is needed that will come in, construct the building and lease it out to these companies.

Recently, there was a liquor distributor looking for a 10,000 square foot building that is move-in ready. Many logistic companies are looking for a structure they can move in within a couple of months, versus the eighteen plus months it takes to build a commercial building. A record keeping company is also looking for a 40,000 square foot warehouse. He stressed that all of these companies will create jobs.

Mr. Pierce shared that Realtor Casey Kenton had reached out to him in September about a code amendment. Instead of drafting a code amendment and going through that process, he felt it was more beneficial to get them in front of the Economic Development Committee for feedback on whether to move forward or not.

Casey Kenton was also present and introduced Andy Strind who is president of his organization. He explained they are a Dover-based real estate development company specializing in commercial development. They acquired a self storage facility in Milford along Masten Circle behind Popeyes Kitchen in 2014, which was the former Milford Central Storage. It was re-branded to Delaware Self Storage (DE Storage.com). It was immediately renovated in an effort to improve it as much as possible and over the past three years, they have expanded the property three different times.

They are maxed out on their foot print and completely out of land. Approximately one year ago, they began to look for other sites that could serve a self storage development in Milford because they feel there is a high demand for that service in Milford.

Mr. Walpole informed them that Independence Commons had lots available and identified lot 4 which is an 11.5 acre site. They liked the property because it could serve multiple uses and not just for storage purposes. After reading the code and talking with Mr. Pierce, he realized the OC-1 did not allow for self storage.

Mr. Pierce recommended Mr. Kenton make a formal request for a code amendment to allow for self-storage, though it would also be considered as an office use or something similar that is permitted in the OC-1 zoning.

Mr. Kenton advised that they own and operate office parks in Dover and Smyrna and have experience in developing that type of asset. They built a 30,000 office park known as Milstone in Dover. The site plan in Milford would allow self storage in

the rear. They would retain the frontage along Veterans Boulevard, next to the Boys and Girls Club, in front of the Veterans Home for a future use.

Being from Milford, Mr. Kenton loves Milford and wants to capitalize on all the good things happening here. He believes they could make some thing work though self storage would have to be added as a permissible use.

He stressed that they are also prepared to pay the full-price of \$460,000, contingent on the ability to do storage on at least a portion of the property.

Mr. Kenton also noted that because this lot does not have frontage on Airport Road, it is somewhat of an irregular shape and does not lend itself to a single user operator because of the size. He thinks it could be a challenging property though they are willing to look at this property as a multi-use development.

Mr. Kenton confirmed this would be a climate controlled facility. A portion would likely be drive up though they believe the demand in Milford is for climate control space. They have already developed three climate control buildings and have filled them all.

They anticipate building a 15,000 to 20,000 square feet initially though the plans would allow for expansion. However, they feel the site is large enough to design a nice site plan to allow for self storage expansion. They would also keep the road frontage for future development that will hopefully bring jobs.

Chairman Mergner asked if a buildout in the front would be done n hopes of finding a landlord. Mr. Kenton said that is an option though they have not done a market study as of this time. If they had a tenant, they would most likely build it.

Mr. Kenton confirmed that tenants at their other offices include professional offices, medical tenants and real estate offices resulting in a light professional office use.

Councilmember Peel pointed out that one of the prohibited uses is distribution and asked if the City made an exception for the Touch of Italy. Mr. Pierce explained Touch of Italy's lot are on the southside. That zoning did not change and remains the BP (business park) designation based on the initial job incentive purpose. The other side is much more restrictive as a result of the change to OC-1.

Mr. Pierce advised the northside or Independence Commons, was also zoned BP at the time it was purchased and whose intent was job creation, as Councilman Brooks is referring to. However, there was some concern expressed by the Veterans Home, as well as some of the residents along Canterbury Road, who did not want the light industrial uses backing up to them. That is the reason it was changed to OC-1.

Councilman Brooks reiterated the key is the State because the money and the bonds were given to the City so that the land could be bought cheap to attract businesses that would bring new jobs to Milford.

Investor Realty President Andy Strine said they understand they are asking for something outside the box and the reason they preferred to discuss the idea initially. They do not want to continue to waste these businesses' time if Milford is uninterested.

He pointed out that the upside is that this is a blank sheet of paper to figure out what makes the most sense for the market and the town and for those businesses

In terms of how much land for the storage would be used versus a different use, the project north of Milford is about seven acres though this would be slightly smaller with bigger buildings and fewer roadways. He would envision pushing it to the back and having the frontage available for something there is a market for. That may be a distribution center, flex or office space or whatever the market dictates.

Mr. Strine understands this is not what it was intended for initially though it has been vacant for more than a dozen years. He feels the town could use the money for other things that would benefit the community and its residents. However, that is a call the City has to make. They feel it is a viable space and there is a benefit to modifying the zoning. In turn, the City

would receive the proceeds from the sale, development and tax base.

When asked the plans for the existing storage space, Mr. Strine said they are a second generation business. They have multiple developments throughout the State, but primarily in Kent and Sussex County. They are also currently developing in Georgetown.

Councilmember Wilson likes the idea of the storage units in the rear and a building in the front. Councilman Culotta agrees adding there is a need for climate controlled storage. He added that a lot of small business owners keep storage in the units and use it on a daily basis. He feels the vision for most people is that a private citizen uses it to store a lot of junk and never returns because there is no interest.

Councilman Culotta also prefers for the storage to be in the business park area versus the downtown or residential areas. He does not see this as an issue and feels that if we limit it at the business park, it is going to happen somewhere else.

Councilman Culotta then stressed that this property has been for sale a long time with very few lookers. He does not want to kick it aside because we want jobs out there.

Chairman Mergner likes the idea of creating a footprint of putting something in the front area that will create some jobs. That could be an opportunity to lease out an area for that purpose.

Mr. Pierce will take the advice of Council and try to find an agreement with the State though he was able to find the minutes from the rezoning, there was little or nothing as far as agreement. He will proceed if there are no major roadblocks in terms of what the State is willing to do.

Chairman Mergner is very interested in pursuing this though he agrees it sounds like there could be an issue with the State.

Councilman Brooks asked if the door is open for other companies who want to do the same thing; Mr. Pierce said if we move ahead with the code amendment, they could sign a sales agreement pending the code change and site plan approval, which is not contrary to what has been done in the past.

Mr. Pierce will create the code amendment based on the results of any further investigation.

#### ADJOURNMENT

There being no further business, Councilwoman Wilson moved to adjourn the Committee Meeting, seconded by Councilman Brooks. Motion carried.

The Meeting adjourned at 6:58 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Transcriber

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 13, 2018

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, November 13, 2018.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilmembers Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow (arrived late), Katrina Wilson and James Starling Sr.

City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson (Out of State Conference)

#### CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:01 p.m.

#### INVOCATION AND PLEDGE

The Pledge of Allegiance, followed the invocation given by Councilmember Wilson.

#### APPROVAL OF PREVIOUS MINUTES

Included in the packet were minutes from the September 24, 2018 Annexation Committee Meeting, October 8, 9 and 22, 2018 Committee and Council Meeting/Workshops. Motion to approve made by Councilmember Wilson, seconded by Councilmember Peel. Motion carried.

#### RECOGNITION

Mayor Campbell read the following proclamation into record, followed by a presentation to Retiring Representative Kenton:

*PROCLAMATION 2018-17  
Honoring Representative Harvey R. Kenton  
on the Occasion of his Retirement from the State of Delaware House of Representatives*

#### *WHEREAS:*

*A true Milfordian born and raised in this community, Representative Harvey R. Kenton will be ending a part of his public life with the conclusion of the 2018 Legislative Session when he will retire from the Delaware House of Representatives;*

*Representative Kenton is respected and admired by his colleagues, and considered to be a tireless advocate for Delaware's farming community, education system, healthcare services and low taxes;*

*In 2010, Representative Kenton began his public career when he was first elected in 2010 replacing long-term legislator V. George Carey in the 36th District in Sussex County, and has served continuously since that time;*

*During his time in the House of Representatives, Representative Kenton has served as a member of the Agriculture, Appropriations, Education, Health and Human Development, Labor, Veterans Affairs, Energy, Finance and Natural Resources Committees and the last six years as a member of the prestigious 12-member Joint Finance Committee, crafting the State's multibillion-dollar annual budget and grant-in-aid acts;*

*Representative Kenton has been a leader in his community as well as in the State House, as Vice President of the Delaware State Fair, Vice President of the Greater Milford Boys and Girls Club, Member of Milford Church of God, Vice Chairman of the Felton Bank Board of Directors, Board Member of People Place II and as a former member of the Carlisle Fire Company, Cedarfield Ruritan Club, Milford Board of Education, Milford Elks, Milford Jaycees and the Milford Lions Club;*

*Representative Kenton has served the citizens of the 36th District, the City of Milford and the State of Delaware well and will truly be missed.*

*Representative Kenton has been invaluable in the passing of legislation and the implementation of programs that have truly embodied the role of public servant through his commitment to his constituents in the Milford, Lincoln, Ellendale and Slaughter Beach areas, never missing a meeting, event or vote;*

*A recipient of many accolades throughout his legislative career, Representative Kenton has been honored with the Wesley College Alumnus of the Year Award, People's Place Person of the Year Award, Outstanding Service Award from the State Advisory Council on Career and Vocational Education from the State of Delaware and the National Honorary Farmers Degree from the National Future Farmers of America, just to name just a few;*

*Representative Kenton has represented the City of Milford in a knowledgeable, enthusiastic manner and has been an inspirational leader and friend to all;*

*During his meritorious life of service on behalf of others, Representative Kenton will continue to be loved and respected by all who know him both on a personal, business and legislative level, and will continue to be thought of as "an incredibly kind individual who was warmhearted and always so grateful to serve".*

*NOW, THEREFORE, I, ARTHUR J. CAMPBELL, MAYOR OF THE CITY OF MILFORD, on behalf of the City Council of the City of Milford hereby proclaim our heartfelt gratitude and appreciation to Representative Harvey Kenton, for the countless hours of dedicated and distinguished service he has given the City of Milford and its citizens and to wish him continued success in all future endeavors; and furthermore, direct the City Clerk to transmit a copy of this resolution to Representative Harvey R. Kenton, his wife Jeanne and children Dawn, Chris, Debbie, their spouses and his grandchildren.*

Following, Representative Kenton received a standing ovation by those in attendance.

In addition to several personal comments, Representative Kenton shared what an honor and a pleasure it has been for him to serve Milford, adding that it remains in good hands with newly elected Senator Dave Wilson and Representative and former Mayor Bryan Shupe.

#### *MPD Recognition*

A motion was then made by Councilmember Brooks and seconded by Councilmember Wilson, to add police recognition. Motion carried.

Chief Brown then commended the officers and dispatcher of C Shift, who under the supervision of Sergeant Shane Young, saved a life while on duty in late August. Photos followed.

#### MONTHLY POLICE REPORT

Police Committee Chairwoman Wilson referenced the report adding that Chief Brown asked her to report that he has obtained a radar sign on Seabury Avenue as a result of the increased number of speeding complaints. She expressed her appreciation to Milford Lions Club who assisted with the funding.

Councilman Boyle asked if Chief Brown was able to hire any successful candidates from those he interviewed to attend the New Castle County Police Academy that is starting in December. Chief Brown advised that three recruits have been hired. The fourth candidate was disqualified.

When asked if this fills all positions, Chief Brown confirmed he is still down one officer.

There being no questions from Council, a motion was made by Councilmember Peel, seconded by Councilmember Mergner to accept the Monthly Police Report as submitted. Motion carried.

#### MONTHLY CITY MANAGER REPORT

City Manager Norenberg referenced his report stating there are a couple missing items that will be added as soon as they are submitted by public works and customer service. The updated version will then be put on line later this week.

Councilmember Wilson moved to accept the City Manager report, seconded by Councilmember Starling. Motion carried.

#### MONTHLY FINANCE REPORT

City Manager Norenberg reported on behalf of Finance Committee Chairman Morrow who was running late for the meeting. Through September 2018, with 25% of the fiscal year having passed, 33% of revenues have been received and 23% of the total operating budget expended.

Motion carried by Councilmember Boyle and seconded by Councilmember Peel to accept the Finance Report. Motion carried.

#### COMMITTEE AND WARD REPORTS

Police Committee Chair Wilson commented about her experiences at the International Association of Chief of Police Conference she attended last month. She was provided with new strategies, techniques and resources that are needed to be successful in policing today.

She plans to discuss a few items with the City Manager in hopes of presenting them to Council at a later date.

#### COMMUNICATION AND CORRESPONDENCE

Included in packet.

#### UNFINISHED BUSINESS

##### *Authorization/Funding Appropriation/Cost of Service Study/Wastewater, Water and Solid Waste Services*

City Manager Norenberg recalled that the Public Works Department obtained a proposal from Utility Financial Solutions, Inc. of Holland, Michigan to complete a Cost of Services and Rate Design Study for Water, Wastewater and Solid Waste.

Public Works Director Mark Whitfield reported the proposal was presented to the Public Works and Finance Committee on August 13, 2018. The Committee voted to endorse the staff recommendation. The proposal was then recommended to City Council on September 10, 2018. Council requested staff investigate other potential firms that may be interested in completing the study, as well as investigating similar studies that may have been completed by other Delaware cities.

He announced that DEMEC members, the City of New Castle and City of Lewes had UFS complete similar studies for their wastewater and refuse collection. Both spoke very highly of the UFS process and agreed the result is a very defendable and fair rate structure.

Mr. Whitfield shared that they also spoke with a local engineering firm who had performed similar studies for other communities. The firm did not have experience in refuse collection and chose not to submit any proposal because of that.

The City of Dover and the City of Rehoboth Beach are also preparing to do similar studies.

The Public Works Director reminded Council that UFS completed a similar study for the Electric Division in 2017. That resulted in a major rate structure change for City customers.

It is his believe that it is in the City's best interest and that this is needed, not only to meet the needs of the City, but to remain competitive with other Delmarva communities.

He added that Council needs to approve the funding for the study because it was not included in the 2019 budget.

When asked why this wasn't included in this year's budget discussions and whether this could wait until the next fiscal year, Councilmember Wilson recalled it being discussed. Councilman Boyle agreed adding that the conversation included concerns there was no justification or ability to defend the rates. The study on the electric rates provided a foundation that would allow more informed decisions on rate structures. As a result, the rates slightly decreased.

In his opinion, Councilman Boyle feels it is important to complete the rate picture because there was no solid background information should rates be questioned by our users. It will also provide a better projection of our operating budgets.

Councilmember Wilson and Peel both added that reserve funds were also discussed and how the City never had any related policies related to spending and/or minimum and maximum balances.

Public Works Director Whitfield said the study could wait; however, on the refuse side, the City is not bringing in enough to cover the cost of replacing vehicles. There is a need to dive into those rates and consider adjusting those rates in order to address those issues.

Councilmember Peel agrees there is a need to find out if we are charging the right amount now or if there is a need to adjust.

Councilmember Mergner said he is not disputing the need for the study. He is only questioning the timing and his concern to go outside the current budget. Public Works Director Whitfield confirmed this would be funded out of reserve funds regardless of if it is approved now or eight months from now. Councilmember Mergner was satisfied and said that answers his question.

Councilmember Boyle moved to authorize the Cost of Services and Rate Design Study and allocate funding from Water Reserves in the amount of \$14,250, Sewer Reserves in the amount of \$14,250 and Solid Waste Operating Budget in the amount of \$9,000, seconded by Councilmember Wilson. Motion carried with no one opposed.

## NEW BUSINESS

### *Introduction/Ordinance 2018-25/Chapter 130 Flood Plain Management*

Mayor Campbell introduced the following ordinance:

ORDINANCE 2018-25  
CODE OF THE CITY OF MILFORD  
PART II-GENERAL LEGISLATION  
CHAPTER 130-FLOOD PLAIN MANAGEMENT

WHEREAS, The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City of Milford. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Development that is inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contributes to the flood loss; and

WHEREAS, The City of Milford, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on June 1, 1977. Subsequent to that date or the initial effective date of the City of Milford Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with the City of Milford's floodplain management regulations in effect at the time of construction, and all development, new construction, and substantial improvements subsequent to the effective date of these regulations shall be compliant with these regulations.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 130 entitled Flood Plain Management, by removing language indicated by strikethrough and adding language shown as underlined.

Section 2.

Article I-Findings, §130-4 Basis for establishing special flood hazard areas is hereby amended as follows:

Maps and studies that establish special flood hazard areas are on file at ~~City Hall, 210 South Walnut Street, Milford, Delaware 19963~~ and City of Milford Planning Department at \_\_\_\_\_.

Section 3.

Article III-Administration, §130-10 Designation of the floodplain administrator is hereby amended as follows:

The ~~Building Inspector~~ **City Manager** is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

Section 4.

Article IV-Requirements in All Special Flood Hazard Areas, §130-21 Buildings and structures is hereby amended as follows:

(D) Have electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located ~~at or~~ **a minimum of 18 inches** above the base flood elevation.

Section 5.

Article IV-Requirements in All Special Flood Hazard Areas, §130-25 Gas or liquid storage tanks is hereby amended as follows:

(B) Above-ground tanks in special flood hazard areas shall be elevated and anchored ~~to or~~ **a minimum of 18 inches** above the base flood elevation or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

Section 6.

Article V-Specific Requirements in Special Flood Hazard Areas, §130-27 Residential structures and residential portions of mixed use structures is hereby amended as follows:

(A) Elevation Requirements

(1) The lowest floor (including basement) shall be elevated to ~~or~~ **at least 18 inches** above the base flood elevation.

(2) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map ~~or at least 2 feet if a depth number is not specified~~ **plus at least 18 inches, or at least 3.5 feet if a depth is not specified**; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.

(C) Manufactured Homes. New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

(1) Be elevated on a permanent, reinforced foundation that raises the lowest floor to ~~or~~ **at least 18 inches** above the base flood elevation and is otherwise in accordance with §130-27(A).

Section 7.

Article V-Specific Requirements in Special Flood Hazard Areas, §130-28 Nonresidential structures and nonresidential portions of mixed use structures is hereby amended as follows:

(A) Elevation Requirements

(1) The lowest floor (including basement) shall be elevated to ~~or~~ **at least 18 inches** above the base flood elevation or the structure shall be dry floodproofed in accordance with §130-28(B).

(2) In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map ~~or at least 2 feet if a depth number is not specified~~ **plus at least 18 inches, or at least 3.5 feet if a depth number is not specified**; adequate drainage paths shall be provided to guide floodwaters around and away from the

structure.

- (B) Dry Floodproofing Requirements. Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:
  - (1) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation **plus 18 inches**. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map ~~or at least 2 feet if a depth number is not specified~~ **plus 18 inches, or at least 3.5 feet if a depth number is not specified.**

Section 8.

Article V-Specific Requirements in Special Flood Hazard Areas, §130-29 Accessory structures is hereby amended as follows: Accessory structures shall meet the requirements of these regulations. Accessory structures that have a footprint of no more than 200 square feet may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements:

- (E) Electrical service and mechanical equipment elevated to ~~or~~ **at least 18 inches** above the level of the base flood elevation; and

Section 9.

Article VI-Variances, §130-31 Variances is hereby amended as follows:

- (C) Limitations for Variances
  - (3) The Board of Adjustment shall notify, in writing, any applicant to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation **plus 18 inches** that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk.

Section 10.

Dates:

Planning Commission Public Hearing and Recommendation: 11/20/18  
 City Council Introduction: 11/13/18  
 City Council Public Hearing and (Proposed) Adoption: 11/26/18  
 This ordinance shall take effect and be in force ten days after its adoption.

Planning Director Pierce recalled the presentation by a DNREC representation, a local architect and a member of the insurance industry at which time the impact of adding additional freeboard requirements to the City’s Floodplain Ordinance was discussed.

A public hearing has been scheduled at the November 26<sup>th</sup> meeting.

*Introduction/Ordinance 2018-26/Chapter 200 Subdivision of Land*

Mayor Campbell introduced the following ordinance:

ORDINANCE 2018-26  
 CODE OF THE CITY OF MILFORD  
 PART II-GENERAL LEGISLATION  
 CHAPTER 200-SUBDIVISION OF LAND

WHEREAS, The City of Milford has adopted subdivision of land regulations in order to promote and protect the public health, safety, convenience and general welfare; ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces; and

WHEREAS, The City seeks to modify the definition of a minor subdivision; and

WHEREAS, The City wishes to grant the Planning Director the authority to administratively approve minor subdivisions,

lot line adjustments and consolidating of lots; and

WHEREAS, The City desires to provide a process for revising existing recorded subdivisions; and

WHEREAS, The City seeks to impose an expiration on recorded subdivisions.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Chapter 200 is hereby amended by removing language indicated by strikethrough and adding language shown as underlined.

Section 2-5.

See November 13, 2018 Council Packet.

Section 6. Dates.

Planning Commission Review and Public Hearing: 11/20/18

City Council Introduction: 11/13/18

City Council Public Hearing and (Proposed) Adoption: 11/26/18

Mr. Pierce explained that this will allow the minor applications to be approved over the counter and will establish a sunset provision for subdivisions.

The Planning Commission will review the amendment before it returns to Council for a Public Hearing.

*Authorization/Funding/TAP Program/Phase I/Northeast Front Street*

Mr. Pierce recalled that the City has been going through the process with the State of Delaware Department of Transportation (DelDOT) for a Transportation Alternatives Program (TAP) project for bicycle and pedestrian improvements along Northeast and Northwest Front Street between Route 113 and Rehoboth Boulevard.

Back on July 24, 2017, City Council appropriated \$30,000 for the final design, based on an estimated project cost prior to the preparation of the concept plans. A public meeting was held at City Hall at which time the concept renderings were provided.

It is recommended that City Council approve an additional appropriation of \$8,000 from the Economic Development Fund which will allow DelDOT to proceed with final design for Phase I of the NE Front Street Streetscape project and increase the City's contribution to \$38,000

Mr. Pierce believes the project cost increased slightly above was initially estimated. The City is responsible for 20% of the design, costs which were estimated at \$30,000.

Councilmember Peel moved to appropriate an additional \$8,000 from the Economic Development Fund to fund the DelDOT Final Design Phase I of the Northeast Front Street Streetscape Project, seconded by Councilmember Starling. Motion carried with no one opposed.

EXECUTIVE SESSION

Councilman Morrow arrived during the Executive Session.

Councilmember Mergner moved to go into Executive Session reference the below statutes, seconded by Councilmember Peel:

*Pursuant to 29 Del. C. 29 §10004 (b)(9) Personnel Matters*

Motion carried.

Mayor Campbell recessed the Council Meeting at 7:52 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

*Return to Open Session*

Council returned to Open Session at 8:11 p.m.

*Council Appointee Evaluation*

Councilmember Wilson moved to direct the HR Director to work with the City Clerk to amend the City Clerk's job description to more accurately match her current duties, seconded by Councilmember Morrow. Motion carried.

Councilmember Wilson moved to authorize the new salary and increase as recommended by Mayor and City Council, seconded by Councilmember Boyle. Motion carried.

ADJOURNMENT

There being no further business, Councilmember Mergner moved to adjourn the Council Meeting, seconded by Councilmember Morrow. Motion carried.

The Council Meeting adjourned at 8:15 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Recorder

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 26, 2018

The City Council of the City of Milford met in Workshop Session on Monday, November 26, 2018 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 6:30 p.m.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and James Starling Sr.

City Manager Eric Norenberg, Police Chief Kenneth Brown and Deputy City Clerk Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson

*Scope of Work/Design, Engineering & Architectural Services/Replacement Police Facility*

City Manager Norenberg reported that earlier this summer, a Request for Qualifications was issued for the design and engineering of the replacement police facility which would replace the current Milford Police Department at 400 Northeast Front Street. Six proposals were received and screened. Ultimately that was reduced to two finalists who were interviewed in October by Police Chair Wilson, Chief Brown, ICMA Fellow Evan Miller and City Planning Director Pierce and the City Manager.

He advised the project will consist of two phases. The first will be the design for presentation to Council and for public consideration. After the public vote is approved, the next phase would consist of a more detailed design that would be bid. That would be followed by the construction phase.

Becker Morgan Group (BMG) was selected and since that time, Principal Gregory Moore has met with staff several times to discuss the scope of work. Mr. Moore is in attendance to take any feedback and suggestions Council may have. Once finalized, fees and a contract price will be negotiated for both phases. That would then be brought back before City Council for final authorization.

Mr. Moore was present and introduced himself as the project manager. He shared that BMG Principal Ernie Olds will be working on the project. Mr. Olds is an expert in public service projects who focuses on police stations, fire stations and 911 centers.

He explained that they will not attempt to design the entire facility in the initial phase. Their main goals are to do enough design while preparing a very competent and very detailed cost estimate is needed to achieve the budget. They also will prepare enough materials of design to show both Council, the police department and the public how the building will look, provide square footage and the layout of the building and site lay outs.

Based on his understanding, the scope of services will be as follows:

They will perform a boundary and typographic survey of the two parcels being considered. Any visible monuments will be located and deed research performed to determine the property's extents. The boundary survey will be performed in accordance with Delaware State Survey Standards and on the Delaware State Plane Horizontal Coordinate System. Upon completion of the boundary survey, additional monuments will be set as needed. Upon completion of fieldwork, a signed and sealed boundary survey drawing will be provided.

The topographic survey will locate existing structures, roadways/paved areas, visible or marked utilities, trees, and other existing conditions necessary to prepare a topographic base plan. A topographic base plan will be prepared showing the existing boundaries of the property along with all field surveyed information along with contours at one-foot intervals and

spot grades. The survey will be based on the required data needed for site plan design. The City of Milford Public Works Department will provide utility as-built drawings to supplement Miss Utility markings. Private locator services are excluded.

Using the Redstone Report only as a point of beginning, Becker Morgan's team will visit and tour the current station to try and determine the exact square footage needed for each component within the department. Next, growth will be projected to decide the exact square footage needed to evaluate the building.

With the police department, the actual concept building plan, which is a layout of the building showing the offices, hallways, restrooms, lock down areas, etc. will be created. A site plan will also be created to this level so that their partner, Richard Y Johnson, can develop a concept cost estimate. It will most likely be based on a square footage and exact amount of the site.

The costs of other police stations, such as Delaware State Police Troop 3, completed by BMG, will be used. BMG also just bid Troop 7. Both local projects will help with cost estimations.

Mr. Moore explained that if everyone is on board with the footprint and building layout, as well as the budget, they would then proceed by adding more design, which is referred to as the schematic component. That is basically 20% of the full design, and will include more detail based on mechanical, electrical, plumbing, etc.

RY Johnson will then be able to provide a more detailed cost with more breakdowns and not just a per square foot number.

Four presentations will be provided to the public. Two will be devoted to the site for the purpose of listening to the public of what is going to happen on the balance of the property. It is very clear from their experiences, the approximate sixteen acres, is much larger than what is needed for the police station.

A two-day space planning charette will then be conducted for the public to determine space needs (inclusive of space type, occupant load, square footage, individual space needs, spatial arrangement/adjacencies). Based on that information, they will provide a conceptual building block plan. Using the block plan developed in the programming phase, a conceptual building plan will then be prepared.

A residual land plan(s) would follow. Options may include placing the building on the rear of the property with a cut out on the front for a commercial use that could be sold to offset the construction costs, moving the building toward the front with potential residential uses in the rear (which could be sold to a developer to help offset the cost of the project). Public uses may also be considered such as a park, aquarium or whatever public use the City feels is best. In that way, both properties would stay together under City ownership.

Once that is done, conceptual drawings would be created to be presented to the public so that they would understand any option under consideration.

The last portion will present to the public the decisions that were made (land plan, use of remainder of property, final product) through 3D images showing what the building would look like and what materials are being used and the floor plan.

That would then be presented in two final presentations with one in the Council Chambers and the other in a different location.

After that, the project would be ready for the referendum.

Mr. Moore stated that he does not believe the property is in the floodplain though a portion of the front may be. The intent of the survey will be to show the floodplain on the property and those adjacent to it. He believes it will be adjacent considering the raised height in comparison to the current police site which is in the floodplain.

That could help determine where the entrance to the facility will be located off Front Street or toward the back where the land is raised approximately ten feet.

When asked by Councilman Brooks if this would be a certified police station, Mr. Moore explained there is a LEED certification, which is a green building design. Mr. Moore reported that Troop 3 is designed for LEED Silver certification though the State of Delaware did not want to spend the money to get it certified.

City Manager Norenberg said that what was being referred to is the CALEA accreditation which is presently a problem due to the deficiencies of the current facility. Mr. Moore explained that his specialist Mr. Olds will be able to provide more related details. If that is the goal, most of the plan will need to be based on that. That includes an entire list of items, such as the distance of the parking lots to the front, door, how the front door is positioned, to the ability to observe certain areas, just to name a couple, though he could go on and on. That can be incorporated into the design.

Mr. Norenberg asked Council's input on what has been presented by Mr. Moore at this point, and if anyone feels something needs to be added or removed.

Councilmember Peel said it sounds good to her. She asked at what point the collaboration should be started with the PR firm and how that works. Mr. Moore stated that needs to be started on day one. He will need to know what they need and a schedule created of when. His work will take up to four months. Once the survey data is completed, decisions will need to be made. Some of the initial programming can be done with Chief and his staff while that is happening.

Mr. Moore pointed out that while it is very important that everyone be in line with the police department because they are the ones that will need to create a case on why these new facilities are needed. The 3D graphics will help the public understand the size and the appearance of the building.

Though everyone knows what a good-looking building is, each person is different and why there is a need for a good graphic. Because of Milford's history and where this is going downtown, it probably needs to be a traditional look with some modern additions.

Mr. Moore said they will work with the PR firm so they understand what is needed, but they will not be the PR firm. BMG will provide the materials they need and they will also attend the public meetings.

He asked if Council agrees that four meetings are sufficient, considering two will be listening to the public with the final product presented at the next two. He anticipates the PR firm being in at least two meetings and possibly all four, if they feel that is appropriate.

Councilmember Peel feels that if BMG is coordinating the project, she is comfortable because they are the experts in deciding how it would look. It sounds like BMG will provide the technical vision and the PR firm will create an overall vision with both accepting some input from the police and the Milford community.

Mr. Norenberg stated that Evan Miller is pulling out of Milford's files and previous minutes any feedback gotten from the public a year ago during the community conversations. Not just the public, but the officers that came to the four community conversations held at the police department. He will also provide the data received last summer when the phase 1 analysis was done of the site. That will be provided to help Council make decisions as we move forward.

Councilman Boyle referenced the revised proposal that addresses 30,000 square feet and asked where that number came from. Mr. Moore explained that was in the Redstone report, and included a component of current needs and a component of growth in that number. However, they believe that component of growth may be a little greater than is needed today, based on current technology used in today's policing, though they will work that out with the Chief and his staff.

Councilmember Boyle does not see a flexibility for growth in the proposal. He pointed out Milford is at 11,000 residents now and we barely have enough officers. The projected growth, based on the comprehensive plan, states we will at a minimum double in twenty years. He wonders if Council will be asking the same questions at that point and will this station provide the flexibility to meet those needs over those twenty plus years.

Mr. Moore said the property is large enough to plan for twenty, thirty and even beyond that in years. The question is how much the City is able to afford right now and how much growth should be added to the design or instead the flexibility to

expand at a later date.

He agrees those are budget driven issues that need to be discussed and determined early in the concept cost stage.

Mr. Moore confirmed that they will project what is presently needed and then project what is needed with the expansion of the population in comparison to numbers of future police. What is built will be a function of where that budget number comes in based on the square footage.

What goes to the public will need to be a decision made with the Chief as to how much grown actually is needed to be built now.

Mr. Moore said they do not want to build a building that is good for thirty years from now though it ends up making the numbers so exorbitant it is hard for the public to digest. In addition, Council has to find the money or decide how much the City is willing to take on in debt. Regardless, he will plan for growth, whether it is wing additions, section additions, or something similar.

He reiterated that technology has also changed how policing is done. There is a lot more work done in the police vehicle through mobile computers today. That is increasing and improving every single day. That will also be accounted for when considering square footage that is needed. There is a need to be cautious not to build today's standards for twenty years into the future, because something may be included that may not be needed twenty years from now.

It was verified there are no concerns about the scope or the plan. Mr. Moore will continue to work with Mr. Norenberg on the fiscal aspects of their proposal and bring it back to Council for later authorization.

The City Solicitor has been reviewing the draft contract to keep things moving in parallel.

The Workshop Session concluded at 7:00 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Transcriber

*MILFORD CITY COUNCIL*  
 MINUTES OF MEETING  
 November 26, 2018

Milford City Council held a Public Hearing on Monday, November 26, 2018 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilpersons Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and James Starling Sr.

City Manager Eric Norenberg. Police Chief Kenneth Brown and Deputy City Clerk/Recorder Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson

Mayor Campbell called the Public Hearing to order at 7:05 p.m.

*Community Development Block Grant Program - Sussex & Kent County - Fiscal Year 2018*

The City of Milford, Delaware, in cooperation with Sussex County Council, Kent County Levy Court and the Delaware State Housing Authority, held a public hearing for the purpose of providing interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant (CDBG) Program.

Brad Whaley from the Sussex County Community Development and Housing Office and Frank Paquette from Kent County Housing and Community Development were in attendance.

Mr. Whaley reported that their offices apply for and administer the Community Development Block Grant (CDBG) Fund Programs for towns and cities in Kent and Sussex County. The funding originates with HUD (Department of Housing and Urban Development), through the Delaware State Housing Authority (DSHA) who administers the State's CDBG Program on behalf of municipalities and rural communities within the State.

The main objective of the funding is to assist low to moderate income residents with housing issues, primarily through housing rehabilitation. Small infrastructure projects, demolition and sewer and water connections are also considered.

One of the requirements is to hold a public hearing to allow the general public, or leaders of the City to comment or have input. Applications must be submitted by February 28, 2019 for the upcoming fiscal year.

Income is considered 80% of the area median income. The current guidelines, established by HUD this upcoming year, are as follows:

	30% OF MEDIAN	Kent County		30% OF MEDIAN	Sussex County	
		LOW	MODERATE		LOW	MODERATE
1 Person	14,800	24,650	39,450	14,450	24,050	38,500
2 Person	16,900	28,200	45,050	16,500	27,500	44,000
3 Person	19,000	31,700	50,700	18,550	30,950	49,050
4 Person	21,000	35,200	56,300	20,600	34,350	54,950
5 Person	22,800	38,050	60,850	22,250	37,100	59,350
6 Person	24,500	40,850	65,350	23,900	39,850	63,750
7 Person	26,300	43,650	69,850	25,550	42,600	68,150
8 Person	27,900	46,500	74,350	27,200	45,350	72,550

Property taxes must be current and the applicant must have less than \$15,000 in their checking/savings.

Mr. Whaley explained that the primary goal of the housing rehab is to preserve the existing housing stock. Simple rehabs are a focus and include new roofs, furnaces, electrical systems, upgrading plumbing, electrical work, etc.

Over the past fifteen years on the Sussex side, Milford has received more than \$520,000 in CDBG funding to aid 37 households. In the current year, the City of Milford received \$70,000. One project is currently under contract and another is in the process. He anticipates four or five housing rehabs before the end of the fiscal year.

There are presently 15 residents on the Sussex side who have requested housing rehab. Applicants are referred through a number of means, including City Management and staff, visiting nurses, etc. However, most people learn of the program through word of mouth.

He discussed how specialists go to the properties and handle the application process, qualify the homeowners, provide cost estimates and specifications for the work. The project is then bid out with bid meetings on the first Friday of every month.

Sussex managed between 180 and 200 housing rehabs this year. With CDBG, there is a maximum amount of \$25,000 that can be spent, based on the condition of the house.

He emphasized that the City of Milford has their contact information, though anyone may call Milford's City Clerk for additional information if needed.

Mr. Paquette stated he is a native of the City of Milford. He reiterated the program is governed by HUD and the Delaware State Housing Authority.

He added that a maximum of \$25,000 can be spent on a housing rehab and \$15,000 on a manufactured home.

Mr. Paquette said they lose a lot of potential homeowners because of those limits. What can be done twenty years ago for \$25,000 cannot be done today. They find a lot of people who have let their houses go to the point there is mold and/or lead paint problems. By the time the homeowner contacts them, the roof can no longer be repaired for \$25,000 because of additional damage that has occurred.

He also referenced the income levels for Kent County which are slightly different from Sussex County.

Councilman Boyle asked if this needs to be part of an ongoing rehabilitation project or can someone be provided funding for just a roof repair, as an example. Mr. Paquette explained that if they are called to a home for a roof problem, and it is determined there is an electrical or plumbing problem that needs to be addressed, HUD requires that electrical or plumbing work also be fixed. Anything that does not meet code or is a safety issue, must be addressed and is included in the work order that must be \$25,000 or below.

Mr. Whaley explained that the funding is protected and a non-bearing, prorated non interest-bearing lien based on the age of the applicant. If a person were to sell a property five years later that had a ten-year lien, the homeowner would be required to pay back half of the funding. That would then be used on another property in the same area. If the new owner qualifies under the income guidelines, it can be transferred.

Mr. Paquette recalled Milford submitting an application last year. They asked four houses be considered; however, they did not qualify and the grant was not issued as a result. In addition to some being over the income guidelines, the repairs were above the \$25,000 threshold.

The Delaware State Housing Authority also denied the infrastructure project for sidewalks, based on the cost per unit. As a result, Milford did not receive funding last year in Kent County.

With no further comments from City Council, Mayor Campbell opened the floor to public comment; no one responded and the public hearing was closed.

Councilmember Boyle moved to adopt Resolution 2018-20, seconded by Councilmember Peel:

RESOLUTION 2018-20  
Sussex County

Councilmember Boyle submitted to the Council the following Proposed Resolution:

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

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

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

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

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

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

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

APPLICATION: Rehabilitation/Infrastructure/Demolition

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

NOTE: To be used for Infrastructure projects only.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED BY THE CITY OF MILFORD, SUSSEX COUNTY, ON THE 26th DAY OF DECEMBER 2018.

WE GIVE MAYOR AUTHORIZATION TO SIGN RESOLUTION:

Councilmembers

Christopher Mergner    Owen Brooks, Jr.  
Arthur Campbell       Douglas Morrow  
Lisa Ingram Peel       James Starling, Sr.  
James Burk             Katrina Wilson (Absent)

\_\_\_\_\_  
Arthur J. Campbell  
Mayor

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

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

Motion carried.

Councilmember Peel moved to adopt Resolution 2018-21, seconded by Councilmember Mergner:

RESOLUTION 2018-21  
Citizen Participation  
Certificate of Assurance  
Sussex County

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

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

The City of Milford has held a Public Hearing on November 26, 2018 with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals.

The City of Milford has by resolution, following a Public Hearing, endorsed this application.

Mayor Arthur J. Campbell

Motion carried.

Councilmember Boyle moved to adopt Resolution 2018-22, seconded by Councilmember Mergner:

RESOLUTION 2018-22  
Requirement for Fair Housing  
Sussex County

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

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

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

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

This RESOLUTION was passed by a majority of the Council of the City of Milford on November 26, 2018.

Mayor Arthur J. Campbell

Motion carried.

Councilmember Peel moved to adopt Resolution 2018-23, seconded by Councilmember Starling:

RESOLUTION 2018-23  
Authorizes Levy Court of Kent County to Submit Application

The City Council of Milford, Delaware, hereby authorizes its Mayor, Arthur J. Campbell, to submit the Fiscal Year 2018 Community Development Block Grant (CDBG) application and all understandings and assurances therein contained, and furthermore authorizes the Levy Court of Kent County to Act as the official representative of the City of Milford in connection with the submission of the Fiscal Year 2019 CDBG applicant and to provide such additional information as may be required. In the event the City of Milford's application is funded, the Levy Court of Kent County is hereby authorized to administer the funded application on behalf of the City of Milford.

This resolution was passed by a majority of the Council of the City of Milford on November 26, 2018.

Mayor Arthur J. Campbell

Motion carried.

Councilmember Mergner moved to adopt Resolution 2018-24, seconded by Councilmember Boyle:

RESOLUTION 2018-24  
Requirement for Fair Housing  
Kent County

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

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

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

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

This RESOLUTION was passed by a majority of the Council of the City of Milford on November 26, 2018

Mayor Arthur J. Campbell

Motion carried.

*Ordinance 2018-25 Chapter 130-Flood Plain Management*

Planning Director Pierce recalled the Council Workshop recently held in relation to this code amendment. At that time, a DNREC representative, local architect and insurance agent were present to provide input.

At that workshop, the proposed changes were discussed, with an emphasis on the additional freeboard standards.

The proposed revision will require new construction in buildings that are substantially improved, to either have the lowest floor elevation built or dry flood proof to at least eighteen inches above the designated base flood elevation.

The proposal is a result of the adoption of the 2018 Comprehensive Plan that included several objectives and goals relating to creating a more sustainable and resilient community. One of those objectives is to update the floodplain ordinance and consider adopting a freeboard requirement.

Previously, the University of Delaware consultants worked with the State of Delaware staff to develop a complete community planning strategy for towns and counties that included a state policy framework for flood-ready communities. A component is to strengthen codes and ordinances to improve flood readiness. Freeboard can be used to achieve sustainable and resilient communities and prepare buildings and properties for storm events, helping them bounce back quicker by reducing the amount of private property damage.

Mr. Pierce pointed out various areas on the flood maps and related elevations relative to the hundred-year flood event.

He also recalled the list of 46 communities that participate in the National Flood Insurance Program in the State of Delaware discussed during the last review, adding that Milford is one of six communities with no freeboard requirements.

The Planning Commission reviewed the ordinance in October, in addition to the previous discussions during the comprehensive plan sessions with consultants from the University of Delaware and other agencies.

The commissioners recommended approval by unanimous vote.

He also recalled the concerns expressed by Council regarding impacts on historical structure. He pointed to an area in the ordinance that pertains to that item that states ‘repair or alteration or rehab of historic structures shall be subject to the requirements of these regulations, unless a determination is made that compliance with these regulations will conclude the structures continued designation as a historic structure’. A variance would then be required.

The Planning Director stressed that regulations are already in place for new construction of building up to the base flood elevation; this adds eighteen inches to new construction for the dry floodproofing component for improved, renovation-type work. There is already a requirement that an insurance company will not recognize the dry floodproofing certificate unless it is floodproofed twelve inches above the base flood elevation. The impact to new construction is the eighteen-inch additional buffer and only a six-inch additional standard for renovations. Benefits are then seen in insurance premiums.

When asked about the substantial improvement or 50% requirements, Mr. Pierce shared that the property owner can have a fair market appraisal done by any Delaware-certified real estate appraiser which can be submitted with the construction estimate for the project. It would then be evaluated to ensure it is compliant with the floodplain regulation.

Mr. Pierce stressed that the regulations are already in place that requires any building to be raised based on the same 50% requirement. The proposed amendment only adds the additional eighteen inches. That language was recommended by FEMA through the State of Delaware with the floodplain requirement updates approximately four years ago.

It was reconfirmed that a variance through the Board of Adjustment could be sought should this requirement jeopardize the status of a historical structure.

Mayor Campbell then opened the floor to public comments. No one responded and the public comment session was closed.

Councilmember Boyle moved to adopt the following ordinance amending Chapter 130, seconded by Councilmember Culotta:

ORDINANCE 2018-25  
CODE OF THE CITY OF MILFORD  
PART II-GENERAL LEGISLATION  
CHAPTER 130-FLOOD PLAIN MANAGEMENT

WHEREAS, The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City of Milford. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public

expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Development that is inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contributes to the flood loss; and

WHEREAS, The City of Milford, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on June 1, 1977. Subsequent to that date or the initial effective date of the City of Milford Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with the City of Milford's floodplain management regulations in effect at the time of construction, and all development, new construction, and substantial improvements subsequent to the effective date of these regulations shall be compliant with these regulations.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 130 entitled Flood Plain Management, by removing language indicated by strikethrough and adding language shown as underlined.

Section 2.

Article I-Findings, §130-4 Basis for establishing special flood hazard areas is hereby amended as follows:

Maps and studies that establish special flood hazard areas are on file at ~~City Hall, 210 South Walnut Street, Milford, Delaware 19963~~ and City of Milford Planning Department at \_\_\_\_\_.

Section 3.

Article III-Administration, §130-10 Designation of the floodplain administrator is hereby amended as follows:

The ~~Building Inspector~~ City Manager is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

Section 4.

Article IV-Requirements in All Special Flood Hazard Areas, §130-21 Buildings and structures is hereby amended as follows:

(D) Have electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located ~~at or~~ a minimum of 18 inches above the base flood elevation.

Section 5.

Article IV-Requirements in All Special Flood Hazard Areas, §130-25 Gas or liquid storage tanks is hereby amended as follows:

(B) Above-ground tanks in special flood hazard areas shall be elevated and anchored ~~to or~~ a minimum of 18 inches above the base flood elevation or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

Section 6.

Article V-Specific Requirements in Special Flood Hazard Areas, §130-27 Residential structures and residential portions of mixed use structures is hereby amended as follows:

(A) Elevation Requirements

(1) The lowest floor (including basement) shall be elevated to ~~or~~ at least 18 inches above the base flood elevation.

(2) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map ~~or at least 2 feet if a depth number is not specified~~ plus at least 18 inches, or at least 3.5 feet if a depth is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.

(C) Manufactured Homes. New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

(1) Be elevated on a permanent, reinforced foundation that raises the lowest floor to ~~or~~ at least 18 inches above the

base flood elevation and is otherwise in accordance with §130-27(A).

#### Section 7.

Article V-Specific Requirements in Special Flood Hazard Areas, §130-28 Nonresidential structures and nonresidential portions of mixed use structures is hereby amended as follows:

##### (A) Elevation Requirements

(1) The lowest floor (including basement) shall be elevated to ~~or~~ **at least 18 inches** above the base flood elevation or the structure shall be dry floodproofed in accordance with §130- 28(B).

(2) In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map ~~or at least 2 feet if a depth number is not specified~~ **plus at least 18 inches, or at least 3.5 feet if a depth number is not specified**; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.

##### (B) Dry Floodproofing Requirements. Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:

(1) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation **plus 18 inches**. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map ~~or at least 2 feet if a depth number is not specified~~ **plus 18 inches, or at least 3.5 feet if a depth number is not specified**.

#### Section 8.

Article V-Specific Requirements in Special Flood Hazard Areas, §130-29 Accessory structures is hereby amended as follows:

Accessory structures shall meet the requirements of these regulations. Accessory structures that have a footprint of no more than 200 square feet may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements:

##### (E) Electrical service and mechanical equipment elevated to ~~or~~ **at least 18 inches** above the level of the base flood elevation; and

#### Section 9.

Article VI-Variances, §130-31 Variances is hereby amended as follows:

##### (C) Limitations for Variances

(3) The Board of Adjustment shall notify, in writing, any applicant to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation **plus 18 inches** that the variance is to the floodplain management requirements of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk.

#### Section 10.

Dates:

Planning Commission Public Hearing and Recommendation: 11/20/18

City Council Introduction: 11/13/18

City Council Public Hearing and Adoption: 11/26/18

This ordinance shall take effect and be in force ten days after its adoption.

Motion carried.

*Ordinance 2018-26 Chapter 200-Subdivision of Land*

Mr. Pierce recalled the intent of this amendment was to improve the time lines of the City's land use application process.

He explained the three main components involve administrative approvals, changes to existing plans and the expiration of major subdivisions. Mr. Pierce then reviewed each amendment.

The City Planning Commission reviewed the ordinance at their November meeting, after which they recommended approval upon unanimous vote.

One member of the public, an engineer representing a separate application who was in attendance at the same meeting, spoke in favor of the amendment because of the quicker process and reduction of public hearings for minor applications.

Councilmember Boyle asked if some acreage or square footage should be included in the minor subdivision definition. Mr. Pierce referenced Bayhealth's 168 acre parcel which was subdivided into two parcels of which both meet code. That application could be approved administratively because it meets all code requirements.

Solicitor Rutt pointed out the square footage could also depend on the zoning designation which could change. If tied to specific acreage, that could restrict subdivision approvals in separate categories of zoning. He agrees that number of lots is a better means because the size of the lot is defined in each area of the code.

Mayor Campbell opened the floor to public comments; no one responded. The floor was then closed.

Councilmember Peel moved to adopt the following ordinance, amending Chapter 200, seconded by Councilmember Mergner:

ORDINANCE 2018-26  
CODE OF THE CITY OF MILFORD  
PART II-GENERAL LEGISLATION  
CHAPTER 200-SUBDIVISION OF LAND

WHEREAS, The City of Milford has adopted subdivision of land regulations in order to promote and protect the public health, safety, convenience and general welfare; ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces; and

WHEREAS, The City seeks to modify the definition of a minor subdivision; and

WHEREAS, The City wishes to grant the Planning Director the authority to administratively approve minor subdivisions, lot line adjustments and consolidating of lots; and

WHEREAS, The City desires to provide a process for revising existing recorded subdivisions; and

WHEREAS, The City seeks to impose an expiration on recorded subdivisions.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Chapter 200 is hereby amended by striking language indicated by strikethrough and adding language shown as underlined.

Section 2.

§ 200-3. - Definitions.

SUBDIVISION, MINOR - Any subdivision fronting on an existing street, not involving any new street or road, not involving the extension of any municipal water or wastewater mains, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the development plan, Official Map, Chapter 230, Zoning, or this chapter; limited to ~~four~~ five lots.

Section 3.

**§ 200-5 Administrative Approvals**

**The following land use actions may be approved administratively, unless otherwise determined by the Planning Director or designee.**

**A. Minor Subdivision**

**(1) A minor subdivision is one that creates a total of five or fewer parcels of land (including any residual) either on an existing public roadway or on a private road and may be approved administratively, provided:**

**(a) Minor subdivision shall be subject to the process and procedures in Section 200-5(E).**

**(b) Minor subdivision plans shall contain all information as required by Section 200-5(E).**

**B. Minor Lot Line Adjustment**

**(1) Minor lot line adjustments or the sale or exchange of part of a lot between owners of adjacent lots for the purpose of small adjustments in boundaries may be approved administratively, provided:**

**(a) The total area of the adjustment does not exceed 10% of the combined area of the lots affected by the adjustment;**

**(b) No additional lots are created;**

**(c) The adjusted lot line is approximately parallel with the original lot line, when appropriate, or, if it is proposed to intersect with the original line, it does not significantly change the shape of the lots involved;**

**(d) The owner submits a survey plan for review and approval by the Planning Director.**

**(2) Approval of the record plan does not automatically transfer a property. A separate deed must also be recorded simultaneously to transfer the property being conveyed.**

**(3) The Planning Director may permit an increase in the percentage of the combined area of the lots affected by the lot line adjustment following a request for such with justification from the applicant.**

**C. Consolidation of Lots**

**(1) The consolidation of two or more lots may be approved administratively, provided:**

**(a) Any conditions applicable to any applicable original subdivision remain in full force and effect;**

**(b) The consolidation of lots, including those within major subdivisions, shall be recorded as provided in Section 200-5(E) below and may not be re-subdivided except through minor subdivision.**

**(c) A revised deed must also be recorded simultaneously with the consolidation describing the lots as one lot; and**

**(d) The owner submits a survey record plan for review and approval by the Planning Director.**

**D. Change in ownership, mortgage, or lease line.**

**(1) The creation of mortgage, or lease line within a commercial, industrial or multifamily residential lot does not require the approval of a new subdivision plan. At the owner's discretion, a plan depicting the creation or deletion of internal lots to reflect a new mortgage or lease line may be recorded after administrative approval, provided:**

**(a) All prior conditions of approval for the original subdivision remain in full force and effect;**

**(b) Any necessary cross-easements, covenants, or other deed restrictions necessary to perpetuate previous approvals must be executed prior to recording the record plat;**

**(c) The owner submits a survey plan for review and approval by the Planning Department.**

**E. Process and Procedures**

**(1) The application must be submitted by the legal owner of the subject property, or a representative authorized by the legal owner, to the Department and must consist of the following:**

**(a) Two paper prints of the subdivision plan and any attachments, including the approved checklist;**

**(b) A review fee, as outlined in Chapter 230-57;**

**(c) Parcels created that do not meet the minimum requirements for building lots must be incorporated into an adjacent property. Such incorporation must be indicated on the plan and the following note shall be added to the plan: "The approval of this subdivision plan does not constitute a separate building lot but is intended to be combined with an adjacent property;"**

**(d) Neither landlocked parcels nor parcels not meeting the requirements for a buildable lot according to Chapter 230, Zoning, may be created without designation of conveyance to another parcel. A deed for the conveyance must be submitted with the record plan and recorded simultaneously with the plan;**

**(e) For minor subdivisions, letters of "no objection to recordation" may be required or a stamp of approval may be required on the record plat from, but not limited to, the following agencies:**

**(1) The Kent or Sussex Conservation District; and**

**(2) The Delaware Department of Transportation.**

- (f) A set of deed restrictions and/or perpetual maintenance agreement that clarifies and controls the operation and maintenance of any private facilities (private streets, access easements, etc.); and
- (g) Any additional information that the Department deems pertinent to this subdivision plan.
- (2) If the subdivision plan is approved by the Department, the plan will be signed by the City Manager, City Engineer and Planning Director and returned to the applicant for recordation. Two copies of the approved plan will be retained by the City.
- (3) A final record plat must be submitted to Department within 90 days of approval or the approval is no longer valid.
- (4) Transactions involving acquisitions of public rights-of-way pursuant to 17 Del. C. 137 and all land acquired by the exercise of the power of eminent domain or by voluntary agreement in lieu of the exercise of the power of eminent domain are exempt from the provisions of this article.

## Section 4.

§ 200-6 Revisions to recorded subdivision plats.

- A. For re-recordation of previously subdivided and recorded major subdivision and minor subdivisions, the revised plat must be signed by all lot owners within the subdivision who are adjacent to or share a common boundary line with the area of proposed change in addition to 75% of all lot owners within the entire subdivision. The adjacent property owners shall be included as a part of the required 75% of required signatures.
  - (1) A copy of the subdivision deed restrictions must accompany the application to revise a recorded subdivision division plat. If there are procedures regarding revisions to the subdivision outlined in the deed restrictions, the applicant must meet the stricter of the two requirements.
- B. Prior to seeking approval of any rerecordation, the owner/applicant shall give notice to all persons indicated by assessment records to be lot owners within the subdivision. The owner/applicant shall provide proof of notification in the form of certified mail receipts for each lot owner to the Department.
- C. With the exception of Subsections D and E below, new letters of "No objection" from all agencies granting original approval of a project must be submitted.
- D. The following are exempt from the rerecordation signature requirements:
  - (1) Administratively approved applications such as lot line adjustments where no additional lots are proposed; and
  - (2) Cases where utility easements are added to a subdivision plan.
- E. For minor changes or alterations to recorded subdivision plats, in lieu of formal plan review by the Planning Commission and City Council, said minor changes may be administratively approved at the discretion of the Planning Director or designee, provided that such changes or amendments:
  - (1) Do not increase density;
  - (2) Do not substantially alter the road design or layout;
  - (3) Do not substantially alter the original conditions for approval;
  - (4) Involve no changes in permitted use of the property;
  - (5) Do not conflict with the specific requirements of this chapter or Chapter 230, Zoning;
  - (6) Do not change the general character or content of an approved plan in a material way;
  - (7) Have no adverse effect on adjoining or surrounding property;
  - (8) Do not result in any substantial change of major external access points;
  - (9) Do not decrease the minimum specified yards, setbacks, and open spaces; and
  - (10) Have no adverse effects on traffic operations.

## Section 5.

§ 200-7 Expiration of approved subdivision development plans

- A. The following regulations concerning expiration of recorded and approved plans are applicable to major subdivisions and minor subdivisions.
- B. Construction of improvements shown on recorded subdivision plans shall commence within five years of the original recordation date and continue progressing toward completion.
- C. The Department shall notify by certified mail, return receipt requested, applicants and landowners of properties involving approved plans where construction has not commenced one year prior to the expiration date and again six months prior to the expiration date that they are subject to the expiration

provisions and identify their options for possible reapproval.

**D. For the purpose of this section, "commencement of construction" shall mean:**

**(1) That a building permit or such other permit or approval by City of Milford or an applicable state agency has been issued and construction commenced under such permit which is visible on an inspection of the property by a representative of City. Such construction must be intended to accomplish the installation of improvements under Section 200-8, General Requirements and Design Standards, but excludes general earthmoving activities, and such work must have been started with a good-faith intention and purpose then formed to continue the work until completion.**

**(2) That all financial obligations associated with a City approved public works utility agreement have been satisfied and the improvements pursuant to said agreement have been completed, provided that the construction described in Subsection D(1) above shall commence within 10 years from receipt by the City of the final monetary contribution required under said agreement.**

**E. Construction shall be deemed to be progressing toward completion so long as there is no cessation in construction activity longer than 12 consecutive months. The City shall inspect sites semiannually to determine the progress of construction. If the City determines that construction activity has ceased for a period of 12 consecutive months or more, the staff shall notify the applicant and landowners by certified mail, return receipt requested, that construction shall recommence within 30 days or the subdivision shall be considered expired.**

**F. For subdivisions and land developments in which a certificate of occupancy has been issued for a dwelling, the subdivision shall no longer be subject to expiration.**

**G. The applicant and/or landowner shall bear the burden of providing evidence to the City establishing that construction has commenced within the five-year period and is progressing toward completion.**

**H. Applicants and/or landowners who have been notified that their projects may be subject to expiration have the following courses of action available to them:**

**(1) The applicant has the opportunity to provide evidence to the City establishing that construction has commenced;**

**(2) The applicant may apply to the City for reapproval of the project for an additional five-year period in accordance with the following procedures:**

**(a) The City shall review the original (i.e. initial) recorded and/or approved plan for consistency with all current provisions of this chapter, Chapter 230 Zoning, and the Comprehensive Plan. Such review may involve coordination with and review by applicable Development Advisory Committee (DAC) agencies. Based upon that review, the Planning Director will determine if the original recorded plan meets current standards, or if the original recorded plan requires minor revisions in order to comply with current standards, or if the original recorded plan must be resubmitted as a new application subject to all appropriate review procedures, regulations, and fees.**

**(b) In the event that the Planning Director determines that the original recorded plan is consistent with current policies and regulations, he/she shall reapprove the plan and provide written notice to the owner of reapproval. Such approval shall allow the issuance of building permits in accordance with all conditions of approval. The owner shall then have five years from the date of such notice of reapproval to obtain building permits and commence construction.**

**(c) Should the Planning Director determine that the plan requires minor revisions in order to comply with current policies and regulations, such notice shall be provided in writing and the applicant shall make such adjustments for administrative approval. Once the required minor revisions are completed, the plan may be reapproved administratively by the City Planning Department allowing the issuance of building permits subject to the provisions of the original record subdivision plan and/or any recorded resubdivision plans. The owner shall then have five years from the date of such notice of reapproval to obtain building permits and commence construction.**

**(d) Should the Planning Director determine that the plan would involve considerable revision to an extent that would change the scope of the project, the plan must be resubmitted for review by the Planning Commission and City Council for compliance with current policies and regulations. The City shall provide written notice to the owner of the specific areas of non compliance. The landowner shall have the opportunity to make the necessary modifications to the plan and apply to the City as a new application in accordance with this chapter. Should new plans compliant with all current Code provisions be submitted, they must receive approval from the Planning Department, City**

**Engineer, Planning Commission, and/or City Council, as applicable. Once reapproved, subdivision plans shall be recorded and shall have the effect of superseding the original record major subdivision plan. The owner/applicant shall then have five years from the date of reapproval to obtain building permits, commence construction, and progress toward completion.**

**(3) All of the above-referenced reviews, determinations, and reapprovals must be completed prior to the expiration of the five-year period.**

- I. Minor plan revisions, as described in Section 200-5, subsection E and F, that do not achieve full compliance with all current subdivision and land development provisions shall not reset the five-year time frame for C commencement of construction and shall remain subject to expiration.**
- J. Should the five years lapse without the owner pursuing any of the options described in Subsections H(2)(a) through (d) above, the plan shall be considered expired. Expired subdivision plans shall be deleted from the City and County property records by deleting individual subdivision lots from the official City and County Tax Map and by eliminating the undeveloped parcels from the assessment records.**

Section 6. Dates.

Planning Commission Review and Public Hearing: 11/20/18

City Council Introduction: 11/13/18

City Council Public Hearing: 11/26/18

Adoption: 11/26/18

Effective: 12/06/18

Motion carried.

There being no further business, Mayor Campbell adjourned the Public Hearing session at 7:48 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Transcriber

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 26, 2018

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, November 26, 2018.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilpersons Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and James Starling Sr.

City Manager Eric Norenberg. Police Chief Kenneth Brown and Deputy City Clerk/Recorder Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson

CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:48 p.m.

INVOCATION AND PLEDGE

The invocation by Councilmember Starling followed the Pledge of Allegiance.

RECOGNITION

*Proclamation 2018-16/Retiring State Senator F. Gary Simpson*

Mayor Campbell read the following proclamation into record:

*PROCLAMATION 2018-16  
Recognizing the Lasting Legacy of Retiring State Senator F. Gary Simpson*

*WHEREAS:*

*The conclusion of the 2018 State of Delaware Legislative Session will truly be the end of an era in Delaware politics;*

*That is the day longtime Senator F. Gary Simpson will step down from his seat after 20 years of representing the constituents of the 18th Senate District at Legislative Hall in Dover;*

*Born and raised in Milford and a graduate of Milford High School, Senator Simpson continued his education at the University of Delaware, receiving his BS in Animal Science in 1969 and his MS in Agricultural Economics in 1972;*

*First elected to the Delaware State Senate in 1998, he quickly rose through the ranks and in 2008, became the Senator Minority Leader, remaining in that position for the remainder of his legislative career;*

*A pillar within the Minority Caucus, Senator Simpson served as a member of the Agriculture, Executive, Legislative Council, Rules and Ethics, Energy and Transit, Ethics, Judiciary, Natural Resources and Environmental Control Committees and the Delaware Economic and Financial Advisory Council and was a member of the Southern Region Education Board Legislative Council and Co-Chair of the Council of State Governments Eastern Region Agriculture Committee;*

*Senator Simpson remains heavily involved in the community serving on the Board of Directors and Executive Committee of the Delaware State Fair, as a member of the University of Delaware Sea Grant Advisory Council, Milford Housing Development Council Board, Kent Health Alliance, American Legion Post 3 and Eagles Nest Fellowship Church; and is a former Board of Director of the Milford Memorial Hospital and Bayhealth Medical Center, March of Dimes and*

*a Founding Director and President of the Delaware 4-H Foundation;*

*Senator Simpson is responsible for funding numerous projects, including federal aid for farmers, buildings and education programs and funding for local governments and in particular, the City of Milford, with whom he partnered to ensure the successful fruition of many projects as a result of his aid;*

*The citizens of the City of Milford owe this very special Senator, one of Milford's 'own', a debt of gratitude for his untiring commitment in making this City and the State of Delaware a better place for all residents and businesses;*

*It is truly an honor to celebrate the public service of one of Milford's most prominent natives, State Senator F. Gary Simpson and recognize his lasting legacy.*

*NOW, THEREFORE, I, ARTHUR J. CAMPBELL, MAYOR OF THE CITY OF MILFORD, on behalf of the City Council of the City of Milford hereby proclaim our heartfelt gratitude and appreciation to Senator F. Gary Simpson, for the countless hours of dedicated and distinguished service he has given the City of Milford and its citizens and wish him continued success in all future endeavors; and furthermore, direct the City Clerk to transmit a copy of this proclamation to Senator F. Gary Simpson, his wife Debbie and daughters Lindsay, Abby and Andrea, their spouses and his grandchildren.*

Mayor Campbell then presented the proclamation to Senator Simpson who thanked the City for this honor and made several personal comments, commending City departments and the Milford School District.

He concluded by saying he had big shoes to fill when he was first elected and recognized Former Senator Bob Voshell and Ruth Ann Minner, who later became Governor of Delaware.

#### COMMUNICATION & CORRESPONDENCE

Mayor Campbell thanked Public Works Director Mark Whitfield and his crews for the outstanding job they did with the holiday lights this year. Council concurred.

#### COMMITTEE REPORTS

##### *Community and ED Committee Report/Vinyard Shipyard Initiative*

Chairman Mergner reported that two weeks ago, resident and Task Force Member Dan Bond presented information to the Community and Economic Development Committee regarding a preservation project that involves the Vinyard Shipyard. The purpose of the project is to preserve an important property that played a key role in the history of Milford, the region and the nation.

The task force is in the early stages of developing the Vinyard Shipyard Project. With the assistance of Downtown Milford Incorporated, they have contracted with Architectural Alliance to begin the process of determining possible uses for the shipyard and how its assets can be integrated into the Milford Riverwalk and other nearby properties. The group is currently seeking funding for the study, which will cost \$56,100 and have requested \$10,000 from the City.

Once the funding is secure, they anticipate Architectural Alliance will begin work in early 2019.

Mr. Culotta noted that they are also requesting funding from Kent and Sussex Counties. The more the City of Milford allocates, the more each county will contribute.

Mr. Norenberg stated that if Council agrees, he will prepare a simple agreement, between the City and DMI covering the funding. The City's funding would be contingent upon securing similar funding from Kent and Sussex Counties. He advised of some unappropriated funds in the economic development fund that could be used for this purpose.

The consensus of Council was to add the item to the next agenda with an open-ended amount at this point.

## UNFINISHED BUSINESS

*Update & Funding Appropriation/City Hall Staff Relocation/Funding Appropriation*

The following memo was submitted by Planning Director Rob Pierce for Council consideration:

*On October 22, 2018, City Council requested staff investigate the possibility of relocating the Planning Department to the Public Works facility as an alternative to leasing a temporary office trailer downtown and determine the costs associated with such move. In order to accommodate the additional five employees, storage and kitchen areas would need to be converted to large file storage for plans, a small conference room would be used for office/reception space, and one Public Works employee would be relocated and another will share an office.*

*The proposed relocation would require an expense to move items that are being temporarily stored at the armory to the Public Works facility. Two of the office spaces in the basement were fitted with desks and overhead storage space that was attached to the cubicle wall system. These cubicles cannot be reused at the Public Works facility and two new workstations would need to be purchased.*

*In addition, IT would need to upgrade the existing network infrastructure to accommodate the five additional users. Below is a breakdown of the necessary expenses associated with the proposed relocation.*

*\$6,300.00 – Network card for Public Works IT room*

*\$2,000.00 – Moving expenses*

*\$3,500.00 – Office Furniture for (2) Employees*

*Total Expenses: \$11,800*

*Relocating the Planning Department to the Public Works facility improves internal and external processes related to land development and building permits. Having these two Departments in close proximity will reduce the amount of time customers spend coordinating utility service for new construction and will also improve coordination efforts for subdivision and site plan review. The Planning and Finance Departments will review the ability for staff to process building permit payments at the Public Works facility to reduce the impact on our customers.*

After discussing the matter further with his department and working out of City Hall for the past three and a half years, he came to the conclusion that the Planning Department and Public Works Departments coordinate efforts on a regular basis for building permits and land use projects. There is a benefit for his department to be with the Electric, Sewer and Water Departments which will reduce the time customers have to spend meeting with the Electric Department when an electric permit is needed, for example.

The main reason they wanted to stay downtown is the close proximity to the Customer Service Department as they handle all permit and licensing financial transactions. His department does take checks though neither cash or cards are accepted at city hall. He is willing to work with the Finance Department to determine what can be done to minimize the impact on customers traveling from Public Works back in town to the Customer Service Department.

Councilmember Mergner likes the idea of the Planning and Code Departments working with the Public Works employees.

Councilmember Culotta confirmed the mobile unit option is no longer being considered. Mr. Pierce said he did not pursue that option following the Council meeting when so many concerns were expressed.

When asked if permitting was at Public Works, Mr. Pierce explained that Customer Service and all City Hall employees were moved there during the renovation of City Hall. Customer Service remained there until the PNC Bank was purchased and renovated. They relocated downtown a few years ago. When that occurred it became a burden on customers and one of the reasons his staff relocated back to City Hall. He is considering some options and possibly a card swiper could be used though cash transactions would still have to be taken care of at Customer Service, though very few people pay cash for permits.

Councilmember Peel likes the idea and thanks Mr. Pierce for taking into consideration Council's concerns with the temporary

mobile unit.

Mr. Pierce reported that there are several employees will have to be doubled up in one office in order to make this move work.

Councilmember Boyle asked if the renovation work planned at Public Works will interfere with this move; Mr. Pierce confirmed that their movement is not within that impacted area and their renovation plans are proceeding.

Mr. Pierce said they need to decommission the large kitchen space to create storage for building and site plans. Currently the area where the plans are stored will become two offices. However, nothing is being added to that scope of work and as much work as possible will be done in house.

Councilmember Peel moved to appropriate \$11,800 from General Fund Reserves to cover the expenses associated with relocating the Planning and Code Departments to the Public Works Facility, seconded by Councilmember Mergner. Motion carried.

Mr. Pierce announced that his goal is to have those departments moved by January 1st.

#### *Update/City Hall Waterproofing & Restoration Project 2018-FA-001*

Public Works Director Whitfield reported that a bid was issued for the basement restoration project by the City Engineer for the restoration or permanent fix. Three to four companies attended the pre-bid conference.

The bid, involving eight different parts, was very complicated. As a result, no one was an expert in all areas. Instead, it would have required a general contractor to hire eight different subcontractors. It became apparent, based on the questions being asked by the contractors, that the City was spending a lot more money than was needed. In particular, one project manager, with a great deal of expertise in flood remediation on buildings, had several concerns.

They then considered contracting construction manager/project managers in this particular area and found two whom they will be interviewing this week. Handling in this manner would reduce the overall costs of the project, which was originally anticipated to be around \$200,000. Mr. Whitfield agreed it was best to consider other avenues in order to do this judiciously and as inexpensively as possible.

Mr. Whitfield provided a brief background of the problems that have been discovered. For example, when the ramp was added to the rear, there was never an under drain added to the foundation wall that would capture any groundwater that would migrate beneath the ramp.

Another problem is the down spouts are tied into a drain system that goes to the bottom of the inlet in the parking lot. During bad storms when we get three inches or so of rain, the inlet floods and there is no place for the water in the down spouts to go except into the under drains that surround City Hall.

The two drains in the stairwells are sump drains. They drain into the parking lot and are sumped. With a high water table, there is no place for that water to go once it is in the drain system.

There are other problems including moisture in the concrete in the basement floor. They were several recommendations about what type of floor to put in. It has been determined that with that high level of moisture, the floor would not last.

For those reasons and others, it was agreed to hire an expert to help with the project. Further information will follow.

#### *Land Purchase Authorization/A-1 Glass Company (Summers) Property*

City Manager Norenberg recalled previous discussions that Chief Brown preferred to square off the Growmark property planned for the new police facility, by purchasing the A1 Glass Repair site. The Chief also felt having this parcel would provide additional access because of some grading issues associated with the corners of the Growmark site.

Mr. Norenberg also shared that this would provide more space with the new five officers being added to the force. Currently there are some space constraints and this would provide an accessory building for his staff to use.

He stated that Chief Brown contacted the property owner and an appraisal was done and both parties have agreed on the sales price. Moore and Rutt put together an agreement of sale for the property which needs to be ratified, though the environmental analysis is still underway.

In the meantime, the City building inspector will be evaluating the building to ensure it is safe. Chief Brown can then continue with his plans to use the building as a temporary location for some of his operations.

Councilmember Mergner moved to adopt and ratify the agreement of sale for the A-1/Summers property, seconded by Councilmember Peel. Motion carried.

#### EXECUTIVE SESSION

Councilmember Peel moved to go into Executive Session reference the below statute, seconded by Councilmember Morrow:

*Pursuant to 29 Del. C. 29 §10004(b)(4) Collective Bargaining Matters*

Motion carried.

Mayor Campbell recessed the Council Meeting at 8:21 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

#### *Return to Open Session*

Council returned to Open Session at 8:26 p.m.

#### *MPD Teamsters Negotiations*

Mayor Campbell announced that no action was required.

#### ADJOURNMENT

There being no further business, Councilmember Boyle moved to adjourn the Council Meeting, seconded by Councilmember Mergner. Motion carried.

The Council Meeting adjourned at 8:28 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Recorder

*City of Milford Ordinance & Annexation Petition Review*

NOTICE IS HEREBY GIVEN THE FOLLOWING ORDINANCE IS UNDER REVIEW BY THE PLANNING COMMISSION AND CITY COUNCIL OF THE CITY OF MILFORD:

**ORDINANCE 2018-29**

Annexation of Lands belonging to Gilbert C. & Irene D. Simpson  
5919 South Rehoboth Boulevard  
Tax Parcel 3-30-11.00-043.00  
1.90 +/- Acres

WHEREAS, the City of Milford has been requested to annex the lands, located at 5919 South Rehoboth Boulevard, Milford, Tax Parcel 3-30-11.00-043.00, and set forth in Exhibit A, attached hereto, by the legal owner of the area proposed to be annexed; and

WHEREAS, during their regular meeting on the 18<sup>th</sup> day of December 2018, the Planning Commission was presented and reviewed the annexation petition; and

WHEREAS, it was determined the requested annexation complies with the City of Milford Comprehensive Land and Future Land Use Map; and

WHEREAS, after a thorough review of the findings submitted by the City of Milford Annexation Committee and a favorable recommendation of Planning Commission, and consideration of any comments from interested persons, the City Council of the City of Milford, at a Special Meeting on this 19<sup>th</sup> day of December 2018, desires to extend the city boundary lines to include said tract of land.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The boundary of the City of Milford, as presently established, is hereby extended to include by annexation, all that certain tract of land consisting of 1.90 +/- acres, as shown on the plan denoted as Exhibit A, and described by the legal description referred to as Exhibit B, attached hereto and made a part hereof.

Section 2. A Plan of Services has been completed in accordance with Delaware Code and accepted by all necessary agencies.

Section 3. Following a favorable vote by City Council, said area shall be included in the geographical and political subdivision of the City of Milford known as Ward 1 beginning on the effective date of this Ordinance.

Section 5. The City Planner is hereby directed to secure a plot of the territory, the legal description of the property and associated Ordinances, as certified by the City Clerk, for recording purposes in the Sussex County Office of the Recorder of Deeds, and in accordance with the Charter of the City of Milford.

Section 6. Dates.

Introduction to City Council: December 10, 2018

Planning Commission Recommendation: December 18, 2018

Adopted by City Council: December 19, 2018

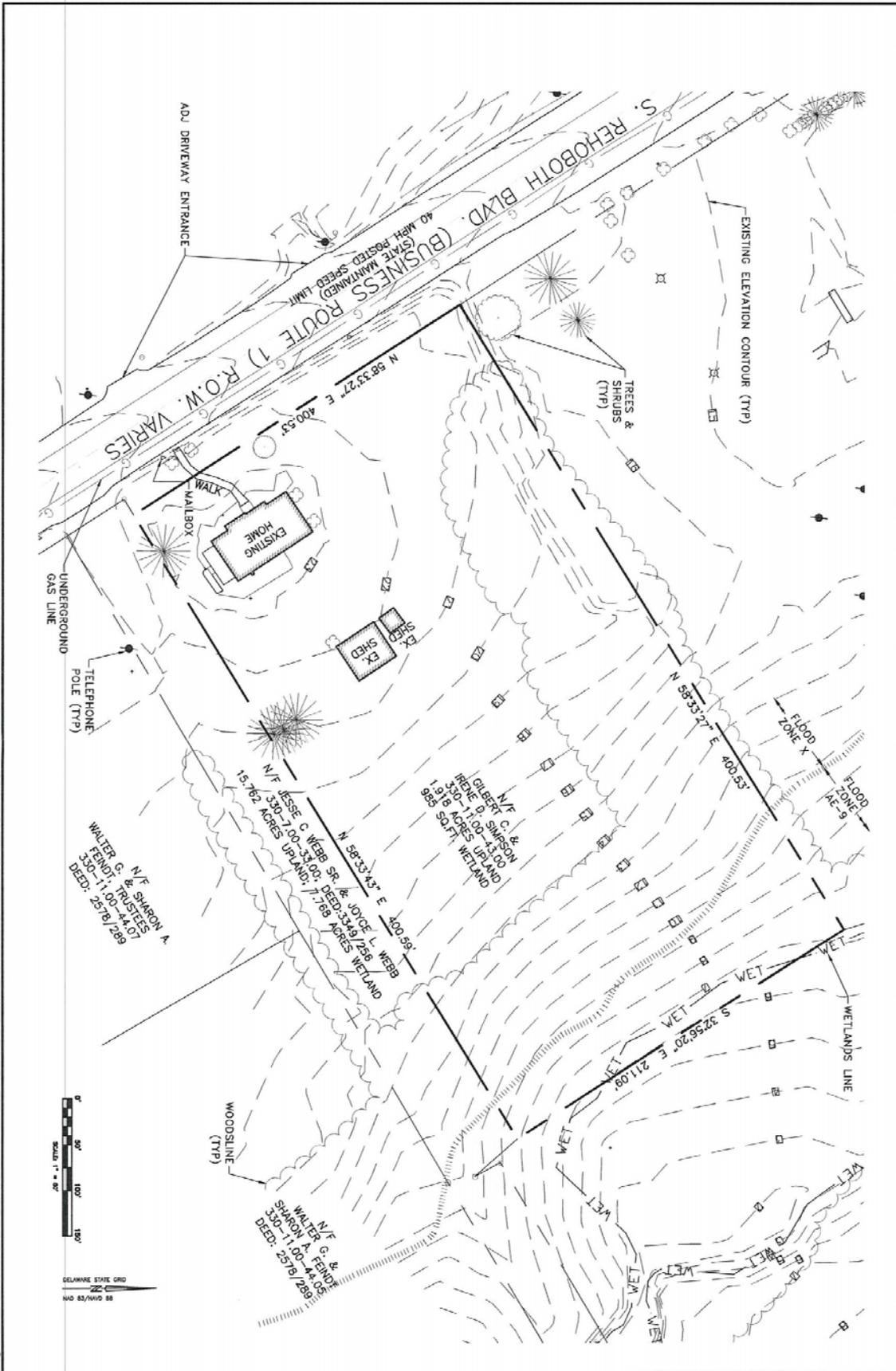
Effective: December 29, 2018

*Advertised:*

*Delaware State News 11-21-2018*

*Milford Beacon 11-28-2018*

# Exhibit A



THIS DRAWING IS A COMPUTER GENERATED DRAWING. IT IS THE PROPERTY OF DBP, INC. AND SHALL NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

<b>B-01</b>	DATE	DATE
	BY	BY
	CHECKED	CHECKED
	APPROVED	APPROVED

**SIMPSON PROPERTY ANNEXATION**  
**CITY OF MILFORD**  
**SUSSEX COUNTY, DELAWARE**

**DBP**  
 DBP, INC.  
 ARCHITECTS, ENGINEERS & SURVEYORS  
 1000 W. MARKET STREET, SUITE 200  
 MILFORD, DELAWARE 19968

**BOUNDARY PLAN**

## **Exhibit B**

### **LEGAL DESCRIPTION**

GILBERT C. SIMPSON  
IRENE D. SIMPSON  
TAX PARCELS 3-30-11.00-43.00

May 29, 2018

**All** that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of Business Route 1 and located in the City of Milford, Cedar Creek Hundred, Sussex County, Delaware; said piece or parcel of land being more particularly described as follows:

**BEGINNING** at a point formed by the intersection of the northeasterly right-of-way line of said Business Route 1 with the northwesterly line of the lands of, now or formerly, Jesse C. Webb, Sr. and Joyce L. Webb, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 3349, Page 256; said beginning point being coordinated on the Delaware State Grid as North 330,144.801 feet, East 657,801.748; thence,

1) leaving said Webb lands and running by and with said Business Route 1, North 32 degrees 55 minutes 23 seconds West 211.06 feet to a point on the southeasterly line of the lands of, now or formerly, Janet R. Swain, as recorded in said Office of the Recorder of Deeds in Deed Book 2635, Page 47, thence,

2) leaving said Business Route 1 and running by and with said Swain lands, North 58 degrees 33 minutes 27 seconds East 400.53 feet to a point on the southwesterly line of other lands of, now or formerly, Janet R. Swain, identified as Tax Parcel 3-30-11.00-264.00, thence,

3) leaving said Swain lands and running by and with said other Swain lands, South 32 degrees 56 minutes 20 seconds East 211.09 feet to a point on said northwesterly line of Webb lands, thence,

4) leaving said other Swain lands and running by and with said Webb lands, South 58 degrees 33 minutes 43 seconds West 400.59 feet to the point and place of beginning;

**CONTAINING** 1.940 acres of land, more or less

AMENDED NOTICE OF PUBLIC HEARINGS\*

PLANNING COMMISSION PUBLIC HEARING: DECEMBER 18, 2018

CITY COUNCIL PUBLIC HEARING: DECEMBER 19, 2018

NOTICE IS HEREBY GIVEN the Planning Commission of the City of Milford will hold a Public Hearing on Tuesday, December 18, 2018\* at 7:00 p.m. or as soon thereafter as possible.

A FINAL PUBLIC HEARING is rescheduled for Wednesday, December 19, 2018\* at 5:30 p.m. before Milford City Council. Following the hearing, the ordinance may be adopted, with or without amendments.

**ORDINANCE 2018-30\***

Change of Zone of Annexed Land belonging to Gilbert C. & Irene D. Simpson

5919 South Rehoboth Blvd

Tax Parcel 3-30-11.00-043.00

1.90 +/- Acres

Current Zone AR1/Proposed Zone C1

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by adding 1.90 +/- acres of newly annexed lands and changing the zoning classification from AR1 (Sussex County-Agricultural Residential) to C1 (City of Milford-Community (Neighborhood) Commercial) at 5919 South Rehoboth Boulevard, Milford, Delaware.

WHEREAS, in accordance with Title 22 of the Delaware State Code and Chapter 230 of the City of Milford Code, the City provided public notice by advertisement in the Delaware State News and the Milford Beacon and by mailing public notices to property owners within a 200-foot radius of the site of the property being considered for a change of zone; and

WHEREAS, on Tuesday, December 18, 2018, the Planning Commission held the noticed public hearing during which interested persons had an opportunity to testify in support of, or opposition to, the proposed zoning change, after which a recommendation by favorable vote of the Commissioners was made; and

WHEREAS, City Council has considered all evidence presented, public comments and the Planning Commission's recommendation at their hearing on Wednesday, December 19, 2018, and have deemed it to be in the best interest of the City of Milford to allow the change of zone as herein described.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Upon the adoption of this ordinance, Tax Parcel 3-30-11.00-043.00, owned by Gilbert C. & Irene D. Simpson, Tax Parcel 3-30-11.00-043.00, addressed at 5919 South Rehoboth Blvd, is hereby zoned C1-Community (Neighborhood) Commercial District.

Dates:

City Council Introduction: December 10, 2018\*

Planning Commission Review & Public Hearing: December 18, 2018\*

City Council Public Hearing & Adoption: December 19, 2018\*

Effective: December 29, 2018

For additional information, please contact Rob Pierce in the Planning Department at Milford City Hall either by e-mail at [RPierce@milford-de.gov](mailto:RPierce@milford-de.gov) or by calling 302-424-8396.

11/19/2018R

\*Ordinance Number and Hearing Dates Updated

Advertised: Beacon 10/24/18

Readvertised: Beacon 11/28/18

**Irene D. Simpson**  
6623 Street Route AP  
West Plains, MO 65775

August 31, 2018

City of Milford  
City Council  
201 South Walnut Street  
Milford, Delaware 19963

Re: Annexation Request  
Sussex County Tax Map No. 3-30-11.00-43.00  
Property Address: 5919 South Rehoboth Blvd Milford, DE 19963

Dear Mayor and City Council,

Please accept this letter to revise my previous request for annexation of the above referenced parcel into the City of Milford. The land is currently zoned as Agricultural Residential (AR-1) and the current Land Use is Single-Family Dwellings. As per the City's 2018 Comprehensive Plan the parcel is located in proposed low density residential area. Based on this, we are requesting Community (Neighborhood) Commercial (C-1) zoning for this parcel, which contains 1.90 +/- acres. The purpose of this request is to utilize all the services and resources that the City has to offer as well as provide access to adjacent parcels currently located within City limits.

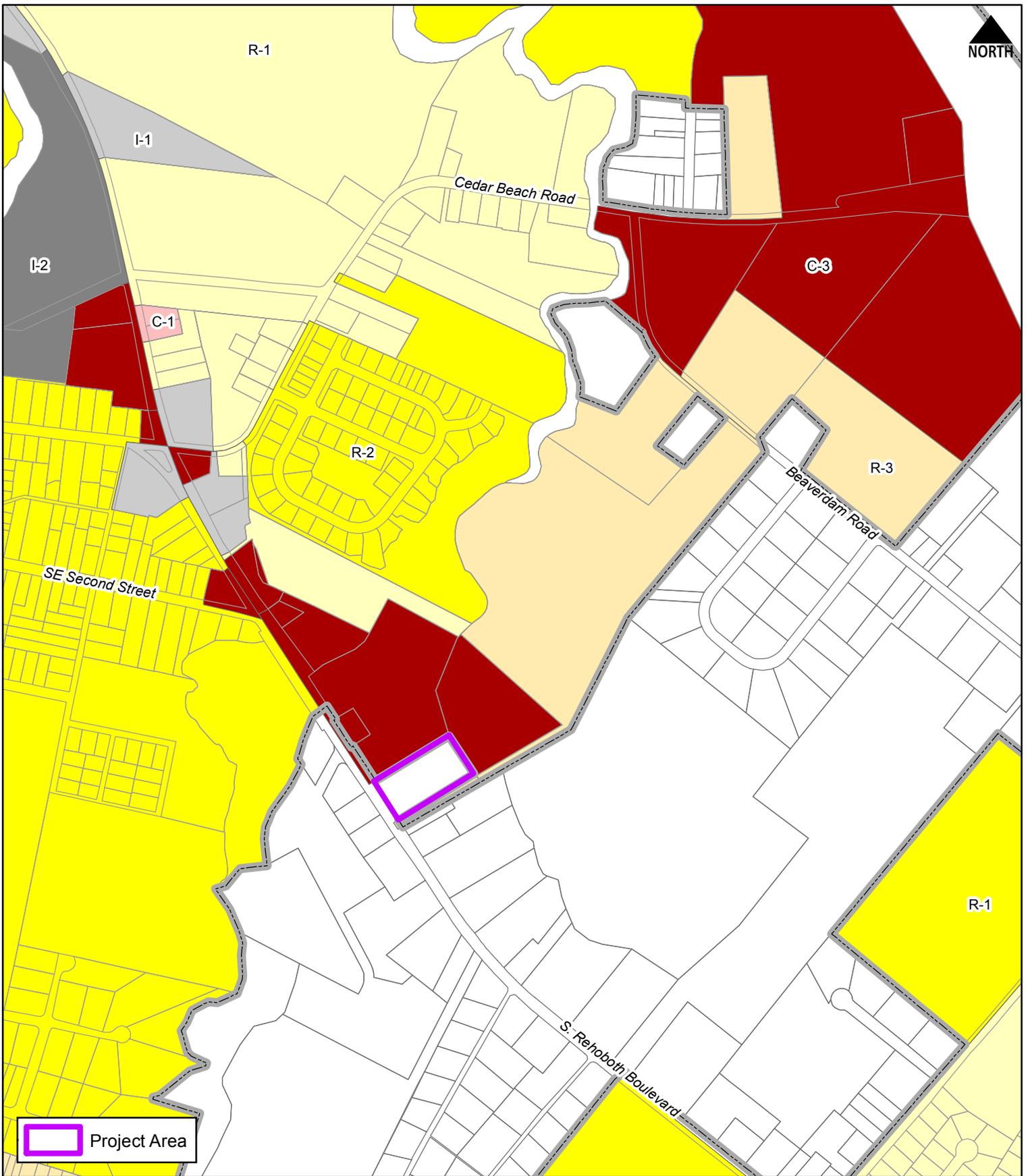
If you should have any questions, please contact us via Windward Communities LLC at 302-226-6631.

Sincerely,

*Irene D Simpson*  
dotloop verified  
09/06/18 12:40PM EDT  
SVQL-1KSS-WWUM-KRGT

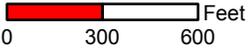
Irene D. Simpson

\_\_\_\_\_  
Witness



 Project Area



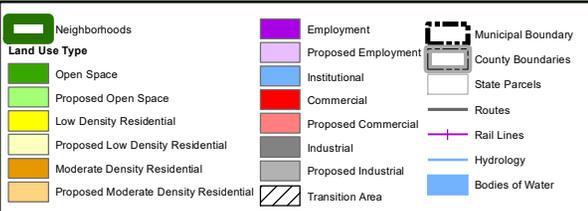
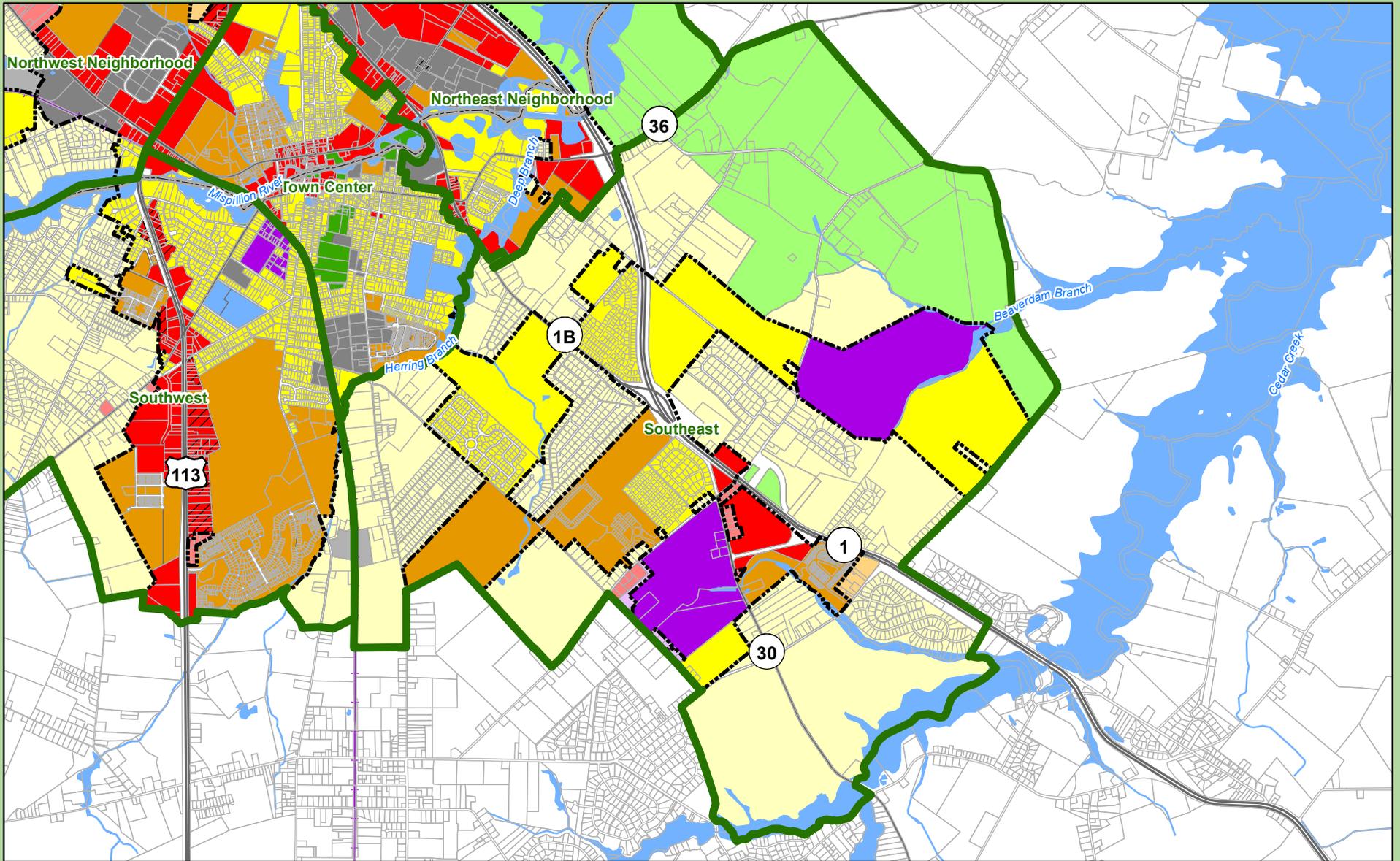
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0 300 600

Drawn by: WRP Date: 08/10/18

Title:

Annexation  
Lands of Gilbert & Irene Simpson  
Location & Zoning Map

Filepath: Annexation\_GilbertSimpson.mxd

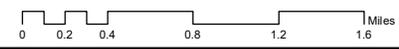


## City of Milford, Delaware

### Future Land Use

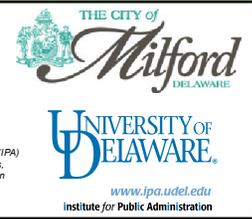
#### Southeast

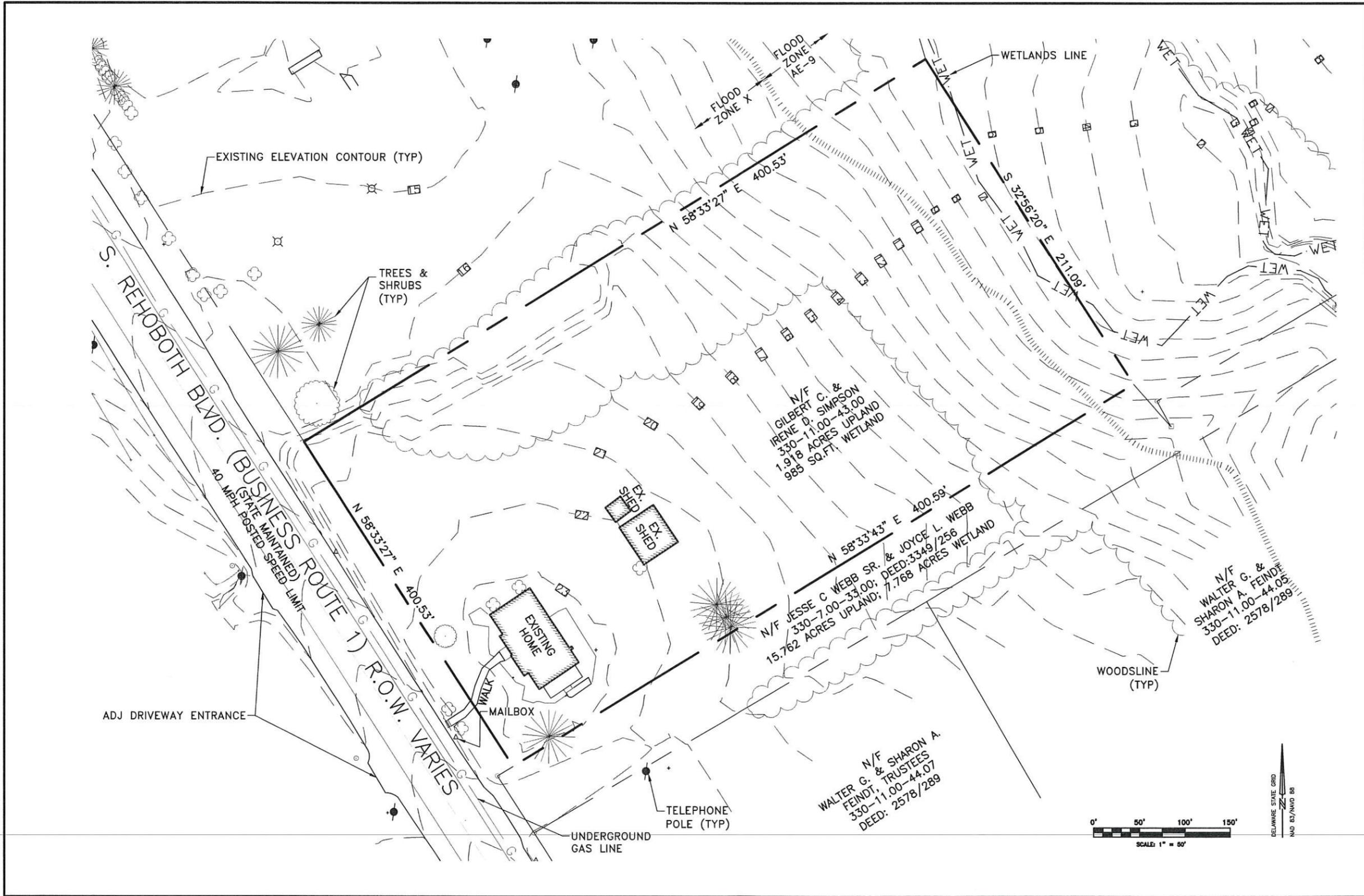
Adopted Jan. 22, 2018, Certified TBD



**Sources:**  
 Municipal Boundaries - Delaware Office of State Planning Coordination, FirstMap 10/17.  
 DRAFT Future Landuse - City of Milford, Delaware 01/18.  
 Road and Rail Network - Delaware Department of Transportation, FirstMap 01/18.  
 Hydrology - USGS and EPA, FirstMap 01/18.

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 MILFORD, DELAWARE (302) 424-1441



BOUNDARY PLAN

**SIMPSON PROPERTY ANNEXATION  
 CITY OF MILFORD  
 SUSSEX COUNTY, DELAWARE**

Date:	JUNE 2018
Scale:	1"=50'
Drawn By:	YOW
Proj. No.:	2281.011
Dep. No.:	
<b>B-01</b>	

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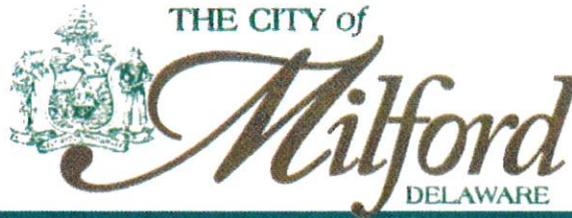
## DATA SHEET FOR WINDWARD ON THE RIVER

Annexation Committee: September 24, 2018  
Planning Commission Meeting: December 18, 2018  
City Council Meeting: December 19, 2018

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<b>Application Number / Name</b>	:	18-018 / Windward on the River
<b>Applicant</b>	:	Windward Communities, LLC 246 Rehoboth Avenue Rehoboth Beach, DE 19971
<b>Owner</b>	:	Gilbert C. and Irene D. Simpson 19145 Duck Lake Trail Eden Prairie, MN 55346
<b>Application Type</b>	:	Annexation
<b>Comprehensive Plan Designation</b>	:	Low Density Residential
<b>Current Zoning District</b>	:	AR-1 (Sussex County)
<b>Proposed Zoning District</b>	:	C-1 (Community Commerical District)
<b>Present Use</b>	:	Single-family detached dwelling
<b>Proposed Use</b>	:	Shopping Center
<b>Area and Location</b>	:	1.9 +/- acres located along the east side of S. Rehoboth Boulevard, approximately 950 feet south of the SE Second Street intersection. Addressed as 5919 S. Rehoboth Boulevard
<b>Property Identification Numbers</b>	:	3-30-11.00-043.00

ENC: Annexation Committee Report  
Exhibit A - Location & Zoning Map  
Exhibit B – Comprehensive Plan Land Use Map  
Exhibit C – Written Petition  
Exhibit D – Annexation Agreement  
Exhibit E – OSPC Approval



TO: Mayor Campbell & City of Milford Council Members  
FROM: Annexation Committee  
DATE: September 24, 2018  
RE: Annexation Committee Report

A public meeting was held in Council Chambers on September 24, 2018 to consider the annexation request for lands described as:

Property Owner:	Irene Simpson
Location:	5919 S. Rehoboth Boulevard
Size:	1.90 +/- acres
Existing Zoning:	AR-1 – Agricultural Residential (Sussex County)
Proposed Zoning:	C-1 (Community Commercial District)
Tax Map and Parcel Number:	3-30-11.00-043.00

**APPLICANT**

The property owner requests the 1.9 +/- acres of land containing a single-family detached dwelling located at 5919 S. Rehoboth Boulevard be annexed into the corporate limits of the City of Milford.

**LOCATION**

The property is identified as Sussex County tax parcels 3-30-11.00-043.00 and would be located in the 1st Ward of the City of Milford. The property is located along the east side of S. Rehoboth Boulevard, approximately 950 feet south of the SE Second Street intersection. The property is currently improved with a single-family detached dwelling unit and it is anticipated that the subject parcel will be incorporated into a larger commercial development with adjacent lands to the north.

**STREETS**

The owner/developer intends to incorporate the subject parcel into a larger commercial and residential project to the north and east. The proposed site entrance for these projects would be located on or near the subject parcel. Any entrance improvements along S. Rehoboth Boulevard will require approval from DelDOT. It is anticipated that any internal streets to the proposed commercial and residential development will be privately owned and maintained.

**DRAINAGE**

Any development involving this parcel will be subject to DNREC storm-water regulations and the developer would be required to obtain any and all permits from the Sussex Conservation District and State of Delaware.

### **ZONING**

The area proposed to be annexed is currently zoned AR-1 in Sussex County under the Sussex County Zoning Ordinance. The applicant requests the property be zoned C-1 (Community Commercial District) under the City of Milford's Zoning Ordinance.

### **SEWER**

The property is currently served by an individual septic system. The owner will be allowed to continue the use of this onsite system until such time that sewer becomes technically available. Any residential or commercial development of the property will require the connection to City sewer at the expense of the property owner/developer. The property would be served by a new sewage pumping station to be located along S. Rehoboth Boulevard. Additional fees, including County and City impact fees, will be required at the time of development.

### **WATER**

The property is currently served by an onsite well. The owner will be allowed to continue the use of the onsite well until such time that central water becomes technically available. Any resident or commercial development of the property will require the connection to City water at the expense of the property owner/developer. The area will be served with a water main extension from existing infrastructure along S. Rehoboth Boulevard and Beaverdam Road. Additional fees, including City impact fees, will be required at the time of development.

### **ELECTRIC**

The property is currently served by City electric. Any residential or commercial development of the property that requires additional electric infrastructure or capacity will be done at the expense of the owner/developer. Additional fees, including impact fees, will be required at the time of development.

### **UTILITY AGREEMENT**

A utility agreement outlining all infrastructure costs may be required as part of a major subdivision or site plan application.

### **TRAFFIC**

Any development of the parcel will be subject to DelDOT approval for access along S. Rehoboth Boulevard.

### **ENVIRONMENTAL ISSUES**

The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel. According to the DNREC Navigator website, the property does not contain state mapped wetlands. Also, the property is not located within an excellent groundwater recharge area nor is it located within the 100-year floodplain.

### **AREA LAND USES**

The parcel is bound on the north and east by properties zoned C-3 (Highway Commercial) within the City of Milford. These parcels were formerly used for outdoor recreation (batting cages, mini-golf). The property immediately to the south is zoned R-3 (Garden Apartment and Townhouse District) within the City of Milford and extends east to Beaverdam Road. This property is part of the proposed multi-family housing project named "Windward on the River." The properties to the south and west located along S. Rehoboth Boulevard are larger residential lots containing single-family detached dwellings and are located within the unincorporated areas of Sussex County.

### **FIRE AND POLICE**

The Carlisle Fire Dept. will provide fire protection services to this parcel. The City will provide police service.

### **COMPREHENSIVE LAND USE PLAN**

The annexation is consistent with the 2018 Comprehensive Plan Future Land Use Plan and the SE Master Plan and is designated as Low Density Residential, which allows the designation of areas for community commercial under the C-1 zoning district.

### **PROPERTY TAXES AND OTHER ECONOMIC CONSIDERATIONS**

The subject parcel would be incorporated into the proposed shopping center to the north and would include the entrance to the shopping center and some areas of parking for one of the retail buildings. The redevelopment of the subject parcel and the adjacent commercial lands would provide an increase in property tax revenue for the City.

### **ADVANTAGES TO THE CITY**

1. The property would be within the planning area of the City of Milford and is identified within the Urban Growth Boundary Area of the 2018 Comprehensive Plan.
2. The proposed zoning is consistent with the 2018 Comprehensive Plan Future Land Use Map.
3. Potential for additional water and sewer customers. Expansion of electric usage on the sites.
4. The City would receive revenues (property tax, building permits, etc) associated with activity on this parcel and adjacent lands.

### **DISADVANTAGES TO THE CITY**

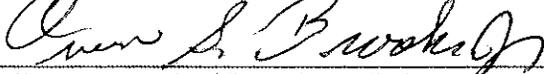
1. None.

**RECOMMENDATION**

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

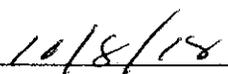
1. Annexation is consistent with the "Comprehensive Land Use Plan".
2. Property is contiguous to existing City Limits.
3. Any changes to the property are subject to review by the City of Milford Planning Commission and/or City Council.
4. An executed Annexation Agreement is required prior to final City Council approval.
5. The property will be served by City water, sewer and electric.
6. The annexation will benefit the City through additional revenues, including property taxes.
7. Upon approval of the annexation committee report, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.

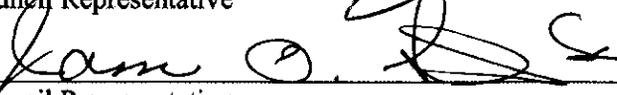
The property should be annexed with the following zoning classification: C-1

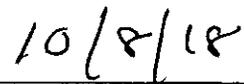
  
\_\_\_\_\_  
Council Representative/Committee Chairman

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Council Representative

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Council Representative

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Planning Commission Chairman

\_\_\_\_\_  
Date

Tax Parcel No. 3-30-11.00-043.00

Prepared by: Planning & Zoning

City of Milford  
201 S. Walnut St.  
Milford, DE 19963

Return to: The Honorable Arthur J. Campbell, Mayor

City of Milford, 201 S. Walnut St.  
Milford, DE 19963

LANDS OF GILBERT C. AND IRENE D. SIMPSON  
PLAN OF SERVICES AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between GILBERT C. AND IRENE D. SIMPSON (hereinafter “SIMPSON”) whose principal location is located at 6623 Street Route AP, West Plains, MO 65775, and the City of Milford, a municipal corporation of the State of Delaware, with its principal offices located at 201 South Walnut Street, Milford Delaware, 19963 (hereinafter “City”).

RECITALS

- A. WHEREAS, SIMPSON is the record title owner of a parcel of land consisting of 1.90 acres, more or less, lying contiguous to the City of Milford, said tract identified on the Sussex County, Delaware tax maps as Tax Parcel No. 3-30-11.00-043.00, said tract hereinafter referred to as “SIMPSON PROPERTY”.

SIMPSON is desirous of having the SIMPSON PROPERTY annexed into the City of Milford and requested the land use to be commercial in nature.

- B. WHEREAS the City, through its City Council (in consultation with the City Solicitor and City Planner), has duly considered the proposed annexation and has determined that the proposed annexation would be in the City’s overall best interest for the following reasons among others:

1. The property would be within the planning area of the City of Milford.
2. Identified within the Urban Growth Boundary Area of the 2018 Comprehensive Plan.
3. Consistent with the Future Land Figure of the amended 2018 Comprehensive Plan.

- C. Recognizing that SIMPSON'S request for annexation is unilateral (in that the City cannot annex the SIMPSON PROPERTY unless SIMPSON desires the property to be annexed) and further recognizing that the intended land use is consistent with the City's Land Use Plan, and can be accommodated within the City's long range Comprehensive Plan, the City Council has determined that it is in the City's best interest to provide SIMPSON with binding assurances to proceed with annexation.
- D. Article I, Section 1.04 of the City Charter of the City of Milford (pursuant to Chapter 148, Volume 72, Laws of Delaware {as amended}) authorizes and empowers the Mayor of the City of Milford to appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation.

NOW THEREFORE, in consideration of the premises, and in consideration of SIMPSON'S request to be annexed into the City of Milford, in consideration of \$2,500.00 paid to the City by SIMPSON for filing and administrative expenses, the receipt whereof is hereby acknowledged, and for other good and valuable consideration, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Annexation Contingency. This Agreement is expressly contingent upon the annexation, by the City, of the SIMPSON PROPERTY. In the event that such annexation does not occur, this Agreement shall be null, void, and of no legal force or effect.
2. Land Subject to Annexation. The land subject to this Agreement consists of 1.90 acres, more or less, said tract identified on the Sussex County, Delaware tax maps as Tax Parcel No.3-30-11.00-043.00.

The hereinabove described parcel of land is more fully depicted on that certain Survey dated June 2018, prepared by Davis, Bowen & Friedel, Inc. a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference; metes and bounds description for parcel is attached hereto as **Exhibit "B"** and incorporated herein by specific reference.

3. Water Distribution System and Sanitary Sewer. Notwithstanding any other provision or requirement under any City ordinance or regulation, SIMPSON agrees that the SIMPSON PROPERTY will be connected to the City water distribution system and to the City's sanitary sewer system, treatment of which is provided by Kent County, if and when water and sewer become technically available or when the property is developed for a use other than the existing single-family detached dwelling. The actual EDU's cannot be calculated at this time and are regulated by the permitted uses within the C-1 Zoning District. The parties agree that SIMPSON, at its sole expense, shall connect to public utilities and shall be responsible for the upgrade to any and all infrastructure needed to accommodate the increase in EDU's. SIMPSON agrees to execute any documents needed for the City to obtain the CPCN rights for the property.

4. Electric Distribution System. The SIMPSON PROPERTY currently receives electric service from the City of Milford. The parties agree that SIMPSON, at its sole expense, shall be responsible for the upgrade to any and all infrastructure needed to accommodate any increase in electric supply to the property.
5. Natural Features. The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel.
6. Zoning. The SIMPSON PROPERTY shall be annexed as C-1 Community Commercial Zoning District and shall be developed in accordance with said district. Nothing in this agreement shall remove or eliminate the owner from the necessary site plan reviews, fees, public hearings and all other requirements under the City's Land Use Ordinance.
7. City Not Responsible for Infrastructure Improvements; SIMPSON Right to Assign.

Anything herein to the contrary notwithstanding:

- a) The City shall have no obligation or responsibility (financial or otherwise) for providing, installing, or constructing any of the required infrastructure improvements;
  - b) SIMPSON may, with the City's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, sell, lease, or convey all or any portion of SIMPSON PROPERTY to any third party and, as part of such sale, lease, or conveyance, assign all or any of its rights and *corresponding obligations* hereunder to such third party.
8. Except as Modified, All Other City Ordinances and Regulations to Control. Except as specifically provided herein, once finally annexed into the City of Milford, all lands subject to this Agreement shall be subject to and governed by all provisions of the City Charter and all City ordinances and regulations as they now exist or may hereafter be amended, revised, or repealed, as well as any new ordinances or regulations adopted by the City Council, to the same effect and degree as all other lands within the City boundaries of the City of Milford.
  9. Term of Annexation Agreement. This annexation agreement shall become null, void, and unenforceable after the expiration of seven (7) years from the date of the City Council's final annexation resolution; provided however that SIMPSON may at any time, in writing, release the City from any of the provisions of this Agreement.
  10. Annexation Agreement to be a Material Part of Annexation Proceedings. Pursuant to Title 22, Delaware Code §101 Plan of Services Reporting, this Agreement shall be deemed to be a material part of the annexation proceedings

conducted pursuant hereto; that is to say:

a. The resolutions and notices adopted by the City Council, including any resolution and notices for public hearings, proposing the aforesaid annexation shall recite that the proposed annexation includes, and is subject to, an annexation agreement, shall briefly summarize the terms of this annexation agreement, and shall state that copies of the annexation agreement are available upon request at the City Hall.

b. If the results of the annexation special election are favorable to the proposed annexation, the final resolution annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such annexation agreement by specific reference.

11. Land Use Planning Act. The City of Milford shall notify the Delaware State Planning Office, Kent County Department of Public Works, Milford Police Department, Carlisle Fire Department and Milford School District of the proposed annexation contemplated by this Agreement and the parties shall comply with the requirements of the Delaware Land Use Planning of Title 29 of Delaware Code, Chapter 92 (Land Use Planning Act effective until February 14, 2004; Preliminary Land Use Services effective February 14, 2004), as amended.
12. Governing Law. This Agreement shall be governed by the laws of the State of Delaware (notwithstanding the fact that one or more parties may now or later become a resident of another state) and the parties hereto agree that the courts of the State of Delaware shall have jurisdiction over any case or controversy and hereby consent to such jurisdiction.
13. Separability. If any section, paragraph, sentence or clause of this Agreement is determined or declared to be invalid or unenforceable by any court of competent jurisdiction, the remainder hereof shall remain in full force and effect.
14. Entire Agreement. This Agreement constitutes the entire understanding of the parties. It supersedes any and all prior agreements between them. There are no representations or warranties other than those herein contained.
15. Amendments. This Agreement shall not be amended except in writing executed by all parties hereto.
16. Binding Effect. This Agreement shall be binding upon the parties hereto, their administrators, successors, successors in interest and assigns.
17. Contra Proferentum. The fact that one party has drafted this Agreement shall in no way be used against that party in construing the terms, condition, and obligations hereunder.

18. Headings. Headings and captions used herein are solely for the convenience of the parties and shall have no legal significance in construing the terms of this Agreement.
19. Non-Waiver. The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.
20. Enforcement. In the event of a breach, this Agreement shall be enforced through a decree of specific performance, the parties agreeing that monetary damages would not provide an adequate remedy.
21. Recording. This agreement, dully executed by the City and SIMPSON, shall be recorded in the office of the Recorder of Deeds, in and for Sussex County, Delaware. The cost of recording shall be paid by SIMPSON.
22. Plan of Services Requirement. This Agreement shall not be considered or deemed to be contract zoning. The parties hereto acknowledge their respective obligations to enter into a Plan of Services Agreement as part of the annexation process according to 22 Del.C., §101(3) and Milford City Charter Article 1.04(a)(3).

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Attest: \_\_\_\_\_

By: \_\_\_\_\_  
Irene D. Simpson

CITY OF MILFORD

Attest: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_ (Seal)  
Arthur J. Campbell, Mayor

STATE OF :  
:  
COUNTY OF :

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Irene D. Simpson.

\_\_\_\_\_  
Signature of Notary Public

STATE OF DELAWARE :  
:  
COUNTY OF SUSSEX :

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Arthur J. Campbell, Mayor of the City of Milford.

\_\_\_\_\_  
Signature of Notary Public

**Exhibit A**

DRAFT



**Exhibit B**

DRAFT

LEGAL DESCRIPTION

GILBERT C. SIMPSON

IRENE D. SIMPSON

TAX PARCELS 3-30-11.00-43.00

May 29, 2018

**All** that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of Business Route 1 and located in the City of Milford, Cedar Creek Hundred, Sussex County, Delaware; said piece or parcel of land being more particularly described as follows:

**BEGINNING** at a point formed by the intersection of the northeasterly right-of-way line of said Business Route 1 with the northwesterly line of the lands of, now or formerly, Jesse C. Webb, Sr. and Joyce L. Webb, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 3349, Page 256; said beginning point being coordinated on the Delaware State Grid as North 330,144.801 feet, East 657,801.748; thence,

1) leaving said Webb lands and running by and with said Business Route 1, North 32 degrees 55 minutes 23 seconds West 211.06 feet to a point on the southeasterly line of the lands of, now or formerly, Janet R. Swain, as recorded in said Office of the Recorder of Deeds in Deed Book 2635, Page 47, thence,

2) leaving said Business Route 1 and running by and with said Swain lands, North 58 degrees 33 minutes 27 seconds East 400.53 feet to a point on the southwesterly line of other lands of, now or formerly, Janet R. Swain, identified as Tax Parcel 3-30-11.00-264.00, thence,

3) leaving said Swain lands and running by and with said other Swain lands, South 32 degrees 56 minutes 20 seconds East 211.09 feet to a point on said northwesterly line of Webb lands, thence,

4) leaving said other Swain lands and running by and with said Webb lands, South 58 degrees 33 minutes 43 seconds West 400.59 feet to the point and place of beginning;

**CONTAINING** 1.940 acres of land, more or less.



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

October 15, 2018

Mr. Rob Pierce  
Planning Director  
City of Milford  
201 S. Walnut Street  
Milford, DE 19963

**RE: Plan of Services 2018-24, Windward on the River  
Tax Parcel(s) 330-11.00-43.00**

Dear Mr. Pierce,

This letter is to confirm that we have received and accepted the completed Plan of Services for the above referenced annexation. The City has completed all relevant annexation requirements of Title 22, Section 101, and subsection (3) of the Delaware Code.

After this property has been annexed please notify our office in writing so that we may update our records and maps. A copy of the annexation committee report and the official annexation resolution should accompany this notification. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Edgell", written over a large, stylized cursive flourish.

David L. Edgell, AICP  
Principal Planner

*City of Milford Ordinance & Annexation Petition Review*

NOTICE IS HEREBY GIVEN THE FOLLOWING ORDINANCE IS UNDER REVIEW BY THE PLANNING COMMISSION AND CITY COUNCIL OF THE CITY OF MILFORD:

**ORDINANCE 2018-32**

Annexation of Lands belonging to Derek R. Parker and Shawn L. Bernhard  
7195 Cedar Creek Road, Lincoln, DE 19960  
Tax Parcel 3-30-11.00-006.15  
1.01+/- Acres

WHEREAS, the City of Milford has been requested to annex the lands, located at 7195 Cedar Creek Road, Lincoln, Delaware, Tax Parcel 3-30-11.00-006.15 and set forth in Exhibit A, attached hereto, by the legal owner of the area proposed to be annexed; and

WHEREAS, during their regular meeting on the 18<sup>th</sup> day of December 2018, the Planning Commission was presented and reviewed the annexation petition; and

WHEREAS, it was determined the requested annexation complies with the City of Milford Comprehensive Land and Future Land Use Map; and

WHEREAS, after a thorough review of the findings submitted by the City of Milford Annexation Committee and a favorable recommendation of Planning Commission, and consideration of any comments from interested persons, the City Council of the City of Milford, at a Special Meeting on this 19<sup>th</sup> day of December 2018, desires to extend the city boundary lines to include said tract of land.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The boundary of the City of Milford, as presently established, is hereby extended to include by annexation, all that certain tract of land consisting of 1.01 +/- acres, as shown on the plan denoted as Exhibit A, to be zoned as C3 (Highway Commercial) and described by the legal description referred to as Exhibit B, attached hereto and made a part hereof.

Section 2. A Plan of Services has been completed in accordance with Delaware Code and accepted by all necessary agencies.

Section 3. Following a favorable vote by City Council, said area shall be included in the geographical and political subdivision of the City of Milford known as Ward 1 beginning on the effective date of this Ordinance.

Section 5. The City Planner is hereby directed to secure a plot of the territory, the legal description of the property and associated Ordinances, as certified by the City Clerk, for recording purposes in the Sussex County Office of the Recorder of Deeds, and in accordance with the Charter of the City of Milford.

Section 6. Dates.

Introduction to City Council: December 10, 2018

Planning Commission Recommendation: December 18, 2018

Adopted by City Council: December 19, 2018

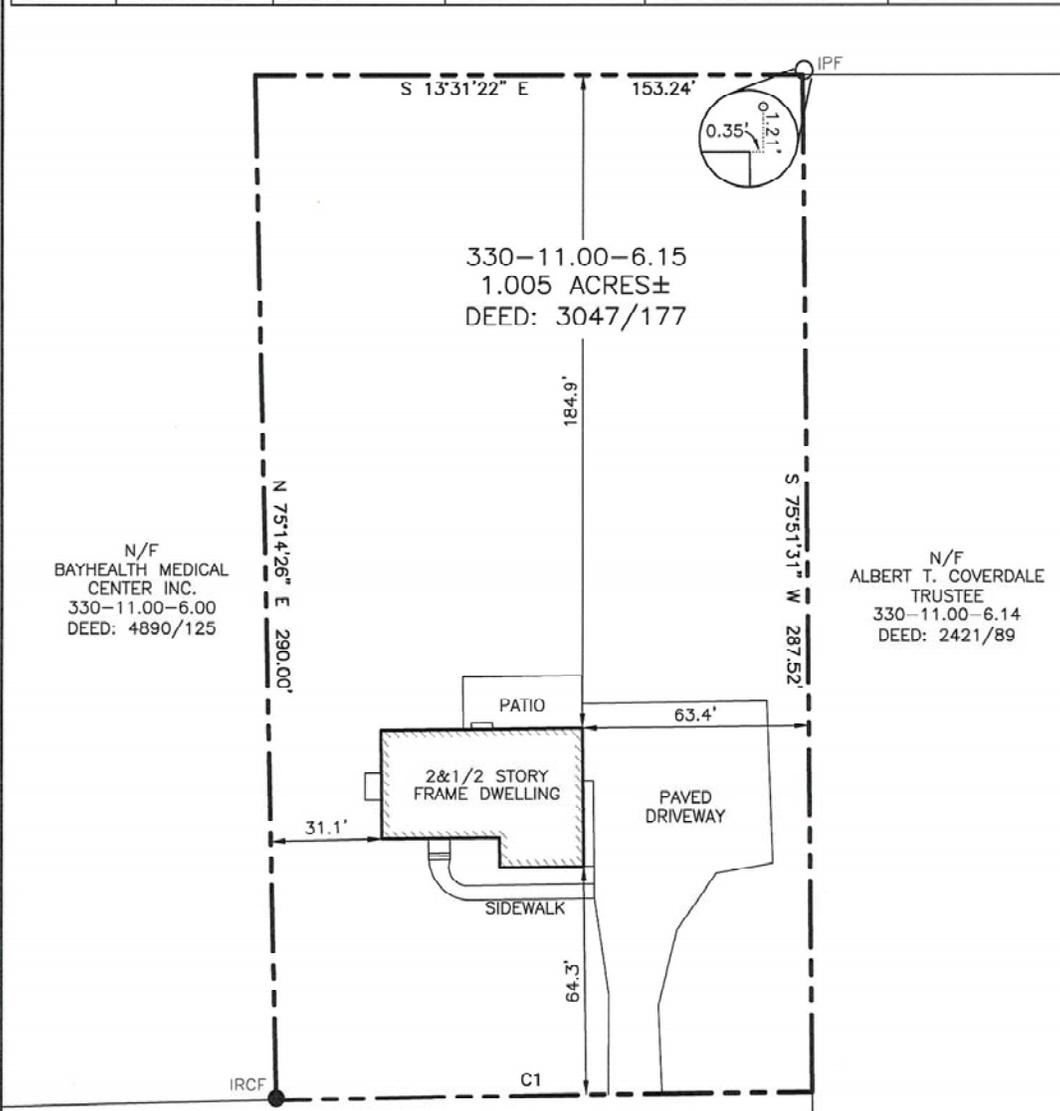
Effective: December 29, 2018

*Advertised:*

*Milford Beacon 11-28.2018*

# Exhibit A

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA
C1	13917.52	150.11	150.11	N 14°27'00" W	0°37'05"



N/F  
BAYHEALTH MEDICAL  
CENTER INC.  
330-11.00-6.00  
DEED: 4890/125

N/F  
ALBERT T. COVERDALE  
TRUSTEE  
330-11.00-6.14  
DEED: 2421/89

## ENGINEER'S STATEMENT

I, RING W. LARDNER, P.E., HEREBY STATE THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE; THAT THE PARCELS CLOSE AS DESCRIBED AND THAT THERE ARE NO OVERLAPS OR GAPS.

RING W. LARDNER, P.E.  
DAVIS, BOWEN & FRIEDEL, INC.  
1 PARK AVENUE  
MILFORD, DELAWARE, 19963



9/16/2018  
DATE



**dbf** DAVIS, BOWEN & FRIEDEL, INC. ARCHITECTS ENGINEERS SURVEYORS

SALISBURY, MARYLAND (410) 543-9091  
MILFORD, DELAWARE (302) 424-1441  
EASTON, MARYLAND (410) 770-4744

**BOUNDARY SURVEY PLAN**  
of the Lands of  
**DEREK R. PARKER & SHAWN L. BERNHARD**

CEDAR CREEK HUNDRED  
SUSSEX COUNTY, DELAWARE

Date: 9/5/18    Scale: 1"=40'    Proj.No.: 3027A002

## **Exhibit B**

### **LEGAL DESCRIPTION**

LANDS OF  
DEREK R. PARKER & SHAWN L. BERNHARD  
TAX PARCEL 3-30-11.00-6.15

August 10, 2018

**BEING** all that piece or parcel of land, hereinafter described, situate, lying and being located in Cedar Creek Hundred, Sussex County, Delaware; as shown on a plot entitled, "Boundary Survey of lands of Derek R. Parker & Shawn L. Bernhard" prepared by Davis, Bowen & Friedel, Inc., dated August 2018, said piece or parcel of land being more particularly described as follows:

**BEGINNING** at an iron rod with cap found at a point on the easterly right-of-way line of Cedar Creek Road, said beginning point being formed by the intersection of the southerly line of lands of, now or formerly, Bayhealth Medical Center, Inc., as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 4890, Page 125, with the easterly right-of-way line of Cedar Creek Road; thence,

- 1) leaving said right-of-way line of Cedar Creek Road and running by and with said Bayhealth lands, the following 2 courses and distances, North 75 degrees 14 minutes 26 seconds East 290.00 feet to a point; thence,
- 2) South 13 degrees 31 minutes 22 seconds East 153.24 feet to a point on the northerly line of lands of, now or formerly, Albert T. & Beverly J Coverdale, Trustee, as recorded in said Office of the Recorder of Deeds in Deed Book 2421, Page 89; thence,
- 3) leaving said Bayhealth lands and running by and with said Coverdale lands, South 75 degrees 51 minutes 31 seconds West 287.52 feet to a point on the aforementioned right-of-way line of Cedar Creek Road; thence,
- 4) leaving said Coverdale lands and running by and with said right-of-way line of Cedar Creek Road, along a curve to the left, having a radius of 13917.52 feet, an arc length of 150.11 feet and a chord bearing and distance of North 14 degrees 27 minutes 00 seconds West 150.11 feet to the point and place of beginning;

**CONTAINING** 43,773 square feet of land, more or less.

NOTICE OF PUBLIC HEARINGS  
PLANNING COMMISSION PUBLIC HEARING: DECEMBER 18, 2018  
CITY COUNCIL PUBLIC HEARING: DECEMBER 19, 2018

NOTICE IS HEREBY GIVEN the Planning Commission of the City of Milford will hold a Public Hearing on Tuesday, December 18, 2018 at 7:00 p.m. or as soon thereafter as possible.

A FINAL PUBLIC HEARING is scheduled for Wednesday, December 19, 2018 at 5:30 p.m. before Milford City Council. Following the hearing, the ordinance may be adopted, with or without amendments.

**ORDINANCE 2018-33**

Change of Zone of Annexed Land Derek R. Parker and Shawn L. Bernhard  
7195 Cedar Creek Road, Lincoln, DE 19960  
Tax Parcel 3-30-11.00-006.15  
Current Zone AR1/Proposed Zone C3

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning 1.01 +/- acres of newly annexed lands from AR1 (Sussex County-Agricultural Residential) to C3 (City of Milford-Highway Commercial) at 7195 Cedar Creek Road, Lincoln, DE 19960.

WHEREAS, in accordance with Title 22 of the Delaware State Code and Chapter 230 of the City of Milford Code, the City provided public notice by advertisement in the Milford Beacon and by mailing public notices to property owners within a 200-foot radius of the site of the property being considered for a change of zone; and

WHEREAS, on Tuesday, December 18, 2018, the Planning Commission held the noticed public hearing during which interested persons had an opportunity to testify in support of, or opposition to, the proposed zoning change, after which a recommendation by favorable vote of the Commissioners was made; and

WHEREAS, City Council considered evidence presented, public comments and the Planning Commission's recommendation at their hearing on Wednesday, December 19, 2018, and have deemed it to be in the best interest of the City of Milford to allow the change of zone as herein described.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Upon the adoption of this ordinance, Tax Parcel 3-30-11.00-006.15, owned by Derek R. Parker and Shawn L. Bernhard, addressed at 7105 Cedar Creek Road, Lincoln, Delaware, is hereby zoned C3 (Highway Commercial).

Dates:

City Council Introduction: December 10, 2018

Planning Commission Review & Public Hearing: December 18, 2018

City Council Public Hearing & Adoption: December 19, 2018

Effective: December 29, 2018

For additional information, please contact Rob Pierce in the Planning Department at Milford City Hall either by e-mail at [RPierce@milford-de.gov](mailto:RPierce@milford-de.gov) or by calling 302-424-8396.

*Advertised: Beacon 11/28/18*

**Derek R. Parker**  
**Shawn L. Bernhard**  
7195 Cedar Creek Road  
Milford, DE 19963

August 3, 2018

City of Milford  
City Council  
201 South Walnut Street  
Milford, Delaware 19963

Re: Annexation Request  
Sussex County Tax Map No. 3-30-11.00-6.15  
Property Address: 7195 Cedar Creek Road Milford, DE 19963

Dear Mayor and City Council,

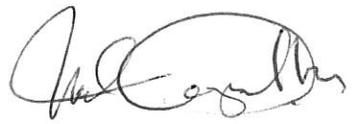
Please accept this letter as our formal request for annexation of the above referenced parcel into the City of Milford. The land is currently zoned as Agricultural Residential (AR-1) and the Land Use is Single-Family Dwellings. As per the City's 2018 Comprehensive Plan the parcel is located in proposed commercial area. Based on this, we are requesting Highway Commercial District (C-3) zoning for this parcel, which contains 1.01 +/- acres. The purpose of this request is to utilize all the services and resources that the City has to offer as well as provide support to the adjacent hospital currently under construction.

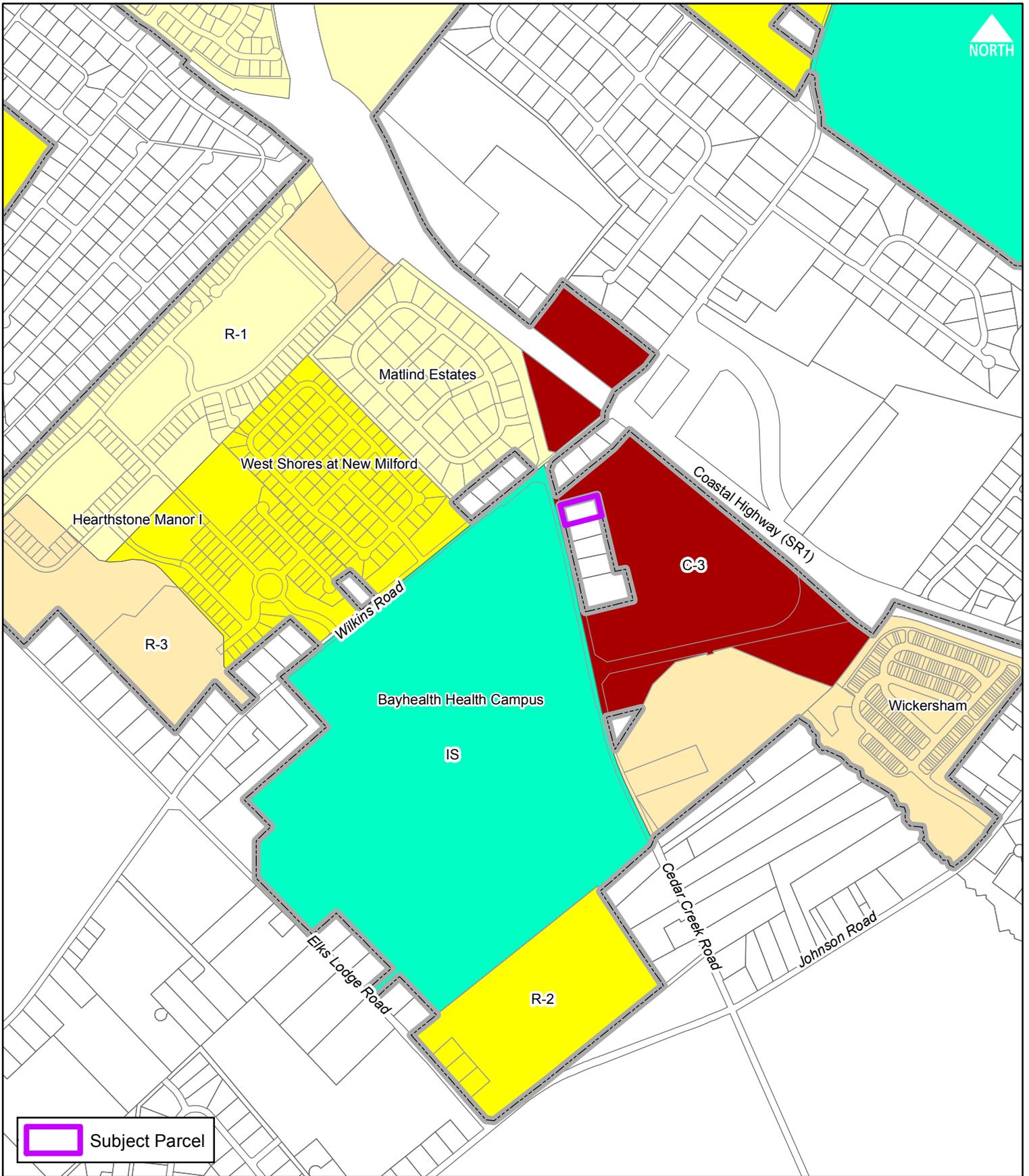
If you should have any questions, please contact us via Davis, Bowen & Friedel, Inc. at 302-424-1441.

Sincerely,

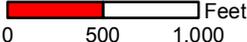
  
\_\_\_\_\_  
Derek R. Parker

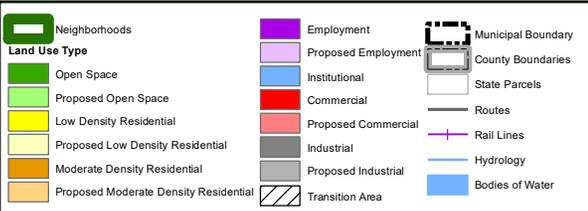
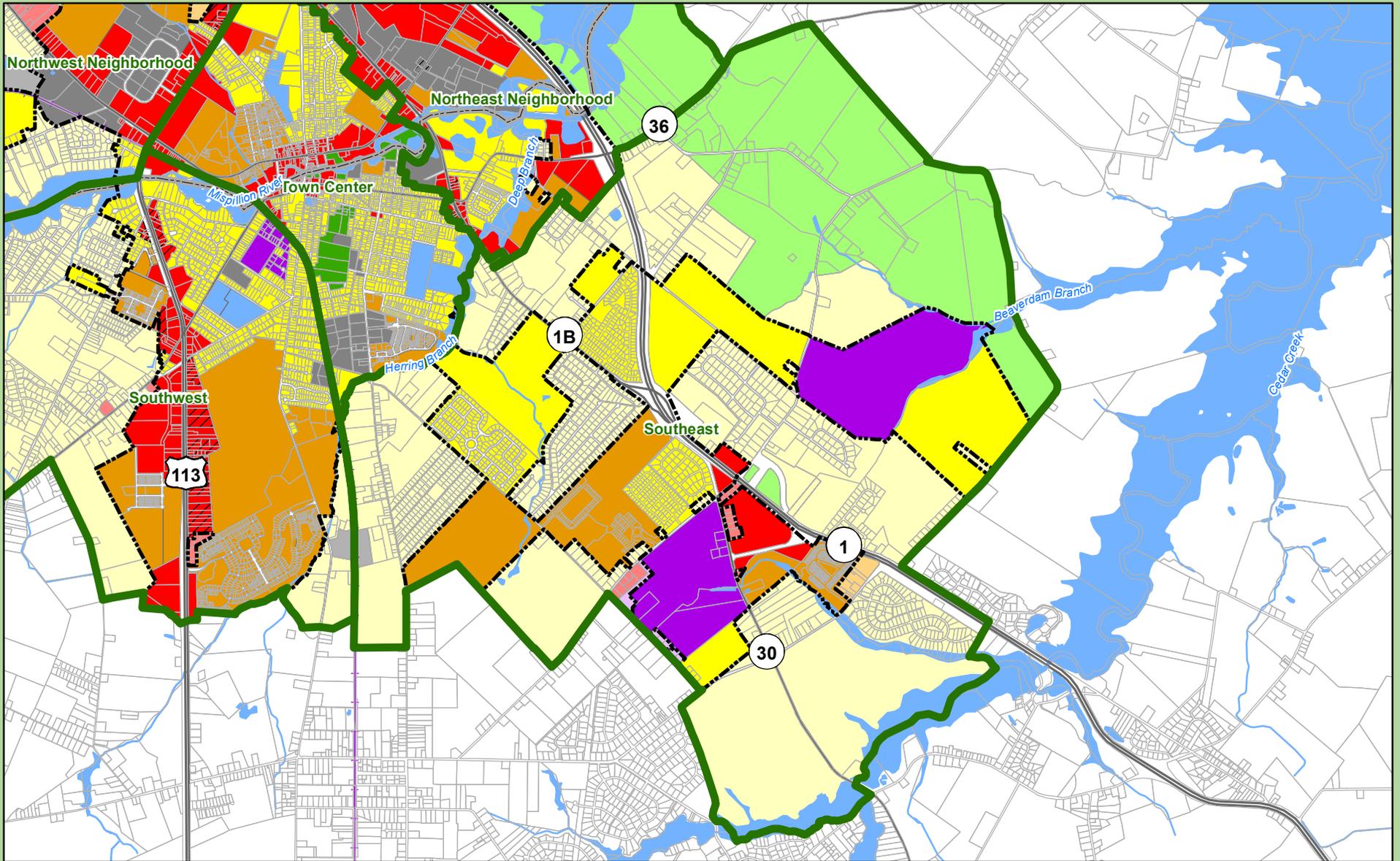
  
\_\_\_\_\_  
Shawn L. Bernhard

  
\_\_\_\_\_  
WITNESS



 Subject Parcel

	Scale:  Feet 0      500      1,000	Title:  <p style="text-align: center;"><b>Annexation Bright Nest, LLC Location &amp; Zoning Map</b></p>
	Drawn by: WRP      Date: 09/10/18	
Filepath: Annexation_BrightNest.mxd		

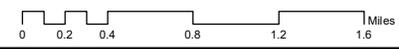


## City of Milford, Delaware

### Future Land Use

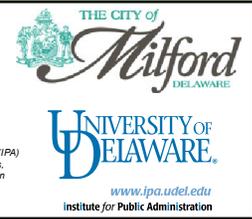
#### Southeast

Adopted Jan. 22, 2018, Certified TBD



**Sources:**  
 Municipal Boundaries - Delaware Office of State Planning Coordination, FirstMap 10/17.  
 DRAFT Future Landuse - City of Milford, Delaware 01/18.  
 Road and Rail Network - Delaware Department of Transportation, FirstMap 01/18.  
 Hydrology - USGS and EPA, FirstMap 01/18.

Note: This map is provided by the University of Delaware, Institute for Public Administration (IPA) solely for display and reference purposes and is subject to change without notice. No claims, either real or assumed, as to the absolute accuracy or precision of any data contained herein are made by IPA, nor will IPA be held responsible for any use of this document for purposes other than which it was intended.





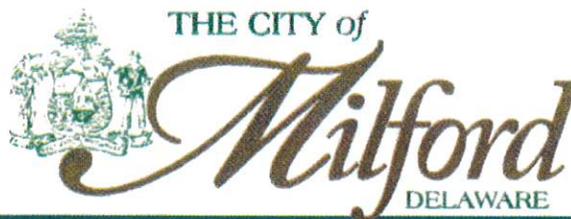
## DATA SHEET FOR BRIGHT NEST, LLC

Annexation Committee: September 24, 2018  
Planning Commission Meeting: December 18, 2018  
City Council Meeting: December 19, 2018

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<b>Application Number / Name</b>	:	18-020 / Bright Nest, LLC
<b>Applicant</b>	:	Bright Nest, LLC 15 Lake Crest Drive Milford, DE 19963
<b>Owner</b>	:	Derek R. Parker and Shawn L. Bernhard 7195 Cedar Creek Road Lincoln, DE 19960
<b>Application Type</b>	:	Annexation
<b>Comprehensive Plan Designation</b>	:	Commercial
<b>Current Zoning District</b>	:	AR-1 (Sussex County)
<b>Proposed Zoning District</b>	:	C-3 (Highway Commercial District)
<b>Present Use</b>	:	Single-family detached dwelling
<b>Proposed Use</b>	:	Medical Office
<b>Area and Location</b>	:	1.01 +/- acres of land located along the east side of Cedar Creek Road, approximately 325 feet south of the Wilkins Road intersection. Addressed as 7195 Cedar Creek Road, Lincoln, DE 19960.
<b>Property Identification Numbers</b>	:	3-30-11.00-006.15

ENC: Annexation Committee Report  
Exhibit A - Location & Zoning Map  
Exhibit B - Comprehensive Plan Land Use Map  
Exhibit C - Written Petition  
Exhibit D - Annexation Agreement  
Exhibit E - OSPC Approval



TO: Mayor Campbell & City of Milford Council Members  
FROM: Annexation Committee  
DATE: September 24, 2018  
RE: Annexation Committee Report

A public meeting was held in Council Chambers on September 24, 2018 to consider the annexation request for lands described as:

Property Owner:	Derek R. Parker and Shawn L. Bernhard
Location:	7195 Cedar Creek Road
Size:	1.01 +/- acres
Existing Zoning:	AR-1 – Agricultural Residential (Sussex County)
Proposed Zoning:	C-3 (Highway Commercial District)
Tax Map and Parcel Number:	3-30-11.00-006.15

**APPLICANT**

The property owner requests the 1.01 +/- acres of land containing a single-family detached dwelling located at 7195 Cedar Creek Road be annexed into the corporate limits of the City of Milford.

**LOCATION**

The property is identified as Sussex County tax parcels 3-30-11.00-006.15 and would be located in the 1st Ward of the City of Milford. The property is located along the east side of Cedar Creek Road approximately 325 feet south of the Wilkins Road intersection. The property is currently improved with a single-family detached dwelling unit and it is anticipated that the structure would be converted into a medical office.

**STREETS**

The single family detached dwelling currently has an entrance along Cedar Creek Road. Any commercial development or redevelopment of the property would gain access from Cedar Creek Road or through the Hall property to the north and east. Any entrance improvements or modifications along Cedar Creek Road will require approval from DelDOT. It is anticipated that any internal streets to the proposed use will be privately owned and maintained.

**DRAINAGE**

Any development involving this parcel will be subject to DNREC storm-water regulations and the developer would be required to obtain any and all permits from the Sussex Conservation District and State of Delaware.

**ZONING**

The area proposed to be annexed is currently zoned AR-1 in Sussex County under the Sussex County Zoning Ordinance. The applicant requests the property be zoned C-3 (Highway Commercial District) under the City of Milford's Zoning Ordinance.

### **SEWER**

The property is currently served by an individual septic system. The owner will be allowed to continue the use of this onsite system until such time that sewer becomes technically available. Any residential or commercial development of the property will require the connection to City sewer at the expense of the property owner/developer. The property would be served by the planned southeast regional pumping station and/or associated infrastructure. Additional fees, including County and City impact fees, will be required at the time of development.

### **WATER**

The property is currently served by an onsite well. The owner will be allowed to continue the use of the onsite well until such time that central water becomes technically available. Any resident or commercial development of the property will require the connection to City water at the expense of the property owner/developer. The area will be served with a water main extension from existing infrastructure in the southeast neighborhood. Additional fees, including City impact fees, will be required at the time of development.

### **ELECTRIC**

The property is currently provided electric service by Delmarva Power. The owner will continue to use the services of Delmarva Power until such time the property is redeveloped for residential or commercial purposes associated with any adjacent lands. Costs of the improvements needed to provide electric service to the property shall be the responsibility of the owner/developer. Additional fees, including impact fees, will be required at the time of development.

### **UTILITY AGREEMENT**

A utility agreement outlining all infrastructure costs may be required as part of a major subdivision or site plan application.

### **TRAFFIC**

Any development of the parcel will be subject to DelDOT approval for access along S. Rehoboth Boulevard.

### **ENVIRONMENTAL ISSUES**

The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel. According to the DNREC Navigator website, the property does not contain state mapped wetlands. Also, the property is not located within an excellent groundwater recharge area nor is it located within the 100-year floodplain.

### **AREA LAND USES**

The parcel is bound on the north and east by undeveloped agricultural land within the City of Milford that is zoned C-3 (Highway Commercial). The properties to the south are zoned AR-1 and contain similar single-family detached dwellings are larger residential lots. The property to the west, across Cedar Creek Road, is zoned IS (Institutional Service District) and is currently being developed as a regional health campus by Bayhealth.

### **FIRE AND POLICE**

The Carlisle Fire Dept. will provide fire protection services to this parcel. The City will provide police service.

### **COMPREHENSIVE LAND USE PLAN**

The annexation is consistent with the 2018 Comprehensive Plan Future Land Use Plan and the SE Master Plan and is designated as Commercial, which allows the designation of areas for highway commercial uses under the C-3 zoning district.

### **PROPERTY TAXES AND OTHER ECONOMIC CONSIDERATIONS**

It is anticipated that the property taxes will increase on this property after redevelopment and the City would benefit from the revenues associated with building permits. Construction costs as well as user fees cannot be determined at this time.

### **ADVANTAGES TO THE CITY**

1. The property would be within the planning area of the City of Milford and is identified within the Urban Growth Boundary Area of the 2018 Comprehensive Plan.
2. The proposed zoning is consistent with the 2018 Comprehensive Plan Future Land Use Map.
3. Potential for additional water and sewer customers.
4. The City would receive revenues (property tax, building permits, etc) associated with activity on this parcel and adjacent lands.

### **DISADVANTAGES TO THE CITY**

1. None.

**RECOMMENDATION**

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

1. Annexation is consistent with the "Comprehensive Land Use Plan".
2. Property is contiguous to existing City Limits.
3. Any changes to the property are subject to review by the City of Milford Planning Commission and/or City Council.
4. An executed Annexation Agreement is required prior to final City Council approval.
5. The property will be served by City water and sewer.
6. The annexation will benefit the City through additional revenues, including property taxes.
7. Upon approval of the annexation committee report, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.

The property should be annexed with the following zoning classification: C-3

Owen S. Brooks  
Council Representative/Committee Chairman

10/8/18  
Date

Ed King  
Council Representative

10/8/18  
Date

James O. [Signature]  
Council Representative

10/8/18  
Date

\_\_\_\_\_  
Planning Commission Chairman

\_\_\_\_\_  
Date

Tax Parcel No. 3-30-11.00-6.15

Prepared by: Planning & Zoning

City of Milford  
201 S. Walnut St.  
Milford, DE 19963

Return to: The Honorable Arthur J. Campbell, Mayor  
City of Milford, 201 S. Walnut St.  
Milford, DE 19963

LANDS OF DEREK R. PARKER AND SHAWN L. BERNHARD  
PLAN OF SERVICES AGREEMENT

THIS AGREEMENT is entered into this 30 day of October, 2018, by and between DEREK R. PARKER AND SHAWN L. BERNHARD (hereinafter "PARKER") whose principal location is located at 7195 Cedar Creek Road, Lincoln, DE 19960, and the City of Milford, a municipal corporation of the State of Delaware, with its principal offices located at 201 South Walnut Street, Milford Delaware, 19963 (hereinafter "City").

RECITALS

- A. WHEREAS, PARKER is the record title owner of a parcel of land consisting of 1.01 acres, more or less, lying contiguous to the City of Milford, said tract identified on the Sussex County, Delaware tax maps as Tax Parcel No. 3-30-11.00-6.15, said tract hereinafter referred to as "PARKER PROPERTY".

PARKER is desirous of having the PARKER PROPERTY annexed into the City of Milford and requested the land use to be commercial in nature.

- B. WHEREAS the City, through its City Council (in consultation with the City Solicitor and City Planner), has duly considered the proposed annexation and has determined that the proposed annexation would be in the City's overall best interest for the following reasons among others:
1. The property would be within the planning area of the City of Milford.
  2. Identified within the Urban Growth Boundary Area of the 2018 Comprehensive Plan.
  3. Consistent with the Future Land Figure of the amended 2018 Comprehensive Plan.

- C. Recognizing that PARKER'S request for annexation is unilateral (in that the City cannot annex the PARKER PROPERTY unless PARKER desires the property to be annexed) and further recognizing that the intended land use is consistent with the City's Land Use Plan, and can be accommodated within the City's long range Comprehensive Plan, the City Council has determined that it is in the City's best interest to provide PARKER with binding assurances to proceed with annexation.
- D. Article I, Section 1.04 of the City Charter of the City of Milford (pursuant to Chapter 148, Volume 72, Laws of Delaware {as amended}) authorizes and empowers the Mayor of the City of Milford to appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation.

NOW THEREFORE, in consideration of the premises, and in consideration of PARKER'S request to be annexed into the City of Milford, in consideration of \$3,000.00 paid to the City by Bright Nest, LLC for filing and administrative expenses, the receipt whereof is hereby acknowledged, and for other good and valuable consideration, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Annexation Contingency. This Agreement is expressly contingent upon the annexation, by the City, of the PARKER PROPERTY. In the event that such annexation does not occur, this Agreement shall be null, void, and of no legal force or effect.
2. Land Subject to Annexation. The land subject to this Agreement consists of 1.01 acres, more or less, said tract identified on the Sussex County, Delaware tax maps as Tax Parcel No.3-30-11.00-6.15.

The hereinabove described parcel of land is more fully depicted on that certain Survey dated September 6, 2018, prepared by Davis, Bowen & Friedel, Inc. a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; metes and bounds description for parcel is attached hereto as Exhibit "B" and incorporated herein by specific reference.

3. Water Distribution System and Sanitary Sewer. Notwithstanding any other provision or requirement under any City ordinance or regulation, PARKER agrees that the PARKER PROPERTY will be connected to the City water distribution system and to the City's sanitary sewer system, treatment of which is provided by Kent County, if and when water and sewer become technically available or when the property is developed for a use other than the existing single-family detached dwelling. The actual EDU's cannot be calculated at this time and are regulated by the permitted uses within the C-3 Zoning District. The parties agree that PARKER, at its sole expense, shall connect to public utilities and shall be responsible for the upgrade to any and all infrastructure needed to accommodate the increase in EDU's. PARKER agrees to execute any documents needed for the City to obtain the CPCN rights for the property.

4. Electric Distribution System. The PARKER PROPERTY currently receives electric service from the City of Milford. The parties agree that PARKER, at its sole expense, shall be responsible for the upgrade to any and all infrastructure needed to accommodate any increase in electric supply to the property.
5. Natural Features. The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel.
6. Zoning. The PARKER PROPERTY shall be annexed as C-3 Highway Commercial Zoning District and shall be developed in accordance with said district. Nothing in this agreement shall remove or eliminate the owner from the necessary site plan reviews, fees, public hearings and all other requirements under the City's Land Use Ordinance.
7. City Not Responsible for Infrastructure Improvements; PARKER Right to Assign.

Anything herein to the contrary notwithstanding:

- a) The City shall have no obligation or responsibility (financial or otherwise) for providing, installing, or constructing any of the required infrastructure improvements;
  - b) PARKER may, with the City's prior written consent, which shall not be unreasonably withheld, sell, lease, or convey all or any portion of PARKER PROPERTY to any third party and, as part of such sale, lease, or conveyance, assign all or any of its rights and *corresponding obligations* hereunder to such third party.
8. Except as Modified, All Other City Ordinances and Regulations to Control. Except as specifically provided herein, once finally annexed into the City of Milford, all lands subject to this Agreement shall be subject to and governed by all provisions of the City Charter and all City ordinances and regulations as they now exist or may hereafter be amended, revised, or repealed, as well as any new ordinances or regulations adopted by the City Council, to the same effect and degree as all other lands within the City boundaries of the City of Milford.
  9. Term of Annexation Agreement. This annexation agreement shall become null, void, and unenforceable after the expiration of seven (7) years from the date of the City Council's final annexation resolution; provided however that PARKER may at any time, in writing, release the City from any of the provisions of this Agreement.
  10. Annexation Agreement to be a Material Part of Annexation Proceedings. Pursuant to Title 22, Delaware Code §101 Plan of Services Reporting, this Agreement shall be deemed to be a material part of the annexation proceedings conducted pursuant hereto; that is to say:

a. The resolutions and notices adopted by the City Council, including any resolution and notices for public hearings, proposing the aforesaid annexation shall recite that the proposed annexation includes, and is subject to, an annexation agreement, shall briefly summarize the terms of this annexation agreement, and shall state that copies of the annexation agreement are available upon request at the City Hall.

b. If the results of the annexation special election are favorable to the proposed annexation, the final resolution annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such annexation agreement by specific reference.

11. Land Use Planning Act. The City of Milford shall notify the Delaware State Planning Office, Kent County Department of Public Works, Milford Police Department, Carlisle Fire Department and Milford School District of the proposed annexation contemplated by this Agreement and the parties shall comply with the requirements of the Delaware Land Use Planning of Title 29 of Delaware Code, Chapter 92 (Land Use Planning Act effective until February 14, 2004; Preliminary Land Use Services effective February 14, 2004), as amended.
12. Governing Law. This Agreement shall be governed by the laws of the State of Delaware (notwithstanding the fact that one or more parties may now or later become a resident of another state) and the parties hereto agree that the courts of the State of Delaware shall have jurisdiction over any case or controversy and hereby consent to such jurisdiction.
13. Separability. If any section, paragraph, sentence or clause of this Agreement is determined or declared to be invalid or unenforceable by any court of competent jurisdiction, the remainder hereof shall remain in full force and effect.
14. Entire Agreement. This Agreement constitutes the entire understanding of the parties. It supersedes any and all prior agreements between them. There are no representations or warranties other than those herein contained.
15. Amendments. This Agreement shall not be amended except in writing executed by all parties hereto.
16. Binding Effect. This Agreement shall be binding upon the parties hereto, their administrators, successors, successors in interest and assigns.
17. Contra Proferentum. The fact that one party has drafted this Agreement shall in no way be used against that party in construing the terms, condition, and obligations hereunder.

18. Headings. Headings and captions used herein are solely for the convenience of the parties and shall have no legal significance in construing the terms of this Agreement.
19. Non-Waiver. The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.
20. Enforcement. In the event of a breach, this Agreement shall be enforced through a decree of specific performance, the parties agreeing that monetary damages would not provide an adequate remedy.
21. Recording. This agreement, dully executed by the City and PARKER, shall be recorded in the office of the Recorder of Deeds, in and for Sussex County, Delaware. The cost of recording shall be paid by PARKER.
22. Plan of Services Requirement. This Agreement shall not be considered or deemed to be contract zoning. The parties hereto acknowledge their respective obligations to enter into a Plan of Services Agreement as part of the annexation process according to 22 Del.C., §101(3) and Milford City Charter Article 1.04(a)(3).

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Attest: Debbie Steno

By: Derek R. Parker  
Derek R. Parker

Attest: Debbie Steno

By: Shawn L. Bernhard  
Shawn L. Bernhard

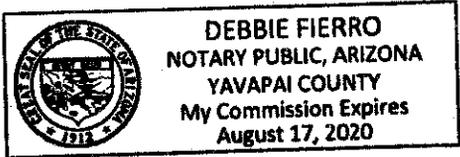
Attest: Jessica D. Hulse  
City Clerk

CITY OF MILFORD  
By: Arthur J. Campbell (Seal)  
Arthur J. Campbell, Mayor

STATE OF : Arizona

COUNTY OF : Maricopa

Signed and sworn to before me this 30<sup>th</sup> day of October, 2018, by Derek R. Parker and Shawn L. Bernhard.

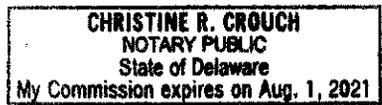


*Debbie Fierro*  
Signature of Notary Public

STATE OF DELAWARE :

COUNTY OF SUSSEX :

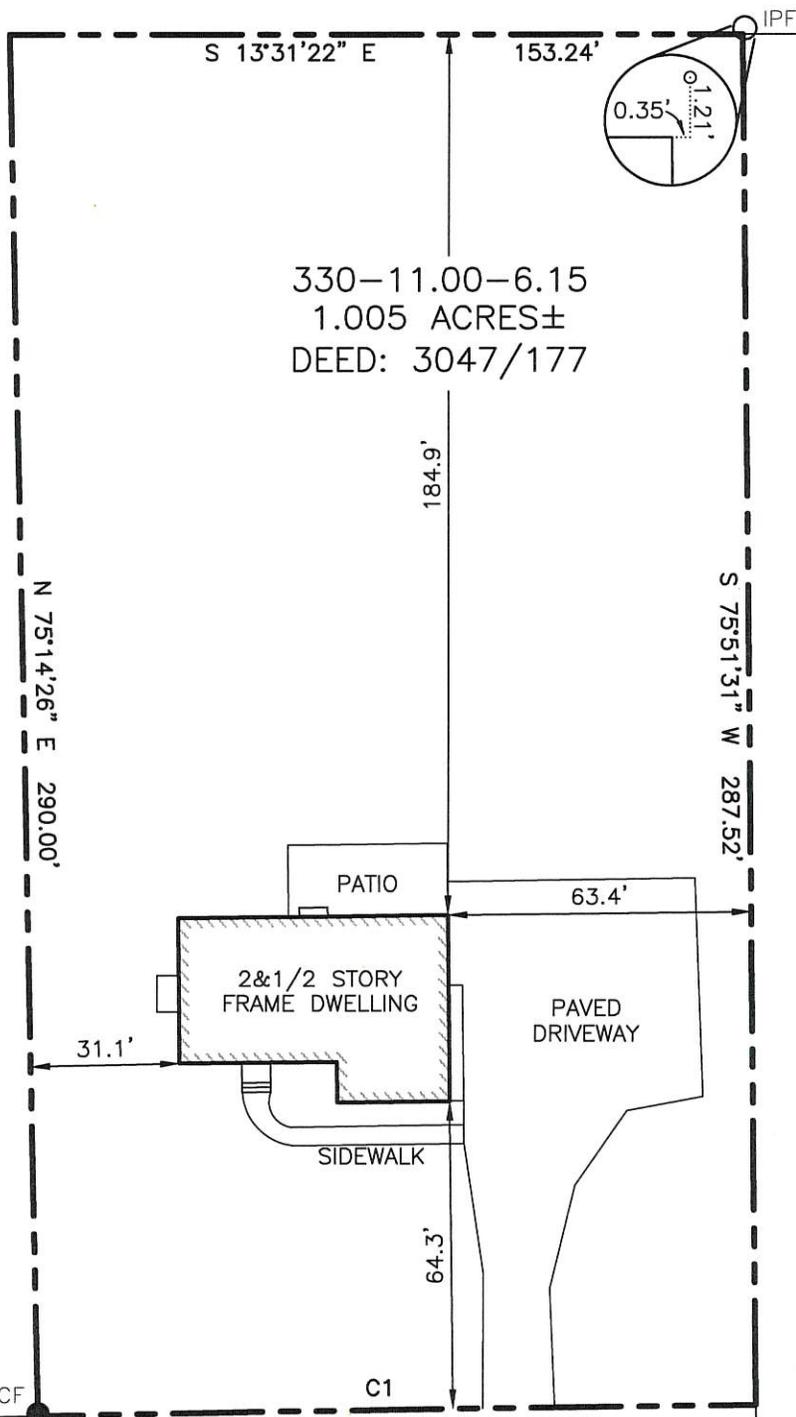
Signed and sworn to before me this 30 day of October, 2018, by Arthur J. Campbell, Mayor of the City of Milford.



*Christine R. Crouch*  
Signature of Notary Public

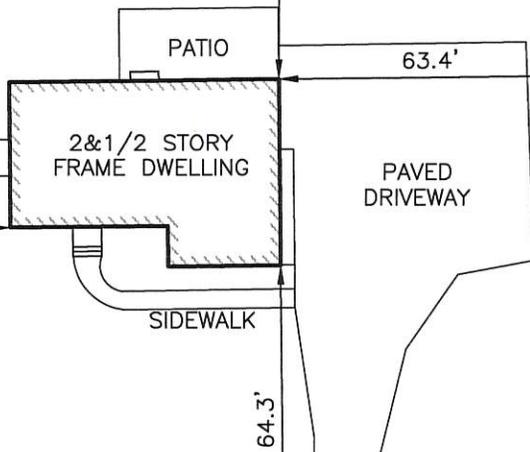
**Exhibit A**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA
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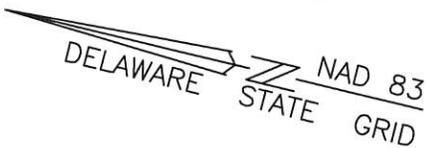


N/F  
BAYHEALTH MEDICAL  
CENTER INC.  
330-11.00-6.00  
DEED: 4890/125

N/F  
ALBERT T. COVERDALE  
TRUSTEE  
330-11.00-6.14  
DEED: 2421/89



CEDAR CREEK ROAD  
(DE-30 R.O.W. VARIES)



### ENGINEER'S STATEMENT

I, RING W. LARDNER, P.E., HEREBY STATE THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE; THAT THE PARCELS CLOSE AS DESCRIBED AND THAT THERE ARE NO OVERLAPS OR GAPS.

RING W. LARDNER, P.E.  
DAVIS, BOWEN & FRIEDEL, INC.  
1 PARK AVENUE  
MILFORD, DELAWARE, 19963



9/6/2018  
DATE



SALISBURY, MARYLAND (410) 543-9091  
MILFORD, DELAWARE (302) 424-1441  
EASTON, MARYLAND (410) 770-4744

**BOUNDARY SURVEY PLAN**  
of the Lands of  
**DEREK R. PARKER & SHAWN L. BERNHARD**  
CEDAR CREEK HUNDRED  
SUSSEX COUNTY, DELAWARE

Date: 9/5/18 Scale: 1"=40' Proj.No.: 3027A002

**Exhibit B**

LEGAL DESCRIPTION

LANDS OF

DEREK R. PARKER & SHAWN L. BERNHARD

TAX PARCEL 3-30-11.00-6.15

August 10, 2018

**BEING** all that piece or parcel of land, hereinafter described, situate, lying and being located in Cedar Creek Hundred, Sussex County, Delaware; as shown on a plot entitled, "Boundary Survey of lands of Derek R. Parker & Shawn L. Bernhard" prepared by Davis, Bowen & Friedel, Inc., dated August 2018, said piece or parcel of land being more particularly described as follows:

**BEGINNING** at an iron rod with cap found at a point on the easterly right-of-way line of Cedar Creek Road, said beginning point being formed by the intersection of the southerly line of lands of, now or formerly, Bayhealth Medical Center, Inc., as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 4890, Page 125, with the easterly right-of-way line of Cedar Creek Road; thence,

1) leaving said right-of-way line of Cedar Creek Road and running by and with said Bayhealth lands, the following 2 courses and distances, North 75 degrees 14 minutes 26 seconds East 290.00 feet to a point; thence,

2) South 13 degrees 31 minutes 22 seconds East 153.24 feet to a point on the northerly line of lands of, now or formerly, Albert T. & Beverly J Coverdale, Trustee, as recorded in said Office of the Recorder of Deeds in Deed Book 2421, Page 89; thence,

3) leaving said Bayhealth lands and running by and with said Coverdale lands, South 75 degrees 51 minutes 31 seconds West 287.52 feet to a point on the aforementioned right-of-way line of Cedar Creek Road; thence,

4) leaving said Coverdale lands and running by and with said right-of-way line of Cedar Creek Road, along a curve to the left, having a radius of 13917.52 feet, an arc length of 150.11 feet and a chord bearing and distance of North 14 degrees 27 minutes 00 seconds West 150.11 feet to the point and place of beginning; **CONTAINING** 43,773 square feet of land, more or less.



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF STATE PLANNING COORDINATION

October 26, 2018

Mr. Rob Pierce  
Planning Director  
City of Milford  
201 S. Walnut Street  
Milford, DE 19963

**RE: Plan of Services 2018-25, Bright Nest, LLC  
Tax Parcel(s) 330-11.00-6.15**

Dear Mr. Pierce,

This letter is to confirm that we have received and accepted the completed Plan of Services for the above referenced annexation. The City has completed all relevant annexation requirements of Title 22, Section 101, and subsection (3) of the Delaware Code.

After this property has been annexed please notify our office in writing so that we may update our records and maps. A copy of the annexation committee report and the official annexation resolution should accompany this notification. Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Edgell", written over a horizontal line.

David L. Edgell, AICP  
Principal Planner