



Milford City Hall Council Chambers 201 South Walnut Street Milford DE 19963

CITY COUNCIL AGENDA Wednesday, September 27, 2023

Per the Limited Public Health Emergency Declaration issued by Governor John Carney on March 1, 2022, and the virtual meeting provisions provided in Senate Bill 94, Milford City Council Meetings and Workshops will be held in the Council Chambers at City Hall. Attendees are welcome to participate virtually as well. Public Comments are encouraged on the agenda items designated with a Ⓢ. Virtual attendees may alert the City Clerk that they wish to speak by submitting their name, address, and agenda item via the Zoom Q&A function or by using the Raise Your Hand function during the meeting. Those attending in person may comment when the floor is opened for that purpose.

All written public comments received prior to the meeting will be read into the record.

This meeting is available for viewing by the public by accessing the following link:

<https://zoom.us/j/95859380584>

or

<http://www.cityofmilford.com/553/Watch-Public-Meetings>

Members of the public may also dial in by phone using the following number:

Call 301 715 8592 Webinar ID: 958 5938 0584

6:00 PM

15-Minute Public Comment Period

Virtual attendees must register prior to start time of meeting by calling 302-422-1111 Extension 1300 or 1303, or by sending an email to cityclerk@milford-de.gov and providing your name, address, phone number, and the specific agenda item you wish to comment on. Persons in attendance must sign up prior to the start of the meeting.

WORKSHOP

Marijuana Dispensary Land Use Changes

ADU Impact Fee

Pallet Village Options

ALL 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, DISTRIBUTED, OR PRESENTED AT MEETING ONCE PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE. ANY MATERIALS UTILIZED DURING THE MEETING SHALL BE FROM THE COUNCIL PACKET AND REFERENCED BY PRESENTER USING AUDIO AND VISUAL MEANS TO ENSURE VIRTUAL PARTICIPATION BY ALL IN ATTENDANCE.

*Time Limit is three minutes per speaker, not to exceed a total of fifteen minutes for all speakers prior to start of meeting/workshop.

Ⓢ Designated Items only; Public Comment, up to three minutes per person will be accepted.



Chapter 230 - Zoning Marijuana Dispensaries

September 27, 2023



Delaware Code - Title 16 Health and Safety Medical Marijuana

- ▶ **Chapter 49A. The Delaware Medical Marijuana Act. § 4917A. Local ordinances.**
- ▶ Nothing shall prohibit local governments from enacting ordinances or regulations not in conflict with this chapter or with Department regulations regulating the time, place, and manner of registered compassion center operations and registered safety compliance facilities, provided that no local government may prohibit registered compassion center operation altogether, either expressly or though the enactment of ordinances or regulations which make registered compassion center and registered safety compliance facility operation unreasonably impracticable in the jurisdiction.



Delaware Code - Title 4 Alcoholic Liquors and Marijuana Recreational Marijuana

- ▶ **Chapter 13. The Delaware Marijuana Control Act. Subchapter IV. Determination of Applications. § 1351 Local control.**
- ▶ A municipality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure.
- ▶ A municipality or county may enact ordinances or regulations that are not in conflict with this chapter or in conflict with regulations enacted by the Commissioner, governing the time, place, manner, and number of marijuana establishment operations. A municipality or county may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner that a marijuana establishment may operate in such municipality or county.



Current Milford Zoning Regulations - Alcohol, Tobacco, Firearms & Marijuana

- ▶ When discussing the sale of medical or recreational marijuana, a comparison of how the sale of other similar products are handled within the zoning code should be considered.
- ▶ Under the current zoning ordinance, Marijuana sales would be considered retail and permitted within the commercial zoning districts.
- ▶ Tobacco sales fall under retail.
- ▶ Firearm sales fall under retail.
- ▶ Regulations pertaining to the sale of alcohol depend on the principal use; microbrewery, distillery, brewpub, liquor store, tavern, restaurant, etc. Most of these are permitted within the commercial districts or conditional uses within the industrial districts.



Previous Milford Zoning Amendments - Alcohol, Tobacco, Firearms & Marijuana

- ▶ Ordinance 2015-04 was adopted May 26, 2015.
- ▶ Amended Chapter 230-44(D) “All establishments involving the sale of alcoholic beverages either on or off premises, which are located within 1,000 feet of any public or private school, day-care or child care center or church, **unless food is prepared and served for consumption on site or for takeout, or alcoholic beverages are produced in said location.** Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.
- ▶ Prior to the amendment, the sale of alcohol in restaurants, brewpubs, distilleries, liquor stores, taverns, tap rooms, etc. could not be located within 1,000 feet of a school, day-care or church.



Previous Milford Zoning Amendments - Alcohol, Tobacco, Firearms & Marijuana

- ▶ Ordinance 2022-06 was adopted January 24, 2022.
- ▶ Amended Chapter 230-44(D) by completely removing the following; ~~“All establishments involving the sale of alcoholic beverages either on or off premises, which are located within 1,000 feet of any public or private school, day care or child care center or church, unless food is prepared and served for consumption on site or for takeout, or alcoholic beverages are produced in said location. Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.”~~
- ▶ Where alcohol could be sold is now dependent on the principal use of the property and OABCC regulations.



State/Federal Agencies - Alcohol, Tobacco, Firearms & Marijuana

- ▶ State of Delaware, Department of Safety and Homeland Security (DSHS), Division of Alcohol & Tobacco Enforcement (ATE)
- ▶ State of Delaware, Office of Alcoholic Beverage Control Commissioner (OABCC)
- ▶ State of Delaware, Department of Health and Social Services (DHSS)
- ▶ Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)



State of Delaware Division of Alcohol & Tobacco Enforcement

- ▶ The Division of Alcohol and Tobacco Enforcement (ATE) is a state law enforcement agency. Officers of the Division are primarily tasked with the enforcement of Title 4 - The Liquor Control Act and the Administrative Rules of the Delaware Alcoholic Beverage Control Commissioner. The Division of Alcohol & Tobacco Enforcement is also tasked with checking all establishments that sell tobacco for compliance in regards to youth access to tobacco laws.
- ▶ Department of Safety and Homeland Security and the Department of Health and Social Services have been tasked with creating the framework for the production, manufacture, and sale of legal recreational marijuana at the State level.
- ▶ <https://date.delaware.gov/ATE/index.shtml>



State of Delaware Office of Alcoholic Beverage Control Commissioner (OABCC)

- ▶ The Commissioner establishes rules and regulations to control the business, manufacture, sale, dispensation and distribution and importation of alcoholic liquors within and into the state to ensure the public safety and the best interests of the consumer while not unduly restricting the alcoholic beverage industry.
- ▶ The Commissioner grants/denies applications for liquor licenses, approves/disapproves requests for modifications to licensed establishments, performs inspections and grants renewals of liquor licenses.
- ▶ <https://oabcc.delaware.gov/>



Discussion

- ▶ Does City Council want to prohibit the sale of recreational marijuana within City limits?
- ▶ Does City Council want to allow the sale of recreational marijuana but regulate based on the hours of operation, place, manner and number of establishments?
 - ▶ If so, does City Council want to revisit regulations related to the sale of alcohol or look into regulations regarding the sale of tobacco products and firearms?
- ▶ Does City Council want to treat the sale of recreational marijuana as a retail use, which would be similar to how the sale of alcohol, tobacco and firearms is currently regulated in the City zoning code?



Next Steps

- ▶ Review what other Delaware municipalities and counties have in their zoning ordinances related to the sale of marijuana.
- ▶ Prepare draft ordinance amendment based on additional research and the City Council workshop discussion, if needed.



Accessory Dwelling Units Impact Fees

September 27, 2023



Chapter 230 Zoning

- ▶ Chapter 230-9 permits the construction of **accessory dwelling units** within the R-1, R-2, R-3 and R-8 zoning districts by conditional use approval from City Council subject to certain restrictions.
- ▶ Chapter 230 defines an **accessory dwelling** as “an **accessory apartment** or **accessory cottage**.”
 - ▶ Accessory Cottage – “A separate and subordinate dwelling unit that is located on the same lot as a single-family detached dwelling but is contained in a detached garage or other outbuilding.”
 - ▶ Accessory Apartment – “A separate complete housekeeping unit that is contained within the structure of a single-family detached dwelling.”



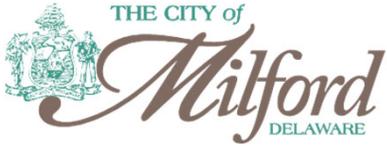
Sewer & Water Impact Fees

- ▶ City Water Impact Fee - \$3,456 per Equivalent Dwelling Unit (EDU)
- ▶ City Sewer Impact Fee - \$1,826 per EDU
- ▶ Kent County Sewer Impact Fee - \$3,059 per EDU
 - ▶ The Kent County fee is assessed to all properties connected to the City of Milford sewer system regardless of which County the property resides in because Milford is a Municipal Contract User to the Kent County Regional Wastewater Treatment Facility in Frederica, DE where all of our wastewater is treated.
- ▶ Sewer and Water Impact Fees collected are used for capacity improvements to water and sewer infrastructure (i.e. sewage pump stations, water tower, water treatment, upsizing of pipes, etc.)



Chapter 185 Sewer & Chapter 222 Water

- ▶ Equivalent Dwelling Unit – “A term used to express the load produced on a **sanitary sewerage system** approximately equal to one dwelling place and as further defined in the most recent impact fee ordinance adopted by the Kent County Levy Court.”
- ▶ Equivalent Dwelling Unit – “A term used to express the load produced on a **water system** approximately equal to one dwelling place and as further defined in the most recent impact fee ordinance adopted by the Kent County Levy Court.”



Kent County Code - Chapter 128 Fees

- ▶ EDU's are calculated based on the language found in Chapter 128 Fees of the Kent County Code for all uses within the City of Milford.
- ▶ Residential – **“Any dwelling with one or more baths and at least one or more bedroom(s).** This includes single-family houses, apartments, mobile homes and efficiency units: 1.0 EDU.”



Permit Charges - Typical Single-family Detached Dwelling

Fee Type	Charge	% of Overall Permit
Permit Fee/C of O	\$1,025	8.4%
Fire Company Enhancement Fund	\$500	4.1%
Municipal Enhancement Fund	\$1,500	12.2%
Water Meter	\$200	1.6%
Water/Sewer Backfill	\$35	0.3%
Electric Meter Connection	\$50	0.4%
Electric Impact Fee	\$600	4.9%
City Water Impact Fee	\$3,456	28.2%
City Sewer Impact Fee	\$1,826	14.9%
Kent County Sewer Impact Fee	\$3,059	25.0%
Total Permit Charge	\$12,251	

► Assumptions:
 \$200,000
 construction
 cost, 2000
 square foot and
 one (1) EDU.



Permit Charges - Typical Accessory Apartment

Fee Type	Charge	% of Overall Permit
Permit Fee/C of O	\$325	3.4%
Fire Company Enhancement Fund	n/a	0%
Municipal Enhancement Fund	n/a	0%
City Water Impact Fee	\$3,456	36.2%
City Sewer Impact Fee	\$1,826	19.1%
Kent County Sewer Impact Fee	\$3,059	32.0%
Water Meter*	\$200	2.1%
Water/Sewer Backfill*	\$35	0.4%
Electric Meter Connection*	\$50	0.5%
Electric Impact Fee*	\$600	6.3%
Total Permit Charge	\$9,551	

- ▶ Assumptions: \$50,000 construction cost and one (1) EDU.
- ▶ * Items are optional



Permit Charges - Typical Accessory Cottage (new bldg)

Fee Type	Charge	% of Overall Permit
Permit Fee/C of O	\$325	3.1%
Fire Company Enhancement Fund	\$250	2.4%
Municipal Enhancement Fund	\$750	7.1%
City Water Impact Fee	\$3,456	32.8%
City Sewer Impact Fee	\$1,826	17.3%
Kent County Sewer Impact Fee	\$3,059	29.0%
Water Meter*	\$200	1.9%
Water/Sewer Backfill*	\$35	0.3%
Electric Meter Connection*	\$50	0.5%
Electric Impact Fee*	\$600	5.7%
Total Permit Charge	\$10,551	

- ▶ Assumptions:
\$100,000 construction cost, 600 square feet and one (1) EDU.
- ▶ * Items are optional



Permit Charges - Typical Accessory Cottage (ex. bldg)

Fee Type	Charge	% of Overall Permit
Permit Fee/C of O	\$325	3.4%
Fire Company Enhancement Fund	n/a	0%
Municipal Enhancement Fund	n/a	0%
City Water Impact Fee	\$3,456	36.2%
City Sewer Impact Fee	\$1,826	19.1%
Kent County Sewer Impact Fee	\$3,059	32.0%
Water Meter*	\$200	2.1%
Water/Sewer Backfill*	\$35	0.4%
Electric Meter Connection*	\$50	0.5%
Electric Impact Fee*	\$600	6.3%
Total Permit Charge	\$9,551	

- ▶ Assumptions: \$100,000 construction cost, 600 square feet and one (1) EDU.
- ▶ * Items are optional



Considerations

- ▶ The City cannot reduce or waive the Kent County Sewer Impact Fee, which will be calculated at a rate of 1.0 EDUs for Accessory Dwelling Units based on the Kent County Code, Chapter 128 Fees.
- ▶ Multi-family complexes do not receive a reduced EDU assessment for 1-bedroom apartments. All apartment types (1-bedroom, 2-bedroom, 3-bedroom, etc) are assessed 1.0 EDU.
- ▶ Reduction in fees does not guarantee units will be rented at an affordable rate.
- ▶ Chapter 230 allows an accessory dwelling unit between 220 square feet and 1,200 square feet.
- ▶ Chapter 230 allows an accessory apartment not to exceed 35% of the single-family detached dwelling.



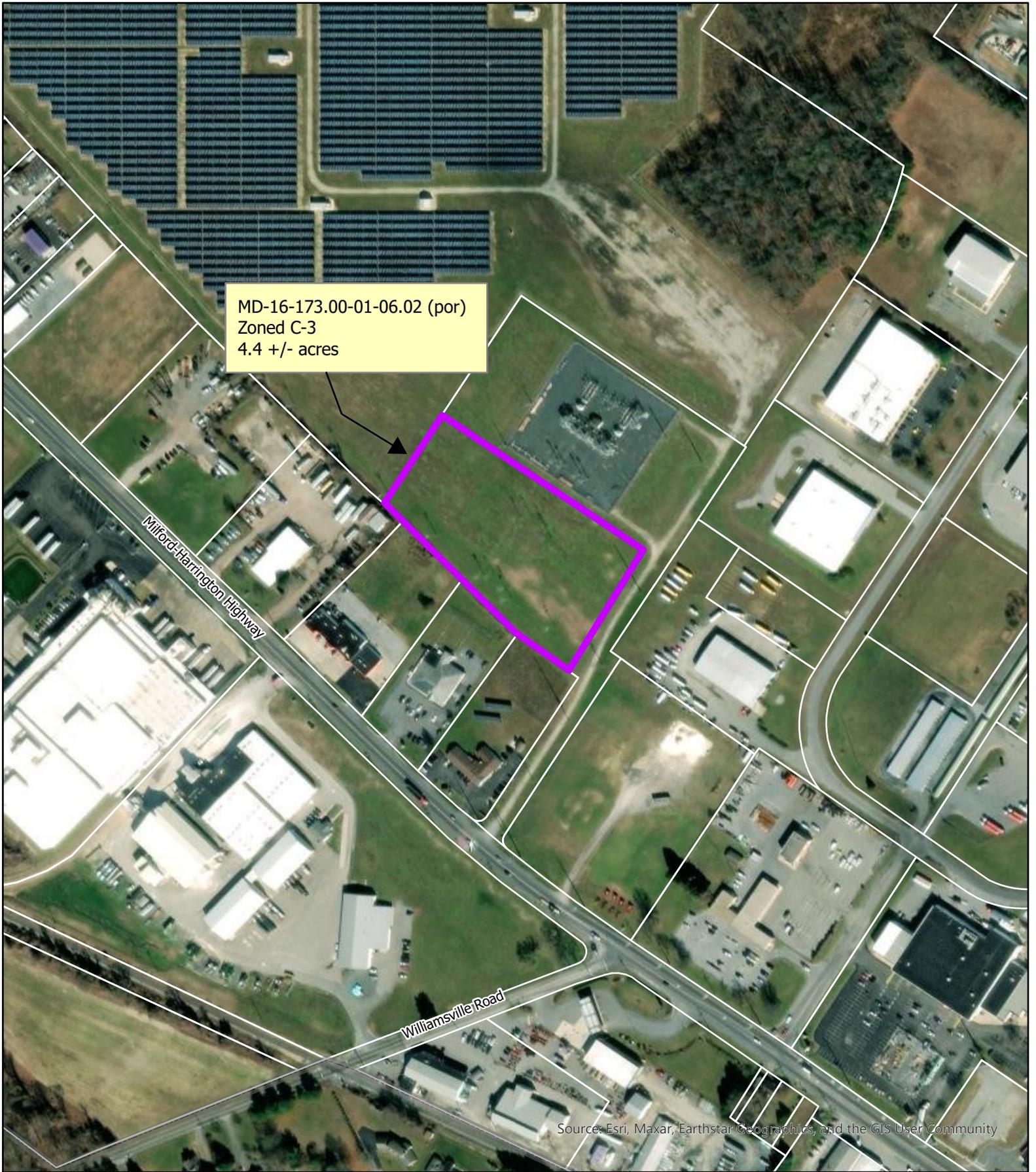
Other Jurisdictions

- ▶ Kent County – Impact Fees assessed the same as other dwelling units
- ▶ Town of Smyrna – Impact Fees assessed the same as other dwelling units
- ▶ City of Dover – Impact Fees assessed the same as other dwelling units
- ▶ Town of Lewes – Impact Fees assessed the same as other dwelling units
- ▶ City of Newark – Impact Fees assessed the same as other dwelling units
- ▶ Town of Rehoboth Beach – ADU's are not permitted



Next Steps

- ▶ Review how other Delaware municipalities and counties assess impact fees for Accessory Dwelling Units.
- ▶ Prepare draft ordinance amendment to the water and sewer ordinance based on additional research and the City Council workshop discussion, if needed.



MD-16-173.00-01-06.02 (por)
 Zoned C-3
 4.4 +/- acres

Milford-Harrington Highway

Williamsville Road

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

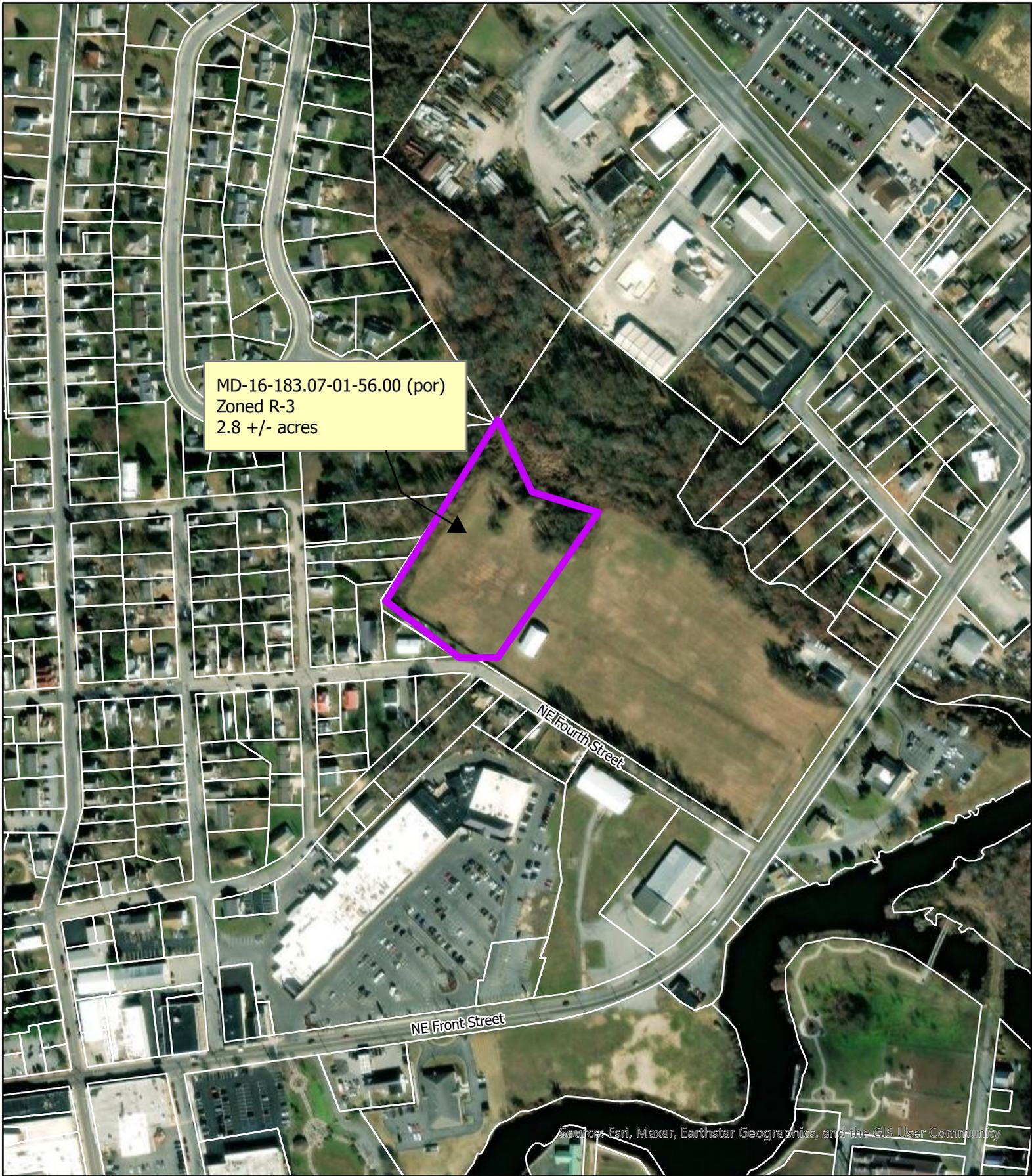


Scale: Feet
 0 150 300

Drawn by: WRP Date: 09/26/23

Title:
Option #1
Pallet Village
Tax Parcel Map

Filepath: PalletVillage_Option1.aprx



MD-16-183.07-01-56.00 (por)
 Zoned R-3
 2.8 +/- acres

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



Scale: Feet
 0 150 300

Drawn by: WRP Date: 09/26/23

Title:
Option #2
Pallet Village
Tax Parcel Map

Filepath: PalletVillage_Option2.aprx

MD-16-183.11-01-01.00 (por)
Zoned C-3
15,000 +/- sf building
5.3 +/- acres



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



Scale:  Feet
0 150 300

Drawn by: WRP Date: 09/26/23

Title:
**Option #3
Pallet Village
Tax Parcel Map**

Filepath: PalletVillage_Option3.aprx