

City of Milford



AGENDA

Council Meeting

August 22, 2011

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

7:00 p.m.

PUBLIC HEARINGS

Robert Nash Associates on behalf of G. Walter and Janet R. Swain

Final/Minor Subdivision (one parcel into two parcels)

5877 S. Rehoboth Boulevard

Tax Parcel 3-30-11.00-42.00; Area of Petition .359 +/- Acres

City of Milford

Final/Minor Subdivision (one parcel into three parcels)

902 North duPont Boulevard

Tax Parcel MD-16-174.14-01-05.00; Area of Petition 3.995 +/- Acres

COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Recognition

Communications

Unfinished Business -

Adoption of Ordinance 2011-20/Provides for the Readjustment of Ward Boundaries

Planning Commission Vacancy

Re-Adoption of Fiscal Year 2011-2012 Warrant (As Amended)

New Business

Resolution 2011-10/Adopting Kent County Mitigation Plan

Dissolution of Milford Parking Authority

Transfer of Funds and Budget Amendment/Solid Waste Department/Purchase of Recycling Containers*

Planning Commission Status Report-Milford Ponds*

Resolution 2011-11/Public Hearing/Borrowing/Washington Street Water Plant**

Adjourn

WORKSHOP

Call to Order - Mayor Joseph Ronnie Rogers

Amendment to City of Milford Code, Chapter 204, Taxation/Senior Citizen Relief

SCAT Meeting Reminder/September 7, 2011/Shawnee Country Club

Adjourn

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

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

061011 072011 080811 080911 081111 081811* Added by City Manager 081911***Added by City Manager

City of Milford



PUBLIC NOTICE **CITY COUNCIL HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, August 22, 2011 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to consider final action on the following matter:

Robert Nash Associates on behalf of G. Walter and Janet R. Swain requesting the Final/Minor Subdivision of one parcel into two parcels (separating auto shop from sports complex) in a C-3 District; site located at 5877 S. Rehoboth Boulevard, Milford, Delaware; Tax Parcel 3-30-11.00-42.00; Area of Petition .359 +/- Acres (7.656 +/- Total Acres) .

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. Written comments will be accepted up to one week prior to the hearing date.

Please direct all questions or comments to Christine Crouch at 302-424-3712 Extension 308.

By: Terri K. Hudson, CMC



Land Use Application Cover Sheet

File Name: Putt-A-Rosa
 File Number: 11.169

Date Stamp

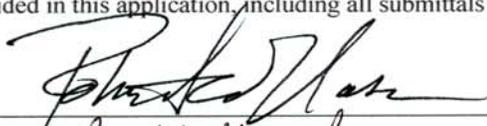
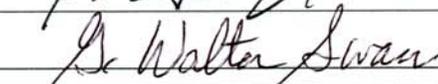
Instructions for Applicants:

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

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

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

Please Type or Print Legibly

Property Owner: G. WALTER & JANET R SWAIN			Phone:
Address: P.O. Box 146			Cell: 270-1871
City: LINCOLN	State: DE	Zip: 19960	Fax:
E-Mail:			
Contact Person For This Application: ROBERT NASH			Phone: 302-422-7327
Address: 14 SOUTH MAPLE AVE			Cell: 302-462-0555
City: MILFORD	State: DE	Zip: 19963	Fax: 302-422-3929
E-Mail: rnash551@comcast.net			
Applicant Name and/or Company: Bob Nash Associates			Phone: 302-422-7327
Address: 14 S. MAPLE AVE			Cell: 302-462-0555
City: MILFORD	State: DE	Zip: 19963	Fax: 302-422-3929
E-Mail: rnash551@Comcast.net.			
Site Address: 5877 S Rehoboth BLVD, MILFORD DE			Zoning: C-3
Tax Map & Parcel Number (s): 3-30-11.00-42.00			Acreage: 7.656 ACT
Description of Proposal: MINOR SUBDIVISION OF THE RECREATIONAL AREA WITH AUTO SHOP BEING RESIDUE OF .359 ACT. REQUESTING WAIVER FROM AREA REQUIREMENT FOR RESIDUE.			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant: 			Date: 5/31/11
Signature of Property Owner: 			Date: 5/31/11

REVISED: 05.03.11

- ✓ 8. Thirty-eight folded copies of a final utility plan (5 copies no smaller than 24" x 36" and 33 copies no larger than 11" x 17") showing:
 - ✓ A. Date, scale, north arrow and acreage of the entire site;
 - ✓ B. The name of the final plat, subdivision, or dedication;
 - ✓ C. The name and address of the owner(s), developer, and any other parties of interest;
 - ✓ D. A layout of the subdivision including each parcel/lot location, lot number, lot square footage, lot setbacks including front, side and rear, buffering, open space, parking, street and alley names;
 - ✓ E. Location and size of the proposed utilities (water, sewer, and electric) and any easements for such;
 - ✓ F. Names, locations, and widths of streets and alleys.
- ✓ 9. A list of waivers from the Code of the City of Milford and their corresponding code locations, as approved by City Council during Preliminary Approval.
- 10. A copy of any deed restrictions and restrictive covenants proposed by the subdivider. *n/a*
- ✓ 11. A CD with all of the above information saved in .pdf format, except the legal description and deed restrictions saved in Word format.
- ✓ 12. Application fee.

cc	
↓	
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cc	

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

Signature of Applicant:  Date: 5/31/11

Signature of Property Owner: _____ Date: _____

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

REVISED: 05.03.11



STATE OF DELAWARE

DEPARTMENT OF TRANSPORTATION

800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

CITY OF MILFORD

JUN 07 2011

RECEIVED

CLEON L. CAULEY, SR.
ACTING SECRETARY

May 31, 2011

Mr. David W. Baird
City Manager, City of Milford
201 South Walnut Street
Milford, DE 19963

**DeIDOT
MINOR SUBDIVISION
NO OBJECTION**

**RE: Recordation of Minor Subdivision Plan
SSR 9092; Lands of G. Walter Swain and Janet R. Swain – Lot 1
Tax Map #3-30-11.00-42.00
Business Route 1 (Rehoboth Boulevard)
Sussex County, City of Milford**

Dear Mr. Lank:

The Department of Transportation has reviewed the Record Minor Subdivision Plan dated May 13, 2011 (last revised 5/26/11), for the above referenced site, and has no objection to recordation as shown on the enclosed drawing and as noted.

Note:

Lot 1 shall have access from the existing entrances along Business Route 1, as shown on the minor subdivision plan.

With the proposed minor subdivision, DeIDOT will require a copy of the **recorded Record Plan** showing all appropriate signatures, seals, Plot Book and Page Number, prior to issuing the entrance permit.

The owner will have to submit this information to Mr. Gemez W. Norwood, South District Entrance Permit Supervisor (853-1340), to obtain the entrance permit.

This “Letter-of-No-Objection” is not a DeIDOT endorsement of the project discussed above. Rather, it is a recitation of the transportation improvements, which the applicant may be required to make as a pre-condition to recordation steps and deed restrictions as required by the respective county/municipality in which the project is located. If transportation investments are necessary, they are based on an analysis of the proposed project, its location, and its estimated impact on traffic movements and densities. The required improvements conform to DeIDOT’s published rules, regulations and standards. Ultimate responsibility for the approval of any project rests with the local

SSR 9092; Lands of G. Walter Swain and Janet R. Swain – Lot 1
Mr. David W. Baird
Page 2
May 31, 2011

government in which the land use decisions are authorized. There may be other reasons (environmental, historic, neighborhood composition, etc.) which compel that jurisdiction to modify or reject this proposed plan even though DelDOT has established that these enumerated transportation improvements are acceptable.

If I can be of any further assistance, please contact me at (302) 760-2266.

Sincerely,

A handwritten signature in blue ink that reads "Marc Cote". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marc Cote
Subdivision Engineer, Development Coordination

MC/jtf

Enclosure (1)

Cc: Gemez W. Norwood, South District Entrance Permit Supervisor (w/attachment)
Jessica L. Watson, Sussex Conservation District
Robert W. Nash, Bob Nash Associates



CITY OF MILFORD

JUN 06 2011

RECEIVED

PUBLIC WORKS DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

MEMO

TO: Bob Nash
Nash and Associates

FR: Brad Dennehy 
Director of Public Works

DA: June 6, 2011

RE: G.Walter and Janet R. Swain
Tax Map/ Parcel #: 3-30-11.00-42.00

At this time the Public Works Departments have no objection to the Minor Subdivision for the above referenced property. If future improvements are to be made, all standard requirements must be met including review of detailed utility drawings.

However, please note that at this time the City of Milford maintains no water or sewer service between S.E. 2nd Street and the Shawnee Country Club, on Rehoboth Boulevard.

Thank you



14 South Maple Ave, Milford, DE 19963

(302)422-7327 (302)422-3929 (f)
mash551@comcast.net

Bob Nash

ASSOCIATES

Surveying & Land Design

Waiver Request

May 31, 2011

City of Milford
Planning & Zoning
201 S. Walnut Street
Milford DE 19963

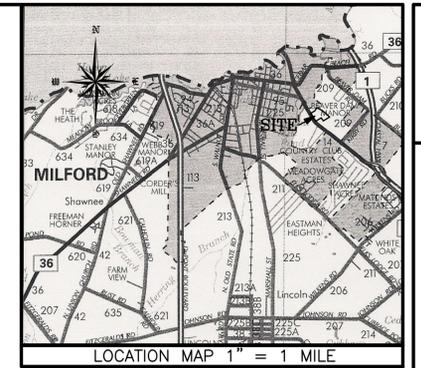
Dear Gary,

On behalf of my clients, Mr. G. Walter Swain and his wife Janet R. Swain, I would like to respectfully request a waiver from the 1 acre minimum lot size to 0.359 acres, per Part II, Chapter 200, Section 200-6 of The Code of the City of Milford. The reason for this request is my client is trying to do a minor subdivision on his property on business Route 1, known as the Putt A Rosa. He wishes to convey the recreational area and retain just the Automobile Shop. The Automobile Shop is well defined historically and is surrounded by a 6 Ft tall metal privacy fence. To enlarge the property to 1 acre would create a hardship regarding the recreational area as it would infringe on the mini golf area or the parking area for said site. The Automobile shop has been in constant operation for many years and I feel this would not be a detriment to the surrounding land owners.

Thank you for your time.

Sincerely,

Robert W. Nash
President



Bob Nash
ASSOCIATES
Surveying & Land Design

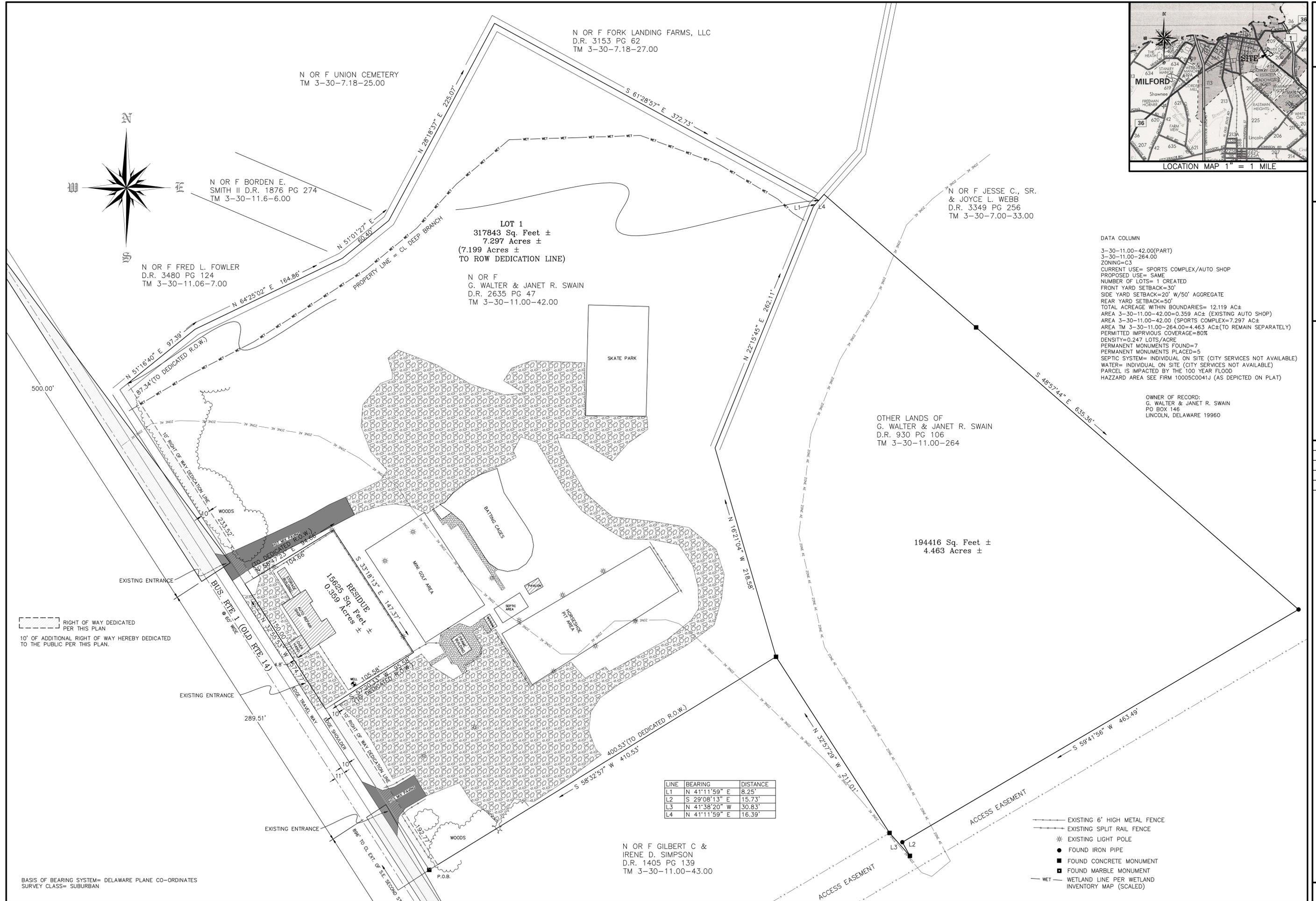
DATE: MAY 13, 2011
T.M.: AS NOTED
CITY OF MILFORD
SUSSEX COUNTY, DELAWARE

W.O.: 11-3-46
F.B.: BNA4/72
DISK: GWSWIN
SCALE: 1" = 40'

REVISIONS
5/26/11 DELDOT

MINOR SUBDIVISION OF LANDS OF:
G. WALTER & JANET R. SWAIN

SP-1



N OR F FORK LANDING FARMS, LLC
D.R. 3153 PG 62
TM 3-30-7.18-27.00

N OR F UNION CEMETERY
TM 3-30-7.18-25.00

N OR F BORDEN E.
SMITH II D.R. 1876 PG 274
TM 3-30-11.6-6.00

N OR F FRED L. FOWLER
D.R. 3480 PG 124
TM 3-30-11.06-7.00

LOT 1
317843 Sq. Feet ±
7.297 Acres ±
(7.199 Acres ±
TO ROW DEDICATION LINE)

N OR F
G. WALTER & JANET R. SWAIN
D.R. 2635 PG 47
TM 3-30-11.00-42.00

N OR F JESSE C., SR.
& JOYCE L. WEBB
D.R. 3349 PG 256
TM 3-30-7.00-33.00

OTHER LANDS OF
G. WALTER & JANET R. SWAIN
D.R. 930 PG 106
TM 3-30-11.00-264

194416 Sq. Feet ±
4.463 Acres ±

N OR F GILBERT C &
IRENE D. SIMPSON
D.R. 1405 PG 139
TM 3-30-11.00-43.00

DATA COLUMN
3-30-11.00-42.00(PART)
3-30-11.00-264.00
ZONING=03
CURRENT USE= SPORTS COMPLEX/AUTO SHOP
PROPOSED USE= SAME
NUMBER OF LOTS= 1 CREATED
FRONT YARD SETBACK=30'
SIDE YARD SETBACK=20' W/50' AGGREGATE
REAR YARD SETBACK=50'
TOTAL ACREAGE WITHIN BOUNDARIES= 12.119 AC±
AREA 3-30-11.00-42.00=0.359 AC± (EXISTING AUTO SHOP)
AREA 3-30-11.00-42.00 (SPORTS COMPLEX)=7.297 AC±
AREA TM 3-30-11.00-264.00=4.463 AC±(TO REMAIN SEPARATELY)
PERMITTED IMPRVIOUS COVERAGE=80%
DENSITY=0.247 LOTS/ACRE
PERMANENT MONUMENTS FOUND=7
PERMANENT MONUMENTS PLACED=5
SEPTIC SYSTEM= INDIVIDUAL ON SITE (CITY SERVICES NOT AVAILABLE)
WATER= INDIVIDUAL ON SITE (CITY SERVICES NOT AVAILABLE)
PARCEL IS IMPACTED BY THE 100 YEAR FLOOD
HAZZARD AREA SEE FIRM 10005C0041J (AS DEPICTED ON PLAT)

OWNER OF RECORD:
G. WALTER & JANET R. SWAIN
PO BOX 146
LINCOLN, DELAWARE 19960

LINE	BEARING	DISTANCE
L1	N 41°11'59" E	8.25'
L2	S 29°08'13" E	15.73'
L3	N 41°38'20" W	30.83'
L4	N 41°11'59" E	16.39'

- EXISTING 6' HIGH METAL FENCE
- EXISTING SPLIT RAIL FENCE
- * EXISTING LIGHT POLE
- FOUND IRON PIPE
- FOUND CONCRETE MONUMENT
- FOUND MARBLE MONUMENT
- WETLAND LINE PER WETLAND INVENTORY MAP (SCALED)

RIGHT OF WAY DEDICATED PER THIS PLAN
10' OF ADDITIONAL RIGHT OF WAY HEREBY DEDICATED TO THE PUBLIC PER THIS PLAN.

BASIS OF BEARING SYSTEM= DELAWARE PLANE CO-ORDINATES
SURVEY CLASS= SUBURBAN

Warning: Original paper plans contain a raised impression of a professional seal. Original paper plans contain a red ink stamp of a professional seal. Unauthorized copies may contain fraudulent, incorrect, erroneous, or misleading information or omit important and relevant information. Do not use or rely on unauthorized copies.

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC11-014

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF
MILFORD**

**THE APPROVAL OF A FINAL MINOR SUBDIVISION FOR
G. WALTER & JANET R. SWAIN
AT 5877 S REHOBOTH BLVD, PUTT A ROSA
FOR A TWO LOT SUBDIVISION
IN A C-3 ZONING DISTRICT
TAX MAP 3-30-11.00-42.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on July 19, 2011; and,

WHEREAS, by a vote 7 to 0 recommended approval of the application.

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

1. None.

APPROVED: _____

Charles Rini
Charles Rini,
Planning Commission Chairman

SIGNED: _____

Christine Crouch
Christine Crouch,
Planning Commission Rec Secretary

City of Milford



PUBLIC NOTICE **CITY COUNCIL HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, August 22, 2011 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to consider final action on the following matter:

City of Milford requesting the Final/Minor Subdivision of one parcel into three parcels (convenience store with gas pumps, car wash and water tower) in a C-3 District; site located at 902 North DuPont Boulevard, Milford, Delaware; Tax Parcel MD-16-174.14-01-05.00; Area of Petition 3.995 +/- Acres.

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. Written comments will be accepted up to one week prior to the hearing date.

Please direct all questions or comments to Christine Crouch at 302-424-3712 Extension 308.

By: Terri K. Hudson, CMC
City Clerk



Land Use Application Cover Sheet

File Name: Milford, City of - Wawa - Date Stamp
 File Number: 11-170

Instructions for Applicants:

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

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

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

Please Type or Print Legibly

Property Owner: <u>CITY OF MILFORD</u>			Phone: <u>424-3712</u>
Address: <u>201 S. WALNUT STREET</u>			Cell:
City: <u>MILFORD</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax:
E-Mail: <u>gnorris@milford-de.gov</u>			
Contact Person For This Application: <u>GARY J. NORRIS</u>			Phone: <u>424-3712</u>
Address: <u>201 S. WALNUT ST.</u>			Cell: <u>632-7593</u>
City: <u>MILFORD</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax:
E-Mail: <u>gnorris@milford-de.gov</u>			
Applicant Name and/or Company: <u>CITY OF MILFORD</u>			Phone: <u>424-3712</u>
Address: <u>201 S. WALNUT ST</u>			Cell: <u>632-7593</u>
City: <u>MILFORD</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax:
E-Mail:			
Site Address: <u>902 N. DuPont Blvd</u>			Zoning: <u>C-3</u>
Tax Map & Parcel Number (s): <u>MD-16-174.14-01-05.00</u>			Acreage: <u>3.995 ± AC</u>
Description of Proposal: <u>SUBDIVISION OF ONE PARCEL INTO THREE PARCELS. PARCEL 1 WILL BE THE EXISTING WAWA STORE. PARCEL 2 WOULD BE THE EXISTING CARWASH PROPERTY (DICK-IN) & PARCEL 3 THE WATER TOWER</u>			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant: <u>[Signature]</u>			Date: <u>7.20.2011</u>
Signature of Property Owner: <u>[Signature]</u>			Date: <u>7.20.2011</u>

REVISED: 05.03.11

- 8. Thirty-eight folded copies of a final utility plan (5 copies no smaller than 24" x 36" and 33 copies no larger than 11" x 17") showing:
 - A. Date, scale, north arrow and acreage of the entire site;
 - B. The name of the final plat, subdivision, or dedication;
 - C. The name and address of the owner(s), developer, and any other parties of interest;
 - D. A layout of the subdivision including each parcel/lot location, lot number, lot square footage, lot setbacks including front, side and rear, buffering, open space, parking, street and alley names;
 - E. Location and size of the proposed utilities (water, sewer, and electric) and any easements for such;
 - F. Names, locations, and widths of streets and alleys.
- 9. A list of waivers from the Code of the City of Milford and their corresponding code locations, as approved by City Council during Preliminary Approval.
- 10. A copy of any deed restrictions and restrictive covenants proposed by the subdivider.
- 11. A CD with all of the above information saved in .pdf format, except the legal description and deed restrictions saved in Word format.
- 12. Application fee.

✓	
✓	
✓	
✓	
	✓
✓	
	✓
	✓
	✓
	✓

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

Signature of Applicant:

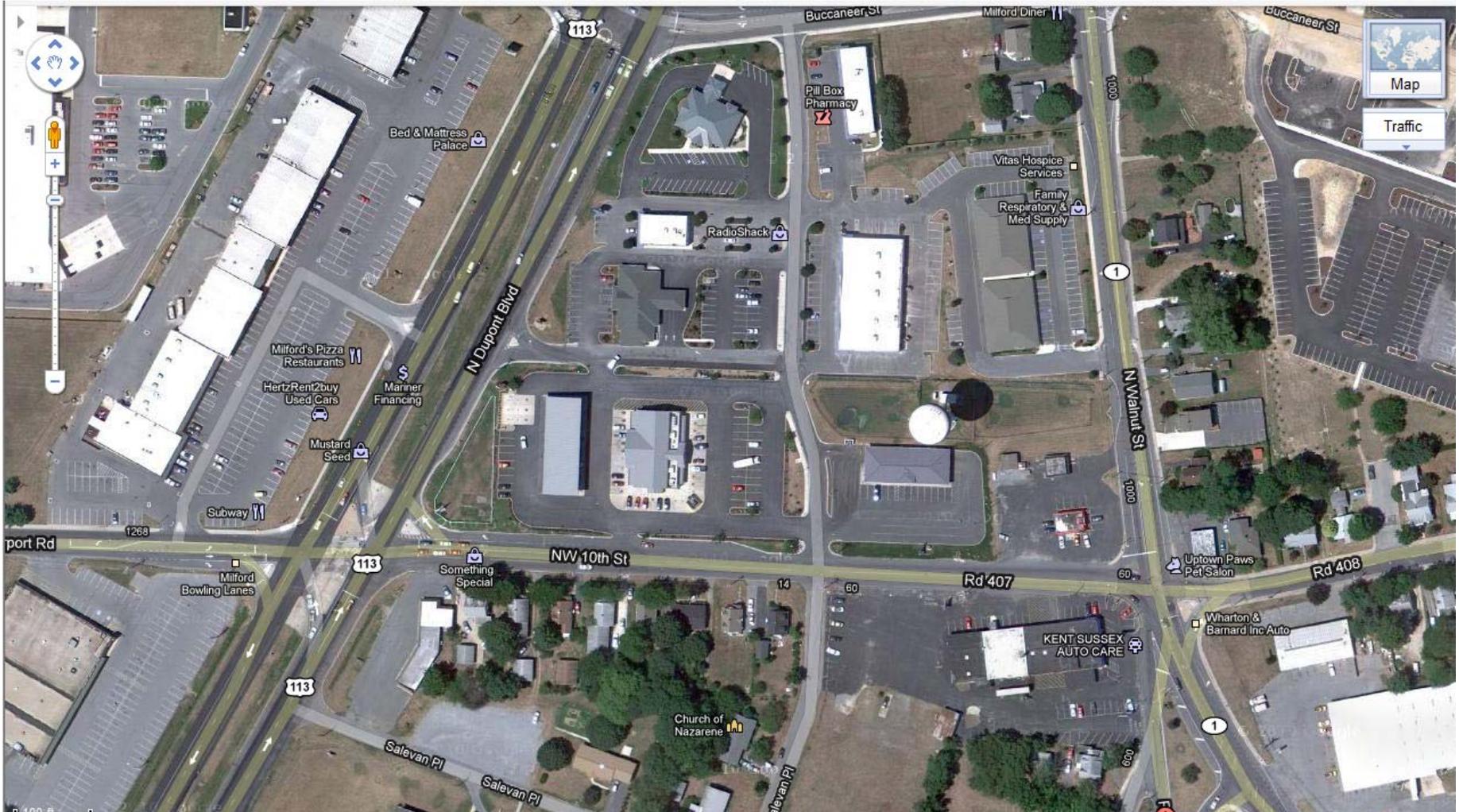
[Signature] Date: 7-20-2011

Signature of Property Owner:

[Signature] Date: 7-20-2011

	FOR STAFF USE ONLY			
	DAC	Planning Commission	City Council	BOA
Owner	n/a	08-16-11	08-22-11	n/a
Contact				
Applicant				

REVISED: 05.03.11



§ 230-14. - C-3 Highway Commercial District.

In a C-3 District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.

- A.** Purpose. The purpose of the C-3 District is to provide for larger-scale commercial uses that may require large amounts of parking space or have a high traffic impact. These uses generally require locations on major arterial routes and serve both local and regional customers.
- B.** Permitted uses. Permitted uses for the C-3 District shall be as follows:
- (1) Those uses permitted in the C-2 District.
 - (2) Warehouses.
 - (3) Large retail outlets.
 - (4) Indoor storage accessory building.
 - (5) Fast-food restaurants and drive-in restaurants.
 - (6) Supermarkets.
 - (7) Truck and trailer rentals.
 - (8) Roadside produce market.
 - (9) Memorial stone shop.
 - (10) Outdoor commercial recreational facilities, not motorized vehicles.
 - (11) Swimming club.
 - (12) Indoor facility for amusement or assembly.
 - (13) Bus station.
- C.** Conditional uses subject to special requirements. The following uses are permitted subject to receiving a conditional use permit by the City Council as provided in Article IX of this chapter:

[Amended 10-12-1998 by Ord. No. 10-1998]

- (1) Motels or hotels with a minimum lot size of three acres.
- (2) Commercial greenhouse.
- (3) Wholesale establishment.
- (4) Newspaper publishing or printing establishment.
- (5) Contractors', craftsmen's or general service shops, including welding and similar shops.
- (6) Laboratory, testing and research.
- (7) Car repair shops.
- (8) Used car lots.
- (9) Telephone central office or television cable central office.
- (10) Service station, automobile sales agency, public garage, parking garage or lot, but not including storage of wrecked cars, subject to the following special requirements:
 - (a) All facilities shall be located and all services shall be conducted on the lot.
 - (b) All repair work shall be conducted within an entirely enclosed building.
 - (c) No equipment for the service of gasoline or oil shall be placed closer to any street or property line than 20 feet.
 - (d) No portion of such structure or its equipment shall be located within 500 feet of the premises of any school, hospital, church or public recreation building.
 - (e) No service station shall be located within 800 feet of another service station on the same side of the street within the same block.
 - (f) Any such use shall be permitted only where it is determined that it will not materially interfere with the main pedestrian movement in conjunction with a compact retail area.
- (11) Shopping center, subject to site plan review and the following site requirements:
 - (a) The total shall not be less than one acre.
 - (b) The site must be served by public water, sewer and electricity.
 - (c) Stormwater drainage. The facilities shall be provided by the developer to handle the increase in stormwater runoff, and he shall make contributions towards the cost of off-site facilities of the shopping center.
 - (d) Traffic and parking.
 - [1] The internal circulation of traffic shall be separated from the external street system, and pedestrian and vehicular traffic shall be separated through traffic control devices and appropriate site design.
 - [2] Access to state highways shall be controlled by the State Department of Transportation.
 - [3] The minimum distance between accessways and a residential district shall be 50 feet.
 - [4] Spacing of accessway.
 - [a] From adjoining property: 50 feet.
 - [b] From minor intersections: 50 feet.
 - [c] From major intersections: 100 to 150 feet.
 - [5] Five and one-half parking spaces shall be provided per 1,000 feet of leasable area.

- (e)** **[6]** Parking lots shall be attractively landscaped as shown on the general site plan. Setback.
 - [1]** From street right-of-way: 15 feet.
 - [2]** From nonresidential districts: 15 feet.
 - [3]** From residential districts: 100 feet.
- (f)** Buffering and landscaping.
 - [1]** There shall be a minimum of a ten-foot landscaped buffer along all lot lines. The screening shall be six feet high near residential districts.
 - [2]** Ten percent of the site shall be landscaped and may include features such as pedestrian walking or rest areas and courtyards.

(12) Day-care centers, with site plan required.

[Added 10-14-1991]

(13) Car wash, all types (staffed, automatic, self-service, etc.).

[Added 6-14-1993]

(14) Convenience stores with gas pumps.

(15) Community residential treatment program.

[Added 9-13-1999 by Ord. No. 6-1999]

(16) All dwellings other than single-family with a maximum density of 12 units per acre.

(17) Business, commercial or industrial uses that do not adversely affect neighboring properties.

(18) Billboard, subject to the following:

- (a)** Shall be constructed and maintained in accordance with the Delaware Code, Title 17-Highways, Chapter 11-Regulations of Outdoor Advertising, Subchapter 1-General Provisions.

D. Area regulations.

(1) Minimum lot area shall be one acre.

(2) Maximum lot coverage shall be 80%.

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

(4) Height of buildings shall not exceed three stories or 35 feet.

(5) Minimum building setback shall be 30 feet.

(6) Side yards shall be provided as follows: each lot shall have two side yards a minimum of 20 feet with a minimum aggregate width of two side yards of 50 feet.

(7) Minimum rear yard shall be 50 feet.

(8) Parking shall comply with the requirements provided in Article IV of this chapter.

(9) Landscape screening shall comply with the requirements provided in Article V of this chapter.

(10) Signs shall comply with the requirements provided in Article VI of this chapter.

[Ord. No. 2008-18, § 3, 8-24-2009; Ord. No. 2009-22, § 2, 9-27-2010]

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC11-016

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF
MILFORD**

**THE APPROVAL OF A FINAL MINOR SUBDIVISION FOR
MILFORD, CITY OF
AT 902 N DUPONT BLVD (WAWA)
FOR A THREE LOT SUBDIVISION
IN A C-3 ZONING DISTRICT
TAX MAP MD-16-174.14-01-05.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on August 16, 2011; and,

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

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

1.

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary



DATA COLUMN

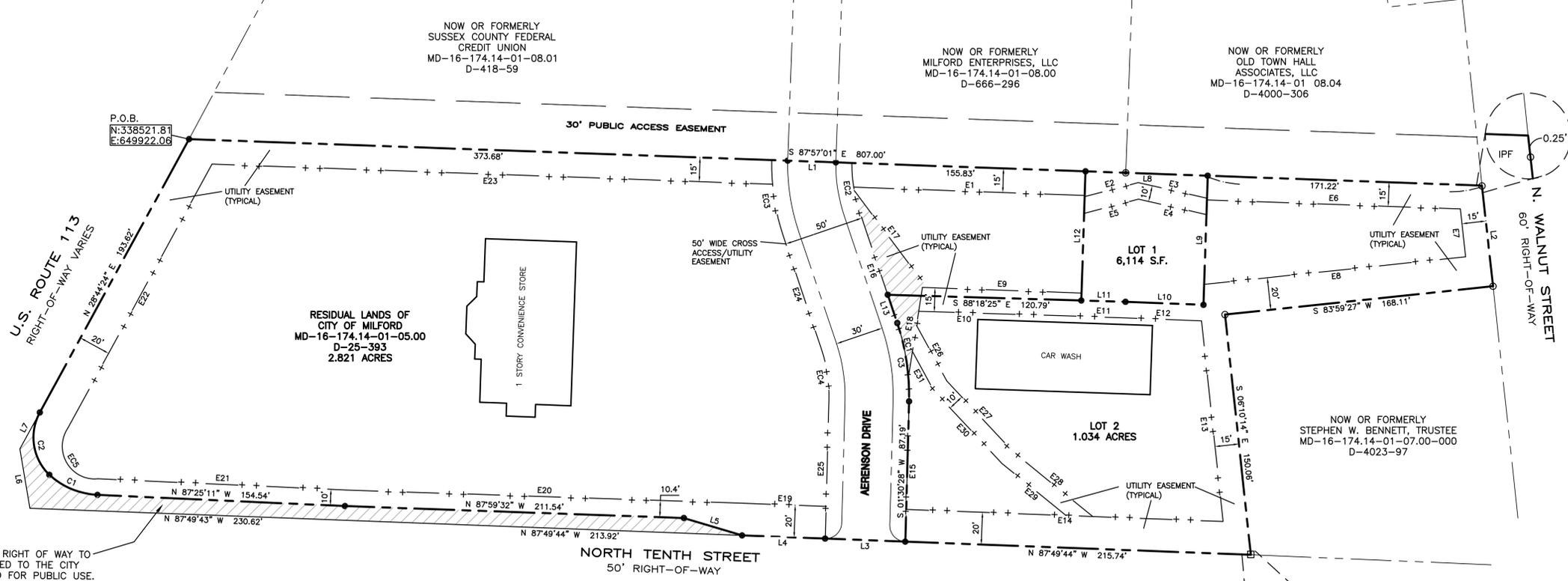
TAX MAP ID :MD-16-174.14-01-05.00
 EXISTING ZONING :C3
 TOTAL AREA OF LOT 1 :6,114 ±S.F.
 TOTAL AREA OF LOT 2 :1,034 ±A.C.
 AREA OF RESIDUAL LAND :2.821 ±A.C.
 TOTAL SITE AREA :3.995 ±A.C.
 SETBACKS
 FRONT YARD SETBACK :.25'
 SIDE YARD SETBACK :.25'
 REAR YARD SETBACK :.50'
 NUMBER OF LOTS CREATED :2
 IMPERVIOUS COVERAGE PERMITTED :80%
 PRESENT USE OF LOT 1 :UTILITY/WATER TOWER
 PROPOSED USE OF LOT 1 :UTILITY/WATER TOWER
 PRESENT USE OF LOT 2 :CAR WASH
 PROPOSED USE OF LOT 2 :CAR WASH
 PROPOSED SEWER :CITY OF MILFORD
 PROPOSED WATER :CITY OF MILFORD
 VERTICAL DATUM :NAVD 88
 ALL FIRE LANES, FIRE HYDRANTS, AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE PREVENTION REGULATIONS.
 NUMBER OF MONUMENTS FOUND.....1
 NUMBER OF PINS FOUND.....4
 NUMBER OF IRON RODS TO BE SET.....19

EASEMENT LINE & CURVE TABLE

LINE	BEARING	DISTANCE	CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
E1	S 87°57'01" E	144.24'	EC1	140.00'	49.44'	49.18'	S 08°36'29" E	20°13'59"
E2	N 75°22'51" E	34.51'	EC2	90.00'	30.38'	30.23'	S 09°03'19" E	19°20'16"
E3	S 77°16'45" E	43.97'	EC3	140.00'	48.51'	48.27'	S 08°47'53" E	19°51'08"
E4	N 77°16'45" W	43.45'	EC4	90.00'	31.78'	31.62'	S 08°36'29" E	20°13'59"
E5	S 75°22'51" W	35.03'	EC5	20.29'	46.14'	36.82'	N 30°55'30" W	130°17'37"
E6	S 87°57'01" E	158.27'						
E7	S 06°16'56" E	29.86'						
E8	S 83°59'27" W	163.99'						
E9	N 87°58'16" W	99.28'						
E10	S 88°13'54" E	101.11'						
E11	S 87°58'44" E	27.55'						
E12	S 87°48'06" E	47.83'						
E13	S 06°10'14" E	125.36'						
E14	N 87°49'44" W	197.65'						
E15	N 01°30'28" E	87.19'						
E16	N 18°43'26" W	73.46'						
E17	S 36°54'29" E	71.73'						
E18	S 08°55'03" W	59.46'						
E19	N 87°49'42" W	51.84'						
E20	N 88°05'58" W	248.25'						
E21	N 87°25'11" W	154.54'						
E22	N 28°44'24" E	186.88'						
E23	S 87°57'01" E	349.88'						
E24	S 18°43'26" E	73.46'						
E25	S 01°30'28" W	86.60'						
E26	S 28°40'53" E	39.33'						
E27	S 43°11'46" E	60.28'						
E28	S 51°03'04" E	64.09'						
E29	N 51°03'04" W	51.40'						
E30	N 43°11'46" W	62.24'						
E31	N 28°40'53" W	27.62'						



OWNERS
 CITY OF MILFORD
 201 S. WALNUT STREET
 MILFORD, DELAWARE 19963
ENGINEER/SURVEYOR
 DAVIS, BOWEN & FRIEDEL, INC.
 23 NORTH WALNUT STREET
 MILFORD, DELAWARE 19963
 (302)424-1441



OWNER'S CERTIFICATION

WE, THE CITY OF MILFORD, HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, THAT ALL STREETS SHOWN HEREON AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC USE AND THAT ALL PROPOSED MONUMENTS AND MARKERS SHOWN HEREON WILL BE SET AT THE LOCATION INDICATED, AND THAT WE ACKNOWLEDGE THE SAME TO BE OUR ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

DATE: _____ SIGNATURE: _____

REGISTERED ENGINEER CERTIFICATION

I, RANDY DUPLCHAIN P.E., HEREBY CERTIFY 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.

DATE: _____ SIGNATURE: _____

BOUNDARY LINE TABLE

LINE	BEARING	DISTANCE
L1	N 87°57'01" W	30.02'
L2	S 06°16'56" E	62.90'
L3	N 87°49'16" W	50.02'
L4	N 87°49'42" W	51.84'
L5	N 75°24'45" W	37.88'
L6	N 09°35'05" W	37.43'
L7	N 28°44'24" E	25.80'
L8	S 87°57'01" E	76.27'
L9	S 01°52'04" W	80.22'
L10	N 87°48'06" W	48.71'
L11	N 88°18'25" W	27.56'
L12	N 01°52'19" E	80.27'
L13	N 18°43'26" W	18.54'

BOUNDARY CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	48.19'	33.14'	32.49'	N 67°26'08" W	39°24'19"
C2	32.19'	22.12'	39.18'	N 08°44'32" W	74°57'51"
C3	140.00'	49.44'	49.18'	S 08°36'29" E	20°13'59"

- LEGEND:**
- IRON PIPE FOUND
 - IRON ROD & CAP SET
 - CONCRETE MONUMENT FOUND
 - ⊙ IRON PIPE & CAP FOUND



ARCHITECTS ENGINEERS SURVEYORS
 SALISBURY, MARYLAND (410) 543-9091
 MILFORD, DELAWARE (302) 424-1441



MINOR SUBDIVISION
 PREPARED FOR
CITY OF MILFORD
 CITY OF MILFORD, MILFORD HUNDRED
 KENT COUNTY, DELAWARE

Revisions:
 Date: 6/27/11
 Scale: 1" = 40'
 Dwn.By: LRW
 Proj.No.: 052A019
 Dwg.No.:

THIS DRAWING, THE DESIGN AND CONSTRUCTION FEATURES DISCLOSED ARE PROPRIETARY TO DAVIS, BOWEN & FRIEDEL, INC., AND SHALL NOT BE ALTERED OR REUSED WITHOUT WRITTEN PERMISSION.

LEGAL DESCRIPTION
LANDS OF
CITY OF MILFORD
MD-16-174.14-01-05.00
LOT 1

June 27, 2011

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the westerly side of N. Walnut Street, the northerly side of North Tenth Street & the easterly side of US Route 113, and being located in the City of Milford, Milford Hundred, Kent County, Delaware, as shown on a plot entitled "Minor Subdivision prepared for City of Milford," completed by Davis Bowen & Friedel, Inc., dated June 27, 2011; said piece or parcel being more particularly described as follows:

BEGINNING at an iron rod and cap set at a point on the southerly line of lands of, now or formerly, Old Town Hall Associates, LLC, as recorded in said Office of the Recorder of Deeds in Deed Book D-4000, Page 306 as shown on a plat entitled, "Minor Subdivision prepared for City of Milford," completed by Davis Bowen & Friedel, Inc., dated June 27, 2011; said beginning point lying North 87 degrees 57 minutes 01 seconds West 171.22 feet from a point formed by the intersection of said southerly line of lands of Old Town Hall Associates, LLC with the westerly right-of-way line of N. Walnut Street, 60 feet wide, thence running,

1) from said beginning point, leaving said Old Town Hall lands and running by and with Lot 2, the following 3 courses and distances, South 01 degrees 52 minutes 04 seconds West 80.22 feet to an iron rod and cap set at a point, thence running,

2) North 87 degrees 48 minutes 06 seconds West 48.71 feet to an iron rod and cap set at a point, thence running,

3) North 88 degrees 18 minutes 25 seconds West 27.56 feet to an iron rod and cap set at a point, thence running,

4) by and with said residual lands, North 01 degrees 52 minutes 19 seconds East 80.27 feet to a point on the southerly line of lands of, now or formerly, Milford Enterprises, LLC, as recorded in said Office of the Recorder of Deeds in Deed Book D-666, Page 296, thence running,

5) by and with said Milford Enterprises lands and in part running by and with the aforementioned lands of Old Town Hall Associates, LLC, South 87 degrees 57 minutes 01 seconds East 76.27 feet to the point and place of beginning; **CONTAINING** 6,114 square feet of land, more or less.

LEGAL DESCRIPTION
MD-16-174.14-01-05.00
LOT 2

June 27, 2011

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the westerly side of N. Walnut Street, the northerly side of North Tenth Street & the easterly side of US Route 113, and being located in the City of Milford, Milford Hundred, Kent County, Delaware, as shown on a plot entitled "Minor Subdivision prepared for City of Milford," completed by Davis Bowen & Friedel, Inc., dated June 27, 2011; said piece or parcel being more particularly described as follows:

- 1) leaving said Old Town Hall Lands and running by and with said westerly right-of-way of N. Walnut Street, South 06 degrees 16 minutes 56 seconds East 62.90 feet to an iron rod found on the northerly line of lands, now or formerly, Stephen W. Bennett, Trustee, as recorded in said Office of the Recorder of Deeds in Deed Book D4023, Page 97, thence running,
- 2) by and with said Bennett Trustee lands, the following two courses and distances, South 83 degrees 59 minutes 27 seconds West 168.11 feet to an iron rod and cap set, thence running
- 3) South 06 degrees 10 minutes 14 seconds East 150.06 feet to a point on the northerly right-of-way line of North Tenth Street, 50 feet wide, thence running,
- 4) by and with said right-of-way line of North Tenth Street, North 87 degrees 49 minutes 44 seconds West 215.74 feet to an iron rod and cap set at a point on the easterly line of a 50 feet wide Cross Access Easement, thence running,
- 5) by and with said Cross Access Easement, the following 3 courses and distances, North 01 degree 30 minutes 28 seconds East 87.19 feet to an iron rod and cap set at a point, thence running
- 6) by and with a curve to the left, having a radius of 140.00 feet, an arc length of 49.44 feet and a chord bearing and distance of North 08 degrees 36 minutes 29 seconds West 49.18 feet to an iron rod and cap set at a point, thence running,
- 7) North 18 degrees 43 minutes 26 seconds West 18.54 feet to an iron rod and cap set at a point, thence running

8) leaving said 50 feet wide Cross Access Easement and running, by and with Residual Lands, South 88 degrees 18 minutes 25 seconds East 120.79 feet to an iron rod and cap set at a point on the newly created Lot 1, thence running

9) by and with Lot 1, the following 3 courses and distances, South 88 degrees 18 minutes 25 seconds East 27.56 feet to an iron rod and cap set at a point, thence running,

10) South 87 degrees 48 minutes 06 seconds East 48.71 feet to an iron rod and cap set at a point, thence running,

11) North 01 degrees 52 minutes 04 seconds East 80.22 feet to an iron rod and cap set at a point on the southerly line of said Old Town Hall Lands, thence running,

12) leaving said Lot 1 and running by and with said Old Town Hall Lands, South 87 degrees 57 minutes 01 seconds East 171.22 feet to the point and place of beginning; **CONTAINING** 1.034 Acres of land, more or less.

LEGAL DESCRIPTION
RESIDUAL LANDS OF
CITY OF MILFORD
MD-16-174.14-01-05.00

June 27, 2011

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the westerly side of N. Walnut Street, the northerly side of North Tenth Street & the easterly side of US Route 113, and being located in the City of Milford, Milford Hundred, Kent County, Delaware, as shown on a plot entitled "Minor Subdivision prepared for City of Milford," completed by Davis Bowen & Friedel, Inc., dated June 27, 2011; said piece or parcel being more particularly described as follows:

BEGINNING at an iron rod and cap set at a point formed by the intersection of the easterly right-of-way line of US Route 113, width varies, with the southerly line of lands of, now or formerly, Sussex County Federal Credit Union, as recorded in the Office of the Recorder of Deeds in and for Kent County and the State of Delaware in Deed Book D-418, Page 059, being the same line of a 30 feet wide Public Access Easement, thence running,

1) leaving said right-of-way line of US Route 113 and running by and with said Sussex County Federal Credit Union lands and a 30 feet wide Public Access Easement, South 87 degrees 57 minutes 01 seconds East 373.68 feet to an iron rod and cap set at a point on the westerly line of a 50 feet wide Cross Access Easement, thence running,

2) leaving said Sussex County Federal Credit Union and running by and with said 50 feet wide Cross Access Easement, South 87 degrees 57 minutes 01 seconds East 30.02 feet to an iron rod and cap set at a point on the easterly line of said Cross Access Easement; said point also being on the southerly line of lands of, now or formerly, Milford Enterprises, LLC, as recorded in said Office of the Recorder of Deeds in Deed Book D-666, Page 296, thence running,

3) leaving said 50 feet wide Cross Access Easement and running by and with said Milford Enterprises lands, South 87 degrees 57 minutes 01 seconds East 155.83 feet to a point on the newly created Lot 1, thence running,

4) leaving said Milford Enterprises lands and running by and with said Lot 1, South 01 degrees 52 minutes 19 seconds West 80.27 feet to an iron rod and cap set at a point on the newly created Lot 2, thence running,

5) leaving said Lot 1 and running by and with said Lot 2, North 88 degrees 18 minutes 25 seconds West 120.79 feet to an iron rod and cap set at a point on the easterly line of a 50 feet wide Cross Access Easement, thence running,

6) by and with said Lot 2 and said easterly line of a 50 feet wide Cross Access Easement, the following 3 courses and distances, South 18 degrees 43 minutes 26 seconds East 18.54 feet to an iron rod and cap set, thence running,

7) by and with a curve to the right, having a radius of 140.00 feet, an arc length of 49.44 feet and a chord bearing and distance of South 08 degrees 36 minutes 29 seconds East 49.18 feet to an iron rod and cap set, thence running,

8) South 1 degree 30 minutes 28 seconds West 87.19 feet, to an iron rod and cap set at a point on the northerly right-of-way line of North Tenth Street, 50 feet wide, thence running,

9) by and with said right-of-way line of North Tenth Street, the following 7 courses and distances, North 87 degrees 49 minutes 16 seconds West 50.02 feet to an iron rod and cap set at a point on the westerly line of said 50 feet wide Cross Access Easement, thence running,

10) North 87 degrees 49 minutes 42 seconds West 51.84 feet to an iron rod and cap set at a point, thence running,

11) North 73 degrees 24 minutes 45 seconds West 37.88 feet to an iron rod and cap set at a point, thence running,

12) North 87 degrees 59 minutes 32 seconds West 211.54 feet to an iron rod and cap set at a point, thence running,

13) North 87 degrees 25 minutes 11 seconds West 154.54 feet to an iron rod and cap set at a point of curvature, thence running,

14) by and with a curve to the right, having a radius of 48.19 feet, an arc length of 33.14 feet and a chord bearing and distance of North 67 degrees 26 minutes 06 seconds West 32.49 feet to an iron rod and cap set at a point of compound curvature, thence running,

15) by and with a curve to the right, having a radius of 32.19 feet, an arc length of 42.12 feet and a chord bearing and distance of North 08 degrees 44 minutes 32 seconds West 39.18 feet to an iron rod and cap set at a point of tangency on the aforementioned right-of-way line of US Route 113, width varies, thence running,

16) leaving said right-of-way line of North Tenth Street and running by and with said US Route 113, North 28 degrees 44 minutes 24 seconds East 193.62 feet to the point and place of beginning; **CONTAINING** 2.821 acres of land, more or less.

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC11-016

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF
MILFORD**

**THE APPROVAL OF A FINAL MINOR SUBDIVISION FOR
MILFORD, CITY OF
AT 902 N DUPONT BLVD (WAWA)
FOR A THREE LOT SUBDIVISION
IN A C-3 ZONING DISTRICT
TAX MAP MD-16-174.14-01-05.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on August 16, 2011; and,

WHEREAS, by a vote of 8 to 0 recommended approval of the application.

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

1. None.

APPROVED:


Charles Rini,
Planning Commission Chairman

SIGNED:


Christine Crouch,
Planning Commission Rec Secretary



The Board of Directors of
Delaware Municipal Electric Corporation
Cordially invite you to their
Seventeenth Annual
Dinner Meeting

Annual Update
Electric Industry Trends & Challenges
Future Expectations

Patrick E. McCullar, President and CEO
Delaware Municipal Electric Corporation

Wednesday, September 21, 2011

Social Hour	5:30pm
Dinner	6:30pm

Dover Downs Hotel
1131 North DuPont Highway
Dover, Delaware 19901

R.S.V.P. (302) 653-2733 by September 12, 2011

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by Milford City Council:

ORDINANCE 2011-20

PROVIDES FOR THE READJUSTMENT OF WARD BOUNDARIES IN THE CITY OF MILFORD
PURSUANT TO ARTICLE II, SECTION 2.07 OF THE CITY OF MILFORD CHARTER

WHEREAS, the City of Milford, Delaware desires to ensure that its voting districts, to be known as Wards, are apportioned in compliance with the United States Constitution, Voting Rights Act and other applicable laws;
WHEREAS, the adoption of this Ordinance will ensure such conformance;
WHEREAS, members of Milford City Council comprise the Districting Commission;
WHEREAS, Section 2.07(c) requires the Districting Commission to file a report, containing a recommended plan for adjustment of the district boundaries, with the City Clerk no later than the first day of January of the second year following the decennial Census;
WHEREAS, said report must comply with specifications outlined in Subsections 2.07(c)(1) and 2.07(c)(2);
WHEREAS, Section 2.07(c)(1) requires the Census data be used to ensure that council districts are formed of compact, contiguous territory and the population does not differentiate by more than ten percent in the smallest district created;
WHEREAS, the Districting Commission has officially revised the district boundaries by ordinance on several occasions, most recently on September 27, 2010, and in accordance with applicable laws;
WHEREAS, it was anticipated that the 2010 Decennial Census of Population conducted on April 1, 2010 would show a need to rebalance district populations;
WHEREAS, the 2010 Federal Decennial Census has been officially published and the data for the State of Delaware, including the City of Milford, released on the 2nd day of March 2011;
WHEREAS, based on the 2010 Census data, the population data was considered and the council districts reviewed and altered;
WHEREAS, City Staff, City Consultants and the Districting Commission have worked diligently to study legal guidelines to ensure that all required steps will be completed before the next City election scheduled for April 28, 2012; and
WHEREAS, the health, safety, and welfare of the citizens of Milford, Delaware will be positively impacted by the adoption of this Ordinance.

THEREFORE, the City of Milford hereby ordains:

Section 1.

The boundaries of the City Council Districts, designated as Wards 1, 2, 3 and 4, shall be described as follows:

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Southeast Second Street and Franklin Street; thence along the centerline of Southeast Second Street in an easterly direction to the point of intersection with Columbia Street; thence by the centerline of Columbia Street in a southerly direction to the point of intersection with Southeast Third Street; thence by the centerline of Southeast Third Street in an easterly directions to the point of intersection with Lovers Lane; thence by the centerline of Lovers Lane in a southerly direction to the point of intersection with Lemuel Street; thence by a straight line coincident with the centerline of Lemuel Street in an easterly direction to the point of intersection with Marshall Pond and the corporate limits of the City; thence along the corporate limits, Marshall Pond, and Deep branch in a southerly direction to a point on the lands of Shawnee Country Club; thence along the corporate limits of the City in a northeasterly direction to the point of intersection of the corporate limits of the City and U.S. Route 1; thence continuing with the corporate limits in a southeasterly direction to the intersection of the corporate limits and Sharps Road; thence with the corporate limits and along the Northern Right-of-Way of Sharps Road in a southwesterly direction 2,650 feet; thence leaving Sharps Road and continuing with the corporate limits in a northwesterly direction to the eastern Right-of-Way of U.S. Route 1; thence along the corporate limits in a southeasterly direction to a point on the centerline of U.S. Route 1 being 190 feet north of Johnson Road; thence along the corporate limits in a southwesterly direction to a point at the intersection of

Johnson Road and Elks Lodge Road; thence along the corporate limits in a northwesterly direction to a point on the western most point of Shawnee County Club; thence along the corporate limits in a westerly direction to a point on the centerline of Right-of-Way of the railroad tracks; thence by the centerline of the railroad tracks in a northerly direction to the point of intersection with South Washington Street; thence by the centerline of South Washington Street in a northerly direction to the point of intersection with Buzzard Alley; thence by the centerline of Buzzard Alley in an easterly direction to the point of intersection with Ballpark Lane; thence by the centerline of Ballpark Lane in a northerly direction to the point of intersection with Southeast Third Street; thence by the centerline of Southeast Third Street in an easterly direction to the point of intersection with Franklin Street; thence by the centerline of Franklin Street in a northerly direction to the point and place of beginning.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of North Walnut Street and continuing with South Walnut Street in a southerly direction to the point of intersection with Southeast Front Street; thence along the centerline of Southeast Front Street in an easterly direction to the point of intersection with Franklin Street; thence along the centerline of Franklin Street in a southerly direction to the point of intersection with Southeast Third Street; thence along the centerline of Southeast Third Street in a westerly direction to the point of intersection with Ballpark Lane; thence along the centerline of Ballpark Lane in a southerly direction to the point of intersection with Buzzard Alley; thence along the centerline of Buzzard Alley in a westerly direction to the point of intersection with South Washington Street; thence along the centerline of South Washington Street in a southerly direction to the point of intersection on the centerline of Right-of-Way of the railroad tracks; thence by the centerline of the railroad tracts in a southerly direction to the point of intersection with the corporate limits of the City; thence leaving the railroad tracks and along the corporate limits in a southwesterly direction to the point of intersection with Route 113; thence along the corporate limits in a generally northerly direction to the point of intersection with East Lane; thence along the centerline of East Lane in an easterly direction to the point of intersection with the western Right-of-Way of Route 113; thence along the western Right-of-Way of Route 113 in a northerly direction to the point of intersection with Northwest Front Street; thence along the centerline of Northwest Front Street in an easterly direction to the point and place of beginning.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Northwest Front Street and North Street; thence along the centerline of North Street in a northwesterly direction to the point of intersection with Church Street; thence along the centerline of Church Street in a northeasterly direction to the point intersection with Rehoboth Boulevard; thence along the centerline of Rehoboth Boulevard in a northerly direction to the point of intersection with Route 113; thence along the centerline of Route 113 and U.S. Route 1 in a northerly direction to the point of intersection with Millwood Drive and the corporate limits of the City; thence along the corporate limits in a northerly direction to the northern most point of the City; thence along the corporate limits in a generally southeasterly direction to a point on the corporate limits being 350' south of the intersection of State Route 36; thence along the corporate limits in a generally westerly direction to a point formed by the extension of the centerline of Lemuel Street to the corporate limits; thence leaving the corporate limits and following the centerline of Lemuel Street in a westerly direction to the point of intersection with Lovers Lane; thence along the centerline of Lovers Lane in a northerly direction to the point of intersection with Southeast Third Street; thence along the centerline of Southeast Third Street in a westerly direction to the point of intersection with Columbia Street; thence along the centerline of Columbia Street in a northerly direction to the point of intersection with Southeast Second Street; thence along the centerline of Southeast Second Street in a westerly direction to the point of intersection with Franklin Street; thence along the centerline of Franklin Street in a northerly direction to the point of intersection with Southeast Front Street; thence along the centerline of Southeast Front Street in a westerly direction to the point of intersection with South Walnut Street; thence along the centerline of South Walnut Street and continuing with North Walnut Street in a northerly direction to the point of intersection with Northeast Front Street; thence along the centerline of Northeast Front Street in a westerly direction to the point and place of beginning.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Northwest Front Street and North Street; thence along the centerline of North Street in a northwesterly direction to the point of intersection with Church Street; thence along the centerline of Church Street in a northeasterly direction to the point intersection with Rehoboth Boulevard; thence along the centerline

of Rehoboth Boulevard in a northerly direction to the point of intersection with Route 113; thence along the centerline of Route 113 and U.S. Route 1 in a northerly direction to the point of intersection with Millwood Drive and the corporate limits of the City; thence along the corporate limit of the City in a generally westerly direction to the point of intersection with Church Hill Road; thence continuing along the corporate limits in a generally southerly direction to the point of intersection with Williamsville Road; thence continuing along the corporate limits in a generally easterly direction to the point of intersection with East Lane; thence along the centerline of East Lane in an easterly direction to the point of intersection with the western Right-of-Way of route 113; thence along the western Right-of-Way of Route 113 to the point of intersection with Northwest Front Street; thence along the centerline of Northwest Front Street in an easterly direction to the point and place of beginning.

Section 2.

The boundaries of all four (4) wards shall at all times be shown on a map to be retained in the Office of the City Clerk and designated as the "Official Ward Map, Milford, Delaware" and signed by the Mayor, attested by the City Clerk and bearing the seal of the City.

Section 3.

Territory annexed into the City shall become a part of the ward it abuts as assigned in the resolution finalizing the annexation of said territory.

Section 4.

This Ordinance has been properly advertised and copies of the Ordinance and related materials will be made available to the public on July 20, 2011.

Section 5.

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6.

The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office. Legal descriptions, contained herein, and official map shall be filed in the Office of the City Clerk.

Section 7.

Official Maps (see attached).

#1 Current Wards

#2 Proposed Wards

Section 8. Dates.

Ordinance & Map Publication Dates:

Milford Chronicle 07/20/11

The Beacon 07/21/11

Date of Introduction 07/25/11

Adoption Date 08/22/11

Effective Date 09/01/12

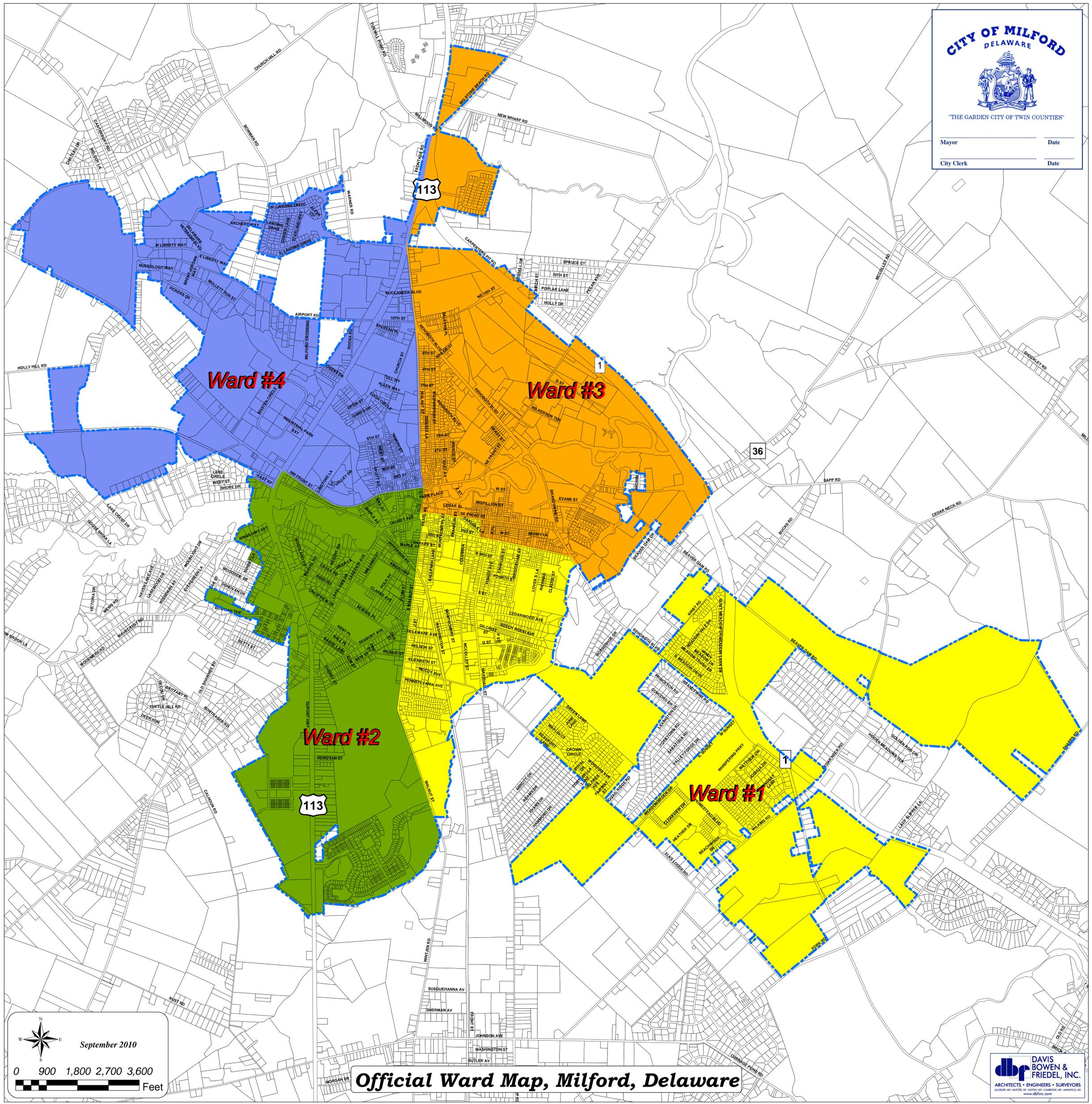
A complete copy of the City of Milford Charter is available for review at the City Clerk's Office at Milford City Hall, 201 South Walnut Street, Milford, Delaware or on the website cityofmilford.com

By: Terri K. Hudson, CMC
City Clerk

Attachments (2)



Mayor _____ Date _____
City Clerk _____ Date _____



Ward #4

Ward #3

Ward #2

Ward #1

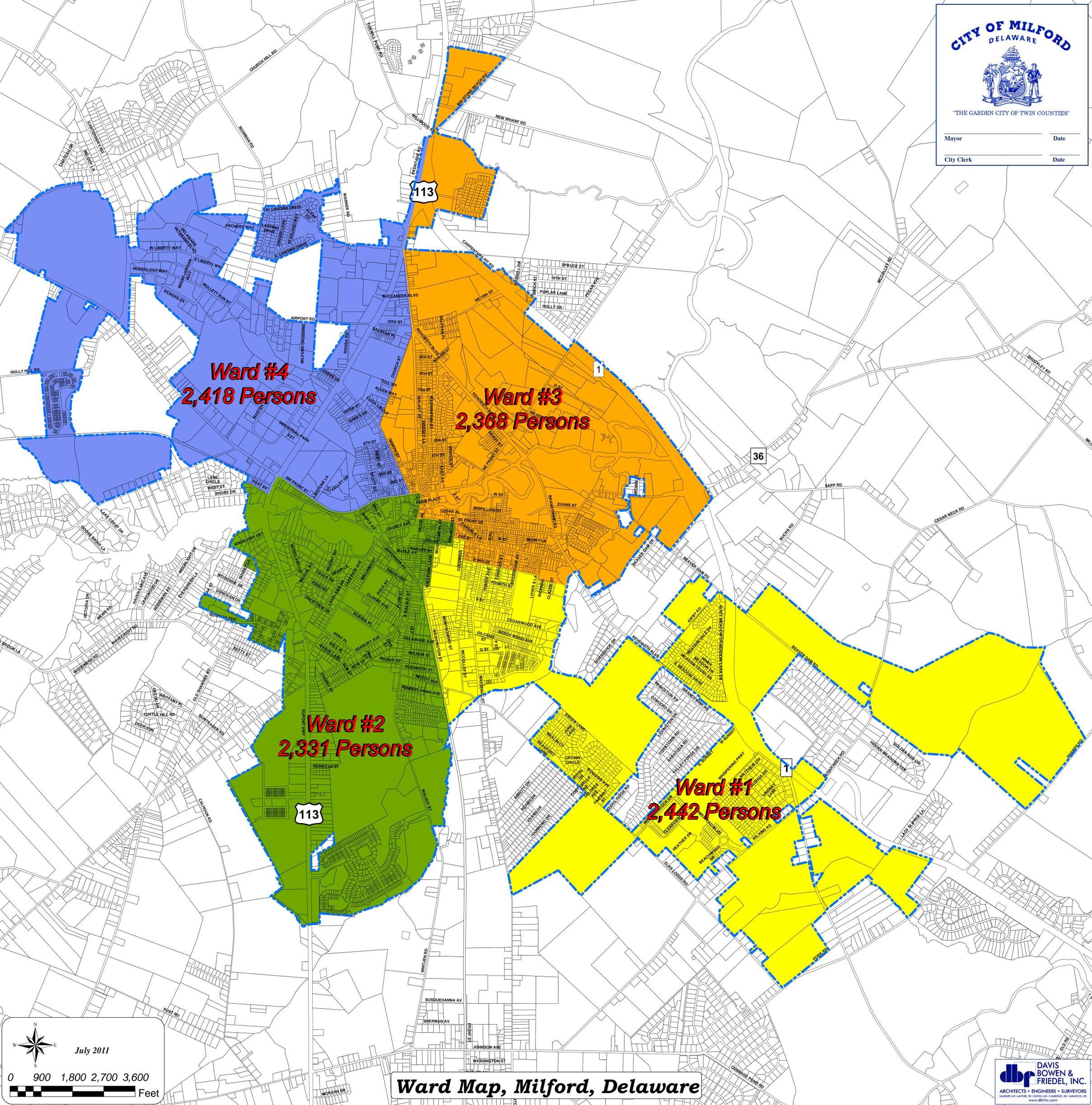
September 2010

0 900 1,800 2,700 3,600 Feet

Official Ward Map, Milford, Delaware



Mayor _____ Date _____
City Clerk _____ Date _____

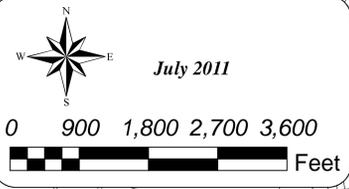


Ward #4
2,418 Persons

Ward #3
2,368 Persons

Ward #2
2,331 Persons

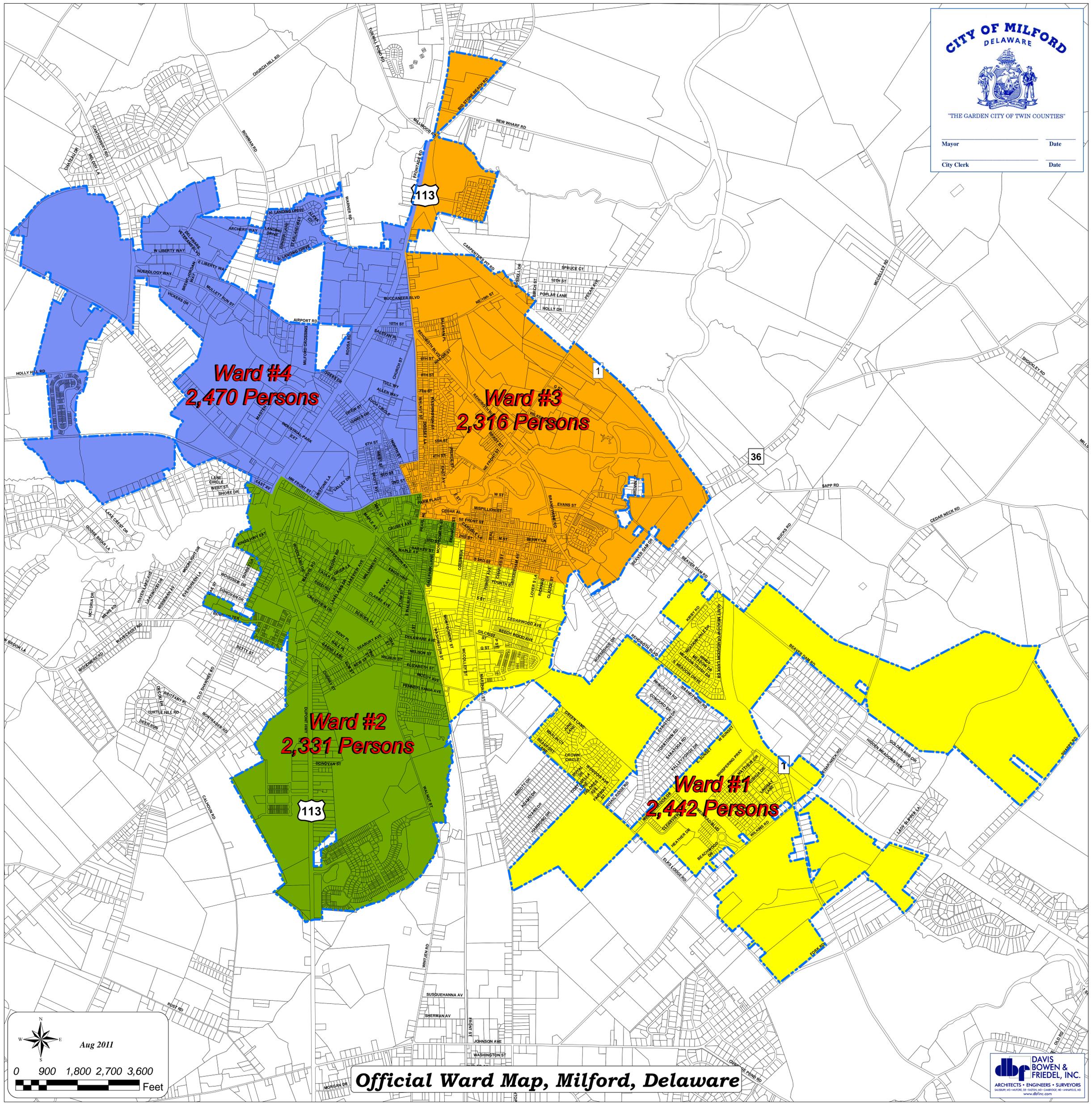
Ward #1
2,442 Persons



Ward Map, Milford, Delaware



Mayor _____ Date _____
City Clerk _____ Date _____

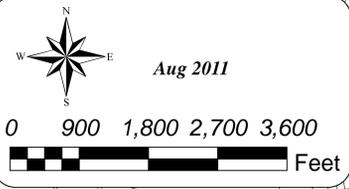


Ward #4
2,470 Persons

Ward #3
2,316 Persons

Ward #2
2,331 Persons

Ward #1
2,442 Persons



Aug 2011

Chapter 57-Planning Commission

§57-1. Establishment.

There is hereby established, pursuant to 22 Del. C. § 701 et seq., the Milford Planning Commission.

§57-2. Membership; term of office.

The Commission shall consist of nine members to be appointed by the Council. The term of each member so appointed and confirmed shall be for three years, except that of the members first appointed, three shall be appointed to a term of three years, three shall be appointed to a term of two years and three shall be appointed to a term of one year.

§57-3. Removal; vacancies

Any member of the Planning Commission may be removed for cause, after a public hearing, by the Mayor with the approval of the City Council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.

City of Milford



August 22, 2011

GREETINGS:

The Charter of the City of Milford provides the following:

"Article VII, Section 7.12: Attached to said tax list shall be a warrant, under the Seal of the City of Milford, Signed by the Mayor and Attested to by the Secretary, commanding the City Manager to make collection of Taxes as stated in the Tax Lists."

THEREFORE, YOU, THE CITY MANAGER, DULY APPOINTED BY THE COUNCIL OF THE CITY OF MILFORD, ARE HEREBY COMMANDED TO COLLECT THE TAXES AS LEVIED IN THE FOUR WARDS AS FOLLOWS:

Assessed Per Billing Register	\$777,925,203.00
Exemptions	[123,225,400.00]
TOTAL ASSESSED VALUE	\$654,699,803.00
$\text{ESTIMATED TAX PER PROPERTY VALUES} = \text{TOTAL ASSESSED VALUE} \times .0046$	\$3,011,619.09
Senior Citizen Discount	[10,948.00]
TOTAL TAXABLE (Fiscal Year 2011-2012)	\$3,000,671.09

Re-adopted this 22nd day of August 2011.

Mayor Joseph Ronnie Rogers

City Clerk Teresa K. Hudson

City of Milford



RESOLUTION 2011-10

RESOLUTION ADOPTING AN ALL HAZARD MITIGATION PLAN FOR THE CITY OF MILFORD, DELAWARE

WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local government develop and adopt natural hazard mitigation plans in order to receive certain federal assistance, and

WHEREAS, a local Hazard Mitigation Advisory Committee comprised of county governmental departments, municipal council members, the business community, nonprofit organization, and citizens working in Kent County of the State of Delaware, convened in order to study the City of Milford's risks from, and vulnerabilities to natural, technological and terrorism and to make recommendations on mitigating the effects of such hazards on the city, and

WHEREAS, a contract was issued to an experienced consulting firm to work with the Kent County Hazard Mitigation Advisory Committee, and the Delaware Emergency Management Agency to develop a comprehensive all hazard mitigation plan for Kent County of Delaware, and

WHEREAS, the efforts of the City of Milford, Kent County, and the consulting firm have resulted in the development of an All Hazard Mitigation Plan for the county and the City of Milford.

NOW THEREFORE, BE IT RESOLVED by the Council that the Kent County All Hazard Mitigation Plan dated February 16, 2010 is hereby approved and adopted for the City of Milford and Kent County of the State of Delaware. A copy of the plan is attached to this resolution

ADOPTED by the City of Milford, Delaware this 22nd day of August, 2011

Mayor Joseph Ronnie Rogers

Attest: _____
City Clerk

2/24/10

To: Milford City Council
Mayor Marabello
City Manager Baird

From: Harvey Marvel
Milford Parking Authority Chairman

RE: Completion of Assignment and
Proposed Dissolution of the Parking Authority

In 1974 Milford City Council passed an ordinance establishing the Parking Authority of the City of Milford, Inc. The authority was assigned the task of creating free public parking in the downtown business district, and arranging for the funds to pay for it.

The downtown property owners voted to pay a special Parking Authority tax to pay to amortize the loan needed.

I was appointed as a member of the original Authority board of directors, and became chairman in 1976.

I am pleased to report that we have completed our assignment. In 1981 we arranged a loan from the current USDA (formerly Farmers Home Administration) of \$341,000. These funds were used to acquire land and construct 3 parking lots in the downtown business district (1-behind Georgia House, 2-across from Park Place, 3-across N. Walnut from Wilmington Trust). The loan had a 30 year payout. In September, 2009 we paid off the loan one year early.

We have stopped collecting the special tax, now that the loan is paid off.

The Parking Authority Board is requesting that the City take over ownership of the parking lots and dissolve the Parking Authority. The City has always provided for the routine maintenance and cleaning of the lots, as part of the original establishment agreement.

The current assets of the Authority consist of cash (\$10,494.), uncollected taxes (\$5,099.), and the 3 parking lots. There are no known liabilities.

Delaware Code Title 22, Chapter 5, Section 513 details the procedure for Termination of a Parking Authority.



[HOME](#) > [TITLE 22](#)

[§ 501](#) [§ 502](#) [§ 503](#) [§ 504](#) [§ 505](#) [§ 506](#) [§ 507](#) [§ 508](#) [§ 509](#) [§ 510](#) [§ 511](#) [§ 512](#) [§ 513](#) [§ 514](#)
[§ 515](#) [§ 516](#)

TITLE 22

Municipalities

CHAPTER 5. PARKING AUTHORITIES

§ 501. Findings and declaration of policy.

It is determined and declared as a matter of legislative finding that:

(1) Residential decentralization in incorporated cities has been accompanied by an ever increasing trend in the number of persons entering the business sections by private automobile as compared with other modes of transportation;

(2) The free circulation of traffic of all kinds through the streets of cities is necessary to the health, safety and general welfare of the public whether residing in the city or traveling to, through or from the city in the course of lawful pursuits;

(3) The greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion on the streets of cities;

(4) The parking of motor vehicles on the streets has contributed to this congestion to such an extent as to interfere seriously with the primary use of such streets for the movement of traffic;

(5) Such parking prevents the free circulation of traffic in, through and from the city, impedes rapid and effective fighting of fires and the disposition of police forces in the district and endangers the health, safety and welfare of the general public;

(6) Such parking threatens irreparable loss in valuations of property in the city which can no longer be readily reached by vehicular traffic;

(7) This parking crisis, which threatens the welfare of the community, can be reduced by providing sufficient off-street parking facilities properly located in the several residential, commercial and industrial areas of the city;

(8) The establishment of a parking authority will promote the public safety, convenience and welfare;

(9) The utilization of street level space for parking garages within a city's central business district reduces the available space for retail and other commercial uses, thereby interfering with the growth and development of the central business district;

(10) It is intended that the parking authority cooperate with all existing parking facilities so that private enterprise and government may mutually provide adequate parking services for the convenience of the public;

therefore it is declared to be the policy of this State to promote the safety and welfare of the inhabitants thereof by the creation in incorporated cities of bodies corporate and politic to be known as "parking authorities" which shall exist and operate for the purposes contained in this chapter. Such purposes are declared to be public uses for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

48 Del. Laws, c. 369, § 2; 22 Del. C. 1953, § 501; [73 Del. Laws, c. 377, § 1.](#)

§ 502. Definitions.

As used in this chapter, unless the context requires a different meaning:

(1) "Authority" means a body politic and corporate created pursuant to this chapter.

(2) "Board" means the governing body of the authority.

(3) "Bonds" means and includes the notes, bonds and other evidence of indebtedness or obligations which the authority is authorized to issue pursuant to § 504 of this title.

(4) "Business owner" means any individual, general partner or owner of 50% or more of the voting stock of a corporation which has a business location within the city and which has a business license under the city business license ordinance or has a state business license in cities without licensing ordinance which lists the location of said business within the city.

(5) "City" means incorporated city or town.

(6) "Construction" means and includes acquisition and construction, and "to construct" means and includes to acquire and to construct, all in such manner as may be deemed desirable.

(7) "Facility" or "facilities" means lot or lots, buildings and structures above, at or below the surface of the earth, including equipment, entrances, exits, fencing and all other accessories necessary or desirable for the safety and convenience of the parking of vehicles.

(8) "Federal agency" means and includes the United States of America, the President of the United States of America and any department or corporation agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

(9) "Improvement" means and includes extension, enlargement and improvement, and "to improve" means and includes to extend, to enlarge and to improve, all in such manner as may be deemed desirable.

(10) "Municipality" means any county, incorporated city or incorporated town of this State.

(11) "Persons" means and includes natural persons.

(12) "Project" means any structure, facility or undertaking which the authority is authorized to acquire, construct, improve, maintain or operate under this chapter.

48 Del. Laws, c. 369, § 3; 22 Del. C. 1953, § 502; [68 Del. Laws, c. 273, § 1.](#)

§ 503. Method of incorporation.

(a) Whenever the city council or other governing body of a city desires to organize an authority, under this chapter, it shall adopt an ordinance signifying its intention to do so.

In the event that such ordinance sets forth the proposed articles of incorporation in full it shall not be required, any law to the contrary notwithstanding, in publishing such ordinance, under existing law, to publish such proposed articles of incorporation in full, but it shall be sufficient compliance with such law in such publication to set forth briefly the substances of such proposed articles of incorporation and to refer to this chapter. Thereafter the city council shall cause a notice of such ordinance to be published at least 1 time in a newspaper published and of general circulation in the county in which the authority is to be organized. The notice shall contain a brief statement of the substance of the ordinance, including the substance of such articles, making reference to this chapter and shall state that on a day certain, not less than 3 days after publication of the notice, articles of incorporation of the proposed authority will be filed with the Secretary of State of this State.

(b) On or before the day specified in the notice the city council shall file with the Secretary of State articles of incorporation together with proof of publication of the notice referred to in subsection (a) of this section. The articles of incorporation shall set forth:

- (1) The name of the authority;
- (2) A statement that such authority is formed under this chapter;
- (3) The name of the city, together with the names and addresses of its council members;
- (4) The names, addresses and term of office of the first members of the board of the authority.

All of which matter shall be determined in accordance with this chapter. The articles of incorporation shall be executed by the incorporating city by its proper officer and under its municipal seal.

(c) If the Secretary of State finds that the articles of incorporation conform to law the Secretary shall forthwith, but not prior to the day specified in the notice, endorse approval thereon, and when all proper fees and charges have been paid shall file the articles and issue a certificate of incorporation to which shall be attached a copy of the approved articles. Upon the issuance of such certificate of incorporation by the Secretary of State, the corporate existence of the authority shall begin when such certificate has been recorded in the office for the recording of deeds in the county where the principal office of the authority is to be located. The certificate of incorporation shall be conclusive evidence of the fact that such authority has been incorporated, but proceedings may be instituted by the State to dissolve any authority which shall have been formed without substantial compliance with this section.

(d) When the authority has been organized and its officers elected, the secretary shall certify to the Secretary of State the names and addresses of its officers, as well as the principal office of the authority. Any change in the location of the principal office shall likewise be certified to the Secretary of State within 10 days after such change. Any change in the numerical composition of the board shall likewise be certified to the Secretary of State within 10 days after such change.

48 Del. Laws, c. 369, § 4; 22 Del. C. 1953, § 503; [68 Del. Laws, c. 273, § 5](#); [70 Del. Laws, c. 186, § 1](#);

§ 504. Purpose and powers.

(a) The authority, incorporated under this chapter, shall constitute a public body corporate and politic, exercising public powers of the State as an agency thereof and shall be known as the parking authority of the city, but shall in no way be deemed to be in instrumentality of the city or engaged in the performance of a municipal function. The authority shall be for the purpose of conducting the necessary research activity, to maintain current data leading to efficient operation of off-street parking facilities, for the fulfillment of public needs in relation to parking, establishing a permanent coordinated system of parking facilities, planning, designing, locating, acquiring, holding, constructing, improving, maintaining and operating, owning or leasing, either in the capacity or lessor or lessee, land and facilities to be devoted to the parking of vehicles of any kind.

The authority shall not directly engage in the sale of gasoline, the sale of automobile accessories, automobile repair and service or any other garage service, other than the parking of vehicles, and the authority shall not directly engage in the sale of any commodity of trade or commerce; provided, however, that the authority may lease space in any of its facilities for use by the lessee for the sale of gasoline, the sale of automobile accessories, automobile repair and service or any other garage service and may lease portions of any of its garage buildings or structures for commercial use by the lessee, where, in the opinion of the authority, such leasing is necessary and feasible for the financing and operation of such facilities, and, provided further, where, in the opinion of the authority, the space above any parking facility is not needed for parking, the authority may lease the right to occupy and use the space above any parking facility for commercial uses other than parking, together with the right to use and occupy such space within the parking facility as may be necessary for the purposes of access to and support of structures occupying the space above such parking facility and, provided further, the authority may lease up to 5 percent, or such other amended percentage under federal law that would permit the issuance of tax free revenue bonds for financing of construction, of the total square footage of any of its garage buildings or structures located within a city's central business district for commercial use that is accessible from the level of the street adjoining the buildings or structures. Any such lease shall be granted by the authority to the highest and best bidder, upon terms specified by the authority, after due public notice has been given asking for competitive bids; provided, however, that if after such public notice no bid is received and/or the authority rejects any bid or bids received, thereafter the authority may negotiate any such lease or leases without further public notice but on a basis more favorable than that contained in any bid or bids rejected, if any. The phrase "due public notice", as used in this section, shall mean a notice published at least 10 days before the award of any such lease in a newspaper of general circulation published in a municipality where the authority has its principal office, and, if no newspaper is published therein, then by publication in a newspaper of general circulation in the county where the authority has its principal office. The authority may reject any or all bids if, in the opinion of the authority, any such lease granted as a result of any such bid or bids would not be adequate or feasible for the financing and operation of such facilities.

(b) Every authority may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes including, but without limiting the generality of the foregoing, the rights and powers described below:

(1) To have existence as a corporation in perpetuity unless the articles of incorporation limit the duration of the corporation's existence to a specified date. If the articles of incorporation limit the corporation's existence to a specific date, the corporation's existence shall continue thereafter until the principal and interest upon all of its bonds shall have been paid or provisions made for such payment and until all of its other obligations shall have been discharged;

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts;

(3) To adopt, use and alter at will a corporate seal;

(4) To acquire, purchase, hold, lease as lessee, and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purpose of the authority and to sell, lease or lessor, transfer and dispose of any property or interest therein at any time required by it;

(5) To acquire by purchase, lease or otherwise and to construct, improve, maintain, repair and operate projects;

(6) To make bylaws for the management and regulation of its affairs;

(7) To appoint officers, agents, employees and servants, to prescribe their duties and to fix their compensation;

(8) To fix, alter, charge and collect rates and other charges for its facilities at reasonable rates to be determined exclusively by it, subject to appeal as provided in this paragraph, for the purposes of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations or with the city. Any person questioning the reasonableness of any rate fixed by the authority may bring suit against the authority in the Superior Court of the county wherein the project is located. The Superior Court shall have exclusive jurisdiction to determine the reasonableness of rates and other charges fixed, altered, charged or collected by the authority. Appeals may be taken to the Supreme Court within 30 days after the Superior Court has rendered a final decision;

(9) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations of the authority, the bonds to have a maturity date not longer than 40 years from the date of issue, except that no refunding bonds shall have a maturity date longer than the life of the authority, and to secure the payment of such bonds or any part thereof by pledge or deed of trust of all or any of its revenues and receipts, and to make such agreements with the purchasers or holders of such bonds, or with others in connection with any such bonds, whether issued or to be issued, as the authority deems advisable, and in general to provide for the security for the bonds and the rights of the holders thereof;

(10) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business;

(11) Without limitation of the foregoing to borrow money and accept grants from and to enter into contracts, leases or other transactions with any federal agency, the State, municipality, corporation or authority;

(12) To have the power of eminent domain;

(13) To pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the authority as security for all or any of the obligations of the authority;

(14) To do all acts and things necessary for the promotion of its business and the general welfare of the authority to carry out the powers granted to it by this chapter or any other law;

(15) To enter into contracts with the State, municipalities, corporations or authorities for the use of any project of the authority and fixing the amount to be paid therefor;

(16) To enter into contracts of group insurance for the benefit of its employees and to set up a retirement or pension fund for such employees similar to that existing in the municipality where the principal office of the project is located;

(17) To make contracts with municipalities concerning the use of the space above municipal streets and sidewalks;

(18) To execute mortgages covering its lands and buildings, including construction mortgages, as may be necessary or desirable in the carrying out of its business; provided, however, that in the event of a default by the authority which results in title to a parking facility passing to a private mortgagee or person, all tax exemption privileges or other special privileges accorded to the parking facility because of its public nature shall cease, except exemption from taxation of bonds, the interest thereon or the income therefrom.

(c) The authority shall not at any time or in any manner pledge the credit or taxing power of this State, nor shall any of its obligations be deemed to be obligations of this State, nor shall this State be liable for the payment of principal or of interest on such obligations.

(d) In addition to this chapter providing for the financing of the costs of acquiring lands and premises and for the construction and improvement of parking projects, the authority may by resolution, as provided in this subsection, establish a benefit district.

(1) One benefit district may be designated for the condemnation of lands for 1 or several parking stations. The authority shall determine the percentage of the costs of condemnation which shall be assessable to such benefit district. Not more than 80 percent of such costs shall be assessable to such benefit district or benefit districts.

(2) After a benefit district has been established, no further proceedings shall be taken unless there is filed with the secretary of the authority, within 60 days of the passage of the resolution creating the benefit district, a petition requesting the establishment of such public parking station or stations. Such petition shall be signed by the resident owners of real estate owning not less than 51 percent of the front feet of the real estate fronting or abutting upon any street included within the limits of the benefit district. In determining the sufficiency of the petition, lands owned by the city, county, State or United States or by nonresident owners of real estate within the benefit district shall not be counted in the aggregate of lands within such benefit district. After any petition has been signed by an owner of land in the benefit district, the change of ownership of the land shall not affect the petition. In any case where the owners of lands within the benefit district are tenants in common, each cotenant shall be considered a landowner to the extent of the cotenant's undivided interest in the land. The owner of a life estate shall also be deemed a landowner for the purpose of this chapter. Guardians of minors or insane persons may petition for their wards when authorized by the proper court so to do. Resident owner of land, as defined in this paragraph, shall be any landowner residing in the city and owning land in the benefit district. No suit shall be maintained in any court to enjoin or in any way contest the establishment of such parking stations or the establishment of a benefit district unless the suit be instituted and summons served within 30 days from and after the date of the filing of such petition with the secretary of the authority.

(3) Whenever the authority shall have acquired lands for public parking stations and shall have declared and ordered that not more than 80 percent of the cost of

establishing or improving public parking stations, as provided in this subsection, will be paid by the levy of special assessments upon real estate situate in any 1 or more benefit districts, it shall cause to be made by some competent person an estimate, under oath, of the cost thereof, which estimate shall be filed with the secretary of the authority. The assessment against the benefit district shall be apportioned among the various lots, tracts, pieces and parcels of land within the benefit district in accordance with the special benefits accruing thereto, this apportionment of benefit assessments to be made by 3 disinterested property owners appointed by the mayor of the city or if such city has no mayor, by its chief executive officer within 30 days after the filing of the estimate of the cost of the improvement with the secretary of the authority. As soon as the amount chargeable against each piece of property is ascertained, the authority of such city shall by resolution levy such amount against this real estate in the benefit district, which resolution shall be published once in a newspaper of general circulation in such city. No suit to question the validity of the proceedings of the authority shall be commenced after 30 days from the awarding of a contract for such improvements and until the expiration of the 30 days the contractor shall not be required to commence work under the contract. If no suit shall be filed within such 30 days then all proceedings theretofore had shall be held to be regular, sufficient and valid.

(4) The cost of condemnation and improvement of such public parking stations may be levied and assessed in not to exceed 10 installments, with interest on the whole amount remaining due and unpaid each year at a rate of interest not exceeding 5 percent per annum. Any owner of land within the benefit district may, within 30 days after the assessment resolution is passed, pay the entire amount assessed against the land. The authority of such city may assess, levy and collect the cost of condemnation and improvement of such public parking stations as is assessed against the privately owned property in the benefit district. The assessment shall constitute a lien from the date the same is assessed by resolution, as provided in this paragraph, against the respective premises against which the same is levied, in the same manner as city taxes on real estate are constituted a lien, and shall be collectible in the manner provided for the collection of taxes assessed against the real estate of the City of Wilmington by monition process, as provided in Chapter 143, Volume 36, Laws of Delaware.

(e) When any real property or any interest therein heretofore or hereafter acquired by the authority is no longer needed for the purposes defined in this chapter or when, in the opinion of the authority, it is not desirable or feasible to hold and use such property for said purposes, the authority may sell the same at private or public sale as the authority shall determine, granting and conveying to the purchaser thereof a fee simple marketable title thereto. The authority may make such sale for such price and upon such terms and conditions as the authority deems advisable and for the best interests of the authority and may accept in payment, wholly or partly, cash, bonds, mortgages, debentures, notes, warrants or other evidences of indebtedness as the authority may approve. The consideration received from any such sale may be applied by the authority, in its discretion, to the repayment, in whole or in part, of any funds contributed to the authority by a municipality under § 508 of this title or retained by the authority for the purposes of this chapter. Without limitation of the foregoing, the authority may accept as consideration in whole or in part for the sale of any such real property, a covenant, agreement or undertaking on the part of any purchaser to provide and maintain off-street parking facilities on such property or a portion thereof for the fulfillment of public parking needs for such period and under such terms and conditions as the authority shall determine. Any such covenant, agreement or undertaking on the part of the purchaser as aforesaid and the right of the authority to fix and alter rates to be charged for any such parking facilities, as well as the right of appeal as in this section provided, shall be set forth and reserved in the deed or deeds of conveyance. Any such covenant, agreement or undertaking may be enforced by the authority in an action for specific performance brought in the Court of Chancery of this State.

48 Del. Laws, c. 369, § 5; 22 Del. C. 1953, § 504; 49 Del. Laws, c. 72; 50 Del. Laws, c. 222, § 1; 50 Del. Laws, c. 279, §§ 1, 2; 55 Del. Laws, c. 293, §§ 1, 2; 57 Del. Laws, c. 51; 57 Del. Laws, c. 179, § 1; [70 Del. Laws, c. 186, § 1](#); [71 Del. Laws, c. 92, § 1](#); [73 Del. Laws, c. 377, § 2](#);

§ 505. Bonds.

(a) The bonds of any authority referred to and authorized to be issued by this chapter shall be authorized by resolution of the board thereof, and shall be of such series, bear such date or dates, mature at such time or times not exceeding 40 years from their respective dates, bear interest at such rate or rates, payable semiannually, be in such denominations, be in such form, either coupon or fully registered, without coupons, carry such registration, exchangeability and interchangeability privileges, be payable in such medium or payment and at such place or places, be subject to such terms of redemption, not exceeding 105 percent of the principal amount thereof, and be entitled to such priorities in the revenues or receipts of such authority, as such resolution or resolutions may provide. The bonds shall be signed by such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, all as may be prescribed in such resolution or resolutions. Any such bonds may be issued and delivered notwithstanding that 1 or more of the officers signing such bonds or the treasurer whose facsimile signature shall be upon the coupon or any officer thereof shall have ceased to be such officer or officers at the time when such bonds shall actually be delivered.

The bonds may be sold at public or private sale for such price or prices as the authority shall determine. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(b) Any resolution or resolutions authorizing any bonds may contain provisions which shall be part of the contract with the holders thereof as to:

(1) Pledging the full faith and credit of the authority or of the municipality for such obligations or restricting the same to all or any of the revenues of the authority from all or any projects or properties;

(2) The construction, improvement, operation, extension, enlargement, maintenance and repair of the project and the duties of the authority with reference thereto;

(3) The terms and provisions of the bonds;

(4) Limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued or of any loan or grant by the United States may be applied;

(5) The rate of tolls and other charges for use of the facilities of or for the services rendered by the authority;

(6) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(7) Limitations on the issuance of additional bonds;

(8) The terms and provisions of any deed of trust or indenture securing the bonds or under which the same may be issued; and

(9) Any other additional agreements with the holders of the bonds.

(c) Any authority may enter into any deeds of trust, indentures or other agreements with any bank or trust company or other person or persons in the United States having power to enter into the same, including any federal agency, as security for such bonds, and may assign and pledge all or any of the revenues or receipts of the authority thereunder. Such deed of trust, indenture or other agreement may contain such provisions as may be customary in such instruments or as the authority may authorize, including provisions as to:

(1) The construction, improvement, operation, maintenance and repair of any project and the duties of the authority with reference thereto;

(2) The application of funds and the safeguarding of funds on hand or on deposit;

(3) The rights and remedies of the trustee and holders of the bonds which may include restrictions upon the individual right of action of such bondholder; and

(4) The terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

(d) The bonds shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commercial Code of the State.

48 Del. Laws, c. 369, § 6; 22 Del. C. 1953, § 505; 57 Del. Laws, c. 625, §§ 1-3.;

§ 506. Remedies of bondholders.

(a) The rights and the remedies conferred upon or granted to the bondholders in this section shall be in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by any deed of trust, indenture or other agreement under which the same may be issued. In the event that the authority shall default in the payment of principal or interest on any of the bonds after the principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of 30 days, or in the event that the authority shall fail or refuse to comply with this chapter or shall default in any agreement made with the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding by instrument or instruments filed in the office of the recorder of deeds of the county, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purpose provided in this section.

(b) Such trustee and any trustee under any deed of trust, indenture or other agreement may, and, upon written request of the holders of 25 percent or such other percentages as may be specified in any deed of trust, indenture or other agreement, in principal amount of the bonds then outstanding, shall, in the trustee's own name:

(1) By mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the authority to collect rates, rentals or other charges adequate to carry out any agreement as to or pledge of the revenues or receipts of the authority, and to require the authority to carry out any other agreements with or for the benefit of the bondholders, and to perform its and their duties under this chapter;

(2) Bring suit upon the bonds;

(3) By action or suit in equity require the authority to account as if it were the trustee of an express trust for the bondholders;

(4) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(5) By notice in writing to the authority declare all bonds due and payable, and, if all defaults shall be made good, then with the consent of the holders of 25 percent or such other percentage as may be specified in any deed of trust, indenture or other agreement, of the principal amount of the bonds then outstanding, to annul such declaration and its consequences.

(c) The Court of Chancery in and for the county wherein the authority is located shall have jurisdiction of any suit, action or proceedings by the trustee on behalf of the bondholders. Any trustee when appointed or acting under a deed of trust, indenture or other agreement, and whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may enter and take possession of the facilities of the authority or any part or parts thereof, the revenues or receipts from which are or may be applicable to the payment of the bonds in default and operate and maintain the same and collect and receive all rentals and other revenues thereafter arising therefrom, in the same manner as the authority or the board might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the Court shall direct. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of the receiver, if any, and all costs and disbursements allowed by the Court shall be a first charge on any revenues and receipts derived from the facilities of the authority, the revenues or receipts from which are or may be applicable to the payment of the bonds in default. The trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of the bondholders in the enforcement and protection of their rights.

(d) Nothing in this section or any other section of this chapter shall authorize any receiver appointed pursuant to this chapter for the purpose of operating and maintaining any facilities of the authority to sell, assign, mortgage or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. It is the intention of this chapter to limit the powers of such receiver to the operation and maintenance of the facilities of the authority as the Court shall direct, and no holder of bonds of the authority nor any trustee shall ever have the right in any suit, action or proceedings at law or in equity to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the authority.

48 Del. Laws, c. 369, § 7; 22 Del. C. 1953, § 506; [70 Del. Laws, c. 186, § 1.](#)

§ 507. Governing body.

(a) The powers of each authority shall be exercised by a board composed of not less than 5 nor more than 7 members, all of whom shall be residents or business owners within the city creating the authority. In municipalities with population greater than 50,000, however, the powers of each authority shall be exercised by a board composed of 5 members, all of whom shall be residents of the city creating the authority. The mayor of the city, or if such city or town has no mayor, its chief executive officer, shall appoint the members of the board, 1 of whom shall serve for 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years from July 1 in the year in which such authority is created as provided in this chapter. If the board is composed of 6 members, initially 2 rather than 1 shall be appointed for 2-year terms and if the board is composed of 7 members, initially 2 rather than 1 shall be appointed for both 2-year terms and 3-year terms. Thereafter the mayor shall not sooner than 60 days, nor later than 30 days prior to July 1 in each year in which a vacancy occurs, appoint a member of the board for a

term of 5 years to succeed the member whose term expires on July 1 next succeeding. Vacancies for unexpired terms that occur more than 60 days before the end of a term shall be promptly filled by appointment by the mayor. All such appointments shall be subject to the confirmation of the city council or other governing body of the city. Any member of the board may be removed for cause by the mayor, or if such city or town has no mayor, by its chief executive officer, with the concurrence of two thirds of all the members of the council or other governing body of the city or town, and the person against whom such charges are made shall be given a reasonable opportunity to make a defense.

(b) Members shall hold office until their successors have been appointed and may succeed themselves. A member shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of duties.

(c) The members of the board shall select from among themselves a chairperson, a vice chairperson and such other officers as the board may determine. The board may employ a secretary, an executive director, its own counsel and legal staff and such technical experts and such other agents and employees, permanent or temporary, as it may require and may determine the qualifications and fix the compensation of such persons. A majority of the total board membership shall constitute a quorum for its meetings. Members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against such authority. The board may delegate to 1 or more of its agents or employees such of its powers as it deems necessary to carry out the purposes of this chapter, subject always to the supervision and control of the board. The board shall have full authority to manage the properties and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted and the powers granted to it may be exercised and embodied.

48 Del. Laws, c. 369, § 8; 22 Del. C. 1953, § 507; [68 Del. Laws, c. 273, §§ 2-4](#); [70 Del. Laws, c. 186, § 1](#);

§ 508. Acquisition of lands; cost financing by municipality.

The authority may acquire by purchase or eminent domain proceedings either the fee or such rights, title, interest or easement in such lands as the authority deems necessary for any of the purposes mentioned in this chapter. When acquiring property or property rights the authority shall, in arriving at a fair and reasonable price, consider the fair market value as required by Chapter 61 of Title 10. Relocation shall be paid according to the terms set forth in Chapter 93 of Title 29. The following shall not be taken under the right of eminent domain: Property devoted to a public use, property of a public service company, property used for burial purposes, place of public worship in a municipality whose population is greater than 50,000 people, property used as a facility or facilities for the parking of motor vehicles, unless the total square footage to be utilized for the parking of motor vehicles in the total proposed project which the eminent domain proceedings concern (including square footage that may be provided on levels other than the ground level) shall be at least twice the total square footage being utilized at the time of taking for the parking of motor vehicles in the facility or facilities so taken or in a municipality whose population is 50,000 people or less, property used as a facility or facilities for parking of motor vehicles unless said property has been leased by the municipality or authority and used as a parking facility by said lessee within the preceding 3 years. The right of eminent domain shall be exercised by the authority in the manner provided by Chapter 61 of Title 10.

The right of eminent domain conferred by this section may be exercised only within the city.

Court proceedings necessary to acquire property or property rights for purposes of this chapter shall take precedence over all causes not involving the public interest in all courts to the end that the provision of parking facilities be expedited.

Any municipality establishing an authority under this chapter may, under such terms and conditions as it may deem appropriate, provide for and pay to such authority such sum or sums of money necessary to acquire, in whole or in part, the lands upon which such authority may undertake to erect a parking facility as provided in this section, or such sum or sums of money necessary to acquire or construct, in whole or in part, a parking facility or facilities as provided in this section, or such sum or sums of money necessary to pay operating expenses of the authority and debt service on outstanding bonds of the authority, or to make payments into a reserve fund for the payment of the principal of and interest on indebtedness of the authority as may be provided by any resolution of the authority authorizing the issuance of its revenue bonds or by any trust indenture securing its revenue bonds. The municipality, for the purpose of providing such sum or sums of money, may issue its general obligation bonds secured by the faith and credit of the municipality payable from unlimited ad valorem taxes on all of the real estate in the municipality subject to taxation or levy ad valorem taxes on real estate subject to taxation, unlimited as to rate or amount. In addition to the issuance of its general obligation bonds and levy of taxes as provided above, a municipality may guarantee bonds of the authority issued pursuant to § 505 of this title by pledging its full faith and credit to the payment of the principal of and interest on such revenue bonds. The aggregate amount of general obligation bonds issued by a municipality under this provision and the indebtedness so guaranteed and taxes levied shall be in addition to and not within the limitations of any existing statutory debt or tax limitation of the municipality. Any agreement by the municipality to guarantee the revenue bonds of the authority or to maintain a reserve fund or to pay debt service or operating expenses of the authority may be made a part of any contract with holders of revenue bonds of the authority and may be pledged by the authority to the payment of such revenue bonds. The enforcement or performance of such guaranty may include resort to the power of the municipality to tax real estate subject to taxation, with no limit as to rate or amount, or to any other moneys of the municipality available for such purpose.

48 Del. Laws, c. 369, § 9; 22 Del. C. 1953, § 508; 49 Del. Laws, c. 2; 50 Del. Laws, c. 221, § 1; 55 Del. Laws, c. 293, § 3; 57 Del. Laws, c. 179, § 2; 57 Del. Laws, c. 625, § 40; 65 Del. Laws, c. 316, § 1; [69 Del. Laws, c. 304, §§ 1, 2.](#)

§ 509. Moneys; examination of accounts.

All moneys of any authority, from whatever source derived, shall be paid to the treasurer of the authority. The moneys shall be deposited in the first instance by the treasurer in 1 or more banks or trust companies in 1 or more special accounts. The moneys in the accounts shall be paid out on the warrant or other order of the chairperson of the authority or of such other person or persons as the authority may authorize to execute such warrants or orders. Every authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of such audit shall be delivered to the city creating the authority. A concise financial statement shall be published annually at least once in a newspaper of general circulation in the city where the principal office of the authority is located. If such publication is not made by the authority, the city shall publish such statement at the expense of the authority. If the authority fails to make such an audit, then the auditor or accountant designated by the city may, from time to time, examine, at the expense of the authority, the accounts and books of the authority, including its receipts, disbursements, contracts,

leases, sinking funds, investments and any other matters relating to its finances, operation and affairs.

The Attorney General of the State may examine the books, accounts and records of any authority.

48 Del. Laws, c. 369, § 10; 22 Del. C. 1953, § 509; [70 Del. Laws, c. 186, § 1.](#)

§ 510. Contracts; competitive bidding.

(a) The procurement of material and the award of contracts for construction, repairs or work of any nature made by any authority shall be subject to Chapter 69 of Title 29.

(b) No member of the Board of the Wilmington Parking Authority shall be entitled to vote on any matter before the Board if such member has a direct or indirect financial interest in the outcome of such matter under review. In the event such a financial interest exists, said member shall disclose to the Board the nature of the interest and said member shall refrain from any discussion, deliberation, action and/or vote by the Board on this matter. In situations in which a member or members do not vote by reason of such financial interest, the matter pending before the Board will be decided on the basis of a majority vote of the remaining members present who do not have a financial interest in the matter. A member or members having a financial interest as set forth herein shall be counted for purposes of establishing a quorum, provided such member or members are present at the meeting. The disqualification of a member from voting on a matter before the Board by reason of a financial interest therein shall not affect the validity of any action taken by the Board relative to the matter before it.

(c) Subsection (a) of this section shall not apply to the construction of parking facilities intended to serve and be an integral part of a redevelopment project in any municipality where the municipality or its redevelopment agency has designated or selected a developer who is responsible for the overall development of the project including parking facilities. In such case, the authority may negotiate with the developer for the construction and design of public parking facilities on such terms and conditions as the authority may deem justified and in the public interest.

48 Del. Laws, c. 369, § 11; 22 Del. C. 1953, § 510; 57 Del. Laws, c. 625, § 5; 58 Del. Laws, c. 219; [68 Del. Laws, c. 401, § 1.](#)

§ 511. Rules and regulations.

The use of the facilities of the authority and the operation of its business shall be subject to the rules and regulations from time to time adopted by the authority. The authority shall not do anything which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefits.

48 Del. Laws, c. 369, § 12; 22 Del. C. 1953, § 511.

§ 512. Continuation of powers.

The State hereby pledges to and agrees with any person, firm or corporation or federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction, extension, improvement or enlargement of any project or part thereof that the State will not limit or alter the rights vested in the authority until all bonds at any time issued, together with the interest thereon, are fully met and discharged. The State further pledges to and agrees with the United States and any other federal agency that, if any federal agency constructs or contributes any funds for the construction, extension, improvement or enlargement of any project or any portion thereof, the State will not alter or limit the rights and powers of the authority in any manner which would be

inconsistent with the continued maintenance and operation of the project or the improvement thereof or which would be inconsistent with the due performance of any agreements between the authority and any such federal agency, and the authority shall continue to have and may exercise all powers granted in this chapter, so long as the same shall be necessary or desirable, for the carrying out of the purposes of this chapter and the purposes of the United States in the construction or improvement or enlargement of the project or such portion thereof.

48 Del. Laws, c. 369, § 13; 22 Del. C. 1953, § 512.;

§ 513. Termination of authority.

When any authority shall have finally paid and discharged all bonds, which, together with the interest due thereon, shall have been secured by a pledge of any of the revenues or receipts of a project, it may, subject to any agreements concerning the operation or disposition of such projects, convey such project to the city creating the authority. When any authority shall have finally paid and discharged all bonds issued and outstanding and the interest due thereon and settled all other claims which may be outstanding against it, it may convey all its property to the city and terminate its existence. A certificate requesting termination of the existence of the authority shall be filed in the office of the Secretary of State. If the certificate is approved by the city creating the authority by its ordinance or ordinances, the Secretary shall note the termination of existence on the record of incorporation and return the certificate with the Secretary's approval shown thereon to the board, which shall cause the same to be recorded in the office of the recorder of deeds of the county. Thereupon, the property of the authority shall pass to the city and the authority shall cease to exist.

48 Del. Laws, c. 369, § 14; 22 Del. C. 1953, § 513; [70 Del. Laws, c. 186, § 1.](#);

§ 514. Exemption from taxation; payments in lieu of taxes.

The effectuation of the authorized purposes of the authorities created under this chapter shall and will be in all respects for the benefit of the residents of incorporated cities for the increase of their commerce and prosperity, since such authorities will be performing essential governmental functions, and for the improvement of their health, safety and living conditions, and, in effectuating such purposes, such authorities shall not be required to pay any taxes or assessments upon any property acquired or used by them for such purposes. In lieu of such taxes or special assessments an authority may agree to make payments to the city or the county or any political subdivision. The bonds issued by any authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within this State.

48 Del. Laws, c. 369, § 15; 22 Del. C. 1953, § 514.;

§ 515. Transfer of existing facilities to authority.

(a) Any municipality or owner may sell, lease, lend, grant or convey to any authority any project or any part or parts thereof or any interest in real or personal property which may be used by the authority in the construction, improvement, maintenance or operation of any project. Any municipality may transfer, assign and set over to any authority any contracts which may have been awarded by the municipality for the construction of projects not begun or, if begun, not completed. The territory being served by any project or the territory within which such project is authorized to render service at the time of the acquisition of such project by an authority shall constitute the area in which such authority shall be authorized to render service.

(b) The authority shall first report to and advise the city by which it was created of the agreement to acquire, including all its terms and conditions.

The proposed action of the authority and the proposed agreement to acquire shall be approved by the city council. Such approval shall be by 2/3 vote of all the members of the council.

(c) This section, without reference to any other law, shall be deemed complete for the acquisition by agreement of projects as defined in this chapter located wholly within or partially without the city causing such authority to be incorporated, any provisions of other laws to the contrary notwithstanding, and no proceedings or other action shall be required except as prescribed in this section.

48 Del. Laws, c. 369, § 16; 22 Del. C. 1953, § 515.;

§ 516. Indemnification.

(a) The Wilmington Parking Authority shall indemnify any member who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a member of the Authority, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such member in connection with such action, suit or proceeding, if said member acted in good faith and in a manner reasonably believe to be in or not opposed to the best interests of the Authority, and with respect to any criminal proceeding or action, the member had no reasonable cause to believe that the action was unlawful.

(b) Any indemnification under this section shall be made only as authorized in the specific case upon a determination that indemnification of the member is proper under the circumstances because the member has met the applicable standard of conduct as set forth in subsection (a) of this section. Such a determination will be made by the Attorney General or the Attorney General's designee within 15 days of the date of receipt of a request for such a determination. Such request shall be filed by the member affected and shall set forth in detail the circumstances supporting the claim for indemnification. In the event the Attorney General fails to make the determination within the time frame specified, the requested indemnification shall be deemed as granted.

(c) Expenses (including attorneys' fees) incurred by a member in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Authority in advance of the final disposition of such action, suit or proceeding, upon receipt of an undertaking by or on behalf of such member to repay such amount if it shall ultimately be determined that such member is not entitled to be indemnified by the Authority as authorized by this section.

(d) No payment shall be made pursuant to the provisions of this section unless the member seeking such payment shall agree that the State be subrogated, to the extent of any payment, to all rights of recovery of such member, shall agree to execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the State effectively to bring suit in the name of the State.

68 Del. Laws, c. 401, § 2; 70 Del. Laws, c. 186, § 1.;

Milford, Delaware, Code of Ordinances >> PART I - ADMINISTRATIVE LEGISLATION >> **Chapter 45 - PARKING AUTHORITY >>**

Chapter 45 - PARKING AUTHORITY

[HISTORY: Adopted by the City Council of the City of Milford 7-30-1974. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 215

[§ 45-1. - Obligations.¹](#)

[§ 45-2. - Establishment of benefit district.](#)

[§ 45-3. - Sale of real property.](#)

[§ 45-4. - Issuance of bonds.](#)

[§ 45-5. - Rights and remedies of bond holders.](#)

[§ 45-6. - Board; appointments; terms of office; vacancies; removal.](#)

[§ 45-7. - Succession of members; salaries and compensation.](#)

[§ 45-8. - Board officers; staff; quorum; liability; powers and duties.](#)

[§ 45-9. - Acquisitions through purchase or eminent domain proceedings.](#)

[§ 45-10. - Financing incurred costs.](#)

[§ 45-11. - Contracts and agreements.](#)

[§ 45-12. - Transfer of property, projects and existing facilities to Authority.](#)

[§ 45-13. - Termination.](#)

§ 45-1. - Obligations.¹ [9]

The Parking Authority shall not at any time or in any manner pledge the credit or taxing power of the State of Delaware or the City of Milford, nor shall any of its obligations be deemed to be obligations of the State of Delaware or the City of Milford, nor shall the State of Delaware or the City of Milford be liable for the payment of principal or of interest on such obligations.

§ 45-2. - Establishment of benefit district.

In addition to the provisions contained in Chapter 5 of Title 22 of the Delaware Code providing for the financing of the cost of acquiring land and premises for the construction and improvement of parking projects, the Parking Authority of the City of Milford may, by resolution, as provided in 22 Del. C. § 504, establish a benefit district.

§ 45-3. - Sale of real property.

- A.** When any real property or any interest therein heretofore or hereafter acquired by the Parking Authority of the City of Milford is no longer needed for the purposes defined in Chapter 5 of Title 22 of the Delaware Code or when, in the opinion of the Parking Authority of the City of Milford, it is not desirable or feasible to hold and use said property for said purposes, the Parking Authority of the City of Milford may sell the same at private or public sale, as the Authority shall determine, granting and conveying to the purchaser thereof a fee simple marketable title thereto.
- B.** The Authority may make such sale for such price and upon such terms and conditions as the Authority deems advisable and for the best interest of the Authority and may accept in payment, wholly or partly, cash, bonds, mortgages, debentures, notes, warrants or other evidences of indebtedness as the Authority may approve. The consideration received from any such sale may be applied by the Authority, in its discretion, to the repayment, in whole or in part, of any funds contributed to the Authority by the City of Milford under the provisions of 22 Del. C. § 508 or retained by the Authority for the purposes for which it was incorporated.
- C.** Without limitation of the foregoing, the Authority may accept as consideration in whole or in part for the sale of any such real property a covenant, agreement or undertaking on the part of any purchaser to provide and maintain off-street parking facilities on such property or a portion thereof for the fulfillment of public parking needs for such period and under such terms and conditions as the Authority shall determine. Any such covenant, agreement or undertaking on the part of the purchaser as aforesaid and

the right of the Authority to fix and alter rates to be charged for any such parking facilities as well as the right of appeal as set forth in Chapter 5 of Title 22 of the Delaware Code shall be set forth and reserved in the deed or deeds of conveyance. Any such contract, agreement or undertaking may be enforced by the Authority in an action for specific performance brought in the court of jurisdiction of the State of Delaware.

§ 45-4. - Issuance of bonds.

All bonds issued by the Parking Authority of the City of Milford shall be issued in accordance with the provision of Chapter 5 of Title 22 of the Delaware Code and all other applicable laws of the City of Milford, State of Delaware and United States of America.

§ 45-5. - Rights and remedies of bond holders.

All holders of bonds of the Parking Authority of the City of Milford shall have the rights and the remedies conferred upon or granted to the bond holders by Chapter 5 of Title 22 of the Delaware Code and other applicable laws of the State of Delaware and the United States of America, which rights and remedies shall be in addition to, and not in limitation of, any rights and remedies lawfully granted to such bond holders by the resolution or resolutions providing for the issuance of bonds or by any deed of trust, indenture or other agreement under which the same may be issued by the Parking Authority of the City of Milford.

§ 45-6. - Board; appointments; terms of office; vacancies; removal.

The powers of the Parking Authority of the City of Milford shall be exercised by a board composed of five members, all of whom shall be residents of the City of Milford. The Mayor of the City of Milford shall appoint the members of the Board, one of whom shall serve for one year, one for two years, one for three years, one for four years and one for five years from the first day of July in the year in which this Authority is created. Thereafter the Mayor shall, not sooner than 60 days nor later than 30 days prior to July 1 in each year in which a vacancy occurs, appoint a member of the Board for a term of five years to succeed the member whose term expires on the first day of July next succeeding. Vacancies for unexpired terms that occur more than 60 days before the end of a term shall be promptly filled by appointment by the Mayor. All such appointments shall be subject to the confirmation of the City Council. Any member of the Board may be removed for cause by the Mayor, with the concurrence of 2/3 of all the members of the City Council, and the person against whom such charges are made shall be given a reasonable opportunity to make his defense.

§ 45-7. - Succession of members; salaries and compensation.

Members of the Parking Authority of the City of Milford shall hold office until their successors have been appointed and may succeed themselves. A member shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

§ 45-8. - Board officers; staff; quorum; liability; powers and duties.

The members of the Board of the Parking Authority of the City of Milford shall select from among themselves a Chairman, a Vice Chairman and such other officers as the Board may determine. The Board may employ a Secretary and Executive Director, its own legal counsel and legal staff and such technical experts and such other agents and employees, permanent or temporary, as it may require and may determine the qualifications and fix the compensation of such persons. Three members of the Board shall constitute a quorum for its meeting. Members of the Board shall not be liable personally on the bonds or other obligations of the Authority, and the rights of creditors shall be solely against such Authority. The Board may delegate to one or more of its agents or employees such of its powers as it deems necessary to carry out its purposes, subject always to the supervision and control of the Board. The Board shall have full authority to manage the properties and business of the Authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the Authority may be conducted and the powers granted to it may be exercised and embodied.

§ 45-9. - Acquisitions through purchase or eminent domain proceedings.

The Parking Authority of the City of Milford may acquire by purchase or eminent domain proceedings either the fee or such rights, title, interest or easement in such lands as the Parking Authority of the City of Milford deems necessary for any of its purposes, subject to the qualifications and restrictions set forth in Chapter 5 of Title 22 of the Delaware Code and in accordance with the provisions for the exercise of the right of eminent domain as set forth in Chapter 61 of Title 10 of the Delaware Code.

§ 45-10. - Financing incurred costs.

The Parking Authority of the City of Milford shall finance those costs incurred to achieve its established purposes in accordance with the provisions set forth in Chapter 5 of Title 22 of the Delaware Code.

§ 45-11. - Contracts and agreements.

- A.** The procurement of material and the award of contracts for construction, repairs or work of any nature made by the Parking Authority of the City of Milford shall be subject to the provisions of Chapter 69 of Title 29 of the Delaware Code.
- B.** No member of the Authority or officer thereof shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the Authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such Authority. If any contract or agreement shall be made in violation of the provisions of this section, the same shall be null and void, and no action shall be maintained thereon against such Authority.
- C.** The provisions of Subsection A shall not apply to the construction of parking facilities intended to serve and be an integral part of the redevelopment project in the City of Milford, where the City of Milford or its redevelopment agency has designated or selected a developer who is responsible for the overall development of the project, including parking facilities. In such case, the Authority may negotiate with the developer for the construction and design of parking facilities on such terms and conditions as the Authority may deem justified and in the public interest.

§ 45-12. - Transfer of property, projects and existing facilities to Authority.

- A.** The City of Milford or any owner of property may sell, lease, lend, grant or convey to the Parking Authority of the City of Milford any interest in real or personal property which may be used by the Authority in the construction, improvement, maintenance or operation of any project. The City of Milford may transfer, assign and set over to the Authority any contracts which may have been awarded to it for the construction of projects not begun or, if begun, not completed. The territory being served by any project or the territory within such project is authorized to render service at the time of the acquisition of such project by the Parking Authority of the City of Milford and shall constitute the area in which the Parking Authority of the City of Milford shall be authorized to render service.
- B.** The Parking Authority of the City of Milford shall first report to and advise the City Council of the City of Milford of the agreement to acquire existing facilities, including all its terms and conditions. The proposed action of the Authority, and the proposed agreement to acquire existing facilities, shall be approved by the City Council. Such approval shall be by two-thirds vote of all members of the Council.

§ 45-13. - Termination.

Unless previously terminated by operation of law, the Parking Authority of the City of Milford shall be terminated only in accordance with the provisions of Chapter 5 of Title 22 of the Delaware Code.

FOOTNOTE(S):

- ⁽⁹⁾ 1. Editor's Note: The Articles of Incorporation, which immediately preceded this section, are on file in the city offices.
[\(Back\)](#)

CITY OF MILFORD MEMORANDUM

TO: Mayor & City Council
FROM: David W. Baird, City Manager
SUBJECT: Transfer of Funds
DATE: August 18, 2011

Based on the August 18, 2011 memo from Brad Dennehy, Director of Public Works, I am recommending City Council authorize the transfer as described below for the purpose of providing recycling containers to all single family residential trash customers in the City as required under Delaware's Recycling Law.

Transfer \$40,000

FROM: Account 399-40-00 Solid Waste Fund Balance

TO: Account 204-4040-432-60-10 Solid Waste Materials & Supplies



PUBLIC WORKS DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

MEMO

TO: David Baird
City Manager

FR: Brad Dennehy
Director of Public Works

DA: August 18, 2011

RE: City of Milford and Department of Natural Resources (DNREC) mandatory recycling program

Issue

The City of Milford is currently offering recycling to residential customers on an every other week basis. So far participation has been on a voluntary basis, i.e. if current trash customers have requested a recycling container, the City has provided one. It is not mandated, either under State law or by the City of Milford that customers have to recycle.

However Senate Bill No.234 (commonly referred to as Delaware's new recycling law) mandates that curbside recycling is offered to "all single-family residential customers, including delivery of a wheeled cart".

Upon request from the City of Milford, DNREC was asked for a ruling on Bill No.234, specifically is the City currently compliant by offering a voluntary program, or does the City have to provide a wheeled recycling cart to every current residential trash customer.

DNREC responded and informed that in order to be compliant with the legislation; the City does indeed have to supply a recycling container to all residential customers by September 15th 2011. At this time DNREC has been asked what the ramifications of not meeting the deadline are, and we have simply been informed that we must meet the deadline.



PUBLIC WORKS DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

Currently the City of Milford has 3146 residential trash customers and 2108 residential recycling customers. In stock we have approximately 300 additional 65 gallon recycling carts.

3246 (trash customers) – 2108 (existing recycle carts) – 300 (carts in stock) = 738 additional carts to be provided.

The City has been talking with cart manufacturers who can provide us both recycling and trash containers. Presently if we switch manufactures of carts we can get a 95 gallon wheeled recycling container for \$46 (plus freight).

738 (additional carts) x \$46 = \$33,948 (plus freight) approximately \$36,000.

Part of the adoption of the Senate Bill No.234 was to provide grant and loan money in order to implement single stream recycling. Only one round of grant funding has been made available and the deadline for applying for funding was January 24 of 2011. At that time the legislation had been passed for less than a month. After attending the pre-grant meeting at DNREC in Dover, it was decided not to apply for the grant for the reasons being we believed that the City of Milford was compliant with our existing recycling program, and if we did accept grant money it was under the condition that any solid waste disposal rates (i.e. our residential trash rate) would have to be locked in for 3 years. Still today it does not make sense to accept grant money with such conditions; the DSWA has the ability to raise their rates and we would be unable to pass this on to the residents.

Conclusion

In order to be compliant with Senate Bill No.234, the City of Milford should be offering curbside recycling to all customers. This will result in the City having to appropriate funds, order the recycling containers, and then deliver them to the residents. It is unlikely this can be achieved before the September 15th, 2011 guideline.

However I believe if we can appropriate the funds from the Solid Waste fund, and order the recycling carts, I would hope that DNREC would appreciate we are trying to be compliant with the legislation as soon as possible.

At this time, I am asking for \$40,000 to be appropriated from solid waste funds to order new recycling carts, and to keep a 10% inventory in stock for replacement of existing carts which are routinely replaced due to damage.

As always if you have further questions, please feel free to contact me.

www.cityofmilford.com



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302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

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As always if you have further questions, please feel free to contact me.

www.cityofmilford.com

City of Milford



RESOLUTION 2011-11

RESOLUTION TO BORROW FUNDS TO DEMOLISH AND RECONSTRUCT THE WASHINGTON STREET WATER PLANT AND OFFICE BUILDING FOR THE CITY OF MILFORD, DELAWARE

WHEREAS, the City Council of the City of Milford, Delaware (“Council”) has been advised that up to \$3,700,000 is required to finance the improvements associated with the demolition and reconstruction of the Washington Street Water Plant and the office building located on the same site.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL AS FOLLOWS:

1. The Council hereby proposes unto the electors of the City that an amount of money not exceeding \$3,700,000 (exclusive of original issue discount) be borrowed to pay for the costs of the Capital Improvements and to pay the costs associated with the financing. The borrowing is expected to be accomplished through the issuance of a loan from the State of Delaware Drinking Water State Revolving Fund (the “DWSRF Loan”).
2. The loan proceeds will be used for the demolition and reconstruction of the Washington Street Water Plant and office building located on the same site.
3. The average rate of interest on the DWSRF Loan shall not exceed 1.0%
4. Of the total loan amount, the principal and interest shall be forgiven on \$1,295,000.
5. The DWSRF Loan shall be secured by the full faith and credit of the City.
6. The DWSRF Loan shall be paid or funded from water revenues of the City.
7. A Public Hearing upon this Resolution shall be held in the Council Chambers at City Hall, 201 South Walnut Street, Milford, Delaware on Monday, September 12, 2011, commencing at 7:00 p.m., at which time the Council shall vote upon the final authorization for the DWSRF Loan.

Mayor Joseph Ronnie Rogers

City Clerk Teresa K. Hudson

Adopted: August 22, 2011

CITY OF MILFORD MEMORANDUM

TO: Mayor & City Council
FROM: David W. Baird, City Manager
SUBJECT: Proposed Senior Tax Exemption Amendment
DATE: August 18, 2011

Attached you will find a proposed amendment to §204-1 of the City Code as it relates to property tax relief for senior citizens. The proposal would increase the amount of the exemption from \$20,000 to \$40,000 as well as limit the exemption so that it would not exceed 50% of the taxable assessment of the property. The current income requirements would remain the same.

In 2011, a total of 119 property owners qualified for the \$92.00 exemption which resulted in a total exemption amount of \$10,948 citywide. The table below shows the amount of the total exemption per \$10,000 of exemption based on 119 eligible property owners.

<u>Exemption Amt.</u>	<u>Reduced Tax Revenue</u>
\$20,000	\$10,948.00
\$30,000	\$16,422.00
\$40,000	\$21,896.00
\$50,000	\$27,370.00
\$60,000	\$32,844.00

The numbers above represent the maximum amount of reduced tax revenue based on a tax rate of \$0.46 per \$100 of assessed value. These figures could be reduced if the qualifying owner's property is assessed at double the amount of the exemption due to requirement that the exemption cannot exceed 50% of the taxable assessment.

EXAMPLES

EXISTING	122,361	Total Tax	\$ 562.86
	20,000	Exemption	\$ 92.00
	102,361	Total Tax After Exemption	\$ 470.86
PROPOSED w/ Assessment greater than 2x value of exemption	122,361	Total Tax	\$ 562.86
	40,000	Exemption	\$ 184.00
	102,361	Total Tax After Exemption	\$ 378.86
PROPOSED w/Assessment less than 2x value of exemption	70,000	Total Tax	\$ 322.00
	35,000	Exemption	\$ 161.00
	102,361	Total Tax After Exemption	\$ 161.00

ORDINANCE 2011-21

An Ordinance to Amend the Code of the City of Milford, Chapter 204, thereof, entitled Taxation, and specifically Section 204-1, to read as follows:

Be it ordained by the Council of the City of Milford as follows:

Section 1.

204-1. Conditions for Senior Citizen Exemption on Real Property Tax. Every person 65 or more years of age having an income not in excess of **\$15,000** per year, exclusive of social security and railroad pension, and residing in a dwelling owned by him or her which is a part of his or her real property, shall be entitled, on proper claim being made thereof, to exemption from taxation on **\$40,000** of assessed valuation of such real property, in the aggregate, and in the case of jointly owned property or property owned by husband and wife, such exemption shall be granted where the income of both does not exceed **\$25,500** per year, exclusive of social security and railroad pension. **The exemption shall not exceed 50% of the total assessed valuation of such real property, in the aggregate.**



Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

Town of Bethany Beach

Town of Bethel

Town of Blades

Town of Bridgeville

Town of Dagsboro

Town of Delmar

Town of Dewey Beach

Town of Ellendale

Town of Fenwick Island

Town of Frankford

Town of Georgetown

Town of Greenwood

Town of Henlopen Acres

Town of Laurel

City of Lewes

City of Milford

Town of Millsboro

Town of Millville

Town of Milton

Town of Ocean View

City of Rehoboth Beach

City of Seaford

Town of Selbyville

Town of Slaughter Beach

Town of South Bethany

Sussex County Council

WELCOME BACK!

MEETING NOTICE

LOCATION: Shawnee Country Club
6152 S. Rehoboth Boulevard, Milford

DATE: September 7, 2011

TIME: 6:00 p.m. – Social
6:30 p.m. – Dinner

HOST: City of Milford

SPEAKER: John Moore, United Way of Delaware

COST: \$30.00

MENU: Mesquite Grilled Salmon
Chicken Cordon Bleu
Green Beans
Cheesy Mashed Potatoes
Mixed Greens Garden Salad
Fresh Bread

For reservations, please call Carlene Wilson at Milford City Hall at 424-3712 no later than Monday, August 29th.

Please make checks payable to the City of Milford.

*****NOTICE *****

The Steering Committee will meet on Friday, September 9, 2011 at 9:00 a.m. at the Lighthouse Restaurant at the Sussex County Airport.

RSVP to Robin at 855-7743 or rgriffith@sussexcountymde.gov.

The cost of breakfast is \$9.00. Checks can be made payable to Lighthouse Landing Restaurant.

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

January 18, 2011

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, January 18, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Commissioners George Pilla, Archie Campbell, Marvin Sharp, Jamie Burk, William Lane, Dirk Gleysteen
ALSO: City Planner Gary J. Norris, AICP, City Solicitor David Rutt and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 7:02 pm noting Mrs. Stevenson and Mrs. McColley were absent. Mr. Rini introduced the new City Solicitor Mr. David Rutt and Mr. Jamie Sharp of Moore & Rutt.

APPROVAL OF MINUTES

Mr. Lane made a correction to page four. The minutes for the December 2010 regular monthly planning commission meeting were approved as amended with a motion by Mr. Sharp, seconded by Mr. Lane.

CHAIRMAN MONTHLY REPORT

Mr. Rini informed the commissioners city council is pleased with this body's work and how well they work together.

Tomorrow is the DAC meeting at 9:00 am and Mr. Rini will be in attendance.

Mr. Rini introduced Mr. David Rutt, who has replaced Mr. Tim Willard as the City Solicitor. Mr. Jamie Sharp works with Mr. Rutt and the two will be at planning commission meetings as needed. Both Mr. Rutt and Mr. Sharp provided a brief personal history on themselves.

NEW BUSINESS

Appointment of Officers

All three officers, Chairman, Vice-Chair, and Secretary, positions are due for appointment. A motion was made by Mr. Pilla and seconded by Mr. Sharp to maintain Mr. Rini as Chair, Mrs. Stevenson as Vice-Chair and Mr. Burk as Secretary. Following a poll of the commission, motion carried unanimously.

CITY PLANNER MONTHLY REPORT

Pedestrian/Bike Master Plan Public Hearing

Mr. Norris reported for the past six months he has been drafting and revising a Pedestrian/Bike Master Plan. Mr. Gary Emory, of the Parks and Recreation Department, received a grant from DNREC for the City to review existing paths and plan for possible future paths. As the

commission may recall from the Comprehensive Plan, the spine of the City is the Mispillon River. The Ped/Bike Plan looks at paths to connect schools, higher density areas, shopping and recreation to not only the spine, but to one another. This would not only allow for an easier transition from one location to another via alternative transportation, but provide safe routes to schools.

An advisory committee comprised of six to nine people was established to review this draft and recommend changes to it. The committee has met twice since inception. One of the recommendations they made was to connect the DuPont nature center to the Ped/Bike Path, which has been added. The advisory committee would also like to see coordination with the Milford Police Department to have educational type classes offered to the public discussing responsibilities in travel lanes, etc.

Currently there are three marked bike lanes in Milford. The first is on Marshall Street along the Watergate subdivision entrance. The second is on Elks Lodge Road from Marshall Street to Rt 30 on both sides of the road. The third is on Rehoboth Blvd from Tenth Street to Rt 30 but it is only marked near the entrance to Meadows at Shawnee.

Recently the State of Delaware passed a Complete Streets Act which makes provisions for bicycle and pedestrian lanes. Mr. Norris has identified the need for markings along the majority of Rehoboth Blvd and has brought this to the appropriate state level attention twice with no response.

Mr. Norris reviewed the various maps depicting the Ped/Bike paths existing and proposed as well as higher density locations in the City.

Mr. Rini asked if the City will have a say in how wide the shoulders are at or near the proposed Rt 30 overpass that is being planned by DelDOT. As Mr. Norris sees it, the City may request the shoulders be widened to accommodate an extension of the Ped/Bike Path.

Mr. Gleysteen requested the value of the grant and the scope. Mr. Norris advised the grant was for \$25,000 and the scope included performing a study of the existing paths and to make recommendations on future paths.

Mr. Campbell asked who marks the lanes. Mr. Norris understands the State marks State maintained roads and the City handles City maintained streets.

With no further business, a motion to adjourn by Mr. Campbell was seconded by Mr. Gleysteen. The meeting adjourned at 7:27 pm.

Respectfully submitted,



Christine R. Crouch

Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
February 15, 2011*

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

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

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

APPROVAL OF MINUTES

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

CHAIRMAN MONTHLY REPORT

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

NEW BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

discussion, it was decided at the March meeting, a representative from the fire department would be invited to explain their fuel spill procedures.

A motion to approve resolution PC11-002 with the condition the city obtains a copy of the Kent Conservation District Approval was made by Mr. Pilla and seconded by Mr. Burk. Following a poll of the commission, the motion carried unanimously.

CITY PLANNER MONTHLY REPORT

Because Mr. Norris is absent, no report was given.

Mr. Rini asked Mr. Rutt why the commission cannot grant variances, such as with the Royal Farms signage. Mr. Rutt explained the City Code states the Board of Adjustment grants variances from the code.

Mr. Rini directed Mrs. Crouch to remind the commissioners if they are going to be absent to let her know.

With no further business, a motion to adjourn by Mr. Campbell was seconded by Mrs. Stevenson. The meeting adjourned at 7:27 pm.

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

March 15, 2011

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

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Commissioners George Pilla, Jamie Burk, Karen McColley, Dirk Gleysteen, Marvin Sharp, William Lane
ALSO: City Planner Gary Norris and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 7:01pm noting Mrs. Stevenson and Mr. Campbell were absent.

APPROVAL OF MINUTES

The minutes for the February 2011 regular monthly planning commission meeting were approved as submitted with a motion by Mr. Pilla, seconded by Mr. Lane.

Mr. Campbell arrived 7:02pm.

CHAIRMAN MONTHLY REPORT

Mr. Rini moved this item until last. He also moved the Carlisle Fire Department presentation to before the Zoning Code Amendment.

NEW BUSINESS

Carlisle Fire Department Fuel Spill Response Presentation/William Carpenter, Fire Chief
Chairman Rini explained at last month's meeting, the Royal Farms project initiated questions from the planning commission on how businesses handle fuel spills. Mr. Bill carpenter, Carlisle Fire Chief was present to explain a fuel spill response procedure.

Mr. Carpenter stated when a fuel spill occurs, if it is small, employees at the gas station, for example, will use a product called Stay Dry on the spill, wait for it to absorb the fluid, and then dispose of it. If a spill of about 2.5 gallons occurs, the Carlisle Fire Company is called to contain the spill. When Carlisle arrives they put Stay Dry on the spill. The owner is then responsible for cleaning up afterward. Should a spill of more than about fifty gallons occur, DNREC is notified to assist with the containment and removal of the spill. They bring in outside resources to handle as well. DNREC and Carlisle work together to have it taken care of.

To Mr. Carpenter's knowledge, no large spills have been reported from Royal Farms or Wawa. Once in a great while the City is contacted to supply sand to place on a flowing spill in order to prevent it from flowing toward the river.

It is very rare that Carlisle gets calls for fuel spills and owners are not required to notify Carlisle if they take care of it themselves.

Chairman Rini asked if there is a spill of 55 gallons that goes unreported to Carlisle, what would happen. Mr. Carpenter stated nothing says they have to notify Carlisle, but they are not equipped to handle such large spills, which is why they call Carlisle.

Mr. Pilla asked if an owner is required to have standard operating procedures for fuel spills posted. Mr. Carpenter could not answer that question. That is up to each individual owner.

Mrs. McColley asked if the spill is still flammable once Stay Dry is put on it. Mr. Carpenter explained the fumes are what are flammable. While he is unaware of the chemical make up of Stay Dry, they have never had a problem with it igniting in the past.

Mr. Campbell questioned whether DNREC requires gas stations to report spills to the municipality. Mr. Carpenter was not aware if they had such a requirement. Mr. Campbell continued by asking if anyone in the fire department, since they are the first responders, has Hazmat training. Mr. Carpenter assured the commission everyone on the fire department, because they are first responders, has had not only Hazmat training but a wide variety of education on being first responders to the many varieties of incidents they assist with.

Mr. Gleysteen made the commission aware that gas stations in general are overseen by DNREC, who ensures underground storage tanks are maintained.

Mr. Sharp informed the commission Mr. Carpenter is very humble. He has actually been educated at A&M, which is a premier training location.

Chairman Rini thanked Mr. Carpenter for the presentation to the commission.

Mrs. McColley asked if there is anything the commission could do to assist the fire department with what they do. Mr. Carpenter explained the only things that come to mind are the importance of the quantity of fire hydrants in the city and the ease of access to buildings.

Mr. Norris explained the city has a Development Advisory Committee, of which the Fire Department is on, that reviews plans and provides comments on projects prior to the planning commission reviewing them. Mr. Norris welcomed Mr. Carpenter or a representative of the Fire Department to comment and attend the meetings. As for annexations, the Fire Department is required to provide comments as part of the Plan of Services to the State and he welcomed Mr. Carpenter to attend the annexation committee meetings.

Chairman Rini thanked Mr. Sharp for arranging this presentation.

Zoning Code Amendment/Ordinance 2011-03

Mr. Norris explained this ordinance is being reviewed because the code enforcement and inspections department would like property owners to not only be in good standing with their utility fees prior to being issued a building permit, but also rental licenses.

A motion by Mrs. McColley to approve Ordinance 2011-03 was seconded by Mr. Gleysteen. Motion carried unanimously following a poll of the commission.

CITY PLANNER MONTHLY REPORT

Mr. Norris provided the commission with the most recent census numbers from 2010. Milford had a population increase of 42% with equals 9,559 residents. We were ranked 4th most populated in the state in 2000 and as of 2010 we are ranked 6th.

Mr. Campbell asked how many units have been approved and pending construction. Mr. Norris explained it is deceiving because many approvals have expired or developers are looking to redesign their prior approvals.

On another note, Mr. Norris wanted to relay that at recent council meetings he has heard the council praise the commission on their hard work and Mr. Norris just wanted to let the commission know how appreciated they are. Chairman Rini agreed and also commended the commission for their hard work.

Mrs. Mccolley recalled the commission diligently reviewing ordinances and asked Mr. Norris if there any other places in the code the commission should be reviewing to tighten them up. In Mr. Norris's opinion, there are always loop holes in any code. He felt the commission should review the conditional use process for PUD's to bring that up to date as well as possibly requiring commercial site plans to provide a certain percentage of open green space on their plans. The commission was in favor of reviewing those ordinances.

CHAIRMAN MONTHLY REPORT

Just to make everyone aware, Chairman Rini reported the Lighthouse Christian Center was recently before the board of adjustment seeking relief of the sign ordinance allowing a maximum height of 28' to be permitted an 85' tall cross, which was established as a sign. He noted where there needs to be difference explained in the code defining a sign versus a structure. Ultimately the board denied the variance request.

Mr. Burk asked how Code Enforcement is doing with enforcing the codes and if there are any areas they feel need better defining as well. The codes are only as good as the enforcement.

With no further business, a motion to adjourn by Mrs. McColley was seconded by Mr. Burk. The meeting adjourned at 7:50pm.

Respectfully submitted,



Christine R. Crouch

Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

April 19, 2011

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, April 19, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Commissioners Jamie Burk, Kim Hoey, William Lane, Karen McColley,
Dirk Gleysteen
ALSO: City Planner Gary Norris and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 7:01 pm noting Mr. Pilla, Mr. Sharp and Mr. Campbell were absent.

APPROVAL OF MINUTES

The minutes for the March 2011 regular monthly planning commission meeting were approved unanimously as submitted with a motion by Mr. Lane, seconded by Mrs. McColley.

CHAIRMAN MONTHLY REPORT

Mr. Rini congratulated Mr. Gleysteen on his election to city council. Mr. Gleysteen thanked everyone for working with him while on the commission. He had no idea when he started on the commission that he would be running for council, but feels it has prepared him for his council seat.

Mr. Rini has recently attended the council meetings and reported on their happenings, nothing at this point that directly affects the commission.

NEW BUSINESS

Bob Nash Associates on behalf of Jacob H. Roosa III Trustee; Project No 10-151

Final Minor Subdivision

917 Roosa Road

Tax Map MD-16-174.17-01-6.00, Area of Petition 7.30 +/- Acres; R-1 Zoning

Adoption of Resolution PC11-003

Mr. Bob Nash of Nash Associates, representing the owners, explained the intent of the one lot minor subdivision is to cut out a 0.94 acre lot from a larger parcel for the purpose of constructing a single family home on the smaller lot.

Typically a final subdivision requires the applicant to submit Public Works approval, Conservation District approval, DeIDOT approval and Fire Marshal approval. For this project however, the lot is located on a City maintained street and therefore no DeIDOT approval is required.

Because this lot is situated on a street that does not have sewer service and the distance to the nearest main is greater than 300 feet, the site will not be required to hook to city sewer. Instead the house will have an onsite septic, which has been discussed with the Director of Public Works. Prior to the issuance of a building permit, a DNREC septic permit will be obtained and copied to the building department upon permit submission. The site will be served by City water and electric.

Mr. Rini called for commissioner's comments or questions. Having no questions or comments from the commission, Mr. Rini called for public comment. Hearing none he closed the public hearing.

Mrs. Stevenson made a motion to approve Resolution PC11-003, seconded by Mr. Gleysteen. The motion carried by a unanimous roll call vote.

***Davis, Bowen & Friedel on behalf of Fordmill LLC; Project No 11-165
Final Minor Subdivision
Milford-Harrington Highway
Tax Map MD-16-173.00-01-06.00; 91.53 +/- Acres; R-3 Zoning
Adoption of Resolution PC11-004***

Mr. Tim Metzner of Davis, Bowen & Friedel stated this minor subdivision on Milford Harrington Highway is for the purpose of selling the created lot to the City for an electric substation to be built on the site.

Mr. Norris confirmed the driveway entrance has been approved by DelDOT and a site plan will be reviewed and approved by the Planning Commission.

Mrs. McColley questioned if any neighbors had any comments. Mr. Metzner was unaware of any comments from neighboring properties.

Mrs. Stevenson recalled seeing this site before the commission previously as part of a subdivision. Mr. Norris explained this was part of a rezoning application quite a while ago and a possible subdivision, but that plan had been abandoned.

Mr. Rini called for public comment and hearing none closed the public hearing.

Mrs. McColley made a motion to approve resolution PC11-004, seconded by Mr. Lane. Motion carried unanimously following a roll call vote.

***Davis, Bowen & Friedel on behalf of Shawnee Farms LLC; Project No 08-016
Third Extension Request-Preliminary Major Subdivision-Cypress Hall Commercial
Rt 113 & Rt 36
Tax Map 1-30-3.00-261.00; 43.96 Acres; C-3 Zoning
Adoption of Resolution PC11-005***

***Davis, Bowen & Friedel on behalf of Shawnee Farms LLC; Project No 08-017
Third Extension Request-Preliminary Site Plan-Cypress Hall Commercial
Rt 113 & Rt 36
Tax Map 1-30-3.00-261.00; 43.96 Acres; C-3 Zoning***

Adoption of Resolution PC11-006

Mr. Tim Metzner of Davis, Bowen & Friedel explained these extension requests are a precaution due to timing. The application for the final major subdivision and the final site plan has been submitted to the city and confirmed they are on the agenda for next month's Planning Commission meeting for review. The extension requests were submitted just in case the finals could not be submitted by the City's deadline date.

Mr. Norris felt since the final submissions have been submitted, he assumes this project is a go. Mr. Metzner replied it is. Redners is committed to building. Lowe's has not yet committed to a construction start date, but the site is not being held up any longer awaiting their commitment. There is no determination on the outparcels as of yet.

Mr. Rini noted this is the third extension request and asked if a fourth is anticipated. Mr. Metzner explained the finals have been submitted, so a fourth extension is not possible.

Mr. Gleysteen stated three extensions is really pushing the time frame. It makes people wonder what could be going on. He is pleased to know the finals will be reviewed next month as he is not inclined to approve extensions many years after the preliminary approval.

Mrs. Stevenson agreed with Mr. Gleysteen and echoed his comments. She stated if she had not been told about the final coming next month, she would not be in favor of a third extension.

A motion by Mr. Gleysteen to approve resolution PC11-005 was seconded by Mr. Burk. Motion carried unanimously following a poll of the commission.

A motion by Mr. Lane to approve resolution PC11-006 was seconded by Mrs. Stevenson. Motion carried unanimously following a poll of the commission.

***Davis, Bowen & Friedel on behalf of Bruce & Susan Geyer; Project No 08-039
Third Extension Request-Preliminary Site Plan-Geyer Commercial Complex
1175 S DuPont Blvd
Tax Map 1-30-6.00-99.01; 6.58 Acres; C-3 Zoning
Adoption of Resolution PC11-007***

Mr. Tim Metzner of Davis, Bowen & Friedel, representing the owner, stated this project has been caught up with the sale of and the possibility of a different design issues with the adjacent property known as Milford Ponds. Due to a foreclosure, Milford Ponds is now owned by two different owners, one is a bank, the other is Mr. Brian McGregor. The bank owns what Mr. Metzner refers to as phase I and Mr. McGregor owns what Mr. Metzner refers to as phase II and III.

The Geyer project is looking to tie stormwater, water and sewer in with the Milford Ponds project. Because the owners of Milford Ponds are possibly looking to amend their site plan it has put the Geyer project in a dilemma. The construction documents for the Geyer project have been completed, however they are still waiting to find out where the tie in points are. Mr. Metzner has a meeting with Mr. McGregor in the coming days, who owns a portion of the Milford Ponds subdivision, to discuss details.

Again, the water, sewer and stormwater of the Geyer site are being proposed to be tied into the Milford Ponds site. With the Milford Ponds site possibly undergoing a design change, it is undetermined where the connection points will be. In addition, the Geyer project is also seeking an entrance location from the Milford Ponds subdivision, which was requested by DelDOT.

When asked by Mr. Norris where Mr. McGregor's property abuts the Geyer property, Mr. Metzner stated none of Mr. McGregor's property abuts the Geyer property. Only the bank owned portion of Milford Ponds abuts the Geyer property. Mr. Norris confirmed Mr. McGregor's property does not abut the Geyer property at all and is located along Walnut Street.

Mr. Norris explained the City has had discussions with the bank that owns phase I (per Mr. Metzner) of Milford Ponds and their engineering firm, Morris & Ritchie, and according to them they are not going to change the phase I design, as it relates to the lot locations because utilities have begun installation. Mr. Rini also attended the meeting.

Mr. Metzner stated the pump station for Milford Ponds, which is already constructed, is located on Mr. McGregor's property so if the bank wishes to move forward with their plans, Mr. McGregor and the bank need an agreement between them for that use. This is why the Geyer project has not moved forward because Mr. McGregor and the bank have not been successful at reaching an agreement as it relates to the pump station use.

Mr. Norris agreed with Mr. Metzner in that an agreement has been unsuccessful and have reached an impasse and that the pump station is on Mr. McGregor's land and the lots for the subdivision are on the bank's land. The bank has informed the City that the bank is now willing to construct a separate and new pump station on their own land to serve Milford Ponds.

Mr. Metzner replied this is definitely new news. The owner of the Geyer project is also unaware of this.

Mr. Norris felt at least a pedestrian connection between Milford Ponds and the Geyer project would be good so people would not have to venture onto Rt 113 to access the Geyer site from Milford Ponds. It appears there needs to be a meeting between the owners of the Geyer project and the bank owners of Milford Ponds to resolve connectivity issues. It is possible to have this recommendation as part of the resolution tonight in granting the one year extension.

Mr. Metzner confirmed the Geyer property has been designed to accommodate stormwater on site, however the plan was for it to have an outfall on the Milford Ponds site which then would discharge onto Mr. McGregor's land. Mr. Norris confirmed the bank owners of Milford ponds will be redesigning their stormwater for Milford Ponds so that it will not require access onto Mr. McGregor's land. At this point, the bank does not need Mr. McGregor's land at all in order for Milford Ponds to proceed with approvals and construction. The properties will stand alone.

Mr. Metzner again replied that is new news as well. Even though his client has moved forward with construction documents, submission to DelDOT, Conservation District, Fire Marshall and

the City Public Works cannot be done until there is an agreement between the Geyer owner and the Milford Ponds owner.

All of this information Mr. Metzner has learned tonight has not been relayed to his client, the Geyer owner. Mr. Metzner will advise his client of all of this information.

Mr. Rini noted a difference in square footage in the preliminarily approved plan and the one before the commission tonight. There is approximately 4,000 more square feet on the plan tonight. In addition, a reduction of 700 square feet from the storage area is before the commission tonight, which is different from what was preliminarily approved. Mr. Metzner explained the changes are due to design changes based on conversations with the Fire Marshall and the architects.

Mr. Norris recommended the commission ensure there is some sort of connection between the Geyer project and the Milford Ponds project, particularly a five foot wide pedestrian, bicycle, wheelchair accessible connection. The Geyer property owner should work with the Milford Ponds owners to make that connection.

Mr. Gleysteen felt that after three years, time is of the essence to get this project to a final approval. Mr. Rini agreed.

A motion by Mrs. McColley was made to approve resolution PC11-007 to include the following recommendations:

1. The property owner work with the Milford Ponds owner (bank) to provide a five foot wide pedestrian, bicycle and wheelchair accessible connection between the two properties.

Motion seconded by Mr. Lane. Motion carried unanimously following a poll of the commission.

CITY PLANNER MONTHLY REPORT

Since Milford Ponds was mentioned, Mr. Norris informed the commission Milford Ponds is on next month's agenda for review. If the commission could envision a large parcel that runs from Rt 113 east to Walnut Street, then cut the parcel into three sections. The first section fronts the entire Rt 113 road and runs east toward Walnut Street where it then narrows to a street that connect to Walnut Street. Sections two and three are on either side of the street that connects section one to Walnut Street and both front Walnut Street. Section one is owned by a bank and sections two and three are owned by another person.

Milford Ponds was originally comprised of sections one, two and three but due to foreclosure was purchased separately. Milford Ponds that is up for review next month is only for section one. The two owners have tried, but are unable to come to an agreement on working together for one development so the owner of section one is looking to make necessary changes to their plan in order to move forward with the Milford Ponds residential community. More details to follow during the meeting next month.

Mr. Norris reported he attended the National APA conference in Boston and found it informative and helpful. Of note, while there he learned there are Tea Party representatives that have been

attending town meetings and taping the meetings. They will then go online to blog the meeting, but will cut and splice parts of the meeting so as to take it out of context. Found that interesting.

Mr. Norris had provided a memo to the commissioners in their packet regarding possible changes to the zoning and/or subdivision ordinances, which the planning commission is charged with reviewing and updating as necessary. He asked what changes the commission would like to review. The commission felt due to the number of applications on next month's agenda, it would be best to postpone any possible changes until after next month's agenda.

Mr. Rini reminded the commission that Mr. Gleysteen will be sworn into council on April 26, 2011 and will no longer be a member of the commission therefore attendance is imperative. He directed Mrs. Crouch to remind the commissioners if they are unable to attend they need to let her know so we can ensure a quorum.

Mr. Gleysteen again thanked everyone on the commission for their support while he was a member of the commission.

With no further business, a motion to adjourn by Mrs. McColley was seconded by Mr. Gleysteen. The meeting adjourned at 7:58 pm.

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

May 17, 2011

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, May 17, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Commissioners Kim Stevenson, George Pilla, William Lane, Jamie Burk, Marvin Sharp, Archie Campbell
ALSO: City Planner Gary Norris and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 7:01 pm noting Mrs. McColley was absent.

APPROVAL OF MINUTES

The minutes for the April 2011 regular monthly planning commission meeting were approved as submitted with a motion by Mrs. Stevenson, seconded by Mr. Pilla.

CHAIRMAN MONTHLY REPORT

Mr. Rini reported Mr. Gleysteen was recently sworn in as a council member and afterward Mr. Rini reminded the Mayor the commission will need a replacement.

The monthly DAC meeting is scheduled for tomorrow morning. Items on the agenda will be heard at the June planning commission meeting.

As a reminder, the following commissioner's terms expire in August this year: Stevenson, Pilla and Rini.

Mrs. McColley arrived at 7:03 pm.

NEW BUSINESS

**Davis, Bowen & Friedel, Inc. on behalf of Shawnee Farm LLC; Project No 08-016
Final Major Subdivision-Cypress Hall Commercial
Rt 113 & Rt 36
Tax Map 1-30-3.00-261.00; 42.87+/- Acres; C-3 Zoning
Adoption of Resolution PC11-008**

Mr. Zach Crouch of Davis, Bowen & Friedel, Inc. was present on behalf of Shawnee Farms LLC. He stated he is pleased to present the final major subdivision for the commission's recommendation this evening. All approvals are in hand, all requirements of the City have been met and the developer is anxious to move forward with construction of the Redner's grocery store.

Mr. Norris asked if there will be any interconnectivity via sidewalks to the residential subdivision to the south of the property. Mr. Crouch replied yes there will be as well as a bus stop per DelDOT's requirements.

Mrs. Stevenson questioned whether this qualifies for allowing the applicant to reduce the number of parking spaces for now to no have as much hard surface. Mr. Crouch explained per the phasing plan, the Redner's will be built first as well as the parking for it. As the project moves forward, the additional parking will be constructed. Mr. Lane confirmed the only firm lease at this point is Redner's.

Mr. Rini questioned which buildings will be built in what order. Mr. Crouch stated the grocery store and the associated parking for it is first, along with the utilities and service road that connects Rt 36 and Rt 113. When asked when the Seabury Ave Ext will be closed off and become a cul de sac, Mr. Crouch explained that will also be done during this first construction phase.

Regarding the landscaping buffer between this property and the one to the south, there is shown on the plans a storm water basin in this area. Mr. Rini felt there should be a larger landscaping buffer provided due to a difference in zoning of the two properties. Mr. Crouch explained the property to the south is the same zoning as this property, therefore the larger landscaping buffer is not required.

Mr. Rini confirmed with Mr. Crouch that the neighboring property owners that have expressed concerns with this development plan in the past have since been satisfied.

Mr. Rini called for public comments.

Mr. Daniel Fox of 17794 Oak Hill Drive Milford stated he had a couple of concerns. The notice he received in the mail did not state anything about the site plan, only that it was for a subdivision. He received a notice a long time ago when this first came before the commission and council, but not since. He asked his neighbors if they received a notice and none of them received one either. There is heavy equipment sitting next to the proposed retention pond that is next to Rt 36 and he is concerned because it has been sitting there for two weeks, yet he and his neighbors weren't notified.

Mr. Fox stated he tried calling a couple of times and got the run around. City management was busy or on another line or something is what he was told. Mr. Norris asked who Mr. Fox called. Mr. Fox replied he called for Mr. Baird and Mrs. Hudson.

His concerns are still the same as before. The retention ponds that run across the street drain onto his property. He is very concerned that the run off will contain contaminates that will sicken his cattle. His question as to whether the pond will freeze has yet to be answered. Mr. Fox is concerned that if the pond is frozen the polluted water will not be filtered adequately prior to draining onto his property. He is not concerned with what is being built on the property, whether it be a Lowe's, Home Depot or grocery store, he just wants it done right.

Again, Mr. Fox questioned why he and the neighbors were not notified that the development of this property changed from a big box store to a grocery store and he would like a response to the freezing of the retention pond issue.

Ms. Bernadette Mossman of 805 S DuPont Blvd Milford stated her property is located across Rt 113 where the entrance will be located for this development. The notice she received stated this was for a subdivision into six lots, however she is unable to determine where the lot lines are and would like to know the intentions for those lots. Additionally, about three years ago it was her understanding the subdivision was approved so why would it be before the commission and council for approval again. Further, she asked for confirmation that the entrance on Rt 113 will have a traffic light.

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

Mr. Rini asked Mr. Crouch to explain the water run off issues that Mr. Fox is concerned with. Mr. Crouch explained the water study that was performed was approved by Sussex Conservation District, as well as the stormwater management plan, which is the appropriate approving body. Downstream analysis was part of that study. There has been an onsite meeting that took place with the conservation district to discuss the plan in greater detail and all plans have been approved by the conservation district. State and Federal requirements have been met.

Mr. Crouch explained the location of the six lots, comprised of a large lot to the west of the property and five outparcels. That has not changed from the beginning. The large lot will house the grocery store, a large retail store and other retail strip centers. The outparcels will need to come before the commission for site plan approvals as they are planned.

Mr. Rini asked Mrs. Crouch to explain the public notice issue that Mr. Fox and Ms. Mossman have issues with. Mrs. Crouch explained when the subdivision was brought to the city years ago, it was for preliminary approval. This is now for final approval. Per the code of the City, public notices are required for subdivisions however not required for site plans, which are handled in a different chapter of the code. The applicant is seeking two approvals tonight. One for the final subdivision approval, which is what the notice indicates, as well as site plan approval. The site plan application is what addresses the retail stores, parking, landscaping, etc.

Mrs. Mccolley questioned if the stormwater basins closest to Mr. Fox's property will be installed when the grocery store is built. Mr. Crouch replied yes.

When asked by Mr. Norris to explain who gives the approval for the stormwater plans, Mr. Crouch stated the conservation district reviews and grants approvals for stormwater plans. These ponds will be wet ponds, meaning they are intended to maintain water in them. They are designed to keep about three feet of water in them and should they freeze, water that is then drained into them will settle below the frozen layer and be filtered prior to exiting.

Mr. Campbell questioned how tall the basin will be above the three foot deep water level. Mr. Crouch recalled between four and five feet tall in order to prevent overflow.

Mr. Rini reminded the commission the final subdivision application will be reviewed by City Council.

A motion to approve Resolution PC11-008 was made by Mrs. Stevenson and seconded by Mr. Campbell. The motion carried unanimously following a poll of the commission.

**Davis, Bowen & Friedel, Inc. on behalf of Shawnee Farm LLC; Project No 08-017
Final Site Plan-Cypress Hall Commercial
Rt 113 & Rt 36
Tax Map 1-30-3.00-261.00; 42.87+/- Acres; C-3 Zoning
Adoption of Resolution PC11-009**

Mr. Zach Crouch of Davis, Bowen & Friedel, Inc. was present on behalf of Shawnee Farms LLC. He felt the site plan issues had been explained during the previous presentation and asked for questions. The commission had no questions.

Mr. Rini called for public comments and hearing none, closed the public comment session.

A motion by Mr. Burk to approve Resolution PC11-009 was seconded by Mr. Rini. The motion carried unanimously following a poll of the commission.

**Two Farms Inc on behalf of Harry H. Mulholland, trustee of James P. Hammond, III;
Project No 11-166
Conditional Use and Preliminary Site Plan-Royal Farms #166
601 N DuPont Blvd
Tax Map MD-16-183.09-01-01.00; -02.00; -03.00; 2.697+/- Acres; C-3 Zoning
Adoption of Resolution PC11-010 and PC11-011**

Mr. Jamie Sechler of Davis, Bowen & Friedel, Inc. was present to represent Two Farms Inc. Mr. Sechler explained the application is for a preliminary site plan and the site proposes a Royal Farms convenience store with eight gas pumps and a car wash on the 2.69 acre site that was formerly Hammond Cadillac. The proposal includes 73% impervious surface, 41 parking spaces, 15 foot utility easement on the north side and a 20 foot utility easement on the west side per the Electric Department's request. Currently DB&F is working with DelDOT to finalize TIS (traffic impact study) letter. They are working on a right in and right out on Rt 113 and full access on Rt 14.

Mr. Norris reminded Mr. Sechler there are four approvals that will be required when Final Site Plan submission is made. Those approvals are Conservation District, DelDOT, Fire Marshal and Public Works. Further, when submitting for final site plan approval a sign package and four sided elevations are required. The City is anticipating the building design to be visually pleasing as this is a prominent corner in the City. Mr. Sechler felt the building will be the same as the one in Ellendale.

Mr. Rini questioned why no interconnectivity is being included for the adjacent property. Mr. Sechler explained the applicant has reached out to existing shopping center; however no reply has been received.

Mrs. Stevenson expressed she is strongly opposed to the rights out onto Rt 113. It is an accident waiting to happen when people come out and head south, going faster to try to catch the light. Mr. Sechler commented the right out will be similar to the Ellendale store but DelDOT is further requiring the applicant to change the median that turns east at the light to include a four foot tall concrete barrier. This will inhibit crossing Rt 113 to turn left to head east on Rt 14. Mrs. Stevenson is still opposed to the rights out and feels it is not in the best interest of the health, safety and welfare of the citizens of Milford.

Mrs. McColley encouraged the applicant to continue to reach out to the shopping center because she has heard rumors that the grocery store may be changing tenants.

Mr. Campbell pointed out the Royal Farms further south on Rt 113 is on a corner also and there are no rights out onto Rt 113 there. Patrons must exit the site onto Rt 36, so in his opinion this site could be designed similarly.

Mr. Norris confirmed Rt 113, Rt 14 and Rt 36 are state maintained roadways and are governed by DelDOT.

Mr. Rini requested an explanation of the existing site entrances and exits. Mr. Sechler stated the entire frontage of Hammond Cadillac is an in and out. Mr. Rini confirmed the entrance/exit will be redesigned to better handle traffic coming into and exiting the site as well as construct the

four foot tall concrete median on Rt 113. Mrs. Stevenson stated a car dealership does not generate the amount of traffic a convenience store will.

Mr. Burk expressed concerns with exit/entrance on Rt 113 as well. If the right out was removed it wouldn't be as much of a worry. On paper the design may look good, but once you add actual people it will be dangerous. Mrs. Stevenson and Mr. Burk both stated they do not have any concerns with the right in from Rt 113.

Mr. Lane stated he has concerns with the four foot tall concrete barrier in the median. Rt 113 is well travelled and he sees the barrier as just another obstacle. It appears very similar to the turn in Rehoboth, which is confusing. Further he has a problem with the rights out onto Rt 113 as well.

Mr. Rini asked Mr. Sechler if the commission determines the rights out to be removed, if DelDOT could reject plan. Mr. Sechler replied DelDOT would not reject that option, but Royal Farms may. They want the rights in and rights out on Rt 113.

Mr. Rini called for public comment and hearing none closed the public comment session.

A motion by Mr. Rini to approve Resolution PC11-010 was seconded by Mr. Lane. The motion carried unanimously following a poll of the commission.

In regards to the site plan application, Mr. Norris reminded the commission per chapter 230 of the Code, the commission may approve the application, approve the application with conditions, table it or deny the application. Any denial requires the citing of the specific ordinance in the code that the application does not meet. Mr. Rutt agreed.

A motion by Mr. Campbell to approve Resolution PC11-011 and the site plan application with the condition the rights out onto Rt 113 be eliminated and the concrete barrier in the median be eliminated, if DelDOT approves, was seconded by Mr. Pilla.

Prior to polling the commission, Mrs. Stevenson asked that the applicant continue to work with the adjacent property owner for interconnectivity between the two sites. Mr. Sechler felt Royal Farms would still be interested in that option if the adjacent property owner was willing to talk. Mr. Sechler stated the TIS is still being finalized with DelDOT and the entrances and exits are unknown until it is finalized.

Mrs. McColley commented that we are talking about people leaving Royal Farms, so whatever they have contributed to the benefit of Royal Farms is already been established and they are actually leaving.

The motion carried unanimously with the following votes:

- Stevenson Yes with the condition that the rights out onto 113 is taken away.
- McColley I say yes because Royal Farms is a good institution and I've been pleased with every one I've seen. This is preliminary and I would encourage them to look at other avenues for entrances.
- Pilla Yes as long as that traffic pattern and choke point is eliminated onto 113. And I have to state that that would be about 150' to 200' to that right and on a Saturday

or a Friday you've created a pretty good choke point right there. So, you have to eliminate that.

Lane

Yes as stated.

Campbell

Yes for reasons stated.

Sharp

Yes for reasons stated.

Burk

Yes for reasons stated.

Rini

Yes for reasons stated and I would still say to try to work with the adjacent property about trying to get ins and out to that property. I think it would be beneficial to both parties and I don't see why they wouldn't want that to be accessed because it's different customers. I mean, there are no gas station in there and no convenience store in there so it will just generate more business for their businesses.

**Morris & Ritchie Assoc, Inc. on behalf of Griffin Realty LLC; Project No 11-167
Conditional Use Modification-Milford Ponds**

Rt 113

Tax Map 1-30-6.00-108.00; -167.00 thru -550.00; -557.00; -558.00; 107.50+/- Acres; R-1, R-2, R-3 Zoning

Adoption of Resolution PC11-012

Mr. Steve Horn with Elm Street Development, along with Ken Usab of Morris & Ritchie Associates represented Griffin Realty, who is an affiliate company of Acacia Federal Savings Bank. Rob Jacobs and Jim Harper of Acacia were also present in the audience.

Mr. Horn thanked the commission for their time and explained the project is formerly known as Central Parke at Milford Ponds. For historical purposes, the Milford Ponds planned unit development was approved in 2006, ground was broken shortly thereafter, a significant amount of infrastructure was installed and about 165 paved lots exist today. Associated water, sewer, storm drainage infrastructure along with stormwater management ponds and a pump station are also currently in place.

When the market collapsed the property fell into foreclosure. The foreclosure resulted in two property owners. A portion of the property went back to Acacia Federal Savings Bank and the balance went back to East Bay. There are about 400 +/- lots that were platted and partially developed on Acacia's ground, which is now Griffin Realty. Shortly after the foreclosure Acacia transferred their ownership interest to an affiliate company, Griffin Realty. Griffin brought in Elm Street Development to advise them on the project, figure out what the asset is, and reposition it with the goal of bringing it to market lots and make it a vibrant community, as it was once envisioned.

During due diligence on the property, two major constraints were identified. The property was originally envisioned to have storm water conveyance across both portions of the ground and also a reliance on a pump station that services both East Bay and Griffin Realty ground. As a result of that, it was Griffin Realty's goal to work cooperatively with East Bay so both portions could be developed sharing that infrastructure and move forward. A great deal of time, the better part of a year, trying to forge an agreement between Griffin and East Bay that would allow both equal rights to the infrastructure so the property could be developed. Unfortunately an agreement between Griffin and East Bay was not successful, which brings us to present.

Because of not being able to reach an agreement, Griffin is now forced to redesign the plan so Griffin can gain independence on the sewer infrastructure and stormwater conveyance. What is being presented this evening is how they are proposing to redesign to gain the independence needed on those two constraints.

Mr. Horn continued by stating not only is Griffin Realty and Elm Street Development excited about this proposal but they also have a potential owner interested in investing a significant amount of funds to make this a great project.

Mr. Ken Usab of Morris & Ritchie Associates introduced himself and stated Morris & Ritchie's role in the project is to determine how to go about moving forward in the modification of the

planned unit development once it became clear an agreement was not going to be made between the two property owners. Mr. Usab had the plans contained in the planning commissioner's packets placed on the overhead screen for the audience to review. Referring to the plan as it was approved by the City, he pointed out which portion is owned by Griffin Realty and which is owned by East Bay Land Company.

The main issues, as Mr. Horn alluded to, that created conflicts between the originally approved subdivision plans related to several key areas. The first relates to the existing pump station. The infrastructure that's in place right now includes the main entrance off Rt 113, some roads and the existing pump station. The water and sewer system have been constructed and the as built plans were days away from being approved by the City Engineer. Because the pump station was not approved by the city, the deed to that pump station has not been transferred to the City, therefore the land the pump station is on remains in the ownership of East Bay. The access and infrastructure leading to the pump station comes through Griffin's lands through an easement that was platted. The infrastructure takes the wastewater away from the individual lots, conveys it to the pump station then its pumped back through Griffin lands to the main City collection system. This is the first issue being dealt with.

In addition, a number of the lots and roads were bifurcated by the property line division. The plan being proposed tonight is a modification of planned unit development that will reconfigure some of those lots to avoid having a lot that is split between property owners.

Another issue with having two separate properties, as part of the modification that needed to be addressed, is providing adequate open space on Griffin's property without relying on open space on lands owned by East Bay. The computations have been provided and it is a little over 25% which includes the large stormwater ponds that are existing as well as the other open space areas.

Regarding stormwater management for the property, essentially there was either direct infiltration over the entire property or sheet flow towards the south. There is an existing non tidal wetland and stream system that runs along the bottom of the property. The original stormwater management design by Davis, Bowen & Friedel took the run off from the developed areas, including both the Griffin lands and East Bay lands, and directed them to two primary outfalls. One of which is existing, another pond that discharged to a second pond that discharged to a second outfall. So the stormwater was brought through a stormwater collection system into the two outfalls and discharged into the existing drainage ditch. The downstream limit was used as the study point for this project. Essentially the stormwater was designed to be collected, conveyed and discharged back and forth on both Griffin and East Bay lands, utilizing various ponds, some of which are built, some of which are not. Easements have been platted for stormwater, but have not been recorded and therefore not enforceable leaving Griffin to come up with an alternative plan.

With regards to the pump station located on East Bay lands, it is Griffin's proposal to construct a new pump station on Griffin's land using a platted lot. The infrastructure will need to be redirected to this new pump station once it's built, which is a considerable cost to Griffin. It is estimated to be in excess of \$350,000 to construct. The system will be maintained to provide for future connections to the remaining lands, which was a concern to Mr. Mallamo, the City

Engineer. A portion of the sewer lines that have been installed will need to be replaced in order to accomplish this.

To resolve the stormwater management issues, since Griffin cannot discharge through East Bay lands and pond, the alternative design requires reconfiguring some lots to create a greenway, which will be a natural stream, which will use the existing excavated outfall on the westerly side of the property to convey water to the existing wetland area. The Sussex Conservation District has reviewed the concept of this plan, which is considered an environmentally sensitive design. Mr. Usab anticipates the design will meet with all state and local codes.

Another aspect of the stormwater management is to ensure the redesign does not adversely affect the East Bay lands, should they chose to move forward with construction on their land. There are certain areas where East Bay land water runoff drains onto Griffin land. Griffin proposes to provide conveyance for that run off in their current, undeveloped condition.

In addition, Mr. Usab directed the commission's attention to the multiple areas of the modification of the planned unit development that will not change from the originally approved plans. The lots along the perimeter of the development, the location of the townhomes, the location of the single family homes, and the lots along the common border with East Bay will not change. What will change, aside from the infrastructure issues and stormwater issues addressed earlier, will be some reconfiguration of lots in order to accommodate for the stormwater conveyance and to accommodate for traffic connectivity with East Bay land. Along the northerly end of the project, the lot sizes had to be reduced but still meet the City's minimum requirements. Also maintained from the original plan is the main loop road going through the development that provides connectivity for East Bay as well. The entire existing road network is per the approved plan.

Another challenging area that has had no resolution in the proposed redesign is the connectivity that was provided from Griffin property to the development to the north. Griffin is hopeful that when the northern property owner is ready to connect a resolution can be determined at that time. All other conflicts have been resolved in a manner that minimizes any impacts on the adjacent property.

Due to the changes in the regional and national market conditions, Griffin is requesting flexibility on the size of the townhomes. They are proposing a range of single family detached and single family attached townhomes and would like to include both eighteen foot wide and twenty two foot wide single family townhomes on the lots designated as townhomes. The price points for townhomes have dropped considerably in Sussex County and therefore Griffin cannot justify having large units.

Regarding the project phasing, Mr. Usab explained the phasing of the original development had to be modified so that the first phase consists of the existing lots, except the pump station location, that have paving, water and sewer utilities, and stormwater management available today. The goal of the client is to bring the project to market as soon as possible. There are a series of punch list items related to the existing storm drainage, water and sewer systems that have been presented by the City Engineer. The second phase would be more lots shown on the

plans included in the planning commissioner's packets, and the third phase would be to the right and the fourth phase to the north of the property. Phase five is toward Walnut Street. In addition to the coordination of the modification of the design with Sussex Conservation District, DeIDOT has been contacted regarding the elimination of the active adult community aspect. In speaking with DeIDOT, they did not expect significant changes to the entrance on Rt 113 or South Walnut Street. The entrance on Rt 113 is mostly constructed and will be finalized by the developer with DeIDOT.

Improvements that are planned as part of the modification include the relocation of the community center, which was originally envisioned for an active adult community. The community center will be more centrally located in the development instead of closer to Rt 113 and the size of the center will be reduced. Another enhancement of the development will be the distribution of open active space throughout the community for tot lots and possible tennis courts, and a pavilion. A multi-modal path will run from South Walnut Street all the way through the development to Rt 113, which will connect trails and open space to one another.

The changes, according to Mr. Usab, are overall fairly modest. From the road network, proximity to adjacent properties and the other changes, with the exception of the pump station construction and stormwater management. All of the proposed changes are ones that will allow the development to proceed forward in an orderly manner.

Mr. Norris asked Mr. Usab if the residents of this development will be able to walk to the proposed commercial property, when developed, which is located on the south side of this development's entrance on Rt 113. Mr. Usab felt the use of the multi-modal path and the sidewalks would enable residents to access the commercial property via foot.

When asked by Mr. Norris the developer's intention as it relates to approvals for phasing, Mr. Usab stated he thought approvals would be sought in phases, and not for all five phases at once. The most important thing that the developer needs to do is get the pump station constructed and then work with the existing infrastructure. This will come at a significant cost to the developer. The second phase will be dealing with the stormwater management. He anticipates it to be done in at least two phases.

Mr. Sharp asked if the roadway widths in the townhouse areas are adequate, as he is involved heavily with the fire service. Trucks are getting bigger as they are asked to do more. Mr. Usab stated the road widths are per the originally approved plan that was approved by the Fire Marshal's office. The widths and turning radius have not changed. Mr. Sharp recalled that when this project was originally approved there were concerns about the fact it was an active adult community, which generates more emergency calls.

Mrs. Stevenson questioned the amount of open space because it is being calculating it with the ponds and it is her understanding the ponds cannot be included. Mr. Norris thought the original plan was approved prior to that code change. Mrs. Stevenson stated the plan has changed so much and wondered if it is still the original plan anymore.

Mr. Norris' opinion is that this is a revision of the approved conditional use and they are amending the conditional use that was approved three years ago.

Mr. Rini asked that since the development is no longer a 55 and over community the developer work closely with the school with pick up and drop off areas and also touch base with the post office regarding the mail center locations. Mr. Usab explained there is an interim mail center located on the plans.

Mr. Rutt asked if the owner of the proposed pump station would be give or relinquish any ownership on the existing pump station so that East Bay wishes to develop they would be able to use that pump station without any claim of ownership. Mr. Usab felt the intention is for Griffin to construct the pump station and if there's any customary recoupment of costs related to that pump station for the connection of the future development parcels, that Griffin would look to take advantage of that recoupment in the future because again, Griffin is not building a pump station just for their property, it's serving the regional area. The original pump station served both properties, not just Griffin land. Mr. Rutt confirmed the pump station was sized for the entire planned unit development.

Mr. Campbell asked if the townhouses will be sectioned off in increments less than eight. Mr. Norris explained the zoning ordinance allows eight townhouses per building.

Mrs. McColley confirmed there will be sidewalks provided on both sides of the road.

Mr. Rini called for public comments.

John Wooten of 1201 S DuPont Blvd asked if the sidewalk planned at the entrance of the development on Rt 113 would continue far enough north to be in front of his relative's and his property. He also questioned how many more problems will the properties have with traffic and entrances and exits.

Bruce Geyer of 48 Goosebriar Ln stated he owns the commercial property to the south of the entrance on Rt 113 which has been preliminarily approved for a 37,000 square foot strip center and 170 mini storage units. Part of the reason his project is at a standstill, when the entrance to this development was approved, there was a letter issued by DelDOT stating there was supposed to be a cross access use agreement granted to service between Mr. Geyer's property and the Milford Ponds property. Somehow the entrance was installed without the cross access. Mr. Geyer explained someone driving to his site from the development, they will have to exit the development heading north, then turn around and head south, then turn around again and head back north in order to turn into his property. Mr. Norris stated the person could just walk to Mr. Geyer's site, which Mr. Geyer agreed there are provisions for that.

Mr. Geyer's question is that he has a letter from DelDOT, which he has brought up with the past administration, and still no provisions have been installed for the cross access agreement. How will this work and where does it leave him. Mr. Norris asked Mr. Geyer to explain what the cross access agreement is. Mr. Geyer explained it is a sharing of the entrance on the north end of Mr. Geyer's property and the south side of the Griffin property. Mr. Geyer stated he has an

approved rights in and rights out, but along with that his letter from DelDOT states there will be a shared access agreement with this development to provide easement for the people within the development. Mr. Geyer stated he gave a copy of this DelDOT letter to the previous administration at the City. Mr. Geyer also stated the development's stormwater management ponds were designed bigger than they needed to be, so his stormwater was to run into theirs.

Stephanie Hanson, an attorney with Young, Conaway, Stargate and Taylor, located at 110 W Pine Street in Georgetown introduced herself as representing EB Land, aka East Bay Homes. With her tonight is Brian McGregor who is a principal at East Bay, also Tim Metzner of Davis, Bowen and Friedel who is the engineer for the project.

East Bay Land, which Ms. Hanson will refer to as EB, owns two of the three originally approved phases of the development. This was an approved planned unit development that was to be built in three phases. Ms. Hanson showed on a board the original phase I aka phase B, phase II aka phase C, and phase III aka phase A. Obviously the numerical and alphabetical phases do not correlate. According to Ms. Hanson's maps, Griffin owns phase I and EB owns phases II and III.

Ms. Hanson referred to a letter that EB sent back in September 8, 2010. It notifies the city that Milford Ponds sections A and C are owned by EB and any change to section B they believe is going to affect the vested rights of EB because it will affect phases A and C. It is an interrelated, interconnected development where the requirements are all met entirely within the whole development. If it is broken up into little pieces where, for example, open space is handled on only one piece, it affects the open space of the other pieces. The letter also mentions EB would object to an amendment of this development if it was not something they had consented to. For the record, Ms. Hanson continued, EB has not consented to the plan the commission sees before them tonight, in fact they didn't even see the plan until it was publicly advertised, which is also why what was submitted did not make it into the packet. They didn't know about this until about two weeks prior this meeting.

The original PUD that was approved was recorded in 2006. Phase I/B, when it was recorded, things were done very sloppily. The lines were not drawn carefully or the phase lines. There is overlap from phase to phase on the property. After the bankruptcy and the property going back to the two lenders-Acacia and EB-EB reached out to Acacia and pointed out the problem of the overlapping of lots from phase to phase. There have been discussions between Acacia and EB, but have not been frequent, exhaustive or fruitful. EB was then, and is now, interested in continuing to talk to Acacia to try to work things out. Ms. Hanson believes what has happened now is Acacia has gotten to a point where they have decided to move in an alternate direction and not deal with EB any longer. By deciding to bypass EB, Acacia is also bypassing a particular note on their record plan that was recorded. The note on the record plan requires them to get the consent and approval of the adjacent land owners, which in this case is EB. They do not have that consent.

Regarding why EB does not want the commission to approve the conditional use modification, Ms. Hanson stated first it affects the vested rights of EB. Not just the vested rights, but it would effectuate an unconstitutional taking of the value of its property. EB has a current record plan on

phase II, so there is a current recorded plan, a preliminary plan approval on phase III, and if this application is passed, it wipes out EB ability to develop the property in accordance with the recorded plan on phase II or the preliminary plan on phase III. As a result, it strips the value of the property, which affects the land owners vested rights and affecting the taking of the property rights.

The commission has heard that these are modest changes, but they are not. These are severe and serious changes being made that are drastically going to affect EB's ability to develop their property. For instance, the removal of a major collector street. Ms. Hanson pointed out on the plans where the road used to be and where it is proposed. She stated the street ends now at open space and doesn't believe that meets the City's code. There's no cul de sac, it just ends. That is a major problem. It will have to be redesigned, maybe it can be a cul de sac, but it's going to be long and we don't know if the length of the cul de sac street would meet City code without having to get a variance, so that is clearly a problem.

Also with the redesign and reduction of open space and the recreation area on the Griffin property, that affects EB as well because as a standalone development, EB will not meet the City's current code for open space. Ms. Hanson then read the following from Morris & Ritchie's summary, page 5 of 5, which was included in the commissioner's packets:

"The designated open space and recreation areas for the portion of the project on property owned by Griffin are sized to meet the requirements of the PUD on Griffin property only. EBL will need to provide sufficient community facilities, open space, and recreation area for their portion of the development on EBL property."

Ms. Hanson exclaimed EB already has that right now with the plan as approved. They shouldn't have to go back now and redesign, which is precisely what EB will have to do, if this application is approved. This is why EB feels if this application is approved as proposed it destroys EB's ability to build in conformance with the record plan because EB would then have to go back and make brand new calculations and provide additional open space, community recreation areas. Again, this was an integrated, interconnected and interdependent development. That was the whole point.

Another reason EB would like the application to be denied is because it is prohibited by general note number six on Griffin's recorded plan for phase I. That note states:

"No revision may be made to recorded subdivision in Sussex County without the written consent of seventy-five percent of the lot owners of the recorded plat and the lot owners of adjacent lots to the revision."

This was a plan that was signed by the project engineer, the property owner, the City of Milford planning department, the mayor and then recorded with Sussex County Recorder of Deeds on August 31, 2006. EB is an adjacent property owner and clearly they have not consented and clearly they are greatly affected by this revision and they want to continue to have discussions with Griffin, but have been shut out of the process.

Ms. Hanson continued by stating the procedure is improper. She does not feel this is simply the modification of conditional use, but instead it should be processed as a brand new PUD because

there have been so many substantive revisions to the plan. In the past, if there were existing utilities in the ground and the applicant wasn't making any changes to those utilities, then the process would have been to view this as a modification to a conditional use. In this case however, there are substantial changes being made to the utilities which include deleting roads, changing the stormwater management system, eliminating and building a new pump station, removing the 525 foot tree lined boulevard leading to the centralized open space, the 2.1 acre open space is gone which is being replaced with streets and housing, the removal of a fully amenitized 14,000 square foot community facility clubhouse and replaced with a 1,500 square foot clubhouse, the area where the original clubhouse was proposed is now ten residential lots, the elimination of Flower Garden Drive which was a major collector street and served as interconnectivity between these phases.

As far as the numerous utility changes, the complete replacement of a newly installed sewage pump station that has never been used to a place right next door to it, which she doesn't know how much sense that makes at \$350,000 to \$400,000 to move it how far? For what? The need to cut new services into existing water and sewer lines, the redesign of existing and approved utility plans to accommodate additional streets and housing, the removal of 55+ age restriction which will increase the traffic.

Unlike what the commission has heard from Griffin, EB has also spoken with DeIDOT and Ms. Hanson believed a letter from them is in the commissioner's packet as well that says they are very concerned about this and they are going to require a TIS (traffic impact study). EB has also spoken with the Sussex Conservation District and they will not be giving approval to this plan until Griffin gets an easement from EB to discharge over EB lands. Ms. Hanson stated Griffin does not have the approvals they need at this time.

Griffin is also increasing the number of units in their phase by twenty-two. The City approved the planned unit development with a certain number of units, which she thought was 722. If Griffin is adding 22 units to phase I, where are those 22 units coming from? From EB's phases. So EB will have to give up 22 of their units or they have to come back to the city to raise the number of units allowed.

If this application is to be processed as a new planned unit development, which Ms. Hanson feels it should be, the commission is aware of the process. It would require a preliminary plan review by the development advisory committee, then planning commission then city council and repeat for final plan approval. Clearly that process has not been followed, which is why EB feels this is improper.

EB wanted to get on the record that they had some sort of understanding that perhaps, if the application is approved from the commission and council, they were actually going to be approving this particular plan. EB thinks there are a lot of problems with trying to record this particular plan. For instance before a final subdivision plan is approved, letters of no objection are required from all of the approving agencies including DeIDOT, Fire Marshal, Conservation District and Public Works. In EB's opinion, because these changes are so substantial, any approvals previously obtained for this development should not apply. This application needs to go through a full new approval process. DeIDOT is going to require a TIS and Sussex

Conservation District has issues as well. Also, the application does not meet the minimum requirements for a conditional use submission because it does not show the existing or proposed utilities, any modifications needed to the approved utility plans to now accommodate this new plan, no details as to the location, size and elevation of the community building, outdoor pool, tennis courts, recreation field or picnic shelter, the housing elevations are noted as only being conceptual for discussion purposes only, no parking is shown for any of the uses described, and no landscaping plan was submitted.

In closing, Ms. Hanson stated the Milford Ponds PUD was approved by the City as a comprehensive development plan with each phase depended on the other in order for the entire development to meet the requirements of the town code. Modifying the PUD for only one phase of the development destroys the overall development concept. It makes the other phases non-code compliant if they have to stand by themselves. As a result it devalues the remaining portions of the property. According to Milford's code, the intent of a conditional use is to maintain a measure of control over the uses that have an impact on the entire community and that the applicant must use the property in a manner that assures neither an adverse impact on adjacent properties nor the creation of public nuisance. Here she believes she has shown that this application will have a severe impact on the adjacent property, particularly EB lands because it's going to render unbuildable a current record plan on phase II and a preliminary plan on phase III, it will disturb the vested rights of EB land and effectuate an unconstitutional taking of EB's property. What the commission actually sees before them tonight is the antithesis of a PUD.

Finally, a lot of what the commission has heard tonight Griffin does not have approval yet from the approving agencies and the applicants response to a number of the major issues is 'We'll consider that later' or with the next phase of the plan. This further fuels EB's concern that the applicant is setting up a situation where they really are not looking to build their entire plan. What they are looking to build is instead only a portion of their plan and leave the hapless residents in the City with a partially complete development and EB land without a roadway connection into their portion as well.

Mr. Rini thanked Ms. Hanson.

Dawn Mitchell of 7427 Honey Locust Ln asked when the 55+ restriction lifted. She and her husband recently built their home anticipating one day in the future living close to a retirement community, so this is very much a concern.

Reginald Wondoloski of 7434 Honey Locust Ln asked why the neighbors were not notified of the 55+ restriction being lifted.

Nancy Burkett of 1035 S DuPont Blvd stated she is concerned about it no longer being a 55+ active community. She is very confused, but impressed with the eloquent presentation made and the knowledgeable defensive response made. She doesn't know what a PUD is or a TIS and right now she feels like a POW because she feels the neighbors have been hoodwinked. A company that has talked to the school district and post office, but nobody has talked to the neighbors. There are unfinished developments all over Milford that cannot be sold which is a blight on this community. Homes are not being sold, even ones not in a development. Years ago

she considered selling her home, but then when this development was approved she changed her mind because the value of her home would go up because of its close proximity to a prized community. By removing the age restriction, it opens the sale of the homes in this development to people who cannot necessarily sustain mortgages instead of a segment of the community that has expendable dollars. Ms. Burkett asked if this will become another unfinished project that does not do anything for the value of the neighboring homes, the vision for the City nor the concern for the interest of citizens of Milford.

Mr. Rini called for any other public comments and hearing none closed the public hearing session.

Mr. Rini asked Mr. Norris to explain what a PUD is and give an update on the empty lots in Milford. Mr. Norris explained a PUD is a planned unit development and is intended to be a mixed housing type of arrangement with open space and allows limited commercial. The housing types can be single family homes, duplexes, town homes and condominiums. Back in 2006-2007 Milford, like any other community, was going through a housing boom and at that time there were approximately 6,500 approved residential lots/units that could be built upon. Some of those have since fallen to the wayside, been bought up, gone bankrupt, etc. A current estimate of buildable lots would be around 4,000 platted and recorded and awaiting approval from the City Engineer for a development agreement.

Mr. Rini asked Mr. Rutt to comment on the 55+ age restriction being lifted as well as Ms. Hanson's presentation. Mr. Rutt replied it is his understanding that is part of the application that is being presented this evening, to lift the age restriction. In looking back, this is the first time he has seen that particular issue. He asked the applicant to verify this.

Mr. Horn stated that is a separate piece and is part of a revision to the HOA documents. That was a covenant that has been stricken. When asked by Mr. Rutt when that was stricken, Mr. Horn stated in 2009 or 2010. Mr. Rutt stated that was not made part of the record, only commented on tonight and confirmed with Mr. Horn that was not something submitted to the City.

Mr. Rutt stated a comment was made regarding the record note, being the approval from the adjacent property owners. He asked if the actual recorded plat is part of tonight's record and asked for comments on the efforts been made to obtain the approval of the adjacent land owners.

Mr. Horn asked if possible he would like to defer responses to the next meeting in order to prepare for the volume of questions that were posed tonight.

Mr. Rutt advised the commission to table the application tonight and leave the record open.

Mr. Rini reviewed some of the issues that were posed this evening as the following:
The entrance and cross access requirements to the Geyer property as per DelDOT. Mr. Horn stated tonight was the first time he has heard this information and would need a copy of the DelDOT letter.

If sidewalks will be installed along Rt 113 on property that is not owned by Griffin. Mr. Horn stated sidewalks will not be installed further than Griffin land.

Mr. Rutt referenced a letter from DelDOT that Ms. Hanson referred to that would require a traffic impact study. There was also mention of Sussex Conservation District requiring an easement. Neither of those letters are part of the record, contrary to her belief. Mr. Horn stated he has not seen the letters, in fact Griffin has had conversations with both of those agencies that run contrary to what Ms. Hanson has stated.

Mr. Rutt referred to Ms. Hanson's statement that this would be a property taking, and he doesn't know that he would agree to that because just as Griffin has redesigned, EB can too. Please have this issue addressed as well.

Ms. Hanson had also commented earlier that she thinks this procedure is improper. Mr. Rutt would like Ms. Hanson to submit information as to why these points, other than the comments tonight, why those points are being raised as an objection to the application and approval. He asked the procedure be addressed and Mr. Horn respond to the information Ms. Hanson submits.

Mr. Rini confirmed with Mr. Rutt the commission is seeking additional information from Ms. Hanson specifying EB's issues and Mr. Horn submit a reply to those issues. Once the information is received by the City Planner, it will be copied to the City Engineer, City Solicitor and City Manager.

Mr. Rini made a motion to table the application until the June 21, 2011 planning commission meeting, provided the information is received in its totality.

Mrs. McColley asked if there is anything legally binding on how many modifications can be made to a conditional use. Mr. Rutt replied an applicant can apply to amend a conditional use and there is no limit. Mrs. McColley felt the City is very busy and feels it has been put into a squabbling match. She highly encouraged Griffin and EB to solve the issues on their own.

Mr. Rutt reminded Mrs. McColley he has asked the parties to address the procedure.

Mr. Pilla seconded the motion. Motion carried unanimously following a poll of the commission.

Mr. Rini stated the application will be on the planning commission agenda next month, June 21, 2011, and will be discussed provided both parties have submitted additional information that addresses the discussed issues in their totality. Mr. Rutt stated the public comment session has been closed, but the answers to the public's questions should be addressed in what the public has raised to tonight.

CITY PLANNER MONTHLY REPORT

Mr. Norris informed the commission the SE Master Plan is in draft form and will be presented to Council on May 23, 2011. The expectation is to hold public meetings in June and will be presented formally to the commission at their June meeting for recommendation to Council.

With no further business, a motion to adjourn by Mr. Lane was seconded by Mrs. McColley. The meeting adjourned at 9:33 pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Christine Crouch". The signature is written in a cursive style with a large initial 'C'.

Christine R. Crouch
Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**
*Minutes of Meeting
June 21, 2011*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, June 21, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Karen McColley, William Lane, Archie Campbell, Jamie Burk
ALSO: City Planner Gary Norris and Recording Secretary Terri Hudson

Mr. Rini called the meeting to order at 7:06 pm noting Kim Hoey, George Pilla and Marvin Sharp were absent.

APPROVAL OF MINUTES

A correction to page 15 of the May 2011 minutes was noted. The minutes for the May 2011 regular monthly planning commission meeting were approved pending the correction to page 15 with a motion by Mr. Lane, seconded by Mr. Campbell.

CHAIRMAN MONTHLY REPORT

Chairman Rini announced he attended the June DAC meeting and a public hearing regarding the SE Master Plan which the commission will hear later this evening.

UNFINISHED BUSINESS

Morris & Ritchie Assoc, Inc. on behalf of Griffin Realty LLC; Project No 11-167

Conditional Use Modification-Milford Ponds

Rt 113

Tax Map 1-30-6.00-108.00; -167.00 thru -550.00; -557.00; -558.00; 107.50+/- Acres; R-1, R-2, R-3 Zoning

Adoption of Resolution PC11-012

Chairman Rini reminded the commissioners this item was on the agenda at the last meeting and Mr. Rutt had asked several items be addressed by the applicant and the adjacent property owner's attorney. Mr. Brendon Warfel called Mr. Rini and informed him that while he served on the planning commission in 2006, he recalls a verbal agreement between Mr. Geyer and the property in question granting access to the Geyer property.

Mr. Rutt reported he received a letter from Ms. Hansen, who represents EB Lands, the adjacent property owner, and also had a phone conversation with the attorney for Griffin Realty. The two parties are working on an agreement and have asked the application be tabled until the July 19, 2011 planning commission agenda.

A motion to table the application until July 19, 2011 planning commission hearing was made by Chairman Rini, seconded by Mr. Lane. Motion carried unanimously following a poll of the commission.

Two Farms Inc on behalf of Harry H. Mulholland, trustee of James P. Hammond, III; Project No 11-166

Reconsideration of Preliminary Site Plan-Royal Farms #166

601 N DuPont Blvd

Tax Map MD-16-183.09-01-01.00; -02.00; -03.00; 2.697+/- Acres; C-3 Zoning

Modification of Resolution PC11-010 and PC11-011

Chairman Rini announced after the last planning commission meeting, he asked that the item be added to this month's agenda because he had an uneasy feeling with the way the vote ended up. To remind the commission, resolution PC11-010 was for the conditional use which was unanimously approved. Resolution PC11-011 was for the preliminary site plan, which was also approved unanimously but with the condition the rights out be removed from Rt 113.

The term reconsideration is usually used when an application is denied but in this case it was approved, therefore the reason for the reconsideration is regarding the conditions placed on the approval. It seemed to Chairman Rini there may have been misinformation used at the May meeting when discussing this project.

Specifically, when recalling the entrances and exits at the existing Royal Farms on Rt 113 and Rt 36. In May the commission thought there was no exit from Royal Farms onto Rt 113, but after further investigation, it was discovered the existing Royal Farms does have a rights in and rights out onto Rt 113.

Further, Chairman Rini thought the commission heard the entire frontage of the proposed site, facing Rt 113, was being used for access and from to Rt 113. After further investigation by Chairman Rini, it was discovered the frontage of the site to Rt 14 is being used as access in and out onto Rt 14, but the frontage of the site to Rt 113 has concrete curbing with only a portion open to be used as access to and from Rt 113. Leaving him to believe the site has been used in the past with a rights in and rights out onto Rt 113.

A traffic impact study on the site has been submitted to the City and was included in the commissioner's packets for them to review. According to it, DelDOT is accepting the rights in and rights out onto Rt 113.

For clarification, Chairman Rini still supports the applicants attempting to gain interconnectivity with the adjacent property owner.

Mr. Rutt stated one of the conditions was that the entrance would only be a right in, the other condition had to do with a concrete barrier. Mr. Rutt looked at the Delaware Code, and per Title 17 section 131A is specific in that all public roads, causeways, highways and bridges and so forth are under the absolute care, management and control of the Department of Transportation. Anything that has to do with entrances or these barriers, this commission does not have jurisdiction. Also, section 146 of Title 17 is regarding access to state maintained highways and again it gives the state absolute jurisdiction over all entrances off of the state right of ways into properties along highways. The condition regarding the right in and right out, the commission does not have jurisdiction to dictate that.

Chairman Rini made a motion to rescind the previously adopted resolution PC11-011 and to approve a revised resolution PC11-011 with no conditions. Motion was seconded by Mr. Campbell. Motion carried unanimously following a poll of the commission.

NEW BUSINESS

**Landmark JCM on behalf of Milford Plaza Enterprises LLC; Project No 11-168
Preliminary Site Plan
600 N DuPont Blvd
Tax Map MD-16-183.09-01-04.00; 21.43+/- Acres; C-3 Zoning
Resolution PC11-013**

Mr. Norris explained this application was reviewed by the DAC and is essentially an expansion of the existing building and a pad site addition.

Chairman Rini noted the improvements and striping of the existing parking lot.

Mr. Keith R. Kooker, PE of Landmark JCM was present to represent the application. Mr. Kooker stated what is being proposed in a 15,000 square foot addition to the existing building and a 4,200 square foot pad site along Rt 113.

Preliminary discussions are being conducted with DelDOT and a traffic impact study has been submitted to them. They have preliminarily requested a 10' multi-modal lane and the entrance by Donut Connection be closed due to what DelDOT feels is a high rate of accidents at that entrance. There may be additional requirements from them.

Soil infiltration results are pending and once received Mr. Kooker will meet with the Conservation District. He anticipates a stormwater management bio retention facility along Rt 14 for the site.

DAC requested parking islands, which the owner is agreeable to. Mr. Kooker is working on those plans currently. Chairman Rini confirmed new striping is part of the plans.

Mr. Norris confirmed Mr. Kooker is aware of what the City Engineer is requiring of the owners and that the DAC comments have been replied to. Mr. Norris asked Mr. Kooker to confirm the radius at the corner of the proposed addition meets with the Fire Department's and Fire Marshal's approval prior to submitting for Final Site Plan approval.

Mrs. McColley feels there will be significant traffic back ups at the Rt 14 entrance/exit if the entrance at Donut Connection is closed. She asked if there will be three lanes provided for the exit – one for turning left and two for turning right. Mr. Kooker replied he anticipates two lanes provided for the exit onto Rt 14 – one for left turns, one for right turns, but it will be dictated by DelDOT.

Mr. Campbell and Mr. Burk noted the entrance road off of Rt 14 will be shorter due to the addition and agreed there will be backed up traffic.

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

Chairman Rini reminded the applicant the site plan would be required to come back for Final Site Plan approval. Mr. Lane made a motion to adopt resolution PC11-013, seconded by Mr. Burk.

Mrs. McColley asked if any conditions could be put on the resolution regarding the entrance/exit onto Rt 14. Mr. Rutt replied conditions could be made regarding internal traffic patterns, but not the entrances and exits, as was previously discussed regarding Royal Farms.

Motion carried by unanimous roll call vote.

Comprehensive Plan Amendment / SE Master Plan

Mr. David Edgell from the Office of State Planning was present. Mr. Norris and Mr. Edgell provided a power point presentation, which was the same presented at city hall on June 16, 2011 during a public hearing.

Following the presentation, Chairman Rini confirmed the presentation and the draft plan is on the city website under the Planning Department page and then called for public comments.

Mr. Larry Hughes of Cedar Creek Landing has concerns with the master plan going south of Johnson Road. He understands the thinking behind it, but the community of Lincoln is in the process of putting together legal representation to keep the city limits as they are. He commented if Hearthstone II is developed as Hearthstone Manor is the demographics of the community will be basically be 55+ which offers no potential growth of industrial planning. The second problem he has is that the corner of Elks Lodge Rd and Wilkins Rd being a substation location. That would knock out 50% of the corner for potential growth. He feels the location of the substation should be moved closer to Hearthstone where the majority of people need public transportation.

Mr. Dewey Sapp of Sapp Road stated he is within the growth zone. He asked what the reason was for the state to hold up the plans the city had in 2007 to move the Milford city limits close to those of Slaughter Beach and enclose all of Lincoln. He also asked what Milford is afraid of when they say they want to be in control in case the growth of the city gets ahead of them. Most of his neighbors moved into the area because they did not want to live inside city limits. He doesn't see what the land grab is other than the tax base.

Mr. Norris replied the city policy is such that it does not actively pursue annexation. He repeated it. What the city is required to do is accept petitions for annexation from property owners wishing to be annexed.

Mr. Sapp stated the people living outside the city, who do not get to vote for Milford council members, have no vote if they don't want to be annexed. So who can those people outside city limits complain to if they don't want to be annexed?

Mr. Norris asked if what Mr. Sapp is stating is that the residents on Sapp Road have no desire to be annexed. Mr. Sapp stated that is correct. Mr. Norris confirmed his understanding and again stated the City is not actively pursuing annexation of properties that do not wish to be annexed.

Mr. Howard Webb of Cedar Neck Road asked if the TDR sending areas are confined to the SE area. Mr. Norris stated yes, as proposed. Mr. Webb felt on the surface it looks like a real good plan, but the narrowness of the plan will make it weak. He feels the same type of planning should be applied to the other three quadrants of the city. Mr. Webb asked if there is a way to hostile annex Mr. Sapp's property. Mr. Rutt replied no, it would have to be requested by Mr. Sapp. Mr. Webb asked even if Mr. Sapp was surrounded, could it be done. Mr. Rutt replied no. Mr. Webb stated more single family homes are needed in the city.

Mrs. McColley recommended the SE Master Plan be incorporated into the Comprehensive Plan, seconded by Mr. Campbell. Motion carried by unanimous roll call vote.

Zoning Code Amendment/Ordinance 2011-05-Outdoor Woodburning Furnaces

It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor woodburning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, with the adoption of this article, it is the intention of the City of Milford to establish and impose restrictions upon the construction and operation of outdoor woodburning furnaces within the limits of the city for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants.

Section 1.

An Ordinance to amend the Code of the City of Milford, Chapter 230, thereof, entitled, Zoning, by defining and regulating Outdoor Woodburning Furnaces in the City of Milford.

Section 2.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Outdoor Woodburning Furnace.

OUTDOOR WOODBURNING FURNACE-An accessory structure, designed and intended, through the burning of wood, for the purpose of heating the principal structure or any other site, building, or structure on the premises.

Section 3.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Firewood.

FIREWOOD-Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

Section 4.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Stack or Chimney.

STACK or CHIMNEY-Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating device or structure, including that part of the structure extending above a roof.

Section 5.

Amends Article VIII, Miscellaneous Provisions, §230-41, Accessory Uses, by adding a new paragraph (D) regulating Outdoor Woodburning Furnaces, to read as follows:

D. Outdoor Woodburning Furnaces

(1) Prohibited

(A) The construction and operation of outdoor woodburning furnaces is hereby prohibited within the City of Milford.

(2) Nonconforming Uses

(A) All woodburning furnaces operating within the City of Milford must be removed by the property owner from the subject premise no later than April 30, 2012. This will allow sufficient time for an alternate source of heat to be established. During the transition, such use shall conform with the following provisions:

(1) Only firewood and untreated lumber are permitted to be burned in any outdoor furnace.

(2) Wood must be stored in a neat pile no closer than five feet from side and rear property lines.

Section 6. Dates.

Introduction to City Council: 06/13/11

Planning Commission Hearing: 06/21/11

City Council Hearing: 06/27/11

Ordinance becomes effective ten days following adoption date by City Council.

Mr. Rutt stated this ordinance was introduced to City Council on June 13, 2011. Prior to it being introduced, City Council amended paragraph D 2 specifying:

All woodburning furnaces operating within the City of Milford must be removed by the property owner from the subject premise no later than April 30, 2012.

The amendment is as follows:

*All woodburning furnaces operating within the City of Milford must be removed by the property owner from the subject premise no later than **August 31, 2011**.*

With that amendment, it was introduced in conformity with section 4.10 of the City Charter.

Mr. Norris provided comments Mrs. Stevenson offered in her absence, which were included in the packet.

Chairman Rini called for public comments.

Mr. Michael Ward, 702 SE Second Street, stated he is in favor of the ordinance. His professional background is that of land use and codes and he conducted research via the internet that indicated how other municipalities have dealt with this issue. He supplied that information to the City Manager. In short, setbacks were required for the stacking of wood and the height of the smoke stack was regulated. He asked the commission consider adding terminology for the stacking of wood to include prohibiting the stacking of wood in the front or if permitted in the front yard it be screened from neighboring property owners.

Ms. Shirley Thoms, 204 Charles Street, stated she is in support of the ordinance. She resides adjacent to one of the woodburning furnaces, in fact her home is about 60' away from the furnace itself. When it was installed several years ago, she was not alarmed because she didn't know what the impact would be on the neighborhood. She grew up in a home heated with wood. She understands the reasoning for installing the furnace; it is an enormous house to heat. But the difference between an indoor wood stove and an outdoor woodburning furnace cannot be understated. The quantity of smoke from the furnace is much more and the character of the smoke is much more noxious. It's very heavy. It's visibly different. Maybe it's the wood, maybe it's a problem with the smoke stack height, but it's a problem that lasts about six months of the year. Ms. Thoms erected a five foot fence to screen her view of the wood heap, which at times is five feet tall and thirty feet long in preparation of the heating season, and it's not stacked. It's just enormous. In 2009 Ms. Thoms contacted the code enforcement officer to report the problem at which time he encouraged her to attend a neighborhood meeting that was taking place in the very near future. She did attend the meeting and commented during the meeting that the City should take action to prohibit more of these furnaces be installed.

Mr. Sam Wilkes, 213 Fisher Avenue, who is a relative of a resident that has an outdoor woodburning furnace, stated he is against the ordinance. He has lived next to one of the furnaces for three years. He believes there is no difference in the smoke emitted from the indoor stoves and the outdoor furnaces. He felt the fire from the furnace may produce more smoke because it is a bigger fire, but that would be the only difference. He assisted Mr. Carr in installing his smoke stack, which is 10" in diameter and 10' higher than required. Regarding the wood pile being in disarray, he feels that is nothing compared to some structures in Milford. Mr. Wilkes stated if outdoor furnaces are banned, he believes indoor wood stoves will be next because they emit smoke too. No one said anything when Ms. Thoms walks her dogs and lets them use the bathroom on Mr. Carr's yard which leaves dead spots in the grass. It's just part of being courteous neighbors.

Ms. Brenda Carr, 700 SE Second Street, who has an outdoor woodburning furnace, stated the property was purchased in 2002 and as a reminder to the commission it was an abandoned property that has been improved greatly. They take pride in their home and the City of Milford. The house is on the national registry of historic homes as well as part of the Milford historic properties. The home sits on one acre. They try to keep the home as historically accurate as possible, which includes old windows, which makes it hard to heat. In the first seven years of owning the home, it cost \$30,000 to heat the home with oil and

electric. That only maintained the temperature of 66 degrees. Mrs. Carr feels the neighbors have been accommodated by putting the stack higher than required. Prior to installing the furnace they spoke with Brad Dennehy, who was the building inspector at the time, and it took him a month and a half to approve the installation. He stated at that time there was nothing that would prohibit the Carr's from putting in the furnace. The entire installation process and back up heating methods including a small back up boiler and radiant floor heating cost about \$30,000. Mrs. Carr stated at the time of installation, the furnace was EPA certified. There is also an indoor woodstove in the home. She feels like they are being discriminated against by disgruntle neighbors. She feels this is a property taking issue and have consulted with Schmittinger and Rodriguez regarding the issue. Mrs. Carr asked how the ordinance has gone from allowing existing furnaces to be grandfathered in to now having to be removed by the end of August. That's only 72 days. Regarding the complaints, specifically the wood pile, there are a lot of places in Milford that need to be cleaned up more so than her wood pile. There is an outdoor furnace on Truitt Avenue that was installed in 2006 which has had no complaints on it. Their smoke stack is about 12' high and 50' to their neighbors, yet no complaints on them. Mrs. Carr stated she has seven fireplaces in her home and if she had a fire in all seven, it would emit the same amount of wood burning smoke. This was an easier solution to running around and keeping them lit, but if she needs to, she will. She asked if the air quality has been actually tested. Mr. Don Williams, the current building inspector, has been to the property numerous times and his opinion is that he sees no more smoke than normal wood stoves. Mrs. Carr stated the smell she finds offensive and to the point of nausea is that of Sea Watch, but they are still in operation, and she lives two blocks from it. She asked how many complaints have been made regarding her furnace and how many complaints does it take to have something removed in this community. What is the ratio of complaints that warrants action? Regarding the complaints referencing the dogs on her property, to include a complaint against using a bark collar, the SPCA and the Milford Police have been to the property numerous times with no violations being issued. Then there have been complaints regarding the Carr's pool and the remodeling of the garage. The garage complaint was that it was being built too high. The inspector performed the inspections and there were no violations. Mrs. Carr then acknowledged the wood pile is a little messy. She further stated no one has come to them asking them to see what can be done, such as adding a taller stack, to resolve the neighbor's complaints. She said they would gladly add height to the stack. She feels a year time frame to test a higher stack would be appropriate. To replace the system would be a very heavy economic problem and then utilize an alternative method of heat. Mrs. Carr asked that the existing furnaces be grandfathered in and in return the wood will be stacked nicely with a fence around it, will burn only seasoned dry wood, add another stack or two, operate the furnace between November and April and if the furnace falters it will not be replaced.

Mr. Rutt asked Mrs. Carr when the furnace was installed. Mrs. Carr replied 2007. Mr. Rutt asked if Mrs. Carr wanted the documents and photos she referenced made part of the record. Mrs. Carr confirmed she does.

Ms. Joanne Matthews, 300 Truitt Avenue, stated since her furnace was installed there have been no complaints on it and does not understand how one person can turn over someone else's home because they don't like the smoke. She grew up around indoor wood stoves and her kids too. The indoor wood stoves are more dangerous because the kids can fall into it and get second and third degree burns on their bodies. There has never been a problem with her furnace and if she has to remove her furnace, she will have to ask for help from others, which she has never done before. In the winters when the electric goes out, she has heat and her grandkids have a nice safe place to stay without freezing. She doesn't understand how one person can tell them they can't have a furnace in Milford. There is no documentation that proves the smoke is hazardous to health.

Chairman Rini closed the public comment session.

Mrs. McColley stated one of the most important jobs of the City is to protect its residents. She believes protecting the rights of individuals is also very important. She suggested the commission recommend to council allowing the existing furnaces to be grandfathered and put stipulations in that they be checked to ensure they are safe.

Mr. Lane agrees. The property owners complied with the code at the time. He believes the date the furnaces are to be removed should be revisited. He is in agreement that there should be an ordinance against them.

Mr. Campbell acknowledged the property owners followed everything they were supposed to. He questioned why the date was changed from April 2012 to August 2011. He agrees with Mrs. McColley and Mr. Lane regarding the existing furnaces being permitted.

Mr. Rutt stated at the Council meeting on Monday the date was changed prior to it being introduced. There was no discussion on it.

Mr. Burk recalled grandfathering existing signage when that ordinance was moving toward adoption. He has a hard time with the August 2011 date. He also asked what determines what a neat pile of wood is. He has concerns that today is outdoor furnaces and maybe later down the road it will be indoor wood stoves.

Chairman Rini recalled there were numerous complaints regarding the furnaces that were directed to Code Enforcement. City Council directed the department to draft an ordinance, which is what the commission sees tonight.

All of the comments that were offered tonight will be part of the record for City Council to review. In summary, changing the date from August 2011 and the property owners are willing to make concessions in order to keep their furnaces in exchange for being grandfathered in or extending the date for the furnace to be removed.

Chairman Rini made a motion to recommend approval of the ordinance, including all of the comments heard tonight from both the public and the commission be taken into consideration. Seconded by Mr. Lane.

Mrs. McColley questioned the definition of a neat pile of wood and asked if that be taken into consideration by Council.

Chairman Rini enumerated the following comments Council is being asked to consider:

Stacking of wood in front yard and whether it should not be allowed or screened

Quantity or thickness of smoke

Wood stack not in heaps

Woodburning stove either inside or outside the house

Eyesore of the house on Church Street

Year property bought

High enough stacks

Brad Dennehy gave permission

Installed in 2006 and 2007

No code at time

Discriminated against

Without due process

Seven inside fireplaces-what is worse

Have any complaints been investigated
 If grandfathered some owners are willing to have concessions made in exchange
 How many complaints -one or many
 Does the City have documentation on unsafe woodburning stoves

Mr. Burk added the definition of firewood needs to be reviewed.

Motion carried unanimously with the following votes:

Mrs. McColley	Yes-with provision on definition.
Mr. Lane	Yes.
Mr. Campbell	Yes. Needs to go back to council and they did everything correctly and now being penalized.
Mr. Burk	Yes. As long as the items discussed are addressed with council.
Chairman Rini	Yes. Go back to council with the extensive list of concerns of the public and homeowners.

Chairman Rini reminded the public there is a council meeting on June 27, 2011 and encouraged public attendance.

Zoning Code Amendment/Ordinance 2011-06-Recreational Vehicles

Section 1.

An Ordinance to amend the Code of the City of Milford, Chapter 230, thereof, entitled, Zoning, by defining and regulating Recreational Vehicles in the City of Milford.

Section 2.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Recreational Vehicle.

RECREATIONAL VEHICLE- Any vehicle used for recreational purposes, including but not limited to, antique or classic autos, drag or race cars, motorcycles, boats, boat trailers, jet skis, campers, camper trailers, motor/mobile homes, snowmobiles, ATVs, all-terrain vehicles and utility trailers.

Section 3.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Vehicle Height.

VEHICLE HEIGHT - A vehicle height will be determined by measuring from the ground surface to the top of the vehicle, as stored.

Section 4.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Vehicle Length.

VEHICLE LENGTH - A vehicle length will be determined by the physical measurement of the outside dimension of said vehicle, i.e., a boat will be measured from the bow to the stern, a camper/motor home will be measured from bumper to bumper, a utility trailer or camper trailer will be measured front to rear excluding the trailer tongue, a boat trailer will be measured from the rear to the point of the bow support excluding the tongue.

Section 5. Amends Article IV, Off-Street Parking and Loading, §230-20 General Provisions, by inserting a new sentence at the end of Paragraph I, to read as follows:

(I) Boat, trailer, bus and van parking. In any residential district, no house trailer, camper, boat trailer, bus or boat shall be parked in the front yard. Parking is allowed in the side or rear yards five feet from the property line if it does not take up space normally occupied by an automobile. All vehicles requiring a trailer for transportation must be stored on a registered trailer.

Section 6. Amends Article VIII, Miscellaneous Provisions, §230-44, Prohibited Uses, by amending Paragraph B and inserting text, to read as follows:

B. The parking, storing or keeping of a dismantled, inoperative or discarded motor vehicle, to include, but not limited to cars, boats, boat trailers, campers, tractors or any parts thereof unless within an enclosed building. All vehicles requiring tags/registration must be valid at all times and vehicles maintained in its original configuration. All boats requiring a trailer for transportation must be stored on a registered trailer.

Section 7. Dates.

Introduction to City Council: 06/13/11

Planning Commission Hearing: 06/21/11

City Council Hearing: 06/27/11

Ordinance becomes effective ten days following adoption date by City Council.

This ordinance was introduced at the last council meeting and it amends the ordinance relating to recreational vehicles. There have been no changes from what was seen originally.

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

Mr. Lane moved to recommend approval of the ordinance, seconded by Mrs. McColley. Motion carried following a poll vote.

CITY PLANNER MONTHLY REPORT

None provided.

With no further business, a motion to adjourn by Mrs. McColley was seconded by Mr. Lane. The meeting adjourned at 9:31 pm.

Respectfully submitted,



Christine R. Crouch

Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
July 19, 2011*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, July 19, 2010.

PRESIDING: Chairman Charles Rini

IN ATTENDANCE: Karen McColley, George Pilla, William Lane, Marvin Sharp, Archie Campbell,
Jamie Burk

ALSO: City Planner Gary Norris and Department Administrative Assistant Christine
Crouch

Chairman Rini called the meeting to order at 7:01 pm noting Mrs. Stevenson was absent.

APPROVAL OF MINUTES

The minutes for the June 2011 regular monthly planning commission meeting were not available this month but will be in next month's packet for review and approval.

CHAIRMAN MONTHLY REPORT

Chairman Rini reported he attended the July 11th Council meeting where the Mayor reported Council is close to making a decision on who will replace Mr. Gleysteen on the Planning Commission. As a reminder Mrs. Stevenson, Mr. Pilla and Chairman Rini's terms expire in August.

UNFINISHED BUSINESS

Morris & Ritchie Assoc, Inc. on behalf of Griffin Realty LLC; Project No 11-167

Conditional Use Modification-Milford Ponds

Rt 113

Tax Map 1-30-6.00-108.00; -167.00 thru -550.00; -557.00; -558.00; 107.50+/- Acres; R-1, R-2, R-3

Zoning

Adoption of Resolution PC11-012

Mr. Rutt explained the applicant has requested this item be tabled until the August Planning Commission agenda.

A motion by Mr. Sharp to table the application until August 16, 2011 was seconded by Mr. Pilla. Motion carried unanimously following a poll vote.

Zoning Code Amendment/Ordinance 2011-05-Outdoor Woodburning Furnaces

It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor woodburning furnaces, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, with the adoption of this article, it is the intention of the City of Milford to establish and impose restrictions upon the construction and operation of outdoor woodburning furnaces within the limits of the city for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants.

Section 1.

An Ordinance to amend the Code of the City of Milford, Chapter 230, thereof, entitled, Zoning,

by defining and regulating Outdoor Woodburning Furnaces in the City of Milford.

Section 2.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Outdoor Woodburning Furnace.

OUTDOOR WOODBURNING FURNACE-An accessory structure, designed and intended, through the burning of wood, for the purpose of heating the principal structure or any other site, building, or structure on the premises.

Section 3.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Firewood.

FIREWOOD-Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

Section 4.

Amends Article I, General Provisions, §230-4, Definitions, by adding a definition for Stack or Chimney.

STACK or CHIMNEY-Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating device or structure, including that part of the structure extending above a roof.

Section 5.

Amends Article VIII, Miscellaneous Provisions, §230-41, Accessory Uses, by adding a new paragraph (D) regulating Outdoor Woodburning Furnaces, to read as follows:

D. Outdoor Woodburning Furnaces

(1) Prohibited

(A) The construction and operation of outdoor woodburning furnaces is hereby prohibited within the City of Milford.

(2) Nonconforming Uses

*(A) All woodburning furnaces operating within the City of Milford must be removed by the property owner from the subject premise no later than ~~April 30, 2012~~ **AUGUST 31, 2011**.*

This will allow sufficient time for an alternate source of heat to be established. During the transition, such use shall conform with the following provisions:

- (1) Only firewood and untreated lumber are permitted to be burned in any outdoor furnace.*
- (2) Wood must be stored in a neat pile no closer than five feet from side and rear property lines.*

Section 6. Dates.

Introduction to City Council: 06/13/11

Planning Commission Hearing (Revisited): 07/19/11

City Council Hearing: 07/25/11

Effective Date: 08/31/11

Mr. Rutt explained there was a problem with the timing of the advertising of this ordinance in relation to the hearing dates. The Code requires 15 days of notice however inadvertently it was advertised 14 days and therefore it was decided by Council to re-advertise the ordinance and have it heard at an additional public hearing which is why it is being revisited by the Commission. There have been no changes since the last time it was seen by the Commission last month. Additional comments will be accepted this evening and it will be heard by Council on July 25, 2011.

Chairman Rini reminded the Commission Council is seeking a recommendation from the Commission and that all comments received prior to this evening will remain part of the record.

Chairman Rini called for public comments.

Mr. John Webb, 610 SE Second Street stated he is a neighbor of one of the furnaces and claims it is a huge problem. His house, drapes, furniture and clothing all smell of smoke and he cannot open his windows because of the smoke in the air. He stated this problem does not just affect one or two houses near the subject furnace, but many neighbors.

Mr. Tom Cahall, 103 Bridgeham Avenue asked for a definition of a wood burning furnace. He has a fire pit and wants to know if that is the same thing under this ordinance. Mr. Norris read from the ordinance the definition of a wood burning furnace:

OUTDOOR WOODBURNING FURNACE-An accessory structure, designed and intended, through the burning of wood, for the purpose of heating the principal structure or any other site, building, or structure on the premises.

Mr. Rutt stated a fire pit would not fit in definition.

Michael Ward, 702 SE Second Street stated he spoke at the last meeting and wanted to inform the commission he does have a letter from his doctor stating smoke is detrimental to health, which was questioned at the last meeting. He respectfully requested the Commissioners read all the comments prior to recommending the ordinance to Council.

Mrs. Shirley Thoms, 204 Charles Street provided the Commission a hard copy of the difference between outdoor wood burning furnaces and indoor wood stoves, which at the last Commission meeting the terms were being interchanged by some speakers of the audience. They are clearly not the same. The commission received the information she provided in their packets.

Robert Southard, 808 SE Front Street asked if these furnaces are banned, what will be next.

Ms. Martha Pileggi, 607 SE Second Street stated even though the smoke is outside it gets into the houses when the windows are closed and its just as bad inside as it is outside. She wishes to enjoy her home without smoke smell.

Mr. Allan Knowles, 605 SE Third Street has the same concerns as Mr. Southard and has never experienced an overwhelming smoke smell.

Mr. John Cannon, 606 SE Second stated he lives close to one of the outdoor furnaces, which was installed without any consideration to the neighbors. It creates a great deal of smoke by nature of its design, it is inefficient and the particulate matter drifting throughout the neighborhood. The smoke that hangs in the neighborhood stinks, is irritating, and overwhelms ones clothes and house. He would like to see the ban extended and all units removed from the City.

Mr. Sam Wilkes, 213 Fisher Avenue, who is a relative of a resident that has an outdoor woodburning furnace stated he spoke at the last meeting. As he stated before, if he can't burn his indoor wood stove, he would not be able to afford to heat his house. He also stated if the outdoor furnaces are prohibited Mr. Carr could build a shed around the furnace he has, attaching it to the house, and then it would be an indoor furnace. If that were to happen, Milford would have to ban indoor furnaces. Regarding Mr. Ward, Mr. Wilkes stated he complains too much and it is borderline harassment. He continued by stating Sea Watch smells year round so why not shut them down.

Mrs. Brenda Carr, 700 SE Second Street stated she has the furnace in question and asked why it took the building inspector a month and a half to get a decision back to her that it was ok to install the furnace. She wishes to have her furnace grandfathered in and feels no due process has been followed. Further, she feels this is a property taking issue. She spent a lot of money to install this furnace and financially it is not feasible to replace it.

Mr. Joseph Matthews, 300 Truitt Avenue stated if the wrong wood is burned, it will create more smoke than it should. Wood burning smoke is wood burning smoke though, whether it comes from an outside furnace or an indoor stove. If the unit is being used as it was intended to be used, with appropriate materials be burned, there will not be any problems with smoke.

Mr. Bill Harris, 835 S duPont Boulevard stated he used to own Walls Farm Equipment and is extremely familiar with wood stoves and outdoor furnaces. He took the liberty of looking at Mr. Carr's unit and it appears to meet all the manufacturer's requirements. He agrees with Mr. Matthews that if used properly according to the manufacturer's specifications, it will function properly. He is in favor of keeping the outdoor furnaces.

Hearing no additional public comments, Chairman Rini closed the public comment session.

Mr. Sharp stated according to what he is reading, coal can be used in these units too and sulfur coal is worse than wood. He asked if the City was contacted prior to the unit being installed. Mr. Rutt replied they were contacted. Mr. Sharp questioned why then the existing furnaces would not be grandfathered, which is the case with other ordinances. Mr. Rutt explained this ordinance was drafted to not permit existing ones to remain. Mr. Sharp expressed concerns with creating such a hardship on the property owners with the existing furnaces. He also feels if the ordinance is adopted as written the types of fuels that can be used in it needs to be better explained.

Mrs. McColley commended the public for their attendance at these hearings. That is what they are intended for is public comments. She feels the August 31st deadline is insufficient time to amend their heat source in time for the upcoming heating season. Further, she agrees with Mr. Sharp on the clarification of fuel types.

Mr. Burk expressed concerns with the definition of fuel types, what is a neat pile of wood and the time frame to find an alternative heat source. He agrees with Mr. Sharp that since they received approval from the City, the existing units should be grandfathered.

Mr. Lane feels August 31st is not enough time to replace the unit. If indeed there is an air quality issue here, he would like to see test results that support those claims.

Mr. Campbell questioned why DNREC has not been called in to perform air quality testing. He feels that should be done first before the ordinance is passed.

Chairman Rini motioned to approve the ordinance to include the comments from last month's meeting

and this months, seconded by Mr. Lane.

- Mrs. Mccolley No, not all of the information needed has been provided.
- Mr. Pilla No, for reasons stated.
- Mr. Lane No, for reasons stated.
- Mr. Sharp No, for reasons stated.
- Mr. Campbell No, for reasons stated.
- Mr. Burk No, for reasons stated.
- Mr. Rini Yes

NEW BUSINESS

Robert Nash Associates on behalf of G. Walter and Janet R. Swain; Project No 11-169
Final Minor Subdivision
5877 S. Rehoboth Boulevard
Tax Map 3-30-11.00-42.00; 7.65 +/- Acres; C-3 Zoning
Adoption of Resolution PC11-014

Mr. Bob Nash of Bob Nash Associates is representing the applicant. This is a final minor subdivision on Rehoboth Blvd known as Putt A Rosa. The intent is to subdivide around the existing gas station, hence the waiver request to Council to waive the minimum one acre lot size. The gas station has been a long standing business in Milford and the owners hope the recreational area will be continued if not expanded. Mr. Swain plans to retain ownership of the gas station.

Water and sewer are not available to the site, so an onsite septic and well are utilized. Mr. Norris confirmed there is one septic that feeds both sites and two wells, one for each site. Mr. Norris also confirmed the project has been reviewed by Public Works and has received their approval.

Mr. Nash reminded the commission DeIDOT has issued their approval, as has the Conservation District.

A motion to adopt resolution PC11-014 was made by Mr. Pilla and seconded by Mr. Lane. Motion carried unanimously following a poll vote.

Davis, Bowen & Friedel, Inc on behalf of 4Blaine LLC; Project No 10-146
First Extension Request for a Preliminary Site Plan
215 W Liberty Way, Independence Commons
Tax Map MD-16-173.00-01-02.18; 1.42 Acres; OC-1 Zoning
Adoption of Resolution PC11-015

Mr. Ring Lardner of Davis, Bowen & Friedel was present on behalf of the property owner, Dr. Bunting of 4Blaine LLC.

He explained the plans are 90% complete however the building went bankrupt therefore putting the construction on hold. Dr. Bunting intends to move forward with obtaining final approvals in 2012 and begin building. Her intention is to in the new location in 2013.

Mr. Norris recommended the commission grant the one year extension and keep the dates as the original approval dates. Mr. Rutt agreed with the dates.

A motion by Mr. Campbell to adopt resolution PC11-015 was seconded by Mr. Burk. Motion carried following a poll vote.

CITY PLANNER MONTHLY REPORT

Mr. Norris reported the SE Master Plan was presented to Council for their approval after a public hearing was held recently. Minor changes will be made and it will then it will be forwarded to Council for their final approval.

Regarding the Pedestrian/Bicycle Plan, Mr. Norris stated an email from DNREC was received granting their approval which means the plan can now be seen by Council for final approval.

With no further business, a motion to adjourn by Chairman Rini was seconded by Mrs. McColley. The meeting adjourned at 8:40 pm.

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary