



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

## **Council Meeting Agenda May 27, 2025**

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

<https://zoom.us/j/94877121629>

*or*

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

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

*Call 301 715 8592 Webinar ID: 948 7712 1629*

**6:00 PM**

### **15-Minute Public Comment Period\***

All interested parties are invited to speak during the public comment portion of the Meeting. Discussion of those items appearing on the agenda as a public hearing is prohibited during the Public Comment Period, as an opportunity will be provided at the time it is being considered. Virtual attendees must register prior to start time of the meeting by calling 302-422-1111 Extension 1142 or 1303, or by sending an email to [cityclerk@milford-de.gov](mailto:cityclerk@milford-de.gov) and providing their name, address, phone number, and item name and/or description you wish to comment on. Persons in attendance wishing to speak must sign up prior to the start of the Meeting. Citizen comments are limited to three (3) minutes. Council and Committee Members are prohibited from responding or taking action since this is not an official session; however, items may be considered for placement on a future agenda.

## **COUNCIL MEETING**

Page

- 1. Public Comment**
- 2. Call to Order - Mayor F. Todd Culotta**
- 3. Roll Call**
- 4. Invocation**

<b>5.</b>	<b>Pledge of Allegiance</b>	
<b>6.</b>	<b>Approval of the Agenda</b>	
<b>7.</b>	<b>Approval of Previous Minutes</b>	
	a. <a href="#">2025 05 12 - Council Minutes</a> 	4 - 14
<b>8.</b>	<b>Recognition</b>	
<b>9.</b>	<b>Public Hearings/Comments/Final Determination ©</b>	
	<b>Ordinance 2025-08 Comp Plan Amendment</b>	
	a. <a href="#">Samsel - Comp Plan - Packet</a> 	15 - 27
	<b>Ordinance 2025-10 Comp Plan/Samsel/Zoning Change</b>	
	b. <a href="#">Samsel - Packet</a> 	28 - 43
	<b>Ordinance 2025-09 111 North Walnut LLC/Conditional Use - APPLICATION WITHDRAWN</b>	
	c. <a href="#">111 N Walnut, LLC - CU - Packet</a> 	44 - 58
<b>10.</b>	<b>Communications &amp; Correspondence</b>	
<b>11.</b>	<b>Unfinished Business</b>	
<b>12.</b>	<b>New Business</b>	
	<b>Authorization/City Manager Contract</b>	
	a. <a href="#">DRAFT-CITY MANAGER CONTRACT 5.2.25. 1642</a> 	59 - 68
	<b>Authorization/Deep Creek Park Plans</b>	
	b. <a href="#">Memo Council Deep Branch Park 5.27.25 - FINAL</a> 	69 - 87
	<b>Authorization/Sharp Farm Lease Agreement*</b>	
	c. <a href="#">City Council -Memo - Agricultural Lease - 052725</a> 	88 - 101
	<b>Authorization/Change Order/Blackwater Court Paving**</b>	

d. [Change order - Blackwater Court](#) 102 - 116

**Authorization/DelDOT/TID Agreement/Key Properties/Tax Parcel  
No: 330-15.00-22.00\*\*\***

e. [DelDOT TID Agreement](#) 117 - 128

**13. Adjournment**

All items on the Council Meeting Agenda are subject to a potential vote.

**ALL SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING. NO ADDITIONAL DOCUMENTS WILL BE ACCEPTED, DISTRIBUTED, OR PRESENTED AT MEETING ONCE PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE. ANY MATERIALS UTILIZED DURING THE MEETING MUST BE INCLUDED IN THE COUNCIL PACKET AND ACCESSIBLE BY AUDIO AND VISUAL MEANS PURSUANT TO 29 Del. Code, Chapter 100, §10006A(c)(5).**

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

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

052025

\*052125 Late addition by Planning Director

\*\*052225 Late addition by Public Works Director

\*\*\*052225 Late addition by City Manager



CITY OF MILFORD  
CITY COUNCIL MEETING MINUTES  
May 12, 2025

The City Council of the City of Milford met in the Joseph Ronnie Rogers Council Chambers in Regular Session on Monday, May 12, 2025.

- PRESIDING: Mayor F. Todd Culotta
- IN ATTENDANCE: Councilmembers Daniel Marabello, Madula Kalesis, Lori Connor, Nadia Zychal, Michael Stewart, Danny Perez, Katrina Wilson and Jason James, Sr.
- STAFF: City Manager Mark Whitfield, Sgt Timothy Maloney, and City Clerk Katrina White
- COUNSEL: Solicitor David Rutt, Esquire

**Public Comment Period**

Solicitor Rutt read the rules of the Public Comment Period

Terry Rogers, DMI President, 20235 Fleatown Road, Lincoln, DE 19960, introduced Sada Truitt who is the new Downtown Milford Inc coordinator.

Ms. Truitt expressed excitement about working with downtown Milford to help revitalize and sustain it. She recently had a meeting with the Mayor and city staff and is ready to do great work for the city.

Kim Wills, 2 Sunset Lane, Milford, DE 19963 was present and was concerned about the proposed starting salary for a new City Manager, speaking against paying the top salary from the beginning. She highlighted that the current City Manager has received a \$40,000 pay increase in recent years, and questioned how high the salary will go if the starting pay is set at \$195,000.

There were no additional public comments

## **Call to Order - Mayor F. Todd Culotta**

Mayor Culotta called the regular meeting to order at 6:03 pm.

## **Roll Call**

Roll Call showed that there were eight members present. Councilmember Stewart was not present at that time and would be in attendance later.

## **Invocation and Pledge of Allegiance**

The invocation was given by Councilmember Wilson followed by The Pledge of Allegiance that was led by Boys Scout Troop 186 who were in attendance to observe a City Council Meeting to obtain a merit badge.

## **Approval of the Agenda**

Councilmember Kalesis made the motion to approve the agenda. Councilmember Zychal seconded.

**The motion carried unanimously. 7-0**

## **Approval of Previous Minutes**

Councilmember Kalesis made the motion to approve the April 28, 2025, and the May 1, 2025, meeting minutes. Councilmember James seconded.

**The motion carried unanimously. 7-0**

[2025 05 01 Special Meeting Minutes](#) 

[2025 04 28 Council Minutes](#) 

## **Recognition**

### **Proclamation 2025-07 Coast Guard Safe Boating Week**

City Clerk White read Proclamation 2025-07 that was included in the packet.

[2025 07 National Safe Boating Week May 18-24 2025](#) 

### **Proclamation 2025-08 National Public Works Week**

City Manager Whitfield read Proclamation 2025-08 that was included in the packet.

[2025 08 National Public Works Week May 18-24 2025](#) 

## Staff Reports

### Police Report

Councilmember Wilson reviewed the police report that was included in the packet. She highlighted a significant achievement by the Milford Police Department: 14 officers received the Sussex County Phoenix Award for their life-saving efforts involving cardiac arrest victims over the past year.

Councilmember Marabello made the motion to approve the Police Report. Councilmember Kalesis seconded.

**Yes** Danny Perez, Madula Kalesis, Daniel Marabello, Lori Connor, Nadia Zychal, Katrina Wilson, and Jason James

**The motion carried unanimously. 7-0**

[Police Report April 2025](#) 

### City Clerk

City Clerk White reviewed the City Clerk Report that was included in the packet. Councilmember Wilson made the motion to approve the city clerk report. Councilmember Zychal seconded.

**Yes** Danny Perez, Madula Kalesis, Daniel Marabello, Lori Connor, Nadia Zychal, Katrina Wilson, and Jason James

**The motion carried unanimously. 7-0**

[City Clerk Report April 2025](#) 

### City Manager

City Manager Mark Whitfield reviewed the City Manager's Report that was included in the packet.

Councilmember Wilson made the motion to approve the city manager's report that included the departmental reports. Councilmember Connor seconded.

**Yes** Danny Perez, Madula Kalesis, Daniel Marabello, Lori Connor, Nadia Zychal, Katrina Wilson, and Jason James

**The motion carried unanimously. 7-0**

[City Manager Report April 2025](#) 

### **Public Works**

Public Works Director Willis Shaffer reviewed the Public Works report that was included in the packet.

[Public Works Report April 2025](#) 

### **Electric**

Electric Director Tony Chipola reviewed the electric report tht was included in the packet.

[Electric Report April 2025](#) 

### **Planning & Zoning**

Planning Director Rob Pierce reviewed the Planning and Zoning report that was included in the packet.

[Planning & Zoning Report April 2025\(2\)](#) 

### **Parks & Recreation**

Parks & Recreation Director Brad Dennehy reviewed the report that was included in the packet.

[Milford Parks & Rec Report April 2025](#) 

### **Human Resources**

Human Resources Jamesha Williams reviewed the human resources report that was included in the packet.

[HR Report April 2025](#) 

### **Economic Development & Community Engagement**

Economic Development & Community Engagement Administrator Lauren Swain reviewed the Economic Development & Community Engagement report that was included in the packet.

## **Information Technology**

City Manager referenced the IT Report in IT Director Bill Pettigrew’s absence.

[IT Report May 2025](#) 

## **Finance**

Lou Vitola, Finance, reviewed the finance report that was included in the packet.

[Finance Report April 2025](#) 

## **Monthly Finance Report**

Lou Vitola, Finance, reviewed the finance report that was included in the packet. He reported that the past month saw stable financial performance with a slight dip of \$400,000 in total cash, primarily due to reserves being used for project activity, notably the 2024 streets project. Both the Enterprise Funds' and General Fund's Profit & Loss statements showed improvement compared to the previous month. This positive trend is attributed to the continued strong performance of utilities against both budget and last year's figures, as well as lower-than-expected operational and maintenance (O&M) and personnel expenses on the General Government side. This improvement is most evident on Lines 12 and 13 of the general fund P&L report when compared to the same period last year.

Councilmember Kalesis made the motion to accept the Monthly Finance Report for March 2025. Councilmember Connor seconded.

**Yes**            Danny Perez, Madula Kalesis, Daniel Marabello, Lori Connor, Nadia Zychal,  
                         Katrina Wilson, and Jason James

**The motion carried unanimously. 7-0**

[Finance Report - Mar 2025](#) 

## **Communications & Correspondence**

Heather Content DMEC extended the invitation to council for the DEMEC Joint Meeting on June 3, 2025. Kimberly Schlichting, DEMEC President and CEO, will be giving an update on legislative and regulatory changes.

Madula reported that she was contacted by Brian Beachaver who came previously and discussed the need for sidewalks and crosswalks around Lulu Ross Elementary. She believes crosswalks could be a doable project, potentially for next year's budget. Although Mr. Beachaver wants immediate action, she acknowledges this isn't feasible but wants to ensure everyone considers the safety concern of children walking to school without crosswalks, suggesting it be a topic for next year's budget discussions.

Councilmember James received a call from a resident about an abandoned property on Rogers Drive. He was concerned about an abandoned, unmaintained property and wanted to understand the handling process. The property has been neglected for some time. The previous owner stated that a city easement made the city responsible for yard maintenance. Director Pierce stated that it sounded familiar, and believed tht code enforcement had already spoken with the current property owner regarding the issue.

Mayor Culotta announced that Local Government Legislative Day to meet with the Lt. Governor would be the next day at Legislative Hall in Dover.

### **Unfinished Business**

There was no unfinished business.

### **New Business**

#### **POLCO Presentation**

Brandon Barnett, The NCS, reviewed the POLCO Survey Presentation that was included in the packet. He gave a summary of the findings from the Milford National Community Survey.

Councilmember Stewart joined the meeting at 6:53 pm.

[NCS Presentation Milford DE 2025](#) 

#### **Authorization/ DELDOT MOU/Red Light Camera Proposal**

Matt Buckley & Dustin Shane, DelDOT, explained the program and proposal that was included in the packet.

Councilmember Zychal made the motion to authorize the city manager to work on a Memorandum Of Understanding with DelDOT. Councilmember Wilson seconded.

**Yes**

Danny Perez, Madula Kalesis, Daniel Marabello, Lori Connor, Nadia Zychal, Michael Stewart, Katrina Wilson, and Jason James

**The motion carried unanimously. 8-0**

[Milford ERLSP 2025 05 12](#) 

### **Authorization/Tyler Payments Contract Amendment/EP&L Credit Card Fees**

Director Pierce explained that with the current Tyler payments contract the city is currently required to absorb credit card fees associated with transactions through the EP&L Module which includes building permits, utility permits, land use applications, licenses and code enforcement invoices. The projected impact of leaving the contract as is and absorbing credit, card fees will be approximately \$45,000 a year, which could go up and down depending on card utilization.

Councilmember James made the motion for council to authorize the mayor to sign the contract amendment which would establish a service fee for credit card payments made on enterprise permitting and licensing transactions. No additional funding is required for this authorization. Councilmember Wilson seconded.

**Yes**            Danny Perez, Madula Kalesis, Daniel Marabello, Lori Connor, Nadia Zychal, Michael Stewart, Katrina Wilson, and Jason James

**The motion carried unanimously. 8-0**

[Tyler Payments - Contract Amendment - 051225](#) 

### **Discussion/Downtown Development District (DDD) Application**

Director Pierce stated that no action was required from council and reviewed the DDD Application presentation that was included in the packet.

Mayor Culotta stated that the program is phenomenal. He has used it twice and it does put a dent in the cost of your project.

[DDD - Renewal - 051425](#) 

### **Ordinance Introductions:**

#### **Ordinance 2025-08 Comp Plan Amendment**

Director Pierce introduced 2025-08 that was included in the packet.

[Samsel - Comp Plan - Packet](#) 

### **Ordinance 2025-10 Comp Plan/Samsel/Zoning Change**

Director Pierce introduced 2025-10 that was included in the packet.

[Samsel - Packet](#) 

### **Ordinance 2025-09 111 North Walnut LLC/Conditional Use**

Director Pierce introduced 2025-08 that was included in the packet.

[111 N Walnut, LLC - CU - Packet](#) 

### **Authorization/City Manager Salary\***

City manager Whitfield reviewed the memo that was included in the packet. On May 1, 2025, the Special Council Meeting resulted in a 7-1 vote authorizing the City Manager, HR Director, and recruiter to offer City Manager candidate #2 an initial salary of \$180,000. The candidate has requested a consideration of a starting salary of \$195,000 per year instead. Since that time Staff has pulled together the following information. The existing City manager's salary is \$189,758. Under the current contract, he was due a merit increase on January 1<sup>st</sup>. However, due to the pending retirement performance review was not pursued for the pay increase. Had the pay increase been at 3% merit increase on January 1<sup>st</sup> present, salary would be \$195,451, which would be in line. He presented a salary survey of city managers across Delaware of note.

Councilmember Zychal made the motion to recommend City Council Amend the action of May 1, 2025 and authorize the City Manager, Hr. Director and recruiter to negotiate the contract with Candidate number 2, with a starting pay not to exceed \$195,000, commensurate in consideration of his 30 years of municipal experience which justifies that salary. Councilmember Marabello seconded.

Councilmember Kalesis spoke against the proposed \$195,000 starting salary for a potential City Manager, comparing it to other Delaware cities. She stated that Middletown's City Manager earns \$204,000 but serves a population of 24,000. Smyrna's City Manager earns \$194,000 for a population closer to Milford's (12,000), but Smyrna recently raised taxes to cover a deficit, and their City Manager also serves as Police Chief. She stated that Newark's City Manager earns \$184,000 for a population of 30,000. She is not in favor of starting someone at \$195,000, given that the candidate, despite potentially having 30 years of experience, lacks

experience in Milford and has no background in utilities or public works, and that there will be a learning curve.

Councilmember James offered for clarification that could be independently verified that the Smyrna Police Chief has been acting as City Manager, but those two roles are in the process of being separated as Smyrna is currently hiring a new police chief.

Councilmember Wilson acknowledged that \$195,000 is a significant salary, however, she is comfortable offering this amount because the city needs a knowledgeable, qualified, and reputable person to lead Milford. She highlight that Milford has a history of conducting pay grade studies to ensure competitive salaries, as the city was once below market rate. Given Milford's rapid growth and projected population increase to 15,000 residents soon, she believes it's crucial to be proactive in securing a highly qualified individual who can effectively manage the city and is excited about the candidate's potential experience as an accountant, which she sees as a benefit. She also made reference to the current City Manager's hiring, who came from Public Works. She recalled having to trust his knowledge and accept his lack of experience in certain areas while being overqualified in others. She stated that the success of the current City Manager, and the comfort of knowing that his 3% annual raise would likely be approved, gives her confidence that this new candidate's proposed salary is definitely within range. She stated that the goal is to make a strong offer to a person who can take Milford to the next level as the city continues to move forward.

Councilmember James wanted to make it explicitly clear for the public and the meeting minutes that even if the proposed salary increase was approved by the Council, it will NOT necessitate a tax increase for Milford residents. He explained that the funds for this salary are already budgeted and would not exceed what was allocated for the current City Manager. He said that he wanted to prevent any misconception that Council approval of this salary would lead to a tax increase.

Councilmember Marabello spoke in regard to concern about a learning curve for a new City Manager, he emphasized that with a budget of over \$60 million, the city needs the best possible leader. He is confident that any new leader can quickly learn the local specifics and people due to the presence of supportive department heads who will ensure that the city continues to function smoothly, thanks to the current city manager.

Councilmember Stewart expressed concern about the proposed salary for a new City Manager, especially given Milford's average household income of \$55,000. While acknowledging that the City Manager oversees daily operations, he is hesitant to pay top

dollar to someone who is new to Milford and its specific ways. He believes this individual needs to prove themselves for such a salary. He explained that at his job he started from the bottom, worked his way up and as he proved himself the increased salary came. So for him paying someone top dollar because they want it isn't realistic to him.

Councilmember Connor presented food for thought against paying the higher salary. She used an analogy of if choosing between two equally qualified contractors for her own home, one costing \$180,000 and another \$195,000, she wouldn't spend the extra \$15,000. She said that she viewed it as financially irresponsible to approve the higher \$195,000 salary for the City Manager with other people's money.

Councilmember Zychal expressed that years of experience, particularly 30 years in public service, and that acting in good faith for the public good means something. She challenged the Council's ethical considerations, questioning whether it's in the city's best interest to "quibble" over a salary within the publicly stated range, especially after a lengthy interview process. She stated that that attempts to lowball or strategically maneuver for a less qualified candidate are unethical. She urged the others to strongly consider their ethics when making this decision.

Councilmember James wanted to clarify for the public that the advertised salary range for the City Manager position was \$160,000 to \$197,000. The current recommendation in the memo is to negotiate a starting pay not exceeding \$195,000.

- Yes** Daniel Marabello, Nadia Zychal, Katrina Wilson, and Jason James
- No** Madula Kalesis, Lori Connor, and Michael Stewart
- Abstain** Danny Perez - He stated that as a new council member, he was not present for the candidate interviews. Due to his absence during that process, he believes it would be improper for him to vote either for or against the issue at hand.

**The motion carried 4 yes, 3 no, 1 abstain. 4-3-1**

Councilmember Kalesis left the meeting at 8:07pm.

[City Manager Salary](#) 

## **EXECUTIVE SESSION**

### **Motion to Recess into Executive Session**

Mayor Culotta asked or a motion to move into Executive Session at 8:07 pm

**Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property**

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

Councilmember Zychal made the motion to move into executive Session. Councilmember James seconded.

**Yes** Danny Perez, Daniel Marabello, Lori Connor, Nadia Zychal, Michael Stewart, Katrina Wilson, and Jason James

**The motion carried unanimously. 7-0**

**Return to Open Session**

Mayor Culotta asked for a motion to return to open session at 8:16pm

**Potential Motion/Real Estate**

Councilmember James made a motion to authorize the city manager to conduct discussions based on the property that was discussed in Executive Session.

**Yes** Danny Perez, Daniel Marabello, Lori Connor, Nadia Zychal, Michael Stewart, Katrina Wilson, and Jason James

**The motion carried. 7-0**

**Potential Motion /Personnel**

There was no discussion or motion on Personnel.

**Adjournment**

Councilmember Marabello made the motion to adjourn. Councilmember Wilson seconded.

**Yes** Danny Perez, Daniel Marabello, Lori Connor, Nadia Zychal, Michael Stewart, Katrina Wilson, and Jason James

**The motion carried. 7-0**

The meeting adjourned at 8:17 pm.



**DATA SHEET FOR 2025 COMPREHENSIVE PLAN AMENDMENT**

**LANDS OF DIANE SAMSEL**

Planning Commission Meeting: May 20, 2025

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<b>Ordinance Number</b>	:	2025-08
<b>Owner</b>	:	Diane Samsel 3 Haven Lane Milford, DE 19963
<b>Applicant</b>	:	Jason Johnson 12497 Hard Drive Milton, DE 19968
<b>Application Type</b>	:	Comprehensive Plan Future Land Use Map Amendment
<b>Present Comprehensive Plan Map Designation</b>	:	Employment
<b>Proposed Comprehensive Plan Map Designation</b>	:	Low Density Residential
<b>Tax Map &amp; Parcel(s)</b>	:	1-30-3.08-064.01

ENC: Staff Analysis Report  
PLUS Comments  
Exhibit A – Comprehensive Plan Amendment  
Ordinance 2025-08



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**STAFF REPORT**  
**April 28, 2025**

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**Ordinance Number** : 2025-08  
**Application Type** : Comprehensive Plan Future Land Use Map Amendment

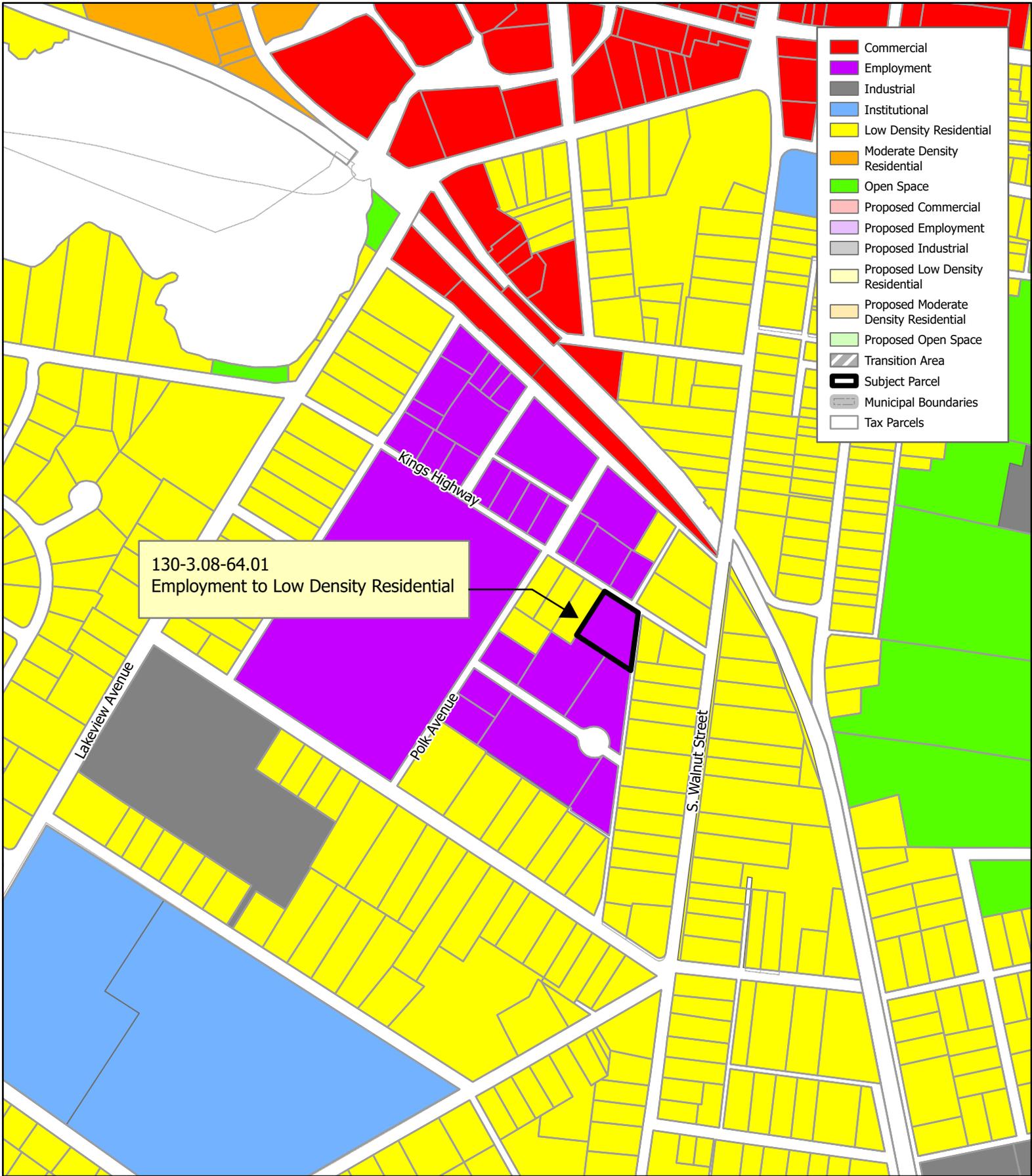
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**I. BACKGROUND**

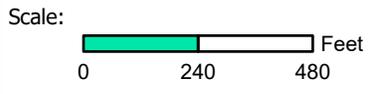
- The City received a request from the owner of Sussex County Tax Parcel 1-30-3.08-064.01 to change the Comprehensive Plan Future Land Use classification for the property from Employment to Low Density Residential.
- The property contains an existing, vacant medical office building and is zoned H-1 Institutional Development. The applicant proposes to utilize the building as general office space, which requires a rezoning to OB-1 Office Building and a change in the Comprehensive Plan Future Land Use designation of the property.
- The PLUS meeting for this amendment request was held on March 26, 2025 and a copy of the PLUS comments dated April 24, 2025 are enclosed.

**II. STAFF ANALYSIS**

- The Low Density Residential District represents typical single-family detached dwellings and duplex development. Neighborhood commercial and office-type uses that do not detract from the residential character of the area may be found in this area as well. This land use is similar to the R-1, R-2, C-1, and OB-1 zoning districts found in the Milford Zoning Ordinance.
- The subject parcel is bound on the north, west and east by properties zoned R-1 Single-family Residential District containing single-family detached dwellings. The properties to the south is zoned H-1 and contain medical offices.
- Enclosed in the packet is a copy of the PLUS comments dated April 24, 2025. There are no significant comments from State agencies regarding the change in land use designation for this property.



- Commercial
- Employment
- Industrial
- Institutional
- Low Density Residential
- Moderate Density Residential
- Open Space
- Proposed Commercial
- Proposed Employment
- Proposed Industrial
- Proposed Low Density Residential
- Proposed Moderate Density Residential
- Proposed Open Space
- Transition Area
- Subject Parcel
- Municipal Boundaries
- Tax Parcels



Drawn by: WRP      Date: 03/03/25

Title: **Exhibit A**  
**2025 Comprehensive Plan Map Amendment**  
 Future Land Use Map | Page 17 of 128



**STATE OF DELAWARE**  
**OFFICE OF MANAGEMENT AND BUDGET**  
**OFFICE OF STATE PLANNING COORDINATION**

April 24, 2025

Rob Pierce  
201 S Walnut Street  
Milford, DE 19963

RE: PLUS review – 2025-03-03; Milford FLU Amendment

Dear Mr. Pierce,

Thank you for meeting with State agency planners on March 26<sup>th</sup>, 2025 to discuss the proposed City of Milford's comprehensive plan amendment. According to the application, the City desires to amend parcel Tax Parcel 130-3.08-64.01 on the Future Land Use Map within their Certified Comprehensive Plan to depict the parcel changing from Employment to Low Density Residential.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: Josh Thomas 302-739-3090

This project is located in Levels 1 & 2 investment area, which is consistent with the 2020 Strategies for State Policies and Spending.

Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near-term future. Because development in Level 1 and Level 2 is consistent with the 2020 Strategies for State Policies and Spending, the Office of State Planning Coordination supports this proposed comprehensive plan amendment.

Department of Transportation – Contact Stephen Bayer 302-760-4834

- DelDOT has no comments on the proposed comprehensive plan amendment.

DelDOT notes that any development to occur in the subject area in the future will still require all all-applicable reviews and permits.

DART First State – Contact Jared Kauffman 302-576-6062

- If you have any transit issues or recommendations, they should outline them

Department of Natural Resources and Environmental Control – Contact Beth Krumrine 302-735-3480

- DNREC reviewers have no comments or concerns at this time.

Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

- DEMA has no comments or objections

State Historic Preservation Office – Contact Carlton Hall 736-7400

- The Delaware SHPO has no objections to the proposed amendment at this time.

Delaware State Fire Marshall's Office – Contact Duane Fox 739-4394

- This Agency has no objection and submits no comments for the future land use and rezoning of the property.

Once the amendment is voted on by Planning and Zoning and/or Town Council, please forward a copy of the decision regarding the amendment to this office for our files. Thank you for the opportunity to review this amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David L. Edgell, AICP  
Director, Office of State Planning Coordination

right to do so). The city’s future land use map is largely a reflection of its understanding of likely growth and development. Wherever possible, the future land use attempts to anticipate likely changes. A key feature of the 2017 Comprehensive Plan Update is the “transition” future land use category.

The “transition” future land use designation, conceptually, helps with all three key considerations. It is straightforward and simple to see on the overall and neighborhood maps. It limits the potential need for plan amendments, in that each time a residential property requests rezoning to a commercial or industrial use, it will still be in compliance with the existing future land use map. It maintains flexibility in the identified areas. If and when properties petition for rezoning, procedural changes can be made to the zoning ordinance without it conflicting with the Milford Comprehensive Plan.

The transitional future land use classification has the added benefit of allowing the existing, largely residential uses, as by-right uses to ensure that existing property owners who wish to remain residential are not classified as non-conforming uses.

## 10-4. Land Use and Zoning

### 10-4a. Future Land Use Categories

#### Employment

The employment category is intended to serve as a primary location for a large employer to bring jobs and economic development to the city. Potential uses include schools and healthcare-related uses that would provide many jobs and services for the region. This land use category is similar to the H-1, IM, and IS zoning districts found in the Milford Zoning Ordinance.

#### Commercial

The commercial category allows for different levels of commercial development intensity. This category includes neighborhood commercial, central business district, highway development, office buildings, and medical services. The *Future Land Use and Urban Growth Boundary* map designates all commercial areas in one category, but the individual characteristics of each site would be considered before identifying the level of commercial development that is suitable for each property. Each level of commercial use differs by the size of the site and use intensity. This land use is similar to the C-1, C-2, C-2A, C-3, BP, OC-1, and H-1 zoning districts found in the Milford Zoning Ordinance.

Regular Highway Commercial for the city is located along major state transportation routes, including DE 1, US 113, Route 14 and Business 1.

## **Industrial**

The industrial category is intended to serve as a primary location for light to moderate industrial and manufacturing uses. This land use is similar to the I-1 and I-2 zoning districts found in the Milford Zoning Ordinance.

## **Institutional**

The institutional category includes government, civic, and community facilities such as libraries, schools, colleges, hospitals, medical facilities, community centers, places of worship, nursing homes, assisted living facilities, and other similar uses. Institutional uses may be found within residential, commercial, and employment areas.

## **Low Density Residential**

The Low Density Residential District represents typical single-family detached dwellings and duplex development. These units receive full urban services. Other dwelling types may be allowed as part of a density bonus by providing additional open space and amenities of development or through a conditional use of a Planned Unit Development by Milford City Council. Neighborhood commercial and office-type uses that do not detract from the residential character of the area may be found in this area as well. This land use is similar to the R-1, R-2, C-1, and OB-1 zoning districts found in the Milford Zoning Ordinance.

## **Moderate-Density Residential**

The Moderate Density Residential District represents typical single-family detached dwellings, attached single-family dwelling units, patio homes, duplexes, triplexes, quadplexes, townhomes/row houses, condominiums, apartments, and loft-style units. Availability of open space and walkable sidewalks are also key components. Neighborhood commercial and office-type uses that do not detract from the residential character of the area may be found in this area as well. This land use is similar to the R-3, R-8, C-1, and OB-1 zoning districts and the PUD conditional use for residential development found in the Milford Zoning Ordinance.

## **Transitional Commercial and Industrial Areas**

These areas are designed to allow for a migration from residential to the underlying future land use categories depicted on the *Future Land Use and Urban Growth Boundary* map. There are two main transitional areas, commercial and industrial. The commercial transition areas are located along major roadways, including US 113 and Rehoboth Boulevard (Route 1A). The Industrial transition area is located along Route 14 between Routes 1A and 1.

The transitional areas will allow the property owners to maintain their current residential zoning until such time they wish to change their zoning to either commercial or industrial. This will allow the area to transition slowly along these corridors, without forcefully rezoning properties and potentially creating non-conforming properties and uses. Once the property owner changes the zoning of the property from residential to commercial or industrial, the property will remain industrial or commercial unless there is an amendment to the Milford Comprehensive Plan that would allow otherwise. The Comprehensive Plan will be reviewed again in five years, where the future land use exhibits can be updated to permanently show the properties that have transitioned from the residential categories to the more intense uses, and reduce the footprint of the transitional area on the maps.

### **Open Space**

The Open Space category includes both existing open space owned by the city as well as the large area of open space located east of DE 1. Milford may elect to annex existing developed residential properties within the proposed Open Space future land use areas at the lowest intensity residential zoning category and provide services if deemed cost effective.

One of the recommendations of the Milford Comprehensive Plan is to prepare an Open Space Preservation Plan. Local governments and conservation groups offer many tools to preserve farmland and other open space. Some rely on the donation or sale of property development rights by a property owner, while other tools may include marketing assistance or protective planning and zoning. The primary goals of the Open Space designation east of DE 1 are the following:

- Promote the Transfer of Development Rights (TDR) – A TDR is a legal agreement that allows a developer who wants to build at a higher density than is permitted to purchase or trade for additional development rights from a willing seller who owns land in an area designated for preservation. The goal of the Open Space designation is to use the land as a sending area either into designated areas of the City of Milford or designated areas of Sussex County, thus protecting the open space area.
- Promote Conservation Easements – A conservation easement is a legal agreement between a landowner and a land trust or government agency whereby a landowner sells or donates the rights to develop his or her property to a conservation organization.
- Protective Rural Zoning – This type of zoning allows a very low density per acre. This is one of the most effective ways to protect rural and agricultural land and maintain a mass of land required to support agriculture economies without buying conservation easements.

- Purchase of Land – In the interest of Milford City Council to protect our recharge areas, funding could be used to protect our recharge areas and preserve open space.

## 10-4b. Land Use and Zoning Link

The link between land use and zoning is important because Title 22, Section 702(c) of the Delaware Code requires that Milford:

*“...within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.”*

Table 27 shows the link between the future land use designations depicted on the *Future Landuse and Urban Growth Boundary* map and the zoning districts summarized in Table 28. Table 27 provides guidance as to the zoning districts that would be considered consistent with each land use designation.

*Table 27. Land Use and Zoning Link*

<b>Future Land Use Designation</b>	<b>Corresponding Zoning District(s)</b>
<b>Employment</b>	H-1 – Institutional Development
	IM – Institutional Medical
	IS – Institutional Service
<b>Commercial</b>	C-1 – Community Commercial
	C-2 – Central Business
	C-2A – Riverfront Development
	C-3 – Highway Commercial
	OC-1 – Office Complex
	BP – Business Park
<b>Industrial</b>	H-1 – Institutional Development
	I-1 – Limited Industrial
	I-2 – General Industrial
<b>Institutional</b>	Institutional uses may be permitted or conditionally permitted in residential, commercial, and employment zones

<b>Future Land Use Designation</b>	<b>Corresponding Zoning District(s)</b>
<b>Low Density Residential</b>	R-1 – Single Family Residential
	R-2 - Residential
	C-1 – Community Commercial
	OB-1 – Office Building
<b>Moderate Density Residential</b>	R-3 – Garden Apartment & Townhouse
	R-8 – Garden Apartment & Townhouse
	C-1 – Community Commercial
	OB-1 – Office Building
<b>Open Space</b>	Designed for preservation. Existing residential properties may be zoned R-1.

*Disclaimer: Table 27 shows the relationship between the future land use designations depicted on the future land use map and the zoning districts summarized in Table 28. This table describes how Milford’s zoning districts might match up with the land uses recommended on the future land use map. These match ups are intended as guidance for the Milford City Council to consider during the rezoning process. They are not intended to preclude the development of new zoning districts or revisions to the zoning ordinance, the subdivision ordinance, or any other land use regulations.*

#### **10-4c. Zoning Districts**

The current zoning map depicts Milford’s zoning districts, and Table 28 provides a list of the current zoning classifications.

As of the date of the plan adoption, Table 28 and the existing zoning exhibit represent a fixed period in time and Milford reserves the right to create new zoning categories and change property zonings as long as the intent of the Comprehensive Plan is upheld. This table and section is for informational purposes only.

Zoning is the chief means for implementing the Milford Comprehensive Plan, consisting of a written document and a series of maps. The maps show a number of districts or zones into which the municipality is divided to regulate the use of land. The document specifies the types of activities (uses) that can occur in each district either as a matter of right (in all circumstances) or under certain conditions (conditional uses). It also regulates building height, lot sizes, setbacks, yards and green space, the number and sizes of signs, and space for off-street parking. Some municipalities incorporate environmental protection standards in zoning ordinances, while others have stand-alone ordinances with cross-references to zoning standards.

*Table 28. Milford Zoning Districts*

<b>Zoning District</b>
BP – Business Park
R-1 – Single Family Residential
R-2 – Residential
R-3 – Garden Apartment & Townhouse
R-8 – Garden Apartment & Townhouse
C-1 – Community Commercial
C-2 – Central Business
C-2A – Riverfront Development
C-3 – Highway Commercial
H-1 – Institutional Development
IM – Institutional Medical
IS – Institutional Service
I-1 – Limited Industrial
I-2 – General Industrial
OB-1 – Office Building
OC-1 – Office Complex

Zoning works with subdivision regulations. Subdivision refers to the process of splitting up or assembling land for development. The regulations governing this process designate utility locations, street rights-of-way, open space, and common areas. They also outline the services, such as water, sewer, gas, and electricity and amenities that a developer must supply prior to sale of subdivided (or assembled) land.

Increasingly, the distinction between zoning and subdivision regulations is becoming blurred.

Development plan approvals cannot take place without making sure that plans are in compliance with zoning and subdivision codes. Over the past several years, a number of Delaware municipalities have consolidated subdivision and zoning regulations into a single land use code.

**CITY OF MILFORD  
NOTICE OF PUBLIC HEARINGS**

Planning Commission Hearing: Tuesday, May 20, 2025 @ 6:00 PM

City Council Hearing: Tuesday, May 27, 2025 @ 6:00 PM

NOTICE IS HEREBY GIVEN that the proposed Ordinance is currently under review by the City of Milford Planning Commission and City Council. City Council has the option to approve or deny the application. By not adopting the ordinance, City Council will deny the application. By adopting the ordinance, City Council will approve the application and the reason for the language being written in the affirmative. This form of writing is not intended to influence any decision of City Council.

The Planning Commission of the City of Milford will hold a PUBLIC HEARING on an amendment to the City of Milford 2018 Comprehensive Plan on Tuesday, May 20, 2025 at 6:00 pm or as soon thereafter as possible.

A FINAL PUBLIC HEARING is scheduled on Tuesday, May 27, 2025 at 6:00 pm or as soon thereafter as possible before Milford City Council. Following the hearing, the ordinance may be adopted, with or without amendments.

**ORDINANCE 2025-08**  
AMENDING AND ADOPTING BY ORDINANCE  
THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN  
Amendment #19  
LANDS OF DIANE SAMSEL  
1-30-3.08-064.01

FUTURE LAND USE DESIGNATION CHANGE

WHEREAS, pursuant to Title 22-Municipalities, Chapter 7-Planning Commission, Section 7-Establishment; Membership, of the Delaware Code, the City of Milford established a Planning Commission, and

WHEREAS, pursuant to Title 22-Municipalities, Chapter 7-Planning Commission, Section 702 Comprehensive Development Plan of the Delaware Code, the City of Milford adopted Ordinance 2017-24 the '2018 Comprehensive Plan' on January 22, 2018 to implement the current Comprehensive Plan, and

WHEREAS, during a PLUS review on March 26, 2025, the Planning Director prepared and consulted with the Office of State Planning the nineteenth amendment to the 2018 Comprehensive Plan; and

WHEREAS, the amendment involves changes to the Comprehensive Plan Future Land Use Maps, which will permit the future land use designation change of a portion of Sussex County Tax Parcel 1-30-3.08-064.01 from Employment to Low Density Residential; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the nineteenth 2018 Comprehensive Plan amendment on May 20, 2025 and did recommend approval and adoption of the amendment to the 2018 Comprehensive Plan, and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the nineteenth amendment of the 2018 Comprehensive Plan on May 27, 2025 at which time the amendment of the 2018 Comprehensive Plan was reviewed with the public.

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

Section 1. Purpose: The 2018 Comprehensive Plan is hereby amended to modify the Future Land Use Maps.

Section 2. The Future Land Use of a portion of Sussex County Tax Parcel 1-30-3.08-064.01 owned by Diane Samsel is hereby changed from Employment to Low Density Residential.

Section 3. Dates.

Planning Commission Review & Public Hearing: May 20, 2025

City Council Introduction: May 12, 2025

City Council Review & Public Hearing: May 27, 2025

Additional information may be obtained by contacting Rob Pierce in the Planning Department at either 302.424.8396 or [RPierce@milford-de.gov](mailto:RPierce@milford-de.gov).

Published: *Daily State News 04-30-2025*



**DATA SHEET FOR LANDS OF DIANE SAMSEL**

Planning Commission Meeting: May 20, 2025

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<b>Application Number / Name</b>	:	ZONE-100-2025 / Lands of Diane Samsel
<b>Applicant</b>	:	Jason Johnson 12497 Hard Drive Milton, DE 19968
<b>Owner</b>	:	Diane Samsel 3 Haven Lane Milford, DE 19963
<b>Application Type</b>	:	Change of Zone
<b>Present Comprehensive Plan Map Designation</b>	:	Low Density Residential (pending adoption of Ordinance 2025-08)
<b>Present Zoning District(s)</b>	:	H-1 (Institutional Development District)
<b>Proposed Zoning District(s)</b>	:	OB-1 (Office Building District)
<b>Present Use</b>	:	Medical Office
<b>Proposed Use</b>	:	General Office
<b>Size and Location</b>	:	0.757 +/- acres of land located along the south side of Kings Highway approximately 250 west of S. Walnut Street, addressed as 100 Kings Highway.
<b>Tax Map &amp; Parcel(s)</b>	:	1-30-3.08-064.01

ENC: Staff Analysis Report  
Exhibit A – Location & Zoning Map  
Exhibit B – Aerial



**STAFF REPORT**  
**April 15, 2025**

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<b>Application Number / Name</b>	:	ZONE-100-2025 / Lands of Diane Samsel
<b>Size and Location</b>	:	0.757 +/- acres of land located along the south side of Kings Highway approximately 250 west of S. Walnut Street, addressed as 100 Kings Highway.
<b>Tax Map &amp; Parcel(s)</b>	:	1-30-3.08-064.01

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**I. BACKGROUND INFORMATION:**

- The applicant is requesting to rezone the above-referenced parcel from H-1 (Institutional Development) to OB-1 (Office Building).
- The property contains an existing, vacant medical office building and is zoned H-1 (Institutional Development). The applicant proposes to utilize the building as general office space, which requires a rezoning to OB-1 (Office Building).

**II. STAFF ANALYSIS:**

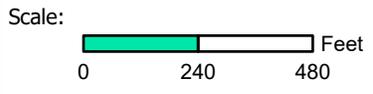
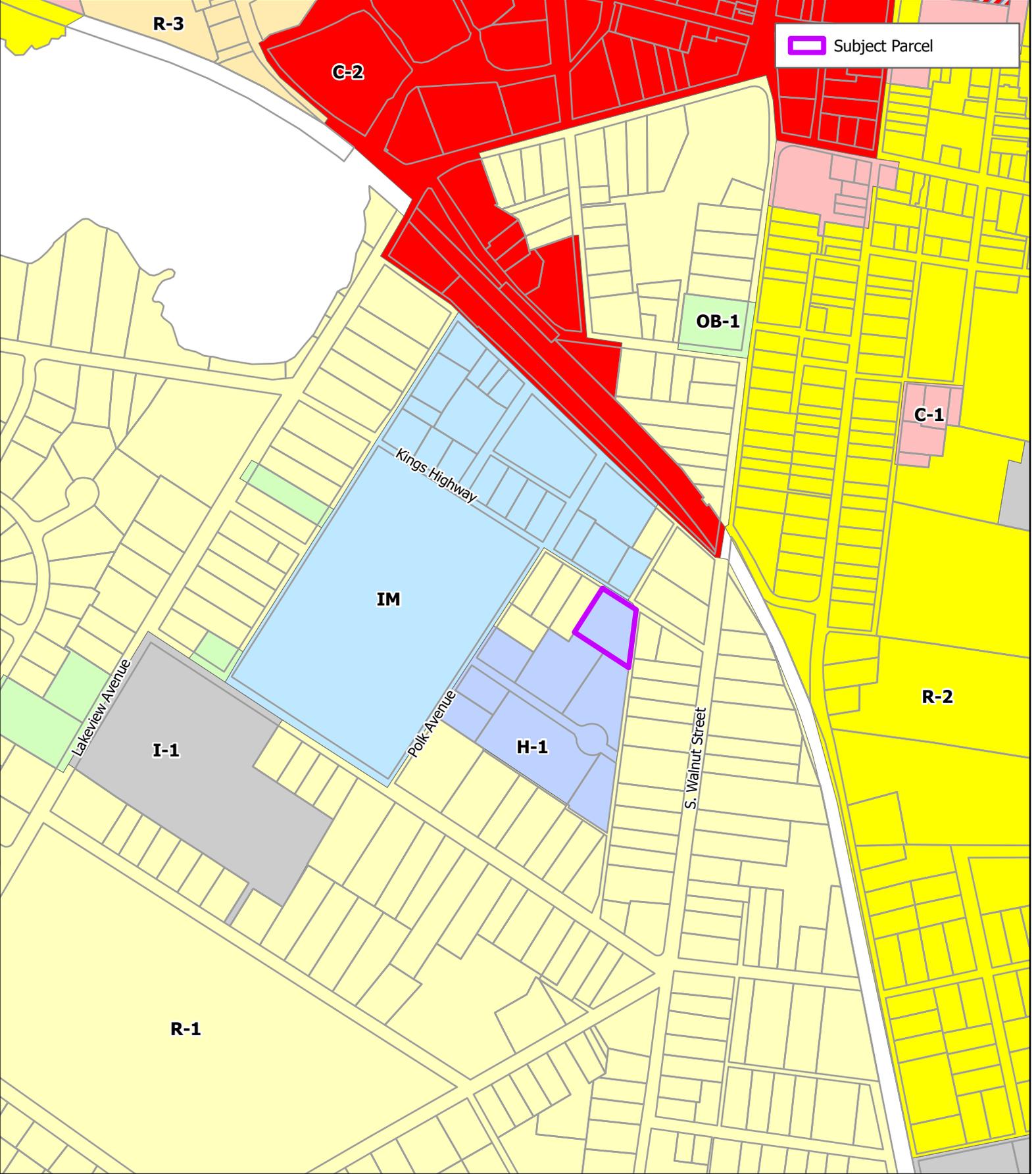
Based on the information presented, the City of Milford Code, and the Comprehensive Plan, staff submits the following regarding the request to amend the Zoning Map:

- The Change of Zone request is consistent with the adopted 2018 Comprehensive Plan Future Land Use maps, as amended. The Future Land Use designation for the properties is Low Density Residential, for which OB-1 (Office Building) is a suitable zoning designation. See attached Land Use & Zoning Link table from the comprehensive plan document.
- Per the 2018 Comprehensive Plan, the Low Density Residential District represents typical single-family detached dwellings and duplex development. Neighborhood commercial and office-type uses that do not detract from the residential character of the area may be found in this area as well. This land use is similar to the R-1, R-2, C-1, and OB-1 zoning districts found in the Milford Zoning Ordinance.
- The subject parcel is bound on the north, west and east by properties zoned R-1 Single-family Residential District containing single-family detached dwellings. The properties to the south are zoned H-1 and contain medical offices.

- The subject parcel is located along Kings Highway which is classified as a Local Road on DelDOT's functional classification map.
- Chapter 230 states the purpose of the OB-1 district shall be to provide locations for the operation of professional offices of a low-profile, low-traffic category in areas of a residential nature where existing non-residential buildings/structures are present. The district would provide such locations that will not detract from the surrounding residential atmosphere of the neighborhood but allow viable business to operate in existing buildings/structures.
- Any future use of the property must comply with Chapter 230 and the OB-1 (Office Building District) zoning use and area regulations. Enclosed is a copy of the current permitted and conditional uses within the OB-1 District.

**III. AGENCY COMMENTS:**

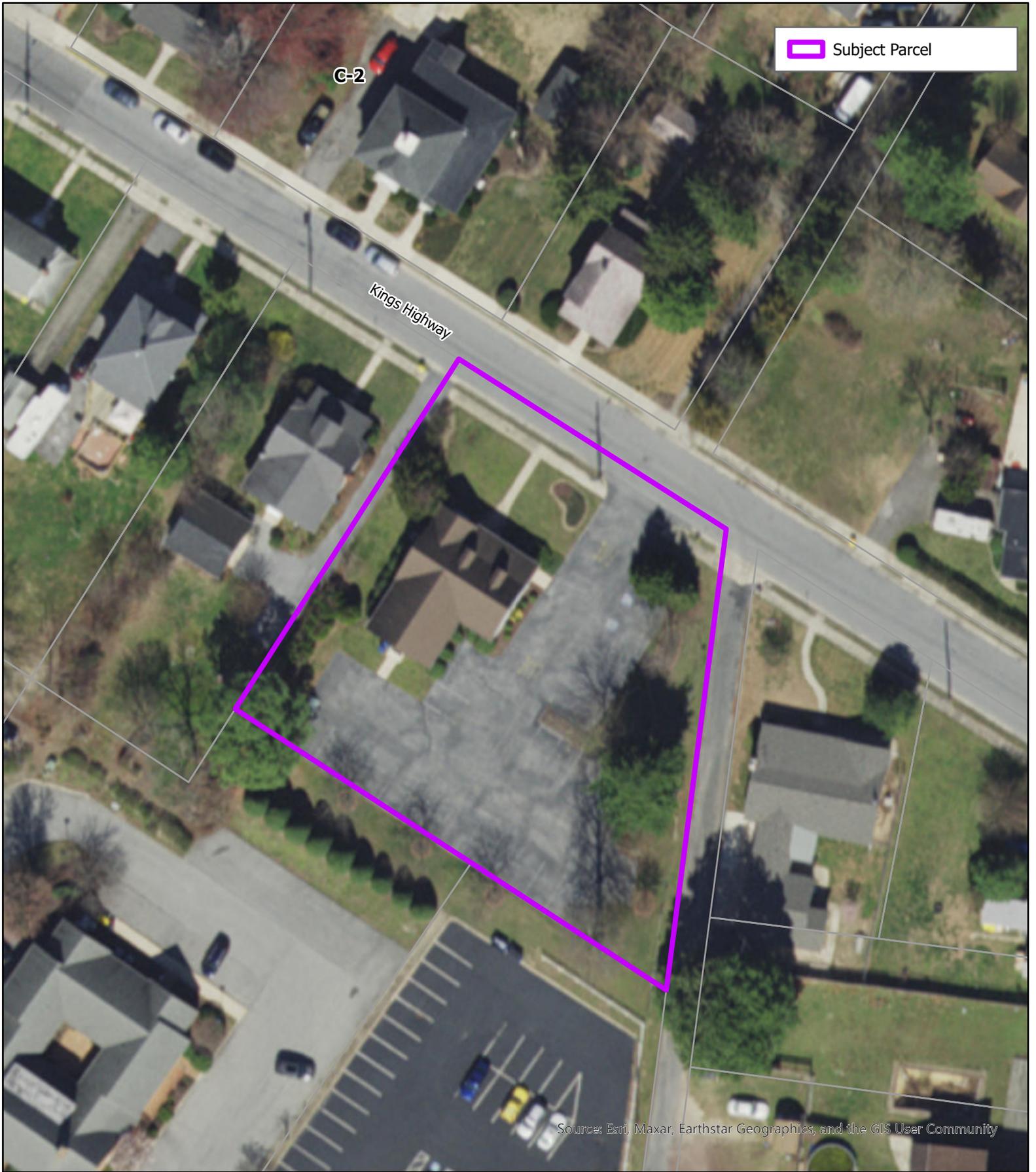
- DelDOT – No comments solicited
- Sussex Conservation District – No comments solicited.
- State Fire Marshall – No comments solicited.



Drawn by: WRP Date: 04/14/25

Title:

Variance  
**Lands of Diane Samsel**  
 Location & Zoning Map Page 31 of 128



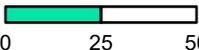
 Subject Parcel

G-2

Kings Highway

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



Scale:  Feet  
0 25 50

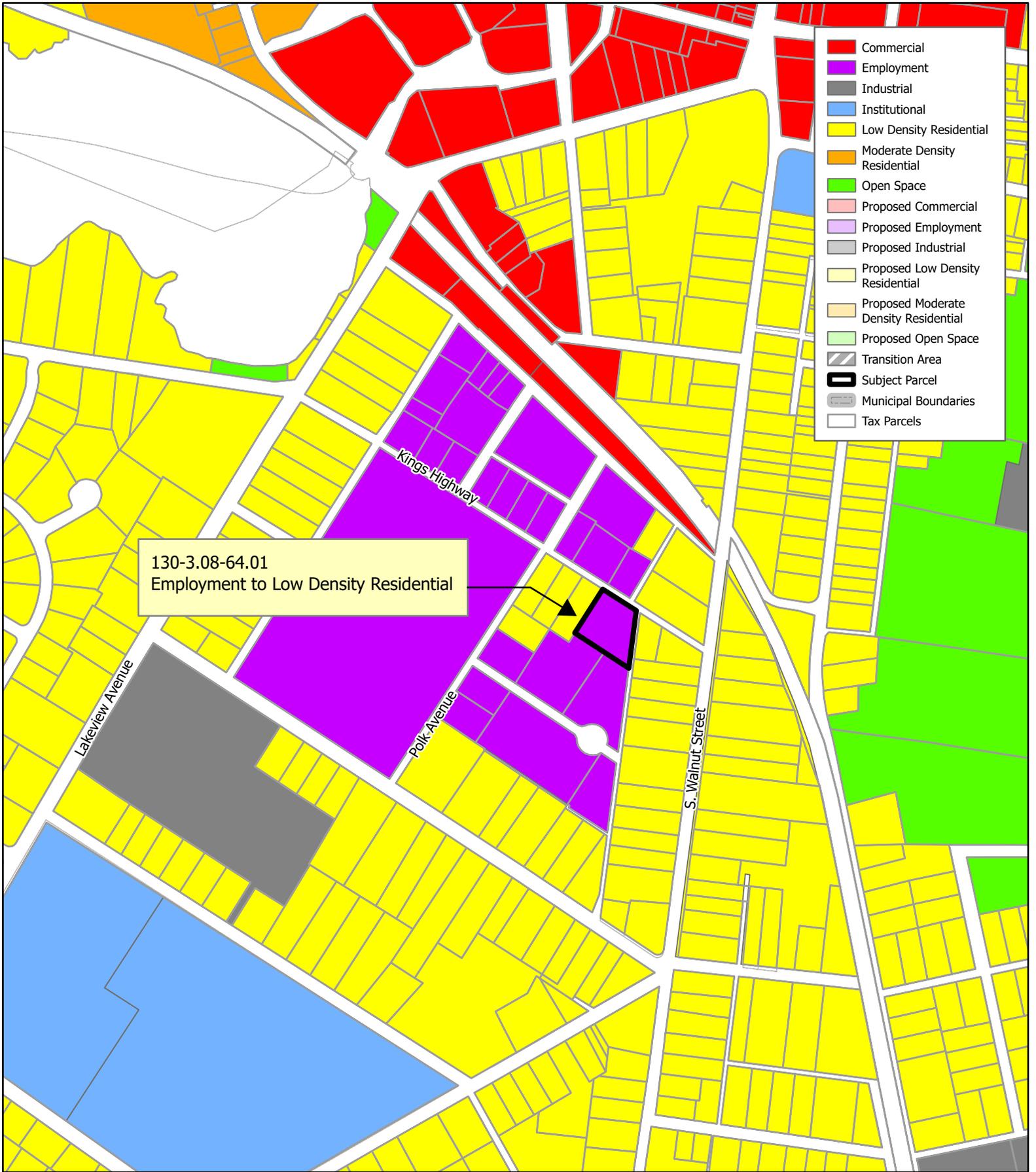
Drawn by: WRP

Date: 05/02/25

Title:

Variance  
**Lands of Diane Samsel**

Aerial Map



Drawn by: WRP      Date: 03/03/25

Title: **Exhibit A**  
**2025 Comprehensive Plan Map Amendment**  
 Future Land Use Map | Page 33 of 128

right to do so). The city’s future land use map is largely a reflection of its understanding of likely growth and development. Wherever possible, the future land use attempts to anticipate likely changes. A key feature of the 2017 Comprehensive Plan Update is the “transition” future land use category.

The “transition” future land use designation, conceptually, helps with all three key considerations. It is straightforward and simple to see on the overall and neighborhood maps. It limits the potential need for plan amendments, in that each time a residential property requests rezoning to a commercial or industrial use, it will still be in compliance with the existing future land use map. It maintains flexibility in the identified areas. If and when properties petition for rezoning, procedural changes can be made to the zoning ordinance without it conflicting with the Milford Comprehensive Plan.

The transitional future land use classification has the added benefit of allowing the existing, largely residential uses, as by-right uses to ensure that existing property owners who wish to remain residential are not classified as non-conforming uses.

## 10-4. Land Use and Zoning

### 10-4a. Future Land Use Categories

#### Employment

The employment category is intended to serve as a primary location for a large employer to bring jobs and economic development to the city. Potential uses include schools and healthcare-related uses that would provide many jobs and services for the region. This land use category is similar to the H-1, IM, and IS zoning districts found in the Milford Zoning Ordinance.

#### Commercial

The commercial category allows for different levels of commercial development intensity. This category includes neighborhood commercial, central business district, highway development, office buildings, and medical services. The *Future Land Use and Urban Growth Boundary* map designates all commercial areas in one category, but the individual characteristics of each site would be considered before identifying the level of commercial development that is suitable for each property. Each level of commercial use differs by the size of the site and use intensity. This land use is similar to the C-1, C-2, C-2A, C-3, BP, OC-1, and H-1 zoning districts found in the Milford Zoning Ordinance.

Regular Highway Commercial for the city is located along major state transportation routes, including DE 1, US 113, Route 14 and Business 1.

## **Industrial**

The industrial category is intended to serve as a primary location for light to moderate industrial and manufacturing uses. This land use is similar to the I-1 and I-2 zoning districts found in the Milford Zoning Ordinance.

## **Institutional**

The institutional category includes government, civic, and community facilities such as libraries, schools, colleges, hospitals, medical facilities, community centers, places of worship, nursing homes, assisted living facilities, and other similar uses. Institutional uses may be found within residential, commercial, and employment areas.

## **Low Density Residential**

The Low Density Residential District represents typical single-family detached dwellings and duplex development. These units receive full urban services. Other dwelling types may be allowed as part of a density bonus by providing additional open space and amenities of development or through a conditional use of a Planned Unit Development by Milford City Council. Neighborhood commercial and office-type uses that do not detract from the residential character of the area may be found in this area as well. This land use is similar to the R-1, R-2, C-1, and OB-1 zoning districts found in the Milford Zoning Ordinance.

## **Moderate-Density Residential**

The Moderate Density Residential District represents typical single-family detached dwellings, attached single-family dwelling units, patio homes, duplexes, triplexes, quadplexes, townhomes/row houses, condominiums, apartments, and loft-style units. Availability of open space and walkable sidewalks are also key components. Neighborhood commercial and office-type uses that do not detract from the residential character of the area may be found in this area as well. This land use is similar to the R-3, R-8, C-1, and OB-1 zoning districts and the PUD conditional use for residential development found in the Milford Zoning Ordinance.

## **Transitional Commercial and Industrial Areas**

These areas are designed to allow for a migration from residential to the underlying future land use categories depicted on the *Future Land Use and Urban Growth Boundary* map. There are two main transitional areas, commercial and industrial. The commercial transition areas are located along major roadways, including US 113 and Rehoboth Boulevard (Route 1A). The Industrial transition area is located along Route 14 between Routes 1A and 1.

The transitional areas will allow the property owners to maintain their current residential zoning until such time they wish to change their zoning to either commercial or industrial. This will allow the area to transition slowly along these corridors, without forcefully rezoning properties and potentially creating non-conforming properties and uses. Once the property owner changes the zoning of the property from residential to commercial or industrial, the property will remain industrial or commercial unless there is an amendment to the Milford Comprehensive Plan that would allow otherwise. The Comprehensive Plan will be reviewed again in five years, where the future land use exhibits can be updated to permanently show the properties that have transitioned from the residential categories to the more intense uses, and reduce the footprint of the transitional area on the maps.

### **Open Space**

The Open Space category includes both existing open space owned by the city as well as the large area of open space located east of DE 1. Milford may elect to annex existing developed residential properties within the proposed Open Space future land use areas at the lowest intensity residential zoning category and provide services if deemed cost effective.

One of the recommendations of the Milford Comprehensive Plan is to prepare an Open Space Preservation Plan. Local governments and conservation groups offer many tools to preserve farmland and other open space. Some rely on the donation or sale of property development rights by a property owner, while other tools may include marketing assistance or protective planning and zoning. The primary goals of the Open Space designation east of DE 1 are the following:

- Promote the Transfer of Development Rights (TDR) – A TDR is a legal agreement that allows a developer who wants to build at a higher density than is permitted to purchase or trade for additional development rights from a willing seller who owns land in an area designated for preservation. The goal of the Open Space designation is to use the land as a sending area either into designated areas of the City of Milford or designated areas of Sussex County, thus protecting the open space area.
- Promote Conservation Easements – A conservation easement is a legal agreement between a landowner and a land trust or government agency whereby a landowner sells or donates the rights to develop his or her property to a conservation organization.
- Protective Rural Zoning – This type of zoning allows a very low density per acre. This is one of the most effective ways to protect rural and agricultural land and maintain a mass of land required to support agriculture economies without buying conservation easements.

- Purchase of Land – In the interest of Milford City Council to protect our recharge areas, funding could be used to protect our recharge areas and preserve open space.

## 10-4b. Land Use and Zoning Link

The link between land use and zoning is important because Title 22, Section 702(c) of the Delaware Code requires that Milford:

*“...within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.”*

Table 27 shows the link between the future land use designations depicted on the *Future Landuse and Urban Growth Boundary* map and the zoning districts summarized in Table 28. Table 27 provides guidance as to the zoning districts that would be considered consistent with each land use designation.

*Table 27. Land Use and Zoning Link*

<b>Future Land Use Designation</b>	<b>Corresponding Zoning District(s)</b>
<b>Employment</b>	H-1 – Institutional Development
	IM – Institutional Medical
	IS – Institutional Service
<b>Commercial</b>	C-1 – Community Commercial
	C-2 – Central Business
	C-2A – Riverfront Development
	C-3 – Highway Commercial
	OC-1 – Office Complex
	BP – Business Park
<b>Industrial</b>	H-1 – Institutional Development
	I-1 – Limited Industrial
	I-2 – General Industrial
<b>Institutional</b>	Institutional uses may be permitted or conditionally permitted in residential, commercial, and employment zones

<b>Future Land Use Designation</b>	<b>Corresponding Zoning District(s)</b>
<b>Low Density Residential</b>	R-1 – Single Family Residential
	R-2 - Residential
	C-1 – Community Commercial
	OB-1 – Office Building
<b>Moderate Density Residential</b>	R-3 – Garden Apartment & Townhouse
	R-8 – Garden Apartment & Townhouse
	C-1 – Community Commercial
	OB-1 – Office Building
<b>Open Space</b>	Designed for preservation. Existing residential properties may be zoned R-1.

*Disclaimer: Table 27 shows the relationship between the future land use designations depicted on the future land use map and the zoning districts summarized in Table 28. This table describes how Milford’s zoning districts might match up with the land uses recommended on the future land use map. These match ups are intended as guidance for the Milford City Council to consider during the rezoning process. They are not intended to preclude the development of new zoning districts or revisions to the zoning ordinance, the subdivision ordinance, or any other land use regulations.*

#### **10-4c. Zoning Districts**

The current zoning map depicts Milford’s zoning districts, and Table 28 provides a list of the current zoning classifications.

As of the date of the plan adoption, Table 28 and the existing zoning exhibit represent a fixed period in time and Milford reserves the right to create new zoning categories and change property zonings as long as the intent of the Comprehensive Plan is upheld. This table and section is for informational purposes only.

Zoning is the chief means for implementing the Milford Comprehensive Plan, consisting of a written document and a series of maps. The maps show a number of districts or zones into which the municipality is divided to regulate the use of land. The document specifies the types of activities (uses) that can occur in each district either as a matter of right (in all circumstances) or under certain conditions (conditional uses). It also regulates building height, lot sizes, setbacks, yards and green space, the number and sizes of signs, and space for off-street parking. Some municipalities incorporate environmental protection standards in zoning ordinances, while others have stand-alone ordinances with cross-references to zoning standards.

*Table 28. Milford Zoning Districts*

<b>Zoning District</b>
BP – Business Park
R-1 – Single Family Residential
R-2 – Residential
R-3 – Garden Apartment & Townhouse
R-8 – Garden Apartment & Townhouse
C-1 – Community Commercial
C-2 – Central Business
C-2A – Riverfront Development
C-3 – Highway Commercial
H-1 – Institutional Development
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IS – Institutional Service
I-1 – Limited Industrial
I-2 – General Industrial
OB-1 – Office Building
OC-1 – Office Complex

Zoning works with subdivision regulations. Subdivision refers to the process of splitting up or assembling land for development. The regulations governing this process designate utility locations, street rights-of-way, open space, and common areas. They also outline the services, such as water, sewer, gas, and electricity and amenities that a developer must supply prior to sale of subdivided (or assembled) land.

Increasingly, the distinction between zoning and subdivision regulations is becoming blurred.

Development plan approvals cannot take place without making sure that plans are in compliance with zoning and subdivision codes. Over the past several years, a number of Delaware municipalities have consolidated subdivision and zoning regulations into a single land use code.

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## § 230-19. OB-1 Office Building District.

In an OB-1 District no building/structure or premises shall be used and no building/structure or part thereof shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except for one or more of the following uses and complying with the requirements herein indicated.

- A. The purpose of the OB-1 Office Building District shall be to provide locations for the operation of professional offices of a low-profile, low-traffic category in areas of a residential nature where existing nonresidential buildings/structures are present. In short, this district will provide such locations that will not detract from the surrounding residential atmosphere of the neighborhood but allow viable businesses to operate in existing buildings/structures.
- B. Permitted uses. Permitted uses for the OB-1 District shall be as follows:
  - (1) Professional services and administrative activities, including but not limited to architects, engineers, brokers, insurance agents, realtors, physicians, dentists, artists and attorneys, within a single occupancy setting.
  - (2) Branch libraries and public information centers.
  - (3) Government offices serving the public.
- C. Conditional uses. Conditional uses shall be as follows:
  - (1) Day-care centers.
  - (2) Civic or fraternal organizations.
- D. Area regulations
  - (1) Minimum lot area.
    - (a) Existing buildings/structures on site: none.
    - (b) New construction (conditional use): ½ acre.
  - (2) Maximum lot coverage (building/structure and paved area) shall be no greater than 50%, with the remainder being utilized for plantings and landscaping (new construction, with conditional use). Existing facilities shall not decrease any existing planted or landscaped areas on the site without obtaining a variance for said decrease from the Board of Adjustment.
  - (3) Minimum lot width.
    - (a) New construction, with conditional use: 100 feet.
    - (b) Existing facilities: existing dimension accepted.
  - (4) Maximum building/structure heights shall not exceed the requirements set forth within this chapter for the residential zoning district in which the building/structure exists.
  - (5) Minimum front yard setback (new construction, with conditional use): 30 feet. Existing facilities shall not be allowed to encroach further into the front yard area(s) if the setback is less than 30 feet.
  - (6) Minimum side yard setback (new construction, with conditional use): 15 feet. Existing facilities shall not be allowed to encroach further into the side yard area(s) if the setback is less than 15 feet.
  - (7) Minimum rear yard setback (new construction, with conditional use): 30 feet. Existing facilities shall not be allowed to encroach further into the rear yard area if the setback is less than 30 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.
  - (11) Accessory structures in aggregate shall occupy no more than 30 percent of the required rear and side yard of the lot area and may not dominate in area, extent or purpose to the principal use or structure. The area of the principal structure shall be calculated using the definition of floor area in this chapter.
  - (12) Accessory structures shall be located in the side and rear lot areas.
  - (13) Accessory structures shall be located at least 5 feet from the rear lot line and at least 5 feet from the side lot line and shall not be located less than 5 feet from a principal structure.

[Ord. No. 2022-06, 1-24-2022; Ord. No. 2023-28, § 4, 8-14-2023]

**CITY OF MILFORD**  
**NOTICE OF PUBLIC HEARINGS**

Planning Commission Hearing: Tuesday, May 20, 2025 @ 6:00 p.m.  
City Council Hearing: Tuesday, May 27, 2025 @ 6:00 p.m.

NOTICE IS HEREBY GIVEN that the proposed Ordinance is currently under review by the City of Milford Planning Commission and City Council. City Council has the option to approve or deny the application. By not adopting the ordinance, City Council will deny the application. By adopting the ordinance, City Council will approve the application and the reason for the language being written in the affirmative. This form of writing is not used to influence any decision of City Council:

**ORDINANCE 2025-10**

Legal Owner Diane Samsel for a Change of Zone from  
H-1 (Institutional Development District),  
to OB-1 (Office Building District)  
on 0.757 +/- acres of land located along the south side of  
Kings Highway approximately 250 west of S. Walnut Street  
Address: 100 Kings Highway, Milford, DE  
Present Use Medical Office; Proposed Use General Office  
Tax Map & Parcel 1-30-3.08-064.01

WHEREAS, the property owner has petitioned the City of Milford Planning and Zoning Office for a Change of Zone from H-1 to OB-1 on 0.757 +/- acres of land located along the south side of Kings Highway ; and

WHEREAS, the Change of Zone request to OB-1 is consistent with the Adopted 2018 Comprehensive Plan Future Land Use Map, as amended; and

WHEREAS, the City of Milford Planning Commission considered the application during their regular meeting on May 20, 2025, at which time interested parties had the opportunity to comment on the application to assist in an informed recommendation to City Council; and

WHEREAS, Milford City Council held a Public Hearing on May 27, 2025 to allow additional public comment, after which City Council made a final determination; and

WHEREAS, as required by Chapter 230, the Public Notice was published in the Delaware State News on May 4, 2025 and provided to property owners within 200 feet of the subject parcel; and

WHEREAS, this Ordinance becomes effective ten days following the date of its adoption by City Council.

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

Section 1. The adoption of this Ordinance grants Lands of Diane Samsel a Change of Zone to OB-1 on 0.757 +/- acres of land located along the south side of Kings Highway at 100 Kings Highway, Milford, DE. Tax Map & Parcel 1-30-3.08-064.01.

Section 2. Any future use of the property must comply with the City Zoning Code §230-14. OB-1 Office Building District

Section 3. Dates.

Planning Commission Review & Public Hearing: May 20, 2025

City Council Introduction: May 12, 2025

City Council Public Hearing: May 27, 2025

Effective: Ten Days following Adoption

For additional information, please contact Rob Pierce in the Planning & Zoning Department either by e-mail at [RPierce@milford-de.gov](mailto:RPierce@milford-de.gov) or by phone at 302.424.8396.

Published: Daily State News 05/04/2025



**DATA SHEET FOR 111 NORTH WALNUT, LLC**

Planning Commission Meeting: May 20, 2025

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<b>Application Number / Name</b>	:	CU-120-2025 / 111 North Walnut, LLC
<b>Applicant</b>	:	111 North Walnut, LLC 586 Milford-Harrington Highway Milford, DE 19963
<b>Owner</b>	:	Same
<b>Application Type</b>	:	Conditional Use
<b>Present Comprehensive Plan Map Designation</b>	:	Commercial
<b>Present Zoning District</b>	:	C-2 (Central Business District)
<b>Present Use</b>	:	Vacant Lot
<b>Present Use</b>	:	Mixed-Use Occupancy Six (6) Commercial Tenant Spaces Sixteen (16) Apartment Units
<b>Size and Location</b>	:	0.09 +/- acres of land located along the East side of N. Walnut Street approximately 150 feet north of the Front Street intersection, a portion of a vacant lot between 111 N. Walnut Street and 115 N. Walnut Street.
<b>Tax Map &amp; Parcel</b>	:	MD-16-183.10-03-75.00 (portion)

ENC: Staff Analysis Report  
Exhibit A – Location & Zoning Map  
Exhibit B – Survey

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**STAFF REPORT**  
**April 15, 2025**

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<b>Application Number / Name</b>	:	CU-120-2025 / 111 North Walnut, LLC
<b>Tax Map &amp; Parcel</b>	:	MD-16-183.10-03-75.00 (portion)
<b>Size and Location</b>	:	0.09 +/- acres of land located along the East side of N. Walnut Street approximately 150 feet north of the Front Street intersection, a portion of a vacant lot between 111 N. Walnut Street and 115 N. Walnut Street.

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**I. BACKGROUND INFORMATION:**

- The applicant proposes to construct a 38-foot by 70-foot, 4-story mixed-use building containing up to six (6) commercial tenant spaces and sixteen (16) apartment units as shown on the provided survey and rendering.
- Chapter 230-42(B) states “four or more non-residential permitted uses or tenant spaces on a property zoned C-2, C-2A, C-3, OC-1 and H-1 requires a conditional use approval from City Council.”

**II. STAFF ANALYSIS:**

Based on the information presented, the City of Milford Code, and the Comprehensive Plan, staff submits the following regarding the request for the Conditional Use:

- Chapter 230-13(A)(11) states “all dwellings other than single-family with a maximum density of 16 units per acre and in conjunction with a nonresidential use” are permitted uses within the C-2 zoning district.
- The applicant sought three variances from the Board of Adjustment which were reviewed at the May 8, 2025 meeting. The applicant sought relief from the following:
  - Chapter 230-13(B)(11) states “all dwellings other than single-family with a maximum density of 16 units per acre and in conjunction with nonresidential use” are permitted uses within the C-2 district. The applicant requested a variance to increase the permitted density from 16 units per acre to 178 units per acre, resulting in a 162-unit per acre increase from the maximum density permitted by the zoning code.

- Chapter 230-13(D)(3) states the “height of buildings shall not exceed 35 feet.” The applicant requested a variance to increase the maximum allowed building height from 35 feet to 52 feet, resulting in a 17-foot exceedance in the allowable building height.
  - Chapter 230-13(D)(2) states the “minimum lot width shall be 50 feet.” The applicant requested a variance to reduce the minimum lot width from 50 feet to 48.20 feet, resulting in a 1.8-foot reduction in the minimum lot width.
- The applicant proposes to subdivide existing parcel 75.00 as shown on the provided survey. The minor subdivision would be reviewed administratively if the variance and conditional use applications are approved by the City. The minor subdivision will also include lot line adjustments with the parcels to the north and south that are owned by the applicant.
  - Evaluation based on the criteria found under Chapter 230-48 Conditional Uses.

A. The presence of adjoining similar uses.

*The Central Business District has a variety of commercial and mixed-use buildings that provide retail and office business opportunities in downtown Milford. The proposed use would be similar to other mixed-use buildings in the immediate vicinity. The property to the north contains a mixed-use building with three residential units and two commercial tenant spaces. The property to the south contains a mixed-use building with two commercial tenants and one residential unit.*

B. An adjoining district in which the use is permitted.

*The proposed multi-unit commercial use is consistent with the purpose and intent of the C-2 Central Business District.*

C. There is a need for the use in the area proposed as established by the Comprehensive Plan.

*The Comprehensive Plan promotes commercial development in the Central Business District and the proposed use would be consistent with the City’s downtown master plan and Downtown Development District Plan through the development of vacant land which will provide additional employment opportunities in downtown Milford.*

D. There is sufficient area to screen the conditional use from adjacent different uses.

*The properties to the north and south, which are also owned by the applicant, contain mixed-use buildings with commercial and residential units. The area to the east of the building would be the location of a proposed municipal parking lot. No screening is proposed nor needed since the proposed use is consistent with the surrounding uses and the purpose of the central business district.*

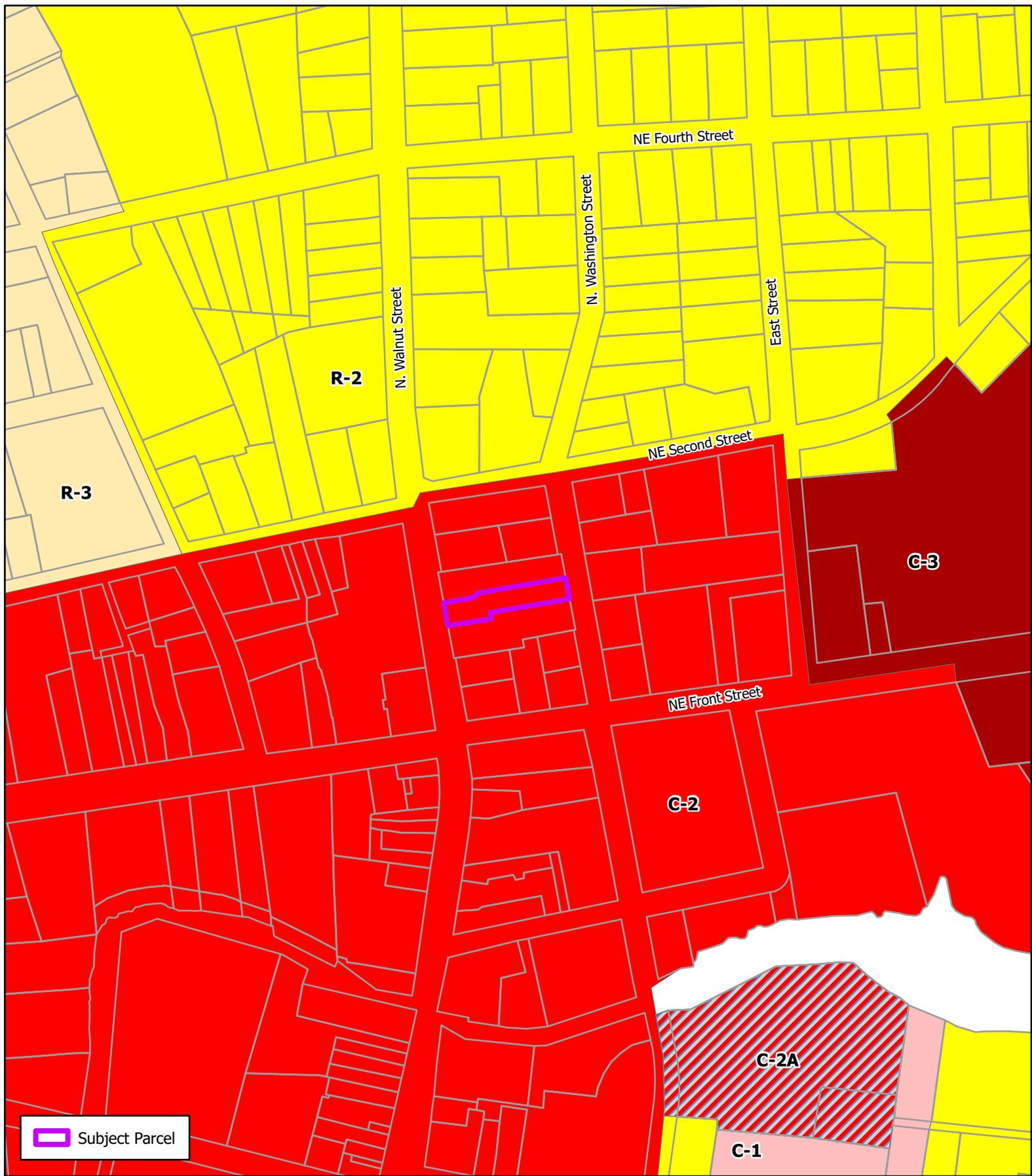
E. The use will not detract from permitted uses in the district.

*The proposed mixed-use building is consistent with the purpose and intent of the C-2 Central Business District and should not detract from similar adjacent commercial and mixed-use properties.*

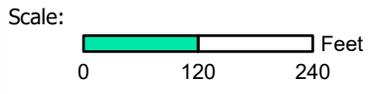
- F. Sufficient safeguards, such as traffic control, parking, screening and setbacks, can be implemented to remove potential adverse influences on adjoining uses.

*The subject parcel is located within the Central Business District which does not require off-street parking for permitted uses. The employees and customers of the proposed building would utilize existing off-street public parking lots maintained by the City and on-street parking. No screening is proposed nor needed since the proposed use is consistent with other uses in the neighborhood.*

- If the Planning Commission and City Council elect to approve the applicant's request, staff recommend the following minimum conditions of approval:
  - The applicant must obtain a building permit from the Planning Department and obtain approval from the State Fire Marshal's Office and State Plumbing Office.



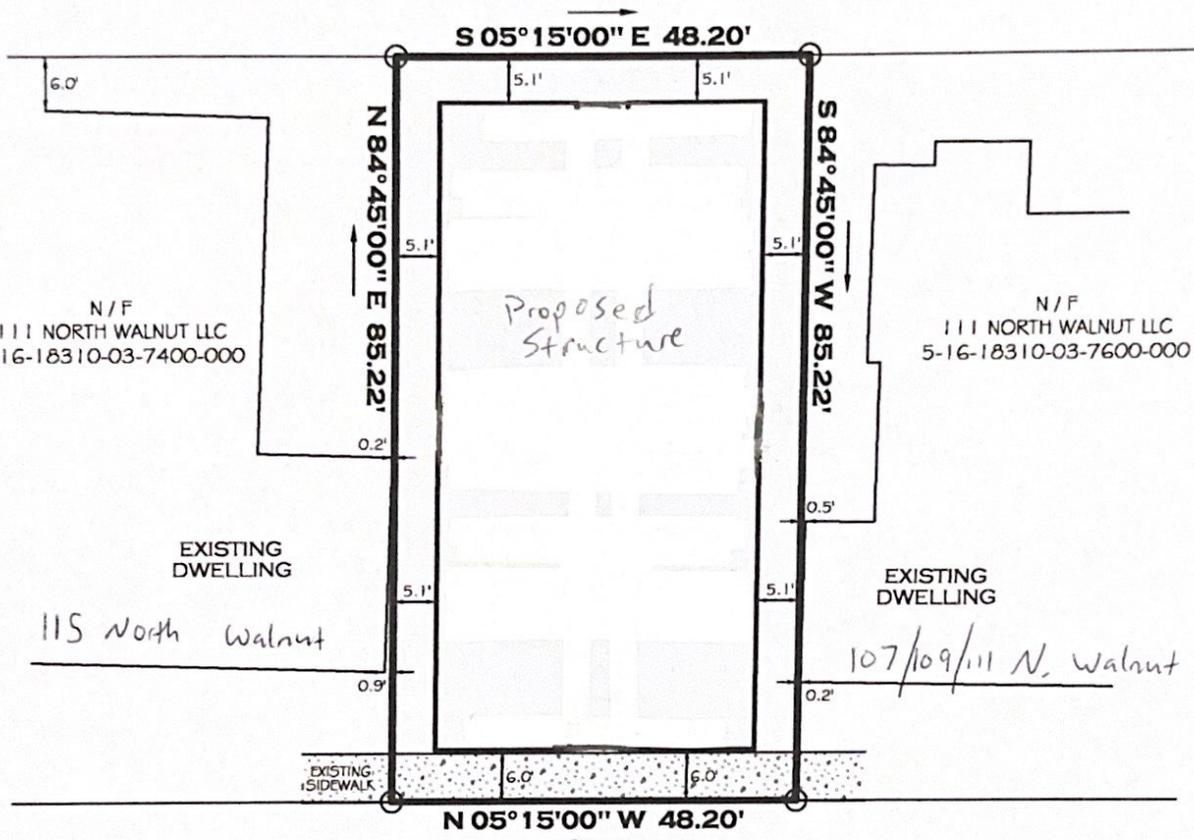
 Subject Parcel



Drawn by: WRP Date: 04/14/25

Title:  
**Conditional Use**  
**111 North Walnut, LLC**  
Location & Zoning Map  
Page 48 of 128

N / F  
CITY OF MILFORD



### NORTH WALNUT STREET

**NOTES**

- 1. CLASSIFICATION OF SURVEY: URBAN
- 2. ZONE: C-2

ALL SETBACKS ARE THE RESPONSIBILITY OF THE HOME OWNER AND/OR GENERAL CONTRACTOR. SETBACKS SHOWN AS PER CITY OF MILFORD & MAY DIFFER FROM THE HOME OWNERS ASSOCIATION (HOA) SETBACKS. ANY USER OF SAID INFORMATION IS URGED TO DIRECTLY CONTACT THE LOCAL AGENCY AND HOA, IF APPLICABLE, TO VERIFY IN WRITING ALL SETBACKS & REQUIREMENTS.

3. NO TITLE REPORT WAS PROVIDED FOR OUR USE, THEREFORE THIS BOUNDARY SURVEY IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS, AND/OR RIGHTS OF WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH.

LEGEND	
○	POINT

THIS CERTIFIES THAT THE PROPOSED DWELLING'S PLACEMENT IS PROPER, DIMENSIONS ARE CORRECT & I HEREBY AUTHORIZE ALL FIELD WORK TO BE PERFORMED.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

TAX MAP	5-16-18310-03-7500-000
STATE	DELAWARE
COUNTY	KENT
HUNDRED	MILFORD
TOWN	MILFORD
AREA	3,408 ± SQ. FT.
DEED REF.	12878 / 214
PLAT REF.	---
DRAWN BY	JMH
DATE	02 / 05 / 2025
SCALE	1" = 20'

## SITE PLAN

FOR

### ZACHARY & MARISSA KING

### TRUE NORTH



LAND SURVEYING

35322 BAYARD ROAD

## 113 North Walnut Street Proposed Narrative

The proposed building would be a mixed use of up to 6 commercial tenants, and up to 16 micro apartments. The project would be aimed at providing affordable housing to local workers and providing some unique commercial spaces. The apartments would be a combination of 1 and 2 bedroom units, and be as small as possible while providing basic necessities. The commercial units would add greatly to the North Walnut corridor which is a recently growing commercial section of town, and would help tie in the new city parking lot to the downtown businesses. Commercial units would face both North Walnut Street, and the new City parking lot. The commercial spaces would include a basement unit attractive to certain food service businesses or a private club, as well as a rooftop space which is a business type Milford (and most of lower Delaware) is lacking.

The main structure would measure 38' x 70' and 45' tall. The rooftops additional height for a stair/elevator tower and improvements would be in addition to the 45 feet of the main structure.

The apartments would be considered low to medium income housing. We would align pricing for the units at or below Energize Delawares Affordable Multi Family Housing Program. We would follow Energize Delawares programs to make all units as energy efficient as possible. We would possibly place the units into low income category working with DSHA, depending on program qualifications at the time.



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## § 230-13. C-2 Central Business District.

In a C-2 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-2 District is to create an atmosphere that encourages the preservation and revitalization of the Central Business District. Specifically, the regulations are designed to encourage the development and opening of new businesses. This may be accomplished by providing an attractive and convenient shopping center or mall that is organized and developed as an integrated unit. The district regulations also recognize the unique circumstances that are peculiar to the downtown area.
- B. Permitted uses. Permitted uses for the C-2 District shall be as follows:
- (1) Those permitted uses in the C-1 District.
  - (2) Taverns and tap rooms.
  - (3) Libraries, museums, art galleries and public information centers.
  - (4) Churches and other places of worship.
  - (5) Fraternal, social service, union or civic organization.
  - (6) Publishing, printing and reproduction establishments.
  - (7) Indoor storage facilities as an accessory use to any of the permitted uses in this district.
  - (8) The outdoor display of merchandise, if done in a reasonable manner and if the display is kept neat and orderly as determined by the Planning Director or designee. Furthermore, the outdoor display may not interfere with the safe and efficient flow of pedestrian traffic.
  - (9) Craft distillery and microbrewery establishments, provided that:
    - (a) All permits and approvals required by the Delaware Alcoholic Beverage Commission are obtained and remain in full force and effect.
    - (b) All aspects of the distilling or brewing process are completely confined within a building, including storage of all materials and finished products.
    - (c) Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, including by way of example: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises for consumption off-premises and other retail items.
    - (d) On-site consumption or tasting associated with a craft distillery or microbrewery establishment shall be permitted. Any area associated with on-site consumption or tasting shall not operate as a stand-alone bar or tavern, shall be located on the premises of the craft distillery or microbrewery establishment, and shall be ancillary to the primary use. "Ancillary" for purposes of this section means subordinate, auxiliary, smaller and less intensive than the primary use. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises, except as otherwise permitted by Delaware Law.
    - (e) All food sales shall be limited to prepackaged snack items or those food items prepared by a food establishment licensed by the State of Delaware. If a craft distillery or microbrewery

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intends to operate on its premises a food establishment that is otherwise a permitted use in this district (i.e. restaurant, café, or full-service restaurant), the City may require the property owner to provide the City with a letter of no objection from the Delaware Alcoholic Beverage Control Commissioner regarding the operation of a food establishment on the premises of a craft distillery or microbrewery.

- (f) Outdoor seating and gathering areas shall be permitted subject to the following requirements:
- [1] Permanent and temporary outdoor seating and gathering areas shall be subject to building permit application and approval requirements.
  - [2] Outdoor seating and gathering areas and ancillary improvements shall include physical barriers from public rights-of-way and physical and visual barriers from adjoining properties. Physical barriers along public rights-of-way shall restrict access from the public rights-of-way to the outdoor seating and gathering areas and shall not exceed four feet in height. Barriers along adjoining property lines shall create a physical and visual barrier consisting of fencing six feet in height or vegetation at least six feet in height. The regulations herein shall be in addition to any regulations imposed by the State of Delaware.
  - [3] Maximum occupancy and points of ingress/egress shall be clearly marked. Occupancy of outdoor seating and gathering areas shall not exceed one person per 15 square feet of the outdoor seating and gathering areas identified in the building plans or any other occupancy limit established by the Office of the State Fire Marshall.
  - [4] All structures and uses related to outdoor seating and gathering areas and facilities are subject to the City of Milford Building Code and the City of Milford Zoning Code.
  - [5] The occupancy of outdoor seating and gathering areas shall be included when calculating the building requirements and minimum parking standards required by the City of Milford and State of Delaware. Outdoor seating and gathering areas shall meet all requirements of the City of Milford and the State of Delaware.
  - [6] Tables, chairs, umbrellas, equipment, games, and any other items provided in connection with outdoor seating and gathering areas shall be maintained in good repair and shall be secured during non-business hours in a safe and orderly manner.
  - [7] Any licensing required by the Delaware Alcoholic Beverage Control Commissioner for outdoor seating and gathering areas shall be obtained.
- (10) Commercial indoor recreation activities, including amusement arcades, indoor theaters, social clubs, youth clubs or similar facilities.
- (11) All dwellings other than single-family with a maximum density of 16 units per acre and in conjunction with nonresidential use.
- (12) Bed and Breakfast.
- (a) The bed-and-breakfast establishment does not adversely affect the residential character of the neighborhood and such use is carried on in an existing residential structure.

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- (b) The building proposed for use as a bed-and-breakfast must have the owner of the bed-and-breakfast residing in the building as his/her principal residence.
  - (c) The serving of meals shall be limited to breakfast and afternoon tea for overnight guests and customers.
  - (d) Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.
  - (e) No exterior alterations other than a sign and those required by law to ensure the safety of the structure shall be made.
  - (f) The bed-and-breakfast operation shall not use more than 50% of the floor area of the principal residence. Common areas such as the kitchen, foyer, living room or dining room are not included in this calculation.
  - (g) No areas shall be floodlit. Drives and parking areas shall not be illuminated by lighting fixtures higher than 20 feet. Sidewalks shall not be illuminated by lighting fixtures higher than 15 feet. Exterior lighting shall be shaded as to prevent illumination off-site. All external lighting, except for demonstrated security needs, shall be extinguished by 10:00 p.m.
- C. Conditional uses subject to special requirements. All uses specified as conditional uses in the C-1 zoning district and the following uses are permitted subject to receiving a conditional use permit by the City Council as provided in Article IX of this chapter:
- (1) Motels and hotels.
  - (2) Instructional, business or trade stores.
  - (3) Fast-food or franchised food service operated restaurants.
- D. Area regulations.
- (1) Minimum lot area shall be 2,500 square feet.
  - (2) Minimum lot width shall be 50 feet.
  - (3) Height of buildings shall not exceed 35 feet.
  - (4) There shall be no required front, rear or side yard setback.
  - (5) Signs shall comply with the requirements provided in Article VI of this chapter.
  - (6) Landscape screening shall comply with the requirements provided in Article V of this chapter.
  - (7) Parking shall comply with the requirements provided in Article IV of this chapter.
  - (8) Accessory structures in aggregate shall occupy no more than 30 percent of the required rear and side yard of the lot area and may not dominate in area, extent or purpose to the principal use or structure. The area of the principal structure shall be calculated using the definition of floor area in this chapter.
  - (9) Accessory structures shall be located in the side and rear lot areas.
  - (10) Accessory structures for residential and non-residential uses shall be located at least 5 feet from the rear lot line and at least 5 feet from the side lot line and shall not be located less than 5 feet from a principal structure.

[Ord. No. 2022-06, 1-24-2022; Ord. No. 2023-28, § 4, 8-14-2023]

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**§ 230-42. Multiple permitted uses and mixed uses.**

- A. In the R-1, R-2, R-3, R-8, C-1 and OB-1 districts, multiple permitted uses or tenants spaces or mixed use of a property shall be deemed a conditional use subject to special requirements.
- B. Four or more non-residential permitted uses or tenant spaces on a property zoned C-2, C-2A, C-3, OC-1 and H-1 requires a conditional use approval from City Council.

[Ord. No. 2022-06, 1-24-2022; Ord. No. 2023-28, § 4, 8-14-2023]

***ARTICLE IX Conditional Uses***

**§ 230-46. Purpose.**

- A. The intent of the conditional use is to maintain a measure of control over uses that have an impact on the entire community. Generally, conditional uses may be desirable in certain locations for the general convenience and welfare. They must use the property in a manner that assures neither an adverse impact upon adjoining properties nor the creation of a public nuisance. In short, because of the nature of the use, it requires sound planning judgment on its location and site arrangement.
- B. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provisions of this chapter, provided that the City Council shall find that the application is in accordance with the provisions of this chapter after duly advertised hearings held in accordance with the provisions of Article XII.

[Ord. No. 2022-06, 1-24-2022]

**§ 230-47. Application and approval procedures.**

- A. Conditional Use Site Plans shall follow the procedures for application and review outlined in Article X Site Plan Review of this Chapter.
- B. Conditional Use Major Subdivisions shall follow the procedures for application and review outlined in Chapter 200, Subdivision of Land
- C. Standalone Conditional Use applications that do not require site plan review or major subdivision review shall be subject to the following procedures:
  - (1) A conditional use application and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by the Planning Director, along with the appropriate fees, as specified in Section 230-57.
  - (2) A public hearing on the conditional use shall be conducted by the Planning Commission. The Planning Commission shall review the application and shall recommend to City Council approval of the application with or without conditions, denial of the application, or table the application. The conditional use shall be reviewed based on the requirements set forth in the zoning ordinance. In case of an unfavorable recommendation for denial by the Planning Commission, such application shall not be approved except by a favorable vote of 3/4 of the City Council.
  - (3) No hearing shall be held by the Commission until notice of time and place thereof has been provided to the applicant, property owners within 200 feet of the subject property, and to such other interested

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parties as may be determined by the Planning Director at least 10 days before the date of said hearing. Notice shall be provided as follows:

- (a) The Planning Department shall notify by mail all property owners within 200 feet of the extreme limits of the subject parcel as their names appear in the City or County tax record at least 10 days prior to the hearing.
  - (b) The Planning Department shall provide notice to the general public of the public hearing before the Planning Commission by publishing the date, time, place and nature of the hearing at least 15 days before the hearing in a newspaper of general circulation in the City and posting the same information in City Hall and on the City website.
  - (c) The Planning Department will also post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. The published and posted notices shall contain reference to the time and place within the City where text, maps and plans for the proposal may be examined.
- (4) City Council shall review the application and shall approve the application with or without conditions, deny the application, or table the application. The conditional use shall be reviewed based on the requirements set forth in the zoning ordinance.

[Ord. No. 2022-06, 1-24-2022; Ord. No. 2023-28, § 4, 8-14-2023]

#### **§ 230-48. Criteria for evaluation.**

The following criteria shall be used as a guide in evaluating a proposed conditional use:

- A. The presence of adjoining similar uses.
- B. An adjoining district in which the use is permitted.
- C. There is a need for the use in the area proposed as established by the Comprehensive Plan.
- D. There is sufficient area to screen the conditional use from adjacent different uses.
- E. The use will not detract from permitted uses in the district.
- F. Sufficient safeguards, such as traffic control, parking, screening and setbacks, can be implemented to remove potential adverse influences on adjoining uses.

[Ord. No. 2022-06, 1-24-2022]

#### **§ 230-49. Conditions for approval; expiration.**

- A. In granting any conditional use permit, the City Council may designate such conditions as will, in its opinion, assure that the use will conform to the requirements as stated in Section 230-48 and that such use will continue to do so.
- B. A conditional use approval in conjunction with a Site Plan review shall expire upon expiration of the associated Site Plan.
- C. A conditional use approval in conjunction with a Major Subdivision application shall expire upon expiration of the associated Major Subdivision.
- D. A standalone conditional use permit shall expire within eighteen months of the date of issuance unless construction or operation of said use has commenced.

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(Supp. No. 27)

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- E. A reapplication for a conditional use permit for the same lot or use shall not be considered by the City Council within a period of one-year from its last consideration. This provision, however, shall not impair the right of the Council to propose a conditional use permit on its own motion.

[Ord. No. 2022-06, 1-24-2022]

**CITY OF MILFORD  
NOTICE OF PUBLIC HEARINGS**

Planning Commission Hearing: Tuesday, May 20, 2025 @ 6:00 p.m.

City Council Hearing: Tuesday, May 27, 2025 @ 6:00 p.m.

NOTICE IS HEREBY GIVEN that the proposed Ordinance is currently under review by the City of Milford Planning Commission and City Council. City Council has the option to approve or deny the application. By not adopting the ordinance, City Council will deny the application. By adopting the ordinance, City Council will approve the application and the reason for the language being written in the affirmative.

This form of writing is not used to influence any decision of City Council:

**ORDINANCE 2025-09**

Conditional Use Application of 111 North Walnut LLC

0.09 +/- acres of land located along the

East side of N. Walnut Street

Comprehensive Plan Designation: Commercial

Zoning District: C-2 (Central Business District)

Present Use: Mixed Use – Vacant Lot

Proposed Use: Mixed Use Occupancy Six (6) Commercial

Tenant Spaces Sixteen (16) Apartment Units

Tax Parcel: MD-16-183.10-03-75.00 (portion)

WHEREAS, the owners of the property as above described herein have petitioned the City of Milford for a Conditional Use to modify a vacant lot to construct a 38-foot by 70-foot, 4-story mixed-use building containing up to six (6) commercial tenant spaces and sixteen (16) apartment units; and

WHEREAS, the City of Milford Planning Commission will consider the application at a Public Hearing on May 20, 2025; and

WHEREAS, Milford City Council will hold a Public Hearing on May 27, 2025 to allow for public comment and further review of the ordinance; and

WHEREAS, it is deemed in the best interest of the City of Milford to approve the Conditional Use, as herein described.

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

Section 1. Chapter 230-42(B) states “four or more non-residential permitted uses or tenant spaces on a property zoned C-2, C-2A, C-3, OC-1 and H-1 requires a conditional use approval from City Council.”

Section 2. Following adoption of Ordinance 2025-09, and upon the effective date, 111 North Walnut LLC is hereby granted a Conditional Use to construct a 38-foot by 70-foot, 4-story mixed-use building containing up to six (6) commercial tenant spaces and sixteen (16) apartment units.

Section 3. Construction or operation shall commence within one year of the date of issuance of the permit otherwise the conditional use becomes void.

Section 4. Dates.

Planning Commission Review & Public Hearing: May 20, 2025

City Council Introduction: May 12, 2025

City Council Public Hearing: May 27, 2025

Effective: Ten Days following Adoption

For additional information, please contact Rob Pierce in the Planning & Zoning Department either by e-mail at [RPierce@milford-de.gov](mailto:RPierce@milford-de.gov) or by phone at 302.424.8396.

*Advertised: Daily State News 04-30-2025*

*Revised 5/1/2025*

# EMPLOYMENT AGREEMENT

between

THE CITY OF MILFORD, DELAWARE

And

Candidate #2

## TABLE OF CONTENTS

Introduction	P. 2
Section 1: Term	
P. 2	
Section 2: Duties and Authority	
P. 2	
Section 3: Compensation	
P. 2	
Section 4: Health, Dental, Life/AD&D, LTD and Health Flex Spending Benefits	
P. 3	
Section 5: Vacation and Sick Leave	
P. 3	
Section 6: Automobile	P. 3
Section 7: Moving and Relocation Expenses	
P. 4	
Section 8: Retirement/Deferred Compensation	
P. 4	
Section 9: General Business Expenses and and Professional Development	
P. 4	
Section 10: Hours of Work	
P. 5	
Section 11: Outside Activities	P. 5
Section 12: Performance Evaluation	
P. 5	
Section 13: Ethical Commitments	P. 5
Section 14: Termination	P. 6

Section 15: Severance	P. 6
Section 16: Resignation	P. 7
Section 17: Indemnification	
P. 7	
Section 18: Bonding	P. 7
Section 19: Other Terms and Conditions of Employment	
P. 8	
Section 20: Notices	P. 8
Section 21. General Provisions	
P. 8	
Signature Page	
P. 9	

**EMPLOYMENT AGREEMENT**  
between the  
**CITY OF MILFORD & Candidate #2**

**Introduction**

This Agreement, made and entered into this 28th day of May 2025, by and between the City of Milford, Delaware, a municipal corporation, and political subdivision of the State of Delaware (hereinafter called “City”) and Candidate #2, (hereinafter called “City Manager”) and both of whom agree as follows:

**Section 1: Term**

This agreement shall remain in full force and effect from August 4, 2025 until terminated by the City or City Manager as provided in Section 14, 15 or 16 of this agreement.

**Section 2: Duties and Authority**

- A. The City agrees to employ Candidate #2 as the City Manager. The City Manager accepts such employment and agrees to perform the functions and duties specified in the City Charter and City Ordinances, and to perform such other duties and functions as the City Council shall from time to time assign to the City Manager.
- B. City Manager is the Chief Administrative Officer of the City and shall faithfully perform the duties as prescribed in the job description, as set forth in the City of Milford Personnel Manual incorporated herein by reference and shall comply with all lawful City Council Directives, State and Federal Law, Employee Policies, and Rules and Regulations as they exist or may hereafter be amended.
- C. The City Manager or designee shall attend all meetings of the City of Milford Council, both public and closed, provided, however, subject to 29 Del. C. §

10004(b) City Council shall have the right to excuse the City Manager from any closed meetings devoted to the subject of this Agreement, any amendment thereto, the City Manager's evaluation, or matters unrelated to the City Manager's duties and responsibilities.

- D. The City Council, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints and suggestions called to their attention to the City Manager for study and/or appropriate action.

### **Section 3: Compensation**

- A. The City of Milford agrees to pay City Manager for his services rendered an annual base salary of \$195,000 for the duration of this contract, payable in installments in accordance with the Employer's usual payroll schedule.
- B. The City of Milford agrees to provide the same cost of living increases provided all other City employees each July 1, or any other times authorized by Council.
- C. Consideration shall be given on an annual basis to an increase in compensation dependent upon the results of a performance evaluation conducted pursuant to the provisions of Section 12 of this Agreement.
- D. This agreement shall be automatically amended to reflect any salary adjustments that are authorized by Milford City Council.

### **Section 4: Health, Dental, Life/Accidental Death & Dismemberment (AD&D), Long Term Disability (LTD) and Health Flex Spending Benefits**

- A. Health insurance for City Manager and dependent(s) will be effective September 1, 2025, subject to the carrier's spousal and dependent rules.
- B. City Manager agrees to pay the premiums for health and dental insurance for City Manager and dependent(s) on terms equal to all other full-time employees of the City of Milford.
- C. The City shall pay the amount of premium due for term life/AD&D insurance in the amount \$1,000,000. The City Manager shall name the beneficiary of the life/AD&D insurance policy.
- D. The City shall pay the amount of premium due for LTD insurance on the same terms as provided to all other full-time employees of the City of Milford.
- E. City Manager may elect to participate in the City of Milford Health Flexible Spending Account (FSA) Plan which is provided to other employees.

### **Section 5: Vacation and Sick Leave**

- A. Upon commencing employment, the City Manager shall be credited with 80 hours sick leave and 120 hours vacation leave. The City Manager shall then accrue sick leave in accordance with other non-collective bargaining City employees. The City Manager shall then accrue vacation leave at the rate of 16.667 hours per month (200 hours per year), except however, the City Manager may accrue no more than 240 total vacation hours as per the City's personnel policy.
- B. After one (1) year of employment, City Manager shall have access to a bank of 1,040 hours of sick leave to be used in the case of serious medical conditions. This

leave can only be used to provide coverage during the waiting period between the onset of illness or disability and the point at which long term disability coverage takes effect and may be renewed after each occurrence.

- C. City Manager shall accrue sick leave and vacation leave, in accordance with Section 5.A, except that in the event the City Manager's employment is terminated, either voluntarily or involuntarily pursuant to sections 14 or 16, the City Manager shall be compensated for accrued leave as provided for in sections 14 and 15.

### **Section 6: Automobile**

- A. The City Manager's duties require exclusive and unrestricted use of an automobile. The City agrees to pay to the City Manager, during the term of this Agreement and in addition to other salary and benefits herein provided, the benefit-taxable sum of \$500 payable monthly, as a vehicle allowance to be used at the City Manager's discretion to purchase, lease, or own, operate and maintain a vehicle.
- B. The City Manager shall be responsible for paying liability, property damage and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and regular replacement of vehicle. Proof of insurance levels satisfactory to the City must be provided upon request by the City.
- C. The City shall maintain an "accountable plan" in accordance with related IRS regulations.

### **Section 7: Moving and Relocation Expenses**

City Manager agrees to establish residence within the City of Milford (as per the City Charter) within six (6) months of employment, and thereafter maintain residence within City boundaries throughout employment with the City. City manager may reside outside the City only with the consent of City Council.

City Manager shall be reimbursed for expenses up to \$22,500 for documented expenses for moving the City Manager, family and personal property from \_\_\_\_\_ to Milford, Delaware. Said moving expenses shall include packing, moving, storage costs, unpacking, insurance charges and mileage costs for driving two personal automobiles from \_\_\_\_\_ to Milford, Delaware (at the current IRS allowable rate). Relocation expenses shall include travel costs (meals, hotel, and mileage) for house hunting. Reimbursement shall occur following submission and review of receipts by the City of Milford Finance Director.

### **Section 8: Retirement/Deferred Compensation**

The City agrees to make all required payments to the State of Delaware, County and Municipal Employees (General) Pension Plan for the City Manager for retirement benefits in the same manner and percentage amounts it makes for all other employees of the City. In addition, the City will contribute up to 6% match of the employee's contribution into the City's 457b Deferred Compensation Account in accordance with the terms of that Plan.

### **Section 9: General Business Expenses and Professional Development**

- A. City agrees to budget and pay for professional dues, including but not limited to the International City/County Management Association, and subscriptions of the City Manager necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the City Manager's continued professional participation, growth, and advancement, and for the good of the City.
- B. City agrees to budget and pay for travel and subsistence expenses of City Manager for professional and official travel, meetings, and occasions to adequately continue the professional development of City Manager and to pursue necessary official functions for the City, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which City Manager serves as a member.
- C. City also agrees to budget and pay for travel and subsistence expenses of City Manager for short courses, institutes and seminars that are necessary for the City Manager's professional development and for the good of the City.
- D. City acknowledges the value of having City Manager participate and be directly involved in local civic clubs and organizations. Accordingly, City agrees to pay for the reasonable membership fees and/or dues to enable the City Manager to become an active member in local/regional civic clubs and organizations.
- E. The City recognizes that certain expenses of a non-personal but job related nature are incurred by City Manager, and agrees to reimburse or to pay said general expenses. Such expenses may include meals where City business is being discussed or conducted and participation in social events of various organizations when representing the City. Such expenditures are subject to annual budget constraints as well as state and local ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.
- F. The City shall provide City Manager a laptop computer and software for business use. Upon termination of City Manager's employment, the laptop computer and software shall be returned to the City.
- G. The City shall provide the City Manager with a city smart phone to be used for city business at no expense to the employee.

### **Section 10: Hours of Work**

- A. It is recognized that the City Manager must devote a great deal of time outside the normal office hours on business for the City, and to that end City Manager shall be allowed to establish an appropriate work schedule.
- B. The schedule shall be appropriate to the needs of the City and shall allow City Manager to faithfully perform his assigned duties and responsibilities.

### **Section 11. Outside Activities**

The employment provided for by this Agreement shall be the City Manager's sole employment.

Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to

City and the community, the City Manager may elect to accept limited teaching, consulting or other business opportunities as long as such arrangements do not interfere with or cause a conflict of interest with City Manager's responsibilities pursuant to this Agreement.

## **Section 12: Performance Evaluation**

The City Council shall review and evaluate the performance of City Manager at least once annually at the time of City Manager's anniversary date of employment with the City. The evaluation process, at a minimum, shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, (3) present a written summary of the evaluation results and (4) mutually establish goals for the coming year. The Mayor should provide a written summary statement of the findings of the Mayor and Council to the City Manager within 30 days of the evaluation meeting. City Manager shall be given an opportunity to discuss this evaluation with the Mayor and City Council.

## **Section 13: Ethical Commitments**

- A. City Manager will at all times uphold the tenets of the ICMA Code of Ethics. Specifically, City Manager shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fundraising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time.
- B. The City shall support City Manager in keeping these commitments by refraining from any order, direction or request that would require City Manager to violate the ICMA Code of Ethics. Specifically, neither the governing body nor any individual member thereof shall request City Manager to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fundraising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

## **Section 14: Discipline or Termination**

- A. City Manager shall serve at the will and pleasure of the City Council and may be disciplined or removed from office with cause in accordance with the City of Milford Charter. For the purpose of this agreement, termination shall occur when:
  - 1. The majority of the City Council votes to terminate or discipline the City Manager in accordance with the City of Milford Charter.
  - 2. The City, citizens or state legislature acts to amend any provisions of the Charter of the City of Milford or Milford codified ordinances pertaining to the role, powers, duties, authority, or responsibilities of the City Manager's position that substantially changes the form of government.
  - 3. The City reduces the base salary, compensation or any other financial benefit of the City Manager, unless it is applied in no greater percentage than the average reduction of all department heads.
  - 4. The City Manager resigns following a request to resign made by a representative of or representatives of the majority of the City Council.

5. Breach of contract declared by either party with a 30-day cure period for either City Manager or City. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

### **Section 15: Severance**

Severance shall be paid to the City Manager when employment is terminated as defined in Section 14.

- A. If the City Manager is terminated, the City shall provide a minimum severance payment equal to six (6) months' salary at the then current rate of pay. This severance shall be paid in a lump sum or in a continuation of salary on the existing biweekly basis, at the City Manager's option. In the event City Manager's employment is terminated while he is on serious medical leave under Section 5.B, the severance payment shall be reduced by the hours used by the City Manager during the medical leave.
- B. The City Manager shall also be compensated for all sick and vacation leave as set forth in Section 5C to a maximum of 240 hours of vacation leave and 240 hours of sick leave.
- C. For a minimum period of six (6) months following termination, the City shall pay the cost to continue the following benefits:
  - 1. Health insurance for the City Manager and dependent(s) as provided in Section 4A, after which time, City Manager will be provided access to health insurance pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA").
  - 2. Life/AD&D insurance as provided in Section 4C.
- D. If the City Manager is terminated because of a felony conviction, or admission of or finding by a Body of competent jurisdiction of an act of moral turpitude then the City is not obligated to pay severance under this section.

### **Section 16: Resignation**

In the event that the City Manager voluntarily resigns his position with the City, the City Manager shall provide a minimum of 90 days' notice unless the City and City Manager agree otherwise.

### **Section 17: Indemnification**

- A. Beyond that required under Federal, State or Local Law, the City shall defend, save harmless and indemnify City Manager against any obligation to pay money or perform or not perform any action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrate or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of City Manager's duties or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The City Manager may request and the City

shall not unreasonably refuse to provide independent legal representation at City's expense and City may not unreasonably withhold approval. Legal representation, provided by City for City Manager, shall extend until a final determination of the legal action including any appeals brought by either party. The City shall defend, save harmless, and indemnify City Manager against any and all losses, damages, judgments, interest, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities incurred by, imposed upon, or suffered by such City Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his duties. Any settlement of any claim must be made with prior approval of the City in order for indemnification, as provided in this Section, to be available.

- B. City Manager recognizes that City shall have the right to compromise and, unless the City Manager is a party to the suit which City Manager shall have a veto authority over the settlement, settle any claim or suit; unless said compromise or settlement is of a personal nature to City Manager. Further, City agrees to pay all reasonable litigation expenses of City Manager throughout the pendency of any litigation to which the City Manager is a party, witness or advisor to the City. Such expense payments shall continue beyond City Manager's service to the City as long as litigation is pending.

### **Section 18: Bonding**

The City shall bear the full cost of any fidelity or other bonds required of the City Manager under any Law or Ordinance.

### **Section 19: Other Terms and Conditions of Employment**

- A. The City, only upon agreement with City Manager, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City of Milford Charter, City Ordinances or any other Law.
- B. Except as otherwise provided in this Agreement, the City Manager shall be entitled, at a minimum, to the highest level of benefits that are offered to other employees of the City as provided in the Charter, Code, Personnel Rules and Regulations or by practice.
- C. Applicable IRS regulations will apply to qualifying benefits and allowances.

### **Section 20: Notices**

Notice pursuant to this Agreement shall be given by certified mail or courier delivery by depositing in the custody of the United States Postal Service, postage prepaid, or by overnight courier, and addressed as follows:

- (a) CITY:  
Mayor and City Council  
Attention: City Clerk  
City of Milford

201 South Walnut Street  
Milford, Delaware 19963

- (b) CITY MANAGER:  
Candidate #2  
Address to be inserted at time of relocation.

Notice shall be deemed given as of the date of personal service or as the date of delivery of such written notice in the course of transmission in the United States Postal Service, or overnight courier.

## **Section 21: General Provisions**

- A. Integration. This Agreement sets forth and establishes the entire understanding between the City and the City Manager relating to the employment of the City Manager by the City. Any prior discussions or representations by or between the City and City Manager are merged into and rendered null and void by this Agreement. The City and City Manager by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.
- B. Binding Effect. This Agreement shall be binding on the City and the City Manager as well as their heirs, assigns, executors, personal representatives and successors in interest.
- C. Effective Date. This Agreement shall become effective on August 4, 2025.
- D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both City and City Manager subsequent to the expungement or judicial modification of the invalid provision.
- E. Precedence. In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of Council Policies, City Ordinances or City Rules and Regulations, or any permissive State or Federal Law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of Council policies, or City Ordinances, or City Rules and Regulations or any such permissive law during the term of this Agreement.
- F. Headings. The headings in this Agreement are for identification purposes only and not a substantive part of the Agreement.

IN WITNESS WHEREOF, the CITY OF MILFORD has caused this agreement to be signed and executed on its behalf by its Mayor, and duly attested by the City Clerk thereunto duly authorized, and the CITY MANAGER has signed and executed the same.

ATTEST

CITY OF MILFORD

\_\_\_\_\_  
City Clerk Katrina White

\_\_\_\_\_  
Mayor F. Todd Culotta

Date \_\_\_\_\_

APPROVED TO FORM:

\_\_\_\_\_  
City Solicitor David Rutt

\_\_\_\_\_  
City Manager Candidate #2

Date \_\_\_\_\_

PARKS & RECREATION DEPARTMENT  
207 Franklin Street  
Milford, DE 19963



PHONE 302.422.1104  
FAX 302.422.0409  
www.cityofmilford.com

To: Mayor and City Council  
Through: Mark A. Whitfield  
From: Brad Dennehy-Parks and Recreation Director  
Date: May 22, 2025

**Re: Deep Branch Park follow up information for Council**

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At the May 15<sup>th</sup> Council workshop, council asked for the following information regarding the proposed Deep Branch Park, **1.** Can the City of Milford “return” grant money from the State Outdoor Recreation Parks and Trail Program and **2.** How money is available for the project.

**1. Return of grant money from the State Outdoor Recreation Parks and Trails Program**

Following the meeting a copy of one of the contracts between the City of Milford and DNREC was sent to the solicitor, David Rutt, for review.

Mr. Rutt reviewed the contract and brought attention to section 9. **Termination** (B) which reads:

“If sufficient funds are not appropriated by the Delaware General Assembly, or other appropriate federal or state agency, to sustain in whole or in part Grantor’s performance under this Agreement; or is such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null and void of Grantor. Grant Funds cannot be recalled or otherwise taken back once disbursed to Grantee”.

Stating Solicitor Rutt’s email of 5/21/25: “I think this question is answered in Paragraph 9.b. Simply, if there are insufficient funds allocated the agreement can be deemed terminated and the funds paid by the state cannot be recalled or taken back. The funds used to buy the land under this do not have to be returned and if the land is not used for recreation purposes as I read it cannot be returned. Seems like an agreement without teeth”.

He then went on to state: “The other grants would just end absent a reimbursement request. Without a payment by the city and then seeking replacement funds, there is nothing to pay by the state”.

Lastly, he stated: “I researched the legal decisions for the grant program, but I did not see any cases applicable”.

## 2. Available Funding

### Grant Funding

#### 2023

- Community Reinvestment Fund (State Bond bill): \$ 250,000 (\$238,823 remaining)
- Outdoor Recreation Parks and Trails Program (ORPT): \$ 62,500 (\$0 remaining)

#### 2024

- Outdoor Recreation Parks and Trails Program (ORPT): \$ 60,000 (\$0 remaining)
- Community Reinvestment Fund (State Bond bill): \$ 200,000 awarded and available
- Community Transportation Fund (CTF): \$ 200,000 awarded and available
- Outdoor Recreation Parks and Trails Program (ORPT): \$ 125,000 awarded and available

#### 2025

- Outdoor Recreation Parks and Trails Program (ORPT): \$ 200,000 (applied for 5/16/25)

Firm grant awards total \$0.9 million with promise for an additional ORPT award of \$0.2 million to bring the total anticipated grant funding to \$1.1 million. Net of the ORPT awards for the land purchase and preliminary design & engineering costs, \$964,000 in grant funding is available toward the completion of Phase One. The table below summarizes the awarded and anticipated grant funding, less spending to date:

GRANT TYPE	GRANT STATUS	AWARDED	CONSUMED	AVAILABLE
BOND BILL	FIRM	\$ 450,000	\$ (11,177)	\$ 438,823
CTF	FIRM	200,000	-	200,000
ORPT	FIRM	247,500	(122,500)	125,000
ORPT 2025	PENDING	200,000	-	200,000
<b>TOTAL</b>		<b>\$ 1,097,500</b>	<b>\$ (133,677)</b>	<b>\$ 963,823</b>

### Matching City Funds

The design consultant's construction cost estimate of \$1,479,810.20 does not include any contingency funding. A contingency estimate of \$60,189.80 (about 4.1%) brings the Phase One estimate to \$1.54 million, leaving \$576,177 in matching funds required. The restoration of the federal grant funding for the downtown restroom project allows us to redeploy the general reserve funding of \$286,177. General fund reserves were also approved for the Marshall Pond project, which can be deprioritized to redeploy an additional \$150,000. Staff recommend the remaining \$140,000 be sourced from Realty Transfer Taxes (RTT), given the strong year projected in FY25. The initial draft of the FY26 CIP proposed \$250,000 in new funding from general fund reserves for Deep Branch Park, but if the previously awarded funding can be redeployed and leveraged with RTT funding, the FY26 capital budget will require no additional use of general fund reserves. A summary of the matching fund proposal follows:

REALLOCATED PROJECT	REASON	FUNDING SOURCE	AMOUNT
DOWNTOWN RESTROOMS	FEDERAL FUNDING AWARDED	GF RESERVES	\$ 286,177
MARSHALL POND	REFOCUS CIP	GF RESERVES	150,000
DEEP BRANCH PARK	RTT FUNDS AVAILABLE	REALTY XFER TAX	140,000
<b>TOTAL</b>			<b>\$ 576,177</b>

**Staff Recommendation**

Staff recommend that City Council approve the preliminary site plan, authorize the continued solicitation of agency approvals, including final approval from Sussex County Planning and Zoning, and competitively bid the Phase One of the Deep Branch Park project as identified in the design consultant’s construction cost estimate of \$1,479,810.20. Funding, including contingencies to a total project cost of \$1.54 million to be supplied by anticipated total grant funding of \$1,097,500 through Community Reinvestment Funds, Community Transportation Funds and Outdoor Recreation Parks and Trails Program, of which \$963,823 remains available or anticipated, with the balance of \$576,177 sourced from the transfer of \$436,177 general fund reserves previously approved for the Downtown Restrooms and Marshall Pond Projects and \$140,000 in FY26 Realty Transfer Taxes.





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PRELIMINARY OPINION OF  
PROBABLE CONSTRUCTION COST  
FOR  
HERRING BRANCH / DEEP CREEK GREENWAY  
PHASE 1

5/5/2025

BMG #: 2023139.00

Prepared By:

CDC

Checked By:

JDR

Prepared by:  
Becker Morgan Group, Inc  
309 S. Governors Avenue, Dover, DE 19904

Phase 1

Item Number	Item Description	Quantity	Units	Unit Cost	Total Cost
1	Full Depth DelDOT Entrance	4500.00	SF	\$ 62.93	\$ 283,185.00
2	Entrance Drive 8" CR-6 - 3.5" Base - 1.5" Top	24000.00	SF	\$ 7.17	\$ 172,080.00
3	Curb	2700.00	LF	\$ 49.71	\$ 134,217.00
4	Parking Lot 8" CR-6 - 2.5" Base -1.5" Top	31800.00	SF	\$ 6.94	\$ 220,692.00
5	Sidewalk	21000.00	SF	\$ 9.76	\$ 204,960.00
6	Stone Trail 4" CR-6 2" Dust	46460.00	SF	\$ 2.72	\$ 126,371.20
7	Pond Excavation, Topsoil Stabilize, Pipe Outfall	16100.00	SF	\$ 14.37	\$ 231,357.00
8	Grinder Pump and Force Main	1100.00	LF	\$ 42.68	\$ 46,948.00
9	Water Service for Bathroom	1100.00	LF	\$ 26.05	\$ 28,655.00
10	Landscape Buffering	893.00	LF	\$ 15.00	\$ 13,395.00
11	Privacy Fencing	795.00	LF	\$ 10.00	\$ 7,950.00
12	Remote Operate Gate	1.00	LS	\$ 10,000.00	\$ 10,000.00
<b>Subtotal</b>					<b>\$1,479,810.20</b>

Phase 2

Item Number	Item Description	Quantity	Units	Unit Cost	Total Cost
13	Bathroom	1.00	SF	\$ 250,000.00	\$ 250,000.00
14	Playground Equipment	4.00	LS	\$ 50,000.00	\$ 200,000.00
15	Pavilion	1800.00	SF	\$ 35.00	\$ 63,000.00
<b>Subtotal</b>					<b>\$513,000.00</b>

Phase 3

Item Number	Item Description	Quantity	Units	Unit Cost	Total Cost
16	Pickleball	7500.000	SF	\$ 41.54	\$ 311,550.00
17	Basketball	17000.000	SF	\$ 37.76	\$ 641,920.00
18	Pickleball Landscaping	1	LS	\$ 10,000.00	\$ 10,000.00
19	Basketball Landscaping	1	LS	\$ 10,000.00	\$ 10,000.00
<b>Subtotal</b>					<b>\$973,470.00</b>

15% Contingency \$444,942.03

**Grand Total \$3,411,222.23**

NOTE:

1.) This preliminary opinion of probable construction cost has been prepared based upon review of a plan entitled Preliminary Plan, as prepared by Becker Morgan Group Inc., dated of 03/12/2025

2.) Since Becker Morgan Group, Inc has no control over the cost of labor, materials or equipment, or over the contractor's method of determining process or over competitive bidding or market conditions, the opinions of probable construction cost provided hereon are made on the basis of our experience and qualifications. These opinions represent our best judgement as Engineers familiar with the local construction industry. However, the Engineer cannot and does not guarantee the proposals, bids, or the construction costs will not vary from opinions of probable costs prepared. If the Owner wishes greater assurances as to the construction cost, an independent cost estimator should be employed.

3.) This opinion of probable construction cost excludes costs that may be associated with the dewatering, unforeseen sub-surface conditions, environmental conditions, earth work, adverse weather conditions, material requirements, temporary utility installations, electrical transformer costs, water meter costs, etc. This estimate is not to be utilized for proforma or finance purposes.

4.) The cut/fill analysis, if applicable, is based on the limited information that Becker Morgan Group was able to obtain prior to completing this Opinion of Probable Costs.

5.) The costs listed above were provided by Kinsley Construction on 04/28/2025 as a Preliminary Cost Estimate for budgeting purposes. It is not intended to be used as a formal bid, and pricing is subject to change prior to final approvals.



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BECKER MORGAN GROUP, INC.

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302.734.7950

THE TOWER AT STAR CAMPUS  
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NEWARK, DELAWARE 19713  
302.369.3700

PORT EXCHANGE  
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410.546.9100

3333 JAECKLE DRIVE, SUITE 120  
WILMINGTON, NORTH CAROLINA 28403  
910.341.7600

1942 EAST 7TH STREET, SUITE 240  
CHARLOTTE, NORTH CAROLINA 28204  
980.270.9100

314 EAST MAIN STREET  
CLAYTON, NORTH CAROLINA 27520  
919.243.1332

www.beckermorgan.com

April 7, 2025

Mr. Brad Dennehy, CPRP  
Director of Parks & Recreation  
207 Franklin Street  
Milford DE 19963

**RE: DEEP BRANCH PARK – PHASE 1**  
2023139.00

Dear Brad,

Please see below for a brief memo regarding the status of Deep Branch Park – Phase 1:

### Deep Branch Park – Overview

---

#### Brief History of the Property

- **Size:** 19.4 acres
- **Acquisition:** Purchased by the City of Milford on **November 30, 2021**, after being on the market for ~4 years.
- **Design Services:** **Becker Morgan Group** engaged in **April 2023** to prepare conceptual designs as part of the **South Milford Greenway** initiative.
- **Zoning:** AR-1 (Sussex County); Public Park use is **by-right**.

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#### Public Open House

- **Date:** **September 12, 2024**
- **Purpose:** Present 3 conceptual park designs and collect community feedback.
- **Key Takeaways:**
  - Concepts were **well-received**.
  - **Community requests led to:**
    - Increased buffer between park and residences.
    - No lighting intrusion (park use limited to dawn–dusk).
  - **Top Desired Amenities:**
    - Multi-age Playground
    - Picnic Pavilion
    - Open Space
    - Pickleball Courts
    - Basketball Courts

---

#### DelDOT Coordination

- **Meeting Held:** **October 30, 2024**
- **Outcome:** Access design from South Rehoboth Blvd will comply with DelDOT guidance and traffic data.

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#### Sussex County Preliminary Plan

- Initial Submission: January 22, 2025
  - Preliminary Approval: March 19, 2025
    - Note: Final approval by staff once agency approvals are in hand.
-

### Current Plan Features (Phase 1)

- **Trail System:**
  - ~½ mile walking/biking trail
  - Stone dust surface
  - Connects to South Rehoboth Ave
- **Open Space:**
  - 7.75 acres of active space for flexible uses (temporary sports fields, events, expansion)
- **Recreational Amenities:**
  - Multi-age Playground
  - 20' x 40' Picnic Pavilion
  - Pickleball Courts
  - Basketball Courts
- **Infrastructure:**
  - Landscaping Buffer Zones (plans shifted westward)
  - Reforestation Areas
  - Public Restroom (connected to nearby pump station)
  - Parking Lot with 97 spaces

---

### Next Steps

- **Prepare Construction Documents**
  - **Submit for Agency Review:**
    - DelDOT
    - Sussex Conservation District
    - Delaware State Fire Marshal
- 

Please feel free to reach out with any questions!

Kind regards,



Chad Carter, RLA  
Senior Associate



## GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is entered into by and between the State of Delaware, Department of Natural Resources and Environmental Control, Division of Parks and Recreation located at 89 Kings Highway, Dover, Delaware, 19901 ("Grantor"), and the City of Milford located at 201 S Walnut Street, Milford, DE 19963 ("Grantee").

### WITNESSETH:

WHEREAS, Grantor is charged with administering and granting funds from the **Delaware Land & Water Conservation Trust Fund**, pursuant to 30 *Del. C.* § 5423 (**Outdoor Recreation, Parks and Trails Program** or "**ORPT Program**") for municipal and county outdoor recreation and conservation investments;

WHEREAS, the Grantor provided all eligible agencies a notice of grant cycle, dated March 28, 2023, requesting Pre-Applications be submitted on-line by May 14, 2023;

WHEREAS, the Grant Review Committee comprised of Grantor, the Delaware Parks and Recreation Council ("DPRC") and the Delaware Department of Transportation ("DelDOT") met on June 1, 2023, and reviewed Pre-Applications for eligibility, local match availability, and readiness. The Grant Review Committee determined tentative distribution and requested Grantee to submit an Application due September 15, 2023;

WHEREAS, the Grantee has made an Application for designing and constructing the entranceway, parking lot, playground, and related improvements at Deep Creek Herring Greenway ("ORPT Project") to Grantor for a Grant under the ORPT Program, in the amount of \$62,500;

WHEREAS, on October 4, 2023, the Grant Review Committee reviewed and evaluated Applications for funding purposes; and

WHEREAS, on November 2, 2023, the DPRC reviewed and unanimously accepted the Grant Review Committee's recommendation to fund this project at the amount of \$62,500. The Grantor, with consultation from DPRC, has considered the Application under the criteria for the ORPT Program, and resolved to grant **Sixty-Two Thousand Five Hundred (\$62,500.00)** to the Grantee in accordance with the terms and conditions of this Agreement and Attachments hereto.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Term.

- (a) The term of the Grant Agreement shall be from **January 1, 2024 through June 30, 2025**. This Agreement shall commence upon the execution of this Agreement by the parties and shall continue until Grantor provides Grantee its final disbursement of Grant Funds due on Grantee's final reimbursement request; or **June 30, 2025**, whichever occurs first. The parties may agree to extend this Agreement for a mutually agreeable term to be specified in writing.

2. Obligation(s) of Grantee.

- (a) Grantee shall use the Grant Funds to carry out the ORPT Project, herein described and in the Application and Project Map hereto as Exhibit A:

The Grantee will design and construct the entranceway, parking lot, playground, and related improvements at Deep Creek Herring Greenway. Grantee may advertise and select a qualified contractor(s) to conduct these project components. This project will occur within the protected areas outlined in the attached Exhibit A.

- (b) Grantee shall appoint a "Project Coordinator" who will oversee the completion of the ORPT Project and serve as a person of contact for Grantee in communications with Grantor. Grantee agrees to reference the assigned grant number and project name in any written correspondence or billing submitted to the Grantor. Grantee agrees to notify Grantor of changes in key personnel to the ORPT Project or organization or any development that may impact the schedule or scope of the ORPT Project within a reasonable time not to exceed thirty (30) days.
- (c) Grantee shall manage and complete the Project in a professional and competent manner. Grantee shall take reasonable efforts to assure that the Project is in conformance with all pertinent federal, state, and local statues, codes, ordinances, resolutions and other applicable regulations. Grantee shall solely bear the costs of permits and other relevant costs required in the performance of this Project for work done prior to this Agreement unless a Certification of Investment was issued by the Grantor. Grantee is solely responsible for any and all costs or expenses incurred in excess of the Grant Funds awarded.
- (d) Grantee shall submit ORPT Reimbursement Request Forms along with demonstration of eligible expenses with each grant reimbursement request while a project is active. These Reimbursement Forms will be provided upon request. The Status Report shall be submitted at least two (2) times annually, by December 31<sup>st</sup> and by June 30<sup>th</sup>. A reminder email will be sent out to Grantee with the Status Report attached. Any Grant Funds not expended prior to the end of the Term of this Agreement remain with the Grantor.

- (e) Grantee agrees to credit the participation of the ORPT program in any advertisement or public comments, in accordance with Section 20 (b) of this Agreement, related to the project for which funds are granted. Further, Grantee shall post a permanent park signage displaying the ORPT logo acknowledging the ORPT Program assistance.
- (f) Grantee shall provide sufficient funds to assure effective operation and maintenance of areas developed with ORPT Program assistance for the useful life of the investment.
- (g) **Grantee agrees that lands acquired or developed with ORPT Program assistance shall remain in public outdoor recreation or conservation uses in perpetuity and shall not be converted to other uses.** The Project Map outlines the land protected for the public's use. If the Grantee cannot prevent a conversion of the land to another use, the Grantee must notify the Grantor, in accordance with Section 12 of this Agreement, prior to the conversion. Grantee agrees that the land cannot be converted to another use, other than conservation or outdoor recreation, without prior written approval by the Delaware General Assembly. The Grantee must agree to replace the original land in accordance with the conditions set forth in the ORPT Manual (manual available upon request). If a conversion of land is approved by Delaware General Assembly, the Grantee agrees that any replacement land shall then become subject to the same provision as the original land. The Grantee further agrees to effectuate such replacement of the original land as determined solely by the Grantor.
- (h) **Grantee agrees that land acquired with ORPT Program assistance shall have the following language in the deed of conveyance:**

"These lands are acquired for outdoor recreation or conservation purposes in accordance with the Land and Water Conservation Trust Fund, (Title 30, Ch 54, Subchapter II Conservation Trust Fund)). Property acquired or improved with ORPT Program assistance shall remain in public outdoor recreation or conservation in perpetuity and remain open for public use. Furthermore, said property may not be converted to other uses without a subsequent act of the General Assembly. If the Grantee intends to convert all or a portion of this property to another use, the Grantee must notify the State Division of Parks and Recreation, Department of Natural Resources & Environmental Control prior to the conversion."

3. Order of Precedence.

Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any exhibits, amendments or modifications thereto); (b) Grantee's Application for grant funds and (c) Grantor's Grant Application Instructions. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

4. Obligations of Grantor: Disbursement & Limitation of Grant Funds.

- (a) Grantor shall serve as administrator of the Grant Funds under this Agreement. Grantor shall furnish Grant Funds to Grantee on a reimbursable basis. Upon incurring eligible

expenses, Grantee shall complete and submit to Grantor appropriate ORPT Reimbursement Request Forms.

- (b) Grantor shall reimburse Grantee up to fifty percent (50%) of eligible project expenses within thirty (30) days of receipt of Grantee's Reimbursement Request Form, Status Report and demonstration of expenditures. If Grantor disputes a portion of a reimbursement expenditure, Grantor agrees to 1) pay the undisputed portion of the reimbursement request of receipt and 2) provide Grantee a detailed statement of Grantor's position on the disputed portion of the reimbursement expense within thirty (30) days of receipt. Grantee shall then have thirty (30) days from receipt of Grantor's detailed statement to resolve the disputed portion of the reimbursement expense amount.
  - (c) Grantor shall not be obligated to reimburse ORPT Project costs incurred by Grantee prior to the issuance of a Purchase Order allocating the Grant Funds approved by the Delaware Department of Finance. Grantor shall notify Grantee within fourteen (14) days of when the Purchase Order has been approved and Grant Funds are made available to Grantee.
  - (d) Grantor's obligation to reimburse Grantee will not exceed the total amount of Grant Funds awarded to Grantee from the ORPT Program and authorized in the Purchase Order. Grantor's total liability that may become due under this Agreement is limited to the authorized amount set forth in Grantor's Purchase Order. Grantor is in no way liable for any such excess costs, fees or expenses.
  - (e) Grantor reserves the right to withhold disbursement of Grant Funds if Grantor determines, in its sole discretion, that (i) Grantee's performance or completion of the Project is in violation of any federal, state, or local law or rule; or creates a risk to the public health, safety or environment; (ii) Grantee fails to make substantial progress in the completion of the ORPT Project; and (iii) Grantee fails to comply with the terms of this Agreement.
  - (f) Grantor is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.
  - (g) Grantor shall supply the ORPT Program logo to Grantee for use in signage displaying the ORPT logo acknowledging the ORPT Program assistance.
5. Independent Status. It is understood that Grantee is an independent entity, and is not an agent or employee of Grantor. Grantee shall complete the Project in its own manner and method. Grantee shall be solely responsible for, and shall indemnify, defend and save Grantor harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
6. Modifications. Grantee shall provide written notice to Grantor within a reasonable time not to exceed Thirty (30) days of planned changes or modifications which impact the scope,

schedule or funding of the ORPT Project for which the Grant Funds were awarded. For clarification, any additional Grant Fund requests of Twenty-Five Thousand (\$25,000) Dollars or less will be reviewed by Grantor. Additional Grant Fund request of Twenty-Five Thousand (\$25,000) Dollars or more will require a Council review. In either case, there is no guarantee that the request will be partially or fully funded. If Grantor determines that the changes or modifications are of such significance as to no longer qualify the ORPT Project for Grant Funds, Grantor may terminate this Agreement in its discretion.

7. Procurement & Subcontractors. Grantee shall follow the State of Delaware Purchasing and Bidding Thresholds for the procurement of goods, supplies, and services, including a subcontractor(s). Grantee is only required to use the formal bidding procedures when a purchase is made in an amount that exceeds the threshold limits listed below:

(a) Materiel and Non-Professional Services:

Less than \$50,000 - Open Market Purchase  
\$50,000 - \$99,999.99 - 3 Written Quotes  
\$100,000 and over - Formal Bid

(b) Public Works:

Less than \$150,000 - Open Market Purchase  
\$150,000 - \$249,999.99 - 3 Letter Bids  
\$250,000 and over - Formal Bid

(c) Professional Services:

Less than \$150,000 - Open Market  
\$150,000 and over - Formal RFP Process

8. Assignment. Any attempt by Grantee to assign or otherwise transfer any interest in this Agreement without the prior written consent of Grantor shall be void.

9. Termination.

- (a) Grantor may, by written notice to Grantee, terminate this Agreement if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Grantee or any agent or representative of Grantee to any officer or employee of the State of Delaware or Grantor with a view toward securing a contract or securing favorable treatment with respect to the awarding of Grant Funds or making of any determinations with respect to the performance of this Agreement.

- (b) If sufficient funds are not appropriated by the Delaware General Assembly, or other appropriate federal or state agency, to sustain in whole or, in part Grantor's performance under this Agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this Agreement shall be null

and void at the insistence of Grantor. Grant Funds cannot be recalled or otherwise taken back once disbursed to Grantee.

- (c) Grantee acknowledges that Grantor has an obligation to ensure that public funds are not used to subsidize private discrimination. Grantee recognizes that if it refuses to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Grantor may declare Grantee in breach of this Agreement, terminate this Agreement, and designate Grantee as non-responsible.
  - (d) Grantee warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage, or contingent fee. For breach or violation of this warranty, Grantor shall have the right to terminate this Agreement.
  - (e) This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given (i) not less than fifteen (15) calendar days written notice of intent to terminate and (ii) an opportunity for consultation with the terminating party prior to termination.
  - (f) This Agreement may be terminated in whole or in part by the Grantor for its convenience, but only after Grantee is given; 1) no less than 15 calendar days written notice of intent to terminate; and 2) an opportunity for consultation with Grantor prior to termination.
  - (g) If the facilities or equipment used by the Grantee shall be damaged or destroyed by fire, Act of God, or otherwise, so that same cannot be used for the purpose herein, then in that event, at the option of the Grantor, this Agreement shall terminate, and each party shall be released from further obligations hereunder the Agreement.
  - (h) The rights and remedies of Grantor provided in this Section 9 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
10. Indemnification. Grantee or any agent contracted to conduct work under this Agreement shall indemnify and hold harmless Grantor, the State of Delaware, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of Grantee, its agents or employees, or (B) Grantee's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) Grantee shall have been notified promptly in writing by Grantor of any notice of such claim; and (ii) Grantee shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

11. Insurance.

(a) Grantee shall maintain the following insurance during the term of this Agreement or any extension thereto:

1. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
2. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
3. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate, and
4. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

(b) Grantee shall provide Forty-Five (45) days written notice of cancellation or material change of any policies.

(c) Before any activity in furtherance of this Agreement is undertaken by Grantee, the Certificate of Insurance and/or copies of the insurance policies shall be filed with the State. The certificate holder is as follows:

State of Delaware, Department of Natural Resources and Environmental Control  
Division of Parks and Recreation - ORPT Grant Program  
89 Kings Highway  
Dover, DE 19901

(d) In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.

12. Notices. All notices, reports or other written communication required or permitted herein shall be given in writing to the physical and or email addresses set forth below:

If to Grantor:

Michael Tholstrup, Grants Coordinator  
Delaware Department of Natural Resources & Environmental Control  
Division of Parks & Recreation  
89 Kings Highway  
Dover, DE 19901  
[Michael.Tholstrup@delaware.gov](mailto:Michael.Tholstrup@delaware.gov)

If to Grantee:

Brad Dennehy, Director of Parks and Recreation  
City of Milford

207 Franklin Street, Milford, DE 19963  
bdennehy@milford-de.gov

13. Force Majeure. Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.
14. Entire Agreement; No Oral Modification. This Agreement constitutes the entire agreement pertaining to the subject matter hereof between Grantor and Grantee. Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. The provisions of this Agreement supersede all prior oral and written applications, quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.
15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Grantee consents to jurisdiction and venue in the State of Delaware.
16. Severability. If any term or provision of this Agreement shall be held illegal, invalid or unenforceable by a Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement. Such term or provision held invalid shall be deemed modified to the extent necessary in the Court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
17. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and shall not be construed to define, limit, or prescribe the scope or intent of this Agreement or any part thereof.
18. Confidentiality. To the extent possible under 29 Del. C. 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled, or prepared in connection with the performance of this Agreement.
19. Surviving Clauses. The following clauses survive the termination of this Agreement: Section 10 "Indemnification;" Section 15 "Governing Law"; and Section 18 "Confidentiality."
20. Miscellaneous Provisions.
  - (a) The rights and remedies of Grantor provided for in this Agreement are in addition to any other rights and remedies provided by law. Grantor and the State of Delaware do not waive its sovereign immunity by entering into this contract and fully retain all

immunities and defenses provided by law with regard to any action based on this Agreement.

- (b) Grantee will not use the State of Delaware's name or the Great Seal of the State of Delaware, either expressly or impliedly, in any of its advertising or soliciting materials without the State of Delaware's express written consent.
- (c) Grantee certifies that the information reported herein is true, accurate and complete to the best of Grantee's knowledge based upon reasonable diligence of individuals with material knowledge of the Project. Grantee understands that these representations are made in support of claims for government funds.
- (d) Approval by Grantor of Grantee's request to subcontract or acceptance of or payment for subcontracted work by Grantor shall not in any way relieve Grantee of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.
- (e) Grantee shall be and remain liable for all damages to Grantor caused by negligent performance or non-performance of work under this Agreement by Grantee, its subcontractor, or its sub-subcontractor.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date signed below.

**GRANTOR  
STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
DIVISION OF PARKS AND RECREATION**

Witness: Monica Felker For

Signature: Eric D. Dawson

Name: Shawn M. Garvin

Title: Secretary

Date: 5/10/24

Date: 5/10/2024

**GRANTEE  
City of Milford**

Witness: Jenna Anderson

Signature: Arthur J. Campbell

Name: ARTHUR J. CAMPBELL

Title: MAYOR

Date: 02/08/2024

Date: 02/08/2024

**From:** [David Rutt](#)  
**To:** [Dennehy, Brad](#)  
**Cc:** [Whitfield, Mark](#)  
**Subject:** RE: Legal question for Council/Grant money  
**Date:** Wednesday, May 21, 2025 11:44:41 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image676194.png](#)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I think this question is answered in Paragraph 9.b. Simply, if there are insufficient funds allocated the agreement can be deemed terminated and the funds paid by the state cannot be recalled or taken back. The funds used to buy the land under this do not have to be returned and if the land is not used for recreation purposes as I read it cannot be returned. Seems like an agreement without teeth.

The other grants would just end absent a reimbursement request. Without a payment by the city and then seeking replacement funds, there is nothing to pay by the state.

I researched the legal decisions for the grant program, but I did not see any cases applicable.

**David Rutt**

Partner

Moore & Rutt, P.A.



Tel: 302-856-9568  
Fax: 302-856-4518  
Email: [dnrutt@mooreandrutt.com](mailto:dnrutt@mooreandrutt.com)  
Web: [www.mooreandrutt.com](http://www.mooreandrutt.com)

122 West Market Street  
P.O. Box 554  
Georgetown, DE 19947

**Please do not send any unencrypted email to MOORE & RUTT, P.A. containing Personally Identifiable or Non-Public Personal Information, such as social security numbers, other tax identification numbers, bank account numbers, loan numbers, wiring instructions, credit card numbers, etc. If you must send this type of information to Moore & Rutt, P.A. via email, please contact us to request a secure email channel.**

U.S. Treasury Circular 230 Notice: We inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties to promote, market, or recommend any transaction or investment, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

This electronic mail message, and any attachments transmitted with it, contain confidential information, intended only for the named addressee(s). If you are not the intended recipient or the person responsible for delivering this e-mail to the intended recipient, you are hereby notified that any use, distribution, copying or disclosure of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify the sender by reply e-mail, and delete all copies of this communication from your computer and network. Thank you.

**From:** Dennehy, Brad <[bdennehy@milford-de.gov](mailto:bdennehy@milford-de.gov)>  
**Sent:** Tuesday, May 20, 2025 2:37 PM  
**To:** David Rutt <[dnrutt@mooreandrutt.com](mailto:dnrutt@mooreandrutt.com)>  
**Cc:** Whitfield, Mark <[mwhitfield@milford-de.gov](mailto:mwhitfield@milford-de.gov)>  
**Subject:** Legal question for Council/Grant money

External email. Use **caution**.

Hello David,

Can you please take a look at the attached agreements between the City and DNREC, specifically section 2.

**Obligation(s) of Grantee section** (g) and (h).

At last Wednesday's workshop one of the Council members wanted to know if the city can "return" grant money from the State Outdoor Recreation Parks and Trail Program. I informed the council member I am unaware of this process.

The city has received grant funding from the State in the amount of \$60,000 which was used towards the initial purchase price of the Sharp property of \$555,926.

The city has also been awarded an additional \$62,500 in 2023 from ORPT (however we have not received this money as we have not begun construction).

Late in 2024 we were awarded an additional \$125,000 from ORPT however the mayor has yet to sign this document.

I will be drafting a memo to council for the May 27<sup>th</sup> meeting seeking to move forward with the Deep Creek Park.

Can you please look at the attached contracts and let me know your thoughts.

Thanks.

Brad.



**Brad Dennehy, CPRP** | Director of Parks and Recreation  
[bdennehy@milford-de.gov](mailto:bdennehy@milford-de.gov) | O: 302.422.1104 | | F: 302.422.0409  
207 Franklin St. | Milford, DE 19963 | [www.cityofmilford.com](http://www.cityofmilford.com)



TO: Mayor and City Councilmembers  
FROM: Rob Pierce, AICP - Planning Director  
DATE: May 27, 2025  
RE: Sharp Farm – Agricultural Lease

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The City of Milford executed an agricultural lease agreement with Howard Webb on December 22, 2021 for Sussex County Tax Parcel 3-30-11.00-039.00 containing 19.433 +/- acres of land. In anticipation of construction activities on the property during the 2024 calendar year, the City issued a lease termination notice on August 29, 2023.

Construction has not commenced for improvements on the property and staff recommends entering into a lease agreement with Howard Webb to allow for agricultural activities on the property for the remainder of the 2025 calendar year. Enclosed is a copy of the draft agricultural lease agreement for City Council’s consideration.

**Staff recommends City Council authorize the Mayor to execute the agricultural lease agreement with Howard Webb which would terminate on December 31, 2025.**

## AGRICULTURAL LEASE AGREEMENT

THIS AGRICULTURAL LEASE AGREEMENT (“Lease”) is made and executed on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2025, by and between the **CITY OF MILFORD**, a political subdivision of the State of Delaware, with an address of 201 S. Walnut Street, Milford, DE 19963 (“Lessor”) and **HOWARD WEBB**, with an address of 5536 Cedar Neck Road, Milford, DE 19963 (“Lessee”).

### RECITALS:

WHEREAS, Lessor is the owner of certain agricultural lands identified as Sussex County Tax Parcel No. 330-11.00-39.00, containing 19.433 acres of land, more or less, as shown on the “Minor Lot Line Adjustment for: the Estate of Betty F. Sharp (Trustee)” dated February 8, 2016 and prepared by Rob Nash Associates Surveying and Land Design, which is of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware in Plot Book 226, Page 84 (“Survey”) and which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, Lessor desires to lease the 16.5 tillable acres of the property, more or less, to Lessee, and Lessee desires to lease said tillable acres (“Leased Property”) from Lessor for agricultural purposes only; and

WHEREAS, Lessee is a farmer who grows and harvests corn, soybeans and small grains; and

WHEREAS, Lessee intends to use the Leased Property for growing and harvesting the aforementioned crops; and

WHEREAS, the parties have agreed to the rental of the Leased Property on the terms and conditions stated below.

### WITNESSETH:

That Lessor, in consideration of the rents, terms, covenants, conditions and agreement hereinafter made on the part of Lessee to be paid, kept and performed and Lessee, in consideration of the right to occupy the property hereinafter described, subject to the terms, covenants, conditions and agreements hereinafter set forth, do together hereby agree as follows:

- (1) **Recitals.** The Recitals are incorporated herein by reference as though fully set forth.

**(2) Demise and Use of Property.**

(a) **Agricultural Use Only.** Lessor grants, demises, leases and lets unto Lessee, to occupy and use for agricultural purposes only, more specifically to grow and harvest corn, soybeans and/or small grains, which shall be included within the meaning of the word “crop(s)” hereunder) the real property described hereafter.

(b) **No Hunting by Lessee.** Lessee shall not be permitted to hunt on the Leased Property.

**(3) Description of Property.** Lessor is the owner of certain real property located off of State Route 14 (Rehoboth Boulevard), City of Milford, Sussex County, DE, which consists of 19.433 acres of land, more or less, is identified as Sussex County Tax Map Parcel No. 330-11.00-39.00 and is shown on Exhibit A. The Leased Property shall consist of the 16.5 tillable acres, more or less, which is depicted on the Tax Map attached hereto as Exhibit B and incorporated herein by reference.

**(4) Term of Lease.** The term of this Lease shall be for nine (9) months, commencing on April 1, 2025 and terminating on December 31, 2025.

**(5) Renewal of Lease.** The lease shall terminate on December 31, 2025. Any renewal will require a new agricultural lease agreement. The Lessee acknowledges that he has been provided notification prior to August 31, 2025 of the Lessor’s intent not to renew the agricultural lease for the 2026 calendar year.

**(6) Rent.** The annual rental to be paid by Lessee to Lessor, payable without deduction, setoff, counterclaim or demand, shall be Three Hundred Dollars (\$300.00). Said annual rent shall be paid in full on May 1, 2025. There shall be no proration of the rental amount for any reason, including, but not limited to, Lessee’s inability to cultivate the Leased Property due to site conditions or weather. The Lessor may need to perform topographic survey and soil borings during the lease period. Soil borings will be generally limited to the location of the proposed stormwater management pond associated with the proposed park plan. The City will compensate the Lessee for any crop damage associated with these activities.

**(7) Security Deposit.** No Security Deposit shall be required under this Lease.

**(8) Late Fee.** If any rental payment is paid more than five (5) calendar days late, Lessee will pay, as additional rent, a sum equal to five percent (5%) of the amount of delinquent rent then due. If a rental check is not honored upon presentment by Lessor to a financial institution within a reasonable time after Lessor’s receipt of said check, Lessee agrees to pay to Lessor all bank charges associated with such dishonor as well as a One Hundred Dollar (\$100.00) charge as additional rent to off-set time, costs and other damages of Lessor.

**(9) Taxes and Utilities.** Except as otherwise provided herein, Lessor shall be responsible for payment of State and local property taxes assessed on the Leased Property. Lessee shall pay all ad valorem taxes or any other taxes, including taxes levied by Sussex County, on any improvements erected on the Leased Property and all equipment installed therein. To the extent that any utility services are provided to the Leased Property, Lessee shall pay all said expenses.

**(10) Wells; Irrigation.**

(a) **Wells.** To the best of Lessor's knowledge, there are no wells present on the Leased Property. If any well exists, Lessor makes no representations or warranties as to the suitability of said well(s), if any, for use; however, Lessee shall be permitted, at its sole cost, expense and risk, to use said wells in the conduct of permitted agricultural operations hereunder. Lessee shall not be permitted to install any wells on the Leased Property without the prior written consent of Lessor. Lessee agrees to indemnify and save harmless Lessor for any damages or claims of damages arising from the installation, use or operation of any well (or components thereof) installed or used by Lessee on the Leased Property.

(b) **Irrigation.** There are no existing irrigation systems located on the Leased Property. Lessee shall be responsible for all crop irrigation on the Leased Property. No irrigation system shall be installed without obtaining the prior written consent of Lessor.

**(11) Access Roads.** The parties recognize that Lessee shall be permitted to access the Leased Property from a 50' wide private road running to the Leased Property from State Route 14 (S. Rehoboth Boulevard) ("the Access Road") as shown on the Survey attached hereto as Exhibit A. Lessor shall have no responsibility to maintain the Access Road.

**(12) Lessee's Rights and Obligations.** In addition to Lessee's rights as set forth elsewhere herein, Lessee shall have the following rights and obligations:

(a) Lessee shall not be permitted to construct or otherwise erect any improvements on the Leased Property without obtaining Lessor's prior written consent.

(b) Lessee shall conduct all agricultural operations on the Leased Property in accordance with all applicable laws, rules and regulations and in conformity with accepted practices in the agricultural industry.

(c) Lessee shall not do or suffer to be done or keep or suffer to be kept anything in, upon, or about the Leased Property which may breach the terms of any hazard or liability insurance policies Lessor may have or which will prevent Lessor from procuring insurance with companies acceptable to lessor at standard rates

and terms.

- (d) To the extent such insurance can be reasonably acquired, Lessee shall obtain Lessee liability insurance for farming land. Lessor shall be given a copy of the certificate of insurance for said policy, and Lessor shall be named as an additional insured in said policy.
- (e) Lessee shall not commit or permit the commission by other of any waste on the Leased Property. Furthermore, Lessee shall not maintain, commit, or permit the maintenance or commission of any nuisance, as such term is narrowly defined with respect to agricultural operations in the *Delaware Code*; or use or permit the use of the Leased Property for any unlawful purposes. During the term of the Lease, Lessee shall maintain the Leased Property in a neat and orderly manner, as much as would be expected given the nature of the permitted uses hereunder.

**(13) Indemnification of Lessor by Lessee.** Lessee covenants and agrees to indemnify and save harmless Lessor from any and all claims and demands for damages to persons or property suffered on account of the faults or omissions of Lessee or anyone acting for or on behalf of Lessee, or arising from the violation of any law or ordinance by Lessee or anyone acting for or on behalf of Lessee, arising out of Lessee's use and occupancy of the Leased Property during the term of this Lease. This provision shall survive expiration or earlier termination of this Lease.

**(14) Lessor's Rights and Obligations.** In addition to Lessor's rights as set forth elsewhere herein, Lessor shall have the following rights:

- (a) Lessor shall be permitted to enter the Leased Property at any time in the event of an emergency. If Lessor or Lessor's agents enter the Leased Property for any reason, it is hereby agreed and understood that such entry shall not interfere with Lessee's use and occupancy of the Leased Property. It is further agreed and understood that, other than in the event of an emergency, if the entry of Lessor or Lessor's agent damages any of Lessee's crops, Lessor shall pay Lessee reasonable compensation for any such crop damage.
- (b) To receive any and all benefits and payments arising from any Federal, State or local governmental program relating to the ownership and/or use of the Leased Property.

**(15) Reimbursement of Funds Expended by Lessor Due to Failure of Lessee to Perform Agreement.** In case Lessor shall pay or be compelled to pay any sum of money or do any act which shall require the expenditure or payment of any money by reason of the failure of Lessee, after such notice, if any, as Lessor, by the terms of this Lease, may be entitled to, to perform

any one or more of the terms, covenants or conditions herein, Lessee shall immediately repay the same to Lessor upon demand, and in default thereof, then the sum so paid by Lessor, together with all interest, costs and damages, shall be added as additional rent payable by Lessee immediately upon Lessee's receipt of demand for the same.

**(16) Discharge of Liens by Lessee.** If at any time, whether during the period of construction of any buildings or structures or at any other time, any lien of mechanics, laborers or materialmen, or other creditors of Lessee, shall be filed against the Leased Property, or any part thereof, Lessee shall, at its own cost and expense, procure the same to be discharged by payment, bonding or otherwise, as provided by law, within thirty (30) days after the giving by Lessor to Lessee of written notice that the same are filed, but nothing herein contained shall in any way prejudice the rights of Lessee to contest to final judgment or decree any such lien. Lessee, upon reasonable notice and request in writing from Lessor, shall also defend for Lessor, at Lessee's sole cost and expense, any action, suit or proceeding which may be brought on or for the enforcement of any such lien, and shall pay any damages and satisfy and discharge any judgment entered in such action, suit or proceeding and save harmless Lessor from any liability, claim or damages resulting therefrom.

**(17) Acts of Default Defined.** Each of the following shall be deemed a default by Lessee and a breach of this Lease:

- (a) Failure to do, observe, keep and perform any of the other terms, covenants, conditions, agreements and provisions of this Lease required on the part of Lessee other than the payment of rent as set forth in subparagraph (a) above;
- (b) The abandonment of the Leased Property by Lessee, the adjudication of Lessee as bankrupt, the making by Lessee of a general assignment for the benefit of creditors and the taking by Lessee of the benefit of any insolvency act or law, or the appointment of a receiver or trustee in bankruptcy for Lessee's property.

**(18) Lessor's Remedies in Event of Default.** Lessor's remedies upon Lessee's default are as follows:

- (a) **Remedy for Other Default.** If Lessee breaches any other term, covenant, condition, agreement or other provision of this Lease, or any legal obligation imposed by any federal, state, county or local government or agency, or otherwise defaults according to the terms stated in paragraph 15 above, other than a default in the payment of rent, and Lessee further fails to cure said breach within thirty (30) days after written notice to Lessee from Lessor specifying said breach (or such longer period if the condition cannot reasonably be cured within the aforesaid thirty (30) day period), Lessor, at its option, may declare this Lease terminated, at which time all the installments of rent for the entire term hereof shall become due and payable at once, without further demand or

notice. On demand of Lessor or its assigns, Lessee shall surrender to Lessor its assigns complete and peaceable possession of the Leased Property, waiving all other notice of any kind or description. These remedies are in addition to any other remedies provided Lessor under the law, including but not limited to summary proceeding for possession of the Leased Property, action for breach of contract or action for rent.

(b) **Lessee's Liability for Costs and Fees upon Default.** It is specifically agreed by Lessee that Lessee shall be liable for all costs incurred by Lessor as a result of any default by Lessee, including but not limited to (i) collection costs; (ii) costs of suit; and (iii) reasonable attorney's fees incurred as a result of any default by Lessee.

(19) **Lessee's Remedies in Event of Lessor's Default.** If Lessor breaches any term, covenant, condition, agreement or other provision of this Lease or otherwise defaults hereunder and Lessor further fails to cure said breach within thirty (30) days after written notice to Lessor from Lessee specifying said breach (or such longer period if the condition cannot reasonably be cured within the aforesaid thirty (30) day period), Lessee, at its option, may declare this Lease terminated, and may thereafter bring an action for breach of contract and shall be entitled to recover damages attributable to Lessor's default(s). It is specifically agreed by Lessor that Lessee's damages shall include all costs incurred by Lessee as a result of any default by Lessor, including but not limited to (i) collection costs; (ii) costs of suit; and (iii) reasonable attorney's fees incurred as a result of any default by Lessor.

(20) **Lease Termination and Surrender of Property.** Except as otherwise provided in this Lease, upon the expiration or earlier termination of this Lease, Lessee shall then immediately quit and surrender the Leased Property and each and every part thereof to Lessor, and Lessor may enter upon the Property, by summary proceedings, or otherwise. In any of such events, Lessor shall be entitled to the benefit of all provisions of law with respect to the speedy recovery of lands and tenements held over by Lessees or proceedings for forceable entry and detainer. Upon any entry or re-entry by Lessor, with or without legal process, Lessor shall also have the right, but not the obligation, to relet all or any part of the Leased Property, from time to time, at the risk and expense of Lessee. No re-entry by Lessor shall serve as a release of the Lessee's liability for damages under the provisions of this Lease. Lessee covenants and agrees that any continued use of the Leased Property by Lessee after an event of default or after the expiration of this Lease, shall leave Lessee liable to Lessor at a rental amount of two (2) times the base rental set forth hereinabove from the date of default or lease expiration, whichever is earlier, to the date that Lessee last occupies the Leased Property. Upon the occurrence of an event of default, Lessee's failure to surrender possession of the Leased Property in writing to Lessor shall be considered continued occupancy of the Leased Property and shall subject Lessor to the holdover provisions contained herein.

(21) **Waiver of Breach.** No waiver of any breach or breaches of any provision of this

Lease shall be construed to be a waiver of any preceding or succeeding breach of such provision or of any other provision hereof.

**(22) Termination by Agreement in Writing.** If the parties hereto mutually agreed to a termination of this Lease prior to the ending date hereof, any such agreement must be reduced to writing in order to be effective. The written agreement must set forth in detail any additional rental amounts to be paid by Lessee or any refunds to be made by Lessor. If there is no written agreement between the parties, then this Lease shall not be considered as being terminated by mutual agreement.

**(23) Assignment.** Lessee shall not assign, sublease, or in any manner transfer this Lease or any estate or interest therein without the previous written consent of Lessor, which consent shall not be unreasonably withheld; and not to sublet the Leased Property or any part or parts thereof or allow anyone to come in with, through or under it, without like consent.

**(24) Manner of Giving Notices.** All notices or communications required by this Lease or desired to be given hereunder, shall be in writing and given by electronic mail with delivery receipt, certified or registered mail, return receipt requested or courier and shall be deemed to be given when received. Notices shall be addressed to the individual identified below:

To Lessor:

Mark Whitfield, City Manager  
City of Milford  
201 S. Walnut Street  
Milford, DE 19963  
Tel.: (302) 422-1111  
[mwhitfield@milford-de.gov](mailto:mwhitfield@milford-de.gov)

With a copy to:

David N. Rutt, Esquire  
Moore & Rutt, P.A.  
122 W. Market Street  
P.O. Box 584  
Georgetown, DE 19947  
Tel.: (302) 856-9568  
[dnrutt@mooreandrutt.com](mailto:dnrutt@mooreandrutt.com)

To Lessee:  
Mr. Howard Webb  
5536 Cedar Neck Road  
Milford, DE 19963  
Tel.: (302) 270-4629  
[hwebbcattle@gmail.com](mailto:hwebbcattle@gmail.com)

Either Party may change its point of contact by written notice to the other.

**(25) Covenant of Quiet Enjoyment.** Lessee, upon payment of the rent, additional rent, and upon the due performance of all the terms, covenants, conditions and agreements herein contained on Lessee's part to be kept and performed, shall at all times during the term hereby granted, peaceably and quietly enjoy the Leased Property.

**(26) Headings for Convenience Only.** The headings used herein are for convenience and shall not be resorted to for purposes of interpretation or construction hereof.

**(27) Severability.** If any provision, phrase or subparagraph herein is later determined to be invalid for any reason, it shall be considered deleted herefrom and shall not invalidate the remaining provisions.

**(28) Binding Effect of Agreement.** All the terms, covenants and conditions of this Lease shall be binding upon the respective heirs, personal representatives, successors and assigns of the parties hereto.

**(29) Change in Lease Required to be in Writing.** None of the terms, covenants and conditions of this Lease shall in any manner be altered, waived, changed or abandoned, nor shall said term or any part thereof be surrendered except by a written instrument signed and delivered by the parties hereto.

**(30) Subordination of Lease.** This Lease shall be subject and subordinate to any mortgage that is now on or affects the Leased Property or that any owner of the Leased Property may hereafter at any time elect to place on the Leased Property, and to all advances already made or that may be hereafter made on account of any such mortgage, to the full extent of the principal sums secured thereby and interest thereon. Further, Lessee shall on request hereafter execute any paper or papers that Lessor's counsel may deem necessary to accomplish such subordination of Lessee's interests in this Lease, in default of which Lessor is hereby appointed as Lessee's attorney-in-fact to execute such paper or papers in the name of Lessee and as the act and deed of Lessee, and this authority is hereby declared to be coupled with an interest and irrevocable.

**(31) Counterparts; Electronic Signatures.** This Lease may be executed in two counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of

signatures shall be deemed to have the same force and effect as originals.

**(32) Applicable Law.** This Lease shall be governed by and construed according to the laws of the State of Delaware.

**(33) Inspection.** Lessor shall have the right to inspect the Leased Property at any reasonable time but shall not have any duty to inspect or repair the same for any purpose whatsoever, except as is expressly set forth herein.

**(34) Attorneys' Fees and Costs.** If either party shall bring any action against the other concerning the Leased Property or this Lease, the prevailing party shall be entitled to reasonably attorneys' fees and costs in addition to any other relief granted.

**(35) Time of the Essence.** Time is of the essence with respect to all dates contained herein.

**IN WITNESS WHEREOF,** the parties hereto have hereunto set their hands and seals on the respective date(s) set forth below.

LESSOR:

CITY OF MILFORD

\_\_\_\_\_  
Attest/City Clerk

\_\_\_\_\_  
By: Mayor F. Todd Culotta (SEAL)

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date Commission Expires

LESSEE:

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (SEAL)  
Howard Webb

\_\_\_\_\_  
Date

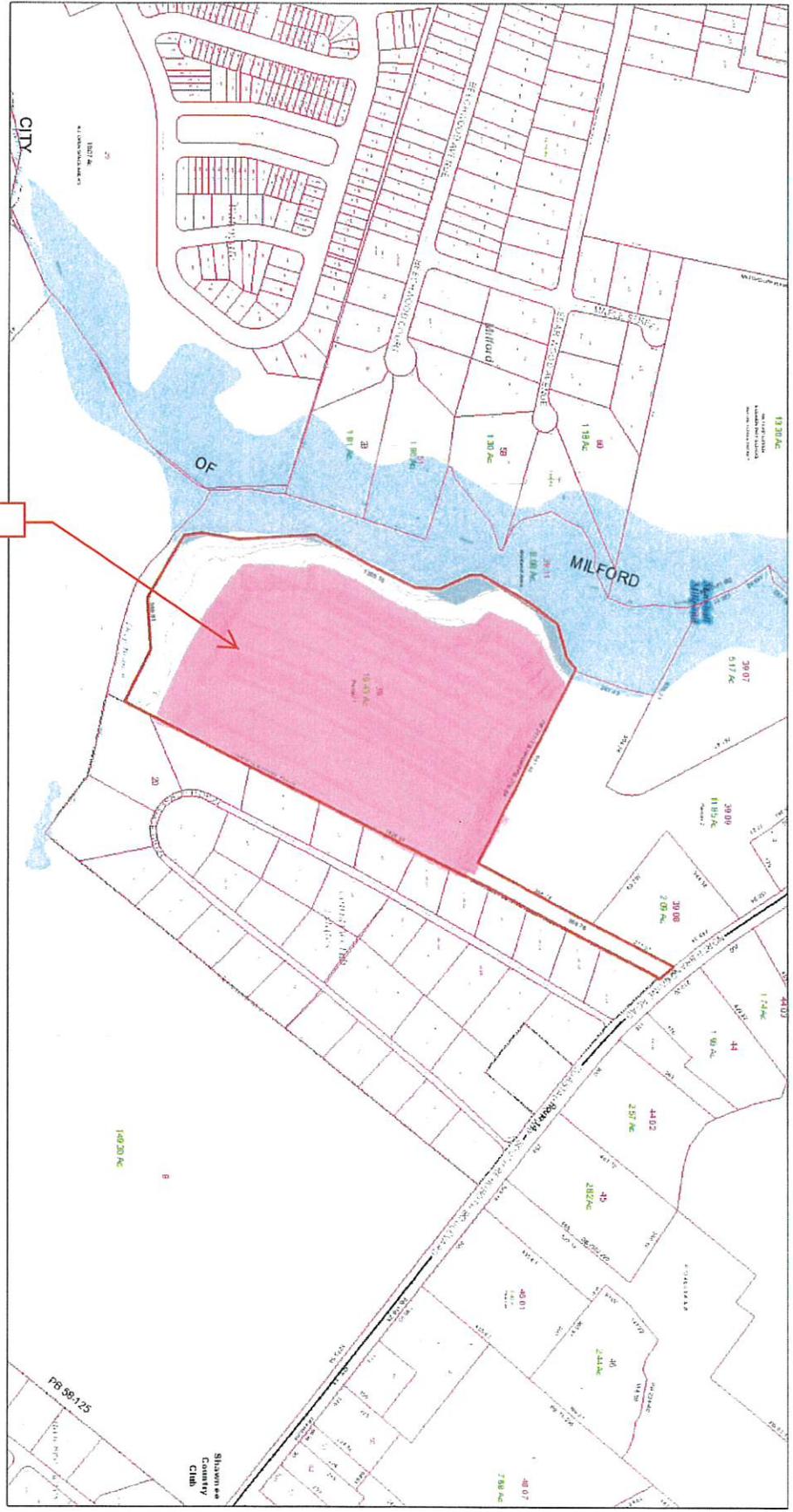
EXHIBIT A  
Survey of Property



EXHIBIT B

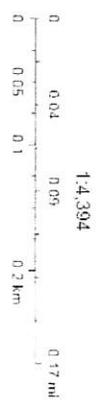
Tax Map Depicting Leased Property

330-11.00-39.00



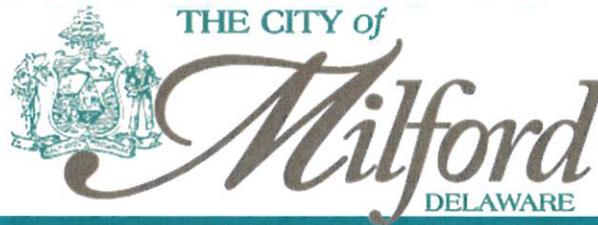
November 8, 2021

Tillable Acreage



1:4,394  
Shawnee County Government Facilities

Property Tax Information - Shawnee County, DE



TO: City Council and Mayor  
Thru: Mark Whitfield, City Manager  
FROM: Willis Shafer, Public Works Director  
DATE: May 16, 2025  
RE: Change order #2 to contract number 2023-EN/ST-002 to repave Blackwater Court

**Background:** In July 2023, Key Properties, the developer of Hearthstone Manor, hired CJ Paving to install the asphalt surface course for Blackwater Court. During the paving operation, no density tests for quality control were conducted by CJ Paving, the asphalt paving contractor. Once the paving operations were complete, public works engineering staff observed an unacceptable riding surface. The pavement did not harden and remained soft and pliable. Due to the condition of the pavement, public works hired a 3<sup>rd</sup> party inspection firm, Verdantas, to obtain field density and compaction values at 26 locations along Blackwater Court. Test results indicated compaction values between 74% and 91%. DeIDOT requires a minimum compaction value of 92% for surface/top course pavement, **see attachment #1**. In August of 2023, CJ Paving hired Hill-Carnes to conduct asphalt testing at 46 locations using a thin lift gauge. All 46 locations indicated a failing result, **see attachment #2**. In December 2023, CJ Paving had addition density tests performed by Hillis-Carnes, resulting in similar failing compaction tests, **see attachment #3**. Since July 2023, Key Properties have received numerous verbal and written requests by the City of Milford to have Blackwater Court repaved.

The City Council approved a Utility and Street Rehabilitation contract in 2024 with Eastern States Construction Service for the sum of \$6,166,163 to replace aging utilities and pave roadways City wide. Staff is requesting that Council approval a second change order to contract 2023-EN/ST-002 in the amount of \$81,786.50. This will include road surface milling, repaving and field density testing at a cost of \$80,286.50 and \$1,500 for a 3<sup>rd</sup> party inspection firm to oversee paving of Blackwater Court at the Hearthstone Manor Development.

The City of Milford will utilize Key Properties letter of credit with Community Bank to cover the \$81,786.50 cost to repave Blackwater Court. Once payment is received from Community Bank, the funds will be reissued to the Utility and Street Rehabilitation account.

**Recommendation:** Staff recommend City Council authorize a change order to contract 2023-EN/ST-002 in the amount of \$80,286.50, **see attachment #4**, and \$1,500 for the 3<sup>rd</sup> party oversight, to proceed with mill and surface paving of Blackwater Court, for a total of \$81,786.50

Date: Thursday 07/27/2023	Project No.: 18926	Page 1 of 5
Project: Backwater Court		
Location: Milford, Delaware		
Contractor: -	Owner: City of Milford	
Present at site: Verdantas: Michael Mallon	Weather: Sunny	Temp: 80s °F
City of Milford: James		
Density Test Nos.:	Cylinder Set Nos.:	Date of Last Report:
1 - 26	--	Initial

**Field Report**

IMF  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attachment  
# 1

Verdantas LLC on site approx. from 10:00 - 14:00 as requested by City of Milford for construction review services at the above referenced project site. Construction review services performed today include the following:

Location	Bulk Fill Review	Pre-concrete Placement Review	Concrete Placement Review	Backfill Fill Review	Masonry Review	Structural Steel Review	Other:
(2) Cul-de-sac	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:Pavement Review
Intersection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:Pavement Review
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	:

Verdantas informed the contractor of today's observations as summarized in the attached review sheets.

**Additional Comments:**

Verdantas onsite to review previously placed pavement in the cul-de-sacs and intersection along Backwater Court (see sketch for approximate test locations). Verdantas was not onsite during initial pavement placement, which occurred between July 10 and July 12, 2023. Based on our understanding, the pavement has shown signs of deterioration since placement.

Prior to performing compaction testing, Verdantas obtained the theoretical voidless density (159.3 pcf) from the Allan Myers' Georgetown plant for the pavement placed on July 12th. This density value was utilized during today's site review of top course pavement.

Density and compaction values, obtained utilizing a Troxler nuclear gauge, are noted on the following pages. In general, compaction results varied between 74% and 91% with densities ranging between 118 pcf to 145 pcf. Typically, DelDOT will require a minimum compaction value of 92% for surface/top course pavement, as noted in "Division 400, Section 401.11 Compaction Testing" of the DelDOT Standard Specifications for Road and Bridge Construction (Revised June 2022).

<b>Date:</b> Thursday 07/27/2023	<b>Project No.:</b> 18926	<b>Page</b> 2 <b>of</b> 5
<b>Project:</b> Backwater Court		
<b>Contractor:</b> -	<b>Weather:</b> Sunny	<b>Temp:</b> 80s°F

### Bituminous Paving Review Summary

<b>General Area:</b> Backwater Court (2) Cul-de-sacs, Intersection
<b>Specific Area:</b> See Sketch

<b>Compaction Specification</b> 92% Theoretical Voidless Density
<b>Reference Drawings:</b> Google Earth imagery, dated June, 2022.

Subbase Compaction Testing/Proofroll Performed On: --

Tack Coat Placed: --

**Contractor Placed and Compacted Bituminous Concrete:**

Paving Material Source	Material Used	Course (Base, Binder, Top)	Compaction Equipment	Temperature as Placed(°F)	Loose Lift Thickness (in.)
Allan Myers	Type C, PG 64-22	TOP	--	--	--

**Bituminous Concrete Paving Placement Testing Summary:**

TEST NO	SITE REFERENCE INFORMATION		TVD/MARSHALL/ TEST STRIP NO. (PCF)	WET DENSITY (PCF)	COMPACTION (%)
	Location (STA/Offset)	Course			
1	Cul-de-sac #1	TOP	159.3	144.8	90.9%
2	Cul-de-sac #1	TOP	159.3	141.5	88.8%
3	Cul-de-sac #1	TOP	159.3	139.9	87.8%
4	Cul-de-sac #1	TOP	159.3	139.4	87.5%
5	Cul-de-sac #1	TOP	159.3	138.6	87.0%
6	Cul-de-sac #1	TOP	159.3	131.9	82.8%
7	Cul-de-sac #1	TOP	159.3	131.6	82.6%
8	Cul-de-sac #1	TOP	159.3	118.1	74.1%
9	Cul-de-sac #1	TOP	159.3	129.8	81.5%
10	Cul-de-sac #1	TOP	159.3	131.4	82.5%
11	Intersection	TOP	159.3	144.4	90.6%
12	Intersection	TOP	159.3	137.9	86.6%
13	Intersection	TOP	159.3	123.8	77.7%
14	Intersection	TOP	159.3	141.1	88.6%
15	Intersection	TOP	159.3	142.1	89.2%

Verdantas informed the contractor and client of the test results. Based on the test results, the bituminous concrete paving appeared to be placed in general accordance with the approved drawings and specifications. Exceptions noted below:

Date: Friday 07/28/2023	Project No.: 18926	Page 3 of 5
Project: Backwater Court		
Contractor: -	Weather: Sunny	Temp: 80s°F

### Bituminous Paving Review Summary

<b>General Area:</b> Backwater Court (2) Cul-de-sacs, Intersection
<b>Specific Area:</b> See Sketch

<b>Compaction Specification</b> 92% Theoretical Voidless Density
<b>Reference Drawings:</b> Google Earth imagery, dated June, 2022

Subbase Compaction Testing/Proofroll Performed On: --

Tack Coat Placed: --

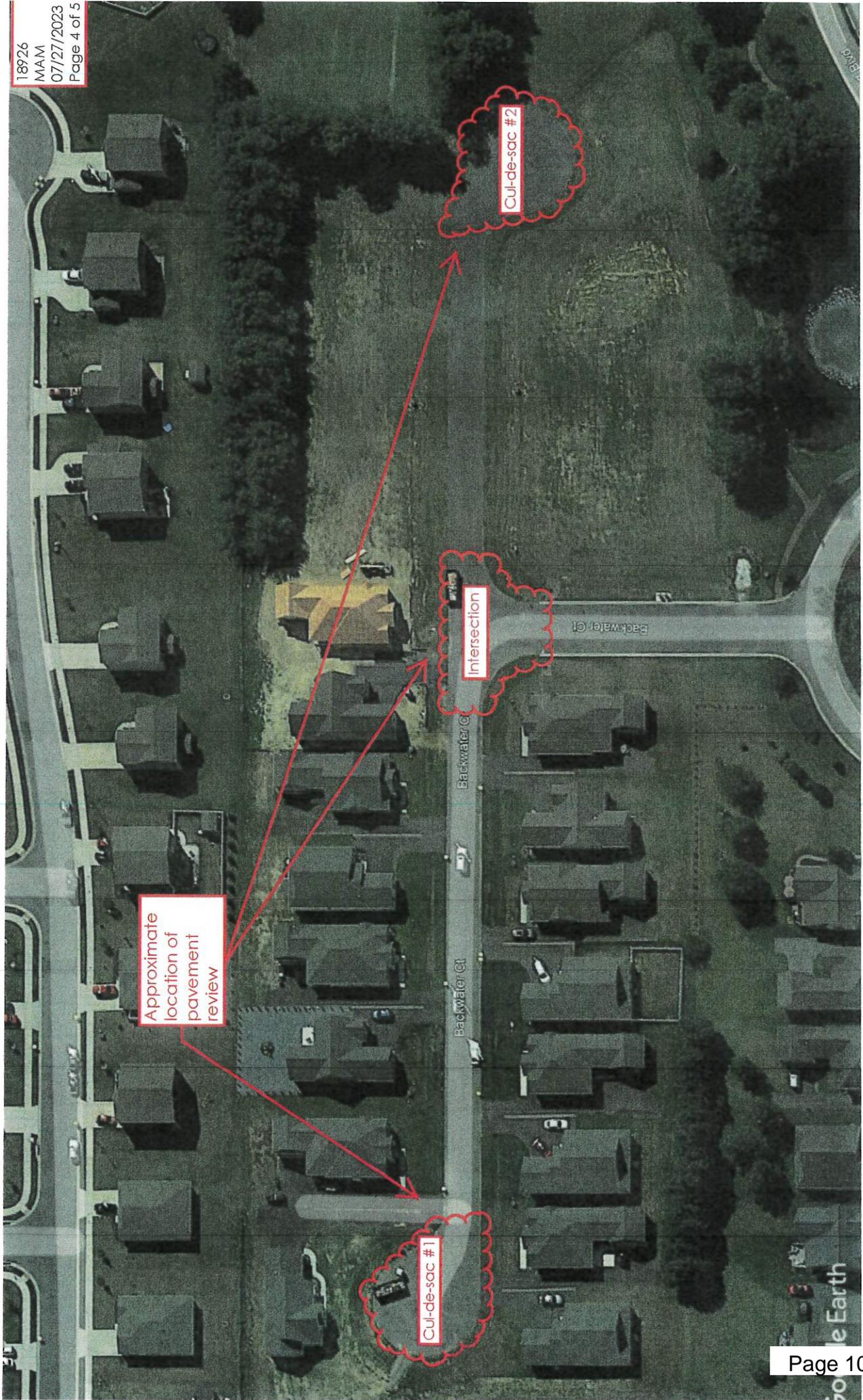
#### Contractor Placed and Compacted Bituminous Concrete:

Paving Material Source	Material Used	Course (Base, Binder, Top)	Compaction Equipment	Temperature as Placed(°F)	Loose Lift Thickness (in.)
Allan Myers	Type C, PG 64-22	TOP	--	--	--

#### Bituminous Concrete Paving Placement Testing Summary:

TEST NO	SITE REFERENCE INFORMATION		TVD/MARSHALL/TEST STRIP NO. (PCF)	WET DENSITY (PCF)	COMPACTION (%)
	Location (STA/Offset)	Course			
16	Intersection	TOP	159.3	131.4	82.5%
17	Intersection	TOP	159.3	137.9	86.6%
18	Intersection	TOP	159.3	141.2	88.6%
19	Cul-de-sac #2	TOP	159.3	141.6	88.9%
20	Cul-de-sac #2	TOP	159.3	138.5	86.9%
21	Cul-de-sac #2	TOP	159.3	135.7	85.2%
22	Cul-de-sac #2	TOP	159.3	125.4	78.7%
23	Cul-de-sac #2	TOP	159.3	137.6	86.4%
24	Cul-de-sac #2	TOP	159.3	136.4	85.6%
25	Cul-de-sac #2	TOP	159.3	142.1	89.2%
26	Cul-de-sac #2	TOP	159.3	128.2	80.5%

Verdantas informed the contractor and client of the test results. Based on the test results, the bituminous concrete paving appeared to be placed in general accordance with the approved drawings and specifications. Exceptions noted below:



Approximate location of pavement review

Cul-de-sac #1

Intersection

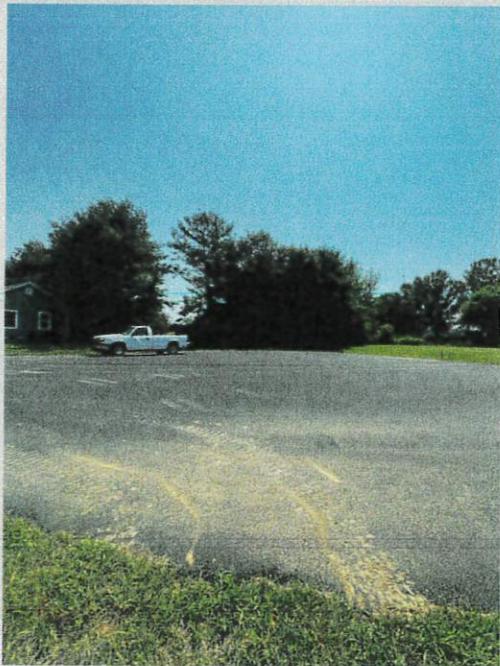
Cul-de-sac #2



Cul-de-sac #1



Intersection



Cul-de-sac #2



Soft spot in cul-de-sac #1

Backwater Court  
Construction Review

Milford, Delaware



Project No.: 18926

Date: 07/27/2023 5 of 5

**HILLIS-CARNES**  
**ENGINEERING ASSOCIATES**

1277 McD Drive  
Dover, DE 19901  
P (302) 744-9855 F (302) 744-9160

Attachment  
# 2

**LETTER OF TRANSMITTAL**

August 21, 2023

CJ Paving  
12518 Union Street Ext  
Milton, DE 19968

**RE:** Backwater Court Pavement

**HCEA Project No.:** D23091

**Location:** Milford, DE

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**We are enclosing:**

Materials Engineering Division Reports

Materials Laboratory Reports

---

**CC:** CJ Paving - Jim Reed

**ENCL:**

Daily Report #3	8/8/2023
Asphalt Density Report	8/8/2023
Sketch	8/8/2023
Asphalt Density Report	8/14/2023

# HILLIS-CARNES ENGINEERING ASSOCIATES

1277 McD Drive  
Dover, DE 19901  
P (302) 744-9855 F (302) 744-9160

## FIELD REPORT

**Work Order No.:** WODOV23001903

**Date:** August 8, 2023

**HCEA Project No.:** D23091

**Report No.:** 3

**Weather/Temp:** Partly Cloudy 84 °F

**Project Name:** Backwater Court Pavement

**On Site Time:** 7 hr

**Client:** CJ Paving

**Travel Time:** 1 hr

**Contractor:** CJ Paving

**Total Time:** 7 hr

### Description of Work:

HCEA Dylan Hearn arrived on site to assist HCEA Kevin Kelley with the coring of the asphalt.

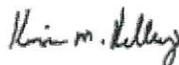
DH also took density tests using the Troxler thin layer density gauge throughout the new pavement that was placed in July 10 to 12.

The rice GMB value was obtained through the client.

GMB value used - Average -  $2.554 = 153.9$

Mix was supplied by Allen Myers. See attached sketch and test results.

**Reviewed By:** Kevin Kelley  
8/21/2023 21:18:41



**Technician:** Dylan T Hearn

**HILLIS-CARNES**  
ENGINEERING ASSOCIATES

1277 McD Drive  
Dover, DE 19901  
P (302) 744-9855 F (302) 744-9160

**HMA FIELD DENSITY TEST SUMMARY**

**Date:** August 8, 2023

**HCEA Project No.:** D23091

**Project Name:** Backwater Court Pavement

**Taken By:** Dylan T Hearn

**Gauge #:** 844

**Density Standard:** 1074

**Moisture Standard:** 3333

**Remarks:**

**HMA FIELD DENSITY TEST DATA:**

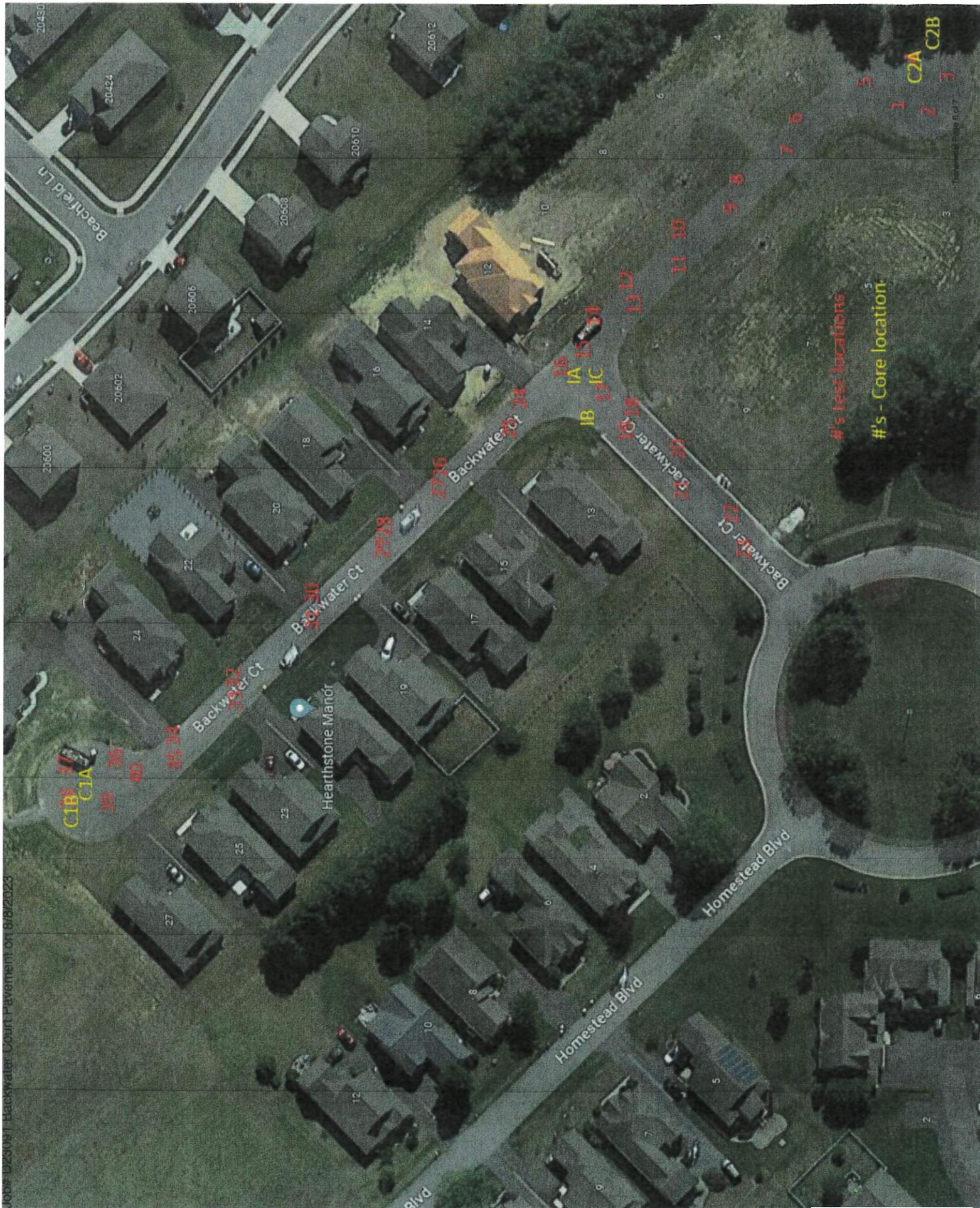
Test #	Asphalt ID	Location	Station	Course Thickness	Density Ct.	Wet Density	Laydown Temp.	% Compaction	% Required	Pass Fail	Remarks
1	A	culdesac 2	0	1.5	0	143.9	0	90.3	92-97	F	
2	A	Culdesac 2	0	1.5	0	144.8	0	90.9	92-97	F	
3	A	Culdesac 2	0	1.5	0	140.9	0	88.4	92-97	F	
4	A	Culdesac 2	0	1.5	0	139.6	0	87.6	92-97	F	
5	A	Culdesac 2	0	1.5	0	141.7	0	88.9	92-97	F	
6	A	Between Intersection and Culdesac 2	0	1.5	0	140.6	0	88.2	92-97	F	
7	A	Between Intersection and Culdesac 2	0	1.5	0	139.7	0	87.7	92-97	F	
8	A	Between Intersection and Culdesac 2	0	1.5	0	141.1	0	88.5	92-97	F	
9	A	Between Intersection and Culdesac 2	0	1.5	0	145.0	0	91.0	92-97	F	
10	A	Between Intersection and Culdesac 2	0	1.5	0	144.3	0	90.5	92-97	F	
11	A	Between Intersection and Culdesac 2	0	1.2	0	142.8	0	89.6	92-97	F	
12	A	Between Intersection and Culdesac 2	0	1.5	0	137.6	0	86.3	92-97	F	
13	A	Between Intersection and Culdesac 2	0	1.5	0	140.8	0	88.3	92-97	F	
14	A	Between Intersection and Culdesac 2	0	1.5	0	139.4	0	87.5	92-97	F	
15	A	Main entrance to Intersection	0	1.5	0	141.5	0	88.8	92-97	F	
16	A	Main entrance to Intersection	0	1.5	0	142.2	0	89.2	92-97	F	

Test #	Asphalt ID	Location	Station	Course Thickness	Density Ct.	Wet Density	Laydown Temp.	% Compaction	% Required	Pass Fail	Remarks
17	A	Main entrance to Intersection	0	1.5	0	142.7	0	89.5	92-97	F	
18	A	Main entrance to Intersection	0	1.5	0	146.1	0	91.7	92-97	F	
19	A	Main entrance to Intersection	0	1.5	0	143.9	0	90.3	92-97	F	
20	A	Main entrance to Intersection	0	1.5	0	140.3	0	88.0	92-97	F	
21	A	Main entrance to Intersection	0	1.5	0	141.8	0	89.0	92-97	F	
22	A	Main entrance to Intersection	0	1.5	0	141.8	0	89.0	92-97	F	
23	A	Main entrance to Intersection	0	1.5	0	145.9	0	91.5	92-97	F	
24	A	Between Intersection and CULDESAC 1	0	1.5	0	139.6	0	87.6	92-97	F	
25	A	Between Intersection and CULDESAC 1	0	1.5	0	142.0	0	89.1	92-97	F	
26	A	Between Intersection and CULDESAC 1	0	1.5	0	144.3	0	90.5	92-97	F	
27	A	Between Intersection and CULDESAC 1	0	1.5	0	145.7	0	91.4	92-97	F	
28	A	Between Intersection and CULDESAC 1	0	1.5	0	138.8	0	87.1	92-97	F	
29	A	Between Intersection and CULDESAC 1	0	1.5	0	140.9	0	88.4	92-97	F	
30	A	Between Intersection and CULDESAC 1	0	1.5	0	146.8	0	92.1	92-97	P	
31	A	Between Intersection and CULDESAC 1	0	1.5	0	142.3	0	89.3	92-97	F	
32	A	Between Intersection and CULDESAC 1	0	1.5	0	140.7	0	88.3	92-97	F	
33	A	Between Intersection and CULDESAC 1	0	1.5	0	142.7	0	89.5	92-97	F	
34	A	Between Intersection and CULDESAC 1	0	1.5	0	145.2	0	91.1	92-97	F	
35	A	Between Intersection and CULDESAC 1	0	1.5	0	137.5	0	86.3	92-97	F	
36	A	Between Intersection and CULDESAC 1	0	1.5	0	137.5	0	86.3	92-97	F	
37	A	Between Intersection and CULDESAC 1	0	1.5	0	138.3	0	86.8	92-97	F	
38	A	CULDESAC 1	0	1.5	0	141.6	0	88.9	92-97	F	
39	A	CULDESAC 1	0	1.5	0	141.8	0	89.0	92-97	F	
40	A	CULDESAC 1	0	1.5	0	140.1	0	87.9	92-97	F	
41	A	CULDESAC 1	0	1.5	0	140.1	0	87.9	92-97	F	
42	A	CULDESAC 1	0	1.5	0	139.9	0	87.8	92-97	F	

Test #	Asphalt ID	Location	Station	Course Thickness	Density Ct.	Wet Density	Laydown Temp.	% Compaction	% Required	Pass Fail	Remarks
43	A	Culdesac 1	0	1.5	0	147.2	0	92.4	92-97	P	
44	A	Culdesac 1	0	1.5	0	144.5	0	90.7	92-97	F	
45	A	Culdesac 1	0	1.5	0	144.5	0	90.7	92-97	F	
46	A	Culdesac 1	0	1.5	0	143.7	0	90.2	92-97	F	

**ASPHALTS:**

Asphalt ID	Asphalt Mix	Asphalt Supplier	Maximum Specific Gravity	Remarks
A	Top	Allen Myers	2.554	



0000 02/20/2023 Backwater Court Pavement on 8/8/2023

**HILLIS-CARNES**  
ENGINEERING ASSOCIATES

1277 McD Drive  
Dover, DE 19901  
P (302) 744-9855 F (302) 744-9160

**Date:** December 18, 2023

**HCEA Project No.:** D23091

**Project Name:** Backwater Court Pavement

**Taken By:** Carrie L Bennett

**Gauge #:** 844

**Density Standard:** 159.4

**Moisture Standard:**

**Remarks:**

Attachment  
#3

**HMA FIELD DENSITY TEST SUMMARY**

**HMA FIELD DENSITY TEST DATA:**

Test #	Asphalt ID	Location	Station	Course Thickness	Density Ct.	Wet Density	Laydown Temp.	% Compaction	% Required	Pass/Fail	Remarks
1	A	Test 1	1	1.5	0	145.6	0	91.4	92-97	F	
2	A	2	1	1.5	0	144.2	0	90.5	92-97	F	
3	A	3	1	1.5	0	142.9	0	89.7	92-97	F	
4	A	4	1	1.5	0	146.0	0	91.6	92-97	F	
5	A	5	1	1.5	0	147.7	0	92.7	92-97	P	
6	A	6	1	1.5	0	145.4	0	91.2	92-97	F	
7	A	7	1	1.5	0	146.5	0	91.9	92-97	F	
8	A	8	1	1.5	0	143.7	0	90.2	92-97	F	
9	A	9	1	1.5	0	146.4	0	91.9	92-97	F	
10	A	10	1	1.5	0	144.7	0	90.8	92-97	F	
11	A	11	1	1.5	0	145.7	0	91.4	92-97	F	
12	A	12	1	1.5	0	143.4	0	90.0	92-97	F	

**ASPHALTS:**

Asphalt ID	Asphalt Mix	Asphalt Supplier	Maximum Specific Gravity	Remarks
A	Existing asphalt	Allen Myers	2.554	

**EASTERN STATES CONSTRUCTION SERVICE, INC.**

702 FIRST STATE BOULEVARD  
WILMINGTON, DE 19804-3572  
(302) 995-2259  
(302) 995-2460 FAX  
www.eastern-states.net

Attachment  
#4

November 5, 2024

The City of Milford  
180 Vickers Dr  
Milford, DE 19963  
Attn: James Puddicombe

Reference: Hearthstone Manor Mill and Overlay

Dear Sir,

Thank you for the opportunity to provide the following pricing as requested in your 10/31/2024 email. ESCS will supply labor, equipment and material to perform the below unit price work as directed.

Pavement Milling Operations (1.75")	4005 SY	\$2.30	\$9,211.50
Furnish & Install Hot Mix Asphalt Paving, Type "C" (1.75")	450 TON	\$123.50	\$55,575.00
Field Density Test	1 LS	\$1,200.00	\$1,200.00
Adjust Broken Valve/Manhole Lids	9 EACH	\$1,200.00	\$10,800.00
Topsoil and seed edge of road	1 LS	\$3,500.00	\$3,500.00
	<b>Total</b>		<b>\$80,286.50</b>

Please feel free to contact me if you have any questions or concerns.

Sincerely,  
Eastern States Construction Service, Inc.

*Brian Salvucci*

Brian A. Salvucci  
Senior Project Manager



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. Box 778  
DOVER, DELAWARE 19903

SHANTÉ A. HASTINGS  
SECRETARY

April 16, 2025

Rob Pierce, Planning Director  
City of Milford  
Public Works Facility  
180 Vickers Drive  
Milford, DE 19963

Dear Mr. Pierce:

Enclosed for City of Milford's signature and notarization is the Southeast Milford Transportation Improvement District (TID) Infrastructure Recoupment Agreement for the Hearthstone Manor II, Phase 1 development. This agreement between Key Properties Group, LLC, City of Milford, and DelDOT outlines the commitments of the parties to implement the TID. The property owner is committing to participate in the TID, instead of following the regular Traffic Impact Study process in DelDOT's Development Coordination Manual and contributing to off-site improvements. The owner will handle recordation of the agreement and refer to it in a note on their record and/or commercial entrance plan.

After the agreement is signed and notarized, please return to my attention at DelDOT Division of Planning. If using USPS, the address is P.O. Box 778, Dover, DE 19903. If using overnight delivery such as FedEx or UPS, the delivery address is S. Bay Rd., Dover, DE, 19901. If you have any questions or comments, please contact me at Sarah.Coakley@delaware.gov or (302)760-2236.

Sincerely,

Sarah Coakley, AICP  
Principal Planner

SC: sc  
Enclosure

**Tax Parcel No.: 330-15.00-22.00**  
**Subdivision No.:**  
**Prepared by/Return To:**  
Delaware Department of Transportation  
Division of Planning  
For overnight 800 Bay Road,  
Dover, DE 19901  
Or  
Regular Mail P.O. Box 778  
Dover, DE 19903

**Southeast Milford Transportation Improvement District**  
**Infrastructure Recoupment Agreement**

This Infrastructure Recoupment Agreement is made as of this \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the Delaware Department of Transportation (hereinafter referred to as “**DelDOT**”), City of Milford, a municipal corporation of the State of Delaware (hereinafter referred to as the **City**), and Key Properties Group, LLC, its heirs, successors and assigns (hereinafter referred to as “**Property Owner**”).

**WITNESSETH:**

**WHEREAS**, DelDOT and the City in overseeing the coordination of land use and transportation require construction of various transportation improvements relating to the various anticipated land development projects in accordance with Title 17, Chapter 5, § 507 of the Delaware Code; and

**WHEREAS**, DelDOT and the City have established the Southeast Milford Transportation Improvement District, as outlined in the “Agreement Regarding Southeast Milford Transportation Improvement District,” executed by both parties on April 10, 2023; and

**WHEREAS**, the City shall set up a fund (hereinafter referred to as the “**Southeast Milford TID Fund**”) to help fund the planned transportation improvements in lieu of developments preparing a traffic impact study and either phasing its project or constructing offsite transportation improvements; and

**WHEREAS**, the Property Owner is willing to contribute to the Southeast Milford TID Fund in recognition of the benefits the new transportation improvements will bring their property, and in order to immediately proceed with the construction and development of their property; and

**WHEREAS**, said property is located on the south side of Elks Lodge Rd. and the north side of Marshall St., City of Milford, Delaware, being Sussex County Tax Parcel 330-15.00-22.00 consisting of 121.00 acres, more or less, as shown on Exhibit “A” (hereinafter referred to as the “**Property**”).

**NOW, THEREFORE**, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties agree as follows:

***I. Traffic Impact Study***

The **Property Owner** shall not be required to perform a traffic impact study and, in lieu thereof, shall contribute through the Southeast Milford TID Fund.

## ***II. Right-of Way (R/W) Dedication***

Dedication of rights-of-way in lieu of some or all of the fee shall be by agreement between the **Property Owner**, **DeIDOT**, and the **City** with payment of the fee being required if any party is not amenable to the proposed dedication. The value of the rights-of-way to be dedicated shall be determined in accordance with **DeIDOT** policies and regulations. The creditable area shall be determined based on highway plans acceptable to **DeIDOT** and shall exclude the standard dedications provided in **DeIDOT's Development Coordination Manual**, rights-of-way for any proposed subdivision streets, and any lands needed to accommodate the site entrance.

## ***III. Transportation Improvement Funding***

Funding for the transportation improvements within the Southeast Milford TID will be provided by the **Property Owner** as detailed below:

A. **Southeast Milford Transportation Improvement District Fund** – The **City** shall create and administer a separate account, the Southeast Milford TID Fund, to make timely payments to **DeIDOT**, for all engineering professionals and contractors performing work on the Southeast Milford TID transportation improvements. Subject to the provisions of this Agreement, contributions (defined below) to the Fund will be made by the **Property Owner** and by Other Property Owners who execute recoupment agreements in substantially the same form as this Agreement, and by **DeIDOT**, as required.

### **B. Contributions To The Fund**

1. **Contribution Rates** –The established rates for the Southeast Milford TID are listed on Exhibit “B”. Subject to the limitations set forth below, the **Property Owner** shall contribute to the Southeast Milford TID Fund (hereinafter, the “contribution” or “contributions”), in amounts consistent with the established rates, for the **Property** on the attached Exhibit “A,” which amounts shall be adjusted annually as set forth in paragraph D below. Once contributions for a specific development are paid in full, the **Property Owner** shall have no further obligations under this agreement for that development.
2. **Contribution Timing** - Contributions shall be made at the time of **Property Owner** application to the **City** for a building permit for the **Property**. The parties acknowledge and agree that no building permits for a building or project located on the **Property** shall be issued until such time as the contributions to the Southeast Milford TID Fund associated with the particular building or project phase have been made. Where a project involves residential houses, no building permit for a particular unit shall be issued until the contribution for that unit has been made. For a non-residential building, where contributions are to be made on a square foot basis, no building permit for a particular building shall be issued until the contribution for such building has been made.
3. **Property Rezoning** - If the **Property** is rezoned from its current zoning designation, or development plans change, future contributions shall be paid in accordance with the use then being made of the **Property**. For example, if a portion of the **Property** is developed residentially, but then the balance of the **Property** is developed for non-residential purposes, the contributions for the residential portion shall be paid at the residential rates, and the non-residential portions based on the appropriate non-residential rates.
4. **Contribution Notification** - In the event a **Property Owner** has elected to execute this Recoupment Agreement, any final site plan for development of lands of said **Property Owner** subject to contribution hereunder shall contain a statement or note that the issuing of

**Southeast Milford TID Infrastructure Recoupment Agreement**

Page 2 of 7

a building permit is contingent upon paying the then applicable portion of the contribution into the Fund as provided in the Recoupment Agreement for the **Property**.

- C. **Developer Design/Build Credit** - Design and/or Construction of physical improvements in lieu of some or all of the fee shall be by agreement between the **Property Owner, DeIDOT, and the City**, with payment of the fee being required if any party is not amenable to the proposed construction. If a **Property Owner** seeks to design and/or construct physical improvements in lieu of paying into the Fee, the **Property Owner** shall be required to obtain a minimum of three bids for the work. The bids shall be subject to review and approval by the **DeIDOT**. Credit toward the fee shall be based on the **Property Owner's** payments to the selected contractor. Design and/or Construction of improvements required by **DeIDOT** and the **City** as part of the development's entrance construction or on-site infrastructure, e.g. subdivision streets, and curb ramps, turn lanes, acceleration lanes at development entrance, shall not be creditable toward the fee. At their discretion, **DeIDOT** and the **City** may require improvements beyond the site entrance to correct an unsafe condition that they find would be created or worsened by the proposed development. Such improvements may include, but are not limited to, the addition or widening of shoulders, and/or the construction of a shared-use path or sidewalk along the development's frontage. In that case, the cost of that work shall be determined by **DeIDOT**, using the Shared-Use Path and Sidewalk Fee Calculation Form for those items and current comparable contract bid prices as a guide for other items, and shall be creditable toward the fee.
- D. **Escalation** - While transportation improvement projects await construction funding, the costs of constructing the project will escalate at the rate of inflation for highway construction projects. The amounts paid by the **Property Owner**, therefore, shall be subject to an annual increase, beginning on January 31, 2024 and increasing by the established amount on January 31 of each year thereafter. The actual amount of the increase shall be set by **DeIDOT** in January of each year, based upon the average of the annual changes in the Consumer Price Index (CPI) for Delaware Region during the previous five years. Escalation shall only apply to contributions unpaid on January 31 of each year.

#### ***IV. Property Owner Benefits***

- A. **No Individual Off-site Improvements** - No Individual off-site road projects will be required as a separate cost for individual developments participating in this agreement, as a condition of approval by **DeIDOT** or the **City**.
- B. **No Individual Traffic Impact Study** - No Individual Traffic Impact Study will be required as a separate cost for individual developments participating in this agreement, as a condition of approval by **DeIDOT** or the **City**.
- C. **Cost Savings** - Costs for off-site improvements are expected to be reduced due to the proposed comprehensive approach, the cost sharing and the large size of the projects.

#### ***V. Administration of the Agreement***

- A. **Existing Record Plan Requirements** - Should existing Record Plan transportation improvement requirements conflict with this agreement, **DeIDOT**, the **City**, and the **Property Owner** shall work together to expedite the modification(s) to the Record Plan notes. The revision will be a ministerial review, incorporating the TID participation into the Record Plan notes. The **DeIDOT** and the **City** review fees for this reconciliation will be considered satisfied from the initial Record Plan Review fees. For any other changes requiring a resubdivision plan and review, the associated fees will be the responsibility of the legal owner.

B. **Amendments** – This agreement shall not be modified, changed, or supplemented, nor may any of the obligations and rights be waived, except by a written instrument signed by all parties.

C. **Notices** – Whenever a notice is to be given or a document is to be delivered to one of the parties hereunder, it shall be addressed or delivered to:

**Property Owner:** Attention: Elmer G. Fannin, President  
Key Properties Group, LLC  
701 McColley Street  
Milford, DE 19963

**DelDOT:** Director, Division of Planning  
Delaware Department of Transportation  
P.O. Box 778  
Dover, DE 19903

**City:** Director, Department of Planning  
Public Works Facility  
City of Milford  
180 Vickers Drive  
Milford, DE 19963

D. **Succession of Agreement** – This agreement shall bind and benefit the parties hereto, their successors and assigns; and shall be a covenant running with the Property described in this agreement.

E. **Recordation of Agreement** – The Property Owner shall record this Agreement, so as to put potential future purchasers of the Property on notice of the obligations created by this Agreement.

F. **Termination of Agreement** – Property Owner's obligations under this Agreement shall terminate once all fees identified in this agreement are paid in full. Notwithstanding anything herein to the contrary, payment of a contribution for a specific lot or structure shall relieve that lot or structure from any other obligation under this Agreement. However, that lot or structure shall remain a beneficiary of this agreement.

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

Property Owner:

KEY PROPERTIES GROUP, LLC

By: *Elmer G. Fannin* (SEAL)

Name: Elmer G. Fannin

Title: President

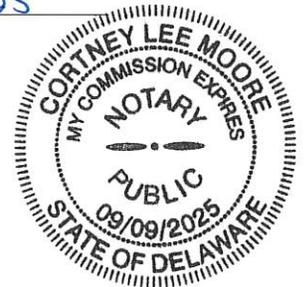
STATE OF DELAWARE :  
: SS.

COUNTY OF SUSSEX:

**BE IT REMEMBERED**, that on this 2<sup>nd</sup> day of April, 2025, before me, a notary public, the undersigned personally appeared, Elmer G. Fannin, who acknowledged himself to be the President of Key Properties Group, LLC, and that he as such Property Owner/Developer is authorized to execute the foregoing Southeast Milford Transportation Improvement District Infrastructure Recoupment Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Cortney Moore*  
Notary Public  
My Commission Expires: 9/9/25



City of Milford, Delaware:

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Mayor

STATE OF DELAWARE :  
: SS.

COUNTY OF SUSSEX :

**BE IT REMEMBERED**, that on this \_\_\_ day of \_\_\_\_\_, 2025, before me, a notary public, the undersigned personally appeared, \_\_\_\_\_, who acknowledged himself to be the Mayor of the City of Milford, and that he as such Mayor is authorized to execute the foregoing Southeast Milford Transportation Improvement District Infrastructure Recoupment Agreement for the purposes therein contained.

**IN WITNESS WHEREOF**, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Delaware Department of Transportation:

By: [Signature] (SEAL)

Name: SHANTE HASTINGS

Secretary

STATE OF DELAWARE :  
: SS.  
COUNTY OF KENT :

**BE IT REMEMBERED**, that on this 15<sup>th</sup> day of April, 2025, before me, a notary public, the undersigned personally appeared, Shante Hastings, who acknowledged herself to be the Secretary for the Delaware Department of Transportation, and that she as such Secretary is authorized to execute the foregoing Southeast Milford Transportation Improvement District Infrastructure Recoupment Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

[Signature]  
Notary Public  
My Commission Expires: 2/1/2026

Approved as to form:

By: [Signature]  
Title: George T. Lewis III  
Deputy Agency General

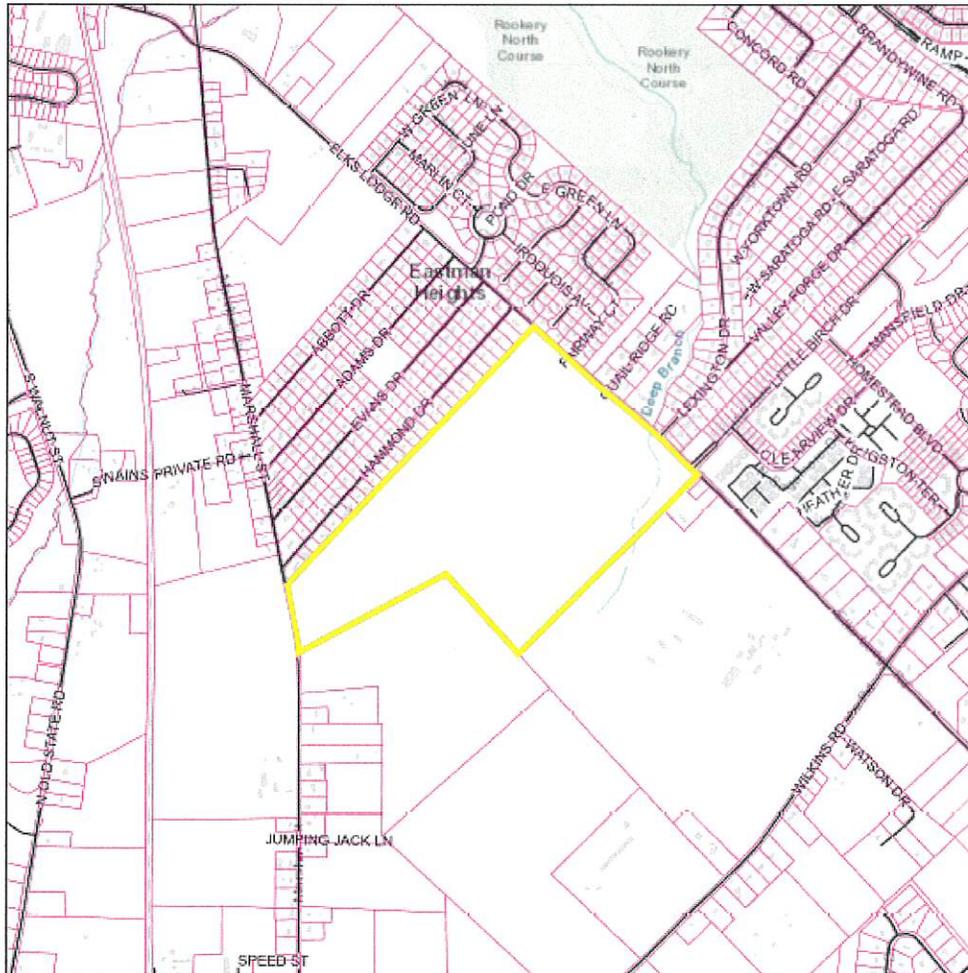
TERESA R. STOAKLEY  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires 02/07/2026

Exhibit A

Map of individual property subject to agreement

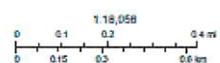


Sussex County



<b>PIN:</b>	330-16 00-22 00
<b>Owner Name</b>	KEY PROPERTIES GROUP LLC
<b>Book</b>	3400
<b>Mailing Address</b>	610 MARSHALL ST
<b>City</b>	MILFORD
<b>State</b>	DE
<b>Description</b>	SW/RD 211
<b>Description 2</b>	NE/RD 225
<b>Description 3</b>	TRACTS A B FMX
<b>Land Code</b>	

- Tax Parcels
- Streets
- County Boundaries
- Citations



April 2, 2025

**Exhibit B**

**Southeast Milford Transportation Improvement District**

***Initial Contribution Rates***

Southeast Milford TID Initial Fee Schedule 2023	
Residential Rates	
Single family detached residential	\$2,750 per unit by phase
	\$2,887 per unit by lot
Single family attached residential	\$2,090 per unit by phase
	\$2,194 per unit by lot
Multi-family residential, low-rise, 1-3 floors	\$1,952 per unit by phase
	\$2,049 per unit by lot
Multi-family residential, mid-rise, 4 or more floors	\$1,320 per unit by phase
	\$1,386 per unit by lot
Non-Residential Rates	
Under 21 trips per 1,000 SF GFA	\$1.00 per sq ft
At least 21 but less than 34 trips per 1,000 SF GFA	\$1.45 per sq ft
At least 34 but less than 75 trips per 1,000 SF GFA	\$2.90 per sq ft
At least 75 but less than 200 trips per 1,000 SF GFA	\$5.80 per sq ft
200 or more trips per 1,000 SF GFA	\$6.80 per sq ft
Notes: Single family attached rate is 76% of single-family detached rate. Low-rise Multi-family rate is 71% of single-family detached rate. Mid-rise Multi-family rate is 48% of single-family detached rate. All non-residential rates are based on the number of daily trips per 1,000 square foot of gross floor area. This is based on ITE Trip Generation Manual, 11th Edition.	

***Current Contribution Rates***

Southeast Milford TID Fee Schedule 2025	
Residential Rates	
Single family detached residential	\$2,982 per unit by phase
	\$3,131 per unit by lot
Single family attached residential	\$2,266 per unit by phase
	\$2,379 per unit by lot
Multi-family residential, low-rise, 1-3 floors	\$2,117 per unit by phase
	\$2,223 per unit by lot
Multi-family residential, mid-rise, 4 or more floors	\$1,432 per unit by phase
	\$1,504 per unit by lot
Non-Residential Rates	
Under 21 trips per 1,000 SF GFA	\$1.08 per sq ft
At least 21 but less than 34 trips per 1,000 SF GFA	\$1.56 per sq ft
At least 34 but less than 75 trips per 1,000 SF GFA	\$3.14 per sq ft
At least 75 but less than 200 trips per 1,000 SF GFA	\$6.28 per sq ft
200 or more trips per 1,000 SF GFA	\$7.37 per sq ft
Notes: Single family attached rate is 76% of single-family detached rate. Low-rise Multi-family rate is 71% of single-family detached rate. Mid-rise Multi-family rate is 48% of single-family detached rate. All non-residential rates are based on the number of daily trips per 1,000 square foot of gross floor area. This is based on ITE Trip Generation Manual, 11th Edition.	

Exhibit C

Southeast Milford TID Recoupment Credit Agreement- ROW Dedication

Agreement No. \_\_\_\_\_

Development Project

- Development Name \_\_\_\_\_
- Developer \_\_\_\_\_
- Total Required Financial Contribution for Development \_\_\_\_\_  
*(per Recoupment Agreement)*

SE Milford TID Project

- Name of Project \_\_\_\_\_
- Section of Project \_\_\_\_\_  
*(Attach plan)*
- Acreage of Right-of-way provided \_\_\_\_\_
- Total Estimated Cost of Right-of-way Dedication \_\_\_\_\_  
*(Attach cost estimate)*

Recoupment Calculation

Estimated Cost of Dedication Required for Development	\$ _____
Estimated Cost of Dedication Eligible for Recoupment	\$ _____
<b>TOTAL</b>	<b>\$ _____</b>

*(Attach breakout plan)*

*\*Note - Total must equal Total Estimated Cost of Right-of-way Dedication*

Agreement

For dedicating additional right-of-way for the above named Southeast Milford TID Project, the above named development is credited the following amount toward the Southeast Milford TID Fund required contribution. \$ \_\_\_\_\_

\_\_\_\_\_  
Developer Date

\_\_\_\_\_  
City of Milford Date

\_\_\_\_\_  
Delaware Department of Transportation Date

Exhibit D

Southeast Milford TID Recoupment Credit Agreement - Construction

Agreement No. \_\_\_\_\_

**Development Project**

- Development Name \_\_\_\_\_
- Developer \_\_\_\_\_
- Total Required Financial Contribution for Development \_\_\_\_\_  
*(per Recoupment Agreement)*

**SE Milford TID Project**

- Name of Project \_\_\_\_\_
- Section of Project \_\_\_\_\_  
*(Attach plan)*
- Items Constructed \_\_\_\_\_
- Total Estimated Cost of Section to be Constructed \_\_\_\_\_  
*(Attach cost estimate)*

**Recoupment Calculation**

Estimated Cost of Items Required for Development	\$ _____
Estimated Cost of Items Required for Other Developments	\$ _____
Estimated Cost of Items Eligible for Recoupment	\$ _____
TOTAL	\$ _____

*(Attach breakout plan)*

**\*Note - Total must equal Total Estimated Cost of Construction**

**Agreement**

For performing construction work on the above named Southeast Milford TID Project, the above named development is credited the following amount toward the Southeast Milford TID Fund required contribution. \$ \_\_\_\_\_

\_\_\_\_\_  
Developer Date

\_\_\_\_\_  
City of Milford Date

\_\_\_\_\_  
Delaware Department of Transportation Date