

City of Milford



AGENDA

Council Meeting

March 26, 2012

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

7:00 p.m.

PUBLIC HEARINGS

Carmen Kemper on behalf of Greater Milford Development Corporation -
Conditional Uses at Milford Skating Center, Incorporated

1 Park Avenue, Milford, Delaware.

C-2 District; Tax Map MD-16-183.10-04-43.00

*Adoption/Ordinance 2012-04/Conditional Use/Greater Milford Development Corporation
Milford Skating Center, Incorporated*

COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Recognition

Communications

Unfinished Business

Adoption of Ordinance 2012-5/Water Code Chapter 220/Fire Service Line and Cross Connection Control

New Business

Adoption of Resolution 2012-03/DEMEC Authorization of Supplement/AFEC**

Amendment to City of Milford Retirement Plan 401K

Council Meeting Dates/Changes

Preliminary Major Subdivision Extension -John Tracey/CCM-Koelig, LLC on behalf of Wickersham Subdivision

*Executive Session** Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements

Adjourn

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

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

City of Milford



PUBLIC NOTICE

CITY COUNCIL HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, March 26, 2012 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to consider final action on the following matter:

Carmen Kemper on behalf of Greater Milford Development Corporation for a conditional use to allow additional uses beyond those (skating and related events) currently permitted at Milford Skating Center, Incorporated as described below:

Dances for 15 year olds and younger, dances for 16 to 21-year-olds, adult dances, dance classes, private parties/gatherings, nonprofit dances, parties and socials (bikers, parade, colleges), DJ competitions, all night (skating) sessions, alcoholic beverages at private parties or bouts, church functions, drop-in childcare, summer programs for children, indoor sporting events, segway events, exercise classes and walking programs, high school mentoring programs, after-school programs, community meetings, boy scout and girl scout events, award events and family resources (immigrants).

and whose requested hours of operation will be:

Monday thru Thursday 8:00 a.m. - 11:00 p.m.
Friday 8:00 a.m. - 1:00 a.m. Saturday
Saturday 8:00 a.m. - 10:00 p.m. Sunday

Property is in a C-2 District at 1 Park Avenue, Milford, Delaware (Tax Map MD-16-183.10-04-43.00) and consists of .552+/- acres.

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

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

By: Terri K. Hudson, CMC
City Clerk



Land Use Application Cover Sheet

File Name: Milford Skating Center
 File Number: 12-001

Date Stamp: 01-09-12
cc

Instructions for Applicants:

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

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

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

Please Type or Print Legibly

Property Owner: <u>Creator Milford Development Corp.</u>			Phone: <u>422 3350</u>
Address: <u>628 Milford-Harrington Hwy</u>			Cell:
City: <u>Milford</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax:
E-Mail:			
Contact Person For This Application: <u>Carmen V. Kemper</u>			Phone:
Address: <u>13 McCoy St</u>			Cell: <u>302 670 2741</u>
City: <u>Milford</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax:
E-Mail: <u>KemperStory21@aol.com</u>			
Applicant Name and/or Company: <u>Milford Skating Center Inc</u>			Phone: <u>422 2740</u>
Address: <u>1 Park Ave</u>			Cell:
City: <u>Milford</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax:
E-Mail:			
Site Address: <u>1 Park Ave</u>			Zoning: <u>C2</u>
Tax Map & Parcel Number (s): <u>MD-16-183.10-04-43.00</u>			Acreage: <u>.552</u>
Description of Proposal: <u>see attached.</u>			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant: _____			Date: _____
Signature of Property Owner: <u>[Signature]</u>			Date: <u>1/9/12</u>

REVISED: 11.15.11



CODE ENFORCEMENT DEPARTMENT
P 302.422.6616, F 302.422.1120



108 VICKERS DR.
MILFORD, DE 19963

www.cityofmilford.com

December 27, 2011

Mrs. Carmen Kemper
13 McCoy St.
Milford, DE 19963

Re. Milford Skating Rink

Dear Mrs. Kemper,

On Thursday December 22, 2011 we met at public works building located at 108 Vickers dr. where we discussed you having adult dances and a New Year's Eve party where alcohol drinks may be involved at the Milford skating rink located @ 1 Park Ave. Milford DE.

I stated, after reviewing the City zoning ordinance, which indicates you're located in C-2 district you're only permitted for a use of a skating rink only. If you would like other uses you will need to fill out an application for a conditional use, and pay the fee of \$700, which is non-refundable, you would then appear for a hearing before the P & Z Board requesting your conditional use.

Please be advised you are not permitted to have an adult New Year's Eve dance located at Milford skating rink @ 1 Park Ave Milford DE. If you proceed you can face penalties, fines and possible imprisonment or both.

If you have any question please give me a call (302) 422-6616 ext 178

Thanks,

A handwritten signature in cursive script that reads "Lendon W. Dennis Jr.".

Lendon W Dennis Jr.
Code Enforcement Officer

Milford Skating Center Inc.
1 Park Avenue
Milford, De 19963
(302) 422-2740
Owner: Carmen Kemper

I, Carmen Kemper, am requesting to make changes regarding the “under conditional use” policy under the planning and zoning committee. I am wanting to make changes to my hours of operation and the usage of my building.

The following are my current hours of operation:

Sunday: 10am-4pm and 7:00pm-9:00pm
Monday: 6:30pm-10:30pm
Tuesday: 6:30pm-9:00pm
Wednesday: 1:00pm-6:00pm
Thursday: 6:00pm-8:00pm
Friday: 6:00pm-12:00am
Saturday: 8:00am-12:00am

As of now, my building is only zoned for roller skating is not zoned for any other purpose.

The following are the hours of operation in which I would like to be in open:

Sunday: 8:00am-10:00pm
Monday: 8:00am-11:00pm
Tuesday: 8:00am-11:00pm
Wednesday: 8:00am-11:00pm
Thursday: 8:00am-11:00pm
Friday: 8:00am-1:00am
Saturday: 8:00am-8:00am

Since the opening of The Milford Skating Center in 1982, its operational usage has been mainly roller skating. However The Milford Skating Center also been utilized in many other ways. The business has been under four different owners and has never been questioned about its usage up to this point. I as the new owner have been working in this establishment for 25+ years. I have been the business manager for the last 16 years. At this time I am asking for the following usage:

Roller skating: 7 days a week
Senior walkers: Monday, Wednesday, Friday mornings
High schoolers
Mentoring: Mornings

Diabetes Dance:	She cannot skate so we have a dance to raise money for the ADA.
Private birthdays:	7 days a week
After school programs:	7 days a week
Teen dance 15/under:	weekends only
Teen dance 16-21:	weekends only
Adult dance:	weekends only

Zumba/exercise program
 Country line dancing/classes
 Private gatherings of family/friends
 Private nonprofit org. parties (bikers, parade, colleges)
 Autism skate and/or social
 Roller derby practice or bouts
 Alcoholic beverages @ private parties or bouts
 Dodge ball and/or tournaments
 Community meetings
 Boy/girl scouts, cheerleaders, awards nights
 Indoor field hockey
 Indoor soccer
 DJ competition
 Segway relay/practice
 Jam skating
 Ballroom dances/classes
 Church functions/parties/meetings
 Drop in childcare
 Family resources (immigrants)
 Summer childrens programs
 All night skate sessions
 Holiday parties

The size of my building is 15,000 sq feet. Of that, 10,000 sq feet makes up my wooden skating floor. I have customers/patrons/viewers from Baltimore to Christiana that come to my establishment looking to utilize the space available. I have been told that I can no longer operate my business the way it has been operated for the last 30 years. I am taking a very big loss in the month of January due to my having to request to operate my business in the manner it has been operated for the last 30 years with no problems.

Milford Skating Center Inc.,
1 Park Ave
Milford, De 19963
(302) 422-2740
Owner Carmen Kemper

Dear Mr. Dennis Silicato:

The Milford Skating Center has been in operation since 1982. The building has been used mainly for roller skating. However, over the years we have hosted other events in our building such as ballroom dancing, country line dances, and teen dances. Also, for many years we have allowed the seniors a place to walk. Allowing them to walk around the roller skating floor allows them to walk in a controlled climate. It also allows a safe walking surface as falls are common among seniors. We have never been questioned about how we were conducting our business or if the building was being used for any other uses except roller skating. However, the City of Milford is currently not allowing any activities other than roller skating. I have never been investigated by anyone. The Milford Police have never stepped in my building to discuss any code violations nor has the City of Milford. I was not aware of any problems with my business until I received a phone call on Thursday December 22, 2011 from the city of Milford. I received a formal letter on December 27, 2011. There was also a question of the distribution of alcohol in my building. I have no means of making a bar setting but I would like to use the facility for nonprofit organizations and private gatherings with family and friends. I as the business owner take full responsibility and am aware of the laws pertaining to the sale or distribution of alcohol. As the owner of the building, I would like to bring this matter to your attention.

As the owner of the building I'm you are aware that the building is 15,000sq ft. Only 10,000sq ft of the total space is the wooden skating floor. I am looking to utilize the building in other ways. The City of Milford Planning and Zoning board has stated that in order to accomplish this goal I need to fill out an application for a conditional use. I would also need to pay a fee of \$700 and present my argument before the board.

I would like utilize the building in responsible ways. I want to be able to host dances, dodge ball, exercise programs, and allow my seniors to continue walking. I would also like to host all night skate sessions as the kids enjoy these. In the signed lease agreement on my building you stated my rink could be used for "roller skating or any other purpose reasonably related to the main use". I would appreciate if you could tell me more specifically what purposes you are referring to. There has never been any damage to the building by any of my dances or other activities including roller skating. There is also great crowd control. My capacity is only 299 which includes all employees. It would greatly benefit the economy if I was able to use the building for more than just roller skating. It would also bring more income into my business. My bills are on average a little over \$12,000 a month. Roller skating alone only brings in on average \$7,000-\$8,000 a month. So as you see, it would greatly hurt my business and severely impact our community if I am no longer to host such events. I am looking for other ways to make ends meet during these difficult economic times.

I have attached a copy of the letter from the City of Milford as well at a copy of the city code applicable

to my situation. I have also included a copy of the changes I would like to make. The changes would change absolutely nothing. The Milford Skating Center would operate as it has since it opened in 1982. I have done nothing different in terms of operation. I would greatly appreciate your support in this matter and an immediate response to my request for further explanation and definition on the terms of use for the building. The meeting for this matter will be held on Monday February 13, 2012 at 7:00pm at City Hall in Milford, Delaware.

Owner Carmen Kemper

Owner Carmen Kemper

§ 230-4. - Definitions and word usage.

A.

Definitions. For the purpose of this chapter, certain words and phrases shall be interpreted or defined as follows:

ABOVEGROUND STORAGE TANK (AST) — An AST is a single containment vessel greater than 250 gallons as defined in the Delaware Regulations Governing Aboveground Storage Tanks. ASTs with a storage capacity greater than 12, 499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene, are subject to the design, construction, operation, and maintenance requirements of the Delaware AST regulations.

[Added 3-24-2008 by Ord. No. 2008-2]

ACCESSORY USE OR STRUCTURE — A use or building structure subordinate to and located on the same lot as the principal use or building and serving a purpose customarily incidental to the use of the principal building.

ALLEY — A public or private way affording only secondary means of access to abutting property. This definition is not intended to include utility alleys, which are easements not open to public traffic and intended solely for the placement and maintenance of utilities.

ANIMATION — Mechanical or electrical movement or change of lighting, either natural or artificial, to depict action or to create visual motion. This includes blinking, fading, flashing, scrolling vertically, traveling or crawling horizontally.

APPLICANT — A person, firm, or government agency that executes the necessary forms to obtain approval or a permit for any zoning, subdivision, land development, building, land disturbance, or other activity regulated.

[Added 3-24-2008 by Ord. No. 2008-2]

AQUIFER — A geological formation, group of formations or part of a formation composed of rock, sand, or gravel capable of storing and yielding groundwater to wells.

[Added 3-24-2008 by Ord. No. 2008-2]

BASEMENT — A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes, other than a game or recreation room.

BED-AND-BREAKFAST — A private owner/owner representative occupied residence with one to six guestrooms. The bed-and-breakfast is subordinate and incidental to the main residential use of the building.

[Added 9-8-2008 by Ord. No. 2008-13]

BEDROOM — A room not less than 80 square feet which, because of limited access and separation from the living areas, is intended or may be used for sleeping.

BERTH (LOADING) — A space for an automotive vehicle or truck to load or unload its cargo.

BILLBOARD — A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained.

BUILDING — Any structure having a roof supported by columns or walls used for the shelter, housing or enclosure of persons, animals or property.

BUILDING, ACCESSORY — A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

BUILDING COVERAGE, MAXIMUM — The maximum ratio obtained by dividing the ground floor area of all principal and accessory buildings on a lot by the total area of the lot upon which the buildings are located, including covered porches, carports and breezeways but excluding open patios.

BUILDING HEIGHT — The vertical distance of a building measured from the average level of the highest and lowest portion of the building site covered by the building to the ceiling of the uppermost story.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which it is situated.

CELLAR — A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

CERCLA HAZARDOUS SUBSTANCES — Defined in terms of either those substances specifically designated as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as the "Superfund Law," or those substances identified under other laws. In all, the Superfund Law includes references to four other laws to designate more than 800 substances as hazardous and identify many more as potentially hazardous due to their characteristics and the circumstances of their release.

[Added 3-24-2008 by Ord. No. 2008-2]

COMMISSION — The Planning Commission of the City of Milford, Delaware.

COMMUNITY RESIDENTIAL TREATMENT PROGRAM — A planned program of care consisting of full-time or part-time programmatic supervision, counseling and/or therapy; such residence program is provided to persons who are physically disabled, developmentally disabled, psychiatrically disabled, have drug or alcohol problems, are under the legal custody of the state, are minors with social and/or behavioral problems; or are persons who have disabilities with aging. A community residential program does not include skilled nursing care.

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

CONDITIONAL USE — A use which is not appropriate in a particular zoning district as a matter of right but which may be suitable in certain locations within the district only when specific conditions or requirements prescribed for such cases within this chapter are met. Conditional uses are allowed or denied by the City Council after recommendation by the Planning Commission.

CONTAMINATION — Any physical, chemical, biological, or radiological substance that enters the hydrological cycle through human action and may cause a deleterious effect on groundwater resources; it shall include but is not limited to hazardous waste, limiting nutrients, and sanitary sewage.

[Added 3-24-2008 by Ord. No. 2008-2]

DECK — A roofless, floored structure, typically with a railing, that adjoins a residence.

[Added 11-27-2006 by Ord. No. 2006-15]

DELINEATION — The process of defining and/or mapping a boundary that approximates the areas that contribute water to a particular water source used as a public water supply.

[Added 3-24-2008 by Ord. No. 2008-2]

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.

DWELLING — Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons. The term "dwelling" shall not be deemed to include an automobile court, rooming house, tourist home, hotel, hospital, nursing home, dormitory or fraternity or sorority house.

(1)

APARTMENT — A room or suite of rooms in a multifamily structure which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

(2)

SINGLE-FAMILY DETACHED DWELLING — A dwelling unit accommodating a single family and having two side yards.

(3)

SINGLE-FAMILY SEMIDETACHED DWELLING — Two units accommodating two families, which units are attached side by side through the use of a party wall, and having one side yard adjacent to each dwelling unit.

(4)

TWO-FAMILY DETACHED DWELLING — Two dwelling units accommodating two families, which units are located one over the other, and having two side yards.

(5)

TWO-FAMILY SEMIDETACHED DWELLING — Four dwelling units accommodating four families and consisting of two units located directly over the other two units, being a combination of both the single-family semidetached and two-family detached structures.

(6)

MULTIFAMILY DWELLING — A building designed for occupancy by three or more families living independently of each other and containing three or more dwelling units. Such buildings shall consist of the following types:

(a)

GARDEN OR LOW-RISE APARTMENT — A multifamily dwelling containing six to 12 dwelling units and not exceeding three stories in height.

(b)

TOWNHOUSE — A multifamily dwelling containing three to eight dwelling units and not exceeding 2 1/2 stories in height, having a solid masonry fire wall between each unit and individual separate access from the outside to each unit.

DWELLING UNIT — One or more rooms, including a kitchen or kitchenette and sanitary facilities, in a dwelling structure designed as a unit for occupancy by not more than one family for living and sleeping purposes.

EFFICIENCY UNIT — An apartment dwelling unit which features a combination of certain uses in order to lessen total living area required. An efficiency unit shall not include any apartment dwelling unit of three or more rooms.

EMB SIGN — An electronic message board sign that is capable of displaying words, numbers, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. The display of State mandated fuel pricing shall not be considered an EMB sign.

ENVIRONMENTAL IMPACT ASSESSMENT REPORT (EIAR) — A report required by this chapter that assesses the environmental characteristics of a source water protection area and determines what effects or impacts will result if the area is altered or disturbed by a proposed action that would increase impervious cover beyond the recommended twenty-percent threshold.

[Added 3-24-2008 by Ord. No. 2008-2]

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings, except telephone central office buildings and telephone booths, which shall also be considered as essential service facilities hereunder.

EXCELLENT GROUNDWATER RECHARGE POTENTIAL AREA — Those areas with high percentages of sand and gravel that have "excellent" potential for recharge as determined through a stack unit mapping analysis delineated by the Delaware Geological Survey and presented in the Report of Investigations No. 66, Groundwater Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004.

[Added 3-24-2008 by Ord. No. 2008-2]

FAMILY — One or more persons related by blood or marriage or adoption or a group of no more than five unrelated persons living together as a household in a dwelling.

[Amended 5-11-1998 by Ord. No. 4-98;9-8-2003 by Ord. No. 2003-4]

FLOOR AREA, HABITABLE — The aggregate of the horizontal areas of all rooms used for habitation, not including hallways, stairways, cellars, attics, utility rooms, bathrooms, closets, unheated areas, rooms without at least one window or skylight opening to an outside yard or court, garage space or accessory building space. Habitable floor area shall be measured from the inside face of exterior walls

or the center line of walls separating two dwelling units. Every area designated as habitable floor area shall have a ceiling height of not less than seven feet.

GARAGE, PRIVATE PARKING — A building or portion thereof used only for storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

GARAGE, PUBLIC PARKING — A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles.

GARAGE, STORAGE — A building, not a private or public garage, one story in height, used solely for the storage of motor vehicles (other than trucks) but not for the service or repair thereof nor for the sale of fuel, accessories or supplies.

GASOLINE SERVICE STATION — Any area of land, including structures, that is used for the sale of gasoline or other motor vehicle fuel or for lubricating, washing or otherwise servicing motor vehicles but which shall not include painting or body and fender repairs.

GEOLOGIST — An individual who is registered in the State of Delaware to practice the profession of geology.

GOVERNING BODY — The City of Milford Council.

GROUNDWATER — The water contained in interconnected pores located below the water table in an unconfined aquifer or located in a confined aquifer.

[Added 3-24-2008 by Ord. No. 2008-2]

HABITABLE ROOM — A room or enclosed floor space arranged for living, eating or sleeping purposes, not including bath or toilet rooms, laundries, pantries, foyers or communicating corridors.

HAZARDOUS SUBSTANCE UST SYSTEM — Underground storage tank system that contains a hazardous substance defined in 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under RCRA Subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

[Added 3-24-2008 by Ord. No. 2008-2]

HAZARDOUS WASTE — A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness, or pose a substantial present or potential a hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Without limitation, included within this definition are those hazardous wastes described in Sections 261.31, 261.32, and 261.33 of the Delaware Regulations Governing Hazardous Waste.

[Added 3-24-2008 by Ord. No. 2008-2]

HOME OCCUPATION — A profession or occupation, including a day-care center with up to six children, that is carried on within a dwelling that is incidental and secondary to the residential use. It is carried on only by the residents, who may employ one additional nonresident for the conduct of the home occupation. There shall be no exterior evidence of the home occupation, except a sign, and adequate off-street parking must be provided as stipulated in this chapter.

HOSPITAL — Unless otherwise specified, includes a sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments and is limited to places for the diagnosis, treatment or other care of human ailments.

IMPERVIOUS COVER — Surfaces providing negligible infiltration such as pavement, concrete, graded aggregate, buildings, recreation facilities (e.g., tennis courts, swimming pools, etc.).

[Added 3-24-2008 by Ord. No. 2008-2]

JUNK — Includes scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc and all other scrap metals and their alloys and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition but subject to being dismantled. Automobiles in operable condition or bearing a current inspection sticker are not included as junk.

JUNKYARD — Buildings, structures or premises where junk, waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, house wrecking and structural steel materials and equipment yards but not including the purchase or storage of used furniture and household equipment or used cars in operable condition or bearing a current inspection sticker or recycling facilities.

LOT — A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as are required by this chapter.

(1)

LOT, CORNER — A lot situated at and abutting the intersection of two streets having an interior angle of intersection not greater than 135°.

(2)

LOT DEPTH — The mean horizontal distance between the front and rear lot lines.

(3)

LOT LINES — The property lines bounding a lot.

(a)

LOT LINE, FRONT — The line separating the lot from a street.

(b)

LOT LINE, REAR — The lot line opposite and most distant from the front lot line.

(c)

LOT LINE, SIDE — Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a "side street lot line."

(d)

LOT LINE, STREET OR ALLEY — A lot line separating the lot from a street or alley.

(4)

LOT WIDTH — The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

(5)

LOT AREA — The computed area contained within the lot lines.

MOBILE HOME — A transportable single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one unit or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and is constructed so that it may be used without a permanent foundation, but excluding prefabricated homes or sections thereof which, when assembled, are over 19 feet in width.

MUNICIPALITY — The municipal corporation known as the "City of Milford, State of Delaware."

NATURAL CONDITION — Open space that is essentially unimproved and set aside, dedicated, designated, or reserved for public or private use.

[Added 3-24-2008 by Ord. No. 2008-2]

NEIGHBORHOOD COMMERCIAL — Combination of smaller and professional space specifically targeted toward the local neighborhood. The maximum size and configuration of such space shall be determined by the reviewing process on a project-by-project basis. All neighborhood commercial uses shall comply with the following standards and shall only be permitted in planned unit developments.

[Added 11-27-2006 by Ord. No. 2006-15]

NONCONFORMING LOT — A lot of record which conformed to the lawful minimum width and minimum area requirements for the zone in which it is located prior to the adoption or amendment of this chapter but which fails to conform to the requirements of this chapter for the zone in which it is located by reason of such adoption or amendment.

[Amended 5-11-1998 by Ord. No. 4-98]

NONCONFORMING USE OR BUILDING — A building, structure or use legally existing at the effective date of this chapter, or any amendment thereto, or a building, structure or use planned and the construction of which has begun in compliance with existing laws prior to the effective date of this chapter, or amendment thereto, and which does not conform to the use regulations of the district in which located.

NURSING HOME — Any premises containing sleeping rooms used by persons who are lodged and furnished with meals and nursing care.

OPEN SPACE — Areas of land within residential subdivisions or developments including planned unit developments that are available to all residents and/or the public and which have the purpose to provide active and/or passive recreational opportunities, maintain land in a predominantly undeveloped and natural state including lands used for:

- (1) Community gardens;
- (2) Promotion of conservation and protection of wildlife;
- (3) Perpetual conservation easements;
- (4) Parks, plazas, walkways, and trails;
- (5) Buffers or forested areas; and or
- (6) Recreational uses as defined herein.

Open space shall not include areas of land for the following unless otherwise approved by Council:

- (1) Wetlands or storm water management facilities;
- (2) Drainage easements;
- (3) Flagpole areas, including a 20-foot radius around the flagpole;
- (4) Medians (unless designed as a park);
- (5) Signage areas;
- (6) Landscaping in parking areas;
- (7) Predominantly impervious surfaces such as streets and parking lots;
- (8) Required front, side, or rear yards;
- (9) Any land included within designated lot lines; and or
- (10) Utility facilities for uses such as sewer, water, gas or electric.

PARKING AREA, PRIVATE — An open area for the same uses as a private garage.

PARKING LOT — An area, other than a street or other public way, which contains more than one parking space and is used for the storage or parking of automobiles for any period of time.

PARKING SPACE — A paved accommodation used for parking motor vehicles, the area of which is not less than 200 square feet and to which there is access from a street or alley.

PASSIVE RECREATION — Recreation that involves existing natural resources and has a minimal impact because it does not require the alteration of existing topography. Such passive recreation shall include but not be limited to nonmotorized vehicles, hiking, bicycling, picnicking, and bird-watching.

[Added 3-24-2008 by Ord. No. 2008-2]

PERMITTED USE — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any nonconforming use.

PLANNED UNIT RESIDENTIAL DEVELOPMENT — A development providing housing of various densities, lot sizes, lot coverage and types, including related commercial, recreational and community facilities. The area of land required for a planned unit residential development shall be at least 10 contiguous acres except in the City Core area where the required area shall be two acres. For purposes of this definition the City Core area shall be identified as follows:

[Amended 5-22-2006 by Ord. No. 2006-2]

Starting at the location of the intersection of the center line of US 113 and the center line of DE 14 (also known as NW Front Street in Milford, Delaware), and

Proceeding east along the center line of DE Route 14 (NW Front Street) to the intersection of the center line of DE Route 14 (NW Front Street) and the center line of Truitt Avenue, and

Proceeding north along the center line of Truitt Avenue to the intersection of the center line of Truitt Avenue and North Third Street, and

Proceeding east along the center line of North Third Street to the intersection of the center line of North Third Street and the center line of West Street, and

Proceeding north along the center line of West Street to the intersection of the center line of West Street and the center line of North Fourth Street, and

Proceeding east along the center line of North Fourth Street to the intersection of the center line of North Fourth Street and the center line of North Second Street, and

Hence approximately 290 feet N 50° W along the nearest property lines and hence approximately 1,470 feet N 35° E along the nearest property lines to the center line of Business Route 1 (also known as Rehoboth Boulevard), and

Proceeding southeast along the center line of Business Route 1 to the intersection of the center line of Business Route 1 and South East Front Street, and

Proceeding west along the center line of South East Front Street to the intersection of the center line of South East Front Street and the center line of Walnut Street, and

Proceeding south along the center line of Walnut Street to the intersection of the center line of Walnut Street and the center line of Causey Avenue, and

Proceeding west along the center line of Causey Avenue to the interception of the center line of Causey Avenue and center line of the railroad right-of-way (also known as the Norfolk Southern tracks) and,

Hence approximately 3,280 feet N 70° W along the north shore of Silver Lake as mapped by a solid blue line on the 1993 US Geological Survey Milford DE 7 1/2 minute quadrangle map, to the center line of the north-bound lanes on the US Route 113 bridge over Silver Lake, and

Proceeding north along the center line of the northbound lanes of US Route 113 to the point of beginning at the intersection of the center line of the northbound lands of US Route 113 and the center line of DE Route 14 (also known as Northwest Front Street).

PROFESSIONAL OFFICE — Includes the office of a physician, dentist, optometrist, minister, architect, landscape architect, City planner, engineer, insurance agent, realtor, accountant, lawyer, author or similar professional activity.

PUBLIC DRINKING WATER SYSTEM — A community, noncommunity, or nontransient noncommunity water system which provides piped water to the public for human consumption. The system must have at least 15 service connections or regularly serve at least 25 individuals daily for at least 60 days.

[Added 3-24-2008 by Ord. No. 2008-2]

PUBLIC USE — Includes governmental-owned uses such as schools, parks, civic centers, historical properties, fire stations, municipal buildings, essential public utilities that require enclosure within a building, airports and easements for alleys, streets and public utility rights-of-way.

PUBLIC WATER SUPPLY WELL — Any well from which the water is used to serve a community water system by Section 22.146 (Public Water Systems) in the Delaware State Regulations Governing Public Drinking Water Systems.

[Added 3-24-2008 by Ord. No. 2008-2]

RECREATIONAL USES — Areas of land within residential subdivisions or developments including planned unit developments which have the purpose to provide active recreational opportunities that are available to all residents of the community and/or the public including lands used for:

- (1) Indoor club houses;
- (2) Swimming pools and pool houses;
- (3) Tennis courts;
- (4) Basketball courts;
- (5) Athletic fields;
- (6) Picnic areas with tables;
- (7) Ponds for recreational use (boat, fishing or swimming);
- (8) Playgrounds; and
- (9) Bike or multi-model trails.

REDEVELOPMENT — Any proposed expansion, addition, or major facade change to an existing building, structure, or parking facility.

[Added 3-24-2008 by Ord. No. 2008-2]

RESIDENTIAL CONVERSION — A structural alteration and/or internal remodeling of a previously single-family home to one that may accommodate two or more families in independent, self-contained units. Each unit should provide at least 500 square feet of habitable floor area. The change to a two-family or multifamily structure must be done in accordance with special requirements enumerated in this chapter.

RIGHT-OF-WAY — Land reserved for use as a street, alley or interior walk or for other public purpose.

ROOMING OR BOARDING HOUSE — A building or portion of a building that is arranged or used for the sheltering and feeding of more than three individuals.

RUNOFF — That portion of precipitation or snow melt that has not evaporated or infiltrated into the soil, but flows on land or impervious surfaces and discharges to a swale, ditch or stream.

[Added 3-24-2008 by Ord. No. 2008-2]

SANATORIUM — An institution for the care and treatment of invalids and convalescents.

SANITARY LANDFILL — A land site at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of hazardous waste under the Delaware Regulations Governing Hazardous Waste.

[Added 3-24-2008 by Ord. No. 2008-2]

SIGN, ADVERTISING — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, BUSINESS — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, GROSS SURFACE AREA OF — The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display.

SITE PLAN APPROVAL — A process for the review and approval of a development or redevelopment plan prior to the issuance of a development.

[Added 3-24-2008 by Ord. No. 2008-2]

SKEWING — The design of a lot where a straight lot line is not practical. Therefore, a lot line or lines will run at a slant, and the lot will not be perfectly equal on all sides.

SOURCE WATER — Any aquifer from which water is drawn either periodically or continuously by a public water system.

[Added 3-24-2008 by Ord. No. 2008-2]

SOURCE WATER ASSESSMENT AND PROTECTION PROGRAM (SWAPP) — Created by Congress as part of the Safe Drinking Water Act Amendments of 1996. The goal of the SWAPP is to better protect public drinking water resources by providing local and state governments and the public more information about those resources. The susceptibility of each source of public drinking water to various types of contamination will be determined and published.

[Added 3-24-2008 by Ord. No. 2008-2]

SOURCE WATER ASSESSMENT AREA — The area delineated by the DNREC Source Water Assessment and Protection Program that contributes water to a public water supply system.

[Added 3-24-2008 by Ord. No. 2008-2]

SOURCE WATER ASSESSMENT PLAN — The October 1999 U.S. EPA-approved plan for evaluating the sources of public drinking water in Delaware for their vulnerability and susceptibility to contamination.

[Added 3-24-2008 by Ord. No. 2008-2]

SOURCE WATER ASSESSMENT REPORT (SWAP) — The identification and evaluation of the sources of water within the state used by public water systems in an effort to determine their vulnerability and susceptibility to contamination.

[Added 3-24-2008 by Ord. No. 2008-2]

SOURCE WATER PROTECTION AREA — Wellhead protection areas and excellent groundwater recharge potential areas.

[Added 3-24-2008 by Ord. No. 2008-2]

SPECIAL EXCEPTION — The granting of a modification of the provisions of this chapter as authorized in specific instances listed and under the terms, procedures and conditions prescribed herein. Special exceptions are administered by the Board of Adjustment.

STORMWATER — The runoff of water from the surface of the land resulting from precipitation or snow or ice melts.

[Added 3-24-2008 by Ord. No. 2008-2]

STORMWATER MANAGEMENT

[Added 3-24-2008 by Ord. No. 2008-2]

(1)

For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of stormwater runoff which may be caused by land-disturbing activities or activities upon the land; and

(2)

For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land-disturbing activities or activities upon the land.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

(1)

STORY, HALF — A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

(2)

STORY, FIRST — The lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building.

STREET — A public or private thoroughfare which affords the principal means of access to abutting property, including an avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley.

STRUCTURAL ALTERATION — Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any structure.

STRUCTURE — Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including stationary and portable carports.

TRAVEL TRAILER — A vehicle less than 30 feet in length and used for temporary living or sleeping purposes and standing on wheels.

UNDERGROUND STORAGE TANK (UST) — A UST is one or a combination of tanks, including underground pipes, the volume of which is 10% or more belowground, as defined in the Delaware Regulations Governing Underground Storage Tank Systems. The following USTs are not subject to the design, construction, operation, and maintenance requirements of the Delaware UST Regulations: residential heating fuel, agricultural, and residential motor fuel USTs less than 1,100 gallons and any UST less than 110 gallons.

[Added 3-24-2008 by Ord. No. 2008-2]

VACANT PROPERTY — Lands or buildings that are not actively used for any purpose as designated in the underlying zoning district/overlay for one year.

[Added 3-24-2008 by Ord. No. 2008-2]

VARIANCE — The Board of Adjustment's authorized departure to a minor degree from the text of this chapter in direct regard to a hardship or exceptional practical difficulty peculiar to an individual lot, in accordance with the procedures set forth in this chapter.

WASTEWATER — Solid, semi-solid or water-carried waste from septic tanks, water closets, residences, buildings, industrial establishments, or other places, together with such groundwater infiltration, subsurface water, and mixtures of industrial wastes or other wastes as may be present.

[Added 3-24-2008 by Ord. No. 2008-2]

WATER QUALITY — Those characteristics of stormwater runoff from an impervious surface or a land-disturbing activity that relate to the chemical, physical, biological, or radiological integrity of water.

[Added 3-24-2008 by Ord. No. 2008-2]

WATER QUANTITY

[Added 3-24-2008 by Ord. No. 2008-2]

(1)

Those characteristics of stormwater runoff that relate to the volume of stormwater runoff to downstream-gradient areas resulting from land-disturbing activities.

(2)

Those characteristics of stormwater that relate to the volume of stormwater that infiltrates the land surface and enters the underlying aquifer.

WELLHEAD — The upper terminal of a well, including adapters, ports, seals, valves, and other attachments.

[Added 3-24-2008 by Ord. No. 2008-2]

WELLHEAD PROTECTION AREAS (WHPA) — Surface and subsurface areas surrounding public water supply wells or well fields where the quantity or quality of groundwater moving toward the wells or well fields may be adversely affected by land use activity.

[Added 3-24-2008 by Ord. No. 2008-2]

WELLHEAD PROTECTION PLAN — The March 1990 U.S. EPA-approved plan for protecting the quality of drinking water derived from public water supply wells in Delaware.

[Added 3-24-2008 by Ord. No. 2008-2]

YARD — An open space as may be required by this chapter, on the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as permitted in this chapter.

[Amended 5-11-1998 by Ord. No. 4-98]

(1)

YARD, FRONT — An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this chapter. The front yard is measured from the right-of-way line.

[Amended 5-11-1998 by Ord. No. 4-98]

(2)

YARD, REAR — An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this chapter.

(3)

YARD, SIDE — An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this chapter.

ZONING MAP — The Official Zoning Map of the City of Milford, Delaware.

B.

Words not defined in Subsection A. Words not defined above shall have the meanings given in Webster's Unabridged Dictionary.

C.

Word usage. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "building" includes the word "structure"; the word "occupied" includes the words "designed or intended to be occupied"; and the word "used" includes the words "arranged or intended to be used."

[Ord. No. 2009-17, § 2, 4-26-2010; Ord. No. 2010-1, §§ 2, 3, 5-24-2010; Ord. No. 2009-22, § 1, 9-27-2010]

§ 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:

[Amended 9-30-1991; 6-29-1992; 10-12-1998 by Ord. No. 10-1998; 11-27-2006 by Ord. No. 2006-15]

(1)

Those uses permitted in the C-1 District.

(2)

General merchandise stores, including such uses as department stores, apparel and accessories, hardware, shoes, drugs and variety stores.

(3)

Specialty retail stores, including such uses as gifts, antiques, crafts, newspapers, tobacco, flowers, sporting goods, books, jewelry, leather goods and stationery stores.

(4)

Personal service establishments, including such uses as barbers, beauticians, shoe repair and tailors.

(5)

Financial institutions, loan companies and banks.

(6)

Restaurants, excluding fast-food or franchised food service operated restaurants.

(7)

Taverns and tap rooms.

(8)

Retail food stores, including bakeries, confectionery, candy or gourmet shops, small convenience grocery shops (without gas pumps) and meat, fish or produce stores.

(9)

Professional services and administrative activities, including such uses as offices of agents, brokers, physicians, dentists, attorneys, architects, engineers, musicians and artists and governmental offices serving the public.

(10)

Libraries, museums, art galleries and public information centers.

(11)

Churches and other places of worship.

(12)

Fraternal, social service, union or civic organization.

(13)

Tourist home, boardinghouse, rooming house or lodging house.

(14)

Studio for artists, designers, photographers, musicians, sculptors and related uses.

(15)

Commercial parking lot, public garage or multilevel parking garage and off-street parking.

(16)

Municipal and public services and facilities, including City Hall, water storage towers, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, sewers (storm and sanitary), street rights-of-way, utility transmission and distribution lines, public transportation bus or transit stops, police and fire stations and substations for electric, gas and telephone facilities.

(17)

Publishing, printing and reproduction establishments.

(18)

Repair and servicing as an accessory activity of any article for sale in the same establishment.

(19)

Indoor storage facilities as an accessory use to any of the permitted uses in this district.

(20)

The outdoor display of merchandise, if done in a reasonable manner and if the display is kept neat and orderly as determined by the Code Official. Furthermore, the outdoor display may not interfere with the safe and efficient flow of pedestrian traffic.

(21)

Family day care, which shall involve a maximum of six full-time and two after-school children, as specified by state regulations.

C.

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

(1)

Commercial indoor recreation activities, including amusement arcades, indoor theaters, social clubs, youth clubs or similar facilities.

[Amended 6-29-1992]

(2)

Laundromats and dry-cleaning establishments.

(3)

Undertakers.

(4)

Motels and hotels.

(5)

Instructional, business or trade stores.

(6)

Fast-food or franchised food service operated restaurants.

(7)

Day-care centers.

[Added 9-30-1991]

(8)

Small convenience grocery shops with gas pumps.

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

(9)

Community residential treatment program.

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

(10)

All dwellings other than single-family with a maximum density of 12 units per acre and in conjunction with nonresidential use.

D.

Area regulations.

(1)

Minimum lot area shall be 2,500 square feet for any permitted use, together with its accessory buildings, provided that parking and loading space are provided in accordance with Article VI of this chapter.

(2)

Minimum lot width shall be 50 feet.

(3)

Height of buildings shall not exceed 35 feet.

(4)

There shall be no required setback, rear yard or side yard.

[Ord. No. 2008-18, § 2, 8-24-2009]

§ 230-44. - Prohibited uses.

The following uses and activities shall be specifically prohibited in any zone in the City of Milford:

A.

Automobile wrecking yards, junkyards or the sorting and baling of scrap metal, paper, rags, glass or other scrap material.

B.

The parking, storing or keeping of a dismantled, inoperative or discarded motor vehicle or any parts thereof, unless within an enclosed building.

C.

Any uses not permitted by this chapter.

[Added 2-12-1990]

D.

All establishments involving the sale of alcoholic beverages either on or off premises which are located within 1,000 feet of any public or private school, day-care or child care center or church. Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.

[Added 5-11-1998 by Ord. No. 5-1998]

§ 230-45. - Multiple permitted uses and mixed uses.

[Added 6-29-1992]

In any and all zoning districts, multiple permitted uses or mixed use of a property shall be deemed a conditional use subject to special requirements.

Milford, Delaware, Code of Ordinances >> PART II - GENERAL LEGISLATION >> Chapter 230 - ZONING >>
ARTICLE IX - Conditional Uses >>

ARTICLE IX - Conditional Uses

§ 230-46. - Purpose.

§ 230-47. - Application and approval procedures.

§ 230-48. - Criteria for evaluation.

§ 230-48.1. - Criteria for planned unit residential development.

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

§ 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.

§ 230-47. - Application and approval procedures.

A.

The application for a conditional use shall first be made with the Code Official, who shall then forward the materials to the Planning Commission.

B.

The Planning Commission shall study such information and make recommendations to the City Council within 60 days of the Code Official's referral to the Commission after holding a public hearing.

C.

The Council shall then act within 60 days of the receipt of the Commission's recommendation to either approve with conditions or deny such use after holding a public hearing. The Council's decision shall be based on the determination that the location of the use is appropriate, it is not in conflict with the Comprehensive Plan and it is consistent with the purpose and intent of this chapter.

§ 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.

§ 230-48.1. - Criteria for planned unit residential development.

[Added 6-11-2001 by Ord. No. 4-2001; amended 10-25-2004 by Ord. No. 2004-9]

A.

Permitted uses. Uses, accessory uses and signs permitted in any residential district shall be permitted in accordance with the additional requirement and provisions of the article.

B.

Minimum requirements, area and width. In a planned unit residential development, minimum lot area and width may be less than that required by the district regulations, except that no single-family lot shall be less than 4,000 square feet in area nor less than 40 feet in width. The width of the lot shall be between lot lines at the front building setback line as determined by the Planning Commission.

C.

Density. A planned unit residential development is not intended to increase density, but to allow flexibility in the design of the number of dwelling units permitted. If a parcel or parcels have more than one zoning classification, the total permitted density may be located throughout the parcel or parcels. The total permitted density shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the zoning district in which the land is located. Net development area shall be determined by subtracting 25% of the gross area. Gross area shall not include any wetlands, floodway or similar area not suitable for building as determined by the Planning Commission.

D.

Other requirements. Off-street parking, parking beneath buildings, front, side and rear setbacks, landscaping and buffering, lot coverage, number of units per building and building separation shall be as determined by the Planning Commission. Maximum height shall not exceed 48 feet and four stories maximum.

E.

A planned unit residential development shall be subject to the same review procedures as for a major subdivision as provided in [Chapter 200](#), Subdivision of Land.

[Added 5-22-2006 by Ord. No. 2006-2]

F.

Neighborhood commercial.

[Added 11-27-2006 by Ord. No. 2006-15]

(1)

Permitted neighborhood commercial uses. The following neighborhood commercial uses are permitted in a planned unit development:

(a)

Retail goods and services.

(b)

Child-care center (care for fewer than 24 children).

(c)

Food services (grocery/convenience: cafe, coffee shop, but no facility with fuel distribution).

(d)

Medical and dental offices, clinics, and laboratories.

(e)

Professional and administrative offices.

(f)

Repair services, conducted entirely within the building. (Auto repair and similar uses are not permitted.)

(g)

Mixed use building (residential, including rentals, with other permitted use).

(h)

Laundromats or dry cleaners.

(i)

Art, music, or photography studio.

(j)

Personnel service (barbershop, salons, video rental, fitness center and similar uses).

(k)

Allowable uses (e.g., swimming pools, clubhouse and associated sport and exercise areas, tennis courts).

(2)

Floor area standards. Up to 25% of the total acreage within the planned unit development may be available for nonresidential uses including neighborhood commercial, nursing home and hospice care, professional and small business office use, similar uses, but excluding areas reserved for clubhouse, pool, HOA offices and other development amenities. For neighborhood commercial, the maximum interior floor area shall not exceed 6,500 square feet total for any one use on one neighborhood commercial site without a variance.

(3)

Hours of operation. Except for the swimming pool, clubhouse and associated sport or exercise areas, neighborhood commercial land uses shall be limited to the following hours of operation 6:00 a.m. to 9:00 p.m.

(4)

Storage. Except for plants and garden supplies, overnight storage is not permitted.

(5)

Parking. Parking spaces for the commercial space shall be determined in accordance with the overall planned unit development submission but in no event shall be less than 50% of the spaces required for standard commercial space.

(6)

Control. Ownership of the land and buildings comprising the commercial space may be by individuals, corporations or partnership either in fee simple or as a condominium with limited common area control and shall be subject to the rules and regulations contained in the commercial area tenants association and covenants and restrictions. All commercial tenants shall pay dues and assessments to said association for management and upkeep of the common areas.

(7)

Density. The overall density otherwise permitted under planned unit development shall be reduced at the rate of one dwelling unit per 3,000 square feet of commercial floor space.

G.

A minimum of 400 square feet per unit shall be designated as open space subject to the recreational use. Recreational use requirement - 50% of the required open space shall be set aside for recreational use.

§ 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 § 230-48 and that such use will continue to do so.

B.

Construction or operation shall be commenced within one year of the date of issuance or the use permit becomes void.

C.

A reapplication for a use permit for the same lot or use shall not be considered by the City Council within a period of 365 days from its last consideration. This provision, however, shall not impair the right of the Council to propose a use permit on its own motion.

D.

See fee schedule.

[Amended 5-11-1998 by Ord. No. 4-1998]

E.

If a conditional use permit is granted under the provisions of this article, the City Council shall direct the Code Official to officially notify the applicant, in writing, of all conditions approved by the Council.

F.

The approval of a conditional use is valid for one year. Unless permits are obtained or construction or use is substantially underway, all provisions of the conditional use are automatically rescinded. Permits may be revoked by the Council for failure to comply with the stated conditions of approval or applicable regulations.

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC12-001

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

**THE APPROVAL OF A CONDITIONAL USE FOR
GREATER MILFORD DEVELOPMENT CORP**

AT 1 PARK AVENUE

IN A C-2 ZONING DISTRICT

TAX MAP MD-16-183.10-04-43.00; .552+/- Acres

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on February 21, 2012; and,

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

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

1. Hours of Operation:
 - Monday through Thursday 8:00 am until 11:00 pm
 - Friday 8:00 am until 1:00 am
 - Saturday & Sunday 8:00 am Saturday until 10:00 pm on Sunday

2. Uses, in addition to roller skating:
 - Educational Programs: High School Mentoring, Drop In Child Care, Summer Childcare Programs
 - Dances: Fundraising, Line Dance, Ballroom, DJ Competition, 15 and under, 16-21, 21 and up
 - Exercise Classes
 - Sporting Events: Dodge Ball, Hockey, Soccer, Roller Derby, Segway
 - Community Functions: Group Meetings, Church Functions, Immigration Family Resources
 - Private Facility Rentals (alcoholic beverages to be served)

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades and similar areas that are open to the use of the public. As a type of public place, a street is a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. "Street" includes that legal right-of-way, including but not limited to the cartway of traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way of a street.

REMAIN — To stay behind, to tarry and to stay unnecessarily in a public place, including the congregating of groups (or of interacting minors) totaling four or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in this chapter. More and more exceptions become available with a juvenile's increasing years and advancing maturity as appropriate in the interest of reasonable regulation.

TIME OF NIGHT — Based upon the prevailing standard of time, whether Eastern standard time or Eastern daylight savings time, generally observed at that hour by the public in the city, prima facie the time then observed in the city administrative offices and police station.

YEARS OF AGE — Continues from one birthday, such as the 16th, to (but not including the day of) the next, such as the 17th birthday, making it clear that 16 or fewer years of age is herein treated as equivalent to the phrase "under 17 years of age," the latter phrase in practice, unfortunately, having confused a number of persons into the mistaken thought that 17 years old might be involved. Similarly, for example, 11 or fewer years of age means "under 12 years of age."

- B. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

§ 111-2. - Curfew established.

- A. School year curfew. It shall be unlawful for any person 16 years or fewer of age (under 17) to be or remain in or upon a public place within the City of Milford during the Milford School District designated school year for the period ending at 6:00 a.m. and beginning:
- (1) At 12:00 midnight on Friday and Saturday nights; and
 - (2) At 11:00 p.m. on all other nights.
- B. Summer curfew. It shall be unlawful for any person 16 years or fewer of age (under 17) to be or remain in or upon a public place within the City of Milford during the Milford School District designated summer break for the period ending at 6:00 a.m. and beginning:
- (1) At 1:00 a.m. on Friday and Saturday nights; and
 - (2) At 12:00 midnight on all other nights.

§ 111-3. - Exceptions.

- A. The following shall constitute valid exceptions to the operation of this chapter:

CHAPTER 208-TEEN CENTERS

§ 208-1. - License required.

§ 208-2. - General regulations.

§ 208-3. - Violations and penalties.

§ 208-1. - License required.

Whoever operates, as a commercial venture, a teen center or place of amusement or dance hall catering solely or primarily to the teenage trade shall first obtain a license to do so as provided under this chapter.

§ 208-2. - General regulations.

The following regulations shall apply to the operations of such places of amusement as referred to above:

- A. The establishment shall be so constructed that it will meet all fire and safety standards and shall be so certified by the proper inspection authorities before a license is granted.
- B. In the event that food or drink is to be dispensed, the same standards as to sanitation shall apply as in the case of other eating establishments.
- C. At least two separate rest rooms in good working order shall be maintained, one for boys and one for girls, and they shall be so marked.
- D. The facilities shall be so constructed that all activity is in plain view of the management at all times, and there shall be no doors leading to connecting rooms.
- E. There shall be no other rooms, halls or other space available to the customers.
- F. For the safety of the occupants, the establishment shall be so lighted inside that the floor and furniture or fixtures shall be clearly distinguishable.
- G. Not more than one pool or billiard table shall be provided, and it shall be in the same room (or in plain view) as the other activities being carried on in the establishment.
- H. No betting or gambling of any nature whatsoever shall be permitted.
- I. No one under the age of 13 or over the age of 18 shall be admitted or allowed to remain on the premises during all hours of operation.
- J. No one under the influence of an intoxicating beverage or dangerous drugs shall be admitted to or allowed to remain on the premises, and no intoxicating beverages, narcotics, marijuana, central nervous system stimulants or depressants, mescaline, methadrine, LSD or other dangerous drugs shall be allowed anywhere thereon.
- K. No disorderly conduct of any kind shall be allowed on the premises.
- L. Hours of operation on days when the public schools are in session shall not start before 3:30 p.m., and at all times the closing time shall be not later than 11:00 p.m.
- M. A responsible adult shall be in charge of the operation at all times and be accountable for the enforcement of the rules and regulations.
- N. Rules and regulations governing the operation of the establishment shall be posted in a prominent place in the establishment.

§ 208-3. - Violations and penalties.

Upon complaint made to the city regarding any alleged violation of this chapter, the Mayor shall appoint a committee of two or more persons to view the premises, and if violation is found to exist, the committee shall promptly inform the person then in charge of the establishment to correct the same; or, in the event that intoxicating liquors or dangerous drugs as defined herein are found upon the premises, the committee, upon investigation and proof thereof, may recommend to the City Council that the license of the establishment be suspended for a period not exceeding one month. In the event of more than three violations within any twelve-month period, the Council may revoke the license of the establishment, after a hearing held, upon giving not less than 10 days' notice of the time and place thereof to the licensee.

**Carmen Kemper on behalf of Greater Milford Development Group; Project No 12-178
Conditional Use
1 Park Avenue
Tax Map MD-16-183.10-04-43.00; .552 +/- Acres; C-2 Zoning
Adoption of Resolution PC12-001**

Ms. Carmen Kemper on behalf of Greater Milford Development Group, the property owner, is the owner of the Milford Skating Center and was present to represent the application.

Ms. Kemper read the following statement:

“I have managed the Skating Center since 2000 and have recently purchased the Skating Center in July 2011. I am here asking for the conditional use of the building to have recreational programs offered at the skating center. Some of those requests have not been requested to offer options to serve the community better and enhance the programs offered in our downtown area. Milford Skating Center has occupied the building in Downtown Milford since 1982. As the current zoning is written, skating centers are not accepted in the downtown district. Having been here since 1982, I first am asking for the conditional use to be enhanced and then ultimately suggesting the zone be changed to include roller skating and activity center as provided uses within the conditional use permit needed. With this request, I am not changing the appearance of physical building or property, inside or out. I am requesting to enhance the services that can be offered within the building to better serve children and adults from Milford and across Delmarva. We attract families from Salisbury, Maryland, skaters and non-skaters from Dover, Eastern and Western Sussex County, Smyrna and even Southern Pennsylvania. All of which must arrive through our Downtown Business District and park next to our beautiful Riverwalk. Milford Skating Center attracts hundreds of participants weekly to the downtown area. This request was prompted by the City Code Enforcer so that I do not default on my conditional use. The majority of activities requested, have been activities we have successfully held at the Milford Skating Center without incident. The two previous owners of the Skating Center were not aware of any infringement on the ordinance or conditional use during their tenure in which these activities also took place. These activities enhance the roller skating programs already offered to the community and families that utilize the Skating Center. The more programs and variety of programs I can offer, the more opportunity Downtown has to get in front of buyers of their products and services. The facility and activities have been without incident for many years. That is because of the wonderful staff I employ and the additional staff I employ when necessary. In today's economy and high utility prices, I as a business owner am offering services to the community for recreational and entertainment and am trying to enhance my business to increase revenue to offset the increase in costs of doing business. I am a member of this community as a business owner and as a resident for more than 20 years. I have assisted several fundraising campaigns through donations and hosted events that are roller skating and non-roller skating in

nature. I have shut down roller skating programs due to road closings for Downtown and Chamber events since there was little access to parking for regular clientele. I then reopened my doors during those events for community organizations to raise money during the events, without charging the organization for my business use. I ask for your favorable recommendation to my request so Milford Skating Center can continue to compliment Downtown Milford, the City of Milford and improve the recreational activities offered to its citizens.

Mr. Rini thanked Ms. Kemper for her comments. He asked since she her conditional use application has approximately 32 items, including the hours of operation, what he would like to do is start the questioning process and maybe have the commissioners go down the list and if there is a topic on the list that is of concern or needs further explanation on what it is, we'll handle them one at a time. Once the commission is done with the questions, Mr. Rini will call for public comments. Regarding the public comments, if there is a statement already said or a question already asked, to please don't duplicate. He also reminded the audience to speak to the commission and the commission will ascertain the answers.

Mr. Norris confirmed Mr. Silicato owns the building but Ms. Kemper leases it with her business being the Milford Skating Center. He asked her to explain the hours of operation, particularly with Saturdays. Originally the hours on Saturdays were 8:00 am opening to 12:00 am and now the hours requested on Saturdays are 8:00 am opening until 8:00 am on Sunday.

Ms. Kemper asked for that to be amended to indicate 8:00 am opening on Saturday to 3:00 am closing on Sunday.

Mr. Rini confirmed the hours of operation being requested are per the application submitted.

Mr. Norris noted one of the items listed on the application is High Schoolers Mentoring in the mornings. He asked for further clarification of that. Ms. Kemper explained that is when Milford High School students come over to the Center and Ms. Kemper mentors them, i.e. getting them prepared to go out into the world and getting a job, they go over things, show them how to be at a job, what is expected of them while there, their appearance, different things that will help them. She has done the mentoring a couple of times now. The school brings them to the Center and there is no cost to the students or school.

Mr. Norris asked if there was any correspondence between the Center and the school authorizing the mentoring. Ms. Kemper stated yes she does. She has a few teachers that come over with the students and do different activities with the students during the school day as well.

Mr. Rini asked for a title to the program, as it sounds like a future business association type of program. Ms. Kemper was not familiar with the name of the class. Mr. Rini was looking to determine if this is being done with the approval of the superintendent of the schools. Ms. Kemper replied yes. When Mr. Rini asked if there was anything in writing to confirm this, Ms. Kemper stated no she does not. The teachers go through the superintendent and principal to get permission and then they call her to set it up.

Mr. Norris continued by asking for clarification on the After School Programs seven days per week. Ms. Kemper explained the after school program is offered through the three elementary schools and it is usually on Wednesdays. At 1:20 pm when the school lets them out, the Center

gets a bus to pick up from the three schools and bring them back to the Center for skating until 6:00 pm. Middle school students are also included, but they must provide their own transportation. Different days have been offered to the schools as well. Mr. Norris asked what the students do at the Center. Ms. Kemper replied they skate or play dodge ball.

Mr. Norris questioned the Adult Dance on weekends only. Ms. Kemper explained she has been approached by different organizations to rent out the building and they bring in their own DJ's. Ms. Kemper also has her own adult dances with her DJ available for dancing and socializing. That is done after the regular skating session times.

When asked about the Alcoholic Beverages at Private Parties or Bouts, Ms. Kemper explained she has been approached by different organizations about being able to bring in alcohol. She has spoken with the ABC Commissioners (Alcohol & Beverage Commission) and has been told by them it would up to the group coming in to have a gathering license which would cost them \$5.00 to be able to sell alcohol in the premise. If they are not selling the alcohol, and they are not charging at the door, the organization can bring in alcohol and give it away at the private parties.

Bouts are roller derby girls and they are doing alcohol at other rinks to provide income for their club and home. The roller derby group brings in people from down south – Rehoboth, Lewes – and getting ready to do bouts in a couple of months. They are asking if they can sell alcohol to raise money for their club.

Mr. Norris asked if ABC has been checked to determine what type of license is needed. Ms. Kemper replied it would also be a gathering license and they are responsible for that. Again, the bouts would be charging at the door so they would need the gathering license. Ms. Kemper would need a bartender, a bar setting which she has in the snack bar area, and it would only be used for that one day event. It would not be an everyday thing. She is not looking for an everyday license for alcohol because she's not being asked to provide alcohol every weekend or even once per month.

On the list also was Drop In Childcare and Mr. Norris asked for more information on that and wanted to know if the State had been contacted for their rules and regulations. Ms. Kemper stated yes. She explained that is her summer camp where kids are dropped off. And yes, the Child Care Licensing Office is aware of what she is looking for and she has a certificate in child care and they are willing to work with her for the Center.

Mr. Rini questioned the Alcoholic Beverages for Private Parties and Bouts. He assumes that all the other items on the list on the application would not have alcohol connected with them. Ms. Kemper stated that is correct.

Regarding the private parties and gatherings, Mr. Rini asked if the Center is shut down while those events are taking place. Ms. Kemper explained the Center is open during normal times and when a private party is scheduled, Ms. Kemper tries to schedule them when it will not interfere with the normal skating session times or other functions going on. She tells them what times she has available. She does a lot of private parties that are skating parties, such as churches and an autism awareness group. The diabetes group is for dancing because skating is no longer an option for the young lady. The proceeds from the diabetes dance go to her. Same thing with the

girl scouts. The last two Sunday's the girl scouts have had fund raisers in the building, and Ms. Kemper has donated the admissions to them.

Mr. Rini asked how the liability goes for all of these events. Ms. Kemper said she has an overall liability policy that protects all of it. Mr. Rini asked if a senior walker falls down she has coverage for that. Ms. Kemper replied yes.

Mr. Rini asked for clarification on DJ Competitions. Ms. Kemper explained that is a group of DJ's that want to come together and do a competition of their music and talents and people at the rink stand there and cheer them on and it's a contest. Mr. Rini asked if there is dancing, the DJ's take turns, etc. Ms. Kemper stated yes, but it's not an actual dance.

When asked about All Night Skate Sessions, Ms. Kemper explained they are from 7:00 pm until 7:00 am. The Center has always had them and never had problems with them. Mr. Rini stated the proposed hours of operation do not extend to 7:00 am. The latest she is requesting is 3:00 am. Ms. Kemper stated that is correct. She would have the all night skate until 3:00 am.

Mr. Pilla indicated the only problem he had was with the Teen Dance 16-21 years old. He feels teenagers end at 19 and he's not sure why 20 and 21 year olds would be permitted, which are usually the ones that have the alcohol in the back of their car and a more aggressive tendency. He asked why the age is specified as 16-21 years old. Ms. Kemper replied she was trying to break up the age levels. There is a teen dance from 15 years old and below. She stated there are a lot of 17 and 18 year olds in college and a few that are 16 in college and she didn't want to leave them out. Mr. Pilla stated if he's 21 he can go to the bar and dance. Ms. Kemper stated the teen dances do not have alcohol.

Mr. Fry asked if ABC grants the alcohol permits, what will prevent 21 year olds from bringing in their own alcohol. Ms. Kemper stated she has security guards that pat down everyone before they come in. If patrons leave the building, they must be patted down again upon re-entry. That has always been done and she has never had issues. Mr. Fry explained that was before alcohol licensing came into the picture. He wants to know if the conditional use to allow alcohol is approved, what is going to put a stop to bringing alcohol in. Ms. Kemper stated she will assure him alcohol will not be in the building for teen dances.

Mr. Campbell asked the difference between a gathering license and an ABC liquor license. Ms. Kemper explained a liquor license is between \$1500 to \$2000 and a gathering license is \$5.00 and is a onetime deal. Mr. Campbell confirmed that every time there is alcohol, there will be a \$5.00 charge. Ms. Kemper stated yes and the organization applying for the license must be a non-profit organization to get that granted. Mr. Norris asked who verifies they are a non-profit. Ms. Kemper replied ABC does. There is a form that has to be filled out and turned into ABC and they are the ones that make that decision. Mr. Norris asked what the turn around time is on the license. Ms. Kemper stated 2-3 months.

Regarding the Drop In Childcare, Mr. Campbell asked if that is only for the summer. Ms. Kemper replied yes.

Mr. Campbell stated the after school event, he asked if there is approval required for this. Ms. Kemper stated no approval is needed, it is like a private party because they are coming to her asking to use the Center to enhance the kids. Mr. Campbell confirmed it is just mentoring.

Mr. Burk asked for clarification on Family Resources and where it says Immigrants. Ms. Kemper said she is thinking about doing something with the immigrants that are in the area to allow them to come in and bring interpreters and show them what they need to have done or whatever the case may be, to help them. Again that is something she is looking at to have free of charge.

Under the list of things Ms. Kemper wants to have changed, she states she can no longer operate the business the way it had been operated for the last 30 years. He asked how many things on the list have been underway, or how many dances has there been where alcohol was involved. It looks like there was a letter from the Code Enforcement Department regarding the New Years Party that was rejected. Ms. Kemper stated the drop in daycare has not been going on, nor the immigrant services. The alcohol has been once. Everything else on the list has been going on for years. Mr. Rini confirmed there has been alcohol at the Center once. Ms. Kemper stated that was at her opening in August 2011 and it was not being sold. Mr. Burk confirmed there is security at the Center to determine age. Mr. Campbell asked if the Milford Police Department was there or on standby. Mr. Rini said the commission would hear from the Police Department during the hearing.

Mr. Holloway needed some more clarification on the ambiguity of the private parties and the alcoholic beverages. He asked if Ms. Kemper sees a situation where a private party including alcohol would be going on at the same time as other events that might involve children of any age below 21. Ms. Kemper replied no.

Mr. Holloway asked what conditions were approved upon her opening. Ms. Kemper really couldn't answer the question because no one has ever given her anything in writing telling her what was, other than it was just supposed to be a skating center. In the last 30 years these activities and have never been approached and told there was any wrong doing. Mr. Holloway confirmed what happened then was the broad term of "skating center" only was expanded into other activities. Ms. Kemper replied yes.

Solicitor Sharp wanted to be clear on what has been done and what has not been done at the Center. He asked to go down the list on the application and make clear which ones have been done in the past and which ones are new.

Roller skating – done in past.

Senior walkers – done in past.

High schooler mentoring – done in past.

Diabetes dance – done in past.

Private birthday parties – done in the past. Ms. Kemper explained these are done during regular session times.

After school programs – done in past.

Teen dances – done in past.

Adult dances – done in past, started last year. Have them once every other month or so.

Solicitor Sharp confirmed these are not during regular skating hours.

Zumba and other exercise programs – done in the past, during the mornings.

Country line dancing – done in past.

Private non-profit organization parties – the local parade committee has been renting out the center as a fund raiser for years, but the colleges and bikers started last year.

Autism skate/social – done in past.

Roller derby practices and bouts – done in past, started in past year.

Alcoholic beverages at private parties or bouts – proposed new use.

Dodge ball – done in past

Community meetings – Ms. Kemper explained allowing community groups to come in and have meetings, ie parade committee, churches, etc.

Boy Scouts, Girl Scouts, cheerleaders awards nights – Ms. Kemper explained the groups come in and may skate or may not and have awards ceremony.

Indoor field hockey – proposed new use.

Indoor soccer – proposed new use.

DJ Competition – done in past.

Segway relays and practices - done in past.

Jam skating – done in past.

Ballroom dances and classes – done in past.

Church functions, parties and meetings – this would fall under community meetings

Drop in childcare – Solicitor Sharp asked if this was only a summer function. Ms. Kemper replied this will strictly be a summer program and could be called a summer camp.

Children's summer programs - this is the Drop in Childcare.

Holiday parties – been done in past.

As far as the private parties are concerned, Solicitor Sharp asked what kind of controls she has as the operator of this business when a group comes in and rents the facility for a private party. Ms. Kemper stated she has staff at the facility as well as a clause in the contract with the group, depending on the group, that the group has to have their own security people and show Ms. Kemper their credentials. If not, then Ms. Kemper provides security.

Solicitor Sharp asked how capacity is enforced. Ms. Kemper stated she has clickers and goes by admissions as they come through. Her capacity is 299, so she is not going to exceed that. When asked if she has had any problems with private parties exceeding the capacity, Ms. Kemper replied no.

Solicitor Sharp confirmed the application is requesting to allow alcohol at private parties. When the private parties are held, Solicitor Sharp asked if skate sessions will be held before and/or after the private parties. Ms. Kemper replied not afterward, but probably before the private party with a 45 minute buffer time between.

Mr. Rini called Mr. Lendon Dennis, the City's Code Enforcement Officer, to the podium to explain how we arrived to this point.

Mr. Dennis explained on or about December 22nd he met with Ms. Kemper. Prior to that, however he was asked if the Center was allowed to have any dances. As this is his third year with the City, there were probably things done or allowed that he was not aware of, so he responded no. He was informed a dance or riot that took place prior. After researching the zoning code and speaking with the City Planner, Mr. Norris, Mr. Dennis informed Ms. Kemper

the Center was permitted to operate only as a skating center. During the meeting with Ms. Kemper, he informed her of needing to apply for a Conditional Use to be permitted uses other than skating. During that meeting, she was upset because there had been an issue earlier that she felt was not her fault. Mr. Dennis explained to her that since he was now made aware of what all was being done at the Center, he had to enforce what the code states. This is how we got to where we are now.

Lieutenant Kenny Brown with the Milford Police Department stated on behalf of Chief Hudson and the entire police department he thanked the commission for the opportunity to speak. His presentation was in the form of a power point and asked if the laptop being used in the Council Chamber has audio capability. Mrs. Crouch, the recording secretary, was not certain if it did, but if it did it would probably come from the laptop speakers itself. The audio would be picked up by the microphone on the podium if the laptop did have audio.

Lt Brown then went through the power point. The audio did not play and Lt Brown noted that was unfortunate because the calls that the police department received are important.



Milford Skating Center

- Opened in 1982 with Phil Smalley. Great place for family exercise, youth entertainment.
- Many of us enjoyed Friday and Saturday night skating when we were in Middle School
- Parents appreciated a safe environment for Middle-School aged youth.

Milford Skating Center

- In 1986, Milford Skating Center attempted a Dance night. An effort to draw more business backfired. Many fights occurred inside and outside the Skating Center. Police had to respond on a routine basis, until it got so dangerous for both the management and employees, that the management decided to put a stop to it. When the police were going in to stop the fights, the large crowds overwhelmed the officers, grabbing at their guns. More than once, mace had to be sprayed inside the center to back the aggressive crowds away so the officers could even get to the fight to break it up, then fight their way back out with the prisoners.

Milford Skating Center

- Since then, the Skating Center has been operated without great cause for concern, as a family-friendly community-based center.
- They have supported community events
 - Milford Community Parade
 - Skate 4 a Cure (Diabetes)
 - Sunday night Christian Skate night
 - Kids Birthday Parties

Milford Skating Center

- Yes, the Milford Skating Center...featuring Christian Night, Family Night, Kids Birthday Parties, exercise and fitness Professionals.

A FAMILY-FRIENDLY ATMOSPHERE TRYING TO MAKE MILFORD A BETTER PLACE BY BRINGING MORE ACTIVITIES AND EVENTS TO THE MILFORD SKATING CENTER

However:

a home for

ROVING NIGHT CLUBS is not Family Friendly!

A Roving night club is a dance club that doesn't actually have a home. They go from facility to facility, renting venues by giving the landlord a story such as, "For a Birthday Party",

Milford Skating Center

- But everyone pays at the door, there are no presents and no birthday cake. It is a profit motivated way for those that don't respect anyone's property or security to have a night-club without the investment of a building. They tear it up, fight, do damage, cause havoc, and contribute nothing to the community but problems. Most VENUES in Milford and Dover will not rent to them.

Except now the Milford Skating Center:

- Fri Oct 29th- Private Party- was a roving night club. Tickets sold by someone else- not the Skating Center. This was a "Roving Night Club Operation.
- Sat Oct 30th, Private Party- Del State College Party. Dover Venues would not rent to them from bad experiences in the past, because it became part of the ROVING NIGHT CLUB OPERATION.

Milford Skating Center

- WE LOVE THE MILFORD SKATING CENTER as a skating center. We are OPPOSED to it as A NIGHT CLUB.

Milford Skating Center



Or As An
ADULT College
Party
Facility



There was an over-capacity crowd according the State Fire Marshall's Office



And the Following night
finding this>>>>>>



And Yet another bus load..



Our info from attendee's is that there were nearly 800 tickets sold for this event as late as 1:00am, via the internet



There is a fight going on in the middle of this



“I put em out, because I’m not going to deal with it!”- Carmen Kemper



1:21:12 AM

000003549

And Now there are 800 Angry People on the street at 1 A.M.

- That’s a recipe for a fight...and there were fights everywhere!

And only four Cops on duty to handle all these fights...



Officer requesting more units at the skating rink for a disorderly crowd



A prisoner is taken...now one officer is tied up leaving less resources to deal with what happens next.



The Skating Center calls in about more problems out front. Police are already there, but the crowd is so large, they can’t tell



The Search is on for additional resources to deal with the large crowd

So the taxpayers now are footing the bill for event security after the Skating Center puts them out on the street. It is more of a crowd than the three remaining officers can handle, so now we have to “Borrow” from other City’s resources



Officers asking for those additional police resources to step up their response



It’s really getting Bad!.... That is a K9 officer yelling on the radio for help! “Get us some Units here Milford!”



Now resources are tied up with prisoners. Officers stuck at the scene know what happens next and warn those businesses because now.....

The Problem begins to spread

- Fights and large crowds at WaWa
- Fights and large crowds at Royal Farms
- Fights and large crowds at McDonalds
- Shots fired on NW Front Street

Problems at Convenience Stores that are direct results of the large crowds

- Flash Mob Robbery and Theft
- Assaults
- Bottles thrown inside the store
- Experience has taught them that when we call and warn of the crowds, they close and lock the doors
- Unfortunate for the other local businesses to suffer as a result of another local business's poor decision to sponsor these ROVING NIGHT CLUBS

These are Not Isolated Incidents

- April 9, 2011- OVER21 Party at the Skate Center- "Private Event" as advertised on Milford Skate Center Face Book sight.
- Flyer for same date shows it was a "Pay per Entrance" night club operation for the "Street Warriors" motorcycle "club" for an over 21 crowd.



- Two Fights handled afterward

May 28, 2011, Pre Hot Summer Bash from 9 till
2

Received a call requesting 4-5 police cars for a large fight- Inside the skating Center. A short time later, we were called to assist the State Police for a Large Fight just outside City Limits



Proximity to other Facilities

- [Milford Skating Ring 1000 ft Radius.pdf](#)
- Four Churches within 1000 feet
 - Milford First Presbyterian
 - Jesus Love Temple
 - Small Church on Main Street in a store front
 - Small Church in the Shockley Building
 - Would violate current City Code for new liquor License

Teen Dances

- The Skating Center has advertised several "Teen Dance" events on Saturday Nights.
- They vary in age requirements, but the majority are 13 and up (not cut off at 18) and 16 and up(again not cut off at age 18)
- These Violate the Code of the City of Milford Chapter 208
- They call them "Teen" Dances. One is advertised for 16 to 21 year olds. This is not a "Teen Dance", this is an Adult Dance with teens allowed.
- Hours Vary as advertised, but again violate Chapter 208 in that it has to be closed by 11 p.m. These dances are advertised on Milford Skating Center's Facebook Page

Recent events involving "Roving Night Clubs"

- **POLICE ARREST 3 IN LARGE HARRINGTON BRAWL**
- **BY KYE PARSONS - [EMAIL](#)** (PHOTO: CBS)
- **HARRINGTON, DEL.**- HARRINGTON POLICE SAY THREE PEOPLE WERE ARRESTED AFTER OFFICERS HAD TO BREAK UP A LARGE FIGHT INVOLVING HUNDREDS OF PEOPLE AT THE GENE PRICE COMMUNITY CENTER ON DORMAN STREET.
- POLICE WERE CALLED TO THE GENE PRICE COMMUNITY CENTER SHORTLY AFTER 1 A.M. SUNDAY. ACCORDING TO POLICE SAY THEY FOUND BETWEEN 200 AND 300 PEOPLE FIGHTING.
- THE HARRINGTON POLICE DEPARTMENT CALLED FOR ASSISTANCE FROM DELAWARE STATE POLICE TROOPERS AND OFFICERS FROM THE FELTON, MILFORD AND WYOMING POLICE DEPARTMENTS.
- POLICE ARRESTED 18-YEAR-OLD CHRISTOPHER HARRIS OF LINCOLN AND A 17-YEAR-OLD MALE SUSPECT. POLICE USED A TASER TO SUBDUE THE 17-YEAR-OLD AFTER HE RESISTED ARREST.
- STATE POLICE ALSO TOOK A THIRD SUSPECT INTO CUSTODY. HIS IDENTITY WAS NOT IMMEDIATELY AVAILABLE.

- A girl was struck in the face with a brick.
- A car windshield had a brick thrown thru it.
- There was another brick stuck in the windshield.
- A subject was treated after being struck with a board.
- The crowd was throwing rocks at the Police Officers who were trying to disperse the crowd.

SHOOTING LEAVES TEEN IN SERIOUS CONDITION

- BY AISHA KHAN - [EMAIL](#) LEVONTE DOCKINS
- BRIDGEVILLE, DEL. - A SHOOTING OUTSIDE OF A SUSSEX COUNTY NIGHTCLUB LEFT A TEENAGER IN SERIOUS CONDITION ON SUNDAY.
- DELAWARE STATE POLICE SAID THE INCIDENT HAPPENED AROUND 2:30 A.M. OUTSIDE OF THE D-LOW NIGHTCLUB, LOCATED WEST OF BRIDGEVILLE.
- ACCORDING TO POLICE, AN 18-YEAR-OLD MAN AND A 23-YEAR-OLD WOMAN WERE LEAVING A PRIVATE PARTY AT THE NIGHTCLUB WHEN A LARGE GROUP GATHERED OUTSIDE OF THE CLUB AND BECAME DISORDERLY AFTER BEING TOLD BY MANAGEMENT THAT THEY WERE NOT ALLOWED INSIDE.
- AUTHORITIES SAID AS THE TWO WERE DRIVING AWAY FROM THE NIGHTCLUB, A MALE SUSPECT CAME OUT OF THE CROWD, PRODUCED A HANDGUN AND DISCHARGED SEVERAL ROUNDS INTO THE AIR AND INTO DIRECTION OF THE VICTIM'S CAR, STRIKING THE REAR WINDOW.
- POLICE SAID THE VICTIM, WHO WAS SITTING IN THE DRIVER'S SEAT OF THE CAR, SUFFERED A GUNSHOT WOUND TO THE HEAD.
- THE PASSENGER IN THE CAR WAS NOT INJURED AND DROVE THE TEEN TO NANTICOKE MEMORIAL HOSPITAL.
- TROOPERS IDENTIFIED 23-YEAR-OLD LEVONTE DOCKINS OF EAST NEW MARKET, MD., AS THE SHOOTING SUSPECT. HE WAS LOCATED AT A HOME IN LAUREL AND TAKEN INTO CUSTODY SHORTLY AFTER 12 P.M.
- DOCKINS WAS CHARGED WITH FIRST-DEGREE ASSAULT, POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY, POSSESSION OF A FIREARM BY A PERSON PROHIBITED, TWO COUNTS OF FIRST-DEGREE RECKLESS ENDANGERING AND CRIMINAL MISCHIEF. HE WAS ORDERED HELD IN THE SUSSEX CORRECTIONAL INSTITUTION ON \$100,500 CASH BOND.
-

We are not opposed to the Milford Skating Center

- It has served the Milford Community for more than 20 years as a place for our young people to spend a Friday or Saturday night.
- We support the various family and child oriented skating events that happen there.

What we oppose:

- Roving Night club facility
- Attempting to mix a Teen Center with an adult bar/night club
- Allowing the Skating Center to operate as an "anything goes" facility that disrupts the peace and tranquility of our City, causes the disruption of other businesses and puts the public and our police officers at unnecessary risk.

Thank You!

Mr. Campbell asked if the capacity is 299, how are 700 to 800 people attending. Lt Brown stated that is exactly their question. Mr. Campbell asked if when someone rents the facility if they are being told the capacity is 299 and asking how many people will be attending. Lt Brown stated its apparent from what has happened in the past that the questions are not being asked.

Mr. Burk stated the applicant states there is security on site. He asked if it is Lt Brown's experience that security was on site. Lt Brown stated yes, there were people working the door. Again, one of those people is who gave the police department the information about 700 people attending the party.

Mr. Burk asked how business licenses play into this. Lt Brown stated he is not familiar with that aspect. The police department is here for only one reason - public safety.

Mr. Campbell stated he is aware of the roving night clubs because when he worked for the Boys and Girls Club they tried to get in there and they said no. What bothers him is the facebook ad because it can get to anyone. He asked if the manager should be monitoring things if there is going to be a party. They should be going over the rules. Mr. Rini stated Ms. Kemper can answer that when she comes back to the podium. Mr. Campbell explained he knows Ms. Kemper well and she does run a tight ship, but this is overwhelming.

Mr. Rini called for public comments.

Mr. Evan Dausey-Shoomey (sp?) -200 LA Drive W (?), Lincoln – stated his comments are regarding the roving night club. He is a promoter in Delaware and he has done event throughout Delaware. The main thing other places allow is when there is an event, the town, county and state police are move available to work the events rather than Dover and Milford. He has done events at the FOP in Dover and state police have worked it. When he calls Milford Police, half the time it's a long process to go through, weeks and weeks and sometimes they deny you. His whole thing is yes, it is about safety. If that's the concern, then the City should offer more assistance with police as far as being open to work. When the police presence is there, there is no need to call them afterwards when the altercation happens. As far as the roving night club going from facility to facility, he understands that because some people don't care about facilities and just want to make quick money. He knows Ms. Carmen (Kemper) and has done a few events at her center, and as far as the capacity issue, she did tell him the capacity which includes her staff, which is 12-17 people. She is telling people. As far as the 700 people referred to at the other event, Mr. Shoomey attends Wesley College and while he wasn't at the event, he knew the people that threw the event. He claims there were not 700 people. He's not saying it was under 300, but he knows for a fact it was nowhere near 700. Mr. Shoomey claims the event was the Homecoming after party for Delaware State University. The concert got over at midnight, so the buses didn't get to Milford until about 1:00 am. Mr. Shoomey does also know Ms. Carmen makes them have security. Mr. Shoomey stated his major is political science and he's pretty sure a lot of the commissioners know about politics. He asked if the commissioners would say the whole Muslim community is bad because of a few Muslim extremists, no. It's the same thing here. There are a few kids who are going to cause trouble, but with the proper security and stuff like that it can be handled. But you can't stop the events or say the whole roving night clubs is bad all over because of a few incidents. With the proper help from the police, it could be prevented.

Mr. Rini asked Mr. Shoomey, as a promoter, why tickets can't be issued where it only goes up to 280 people and people must come with a ticket in hand. It appears maybe the 280 people are allowed in, but then the rest that come to the event loiter outside and trouble starts. Mr. Shoomey stated that would help. Another thing too, Ms. Carmen is at the window monitoring that. But as far as what people are doing outside, that's where the security should be monitoring inside and outside. Mr. Rini again asked why tickets are not sold instead of an open invite. Mr. Shoomey replied he doesn't know about the white community, but on the urban standpoint, half of the time people don't make up their mind whether they are going to an event until the day of.

Mr. Dave Mosley – 603 S Rehoboth Blvd, Milford – stated he ran the Rusty Rudder night club in Dewey Beach a long time ago. He is aware of the roving night clubs and states they do not have the security needed. He remembers having up to 36 guys working and if something happened it was still a hard time to get it under control. As far as the police department goes, when there is a small police force, such as Milford, you can't afford to have them back up the clubs. If state police can come in and help, it is still very hard to keep control of a group this size. This is why the clubs go from place to place. He has teenagers too, and the skating center is a great place, and he too wishes there was more out there for teenagers, but there is very little chance to try to keep the crowd under control. Mr. Mosley explained he is speaking from personal experience with dealing with the drunks and the crowd. He did it for a long time. It's a bad situation.

Mr. Charles Gray – on behalf of the Milford Community Parade and brother to Ms. Kemper, 101 N West Street, Harrington – stated he is in full support of the Center and their application in doing additional activities. The Parade Committee has had many activities there before including meetings and bake sales, unbeknownst they were not allowed. During the last Freedom Festival in downtown Milford, the Center closed during its normal time because there was no parking due to the closed streets. Ms. Kemper allowed a hay maze to be set up in the Center, no skating through it of course. Mr. Gray's point is that Ms. Kemper holds activities outside of skating, that not only promote her business but events in downtown.

Monica Morrow – 7 Causey Ave, Milford – stated she has special concerns about this. She lives just minutes from the center and had no idea anything happened on October 30th. Prior to moving here in 2004 Ms. Morrow was not sure Milford is where she wanted to raise her children but since then downtown has blossomed and feels a part of the community now and the skating center is a large part of that. A lot of the programs talked about her children have participated in. Without the skating center, the town would lose so much. As a parent, she would rather see her children go to parties at the skating center where there is no alcohol. Being involved in the center for four years now, she knows Ms. Kemper does run a tight ship. Being so close to the center, Ms. Morrow is very comfortable with the center being run the way Ms. Kemper runs it. Ms. Morrow asked the commission to consider all of the good the center does for the community and support it.

Angela Colone - GoreLee Girl President/Head Coach, Southern Delaware Roller Girls – read the following letter:

Twenty women and a handful of men have been lacing up three days a week at the Milford Skating Center since April 2011. For six hours a week, we train hard and put our bodies on the track against each other. It takes a certain character to welcome such a group and Carmen Kemper has accepted a new roller sport into her building... roller derby. On behalf of the So Del

League, I wanted to announce what we do and who we are. Southern Delaware Roller Girls (SDRG) is an all female, flat track roller derby league based out of Milford, Delaware. SORG was founded in March 2011 with the intention of bringing the sport of roller derby to Southern Delaware and providing an alternative form of entertainment. The league is comprised of like minded, strong, intelligent, and determined women who share a goal of emotional growth and physical strength through the sport of roller derby. We as a league, promote mental and physical empowerment, development of skills, and encouragement of friendship, individuality, and loyalty on and off the track. Although we are on skates a majority of our time on the league, we do have many fundraisers that we would like to offer for community building in our area that are off skate activities. Our Rocky Horror Picture Show was in November and we had an audience participation movie that was fun and exciting! In December, we had a donation drive at the rink for the Delaware Food Bank and SPCAs for Kent and Sussex County. We raised over two hundred pounds of food for the food bank and were able to distribute enough pet supplies to both SPCAs. Mrs. Carmen also opened her doors at the rink for the Milford Freedom Festival where families came in for her new grand opening. There was face painting, a hay maze and the SORG Bake Sale. It was awesome to see how excited families were to see the rink and the fun they had on the track without skates! The Roller Girls were able to introduce themselves to the community and welcome the sport into Sussex County. With the derby season approaching, we are looking into many ways to reach to the community to build our league stronger and grow in this sport. We would like to have fundraisers to invite families to get involved together at the rink while informing the surrounding areas about roller derby and the up rise of new athletes. We would like to offer off skate events for families and singles, children and adults. Some fundraisers for the league included more movie nights with audience participation, a community carnival, an indoor yard sale, various fitness classes and dances such as a roller derby prom. Carmen has been working with us and shows much enthusiasm for the ideas and ways to reach out and also bring in profits.

Like many spectator sports, roller derby draws men, women, children, and teens to the bleachers for some action. For many that go to watch a game, or bout as we call it, they're hoping to see some thrills and spills on the track! The bouts are an hour long and have intermission at half time and there are many refreshments being sold at the concession stand. Many of the surrounding leagues sell or vendor alcohol to spectators to gain funds for the league. Some leagues are sponsored by a vendor and/or have a liquor license, such as Mason ~Dixon, while others sell their league cups and have to give the alcohol away for free due to regulations, like the leagues of Brandywine and Pottstown. Salisbury Roller Girls have an outside vendor that sold it and received no profits, although it supported in bringing a crowd. The leagues benefit from selling of alcohol and the spectators look forward to it. Wouldn't you want to drink a draft while watching the football game?

It takes dedication, involvement, and money to maintain a business. The Southern Delaware Roller Girls is a business and the facility we use is Mrs. Carmen Kemper's skating rink. We pay her for the rink that we use and she uses our money for her business to maintain the rink. The more she puts into the rink, the more the public uses the rink. The skating rink is a fun, safe and happy family environment for the community and she has taken big steps to make it better. There isn't enough in the area where families can come together or a night where adults need to get away for a private party. Carmen has her facility for all occasions. I personally enjoy coming to her events with my son, and for a night as an individual. She is involved with the surrounding schools, Girl Scouts, and offers sports. She's been a major part of our roller derby league and has a positive attitude for the team and individual skaters. Carmen Kemper deserves to open her

business to the community on skates and off. The more she is involved with the community, the stronger our community will grow together.

Ms. Debbie LeVere – former owner of the Milford Skating Center – stated she hopes something can be worked out. The center has been in Milford since 1982 and has been with the Center. The first owner was her coach. The center has been her and her family's life. She would hate to see what they have built lost. For example the Senior Walk is something that started with Ms. LeVere. She explained she didn't know she was doing wrong and no one came to her and told her she was doing anything wrong. Mr. Gray was her business manager at the time and he thought of the idea and Ms. LeVere made it happen. Ms. LeVere understands there may be issues and questions about some of the activities going on in the Center but encouraged a resolution is found so that the Center can stay in the community.

Ms. Gaye Carter – sister of Ms. Kemper of 1146 School Street, Houston – stated she worked at the Center in 1987 until 2001. Her son was practically raised in the Center. And now she is hoping to raise her second son there as well. It is not an anything goes type of establishment. It has never been an unsafe environment, ever. Ms. Carter asked if the audio that was on the power point that didn't work could be accessed via the police department. She found it odd that an employee would call instead of Ms. Kemper.

Mr. Drew Carter – nephew of Ms. Kemper and also of 1146 School Street, Houston – stated he grew up in the Center. He worked at the rink for five years and didn't know anything about the event on the 30th. He has been at Wawa when riots have happened and he has seen the police department shooed people away. After he arrived at the rink that night, later on, it looked like the police just shooed people away and didn't take care of it. He plays dodge ball at the center and there's no problems and he doesn't understand where the roving night clubs come into play.

Hearing no further public comment, Mr. Rini closed the public session.

Mr. Rini asked Lt Brown if the audio that was on the power point would be available at the police station. Lt Brown stated he brought his own laptop and offered to set it up and play the audio if Mr. Rini gave him a few minutes. Mr. Rini replied no, that is ok. Lt Brown explained a copy of the audio will not be given out, but if someone wants to hear it, they may come to the police department and for it to be played.

Ms. Kemper came back to the podium. Mr. Campbell asked if how the capacity and roving night clubs work. Ms. Kemper stated anyone that rents out the facility signs a contract that is gone over so everyone knows the do's and don't's, what the expectations are and the fees. If they do not comply with the contract, then they are asked to not come back.

As far as the security, as Ms. Kemper stated before, they have to provide security. If they do not, Ms. Kemper is doing it and they have to pay for her security people. Regarding the roving night club, the Skating Center has never been a night club. She did an event in October and has not had one since. Before the October event, there was one a couple of months before that.

The gentlemen that are here tonight, that Friday night the event was shut down and she called the police department and told them the Center was letting out and it was an hour before the other bars were letting out at 1:00 am and she wanted the police department to be aware. She never

said she had an incident or a problem in the center. She stated she has never called the police department telling them there was a fight in the center. She did say that she cannot say what happens outside because she is inside moving people out or cleaning up. That particular evening, if anyone else called from her staff, she would like to listen to the recording because her staff would not call. Ms. Kemper said there no issues inside her establishment. The people going out other places is no different than other people going into another establishment and starting something. It doesn't have to be from the Milford Skating Center. There are other venues going on at the same time that things happen at.

As far as selling tickets ahead of time, she knows the local bars don't sell tickets when Mike Hines comes in town and there are people outside the doors to get in. His capacity is 250 (referring to Park Place). There have been numerous fights outside his establishment and the police have had to come to. There is a public parking lot located outside the Center and Park Place and open to whomever. Ms. Kemper claimed the police cameras are focused on her Center and she knows that because she has seen the cameras and the monitors. While the cameras do revolve but they can also focus on one little area and for some reason they seem to be focused on her, which is fine. She has no problem with that because she has not done anything wrong or illegal.

For the record, if she has ever been a threat to the community, I would have hoped that the Chief of Police would have come to me or someone from the City and had said "You have really gotta stop this." But she has not heard from the Chief of Police or the police department that there has ever been a threat.

Mr. Campbell asked if Ms. Kemper's security is inside or outside. She replied both. They are adults, well trained in crowd control. The night that Lt Brown was talking about, the police department called the Fire Marshal, and she knows this because she asked who called the Fire Marshal in. The Fire Marshal was hoping to find the Center over capacity, but she showed him that she was not and he was satisfied with that. Other law enforcement was called in by the Milford police department and Ms. Kemper stated she was unaware of that going on because she was inside her facility making sure everything was going well and smoothly.

Ms. Kemper was shocked that they thought they were going to get the kids in an uproar because they all came marching into the building, yet not one child, or adult she should say, came to her and asked what was going on because they were too busy having a good time.

Mr. Holloway asked how many events Ms. Kemper has had involving alcohol since she took over in July 2011. Ms. Kemper replied one and it was with the bikers. Mr. Holloway asked if that was a private party. Ms. Kemper stated yes it was a private party and there was a gathering license issued for that event. The bikers are also looking for somewhere to hold their functions and raise money for their different clubs. There is a church that is inviting the bikers in March and free lunches are being given out. It is a big group of bikers and they have their own security people. Ms. Kemper stated at one time she was told by a member of the police department she could have the bikers in the Center all she wanted because the police department won't mess with them.

Again Ms. Kemper stated she has never had any problems with the adult groups inside her facility. The owner of the facility supports everything Ms. Kemper is doing and letter stating such is in the packet.

Mr. Burk asked what is on Ms. Kemper's business license, meaning what type of business does it state. Ms. Kemper stated she has a restaurant license and a regular business license that allows her to do whatever. Mr. Burk asked if it has a type or category. Ms. Kemper replied no. Mr. Burk pointed out in the city code where it states a separate license is needed to operate a teen center.

Mr. Rini asked Solicitor Sharp to discuss the need of a teen center license. Solicitor Sharp replied Chapter 208-1 reads as follows:

"Whoever operates, as a commercial venture, a teen center or place of amusement or dance hall catering solely or primarily to the teenage trade shall first obtain a license to do so as provided under this chapter."

Mr. Rini asked Ms. Kemper if she has a teen center license. She replied no, she had never heard of it.

Mr. Rini stated some people came to the podium and commented on how good the center is and the commissioners support that. It almost sounded like he was hearing the commission is here on a witch hunt and they are going to close the center down or stop the activities. The commission is not. We are just trying to get everything from all businesses that have items under the code to conform to them, and that's all the commission is doing. We are basically here to improve the community. In doing so, Mr. Rini may say things the audience may like, and will probably say things the audience may not like. The job of the commission is to make sure the betterment of the City Milford is upheld and the quality of life is improved.

This is an unusual conditional use request because it contains so many items. Mr. Norris would like to make two points. The first being the hours of operation proposed conform mostly to Chapter 111-2, Curfew Hours. The only one that does not conform is the 3:00 am closing, which Mr. Rini would like to see adjusted to a 1:00 am closing.

The second point Mr. Rini addressed was the alcohol. Again, all the other items on the application seem to be very positive and community oriented, except the alcohol. Mr. Rini noted Ms. Kemper had indicated the alcoholic beverages are for the private parties and non-profit groups/organizations. Mr. Rini asked the alcoholic beverages not be approved as part of the application.

Mr. Rini noted Chapter 77 of the City Code speaks to alcoholic beverages at events.

Solicitor Sharp stated the Alcohol Beverage Commission is who, in the State of Delaware, has control over alcoholic beverages. In the case law he has researched, the ABC will, in reviewing such applications, defer to the City so that local zoning ordinances are met. He believes that is an issue before City Council, however at the end of the day, a decision as to whether or not alcohol will be permitted is ultimately ABC's.

A final note from Mr. Rini was that the teen dancing should be cut off at 18 years old and not 21 years old. He suggests teen dances be for 18 years old and under; 12-18. Ms. Kemper explained she usually puts them in two different groups because the lower end of the age group should not be mixed in with the higher end of the age group. The commission agreed with Ms. Kemper but felt 19 years old was more appropriate than 21 years old.

Mr. Fry was not sold on the 16 to 19 year old dance. He felt the age cut off would be appropriate at 17. Mr. Campbell disagreed. Mr. Rini asked for a quick show of hands on who agreed with 16-17, 16-18, and 16-19. Majority agreed with teen dances being from 16 years old to 19 years old. A separate teen dance would be appropriate for 12 to 15.

Solicitor Sharp confirmed this conversation is on how to frame the motion and was not indeed a motion.

Mr. Campbell confirmed alcohol is being taken out completely.

Mr. Rini asked Solicitor Sharp if the Center needs a teen center license, per Chapter 208. Solicitor Sharp felt the Center does need that license to operate, but that is not part of this application and will not be required as part of the conditional uses. Mr. Rini informed Ms. Kemper she would need to obtain that license.

Mr. Rini made a motion to allow the following uses, with the corresponding conditions:

Hours of Operation:

Sunday	8:00 am until 10:00 pm
Monday	8:00 am until 11:00 pm
Tuesday	8:00 am until 11:00 pm
Wednesday	8:00 am until 11:00 pm
Thursday	8:00 am until 11:00 pm
Friday	8:00 am until 1:00 am on Saturday
Saturday	8:00 am until 1:00 am on Sunday

Roller skating – 7 days per week.

Senior walkers – Monday, Wednesday and Friday mornings.

High school student mentoring – Mornings.

Benefit Dances or skates – i.e. Diabetes, Autism

Birthday parties – 7 days per week, during regular skating session times.

After school programs – Wednesdays.

Jr. Teen Dances – 12 to 15 years old, weekends only.

Sr. Teen Dance – 16 to 19 years old, weekends only.

Adult Dance – i.e. DJ Competition, weekends only, considered a private party, not during regular skating sessions.

Exercise programs – Mornings.

Dancing / Classes – i.e. country line dancing/classes, ballroom dancing/classes.

Private parties – considered a private party, not during regular skating sessions.

Private nonprofit organizations – i.e. church, bikers, parade and colleges, considered private party, not during regular skating sessions.

Roller derby practices or bouts

Indoor sports – i.e. dodge ball, indoor hockey, soccer, segways

Community meetings or events – i.e. Boy/Girl scouts, churches, cheerleaders, awards nights.

Jam skating

Family resources (immigrants)

Summer children’s programs/camp – summer only.

Holiday parties – considered a private party, not during regular skating sessions.

No alcoholic beverages are permitted.

Motion seconded by Mr. Campbell. Motion carried with the following votes:

Mr. Pilla Yes, for the many reasons stated.

Mr. Holloway Yes, going forward any owner of the business understands these are the conditions allowed to operate under.

Mr. Fry No, because of the teen dance, adult dance, and DJ competitions because he feels they can cause problems.

Mr. Campbell Yes, for the reasons stated.

Mr. Burk Yes, for the reasons stated.

Mr. Rini Yes, for the reasons stated.

§ 230-44. - Prohibited uses.

The following uses and activities shall be specifically prohibited in any zone in the City of Milford:

- A. Automobile wrecking yards, junkyards or the sorting and baling of scrap metal, paper, rags, glass or other scrap material.
- B. The parking, storing or keeping of a dismantled, inoperative or discarded motor vehicle or any parts thereof, unless within an enclosed building.
- C. Any uses not permitted by this chapter.
[Added 2-12-1990]
- D. All establishments involving the sale of alcoholic beverages either on or off premises which are located within 1,000 feet of any public or private school, day-care or child care center or church. Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.

[Added 5-11-1998 by Ord. No. 5-1998]

§ 230-45. - Multiple permitted uses and mixed uses.

[Added 6-29-1992]

In any and all zoning districts, multiple permitted uses or mixed use of a property shall be deemed a conditional use subject to special requirements.

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC12-001

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

**THE APPROVAL OF A CONDITIONAL USE FOR
GREATER MILFORD DEVELOPMENT CORP
AT 1 PARK AVENUE**

**IN A C-2 ZONING DISTRICT
TAX MAP MD-16-183.10-04-43.00; .552+/- Acres**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on February 21, 2012; and,

WHEREAS, by a vote 5 to 1 recommended approval of the application.

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

Amended the application to allow the following:

Hours of Operation:

Sunday	8:00 am until 10:00 pm
Monday	8:00 am until 11:00 pm
Tuesday	8:00 am until 11:00 pm
Wednesday	8:00 am until 11:00 pm
Thursday	8:00 am until 11:00 pm
Friday	8:00 am until 1:00 am on Saturday
Saturday	8:00 am until 1:00 am on Sunday

Roller skating – 7 days per week.

Senior walkers – Monday, Wednesday and Friday mornings.

High school student mentoring – Mornings.

Benefit Dances or skates – i.e. Diabetes, Autism

Birthday parties – 7 days per week, during regular skating session times.

After school programs – Wednesdays.

Jr. Teen Dances – 12 to 15 years old, weekends only.

Sr. Teen Dance – 16 to 19 years old, weekends only.

Adult Dance – i.e. DJ Competition, weekends only, considered a private party, not during regular skating sessions.

Exercise programs – Mornings.

Dancing / Classes – i.e. country line dancing/classes, ballroom dancing/classes.

Private parties – considered a private party, not during regular skating sessions.

Private nonprofit organizations – i.e. church, bikers, parade and colleges, considered private party, not during regular skating sessions.

Roller derby practices or bouts

Indoor sports – i.e. dodge ball, indoor hockey, soccer, segways

Community meetings or events – i.e. Boy/Girl scouts, churches, cheerleaders, awards nights

Jam skating

Family resources (immigrants)

Summer children's programs/camp – summer only.

Holiday parties – considered a private party, not during regular skating sessions.

No alcoholic beverages are permitted.

APPROVED:



Charles Rini,
Planning Commission Chairman

SIGNED:



Christine Crouch,
Planning Commission Rec Secretary



Temple Lodge No. 9 A.F. & A.M.

P.O. Box 256
Milford, DE 19963

Worshipful Master

Chad Robinson

Senior Warden

Andrew D. Doran

Junior Warden

William T. Currey, IV

Treasurer

Robert H. Yerkes, Jr.

Secretary

Jeffrey W. Hague, PM

October 31, 2011

Mrs. Carmen Kemper
Milford Skating Center
1 Park Avenue
Milford, DE 19963

Dear Mrs. Kemper,

On behalf of the officers and members of Temple Lodge No. 9 A.F. & A.M., it is my pleasure to thank you for your kindness in hosting our 1st Annual Halloween Party. It was a very successful event for our lodge, and we could not have pulled it off without your help.

This was a first annual event for us and we were proud to host it at your site. The prizes for the games were much appreciated, particularly your donation to our festivities. We would like this letter to serve as a sincere thank you for your \$40.00 donation of prize coupons.

Again, thank you for your kindness. We hope you will host us again next year and we will be pleased to work with you again.

Sincerely,

Chad Robinson
Worshipful Master

January 4, 2011

Gary J. Owens
2704 Fresh Water Way
Odenton, MD 21113

Milford Skating Center
1 Park Avenue
Milford, DE 19963

Attn: Carmen

Dear Carmen:

I want to take this opportunity to tell you how much Ernie Hunter and I have enjoyed making the two (2) plus hour pilgrimage to skate at your facility in Milford. Your hospitality and friendship is one (1) in a million. Your ownership and management is top notch. We have enjoyed getting to know you and the other patrons of your rink. We have made too many memories to count, and are looking forward to many, many more.

Thank you again for your great hospitality, and we hope to see you sometime real soon.

Sincerely,



Gary J. Owens

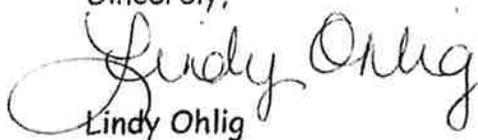


To whom it may concern,

1/12/12

I am writing this letter on behalf of the Milford Skate Center. We recently heard that you were not allowing the center to host other activities, such as fund-raisers, dances, dodge ball, etc. As a small business owner myself, I know the daily struggles of trying to make ends meet in this economy. IT IS NOT EASY! How do you expect businesses to stay open? Businesses have to try to stay afloat by hosting other activities to keep the public interested in coming back. My daughter attends the after school skate session and loves it. She evens tells me to pick her up later so she can play dodgeball with her friends. The staff at the center really cares about the kids and Ms. Carmen, along with the staff, really keep them safe in all the activities they plan for them. I have been a resident in Milford all my life and for as long as I can remember there were NEVER any activities in Milford that lasted. We always ended up traveling to Dover to attend activities. Even now, most of the activities my daughter is enrolled in are held in Dover. Don't you want to see Milford thrive for our youth? Don't you want our youth to stay active so childhood obesity numbers stays down? Don't you want businesses to remain open so we don't have so many vacant stores and lots around our town? I know I do !! By allowing the skate center to host dodgeball, dances, etc. our youth stay active in an environment the parents and the kids already TRUST! It would allow the community to support that business and keep it running. I would welcome the opportunity to be able to host an event there. I am also on the Girl Scouts of Chesapeake Bay council and would love to be able to host activities at the skate center for the girl scouts as well. We are always looking for businesses and COMMUNITIES to support our local boy and girl scouts. I hope that you reconsider and allow the skate center to host other events. The skate center is a staple in our community and we as a community should stand behind that business and do everything in our power to see it thrive. When making your decision say to yourself am I helping this business or am I hurting this business !!!!!

Sincerely,


Lindy Ohlig

Debbie LaVere

P.O. Box 208

Milford, DE 19963

February 13,2012

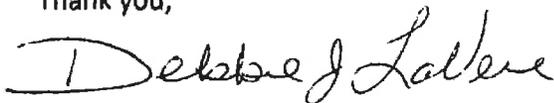
To whom it may concern:

I am the previous owner of the Milford Skating Center. I sold the assets of the skating center to Ms. Carmen Kemper on July 1,2012. It is my understanding that there is issue of how the skating center is being run. Here are a few of the thing I did at the skating center. Also I was a skating teacher in the rink and travel with my students.

1. We did public skating sessions. Public and private.
2. We had Roller hockey leagues. Travel and in-house
3. We did all-nite skates and had dancing as part of this sometimes.
4. We would have daycares come in and skate and sometimes the kids played board games and arts and crafts.
5. We had senior walks every Monday, Wednesday and Fridays. This was free to them. Once a month the seniors would have a cover dish day. Which they celebrated the birthdays of the month.
6. Country line dancing was done
7. Ballroom dancing when the senior center was closed. We would open the rink to them
8. Dodge ball was another program we were doing.
9. Zumba was done also.
10. The skating rink was rented out for fundraisers for schools, parades, churches, etc.to give you a few.
11. I did a few dances for adults when we were getting slow due to the economy.
12. Years ago I had Mike Hines and the look come into the center for the kids and I had off duty Milford Police officers there.

I hope this will help. I was never told that I was doing anything wrong until I had a phone call.

Thank you,



Debbie LaVere

February 14, 2012

Twenty women and a handful of men have been lacing up three days a week at the Milford Skating Center since April 2011. For six hours a week, we train hard and put our bodies on the track against each other. It takes a certain character to welcome such a group and Carmen Kemper has accepted a new roller sport into her building...roller derby.

My name is Angela Colone and I am President and Head Coach of the Southern Delaware Roller Girls. On behalf of the SoDel League, I wanted to announce what we do and who we are. Southern Delaware Roller Girls (SDRG) is an all-female, flat track roller derby league based out of Milford, Delaware. SDRG was founded in March 2011 with the intention of bringing the sport of roller derby to Southern Delaware and providing an alternative form of entertainment. The league is comprised of like-minded, strong, intelligent, and determined women who share a goal of emotional growth and physical strength through the sport of roller derby. We as a league, promote mental and physical empowerment, development of skills, encouragement of friendship, individuality, and loyalty on and off the track.

Although we are on skates a majority of our time on the league, we do have many fundraisers that we would like to offer for community building in our area that are off skate activities. Our Rocky Horror Picture Show was in November and we had an audience participation movie that was fun and exciting! In December, we had a donation drive at the rink for the Delaware Food Bank and SPCAs for Kent and Sussex County. We raised over two hundred pounds of food for the food bank and were able to distribute enough pet supplies to both SPCAs. Mrs. Carmen also opened her doors at the rink for the Milford Freedom Festival where families came in for her new grand opening. There was face painting, a hay maze and the SDRG Bake Sale. It was awesome to see how excited families were to see the rink and the fun they had on the track without skates! The Roller Girls were able to introduce themselves to the community and welcome the sport into Sussex County.

With the derby season approaching, we are looking into many ways to reach to the community to build our league stronger and grow in this sport. We would like to have fundraisers to invite families to get involved together at the rink while informing the surrounding areas about roller derby and the up rise of new athletes. We would like to offer off skate events for both families and singles, children and adults. Some fundraisers for the league included more movie nights with audience participation, a community carnival, an indoor yard sale, various fitness classes and dances such as a roller derby prom. Carmen has been working with us and shows much enthusiasm for the ideas and ways to reach out and also bring in profits.

Like many spectator sports, roller derby draws men, women, children, and teens to the bleachers for some action. For many that go to watch a game, or bout as

we call it, they're hoping to see some thrills and spills on the track! The bouts are an hour long and have intermission at half time and there are many refreshments being sold at the concession stand. Many of the surrounding leagues sell or vendor alcohol to spectators to gain funds for the league. Some leagues are sponsored by a vendor and/or have a liquor license, such as Mason-Dixon, while others sell their league cups and have to give the alcohol away for free due to regulations, like the leagues of Brandywine and Pottstown. Salisbury Roller Girls have an outside vendor that sold it and received no profits, although it supported in bringing a crowd. The leagues benefit from selling of alcohol and the spectators look forward to it. Wouldn't you want to drink a draft while watching the football game?

It takes dedication, involvement, and money to maintain a business. The Southern Delaware Roller Girls is a business and the facility we use is Mrs. Carmen Kemper's skating rink. We pay her for the rink that we use and she uses our money for her business to maintain the rink. The more she puts into the rink, the more the public uses the rink. The skating rink is a fun, safe and happy family environment for the community and she has taken big steps to make it better. There isn't enough in the area where families can come together or a night where adults need to get away for a private party. Carmen has her facility for all occasions. I personally enjoy coming to her events with my son, and for a night as an individual. She is involved with the surrounding schools, Girl Scouts, and offers sports. She's been a major part of our roller derby league and has a positive attitude for the team and individual skaters. Carmen Kemper deserves to open her business to the community on skates and off. The more she is involved with the community, the stronger our community will grow together.

Sincerely Yours,

Angela Colone
GoreLee Girl
President/Head Coach
Southern Delaware Roller Girls



February 14, 2012

City of Milford

Planning and Zoning Commissioners
City Councilpersons

Dear Commissioners and Councilpersons:

On behalf of the Milford Community Parade Committee, I am writing this letter in strong support of Carmen Kemper and Milford Skating Center's request for additional programs to be included in the conditional use.

Mrs. Kemper and Milford Skating Center has supported Milford Community Parades for the past 25 years regarding fundraisers, meeting space, AND community events not involving skating to enhance participation. Activities included a hay maze for children during the Chamber's Community Freedom Festival for the past two years. Mrs. Kemper has closed skating for community events organized by the Chamber and Downtown Milford due to the City's decision to shut the main access street to vehicular traffic for these events. Instead of locking the doors, Mrs. Kemper has opened her facility to our organization to raise public awareness and help us raise funds for the annual Milford Parade. Mrs. Kemper is very civic minded and applaud her for her efforts to offer various programs to the community.

We strongly support Mrs. Kemper and the Milford Skating Center because she strongly supports the community in which she operates her business.

I am signing this letter on behalf of those in attendance at our monthly meeting:
Jim Gray, Vanessa Laughman, Richard Hart, Sam Gray, Mark Banks, Eric Hitch, Woody Story,
Nick Hart, Carmen Kemper and myself, Charles Gray.

Sincerely,

Charles Gray

2012 Parade Committee Chairperson
Milford Parade Committee

To Whom It May Concern,

February 15th, 2012

My name is Jennifer Escalante and I am the Head Non-Skate Official for the Southern Delaware Roller Girls. I am writing this letter in the hopes that you will see fit to allow the Milford Skating Center the opportunity to have other activities that do not require skating such as dances, dodge ball and fitness classes. As one of the members of the team, I know first hand how difficult it is to plan our fundraisers when they have to involve skating. Our team has been a part of the Milford Skating Center since April 2011 and since then we have had ideas for fundraisers and community outreach that have not always involved skating. We have had to scrap some of our ideas due to the fact that Carmen Kemper is only allowed to have activities which require skating.

We have wanted to have fundraisers such as bake sales, a "roller derby" prom, a community carnival, movie nights, and various fitness classes. I feel it is in the best interest of the board to see fit to allow Carmen the opportunity to have such activities. With your approval, you will not only helping your community, but also helping our team as we are preparing for our upcoming scrimmaging/bouting season. We would like to not only have Family Skate Night on our fundraising calendar, but also bake sales and movie nights where we are not required to skate.

If you have ever been to a roller derby scrimmage/bout, you know that most of the teams skate in a building that serve alcohol. I have spoken with some members of other teams and know the struggles that they have had to endure without having an alcohol license when they have to find an outside vendor to supply them for a scrimmage/bout. It can be extremely costly for the members of the team who have to take money out of their funds and even their own pockets to pay for not only the outside vendor but also for supplies and clean up. It is in my hopes that this letter will persuade you to approve Mrs. Kemper's plans of expanding on her business and allow her the opportunity to involve the community in other activities and help us as a team expand on our involvement as well.

We would be nothing without the help and support of this community as well as Carmen herself. Carmen has been a major help for our team when it comes to planning our fundraisers. She has shown nothing but a positive attitude for the team and every single person that has walked through her doors. Denying her the chance to offer other activities will genuinely hurt us all as a community.

Sincerely Yours,

Jennifer Escalante
Head Non-Skate Official
Southern Delaware Roller Girls

February 20, 2012

To Whom It May Concern,

I am writing this letter on behalf of Carmen and The Milford Skating Center.

It is my understanding that Carmen is appearing before you to gain the ability to expand the services offered by The Milford Skating Center.

I am a member of the Southern Delaware Roller Girls, a flat track roller derby team that uses the skating rink for team practices three times a week. Due to my involvement with Carmen and The Milford Skating Center since October 2011, I have a personal interest in seeing her succeed with her attempt to expand her business opportunities. I think it would be a fantastic thing for people and businesses to have an affordable place to hold special events and not be limited by just what she is able to provide now. I am always excited to hear that she has an event going on that is different and exciting and can only imagine the doors that would open should you grant her request.

Recently, The Milford Skating Center allowed the Southern Delaware Roller Girls to host a showing of The Rocky Horror Picture Show. While the event was not a huge success, it was a really neat experience to be able to hold such an event. I look forward to being able to expand on the types of events and fundraisers we will be able to hold there to allow the community to become more involved with our team.

We are also hosting a family skate night in March, which I am hoping will be not only successful, but a very entertaining time. I hope, for Carmen's sake, that additional business will be generated by the amount of people that will turn out that have not before stepped foot into her facility and may find it suits their needs for a future event.

I also have an interest in seeing her succeed with this request on a different level. I work for a small family owned company. In the past year the economy has forced us to struggle to succeed. I do not have the ability to expand on my services, but if I did have that opportunity I would jump at the chance to improve my income and the success of my business. I can not find fault with someone looking for additional avenues to be successful.

Aside from the business aspect, I have seen Carmen with the people she provides entertainment for. She's great! She seems to be involved in the community and the more people she can come in contact with through The Milford Skating Center, the better. She has a way of making things fun and wanting you to be involved, I am referring to my first ever experience in the Milford Halloween Parade. I would not have attended had it not been for her enthusiasm surrounding the event.

In closing, I would just like to say that I enjoy Carmen and her facility and think it would be great if she was permitted to do more for the community and the people in it by providing a great service.

Thank you for your time.

Heather Williams Shockley
31597 Oak Ct
Lewes, DE

MY FATHER'S HOUSE MINISTRIES INC.

119 Causey Avenue
Milford, DE 19963
Phone: 302-258-3326



February 18, 2012

My Father's House Ministries Inc. is writing this letter on behalf of the Milford Skating Center. Our church attends the monthly Christian Skate night as well adult dodge ball. In the greater Milford area there are not many places for adults or youth to go for recreation. Our church members look forward to our time spent together at the Milford Skating Center. The management provides fun activities for the adults as well as the children.

Respectfully submitted,

My Father's House Ministries Inc.

Jenell Mattera
32239 Nassau Rd
Lewes, DE 19958
February 20, 2012

To Whom it May Concern:

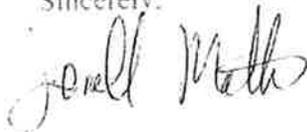
I am writing to ask you to support the request for additional off skate activities and/or fund raising events to be granted to Carmen Kemper and the whole Milford Skate Center family.

After joining the Southern Delaware Roller Girls league in November I have come to realize how vital having a safe, secure place to practice is. We are thankful to Ms. Carmen and the staff of the skate center for helping with skating events, staying at late night practices, and aiding us in any skate related questions. We as a league would like to expand our fund raising events to include off skate activities in a safe environment welcoming people of all ages.

I think that this is an important request. It will benefit the community at large by assisting in family friendly activities with the safety of a watchful staff.

Thank you for your support.

Sincerely,

A handwritten signature in cursive script that reads "Jenell Mattera". The signature is written in dark ink and is positioned above the printed name.

Jenell Mattera



GSCB Centennial Jamboree

Mayor & Town Council of Milford
201 S Walnut Street
Milford, DE 19963

Dear Mayor Rogers and Council members,

Please accept this letter as an endorsement for the Milford Skating Center and its' owner, Carmen Kemper. Ms. Kemper has been a big supporter of Girl Scouts for several years and allows our organization to hold skating parties at her rink as fundraisers.

Currently, Ms. Kemper is donating the proceeds of two (2) Sunday's admissions to the Girl Scouts of the Chesapeake Bay Centennial Jamboree committee to help with our fundraising efforts.

We appreciate all the help Ms. Kemper and her staff have given us over the years at the Milford Skating Center.

Thank you,

A handwritten signature in cursive script that reads "Denise Matz".

Denise Matz
GSCB Centennial Jamboree committee member
Leader, Service Unit 30
22403 Zoar Road
Georgetown, DE 19947
(302) 841-7194

Milford Skating Center

**1 Park Avenue
Downtown Milford
Owned and Operated by:
Carmen Kemper**

**A Downtown Destination For
Recreation-
Education-
Entertainment -
-Of All Ages.**

As the owner/operator of the Milford Skating Center, I am proposing to include additional activities other than roller skating to the conditional use granted to the business in 1982.

These uses are activities - recreational, educational, and entertainment that are provided by Milford Skating Center, or upon rental of the facility, provided by others. It is no different than the Boys and Girls Club permitting the Parks and Recreation Department to offer swim lessons because the Boys and Girls Club has a pool and has entered into a contract with another entity to utilize their resources.

The activities requested are extensive in nature due to the large open-space floor. These activities have begun and ceased through the years due to the community's desire for such activities to be offered. Our record with running safe and enjoyable programs for the community for almost 30 years, speaks for itself.

Two activities requested have some concerned that the Skating Center will be turned into a roving night club, dance hall, or bar. I do not have now, or in the future, any desire to do so. I do wish to have the opportunity to host up to six events that apply for alcohol service/consumption annually, and up to six events coordinated with a promoter. Security personnel has been hired for each large attendee event I have hosted via my programs or in cooperation with a promoter.

I have been the Business Manager of Milford Skating Center since 2000 and then became a partner in the business in early 2011. In July 2011, I bought out my partner. The business has not changed.

As the community has inquired, the Milford Skating Center has provided programs that have been popular among teens, among young adults and even adult seniors. Some of these activities have included Senior Walk, Soul Night, Country Line-Dancing, remote control car racing, Special Olympic skate training, ball room dancing, and dance benefits for Diabetes.

Some programs have continued through the years due to their popularity , others have not.

As one program was referred to by Milford Police Department Spokesperson at a recent meeting, Soul Night became widely popular and was a public event. Some participants became violent, police were called, and order was restored. The public program was stopped due to the frequency of the challenges.

Over the past year, Milford Skating Center's increased programs have been due to offering programs the customer has inquired about. Not known to me, my previous business partner and previous business owner, that any other programs were not permitted to be offered.

I have been approached by the code enforcement officer that additional programs would require a change in the conditional use and be applied for.

With this application, Milford Skating Center is requesting an improvement in the services offered at the Milford Skating Center. This includes programs other than roller skating. This also includes the ability for customers renting the facility to offer alcohol during their event. The event would be held in accordance of the ABCC guidelines and the procedure provided by the City of Milford. The proposal also includes dances for different age groups.

The Milford Skating Center has been a part of Downtown Milford since 1982. Families and skaters from Kent and Sussex Counties, Maryland, Pennsylvania and New Jersey have come through the historic district and the river walk area to attend events and roller skating and non-roller skating events.

Milford Skating Center is not proposing anything different from what has already occurred at the skating center, only to now have it included in the conditional use.

With this proposal, Milford Skating Center offers programs at various times during the day and into the evening. Of which none of the programs have come into question other than dances held in the second half of 2011.

In Mid-2011, Milford Skating Center rented the facility to a promoter for a dance offered to college students. This event was a private event and included a security force.

In October 2011, Milford Skating Center rented the facility to two different promoters for two evenings that again were for college students, included security and participants were bused to the facility. A crowd formed as the participants exited the buses to enter the building and await security procedures prior to entering the building. Unlike some event locations, a person does not rent the skating center, show up to get the keys and get to do whatever they want. All programs hosted by Milford Skating Center and events offered through persons renting the facility, are all overseen by the Management of Milford Skating Center with Staff on hand at every event to insure the terms of a contract are met prior to, during, and after an event.

In an effort to have everyone on the same page with the event, Milford Skating Center had notified the police department that these events would take place.

As the owner of Milford Skating Center, my plans do not involve turning the skating center into a dance hall or night club, nor a bar. The venue lends itself to handle events of various sizes and various themes. Permitting the Milford Skating Center to offer the ability of alcohol service would be limited to 6 times a year. These events would be non-skating events and would not occur while children are present or during public session times. Dances through promoters would also be limited to 6 times a year as well. Private rentals have been used for roller skating and dance area birthday parties, anniversary celebrations, fundraisers that have been roller skating and non -roller skating events as well. Such as a grand-opening event, Dance for a Cure to Diabetes, Hay Maze for Milford Community Parade and so forth.

Finally, Milford Skating Center has held sessions up to 1am and 2 am and even overnight for the area's youth. All night skates were held once a month. At midnight, the exterior doors were locked for any incoming persons and parents were instructed to call ahead if they were picking their child up after midnight and prior to 6am. Participants under 16 were not permitted to leave without being escorted to the exit doors to verify their parent was there. This has been a long tradition without incident and offers something unique for local children. This is a program Milford Skating Center would like to continue and was not aware would break curfew rules or the conditional use. In a time where there is not enough for children to do to stay out of trouble, do we really need to be limiting the options available for fun, exercise, and entertainment?

My request is to continue doing business as usual, permit alcohol use for up to 6 events annually, and up to 6 events with a promoter. Again, these events would not occur in conjunction with a skating session and minors would not be permitted to participate.

Milford Skating Center wishes to continue its role in the Milford Community as a place parents can bring their children for recreation, education and entertainment.

Thank you for your consideration,

**Carmen Kemper
Owner/Operator
Milford Skating Center**



DEL CODE § 514 : Delaware Code - Section 514: GATHERING LICENSES; CONSUMPTION ON PREMISES

Search DEL CODE § 514 : Delaware Code - Section 514: GATHERING LICENSES; CONSUMPTION ON PREMISES

- [Search by Keyword or Citation](#)

Search

(a) If alcoholic liquors are to be sold during a gathering of persons, the manager or person in charge of such gathering, or the owner, tenant or person in charge of the premises in which the gathering is being held, must obtain 1 of the types of gathering licenses, which permit consumption only on the premises, provided for in this section.

(b) There shall be 2 types of gathering licenses which may be granted hereunder:

(1) Gathering License -- Group. -- The manager or person in charge of a gathering of persons at which alcoholic liquors are to be sold shall apply for a group type gathering license, which license, if granted, shall be valid only for the time, and at the location, specified in the application therefor. A group gathering license shall not be required if the said gathering is being held on premises which are validly licensed under a biennial premises gathering license issued pursuant to paragraph (2) of this subsection.

(2) Gathering License -- Biennial Premises. -- The owner, tenant or person in charge of the premises, other than a residence, on which gatherings of persons are held, may apply for a biennial premises type gathering license, which license shall be valid for the entire 2 years for gatherings of persons at the location specified in the application therefor.

(c) A holder of a gathering license may purchase alcoholic liquors for sale at a gathering of persons from either retailers or importers and such retailers and importers shall be permitted to make deliveries to persons holding gathering licenses. A holder of a gathering license granted pursuant to this section shall be exempt from paying the application process fee as provided in subsection (x) of § 554 of this title.

(d) For purposes of this section only, the price paid for alcoholic liquors to be sold at a gathering of persons licensed under this section shall be a price agreed upon between the

†

said licensee and the retailer from whom said alcoholic liquors are purchased. A retailer shall not sell at a price less than the price paid by the retailer for such alcoholic liquors. An importer shall not sell at a price which is less than the price that a retailer pays for the same alcoholic liquors.

(e) Any person holding a biennial premises gathering license granted hereunder must report each gathering of persons to be held in its facilities to the Commissioner, which report may be made in person, in writing, or by telephone and the report must be received by the Commissioner not later than 12:00 noon of the day on which the gathering is to be held, unless it is to be held on a day on which the Commissioner shall be closed, in which case it must be so reported on the last day on which the Commissioner is open immediately preceding such a gathering.

(f) Any person holding a gathering license of either type granted hereunder who has purchased alcoholic liquors for sale at a gathering of persons may return any unopened bottles so purchased to the licensee from whom they were purchased and shall receive therefor the amount paid for each said bottle, so long as such return is made within 30 days of the date of the gathering for which they were purchased. A biennial premises type gathering licensee shall not be required to return bottles it has purchased for sale during such gathering, but may store them in a suitable storage facility for sale at a future gathering of persons to be held within its facilities.

(g) All holders of gathering licenses hereunder shall be subject to the restrictions on the hours of sale of alcoholic liquors set forth in § 709(d) of this title and to the prohibitions of sales to minors set forth in § 708 of this title.

(h) It shall not be necessary to obtain a license to dispense alcoholic liquors at a gathering of persons if no alcoholic liquors are to be sold at that gathering of persons. Importers may sell and deliver beer directly to persons for dispensing at a gathering of persons and not for resale.

38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 514; 59 Del. Laws, c. 107, § 18; 59 Del. Laws, c. 128, §§ 2-4; 67 Del. Laws, c. 273, § 24; 72 Del. Laws, c. 486, § 9.;

« [Prev](#)
SALE OF BEER
FOR
CONSUMPTION
ON PREMISES OF
TAVERN, HORSE
RACETRACK OR
MULTI-PURPOSE
SPORTS
FACILITY :

[Up](#)
PURCHASE,
SALE AND
DISPENSING

Copyright © 2012 FindLaw,

[Next »](#)
SALE TO
MEMBERS OF
CLUB AND
MULTIPLE
ACTIVITY CLUB;
BOTTLE CLUB
DEFINED

a Thomson Reuters business. All rights reserved.



DEL CODE § 511 : Delaware Code - Section 511: GENERAL LICENSING REQUIREMENTS

Search DEL CODE § 511 : Delaware Code - Section 511: GENERAL LICENSING REQUIREMENTS

- [Search by Keyword or Citation](#)

Search

(a) Upon proper application, the Commissioner may grant licenses to persons described in §§ 512-521 of this title to purchase and resell or dispense alcoholic liquor in the manner and to the extent provided in those sections. The person to whom such license is granted may purchase, resell or dispense alcoholic liquor in accordance with his license if the license fee has been paid and the license is still in force.

(b) If a licensee holds an on premises license and an off premises license, voluntary relinquishment of 1 of the said licenses and the retention of the other license shall be permitted automatically by the Commissioner.

(c) If a person applies for a license as a motorsports speedway under § 512(a) of this title, in lieu of compliance with the procedural notice and protest requirements of §§ 524 and 541 of this title, the Commissioner shall, on the date the application is filed, schedule a hearing to consider the application to be held at least 20 days after the application filing date and notify applicant of the hearing date. Within 3 days thereof, the applicant shall:

(1) Mail a notice by certified mail, return receipt requested, to all property owners within 1,000 feet from any point on the boundary line of the premises to which the license shall apply; and

(2) Cause to be advertised a notice in at least 2 different newspapers for 3 issues circulated in the community in which the applicant will operate.

The said notices of the time and location of the hearing shall be approved by the Commissioner prior to distribution.

38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 511; 59 Del. Laws, c. 107, § 17; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, § 11.;

Greater Milford Development Company LLC

P.O. Box 221

Milford, Delaware 19963

302-422-3350

February 14, 2012

City of Milford
P.O. Box 159
Milford, DE 19963

RE: 23-27 N. Walnut Street, Milford, Delaware 19963

To Whom It May Concern:

I, Dennis E. Silicato, Landlord of the above mentioned address am aware that extracurricular activities other than skating are held at the skating center. I have no concerns that this facility is used for other activities.

Sincerely,



Dennis E. Silicato

Landlord/Partner of Nelson Silicato



Office of the State Fire Marshal

1537 Chestnut Grove Road
Dover, DE 19904-1544



Public Assembly License

Permit # 90- 11031033 11

Permit date: 12/01/2011

Expire date: 12/07/2012

Name: Milford Skating Center Inc.

Address: 1 Park Avenue, Milford, DE 19963

Individual: Carmen Kemper

Authorization is Hereby Granted To:

Operate as required by the State Fire Prevention Rules and Regulations. Any noted violation may result in the revocation of license and operations shall cease until compliance is assured.

Comments/Restrictions/Additions:

Maximum Occupant Load = 299

Do not exceed.

Post this license inside the establishment.

Signed:

Name: Grover P. Ingle

Title: State Fire Marshal

ORDINANCE 2012-04

Conditional Use/Greater Milford Development Corporation/Milford Skating Center, Incorporated

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AUTHORIZING A CONDITIONAL USE IN A C-2 DISTRICT AS REQUESTED BY CARMEN KEMPER ON BEHALF OF GREATER MILFORD DEVELOPMENT CORPORATION WHICH WOULD ALLOW ADDITIONAL USES BEYOND THE NON-CONFORMING USE CURRENTLY PERMITTED AT MILFORD SKATING CENTER, INC., 1 PARK AVENUE, MILFORD, DELAWARE. TAX MAP MD-16-183.10-04-43.00; 5.52 +/- ACRES.

Whereas, the City of Milford has been requested by Carmen Kemper, on behalf of the Greater Milford Development Corporation, to allow additional uses beyond the non-conforming use currently permitted at Milford Skating Center; and

Whereas, a conditional use approval is required in a C-2 zone for the uses as described below:

Skating, dances for 15 year olds and younger, dances for 16 to 21-year-olds, adult dances, dance classes, private parties/gatherings, birthday parties, nonprofit dances, parties and socials (bikers, parade, colleges), DJ competitions, all night skating sessions, alcoholic beverages at private parties or bouts, church functions, drop-in childcare, summer programs for children, indoor sporting events, segway events, exercise classes and walking programs, high school mentoring programs, after-school programs, community meetings, boy scout and girl scout events, award events and family resources (immigrants).

Requested hours of operation will be:

Monday thru Thursday 8:00 a.m. - 11:00 p.m.
Friday 8:00 a.m. - 1:00 a.m. Saturday
Saturday 8:00 a.m. - 10:00 p.m. Sunday

Whereas, the Planning Commission reviewed the application at a Public Hearing on February 21, 2012 and has presented the items for consideration by City Council; and

Whereas, the City Council held an advertised public hearing on March 26, 2012 to allow public comment on the application.

Now, Therefore, the City of Milford hereby ordains:

Section 1. Upon the adoption of this ordinance, Carmean Kemper on behalf of the Greater Milford Development Corporation is hereby granted a conditional use permit to allow those uses, as approved, and in accordance with the application, approved plans and any conditions set forth;

Section 2. Construction or operation must commence within one year of the date of issuance or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council: 02-13-12

Planning Commission Review & Public Hearing: 02-21-12

City Council Review & Public Hearing 03-26-12

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

*City of Milford's
Annual Community Prayer Breakfast*



February 2012

Mr. Richard Carmean
City of Milford
P. O. Box 159
Milford, DE 19963

Dear Dick:

On Saturday, March 31, 2012, we are gathering for the 29th Annual Community Prayer Breakfast. That day will be one of public thanksgiving and to give support to all of Milford's leaders, both public and private. The breakfast will be held at 7:30 a.m. in the Crystal Room of the Milford Senior Center.

We are planning a wonderful and spiritually uplifting program. We will have a special guest speaker. Monies raised at the breakfast will benefit Milford Senior Center, which is a multi-purpose senior center offering services and activities to enhance the dignity, independence, and promote the community involvement of its members.

The ticket cost is \$15.00 for individuals. Sponsorship cost for a table of eight is \$160.00. If you are not going to use your tickets, we ask that you give them to employees, friends or family. Tickets may be purchased by mail or in person at the Milford Senior Center, located at 111 Park Avenue, Milford, DE 19963. Deadline for purchasing tickets will be Tuesday, March 27. Please make checks payable to Milford Senior Center. All mailed checks should be sent to the attention of Karen Lloyd. If you have any questions contact Mrs. Lloyd at (302) 422-3385 or email at msckaren@comcast.net.

We look forward to seeing you on the 31st.

Sincerely,


Joseph "Ronnie" Rogers, Mayor
City of Milford



International Institute of Municipal Clerks
Professionalism in Local Government

March 16, 2012

Dear Teresa Hudson, MMC:

On behalf of the Board of Directors, it is my pleasure to inform you that you have been awarded the International Institute of Municipal Clerks' designation of Master Municipal Clerk. Included in this package is your hard-earned MMC certificate, as well as your MMC lapel pin. We know you will wear it proudly.

IIMC grants the MMC designation only to those Municipal Clerks who complete demanding education requirements; and who have a record of significant contributions to their local government, their community and state.

In light of the speed and drastic nature of change these days, lifelong learning is not only desirable, it is necessary for all in local government to keep pace with growing demands and changing needs of the citizens we serve. We applaud your educational accomplishments and achievement of this milestone and congratulate you on your personal pursuit of professional excellence.

Sincerely,

Colleen J. Nicol, MMC
IIMC President



Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

Town of Bethany Beach

Town of Bethel

Town of Blades

Town of Bridgeville

Town of Dagsboro

Town of Delmar

Town of Dewey Beach

Town of Ellendale

Town of Fenwick Island

Town of Frankford

Town of Georgetown

Town of Greenwood

Town of Henlopen Acres

Town of Laurel

City of Lewes

City of Milford

Town of Millsboro

Town of Millville

Town of Milton

Town of Ocean View

City of Rehoboth Beach

City of Seaford

Town of Selbyville

Town of Slaughter Beach

Town of South Bethany

Sussex County Council

MEETING NOTICE

LOCATION: Bridgeville Fire Hall
315 Market Street, Bridgeville

DATE: Wednesday, April 4, 2012

TIME: 6:00 p.m. – Social
6:30 p.m. – Dinner
7:00 p.m. -- Program

HOST: Town of Bridgeville

SPEAKER: William Miller, DNREC (or designee)
RE: Recycling Legislation

COST: \$22.00

MENU: Tossed Salad w/Shrimp
Roast Beef and Dumplings
Roast Pork Loin
Mashed Potatoes/Gravy
Peas & Onions
Baked Pineapple
Cole Slaw
Banana & Coconut Cakes

For reservations, please call Peggy Smith at the Town of Bridgeville at 337-7135 no later than Monday, March 26th.

Please make checks payable to the Town of Bridgeville. Checks can be presented at the door or mailed to: Town of Bridgeville, 101 North Main Street, Bridgeville, DE 19933.

City of Milford
ORDINANCE NO. 2012-5

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 222 THEREOF, ENTITLED WATER, FOR THE PURPOSE OF ADDING A FEE FOR TWO-INCH FIRE SERVICE LINES AND FOR REGULATING CROSS CONNECTIONS WITH THE PUBLIC WATER SYSTEM, I.E., CONNECTIONS OR ARRANGEMENTS OF PIPING OR APPURTENANCES THROUGH WHICH WATER OF QUESTIONABLE QUALITY, WASTES OR OTHER CONTAMINANTS CAN ENTER THE PUBLIC WATER SYSTEM.

WHEREAS, changes in the building code have created a need for small fire service lines, and the current schedule of water rates and charges does not address this need; and

WHEREAS, water services are available to businesses and residences within the City of Milford; and,

WHEREAS, it is necessary that these services be utilized and that for health and safety purposes, persons within the City of Milford are not allowed to connect to the City water system except as defined herein.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS AS FOLLOWS:

Section 1. §222-1(B)(1), Schedule of Water Rates and Charges, Fire Service Line, is hereby amended by adding a two (2) inch fire service line and applicable fee as follows:

<i>Size of Fire Service Line (inches)</i>	<i>Fee</i>
2	\$2,500
4	\$3,000
6	\$3,500
8	\$4,000
10	\$6,000

Section 2. §222-3 - Definitions, is hereby amended by adding the following definition:

CROSS CONNECTION - Actual or potential connections between a potable water supply and a non-potable source, where it is possible for a contaminant to enter the drinking water supply.

Section 3. Chapter 222 is hereby amended by adding a new Section 33 to read as follows:

§222-33 - Cross Connection Control

A. That the City of Milford adopts by reference the Cross Connection Control Plan, which may be amended from time to time.

B. That it shall be the duty of the City to cause surveys to be made of all properties served by the public water system where cross connections with the public water supply is deemed possible. The frequency of surveys and resurveys based on potential health hazards involved shall be as established by the City Engineer and as approved by the Water Department.

C. That the representative of the City Water Department shall have the right to enter at any reasonable time any property served by a connection to the public water system of City of Milford for the purpose of surveying the piping system or systems thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the survey agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

D. That the City of Milford Water Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this ordinance exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this ordinance.

E. That all testable backflow prevention assemblies shall be tested initially upon installation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be performed on an annual basis as required by the City of Milford. Only individuals that are approved and State of Delaware certified shall be qualified to perform such testing. That individual(s) shall certify the results of his/her testing.

F. That the potable water supply made available on the properties served by the public water supply be protected from possible contamination as specified by this ordinance and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: WATER UNSAFE FOR DRINKING.

G. That this ordinance does not supersede the state plumbing code but is supplementary to it.

H. That any person or customer found guilty of violating any of the provisions of this ordinance or any written order of the City of Milford, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 nor more than \$1000.00 for each violation. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purpose of this ordinance.

Section 4. Dates

Introduction to City Council: 03-12-12

Adoption by City Council: 03-26-12

Effective Date: 04-05-12



DEMEC

Delaware Municipal Electric Corporation

22 Artisan Drive, PO Box 310, Smyrna, Delaware 19977 Phone 302 653-2733 Fax 302 653-2734

March 16, 2012

Richard Carmean, City Manager
City of Milford
201 S. Walnut St.
Milford, DE 19963

Dear Mr. Carmean,

As you know, the City of Milford is a full requirements member of The Delaware Municipal Electric Corporation ("DEMEC"), and has previously executed an Agreement between DEMEC and City of Milford for Full Requirements Power Sales, Transmission, and Agency Services dated October 15, 2003 (the "Full Requirements Agreement"). Under the Full Requirements Agreement, DEMEC has agreed to supply electric energy and capacity to Milford's municipal electric utility system to satisfy its full electric service requirements. In order to secure a long-term economic source of power to supply such full requirements service, DEMEC became a member of American Municipal Power, Inc. ("AMP") and entered into a Power Sales Contract dated as of June 15, 2011 (the "AFEC Power Sales Contract"), between AMP and 87 of its members, including DEMEC, under which DEMEC purchased the rights to approximately 13.6% of the electric capacity and associated energy available from the AMP Fremont Energy Center ("AFEC"). AFEC is a 675 MW (summer rating) natural gas fired combined cycle electric generating plant, currently one of the cleanest, lowest cost and most reliable forms of electric generation available.

The construction of AFEC has been completed and the plant was declared in commercial operation on January 20, 2012. AMP is in the process of issuing permanent long-term debt in order to refinance the temporary loans used to construct the facility. In connection with its upcoming borrowing, AMP has asked DEMEC and its full requirements members to supplement the Full Requirements Agreements to include certain provisions relating to the AFEC Power Sales Contract. AMP has made this request in order to satisfy the requirements of the credit rating agencies and the underwriters of the bonds so that AFEC can be financed at the lowest possible cost. The reduction in the financing costs of AFEC will be passed on to DEMEC and the members in the form of a lower cost of power. The enclosed Supplement to the Full Requirements Agreement (the "Supplement") contains language that clarifies each member's rights and responsibilities under its Full Requirements Agreement for the electricity generated by AFEC. Enclosed please find a copy of the proposed Supplement, along with a draft resolution authorizing the execution and delivery of the Supplement.

The proposed Supplement identifies AFEC as a long-term source of power for DEMEC and its members and sets a baseline level for each member's entitlement share of the capacity and energy available from AFEC. In exchange for its entitlement share, each member agrees to pay its share of the costs of AFEC regardless of any suspension, interruption or reduction of AFEC's

output. This "take or pay" obligation is substantially identical to the members' existing obligations under the power sales contracts for the Beasley Project.

AMP desires to issue its bonds as soon as possible, in order to take advantage of the current favorable interest rate environment. As noted above, to the extent that AMP can decrease its borrowing costs, such savings will result in a lower cost of power to DEMEC and its members. As such, I kindly ask for your consideration of the enclosed Supplement and resolution as soon as possible. I am available to discuss this matter in order to answer any questions, and the attorneys involved in the project will reach out to your solicitor to inform him or her of this request and answer any questions your solicitor may have regarding the Supplement. Thank you very much for your assistance, and please do not hesitate to contact me.

Sincerely,



Patrick E. McCullar
President and CEO
DEMEC

Enclosures

**Supplement to Agreement Between The Delaware Municipal Electric Corporation And
City of Milford For Full Requirements Power Sales, Transmission and Agency Services
Dated October 15, 2003 (the "Agreement")**

Supplement dated _____, 2012

The Delaware Municipal Electric Corporation ("DEMEC") and the City of Milford (the "Participating Member") hereby supplement the Agreement by adding the following:

Section 19. AFEC Power Included in Full Requirements Service; Power Entitlement Shares. DEMEC has entered into a Power Sales Contract dated as of June 15, 2011 between American Municipal Power, Inc. ("AMP") and 87 of its members, including DEMEC (the "AFEC PSC"), relating to the electric generating station known as the AMP Fremont Energy Center ("AFEC"), the term of which expires December 31, 2047, or earlier or later as specified in the AFEC PSC. A copy of the AFEC PSC is appended to this Agreement and incorporated herein as if fully set out herein. Under the AFEC PSC, DEMEC has acquired a share (an "AFEC Share") of the AMP Entitlement, subject to change pursuant to the provisions of the AFEC PSC. DEMEC entered into the AFEC PSC in order to obtain its AFEC Share to meet a portion of DEMEC's obligation to provide full requirements service to the Participating Members. For purposes of Section 4 of the Agreement, the AFEC PSC shall be considered a forward contract for capacity and energy.

19.1 Each Participating Member shall share in and assume shares of the rights and obligations associated with DEMEC's AFEC Share (their shares, "AFEC Power Entitlement Shares") in accordance with the following percentages:

Newark.....35.6%	Seaford.....9.7%	Lewes.....6.6%
Milford.....17.9%	Smyrna.....8.7%	Clayton...1.4%
Middletown...13.3%	New Castle...6.8%	

19.2 The obligations of each Participating Member to make the payments contemplated by Section 19.1 for its Power Entitlement Share shall:

(a) constitute an obligation of the Participating Member payable as an operating expense of the Participating Member's electric utility system from the revenues and other available funds of its electric utility system.

(b) in the case of a default by another Participating Member, be subject to increase, on a pro rata basis (based on the relative AFEC Power Entitlement Shares of the non-defaulting Participating Members), in an amount not in excess of a cumulative amount of up to 125% of its AFEC Power Entitlement Share ("step-up"). For thirty (30) days following a default and prior to implementing a step-up, DEMEC shall, with respect to the defaulting Participating Member's AFEC Power Entitlement Share follow the procedures set forth in Section 9(a) and (b) in the case of Full Requirements Service.

(c) be an obligation hereunder irrespective of whether energy is produced or delivered to the Participating Member or whether AFEC is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of AFEC, and shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance by DEMEC under this or any other agreement or instrument or the validity or enforceability of the AFEC PSC or any other full requirements agreement, or any other agreement between DEMEC and any other Participating Member.

19.3 The Participating Member agrees to comply with any applicable requirements under the AFEC PSC, including the tax requirements contained in such agreement to allow AFEC to be eligible for tax-exempt financing and to maintain the tax-exemption on any tax-exempt debt issued for AFEC, and shall provide such information and certifications as reasonably requested by DEMEC relating to such requirements.

19.4 The Agreement as supplemented by this Section 19 shall remain in full force and effect. The Participating Member hereby ratifies the execution and delivery of a substantially similar Agreement with the City of Lewes. All references to "seven" Participating Members in the Agreement shall be deleted and replaced with "eight" Participating Members and all references to the Participating Members shall be deemed to include the City of Lewes.

19.5 This Section 19 of this Agreement shall take effect upon the last to occur of the authorization and execution hereof by all eight of the Participating Members and DEMEC, which date shall be noted at the end of this Section 19.

As provided in Section 19.5, the effective date of this Section 19 is _____, 2012.

THE DELAWARE MUNICIPAL
ELECTRIC CORPORATION

CITY OF MILFORD

President

Mayor

(Assistant) Secretary

Clerk

CITY OF MILFORD
RESOLUTION 2012-03

WHEREAS, the City of Milford (the "Participating Member") is a duly organized and validly existing political subdivision under the laws of the State of Delaware (the "State"); and

WHEREAS, The Delaware Municipal Electric Corporation ("DEMEC") is a municipal electric company incorporated in the State, established by certain cities and towns, and formed pursuant to Chapter 13 of Title 22 of the Delaware Code; and

WHEREAS, the Participating Member is a member of DEMEC, and by a resolution heretofore duly adopted by the Governing Board of the Participating Member, the Participating Member has duly authorized, executed and delivered the Agreement and Articles of Incorporation, dated as of July 9, 1979 forming DEMEC, and all amendments thereof and supplements thereto; and

WHEREAS, DEMEC and the Participating Member have entered into an Agreement Between The Delaware Municipal Electric Corporation and City of Milford For Full Requirements Power Sales, Transmission, And Agency Services dated October 15, 2003 (the "Full Requirements Agreement") whereby DEMEC has agreed to supply, and the Participating Member has agreed to receive and pay for, Full Requirements Service (as defined in the Full Requirements Agreement); and

WHEREAS, in order to supply a portion of such Full Requirements Service, DEMEC has entered into a Power Sales Contract dated as of June 15, 2011 between American Municipal Power, Inc. ("AMP") and 87 of its members, including DEMEC (the "AFEC PSC"), relating to the electric generating station known as the AMP Fremont Energy Center ("AFEC"); and

WHEREAS, under the AFEC PSC, DEMEC has acquired a share (an "AFEC Share") of the AMP Entitlement (as defined in the AFEC PSC), subject to change pursuant to the provisions of the AFEC PSC; and

WHEREAS, the Participating Member shall share in and assume shares of the rights and obligations associated with DEMEC's AFEC Share (the Participating Member's share being referred to herein as its "AFEC Power Entitlement Share"); and

WHEREAS, it is in the best interest of the Participating Member and DEMEC to enter into a Supplement to the Full Requirements Agreement (the "Supplement") to add certain provisions to the Full Requirements Agreement relating to the AFEC PSC.

NOW, THEREFORE BE IT RESOLVED by the Council of the Participating Member as follows:

1. Authorization of Supplement to Full Requirements Agreement. The Participating Member hereby authorizes the execution of the Supplement, and authorizes and directs the Mayor and the Clerk of the Participating Member to execute and deliver the

Supplement on behalf of the Participating Member. The Supplement shall be substantially in the form presented to this meeting, which is hereby approved, subject to such changes and modifications as counsel may recommend and the Mayor of the Participating Member may approve, such approval to be conclusively evidenced by his or her execution thereof.

The Participating Member acknowledges that under the terms of the Supplement, the Participating Member is obligated to make payments (the "Payments") for its AFEC Power Entitlement Share irrespective of whether energy is produced or delivered to the Participating Member or whether AFEC is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of AFEC, and shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance by DEMEC under the Full Requirements Agreement or any other agreement or instrument or the validity or enforceability of any other contract or any other agreement between DEMEC and any other Participating Member.

2. Authorization of Further Action. The Project Participant hereby authorizes the Mayor and the Clerk to take all other action and sign any other documents or agreements necessary or appropriate in connection with the Supplement, the AFEC project or the public financing of the AFEC project, all as contemplated by this Resolution and the Supplement.

3. Adoption Date: This Resolution is adopted by majority members of Milford City Council on March 26, 2012.

4. Effective Date: _____

THE CITY OF MILFORD RETIREMENT PLAN

AMENDMENT

The City of Milford Retirement Plan ("Plan") be and hereby is amended, effective January 1, 2011, by deleting Article VII Top Heavy Provisions from the Plan in its entirety, and renumbering each subsequent Article and subsection accordingly.

CITY OF MILFORD, DELAWARE

Date

By: _____
Jeffrey A. Portmann, Finance Director

Date

By: _____
Mayor

**CERTIFICATION OF CITY CLERK
CITY OF MILFORD, DELAWARE**

The undersigned hereby certifies that he/she is the City Clerk of the City of Milford, Delaware and that the attached amendment to The City of Milford Retirement Plan was adopted unanimously by City Council at a meeting held on _____ at _____.

Dated: _____

City Clerk

Change in Future Council Meeting Dates:

Tuesday, May 29, 2012

Tuesday, November 13, 2012

Wednesday, December 26, 2012



Land Use Application Cover Sheet

File Name: Wickersham
 File Number: 08.13
Ext. 4

Date Stamp
01.23.12

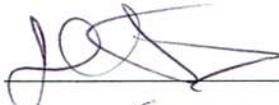
Instructions for Applicants:

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

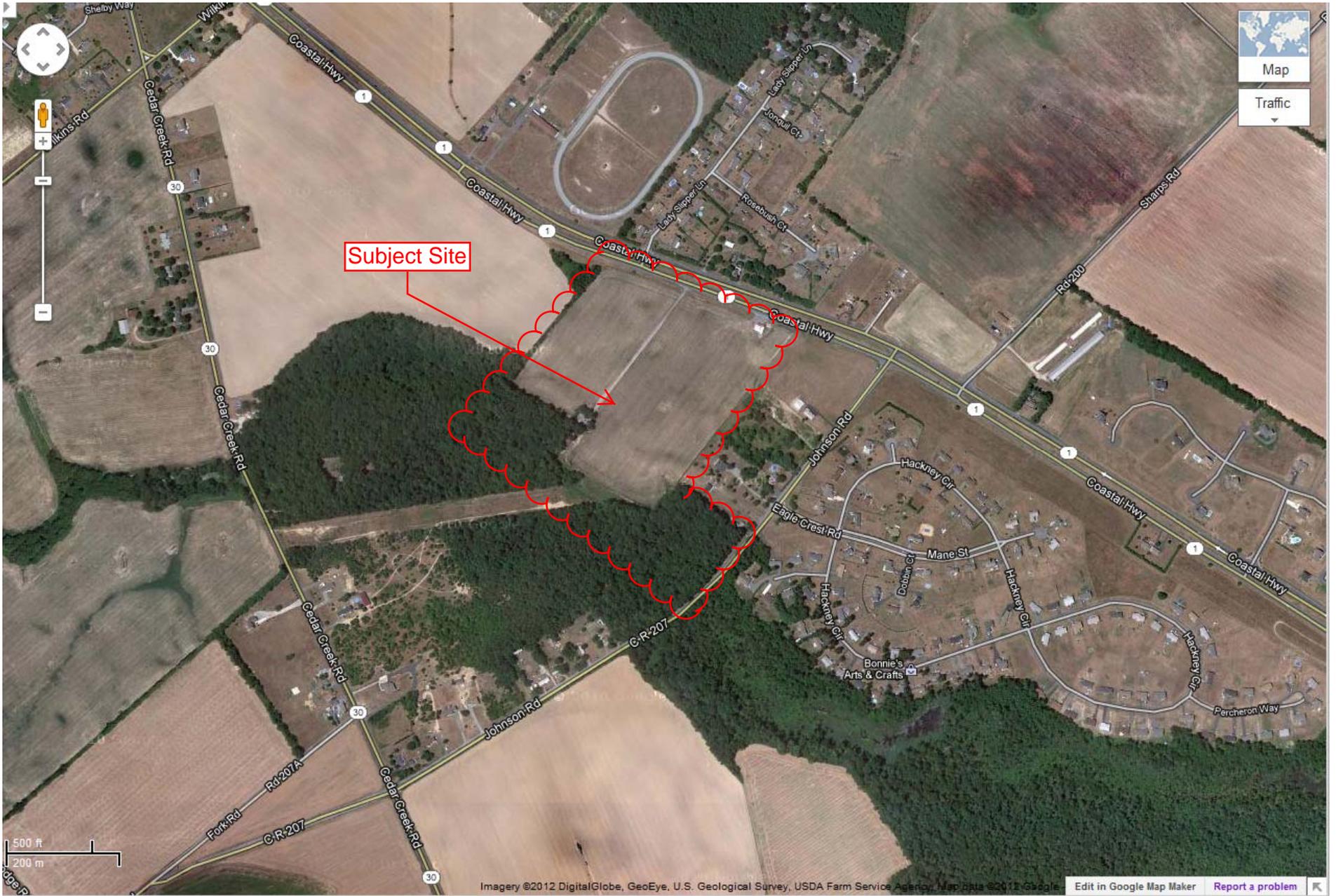
Specify Type of Land Use Application to be submitted (check all that apply):

- Preliminary Site Plan
- Preliminary Major Subdivision ^{EXTENSION}
- Final Minor Subdivision
- Final Site Plan
- Final Major Subdivision
- Variance/Appeal
- Change of Zone
- Conditional Use
- Annexation

Please Type or Print Legibly

Property Owner: CCM-Koelig, LLC			Phone: 302-998-9463
Address: % 4600 NewLucen H.II RD, Suite 102			Cell:
City: Wilmington	State: DE	Zip: 19808	Fax: 302-856-0974
E-Mail: GMFARRAR@AOL.COM			
Contact Person For This Application: John Tracey			Phone: 302-571-6740
Address: P.O. Box 391			Cell:
City: Wilmington	State: DE	Zip: 19899	Fax: 302-576-3382
E-Mail: jtracey@ycst.com			
Applicant Name and/or Company: SAME AS OWNER			Phone:
Address:			Cell:
City:	State:	Zip:	Fax:
E-Mail:			
Site Address: Northwest Corner of the Intersection of Route 1 & Johnson Rd			Zoning: R-3
Tax Map & Parcel Number (s): 3-30-16.00-5.00			Acreage: 40.69
Description of Proposal:			
Application for extension of the Preliminary Record Subdivision Plan for Wickersham			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant:		 for Koelig, LLC	Date: 1/20/12
Signature of Property Owner:		SAME	Date:

REVISED: 11.15.11



CITY OF MILFORD
DELAWARE



"THE GARDEN CITY OF TWIN COUNTIES"

PLANNING & ZONING DEPARTMENT
(302) 422-6616
FAX (302) 424-5933

201 S. WALNUT STREET
PO BOX 159
MILFORD, DELAWARE 19963

April 18, 2008

Ramesh C. Batta Associates P.A.
4600 New Linden Hill Rd
Wilmington, DE 19808

RE: Board of Adjustment on Wickersham

Dear Mr. Batta:

As you know, the Board of Adjustment for the City of Milford considered your request to allow for a 20 foot encroachment into the front yard setback and a 13 foot encroachment into your rear yard setbacks for all 205 lots in the development to known as Wickersham the purpose of constructing new townhouses and detached garages on Johnson Rd, approximately 600 feet north of the intersection of Rt 1 and Johnson Rd. To accomplish this, it was determined that the Board must allow a variance from the thirty foot minimum front yard setbacks and the fifteen foot rear yard setbacks.

The Board considered the request on April 10, 2008. They ultimately granted a variance from a front yard setback of 30 feet to allow for an encroachment of 20 feet and from a rear yard setback of 15 feet to allow for an encroachment of 13 feet at the subdivision to be known as Wickersham. I have attached a copy of the minutes of the meeting to document the testimony and understanding of the Board members.

The Zoning Ordinance does not specifically require action within a time period after a variance has been granted. It allows the Board of Adjustment to establish a time period during the hearing, at their discretion. The minutes do not indicate that a time period was established.

If I can provide any other information, please contact me at 302.422.6616, ext 174.

Sincerely,


Gary J. Norris, AICP
City Planner

/crc

Cc: CCM-Koelig, LLC
62 Rockford Rd, Ste 10
Wilmington, DE 19806

YOUNG CONAWAY STARGATT & TAYLOR, LLP

RICHARD A. LEVINE
RICHARD A. ZAPPA
DAVID C. MCBRIDE
JOSEPH M. NICHOLSON
CRAIG A. KARSNITZ
BARRY M. WILLOUGHBY
ANTHONY G. FLYNN
JEROME K. GROSSMAN
EUGENE A. DIPRINZIO
JAMES L. PATTON, JR.
ROBERT L. THOMAS
WILLIAM D. JOHNSTON
TIMOTHY J. SNYDER
BRUCE L. SILVERSTEIN
WILLIAM W. BOWSER
RICHARD A. DILIBERTO, JR.
MELANIE K. SHARP
CASSANDRA F. ROBERTS
RICHARD J. A. POPPER
NEILLI MULLEN WALSH
ROBERT S. BRADY
JOEL A. WAITE
BRENT C. SHAFFER
DANIEL P. JOHNSON
CRAIG D. GREAR
TIMOTHY JAY HOUSEAL
MARTIN S. LESSNER

PAULINE K. MORGAN
C. BARR FLINN
NATALIE WOLF
LISA B. GOODMAN
JAMES P. HUGHES, JR.
EDWIN J. HARRON
MICHAEL R. NESTOR
ROLIN P. BISSELL
SCOTT A. HOLT
JOHN T. DORSEY
M. BLAKE CLEARY
CHRISTIAN DOUGLAS WRIGHT
DANIELLE GIBBS
JOHN J. PASCHETTO
NORMAN M. POWELL
ELENA C. NORMAN
EDMON L. MORTON
JOHN E. TRACEY
ADAM W. POFF
SEAN M. BEACH
JOSEPH M. BARRY
SHARON M. ZIEG
DAVID R. HURST
TIMOTHY E. LENGKEEK
MATTHEW B. LUNN
DANIEL F. X. GEOGHAN
(NY, NJ, MI ONLY)

THE BRANDYWINE BUILDING
1000 WEST STREET, 17TH FLOOR
WILMINGTON, DELAWARE 19801

P.O. Box 391
WILMINGTON, DELAWARE 19899-0391

(302) 571-6600
(800) 253-2234 (DE ONLY)
FAX: (302) 571-1253

GEORGETOWN, DELAWARE
MIDDLETOWN, DELAWARE
NEW YORK, NEW YORK

WWW.YOUNGCONAWAY.COM

DIRECT DIAL: 302-571-6740
DIRECT FAX: 302-576-3382
jtracey@yest.com

IAN J. BAMBRICK
RYAN M. BARTLEY
DONALD J. BOWMAN, JR.
ELISABETH S. BRADLEY
TRAVIS G. BUCHANAN
EMILY V. BURTON
ERIKA R. CAESAR
JAIME LUTON CHAPMAN
DOUGLAS T. COATS
KARA HAMMOND COYLE
KRISTEN SALVATORE DEPALMA
MARGARET M. DIBIANCA
JUSTIN P. DUDA
MARY F. DUGAN
ERIN EDWARDS
KENNETH J. ENOS
WILLIAM E. GAMGORT
MARGARET WHITEMAN GREECHER
SEAN T. GREECHER
BENJAMIN Z. GROSSBERG
A. DAVID HANSEN
JAMES L. HIGGINS
PATRICK A. JACKSON
MARIS J. KANDESTIN

COUNSEL
CURTIS J. CROWTHER
STEPHANIE L. HANSEN
ADRIA B. MARTINELLI
KAREN L. PASCALE

JENNIFER M. KINKUS
SARA BETH A. R. KOHUT
EVANGELOS KOSTOULAS
PILAR G. KRAMAN
JOHN C. KUFFEL
PAUL J. LOUGHMAN
ANDREW L. MAGAZINER
ASHLEY E. MARKOW
KATHALEEN MCCORMICK
TAMMY L. MERCER
LAUREN E. MOAK
MICHAEL S. NEIBURG
JENNIFER R. NOEL
ROBERT F. POPPITI, JR.
NICHOLAS J. ROHRER
JUSTIN H. RUCKI
CHERYL A. SANTANIELLO
MORGAN L. SEWARD
MONTE T. SQUIRE
MICHAEL P. STAFFORD
RICHARD J. THOMAS
ROBERT M. VRANA
THOMAS E. WILLIAMS
JAMES M. YOCH, JR.

OF COUNSEL
BRUCE M. STARGATT
SHELDON N. SANDLER

January 20, 2012

BY FEDERAL EXPRESS & E-MAIL

Ms. Christine Crouch
Administrative Assistant
City of Milford
201 South Walnut Street
Milford, DE 19963

Re: Subdivision Project No. 08-013/Wickersham

Dear Christine:

In accordance with our email discussions, enclosed please find the completed application for a fourth (and hopefully final) extension request for the Preliminary Subdivision Plan of Wickersham. As you are aware, the above-referenced project received its most recent extension of its preliminary approval from the City Council at its hearing on March 14, 2011. At that time, matters were on hold pending the resolution of the design of the offsite water and sewer systems that this project would ultimately connect into following its annexation within the City limits. Since the date of that extension, however, while the plans for these utility systems have progressed, the utility work has not progressed to a point where it can be implemented, thus forestalling completion of the Record Plan submission.

This timing necessitates me to request an additional extension of the preliminary major subdivision approval which is currently set to expire on March 23, 2012. My client's plans have progressed significantly since the last request for an extension was considered and granted. Plans have been submitted to all review agencies and comments have been received back to a point where the applicant could, in short order, request and receive its letters of no objection. Moreover, after the City's release of this project from the original master plan for sewer in this area to pursue a more regional approach with its immediate neighbor, those parties have met and settled, with the City, on a design for this project. In addition, DelDOT has

YOUNG CONAWAY STARGATT & TAYLOR, LLP

Ms. Christine Crouch

January 20, 2012

Page 2

completed the necessary takings associated with the Route 1/Route 30 improvements, thus facilitating the process of locating improvements on the remaining lands of the property owners. Of course, both property owners will ultimately require the City to move forward with the design and construction of the water system in order to facilitate the ultimate construction proposed for both properties.

The time and effort invested in pushing forward a resolution for the offsite services needed to serve this project have, unfortunately, prevented the final approval of this plan. It seems, however, that the path forward has now been clearly established and the property owners are cleared to proceed with the design of the sewer infrastructure for these properties. That should facilitate the completion of the Final Record Plan for this subdivision within the requested extension. To that end, the applicant is respectfully requesting an extension of our approval until March 23, 2013.

I have attached the required forms provided to me by the City of Milford. In addition, I have enclosed fifteen (15) sets of the approved preliminary plan, a legal description for the property, and a CD containing all of this information. In addition, I have attached a copy of the Planning & Zoning Department's letter dated April 18, 2008, acknowledging the City's Board of Adjustment's approval of two variances associated with the required setbacks for these homes in order to facilitate a better overall design for the Community. No waivers were sought or received from the City with regard to the requirements of the Subdivision Code.

Please advise me as to the date and time of the scheduled hearing so that I can make sure that someone will be in attendance to answer any questions. As always, I can be reached at 302-571-6740.

Very truly yours,



John E. Tracey, Esq.

Enclosures

cc: Ramesh C. Batta, P.E.

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC12-003

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF
MILFORD
THE APPROVAL OF AN EXTENSION OF A PRELIMINARY MAJOR SUBDIVISION
FOR
CCM-KOELIG LLC
AT STATE RT 1 AND JOHNSON ROAD
FOR A 205 LOT, 205 UNIT SUBDIVISION
TO BE KNOWN AS WICKERSHAM
IN AN R-3 ZONING DISTRICT
TAX MAP 3-30-16.00-5.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on March 20, 2012; and,

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

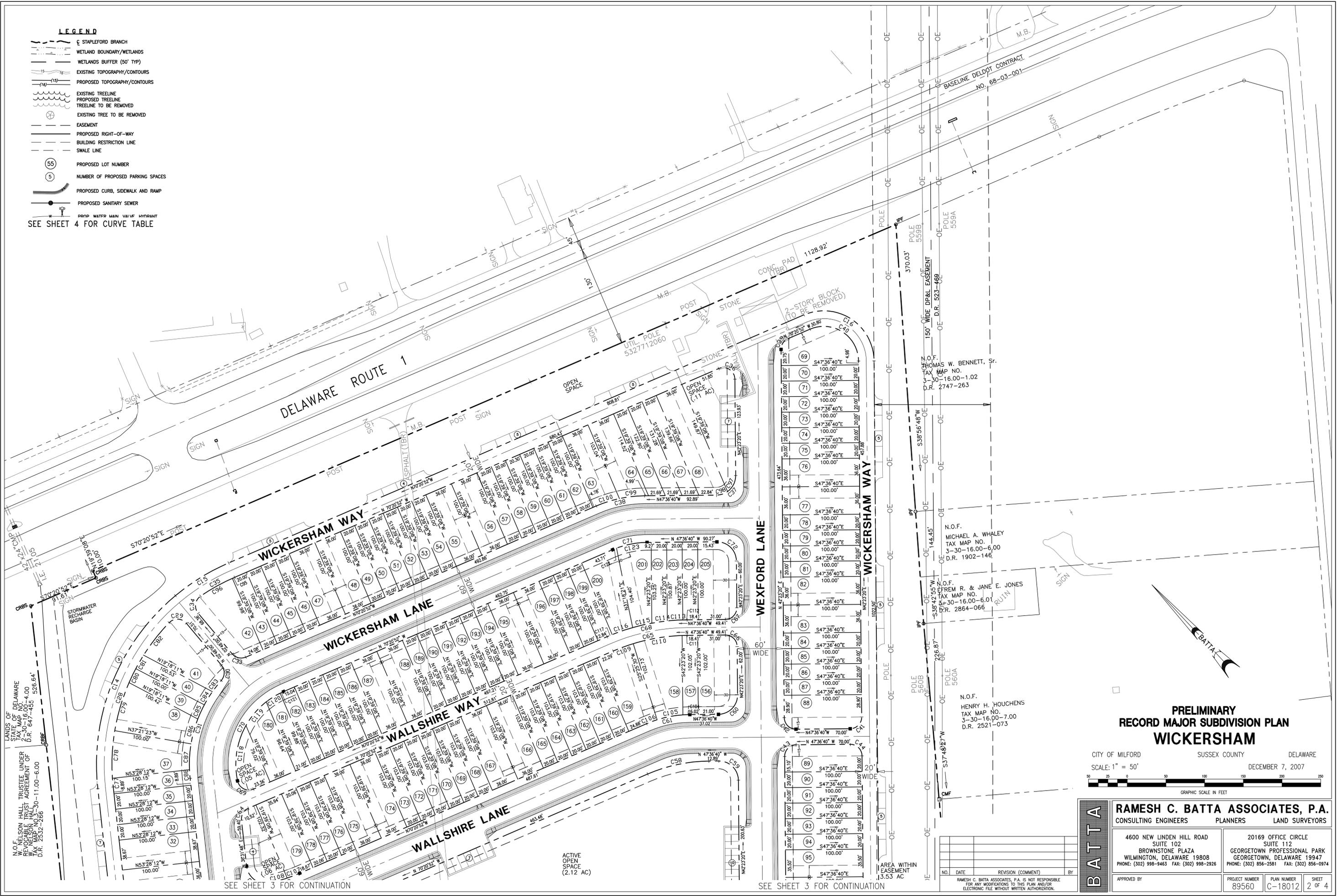
NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

- 1.

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

- LEGEND**
- ☐ STAPLEFORD BRANCH
 - ▬ WETLAND BOUNDARY/WETLANDS
 - ▬ WETLANDS BUFFER (50' TYP)
 - (15)— EXISTING TOPOGRAPHY/CONTOURS
 - (16)— PROPOSED TOPOGRAPHY/CONTOURS
 - ▬ EXISTING TREELINE
 - ▬ PROPOSED TREELINE
 - ▬ TREELINE TO BE REMOVED
 - ⊗ EXISTING TREE TO BE REMOVED
 - ▬ EASEMENT
 - ▬ PROPOSED RIGHT-OF-WAY
 - ▬ BUILDING RESTRICTION LINE
 - ▬ SWALE LINE
 - 55 PROPOSED LOT NUMBER
 - 5 NUMBER OF PROPOSED PARKING SPACES
 - ▬ PROPOSED CURB, SIDEWALK AND RAMP
 - ⊙ PROPOSED SANITARY SEWER
 - ⊙ PROPOSED WATER MAIN VALVE HYDRANT
- SEE SHEET 4 FOR CURVE TABLE



SEE SHEET 3 FOR CONTINUATION

SEE SHEET 3 FOR CONTINUATION

**PRELIMINARY
RECORD MAJOR SUBDIVISION PLAN
WICKERSHAM**

CITY OF MILFORD SUSSEX COUNTY DELAWARE
SCALE: 1" = 50'
DECEMBER 7, 2007
GRAPHIC SCALE IN FEET

BATTA

RAMESH C. BATTA ASSOCIATES, P.A.
CONSULTING ENGINEERS PLANNERS LAND SURVEYORS

4600 NEW LINDEN HILL ROAD SUITE 102 BROWNSTONE PLAZA WILMINGTON, DELAWARE 19808
PHONE: (302) 998-9463 FAX: (302) 998-2926

20169 OFFICE CIRCLE SUITE 112 GEORGETOWN PROFESSIONAL PARK GEORGETOWN, DELAWARE 19947
PHONE: (302) 856-2581 FAX: (302) 856-0974

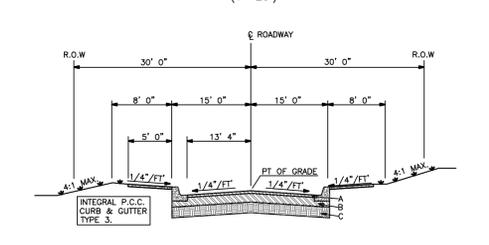
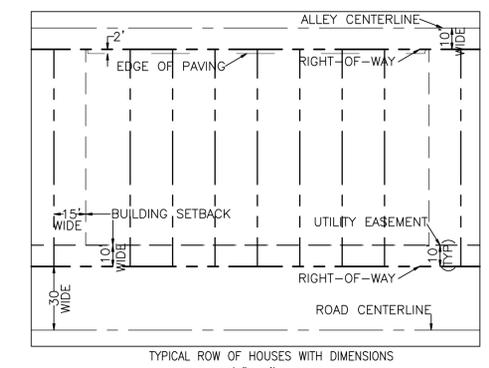
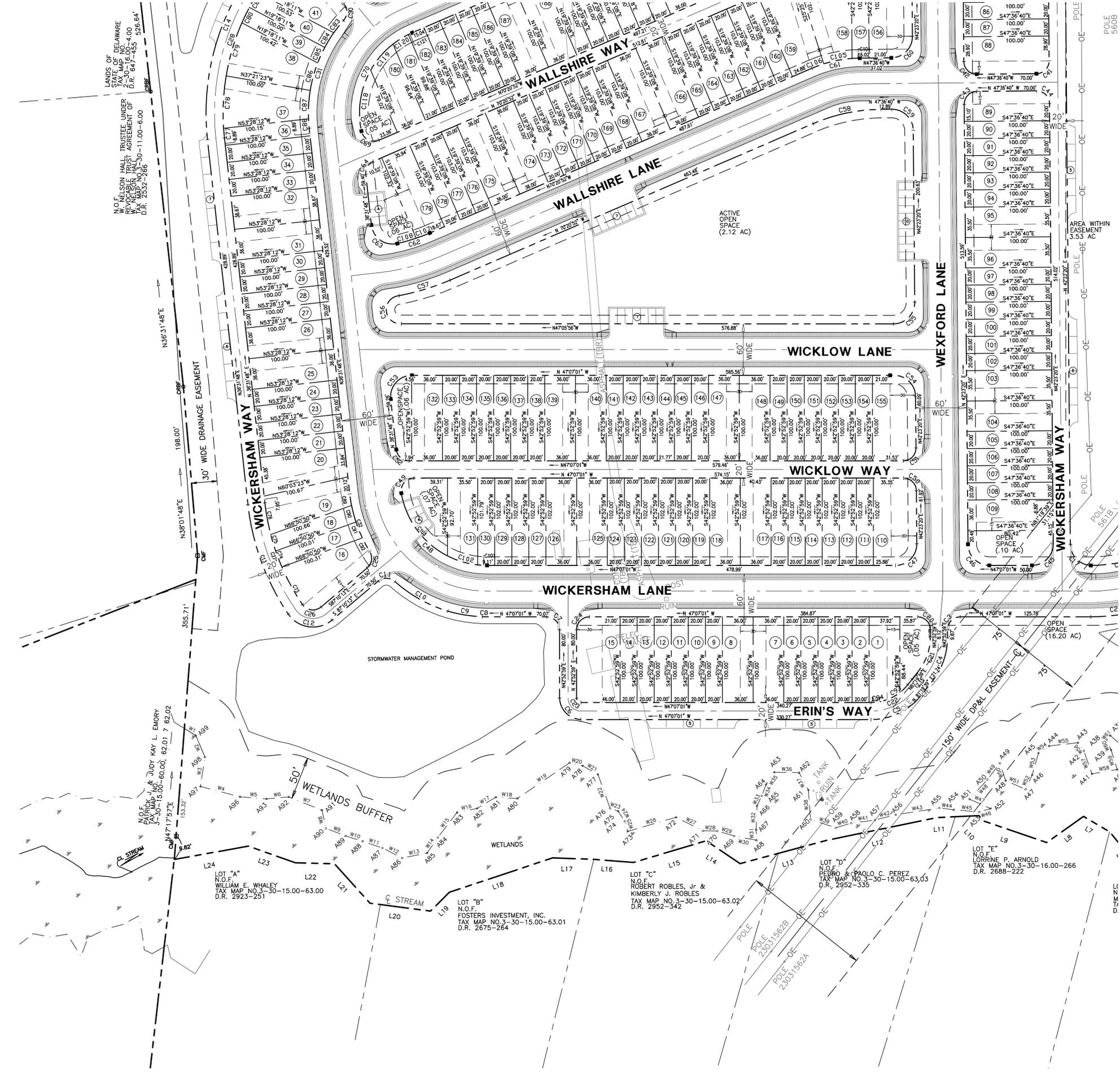
APPROVED BY	PROJECT NUMBER 89560	PLAN NUMBER C-18012	SHEET 2 OF 4
-------------	-------------------------	------------------------	-----------------

NO.	DATE	REVISION (COMMENT)	BY

RAMESH C. BATTA ASSOCIATES, P.A. IS NOT RESPONSIBLE FOR ANY MODIFICATIONS TO THIS PLAN AND/OR ELECTRONIC FILE WITHOUT WRITTEN AUTHORIZATION.

C:\p\18550\18550.dwg (1) RecordMajorSubdivisionPlan.dwg, 12/20/08 11:47:52 AM

SEE SHEET 2 FOR CONTINUATION SEE SHEET 2 FOR CONTINUATION SEE SHEET 2 FOR CONTINUATION



- NOTES:
1. ALL CURBING SHALL BE AS PER CURRENT DELDOT STANDARDS.
 2. REFER TO SECTION 5 FOR SIDEWALK SPECIFICATIONS.
 3. REFER TO SECTION 7 OF THE SPECIFICATIONS FOR DESIGN INFORMATION.
 4. REFER TO SECTION 7 OF THE SPECIFICATIONS FOR DESIGN INFORMATION.
- A - COMPACTED HOT MIX ASPHALT SURFACE AND BASE COURSE PER DIVISION OF HIGHWAYS STANDARD SPECIFICATIONS.
- B - SUB-BASE COURSE MATERIAL COMPACTED TO 95% OF ASTM D1557 MODIFIED PROCTOR METHOD.
- C - SUBGRADE MATERIAL COMPACTED TO 95% OF ASTM D1557 MODIFIED PROCTOR METHOD.

- LEGEND
- STAPLEFORD BRANCH
 - WETLANDS BOUNDARY/WETLANDS
 - WETLANDS BUFFER (50' TYP)
 - EXISTING TOPOGRAPHY/CONTOURS
 - PROPOSED TOPOGRAPHY/CONTOURS
 - EXISTING TREELINE
 - PROPOSED TREELINE
 - TREELINE TO BE REMOVED
 - EXISTING TREE TO BE REMOVED
 - EASEMENT
 - PROPOSED RIGHT-OF-WAY
 - BUILDING RESTRICTION LINE
 - SWALE LINE
 - PROPOSED LOT NUMBER
 - NUMBER OF PROPOSED PARKING SPAC
 - PROPOSED CURB, SIDEWALK AND RAM
 - PROPOSED SANITARY SEWER
 - PROP. WATER MAIN, VALVE, HYDRANT

SEE SHEET 4 FOR CURVE TABLE

WETLANDS LINE TABLE

LINE	BEARING	LENGTH
W1	S15°40'17"E	15.80
W2	S20°05'22"W	27.29
W3	S15°28'13"W	34.69
W4	S32°32'33"E	47.89
W5	S42°39'21"E	31.09
W6	S52°10'39"E	26.06
W7	S25°34'50"E	42.02
W8	S30°39'24"W	21.81
W9	S26°17'43"E	24.65
W10	S29°51'32"E	20.80
W11	S28°21'54"E	24.58
W12	S20°13'47"E	25.92
W13	S58°37'04"E	29.86
W14	N77°41'43"E	22.05
W15	N80°37'17"E	36.78
W16	S58°35'56"E	23.88
W17	S77°48'19"E	25.66
W18	S43°43'59"E	25.31
W19	S81°22'11"E	74.15
W20	S33°52'53"E	15.60
W21	S17°58'01"E	20.63
W22	S23°08'41"W	42.11
W23	S28°34'02"E	10.02
W24	S10°32'52"W	14.19
W25	S26°03'45"W	12.27
W26	S83°22'20"E	59.05
W27	S20°33'12"E	35.34
W28	S46°03'13"E	16.63
W29	S31°07'43"E	20.79
W30	S36°15'06"E	26.52
W31	N40°58'24"E	12.36
W32	N44°55'23"E	27.83
W33	N68°27'46"E	12.90
W34	N63°58'54"E	14.33
W35	N76°42'17"E	17.19
W36	S45°55'52"E	29.18
W37	S14°32'31"W	22.89
W38	S38°45'58"W	34.41
W39	S28°43'32"E	31.30
W40	S64°18'52"E	18.74
W41	S54°15'26"E	28.14
W42	S61°29'29"E	25.27
W43	S55°52'25"E	51.67
W44	S39°58'59"E	17.03
W45	S42°19'37"E	30.17
W46	S63°31'25"E	13.79
W47	N23°06'17"W	27.17
W48	N85°23'45"E	31.04
W49	N80°07'31"E	23.87
W50	S23°49'02"W	21.54

WETLANDS LINE TABLE

LINE	BEARING	LENGTH
W51	S23°49'50"E	25.27
W52	N67°54'38"E	18.45
W53	N58°54'17"E	26.70
W54	S80°34'14"E	14.80
W55	S53°24'52"E	34.34
W56	S07°08'02"W	11.53
W57	S23°37'07"E	28.54
W58	S56°41'30"E	30.16
W59	N25°08'00"E	24.07
W60	N19°42'39"E	13.17
W61	N82°21'35"E	6.40
W62	S05°58'55"E	30.01
W63	S27°52'02"E	30.44
W64	S27°24'26"E	21.20
W65	S52°50'08"E	37.55
W66	S04°56'29"W	21.18
W67	S31°11'11"E	29.04
W68	S73°39'12"E	21.90
W69	S21°39'04"E	19.39
W70	S28°18'15"E	16.43
W71	N85°43'57"E	24.59
W72	S50°02'14"E	23.46
W73	S45°17'20"E	28.11
W74	N75°24'13"E	34.90
W75	S73°09'27"E	29.02
W76	S33°24'05"E	42.77
W77	S07°57'56"W	30.81
W78	N50°05'45"E	34.98
W79	S63°03'15"E	14.01
W80	S74°39'39"E	24.42
W81	S07°04'13"E	22.07
W82	S42°49'10"E	25.99
W83	S35°00'24"E	13.06
W84	S35°32'00"E	34.85
W85	S63°42'16"E	12.67
W86	S71°14'48"E	21.91
W87	N69°22'31"E	17.06
W88	S07°18'52"E	8.78
W89	S11°12'56"W	13.28
W90	S75°45'25"W	20.62
W91	S55°46'31"W	15.57
W92	S38°59'38"W	20.54
W93	S05°21'03"W	19.10
W94	S05°50'10"E	14.93
W95	S67°04'13"W	16.66
W96	S23°03'20"E	39.78
W97	S45°36'19"W	17.94
W98	S51°26'14"W	27.96
W99	S58°52'29"W	14.48
W100	S18°53'03"W	10.24

SEE SHEET 4 FOR CONTINUATION

PRELIMINARY
RECORD MAJOR SUBDIVISION PLAN
WICKERSHAM

CITY OF MILFORD SUSSEX COUNTY DELAWARE
 SCALE: 1" = 50'
 DECEMBER 7, 2007

GRAPHIC SCALE IN FEET

RAMESH C. BATA ASSOCIATES, P.A.
 CONSULTING ENGINEERS PLANNERS LAND SURVEYORS

4600 NEW LINDEN HILL ROAD SUITE 102 BROWNSTONE PLAZA WILMINGTON, DELAWARE 19808
 PHONE: (302) 998-9465 FAX: (302) 998-2926

20169 OFFICE CIRCLE SUITE 112 GEORGETOWN PROFESSIONAL PARK GEORGETOWN, DELAWARE 19947
 PHONE: (302) 852-2881 FAX: (302) 852-0974

APPROVED BY: [Signature] PLAN NUMBER: 89560 SHEET: 3 OF 4

NO.	DATE	REVISION (COMMENT)	BY

C:\p\19808\11-19-07\11-19-07.dwg, 12/07/2007 11:48:49 AM

Annexation/Land of: Patrick J. Emory and Judy K. Emory
Tax Map No.(s): 3-30-15.00-62.00
3-30-15.00-62.01
3-30-15.00-62.02
Requested Zoning: R-3

COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION

Whereas, a Petition, signed by legal property owners and duly witnessed, requesting the annexation into the City of Milford, that certain lot, piece or parcel of land situated in, Cedar Creek Hundred, Sussex County, Delaware, being more recently shown on a survey plan by Charles D. Murphy Associates, Inc. dated August 31, 2006, said parcel lying on the easterly side of Route 30, Cedar Creek Road, approximately 1800 feet north of the intersection of Route 30, Cedar Creek Road and Johnson Road, Road 207, containing 28.0777 acres of land, more or less, has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of the City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing said property, said Committee to be comprised of Chairman Clifford Crouch, Councilwoman Katrina Wilson, Councilman John Workman and Planning Commission Chairman Randy Marvel.

Be It Further Resolved, that said Committee shall submit a written report containing its findings and conclusions, including the advantages and disadvantages of the proposed annexation both to the City and to the property proposed to be annexed and said report shall further contain the committee's recommendations whether or not to proceed with the proposed annexation and the reasons therefor.

Adoption of Resolution/Benson Annexation Request/Committee Investigation

Annexation/Land of: Equitable Owner Koelig, Incorporated on behalf of
Owner of Record R. Dale Benson and Michele M. Benson
Tax Map 3-30-16.00-5.00
Requested Zoning: R-3

COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION

Whereas, a Petition, signed by legal property owners and duly witnessed, requesting the annexation into the City of Milford, that certain lot, piece or parcel of land situated in, Cedar Creek Hundred, Sussex County, Delaware, being more recently shown on a survey plan by Ramesh C. Batta Associates P.A. dated January 11, 2006, said parcel lying on the westerly side of U.S. Route 1, Coastal Hwy, and the Northerly side of Johnson Road, Road 207, approximately 600 feet north of the intersection of U.S. Route 1 and Johnson Road, Road 207, containing 40.686 acres of land, more or less, has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of the City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing said property, said Committee to be comprised of Chairman Clifford Crouch, Councilwoman Katrina Wilson, Councilman John Workman and Planning Commission Chairman Randy Marvel.

Be It Further Resolved, that said Committee shall submit a written report containing its findings and conclusions, including the advantages and disadvantages of the proposed annexation both to the City and to the property proposed to be annexed and said report shall further contain the committee's recommendations whether or not to proceed with the proposed annexation and the reasons therefor.

Adoption of Resolution/Silicato Annexation Request/Committee Investigation

City of Milford

Annexation/Land of: Equitable Owner Koelig, Incorporated
on behalf of Owner of Record R. Dale Benson and Michele M. Benson
Tax Map 3-30-16.00-5.00
Requested Zoning: R-3

COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION

Whereas, a Petition, signed by legal property owners and duly witnessed, requesting the annexation into the City of Milford, that certain lot, piece or parcel of land situated in, Cedar Creek Hundred, Sussex County, Delaware, being more recently shown on a survey plan by Ramesh C. Batta Associates P.A. dated January 11, 2006, said parcel lying on the westerly side of U.S. Route 1, Coastal Hwy, and the Northerly side of Johnson Road, Road 207, approximately 600 feet north of the intersection of U.S. Route 1 and Johnson Road, Road 207, containing 40.686 acres of land, more or less, has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of the City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing said property, said Committee to be comprised of Chairman Clifford Crouch, Councilwoman Katrina Wilson, Councilman John Workman and Planning Commission Chairman Randy Marvel.

Be It Further Resolved, that said Committee shall submit a written report containing its findings and conclusions, including the advantages and disadvantages of the proposed annexation both to the City and to the property proposed to be annexed and said report shall further contain the committee's recommendations whether or not to proceed with the proposed annexation and the reasons therefor.

Mayor Joseph R. Rogers

Attest:

DATE: October 9, 2006

*City of Milford
Milford Independence Commons
Tax Map MD-00-173.00-02-09.01-000
Requested Zoning: OC-1
Land: 11.845 acres, more or less*

City Planner Gary Norris advised the city believed this parcel was part of the north side of the business park and had been annexed into the city when the balance of the property was annexed. Further investigation revealed differently and is the basis for this request. This is the site the Hospice is developing for their facility.

Mr. Workman confirmed the City of Milford owns the property which is under contract to Hospice. Mr. Norris said the site plan was previously approved by the planning commission though it will go back through for a final review following its annexation.

Mr. Workman moved that the city proceed with the annexation process for the legal owner City of Milford on behalf of the equitable owner Delaware Hospice, seconded by Mr. Crouch. Motion carried.

*Patrick J. Emory and Judy K. Emory
Tax Map No.(s): 3-30-15.00-62.00; 3-30-15.00-62.01; 3-30-15.00-62.02
Requested Zoning: R-3
Land: 28.07 acres, more or less*

*Equitable Owner Koelig, Incorporated on behalf of Owners of Record R. Dale Benson and Michele M. Benson
Tax Map 3-30-16.00-5.00
Requested Zoning: R-3
Land: 40.68 acres, more or less*

Attorney John Tracey of Young, Conaway, Stargatt and Taylor, was present to represent Equitable Owner Koelig, Incorporated on behalf of Owners of Record R. Dale Benson and Michele M. Benson and the Emory property. He asked that both of the petitions be addressed simultaneously because the sites abut each other and the one is contingent upon the other.

A concept plan was distributed for the annexation's review noting the Emory piece would need to be annexed in order for the Benson property to be contiguous.

Mr. Tracey advised the properties are located in the southeast annexation corridor adjacent to Route 1. The first annexation request for the Emory property was submitted in the April of 2004 and the Benson property followed shortly thereafter. There was a waiting period while the comprehensive plan was updated to include this area. The city then put a moratorium in place while examining some zoning and development issues. Both of those issues have since been resolved and the annexations allowed to proceed.

As indicated in the comprehensive plan maps, this is shown in the future annexation area and the growth strategy maps identified for residential development. The maps also show the Benson property as being targeted for annexation in 2005 to 2006 and the Emory property targeted for annexation in 2006 to 2007.

He noted the Benson property is 40 acres and sits to the east of the Emory property and is bordered to the east by Route 1 and to the north by lands currently in Sussex County but targeted for future growth and future annexation.

The Emory property is bordered by Cedar Creek Road with the same constraints on the other side.

They are requesting both properties be annexed with the R-3 zone to allow a townhouse, workforce housing type development. The code currently allows 16 dwelling units per acre though townhouses cannot exceed 12 units per acre. However, they are not requesting more than 7 units per acre.

The plan is not to overburden the property and instead create a pleasing community that works well with the goals the city is trying to obtain. They are also aware the city is currently considering some revisions to some of its ordinances and planned units developments. This will not be a planned unit development though they plan to incorporate a lot of those design features into the subdivision.

More open space will be provided than is required by the code with the Benson property at 51%. Active recreational areas will be incorporated including walking trails. Sidewalks are planned for both sides of the streets.

What they are presenting for the Benson property Mr. Tracey feels is a good depiction of what they can accomplish. Surveying, topographies, wetland delineations, etc. have been completed.

The plan shown for the Emory property is a concept based on some old aerial photography and delineations. Though they believe the property can handle it, until a more thorough examination is done, that will remain to be seen. However, the cap for the development will be far below the maximum density for a townhouse development.

It is believed this is in the best interest of all parties including the city. All city services will be utilized along with the benefits from real estate property tax revenues. This annexation will also give the city the ability to control the property adjacent to it.

When asked how many units are planned, Mr. Tracey noted there are roughly 80 units shown on the Emory property which works out between 2 and 3 units per acre. The Benson property is showing 220 units which is approximately 6 units per acre though that allows some flexibility and whose number will be more firm once they start the subdivision process. It was noted this will continue the R-3 zone has already been established in this area.

When asked if there is the capability of connectivity between the two developments, Mr. Tracey explained the Stapleford Branch (wetlands) runs between the two sites and would prevent vehicular access or even a pathway.

City Planner Norris advised that townhouses require rear loaded alleys with Mr. Tracey stating he was willing to discuss that further. He said it could be done with rear alleys though they feel there are valid reasons not to consider them particularly because they will not have units backing up to one another. Regardless, if alleys are required, the plan will include them.

Mr. Norris asked if there is any consideration of limited commercial in that area and it was verified that has not been proposed and the plan is for a straight residential community.

Mr. Norris questioned the inclusion of fences, decks, etc. and the problem with getting the lawnmower from the front to the back.

Mr. Tracey said part of that concern can be addressed through the homeowners' documents with the creation of easement rights. With new communities, there is a lot of investment in the homeowners' association and planning correcting is to the benefit of the regulations working.

The other concern the city planner has is the distance from Route 1 to the townhouses. Engineer Ramesh Batta of Ramesh Batta Associates, P.A. stated it is showing 100 feet with some additional buffering and plantings between.

Only one entrance into each development was shown on the plan with one off Cedar Creek Road for the Emory parcel and one off Johnson Road for the Benson parcel.

Mr. Brooks asked where Mr. Emory planned to put a billboard. Mr. Emory explained there is a small piece of land on the other side of the power liens though he understands billboards are hard to obtain approval. That was part of the original 2004 request and Mr. Tracey advised that many of the conditions listed in the 2004 are no longer part of the request.

Mr. Tracey emphasized the plan presented is a concept plan. Some of the ideas such as the increase in open space, active recreational areas, etc. were obtained from the proposed RD-1 zone. He said that each unit backs up to open space and not to another house. He feels that adds character and flow to the design.

They plan to do the different type facades as is required in the ordinance though they do not want a planned unit development. As a result, the RD-1 does not apply because that calls for mixing of different housing types.

Mr. Crouch said that though the concept is for 6 per acre, if it is approved as an R3, it can increase to 16 units. Mr. Tracey said they are very willing to conditioning the approval on the 7 units per acre as initially stated. They are leaving some flexibility because if alleys are required, some changes will need to be made. However, they did not intend to approach the 12 or 16 units per acre.

Mr. Crouch is unsure if the approval can be conditioned with a maximum of 7 per acre because the R3 specifically allows 16 units. Mr. Ambrose believes the comprehensive plan, which is a governing document, is capping the R3 at 8 per acre.

Mr. Tracey said that if the comprehensive plan states that and the zoning code states something else, that may be a conflict. The courts often look at the zoning code as the controlling law. However, the developers do not have a problem and are willing to be capped at 7. They do not have a problem if the recommendation to council says it must be limited at 7. All of his clients are in attendance, as well as the engineer, and they will state for the record that they will not exceed 7 units. Even the Emory property is unable to approach those numbers.

If the committee does not feel they have the power to condition it, he will state that as a commitment on behalf of himself and his clients that they will not exceed 7 units per acre.

Mr. Ambrose said the problem occurs if the property later flips and the new owner wants to max the property out. Mr. Norris agrees that is a concern and once it is zoned R3, it could be maxed out if a new owner took over. It is next to Route 1 and low density residential would be inappropriate.

Mr. Tracey offered to put some type of formal documentation into the record stating they would agree not to exceed 7 units per acre.

Mr. Crouch moved to recommend the Emory and Benson annexations proceed with R-3 but be limited to 7 units per acre and that a formal document be filed stating the same, seconded by Mr. Workman. Motion carried.

With no further business, Chairman Crouch adjourned the Annexation Committee Meeting at 7:35 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

ANNEXATION COMMITTEE REPORT

TO: Mayor Ronnie Rogers
City of Milford Council Members

FR: Annexation Committee

DA: November 8, 2006

RE: Annexation Committee Report

A public hearing was held in Council Chambers on November 8, 2006 to consider the annexation request for lands described as:

Property owner: Koelig, Inc., a Delaware Corporation
Owners of Record: R. Dale Benson and Michele M. Benson

Location: A certain lot, or parcel of land situated in Cedar Creek Hundred, Sussex County, said parcel lying on the westerly side of U.S. Route 1 and the northerly side of Johnson Road, Road 207, approximately 600 feet north of the intersection of U.S. Route 1 and Johnson Road, 207.

Size: 40.686 Acres

Existing zoning: AR-1 Proposed zoning: R-3

Tax map number: 3-30-16.00-5.00

The Annexation Committee of the City of Milford City Council recommends

TO APPROVE

the application, with the following comments:

- 1) Annexation is consistent with the "Comprehensive Land Use Plan"
- 2) Property is contiguous to existing City Limits
- 3) Any changes to the property would be subject to review by the City of Milford Planning Commission and/or City Council.
- 4) Property will be served by City Electric, Sewer, and Water (At present these utilities are not available to the site.)
- 5) The City will benefit through additional revenues, including taxes and the sale of water, sewer and electric.
- 6) Upon the Council approval, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.

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

11.21.06
P.C.

Mr. Johnson expressed his feeling of forty cars being too many for that particular site.

Mr. Marvel questioned the number of employees he would have onsite at any one time.

Mr. Swartzentruber stated there would most likely be two sales people there.

Mr. Marvel asked is someone was required to be there to operate the car wash.

Mr. Swartzentruber stated no. There is a mechanic that comes in and does house cleaning. We do provide other services as well.

Mr. Marvel stated he did not feel there would be adequate parking for the site for employees as well as people looking at the vehicles for sale.

Mr. Masten expressed that it is a small site to navigate. Feels this would make things too tight and would be a recipe for disaster.

Mrs. Stevenson made a motion to accept the conditional use as presented with a maximum of thirty cars for sale. Mr. Warfel seconded the motion.

Mrs. Stevenson	YES
Mr. VanGorder	NO – Too many vehicles on the lot.
Mr. Warfel	YES
Mr. Masten	NO – Too many vehicles and not enough parking.
Mr. James	NO – Not enough parking for people looking at cars.
Mr. Johnson	NO – Too many vehicles and not enough room.
Mr. Marvel	NO – Too many vehicles and not enough room.

The application was denied with a 5 to 2 vote at 8:21 p.m.

6. Patrick J. and Judy K. Emory
Annexation & Zoning Recommendation
Requested Zoning R3
East side of RT 30
TAX MAP # 3-30-15.00-62.00, 3-30-15.00-62.01, 3-30-15.00-62.02

7. R. Dale and Michele M. Benson
Equitable Owner Koelig, Incorporated
Annexation and Zoning Recommendation
Requested Zoning R3
TAX MAP # 3-30-16.00-5.00

Mr. Willard reviewed the annexation process for the Commission.

John Tracy stated he would be representing the application. The Emory piece and the Benson piece go hand in hand and he represents this one as well.

Mr. Marvel stated that it would need to be two separate votes but did not see any problem with them being presented together.

Mr. Tracy stated this property was considered by the annexation committee a couple of weeks ago which issued a favorable recommendation with regards to the annexation. The Emory piece is the piece that is currently contiguous to the City. The one right behind it would be the Benson property. The Benson property is bordered to the East by RT 1. When we were before the annexation committee, we were requesting R3 zoning for these properties. We are proposing a town house development on each of the properties knowing that the Commission and Council are in the process of considering a new PUD ordinance. We were trying in advance to incorporate some of the requirements of the proposal into the design such as sidewalks on both sides of the street and an increase in open space. We are showing about 10% more open space than the ordinance does require. As it was discussed, the sole issue for consideration tonight is the proposed zoning and we are requesting R3. Under the R3 zoning as currently in the town code, we could do up to sixteen units per acre and if doing town houses it could be up to twelve per acre. When we were before the annexation committee, we represented that we would not be planning to build more than seven units per acre on this property. We were asked by a member of the annexation committee to submit a letter to that affect. He did submit that letter during the meeting to the Commission. The letter was signed by both property owners as well as the applicant. Again, no more than seven units per acre. Would have no problem with a condition to that affect. Within the town, the property directly across the street from us is zoned R3 and the piece to the north of that is zoned commercial for purposes of development of a shopping center.

Mr. Norris questioned the open space and the amenities that would be provided.

Mr. Tracy stated they are proposing 51% open space. They have done a fair amount of topographical and survey work on the Benson property but have not done so on the Emory property. The Emory property has a lot on constraints on it as well. What you are seeing is a concept plan. As we are showing it now it is 51% on the Benson piece and there would most likely be some active recreation areas but there is no clubhouse or

swimming pool being proposed. We are trying to have open space around all of the properties not just located in one spot.

Mr. Norris questioned the requirement for rear access in terms of alleys.

Mr. Tracy stated that they had discussed that at the last meeting. The concept plan does not show that but they can incorporate alleys into the plan. We have some reason for suggesting not to include alleys and that is primarily to increase the amount of open space and reduce the amount of impervious but do recognize as we move through the process and get into the subdivision process that would be a subject matter for discussion. We are not asking for a waiver for that.

Mr. Norris asked if they felt comfortable with the various distances between the buildings, in terms of sixty feet from face to face.

Mr. Tracy stated they felt real comfortable. With the Benson property, what you are seeing is a very educated concept so we obviously have very good ideas about that property. Until we actually survey the other property, we do not have any idea. But again, we do not intend to ask for any waivers on that.

Mr. Norris questioned the buffer being proposed along RT 1.

Mr. Tracy expressed there would be a berm.

Mr. Marvel questioned Mr. Willard about an annexation agreement. Is that a valid way to approach this?

Mr. Willard stated this was something that was being wrestled with for several applications. The applicant has provided a letter stating no more than seven per acre but feel that might not be enough. If the property is sold, that could change. If Council zones the property R3 than the owner of the property would have the right to apply for a subdivision as long as it met the requirements of the R3 zone. The letter would not follow the sale of the property. An annexation agreement would be documented and recorded and would follow the property. Do not feel that a letter would give the town the security to enforce.

Mr. Tracy expressed that they would have been happy to have a formal condition placed on the application. It was asked at the last meeting to produce something that would further indicate our intent. The letter was not meant to be the formal document. We would be happy to execute whatever formal document the Commission would want us to execute so that everyone feels comfortable. We are not asking for anything more and we

won't come in with a plan after the fact that shows a bunch of four story buildings with sixteen per acre. He was looking for any way to offer assurance to the Commission.

Mr. Willard stated that annexation agreements have been recognized. It is possible to turn this into an annexation agreement and it would run with the land and be recorded with Sussex County. Any successor or assign would be bound by that limitation.

Mr. Tracy stated that they would have no problem with that. We were looking for whatever mechanism the City wanted to see in place that would cap the density. We would be happy to work with the City in doing so.

Mr. Marvel questioned if that would be going down the path of contract zoning.

Mr. Tracy stated he did not see it as contract zoning. Contract zoning tends to be when you take something right in the middle that does not fit and you barter and trade. Here we have R3 zoning across the street and commercial zoning right next to it. We are also aware that the town has been pursuing a path that says we want to take a look at our ordinances and we want to adjust the densities and we want to be proactive in that regard.

We are not trying to do multi-family dwellings but we have simply proposed a work force town house community. We want to give the City their comfort level.

Mr. Willard stated that contract zoning is maybe the City is giving something they otherwise would not be giving because they want some type of consideration. This is an annexation that is coming in.

Mr. Tracy stated again, that they are not looking for anything special from the town. We are just looking to say that concerns have been expressed and we want everyone to be sure of the number we are coming in with.

Mr. Kramlich stated that he was part of the annexation committee and he does not believe that it was recommended for anything other than the R3. There was no condition placed on the application. This letter was not a condition of the recommendation.

Mr. Masten stated that his feeling is that the R3 a high density zone, the units per acre is only part of that zoning. It is the housing type as well. He disagrees with sticking R3 way out in the middle of a rural area. We have also had this debate on east of RT 1. This case is a little bit different because you already have R3 and commercial across the street. Looking at the properties on an individual basis, we need to draw the line somewhere. In his opinion, because the Emory piece has the wooded buffer all the way around it and it is adjacent to the R3, maybe that is where we draw the line. The Emory property should be the R3 with the limit on the housing type but the Benson property which seems to be completely surrounded by single-family houses should be something else.

Mrs. Stevenson expressed that she agreed with Mr. Masten. It seems that we are getting further out from the core of the City.

Mr. Norris stated that based on the Comprehensive Plan and the existing zoning map there is considerable amount of highway commercial that is already out there. Certainly a commercial area could support higher density.

Mr. VanGorder questioned if any thought had been given to the fire service for the town. They are at their maximum right now. There is a need for a substation out in that area.

Mr. Marvel stated there had been some discussions but it comes back to a funding issue.

Norman Wilthon stated he lives on Bucks Road. Does the Commission realize that they would be setting a precedent that anyone with a farm could come in and ask for the same zoning. It is something to think about.

Sunny Vuono stated he lives in Lincoln and the reason he is attending the meeting was because this land was annexed from Lincoln. All the homes in Lincoln are all single-family homes and these people have been there for generations. They are satisfied with how they live in Lincoln. Leave Lincoln alone – we want single-family. We resent the intrusion of Milford coming into Lincoln and annexing because Lincoln is an unincorporated town. Lincoln is now looking into incorporating the town because we are forced to.

Paul Goldstein stated that the fact that Mr. Tracy agreed to annexation agreement stating no more than seven units per acre should stand up for something. Think they have done the right thing. Feel the letter should be filed with Sussex County.

Mr. Masten made a motion to recommend the R3 zoning on the Emory property with the agreement of no more than seven units per acre. Mrs. Stevenson seconded the motion. The motion passed with a 6 to 1 vote at 9:13 p. m. Mr. Johnson voted no because he does not feel comfortable with the density out in that area.

Mr. Masten made a motion to recommend the R2 zoning on the Benson property. Mr. James seconded the motion. The motion passed unanimously at 9:15 p.m.

Mr. Marvel noted that the annexation and zoning recommendation for Silicato-Wood would be postponed.

Z. Section R-210.1 - Exit doors required. Not less than 2 exit doors shall be provided for each single family dwelling unit. The required exit door shall provide for direct access from the habitable portions of the dwelling to the exterior without requiring travel through a garage.

(a) Section R-211 - Door type and size. The required exit doors shall be, as a minimum, a door no less than 36" in width and 6'8" in height.

(b) Section R-212 - Landings at doors. There shall be a floor or landing on each side of each exit door. The width of each landing shall not be less than the width of the door(s) served. If sliding glass or French doors are installed, the landing width should include the width of both doors (regardless if one panel is fixed or not). The minimum size of each landing shall not be less than 36" x 36". Exception: Where a stairway of two or fewer risers is located on the exterior side of a door, a landing is not required for the exterior side of the door.

(c) Section R-213 - Stairways. All exit doors should be served by a stairway (steps). Stairways shall not be less than 36" in clear width. Current Building code should be consulted in regards to height of risers and tread depth.

(d) Section R-214.1 - Guards and handrails required. Current Building code should be consulted in regards to: height of guardrails, height of handrails, continuity of handrails, projection of handrails into stairway and grip size.

Section IV. Dates.

Adopted: December 27, 2006

Effective: January 6, 2007

Motion seconded by Mr. Crouch. Motion carried the following 7-0 unanimous roll call vote:

Mr. Ambrose	Yes
Mr. Kramlich	Yes
Mr. Workman	Yes
Mr. Crouch	Yes
Mr. Brooks	Yes
Mr. Morrow	Yes
Mr. Starling	Yes

Emory and Benson Annexation Review

The City Manager referred to the annexation agreements included in the packets mailed last week.

The planning commission recommended an R-2 zone on the Benson site with a limit of seven units to the acre. Though it is in the agreement, it is not clear that the zoning is R-2 if council chooses to approve the annexation agreement.

Mr. Crouch noted that though the planning commission recommended the R-2 zone, his committee had recommended the R-3 with a limitation of seven units to an acre.

Mr. Brooks recalled the total number of units planned for the Emory parcel came out to only three units per acre though the recommendation was a higher number.

Mr. Kramlich added that the plan presented at the last meeting showed somewhat lower than seven units per acre for the Benson property and the conceptual plan for the Emory site resulted in around three units per acre. However, the maximum number recommended was seven units per acre.

Mr. Carmean said the purpose of presenting the agreement is to show the actual format of the annexation agreement should council decide an annexation agreement is needed on the two parcels.

Mr. Crouch confirmed the agreement was drawn up by the city solicitor.

Mr. Norris explained that the difference in the R-2 and R-3 zone is that condominiums are permitted in the R-3 zone and would be excluded in the R-2 zone.

The proposal submitted was for a townhouse community. The city manager verified the developers are continuing to pursue an R-3 zone but do not want more than seven units per acre. They feel the R-2 zone would meet their needs.

Council will make the final decision on which zone that would be applied at the time of the final vote.

The City Manager advised another public hearing would be held prior to the final vote is taken on the Emory and Benson properties. Though comments were solicited throughout the hearing, complaints were made that everyone was not able to make public comment that evening.

A final vote will not be taken until the plan of services has been accepted by the State of Delaware.

DELDOT--NKS Proposed Annexation

Mr. Carmean explained that he did not have a drawing of this project to add to the packet though he had the clerk add it to the agenda in order to discuss the situation with council.

Mr. Carmean referred to an area map showing where New Wharf Road and Route 1 intersect and the 15-acre site adjacent to Hitchens Tire Service that is presently owned by DELDOT. It was initially purchased by them for a proposed cloverleaf that could still be constructed sometime in the future.

He reported that the governor's office had sent a representative to find some land for NKS Distributing Company to build a new facility because at their present site they were landlocked. The concern was over the potential loss of jobs should the enterprise be moved to another area outside of Milford or worse yet, another community.

Mr. Carmean took them to the industrial areas of town though for various reasons these areas did not suit their needs. In turn, DELDOT decided not to use this site and opted to sell this parcel to NKS. NKS wanted to be in the city because of sewer, water and other services.

Mr. Silicato has applied for annexation for another parcel which is adjacent to this site.

When we heard nothing on the annexation request, Mr. Carmean learned it is DELDOT's policy not to request annexation of any easements or right-of-ways the State of Delaware owns. However, the municipalities can ask DELDOT to request the annexation. As a result, the city will need to ask DELDOT to apply for the annexation which is backwards from our normal procedure.

Once council agrees to consider the annexation for the use by NKS, DELDOT will forward a petition requesting annexation.

If council chooses, the city manager or mayor will write a letter to DELDOT requesting they submit their request to begin the process.

He also noted that the state is currently discussing the possibility of putting a service road through the property.

Mr. Carmean confirmed that NKS wants to expand their facility which should provide additional jobs.

Mr. Crouch moved that a letter be written to DELDOT asking they submit a petition requesting the annexation of this site, seconded by Mr. Ambrose. Motion carried.

Hiring of Assistant City Manager

Mr. Carmean recalled the executive session in which he spoke to council about the assistant city manager position.

Mr. Crouch moved the Benson property be zoned R-3, contingent upon the annexation agreement limiting the density to seven units per acre, seconded by Mr. Starling.

Motion carried the following 6-2 roll call vote:

Mr. Ambrose	Yes
Mr. Kramlich	No
Mr. Workman	No
Mr. Crouch	Yes
Mr. Brooks	Yes
Mr. Morrow	Yes
Mr. Starling	Yes
Ms. Wilson	Yes

Mr. Kramlich stated he votes no and will uphold the planning and zoning recommendation of R-2.

Mr. Workman said he votes no to coincide with the planning and zoning recommendation also.

Mr. Crouch stated he is voting with the annexation committee of council which recommended the R-3 zone and does not understand the differences in the two zones as explained by Planning Chairman Marvel.

Mr. Morrow votes yes and confirmed that at the time the planning and zoning, they did not have the legal opinion. If they had the information, they would have approved the R-3.

Mr. Crouch moved for adoption of the following resolution, seconded by Mr. Starling:

*Annexation/Land of: Equitable Owner Koelig, Incorporated
on behalf of Owner of Record R. Dale Benson and Michele M. Benson
Tax Map 3-30-16.00-5.00
Requested Zoning: R-3*

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City all that certain piece or parcel of land situate in Broadkill Hundred, Sussex County, and State of Delaware being Tax Parcel No. 3-30-16.00-5.00 and as surveyed by Ramesh C. Batta Associates, P.A., Consulting Engineers, Planners, and Land Surveyors, shown on Plan No. 89560-C-17280, dated January 11, 2006, as follows to wit:

Beginning at a point on the northwesterly side of Route 1 right-of-way, at 175.00 feet wide, the said point being a common corner for Thomas W. Bennett, Sr. and lands herein being described, the said point of beginning being the following three courses and distances from a fillet joining the said side of Route 1 with the westerly side of Johnson Road, Delaware Road 207, at 50.00 feet wide:

- 1. North 31 Degrees, 22 Minutes, 02 Seconds West, 51.25 feet to a point;*
- 2. By an arc of a circle, to the left, having a radius of 2730.94 feet and an arc distance of 200.65 feet to the point of tangency;*
- 3. North 70 Degrees, 20 Minutes, 52 Seconds, 285.94 feet to a point;*

Thence from the said point of beginning the following six courses and distances:

- 1. South 38 Degrees, 56 Minutes, 48 Seconds West, 370.03 feet to a point;*
- 2. South 38 Degrees, 42 Minutes, 55 Seconds West, 144.45 feet to a point;*
- 3. South 37 Degrees, 48 Minutes, 27 Seconds West, 226.87 feet to a point;*
- 4. South 37 Degrees, 53 Minutes, 50 Seconds West, 220.00 feet to a point;*
- 5. South 37 Degrees, 53 Minutes, 50 Seconds West, 151.97 feet to a point;*
- 6. South 51 Degrees, 06 Minutes, 25 Seconds East, 512.82 feet to a point on southwesterly side of said Johnson Road, at 50.00 feet wide;*

Thence along the said side of Johnson Road the following two courses and distances:

- 1. South 38 Degrees, 16 Minutes, 58 Seconds West, 171.55 feet to a point;*
- 2. By an arc of a circle, to the right, having a radius of 1348.63 feet and an arc distance of 349.39 feet to a point in the middle of Stapleford Branch;*

Thence along the said Stapleford Branch with several meandering courses about 330+/- feet to a point; The said point being a tie line from the North 48 Degrees, 30 Minutes, 52 Seconds West, 308.91 feet from the last described course:

Thence along the centerline of Stapleford Branch the following twenty-four courses and distances:

- 1. North 56 Degrees, 53 Minutes, 20 Seconds West, 23.71 feet to a point;*
- 2. North 54 Degrees, 58 Minutes, 27 Seconds East, 23.90 feet to a point;*
- 3. North 11 Degrees, 23 Minutes, 55 Seconds West, 79.47 feet to a point;*
- 4. North 83 Degrees, 31 Minutes, 56 Seconds West, 96.82 feet to a point;*
- 5. North 39 Degrees, 34 Minutes, 55 Seconds West, 58.66 feet to a point;*
- 6. North 03 Degrees, 23 Minutes, 02 Seconds East, 66.04 feet to a point;*
- 7. North 16 Degrees, 50 Minutes, 00 Seconds West, 35.50 feet to a point;*
- 8. North 82 Degrees, 18 Minutes, 26 Seconds West, 52.79 feet to a point;*
- 9. North 28 Degrees, 20 Minutes, 43 Seconds West, 77.87 feet to a point;*
- 10. North 00 Degrees, 19 Minutes, 27 Seconds East, 8.70 feet to a point;*
- 11. North 49 Degrees, 52 Minutes, 20 Seconds West, 49.03 feet to a point;*
- 12. North 58 Degrees, 44 Minutes, 04 Seconds West, 131.83 feet to a point;*
- 13. North 62 Degrees, 04 Minutes, 30 Seconds West, 105.37 feet to a point;*
- 14. North 13 Degrees, 16 Minutes, 35 Seconds West, 47.88 feet to a point;*
- 15. North 63 Degrees, 40 Minutes, 48 Seconds West, 88.87 feet to a point;*
- 16. North 42 Degrees, 36 Minutes, 30 Seconds West, 46.71 feet to a point;*
- 17. North 45 Degrees, 03 Minutes, 34 Seconds West, 48.22 feet to a point;*
- 18. North 65 Degrees, 27 Minutes, 53 Seconds West, 127.63 feet to a point;*
- 19. South 88 Degrees, 01 Minutes, 41 Seconds West, 31.19 feet to a point;*
- 20. North 39 Degrees, 41 Minutes, 19 Seconds West, 71.60 feet to a point;*
- 21. North 00 Degrees, 41 Minutes, 02 Seconds East, 62.12 feet to a point;*
- 22. North 45 Degrees, 46 Minutes, 08 Seconds West, 45.65 feet to a point;*
- 23. North 27 Degrees, 40 Minutes, 58 Seconds West, 58.55 feet to a point;*
- 24. North 57 Degrees, 14 Minutes, 37 Seconds West, 88.23 feet to a point;*

Thence along Lands of Emory, North 47 Degrees, 17 Minutes, 57 Seconds East, 314.44 feet to a point; The said point being a common corner for Emory and Lands of W. Nelson Hall; Thence along Lands of Hall, North 38 Degrees, 01 Minutes, 48 Seconds East, 198.00 feet to a point; Thence along Lands of Hall, in part, and Lands of State of Delaware, the following four courses and distances:

- 1. North 36 Degrees, 31 Minutes, 48 Seconds East, 526.64 feet to a point;*
- 2. South 70 Degrees, 20 Minutes, 52 Seconds East, 91.61 feet to a point;*
- 3. North 19 Degrees, 39 Minutes, 08Seconds East, 10.00 feet to a point;*
- 4. North 70 Degrees, 20 Minutes, 52 Seconds East, 1128.92 feet to the point and place of beginning.*

Containing within described metes and bounds, 40.686 acres of land, be the same, more or less.

Subject to a 150.00 foot-wide Delmarva Power & Light electric easement, as shown on the Boundary Plan,

and having considered the recommendation of the Committee appointed to investigate said annexation; having held a Public Hearing on this date November 27, 2006 on said annexation; having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code and whether or not to proceed with the proposed annexation; having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code; and having fully executed an Annexation Agreement

between Petitioner(s) and the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved, that this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in said County where said lands are situate.

I, Joseph R. Rogers, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on March 12, 2007 at which a quorum was present and voting throughout and that the same is still in full force and effect.

Motion carried the following 6-2 unanimous roll call vote:

Mr. Ambrose	Yes
Mr. Kramlich	No
Mr. Workman	No
Mr. Crouch	Yes
Mr. Brooks	Yes
Mr. Morrow	Yes
Mr. Starling	Yes
Ms. Wilson	Yes

Mr. Kramlich votes no for the reason stated before.

Mr. Workman votes no for the same reason.

Adoption of Resolution/City Council Rules of Procedure

Mr. Brooks said he has done a lot of thinking and he knows how Mayor Rogers likes to run meetings. He does not feel we need a resolution. Mayor Rogers stated he is inclined to agree with Mr. Brooks.

Mr. Brooks said if the mayor wants a time for people to come in before the meeting that is fine. But he knows how Mayor Rogers likes to run the meetings and knows the mayor can control the meetings and the mayor does not want to take the voice away from the citizens.

Mayor Rogers said he agrees adding that we have been operating the city under Roberts Rules for a number of years. He sat on council for a number of years from 1972 to 1982 and from 1982 to now he has been mayor. All the years he has served as councilman or the mayor, he has never gotten the city into any legal problems. He has always tried to be fair to the public and has always recognized them as Mr. Brooks knows because Mr. Brooks has served for twenty-five years. He really does not think we need this piece of legislation. He stated there is no problem and that maybe he should have been a little tighter on a couple of meetings but he only wants to be fair to the public. He thinks council has always worked well with Roberts Rules as we have done for years. Personally, he does not think we need the resolution at all.

Mr. Brooks stated he was vice mayor for eighteen years and he has read the Roberts Rules several times. Mayor Rogers added he has never been called down by the law in thirty some years.

Mr. Morrow agrees with Councilman Brooks and he has been talking with others who agree. He appreciates what Councilman Workman put together and is pretty much saying the same thing. He would rather have the freedom to do it the way we are doing it. It's worth the thought but he agrees with Councilman Brooks.

Mayor Rogers said he feels like we are dealing with the public sometimes on some items and the public has not had a chance to hear it. That is the reason we are asking the city solicitor to be here more now. Since he has been here, he will jump in and put us back on course if we get off. He thinks we all need to stay together and if somebody is talking, we do not need to interrupt. We should not talk back and forth. He thinks that will help too. But he feels the council has used Roberts Rules of Order for a number of years and he does not think we have many problems. He knows we have had more going on the last few months and he has let a lot of people talk and he did not need to. But he thinks as long as it

Mr. Hayes	Yes, with reservations.
Mr. Gleysteen	Yes, have to trust that the proper state agency do their job thoroughly and address the neighbors concerns.
Mrs. McColley	Yes, with reservations.
Mr. Johnson	Yes, with reservations.
Mr. Rini	Yes, with the feeling that the neighbors concerns will try to be addressed.
Mr. Warfel	Yes, have met all the requirements.

The motion passed unanimously at 9:48 p.m.

4. Ramesh C. Batta Associates, P.A. on behalf of CCM-Koelig LLC
Wickersham
Preliminary Major Subdivision Review
Northerly side of Johnson Road, Road 207
Zoned R-3
TAX MAP # 3-30-16.00-5.00

John Tracy with Young, Conaway, Stargate and Taylor stated he would be representing the application. This is a straight by right subdivision application. For those of you who were on the commission at the time that this property was actually annexed by the City of Milford in the spring of 2007. There were two pieces, this piece as well as the Emory piece. The Emory piece is not currently moving forward with anything. This is the Benson property and is bordered to the north by RT1, to the east by Johnson Road and some residential out parcels, to the south by the Stapleford Branch and to the west by the Emory property and the Hall property. This is a 41 acre piece and is presently zoned R-3 under the City's code. The proposal calls for a 205 unit town home community a number that translates into a density of approximately 5 units per acre. That is significantly less than the code with a maximum of 12 units per acre and is also less than what we were capped at our annexation agreement which was 7 units per acre. In fact what you see in front of you is essentially the plan that we showed you at the time and what the commission and council were considering at the time of annexation. There will be a single boulevard entrance off of Johnson Road. Currently the property is accessed off of RT 1 and that is going to be disappearing as part of this. The property is proposing 47% open space, which is approximately 20 acres including a big center green area which will be the site of some active recreation. There are also walking paths around the perimeter of the community which will tie into the sidewalk network that is in there. It will be served by both streets which are 60 foot right-of-ways and alleys which are 20 foot right-of-ways. We have reached out to DELDOT in part based on the DAC comments and no traffic impact study is required for this project because it doesn't meet the minimum threshold level for a traffic impact study. Each of the parcels will have two off street parking spaces. One of the different things you will see in this is that you will notice there are 100 additional off street parking spaces and they are dispersed throughout the community to make them more accessible to the different houses. There will be a single car garage as well as a parking pad next to that. The storm water management is being dispersed throughout the community although this is preliminary at this stage although we do anticipate some infiltration being able to occur up in the portion adjacent to RT 1. There will be a landscaped berm running along RT 1 as well. There are some wetlands on the property – they are at the very southern edge of the property – we are not disturbing any of those wetlands and we are maintaining a 50 foot buffer off of the wetlands as well. There will be a homeowner's association created as part of this which would be responsible for maintaining the open space in the common facilities within. We are not seeking any waivers in front of this body but we are going to go before the Board of Adjustment next month for a design waiver. If that is denied it does not affect anything in the plan in terms of the units, the density or the lot sizes. What we are attempting to do is get a variance from the front yard setback and the rear yard setback in order to spread the house and the garage out to allow for a private courtyard, kind of a useable lawn area for each of the units. It is a design feature that has been well received in a number of jurisdictions. Again, we are at the preliminary stage. Mr. Warfel has made it clear the approvals we would need in hand before we come back before you.

Mr. Norris asked when this would go before the PLUS. Mr. Tracy stated next week. Mr. Norris asked if there was any consideration for an emergency entrance or exit because there is only one entrance into the property. Mr. Tracy stated they really only have access in this area right here unless it was suggest by someone that they wanted to see a fire access or something like that off of RT 1. There would not be any other location with which to put it. Mr. Norris asked Mr. Tracy to show the walkway and the height of the berm along RT 1. Mr. Tracy stated that the berm is approximately 3 to 4 feet right now with landscaping on top. The walkway goes around the perimeter of the property down to here. There is a sidewalk network throughout the community on both sides of the street. Mr. Norris questioned if the walkway would be continued along the front. Mr. Tracy stated he did not know of anything prohibiting it if that is something the commission would like to see. Think the reason it was stopped was because there were some residential parcels here and sometimes they don't like to necessarily like to see a walkway continue along the back of their property. It does not impact us one way or another if we want to carry it through. Mr. Norris asked if there had been any consideration of using the open space for storm water retention so it would serve a dual purpose. Mr. Tracy stated they had not looked at that from a design area. Think the idea is to make that center open space usable open space, active recreation of some sort. Because we are dispersing the storm water in different areas we thought that we would need to use this as a dual purpose. Obviously when we go through the engineering we may decide that we need additional storm water management. Again, it remains an option. Bob Sevensky stated that there is a ridgeline going through the center of the site and the water is actually spreading in both directions. Actually that site might be the least ideal unless we try to force it there. Mr. Norris stated that he thought it could be multi-purpose and than you would not need such large retention ponds.

Mr. Warfel questioned if they had been in contact with Mark Mallamo. Mr. Tracy stated he spoke with Mr. Mallamo about a week and a half ago and followed up with a letter trying to get information on some of the additional folks that are involved in the process of the sewer and water. We obviously would like to see it move forward as quickly as possible so we will certainly be reaching out. Mr. Warfel asked if some of the other projects don't move forward, does it affect this project. Mr. Tracy stated it ultimately depends on sitting down with Mark and seeing what the ultimate goals are. We would like to be able to move forward when the plan gets approved. Mark has advised us that he views it as being eighteen months to two years out.

Mr. Norris asked if they had considered using some sort of porous pavers for the driveways so that the water can infiltrate. Mr. Tracy stated they have not discussed it but it is something that they can discuss. Mr. Norris stated that the front yard for the townhouses is going to be 10 feet but that 10 feet will also be utility easement. Mr. Tracy stated that is correct and the area that is outside of the setback. The 10 feet between the property line and the setback line. Mr. Norris stated they would need approval from the Board of Adjustment for that. Mr. Tracy stated that is correct. Mr. Norris stated that his recommendation is that the 10 foot be put on each deed. Mr. Tracy expressed that they would not have a problem with doing that. He can also incorporate that into the homeowner's association documents. Mr. Norris stated if that is in each deed than the utilities are going to go into that 10 foot easement. If someone plants a tree or bush in that easement and we dig it up at least it is in the deed. Mr. Norris asked if Mr. Tracy had consulted with Rick Carmean. Mr. Tracy expressed that they had reached out to him post the DAC meeting. We have been in contact with him since before we submitted the application. One of the confusing things was there was a suggestion that the water and sewer was going to be in the alleys – it is actually going to be in the streets. Mr. Norris asked Mr. Tracy to explain where the utilities are going to be. Mr. Sevensky stated that the water and sewer are in the main streets as opposed to the alleys. The electric and cable will be in the first green area immediately behind the right of way. Mr. Sevensky was in touch with Mr. Carmean and have emailed back and forth and he is satisfied. Mr. Norris questioned if they meet the other requirements in the ordinance about the face of building and the architectural requirements. Mr. Tracy stated yes and they have no problem adhering to those.

Mr. Warfel stated all they have come forward with tonight is a subdivision application. They have presented us with a lot more than that but they would be coming back with a preliminary site plan. Mr. Willard expressed that they could come back for final if this is approved. Mr. Tracy stated this is preliminary major subdivision review. Mr. Willard stated this is an R-3 zone and in R-3 they allow townhouses and townhouses have certain other requirements involving open space and most important is the size of the lot and they meet the open space requirement. When they say they have asked for a variance, which means that they have to go before the Board of Adjustment because there is something in the code and in this case it is the setback where the Board of Adjustment has jurisdiction over. That just involves the placement of the garage. This can be preliminarily approved and the only thing that will be uncertain as far as the plan is where those houses will be placed. As you can see they want the garage right on the edge of the alley so they are asking for 10 feet there and they want the townhouse closer to the road. If the commission approves this preliminarily and you see it again for final and it has a different footprint for the house it is because they did not get what they wanted from the Board of Adjustment. Mr. Tracy stated that is correct. Nothing about the Board of Adjustment impacts the lots or the layout. The layout can be designed either way. In the commission approves this tonight, by the time we are at council next month, we would know whether or not we have gotten the Board of Adjustment variance or not. Had this been a PUD we would be asking you for that because it would be within your jurisdiction. Mr. Norris asked if they had contacted the school district. Mr. Tracy stated yes we are reaching out to them. We would obviously be designing whatever they want. Mr. Rini expressed that usually the school district does not say anything about it. Mr. Rini would like to have some sort of covered bus stop. Mr. Tracy stated there is the nice center area and could foresee that being a good location in the center of the community. Mr. Rini questioned if they anticipated any mail center or individual mail delivery. Mr. Tracy expressed that they have not totally figured it out but were thinking individual delivery. Mr. Rini stated just as a personal note, Knotts Landing does have a mail center and it doubles as a covered school bus stop and works out beautifully.

Mrs. McColley expressed that duplexes are not moving as fast and who is the target market for these. Mr. Tracy stated this is not age targeted but more towards first time homebuyers/workforce housing. The price would be somewhere around \$200,000. Mrs. McColley had some questions about lighting. Mr. Tracy stated that they would be submitting a lighting plan as part of the whole package that comes in for final.

Mr. Warfel stated that only major issue is the Board of Adjustment. Mr. Tracy stated that is a minor issue. Mr. Norris expressed that they have met all the requirements for subdivision. Mr. Norris stated that he has seen with other townhouses, a 5 foot pedestrian easement between packs. Mr. Tracy stated that is something they can take a look at; they make have the flexibility to do that. Mr. Norris asked if they were two stories. Mr. Sevensky stated a full three. Mr. Warfel questioned the size of the units. Mr. Sevensky stated approximately 1800 to 2000 square feet.

Mr. Warfel opened the discussion up to the public. No comments were received.

Mr. Hayes made a motion to approve the preliminary major subdivision as presented. Mr. Johnson seconded the motion. The commissioners were poled.

- Mr. Hayes Yes
- Mr. Gleysteen Yes
- Mrs. McColley Yes
- Mr. Johnson Yes
- Mr. Rini Yes, it meets the requirements.
- Mr. Warfel Yes, it meets the requirements.

The motion passed unanimously at 10:17 p.m.

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 24, 2008

A Public Hearing was held before Milford City Council on Monday, January 28, 2008 in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware, to take final action upon:

Ramesh C. Batta Associates, P.A. on behalf of CCM-Koelig LLC for a Preliminary Review of the Major Subdivision of 40.60 +/- acres into 205 lots, in an R-3 Zone, to be known as Wickersham, on the northerly side of Johnson Road, Road 207, approximately 600 feet north of the intersection of U.S. Route 1 and Johnson Road, Milford, Delaware. Tax Map No. 3-30-16.00-5.00.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Douglas Morrow, Owen Brooks, Jr. and Katrina Wilson

ALSO: City Manager Richard Carmean, Assistant City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Mayor Rogers called the Public Hearing to order at 8:32 p.m.

Councilman Morrow arrived at this time.

X John Tracy of Young, Conaway, Stargatt and Taylor represented CCM-Koelig. Gary Farrar from CCM-Koelig and Ramesh Batta, P.A., engineer of record, were both present.

Mr. Tracy recalled that this property was annexed in the spring of 2007 and is now seeking preliminary approval for a major subdivision. It was considered by the planning commission who unanimously recommended the plan on February 19th. This plan proposes 205 townhouse units on 41 acres of land; it supports the initiatives of the Governor's Livable Delaware Program by providing work force and first time home buyer housing as opposed to the larger lot single subdivisions.

The zoning is R-3 though the density is roughly five units per acre. A PUD allows up to sixteen units per acre and townhouse units can have a maximum of twelve units an acre, though this is capped at seven units an acre per an annexation agreement. However, this development is actually below that at five units per acre.

The proposed entrance is on Johnson Road approximately 1/4 mile southwest of Route 1. They are proposing 47% open space which is almost twenty acres. This includes a central green, over two acres in size, which will be the main open space area. Additional open space areas will also be spread throughout the community. Walking trails will tie into the sidewalks on both sides of the streets. It will contain 60-foot roads and 20-foot wide alleys. All homes will be accessed by rear loaded garages off the alleys. They have worked with DELDOT though no traffic study is required.

Each house will have two off street parking spaces, a single car garage as well as a parking pad adjacent to it. In addition, over one hundred additional off street parking spaces will be disbursed throughout the community. Stormwater management is spread throughout the community through several stormwater basins. The Stapleford Branch is shown on the drawing and runs along the bottom. The wetland areas will not be disturbed. A homeowners' association will be created who will maintain all the open spaces as well as the alleys which will be private.

The plan was reviewed by state PLUS at the end of February and was universally well received.

The applicant is seeking a variance from the Board of Adjustment. However, this waiver has nothing to do with the unit count, density or size of the lots. Under the code, there is a 30-foot front yard requirement for townhouses and a 15-foot rear yard requirement which makes the house and garage closer. It does not provide a meaningful backyard the residents can use. They are proposing to move the houses forward and the garages back toward the alley which will create a fenced-in courtyard effect for all properties.

The garages will end up being two-feet off the alley, which on both sides of the street, will leave a 24-foot wide alley and the houses would be 10 feet off the front yard. This has been reviewed by the utility departments who did not foresee any problems.

The design waiver has been discussed with the Office of State Planning and other state agencies involved in PLUS and was very well received. Two of the PLUS agencies provided letters of support of the variance request.

Mr. Tracy read a couple of quotes from each of those letters, the first being from the Office of State Planning:

‘The Office of State Planning supports the design approach as it is consistent with well established urban design practices described in the Better Models for Development in the Delaware Manual. Moving the townhouses closer to the street and replacing parking in the rear will greatly enhance the attractiveness of the streetscapes and improve the connectivity of the sidewalk network. While the streetscapes and open space areas will be public amenities for the development, it will be similarly important to provide small but meaningful private open spaces on the lots to enhance individual homeowner enjoyment of their units. These relatively simple design elements will greatly increase the functionality and attractiveness of this townhouse development.’

The Delaware State Housing Authority also provided a letter which was forwarded to City Solicitor Tim Willard, though it did not arrive until after the Board of Adjustment hearing. The letter stated as follows:

‘We support the proposed design for this development at a reduced setback distance. The developer will be using this reduced setback to create a courtyard backyard environment for new homeowners. Well-designed communities create psychological benefits for residents such as pride in their home and neighborhood. This leads to better maintenance of the property and homes. Homes that are well designed not only provide immediate benefits to the homeowners, but also throughout the years. DSHA applauds the developer and staff in their efforts to design a housing community that will be adaptable over time and allow flexibility for all populations to enjoy. Overall, good affordable housing design creates numerous benefits for the community.’

Mr. Tracy said the hearing before the Board of Adjustment occurred a couple of weeks ago. He felt the members of the board appreciated this was a variance request where they were not seeking additional density or additional units, but were simply looking within the lots created by the plan to provide some flexibility to create a backyard environment for the residents.

The board is currently considering the application. Part of the reason action was deferred was because City Solicitor Tim Willard did not have the opportunity to review the state housing letter and this variance request was unusual in comparison to what the board normally sees.

For purposes of council this evening, Mr. Tracy explained that the size of the development and the size of the lots will not change regardless of what the board of adjustment decides. If the variance is granted, they are able to move the garage and house apart creating the desired backyard environment. If it is not granted, it can be built with the house and garage closer together. Simply put, the front yards will be larger.

Mr. Kramlich asked if the variance was supposed to have been approved by this hearing. Mr. Tracy had hoped the board would have made a ruling on the day of the hearing. Because the city was not accustomed to seeing a subdivision wide variance, some additional research was needed. Mr. Tracy had provided several Delaware cases to Mr. Willard that involved similar requests; Mr. Willard is considering those and the item will be back on the April agenda.

Mr. Tracy emphasized that should the Board of Adjustment deny the variance, the developer will still move forward.

The city manager said that as a member of the Board of Adjustment, a development-wide variance was something they had never seen before. The planning commission sent this forward and actually liked the design. It appears to be a better project with smaller front yards, but more rear yards with greater outdoor living possibilities. He explained the board was not comfortable making a decision at that time and preferred that council review the plan first. The solicitor felt it was advantageous to look at some similar cases.

Mr. Willard explained the court cases Mr. Tracy presented were from New Castle. He felt the consensus of the board was to protect the integrity of the code and hardship variance law is supposed to take unique situations though that has been whittled away over time. However, the rarity in this case is this is a subdivision wide variance. He feels that a better way of handling this is to change the code. If everyone likes the design and setback for an alley garage situation, that is what should be added. The board of adjustment will make the decision and he will render his legal opinion at that time.

Mayor Rogers said that being the third member of the board of adjustment, he likes the concept, the look and feels it will work nicely for the residents. However, he agreed that council needed to see the design before a decision was made.

Mr. Kramlich asked if it would be appropriate to vote on this without an answer from the board of adjustment. Mr. Willard advised that the only way it would not be appropriate would be if the applicant requested it not be acted on.

Mr. Tracy emphasized the variance does not have an impact on what they will do. If the variance had an effect on the layout council is seeing as far as numbers or types of lots, that would be a problem if the board were to come back and say no after council said yes. But in this case, what they are talking about is internal and within the lots. Council is seeing the overall subdivision. The developer does not have a problem with a vote tonight.

Mr. Kramlich moved that the preliminary site plan for Wickersham Subdivision be approved, seconded by Ms. Wilson. Motion carried by unanimous vote.

Mayor Rogers declared the Public Hearing adjourned at 8:49 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

Mrs. McColley agreed with Mr. Sharp in that the commission needs to be consistent. The railroad being in the area also persuades her. The lot size, however, fits fine in the area and she does not feel that is as big an issue.

Mr. Rini question who will be responsible for maintaining grinder pump. Mr. Wolfe understood it is his responsibility as the property owner.

Mr. Annand asked where the location of the sidewalk would be required on Dixie Ave, if required. Mr. Norris stated it would be in the public right of way. Mr. Wolfe was not certain there would be enough room along Dixie Ave to do that, as the street is narrow.

Mr. James felt the commission needs to be consistent with the sidewalk requirement.

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

A motion by Mr. Sharp to approve resolution PC09-007 with the condition that sidewalks be installed on Delaware Ave and Dixie Ave, was seconded by Mr. James. Motion carried with the following poll of the commissioners.

- Mrs. McColley Yes
- Mrs. Stevenson No. This would create non-conforming lots.
- Mr. Kramlich Yes. He sees no need for sidewalks along Dixie Ave, but the commission needs to be consistent. He has no problem with the lot sizes.
- Mr. Sharp Yes. Lots were probably combined by the county.
- Mr. James Yes. Lots were probably combined by the county.
- Mr. Rini Yes

X **Wickersham Preliminary Major Subdivision/Approval Extension Tax Parcel 3-30-16.00-05.00**

Mr. John Tracey was present to represent the application. This parcel was annexed in March of 2007 and received preliminary major subdivision approval in March of 2008. The final major subdivision is on hold not so much because of the economy but because city water and sewer are not in the area yet. Water however is coming along, from a design standpoint though, according to the City Engineer Mark Mallamo. There are however a number of other parcels along the way to this property that need to be considered for the sewer, which is why it is taking so long. Before the property owner can apply for the final major subdivision approval with the City, the engineers for the project need to know how the utilities will come to the property. The engineers for the project won't know that until the water and sewer are to the property.

Mr. Norris asked if the extension is approved will final major subdivision application be applied for soon. Mr. Tracey stated as soon as the infrastructure is available, they can submit very quickly. Without that key piece of information, they cannot complete final major subdivision plans.

Mrs. Stevenson asked if there will be sidewalks in the development. Mr. Tracey stated there will be – on both sides of the streets.

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

Mrs. Stevenson made a motion to recommend approval of the extension request, which was seconded by Mrs. McColley. Motion carried with the following votes.

- Mrs. McColley Yes
- Mrs. Stevenson Yes

Mr. Kramlich	Yes
Mr. Sharp	Yes
Mr. James	Yes
Mr. Rini	Yes

**Element on behalf of Nephrology Associates, Inc
Preliminary Site Plan - Medical Facility/Office
3.05 +/- Acres at 201 West Liberty Way, Lot 17, Independence Commons
Tax Map MD-16-173.00-01-02.21; OC-1 District
Adoption of Resolution PC09-006**

Mr. Doug Warner and Mr. Matthew Peterson with Element Engineering on behalf of Nephrology Associates were present to represent the application. Mr. Warner provided an overview of the project and presented a powerpoint presentation to the commission. They are proposing a one story "L" shaped building to take up roughly half of the site, with the other half of the site available for future development. There are existing utilities on site and stormwater management is provided at the park as well. Because this is a corner lot, they have provided for the required two front yard setbacks and are meeting the rear and side yard setback as well as required parking. The impervious surface is proposed at 28% of the site. The signage was discussed at the DAC meeting and after reviewing the Independence Commons deed restrictions have been relocated to come into compliance with them.

Extra parking is being proposed because it will provide more accessibility for the patients. This is a very straight forward site plan, including landscaping. More renderings of the building will be provided at final site plan submission.

Mr. Norris confirmed all of the DAC comments have been addressed, including sidewalks and signage. He questioned if there are any other nephrology offices in Delaware. Mr. Warner stated there is one in New Castle County and one in Georgetown, but this site is looking to expand into dialysis as well, which would be in an additional building in the future.

Mrs. Stevenson commended Mr. Warner and Mr. Peterson on their work and asked if sidewalks could be added along Airport Road. Mr. Warner felt the owner would be agreeable to that request.

Mr. Norris explained the commission must be consistent when other parcels come in for site plan approvals in Independence Commons.

Mr. James also commended the applicant on their work.

Mr. Rini called for public comment.

Mr. Mark Mallamo, the City Engineer, explained there may be technical difficulty with installing sidewalks on Airport Rd because it is open swale system and does not have the drainage to accommodate sidewalks. He has requested additional funds in his budget to have a multi modal path installed along Airport Rd, since it is a City maintained street.

Mr. Sharp asked if Mr. Mallamo could address those difficulties prior to the application coming back for final site plan approval. Mr. Mallamo felt the difficulties would be too extensive. He remembered a month ago when Response Computer Group was approved for a preliminary site plan and sidewalks on Airport Road were not mentioned to them.

Mr. Baird said the intent was to have the matter discussed in executive session. He then talked with the parties involved. Mr. Spillane brought the issue to him, which in his opinion was unfounded while raising some very serious accusations. The first person this information was shared with was city council and Mr. Willard. The subsequent conversation with Mr. Willard was to go to executive session under FOIA but council would need to vote to do that. However, when you are dealing with individuals, the individual who is being accused, has the right to discuss it in executive session or open session. He understands that council feels it could have been handled differently, but the facts, which include the information from Mr. Spillane raising a very serious charge, whether founded or unfounded, was put on the table. Then Mr. Willard, the accused, said he was willing to talk about it in open session which is his choice under FOIA.

Mayor Marabello pointed out the item was on the agenda; if council had a problem before it was discussed, a motion could have been made to go into executive session.

Mr. Workman emphasized that he feels the conversation between Mr. Willard and Mr. Baird should have been shared with council because the solicitor works for city council. Also, the information was already out in the public once the packet was prepared. If, after council went into executive session, Mr. Willard chose to have it discussed publicly, he would not have had a problem. He feels the entire matter could have been handled in a much easier manner in executive session.

Mr. Baird then referenced a Delaware Attorney General ruling with regard to a similar situation at the City of Newark that determined that city solicitors are not deemed employees of the municipality. He understands that council appoints the solicitor, but in the opinion of the Attorney General, they are considered employees of the town under Delaware Law.

Mr. Workman reiterated the city solicitor is appointed by city council.

Mr. Baird then recommended that city council close this issue one way or the other.

Mr. Morrow feels we need to move on and feels council is spending too much time on frivolous issues which is an unfortunate waste of time for both council and our citizens. He personally does not see a conflict of interest.

Mr. Brooks said he spoke with Mr. Baird who explained the situation and he sees no problem with Mr. Willard.

Ms. Wilson agrees with Mr. Workman and Mr. Starling and feels we need to move on. She does not see a conflict of interest at all.

Mr. Ambrose said he will respectfully disagree it should have been discussed in executive session only because Mr. Willard wanted this out in the public and feels it was to his advantage to prove it was frivolous matter. He agrees we need to move on.

Mayor Marabello agreed and announced the matter is officially closed.

 *Wickersham Preliminary Major Subdivision/Approval Extension Tax Parcel 3-30-16.00-5.00*

The following letter from Attorney John Tracey, dated January 12, 2009, was presented to city council:

As you are aware, the above-referenced project received preliminary approval from the City Council on March 24, 2008. Since that time, again as you know, we have received a variance from the Board of Adjustment to permit us to vary some of the internal lot designs within the project. As you are also probably aware, we have been working with the City in terms of its plans for the provision of utilities to this portion of the City limits. This has begun to move forward after periods of long delay.

Unfortunately, the delays caused by the decisions with regard to infrastructure necessitates me to request an extension of the preliminary major subdivision approval which is currently set to expire on March 24, 2009. While plans are now moving forward, they are not moving forward in such a way we will be able to have final approval by the March 24, 2009 date.

Therefore, we are respectfully requesting an extension of our approval until March 24, 2010.

City Planner Gary Norris reported this was reviewed by the planning commission and their recommendation was to grant the extension for a year to allow time for the city to work on utility extensions that need to be in place to start and complete this development.

John Tracey of Young, Conaway, Stargatt and Taylor, LLP was present to answer any questions.

Mr. Baird said there has been a lot of discussion between the developer and the city. He explained the property is somewhat isolated which is why it is taking longer to determine what is best for the city and the applicant to move forward.

Mr. Tracey agreed noting there have been substantial discussions with the city engineer and area property owners. Their understanding from Mr. Mallamo is the design and plans for the water have actually moved very far along though the sewer is lagging behind. The work cannot be completed until some conclusions are reached.

Mr. Ambrose moved to grant the extension until March 24, 2010, seconded by Ms. Wilson.

When questioned how much longer this will take to prevent another extension request next year, Mr. Tracy explained he does not know stressing it is in the hands of the city. Once the designs are worked out, the developer is ready to move forward.

Motion carried by unanimous roll call vote.

With no further business, Mr. Ambrose moved to adjourn the council meeting, seconded by Mr. Morrow. Motion carried.

The Council Meeting was adjourned by Mayor Marabello at 7:40 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

Mayor Marabello advised there is still a replacement needed from Ward I. This remains on the agenda to prevent it being overlooked; any future unfinished business items will continue to be added to the agendas until their conclusion.

He advised that in addition to Charles Goswick of Hearthstone Manor, Patty Atkinson of Matlinds Estates is also still interested. The mayor suggested a quick interview at the next workshop and if acceptable, council will confirm the appointment of the ninth planning commissioner.

Mr. Workman suggested it be filled as soon as possible.

Snow Removal Reimbursement Request-Hearthstone Manor

Mr. Spillane recalled that the streets at Meadows at Shawnee were plowed during the recent snow storms though they had not been accepted by the city while other city streets were overlooked. He feels that some sort of reimbursement is needed because taxpayers' money should not have been used to maintain the streets before they were officially dedicated.

Mr. Spillane moved the Meadows at Shawnee reimburse the city for the costs of plowing their streets during the snowstorm. Motion failed for lack of a second.

Councilman Spillane then stated a number of residents have questioned why Phases I, II and III were not being plowed noting they were properly paved.

Mr. Baird said the city has never plowed in Hearthstone Manor because those streets were not dedicated. He explained that Meadows at Shawnee has been plowed for a couple of years because the project was finished. He reiterated that Phases I, II and portions of III of Hearthstone are completed but have not been dedicated. At this time, the developer is not interested in dedicating it.

Mr. Spillane confirmed the problem is not the city but is the developer. Mr. Baird agreed stating they have discussed the possibility with the developer though the last couple of months, it has not been a priority due to a lack of interest.

Mr. Spillane asked how that can again be considered so that Hearthstone residents would receive the same services as the Meadows at Shawnee. He asked what Hearthstone and other areas not yet accepted get for the taxes they pay and asked if that can be considered.

Mayor Marabello suggested it be added to the next agenda in an effort to resolve it.

NEW BUSINESS

Preliminary Major Subdivision Extension Request/Wickersham

City Planner Norris noted the primary reason for the extension is because the city continues to work on utility extensions to this area though it has not been completed. It was confirmed this property is located at the corner of Route 1 and Johnson Road and are at the end of the line. In order to proceed from a cost standpoint that will work, property owners are needed to participate between their site and where the current utilities exist. Those property owners will need to determine how best to finance that which is the primary reason for the delay.

Mr. Brooks moved to approve the extension until March 23, 2011, seconded by Mr. Morrow.

Motion carried by unanimous roll call vote.

Cascades Subdivision/Ingerman Group Presentation

David Holden of Ingerman Group based out of Wilmington, stated the Ingerman Group develops, builds and manages affordable housing in Delaware, Maryland, Pennsylvania and New Jersey.

Mr. Pilla moved to table the project until April 20, 2010, seconded by Mrs. Stevenson. After polling the commission the motion carried unanimously.

John Tracey on behalf of CCM Koelig LLC; Project 08-013
Extension of a Preliminary Major Subdivision to be known as Wickersham
Johnson Rd
Tax Map 3-30-16.00-5.00; 40.69+/- acres; R-3 Zoning
Adoption of Resolution PC10-004

Mr. John Tracey with Young, Conoway, Stargate & Taylor was present to represent the application. He was here this time last year, seeking the first extension for this project. The primary reason for that extension is the City is coming up with an overall sewer and water plan for that area and he was unable to progress because that plan has not been finalized. Since that time, two things have happened. First, there was a collective meeting of developers, property owners, the City and others in August or September of last year to try to generate some momentum towards finalizing the plan, although nothing further has occurred after that. In addition, the City has annexed the property to this project's immediate North, which is a commercial site on Rt1 signaling a further intent to want to do things in this area. Construction drawings have been submitted by his client in hopes of spurring some conclusions in regard to sewer, but none have been forthcoming as of yet. This brings the project to the time period where another extension is necessary. He does know his clients have spoken to Randy Duplechain of Davis, Bowen & Friedel, who he understands is the City's Engineer, about some alternatives that would allow this project to get moving so the plans can be finished and be recorded. His client does want to get moving on this project and start building.

Mr. Norris concurred with Mr. Tracey.

Mr. Sharp asked where the location of the property is. Mr. Tracey replied at the intersection of Johnson Road and Rt 1.

Mr. Rini stated he knows when this project goes to council, they will ask if the project has extreme hardship conditions and asked for greater elaboration on those as well as maybe project what might be seen happening between now and when the extension would end.

Mr. Tracey replied the hardship is waiting on the City to making a decision with regard to how to provide utilities to that area. The only reason they have not moved forward with a final subdivision plan is because no decision has been made on utilities. He would find it difficult to deny an extension when the applicant has been doing everything it can to move a project forward, but being unable to do so due to lack of direction from the City.

Mr. Rini asked what the time table would be upon receiving a decision from the City on utilities. Mr. Tracey would like to say less than six months. DeIDOT and Fire Marshal approval is still necessary though.

Mr. Tracey asked if the City has given Mr. Tracey a time table on the utilities. Mr. Tracey replied not to his knowledge. He reiterated the meeting in the fall with the group of area property owners is the last he has heard from the City.

Mr. Norris had no additional information to offer as far as the time table goes and confirmed Mr. Tracey is correct in the issues that have prevented the project from progressing to final approval and recordation.

Mr. Rini called for public comment. No one came forward.

Mr. Pilla confirmed no site work has begun.

Mr. Rini asked if Mr. Tracey needs a full year extension. Mr. Tracey felt that would be the safest time period.

Mr. Rini stated Council's opinion is to keep on top of these extensions because contact can be lost in a year's time. Mr. Tracey stated they have been in very good contact over the past year.

A motion by Mr. Campbell to recommend a one year extension of the preliminary major subdivision, Resolution PC10-004 was seconded by Mr. Burk. Following a poll of the commission, the motion carried unanimously.

Mr. Rini confirmed with Mr. Willard the extension will be valid until March 23, 2011.

[Ordinance 2010-1/Chapter Zoning Code/EMB Sign/Public Hearing](#)

Mr. Norris began by stated the planning commission has reviewed this extensively for the last six months. It was introduced to City Council and has since been pared down per the commission's comments. He recommendation is to make a recommendation to City Council.

Mr. Rini called for public comment. No one came forward.

Mr. Rini stated the Commission did a lot of work on this ordinance and came up with something that was not mentioned at all in the code that needed to be there. He thinks the commission cooperated with not only the people in the City but also the outside business world. Under Mr. Sharp's guidance a subcommittee was created worked with the downtown business association and worked well with them which is a sign of working in the right direction in the future.

Mrs. McColley made a motion to recommend approval of Ordinance 2010-1 to City Council, seconded by Mr. Burk. The motion carried with the following votes:

Yes-Pilla, Sharp, Stevenson, Campbell, McColley, Burk, Rini

No- Gleysteen believes they should be permitted in the C1 and C2 districts.

UNFINISHED BUSINESS

[Review and Recommendation Ordinance 2009-17/Chapter 230; Zoning Code/Open Space](#)

Mr. Rini stated Ordinance 2009-17 and 2009-18 will be discussed together and voted separately.

[Review and Recommendation Ordinance 2009-18/Chapter 200; Subdivision Code/Open Space](#)

Mr. Norris noted the commission has reviewed these ordinances extensively. To his recollection Mr. Emory spoke to the commission and was in favor of the ordinances. Mr. Norris's recommendation is to recommend approval of the ordinances to City Council for approval and adoption.

He asked if Mrs. Stevenson was still interested in more options be made available to developers. Mrs. Stevenson explained she wants it clearly written as to when the fee in lieu of open space can be utilized. After discussing the changes to the ordinance, it was determined that option was removed from the ordinance to prevent that option from being used.

The discussion then turned to whether to use eight units or lots as the threshold for requiring recreational uses in an R3 district. Open space will be required no matter how many lots or units are created, but currently the ordinance reads that any subdivision creating eight or more lots will require recreational uses. After discussing

Mr. Baird said that though it is complicated, it will allow things to move forward today but also add some provisions to accommodate later development in that southeast area.

Mr. Adkins confirmed the city will spend \$110,000 for the engineering project though it could take ten years before they decide to move forward. He asked if the engineering work would still be accurate. Mr. Duplechain said yes, unless they decide to change something in the area.

Mr. Duplechain noted the \$110,000 would be reimbursed back to the city by the developer.

Mr. Baird explained the agreement in the packet for the design needs to be approved by city council. Before he takes it to council, he will have a second agreement with Key Properties outlining how they will pay the city. In that manner, council will see both agreements before they would approve the engineering work.

Mr. Duplechain reiterated the city would not be out of the money other than the interim.

Mr. Duplechain again confirmed that this project includes the Route 1 East pump station and associated force main to Meadows at Shawnee, the replacement of the Shawnee Acres pump station along with some improvements downstream of the Shawnee Acres station.

Mr. Baird advised the city is receiving immediate pressure from Milford Housing and Wickersham on the Benson and Emory properties. Both have indicated they are ready to proceed.

Mr. Duplechain added that the developer of the Hall property plans to follow the timeline of DelDOT with the overpass.

Mr. Brooks asked if each of these developers will be talked to individually or as a group. Mr. Baird said they have been here at one time when the overall concept presented. The majority stated they are ready to proceed once the city lets them know what to do. Some work was needed to see how it could be put together and he wanted this committee made aware of these projects and to share the plans to move forward.

Mr. Spillane asked what it is the financial responsibility of the city for the new water tower when it is needed to accommodate new development in this area. Mr. Baird said the tower was needed before any development is considered. It justifies the additional need though there is already a need in the current water system, not only from a storage capacity, but to ensure pressure and fire flow in all areas of the city.

Adding a fourth water tower in this area will help offset some of the demand we are seeing from the center part of the city. Mr. Baird added there are system-wide benefits by having all these developments tied in.

The mayor asked if the new water tower will be up and running before the other two are repaired; Mr. Baird said possibly though there may be some work done on the exterior of the existing towers. It makes sense to have the additional storage before the other tank has to be drained for interior work.

It was confirmed that the Washington Street tower is a critical component to our water system and though it is old, it can be rehabbed and does not have to be removed. Mr. Duplechain said that though there was some discussion about removing it at one time, it would definitely be needed if there was a downtown fire. Otherwise, we would have to rely on the Caulk tower and trying to draw water from the other two tanks. The preference is to keep it up and running.

Mr. Baird sees the next step is to move forward with Key Properties on the design. He will then present this to council, along with some guarantees to ensure the bill will be paid. They will continue to map out the layout as well as work with the other property owners in the area.

Mr. Brooks said he is comfortable with it as long as it understood the majority of the costs will be paid by the developer.

Ms. Wilson votes no and agrees with the concerns Mr. Starling and Mr. Adkins have expressed. She thinks that any professional that knows something is wrong needs to do something about it. They need to always allow for consequences. With that amount of money and this big a project, that work should not have proceeded. Therefore, she feels both parties are at fault and votes no.

Mayor Rogers votes yes stating he agrees there was confusion. He also feels that if Mr. Reed had thought there were problems, he should have stated that instead of proceeding with the job. When he looked at the job, it was not properly done. If Mr. Reed felt he was being encouraged to get the job done, he had the right to stop the work and express those concerns. This agreement will allow the city to move forward and correct the problems out there which he feels must be done.

FY2010-11 Budget Transfer/General Fund-Fund Balance/Live Near Your Work Program

Mr. Baird explained the city has received another Live Near Your Work Program notice where a Perdue employee had purchased a home on Brady Drive. The city's contribution is \$1,000 which will be used toward the closing costs of that home.

Ms. Wilson moved to approve the budget transfer of \$1,000 from General Fund/Fund Balance, Account 101-0000-399-10.00 to pay the city's contribution and place that into the new line item 101-1110-411-68-31, Live Near Your Work Program. Motion seconded by Mr. Morrow and carried by unanimous roll call vote.

NEW BUSINESS

Wickersham Preliminary Major Subdivision Extension

Attorney John Tracey of Young, Conaway, Stargatt and Taylor was present on behalf of the application. Mr. Tracey reported the project is at the corner of Johnson Road and State Route 1. He is seeking for a third extension for the same reasons presented during the first and second requests. Initially, the project was delayed during the utility design phase in order to serve the property. More recently, DelDOT is working on the overpass which is immediately to the north and will take a portion of that parcel, but will also provide a route for the utility services.

He recalled that when this was first being considered, the city was looking at a global sewer service in that area. The economy has reeked havoc on businesses including his client. A number of the parties originally participating in that project have since disappeared which has resulted in a redesign of the project it was designed to serve. There is now an agreement though his client has been tasked with the preliminary estimates for the design and build of the system which will be submitted to the city for its approval. Following that, they hope to work with the city in hopes of a recoupment to allow his client and any other participating property owners who plan to tie into the system at a later date.

For those reasons, they have been unable to move forward with the final design because they were unsure where the final utility routes would be. He reiterated this should be the last extension needed. He feels there is about seven to eight months of work needed for final approval.

Mr. Brooks moved for approval of a one year extension for the Preliminary Major Subdivision for the Wickersham Subdivision, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

MBI Development Company/Cascades Housing Development/Tax Abatement Request/David Holden

The Ingerman Group, through its affiliate, MBI Development Company, is the equitable owner of the Cascades Housing Development. City Manager Baird recalled that Development Principal David Holden discussed this project in March of 2010 and requested tax relief from the city to assist in their Delaware State Housing Authority (DSHA) application.

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
February 15, 2011*

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

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

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

APPROVAL OF MINUTES

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

CHAIRMAN MONTHLY REPORT

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

NEW BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC12-005

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

**THE APPROVAL OF A FOURTH EXTENSION OF A
PRELIMINARY MAJOR SUBDIVISION FOR
CCM-KOELIG LLC
AT STATE RT 1 AND JOHNSON ROAD
FOR A 205 LOT, 205 UNIT SUBDIVISION
TO BE KNOWN AS WICKERSHAM
IN AN R-3 ZONING DISTRICT
TAX MAP 3-30-16.00-5.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on March 20, 2012; and,

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

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

1. None.

APPROVED:


Charles Rini,
Planning Commission Chairman

SIGNED:


Christine Crouch,
Planning Commission Rec Secretary