

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
September 27, 2010

Members of Milford City Council visited Milford Public Library at 11 S.E. Front Street, Milford, Delaware on Monday, September 27, 2010 at 6:00 p.m.

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Jason Adkins, Owen Brooks, Jr. and Douglas Morrow.

The Mayor and City Council were invited by Library Director Kay Hudson to view the progress of the building expansion project whose construction began in January 2009. It was confirmed that no business would be discussed.

After the tour, Board President Richard Johnson raised questions regarding additional parking for the library; however, no decisions were made by those in attendance.

After approximately 30 minutes, the group returned to City Hall for a regular meeting at 7:00 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Transcriber

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
September 27, 2010

The City Council of the City of Milford met in Workshop Session on Monday, September 27, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING:               Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE:       Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO:                    Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL:               City Solicitor Timothy Willard

The Workshop Session convened at 7:04 p.m.

The following tribute was read into record and presented by Mayor Rogers to the family of the late Lance Corporal Lee Ryan Folke:

TRIBUTE  
2010-18

*In Honor of Fallen Warrior Lance Corporal Lee Ryan Folke*

WHEREAS, Lance Corporal Lee Ryan Folke, a resident of Milford, Delaware, joined the United States Marine Corps on March 12, 2007; and

WHEREAS, Lance Corporal Folke, who was assigned to the 1<sup>st</sup> Battalion, 2<sup>nd</sup> Marines, died at Camp Lejeune, North Carolina on July 19, 2009; and

WHEREAS, a dedicated and brave soldier, Lance Corporal Folke had recently returned to the United States after completing a tour of duty in Iraq; and

WHEREAS, following a memorial service, interment with full military honors took place at the Lincoln Cemetery in Delaware on July 26, 2009; and

WHEREAS, Lance Corporal Folke provided faithful and honorable service to the people of Milford, Delaware and the people of the United States of America; and

WHEREAS, the people of Milford, Delaware, along with his mother and father, Wendy Bradley Moore and Dennis Moore, sister Lauren Moore and brother Dustin Moore, continue to mourn the death of Lance Corporal Lee Ryan Folke.

NOW, THEREFORE, I, Joseph Ronnie Rogers, Mayor of the City of Milford, by the authority vested in me, ask all Milfordians to pause for one minute to recognize the contributions made by Lance Corporal Lee Ryan Folke and all of the Soldiers, Sailors, Airmen, Coast Guard and Marines who have died while in the service of our nation so that we may continue to enjoy the liberties we so deeply cherish.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the City of Milford, this 27<sup>th</sup> day of September 2010.

Joseph Ronnie Rogers

Butch Elzey of 199 Jenkins Pond Road, Milford, then thanked council for taking this action and recognizing Lance Corporal Folke noting it meant a great deal to his family.

With no further business, the Workshop Session concluded at 7:11 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Terri K. Hudson".

Terri K. Hudson, CMC  
City Clerk/Transcriber

*MILFORD CITY COUNCIL*  
*MINUTES OF MEETING*  
*September 27, 2010*

The Milford City Council held Public Hearings on Monday, September 27, 2010 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

**PRESIDING:** Honorable Mayor Joseph Ronnie Rogers

**IN ATTENDANCE:** Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

**ALSO:** Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

**COUNSEL:** City Solicitor Timothy Willard

Mayor Rogers called the Public Hearing to order at 7:11 p.m.

Public Hearings were scheduled for the purpose of taking public comment and to make final determinations on the following matters:

*Annexation:*

*Tax Parcel 5-00-173.00-01-62.00-00001-64.362 Acres Parcel of land, Land of Walter N. Thomas, II*

*Tax Parcel 5-00-173.00-01-62.02-00001-7.556 Acre Parcel of Land, Land of Walter N. Thomas, II*

*Adoption of Ordinance 2010-13/Adoption of Resolution 2010-15/Approval of Annexation Agreement*

City Solicitor Willard explained the public hearing process noting there are two issues before council—the zoning of the land and the annexation. He asked that when the public speaks, any questions or comments be directed to the Mayor; the Mayor can then recall the applicant or planner to respond.

City Planner Gary Norris then referred to the petition from Walter Thomas II requesting the annexation. He advised the parcels are bounded on the north by State Route 14 and on the south by Holly Hill Road. It is south of the Fry property which was approved as a Planned Unit Development. He advised this was reviewed by the annexation committee, reviewed by the planning commission for a zoning recommendation and this is the third and final step of the process.

Mr. Norris also advised the Plan of Services was approved by State Planning as is confirmed by the letter dated August 26, 2010 from David Edgell, Principal Planner, Office of State Planning Coordination.

The initial request was for an R-3 zone, but after several deliberations and a great deal of public input, by a vote of 7-1, the Milford Planning Commission recommended the zoning for the proposed annexation be R-8.

The city planner confirmed that the maximum density in the R-3 is 16 dwelling units to the acre; the maximum density in the R-8 is 8 units to the acre. Different types of units are allowed as are permitted in the R-1, R-2 and R-3.

Phillip Tolliver, P.E., of Morris and Ritchie Associates, 18 Boulden Circle, New Castle, Delaware introduced himself along with Eric Dunn of Hickory Glen LLC, the equitable owner of the property. Mr. Tolliver advised that he began talking with City Planner Gary Norris more than two years ago regarding this annexation. He said this is a multi-step process and one of the first steps was to work with the city and the state in updating the comprehensive plan. Most recently, the plan of services was submitted to state planning and approved as can be seen in the letter sent to the city. Mr. Tolliver then read the letter of acceptance from David Edgell into record.

Mr. Tolliver then explained the initial request was for an R-3 designation. After the comprehensive plan was approved, the next step was for the annexation committee to meet which occurred July 19, 2010. After the committee weighed the pros and cons of the annexation and ensuring the request was consistent with the comprehensive plan, they recommended the annexation with an R-3 zone.

The next step occurred August 17<sup>th</sup> when the planning commission reviewed the request and a public hearing was held. At that hearing, Mr. Tolliver said there were a lot of good comments and questions. He noted that many of the persons speaking that night indicated they did not want any growth nor the annexation. The result is what Mr. Tolliver believes is a compromise and instead of recommending the R-3 zone, there was a settlement for an R-8 district which allows up to eight units or half of what was allowed in the original request.

Mr. Tolliver emphasized the application is consistent with the zoning designations in the area. To the north is the Fry Farm, approved as an R-3 with a planned unit development though the subdivision has not been officially recorded. Mr. Tolliver asked if the plat is not recorded by October, will the subdivision expire; Mr. Norris confirmed it will be voided one year after its approval.

Mr. Tolliver advised that he was the engineer in the subdivision to the south, called Amberwood which is a townhouse project. To the southwest is Baltimore Aircoil Company, which is an industrial property. The Thomas property is somewhat of a donut surrounded by higher density and industrial uses.

He reported the property is approximately 72 acres and includes two ponds/wetlands. Approximately two years ago, when they first considered the property, it was being considered as a cluster subdivision in the county. Per the Kent County Code, Mr. Tolliver said that can still be done because it is within 1,000 feet of a growth zone. This allows them to petition Levy Court to provide sewer to this property. Artesian or Tidewater would most likely be the water provider.

Mr. Tolliver said that does not make sense considering the city water line runs along Route 14 within 500 feet of the property. Also, he engineered a pump station on the Amberwood property which is 50 feet from this property. For these reasons, he feels the subdivision should be developed in the city with city sewer and water. He also pointed out the property sits on Route 14 which is a wide road with appropriate sized shoulders.

To him, it does not make sense to develop the land without the city's input in the land use plan or to prevent the city from receiving tax benefits. In addition, the state does not want sprawls which means developments outside the city and instead encourages subdivisions be developed within a city as opposed to a project out in the hinterlands.

Mr. Tolliver said one of the issues raised is the perceived abundance of approved units that have not been developed somewhere in the area of 6,000 units. In discussing this with Gary Norris on September 17<sup>th</sup>, Mr. Norris believed that number is more like 1,500 units. He explained that some of that is due to the Fry Farm not being recorded and other mitigating factors. He also stressed that the slowdown in housing construction is a national trend and not something occurring only in the City of Milford.

Mr. Tolliver advised that they want to be different from the other subdivisions that were engineered back in 2004-2007 at the peak of the real estate market. Some of the real estate prices at that time were off the chart. He recalled the Fry Farm was on the market for almost \$120,000 per acre. He advised those numbers do not translate to a successful project now. Having to pay that much money for an acre of land means that a builder will need to charge a very high price for a house or apartment rental which would be significantly higher than what the market is able to bear right now. He said that is one of the reasons many of these projects are falling to the wayside.

In addition, in Sussex and Kent Counties, there is a five-year sunset rule. That means that after a record plat is recorded in the county, construction must initiate within five years. If not, the codes of both counties require those plats to be expunged. He is unsure if it is constitutionally legal to take a plat, recorded in the Recorder of Deeds Office, expunge it and say it no longer exists. Milford's Code does not have such a restriction which he says means the real estate value and value on a piece of property in the City of Milford will only increase while other projects are dying. As things are continuing to recover and he feels these projects will as well.

Mr. Tolliver feels this project is different because Mr. Dunn entered into a sales contract with the property owner at reasonable market rate prices that respect today prices.

He agrees the real estate market right now is hostile and the economy is sluggish which is the reason for the need for

flexibility. Mr. Tolliver stated there is a need to adapt to situations as they arise in the market which is the reason they requested the R-3 zone. He said they could never realize 16 units to the acre and added they would be unable to fit that much density on that property. However, the R-3 provides a great deal of flexibility and allows single families, duplexes, townhouses, apartments, etc. In this manner, different market types can be captured.

Mr. Tolliver said the same applies to the R-8 designation. It affords the same flexibility that is crucial to their request. He said they need the flexibility of either the R-8 or R-3 designation.

He believes they will be ok with the R-8 designation, which cuts the R-3 designation in half. After hearing the public comments last month, Mr. Tolliver feels this is a logical compromise. He said the R-1 or R-2 designation would be a deal cutter. The R-1 only permits single family housing and to pay those prices for real estate in the City of Milford does not work. There are many single family lots everywhere. Mr. Tolliver believes that Mr. Dunn could probably go to another property outside the growth zone and pay pennies on the dollars of what he is under contract now to purchase this land. He indicated there is no current market for more single family products in this area. They need the flexibility that comes with being in the City of Milford and paying the higher city taxes.

Mr. Tolliver also advised that this project would be developed over phases and would not be done at once. They would keep an eye on the market and if it was not reacting well to a particular product type, they would change gears and come back before the city.

He is also familiar with the subdivision process which is very detailed; a traffic impact study will be required on Route 14 and the surrounding roads. The R-8 or R-3 zone gives the flexibility to capture markets that are unable to be captured with the R-1 and R-2 zone.

Mr. Tolliver reiterated they are currently at the annexation phase which requires approval of the annexation and approval of the zoning designation. The land use application is a separate process. He explained that is when the developer would come before council with a site plan that meets the preliminary plan checklist and go through a public input and hearing process again.

He noted this project is in full compliance with the comp plan and has been designated as a property to be annexed and a property to receive moderate or high density.

He then noted that the comprehensive plan addressed what citizens in Milford wanted through a detailed questionnaire mailed to the residents of Milford. One question was what kind of development they wanted to see in Milford. There were various suggestions for businesses; others in the same response indicated they wanted multi-family housing, which is what could be proposed in the R-8 or apartments for young people. Mr. Tolliver feels this plan addresses that recommendation.

He concluded by saying they would be willing to compromise with the planning commission's recommendation of an R-8 zone which cuts the density in half from the R-3 zone, but provides the flexibility vital to this project.

Mr. Tolliver then referenced the petition in the packet which was signed by 41 persons not to annex the property. He said those 41 people represented 26 different properties and only one of those persons lived in the City of Milford.

He explained the petition asked that the city not annex the property, but if it was annexed, it be assigned an R-1 zone. It also stated they did not want any wetlands or the two ponds removed or disturbed. Mr. Tolliver assured those present they will not touch the ponds or the wetlands which will be held in pristine state.

Mayor Rogers then asked if city council had any questions.

Mr. Pikus asked where this development could tie into the county sewer system. Mr. Tolliver responded by stating there is a pump station for Amberwood which is approximately 50 feet south of this property. There is an existing force main that runs on the south side up Holly Hill Road and through the adjacent property and dumps into a receiving gravity

system that belongs to Kent County.

Mr. Pikus then recalled when Mr. Tolliver stated at the annexation committee meeting that if the R-3 was not approved, this would be a no-go project. He asked how many units per acre R-2 allows; Mr. Norris stated that R-2 is single family detached dwellings and a conditional use is required for a duplex. The minimum lot size in an R-1 zone is 10,000 square feet and 8,000 in an R-2. The minimum lot area for each unit of a duplex in an R-2 is 4,000 square feet or theoretically, ten per acre. When considering streets, green space and parking, it would be much less.

Mr. Pikus asked how much is left when you take out the wetlands, streets, open space, etc.; Mr. Tolliver guessed upper 50's. He added the flexibility is what they are looking for; the R-8 designation does that. He said the maximum worst case in the R-8 would allow 575 units based on the 71.92 acres, which is the gross acreage. If the maximum density was planned, the units would have to be clustered.

With no additional questions from council, Mayor Rogers opened the floor for public comment.

Veronica Haesler of 10 Canterbury Road explained her house sits at the intersection of Canterbury Road and Route 14. She was given the notice before the planning commission but was unable to attend. She has lived in her home since 2000 and has gone through the cal-de-sac problem when her access was changed. The traffic is terrible even with the addition of the traffic light. Last week, she noticed they were already surveying the right side of the highway going into Milford. She is unsure if they are already planning to widen Route 14 coming out of Holly Hill Road. In front of her house, there is already a turn lane going toward the light and when they put the cal-de-sac in, the state left Ms. Haesler holding the bag. When we had the winter storm last year, she was unable to get plowed out. The snow, which was 8 feet high, blocked her in and ended up costing her a lot of money in order to get out.

There is a well on her property and it is not annexed into the city at this time. In the future, if she needs to connect to sewer or water, she will consider it. But she is concerned about the development and whether it will be townhouses. She said they did this in Bear, Delaware and was the reason she moved down here to get away from all the congestion. She has a friend that bought a townhouse in Bear and cannot unload it. It turned into somewhat of a ghetto type area with a lot of crime.

Ms. Haesler said the town is great and she appreciates some of the comments that it would be better for that property to be annexed in and better controlled by the city. But her concern is the number of units, what type of units and the type of people will be housed there. She said they are very safe out there but is scared of what may come. Across the street, the Homestead project is approved for 1,200 units. She understands they have a deadline of October, which will be void after that.

She said she knows that eventually both will be developed. Ms. Haesler stated the city has grown tremendously the past ten years and it is a fabulous place to live and the people are top notch but she does not want it to go downhill.

If they get the R-8, which is 8 to an acre, the developer is talking 578 units though the sheet she received said 768 units. If the 768 applied to the R-3, she believes that would be cut in half and not 578.

City Planner Norris advised the original request was for an R-3, which allowed them to build up to 16 dwelling units to the acre. However, they were only planning to build 10 to 11 units per acre, which is less than the maximum permitted. The planning commission made a recommendation of R-8, which allows a maximum of 8 dwelling units per acre. That is less than the original request but streets, open space, preservation of ponds, wetlands, etc. will need to be taken into consideration.

Noel Primos of 144 Church Hill Road stated he is a 4<sup>th</sup> Ward Resident and a city resident. He is unsure if he is the one that Mr. Tolliver referred to as the city resident and wants to point out there is no requirement the petition be signed by only city residents but instead says adjoining property owners and people in the vicinity. Those people are very concerned about this application primarily because of the character of the area which is a very rural area. The residents appreciate their way of life very much and this would not be in keeping with that by allowing a development of this

density, including the R-8, in this area.

Mr. Primos also wanted to point out there is already a problem with traffic on the Milford-Harrington Highway, which is a two-lane road and this would significantly exacerbate the traffic problem. He also believes the statement regarding 8 units per acre, as Mr. Pikus has pointed out, is very deceptive because you would end up with significantly more than eight units per acre because of the usable property. If only 50 to 60 acres can be used, and the density is calculated on the gross acreage, the results would be more than eight units per acre.

Mr. Primos attended both the annexation committee meeting and the planning commission meeting. He said it was stated very clearly at both meetings that if the developer did not receive the R-3 zoning, he would not be able to develop the property. Now the developer is saying he does not need the R-3 and can develop with the R-8 zone. He does not understand why that was made very clear and has now changed. Those that signed the petition prefer the annexation be denied; but if council approves the annexation, Mr. Primos asks that the R-1 be designated which is more in keeping with the area. He said that Mr. Tolliver made the point this is not a good time for the real estate market in general. Because there is no sunset law in Milford, if an R-1 zoning were approved, even if this was not the opportune time to develop single family homes, at some point in the future, when the market turns around, it would be and could be viable. He reiterated that an R-8 zone would be inappropriate when considering the nature of this rural area.

Kay Jester of 1723 Holly Hill Road stated her property adjoins these parcels. She is in opposition and states that she has lived there for 46 years and does not choose to live in the city. Ms. Jester explained that was not final and only a motion for the R-8. Neither the R-3 or the R-8 is suitable for that area and added there were many reasons provided.

Bob Southard of 1539 Milford-Harrington Highway stated he is also against the annexation. After considering the situation, if this property must be annexed, he also prefers the R-1. They have talked to individual members of council to let them know how the area residents feel about the traffic problems and the ability to take care of the people that will be there as far as emergency services. He then pointed out that this area is actually in the Houston fire district which may be a problem for Milford.

Mr. Southard said they also do not want to see more development and referenced the number of developments that have come to a standstill with most becoming very unsightly. They do not want that type of development in their backyards. She agrees they are not citizens, per say, of Milford. However, many of them work in and around Milford, many have businesses in Milford, their kids attend Milford Schools, many are volunteers for the fire company and civic organizations. Therefore, they consider themselves Milfordians even though they are not citizens of the incorporated area of Milford. Being Milfordians, he is hoping council will look at them as if they are citizens. Mr. Southard stated that council was elected to represent them and that is what they are asking council to do.

William Walls of 2176 Milford-Harrington Highway questioned the zoning related to the R3 or R-8 involving the number of apartment units. City Planner Norris then read the following subparagraph from the Milford zoning code:

*Garden, low-rise apartments, and condominiums subject to site plan review and the following requirements: The number of dwelling units per acre shall not exceed eight.*

Mr. Walls then asked how many family units are within an apartment unit; Mr. Norris explained the minimum lot size under the garden, low-rise apartment is one acre and 2,500 square feet of lot area is needed for each dwelling unit. Mr. Walls asked if that is surface area or going up; Mr. Norris stated lot area—2,500 square feet of lot area per dwelling.

Mr. Walls said his point is if you can put eight apartment or garden apartments on one acre, how many families would that be or how many families can you put in an apartment unit per acre. He referenced Silver Lake Apartments that are 3-story high with a 2,500 square foot surface area. This would allow many apartments depending on how tall the buildings are.

He then asked if the requirements is for one family per 2,500 square feet. Mr. Walls then said we appear to be a pig in a poke because we are unsure about what can or cannot be done. The one thing we are sure of is certain things can be

done in the R-3 or R-8 zone. He said someone might say they are not going to put 8 units on an acre, but instead plan to put only five. He feels that right now, that is only an offer and their position at this moment. As they proceed and submit plans, they could increase from 6 to 8 apartments because that is permitted under that zone. He feels should not be approved by considering what they are suggesting, but instead by what they are allowed to do.

City Planner Norris responded by saying his comment again is what Mr. Tolliver said; at this point council is only addressing the annexation and zoning. If approved, they will have to come back and submit a land development plan and go through a new process which includes public hearings.

Mr. Walls agreed pointing out the R-8 allows 8 units per acre regardless of what they are saying now. He asked if there is enough information to make a rational decision. He does not believe we are here tonight on a compromise and does not believe there was a compromise from the beginning. That was a decision made by the planning commission. The developer may feel it was a compromise because the deal breaker was nothing but an R-3. That is their strategy and is now possible with an R-8. He said if we theorize and come back another time, it could go down to R-2 or R-1.

He understands the procedure about any future development plans needing approval though it is important to understand exactly what can be done under that zoning classification.

Mr. Walls feels that everyone is fully aware of the background and familiar with the arguments being made. He does not believe anyone is against growth and progress, but feels we need rational growth and rational progress.

Ann Southard of 1539 Milford-Harrington Highway stated she is opposed to the R-8 zoning. She advised she is the one that wrote up the petition at the request of a number of parties. They want to stress to the developer that they do not want to be annexed in. She said these residents like the rural environment but they are also realistic people. So the petition said they would prefer the property not be annexed. But they also understand that council has a responsibility to make sure that Milford grows in an appropriate manner. That is why they are asking council to take into consideration their concerns and make a very informed decision about where Milford goes and how it grows. She said if we are going to grow, let's grow in the environment and the way this community is. This area is a rural, individual home community. They want to keep it that way.

She said they are not against growth and love Milford. When she and her husband got married, one of the things they looked for was a home in the Milford School District. He grew up in Houston and his family's roots go back to the 1600's. They are Delawareans and Milford people who care and love Milford. This petition was circulated to the people it impacted the most. They went door to door trying to get as many people as possible to let council know they care about this situation. The Thomas' are her neighbors and she cares deeply for them. She wants them to succeed and be successful with their property. If Milford is going to annex this, she asked that council consider the people who live out there and that this is their lives.

Ms. Southard said she was an Air Force brat and knows what it is like to live in developments and is familiar with lighting that takes away the stars at night and how it impacts animals and other natural habitat. She has called most of city council and has expressed her viewpoint about how important it is to have the R-1.

She is also concerned that when this developer came before the annexation committee and zoning committee, he stated that if this was not an R-3, it would not be economically feasible for them to develop. Now he is saying they can do the R-8 though he is unsure exactly how and will figure that out down the road.

Ms. Southard concluded by saying that right now, this really matters to these residents who really care about their neighbors and really love their life in this area.

Walter Thomas of 1335 Milford-Harrington Highway stated that obviously he is in favor of this annexation and zoning. He referenced the question about the compromise and explained the compromise was the recommendation for an R-8 as opposed to the original request for an R-3. He said the developer is now willing to accept an R-8 instead of the R-3 though they preferred the R-3.

Mr. Thomas said there was also a question about the ponds and wetlands on the farm. He advised they would be protected and no one is planning to dig them up or develop on them. Though it does not make a difference because they are not planning to do anything with them, these ponds are not actually ponds. He said the only time there is water in them is when it rains heavily. When the rain goes away, the water drains out and they turn into mud holes or wetlands or however someone wants to refer to them.

Karen Moore, formerly Karen Thomas, stated that 1335 Milford-Harrington Highway was her childhood home. She said she grew up with a lot of the children of the people who are here tonight. They were all family friends and does not want anyone to be hurt by this and cares for these neighbors. She explained this is the next step for their family. She grew up not realizing she did not live in the City of Milford. She was from Milford and she did not realize that until she was in the Middle School when she called for the police. Milford Police were unable to come to her house because they were not in city limits. She was stunned to learn she did not live in Milford and always thought she was from Milford.

Ms. Moore said there is growth and needs to be growth in Milford. From what she has heard tonight, there is some confusion between the R-8 and R-3 though it can be developed with the R-8 though originally they were not going to proceed if they did not get R-3. What she really heard is they need flexibility so when they develop it and bring the plans to the city, they can say this is what we want to do. She recalled the comments received from the people who want to live in the City of Milford. She said we need flexibility and do they want single family homes or do they want garden apartments or housing for younger people and families without kids. They want the flexibility that either R-3 or R-8 is able to give people at that time. That is what is going to sell. People are talking we have been doing this for two years. She said her brother has been working on this for almost six years. Their father passed away and her brother has been dealing with this property all this time.

When she looks at this property and sees an R-3 on one side, an R-3 on the other and commercial properties in another area. She said there have been trailers in a tight formation on one side of the property and there was even a bar called the Hideaway at one time at the back of this property.

The name of their road has always been Milford-Harrington Highway which does not say rural to her. She feels that rural means once you get off the highway, where there are many rural developments. She also understands there were a lot of farmers that lived along Route 14, but when you look at their property, you see pieces of their property they have sold so people could live in rural developments. Many of those homes fill the front areas of these farms.

Ms. Moore said that finally, she hopes that she grew up in a house that will be annexed and on a property that will finally be in the City of Milford. She supports the annexation request for the R-8 which is consistent with the comprehensive plan that was approved through the state. Again, she emphasized that what they are asking for is flexibility so they can come back before this group after it is annexed, and say this is what we are hearing people want. If it is not selling, it will not be built. They will build what people want and need the flexibility to do that.

Patricia Marney of 1263 Milford-Harrington Highway stated her property is two doors down from the Thomas property. She said her concern and what she has not heard tonight is how exactly this will affect her property. If her well goes up and this property is annexed, what is her responsibility; will it be her responsibility to tie into city water and sewer. She does not begrudge the Thomas' from doing anything they want to. If they want to pay higher taxes, then so be it, because that is their money, not hers. She just wants to know how that will affect her.

Ruth Abbate of 2102 Milford-Harrington Highway stated she lives less than a half mile from this property. She stated she has lived here since 1976 and her kids have been educated here. Her concern is the R-3 at the Homestead development which has over 1,050 lots. Also, the R-3 on Holly Hill Road where there is more than 270 lots. She is concerned with safety stating there is a light at Route 15. There is another exit off the Homestead site less than 1/4 mile away with no light; you can make a left to go to Milford or a right to go to Harrington. Now there will be another exit that will come out in the same area with no light or supervision.

She said with the amount of traffic currently on Route 14, she must sit four to six minutes just to get out of her driveway. When this develops into an R-8, it will be more. She asked they keep the same footprint of the rural community with an

R-1 zone.

Howard Webb of Cedar Neck Road said he lives on the opposite side of town. However, he shares many of their concerns. He said the engineer brought up one thing he thinks is great. Kent County has a sunset rule and if a bad decision is made, there is a chance to correct it in five years. He asked Milford consider that. He also mentioned a petition the residents signed and it was stated that only one was a citizen of the City of Milford. He said they eat and breath just like the rest of us and are no lesser citizens than anyone else.

Mr. Webb then asked Mr. Norris if the drainage areas and wetlands are still counted as buildable acreage. He then noted that Baltimore Aircoil is one of the top five employers in the city. He asked if this will create a hostile environment for that employer. Mr. Webb said if they decide to leave, the city is in big trouble which should also be considered.

Mr. Norris then read the following district regulations from the zoning code:

*Allowable density shall be based upon the net developable land for any given parcel. Net developable land shall be equal to the gross acreage of the parcel minus nondevelopable acreage, including regulated state and federal wetland areas, the one-hundred-year floodplain as depicted on the most current FEMA panels and conservation easement areas.*

Mr. Norris said in his opinion, you have to subtract any land designated as state or federal wetlands, one-hundred year floodplain and conservation easement areas. That would be subtracted from the total acreage and could not be used as developable land.

Mr. Webb recalled a time when those areas could be calculated; Mr. Norris agreed.

Mr. Webb recalled the planning sessions at Carlisle Fire Company for the eastern side of Milford that involved green areas and TDR sending areas. He said for those TDR sending areas to have value, you cannot have high density. Therefore, the planning sessions were a waste of time; Mr. Norris disagreed strongly.

Mr. Pikus then stated he has a couple of concerns. First is the usable land which bothers him a great deal. He also heard a comment from Mr. Tolliver when he earmarked one person and as Mr. Webb stated, these people are Milfordians and he takes exception that they are not Milfordians and will go on record stating that.

He said there is also a problem with the petition submitted and whether the 20% of property owners opposed to the zoning requires a 3/4 vote. It appears there is a question and recommends our city solicitor research that.

Mr. Willard stated there is a section of the Milford Code, which is almost identical to the Delaware Code, that indicates if more than 20% of adjacent property owners protest (Milford Code defines adjacent property owners as those within 200 feet of the subject property) a 3/4 vote is needed. He did some brief research on whether that applies to non-residents and did not find case law on it.

Another issue he said is the 40 plus people that signed the petition and whether the 20% requirement was met. In his opinion, there is a threshold issue whether a super majority is needed. His initial read and basic research is the statute is broad enough it speaks to anyone adjacent and does not distinguish whether they are in town or not.

In regard to density, when a property is being annexed and a zone is applied, there is no site plan so there is no specific density details. Mr. Willard also emphasized that a property is unable to be annexed without a zoning designation. The question of the zone depends on a lot of factors such as adjacent property, the comprehensive plan, what the neighbors think and whether it will adversely affect the neighborhood and other general considerations.

Mr. Pikus stated that based on Mr. Willard's statements, he moves we defer action on the request, seconded by Mr. Brooks.

The city clerk was directed to poll the council.

Mr. Johnson asked how long this would be deferred; Mayor Rogers answered until the city solicitor is able to provide clear answers to these questions and concerns.

Mr. Johnson, Mr. Grier and Mr. Pikus voted yes.

Mr. Adkins said he pauses because of the number of homeowners in the area that took the time to come to this hearing tonight; he does not want to see them have to come back again. It is fresh in their minds and a lot of comments have been made though he does want to see this done correctly and votes yes.

Mr. Brooks votes yes and agrees with Mr. Adkins. He respects the citizens that are present but he also does not want to handle this as has been done with many other things in the past by making an incorrect decision and having to revisit it at the next meeting. He prefers that when this vote is taken, it is based on clear information and is done in a correct manner.

Mr. Morrow votes yes and agrees this needs to be done right the first time to prevent having to address it over and over. There are some issues that need more research which could have an effect on the manner in which the city does business in the future. Potentially, all lands could eventually be annexed as R-1 which basically means there would be no further annexations because today's business model is not conducive to an R-1. After the research is done, it can be brought back before city council for a final vote. He appreciates the number of good comments but does feel the developer was willing to compromise as well as some of the neighbors he spoke with, though on the other hand, many were not. He thinks the R-8 may be a reasonable compromise and does cut the density in half, but that decision will be made after council is provided with the additional information.

Mr. Starling votes yes.

Ms. Wilson said councils' hands are tied though we do want to make sure these matters are handled properly. She appreciates the calls she received and respects the opinions and feelings of those individuals who are adjacent to these properties as well as her constituents. She is happy to know the developer was willing to make a compromise and understands that compromise. That means the developer did take into consideration the surrounding property owners. She recalls many of the developers who have come before council who were unwilling to choose a lower density.

She said she is unable to support the R-1 simply because she understands the needs of the majority of old and incoming families within our community. She feels that if we do not consider the lower middle, medium middle and upper middle class as Milford grows, we are going to have problems and will be sorry in the future. We need to consider the various economic levels as well as keep diversity in mind. She feels it is important to meet the needs of our people. She appreciates this being in the rural area and though difficult to understand, the R-1 does not meet the needs of the majority of our residents today. The surveys provided some good information which Mr. Norris sent to help the city as we plan for the future. When you look at the whole picture, our entire community needs to be considered. The way the economy is today, the city is not going to see a lot of R-1 developments for a long time. She was ready to make this happen today, but agrees there are some issues that need to be clarified and does not want this to come back and haunt the city so she will vote yes.

Motion carried by unanimous roll call vote.

Mayor Rogers thanked council and the developer and equitable owner for the time put into this. He feels this was the right decision tonight to allow time for additional information to be obtained before a final vote is taken. He also thanked those that attended this public hearing and particularly the orderly fashion in which they conducted themselves. He knows this is a very emotional issue and appreciates their conduct. Council will obtain the additional information and make a decision in the very near future.

Mayor Rogers then closed the floor to any further public comment.

Mr. Pikus then asked how this will impact Carlisle Fire Company because this land is in the Houston Fire Company

district.

Carlisle Fire Company President Marvin Sharp was present and agreed this was a concern when he first saw this. The city charter requires Carlisle Fire Company to provide the city with fire protection. He said there has been two cases in Delaware where this was an issue. One was in the Five Points Fire Department district that was annexed by the City of Wilmington. The other occurred when the City of Dover annexed property that was in the Cheswold Fire Department district. Both went to the Fire Commission who ruled on behalf of the department currently serving those areas. It was appealed through the courts and the decision was reversed giving the Wilmington and Dover Fire Departments those properties.

He reported that Carlisle and Houston Fire Departments have one of the best working relationships in the State of Delaware which was a concern of Mr. Sharp and Chief William Carpenter. By the city code, Carlisle will serve this area. Mr. Sharp said this is a very delicate situation and the fire department's district is somewhat like sacred ground.

He said that in addition, Carlisle Fire Department needs surrounding departments more than they need Carlisle. He recalled five years ago when nineteen departments were invited to fight a large downtown fire that lasted an entire day. He said that Milford Hospital, LD Caulk and Baltimore Air Coil would need the assistance of these other fire companies in the case of an emergency. Carlisle wants to maintain that relationship with Houston and this is new territory to him as president of the fire company though the priority is to maintain their close relationship. He is hoping they will be able to sit around the table and work this out.

#### *Ordinance 2010-14*

*An Ordinance to Amend the Code of the City of Milford, Chapter 230, thereof, entitled Zoning, Waiver of Off Street Parking Spaces*

The following ordinance was presented to city council for final action:

*The City of Milford hereby ordains as follows:*

#### *Chapter 230: ZONING*

##### *Section 1.*

*An Ordinance to Amend the Code of the City of Milford, Chapter 230, thereof, entitled Zoning, by providing a potential waiver in the number of off street parking spaces for large commercial developments.*

##### *Section 2.*

*Section 230-21, Parking and loading standards, Subsection B, Use Standards, is hereby amended by adding a new subparagraph entitled §230-21- B (1) to read as follows:*

*§230-21- B (1) Reduction in the Required Number of off Street Parking Spaces in the case of developments such as shopping centers or other commercial developments required to provide more than 50 off-street parking space.*

*The developer must set aside space to accommodate 100% of the area necessary to provide the parking requirements established by this Ordinance, but, upon the request of the developer, if agreed by the City of Milford, the developer may be permitted to set aside space to accommodate 100% of the area necessary to provide the parking requirements established by this chapter but not be required to construct more than 80% of the required parking spaces. In the event the developer is permitted to construct fewer than the required parking spaces, the remainder of the parking area set aside must be kept free of all construction and be planted and maintained as a grassy area and designated as Future Parking Space. The City of Milford may require construction of the remaining parking spaces at any time by the then owner of the premises upon giving the owner not less than six months' advance written notice. In the event of the granting of the waiver herein described, the fact of the grant as well as the requirement that the owner maintain the space set aside*

*as a level grass area and that the City of Milford has reserved the right to require construction of the remaining parking spaces upon six months' notice to the owner of the site must be reflected in a note appearing on the subdivision or site development plans recorded.*

*Section 3.*

*Dates.*

*Introduction to City Council: 08-09-10*

*Planning Commission Hearing: 09-21-10*

*City Council Hearing and Projected Adoption Date: 09-27-10*

*Effective Date: October 7, 2010*

City Planner Norris advised that Ordinance 2010-14 reduces the number of required parking spaces for developments such as shopping centers and commercial developments requiring fifty off street parking spaces or greater. He recalled a few instances where the number of parking spaces required was excessive in comparison to the number of employees and potential clients. This will allow additional green space be used for future parking should it later be determined that more parking is needed. The developer would have to provide 80% of the required off street parking spaces with 20% kept in green space. When the last application in this situation was submitted to the DAC meeting, it was suggested that based on the situation, there may be a need to amend the requirements and reduce the larger parking requirements.

In addition, Mr. Norris reported this will also reduce the amount of runoff off impervious surfaces that typically ends up in the Mispillion River. In addition, one of the goals of the Mispillion Tributary Action Committee in the City of Milford is to reduce the pollutants in the Mispillion River. This helps both of those issues.

The planning commission recommended adoption of the ordinance by a vote of 8-0.

Mr. Adkins moved to adopt Ordinance 2010-14, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

With no further business, Mayor Rogers adjourned the Public Hearings at 8:38 p.m.

A short recess followed.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL  
MINUTES OF MEETING  
September 27, 2010*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, September 27, 2010.

PRESIDING:           Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Jason Adkins,  
Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO:                Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL:           City Solicitor Timothy Willard

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 8:44 p.m. It was noted that City Manager David Baird was out of state at a conference.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling.

At the request of Councilman Pikus, a moment of silence was observed in honor of Bob Burris whose funeral services were held this past week. Councilman Pikus noted Mr. Burris' many charitable endeavors and contributions to the community and the business world.

UNFINISHED BUSINESS

*Adoption of Ordinance 2010-16/Chapter 204/Establishing a Due Date for Property Taxes & Penalties*

The charter requires the due date for property taxes be set by council; in addition, the penalty fee for late payments must be established by ordinance. Ordinance 2010-16 confirms September 30<sup>th</sup> as the due date for property taxes each year while addressing the penalty rate.

Ms. Wilson moved to adopt the following ordinance, seconded by Mr. Starling:

*Ordinance 2010-16*

*AN ORDINANCE TO AMEND CHAPTER 204 OF THE CODE OF THE CITY OF  
MILFORD, TAXATION, FOR THE PURPOSES OF ESTABLISHING A DUE DATE  
FOR PROPERTY TAXES AND PENALTIES FOR NON-PAYMENT.*

*WHEREAS, the City recognizes many of its citizens are experiencing financial challenges; and,*

*WHEREAS, both the County and City property tax bills are due and can be paid without penalty by September 30, 2010;  
and,*

*NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:*

*Section 1. Chapter 204 of the Code of the City of Milford, entitled Taxation, is hereby amended to include a new Article*

to read as follows:

*ARTICLE III—Property Taxes*

*§204-10 Due Date for Payment of Property Taxes.*

*Property taxes shall be payable on or before September 30 of each year.*

*§204-11 Penalties.*

*To every tax not paid after the said date established in §204-10, there shall be added and collected a penalty, for each month that the said tax remains unpaid. A penalty of one percent per month or fraction thereof shall be charged on all unpaid property taxes. City Council, by resolution, may impose a date later than that established in §204-10 for the addition and collection of penalties.*

*Section 2. Dates*

*Introduction to City Council—August 23, 2010*

*Projected Adoption by City Council—September 27, 2010*

*Projected Effective Date—October 7, 2010*

Motion carried.

*Adoption of Resolution 2010-16/Extension of Due Date for Property Tax Payments & Establishment of Penalty Date*

A resolution is required to extend the normal deadline as was established in Ordinance 2010-16. The deadline is slightly beyond the 30 days because of city offices being closed over the weekend and election day.

Ms. Wilson moved to adopt the following resolution, seconded by Mr. Morrow:

*Resolution 2010-16*

*Extending the Payment Deadline for Real Property Taxes in the City of Milford*

*Fiscal Year 2010-2011*

*Whereas, the City of Milford Property Taxes are due and payable on or prior to September 30<sup>th</sup> of each year; and*

*Whereas, Milford property owners, like most Americans, are suffering in this economic downturn; and*

*Whereas, the property owners in the City of Milford, more than ever, are depending on the City Council and City Leadership to be mindful of the financial burden created by the due date for property taxes being the same for Kent and Sussex Counties; and*

*Whereas, after due consideration, City Council finds that it to be in the best interest of property owners in the City of Milford property owners to provide temporary property tax relief this fiscal year; and*

*Whereas City Council recommends an extension of the due date for real property taxes owed for Fiscal Year 2010-2011 from September 30, 2010 to November 3, 2010.*

*NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Milford hereby authorizes the City Manager to defer the deadline for the payment of property taxes in the City of Milford for Fiscal Year 2010-2011 by extending the due date from September 30, 2010 to November 3, 2010.*

*AND BE IT FURTHER RESOLVED that payments received after the close of business on November 3, 2010 shall be considered delinquent and a one percent penalty assessed on the unpaid balance.*

Motion carried.

*Adoption of Ordinance 2010-15/Realignment of Boundary Lines of Ward I and Ward III*

City Solicitor Willard recalled this error being brought to the city's attention by the charter review committee. The error involved an area of land in Ward III that was not contiguous to that ward. The problem was created when the Meadows at Shawnee was erroneously placed in Ward III at the time of its annexation. Mr. Willard advised the Constitution and numerous court cases that have interpreted redistricting require lands be contiguous in addition to the city code requirement. The charter states that areas within a ward must be contiguous and as rectangular in shape as possible. Around the time the charter amendment was being finalized, council addressed the issue. The charter allows council to rearrange the boundaries of the four wards in the event of annexation. He feels this is the result of an annexation and could be interpreted as a delayed rearrangement based on a correction.

Mr. Willard also pointed out the charter has a provision that allows reapportioning by the first day of January of the second year following a census, which will occur a year from January. At that time council will reconsider the wards based on population.

He explained the ordinance addresses the contiguous issue, required by the charter and federal case law, by placing the area currently in Ward III, but not contiguous to Ward III, in Ward I.

For the record, Mayor Rogers advised the Attorney General's Office was called for an opinion on the matter. Their response was they had no jurisdiction over the matter and they referred us to the city charter and city solicitor. This mirrored the response given to those residents who had contacted their office as well.

Ms. Wilson moved to adopt Ordinance 2010-15, seconded by Mr. Johnson:

*Section 1.*

*WHEREAS, an error was discovered by the Charter Review Committee in which it was determined that lands in Ward 3 were not contiguous with other lands in that ward but did share a common boundary with Ward I; and*

*WHEREAS, this resulted in a failure to comply with the contiguous and compactness requirements of Article II, Section 2.07 of the City of Milford Charter; and*

*WHEREAS, this matter was presented to the City Council who recognized the need to protect communities of interest; and*

*WHEREAS, adjustments to the City Council Districts ensures fair representation for all citizens and conforms with the requirements of the United States Constitution and federal statutes; and*

*WHEREAS, upon completion and distribution of data from the 2010 Census, additional examination by the Districting Commission may result in an overall Redistricting Plan for the City of Milford.*

*Section 2.*

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

- 1. Portions of Ward I and Ward III, southeast of Milford, are hereby realigned by excluding therefrom Ward III, those lands not contiguous and including therein and therewith subject lands into Ward I.*
- 2. Attached maps display current Wards (#1) and revised Wards (#2) comprised of four contiguous Council districts.*
- 3. This Ordinance has been properly advertised and copies of the Ordinance and related materials made available to the public on August 23, 2010.*
- 4. By a vote of 8 to 0, Milford City Council approves the realignment of Council District Boundaries, specifically Ward I and Ward III, and whose legal descriptions, in their entirety, as shown below:*

*CITY OF MILFORD-DESCRIPTION OF WARD BOUNDARIES*

*The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limits to the western most point of Shawnee Country Club; thence along the corporate limits in a generally southeasterly direction to the point of intersection of Johnson Road; thence continuing with the corporate limits in a northeasterly direction to the intersection with DE Route 1; thence continuing with the corporate limits in a northwesterly direction to the point of intersection on the easterly R.O.W. of Route 1 and Business Route 1; thence continuing with the corporate limits in a northeasterly direction 2,150 feet to the intersection of Beaver Dam Road; thence along the corporate limits in a southeasterly direction to the point of intersection with Sharps Road; thence with the corporate limits and Sharps Road in a Northeasterly direction 2,700 feet; thence leaving Sharps Road and continuing with the corporate limits in a generally northwesterly direction to the intersection with the centerline of Deep Branch; thence with the corporate limits and along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.*

*The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U. S. Route 113; thence along the centerline of U. S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U. S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U. S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern point of what is known as the Susan & Bruce Geyer property; thence in a northeasterly direction along the corporate limits of the City and Herring Branch to the intersection of the corporate limits and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.*

*The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U. S. Route 113; thence along the centerline of U.S. Route 113 and U.S. Route 1 in a northerly direction to the intersection of the City limits; thence along the corporate limits in a northerly direction to the northern most point of the City limits; thence along the eastern boundary of the City in a southeasterly direction to a point on the southeast corner of U.S. Route 1 and State Route 36; thence along the corporate limits in a southwesterly direction to the point of its intersection with U.S. Business Route 1; thence with the corporate limits in a northwesterly direction to the center of the intersection of Deep Branch and Business Route 1.*

*The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U. S. Route 113; thence along the centerline of U. S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western*

*boundary of U. S. Route 113); thence in a generally northerly direction along the western boundary of the City to a point where said line would intersect the northerly boundary of the Third Ward; thence southerly along the aforesaid line of the Third Ward, to the point of intersection of the centerlines of North Walnut Street and U. S. Route 113; thence by the centerline of North Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.*

*Section 3. The new Council districts and boundaries shall supersede previous districts and boundaries and whose legal description, contained herein, and official map shall be filed in the Office of the City Clerk.*

*Section 4. Official Maps (see attached).*

*#1 Current Wards*

*#2 Proposed Wards (Ward I and Ward III realigned)*

*Section 5. Dates.*

*Ordinance & Map Publication Dates:*

*Milford Chronicle 08/25/10*

*The Beacon 08/26/10*

*Introduction - City Council: 08/23/10*

*Adoption Date - City Council: 09/27/10*

*Effective Date - 10/07/10*

Motion carried by the following roll call vote:

Yes-Johnson, Grier, Pikus, Adkins, Brooks, Morrow, Starling, Wilson

Mr. Brooks recalled this error being discussed during the Charter Review Subcommittee Meetings at least five or six times. It was the consensus of the committee members that this item be corrected. It was then brought before council who agreed it should be changed. Therefore, he votes yes.

Mr. Morrow votes yes, noting it is a requirement of the charter.

*Re-Adoption of FY2010-11 Tax Warrant*

Significant changes to this year's tax assessments have occurred since the original warrant was approved in August, a few the result of assessment corrections. Copies of those accounts were included in the council packets.

Mayor Rogers advised the numbers had not been received so action will be deferred until the October meeting.

*Approval of Change Order No. 1/Gravity Sewer Installation*

Mr. Willard advised that city council is being requested to approve Change Order No. 1 in the amount of \$6,054.51 for work that was needed to extend the gravity sewer line back in August.

Mr. Brooks moved for approval of Change Order No. 1, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

*Reaffirmation /Approval of Change Order No. 2/North Front Street Sewer Project & FY2010-11 Budget Amendment*

The solicitor advised council to reaffirm the compromise agreement voted on at the September 13<sup>th</sup> meeting as a specific agenda item. The vote also authorizes the Mayor and City Manager to enter into a change order with JJID for an amount not to exceed \$115,000 which is needed to complete the North Front Street Sewer Project.

Ms. Wilson moved to approve Change Order No. 2, seconded by Pikus. Motion carried with no one opposed.

*Billboard Ordinance-Proposed  
Billboards/Zoning Code/Ordinance/2009-22*

City Planner Norris advised he is not a proponent of items such as billboards, but believes as a planner for more than thirty years, we cannot exclude certain things of which one is billboards. He stated the first amendment of the constitution is freedom of speech. He feels that as long as Milford has on-site advertisement, he feels it is fair and equitable to allow advertisements off site. He believes the ordinance presented at the last meeting, is a fair compromise and he supports it. He noted the planning commission started with six pages and after a great deal of work, ended up with one page.

Mr. Brooks asked if the city planner feels this should continue to be reviewed through the board of adjustments; Mr. Norris' opinion is they should be regulated as is proposed with a clear definition and as a conditional use in the C-3 district. That requires a review, public hearing and a recommendation by the planning commission and a public hearing with final action taken by city council.

Mr. Norris knows the Board of Adjustment heard these cases in the past but because the ordinance stated they were 'non-applicable', the city ended up in court. The judge's ruling implied that further action was needed to clarify the city's intent. He feels they should be allowed but with restrictions as is being proposed.

It was confirmed the ordinance also adopts the state standards; Mr. Norris feels that is a fair way of handling especially considering that Milford is divided into two counties.

Mr. Willard reminded council that if something is subject to a conditional use, the purpose is to allow some flexibility to add conditions that meet any concerns or objectives to a particular location. The last ordinance was written as a conditional use in the C-3 district with the minimum standards being the state requirements. This applies regardless of whether it is on a state highway or elsewhere. It would then require a complete conditional use review.

After due consideration, Mr. Grier moved to reconsider Ordinance 2009-22, seconded by Mr. Pikus.

Mr. Willard then clarified that six members of council must vote in favor of the reconsideration, in order for the ordinance to be voted on.

Motion carried by the following 7-1 vote:

Yes-Grier, Pikus, Adkins, Brooks, Morrow, Starling, Wilson  
No-Johnson

Mr. Adkins stated yes for reconsideration.

Mr. Brooks agreed that he will vote yes in favor of the reconsideration and added he is tired of rehashing the same issues over and over. He prefers action be taken and the matter resolved.

Mr. Grier then moved that Ordinance 2009-22 be adopted, seconded by Mr. Pikus:

*ORDINANCE 2009-22*

*AN ORDINANCE TO AMEND CHAPTER 230 OF THE CODE OF THE CITY OF MILFORD, ZONING, FOR THE PURPOSE OF ALLOWING BILLBOARDS AS A CONDITIONAL USE IN A HIGHWAY COMMERCIAL (C-3) DISTRICT.*

*WHEREAS, the City acknowledges the current zoning ordinance does not adequately define and address the placement of billboards within the City limits;*

*NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:*

*Section 1. Chapter 230, Section 4 of the Code of the City of Milford, entitled Zoning, is hereby amended by adding the following definition:*

*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.*

*Section 2. Chapter 230, Section 14.C of the Code of the City of Milford, entitled Zoning, is hereby amended by adding the following language:*

*(18) Billboard, subject to the following:*

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

*Section 3. Chapter 230, Section 26.B, of the Code of the City of Milford, entitled Zoning, is hereby amended as follows:*

*ZONING*

*City of Milford*

*Sign Types and Allowable Dimensions and Restrictions*

*(See attached Chart)*

*Section 4. Dates.*

*Introduction to City Council 11/23/09*

*Planning Commission Public Hearing 12/15/09*

*City Council Public Hearing 07/26/10*

*Adoption Date 09/27/10*

*Effective Date 10/07/10*

Mr. Brooks confirmed that Mr. Willard indicated that if the state requirements are for 500 feet, under the conditional use process, council has the right to require a larger distance such as 1,000 or 2,000 feet; Mr. Willard stated that is correct.

Motion carried by the following 7-1 vote:

Yes-Grier, Pikus, Adkins, Brooks, Morrow, Starling, Wilson

No-Johnson

Mr. Adkins stated he wants to clarify his reason for changing his vote. He voted originally for the language of the prohibition. A lot of that comes out of recent court history and he was a little gun shy. He wanted to make sure council had adequate ground if they felt a billboard should not be at a specific location. In the past week, he has reviewed what a conditional use is and not only can council add restrictions, but time limits can be added. It gives council the right to consider property values and he is comfortable based on the words and the power council has under a conditional use to vote yes.

Mayor Rogers thanked council for these final decisions noting there has been a great deal of time spent on these items over the past months.

*FY 2010-2011 Budget Amendment/Boys & Girls Club Contribution*

Mr. Pikus advised a budget adjustment was needed at the time of the September 13<sup>th</sup> meeting when council approved an additional \$58,334 contribution that amended the Boys and Girls Club Agreement.

He reported this will decrease the Capital Parks Expense Account and increase the General Fund/Fund balance by \$58,334. He recalled that City Manager Baird confirmed the city is using funds made available by Senator Bonini providing \$175,000 to the city.

Mr. Pikus moved to decrease Capital Parks Expense Account 101-1910-451-70-50 by \$42,985 and increase General Fund//Fund Balance Revenue Account 101-0000-399-10-00 by \$15,349 for a total of \$58,334, thus increasing the Boys & Girls Club Account 101-1110-411-68-21 by \$58,334 (\$105,400 to \$163,734).

Mr. Brooks votes yes based on the fact that Senator Bonini is providing funding to subsidize this budget change.

Motion carried by unanimous roll call vote.

## NEW BUSINESS

### *Fall Clean Up Week*

Mr. Pikus moved to approve the date of October 18-22, 2010 as Fall Clean Up Week, with rain dates for the following week. Motion seconded by Mr. Brooks. Motion carried.

### *French and Ryan Proposal/Police Department*

Chairman Morrow recalled this being discussed by Councilwoman Wilson at the last meeting as a police committee item; however, it does require the approval of city council. He explained this is a professional agreement in which \$50,000 was previously budgeted for a Needs and Feasibility Study for a new police facility. Chief Hudson confirmed it came in below budget at \$47,300.

Mr. Morrow moved to approve the French and Ryan Proposal, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

### *City Code Official*

Ms. Wilson asked the record reflect the hard work being done by the Code Official CC Dennis in her neighborhoods. Just last week, there was a property being demolished on Second Street and often, people are unaware of the work needed before something like this can happen.

She reported that not only did this family have to move out of a home they had lived in for decades, but alternative housing had to be found. This involved a senior citizen which made the situation even more difficult.

Ms. Wilson said that many things the city does impacts peoples' lives more than the decisions made by council during a meeting. Because the code official and planner have been working hard to bring up the standard of living in some of the older neighborhoods, similar situations may occur. As a result, there is a need for affordable housing as well as programs and assistance for those individuals.

She thanked council and gave special thanks to Councilman Pikus for his assistance in this endeavor. Mr. Pikus added it would not have been done without Ms. Wilson's help either.

### *Church Street & Northwest Front Street Properties*

Mr. Starling discussed the structure on Church and Front Street that has been in disrepair for years and is now actually

falling apart. He recalled it being discussed more than a year ago and it has gotten to the point it is now buckling over. His concern was and remains that it will fall on someone.

Mr. Starling was then advised the Board of Appeals gave them 90 days to tear the house down.

*Carlisle Fire Company/Fire Prevention Week*

Mayor Rogers advised that Fire Prevention Week is October 3-9, 2010 in the city. He reported the fire company has an active campaign in which the city will see a great deal of literature. The emphasis of this year's campaign is "Unattended Cooking-Help Us Stuff Out Kitchen Fires".

ADJOURN

Mr. Pikus moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

Mayor Rogers adjourned the Monthly Council Meeting at 9:13 p.m.

Respectfully submitted,

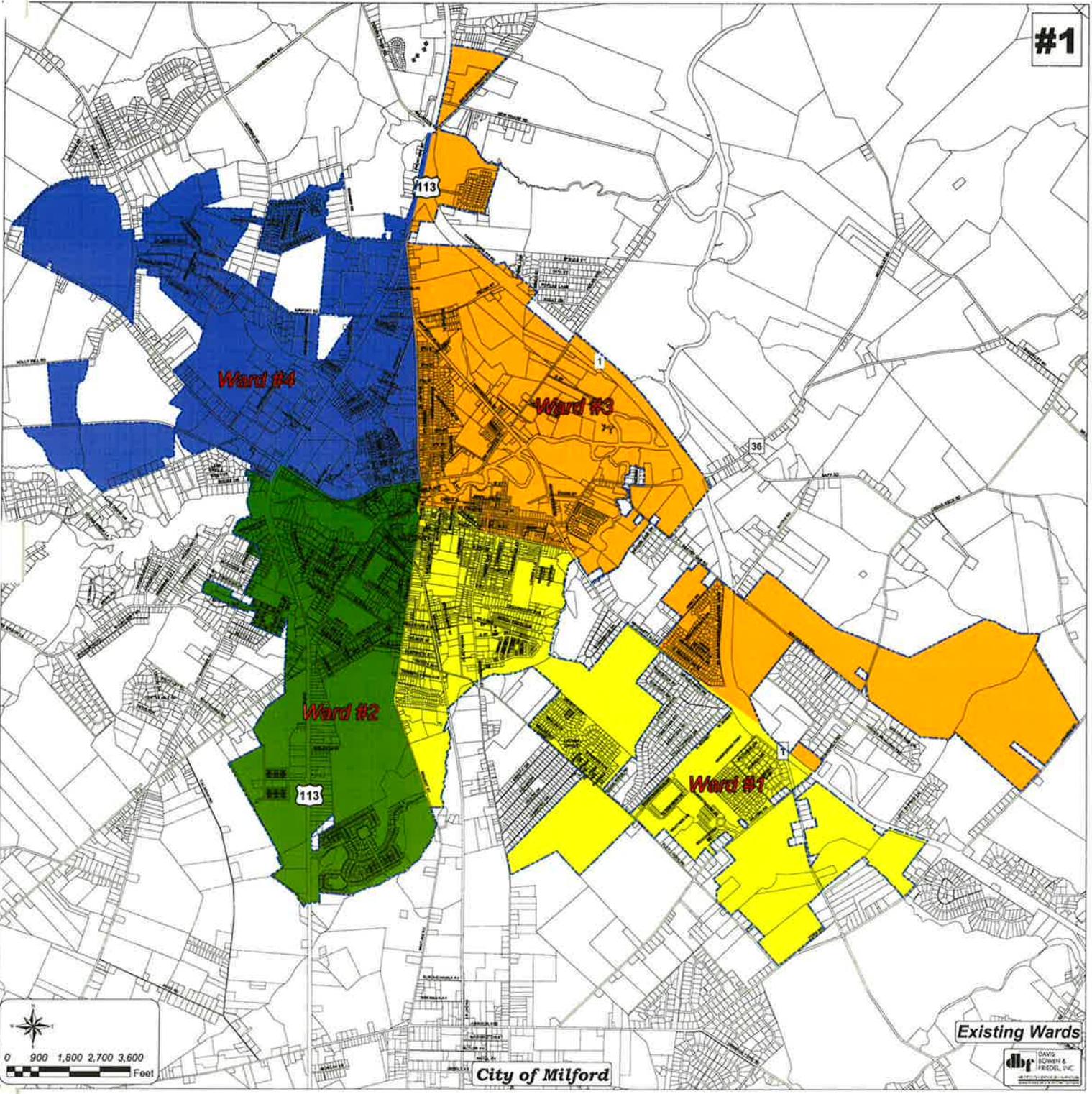


Terri K. Hudson, CMC  
City Clerk/Recorder

Attachments:

Ordinance 2010-15:  
Ward Maps

Ordinance 2009-22:  
Sign Chart

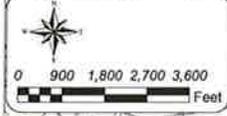


Ward #4

Ward #3

Ward #2

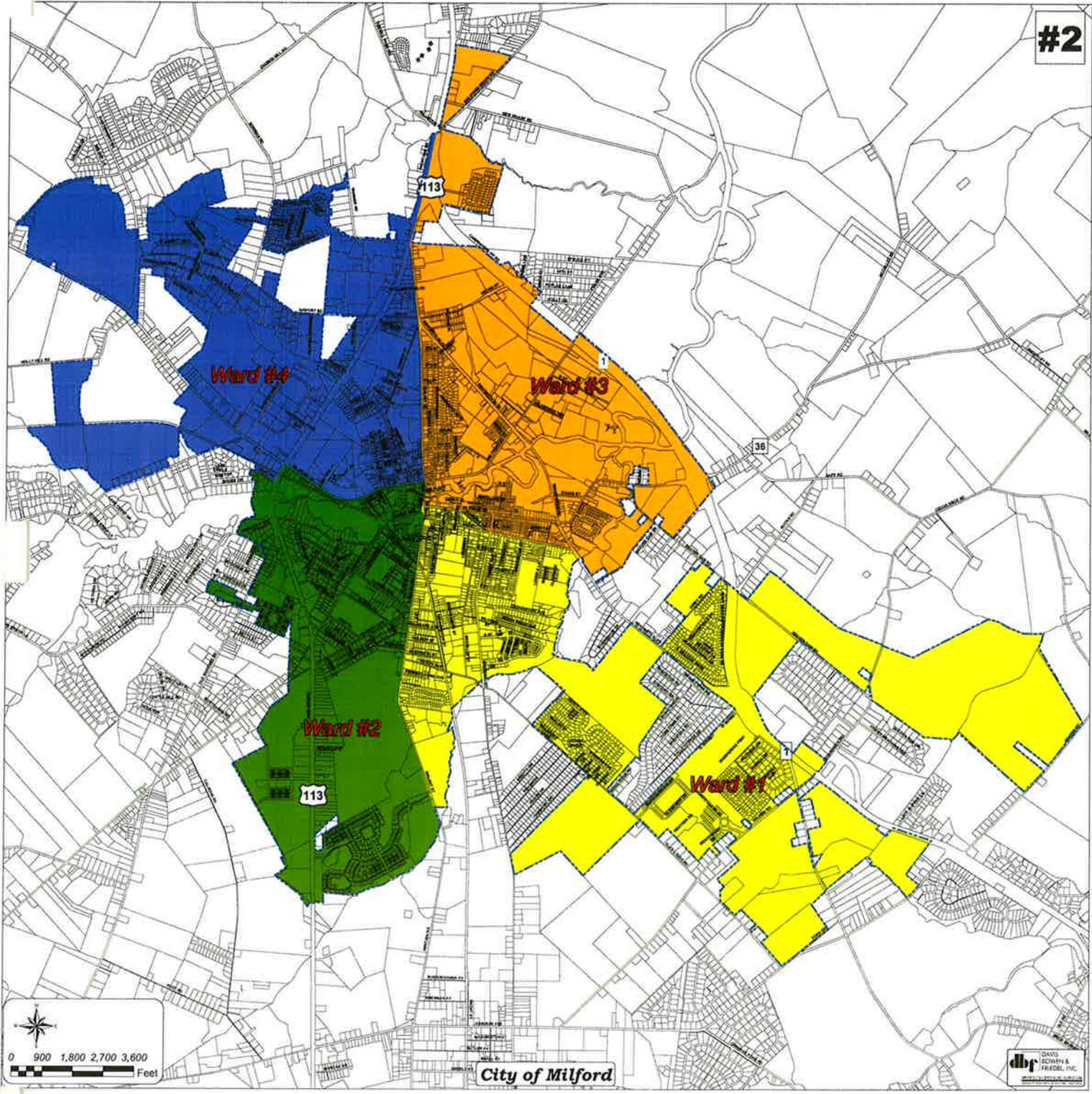
Ward #1



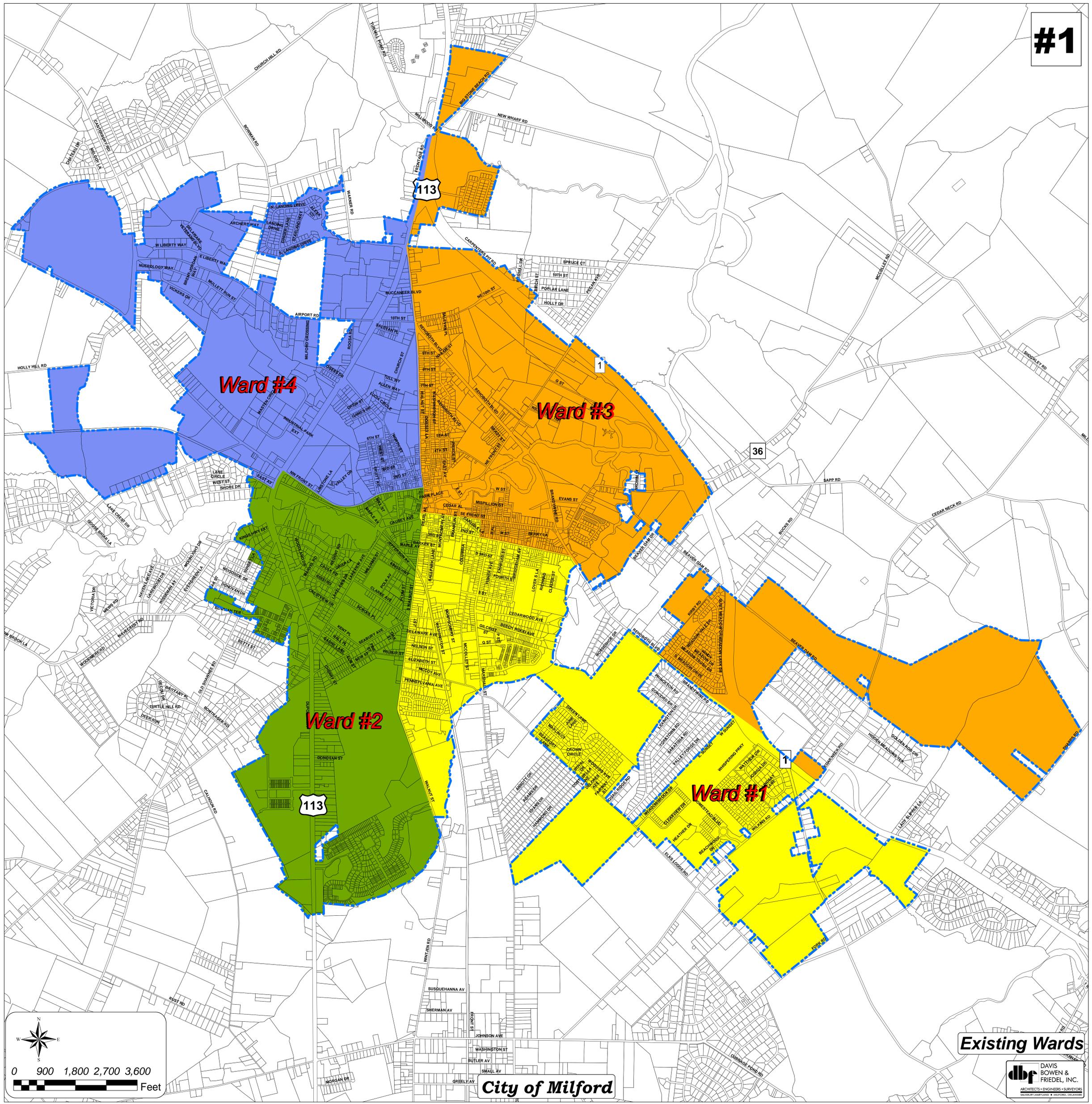
City of Milford

Existing Wards





Zoning District	TYPES OF SIGNS													
	Wall or Mailbox (residence/occupant ID)		Freestanding (mounted on posts(s))		Fascia: Commercial (wall, roof edge, etc) (of wall square feet)	Hanging/ Projecting (extended from wall) (square feet)	Marquee (movable letters)		Illuminated (non flashing)		EMB	Mobile (mounted, trailer, etc.)	Billboard (outdoor advertisement)	PROPOSED Billboard
	Ht	Sq Feet	Ht	Sq Feet			Ht	Sq Feet	Ht	Sq Feet				
R-1	42"	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited	N/A	N/A	Prohibited
R-2	42"	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited	N/A	N/A	Prohibited
R-3	42"	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited	N/A	N/A	Prohibited
C-1	42"	2	48"	4	10%	15	48"	9	48"	4	Prohibited	N/A	N/A	Prohibited
C-2	N/A	N/A	48"	4	10%	20	48"	9	48"	4	Prohibited	N/A	N/A	Prohibited
C-3	N/A	N/A	28'	225	10%	20	10'	48	28'	225	32 and ratio of 4:8	N/A	N/A	CONDITIONAL USE-PER DeDOT Standards
H-1	N/A	N/A	25'	70	5%	N/A	N/A	N/A	25'	70	Prohibited	N/A	N/A	Prohibited
OC-1	N/A	N/A	28'	225	5%	N/A	10'	48	28'	225	Prohibited	N/A	N/A	Prohibited
I-1	N/A	N/A	28'	200	5%	N/A	10'	48	28'	200	Prohibited	N/A	N/A	Prohibited
I-2	N/A	N/A	28'	200	5%	N/A	10'	48	28'	200	Prohibited	N/A	N/A	Prohibited

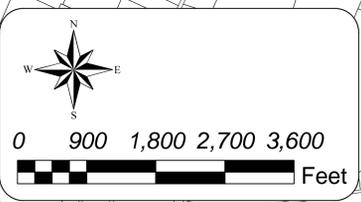


Ward #4

Ward #3

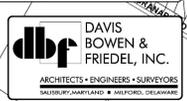
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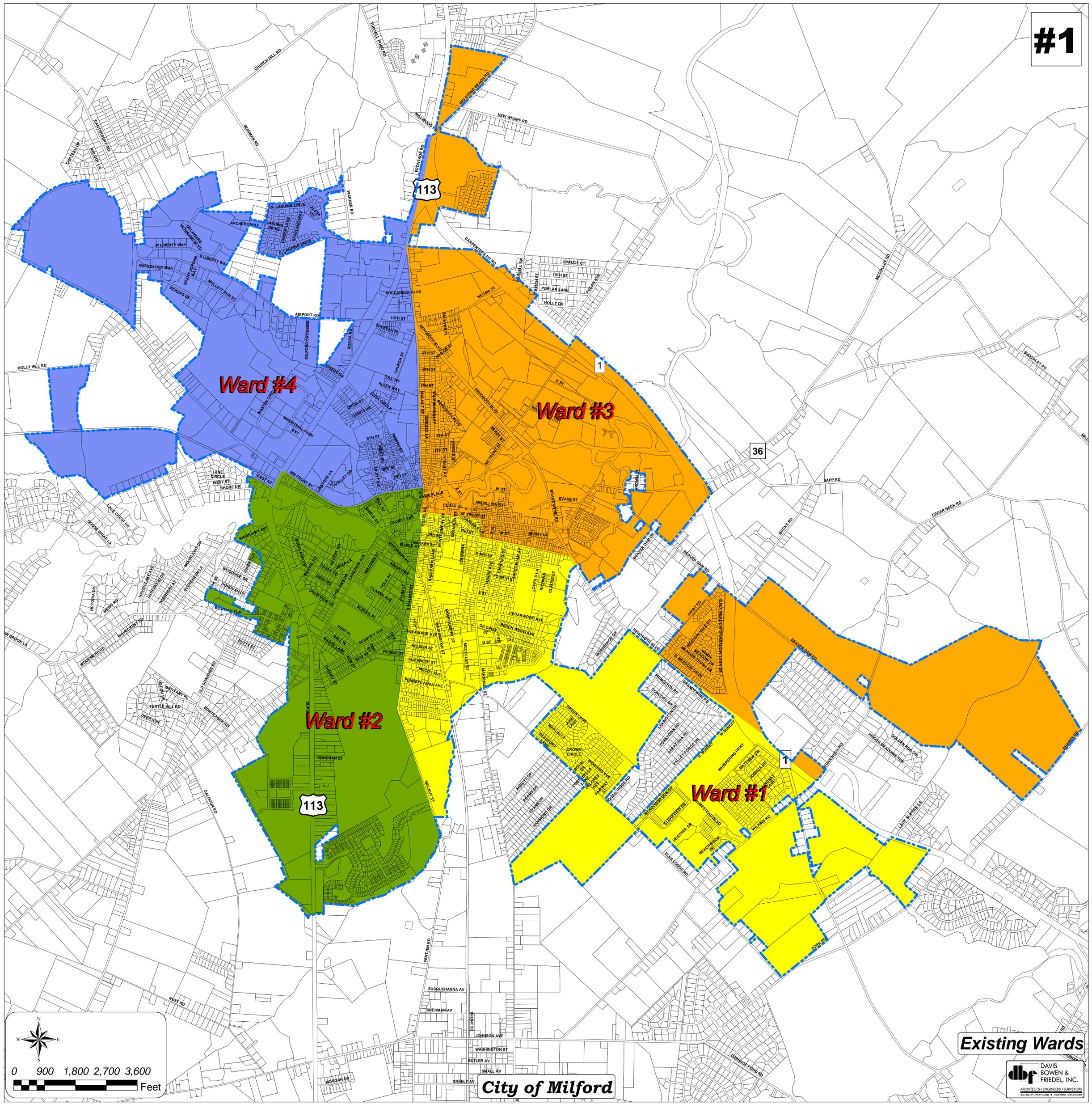
Ward #1



City of Milford

Existing Wards



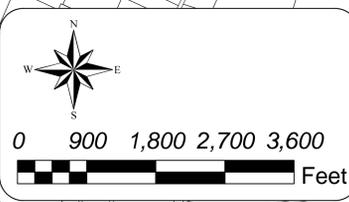


Ward #4

Ward #3

Ward #2

Ward #1



City of Milford

Existing Wards

