

City of Milford



AGENDA

Council Meeting

September 23, 2013

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

7:00 P.M. - PUBLIC HEARINGS

Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II/Preliminary Major Subdivision (Hickory Glen)
Tax Map MD-16-173.00-01-21.00; Tax Map MD-16-173.00-01-22.00-POSTPONED*

Davis, Bowen and Friedel, Incorporated on behalf of Shawnee Farms LLC
Modification to an approved Conditional Use for Cypress Hall/Redner's Market
Tax Map 1-30-3.00-261.00

Introduction of Ordinance 2013-9/Shawnee Farms LLC on behalf of Cypress Hall (Commercial) Redner's Market
Conditional Use-Gasoline Pumps

Ordinance 2013-6/Zoning Code Amendment/Planning, Zoning and Engineering Fees
Adoption of Ordinance 2013-6

2013 City of Milford Comprehensive and Annexation Plan-POSTPONED***

WORKSHOP

Call to Order - Mayor Joseph R. Rogers

DMI Presentation/President Irv Ambrose & Diane Laird Delaware Economic Development Office/Downtown Delaware**
Community Development Block Grant FY 2014

Washington Street Water Project/Well Drilling/Noise Issue/DBF****

Adjourn

COUNCIL MEETING

Call to Order - Mayor Joseph R. Rogers

Invocation

Pledge of Allegiance

Recognition

Communications

Unfinished Business

Adoption of Ordinance 2013-7/Chapter 200-Subdivision of Land/General Requirements & Design Standards

New Business

Milford Public School District/Request of Waiver/Chapter 79 Section 13 Prohibited Animals

Award of Bid/138kV Transmission Line/Electric Department

Fiber Optic Telecommunications Cable License Agreement-Revised

Approval of JSI Conveyance Agreement

Adoption of Resolution 2013-20/Planning, Zoning and Engineering Fees (Revised)

FY 2013-2014 Budget Adjustment/Finance Department/Capital Funds Transferred/Vehicle Purchase**

Executive Session

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation (City Lease Agreement)

Personnel-

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

Executive Session Matters (Legal Issue and Personnel Matter)

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

MILFORD CITY COUNCIL HEARING—POSTPONED*

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, September 23, 2013 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 take final action upon the matter of:

Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II requesting a the Preliminary Major Subdivision of 71.918 +/- acres with 240 apartment units and 128 townhomes for a total of 368 units. The proposed subdivision, to be known as “Hickory Glen”, is located in an R-8 District at 1335 Milford-Harrington Highway (southwest side of Milford-Harrington Highway and northeast of Holly Hill Road), Milford, Delaware. Tax Map MD-16-173.00-01-21.00; Tax Map MD-16-173.00-01-22.00.

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

Anyone with questions or comments should call Christine Crouch at 302-424-3712 Extension 308.

By: Terri Hudson, MMC

City of Milford



PUBLIC NOTICE

MILFORD CITY COUNCIL HEARING

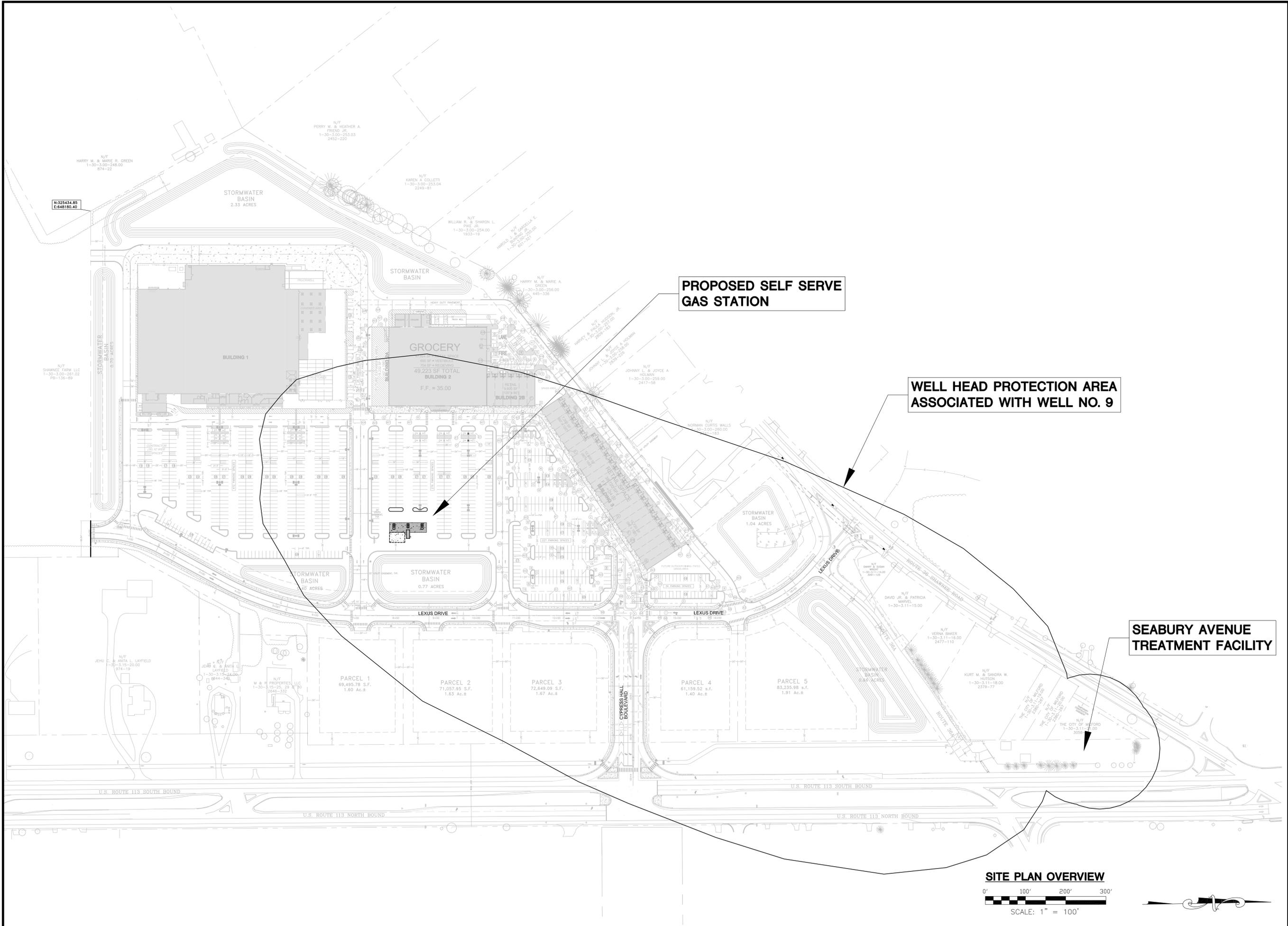
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Davis, Bowen and Friedel, Incorporated on behalf of Shawnee Farms LLC for a Modification to an approved Conditional Use for Cypress Hall to allow for the addition of three gasoline pumps (Redners Market) and reconfiguration of the existing parking lot. Property is located on the southwest side of Route 113 south of Seabury Avenue Extended. Area of Petition is 14.94 +/- Acres; Current Zoning is C-3. Tax Map 1-30-3.00-261.00.

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

Anyone with questions or comments should call Christine Crouch at 302-424-3712 Extension 308.

By: Terri Hudson, MMC

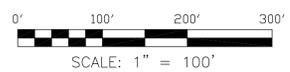


PROPOSED SELF SERVE GAS STATION

WELL HEAD PROTECTION AREA ASSOCIATED WITH WELL NO. 9

SEABURY AVENUE TREATMENT FACILITY

SITE PLAN OVERVIEW



DAVIS, BOWEN & FRIEDEL, INC.
ARCHITECTS, ENGINEERS & SURVEYORS



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

**CYPRESS HALL COMMERCIAL
CONDITIONAL USE (GROCERY GAS PUMPS)
MILFORD, DELAWARE - SUSSEX COUNTY - CEDAR CREEK HUNDRED,**

Revisions:

Date: **DECEMBER 2011**
Scale: **1"=100'**
Dwn.By: **CRS**
Proj.No.: **???**
Dwg.No.:

1



Land Use Application Cover Sheet

File Name: Cypress Hall Commercial
 File Number: 13-201

CITY OF MILFORD

JUL 09 2013

Instructions for Applicants:

Please read and follow all instructions on your application carefully. If you have any questions about the process of 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.

RECEIVED

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>Shawnee Farms LLC</u>			Phone: <u>(302) 429-8700</u>
Address: <u>105 Foulk Road</u>			Cell:
City: <u>Wilmington</u>	State: <u>DE</u>	Zip: <u>19803</u>	Fax:
E-Mail:			
Contact Person For This Application: <u>Bill Krapf</u>			Phone:
Address: <u>Same as owner</u>			Cell:
City:	State:	Zip:	Fax:
E-Mail:			
Applicant Name and/or Company: <u>Davis, Bowen & Friedel, Inc.</u>			Phone: <u>(302) 424-1441</u>
Address: <u>23 N. Walnut St.</u>			Cell:
City: <u>Milford</u>	State: <u>DE</u>	Zip: <u>19963</u>	Fax: <u>(302) 424-0430</u>
E-Mail: <u>tmm@dbfinc.com</u>			
Site Address: <u>28253 Lexus Drive</u>			Zoning: <u>C-3</u>
Tax Map & Parcel Number (s): <u>1-30-3.00-261.00</u>			Acreage: <u>14.94 ± AC</u>
Description of Proposal: <u>Removing 28 parking spaces and two landscape islands. Proposing three gas pumps, attendant building and two new landscape islands. All within existing grocery store parking lot.</u>			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant: <u>[Signature]</u>			Date: <u>7/9/13</u>
Signature of Property Owner: <u>[Signature]</u>			Date: <u>7/8/13</u>

REVISED: 11.15.11

Michael R. Wigley, AIA, LEED AP
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
W. Zachary Crouch, P.E.
Michael E. Wheelleton, AIA
Jason P. Loar, P.E.
Gerald G. Friedel, P.E.

July 9, 2013

Mr. Gary Norris, AICP
City of Milford
201 South Walnut Street
Milford, Delaware 19963

RE: Cypress Hall Commercial
Grocery Store Gas Pumps
Tax Map # 1-30-3.00-261.00
DBF# 1423A002

Dear Mr. Norris,

On behalf of the applicants Shawnee Farms, LLC, we hereby request a revised conditional use and revised site plan approval for the above referenced project. In particular this tax parcel was previously granted a conditional use for a proposed grocery store. Since the approval, the current building tenants have requested the addition of gas pumps, therefore requiring the existing conditional use to be amended.

The location of the proposed gas pumps are within the existing parking lot on the furthest end away from the grocery store building. We are proposing to remove 28 parking spaces and two landscape islands to install three gas pumps, one attendant building and two new landscape islands. At least one gas station attendant will remain in the building 24 hours daily. Also proposed on-site will be a 25'x38' underground fuel storage tank adjacent to the pumps and attendant building.

If you have any questions please feel free to contact me.

Sincerely,
Davis, Bowen & Friedel, Inc.



Timothy M. Metzner, R.L.A.
Project Manager

LEGAL DESCRIPTION
LANDS OF SHAWNEE FARM, LLC
LOT 1
1-30-3.00-261.00

October 21, 2008

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the westerly side of U.S. Route 113 and on the southeasterly side of State Route 36, and being located in Cedar Creek Hundred, Sussex County, Delaware, and being all of Lot 1 as shown on a plat entitled "Final Minor Subdivision of the lands of Shawnee Farm, LLC", completed by Davis Bowen & Friedel, Inc., dated September 2008(Revised October 2008), said piece or parcel of land being more particularly described as follows:

BEGINNING at an iron rod and cap set at a point formed by the intersection of the westerly right-of-way line of U.S. Route 113, width varies, with the southeasterly right-of-way line of State Route 36, 60 feet wide,

1) Thence, leaving said right-of-way line of State Route 36 and coincident with said right-of-way line of U.S. Route 113, South 00 degrees 26 minutes 00 seconds East 1577.38 feet to an iron rod and cap set at a point on the northerly line of lands of, now or formerly, M & R Properties, LLC, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware in Deed Book 2646, Page 332,

2) Thence, leaving said right-of-way line of U.S. Route 113 and coincident with said M & R Properties, the following (2) courses and distances, South 89 degrees 40 minutes 24 seconds West 270.07 feet to an iron pipe found at a point, passing over an iron pipe found at 29.30 feet,

3) Thence, South 01 degrees 19 minutes 04 seconds West 167.45 feet to an iron rod and cap set at a point on the northerly line of lands of, now or formerly, Jehu C. & Anita L. Layfield, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 1844, Page 349,

4) Thence, leaving said M & R Properties and coincident with said Layfield lands, South 89 degrees 39 minutes 03 seconds West 50.50 feet to a concrete monument found at a point,

5) Thence, continuing with said Layfield lands and in part coincident with other lands of, now or formerly, Jehu C. & Anita L. Layfield, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 974, Page 19, South 28 degrees 28 minutes 29 seconds West 343.04 feet to an iron rod and cap set at a point,

6) Thence, continuing with said other Layfield lands, the following (2) courses and distances, South 89 degrees 37 minutes 59 seconds East 22.00 feet to a concrete monument found at a point,

7) Thence, South 00 degrees 23 minutes 25 seconds East 68.60 feet to an iron rod and cap set at a point on the northerly line of Lot 3, as shown on aforementioned plat of "Final Minor Subdivision of the lands of Shawnee Farm, LLC"

8) Thence, leaving said other Layfield lands, and with a new property line through said Shawnee Farm, LLC lands, North 90 degrees 00 minutes 00 seconds West 856.09 feet to an iron rod and cap set at a point on the northeasterly line of lands of, now or formerly, Harry M. & Marie R. Green, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 874, Page 22,

9) Thence, leaving said Lot 3 and coincident with said Green lands, North 28 degrees 41 minutes 03 seconds West 429.35 feet to an iron rod and cap set at a point on the southeasterly line of lands of, now or formerly, Perry W. & Heather A. Friend, Jr., as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 2452, Page 220,

10) Thence, leaving said Green lands and coincident with said Friend lands, North 32 degrees 29 minutes 01 seconds East 316.37 feet to a point on the southeasterly line of lands of, now or formerly, Karen A. Colletti, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 2249, Page 81,

11) Thence, leaving said Friend lands and coincident with said Colletti lands, the following (2) courses and distances, North 30 degrees 08 minutes 55 seconds East 89.21 feet to an iron rod and cap set at a point,

12) Thence, North 28 degrees 31 minutes 56 seconds East 110.82 feet to an iron pipe found at a point on the southeasterly line of lands of, now or formerly William R. & Sharon Pike, Jr., as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 1933, Page 19,

13) Thence, leaving said Colletti lands and in part coincident with said Pike lands and in part coincident with lands of, now or formerly, Harold J. & Gardella E. Bunting, Jr., as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 601, Page 321, North 26 degrees 00 minutes 12 seconds East 212.32 feet to an iron rod and cap set at a point on the southeasterly line of other lands of, now or formerly, Harry M. & Marie A. Green, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 445, Page 336,

14) Thence, leaving said Bunting lands and coincident with said other Green lands, North 50 degrees 53 minutes 43 seconds East 223.39 feet to a concrete monument found at a point on the southeasterly line of lands of, now or formerly, Harvey & Paula Hudson, Jr., as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 2809, Page 183,

15) Thence, leaving said other Green lands and coincident with said Hudson lands, North 50 degrees 53 minutes 07 seconds East 79.85 feet to an iron pipe found at a point on the southeasterly line of lands of, now or formerly, Johnny L. & Joyce A. Holman, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 2839, Page 226,

16) Thence, leaving said Hudson lands and coincident with said Holman lands, North 51 degrees 30 minutes 54 seconds East 70.04 feet to an iron pipe found at a point on the southeasterly line of other lands of, now or formerly, Johnny L. & Joyce A. Holman, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 2417, Page 58,

17) Thence, leaving said Holman lands and in part coincident with said other Holman lands and in part coincident with lands of, now or formerly, Norman Curtis Walls, as recorded in the aforementioned Office of the Recorder of Deeds in Deed Book 2741, Page 183, North 51 degrees 23 minutes 57 seconds East 400.66 feet to a concrete monument found at a point,

18) Thence, continuing with said Walls lands, North 39 degrees 49 minutes 09 seconds West 250.84 feet to a concrete monument found at a point on the aforementioned right-of-way line of State Route 36,

19) Thence, leaving said Walls lands and coincident with said right-of-way line of State Route 36, the following (4) courses and distances, along a curve to the right having a radius of 411.68 feet, an arc length of 172.64 feet and a chord bearing and distance of North 57 degrees 18 minutes 52 seconds East 171.38 feet to an iron rod and cap set at a point,

20) Thence, North 69 degrees 19 minutes 42 seconds East 104.20 feet to a point,

21) Thence, along a curve to the left having a radius of 551.67 feet, an arc length of 130.08 feet and a chord bearing and distance of North 62 degrees 34 minutes 23 seconds East 129.78 feet to a point,

22) Thence, North 55 degrees 49 minutes 06 seconds East 429.69 feet to the point and place of beginning; **CONTAINING** 42.877 acres of land, more or less.



NOT TO SCALE

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 9, 2008

A Public Hearing was held before Milford City Council on Monday, June 9, 2008 in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware to take final action upon the following matter:

Davis, Bowen and Friedel, Incorporated on behalf of Shawnee Farm LLC for a Conditional Use to allow a Shopping Center and the Preliminary Review of the Major Subdivision of 69.23 +/- acres into 8 lots, in a C-3 Zone, to be known as Cypress Hall on the southwest side of Route 113 at the intersection of Shawnee Road/Route 36. Tax Map No. 1-30-3.00-261.00.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

The Public Hearing was called to order at 6:29 p.m. by Mayor Marabello who followed with a reading of the public notice.

Mayor Marabello announced that after receiving a request from the property owner, this application is being reconsidered based on a decision made by council on April 28, 2008. The hearing was properly advertised and notification provided to property owners within 200 feet of the site.

Attorney Robert Gibbs of Wilson, Halbrook and Bayard introduced himself on behalf of the property owner. Mr. Gibbs prepared and presented the following Proposed Findings of Fact with Conditions the developer has agreed to. After a complete review of the record, it was forwarded to City Solicitor Timothy Willard.

Randy Duplechain of DBF, Incorporated presented the application and a site plan of the site. He advised this is the same footprint as was previously seen. The only difference is the home improvement store is downsizing the store from the original plan by approximately 14,000 square feet which will shorten the southern end of the store. Instead of a 117 prototype which is 117,000 square feet, this will be a 103 prototype which is about 103,000 square feet of retail area.

They are proposing four entrances. One from Route 36, one fully signalized intersection on Route 113 which is the main entrance into the development, to the south will be a rights in/rights out and left in entrance and a future extension to the south into the residential portion.

Mr. Duplechain recalled the last presentation and the concerns related to the left in on Route 36. That was discussed with DELDOT who provided a letter stating they would consider eliminating the left in. What is now proposed at the Route 36 entrance is a rights out, a rights in and a left out with no left in into the project. That will be islanded off and extended down. Seabury Avenue Extended will become a cul-de-sac that will provide an access point to the city's water plant. He referred to the 60-foot right of way which they will request DELDOT turn over to the city and be narrowed to 50 feet since it compares to the city's minor streets.

With approval from DELDOT and the city, the additional ten feet can then be offered to the residents along Seabury Avenue.

In regard to buffering, they are proposing a privacy fence on the north side which would be within this ten-foot area. A landscape buffer will be provided on the south side of the site.

Mr. Duplechain offered to work with Danny Fox to buffer the entrance from their property. However, DELDOT will not allow buffering in the right of way. If he is willing to permit buffering on their property, they are willing to purchase the buffering and provide either fencing or landscaping.

On the stormwater management, an off site stormwater management evaluation will be performed to make sure the downstream channel can handle not only the flow from the development but also the entire watershed as was requested by soil conservation. Where possible, they will also implement some bio-filtration, bio-retention water quality type aspects to meet the water quality standards. A number of agencies asked if the paving could be reduced and they are willing to come before the Board of Adjustment and request a reduction in the amount of required paving for the shopping center. Presently there are 5.5 spaces per thousand which is well in excess of what is needed. They will probably request a reduction to either 5 or 4.5 spaces per thousand. That will allow less paving and more green space.

He added the size of the structures are the same with the exception of the home improvement store.

When asked about the cul-de-sac and who would make those changes, Mr. Duplechain explained that the paving thickness is adequate, but a cul-de-sac will be added and the connection to the highway will be closed off with a stub street to the water plant whose costs will be paid by the developer.

Mr. Duplechain pointed to the site plan noting the residential parcel on the corner is very small and if they agree to accept the additional property, it will almost double their lot size.

Mayor Marabello then opened the hearing for public comment.

Dan Fox of 17794 Oak Hill Drive, states he lives across the road from the proposed Route 36 entrance. He referred to the letter of reconsideration from Bruce Geyer. He stated in the letter that city council had asked to with Sussex Conservation and DELDOT to see what could be done to alleviate concerns of the neighbors. Mr. Fox said they got a letter from them and never saw them. Mr. Fox said he actually had to call the people to find out exactly what it stated which was only the minimum code for the stormwater. DELDOT did not give a stamp of approval but it was said DELDOT gave them the approval and stormwater gave them the stamp of approval. Mr. Geyer also brought up in the letter that this would resolve Mr. Fox's issues.

Mr. Fox said he brought up the underground infiltration at the previous meeting which is still part of stormwater management. He was trying to give more options to alleviate some of the stormwater running across his property because his biggest concern was his livestock.

The letter stated that he brought up new issues. Mr. Fox explained it all still pertained to the runoff.

He spoke to Mr. Elliott, who is the assistant manager for stormwater of Sussex County. Mr. Fox explained that each county has a code they have to follow. In speaking with the people in Kent County, they said each county is a little different. He asked Mr. Elliott if he ever had stormwater running across any property that had livestock. He could not remember this ever happening and stated Mr. Fox is the first one with this concern and agreed it could affect his livestock. No one else has that problem.

He also asked if the wet ponds will overflow. Mr. Elliott responded by saying no, they are technically designed.

Mr. Fox said to look at the Walmart in Seaford which is built to Sussex County code. That pond is built to the edge of the blacktop and anytime they have a little rain it is flooding the parking lot. With a two or three-inch rain, it is halfway to the building. They claim it will hold all the water but it does not.

He stated in the last three and a half weeks, since the weekend before Memorial Day weekend, we have had 8.9 inches of rain with 3.7 inches in one day. We had another 2 inches on race weekend and another inch and a half the other day. To break it down, you need 27,154 gallons of water to make one inch of rain on one acre. He got that statistic from two or three irrigation companies.

Mr. Fox said multiply that 8.9 inches out, per one acre, is 241,671 gallons of water. This proposal has approximately 40 acres of blacktop which comes out to 9.6 million gallons these retention ponds must hold which we got in the 3.5 weeks.

Mr. Elliott told him that a ten-year rain is approximately 4.5 inches of rain. From three straight days of rain, we had almost

6 inches of rain. Then we got another 2 inches not two weeks later which is classified as a five-year rain. Mr. Fox said these retention ponds are supposed to hold all of the water. His biggest concern is the fact they say supposed to. He has watched the one at Walmart in Seaford which is built to the Sussex County Code which this developer is supposed to follow. It will breach and come across his property. His livestock will drink the water and if any of his livestock gets sick and he has a vet bill or one dies, he asked who is paying the bill. He asked if anyone here is willing to sign a paper, have it notarized saying they will pay this bill for the rest of his life as long as the developer is across from him. He wonders if Mr. Duplechain or Mr. Geyer would be willing to do that.

He said that Mr. Duplechain made a comment at the meeting they had at Representative Walls' business with DELDOT that he would sign it, but he has not seen it yet. No one has stepped forward and provided a piece of paper from a lawyer that will stand up in a court of law saying they will pay for his livestock if they get sick from drinking this water. He will have to foot the bill and he is the one that will suffer from lost production. He cannot afford that. There was a drought last year that hurt him and he had to sell quite a bit of his livestock. He has about twenty cattle with calves. He just had another calf born yesterday and he does not want to lose it. He enjoys watching it and his neighbors enjoy watching it along with other people sitting in this room. It is the last country thing people see before they come into city limits. It is also the first thing they see when they are heading home. It is a nice country scene with a little pond.

With the runoff, Mr. Fox also asked Mr. Elliott about the pond and what would happen if it was frozen during the winter. He has about a half acre pond in front of his pond which is L-shaped. Three years ago it froze. We then had a three-inch rain that froze over top of it which made a sheet of ice. He said it looked like white water rapids going across his pasture. His neighbor can contest to it because it was half way up to their property.

Mr. Fox advised these retention ponds will not hold any water back when it is frozen. The water will run across the ice. They also said it was designed to hold it technically, but when it is frozen it will not hold anything and will run across his property and contaminate his property. He has grass as a buffer to try to slow the water and collect the excess nutrients so it does not run down into the lake and into the Mispillion and on out to the bay. Part of his nutrient management plan is that he provide a buffer so it does not contaminate downstream.

He referred to Mr. Workman's comment about Silver Lake being somewhat polluted but we are trying to keep it clean. It is easier to take care of the problem before it starts because down the road it will cost big bucks to fix. That money will have to come from the city because Silver Lake is inside city limits. DNREC will probably foot a lot of the bill because they will be taking care of it.

Mr. Fox said during the planning commission hearing Mr. Duplechain made a statement that they had to have a left in off Route 36 because the four houses at the point have entrances on the back of their properties. He pointed out they need to get into their property. He tried to work with Mr. Duplechain and asked about a rights in only so allow vehicles leaving to go out to the highway come back around.

He does not have a problem with people going in but the problem is coming out because they will shine their lights into his house. If there is an accident, the police will be called. He will also be out there at two or three o'clock in the morning trying to round up his cattle which could involve a 1,500 pound bull that wants to cruise the neighborhood. It is different from a dog and you are not just going to put a lease on him and walk him back home. It will be difficult and require a number of people to steer him in the right direction toward his home.

If there is an accident there, it will tear his fence up. At three o'clock in the morning, it is hard to put a new fence up along with new posts to keep his cattle in.

Mr. Fox feels the wildlife and the citizens of Milford and people traveling to and from Milford need to be protected. He is concerned that if a cow gets out on the road and is hurt or hurts someone and hopes they will not be killed as has happened in similar cases.

He cannot imagine how traffic will increase because he cannot get out on the roadway now. When he goes out with a piece of equipment, it takes a half mile to get to its top speed of 16 miles an hour. There are a lot of tractor trailers and trucks because they are taking barley off and are getting ready to take wheat off. Milford Granary is a big company for

neighboring farmers. There is a lot of traffic and a lot of big farm trucks coming through this area at slower speeds. When a car pulls out in front of them, a tractor trailer with a thousand bushels of grain is unable to stop on a dime and instead will plow them down.

Karen Colletti of 6681 Shawnee Road then reported she has an LPP system on her property line which is 50 feet from the large water retention pond and causes her concern. She has a lot of clay on her ground so she does not have a lot of drainage and that is the only place her septic can go. Ms. Colletti is also concerned with the rain we have had with water backing up. Ms. Colletti stated that Sam Powell put her septic in and he said it will ruin her septic. There is no where else on her ground it can be placed. She is also concerned about the snakes and mosquitos that come with the drainage system. She said the buffer they are adding along the residential lots goes along the foot of the retaining pond and not the back where her property is. That buffer is meant to protect the neighbors.

Ms. Colletti also has concerns about the traffic. Her kids grew up there and went up and down the road many times but kids can no longer do that. She has grandchildren now who can't do that. She sees kids on bicycles. There is no protection for them from the traffic. No sidewalks exist and there is no way to make the road wider. There is no room for a safety walk. She does not want traffic encouraged to use Route 36 to keep everything away from the intersection at Route 113 and 36. Nothing has changed and she questions why we are here again. There is still no bypass and this will still create the same amount of problems and concerns for the residents. She understands the group opposing this is only a small group of people, but noted that Milford is made up of different groups of people.

Ms. Colletti feels their concerns are legitimate and asked that council should consider them.

Trish Marvel of 6525 Shawnee Road stated that Seabury runs behind her house and she is one of the four houses at that point. She said she has the same concerns she had before. She understands that we have to move forward and progress is important and Milford wants to grow and prosper. It will create jobs and there are a lot of wonderful things that will happen by bringing in this type of business. However, it is not the most logical place to put it. The infrastructure next to Walmart is typical of where a box building should go. That is a pattern with Seaford and Dover. She asked why is Milford putting a box building in a residential area. She asked if any consideration was given to placing a box building in an area already conducive to the traffic with lights and entrances, roads and property. Ms. Marvel emphasized she is not opposed to residential going into that area.

She asked if consideration has been given to putting this box store somewhere other than where they are proposing. Ms. Marvel asked specifically about the Walmart area where the infrastructure exists for a large building and a huge parking lot. She said council needs to answer that.

Ms. Marvel said this location is a total destruction for livestock, safety and traffic reasons. She feels Route 1 is considered a commercial piece of land but when you bring all of that traffic into the residential, what does that do to their residential area. She noted that these people have lived in this area for twenty and thirty years.

She understands it is a small group and only represents a small portion of Milford but their concerns are very valid. She asked if consideration could be made to have it somewhere else in Milford. She does not disagree that Milford does not need a Lowes or a Home Depot, but this location is not conducive to what is proposed. They can put barriers up and fences up but it will not eliminate the traffic and everything else that goes along with it.

Councilwoman Wilson responded by saying the first thing that comes to mind is that when individuals come to Milford and are interested in specific land, they do not come to council first. A developer purchases or contracts the land and until it gets to the point when the plans are in place and they must come before the city is when council gets involved. Neither the city nor council goes to these developers and tells them they want a home improvement business or any other type business on a specific piece of property.

Ms. Marvel feels that because part of this project is residential, she feels the scope of the project should be changed and the entire piece made residential. All the things that go with this from a residential perspective make sense to her. But the box building and traffic, runoff and rerouting roads, adding lights and putting an entrance off Route 36 that is related to this type business does not make sense.

She feels there are industrial areas for this type of business. Ms. Marvel said cutting the size of the building is not that much when you think about it because it is really not being reduced that dramatically. She said her husband spoke to DELDOT today and they were told things that are not valid. They have alluded to the fact they have received DELDOT approval. She believes they may have had a conversation with DELDOT and verbally got some direction, but her husband talked to someone today specifically for this area and there is nothing that has been officially approved. She thinks that some of this has been done underhanded and is trying to be shoved down the residents' throats without them knowing all the facts Ms. Marvel ended by saying there is a lot at stake.

David Marvel of 6525 Shawnee Road said he is the husband Ms. Marvel was referring to. He stated that he talked with Derek Sapp who works for DELDOT. Mr. Marvel said that Mr. Sapp indicated he knows nothing about getting this piece of land from the developer. He indicated that nothing has been given or nothing received and this is all basically a pipe dream. He gave Mr. Marvel permission to use his name (Derek Sapp-telephone number is 760-4803).

Councilman Workman asked Mr. Marvel what Mr. Sapp's position is with DELDOT and if he in a position to make decisions on this type of development. Mr. Marvel said he is the head of the development area and after talking with three different people, someone gave him Derek Sapp's name. He is in charge of this area and would know if anyone does. He said that he knows nothing about receiving anything about this dream.

Mr. Duplechain stated a number of those present attended the meeting that was held at Walls Farm and Garden Center. He advised that Derek Sapp (Subdivision Manager for Western Sussex County) was one of the individuals there along with DELDOT Engineer Supervisor Marc Cote'. Mr. Duplechain explained that Mr. Sapp is very familiar with this project. A traffic impact study was done through DELDOT which included the Simpson Crossing, Milford Ponds, some of the traffic from Hearthstone Manor, Meadows at Shawnee, Fitzgerald's Industrial Park, Knollac Acres and the Solid Waste Authority. Full build out of all those developments was part of the study along with the full build of this project.

Mr. Duplechain added that Mr. Sapp has been intimately involved with the discussions related to the entrances and is actually the person who wrote the letter related to the Route 36 entrance. He and/or Mr. Cote', who is Mr. Sapp's boss, have been part of these discussions.

He also explained that the approvals will not be granted until the conditional use is approved and the construction documents are submitted for review. This will also be done with the other agencies as well. The design approval process is not started until the preliminary and conditional use approvals are granted by council. Mr. Sapp may have been referred to the construction plans only because they are not in a position to submit them yet. But they are familiar with the entrances and DELDOT is the one who made those recommendations.

Attorney Rob Gibbs then referred to the statement made by Mr. Marvel regarding DELDOT not knowing anything about the change at the Route 36 intersection of lands being added to the properties, etc. He said that in fairness to Mr. Marvel, he does not think DELDOT is on the same wavelength on that proposal by the developer. That came about as a result of the meeting where this body asked for additional information on the Route 36 intersection. As a result, there has been a supplement to the record. Mr. Gibbs said it is not a pipe dream and is actually part of the record. He referred to the April 15th letter which was provided to the council that explained the changes requested to Route 36 that were discussed with DELDOT. DELDOT responded by talking about the left in and some changes to Route 36.

He then referred to Mr. Duplechain's earlier statement about one of the conditions they are proposing which is item B on the list of conditions they propose to be attached to this approval. *"At the request of the city hereafter, applicant will request that DELDOT eliminate the left-in access to Cypress Hall from Route 36"*. He explained that depends on whether the city wants this. He reiterated that DELDOT owns the right of way and they would have to give the right of way in order for the developer to create the buffer and the ten-foot strip along the back of those lots that back up to Seabury Avenue Extended. That would have to be asked for by the city. If the city agrees that it can be done, the developer will request DELDOT abandon that 60-foot right of way to the city for management. The city would then ask the developer to go ahead and make their application. If that can be done and right of way reduced to 50 feet, then the additional ten feet can be dedicated to the property owners. The developer would then, again at his cost, undertake the fencing and buffering proposed in writing as one of the conditions. He agrees DELDOT would not know about that specifically because at this point, it is being submitted in writing as a condition of this approval first. He hopes that will clarify that issue.

Kathy Weldon of 6494 Shawnee Road explained she is directly across Route 36 and one of the major impacted properties. She said she received no notification about the proposed changes to Route 36. Neither has any of her other neighbors on the north side of Route 36. She feels that is why the original meetings and public hearings for this development received less response from the residents because they were not told how badly the congestion was going to be or how restricted the ingress and egress from their own homes was going to be. The congestion on Route 36 has been building over the years. This is not going to improve it.

Ms. Weldon agrees with Ms. Marvel that disrupting an established neighborhood is detrimental to the community. She has also suffered severe flooding and her property abuts the property of Mr. Fox. A previous rainfall has caused loss vegetation and she does not see how this will improve that. She has been flooded before.

Chuck Rini of 119 Ginger Lane stated he is a member of the planning and zoning commission. However, he is speaking as a proud citizen of the City of Milford. He heard a couple of people mention the Walmart area and he lives behind the Walmart area in a residential community. He has no problem with the Walmart setup or the traffic flow. As a private citizen, he feels very strongly in favor of this project mainly because it will be very good, through his eyes, for the city. He believes it has the potential to create several hundred much-needed jobs that would go to the people in Milford. He also believes it will create a new found tax base for the City of Milford and numbers may be in the several hundreds of thousands of dollars.

Mr. Rini explained that box stores are now offering a larger selection of merchandise. He remembers sitting in this room listening to one of the heads of a medical center facility when he was questioned about the lack of doctors coming to the Milford area. The gentleman spoke and said that one of the first questions asked by any candidate coming to the Milford area as a doctor or medical professional, is what type of shopping is available for their families. He feels we need to improve the shopping in Milford in order to receive more professional people here.

Also as a personal note, Mr. Rini stated he is not a farmer and he will not suggest he knows anything about farming. But he believes that from an economic basis, if you become anti-development and developers do not want to come into the Milford area, if you are a farmer and you want to sell your farm, you eliminate the possibility of selling it to a developer. In the past, farms were handed down from family to family, generation to generation, though that is basically fading from the American scene. He said all you have to do is go to the Department of Agriculture to see how much farm land this country is losing on a daily basis which he thinks is a critical situation.

Being a citizen of Milford, he wants to say that he strongly supports this project and believes it would be a tremendous asset to the city and the people of Milford.

Ms. Marvel again spoke stating she is not opposed to progress. She thinks having a box store in Milford would be great, but it is this location that is her concern. She is not against progress and creating jobs and all those wonderful things along with taxes, but this location is her problem.

Butch Comstock stated he has a business at 6706 Shawnee Road. He says he respects all the neighbors' thoughts about water and those issues. Where he is located, there is a lot of rain that comes down Route 36. He is not disagreeing with the neighbors, but there is already a water problem and it does come down Route 36 by his shop and may not have anything to do with the box store. He stated that before everyone gets upset about water, it may not be an issue if there is a culvert under the road. It could be coming from the right side of the road and having nothing to do with it. He is somewhat in favor of this, but respects the neighbors' concerns. It would be nice to have this in Milford. He agrees traffic is heavy to begin with and he is unsure whether a box store would make it worse. His question was about the water issue if that is the main concern.

Mayor Marabello asked whether anyone else wished to speak; there was no response. Seeing no response, the mayor declared the public comment period closed at 7:16 p.m.

Mr. Duplechain asked to respond to a number of items discussed. One is in regard to the comment about the water coming down Route 36 which he understands is a substantial amount of water that comes down Route 36 and ends up in this same location. The study required by soil conservation is not just on this property and the surrounding properties. They are

actually looking at the entire watershed which would include the water coming down Route 36. That will be taken into account when we look at the downstream affect of not only this shopping center but that whole area. Depending on what is found, they may be able to make improvements downstream that would address some of the flooding issues they currently have.

Their requirement is they cannot discharge any more than is already being discharged. It is a soil conservation requirement. He is hoping the study will reveal some improvements that will benefit everyone in the area.

Mr. Duplechain said there was a discussion related to why this is occurring on this site and not next to the Walmart. He explained there is not enough property at the Walmart location. There is only one piece left with some size to it. It has been looked at previously for a potential home improvement store but not deep enough to handle it. Additionally, the adjacent property owner was not willing to sell his property. As a result, that location would not fit a home improvement store.

He noted that this property is zoned C-3 and has been zoned C-3 for sometime. They have gone through the public hearing process to have it annexed and zoned. It is a use that allows highway commercial. If this project is turned down, the likelihood of something being commercial on that property still exists without needing a public hearing for a conditional use. It has been shown as a location that can handle commercial in addition to the traffic. According to DELDOT, the studies show it can handle this development.

There were no questions or comments from council for Mr. Duplechain.

Mr. Workman asked to comment about the four residences on the end of Seabury Avenue Extended and the rights in and rights out. He feels that is something that can happen because when they first came up here, they said they would be able to do that. Tonight they said they would not be able to make that left. He went to this location but no one was home. He agrees they use their backyard to access their properties and he thinks that may be something we should consider in reference to putting in a cal-de-sac in and their right in and right out.

Mr. Workman said in regard to the retention pond, he understands where Mr. Fox is coming from but we also have experts and procedures and policies to make sure the regulations, not only for the city but also for the state, are met. If something occurs as did in Seaford, he feels we can address it then. But if they have met all standards, that is what is required.

He stated that council is here tonight to decide if we want this development. The majority of people in Milford want this development. Ms. Marvel asked why not put residential in there instead of the box store. Route 113 is zoned commercial. The whole idea was this stretch be commercial development. If it was made all residential, Mr. Workman feels that would generate even more traffic than this box store. This box store opens and closes at specific times. Residents would come in and out twenty-four hours a day and each home would have two to three cars.

Mr. Workman said we are also trying to bring businesses into Milford. He understands the residents concerns who live there, but Mr. Workman feels the developer will work with them in reference to the buffer because they understand it is a concern. He pointed out that council needs to look at the future of Milford as well. He feels all the questions have been answered by DELDOT and water conservation.

Mr. Workman will ask that the rights in/rights out be considered because the residents are affected by this development. He agrees they need to get in and out of their properties and there was a change made tonight from the initial plan presented.

Ms. Wilson asked if the engineer can address the right in and right out issue again and how it will affect this plan and Mr. Workman's reference to the change in the plan.

Mr. Duplechain referred to the drawing of the area, noting that DELDOT was very adamant about people going through the Route 36 intersection to make a right. They felt they would be doing a cut-through using Seabury Avenue Extended which would generate additional traffic. The rights-in from Route 113 is another access point that would bring more traffic behind the residences. He would be more concerned if he were a resident along Seabury Avenue Extended with leaving Seabury Avenue Extended rights in/rights out connected to Route 113. He thinks DELDOT eliminated the left-in at Route 36 because council asked the developer to come back. He believes they felt they could eliminate it because the movement

could occur at Route 113 and Lakeview Avenue and the left into the site at the main entrance. He thinks that DelDOT would prefer to keep the left-in at Route 36 but because of the residents' concerns related to the amount of traffic using Route 36, DelDOT agreed the left-in could probably be eliminated.

Mr. Crouch said he was under the impression there was a left in being eliminated off Route 36.

Mr. Duplechain agreed and pointed out that in the original plan, there was a left turn coming into the site from Route 36. This movement was eliminated to stop some of the traffic using Route 36 to get to the site. The reason DelDOT want to keep the left out is because if it were eliminated someone heading west from the shopping center would have to use the main Route 113 intersection, make a left out onto the highway, and then make another left to get onto Route 36. Keeping the left out is an easier connection when going in westerly direction.

Ms. Wilson asked how the change was made to eliminate the left in. Mr. Duplechain explained the change was made based on the concession by DELDOT who said there was concern related to the amount of traffic coming into that area. To help reduce the traffic, they were willing to allow the left in to be removed. They also discussed the possibility of eliminating the left out and doing a rights in/rights out. They felt it was important to keep the left out and were willing to remove the left in.

DelDOT was not keen about leaving the rights in/rights out because of the amount of traffic it would generate behind the homes on Seabury Avenue Extended.

Mr. Spillane said that because the store is being downsized, he asked if the storm pond can be increased.

Mr. Duplechain explained that the stormwater pond will be made as large as possible and if it can be oversized, they will do that. But they have to meet their requirements. He explained the store is shortening the one side by 45 or 50 feet. That strip of area will be used as a bio-retention area. This will allow stormwater to be sent from the parking lot to the bio-retention area which will connect to the stormwater management pond. They are also hoping to reduce the amount of parking spaces which by nature itself will reduce the amount of impervious surface and in turn, reduce the amount of stormwater management that would be necessary.

Depending on if it can be reduced, they would be doing some bio-filtration along the front for a water pond purpose. In essence, Mr. Duplechain feels they are expanding stormwater management where possible. He believes they are sized properly and if it is found it is not enough, they may do something in the area near the discharge pipe. It should be adequate considering the size of the ponds and the fact that the majority of the water will be directed to the stormwater ponds. The two ponds will be interconnected and will basically act as one. The discharge point would be at that location.

In regard to the concern about the water coming down Route 36, they will review the entire area in this study and will do an off site analysis.

Mr. Spillane referred to the road going out of the shopping center and asked if there is anyway to put something, such as a steel barricade, across the other side of the road to prevent that vehicle from hitting Mr. Fox' fence. Mr. Duplechain said that would have to be a decision of DELDOT though they may consider a guardrail of some sort particularly considering the steep drop off. DELDOT could possibly allow a guardrail as opposed to landscaping. He reiterated they will definitely consider that.

No one else from the council commented.

Mr. Crouch moved for approval of the major subdivision of 69.23 +/- acres into 8 lots, in a C-3 Zone, to be known as Cypress Hall, seconded by Ms. Wilson.

Mr. Willard directed council to state their reason for their vote.

When asked for questions, Mr. Spillane mentioned the possible addition of another storm pond, Solicitor Willard explained that they will have to come back for finals, including a final site plan, which will be much more detailed. As the applicant

already indicated, they will receive final Sussex Conservation District approval based on many of the items discussed this evening. In addition, other approvals will be required including a final approval from DELDOT.

Motion carried by the following unanimous roll call vote:

Mr. Ambrose stated that gasoline officially hit \$4.04 a gallon today across the United States. Any elimination of driving on behalf of the citizens should be taken into account and he votes yes.

Mr. Spillane votes yes and states he believes the contractor will try to work with the people in the surrounding area and will keep an eye on the storm drainage problem.

Mr. Workman wants the developer to know that he believes they want to work with the residents and because their lives are being uprooted because of the construction. This is important and a lot of his constituents have called him in favor of this and only a couple have said no. Most of the people that called him were in favor of this. He got his answer from DELDOT and he knows the retention pond must be by code and votes yes.

Mr. Crouch votes yes because it will bring jobs to Milford. Also in doing some research, the bypass is not dead though he would feel much more comfortable if it were on the drawing board but votes yes.

Mr. Brooks votes yes taking into consideration a couple hundred new jobs. The main reason he voted no last time was because of traffic. But he has since met with DELDOT at Representative Walls' business when this was discussed. DELDOT was going to try to improve it and he has always been told that no project can be approved unless it receives approval from DELDOT.

Mr. Morrow also votes yes and he has supported it mainly because the planning commission supports it.

Mr. Starling votes yes because it will bring more jobs to Milford. He, too, feels that DELDOT will continue to work to improve the roadways and the developer is willing to work with the neighbors.

Ms. Wilson votes yes based on the planning commission recommendation who have already done a majority of the leg work. The engineer and developers have complied with all the previous requests of council in addition to DELDOT's support and work on the project.

Solicitor Willard then read the following conditions submitted by the developer this morning and recommended that if the conditional use is approved, they be included in the approval:

1. Applicant will work with DELDOT to determine the amount of right-of-way dedication that will be required and will obtain entrance approvals prior to entrance construction.
2. At the request of the city, the applicant will request the DELDOT eliminate the left in access to Cypress from Route 36. At the request of the city, the applicant will request that DELDOT abandon the right-of-way of Seabury Avenue Extended to the City of Milford for maintenance. If the city thereafter approves the reduction of the right-of-way to 50 feet, and the dedication of the northernmost 10 foot residual to the property owners along Seabury Avenue Extended, the Applicant will undertake the 'Fencing/Additional Buffering'; i.e., applicant will construct a 6-foot residual to the property owners along Seabury Avenue Extended property owners' properties, and will install a landscaped buffer with plantings along the northern side of Seabury Avenue Extended ("Fencing/Additional Buffering").
3. Applicant will construct a shared use path in the DELDOT right-of-way along the development frontage along U.S. Route 113, as approved by DELDOT.
4. Applicant will seek approval of the City of Milford Board of Adjustment to reduce the number of parking spaces to meet actual or anticipated demand in order to reduce impervious surfaces.
5. Applicant will comply with Sussex Conservation District's requirements as set forth in its letter to DB&F dated April 22, 2008.

Ms. Wilson moved the conditional use be approved, subject to the above five conditions, as read into the record by City Solicitor Willard as outlined in the Proposed Findings of Facts and Conditions dated June 9, 2008 for Shawnee Farm, LLC and Cedar-Ironwood Cypress Hall, LLC. Motion seconded by Mr. Crouch.

Mr. Workman suggests that in the future, any document submitted for a council meeting be provided in time to be included in the council packet which is finalized the Wednesday prior to the meeting. It is important that council have sufficient time to review any paperwork and that it not be allowed once the packet is done.

Mr. Willard then reviewed and read into record, the following criteria for evaluation for a conditional use per Section 230-48 of the city code:

The presence of adjoining similar uses.

An adjoining district in which the use is permitted.

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

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

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

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

Mayor Marabello then asked council to state their reasons for their vote.

Mr. Ambrose votes yes stating this is a conditional use in the C-3 zone.

Mr. Spillane votes yes for the same reasons stated by Mr. Ambrose.

Mr. Workman states that everything is in black and white and is on record so the developer is aware of what needs to be done and votes yes.

Mr. Crouch votes yes because it is an approved use of the property through a conditional use and it is a commercial property that adjoins additional commercial property.

Mr. Brooks votes yes based on the conditions that Solicitor Willard read into record.

Mr. Morrow votes yes as he did during the initial vote because it meets the criteria of a conditional use.

Mr. Starling votes yes for the same reasons stated by Mr. Morrow.

Ms. Wilson votes yes based on the application meeting the criteria in our code as was read by Solicitor Willard.

Motion carried by unanimous vote.

Mr. Crouch moved for adjournment of the Public Hearing, seconded by Mr. Workman. Motion carried.

The Public Hearing adjourned at 7:43 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City of Milford

CITY COUNCIL OF THE CITY OF MILFORD

PUBLIC HEARING

Shawnee Farm, LLC and Cedar-Ironwood Cypress Hall, LLC

Application for Conditional Use to Allow a Shopping Center
and

Preliminary Review of the Major Subdivision of 59.64 +/- acres into 8 Lots, C-3 Zone

Sussex County Tax Map Parcel No. 1-30-3.00-261.00; 1-30-3.15-25.00, 26.00 & 30.00

June 9, 2008

PROPOSED FINDINGS OF FACTS AND CONDITIONS

1. This matter comes before the Mayor and City Council of the City of Milford upon application of Shawnee Farm, LLC, Owner and Cedar-Ironwood Cypress Hall, LLC, Developer (collectively "Applicant"), the owners of a development located on the West side of US Route 113, South of Route 36 in the City of Milford. The development, known as Cypress Hall, consists of +/- 87.70 acres of residential lands (zoned R-3, Garden Apartment and Townhouse District) and +/- 59.64 acres of commercial lands (zoned C-3, Highway Commercial District). The Applicant is seeking to subdivide the commercial lands into eight (8) lots:

- 6 outparcel lots totaling 9.61 acres;
- a +/- 29.91 acre lot for a shopping center;
- +/- 4.25 acres of public right of way; and
- residual lands containing +/- 15.83 acres.

The application includes a request for approval of a Conditional Use to allow the shopping center. The application, a combined application for: Preliminary Site Plan Review; the afore-described Major Subdivision; and the afore-described Conditional Use for a shopping center, is hereafter referred to as the "Application".

2. The Applicant proposes 237,200 sq. ft. of commercial space in the shopping center (excluding a garden center adjacent to one of the buildings), to include a 139,000 sq. ft. home improvement store (only 117,000 sq. ft. of which is actual retail; the balance is to be used for offices, loading and storage); a 65,000 sq. ft. grocery store and miscellaneous additional retail space totaling 55,000 sq. ft. The Applicant's preliminary plan, submitted with the Application, consists of 6 pages (the "Preliminary Plan"). The site plan page shows the proposed location of the buildings, the retail space of the buildings and the required/provided parking. The Preliminary Plan also includes: a cover page; a preliminary record plan, including boundary and topographic survey data; a

preliminary drainage plan; a preliminary utility plan; and a preliminary landscape plan. This Preliminary Plan¹ was presented to the City of Milford Development Advisory Committee ("DAC"), which provided its comments, and identified contact persons for the various departments of the City of Milford, the Sussex Conservation District and the State Fire Marshall's office, as reflected in Meeting Minutes of January 18, 2008. These DAC Minutes are incorporated into the record for this project.

3. The Application was presented to the Planning Commission in a duly noticed Public Hearing on February 19, 2008. The Planning Commission preliminarily approved the Major Subdivision as presented and the Conditional Use for a shopping center as presented.

4. The Application was first presented to this City Council at a duly noticed Public Hearing on March 24, 2008. This Council tabled the Application and requested additional information regarding: i) the proposed Route 36 entrance to the Development; ii) storm water run off from the development; and iii) and fencing and/or buffering for the benefit of property owners along Seabury Avenue.

5. The Application again came before this Council at its regularly scheduled meeting on April 28, 2008. The Applicant, through its engineer, Davis Bowen & Friedel ("DB&F"), reported to the Council additional findings and information requested in the March 24, 2008 meeting. Regarding the proposed Route 36 entrance, Applicant provided the Council a letter from DelDOT dated April 15, 2008, addressing the Route 36 entrance to the development. This letter is now a part of the record pertaining to this development. Regarding the storm water storm water management and the water quality issues, the Applicant provided the Council a letter from the Sussex Conservation District, dated April 22, 2008, that is also a part of the record pertaining to this development, and which is discussed further below. After discussion and additional public comment, the Council denied a motion to approve the conditional use and preliminary major subdivision. Thereafter, by letter dated April 30, 2008, the Applicant filed a request for reconsideration under § 230-58 (F) of the Zoning Code. This Council considered that request for reconsideration in its regularly scheduled meeting on May 12, 2008, and unanimously approved the request. Upon recommendation of the City's counsel, the Application was scheduled for consideration at another public hearing before this Council.

6. The Applicant initiated the PLUS Review procedure for this development, in 2005. The PLUS Application Submission of 6/30/2005, the PLUS Comments of 8/16/2005 (from PLUS Meeting 7/27/2005), the PLUS Response from Applicant's engineer, DB&F, of 10/17/2005, and the PLUS request to City of Milford to consider PLUS Recommendations, dated 11/7/2005, are already part of the record pertaining to this development. All of these submissions predated the expansion of the acreage of the

¹ The preliminary plan before this Council at this Public Hearing of June 9, 2008 has been updated from the plan submitted with the original Application, as previously presented to the DAC, the Planning Commission and the Council, to reflect modifications to Seabury Avenue, as described in Section 6A, below.

C-3 commercial lands (from +/- 34.24 acres of C-3 to +/- 59.64 acres), resulting from Applicant's change of zone application of 9/08/2006, requesting rezoning +/- 24.74 acres of R-3 lands to C-3. The change of zone request was approved by the Planning Commission after Public Hearing on 8/21/2007 and approved by this Council after public hearing on 9/24/2007. The Applicant initiated a second PLUS Review after the expansion of the C-3 commercial acreage, through its Commercial Plan Review Submission of 12/31/2007. This submission, together with the PLUS Comments of 2/20/2008 (from PLUS Meeting 1/23/2008), and the PLUS Response from DB&F of 3/18/2008 are also part of the record pertaining to this development. Several of the recommendations from State agencies, and the responses of the Applicant (through DB&F), are summarized here, as they will for the bases of conditions (proposed conditions are shown in *italics*) of approval of this Application:

A. DelDOT.

1. Traffic flow is a primary concern of the City Council and the citizens of the City of Milford. A traffic impact study was completed March 14, 2006; the report is a part of the record pertaining to this development. The letter from DelDOT dated April 15, 2008, addressing the Route 36 entrance to the development, mentioned above, and a letter of April 17, 2008, relating to the U.S. Route 113 residential access to the development, are also a part of the record pertaining to this development. *Applicant will work with DelDOT to determine the amount of right-of-way dedication that will be required and will obtain entrance approvals prior to entrance construction.*

2. DelDOT recommended, and the Preliminary Plan now reflects the construction of a cul-de-sac with access to the City's water plant, and the elimination of direct access from Seabury Avenue Extended to U.S. Route 113. *At the request of the City, the Applicant will request that DelDOT eliminate the left-in access to Cypress Hall from Route 36. At the request of the City, Applicant will request that DelDOT abandon the right-of-way of Seabury Avenue Extended to the City of Milford for maintenance. If the City thereafter approves the reduction of the right-of-way to 50 feet, and the dedication of the northernmost 10 foot residual to the property owners along Seabury Avenue Extended, Applicant will undertake the "Fencing/Additional Buffering", described hereafter.*

3. *Applicant will construct a shared-use path in the DelDOT right-of-way along the development frontage along U.S. Route 113, as approved by DelDOT.*

B. Department of Natural Resources and Environmental Control ("DNREC"). A matter of State Strategy, generally, and a DNREC recommendation, specifically, is that the Applicant work with the City of Milford to reduce the amount of parking required in order to reduce impervious surfaces. *Applicant will seek approval of the City of Milford Board of Adjustment to reduce the number of parking spaces to meet actual or anticipated demand, to reduce impervious surfaces.*

C. Sussex Conservation District ("SCD"). The PLUS Comments of 2/20/2008 requested that the Applicant "contact the Sediment & Stormwater Program of the Sussex Conservation District to discuss the possibility of a downstream analysis of this project". The Applicant did so and by its letter of April 22, 2008, SCD noted five items to be addressed in the "detail plan submittal", including providing a downstream analysis. *Applicant will comply with SCD's requirements as set forth in its letter to DB&F dated April 22, 2008.*

7. The remaining item this Council requested that the Applicant address following the Public Hearing on March 24, 2008 related to fencing and/or buffering for the benefit of property owners along Seabury Avenue Extended. *Applicant will construct a 6 foot fence along the southern edge of the Seabury Avenue Extended property owners' properties, and will install a landscaped buffer with plantings along the northern side of Seabury Avenue Extended ("Fencing/Additional Buffering"), subject to the requirements relating to the abandonment of the Seabury Avenue Extended right-of-way by DelDOT, etc., described in Finding 6A, above.*

8. As provided in §230-14 of the Zoning Code, the purpose of the C-3 Highway Commercial District is stated as follows: "**The purpose of the C-3 District is to provide for larger-scale commercial uses that may require large amounts of parking space or have a high traffic impact. These uses generally require locations on major arterial routes and serve both local and regional customers.**" The Application before the Council represents an appropriate large-scale commercial use of this property located along U.S. Route 113, a major arterial route serving both local and regional customers.

9. A shopping center is a permitted conditional use in the C-3 Highway Commercial District, subject to special requirements under Chapter 230-14 (C)(11) of the Zoning Code. The Application and the Preliminary Plan have been reviewed by the City of Milford's Building Inspector, and meet the special requirements of Chapter 230-14 (C)(11) of the Zoning Code.

10. The Planning Commission preliminarily approved the Major Subdivision as presented and the Conditional Use for a shopping center, as presented at the Public Meeting of February 19, 2008.

Applicant respectfully requests that the Council follow the Planning Commission's recommendation and preliminarily approve the Application for Major Subdivision as presented and for the Conditional Use for a shopping center as presented, and as reflected in the Preliminary Plan, specifically, the 6 page plan set entitled "Cypress Hall Commercial, Preliminary Plan, Conditional Use/Site Plan Submission, City of Milford, Sussex County, Delaware, DBF Project No.1423A001 January, 2008" (Printed May 9, 2008) subject to the following conditions ("Conditions"):

A. *Applicant will work with DelDOT to determine the amount of right-of-way dedication that will be required and will obtain entrance approvals prior to entrance construction.*

B. *At the request of the City hereafter, Applicant will request that DelDOT eliminate the left-in access to Cypress Hall from Route 36. At the request of the City hereafter, the Applicant will request that DelDOT abandon the right-of-way of Seabury Avenue Extended to the City of Milford for maintenance. If the City thereafter approves the reduction of the right-of-way to 50 feet, and the dedication of the northernmost 10 foot residual to the property owners along Seabury Avenue Extended, the Applicant will undertake the "Fencing/Additional Buffering", i.e.: Applicant will construct a 6 foot high privacy fence along the southern edge of the Seabury Avenue Extended property owners' properties, and will install a landscaped buffer with plantings along the northern side of Seabury Avenue Extended ("Fencing/Additional Buffering").*

C. *Applicant will construct a shared-use path in the DelDOT right-of-way along the development frontage along U.S. Route 113, as approved by DelDOT.*

D. *Applicant will seek approval of the City of Milford Board of Adjustment to reduce the number of parking spaces to meet actual or anticipated demand, to reduce impervious surfaces.*

E. *Applicant will comply with Sussex Conservation District's requirements as set forth in its letter to DB&F dated April 22, 2008.*

Proposed Motion:

I hereby move:

That the Council follow the Planning Commission's recommendation and preliminarily approve the Application of Shawnee Farm, LLC and Cedar-Ironwood Cypress Hall, LLC, the Applicant, for Major Subdivision of 59.64 +/- acres of C-3 zoned property in the development known as Cypress Hall, into 8 Lots; and approve a Conditional Use to Allow a Shopping Center, all as presented and depicted upon Applicant's 6 page plan set entitled "Cypress Hall Commercial, Preliminary Plan, Conditional Use/Site Plan Submission, City of Milford, Sussex County, Delaware, DBF Project No.1423A001, January, 2008" (Printed May 9, 2008);

That the Council adopt the Proposed Findings of Fact and Conditions submitted to this Council, and that the Council's approval be made subject to the Conditions (Items A through E) appearing at the end of the document; and

That the Proposed Findings of Fact and Conditions be incorporated into the Minutes of this Public Hearing held June 9, 2008.

CITY OF MILFORD
BOARD OF ADJUSTMENT

Minutes of Meeting
January 14, 2010

The Board of Adjustment of the City of Milford held a public hearing on Thursday, January 14, 2010 at 10:00 am in the Joseph Ronnie Rogers Council Chambers at City Hall at 201 S Walnut Street, Milford, DE to consider the following application.

IN ATTENDANCE: Mayor Daniel Marabello, City Solicitor Tim Willard, City Manager David Baird
Also: City Planner Gary Norris, Recording Secretary Christine Crouch

Mayor Marabello called the meeting to order at 10:05 am.

NEW BUSINESS

Davis, Bowen & Friedel on behalf of Shawnee Farm, LLC seeking relief from the City of Milford Zoning Code §230-14(C)(11)(d)(5) 24B(2)-Traffic and Parking (five and one-half parking spaces shall be provided per 1,000 feet of leasable area) and allowing four and one-half parking spaces per 1,000 feet of leasable area in a C-3 District at Cypress Hall on the southwest corner of State Route 36, Seabury Avenue Extended and US Route 113 in Milford, Delaware. Tax Map 1-30-3.00-261.00; 9.79 +/- Acres.

Mr. Timothy Metzner with Davis, Bowen & Friedel was present to represent the application. Mr. Metzner explained the variance is seeking relief from 5.5 parking spaces per 1,000 square feet of leasable area to allow 4.5 parking spaces per 1,000 square feet of leasable area.

The reason being is to reduce impervious surface, increase parking lot landscaping, increase open space and reduce the size of the stormwater management facilities.

This parcel was previously granted a variance to allow 4.9 spaces per 1,000 square feet of leasable area for the previous design on the land; however that design has been abandoned and a new site plan is being developed, such as presented for this application.

Mayor Marabello requested public comments and after hearing none, closed the public comment session.

Mr. Norris handed out a page copied from the Site Planning & Design Handbook depicting typical minimum requirements for parking for a shopping center. According to this handbook, it is from 4.0 spaces to 6.5 spaces per 1,000 square feet of leasable area, which is fairly broad. After reviewing a variety of ordinances and shopping centers, Mr. Norris found them to be very broad as well. Mr. Norris stated what the diagram shows is what the applicant has requested, that 4.0 spaces is about capacity. Mr. Norris continued by stating the applicant needs to prove a hardship in order to be granted a variance. He also stated the board can attach reasonable conditions to a variance approval, if they so choose.

Mayor Marabello asked what type of conditions.

Mr. Norris gave an example as additional landscaping, possibly signage for the property.

Mayor Marabello asked if Mr. Metzner could comment on the hardship. Mr. Metzner replied the hardship would be the amount of impervious surface that would be required, per the code's required parking. It will be a better plan if the parking spaces are reduced. The site plan shown today is indicating 4.8 spaces per 1,000 square feet of leasable area.

Mayor Marabello confirmed the parking would be reduced by 12-13% with this request.

Mr. Baird asked if a plan has been done showing the required parking spaces. Mr. Metzner replied yes. Mr. Baird asked if that plan was part of this submittal. Mr. Metzner replied no.

Mr. Metzner indicated on the site plan where the additional parking lot landscaping is. He pointed to the “bump outs” in the parking lot along Rt 113 explaining 6 parking have been replaced with landscaping in the bump outs. Also, the landscaped islands in the parking lot are where parking spaces have been replaced. Less impervious surface locations would include not only the large parking lot, but an open space to the left of the large building shown on the plan. The stormwater facility shown to the rear left of the large building would be increased if the parking is increased as well.

Mayor Marabello counted the parking spaces being replaced in the main parking lot by open space as 22 spaces. This does not include the replacement of parking in the currently shown open space to the left of the large building. Again only 22 spaces affected in the main parking lot. Mr. Metzner agreed.

Mr. Baird asked if the site could physically meet the code’s parking requirements. Mr. Metzner stated that is correct. Mr. Baird asked if by meeting the parking requirements per the code if it put the applicant in a position where it could not meet any other code of the City. Mr. Metzner replied yes. By meeting the parking requirement, it took the site over the allowed 80% maximum impervious lot coverage.

Mr. Baird asked if the subdivision on this parcel has been completed. Mr. Metzner stated no. Mr. Baird confirmed the lot boundaries as shown for this parcel are not what is recorded. Mr. Metzner confirmed there is a whole other parcel to the south of this parcel that is for the residential subdivision and that is finished, but this plan will be a different subdivision of the commercial section of the parcel. Mr. Norris stated this will be a new subdivision. According to the Sussex County mapping website the entire parcel is 143 +/- acres. This site plan is for 9.79 +/- acres.

Mr. Baird stated that point raises a question for him, which is how are we making a case for reducing the parking requirements for the impervious surface if the lot boundary has not been established yet. There is still time to adjust the lot lines and make it work.

Mr. Willard asked what the status of the adjacent phase, referring to the commercial portion. Mr. Metzner stated the adjacent land, still a part of this parcel, was part of a larger site plan, which has been abandoned. This is a brand new project and starting from scratch.

Mr. Willard asked how far along are the entrance approvals. Mr. Metzner replied Letter of No Objection have been obtained on the locations, which is driving the project.

Mr. Norris asked if the entrances the same as previously shown on the now abandoned site plan. Mr. Metzner explained the only difference is the one to the northern most end of the property. Because the entrance locations are approved by DelDOT, the site is having to be planned with those in place.

Mr. Baird asked Mr. Metzner if it would be correct to say that by reducing the parking area, obviously it is reducing the impervious area, which is going to minimize the impact of stormwater both onsite and discharge offsite. Mr. Metzner said it will reduce the onsite impacts. Offsite impacts by regulation are not allowed to be increased.

Mr. Willard stated from a design standard he assumes the stormwater facility is located where it is because it is the lower ground. And he assumes the open space to the left of the building is located there in conjunction with

the stormwater facility area, however he would much prefer to see, again from an aesthetic standpoint, open space in the form of landscaping along the highway. It's just more attractive.

Mr. Willard explained he is looking for the hardship in this case, because when push comes to shove, the leasable square footage can be reduced and the parking will be met. Mr. Baird agreed with Mr. Willard's point.

After scaling the plan off, it was determined there is 83 feet between the highway and the parking lot, however only 10 feet is not in the Right of Way, which can be landscaped, but the ROW cannot be landscaped.

Mr. Baird asked Mr. Norris if the information he provided regarding the studies of parking lot requirements is a better option for the City's code. Mr. Norris stated there are other studies that support this information. Mr. Baird questioned whether an amendment to the City's code would be in order. Mr. Norris felt it is.

Mr. Baird explained if the BOA does approve the variance for less parking, it does not mean the site plan as presented is set in stone. The Planning Commission will review the site plan for compliance with the Code. Mr. Baird stated one of the stumbling blocks he is encountering is the subdivision is not finalized yet and the hardship is somewhat imposed; however there is the issue of the DelDOT entrance approvals that have already been granted. He is leaning toward granting the variance because one issue is tripping the applicant up on another issue.

Mayor Marabello liked the landscaping package as presented. Mr. Metzner reminded the board this parcel was previously approved for a variance for 4.9 spaces per 1,000 square feet of leasable area for the previous site plan that has been abandoned. Mayor Marabello confirmed the plan presented today show 4.81 spaces per 1,000 square feet of leasable area, although the request from the applicant is to allow 4.5 parking spaces per 1,000 square feet of leasable area. Mr. Metzner stated if 4.81 spaces per 1,000 square feet of leasable area is granted would be acceptable and the applicant would provide 302 parking spaces.

Mr. Baird asked if the 4.9 parking space variance still valid. Mr. Norris stated not in his opinion because a new plan is being presented, thereby voiding the previous approvals.

Mr. Baird stated it needs to be clear any approvals for a parking space variance is not for the entire parcel. It will be for only the 9.79 +/- acres as depicted on the plans shown. Mr. Willard agreed.

Mayor Marabello added the only reasonable condition he would like to see is the signage blends in with the proposed landscaping. That can be worked out with Mr. Norris, so that it looks good for the community.

Mr. Willard stated his inclination is not to grant the variance is because the whole thing is being driven by the square footage of the commercial, and that's what they chose. If the applicant reduces the commercial square footage, it reduces the parking space requirements and puts the lot coverage under the maximum allowed. By reducing the square footage of the retail, the applicant solves all of the problems and meet the code. As far as the hardship analysis goes, this was a project that had a fair amount of opposition to when brought before the council before. It's just not a project he's comfortable granting a variance for just so the applicant can get maximum square footage on.

Mr. Baird had some similar feelings on the issue because a lot of the problems are self imposed, however the board has information presented today that maybe the City's ordinances need to be changed which would alleviate the parking variance request.

Mr. Willard explained the idea of the Code is to control development, which is why square footage is tied to parking, and starting off with the square footage needs to drive everything, it can be reduced incrementally to meet the code.

Mr. Baird stated the applicant can meet the requirements on the site, but the applicant is coming forward stating they can deliver a better looking site, meet the demand that is expected for the location, and provide the city some additional things it's looking for as well. And that's where Mr. Baird is with it. Mr. Willard understood that point.

Mr. Norris pointed out that the applicant has applied for a variance under 230-14 (5) regarding the number of parking spaces per leasable square footage for a shopping center; however there is no definition of a shopping center, but if one refers to the off street parking requirements under 230-21 it requires 1 space per 200 square feet of floor area used for sales on the ground floor.

Mr. Willard stated that is an interesting point, however in this zoning, C3, a shopping center is a conditional use. Mr. Willard asked what Mr. Norris's point is. Mr. Norris stated some of the square footage of the building will be used for storage, so without knowing how many square feet is for sales, it's not possible to determine if they have met the parking requirements.

Mr. Metzner explained he does not know yet what the foot print is for each of these units, so it would be impossible to base the variance on the breakdown between storage and sales floor area.

Mr. Baird also pointed out 230-21 also calls for 1 parking spaces for each 2 employees. That number is completely unknown at this time.

Mr. Willard stated he has not studied this, but his feeling is that 230-21 is referring to what are permitted uses in the zoning district. Because this is a conditional use, he feels 230-14 is what applies to this project.

Mr. Baird made a motion to allow 4.81 parking spaces per 1,000 square feet of leasable area (as noted on the drawings) for this site only on the parcel. The practical difficulty issue seems to be the permitting issue with DelDOT and the conservation district and how it ties in with neighboring developments.

Mayor Marabello asked for an amendment to the motion to include the landscaping will be as presented on this drawing. His goal is to create good looking projects, not a WalMart look.

Mr. Baird accepted the amended motion. Mayor Marabello seconded the motion.

Motion carried following a poll of the board.

Yes-Baird, Marabello

No-Willard Referred to his previous comments. While he appreciates the hardship that they want more impervious surface, if the square footage is reduced the parking requirement and maximum lot coverage can be met.

The hearing was adjourned at 11:10 am.

Respectfully Submitted,



Christine Crouch
Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

May 17, 2011

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

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

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

APPROVAL OF MINUTES

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

CHAIRMAN MONTHLY REPORT

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

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

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

Mrs. McColley arrived at 7:03 pm.

NEW BUSINESS

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

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

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

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

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

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

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

Mr. Rini called for public comments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,

A handwritten signature in black ink that reads "Christine Crouch". The signature is written in a cursive, flowing style.

Christine R. Crouch
Department Administrative Assistant/Recording Secretary

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

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

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

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

- (1) Motels or hotels with a minimum lot size of three acres.
- (2) Commercial greenhouse.
- (3) Wholesale establishment.
- (4) Newspaper publishing or printing establishment.
- (5) Contractors', craftsmen's or general service shops, including welding and similar shops.
- (6) Laboratory, testing and research.
- (7) Car repair shops.
- (8) Used car lots.
- (9) Telephone central office or television cable central office.
- (10) Service station, automobile sales agency, public garage, parking garage or lot, but not including storage of wrecked cars, subject to the following special requirements:
 - (a) All facilities shall be located and all services shall be conducted on the lot.
 - (b) All repair work shall be conducted within an entirely enclosed building.
 - (c) No equipment for the service of gasoline or oil shall be placed closer to any street or property line than 20 feet.
 - (d) No portion of such structure or its equipment shall be located within 500 feet of the premises of any school, hospital, church or public recreation building.
 - (e) No service station shall be located within 800 feet of another service station on the same side of the street within the same block.
 - (f) Any such use shall be permitted only where it is determined that it will not materially interfere with the main pedestrian movement in conjunction with a compact retail area.
- (11) Shopping center, subject to site plan review and the following site requirements:

- (a) The total shall not be less than one acre.
- (b) The site must be served by public water, sewer and electricity.
- (c) Stormwater drainage. The facilities shall be provided by the developer to handle the increase in stormwater runoff, and he shall make contributions towards the cost of off-site facilities of the shopping center.
- (d) Traffic and parking.
 - [1] The internal circulation of traffic shall be separated from the external street system, and pedestrian and vehicular traffic shall be separated through traffic control devices and appropriate site design.
 - [2] Access to state highways shall be controlled by the State Department of Transportation.
 - [3] The minimum distance between accessways and a residential district shall be 50 feet.
 - [4] Spacing of accessway.
 - [a] From adjoining property: 50 feet.
 - [b] From minor intersections: 50 feet.
 - [c] From major intersections: 100 to 150 feet.
 - [5] Five and one-half parking spaces shall be provided per 1,000 feet of leasable area.
 - [6] Parking lots shall be attractively landscaped as shown on the general site plan.
- (e) Setback.
 - [1] From street right-of-way: 15 feet.
 - [2] From nonresidential districts: 15 feet.
 - [3] From residential districts: 100 feet.
- (f) Buffering and landscaping.
 - [1] There shall be a minimum of a ten-foot landscaped buffer along all lot lines. The screening shall be six feet high near residential districts.
 - [2] Ten percent of the site shall be landscaped and may include features such as pedestrian walking or rest areas and courtyards.

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

[Added 10-14-1991]

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

[Added 6-14-1993]

(14) Convenience stores with gas pumps.

(15) Community residential treatment program.

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

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

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

(18) Billboard, subject to the following:

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

D. Area regulations.

- (1) Minimum lot area shall be one acre.
- (2) Maximum lot coverage shall be 80%.
- (3) Minimum lot width shall be as follows: for an interior lot 150 feet and for a corner lot 170 feet.
- (4) Height of buildings shall not exceed three stories or 35 feet.
- (5) Minimum building setback shall be 30 feet.
- (6) Side yards shall be provided as follows: each lot shall have two side yards a minimum of 20 feet with a minimum aggregate width of two side yards of 50 feet.
- (7) Minimum rear yard shall be 50 feet.
- (8) Parking shall comply with the requirements provided in Article IV of this chapter.
- (9) Landscape screening shall comply with the requirements provided in Article V of this chapter.

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

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

ARTICLE X - Site Plan Review

[§ 230-50. - Purpose.](#)

[§ 230-51. - Guidelines.](#)

[§ 230-52. - Review procedure.](#)

[§ 230-52.1. - Site plan expiration.](#)

§ 230-50. - Purpose.

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

The site plan review has a twofold purpose. It is to assure that the large-scale developments are in accord with the Comprehensive Plan and that such developments comply with the regulations of this chapter. Site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the City's adopted building and design standards, the Comprehensive Plan, and the City's Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design; to provide an understanding of the impacts of proposed development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this chapter.

§ 230-51. - Guidelines.

Guidelines for determining what site plans shall be reviewed by the Planning Commission shall be as follows:

- A. Automatic determination of review. Certain types of developments, due to the nature of their impact on the entire community, shall automatically have their site plans reviewed by the Planning Commission, including the following:
 - (1) Residential:
 - (a) Townhouses.
 - (b) Garden apartments.
 - (c) Planned unit developments.
 - (d) Mobile home parks.
 - (2) Commercial: shopping centers.
 - (3) Institutional: hospitals.
 - (4) Industrial: all industrial developments.
- B. Discretionary determination of a review. The Code Official shall have discretion in determining what proposed developments other than those enumerated above shall have their site plans reviewed by the Planning Commission. When making such a decision, the Code Official shall consider but not be limited to the following factors:
 - (1) If the traffic flow will be greatly altered. Flow includes:
 - (a) Pattern.
 - (b) Volume.
 - (c) Hazard involved.
 - (d) Time involved.
 - (2) If parking on a large scale is required.
 - (3) If public utilities or works must be expanded to accommodate the development.
 - (4) If there is a change in the existing land use pattern.
 - (5) If there are incompatible uses within the proposed development or in relation to the abutting districts.

- (6) If there may be difficulty in meeting existing performance standards.

§ 230-52. - Review procedure.

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

- A. Preliminary approval.
- (1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in § 230-57
 - (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.
 - (3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.
 - (4) Preliminary approval from the Planning Commission shall be void after one year, unless an extension is requested by the owner and approved for good cause by the Planning Commission prior to the expiration.
- B. Final approval.
- (1) A final plat and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in § 230-57
 - (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed consistent with the preliminary plan, if applicable, and in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.
 - (3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.
 - (4) Within 90 days of final approval from Planning Commission, the applicant shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Three sets will be returned to the applicant.
 - (5) Upon recordation of the plat, the applicant shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.
 - (6) Failure to record the plat within 90 days of Planning Commission approval will result in the approval being voided.
- C. The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this chapter and to those proposed developments that require a site plan review as determined by the City Planner. No other site plans shall be considered by the Planning Commission for review.
- D. Prior to the Planning Commission holding a public hearing to review the application for the site plan, the City Engineer shall provide a copy of the signed subdivision agreement to the City Planner.

§ 230-52.1. - Site plan expiration.

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

If construction of approved buildings and improvements is not substantially undertaken within one year of final site plan approval, the site plan approval shall be void. The applicant may, however, request and the Planning Commission may grant a one-year extension for good cause.

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.

[Ord. No. 2009-17, § 5, 4-26-2010]

§ 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. PC13-011

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE FOR
THE APPROVAL OF A REVISED FINAL SITE PLAN FOR
SHAWNEE FARMS LLC
AT 28253 LEXUS DRIVE
FOR GAS PUMPS
IN A C-3 ZONING DISTRICT
TAX MAP 1-30-3.00-261.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on August 20, 2013; and,

WHEREAS, by a vote of _____ approved the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has approved the application with the following conditions:

1.

APPROVED: _____
James Burk,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC13-010

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO CITY COUNCIL OF THE CITY OF MILFORD
THE APPROVAL OF A MODIFICATION OF A CONDITIONAL USE FOR
SHAWNEE FARMS LLC
AT 28253 LEXUS DRIVE
FOR GAS PUMPS
IN A C-3 ZONING DISTRICT
TAX MAP 1-30-3.00-261.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on August 20, 2013; 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:

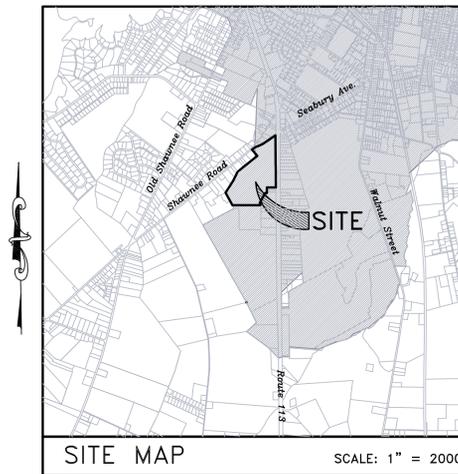
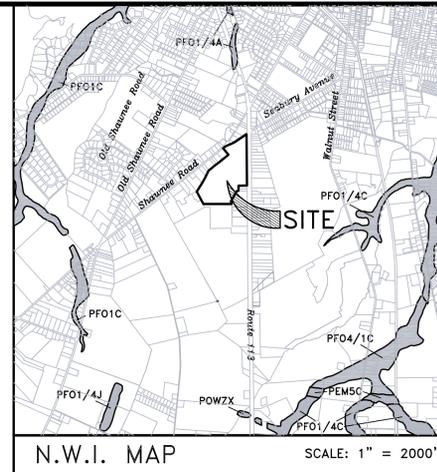
1.

APPROVED: _____
James Burk,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

CYPRESS HALL COMMERCIAL GROCERY GAS PUMPS REVISION CONDITIONAL USE - SITE PLAN CITY OF MILFORD, SUSSEX COUNTY, DELAWARE

DBF PROJECT No. 1423A002 JULY 2013



LEGEND

*** LEGEND ON PREVIOUSLY APPROVED CONSTRUCTION DOCUMENTS SHALL BE FOLLOWED. REVISIONS WILL SHOW DARKER THAN THE PREVIOUSLY APPROVED ITEMS.

GENERAL NOTES

1. THIS PLAN SET IS A SUPPLEMENT TO THE PREVIOUSLY APPROVED PLANS FOR CYPRESS HALL COMMERCIAL DATED SEPTEMBER 2010 WITH LATEST REVISION DATES.
2. ALL WORK TO BE PERFORMED OUTSIDE OF THIS CONSTRUCTION DOCUMENT SET SHALL REFER BACK TO THE ORIGINAL APPROVED PLANS.
3. ALL GENERAL NOTES AND SPECIFICATIONS ON THE ORIGINAL APPROVED PLANS SHALL BE FOLLOWED FOR ANY CONSTRUCTION SHOWN ON THIS PLAN SET.
4. ANY CONFLICT OR DISCREPANCY FROM WHAT WAS SHOWN ON THE APPROVED PLANS VERSUS THIS CONSTRUCTION SET SHALL BE DISCUSSED WITH THE ENGINEER OR OWNER PRIOR TO CONSTRUCTION.
5. EROSION AND SEDIMENT CONTROL, LIMITS OF DISTURBANCE, AND OTHER SIMILAR PRACTICES SHALL FOLLOW THE APPROVED SEDIMENT AND EROSION CONTROL PLANS ON SITE WITH ONLY MINOR MODIFICATIONS TO ALLOW THE REVISIONS SHOWN ON THESE PLANS. ALL MODIFICATIONS OF THE ORIGINAL APPROVED SEDIMENT AND EROSION CONTROL PLANS SHALL BE SUBMITTED TO THE SUSSEX CONSERVATION DISTRICT FOR APPROVAL. NO CHANGES ARE ANTICIPATED DUE TO THE REVISIONS SHOWN.

OWNER/DEVELOPER

SHAWNEE FARM LLC.
105 FOULK ROAD
WILMINGTON, DELAWARE 19803
(302) 429-8700

ENGINEER/SURVEYOR

DAVIS, BOWEN & FRIEDEL, INC.
23 NORTH WALNUT STREET
MILFORD, DELAWARE 19963
(302) 424-1441

INDEX OF DRAWINGS

- | | |
|---|--|
| | TITLE SHEET |
| 1 | REVISED SITE PLAN OVERVIEW |
| 2 | REVISED SITE PLAN (GROCERY GAS PUMPS) |
| 3 | REVISED UTILITY PLAN (GROCERY GAS PUMPS) |

DATE	NO.	CORRECTION/REVISION/ADDENDUM	APPROVAL
4-30-2013	24	GROCERY GAS PUMPS REVISION	CONDITIONAL USE
4-18-2013	23	SUSSEX CONSERVATION DISTRICT	APPROVAL
2-13-2012	22	SUSSEX CONSERVATION DISTRICT	COMMENTS
2-02-2012	21	POND 2 / 4 REVISION	REVISION
1-17-2012	20	FIRE MARSHAL	RE-APPROVAL
1-05-2012	19	ISSUED FOR REVIEW	SUBMISSION
1-03-2012	18	FIRE MARSHAL	COMMENTS
12-08-2011	17	RETAIL REVISIONS	REVISION
12-06-2011	16	MH 17	CORRECTION
10-20-2011	15	PARCEL C SUBDIVISION	RECORD REVISION
9-12-2011	14	ISSUED FOR CONSTRUCTION	CONSTRUCTION SET
9-09-2011	13	COORDINATION REVISIONS	REVISIONS
9-06-2011	13	DNREC - WASTEWATER FACILITIES	REVISIONS
8-10-2011	12	DEDOT	REVISIONS
7-18-2011	11	DEDOT	REVISIONS
5-25-2011	10	DEDOT	REVISIONS
5-11-2011	9	GROCERY SITE MODIFICATIONS	REVISIONS
5-10-2011	8	SUSSEX CONSERVATION DISTRICT	PRE-CONSTRUCTION MTE
4-25-2011	7	DEDOT	SUBMITTED FOR REVIEW
4-13-2011	6	DEPARTMENT OF THE ARMY (WETLANDS)	APPROVAL
3-31-2011	5	CITY OF MILFORD ENGINEERING/PUBLIC WORKS	APPROVAL
3-31-2011	4	SUSSEX CONSERVATION DISTRICT	APPROVAL
2-14-2011	3	OFFICE OF DRINKING WATER	APPROVAL
2-14-2011	2	FIRE MARSHAL	APPROVAL
1-26-2011	1	DEDOT	LETTER OF NO OBJECTION



DAVIS, BOWEN & FRIEDEL, INC.
ARCHITECTS, ENGINEERS & SURVEYORS

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

PREPARED BY:

DAVIS, BOWEN & FRIEDEL, INC.
23 NORTH WALNUT STREET
MILFORD, DE 19963

SIGNATURE _____

DATE _____

**ORIGINAL
PARKING REQUIREMENTS**

MILFORD CODE : 5.5/1,000 S.F. OF LEASEABLE AREA (FOR SHOPPING CENTERS)
 TOTAL COMMERCIAL AREA : 206,914 SF
 PARKING REQUIRED : 1,138 SPACES REQUIRED
 VARIANCE REQUEST : 1,014 SPACES PROVIDED
 VARIANCE PROVIDED : 1,015 SPACES PROVIDED
 PERCENT TOTAL REDUCTION : 124 SPACES
 PROPOSED PARKING RATIO : 4.9/1,000 S.F. OF LEASEABLE AREA

*** PARKING VARIANCE REQUEST WAS APPROVED ON (AUGUST 21, 2008).

**REVISED
PARKING REQUIREMENTS**

TOTAL COMMERCIAL AREA : 208,775 SF
 PARKING REQUIRED : 1,149 SPACES REQUIRED
 PARKING REQUIRED BY 4.9/1,000 S.F. SPACE VARIANCE 1,023 SPACES
 PARKING PROVIDED : 1,053 SPACES PROVIDED
 TOTAL REDUCTION : 96 SPACES
 PROPOSED PARKING RATIO : 5.04/1,000 S.F. OF LEASEABLE AREA

**REVISED Δ
PARKING REQUIREMENTS w/ FUEL PUMPS**

TOTAL COMMERCIAL AREA : 208,775 SF
 PARKING REQUIRED : 1,149 SPACES REQUIRED
 PARKING REQUIRED BY 4.9/1,000 S.F. SPACE VARIANCE 1,023 SPACES
 PARKING PROVIDED : 1,025 SPACES PROVIDED
 TOTAL REDUCTION : 124 ADDITIONAL SPACES (28 SPACES REMOVED FOR PUMPS)
 PROPOSED PARKING RATIO : 4.89/1,000 S.F. OF LEASEABLE AREA

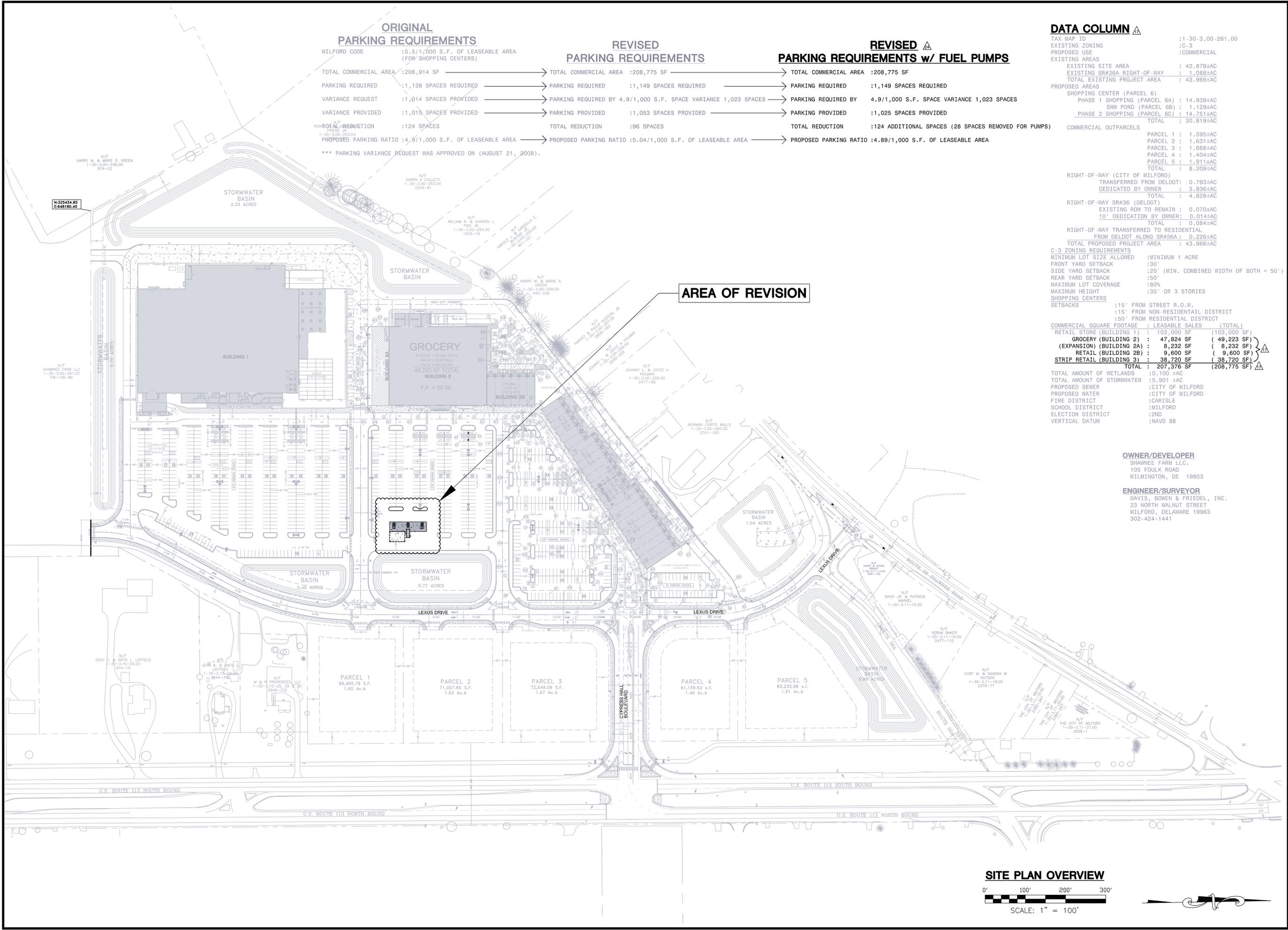
DATA COLUMN Δ

TAX MAP ID : 1-30-3.00-261.00
 EXISTING ZONING : C-3
 PROPOSED USE : COMMERCIAL
 EXISTING AREAS :
 EXISTING SITE AREA : 42.878±AC
 EXISTING SR#36A RIGHT-OF-WAY : 1.088±AC
 TOTAL EXISTING PROJECT AREA : 43.966±AC
 PROPOSED AREAS :
 SHOPPING CENTER (PARCEL 6)
 PHASE 1 SHOPPING (PARCEL 6A) : 14.939±AC
 SWM POND (PARCEL 6B) : 1.129±AC
 PHASE 2 SHOPPING (PARCEL 6C) : 14.751±AC
 TOTAL : 30.819±AC
 COMMERCIAL OUTPARCELS :
 PARCEL 1 : 1.595±AC
 PARCEL 2 : 1.631±AC
 PARCEL 3 : 1.668±AC
 PARCEL 4 : 1.404±AC
 PARCEL 5 : 1.911±AC
 TOTAL : 8.209±AC
 RIGHT-OF-WAY (CITY OF MILFORD)
 TRANSFERRED FROM DELDOT : 0.793±AC
 DEDICATED BY OWNER : 3.836±AC
 TOTAL : 4.628±AC
 RIGHT-OF-WAY SR#36 (DELDOT)
 EXISTING ROW TO REMAIN : 0.070±AC
 10' DEDICATION BY OWNER : 0.014±AC
 TOTAL : 0.084±AC
 RIGHT-OF-WAY TRANSFERRED TO RESIDENTIAL
 FROM DELDOT ALONG SR#36A : 0.226±AC
 TOTAL PROPOSED PROJECT AREA : 43.966±AC
 C-3 ZONING REQUIREMENTS
 MINIMUM LOT SIZE ALLOWED : MINIMUM 1 ACRE
 FRONT YARD SETBACK : 30'
 SIDE YARD SETBACK : 20' (MIN. COMBINED WIDTH OF BOTH = 50')
 REAR YARD SETBACK : 50'
 MAXIMUM LOT COVERAGE : 80%
 MAXIMUM HEIGHT : 35' OR 3 STORIES
 SHOPPING CENTERS
 SETBACKS : 15' FROM STREET R.O.W.
 : 15' FROM NON-RESIDENTIAL DISTRICT
 : 50' FROM RESIDENTIAL DISTRICT
 COMMERCIAL SQUARE FOOTAGE : LEASABLE SALES (TOTAL)
 RETAIL STORE (BUILDING 1) : 103,000 SF (103,000 SF)
 GROCERY (BUILDING 2) : 47,824 SF (49,232 SF)
 (EXPANSION) (BUILDING 2A) : 8,232 SF (8,232 SF)
 RETAIL (BUILDING 2B) : 9,600 SF (9,600 SF)
 STRIP RETAIL (BUILDING 3) : 38,720 SF (38,720 SF)
 TOTAL : 207,376 SF (208,775 SF)
 TOTAL AMOUNT OF WETLANDS : 0.100 ±AC
 TOTAL AMOUNT OF STORMWATER : 5.901 ±AC
 PROPOSED SEWER : CITY OF MILFORD
 PROPOSED WATER : CITY OF MILFORD
 FIRE DISTRICT : CARISLE
 SCHOOL DISTRICT : MILFORD
 ELECTION DISTRICT : 2ND
 VERTICAL DATUM : NAVD 88

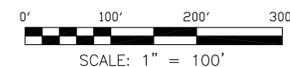
OWNER/DEVELOPER
 SHAWNEE FARM LLC
 105 FOLK ROAD
 WILMINGTON, DE 19803

ENGINEER/SURVEYOR
 DAVIS, BOWEN & FRIEDEL, INC.
 23 NORTH WALNUT STREET
 MILFORD, DELAWARE 19963
 302-424-1441

AREA OF REVISION



SITE PLAN OVERVIEW

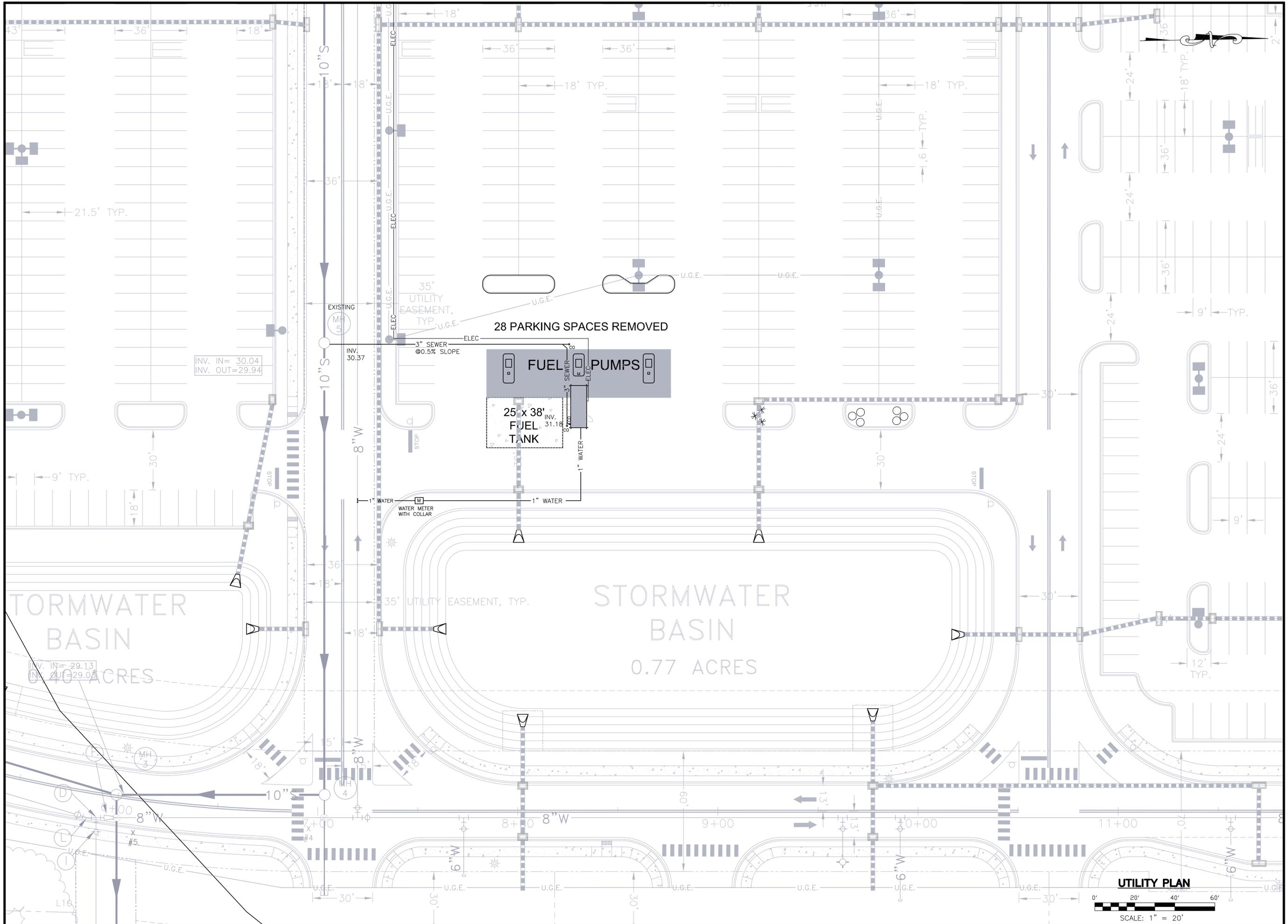


DAVIS, BOWEN & FRIEDEL, INC.
 ARCHITECTS, ENGINEERS & SURVEYORS
 SALISBURY, MARYLAND 410-543-9091
 MILFORD, DELAWARE 302-424-1441

**CYPRESS HALL COMMERCIAL
 CONDITIONAL USE (GROCERY GAS PUMPS)
 MILFORD, DELAWARE - SUSSEX COUNTY - CEDAR CREEK HUNDRED.**

Revisions:
 05-11-11 DHDOT SUBMISSION
 05-10-11 SUSSEX CONSERVATION
 PRE-CONSTRUCTION MEETING
 05-11-11 GROCERY SITE
 MODIFICATIONS
 12-08-11 RETAIL REVISIONS
 01-05-11 ISSUED FOR REVIEW
 09-06-11 GROCERY ACCESSIBLE
 PARKING
 04-30-13
 GROCERY GAS PUMP REVISION

Date: **DECEMBER 2011**
 Scale: **1"=100'**
 Dwn.By: **CRS**
 Proj.No.: **???**
 Dwg.No.:



City of Milford



PUBLIC NOTICE

CITY OF MILFORD PLANNING COMMISSION HEARING

NOTICE IS HEREBY GIVEN that the following applicant has filed a land use application with the Planning Department of the City of Milford:

Davis, Bowen and Friedel, Incorporated on behalf of Shawnee Farms LLC for a Modification to an approved Conditional Use for Cypress Hall to allow for the addition of three gasoline pumps (Redners Market) and reconfiguration of the existing parking lot. Property is located on the southwest side of Route 113 south of Seabury Avenue Extended. Area of Petition is 14.94 +/- Acres; Current Zoning is C-3. Tax Map 1-30-3.00-261.00.

A Public Hearing is scheduled for Tuesday, August 20, 2013 at 7:00 p.m. in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

All parties of interest are hereby notified to be present for the review and recommendation by the Planning Commission to City Council. Final action will be taken by City Council.

If unable to attend, written comments will be accepted in advance of the hearing. Anyone with questions or comments should call Christine Crouch at 302-424-3712 extension 308.

By: Terri K. Hudson, MMC
City Clerk

**CITY OF MILFORD
PLANNING COMMISSION**

RESOLUTION NO. PC13-010

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,
DELAWARE, RECOMMENDING TO CITY COUNCIL OF THE CITY OF MILFORD
THE APPROVAL OF A MODIFICATION OF A CONDITIONAL USE FOR
SHAWNEE FARMS LLC
AT 28253 LEXUS DRIVE
FOR GAS PUMPS
IN A C-3 ZONING DISTRICT
TAX MAP 1-30-3.00-261.00**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on August 20, 2013; and,

WHEREAS, by a vote of 6 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 conditions:

1. The water service agreement and the escrow agreement are approved by City Council.
2. The Fire Marshal and DNREC approvals are submitted prior to building permit issuance.

APPROVED: _____
James Burk,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Deputy City Clerk



PUBLIC NOTICE

Notice is hereby given the following ordinance is under review by the Milford Planning Commission and Milford City Council and Public Hearings have been scheduled as indicated.

Ordinance 2013-09
DBF on behalf of Shawnee Farms LLC
for a Modification to an Existing Conditional Use at Cypress Hall (Commercial)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE APPROVING A MODIFICATION TO A CONDITIONAL USE WHICH WILL ALLOW THREE GASOLINE PUMPS AT REDNER'S MARKET IN A C-3 DISTRICT AT 28253 LEXUS DRIVE, MILFORD, DELAWARE.
TAX PARCEL 1-30-3.00-261.00

Whereas, the City of Milford Planning Commission reviewed the application at a Public Hearing on August 20, 2013 and has presented item to be considered by the City Council; and

Whereas, Milford City Council held an advertised Public Hearing on September 23, 2013 to allow for public comment and review of the application; and

Whereas, it is deemed in the best interest of the City of Milford to allow a Conditional Use for Three Gasoline Pumps as herein described.

Now, Therefore, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, Cypress Hall Commercial on behalf of Legal Owner Shawnee Farms LLC is hereby granted a Conditional Use Permit in accordance with the application, approved plans and any conditions set forth.

Section 2. Construction or operation shall be commenced within one year of the date of issuance or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council 09-23-13
Planning Commission Review & Public Hearing 10-15-13
City Council Review & Public Hearing 10-28-13

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

Ordinance 2013-09 is scheduled for adoption, with or without amendments, at the scheduled City Council Meeting on October 28, 2013. Should you have questions, please contact the City of Milford Planning Department at 302-424-3712 Extension 308.

PUBLIC NOTICE
PLANNING COMMISSION & CITY COUNCIL PUBLIC HEARINGS
City of Milford Zoning Chapter Amendment
Ordinance 2013-06

NOTICE IS HEREBY GIVEN the Planning Commission of the City of Milford will hold a Public Hearing on an amendment to the City of Milford Zoning Code on Tuesday, September 17, 2013 at 7:00 p.m. or as soon thereafter as possible.

A FINAL PUBLIC HEARING is scheduled on Monday, September 23, 2013 at 7:00 p.m. before Milford City Council. Following the hearing, Ordinance 2013-06, may be adopted, with or without amendments.

AN ORDINANCE TO AMEND Chapter 230-Zoning, Article XI-Administration of the Code of the City of Milford.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Amends §230-57 Planning and Zoning Fees to read as follows:

ARTICLE XI - Administration

§ 230-57. Planning, ~~and~~ zoning AND ENGINEERING fees.

Planning, ~~and~~ zoning AND ENGINEERING fees shall be set by resolution ADOPTED by City Council and ~~are~~ maintained by the City Clerk's office.

Section 2. All ordinances or parts of ordinances previously adopted and in conflict with this ordinance are hereby repealed.

Section 3. Dates.

Introduction to City Council: September 9, 2013

Planning Commission Review and Public Hearing: September 17, 2013

City Council Review and Public Hearing: September 23, 2013

Section 4. The Ordinance shall become effective no sooner than Ten Days after Adoption by City Council.

A complete copy of the Code of the City of Milford is available by request through the City Clerk's Office or by accessing the website cityofmilford.com.

By: Terri K. Hudson, MMC
City Clerk

Words stricken are deletions; words underlined are additions.

City of Milford



NOTICE OF PUBLIC HEARINGS

2013 City of Milford Comprehensive and Annexation Plan

The Planning Commission of the City of Milford is currently in the process of updating the 2008 Comprehensive Plan, as amended.

The 2008 City of Milford Comprehensive Plan, as amended, consists of a document of text and maps describing its physical, demographic and economic conditions and includes policies, statements, goals and planning components for public and private uses of land, transportation, economic development, housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and other elements in accordance with present and future needs of the city, is currently under review by the City of Milford Planning Commission. The document serves as a guide to all future action concerning land use and development regulations and such revised plan shall become the force of law. No development shall be permitted except as is consistent with the plan.

The amended plan will be publicly addressed on the following dates and times:

Planning Commission	September 17, 2013	7:00 p.m.
City Council	September 23, 2013	7:00 p.m.

Testimony will be taken at that time. Citizens are encouraged to submit comments in writing via mail or e-mail. Comments can be sent to Christine Crouch at Milford City Hall, 201 S. Walnut Street, Milford, Delaware or e-mailed to ccrouch@milford-de.gov no later than September 6, 2013. Following direction from the commission, revisions will be made and presented to City Council. City Council ultimately decides on the acceptance, rejection or revision of the plan. Adoption of the plan is by ordinance.

All hearings will be held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

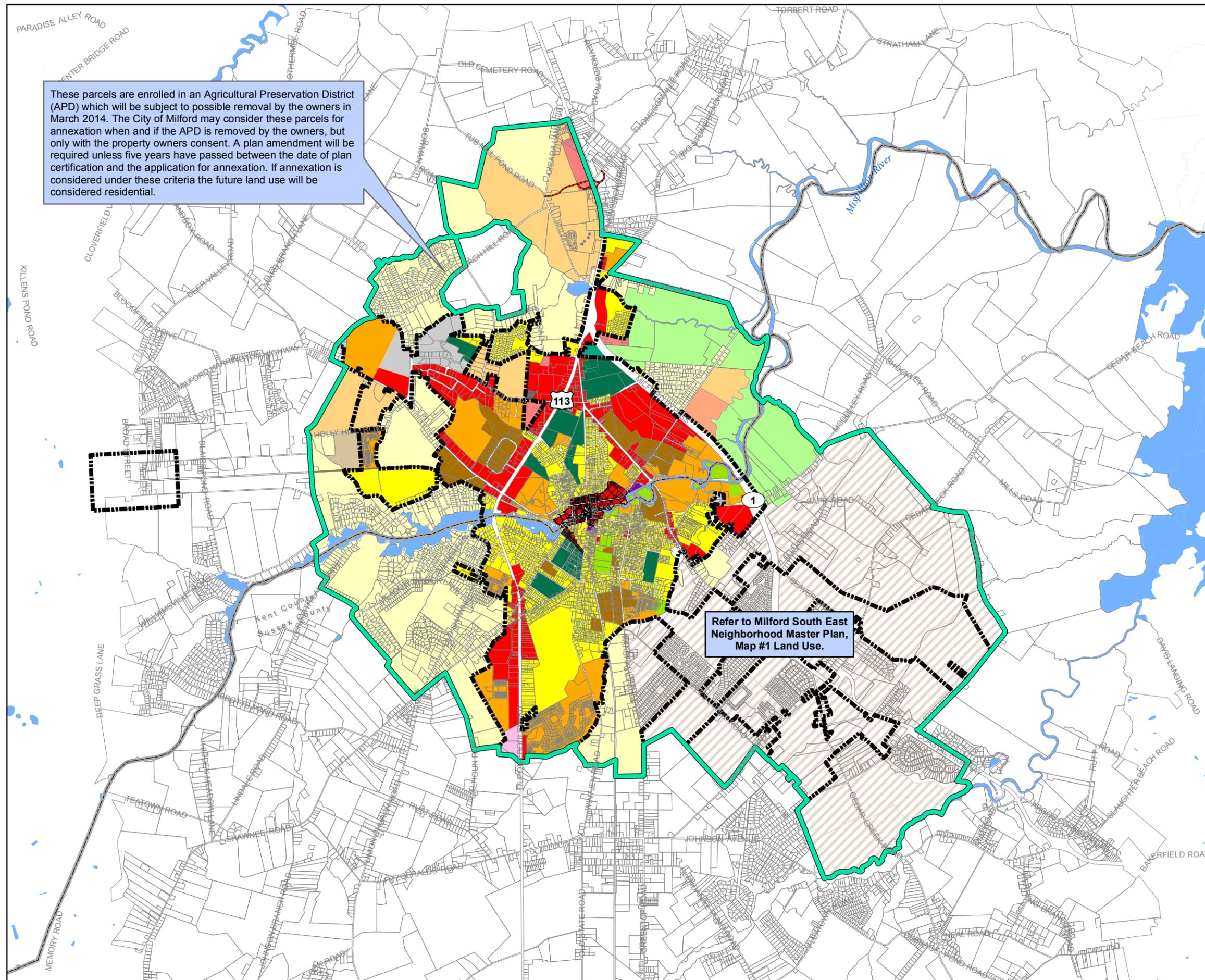
Terri K. Hudson, MMC
City Clerk

Milford Comprehensive Plan

2013

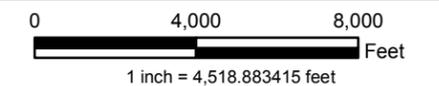
Figure 10

Future Land Use



Legend

- City Boundary
 - Urban Growth Boundary
 - Downtown
 - County Boundary
 - Parcel
 - Water
- #### Future Land Use
- Low Density Residential
 - Moderate Density Residential
 - Highway / Commercial
 - Government
 - Institutional
 - Industrial
 - Employment
 - Business Park
 - Open Space
 - Transfer Station
 - Proposed Highway / Commercial
 - Proposed Low Density Residential
 - Proposed Moderate Density Residential
 - Proposed Institutional
 - Proposed Employment
 - Proposed Open Space
 - Proposed Thompsonville Intersection
 - Refer to Milford Southeast Neighborhood Master Plan, Map #1 Land Use

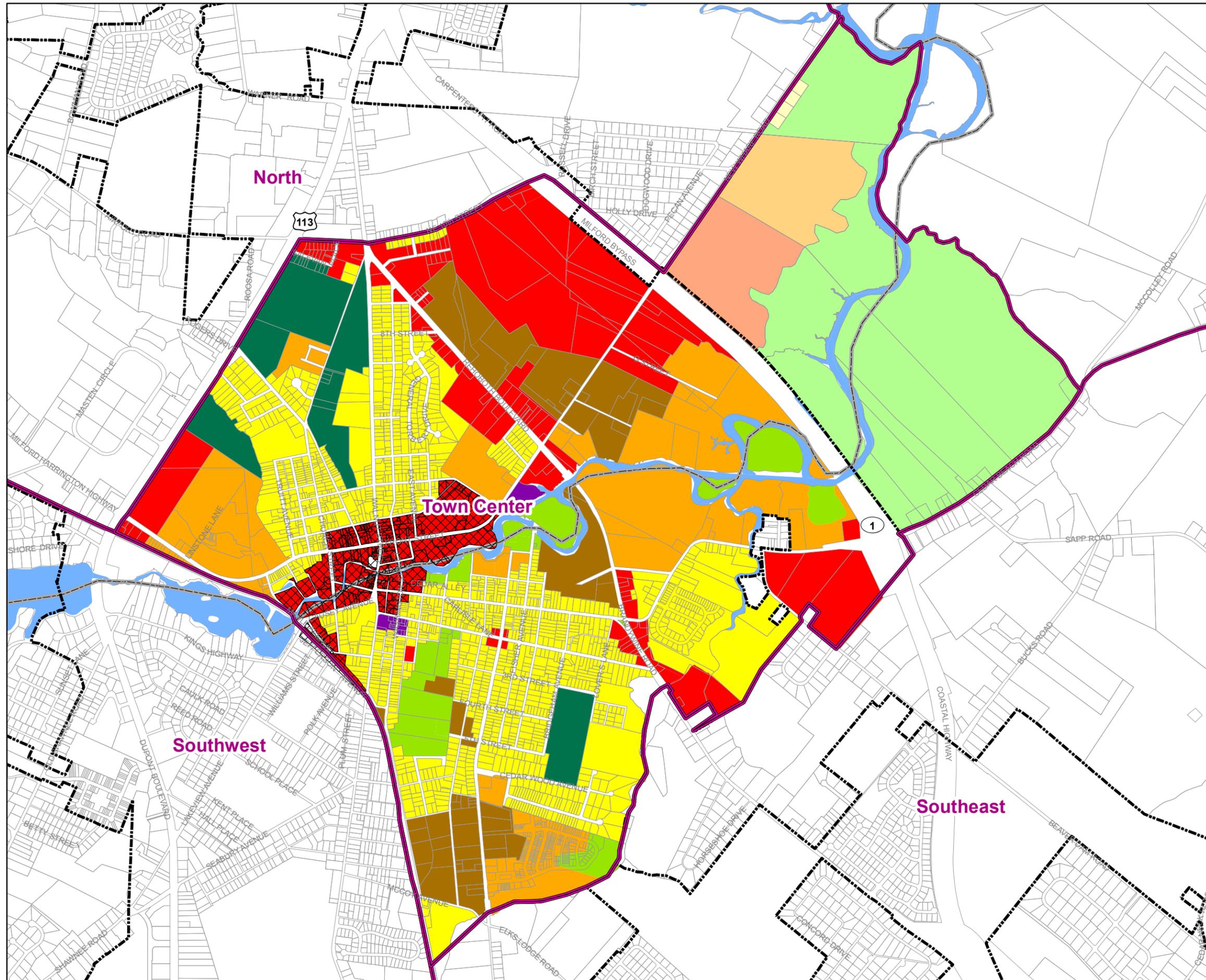


Data Sources:
 Roads - DELDoT
 State, County, Municipal Boundaries - State of Delaware
 Future Land Use - City of Milford

Milford Comprehensive Plan

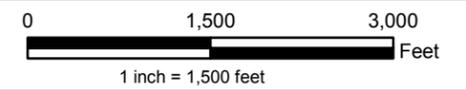
2013

Figure 14D Neighborhood Map Town Center



Legend

- City Boundary
 - Urban Growth Boundary
 - Neighborhood Boundary
 - Downtown
 - County Boundary
 - Parcel
 - Water
- Future Land Use**
- Low Density Residential
 - Moderate Density Residential
 - Highway / Commercial
 - Government
 - Institutional
 - Industrial
 - Employment
 - Business Park
 - Open Space
 - Transfer Station
 - Proposed Highway / Commercial
 - Proposed Low Density Residential
 - Proposed Moderate Density Residential
 - Proposed Institutional
 - Proposed Employment
 - Proposed Open Space
 - Proposed Thompsonville Intersection

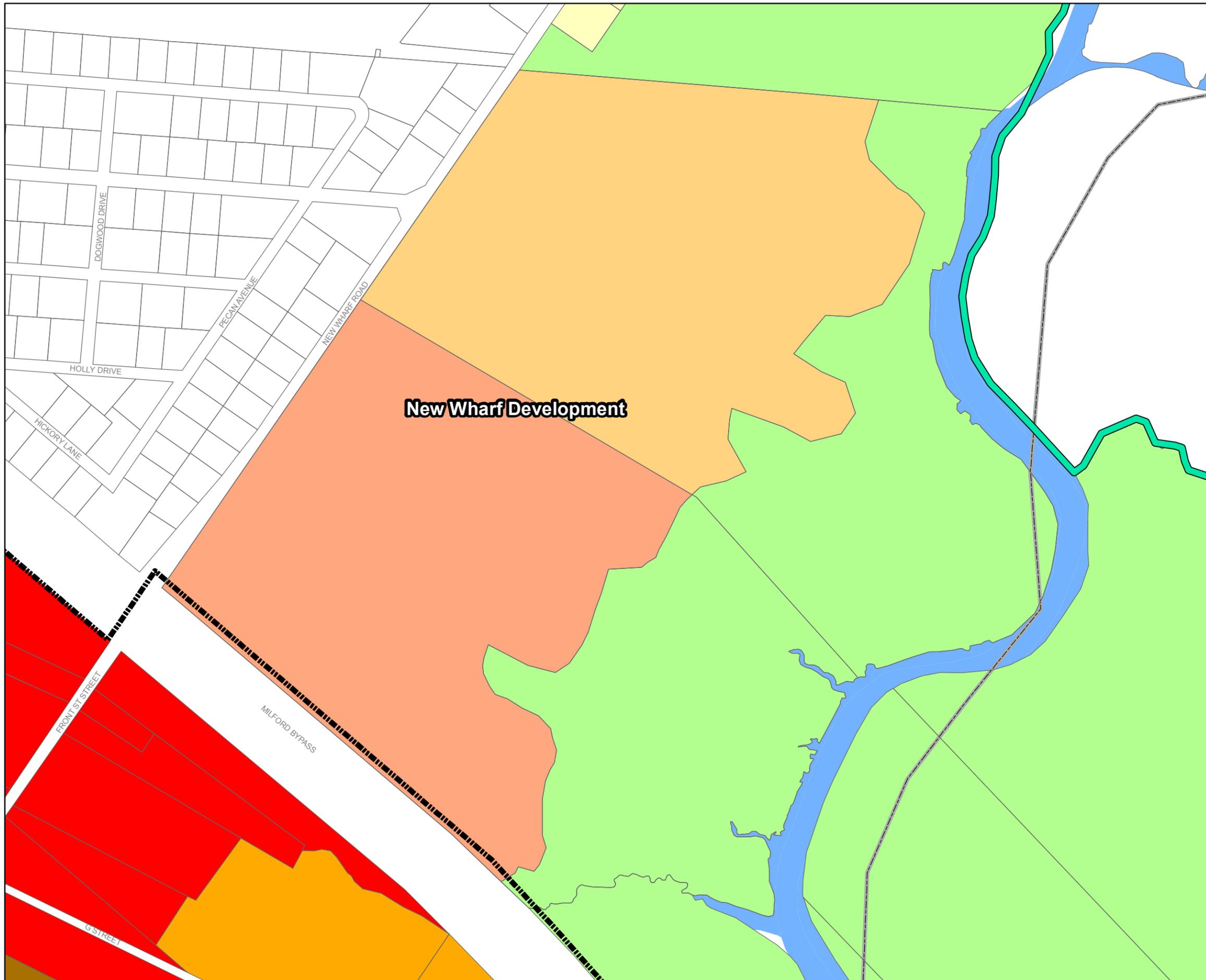


Data Sources:
 Roads - DELDoT
 State, County, Municipal Boundaries - State of Delaware
 Future Land Use - City of Milford

Milford Comprehensive Plan

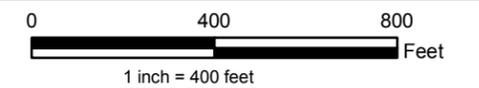
2013

Figure Y Neighborhood Map New Wharf Development



Legend

- City Boundary
- Urban Growth Boundary
- Downtown
- County Boundary
- Parcel
- Water
- Future Land Use**
- Low Density Residential
- Moderate Density Residential
- Highway / Commercial
- Government
- Institutional
- Industrial
- Employment
- Business Park
- Open Space
- Transfer Station
- Proposed Highway / Commercial
- Proposed Low Density Residential
- Proposed Moderate Density Residential
- Proposed Institutional
- Proposed Employment
- Proposed Open Space
- Proposed Thompsonville Intersestion



Data Sources:
 Roads - DELDOT
 State, County, Municipal Boundaries - State of Delaware
 Future Land Use - City of Milford

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
February 19, 2013*

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 19, 2013.

PRESIDING: Chairman James Burk
IN ATTENDANCE: Archie Campbell, Kerri Fry, Deborah O'Neill, Ed Holloway
ALSO: City Solicitor David Rutt, City Planner Gary Norris, Department
Administrative Assistant Christine Crouch

Chairman Burk called the meeting to order at 7:00 pm noting the absence of Mr. Sharp, Ms. Mims, Mr. James and Mr. Lane.

APPROVAL OF MINUTES

The minutes for the January 2013 regular monthly Planning Commission meeting were approved as submitted with a motion by Mr. Campbell and seconded by Mr. Holloway.

NEW BUSINESS

2013 Comprehensive Plan

Mr. Norris presented a power point explaining the proposed changes from the 2008 plan to the 2013 plan. Those revisions are before the commissioners this evening, as they were included in their packets. These changes have been reviewed by the Office of State Planning and we have received their comments back. Based on the preliminary review comments, additional changes were made, which is what this 2013 Comp Plan draft includes.

Essentially, Mr. Norris explained, there are three changes to the Future Land Use maps. The first of which is on Figure 14D, Town Center Neighborhood. Mr. David Kenton, who represents Mr. Dewey Lynch and Mr. John Lynch, requested the Lynch property be designated as 1/3 open space, 1/3 residential and 1/3 commercial. This would require a change from the entire property being designated as open space, should it be annexed. The property is within our growth boundary, meaning we would accept an annexation petition, but currently it is designated as open space. The intent of the Lynch's is to develop it as residential and commercial.

The Office of State Planning has seen this requested change and they are very much opposed to this change stating its proximity is far from the town's center and it is east of Rt 1, which they feel is not ready to be developed due to the transportation issues along Rt 1 being identified and resolved. In this area in particular, an overpass is planned, but not until around 2020.

The second change being presented to the commission tonight involves Figure 14C, Southwest Neighborhood. Mr. Norris met with representatives of Bayhealth regarding their future plans for the hospital and its expansion in the coming years. The hospital anticipates purchasing additional properties around the current facility and has requested those parcels be designated as institutional instead of residential.

Finally, the third change to be reviewed this evening arrived via email today and is the property east of Rt 1 owned by MBT Holdings, which is represented by Mr. Elmer Fannin. This property is commonly referred to as the Mills property, as that is who owned it when annexed in 2007. Because this property is in the SE Neighborhood, it became part of the City's SE Master Plan, which was extensively researched and developed and adopted on July 25, 2011. At that time, it became part of the City's Comprehensive Plan. A change to the Comp Plan mapping alone is not permitted. Instead, the SE Master Plan must be amended. Mr. Fannin has requested the future land use for this property be changed from Low Density Residential to Business Park.

Before the Planning Commission tonight are those three changes to the Comprehensive Plan. The Commission will make a recommendation on each of them and the Plan will then go before Council to make a final determination.

Again, the three changes are as follows:

1. Future Land Use Map, Figure 14D
 - a. Lynch Property-from Open Space to 1/3 Open Space, 1/3 Residential, 1/3 Commercial
2. Future Land Use Map, Figure 14C
 - a. Multiple residential properties surrounding Bayhealth-from Residential to Industrial
3. SE Master Plan
 - a. MBT Holdings Property-from Low Density Residential to Business Park

Mr. Campbell asked what Mr. Fannin will be doing with the Mills property since he hasn't finished Hearthstone Manor and Hearthstone II yet. Mr. Norris felt he would be creating a business park on the property.

Mr. Burk asked how often Comprehensive Plans are required, per the State. Mr. Norris replied every five years.

When asked what the cost is to the City if these changes are approved tonight, Mr. Norris felt a couple of hundred dollars for mapping changes would be required.

Mrs. O'Neill noted when looking at the Middle School area, it appears there has been a change in their future land use as well, to proposed institutional. Mr. Norris reviewed the map and explained there has been no change in this area, the color on the map is very close to the color used for proposed institutional. He will request the color be changed.

Mr. Burk opened the meeting to public comment.

Mr. David Kenton, on behalf of the Lynch brothers, who were present, introduced himself. He stated he and the property owners feel the City should over ride what the State Planning Office is saying. The State people spoke up about five or ten years ago and said they didn't want any development east of Rt 1. It turns out after that, Lighthouse Christian Church was completely zoned commercial and Mr. Fannin got 500 acres.

Milford is expanding to the east and now it seems like the Lynch brothers weren't around when the Comprehensive Plan was changed five years ago and the Agricultural Department went out there and made the Lynch property Agriculture Conservation while the Lynch brothers were already working for five years on a plan they have called Bowen Mills. When Mr. Dickerson and Mr. Chaney were alive everybody in the whole town knew that this property would eventually be developed. And for some reason, no one called the Lynch's, no one said anything to them, they just slapped them in the Comp Plan as Agricultural Conservation. They feel like that was a mistake and asked Mr. Randy Lynch to come up and give some history of the property.

Again, he feels that the State Planning Office is still thinking five years back and Milford is not going to expand. It is going to expand along Rt 1, it's already been developed, and now the information he heard from DeIDOT is that the overpass is not planned for 2020, but for digging in 2016. Mr. Norris may be right and he may be wrong, as there is always a lot of false information that comes out of DeIDOT, but when Mr. Kenton spoke with them, they said they are getting ready to essentially condemn and take 25 acres of the Lynch property. From a commercial real estate point of view its worth \$200,000 per acre and it's just going to be taken. What they get in exchange is an overpass which will help Milford's transportation.

They feel like, Mr. Kenton continued, if the State is going to take 25 acres of property and then turn around and say they won't let them use the rest of the property, is essentially a confiscation. He is hopeful the City will help the property owners over ride what the State Planning Office has recommended so they can go ahead and develop it.

Mr. Norris addressed Mr. Kenton and stated the Lynch property was designated as Open Space, not Agricultural Preservation, as Mr. Kenton referred to. Mr. Kenton stated he has paperwork from the Milford Planning Commission stating it was changed to "AC" which is Agricultural Conservation. Mr. Norris explained not only does the City not have that zoning classification, but because the property is not in the City limits, we have no jurisdiction in what the current zoning classification is. It must be zoning in the county.

Mr. Randy Lynch came to the podium and explained his father bought the property in 1985. He has spent a ton of money surveying it and having plans drawn up. The whole intention of the plan along has been to develop it and then his father passed away, as did Mr. Dickerson, then he (Mr. Lynch) got tied up in the courts with a partition with the partner owner of the property, spent the last five years in court, and it's just getting a little ridiculous. He asked why he has to fight everybody all the time. The City hauled off and put it in the plan without ever telling him. The City never notified him of anything. He came to the City after the partition was complete to find out if it could be zoned in the City, and that's when he found out the property is in the City's Comprehensive Plan as Open Space and that they couldn't do anything till 2013. That's about all he has to say about it.

Mrs. O'Neill asked how many acres the property has. Mr. Kenton replied 64 acres. Mrs. O'Neill asked how the remaining 39 acres would be used. Mrs. Crystal Lynch, Mr. Randy Lynch's wife, came to the podium and stated there is a total of 96 acres to the parcel, not 64.

Mr. Campbell confirmed our Comp Plan has it classified as Open Space and the owners want to have it annexed and developed as commercial property. Mr. Norris explained in order for that to

happen, the property's future land use designation in our Comp Plan would have to be changed, should the City want the property to be developed commercially. The property owners want the property designated as highway commercial and moderate density residential. The process would be to amend the comp plan and then it can be annexed. The zoning they want the property to have when annexed has to be consistent with the Comp Plan and right now it is not, which is why the commission is reviewing this change.

Mr. Burk asked Mr. Norris to explain the process the City goes through when amending the Comp Plan. Mr. Norris, referring to the Comp Plan of 2008, explained there were extensive public hearings. The comp plan is in effect, but a new one or an amendment has to be done every five years. Sometime between 2010 or 2011 Mr. Kenton contacted Mr. Norris about the Lynch property being annexed into the City. It was designated as Open Space and therefore what he told Mr. Kenton was that in order for it to be annexed, the comp plan would have to be amended. When the amendment came about, which is now, Mr. Norris recognized Mr. Lynch's request and made the change to the maps. Mr. Norris then spoke to the Office of State Planning and their comments include their being concerned about expansion east of Rt 1 where in the 2008 plan it was designated as Open Space.

Mr. Burk just wanted to clarify that there are public hearings. He doesn't want the mind set to be that anything was done behind closed doors. Mr. Burk recalled the 2008 public meetings and even meetings where the Comp Plan has been discussed by this body, leading up to tonight. Mr. Norris confirmed.

Mrs. Crystal Lynch stated in response to what was just said, she understands there were public meetings and the Lynch property owners missed them, but at that point in time they were in the middle of a four to five year battle over trying to do anything with a partner. Mr. Burk understood, but he just wanted to clarify there have been several public meetings.

Mr. Campbell asked Mr. Norris if it would behoove us or advantageous to change the designation to commercial since that would bring more revenue into the town. Mr. Norris replied if you play the scenario out and the property is annexed and it's developed, then yes, theoretically it would benefit the town.

Mr. Campbell asked if there is enough room on the parcel, after DelDOT takes their share, to develop the property. Mr. Norris replied he doesn't know. His assumption is there should be some land available for commercial and the residual left for residential.

When asked by Mr. Campbell what the owners plan to develop on the property, Mr. Kenton stated Mrs. Lynch is correct there is 96 acres, but 32 acres is completely marsh and wetland. That leaves 64 acres. Then DelDOT will take by eminent domain 25 acres, leaving 39 acres for development.

Mr. Kenton stated originally the property owners had requested to the City the future land use designation be half C3 and the other half as R3, but are now, as of this meeting, requesting the entire parcel be shown as highway commercial, since they are aware the C3 allows what is in R3 zone.

To answer the question, the plan is to do a shopping mall of some sort. They usually take about 25 acres, which would leave 14 acres that could be used for some sort of housing project in the back. Because this market is very uncertain at the time, it's hard to say that would be the final plan. Mr. Kenton has had more requests for commercial sales than residential and as the City knows there is a tremendous back log of homes in the area that have not been sold. Referring to the intent of the development, Mr. Kenton added it could be a mall, it could be a truck stop, or a lot of other commercial uses. Again, asking for C3 zoning on approximately 39 acres of land.

Mr. Norris confirmed he had sent Mr. Kenton a proposed land use change map for this property and Mr. Kenton approved it, but he is now asking for commercial designation moved further east in order to give him 25 acres? Mr. Kenton explained that when he and Mr. Norris agreed to that map change, DelDOT had not informed him yet of the overpass plans. After looking at the overpass plans and meeting with DelDOT, this change has been prompted.

Instead of having 64 acres left, Mr. Kenton says instead they will only have 39 acres left, after DelDOT does the loop. Everyone knows that the overpass is needed and it will help traffic in that area. So there's 39 acres now and what he's sorta saying now is, and what he'll have to do is put in a new request, the line has to be changed because of where DelDOT is putting the overpass. Mr. Kenton understands giving up 25 acres of the property to improve the traffic, but the owners want to be able to develop the 39 acres commercially and the rest of the land is used for duck hunting.

Mr. Burk asked if it would be beneficial to table this change. Mr. Norris replied sure, the commission has the right. Mr. Burk went on to explain Mr. Kenton has now changed what was presented tonight and Mr. Fannin's request just arrived today. Mr. Norris stated he had conversations with Mr. Fannin last week regarding his request. He asked if Mr. Fannin would like to speak.

Mr. Elmer Fannin with Key Properties Group was present as the owner of MBT Holdings. He explained that in developing the parcel that is east of Rt 1 for medical purposes (Innovation Park), it has not moved along as fast as he would have liked, but DelDOT is getting the roadway situation squared away and the economy seems to be turning around and he is starting to open up communications on the Innovation Park development. The property in question, owned by MBT Holdings, adjoins the Innovation Park parcel. Mr. Fannin has received requests from businesses wishing to locate off of Rt 1. Looking at the SE Master Plan that was adopted by the City, DelDOT has provided for secondary road improvements because of Innovation Park due to that being for a job creations area. He feels since Innovation Park will be a parcel that has jobs creation, the MBT Holdings (Mills Property) parcel would also be suited for a jobs creation parcel as well. He feels this would be a good location for a business park since the one in town is pretty much filled up.

Mrs. O'Neill asked for Mr. Norris to show the area being discussed on the overhead projection. Mr. Norris put the location on the overhead explaining it currently designated for low density residential. In addition, because this parcel is located in the SE Neighborhood, in order to modify the future land use designation, it requires first a modification to the SE Master Plan that was adopted by the City in 2011.

Mr. Rutt explained how the Comprehensive Plan moves forward. Once the Planning Commission makes a recommendation, City Council will make a decision and the Plan then goes back to the Office of State Planning. If they have any objections to what is proposed in the Plan and/or maps, then they try to work out a negotiation or agreement with the City on those objections. If an agreement is reached, it becomes part of the record and ultimately part of the Comp Plan.

If an agreement is not reached, the Plan then goes to the Cabinet Committee for State Planning, which is a Governor's Committee. They have the right to hold a public hearing to hear any objections or get further input. Their recommendation then goes to the Governor or the State Planning Coordinator where a certification of the Plan occurs. The certification of the Plan becomes the final plan that is adopted by the City.

Mr. David Kenton addressed the Planning Commission asking what if a property owner lives out of state, say in California, and the City held the public hearings as required and the notices were published in local papers, but because the property owner doesn't receive those papers, he wouldn't know about those hearings. Essentially, can the City legitimately change the future land use designation of your property without ever contacting the property owner? Mr. Kenton doesn't think that is legal, but he doesn't know.

Mr. Rutt replied by explaining if the zoning on a parcel is changed, the property owner knows about it because they have to file the application with the City seeking that approval. In this case, where it is a property outside of City limits and is being looked at for a future land use designation change, it is impossible to give notice to every land owner because it is a Comprehensive Land Use Plan. That is a lot of properties. That is simply a requirement of land ownership, in that you keep track of your land and what's going on. If there is public notice that's published in general circulation and online, then it is the obligation of the property owner to stay informed.

Mr. Kenton recommended the City notify all property owners of the fact the Comprehensive Plan will set the agenda for what happens on your property for the next five years. Please be aware and watch the papers.

Here are property owners, referring to the Lynch's, that essentially their land was put in Open Space and they had already been trying to develop it and a lot of people knew that. Typically the land use planning people just said 'We'll just put an overlay over it and essentially make it so difficult in the future you can never do anything with it.' That is a questionable activity.

Again, in the future, he recommends the City put a notice in all the tax bills that the City will be considering the Comprehensive Plan and this could affect what people can do with their land for the next five years by force of law.

Mr. Burk suggested Mr. Kenton address that recommendation with the City Manager or Council. This body doesn't get involved in that type of notice. Public notices are mailed and posted for the Planning Commission meetings and anything that the commission holds a public hearing for, but that wide spread of a notice would need to be addressed by the City Manager or Council.

Mr. Burk asked if there were any additional public comments. Hearing none, he closed the public comment session.

Mr. Campbell feels if the Lynch property is going to be annexed into the City, that's more revenue for the City, and therefore he is in favor of that. A shopping center, which is what Mr. Kenton has said may be built, would bring even more money into the town. Add in another 14 acres of who knows what. His feeling is that the commission should approve the future land use designation of the Lynch property to be highway commercial.

Mr. Campbell made a motion to accept the following changes to the 2013 Comprehensive Plan:

1. Future Land Use Map, Figure 14D
 - a. Lynch Property-from Open Space to 39 acres on the southwest side of the parcel to Highway Commercial leaving and 14 acres to the northeast side to Medium Density Residential (25 acres along Rt 1 will be transferred to DelDOT)
2. Future Land Use Map, Figure 14C
 - a. Multiple residential properties surrounding Bayhealth-from Residential to Industrial
3. SE Master Plan
 - a. MBT Holdings Property-from Low Density Residential to Business Park

Mr. Holloway seconded the motion. Motion carried with the following votes:

Campbell	Yes for the Lynch property because it will be a benefit for the town by bringing in more revenue. Yes for the Hospital property because it will help them expand. Yes for the MBT property because it will bring more businesses to the City.
Fry	Yes for reasons Mr. Campbell stated.
O'Neill	Yes for reasons Mr. Campbell stated.
Holloway	Yes because it all of the changes are an opportunity to bring more jobs to the City.
Burk	Yes for reasons stated.

CITY PLANNER MONTHLY REPORT

Mr. Norris no report.

With no further business, the meeting adjourned at 7:51 pm.

Respectfully submitted,



Christine R. Crouch
 Department Administrative Assistant/Recording Secretary

Office of State Planning (David Edgell) comments regarding DRAFT 2013 Comp Plan (*partial*):

1. Figure Y, New Wharf Road Development: I do not know if the State will support this change to the future land use plan. Although you have described these changes to me before, this is the first time I've had a chance to see them mapped. Honestly, I did not understand where these parcels were located nor their size in our previous conversations. I expect that our office and the State Agencies will have the following concerns:
 - a. The location East of Route 1. We have always expected this area to be "Open Space," and that development would be limited in this area.
 - b. The size of the parcels and the proposed land uses (Highway Commercial and Moderate Density Residential) can enable a significant amount of development.
 - c. There will be noteworthy traffic and highway safety impacts of any development, and those impacts could be significant with the type of high intensity development made possible by both the size and land use / zoning of the parcels. I am aware of the interchange at this intersection that is in the planning stages, and that may mitigate these concerns somewhat. However, the construction of this interchange is some years in the future.
 - d. The parcels are remote from the core of Milford. There is no connectivity to the rest of the City except by automobile.
 - e. There are many other vacant, commercial and residential parcels available for development in Milford. What is the demand for two more high density development parcels? Will development of these two parcels saturate the market, and make the development of other parcels closer to the CBD and in the Master Plan area less likely?



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

May 21, 2013

Gary J. Norris
City of Milford
201 South Walnut Street
Milford, DE 19963

RE: 2013-04-02; City of Milford Comprehensive Plan Amendment

Dear Mr. Norris:

Thank you for meeting with State agency planners on April 24, 2013 to discuss the proposed City of Milford draft comprehensive plan update.

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

Certification Comments: These comments must be addressed in order for our office to consider the plan amendment consistent with the terms of your certification and the requirements of Title 22, § 702 of the Del. Code.

The "New Wharf Development" depicted on Figure Y is a major change proposed by this plan. The current plan identifies this area as Open Space, which is consistent with our longstanding policy promoting rural uses and low density development East of Route 1. The proposal presented in this plan is to annex two properties totaling approximately 194 +/- acres and zone half of it highway commercial and half of it moderate density residential. Gary Norris informed us at the PLUS meeting that the applicant has altered his request and now seeks to zone all 194 acres highway commercial. Here are our comments:

The State supports the current plan which identifies this area as "Open Space" due to our longstanding policy promoting rural and low density uses East of Route 1

The State cannot support the comprehensive plan amendment as currently proposed for the following reasons:

- The area will not be served by appropriate transportation infrastructure for the proposed use until the planned grade separated interchange at NE Front Street, New Wharf Road and Route 1 is constructed. Construction of this project is not currently planned until 2019 at the earliest, making this application premature. Annexation and zoning prior to the interchange being in place has the potential to create serious problems for area roadways.
- The magnitude of this proposal is far too large. Considering that the developed portion of the Dover Mall is located on 145 +/- acres, the development potential of this parcel could be greater than the Dover Mall. Needless to say, this has a number of implications on:
 - The adjacent rural communities
 - Environmental resources
 - Transportation infrastructure
 - Market competition with downtown Milford, the Route 113 corridor, and the new commercial areas planned in the Southeast Neighborhood Master Plan. No retail market study was included in the plan to demonstrate the need or demand for additional commercial land use at this location.
- The plan contains no analysis of any of the issues listed above. In order for the State to consider this comprehensive plan amendment, the plan would have to address the potential impacts of the commercial development on surrounding neighborhoods, the environment, the transportation network, and the commercial / retail market in Milford.
- It is acknowledged that the construction of the grade separated interchange will influence changes of land use around it. We would like to offer our support to work with the City of Milford, DelDOT and other stakeholders to create a master plan for this area that would address land use, transportation, environmental resources and other issues to be determined by the stakeholders. Such a master plan would be similar to the process that led to the Southeast Neighborhood Master Plan, only with a smaller project area. It is anticipated that all of the issues above could be addressed in such a Master Plan. Given that the construction of the interchange is likely 7 years away, we could start this master plan project in approximately 3 or 4 years (2016 – 2017). Any sooner than that would be premature, since conditions will no doubt change between now and then.

Source Water Protection

- Chapter 10 of the Plan includes a discussion of wellhead protection and excellent groundwater protection areas and references to the City's Source Water Assessment for the public water system. This assessment is provided to public water systems as required by 7 Del. C. 6083.

- DNREC recognizes the City's efforts in developing and adopting a source water protection ordinance; however, there is neither discussion nor reference to the City's ordinance in the comprehensive plan. We take this opportunity to remind the Town that these elements are required. This is a certification issue.
- The Comprehensive Plan must contain the following elements per the Memorandum of Understanding between the Office of State Planning and Division of Water dated July 2011.
- *Counties and Municipalities Over 2,000 Population* (as reported in the most recent decennial Census):
 - Text of the comprehensive plan must include description of source water requirements in 7 Del. C. 6082(b), and include goals and objectives related to the protection of the resource. This text shall be placed within the water and sewer element of the local government's comprehensive plan, as prescribed by Title 9 or Title 22 of the Delaware Code.
 - The map and plan text must clearly include the note that the regulatory provisions of any source water ordinance will refer to the most current source water protection datasets¹.
 - The local government shall adopt, after consultation with DNREC, an ordinance that is protective of the resource. The ordinance shall refer to the most current official source water map and relevant data, as provided in the current Comprehensive Plan and as amended from time to time or include a map update procedure.

DNREC's Groundwater Protection Branch (GPB; 302-739-9945) is available to assist the Town in this endeavor.

Recommendations: Our office strongly recommends that the Town consider these recommendations from the various State agencies as you review your plan for final approval.

This office has received the following comments from State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

- There are numerous updates of factual data throughout the plan. This includes updating population data to the 2010 Census, which has already been done. There are a number of other sections to be updated (public involvement, public works, etc.) that are highlighted in the document. We will need to review the final text of these updates before the plan is considered for adoption. No changes other than factual information are expected. Any other changes may require additional PLUS review.

- The land use in the Southwest Neighborhood has been amended to adjust the number of parcels identified as Institutional. We are to understand that this is to include a number of parcels that are owned by Bayhealth that will be used in the upcoming hospital expansion project. We have no objections to this change.
- This plan does not reflect any changes to the Southeast Neighborhood Master Plan. This plan references that Master Plan and directs readers to it for all information about the area. Any changes to the Southeast Neighborhood Master Plan will require that all parties involved in the creation of that plan must meet and decide to amend the plan. Should all parties choose to explore amending the plan, then an appropriate planning process involving all of the stakeholders and the public must be undertaken. Contact David Edgell at OSPC in order to discuss the procedures for beginning such an amendment.

State Historic Preservation Office (SHPO) – Contact: Terrence Burns 739-5685

- As in previous plans, there is a good history of the town and a great appreciation of the City's historic properties and their connection with continuing economic viability of the area. It would be good to add a table that identifies all the National Register-listed properties in and around Milford, and not just the most prominent ones. The State Historic Preservation Office would be happy to supply this list.

The plan identifies the partner organizations with the City in its historic preservation efforts and mentions the on-going efforts of the Main Street program. In addition, the City has drafted a historic preservation ordinance for its historic districts, which we are happy to support. The plan however does not address historic properties outside of the historic limits of the City, neither architectural nor archaeological. The plan would be strengthened if such properties could be given some recognition or protection upon annexation or redevelopment. Archaeology is not mentioned even within the historic City, although there may be important archaeological resources related to early mills and to the City's early development remaining.

Milford is in need of additional historic property survey, since most of the early to mid-20th century architecture has not been looked at. While the City does not promise to fund such survey, the plan does promise the City's support for private citizen's efforts to extend the historic survey and/or to apply for federal funds for historic preservation needs. Historic properties will also serve as focal points of the City's Riverwalk and related pedestrian and bicycle trails that provide recreational and cultural benefits for its citizens. The plan mentions successful reuse and renovation of several historic properties downtown, coupled with on-going streetscape improvements to increase the visual and economic appeal of the area. The plan is projecting considerable growth in population, and it would be desirable to see support for cluster development and creating receiving zones for Transfer of Development Rights, to assist in the preservation of the historic

agricultural landscape that surrounds Milford. If you have any questions or concerns, please contact Alice Guerrant at 302-736-7412.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

Figure Y (New Wharf Development) shows a proposed annexation and rezoning of lands east of Delaware Route 1 and south of New Wharf Road. This proposal is discussed briefly on page 58 of the plan, where New Wharf Road is incorrectly identified as Route 14. That designation stops at Route 1. In any case, the proposal concerns us in several respects.

First, and perhaps most easily addressed, it is proposed as an expansion of the Town Center Neighborhood, whereas the land directly across New Wharf Road is part of the North Neighborhood. Arguably the land on the north side of New Wharf Road west of Route 1 does not belong in the North neighborhood either. Our concern is that for planning purposes Route 1 serves as a more rational neighborhood boundary than does New Wharf Road and that the area east of Route 1 between the Mispillion River and Swan Creek should be addressed as a whole. If the City thinks it appropriate, it might be reasonable to designate it as a separate Northeast Neighborhood in the Plan.

Second, much of the land proposed for commercial development, and part of the land proposed for residential development, would be needed for our planned grade separation of Route 1, Northeast Front Street and New Wharf Road. Information on this project is available at http://www.deldot.gov/information/projects/sr1/sr1_northeast_front_st/, where the preferred alternative for the design is shown as Concept 4. To update the information provided on our website, in our proposed Capital Transportation Program for the six years beginning with Fiscal Year 2014 (July 2013) acquisition of right-of-way is scheduled to begin in 2017. Construction is not scheduled because it is a six-year document, but would normally follow about two years after the start of right-of-way acquisition.

Compensation to the property owners when right-of-way is acquired is based on “highest and best use,” which does not necessarily follow zoning, and we are willing to pay the appraised value of the property in due course, but we are concerned that if the property is annexed and rezoned now, we may have to relocate businesses and residents when we do go to acquire the right-of-way. Worse yet, we could find it necessary to re-evaluate the design in view of development that has occurred, thus lengthening a process that we would like to expedite if we can. Our understanding is that many residents of the area also view our project there as a priority.

Finally, in the absence of our planned grade separation, it is already difficult to provide safe access to the portion of the City east of Route 1. We have already had to prohibit through and left turn movements on eastbound Northeast Tenth Street and have considered a similar prohibition there westbound. These changes necessarily mean increased traffic at New Wharf Road, and we would be reluctant to place similar

restrictions there. Adding more traffic through the development of the subject lands would not help matters.

The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071

The following comments pertain to environmental features and natural resource protection related to a proposed annexation/change of land use East of State Route 1 in the vicinity of SR 1 and New Wharf Road, shown on Figure 14D and Figure Y of the 2013 Draft Plan as the New Wharf Development.

Wetlands

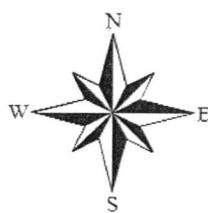
- State regulated wetlands ARE located on this property based on a review of the State wetland maps. State regulated wetlands are those wetlands identified on the State's official State Regulated Wetland Maps. State regulated wetlands are located on this property based on a review of the State wetland maps. Please refer to State Wetland map numbers 177, 178, 208 and 209. Any activity in State regulated wetlands may require a permit from DNREC's Wetlands and Subaqueous Lands Section. Additional information about State regulated wetlands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>. There are significant State Regulated wetlands on this parcel.
- State regulated subaqueous lands ARE likely to be located adjacent to this property based on a review of aerial photographs, SWMP maps, Soil Surveys and USGS topographic maps. Upon review of the GIS layers, this property is located directly adjacent to the Mispillion River. State subaqueous lands include all tidal waters (up to the mean high water line), most non-tidal rivers, streams, lakes, ponds, bays and inlets (up to the ordinary high water line), most perennial streams and ditches and many intermittent streams and ditches. State regulated subaqueous lands are likely to be located on this adjacent to this property based on a review of aerial photographs, SWMP maps, Soil Surveys and USGS topographic maps. An on-site inspection by a representative of the Wetlands and Subaqueous Lands Section or an environmental consultant is recommended to determine the limits of jurisdictional State subaqueous lands. ***Upon review of the GIS layers, Perennial River/Streams are located on the property.*** Additional information about State regulated subaqueous lands is available by contacting the Wetlands and Subaqueous Lands Section at (302) 739-9943 or on line at <http://www.dnrec.delaware.gov/wr/Services/Pages/WetlandsAndSubaqueousLands.aspx>.

Waters of the U.S. regulated by the U.S. Army Corps of Engineers ARE likely to be located on this property based on a review of aerial photographs, SWMP maps, Soil Surveys and USGS topographic maps. Waters of the United States include the following: navigable waters of the United States; wetlands; tributaries to navigable waters of the

United States, including adjacent wetlands and lakes and ponds; interstate waters and their tributaries, including adjacent wetlands; and all other waters of the United States not identified above, such as isolated wetlands, intermittent streams, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, where the use, degradation or destruction of these waters could affect interstate or foreign commerce. Waters of the U.S. regulated by the U.S. Army Corps of Engineers are likely to be located on this property based on a review of aerial photographs, SWMP maps, Soil Surveys and USGS topographic maps. The extent of Federal jurisdiction over Waters of the United States is determined by the U.S. Army Corps of Engineers and is based on site specific conditions. Therefore, an on-site inspection by an environmental consultant is recommended to determine if Waters of the U.S. are located on the property and the limits of Federal jurisdiction. The U.S. Army Corps of Engineers can be contacted at (215) 656-6728 or online at <http://www.nap.usace.army.mil/cenap-op/regulatory/regulatory.htm>.

- According to DNREC GIS SWMP maps, there are considerable wetlands regulated by the U.S. Army Corps of Engineers. They suggest contacting them for an on-site inspection.

Milford Comp Plan Parcel MD00-174.00-02-64.00



0 0.05 0.1 0.2 Miles

Prepared By: Kitty Bronson
DE SWMP Maps, DeIDOT.
Mapped Tidal Wetlands,
Kent Parcels



Floodplains

- The wooded portion of the two New Wharf Road parcels is located in the 1% annual chance floodplain. This is the high risk Zone AE tidal floodplain.

Hazardous Waste Sites

- There are two SIRS sites located within ½ mile radius of the proposed project area:
 - Scarborough Pit (DE-0236)
 - Wilkerson Terrace Pit (DE-0234)

If it is determined by the Department that there was a release of a hazardous substance on the property in question and the Department requires remediation pursuant to the Hazardous Substance Cleanup Act, the provisions of 7 Del.C., Chapter 91, Delaware Hazardous Substance Cleanup Act and the Delaware *Regulations Governing Hazardous Substance Cleanup* shall be followed.

- Should a release or imminent threat of a release of hazardous substances be discovered during the course of future development (e.g., contaminated water or soil), construction activities should be discontinued immediately and DNREC should be notified at the 24-hour emergency number (800-662-8802). SIRS should also be contacted as soon as possible at 302-395-2600 for further instructions.
- If any future development occurs on sites with previous manufacturing, industrial, or agricultural use, SIRS strongly recommends that the land owner(s) perform environmental due diligence of the property by performing a Phase I Environmental Site Assessment (including a title search to identify environmental covenants) in accordance with Section 9105(c) (2) of the Delaware Hazardous Substance Cleanup Act (HSCA). While this is not a requirement under HSCA, it is good business practice and failure to do so will prevent a person from being able to qualify for a potential affirmative defense under Section 9105(c) (2) of HSCA.

Additional remediation may be required if the project property or site is re-zoned by the county or City of Milford.

Delaware State Housing Authority – Contact Vicki Powers 739-4263

- DSHA is concerned that the only housing goal, and corresponding objectives, of the Town's Comprehensive Plan for housing is to preserve and improve the character and quality of life in traditional single family homes. DSHA recommends that the town considers the following information:
 - While large suburban homes have dominated development in Delaware for several decades, a growing body of research indicates that we are in the midst of a significant market shift. The baby boomers that once drove suburban development are now aging and are looking to downsize into something more manageable. The Delaware Population Consortium (DPC) projections for the next ten years indicate that not only will there be a large amount of suburban homes placed on the market by baby

boomers, but that there will be a *decline* in households in age ranges that typically seek large homes. These same DPC projections show growth in the younger age ranges most likely at stages in their life and income to support entry level homes.

- The combination of excess suburban housing supply currently on the market, additional supply being added by aging baby boomers, along with a changing market indicate that it is *critical* that communities *proactively* provide a variety of housing options to meet the needs of their residents.
- DSHA encourages municipalities receiving federal funds for housing to be aware of their Civil Rights obligations at the U.S. Department of Housing and Urban Development (HUD). Specifically, federal fund recipients are obligated to Affirmatively Further Fair Housing (AFFH) by taking proactive steps to promote racially, ethnically, and socioeconomically diverse communities. To assist with this obligation, in July 2011, DSHA collaborated with the Cities of Wilmington and Dover, and New Castle County to conduct the *Statewide Analysis of Impediments to Fair Housing Choice*. (<http://www.destatehousing.com/FormsAndInformation/pubs.php>). The Analysis contains several recommendations for local jurisdictions. These include the following:
 - County and local government entities throughout the State of Delaware should reduce and/or waive their respective sewer, water, and/or public facilities and services impact fees for area developers and non-profit organizations seeking to build affordable housing units, both renter and owner units.
 - Amend the Town of Milford's zoning ordinance to include a more modern definition for the term "family."
 - Ease zoning and other regulatory barriers to affordable rental housing for families.
 - Incentivize the development of mixed-income housing in non-impacted areas.

Because of its' very low homeownership rate and high percentage of subsidized rental units, DSHA has identified Census Tract 425 as a severely impacted area and discourages further rental in this area and instead encourages homeownership.

 - Area localities should encourage members of appointed boards and commissions, elected officials, real estate agents, and municipal and county staff that deal with housing, community development, zoning, and code enforcement issues to attend an annual fair housing training.

- DSHA offers technical assistance to the Town in reviewing tools and strategies to increase affordable housing opportunities within the Town.
- DSHA has developed a website, **Affordable Housing Resource Center**, to learn about resources and tools to help create housing for households earning 100% of median income or below. Our website can be found at: www.destatehousing.com "Affordable Housing Resource Center" under Other Programs.

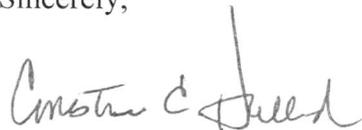
Approval Procedures:

As described in this letter, there are a number of certification issues associated with this Plan Amendment. Once the Plan Amendment has been revised to address those certification issues (and hopefully the recommendations as well), please submit a draft to our office to review. Upon verification that these issues have been addressed, we will write you a letter to this effect. After receipt of our letter the City is welcome to have the plan adopted by the Planning Commission and Council.

Once a decision has been reached on this proposed comprehensive plan amendment, please forward a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include a revised version of the Future Land Use Map as well as any text that is necessary to amend the comprehensive plan and describe the change.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP

Director, Office of State Planning Coordination

CITY OF MILFORD COMPREHENSIVE PLAN ADMENDMENT
REPLY TO PLUS LETTER: 2013-04-03
GARY J. NORRIS, AICP

Certification Comments – Comments from the Planning Commission and City Council regarding the proposed “New Wharf Development” will be included.

Source Water Protection – The City of Milford will include the adopted Source Water Protection Ordinance which DNREC approved per the 2008 City of Milford Comprehensive Plan.

Office of State Planning – The City will contact David Edgell and begin the process to discuss the procedure to amend the South East Master Plan as it relates to the proposed Future Land Use designation of the Mill’s Property.

State Historic Preservation Officer – The City of Milford will contact Terrance Burns and add a table that identifies National Register –listed properties in and around Milford. For your information the City of Milford developed and the State approved the South East Master Plan for the City of Milford and contained in that Plan was a proposed Transfer of Development Rights and Cluster Development for this growth area.

Department of Transportation – Comments from the Planning Commission and City Council regarding the proposed “New Wharf Development”

Department of Natural Resources and Environmental Control – The City of Milford will inform the property owner of the proposed “New Wharf Development” regarding the State Wetland Maps and that any activity in State regulated wetlands may require a permit from DNREC’s Wetlands and Subaqueous Lands Section. Further the City of Milford will inform the property owner that an on-site inspection by a representative of the Wetlands and Subaqueous Lands Section or an environmental consultant is recommended to determine the limits of jurisdictional State subaqueous lands and if Waters of the U.S. are located on the property and the limits of Federal jurisdictional. According to DNREC GIS SWMP maps, there are considerable wetlands regulated by the U.S. Army Corps of Engineers, therefore the City of Milford will inform the property owner and suggest they contact them for an on-site inspection. The City of Milford will inform the property owner of additional concerns raised by DNREC regarding SIRS sites, any release of hazardous substances, etc.

Delaware State Housing Authority – The City of Milford will consider DSHA comments concerning Civil Rights obligations, Fair Housing Choices, and proposed amendments to the city of Milford’s Zoning Ordinance.

**CITY OF MILFORD
PLANNING COMMISSION**

Minutes of Meeting

July 16, 2013

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, July 16, 2013.

PRESIDING: Chairman Jamie Burk
IN ATTENDANCE: Marvin Sharp, Archie Campbell, William Lane, Ed Holloway, Deborah O'Neill
ALSO: Department Administrative Assistant Christine Crouch

Chairman Burk called the meeting to order at 7:00 pm noting the absence of Ms. Mims and Mr. James.

APPROVAL OF MINUTES

The minutes for the June 2013 regular monthly Planning Commission meeting were approved as submitted with a motion by Mr. Sharp and seconded by Mr. Campbell.

NEW BUSINESS

**Bohler Engineering on behalf of legal owner Milford Plaza Enterprises; Project No 13-199
Final Site Plan for Chick-Fil-A
N DuPont Blvd
Tax Map MD-16-183.09-01-04.00; 21.39 +/- Acres
Zoning C-3
Adoption of Resolution PC13-008**

Mr. Joseph Ucciferro with Bohler Engineering explained this site plan is part of a 21 acre shopping center called Milford Plaza. In June 2011 the Planning Commission unanimously approved a preliminary site plan for a 4200 sq ft. pad site. In December 2011 as part of a final site plan application for the shopping center, the pad site size was increased to 5000 sq ft.

The final site plan this evening is for a 4700 sq ft Chick-fil-A dine in restaurant with a drive through. The elevations of the building as well as a landscaping plan have been provided. The front section is a children's playground, the middle section is for the service area consisting of dining seating, etc., and the back section is the kitchen and storage area.

DelDOT, Conservation District, Fire Marshal and Public Works approvals have been obtained and are provided.

Mr. Norris recommended approval of the site plan.

Mr. Sharp questioned a black line on the plans, asking if that is a sidewalk or a shared used path. Mr. Ucciferro stated the dashed black line is the lease line for this site. In other words what is inside that box is the area Chick-fil-A is leasing from the shopping center, which is approximately 1.18 acres.

Mr. Sharp referred to a flag pole area in the parking lot asking if it will remain because it is a hazard. Mr. Ucciferro stated any islands in the lease area will be removed for construction of the building.

Mr. Sharp explained he is not being unpatriotic, but there hasn't been a flag flying on the pole since he's seen it. Mr. Sharp explained the island he is referring to is closer to the bank.

Mr. Burk explained to Mr. Sharp the application being presented is only for the leased area. The island with the flag pole that Mr. Sharp is referring to is outside of that leased area. Mr. Sharp replied it is a hazard though because of having to travel to and from Chick-fil-A.

Mr. Burk stated the flag pole area would have been approved as part of the preliminary and final site plan for the shopping center, not this pad site.

Mr. Sharp replied his vote is no then. Mr. Rutt stated there is no motion on the floor therefore no one can vote. Mr. Sharp explained if a hazard is going to be allowed, we go right back to where we were in December. Mr. Burk reiterated we are looking at what is inside the dashed line as the leased area. Mr. Sharp stated he understood.

Mr. Ucciferro confirmed the island Mr. Sharp is referring to is not inside the leased area. Mr. Sharp explained it is a traffic hazard at the south end of the shopping center parking area by the bank.

A motion by Mr. Holloway to approve Resolution PC13-008 was seconded by Mr. Lane. Motion carried with the following votes:

Mr. Sharp-No for reasons stated.

Mr. Campbell-Yes because the island has nothing to do with this site.

Mr. Fry-Yes for reasons stated.

Mrs. O'Neill- Yes for reasons stated.

Mr. Holloway-Yes, once again another opportunity to add jobs to Milford.

Mr. Lane- Yes for reasons stated.

Mr. Burk-Yes.

Wes Cromer on behalf of Harriet S. Miller; Project No 13-198

Minor Subdivision

23 McCoy St, 25 McCoy St, 800 Dixie Ave

Tax Map 3-30-10.12-54.00; .629 +/- Acres

Zoning R-1

Adoption of Resolution PC13-009

Wes Cromer on behalf of Harriet Miller, the property owner, explained this is one parcel on the corner of McCoy and Dixie with three houses on it. He is proposing to subdivide the parcel into three lots so the houses can be sold individually.

Mr. Norris asked Mr. Cromer to explain the process this application has been through to date. Mr. Cromer explained the Board of Adjustment heard the application as a variance on June 13,

2013 because the lots to be created will not conform to the current code requirements. The Board approved the variance requests contingent upon Planning Commission approval. Mr. Rutt commented the hatched lines on the plat represent the original layout of the lots dating back to 1928 and since then it appears McCoy has shifted.

Mr. Norris commented the three houses are on one lot, but this subdivision will not change the actual situation there. There will remain three houses but will be on individual lots. Mr. Rutt agreed.

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

A motion by Mr. Sharp to approve Resolution PC13-009 was seconded by Mr. Lane. Motion carried unanimously following a poll of the commissioners.

CITY PLANNER MONTHLY REPORT

Plus Review of Comprehensive Plan

Mr. Norris reminded the commission the Comprehensive Plan is due for updating and a few months ago he came to them asking their guidance on how to show the Lynch property, which is outside City limits, on the future land use maps. The Lynch's, via Mr. Dave Kenton, had made a presentation to the Commission explaining their desire to annex the property as commercial land and develop the property thereafter. The Commission ultimately directed Mr. Norris to indicate the Lynch property as future commercial use.

Mr. Norris had the maps revised and presented a preliminary comp plan to the Office of State Planning via the PLUS process, as required by state law. In the commissioner's packets are the PLUS comments back from the review. Mr. Norris reviewed the PLUS comments with the commissioners and added, per the last page of the packet, his comments. Essentially the change from an open space designation to commercial is not being received well by the PLUS reviewers and will not be supported by the office of state planning either.

Mr. Norris is bringing this information back to the commission to obtain their direction on how to proceed. Should the commission still wish the property to be shown in the future land use maps as commercial or open space. Either way, this will be recommendation that will be forwarded to City Council.

Mr. Sharp recalled DelDOT had originally told people Rt 1 would be finished in 1972 and yet it still remains a work in progress. He does not agree with holding property owners up on their plans based on DelDOT getting their work done.

Mr. Campbell asked what will happen with the sports complex is built? How will that affect DelDOT's projects?

Mr. Norris explained DelDOT wants us to leave the designation as open space until the overpass in that area is complete. Mr. Sharp still does not agree. Mr. Norris understands Mr. Sharp's position however there is enough vacant C3 land in the city right now we would not need more for another five years, based on development trends. He questioned why we would want to have

more land that is C3 which gives developers the broadest options to develop. In this case, if you give them that right, there are transportation issues that will preclude them from developing.

Mr. Dave Kenton was in the audience and asked to speak, however Mr. Rutt explained this is not a public hearing therefore he cannot speak. Mr. Kenton rose from his seat and shouted he was told by Mr. Norris he would be able to speak this evening. Mr. Rutt and Mr. Burk stated he is not permitted to speak at this meeting because it is not a public hearing and was not advertised as such.

Mr. Kenton announced the city would be hearing from his attorney and left the council chambers with the Lynch's.

Mr. Rutt reiterated whatever the commission wishes the designation to be will be a recommendation that will go to council for them to approve, during a public hearing. The plan will then be changed and resubmitted to the state for PLUS review.

Mr. Norris recommends changing the designation open space again. Mr. Sharp feels Mr. Norris knows best, as do state agencies. Mr. Holloway questioned whether the designation can be commercial but then put conditions on the annexation, when the time comes. Mr. Norris felt that would be very risky, at best.

Mr. Burk asked if it should be left as commercial designation and then council can decide because the commission felt that was the best idea after hearing from Mr. Kenton a while back. Mr. Norris explained that is an option, but after hearing from state agencies, the commission may have had a change of mind. Perhaps the commission was swayed by Mr. Kenton's presentation and now they see different circumstances that were not brought to light before.

Mr. Rutt explained the designation of the Lynch property in the future land use maps will need to be done via a motion from the commission.

Mr. Lane made a motion to amend the prior recommendation changing the Lynch property on the future land use maps to commercial and return the designation to open space. Mr. Campbell seconded the motion. Motion carried unanimously.

With no further business, the meeting adjourned at 7:46 pm.

Respectfully submitted,

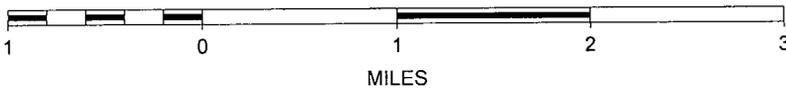


Christine R. Crouch
Department Administrative Assistant/Recording Secretary

Kent County GIS Project



SCALE 1 : 62,141



5.00 - 174.00 - 02 -



KENT COUNTY, DELAWARE

555 Bay Road, Dover, Delaware 19901-3615
 (302) 744-2300 -- FAX (302) 736-2279

"Serving Kent County With Pride"

PROPERTY INFORMATION

Planning and Building Permits Information

Reference #	MD MILFORD HUNDRED	Card # 1 of 1
Location ID 106124	Map Number 5-00-17400-02-6401-00001	
Tax ID	Deed BVP 0000 0000 IS 0023 0336 IS 0023 0227	
Parcel ID 105260	Property Code F - FARMLAND	
Current Owner LYNCH, JOHN R. 8517 APPELS RD LINCOLN, DE 19960	Property Location NEW WHARF RD MILFORD , DE 19963	Acres 96.10
	Zoning AR	
Additional Owner	LYNCH, DEWEY C.	

Sub-Division

Sales History		Liv.Sq.Ft	.0000
Date	Price	Assessment	Total Rooms
6/24/10	0	Land	Bedrooms
7/01/10	0	Buildings	Full Bath
		Total	Half Bath
Base Tax Due	.00	Last Billing Detail	History Farm Info
Tax Penalty	.00		
Total Tax Bal.	.00		
Sewer Balance	.00	Sewer Account #	
Neighborhood #	00500	Coordinates	0502533 E 0337070 N
Land Use		Lot Dimensions	0000020.80
Living Units		School District	40 MILFORD
Class	Farm	Fire District	42 CARLISLE (MILFORD)
Plat Book Pg	0114 0073	Sewer District	00 NONE
Topography	Level	Ambulance District	42 CARLISLE (MILFORD)

Street or Road	Paved	Trash District	
Fronting	Residen	Light District	
Improvement	VACANT	Commissioner Dist	4TH
		Tax Ditches	NONE

IMPROVEMENT KEY	
MANUF HM	Manufactured Home
MANUFCC	Manufactured Home Class C Assessment
MNFHMRT	Manufactured Home Retired Title

Property Description

S.E. SD. SHR 409
 NEW WHARF RD
 96.075 A.

Year Built **Type** NO DATA **Energy Adj.**
Style **Fire Places** **Design**

	Type	Percentage	Type	Percentage
Ext. Walls		0		0
Roof Cover		0		0
Floor Cover		0		0
Heat/Cool		0		0
Plaster Int.		0		
Foundation				
Sub-floor				

	Y/N	Unfinished	Basement Living Area	Rec Room
Basement		0	0	0

	Type	Sq.Feet	Wall	Floor
Garage 1		0		
Garage 2		0		
Bas Gar		NO DATA	NO DATA	NO DATA
Porch 1	NO DATA	0		
Porch 2	NO DATA	0		

History

Dimensions 0 X 0

Skirting Type

Skirting Lin Ft 0

Tip Out Sq Ft 0

Serial Number

Manufacturer

Model

Color

OUTBUILDINGS			
Type/Dimn	Description	Type/Dimn	Description



Kent County
Betty Lou McKenna
Recorder of Deeds
Dover, DE 19901

Instrument Number: 2010-171803

Recorded On: June 24, 2010

As-Deed

Parties: THOMPSON BILLIE LYNN

To LYNCH JOHN R

of Pages: 5

Comment:

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

Deed		76.00
	# of Pages	4
	# of Parcel IDs	1
Total:		76.00

Realty Tax Information

Affidavit Attached-No		
STATE AND COUNTY OF KENT		EXEMPT
	Value	
State of Delaware		0.00
County of Kent		0.00
		0.00

I hereby certify that the within and foregoing was recorded in the Recorder's Office in Kent County,

****DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT****

File Information:

Record and Return To:

Document Number: 2010-171803
Receipt Number: 275697
Recorded Date/Time: June 24, 2010 03:09:20P
Book-Vol/Pg: BK-RE VL-5449 PG-328
User / Station: C Yerkes - Cashier 4

HUDSON JONES JAYWORK AND FISHER
225 SOUTH STATE STREET
DOVER DE 19901



Betty Lou McKenna

Tax Parcel No.: Part of
Prepared By: SML
HUDSON, JONES, JAYWORK & FISHER, LLC
225 South State Street, Dover, DE 19901

DEED

THIS DEED, Made This 11th day of June, in the year of our Lord Two Thousand Ten (2010),

BETWEEN,

BILLIE LYNN THOMPSON, individually and as Substitute Trustee of the Estate of William F. Dickerson and as the legal representative of the last surviving partner of Bowens Mill Landing, a Delaware Partnership, which dissolved by operation of 6 Del. C. § 1531, in effect on May 8, 1990, upon the death of George C. Chaney and where she became the legal representative, of the last surviving partner upon the death of William F. Dickerson, who died on July 28, 1995, **JOHN R. LYNCH**, and **DEWEY C. LYNCH**, parties of the first part,

-AND-

JOHN R. LYNCH, as to an undivided one-half interest in the whole and **DEWEY C. LYNCH**, as to an undivided one-half interest in the whole, parties of the second part,

WTTNESSETH, That the said party of the first part, for and in consideration of the sum of One (\$1.00) Dollar lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said parties of the second part, their heirs and assigns:

ALL THAT certain tract of land situate at the East corner of State Route One and New Wharf Road (County Road 409), Milford Hundred, Kent County, Delaware, being bounded on the West by Delaware Route One (Bay Road) and in part by lands now or formerly of the State of Delaware, on the North by New Wharf Road (County Road 409), on the East by lands about to be conveyed to Billie Lynn Thompson, and on the South by the Mispillion River, and being more particularly bounded and described in accordance with survey by Charles M. Murphy Associates, Inc., Land Surveyors, Milford, Delaware, dated April 17, 2008, as follows, to-wit:

BEGINNING at the intersection of the East side of State Route One (Bay Road) (108 feet from the centerline) and the southerly side of New Wharf Road (82.1 feet from the centerline); thence proceeding from said point and place of beginning and proceeding along the southerly side of New Wharf Road (County Road 409) [New Wharf Road having various widths] the following five (5) courses and distance, to-wit: (1) North 42 degrees 16 minutes 02 seconds East, a distance of 357.30 feet, (2) North 34 degrees 52 minutes 39 seconds East, a distance of 303.36 feet, (3) North 43 degrees 24 minutes 30 seconds East, a distance of 100 feet, (4) North 46 degrees 35 minutes 33 seconds West, a distance of 5 feet, and (5) North 43 degrees 24 minutes 30 seconds East, a distance of 709.84 feet to a set capped rebar; thence turning and running along line of lands about to be conveyed to Billie Lynn Thompson the following two (2) courses and distances, to-wit: (1) South 51 degrees 27 minutes 07 seconds East, a distance of 1,674.00 feet to a set capped rebar, and (2) South 35 degrees 56 minutes 58 seconds East, a distance of 960.09 feet to the northerly side of the Mispillion River. Thence turning and running along the northerly side of the Mispillion River the following six (6) courses and distances, to-wit: (1)

South 88 degrees 33 minute 25 seconds West, a distance of 179.36 feet, (2) South 35 degrees 52 minutes 09 seconds West, a distance of 203.95 feet, (3) South 34 degrees 29 minutes 07 seconds West, a distance of 203.04 feet, (4) South 31 degrees 41 minutes 05 seconds West, a distance of 201.56 feet, (5) South 24 degrees 28 minutes 28 seconds West, a distance of 108.74 feet, and (6) South 13 degrees 56 minutes 48 seconds West, a distance of 324.87 feet to a point; thence turning and running along line of lands now or formerly of the State of Delaware (Deed Record Book H-26-63) the following four (4) courses and distances, to-wit: (1) North 59 degrees 54 minutes 00 seconds West, a distance of 300.57 feet, (2) North 61 degrees 26 minutes 00 seconds West, a distance of 254.15 feet, (3) South 78 degrees 24 minutes 10 seconds West, a distance of 335.27 feet, and (4) North 81 degrees 35 minutes 44 seconds West, a distance of 173.80 feet to a point; thence turning and running along the easterly side of State Route One (varying widths) the following two (2) courses and distances, to-wit: (1) North 40 degrees 53 minutes 47 seconds West, a distance of 363.00 feet and (2) North 41 degrees 04 minutes 30 seconds West, a distance of 950.99 feet, back to the point and place of beginning and containing a total area of 96.075 acres (64.056 acres of fast lands and 32.019 acres of wetlands).

AND BEING a part of the same lands and premises as were acquired by William F. Dickerson and George C. Chaney, trading as Bowen's Mill Landing, a Delaware partnership, by Deed from George C. Chaney, et al. dated November 18, 1985, said Deed being recorded in the Office of the Recorder of Deeds in and for Kent County, State of Delaware, in Deed Record Book L. Volume 41, Page 338.

George C. Chaney thereafter died testate May 8, 1990 and by his Will recorded in the Office of the Register of Wills, Kent County, State of Delaware, in Will Book W, Volume 6, Page 183 he did devise his interest in said lands unto his wife, Dorothy Leona Chaney. The said Dorothy Leona Chaney thereafter died intestate April 24, 2004 (see Kent County Register of Wills Book C, Volume 9, Page 300) leaving as her sole heirs at law John R. Lynch (a Grantor herein) and Dewey C. Lynch (a Grantor herein).

William F. Dickerson died testate July 28, 1995 and by the terms of his Last Will recorded in Sussex County, Delaware, in Will Book 274, Page 334, he did devise his interest in said lands unto Billie Lynn Thompson (a Grantor herein).

The aforesaid configuration of said lands and the conveyance of same is joined into by Billie Lynn Thompson as the legal representative of the last surviving partner of Bowens Mill Landing, a Delaware Partnership, effectuates dissolution or winding up of business and affairs of Bowens Mill Landing Partnership, which had been effectively terminated upon the death of George C. Chaney as directed by the Order of the Court of Chancery dated the 5th day of May, 2009 as confirmed by Order of the Supreme Court of the State of Delaware dated February 25, 2010 (Billie Lynn Thompson, et al. v. John R. Lynch, et al, (Supreme Court No.: 429, 209, C.A. No. 2488).

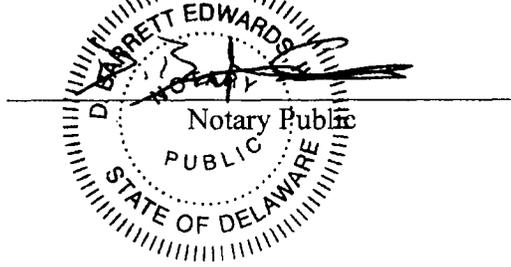
SUBJECT, however, to the reservations, restrictions, conditions and covenants of record and subject to such state of facts as an accurate survey and/or inspection of the lands and premises will disclose; the operation and effect of any zoning laws, and building restrictions imposed by public authority; and easements and public utility grants of record.

SUBJECT, however, to the provisions set forth in the Master's Final Report dated the 5th of May, 2009, which mandate that JOHN R. LYNCH, and DEWEY C. LYNCH, together with their successors and assigns, shall not oppose annexation of the eastern parcel, owned by Billie Lynn Thompson.

STATE OF DELAWARE :
: ss.
COUNTY OF :

BE IT REMEMBERED, that on this 11th day of June, A.D. 2010, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, JOHN R. LYNCH, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed.

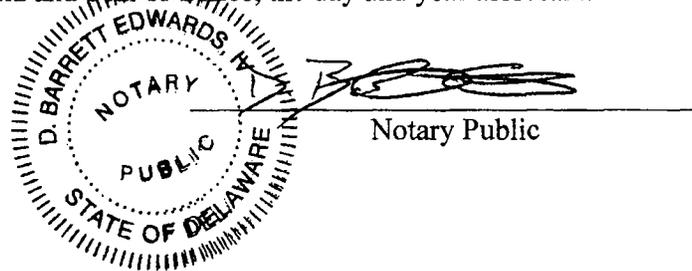
GIVEN under my Hand and Seal of Office, the day and year aforesaid.



STATE OF DELAWARE :
: ss.
COUNTY OF :

BE IT REMEMBERED, that on this 11th day of June, A.D. 2010, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, DEWEY C. LYNCH, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.



PROPOSED LANGUAGE
FOR
AMENDMENT TO CITY OF MILFORD COMPREHENSIVE PLAN

RE: LANDS OF JOHN R. LYNCH & DEWEY C. LYNCH

It is recommended that all those certain lands and premises owned by John R. Lynch and Dewey C. Lynch, identified as Tax Parcel # #5-00-174.00-02-64.01-00001 and comprising approximately 96+/- acres of land (the "Lynch Property") be annexed into the territorial limits of the City of Milford and zoned for commercial use, provided that: (1) absent the approval of City Council, no more than 38 acres of the Property shall actually be rezoned for commercial use, it being understood that approximately 32 acres of the Property is tidal wetlands and approximately 26 acres of the Property will likely be condemned by the Delaware Department of Transportation ("DelDOT"), in order to construct a planned interchange for State Route 1; and (2) no subdivision, site plan, or other land use application for the Property may be submitted or entertained by the City of Milford until such time as (a) a Master Plan for the Property is prepared, approved, and adopted by the City of Milford, and (b) a contract is awarded for the construction of DelDOT's planned interchange for State Route 1.

PRICKETT, JONES & ELLIOTT

A PROFESSIONAL ASSOCIATION

11 NORTH STATE STREET

DOVER, DELAWARE 19901

TEL: (302) 674-3841

FAX: (302) 674-5864

<http://www.prickett.com>

JOHN W. PARADEE
NICOLE M. FARIES

WILMINGTON OFFICE
1310 KING STREET, P.O. 1328
WILMINGTON, DE 19899
TEL: (302) 888-6500
FAX: (302) 658-8111

Writer's E-Mail Address: JWParadee@prickett.com

September 19, 2013

VIA ELECTRONIC & REGULAR MAIL

The Honorable Joseph "Ronnie" Rogers
Mayor, City of Milford
201 S. Walnut Street
Milford, Delaware 19963

***RE: Proposed Amendment to the City of Milford Comprehensive Plan
Property Owned by John R. Lynch & Dewey C. Lynch
Tax Parcel #5-00-174.00-02-64.01-00001 (96.075+/- acres)***

Dear Mayor Rogers:

I represent John R. Lynch and Dewey C. Lynch, the owners of 96.075+/- acres of unimproved land, located on the east side of and adjacent to State Route 1, south of New Wharf Road and north of the Mispillion River, otherwise identified as Tax Parcel #5-00-174.00-02-64.01-00001 (the "Lynch Property").

As you may be aware, the City of Milford Planning Commission adopted a Resolution on February 18, 2013, expressing support for an amendment to the City's Comprehensive Plan which would designate the Lynch Property for future annexation and rezoning to commercial use. Thereafter, in furtherance of this Resolution, the City determined to file and pursue an application with the Office of State Planning Coordination ("OSPC"), seeking to amend the City's Comprehensive Plan accordingly. Unfortunately, that application mistakenly proposed that a total of 192+/- acres located on the south side of New Wharf Road – including lands *not* owned by the Lynch Family – be annexed into the City and rezoned for commercial use. ***This was not what the Lynch Family had proposed.***¹ Nor did the Lynch Family ever suggest that the

¹ The statement attributed to City Planner Gary Norris, at paragraph 4 on page 1 of OSPC's May 21, 2013 PLUS letter ("Gary Norris informed us at the PLUS meeting that the applicant has altered his request and now seeks to zone all 194 acres highway commercial.") is simply not correct. If Mr. Norris did make this statement, then he was severely mistaken in saying so, as the Lynch Family *never* made any such request. In fact, it is categorically impossible that the Lynch Family ever made any such request, for the simple reason that the Lynch Property is comprised of no more than 96.075 acres. The balance of the property comprising the "194 acres" (the total acreage is actually 192.15 acres) is owned by Billie Lynn Thompson, and Ms. Thompson has absolutely no interest in annexing her property into the City limits.

The Honorable Joseph "Ronnie" Rogers

September 19, 2013

Page 2

Lynch Property should be annexed and rezoned prior to construction of DelDOT's planned interchange for State Route 1 and N.E. Front Street/New Wharf Road. Indeed, the Lynch Family understood then (and understands now) that DelDOT will likely require utilization of 26+/- acres of the Lynch Property in order to construct its planned interchange, and further, that another 32+/- acres of the Lynch Property is inundated with tidal wetlands which cannot possibly be developed for any use. Thus, the Lynch Family merely proposed then (and merely proposes now) that 38+/- acres of the Lynch Property be considered for possible commercial use, and even then, only *after* a Master Plan for the area is prepared, approved, and adopted by the City of Milford *and* a contract is awarded for the construction of DelDOT's planned interchange. Unfortunately, none of these significant qualifiers were ever presented to OSPC during its PLUS process review of the proposed amendment to the City's Comprehensive Plan. It should therefore come as no surprise, then, that OSPC's May 21, 2013 PLUS comments letter concluded that annexing 192+/- acres of land east of State Route 1, before a Master Plan is developed for the area and before DelDOT's planned interchange is constructed, is simply "too much, too soon".

What is doubly frustrating to the Lynch Family here is that, ever since OSPC issued its PLUS comments letter on May 21, 2013, the Lynch Family and their representatives (in particular, Dave Kenton) have been trying to set the record straight and clarify their intentions, only to be dismissed or ignored. Enclosed herewith you will find a series of letters and e-mail correspondences – commencing in the Fall of 2012 – which evidences that, from the very first expression of the Lynch Family's interest in exploring the possibility of annexation of the Lynch Property into the City limits (and as repeatedly and consistently expressed thereafter), the proposal has always been (and remains) a request to annex no more than 96.075 acres, with no more than 38+/- acres designated for eventual commercial rezoning.

All of which leads me to the purpose of this letter....

On the evening of Tuesday, September 17, 2013, I appeared at the City Planning Commission's public hearing upon the City's presently-pending Comprehensive Plan Update, in an effort to set the record straight and correct the misinformation regarding the nature of the Lynch Family's request. As I explained to the Planning Commission, the Lynch Family is merely asking that the City designate the Lynch Property for future annexation into the City limits, with the express understandings that: (1) absent the approval of City Council, no more than 38 acres of the Lynch Property shall actually be zoned for commercial use, recognizing that approximately 32 acres of the Property is tidal wetlands and approximately 26 acres of the Property will likely be needed DelDOT to construct its planned interchange, and (2) no subdivision, site plan, or other land use application for the Lynch Property may be submitted or entertained by the City of Milford until such time as (a) a Master Plan for the Property is prepared, approved, and adopted by the City of Milford, and (b) a contract is awarded for the construction of DelDOT's planned interchange for State Route 1.

The Planning Commission seemed interested in reviewing this clarified proposal further, and therefore, the Planning Commission voted to table the City's presently-pending Comprehensive Plan Update in order to give the proposal due consideration. At this juncture, all

The Honorable Joseph "Ronnie" Rogers

September 19, 2013

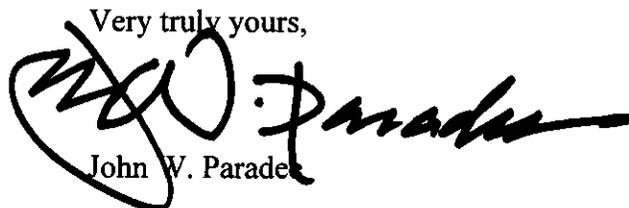
Page 3

that I ask the City Council to consider is doing the same – that is, the City Council should likewise table City's presently-pending Comprehensive Plan Update until such time as the Planning Commission has given the proposal due consideration and made its recommendation to City Council. Thereafter, City Council should also give the proposal due consideration.

Regrettably, I will not be able to attend the September 23, 2013 meeting of the City Council, as my attendance is required at a Board of Adjustment Hearing before another jurisdiction that very same evening. I would therefore respectfully request that this letter and its enclosures be read into or otherwise included within the record of the City Council's September 23, 2013 meeting.

Thank you very much for your courtesy and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "John W. Parades". The signature is written in a cursive style with a large, looping initial "J".

John W. Parades

JWP/lwr

Enclosures

cc: John R. Lynch
Dewey C. Lynch
David Kenton



PLANNING & ZONING DEPARTMENT
302.424.3712, FAX 302.424.3558

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

August 7, 2012

Dave Kenton
200 Lakeview Ave
Milford, DE 19963

RE: Lynch Farm Property

As I have mentioned to you in my email, I have spoken with David Edgell of the Office of State Planning regarding the update of the 2013 Comprehensive Plan for the City of Milford and the inclusion of the Lynch Property.

According to the Office of State Planning, the City does not have to do a full blown Comprehensive Plan but an Amendment to the approved 2008 Comprehensive Plan. Accordingly I have started the process of preparing a draft of the Amendment. The preliminary timetable would be as follows:

1. Introduction of the Draft to the City of Milford's Planning Commission in the fall of this year concerning the Amendment and revising the appropriate maps which would include the Lynch property.
2. Hold a Public Hearing by the Planning Commission recommending approval of the submitted Amendment in the winter.
3. Submission of Amendment to the State PLUS committee for their review and comment.
4. Hold a Public Hearing by City Council to adopt the 2013 Comprehensive Amendment in 2013.

The Land Use Maps have to be changed regarding your property from Open Space to Commercial and Residential. Once the Amendment to the 2008 Comprehensive Plan has been changed and approved by the Office of State Planning then you can submit for annexation, etc. Hopefully this is helpful to your clients.

If you need anything additional, please feel free to contact me.

Sincerely,


Gary J. Norris, AICP
City Planner

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: deweylynch@comcast.net Sent: Wed, 08 Aug 2012 10:42:09 -0000 (UTC) Subject: Re: Lynch Family - New Wharf Farm Request Pete: I think Gary Norris is dragging his feet, but I know he will get the letter to us early next week. Dave K. On Tue, Aug 7, 2012 at 9:13 PM, wrote: > Thanks Dave for keeping on top of things! > > Pete > > _____ > > From: "Dave Kenton" > To: gar7@comcast.net > Cc: deweylynch@comcast.net, jlynch163@comcast.net > Sent: Tuesday, August 7, 2012 9:46:40 AM > Subject: Re: Lynch Family - New Wharf Farm Request > > Gary: > > It would really help to have a letter from your office of City > planning stating the sequence of events we have discussed for the New > Wharf farm owned by Randy & Pete Lynch. The court needs some formal > document proving that the Lynch brothers are moving toward annexation > and zoning change with all due diligence. We need to prove the City > of Milford has received our request for annexation, but modification > to the City Comprehensive Plan must be completed before annexation can > move forward. > > I can pick up the letter whenever you have time to get it done, or you > can send it to my home at 200 Lakeview Ave. in Milford. Thanks for > our help with this request. > > Dave Kenton - Sperry Van Ness > > > > On Tue, Aug 7, 2012 at 9:37 AM, wrote: >> Dave: Is there anything else I can do regarding the Lynch property? Do you >> need a letter from me or will the email suffice? Gary >> >> _____ >> From: "Dave Kenton" >> To: "Gary Norris" >> Sent: Monday, July 30, 2012 9:20:28 AM >> Subject: Lynch Family - New Wharf Farm Request >> >> Gary: >> >> Thanks for the early update regarding Delaware PLUS plans for the >> upcoming Comprehensive Plan changes for Milford. I spoke with Pete >> Lynch, co-owner of the 96-acre New Wharf farm, about the sequence of >> events that needs to happen prior to his annexation application. The >> Milford P&Z hearing and your recommendations for annexation for the >> New Wharf farm will help move the process forward in early 2013. >> >> Part of the Chancery Court partition agreement issued in 2012 that >> divided the 192-acre New Wharf tract between the Lynch heirs and >> Dickerson heirs stipulates that the Lynch family must provide to >> Chancery court specific evidence that they are moving expeditiously >> toward a commercial rezoning and development of their 96-acre parcel. >> The Court requires a written update of progress in early September, >> 2012. >> >> Can you provide Pete & Randy Lynch with a letter from the City of >> Milford Planning department that acknowledges their progress toward >> annexation and zoning change for their parcel? They would like to >> have some assurance for the court that they have made application for >> annexation following the normal comprehensive plan modifications that >> need to be accomplished first. A letter from your office describing >> their request and a schedule of the procedure would be very helpful to >> submit to Chancery Court in September, 2012. Thanks for your help. >> >> Dave Kenton - Sperry Van Ness- >> >> -- >> Dave Kenton >> Senior Advisor >> Sperry Van Ness -Miller Commercial >> 34634 Bay Crossing Blvd. >> Lewes, DE 19958 >> >> 302-227-0768 Office >> 302-745-7600 Cell > > > > -- > Dave Kenton > Senior Advisor > Sperry Van Ness -Miller Commercial > 34634 Bay Crossing Blvd. > Lewes, DE 19958 > > 302-227-0768 Office > 302-745-7600 Cell -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 34634 Bay Crossing Blvd. Lewes, DE 19958 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: deweylynch@comcast.net, jlynch163@comcast.net Sent: Mon, 13 Aug 2012 15:05:49 -0000 (UTC) Subject: City of Milford Progress Letter - Gary Norris Pete & Randy: Attached find the progress letter sent to us from Gary Norris, City of Milford Planner, regarding the New Wharf farm you are planning to develop in 2013. I will deliver the original letter to Crystal Lynch at ReMax later today. The PDF copy is attached for your records. I hope this is sufficient proof of your efforts to satisfy the judge at Superior Court. Dave Kenton - Sperry Van Ness -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 34634 Bay Crossing Blvd. Lewes, DE 19958 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: Gary J. Norris <gnorris@milford-de.gov> Cc: jlynch163@comcast.net, deweylynch@comcast.net Sent: Wed, 12 Sep 2012 16:13:52 -0000 (UTC) Subject: Re: Revision to Comp Plan Gary: Thanks for the update. I will forward tax map and survey plots of the division we are requesting for the New Wharf property owned by Randy and Pete Lynch on Rt. 1 in Milford. Since Milford zoning code permits residential uses within its C-3 zoning classification category, should we request 66 acres of C-3 and ask for R-3 use during the site-plan review with P&Z, if needed? Would it help your request to State Planning for a Comprehensive Plan modification if we asked for 30 acres of C-3 and 36 acres of R-3? The entire parcel is 96 acres, however, 30 acres is wetlands along the Mispillion river and would not require a zoning change. It seems like a similar request to me. What is your preference? Dave Kenton - Sperry Van Ness On Wed, Sep 12, 2012 at 11:50 AM, Gary J. Norris wrote: > Dave: I am getting the engineering Company to revise our Comprehensive Plan > Maps showing a different land use classification for your properties east on > Del 1. Would you please resent what your clients want. As I remember they > want the frontage C-3 and the rear R-3. Please confirm with the appropriate > maps. Thanks Gary -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 330 Rehoboth Ave Rehoboth Beach, DE 19971 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message ----- From: Dave Kenton <david.kenton@svn.com> To: jlynch163@comcast.net, deweylynch@comcast.net Sent: Thu, 13 Sep 2012 19:25:54 -0000 (UTC) Subject: New Wharf Tract - 96 acres - Zoning Classification Randy & Pete: The email I received from Gary Norris, City Planner, yesterday suggested he would prefer we request part of the 96-acre New Wharf farm to be changed to C-3, commercial zoning and part be changed to R-3, multi-family residential zoning. Gary seemed a bit reluctant to change the entire 64-acre parcel to C-3 and relying on a site-plan change if you decided to build a residential housing development in the rear at a later date. With your approval, I'm planning to ask Bob Nash to provide a new survey plot with a survey line dividing the 64 acre portion of your land into two equal sections of 32 acres each. Gary wants us to designate the 32 acre parcel along Rt. 1 bypass as proposed C-3 commercial zoning and 32-acres in the rear as proposed R-3, multi-family residential. He wants us to leave 32-acres of wetlands along the Mispillion as AR-1 zoning. If we can get Bob Nash to draw the correct lines on the updated survey plot, I could submit it to Gary Norrris as our requested zoning designation after the annexation is completed. Gary needs this plot to submit to State Planning Office for our requested Comprehensive Plan revision. Let me know if this request is what you want for the property. Dave Kenton - Sperry Van Ness -Commercial -- Dave Kenton Senior Advisor Sperry Van Ness -Miller Commercial 330 Rehoboth Ave Rehoboth Beach, DE 19971 302-227-0768 Office 302-745-7600 Cell

----- Forwarded Message -----

From: Dave Kenton

To: gnorris@milford-de.gov

Cc: 'Yvonne Lynch'

Sent: Tue, 11 Dec 2012 20:01:09 -0000 (UTC)

Subject: Lynch -New Wharf Farm -

Gary:

Thanks for your email requesting a good meeting time to help move the Lynch property forward with annexation and zoning change. I would be interested in any comments you have heard from State Planning Office. I have requested a divided survey plot from Bob Nash to delineate the two parcels for which we are requesting a zoning change. Bob is still working on the plot, but we are requesting 32 acres of C-3 commercial along the northbound Rt. 1 bypass and 32 acres of R-3, multifamily residential for the 32 acres behind the road frontage. The balance of 32 acres owned by Pete & Randy Lynch will remain AR-1 zoning. It is entirely wetlands along the Mispillion river.

I am available Friday, January 4, 2013 at 9:00, 10:00 or 11:00 a.m.

I am available Tuesday, January 8th at 9:00, 10:00 or 11:00 a.m.

I can also meet Wednesday or Thursday, January 9 or 10th.

Please note my email change to dave.kenton@oasir.com. My company has changed from Sperry Van Ness.

Dave Kenton – Sotheby's

----- Forwarded Message -----

From: Dave Kenton

To: 'Gary J. Norris'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Thu, 03 Jan 2013 00:16:37 -0000 (UTC)

Subject: Appointment Confirmation - Lynch -New Wharf Property

Gary:

My schedule shows we are still set to meet in your office at **Milford City Hall at 9:00 a.m. on Friday, January 4, 2013**. Pete & Randy Lynch are planning to attend this meeting to hear your comments regarding changes in the comprehensive plan that will enable the annexation and proposed zoning change to move forward as soon as practicable. Let me know if this date and time are still OK.

Dave Kenton – Sotheby's

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

Dave.Kenton@oasir.net | www.oasothebysrealty.com

----- Forwarded Message -----

From: Dave Kenton

To: jlynch163@comcast.net, deweylynch@comcast.net

Sent: Mon, 07 Jan 2013 15:42:56 -0000 (UTC)

Subject: New Wharf Property - 96 acres

Randy & Pete:

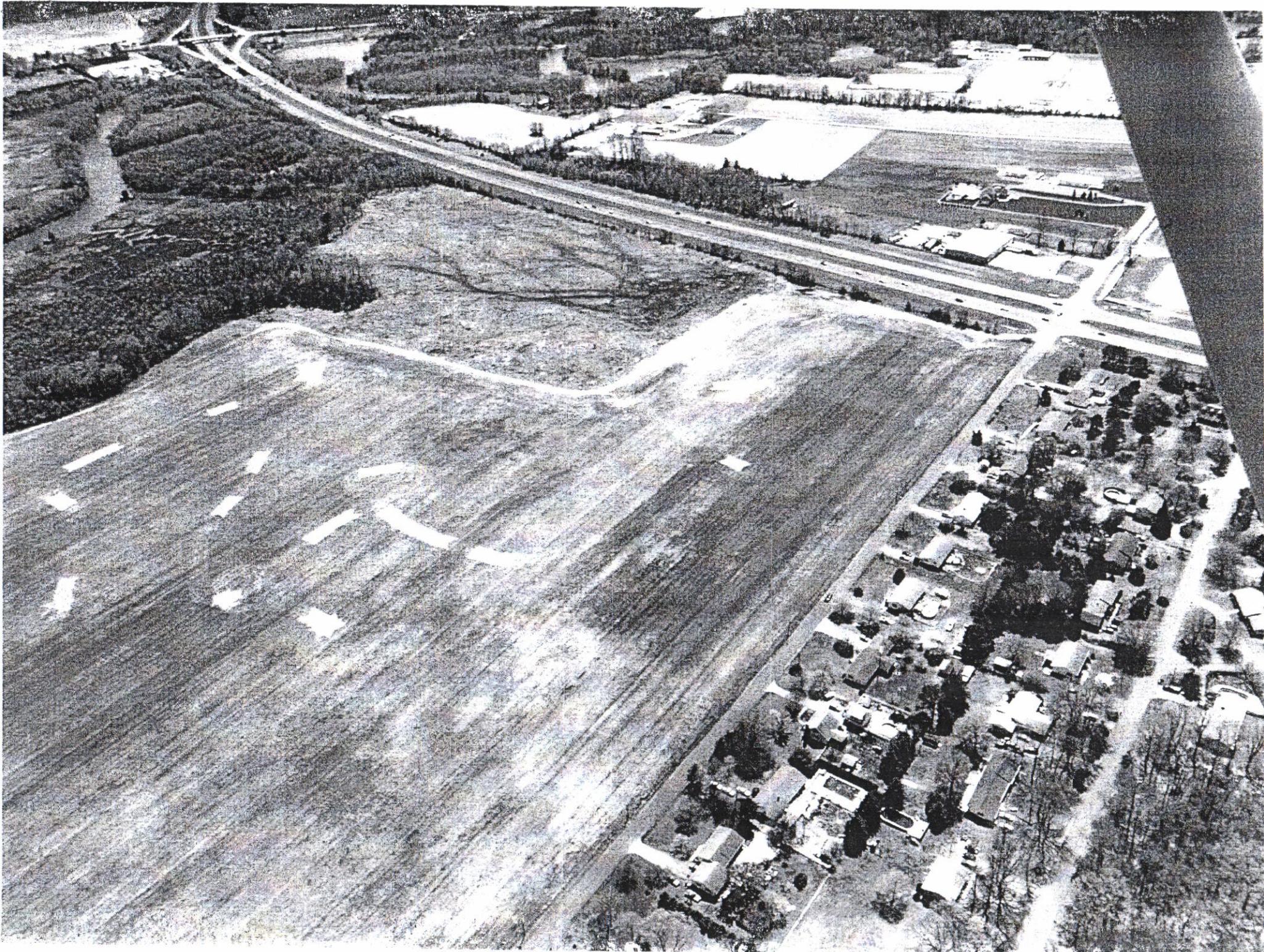
I spoke to George Pierce, DELDOT representative, today about progress for the proposed New Wharf overpass that will impact your property on Rt. 1 and New Wharf road. George has suggested a meeting with you and him to discuss the potential impact of their project on your land prior to the scheduled meeting at Milford High School set for **Monday, January 28, 2013 from 4:00 -7:00 p.m.**

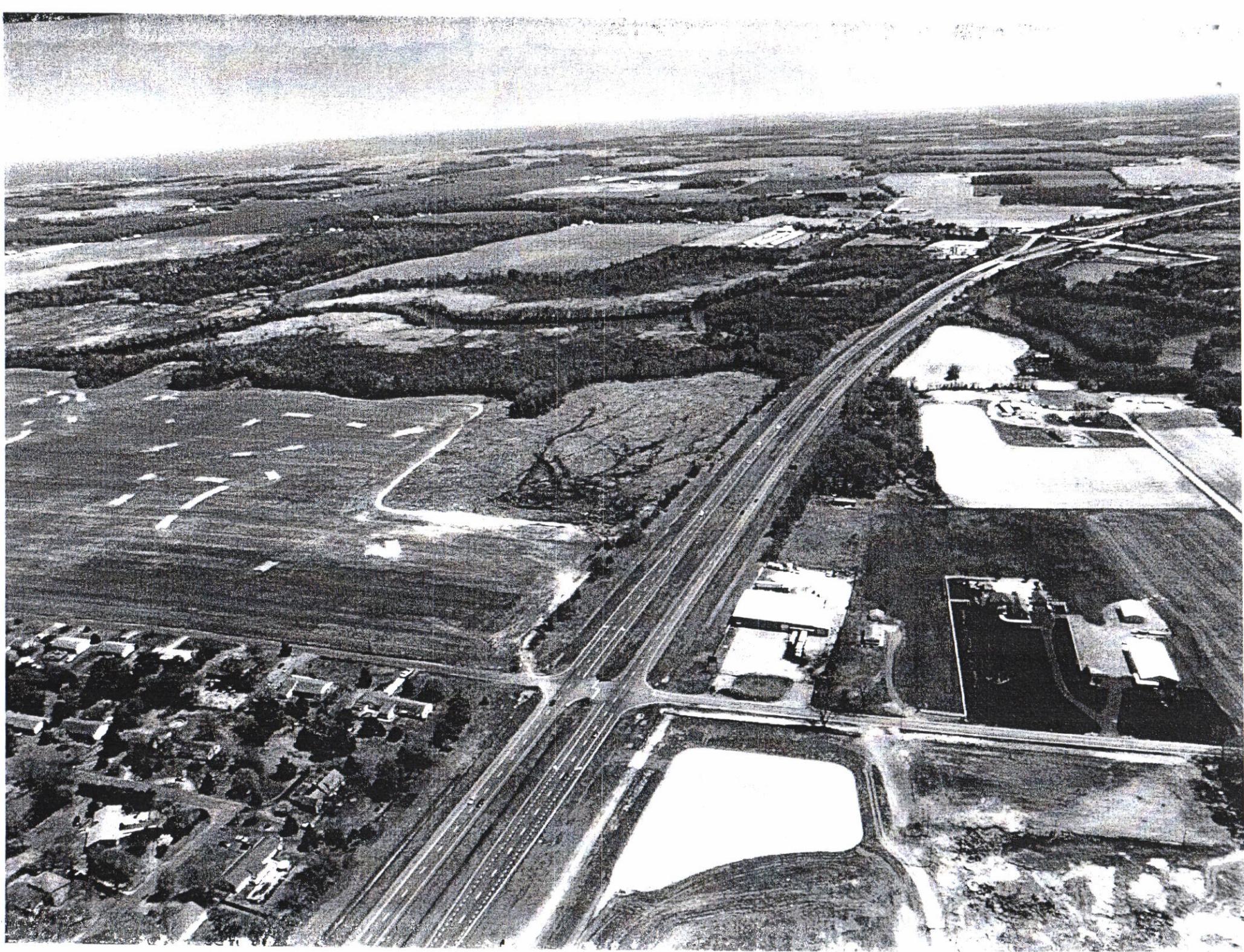
George told me DELDOT was in the planning stages for the overpass and funding was in place for the project set to begin in spring 2016. Although the date is three years away, it is still good news that the overpass will be built. I feel DELDOT plans for the overpass will significantly help our request for modification of the City of Milford comprehensive plan and annexation of the parcel with C-3 and R-3 zoning.

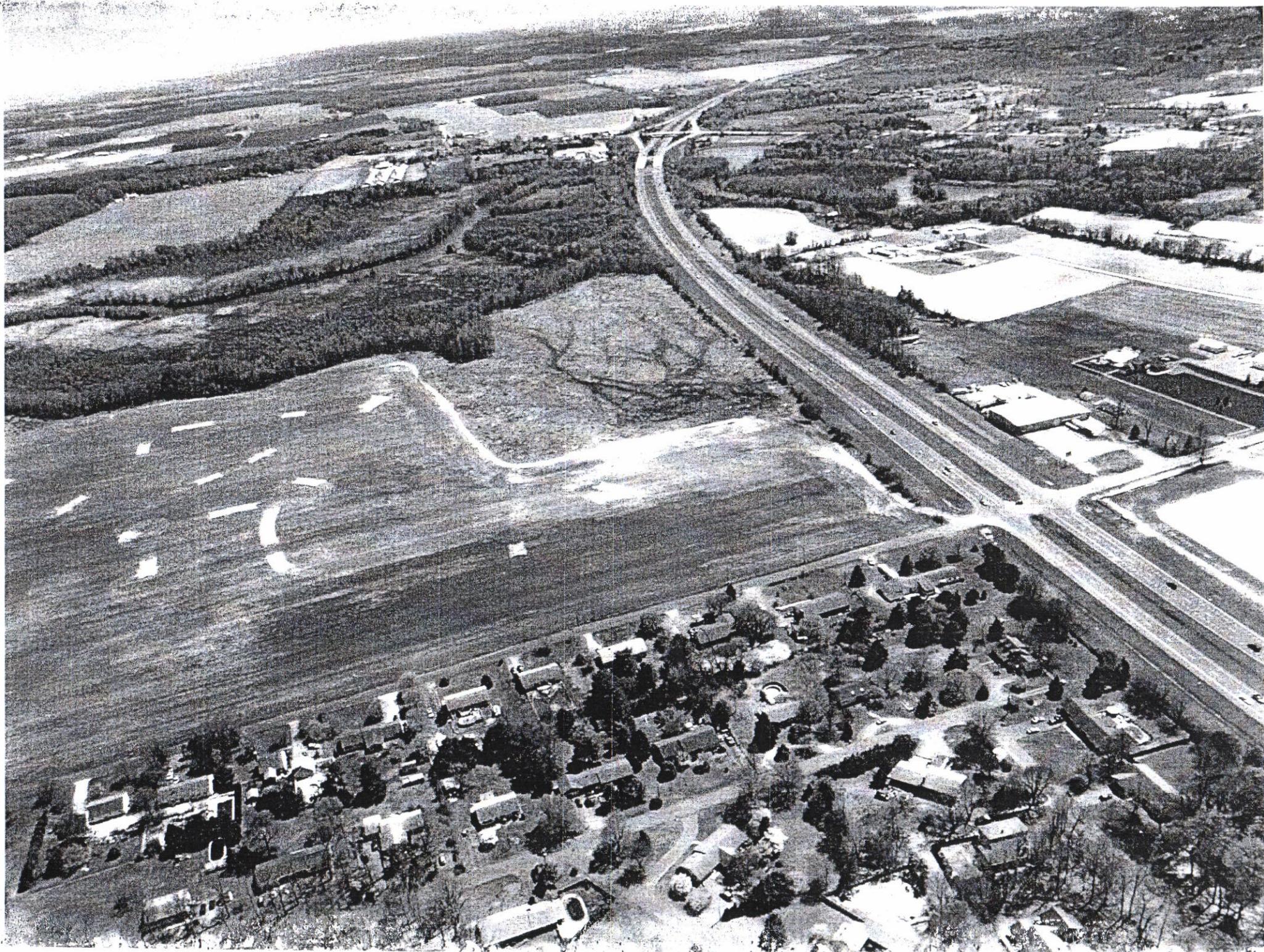
George also told me he would check with the maintenance section of DELDOT to determine if they can remove the line of scrub trees along their right-of-way boundary with your 96-acre parcel. I expect to have an answer within two weeks.

I will write a draft letter to Dave Edgell, State Planning Office, this week that will counter his comments in a letter to Gary Norris stating his objections to annexation and zoning change we have requested with City of Milford.

Thanks for your cooperation. Let me know what days would suit you to meet with George Pierce this week or next week prior to the DELDOT workshop at Milford High School on January 28, 2013.







----- Forwarded Message -----

From: Dave Kenton

To: deweylynch@comcast.net, jlynch163@comcast.net

Cc: 'Gary J. Norris'

Sent: Mon, 07 Jan 2013 17:58:08 -0000 (UTC)

Subject: Draft letter -State Planning Office- Dave Edgell

Randy, Pete & Gary Norris:

Attached find a preliminary draft letter we could send to Dave Edgell at State Planning Office to outline our case for reconsideration of our request for an amendment to the City of Milford Comprehensive Plan. Please review this letter and let me know how it could be improved or changed.

I want the letter to be direct, but positive and not confrontational . Let me know what we should say to Dave to get him to reconsider his objection to our request.

Dave Kenton -

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

Dave.Kenton@oasir.net | www.oasothebysrealty.com

DSM COMMERCIAL REAL ESTATE SERVICES

January 10, 2013

Mr. David Edgell
State Planning Office
The Green
Dover, DE 19901

Dear Mr. Edgell:

I represent Randy & Pete Lynch in their effort to develop a 96-acre tract of land they own at the southeast corner of Rt. 1 and New Wharf road (Rt. 409) on the Milford bypass in Milford, DE.

During the first Milford Comprehensive Planning sessions held in 2008 notices were placed in local news media publications requesting input from Milford citizens regarding the future of properties along the perimeter boundary of City of Milford limits. No direct effort was made to contact individual property owners where zoning maps impacted boundary lands. Many property owners had no knowledge of the future impact State Planning actions might play in designating properties as "open space" in Milford's first Comprehensive Plan.

Because of changes in Milford's Comprehensive Plan made in 2008, 64 acres of highly valuable land located along the east side of Rt. 1 bypass has been designated as "open space." The owners of this parcel had pursued commercial development of the tract for five years prior to Milford's Comprehensive Plan implementation. A project known as **Bowen Landing** had been proposed and was under-contract for development prior to the last economic collapse of real estate values in 2008.

In January, 2012 my clients requested City of Milford annexation and zoning changes for 64-acres of the 96-acre tract to permit future commercial and residential development of the site. We expected to request this annexation and change-of-zoning at the normal 5-year upgrade of Milford's Comprehensive Plan due in February, 2013.

During a recent meeting with City of Milford Planning director, Gary Norris, it was brought to our attention that the 64-acres planned for future development was designated "open space," in 2008 and a change to the current Comprehensive Plan update was not welcomed by the State Planning Office.

My clients are requesting the legal right to develop this property that has been considered as a prime expansion area for City of Milford annexation since the Milford bypass was constructed in 1971. State Planning guidelines have long allowed commercial development within 500 ft. of all major highway corridors in Delaware. We are at a loss to understand how this land was ever designated "open space," for future generations and why the property owners were never notified directly of this potential devaluation of their property rights by State Planners in 2008.

Major development has moved forward on the east side of Rt. 1 bypass in Milford with development of the Hampton Inn/Lighthouse Christian church parcel on Carpenter Pit road near Lynch Heights in 206-2008. Sewer & water was extended under Rt. 1 to this site for the hotel, church and residential subdivision.

In 2011, State Planning officials participated in a "plan-for-services" for 1,000 acres of land on the east side of Rt. 1 at the proposed **Wilkins Road Overpass** location. **Innovation Park** is proceeding according to plan with City of Milford services and infrastructure extended to the east side of Rt. 1 for new development of that area with medical arts, commercial and residential uses.

Mispillion Marina project was approved by City of Milford in 2006 and remains a prime area for development with 65-acres of C-3 land annexed and zoned at the intersection of Rt. 1 and Rt. 36 (Cedar Beach Road).

For these reasons we respectfully request a re-evaluation of objections offered by the State Planning Office to changes requested by the Lynch family for 64-acres of their property on New Wharf road. The owners are cooperating with plans for a new overpass scheduled by DELDOT for construction in the spring of 2016. Portions of the Lynch property will be needed to complete the DELDOT project for the benefit of all Milford citizens and travelers.

City of Milford's planning and zoning committee and City Council has agreed to cooperate with an annexation request and zoning change for this site provided highway improvements are made to alleviate traffic congestion along New

Wharf road and the entrance to **Woods Haven** development. We expect the new overpass to provide highway upgrades required by the area east of Rt. 1 for future development.

What is required to allow the Milford annexation request to proceed is an amendment to Milford's Comprehensive Plan that will designate the New Wharf property as a site for future highway and area development.

The owners feel strongly they were denied their rights to a fair hearing when this property was designated "open space," without their specific input in 2008. We are requesting the State Planning Office support the City of Milford's request for an amendment to permit this property to be considered through the normal Planning & Zoning and City Council process in 2013.

We appreciate your consideration and look forward to your cooperation with Milford's request for an amendment for this property.

Dave Kenton - Broker
Lynch Family Lands - Milford

DWK/encl

----- Forwarded Message -----

From: Dave Kenton

To: 'Pierce George A (DeIDOT)'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Tue, 08 Jan 2013 16:18:39 -0000 (UTC)

Subject: New Wharf Parcel - Milford - Meeting

George:

I spoke to Pete & Randy Lynch regarding a meeting next week in Milford to discuss DELDOT plans for an overpass at New Wharf road intersection.

We would like to meet next **Wednesday, January 16, 2013 at Milford Museum at 9:00 a.m.** if your schedule can accommodate that date and time. We could also meet Friday, January 18, 2013, if that date is better. Let me know when you can stop down to tell us what will be done on the New Wharf property as your project moves forward.

Dave Kenton – DSM Commercial Real Estate

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

----- Forwarded Message -----

From: Dave Kenton

To: 'Pierce George A (DeIDOT)' , deweylynch@comcast.net, jlynch163@comcast.net

Cc: 'Banez Tom (DeIDOT)'

Sent: Thu, 17 Jan 2013 16:59:24 -0000 (UTC)

Subject: RE: NE Front Street Project Website

Tom & George:

Thanks for taking time to give Pete & Randy Lynch an early look at the preferred intersection overpass planned for New Wharf road in Milford sometime in 2016. We appreciate the cooperation with our effort to annex and develop the residual property on the east side of the cloverleaf on the Lynch farm. We expect to hear from the acquisition section sometime next year with their appraised value for the approximately 25 acres that will be purchased for DELDOT right-of-way for the project.

I was unable to get the preferred design to print on my office printer using the DELDOT link to the design photos. Am I doing something wrong with the PDF files?

Dave Kenton – Sothebys'

From: Pierce George A (DeIDOT) [mailto:georgea.pierce@state.de.us]

Sent: Wednesday, January 16, 2013 10:09 AM

To: 'Dave Kenton'; deweylynch@comcast.net; jlynch163@comcast.net

Cc: Banez Tom (DeIDOT)

Subject: NE Front Street Project Website

Gentlemen,

Thanks again for taking the time to meet with us this morning. In follow up, attached is the link to the project website. It will be updated with the exact concept you saw after the Public workshop on January 28th at the



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION

January 28, 2013

Mr. Dave Kenton
DSM Commercial Realty
910 S. Chapel Street
Newark, DE 19713

RE: New Wharf Development Farm (Lands of Randy and Pete Lynch)

Dear Mr. Kenton,

I am in receipt of your letter dated January 17th, 2013 regarding you and your client's proposed development of a 96 acre tract of land in the vicinity of New Wharf Road and Rt. 1 adjacent to Milford. As stated in your letter, you and your clients intend to annex this property into the City of Milford in order to develop the property with residential and commercial uses.

As you note, the City of Milford has classified this area as "Open Space" in the annexation plan of the City's certified comprehensive plan. The City of Milford has the discretion to propose a plan amendment or update to that plan. If the City chooses to do so, the amendment or update must be submitted by the City to our office for review through the Preliminary Land Use Service (PLUS) process. The City of Milford has not submitted a plan amendment or update for review as of the date of this letter. Should the City submit a plan amendment or update in the future we will review it and comment on its merits at that time.

Please do not hesitate to contact me if I can be of any further assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Edgell".

David L. Edgell, AICP
Principal Planner

cc: Connie Holland
Dorothy Morris
Gary Norris, City of Milford

122 Martin Luther King Jr. Blvd. South – Haslet Armory · Third Floor · Dover, DE 19901
Phone (302)739-3090 · Fax (302) 739-5661 · www.stateplanning.delaware.gov

Milford Library from 4-7. In the interim, concept 6 from the following page closely follows the proposed alternative:

http://www.deldot.gov/information/projects/sr1_northeast_front_st/index.shtml

Thanks and let me know if there is anything else you need.

George Pierce, PE

Project Engineer, Project Development South

Delaware Department of Transportation

800 Bay Road

Dover, DE 19903

Phone: (302) 760-4825

Fax: (302) 760-2362

----- Forwarded Message ----- From: Dave Kenton <dave.kenton@oasir.net> To: 'Gary J. Norris' <gnorris@milford-de.gov> Cc: deweylynch@comcast.net Sent: Sat, 02 Feb 2013 11:50:50 -0000 (UTC) Subject: Dave Edgell - State Planning Office Reply Gary: Attached find the response I received from Dave Edgell, State Planning officer, regarding my letter to solicit his support for the pending amendment to the Milford Comprehensive Plan for 2013. This letter seems to indicate that the Office of State Planning will consider the change, provided it is supported by City of Milford Planning & Zoning and City Council. Pete & Randy Lynch want to pursue their request for annexation and change of zone to C-3 for 39 acres of cleared land on the northeast corner of Rt. 1 bypass and New Wharf road as soon as practicable. They have met with DELDOT's project manager regarding the site and have tentatively agreed to permit DELDOT to purchase about 23-25 acres of land on the corner for the merge-off northbound lane and cloverleaf for the new overpass. Since the DELDOT's acquisition is substantially greater than the 5-acres of land they projected would be needed, their request for R-3 zoned land in the rear is withdrawn in favor of commercially zoned land for the residual lands after DELDOT completes the overpass. The total cleared area is 64 acres according to the survey plot. Please keep us advised regarding your progress with City Council. Randy & Pete would be happy to make their case in person before P&Z committee or City Council, if required. We appreciate your support and look forward to getting the annexation moving before June 1, 2013 and zoning change prior to September 1, 2013, if possible. Dave Kenton - Sothebys -----Original Message----- From: Christine Flynn [mailto:CFlynn@dsm1800.com] Sent: Friday, February 01, 2013 2:03 PM To: Dave Kenton Subject: FW: Dave, This came in the mail for you. I can send the original if you would like it for your records.

----- Forwarded Message -----

From: Dave Kenton

To: 'Yvonne Lynch' , jlynch163@comcast.net

Sent: Tue, 12 Feb 2013 16:44:54 -0000 (UTC)

Subject: Comprehensive Planning -Meeting -Milford Planning Commission

Gary:

Thanks for the advance notice. I will be at the February 19, 2013 meeting and will invite Pete & Randy, if they have time to attend. I'm assuming there will be other meetings to follow. The meeting starts at 7:00 p.m., right?

Dave Kenton - Sothebys

From: Gary J. Norris [mailto:gnorris@milford-de.gov]

Sent: Tuesday, February 12, 2013 11:03 AM

To: Dave Kenton

Subject: meeting

Dave. On 2/19 the Planning Commission will begin the review of the Draft Comprehensive Plan for 2013. Gary

----- Forwarded Message -----

From: Dave Kenton

To: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Tue, 19 Feb 2013 17:26:26 -0000 (UTC)

Subject: FW: The Milford Review for February 19, 2013...

Randy & Pete:

Attached find the article in the local paper regarding the annexation request sent by Gary Norris to City Council on February 11, 2013 for consideration. City Council referred this request to the Planning & Zoning meeting that meets tonight at 7:00 at City Hall. P&Z must recommend a change to the comprehensive plan before Council can move forward with the annexation request. If we have the opportunity tonight, the P&Z committee may ask how this property got zoned Agricultural preservation five years ago. You may want to review the history of the parcel with plans for "Bowen Mills." No one ever asked you for permission to designate this land AC. It was a blatant power-grab by the State Planning Office and should be corrected. See you tonight at 7:00 p.m. at City Hall.

Dave Kenton - Sothebys

From: Bryan Shupe [mailto:bryan@milfordlive.com]

Sent: Tuesday, February 19, 2013 10:40 AM

To: dave.kenton@oasothebysrealty.com

Subject: The Milford Review for February 19, 2013...

This Week's *The Milford Review*

Welcome to this week's edition of The Milford Review -- the week that was in Milford, DE! The positive feedback and constructive criticism has been immensely helpful to us. Please keep the ideas flowing on our Facebook page and via email at bryan@milfordlive.com.

Remember: most of the advertising in The Milford Review is "clickable," meaning that if you click on the ad, you can visit the advertiser's web site and get more information. Try it out!

Thanks, and enjoy this week's issue.

The issue is delivered in a downloadable PDF format. Nearly all computers have the ability to read PDF files, but if you don't, you can [click here to download free Adobe software](#), which will allow you to read our newspaper. Also, if you are not on our free email subscriber list, you can [click here to visit our signup page](#). We encourage you to invite your friends and spread the word as we continue our efforts to bring together the Milford community and make MilfordLive.com and the Milford Review the online hub for Milford and its surrounding communities.

[Click here to download and read
this week's Milford Review.](#)

About MilfordLive.com

MilfordLive.com and The Milford Review are part of a local operation designed to bring together the Milford community around a single online hub. Based in Milford and published by MHS graduates Bryan Shupe and Dave Burris, MilfordLive.com and The Milford Review are your source for news, information and stories today and in the future.

Contact Bryan via email at Bryan@MilfordLive.com or by phone at 542-9231.

For text email readers, or if you are unable to download the issue, today's issue can be found at:
<http://www.milfordlive.com/review/MilfordReview021913.pdf>

This message was sent to dave.kenton@oasothebysrealty.com from:
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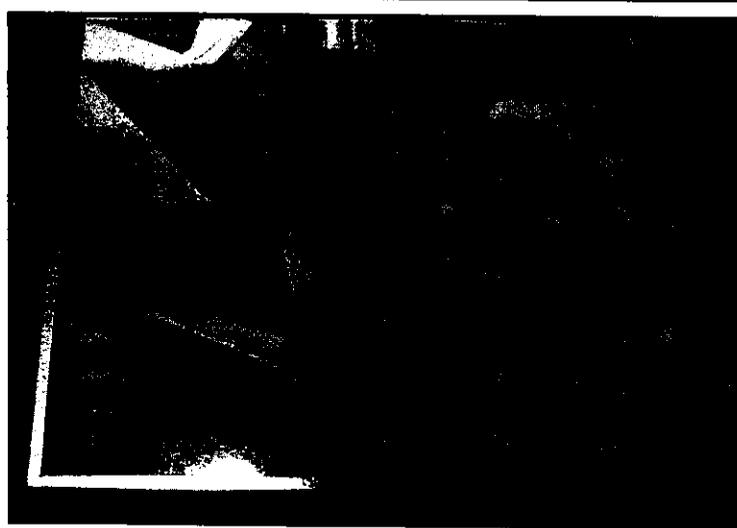
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The Milford Review

The News Of The Week for Greater Milford, Delaware

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February 19,
2013



MILFORD CELEBRATES VALENTINES DAY

Milford Review and MilfordLIVE.com readers shared photos of their sweetheart as they celebrated their love on Valentine's Day Thursday, and we're sharing them with you. Photos begin on page 12 and continue on MilfordLIVE.com.

Council Discusses Two Annexation Requests

By Terry Rogers

At the regular meeting of the Milford City Council on February 11, 2013, City Planner Gary Norris presented information regarding two requests for annexation. The 2008 Comprehensive Plan states that the city has no plans for annexation, but that the town would entertain requests for annexation from property owners. During an update to council regarding the Comprehensive Plan on December 10, Norris discussed that the Lynch family requested annexation of property currently designated as open space on the plan. Should the city choose to agree to annex this request, the Comprehensive Plan would need to be amended. The second request, related to property

More on page 4

Coworkers Wait On Kidney Donor List

By Bryan Shupe

Milford residents Nadine Holleger and Cleveland Whidbee share a unique disorder called polycystic kidney disease that affects the body's ability to filter waste products that can become harmful to the person it inflicts. Working together at the Delaware Veteran's Home in Milford, the pair have shared their stories and knowledge of the disease with each other in an effort to overcome the disorder that affects nearly 1 in every 1,000 Americans.

More on page 2

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ANNEXATION from page 1

owned by Louis and Shirley Renzi, is already part of the Comprehensive Plan.

The Lynch property includes about 100 acres of land east of Route 1 and north of New Wharf Road. They are requesting that the land use designation be changed from agricultural to highway commercial, while approximately 30 acres would remain open space. Norris reported that the State Planning Office expressed concerns about changing the designation due to the development east of Route 1. Norris also explained that the property could not undergo development until the New Wharf Road overpass is completed by DelDot, which will take about 10 acres of the land.

“The first step toward annexing this particular parcel of land is to amend the comprehensive plan and change the designation from open space to highway commercial,” Norris explained. When asked by Councilman Skip Pikus if the land was solely zoned as agriculture, Norris explained that the designation was agricultural preservation. Richard Carmean, City Manager, responded that the Lynch’s had already deforested a large portion of the area. Dave Edgel of the Office of State Planning expressed concerns as the land is not close to the core of the city. In addition, the state has concerns about the size and density of the land.

“Can we as council annex the land as open space now and then convert it to commercial and residential later?” Councilman Pikus asked. Norris respond-



The Renzi property (USGS photo)

ed that the zoning must be in compliance with the plan, and if it is annexed as open space, it cannot be changed later.

Norris explained that the next step in the process is to send the request to adjust the Comprehensive Plan to the Planning and Zoning Committee on February 19, who will then make recommendations to council.

The second request, from Louis and Shirley Renzi, is included in the 2008 Comprehensive Plan. The Renzi’s are requesting the annexation of three acres on Cedar Creek Road, and to have the land zoned highway commercial.

“The Renzi land is surrounded by other commercial land and is considered an enclave,” Norris explained. According to Timothy Metzner of Davis, Bowen and Friedel, who filed the application for annexation for the Renzi’s, this request is simply to have the property be more consistent with the city’s comprehensive plan.

City Council voted unanimously to send the request to the city’s Annexation Committee for review at their next meeting.

M

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----- Forwarded Message -----

From: Dave Kenton

To: 'Gary J. Norris'

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Tue, 12 Mar 2013 15:33:21 -0000 (UTC)

Subject: Lynch Annexation Request - New Wharf Road

Gary:

I saw that City Council voted this week to annex the Renzi property on Rt. 30 at the recent City Council meeting. When is City Council scheduled to vote on the Lynch family request for their New Wharf development property to support a change in the 2008 Comprehensive Plan?

Planning & Zoning voted to approve the annexation and City Council must support that request before we can appear before State Planned Use Committee in Dover (PLUS) for an amendment to the Comprehensive Plan. Will it be on an upcoming agenda for City Council? Should we plan to attend that Council meeting?

Dave Kenton – Sotheby Realty

Dave Kenton | Senior Advisor

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-----Forwarded Message ----- From: Dave Kenton <dave.kenton@oasir.net> To: 'Gary J. Norris' <gnorris@milford-de.gov> Cc: deweylynch@comcast.net, jlynch163@comcast.net Sent: Sun, 17 Mar 2013 22:47:00 -0000 (UTC) Subject: RE: Lynch Annexation Request - New Wharf Road Gary: Thanks for the clarification. It is still a bit confusing to me, but I think I understand the process. David Rutt, City Solicitor, covered the steps during our last meeting with Planning & Zoning at City Hall.

The next step for the Lynch family is to attend the PLUS hearing in April, 2013 in Dover. The PLUS Committee will approve the amendment to the Milford Comprehensive Plan or deny the change. If they deny the change the Lynch family only has the option of legal action to change the zoning. If PLUS approves the amendment to the Comprehensive Plan, then Milford Planning & Zoning considers C-3 zoning. If P&Z recommends the C-3 zoning, then the annexation can proceed with a vote of City Council. Does this describe the process, or do I need another detailed briefing? Let me know when you return from vacation. Thanks for your support and help in this request. Dave Kenton- Sothebys -----Original Message-----

From: Gary J. Norris [mailto:gnorris@milford-de.gov] Sent: Sunday, March 17, 2013 4:44 PM To: Dave Kenton Cc: Christine R. Crouch Subject: Re: Lynch Annexation Request - New Wharf Road David: I will be back at the end of March, but Christine did send the draft of the the amended Comprehensive Plan for a PLUS meeting in April. Once I have the date I will notify you. David, I think you are wrong. Council accepted the decision of the Annexing Committee, but it has to the Planning Commission for their recommendation on the Zoning then back to City Council for their approval. Gary Sent from my iPad On Mar 12, 2013, at 8:18 AM, "Dave Kenton" <DAVE.KENTON@OASIR.NET> wrote: Gary: I saw that City Council voted this week to annex the Renzi property on Rt. 30 at the recent City Council meeting. When is City Council scheduled to vote on the Lynch family request for their New Wharf development property to support a change in the 2008 Comprehensive Plan? Planning & Zoning voted to approve the annexation and City Council must support that request before we can appear before State Planned Use Committee in Dover (PLUS) for an amendment to the Comprehensive Plan. Will it be on an upcoming agenda for City Council? Should we plan to attend that Council meeting? Dave Kenton – Sotheby Realty Dave Kenton | Senior Advisor Ocean Atlantic Sotheby's International 330 Rehoboth Avenue Rehoboth Beach, DE 19971 Office 302.227.6767 | Fax 302.227.6349 Cell Phone 302.745.7600 Dave.Kenton@oasir.net | www.oasothebysrealty.com Delaware Real Estate rules require agents and brokers to provide a Consumer Information Statement to all prospects prior to establishing an agency relationship. Please review these guidelines and sign and return this form to my office, if you decide to move forward with this property. <http://dpr.delaware.gov/boards/realestate/documents/RSPFpage.pdf>

----- Forwarded Message -----

- From: Dave Kenton
To: 'Christine R. Crouch'
Cc: deweylynch@comcast.net, jlynch163@comcast.net
Sent: Mon, 18 Mar 2013 13:23:04 -0000 (UTC)
Subject: RE: Lynch Annexation Request - New Wharf Road

Christine:

Thanks for the clarification. I think I have it straight now. City Council must vote on the proposed changes to Milford's Comprehensive Plan and PLUS must agree before the new plan can be certified. If that all happens, then annexation and zoning change can be requested through the normal process.

Thanks for the help. We will try to keep all this straight in our minds. It seems like the State Planning Office is one extra step that simply slows up the process, which I suspect is the point of their entire office.

Dave Kenton -Sothebys

From: Christine R. Crouch [mailto:CCrouch@milford-de.gov]
Sent: Monday, March 18, 2013 8:40 AM
To: Gary J. Norris; Dave Kenton
Subject: RE: Lynch Annexation Request - New Wharf Road

Good morning Mr. Kenton.

I think there is some confusion as to what has taken place with the Lynch property.

At the February Planning Commission meeting, the commission voted to approve the change in the future land use designation of the Lynch property ~ they did not vote on whether or not to annex the property.

The first step in the process, as Gary has explained, is to have the property identified in the Comprehensive Plan as commercial. In order to accomplish this, the commission and council must agree it should be identified as commercial in the future land use plan. Then the office of state planning must agree, and the comprehensive plan must then be certified by the state and adopted by the city.

Once that is complete, the annexation process may begin.

To answer your question, City Council will be reviewing the changes to the future land use designations after Mr. Norris has spoken with DelDOT, according to the February 11th City Council minutes.

Christine Crouch

302.424.3712 x308 | F 302.424.3559

www.cityofmilford.com

From: Gary J. Norris
Sent: Sunday, March 17, 2013 4:44 PM
To: Dave Kenton
Cc: Christine R. Crouch
Subject: Re: Lynch Annexation Request - New Wharf Road

David: I will be back at the end of March, but Christine did send the draft of the the amended Comprehensive Plan for a PLUS meeting in April. Once I have the date I will notify you.

David, I think you are wrong. Council accepted the decision of the Annexing Committee, but it has to the Planning Commission for their recommendation on the Zoning then back to City Council for their approval.
Gary

Sent from my iPad

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Dave Kenton – Sotheby Realty

Dave Kenton | Senior Advisor

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<http://dpr.delaware.gov/boards/realestate/documents/RSPFpage.pdf>

----- Original Message -----

From: Dave Kenton

To: deweylynch@comcast.net

Sent: Wed, 27 Mar 2013 22:29:00 -0000 (UTC)

Subject: RE: Lynch Annexation Request - New Wharf Road

Pete:

I will stop by City Office tomorrow and ask Christine Crouch if the date has been set yet with PLUS in Dover.

Dave Kenton – Sothebys

From: deweylynch@comcast.net [mailto:deweylynch@comcast.net]

Sent: Wednesday, March 27, 2013 5:23 PM

To: Dave Kenton

Subject: RE: Lynch Annexation Request - New Wharf Road

Hi Dave,

I didn't know if you had heard any date set for April's meeting in Dover for the New Wharf road property?

Pete

----- Original Message -----

From: Dave Kenton <dave.kenton@oasir.net>

To: 'Christine R. Crouch' <CCrouch@milford-de.gov>

Cc: deweylynch@comcast.net, jlynch163@comcast.net

Sent: Mon, 18 Mar 2013 13:23:04 -0000 (UTC)

Subject: RE: Lynch Annexation Request - New Wharf Road

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To: Gary J. Norris; Dave Kenton
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Christine Crouch

302.424.3712 x308 | F 302.424.3559

www.cityofmilford.com

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Sent: Sunday, March 17, 2013 4:44 PM
To: Dave Kenton
Cc: Christine R. Crouch
Subject: Re: Lynch Annexation Request - New Wharf Road

David: I will be back at the end of March, but Christine did send the draft of the the amended Comprehensive Plan for a PLUS meeting in April. Once I have the date I will notify you.

David, I think you are wrong. Council accepted the decision of the Annexing Committee, but it has to the Planning Commission for their recommendation on the Zoning then back to City Council for their approval.
Gary

Sent from my iPad

On Mar 12, 2013, at 8:18 AM, "Dave Kenton" <dave.kenton@oasir.net> wrote:

Gary:

I saw that City Council voted this week to annex the Renzi property on Rt. 30 at the recent City Council meeting. When is City Council scheduled to vote on the Lynch family request for their New Wharf development property to support a change in the 2008 Comprehensive Plan?

Planning & Zoning voted to approve the annexation and City Council must support that request before we can appear before State Planned Use Committee in Dover (PLUS) for an amendment to the Comprehensive Plan. Will it be on an upcoming agenda for City Council? Should we plan to attend that Council meeting?

Dave Kenton – Sotheby Realty

Dave Kenton | Senior Advisor

Ocean Atlantic Sotheby's International

330 Rehoboth Avenue

Rehoboth Beach, DE 19971

Office 302.227.6767 | Fax 302.227.6349

Cell Phone 302.745.7600

Dave.Kenton@oasir.net | www.oasothebysrealty.com

Delaware Real Estate rules require agents and brokers to provide a Consumer Information Statement to all prospects prior to establishing an agency relationship. Please review these guidelines and sign and return this form to my office, if you decide to move forward with this property.

<http://dpr.delaware.gov/boards/realestate/documents/RSPFpage.pdf>

ENGINES OF ECONOMIC GROWTH: MAIN STREET

Milford City Council Meeting
September 23, 2013

Diane Laird

State Coordinator, Downtown Delaware
Delaware Economic Development Office

Downtown Delaware
Building Business Opportunity in Delaware's Commercial Districts



MAIN STREET “FOUR POINT APPROACH”

1. **Organization:** Non-profit structure
2. **Design:** aesthetics of downtown
3. **Promotion:** of downtown and businesses
4. **Economic Restructuring:** business growth



TRENDING BACK TO DOWNTOWN...

"We want intimacy in our lives... No more malls..."

Faith Popcorn

<http://www.angelfire.com/ut/wecreatemillionaires/faithpop.html>

"...need for downtowns to prepare for an influx of aging baby boomers – who 'now want to exchange the hassles of suburban life for the smaller scale and convenient amenities available in pedestrian-friendly cities.' "

Pete Golis

<http://golis.blogs.pressdemocrat.com/10237/will-aging-baby-boomers-transform-downtowns/>

DOWNTOWN MILFORD INC.

Milford
River Town.
Art Town.
Home Town.



Shopping &
Dining Guide



DOWNTOWN
Milford
INCORPORATED

\$\$ RE-INVESTMENT SINCE 2009

Façade renovations, building rehabilitations,
new construction projects and completed
public improvements:

- Public: \$ 721,483
- Private: 2,104,278
- TOTAL: \$ 2,825,761

BUSINESS/JOB GAIN SINCE 2009

18 Businesses

47 Jobs

In just the past five years...

MILFORD...RECENT WINS!

New businesses

1. Anne Jenkins Art Gallery and Studio
2. Chris and Jenna Computers
3. Delaware Fitness
4. Gallery 37 – Art Gallery
5. Little Posies Photography
6. Milford Florist and Home Décor
7. Milford Gifts
8. Pelican Bar and Grille
9. The Hidden Gem Boutique
10. Toute de Suite Patisserie – Bakery
11. *And one to come...tell you in a minute!*

Expansions

1. Blooming Boutique
2. Fur-Baby Boutique



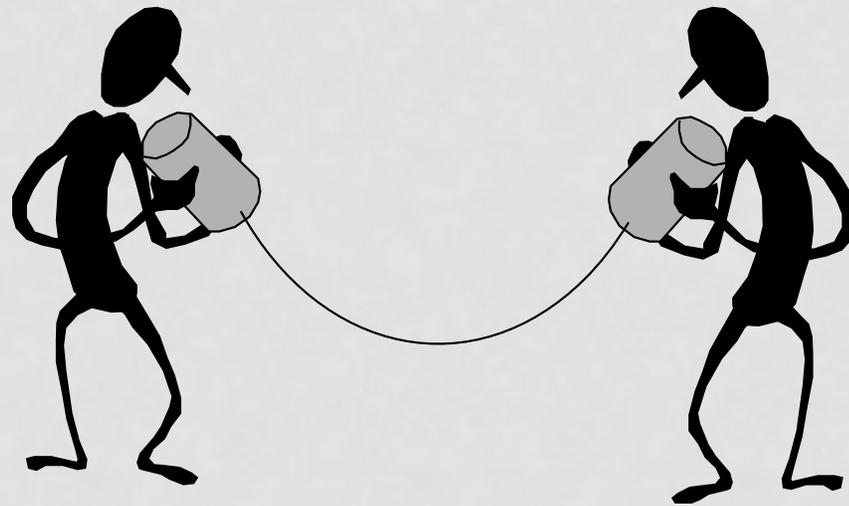
SPURRING ECONOMIC GROWTH...

- Community Branding

- Partnerships



VALUE OF COMMUNITY BRANDING



MILFORD'S NEW BRAND

Milford
River Town.
Art Town.
Home Town.



Shopping &
Dining Guide



DELIVERING ON THE PROMISE...



Milford
River Town.
Art Town.
Home Town.



Milford HISTORIC
DOWN TOWN







Fresh.

We are a community born of the river. It is the mill at the crossing of the Mispillion that formed our name. This river was home to two centuries of shipbuilding that made us a center of maritime industry. This river remains our link to the vital waters of this great peninsula.

Though the nature of the river has changed, it is no less important to our lives. It bisects our



“PARTNERSHIP” AT ITS BEST...



MILFORD BUSINESS MENTORING PROGRAM





Eco Chic Boutique



Abbott's Grill



Graduates, Mentors, Partners 2012



BUG 'N BUG FESTIVAL







Project Pop-Up

Downtown Delaware
Building Business Opportunity in Delaware's Commercial Districts

- Milford: Milford Massage, Wellness, & Yoga
 - Northeast Front Street
 - Three months free rent
 - Signed a twelve month lease
 - New service category to Milford
 - Reduced a vacancy
 - Brought an entrepreneur opportunity

**Opening
October 1!**

CONTACT INFORMATION

Diane Laird

**State Coordinator, Downtown Delaware
Delaware Economic Development Office**

302-577-8477

Diane.Laird@state.de.us

From: Andy J. Lorenz [mailto:Andy@destatehousing.com]
Sent: Thursday, September 19, 2013 11:12 AM
Subject: Draft FY2014 CDBG Program Guidelines and Application Package

Greetings!

The Delaware State Housing Authority (DSHA) is in the process of finalizing the State of Delaware FY2014 Community Development Block Grant (CDBG) Program Guidelines and Application Package. We are looking forward to your feedback on the changes we are considering this year.

The Draft FY2014 CDBG Program Guidelines and Application Package are attached and are also available for your review at the following link:

http://www.destatehousing.com/Landlords/dv_cdbg.php

DSHA will hold a public hearing to discuss the Draft FY2014 CDBG Program Guidelines and Application Package on **Wednesday, October 9, 2013**, at the Delaware State Housing Authority conference room located at 18 The Green, Dover, Delaware from 10:00 a.m. to 11:30 a.m.

Oral and written comments will be accepted until 4:00 p.m. on **Wednesday, October 9, 2013**. Written comments may be sent to DSHA, 18 The Green, Dover, DE 19901, Attn: Andrew Lorenz. After considering the comments received, DSHA will recommend the Final FY2014 CDBG Program Guidelines and Application Package to DSHA's Director for approval. Once approved, the Final FY2014 CDBG Program Guidelines and Application Package will be available to the public on the DSHA website.

We look forward to seeing you at the public hearing. If you have any questions about the Draft FY2014 CDBG Program Guidelines and Application Package, please contact Andrew Lorenz, Management Analyst III by phone at (302) 739-4263 or via e-mail at andy@destatehousing.com.

Delaware's own First-Time Homebuyer Tax Credit is here! [Learn more!](#)



Delaware's Key to Housing Since 1968



Andrew J. Lorenz, Management Analyst III, DSHA

18 The Green, Dover, DE 19901

PHONE: (302) 739-0261 FAX: (302) 739-2416 TOLL FREE: 888-363-8808

andy@destatehousing.com * www.DESateHousing.com

Please consider the environment before printing this e-mail.

IMPORTANT NOTICE TO E-MAIL RECIPIENT: This e-mail communication may contain or attach confidential information related to individuals and intended solely for the addressee. Please do not read, copy, or disseminate this communication (other than to return it to the sender) unless you are the intended addressee.



NOTICE OF PUBLIC MEETING

The Delaware State Housing Authority (DSHA) will hold a public meeting on Wednesday, October 9, 2013, at 10:00 a.m. in DSHA's conference room, 18 The Green, Dover, Delaware, for the purpose of providing any interested citizens the opportunity to comment on proposed changes to the Delaware Community Development Block Grant Program Guidelines in Fiscal Year 2014. The period for receiving written comments on the Guidelines will close at 4:00 p.m. on Wednesday, October 9, 2013. Written comments can either be submitted at the public meeting, via fax at 302-739-2416, or via e-mail to andy@destatehousing.com. Questions should be directed to Andrew Lorenz at phone number 302-739-4263. A copy of the proposed Guidelines will be available for inspection and review at DSHA's office, 18 The Green, Dover, Delaware, between the hours of 8:00 a.m. and 4:00 p.m. of any working day or at DSHA's website http://www.destatehousing.com/Landlords/dv_cdbg.php. This federally-funded program will provide funds to support Community Development activities in eligible municipalities in Kent and Sussex Counties. The chief elected official of each of the eligible municipalities and both counties will also have a draft copy of the aforementioned Guidelines for public review.

Delaware State Housing Authority
Equal Opportunity Employer
Equal Housing Opportunity



September 16, 2013

MEMORANDUM

TO: Eligible Communities and Kent & Sussex Counties

FROM: Andrew J. Lorenz

SUBJECT: **Draft FY14 CDBG Program Guidelines**

Attached is a draft copy of the FY14 Community Development Block Grant (CDBG) Program Guidelines, Application Package, and a Notice of Public Meeting to be published as part of the process. The Program Guidelines and Application Package have **been changed from last year as follows:**

- **A new Section III.A.1.a.10. has been added to encourage applicants to support the statewide initiative to hire minority-, veteran- or women-owned businesses;**
- **Under Section III.A.1.a.1., applicants must submit pictures of the first four houses on each waiting list;**
- **Under Section I.E.2.c., a substandard dwelling unit is defined as failing to meet the standards of the Delaware State Housing Code or the housing code adopted by the jurisdiction where the unit is located;**
- **Under Section III.A.1.f., the CDBG subgrantee must coordinate its housing rehabilitation waiting lists with the Delaware Weatherization Assistance Program waiting list, and the waiting lists of all other agencies that offer emergency home repair programs;**
- **Under Section III.A.1.g.4., a five-year lien must be placed against all properties receiving more than \$5,000 in CDBG emergency home repair funds;**
- **All target area information must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on January 23, 2014;**
- **Under Section IV.A., applications for the State's FY14 CDBG Program must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on February 27, 2014; and,**

Eligible Communities and Kent & Sussex Counties
September 16, 2013
Page Two

- **ONE Signed Original and ONE Signed Copy of the application must be submitted.**

Please review this draft and submit any comments by October 9, 2013. Comments will also be received at the public meeting scheduled for October 9, 2013, at 10:00 a.m. in our conference room at 18 The Green in Dover.

If you need additional copies of the Draft Program Guidelines or application, please contact me at the Community Development Section 739-0261 or via e-mail at andy@destatehousing.com. Thank you.

ajl:mjh

Attachments

STATE OF DELAWARE
DELAWARE STATE HOUSING AUTHORITY
DELAWARE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
DRAFT PROGRAM GUIDELINES FOR FY2014

I. GENERAL

A. Scope and Applicability

These Program Guidelines describe the Delaware Community Development Block Grant (CDBG) Program for Kent and Sussex Counties in Delaware. Funds for this program, when appropriated by the U.S. Congress, are provided in a block grant to the state by the U.S. Department of Housing and Urban Development (HUD) pursuant to Section 106 of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, and in accordance with HUD rules, regulations and program memoranda.

B. Administration

The Delaware State Housing Authority (DSHA) administers the Delaware CDBG Program. The purpose of DSHA is to provide affordable, decent, safe, and sanitary housing to low- and moderate-income persons.

C. Program Design and National Objectives

The Delaware FY2014 CDBG Program has been designed so as:

1. to give maximum feasible priority to activities which will benefit low- and moderate-income families;
2. to aid in the prevention of slums and/or blight; and
3. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and where other financial resources are not available to meet such needs.

Each CDBG activity must be an eligible activity, and it must comply with one of the above three national objectives. Subgrantees shall ensure that the following records are maintained and kept up to date: 1) records demonstrating that each activity undertaken meets one of the national objectives; and 2) a full description of each activity carried out (or being carried out) in whole or in part with CDBG funds, including the nature and purpose of the activity, its location (if the activity has a geographical location) and the amount of CDBG funds budgeted, obligated and

expended for the activity.

EXCEPT THAT the aggregate use of Title I funds received by the state during the period of Federal Fiscal Years 2013, 2014, and 2015 shall principally benefit persons of low and moderate income in a manner that ensures that not less than 70 percent of such funds are used for activities that benefit low- and moderate-income persons. In order to comply with the 70 percent principal benefit requirement, it is further agreed that not less than 70 percent of the total FY14 CDBG Grant shall be utilized for activities that benefit low- and moderate-income persons as defined in Section I.D. of these Program Guidelines.

D. Low- and Moderate-Income Definition

1. Low- and moderate-income persons are those persons whose incomes do not exceed the income limits for lower-income families pursuant to Section 8 of the United States Housing Act of 1937 as amended, and provided to the State of Delaware by HUD in a table of income limits as set forth by dollar amount and family size. (These income limits are periodically revised by HUD and are made available by DSHA to all units of general local government and counties in Delaware eligible for this program. See Attachment "A" to these Program Guidelines for the most recent figures dated 12/11/12.)
2. Low- and moderate-income households are all persons occupying the same housing unit, regardless of their relationship to each other, whose combined incomes do not exceed the income limits described in paragraph I.D.1., above.

E. Documentation of National Objectives and Low- and Moderate-Income Benefit

1. Documentation of National Objective.

a. Infrastructure (public works) Activities:

For each activity determined to benefit low- and moderate-income persons based on the area served by the activity, subgrantees must maintain records containing: 1) the boundaries of the service area; and 2) a summary of the income characteristics of the persons in the service area showing that at least 51 percent of area residents are low/moderate income.

b. Housing Rehabilitation Activities:

For each direct benefit activity determined to directly benefit low- and moderate-income persons based on the household income of those directly benefiting and where the activity involves the submission of an application or the completion of a personal record, subgrantees must maintain sufficient evidence to ensure such benefits would

accrue to low- and moderate-income persons, the income limits applied, and the point in time when the benefit was determined.

Individual household incomes must be thoroughly documented to verify that they are 100 percent low to moderate income before each housing unit is provided housing rehabilitation assistance. No rehabilitation assistance shall be provided to households that are not low to moderate income, except as provided under Section III.C.2.c. of these Program Guidelines (urgent need).

Subgrantees must maintain records including the number of units to be rehabilitated, and the amount to be spent on each unit to be rehabilitated.

c. Housing Code Enforcement/Demolition:

Documentation to be maintained by subgrantees for each activity determined to aid in the prevention or elimination of slums or blight based on addressing one or more of the conditions which qualified an area as a slum or blighted area must include: 1) the boundaries of the area; and, 2) a description of the conditions which qualified the area at the time of its designation in sufficient detail to demonstrate how the area met the requirements in 24 CFR 570.208(b)(1).

Documentation to be maintained by subgrantees for each activity determined to aid in the prevention or elimination of slums or blight based on the elimination of specific conditions of blight or physical decay not located in a slum or blighted area must include a description of how the threats to public health and safety are to be corrected.

d. Transitional Housing Construction/Rehabilitation:

For each activity determined to benefit low- and moderate-income persons because the activity involves a facility or service designed for use predominantly by low- and moderate-income persons, subgrantees shall maintain sufficient evidence to ensure that the predominant users would be low- and moderate-income persons.

e. Urgent Needs:

For each activity determined to meet a community development need having a particular urgency, subgrantees shall maintain documentation including: 1.) the nature and degree of seriousness of the conditions requiring assistance; 2.) evidence that the recipient certified that the CDBG activity was designed to address the urgent need; 3.) information on the timing of the development of the serious condition;

and, 4.) evidence confirming that other financial resources to alleviate the need were not available.

2. Target Areas

- a. Community-wide low- and moderate-income percentages are noted in Attachment B to the Program Guidelines. The list is **from HUD's Low/Moderate Income Summary Data estimates for FY2013**. These community-wide low- and moderate-income percentages will normally be used only for infrastructure activities such as a town well.
- b. Infrastructure (public works) activities must utilize either the community-wide low- and moderate-income figures noted in Attachment B, a survey following the methodology contained in the 7/26/06 HUD Notice CPD-05-06, "(HUD) Suggested Survey Methodology to Determine the Percentage of Low- and Moderate-Income (LMI) Persons in the Service Area of a Community Development Block Grant-Funded Activity," or the available Census data at the tract or block group level, to show that target area residents are 51 percent low/moderate income. Census maps can be found at: <http://factfinder2.census.gov>. Past surveys not utilizing the HUD methodology will not be accepted.
- c. Housing rehabilitation activities no longer have to document that the target area residents are 51 percent low/moderate income. Instead, the target area will be defined on the basis of the number of substandard dwelling units contained within its boundaries. The total number of dwelling units shall also be enumerated. Documentation of these figures shall normally be accomplished through a windshield survey. **A substandard dwelling unit is defined as failing to meet the standards of the Delaware State Housing Code or the housing code adopted by the jurisdiction where the unit is located.**

Where no discernible target areas exist within a community's corporate limits, the entire community may be identified as a rehab target area. The total number of dwelling units, and the number of substandard dwelling units, shall be documented as for any other target area.

d. Housing Code Enforcement/Demolition:

Unless housing code enforcement/demolition activities meet the national criteria for slum and blight, these activities require target area determinations utilizing the HUD Survey Methodology or Census data documenting a 51 percent benefit to low/moderate-income persons.

e. DSHA Pre-Approval:

All target area survey instruments, descriptions of how surveys were conducted, survey results, maps clearly indicating service area boundaries, a rationale/justification for the service area determination, and a rationale for the method used to determine low- and moderate-income benefit (if Census information is not used) must be approved by DSHA prior to the submission of an application. Census data must be used to the maximum extent feasible for determining the income of persons residing in service areas. Target areas must have at least four eligible units per target area. All target area information must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **January 23, 2014**.

f. Service Area Determination guidance can be found at the Section titled “Determining the service area” on pages 3-9 to 3-11 of the “Guide to National Objectives & Eligible Activities for State CDBG Programs,” available from DSHA, **or at:**

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/library/stateguide.

g. Areas of Minority Concentration

To affirmatively further Fair Housing, DSHA will provide up to 5 points **in the Application Review scoring at Section V.B.1.d.** to applications that target areas having disproportionate housing needs by race and ethnicity. Areas of racial and ethnic minority concentration are defined as geographic areas where the percentage of a specific minority or ethnic group is 10 percentage points higher than in the jurisdiction overall, **as of the 2010 Census**. In Kent County there are 8 Census tracts identified as having concentrations of Black residents, including 402.03, 405.01, 410, 412, 414, 415, 425, and 433. Kent County also has one Census tract having a concentration of Hispanic residents: 425. In Sussex County, there are five Census tracts having concentrations of Black residents: 501.05, 502, 504.06, 504.07, and 518.02. Sussex County also has four Census tracts having concentrations of Hispanic residents: 501.04, 505.03, 505.04, and 514.

F. Program Outcome Performance Measurement

On pages 11470 to 11481 of the March 7, 2006 Federal Register, HUD published a “Notice of Outcome Performance Measurement System for Community Planning and Development Formula Grant Programs”. This Notice on Performance Measurement is to be followed in establishing and reporting outcome performance measures for each activity for FY2014. Subgrantees are required to provide proposed outcome/objective statements for each activity in their CDBG applications, and actual outcome/objective statements with indicators in their quarterly and closeout reports.

G. Affirmatively Furthering Fair Housing

In addition to typical reporting requirements, in an effort to affirmatively further fair housing, DSHA will increase monitoring and require increased reporting relative to Fair Housing issues. Eligible jurisdictions will be required to submit reports (1) detailing addresses of beneficiaries and their membership in protected classes and (2) a narrative report updating DSHA about progress on meeting objectives outlined in the Statewide Fair Housing Plan and other efforts to affirmatively further Fair Housing, such as training, outreach and new programs.

II. General Information for Applicants

A. Eligible Applicants

Eligible applicants are units of general local government in Kent and Sussex Counties, the Kent County Levy Court and the Sussex County Council.

B. Number and Type of Applications

Each unit of local government and each county government may make only one application for funds in each program year, with the exception of applications for emergency activities and infrastructure for new housing development. An application from the Kent and Sussex County Governments may include unincorporated portions of the county, as well as those incorporated areas whose governing bodies have specifically requested to be included in the county's application. Written evidence of that request must be included with the county's application. If a local government has requested to be included in a county application it may not make a separate application, except applications for emergency activities and infrastructure for new housing development submitted after the normal application deadline.

C. Activities Outside an Applicant's Boundaries

An applicant may apply for CDBG funds for eligible program activities, which are partially outside its boundaries if it can be demonstrated that these activities are appropriate to meet the applicant's needs and objectives. Such activities must be consistent with State and local law, and the county or municipality within which these activities will take place must agree to such activities.

D. Activities Within an Application

Within a single application or fiscal year, an applicant may seek funding for activities, which address more than one community development need, as long as the total does not exceed the maximum allocation of \$1,100,000. The CDBG funds requested, either by themselves or in combination with other funds, must be sufficient to complete the proposed activities. An allocation exceeding \$500,000 would have to be extremely competitive.

E. Eligible Activities

The 2014 program will provide funds to units of general local government and to counties not entitled to receive CDBG funds directly from HUD to undertake eligible approved activities, as listed in these Program Guidelines. The program is competitive in nature and it is anticipated that the demand for funds will far exceed the total amount available to the State. Therefore, eligible applicants selected for funding will be those communities and counties whose applications best address locally-determined needs of low- and moderate-income families as contained in the Delaware Consolidated Plan dated May, 2010, and which are also consistent with the 51 percent principal benefit requirement or otherwise meet one of the three National Objectives, and which meet one or more State priorities.

Applicants should be aware that proposed activities, which do not meet a State priority will be deemed unresponsive and not considered by the review panel, unless sufficient fundable activities meeting a State priority are not received by DSHA.

III. State Priorities and Set-Asides

The following are the State's priorities and set-asides for FY14 CDBG funding:

A. Maintenance of Existing Housing

1. Rehabilitation of substandard residential properties occupied by 100 percent low- and moderate-income households.

a. General

- 1) Applicants must submit a list of all residential properties to be rehabilitated, with each property identified as owner- or renter-occupied. However, local governments with current waiting lists containing at least twice the number of applicants than are proposed for assistance may simply submit a certification to that effect, without submitting the normal list of properties to be rehabilitated. **Applicants must submit pictures of the first four houses on each waiting list.**

For the FY14 program year, if rehab applicants are exhausted in targeted areas before funds are exhausted in those areas, excess funds from those areas can be transferred to other target areas. If all eligible rehab applicants are exhausted in all target areas before funds are exhausted in those areas, then the excess funds from those areas can be transferred to scattered site rehabilitation.

- 2) All residential properties receiving CDBG assistance must be rehabilitated up to the standards of the Delaware State Housing Code **or the local equivalent code**, except that those properties only receiving assistance under a funded Emergency Home Repair activity under Section III.A.1.g. do not need to be brought completely up to code at the time the emergency repair is completed. All CDBG applicants must include a clause in their rehabilitation contracts, which enables them to rescind the contract in the event it is determined during the course of construction that the proposed rehabilitation is not feasible due to unforeseen conditions not known at the time the contract was executed.
- 3) All applicants requesting CDBG rehabilitation assistance must have adopted and be enforcing a housing code equivalent to or more restrictive than the Delaware State Housing Code. (Municipalities may be under contract for the enforcement of the code by county government.) The CDBG subgrantee must certify that the property is up to housing code standards when rehabilitation is completed.

- 4) A ten year lien must be placed against all properties rehabilitated with CDBG funds; a five-year lien is required on properties owned and occupied by a person(s) aged 62 years or older; a five-year lien is required on manufactured housing receiving less than \$10,000 in CDBG rehabilitation assistance; and no lien will be required to be placed on properties receiving only water/sewer hookups or meter installations costing \$3,500 or less for the physical work and associated permits.
- 5) The applicant must have adopted a rehabilitation manual containing all forms and procedures to be used, including: procedures for coordinating with similar rehabilitation programs and an executed Programmatic Agreement (PA) with the National Advisory Council and State Historic Preservation Office.
- 6) Applicants may use up to 50 percent of their CDBG funds for community-wide rehabilitation. Counties proposing to use their community-wide funds in incorporated communities must obtain a resolution from that community authorizing such rehabilitation to be done.
- 7) Applicants must use 51 percent of their CDBG funds in designated DSHA-approved target areas. Subject to DSHA approval, where no identifiable smaller target areas exist, the target area requirement may be waived for a particular community.
- 8) Except in cases of emergency rehabilitation, applicants must certify that units to be rehabilitated will be insured for at least the amount and period of the rehab loan.
- 9) Local officials shall determine the suitability of providing rehabilitation assistance to any given residential property.
- 10) **Applicants are encouraged to support the Statewide initiative to hire minority-, veteran- or women-owned businesses. The company must be (a) 51 percent owned by minority, Veteran and/or woman or (b) 51 percent managed by minority group, service disabled veteran/veteran and/or woman and (c) certified as a MVWBE (or home state equivalent) in home state of**

business as for-profit business. For further information please refer to <http://gss.omb.delaware.gov/osd/index.shtml>.

- b. **Lead-Based Paint:** This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate-income households constructed prior to January 1, 1978 receiving Federally-funded project-based assistance.
- 1) Grantees shall follow the lead-based paint regulations found at 24 CFR part 35 Lead-Based Paint Poisoning Prevention in Certain Residential Structures.
 - 2) In cases where evaluation or hazard reduction or both are undertaken, the subgrantee shall provide a notice to occupants in accordance with Section 35.125.
 - 3) Subgrantees must provide a lead hazard information pamphlet to all families receiving assistance living in pre-1978 housing, and obtain a signed acknowledgment from occupants that they have received the pamphlet.
 - 4) Lead-based paint inspection, risk assessments, testing, hazard reduction and abatement and treatment are eligible expenses.
 - 5) Inspection/risk assessment/testing reports must be kept by the subgrantee for a period of three years.
 - 6) The subgrantee must conduct paint testing or presume the presence of lead-based paint, in accordance with Section 35.930.
 - 7) CDBG administration funds may be used for rehabilitation subgrantee lead-based paint certification training. No matching funds are required for administrative funds used for CDBG subgrantee lead-based paint certification training.
- c. **Rental Rehabilitation of housing units occupied by 100 percent low- and moderate-income households.**
- 1) A maximum of \$15,000 per unit may be provided for CDBG rental rehabilitation.
 - 2) CDBG rental rehabilitation loans will be financed at 3 percent amortized over a period of 10 years and will not be deferred.

Exception: CDBG rental rehabilitation assistance used to provide up to 25 percent of the total cost of the work to be accomplished in conjunction with a Housing Rehabilitation Loan Program (HRLP) loan shall be in the form of a 0 percent deferred loan forgiven after 10 years.

- 3) Only 75 percent of the rehabilitation cost may be financed by CDBG funds. The remaining 25 percent must be financed through private funds.
 - 4) The servicing of 3 percent CDBG rental rehabilitation loans shall be handled by DSHA through an agreement with a private servicing agent. The costs to DSHA of providing servicing will be reimbursed from principal and interest payments made by the owner to the subgrantee. All principal and interest for rental rehabilitation loans shall be repaid on a regular monthly schedule after completion of the work.
 - 5) All rental units financed with CDBG funds must be occupied by low- and moderate-income persons at affordable rents throughout the duration of the loan agreement. Affordable rents are defined as Fair Market Rents (FMR) published periodically by the Federal HUD Section 8 Existing requirements. See Attachment D to these Program Guidelines for the most recent figures dated 10/01/13.
 - 6) All CDBG rental rehabilitation must utilize the forms and procedures contained in Delaware CDBG Rental Rehabilitation Procedures dated 10/21/92.
- d. The rehabilitation of manufactured housing occupied by 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing, except that the following additional requirements apply:
- 1) There shall be a limit of \$15,000 per manufactured home rehabilitated on rental lots. There shall be a limit of \$18,000 per manufactured home rehabilitated where the owner owns both the manufactured home and the lot it is situated on;
 - 2) The CDBG subgrantee must certify that the property will have at least 10 years of habitable life after rehabilitation is completed;

- 3) The CDBG subgrantee must obtain documentation that the manufactured home is in place and installed in accordance with local environmental, zoning and housing/building code requirements, prior to starting work on the property;
 - 4) For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, the unit must have a permanent foundation in order to be eligible for rehabilitation funds. If no permanent foundation exists, then the total rehabilitation contract specifications for a unit must include the installation of the foundation. For manufactured housing situated on rental lots, the permanent foundation requirement does not apply; and
 - 5) For manufactured housing where the owner owns both the manufactured home and the lot it is situated on, and where the manufactured housing unit is beyond economical repair, the CDBG Subgrantee receiving HOME rehabilitation funds may only use HOME rehabilitation funds to replace the unit with a manufactured housing unit not more than 20 years old. All manufactured housing to be replaced must have been condemned by the applicant's code enforcement official, and the replacement unit must meet the standards of the Delaware State Housing Code or the local housing code. A ten-year lien must be placed against all properties where manufactured housing is replaced with HOME funds. For manufactured housing situated on rental lots, the replacement option does not apply.
- e. Water and/or sewer hookup of 100 percent low- and moderate-income households shall utilize the same rehabilitation procedures as other housing rehabilitations, including the documentation of low- and moderate-income household according to the definition provided in Section I.D.2, above.

- f. Energy Efficiency: This Section applies to activities renovating or rehabilitating housing units occupied by 100 percent low- and moderate-income households. To the maximum extent feasible and cost-effective, subgrantees' work write-ups and specifications for rehab work necessary to bring the dwelling unit up to housing code standards shall require ENERGY STAR qualified products and procedures. Subgrantees shall utilize HUD's "**How to Promote ENERGY STAR Through CDBG**" website at: <http://www.hud.gov/energystar/cdbg.cfm> or the Energy Star website directly at: <http://www.energystar.gov/> to determine the recommended energy-efficient specifications for rehabilitation and remodeling. The recommendations on these websites shall be followed for all required work and materials, including, but not limited to: windows, heating and air conditioning systems, ventilation, insulation, air sealing, water heaters, light fixtures, lighting, and doors. **The CDBG subgrantee must also coordinate its housing rehabilitation waiting lists with the Delaware Weatherization Assistance Program waiting list, and the waiting lists of all other agencies that offer emergency home repair programs.**
- g. Emergency Home Repair of residential properties owned and occupied by 100 percent low- and moderate-income households. For the FY 2014 program year, CDBG applicants may apply for a separate Emergency Home Repair category of housing rehabilitation funds to address an emergency condition threatening the health or safety of an owner-occupied household's occupants. Emergency Home Repair is separate from emergency rehabilitation under Section III.C.2. of these program guidelines. Repairs that generally qualify as emergency home repair include: heating, plumbing, electrical, roofing, and structural problems.
- 1) An emergency is defined as an unexpected occurrence or combination of events calling for immediate action. Unsafe electrical wiring, a non-working heater in winter, or structural conditions that are a major defect or are life-threatening and considered unsafe are examples of true emergencies.
 - 2) A minimum of \$500 and maximum of \$7,500 may be provided per home in CDBG emergency home repair assistance.
 - 3) Homeowners must meet all eligibility requirements to participate in the program.

- 4) A five-year lien must be placed against all properties receiving more than **\$5,000** in CDBG emergency home repair funds.
2. Housing code enforcement in areas of slum and blight (as defined in state regulations) or which benefit an area of at least 51 percent low- and moderate-income persons. **(Also note Section I.E.2.d.)**
 - a. Applicants proposing housing code enforcement activities must certify that they will maintain during the period of the CDBG contract, in addition to their expenditures for carrying out any program assisted with CDBG funds, a level of expenditures for code enforcement activities at not less than their normal expenditures for such activities in the year prior to the execution of the CDBG Contract.
 - b. Applicants requesting CDBG assistance for code enforcement must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
3. Demolition of substandard structures in areas of slum and blight (as defined in state regulations) or which benefit 51 percent low- and moderate-income persons on an area or spot basis. Applicants for demolition funds may use up to 50 percent of such funds for community-wide demolition.
 - a. All structures to be demolished must have been condemned by the applicant's code enforcement official. Applicants requesting CDBG assistance for demolition must have adopted and be enforcing a housing code equivalent to the Delaware State Housing Code.
 - b. Demolitions to be accomplished with the voluntary consent of the owner and at the discretion of the community, must be in the form of a permanent 0 percent deferred loan, that is not forgivable, unless new housing constructed on the property becomes exclusively: 1) owned and occupied as the principal residence(s) of low/moderate-income household(s); or, 2) rented by low/moderate-income household(s) for a period of at least ten years.

- c. For non-voluntary demolitions, the governing body of the applicant must provide evidence that it has exhausted other available legal procedures to secure remedial action by the owner of the structure(s) involved, that demolition action is required, and that it has the legal authority to demolish the structure(s).
 - d. The applicant requesting CDBG assistance for non-voluntary demolitions must agree to place a tax lien on the property so that monies expended for razing, demolition, and removal of eligible structures or part(s) thereof, may be collected in the same manner as other real estate taxes. All such monies recovered shall be deemed to be program income.
 - e. Demolition liens, whether in the form of a 0 percent deferred loan, or a real estate tax lien, may be subordinated to a new mortgage on the property if the property is sold or transferred for the purpose of low/moderate-income housing. The lien will then continue in the original form until such time as the property is converted to a use other than for the purpose of low/moderate-income housing, at which time the lien will be required to be repaid; or, until such time as the property is actually used to house low/mod-income household(s) as described in Section III.A.3.b., above, at which time the lien will be forgiven.
4. Construction or rehabilitation of emergency/transitional/permanent supportive housing serving of at least 51 percent low- and moderate-income limited clientele.
- a. Applicant must provide evidence that the construction or rehabilitation will benefit at least 51 percent low- and moderate-income persons. This evidence must demonstrate that at least 51 percent of daily normal users of the facility are principally low- and moderate-income persons.
 - b. Applicant must certify that it will not charge any fees for accessing such assisted facilities so as to have the effect of precluding low- and moderate-income persons from obtaining said access.

- c. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook.
 - d. No such activities will be funded unless additional funding has been secured for the provision of services which are complementary to the programmatic purpose of the activity.
 - e. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested such as building codes, insurance, and the State architectural accessibility standards prescribed by the State of Delaware Architectural Accessibility Board.
 - f. If the facilities to be assisted are publicly owned, the facilities must be nonresidential buildings which are not used for the general conduct of government such as "city halls, county administration buildings, state capitol or office buildings, or other facilities in which the legislative or general administrative affairs of government are conducted." (Section 102 (a)(21) of the Act); and which meet the requirements of 24 CFR 570.200 (5)(b).
 - g. If the facilities to be assisted are privately owned by a nonprofit organization, the organization must meet the requirements of 24 CFR 570.204 (c)(1), and be operated so as to be open for use by the general public during all normal hours of operation and otherwise meet the requirements of 24 CFR 570.200 (5)(b).
 - h. The applicant must comply with all restrictions and limitations regarding the use of CDBG funds by nonprofit organizations which are church-related found at 24 CFR 570.200(j).
5. Relocation assistance as required under the Uniform Relocation Act, Delaware Code, and 24 CFR 570.
 6. Substantial reconstruction of housing occupied by 100 percent low- and moderate-income households.

A unit of general local government may use CDBG funds to reconstruct residential structures (i.e. rebuild the structure on the same site) having a low- and moderate-income owner/occupant and consisting of one dwelling unit if either:

- a. The need for the reconstruction was not determinable until after rehabilitation on the structure had already commenced; or
 - b. The housing that is being reconstructed is part of a neighborhood rehabilitation effort in which the unit of general local government is carrying out or proposes to carry out housing rehabilitation activities, and the housing to be reconstructed would otherwise be a part of the housing rehabilitation in that neighborhood; and the unit of general government determines:
 - 1) That the housing to be reconstructed is unsuitable for rehabilitation based upon severe structural deficiencies and an estimated cost of rehabilitation of \$25,000 or more;
 - 2) The estimated cost of reconstruction is at least 20 percent less than the estimated cost of purchasing comparable newly constructed housing (including land) located in that neighborhood or in a comparable neighborhood of the unit of general local government; and
 - 3) The estimated cost of the reconstruction is less than the fair market value of the reconstructed housing and land based on an appraisal obtained before reconstruction.
 - c. The unit of general local government shall document the basis for each of the determinations noted above.
7. Provision of housing-related services in conjunction with activities noted above. Such housing-related services could include: training in housekeeping, fair housing and homeownership counseling, and other housing-related services not provided by other social service agencies, but that support the programmatic purpose of the activities noted above.

8. Set-aside: 60-90 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Existing Housing set aside will be dependent upon the quality and type of applications received in FY14.

B. Infrastructure benefiting at least 51 percent low- and moderate-income persons

The following activities in support of this State priority for low- and moderate-income persons are eligible:

1. Definition of infrastructure: The installation or improvement of water systems, sewer systems, streets, storm drainage systems, sidewalks. This includes all related activities such as engineering, land surveys, site acquisition (for housing development), planning studies, relocation assistance, etc.;
2. Architectural/engineering studies for infrastructure directly related to housing development, including feasibility studies, site tests and soil borings;
3. Preparation of grant applications to other grantor agencies;
4. Acquisition of land for new housing development, in accordance with the requirements of the Uniform Relocation Act of Delaware Code;
5. Clearance and site preparation for new housing development for low- and moderate-income persons;
6. Installation or improvement of infrastructure benefiting service areas of at least 51 percent low- and moderate-income persons, including: water, sewer, streets, sidewalks;
7. Planning studies, including comprehensive plans and zoning ordinances, which clearly by their intent and design, encourage the provision of affordable housing for low- and moderate-income persons; and
8. For items 1-7 as applicable above:
 - a. The applicant must provide evidence that it will provide a minimum cash or in-kind match for each activity, as described below. Cash matches may be provided through other sources

of funding for the same activity;

Infrastructure Match Requirements

<u>Total Activity Cost</u>	<u>Cash Match</u>	<u>or In-Kind Match</u>
Up to \$100,000	10% of Activity	15% of Activity
\$100,000+ to \$199,999	15% of Activity	20% of Activity
\$200,000+	20% of Activity	25% of Activity

- b. Applicant must provide evidence that at least 51 percent of the persons benefited by the activity are in fact low- and moderate-income persons;
 - c. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds. The term special assessment is defined to mean a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties;
 - d. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
 - e. The applicant must certify that it will obtain all necessary permits and will comply with all federal, state and local standards and regulations that pertain to the type of activity requested.
9. Set-aside: 10-40 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the Infrastructure for Housing Development and Maintenance set-aside will be dependent upon the quality and type of applications received in FY14.
- C. Emergency activities (water, sewer, housing rehabilitation and demolition), which have a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community and other financial resources are not available to meet such needs.

1. For emergency water and sewer activities:
 - a. Applicant must certify that there will be no special assessment against properties owned by low- and moderate-income persons to recover that portion of a capital expenditure funded with CDBG funds;
 - b. The nature, degree of serious and immediate threat must be documented by letters from appropriate agencies such as the State Division of Public Health, DNREC, State/local fire officials, etc.;
 - c. The serious and immediate threat must be of recent origin or recently became urgent, that is, the condition developed or became critical within 18 months of a certification that must be made by the applicant in its application;
 - d. Applicant must certify and document that it is unable to finance the construction of these facilities without CDBG funds. Such documentation shall include: (a) if appropriate, letters from other grantor agencies such as the Department of Natural Resources and Environmental Control, Department of Transportation, Division of Public Health, etc., confirming that funds were not available; (b) appropriate financial statements showing the lack of local funds; and (c) a financial analysis of why the activity is not feasible through use of other methods of local funding such as the proceeds of general obligation bonds, special assessments, etc.;
 - e. All CDBG applicants must certify that they will comply with the labor standards as set forth in 24 CFR 570.603; HUD regulations at 24 CFR 607 and 609; and the Delaware CDBG Labor Standards Handbook; and
 - f. The applicant must certify that it will obtain all necessary permits and will comply with all federal, State and local standards and regulations that pertain to the type of activity requested.
2. For emergency rehabilitation and demolition:
 - a. Required as a direct result of a natural disaster, such as a tornado, flood, hurricane, or similar catastrophe;

- b. State has made a formal request to the Federal Emergency Management Agency for preliminary damage assessment and/or for which federal disaster assistance has been officially sought by the State;
 - c. At the discretion of the DSHA Director, rehabilitation assistance may be provided to persons not of low/moderate income when the need for such assistance is clearly documented;
 - d. Emergency rehabilitation and demolition activities will only be provided to cover losses not covered by insurance; and
 - e. Both emergency rehabilitation and demolition assistance will utilize the same liens and contracts as used for regular rehabilitation and demolition programs.
3. Set-aside: 0-7 percent of CDBG funds available for allocation to activities, excluding administrative costs. The final percentage of CDBG funds allocated for the emergency activities set aside will be dependent upon the quality and type of applications received in FY14.

D. Administration

- 1. At least 50 percent of the administrative cost of the activity(ies) must be provided by the local funds of the applicant.
- 2. Matching Requirements

These local funds may be drawn from local operating appropriations, nonprofit organization funds, proceeds of general obligation revenue bonds or other funds expended for the same purpose as the CDBG funds are expended. Any costs incurred by the applicant for activities that directly benefit the CDBG activity and meet the requirements of OMB Circular A-87 may be used to meet this match requirement. However, these funds must be spent in the same consecutive twelve-month period as the CDBG funds. For the purpose of this match requirement an applicant is considered to be: (a) a county's application for its unincorporated areas; (b) incorporated areas applying on their own; or (c) incorporated areas under a county's application.

3. Administrative Costs Limits

Administrative costs allowable to participating units of general local government under the CDBG Program shall be governed by the matching requirement in Paragraph 2. above, the contract budget and by the federal requirement that the State and its CDBG subgrantees are limited to an aggregate amount of administrative costs that represent twenty percent of the State's total grant from HUD in any given federal fiscal year. It should be noted that the total amount of CDBG funds available for administration in FY14 may be less than the amount currently allocated, depending upon the number and quality of applications received, and the amount of funding allocated by HUD. The maximum allocation for all administrative and program delivery costs for any single applicant shall not exceed **\$162,000** in any program year. Applications shall provide the salaries of all program administration personnel to be funded through CDBG funds. DSHA may separate rehabilitation specialists' salaries from general administration costs and allocate funding for those salaries as rehabilitation program delivery costs.

IV. Application Submission

A. Submission Date

Applications for the State's FY14 CDBG Program must be received in the DSHA office at 18 The Green, Dover, Delaware 19901, no later than 4:00 p.m. on **February 27, 2014**. Applications for emergency activities and infrastructure for housing development will be considered at any time during the program year, subject to the following conditions: sufficient unallocated CDBG funds must be available to fund the activity(ies); assuming the availability of CDBG funds, a review panel will be convened to evaluate such proposals as well as those activities which were not originally recommended for full funding; and the need for CDBG funds must have arisen after the application deadline and be required for immediate use. **ONE SIGNED ORIGINAL AND ONE SIGNED COPY of the application must be submitted.**

B. Application Content and Format

Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA, and include all forms and questionnaires as may be applicable to the specific proposed activity.

C. Documentation and Certifications

Application for CDBG funds must include all such documentation and certifications as may be prescribed in these Program Guidelines and in the application instructions prescribed by DSHA.

D. Program Performance Period

All applications for 2014 funds shall be to finance CDBG-eligible activities that shall be initiated after July 1, 2014, and completed no later than June 30, 2015.

V. Application Review

A. DSHA Staff

1. The DSHA staff will review all applications for completeness and to determine whether the applications meet the minimum threshold requirements for all applications.
2. If the assessment by the DSHA staff indicates that an application fails to meet any of the applicable threshold requirements, and the applicant has not provided the requested information to make the application complete, DSHA staff will prepare a report on each such application and submit it to the Director of DSHA. If the Director of DSHA agrees with the assessment by DSHA staff, the application will be considered unresponsive. Such applications will not be forwarded to the review panel(s) referred to below, but will be returned to the applicant with a reason for the rejection. Any application that has been assessed as unresponsive shall be precluded from any further consideration in the FY14 CDBG Program, unless it is modified after July 1, 2014 to meet the threshold requirements for activities having a particular urgency or infrastructure for new housing development, and provided it falls within the requirements for a request for "recaptured/remaining funds" after July 1, 2014 as specified in Section VI.D. of these Program Guidelines.
3. It is essential that the amount of CDBG funds requested in each application be reflected in a budget which is both reasonable and realistic, and which conforms with all the requirements for such budgets contained in these Program Guidelines and the instructions for CDBG applications. Because of this, DSHA staff may, after determining that an application has met all the applicable threshold requirements, enter into direct negotiations with an applicant to reach agreement on any budgetary modifications that should be

made before the application is presented to the review panel(s) that will evaluate the proposal(s).

4. The DSHA staff shall provide the review panel(s) with a separate staff report on each application that will at a minimum include the following:
 - a. Certification that the application/applicant has met all applicable threshold requirements, including evaluation of low- and moderate-income benefit;
 - b. Certification that the proposed budget represents a realistic/reasonable budget which conforms to all applicable instructions and policies;
 - c. The conformance of the proposed activities to the goals and objectives of the Delaware Consolidated Plan; and
 - d. An evaluation of the applicant's capacity, and past performance under the CDBG Program.

B. Review Panel(s)

1. The review panel(s), composed of persons with the appropriate background and experience, shall evaluate each proposed activity, based upon the following criteria. A maximum total of 100 points may be received by an application.
 - a. Low- and Moderate-Income Benefit (Provided by DSHA staff): Applications showing a greater benefit to low- and moderate-income persons for similar activities will be rated higher than those showing a lesser benefit to low- and moderate-income persons. Up to 25 points as follows:
 - (1) 90-100% L/M = 25
 - (2) 80-89% L/M = 20
 - (3) 70-79% L/M = 15
 - (4) 60-69% L/M = 10
 - (5) 51-59% L/M = 5
 - (6) 0 -50% L/M = 0
 - b. Management Capacity (provided by DSHA staff): Each applicant's management capacity for each of the activities proposed will be evaluated on the basis of the most recent monitoring report(s), current or proposed staff qualifications, progress achieved in completing its current CDBG Program (if applicable), and most recent audit report(s) (if applicable). Up to 5 points as follows:
 - (1) outstanding = 5
 - (2) above standard = 3

- (3) standard = 1
- (4) below standard = 0 (no allocation)

c. Cost/benefit of Activity: Each proposed activity will be evaluated on the basis of the following factors. Up to 70 points as follows:

- (1) severity of need, including the number, percent and geographic concentration of low/moderate-income families; number, percent and geographic concentration of substandard housing; number, percent and geographic concentration of housing needing public facilities; emergency status:

<u>Points</u>	<u>Need</u>
1	not documented
8	moderate
15	severe

- (2) holistic impact of activity, meaning, the degree (percentage, from Section IV. B. and C. of application) to which the identified need(s) for the activity(ies) is/are proposed to be addressed:

<u>Points</u>	<u>Impact</u>
1	low
8	moderate
15	high

- (3) cost reasonableness, meaning, the reasonableness of the proposed program activity costs taking into account construction estimates and the availability of other resources:

<u>Points</u>	<u>Cost/Reasonableness</u>
1	low
8	moderate
15	high

- (4) leveraging of other resources, meaning extent to which other firm, committed funding sources are identified:

<u>Points</u>	<u>Other Resources</u>
1	minimal or no match
8	moderate match
15	significant match

- (5) suitability/feasibility of work plan, meaning the extent to which the applicants proposed scope of work will realistically be accomplished within the next fiscal year:

<u>Points</u>	<u>Plan Feasibility</u>
1	poor
3	fair
5	good

- d. Targeting Areas of Minority Concentration: Applications showing a greater benefit to areas of minority concentration (see Section I.E.2.g.) for similar activities will be rated higher than those showing a lesser benefit to areas of minority concentration. Up to 5 points as follows:

<u>Points</u>	<u>Minority Targeting</u>
1	poor
3	fair
5	good

- e. An oral presentation by the applicant to the review panel will supplement the application scores and serve as a factor in the panel's final decision.

2. Review Panel Recommendations

DSHA staff will prepare a summary evaluation of all applications received, which will include the scores for each proposed activity as described in V.B. above, and a descriptive summary of the review panel's comments and recommended priorities for funding.

C. Director of DSHA

The Director of DSHA will make the final decisions on allocating CDBG funds, based upon the review panel(s) recommendations and any additional relevant information obtained subsequent to those recommendations. Such additional information will only be considered if it reflects a substantive change in the application review criteria noted in Section V.B.1. above.

D. Allocations

Allocations to specific activities will be based on approved contract budgets. The maximum allocation for any single applicant shall not exceed \$1,100,000 in any program year. Applicants should be aware that a total of approximately \$2,000,000 is expected to be available for program activities. An allocation exceeding \$500,000 would **need to** be extremely competitive.

VI. Additional Funding

A. Program Income Returned to Unit of Local Government

1. Program income means amounts earned by a unit of general local government or its subrecipient that were generated from the use of CDBG funds allocated by the State in a contract with a unit of general local government.
2. The use of program income is subject to all the applicable requirements of federal law, HUD regulations and program memoranda, and the general requirement of these Program Guidelines, which are consistent with said law, regulations and program memoranda. Additionally, the specific requirements for Program Income as are contained in the State's Financial Handbook shall also apply.
3. Program income retained by the unit of local government will:
 - a. be added to funds committed to the activity and used to further the same program activity as the income was derived;
 - b. not be used to pay administrative costs; and
 - c. be expended before additional funds are drawn down from DSHA for the same activity.
4. Program income not authorized for retention and expenditure by the unit of local government will be returned to the State.

B. Program Income Returned to the State of Delaware

Section 104(i) of the Housing and Community Development Act of 1974, as amended by the Housing and Community Development Act of 1992, authorizes States to distribute program income when such income has been returned to the State. Program income returned to the State shall be disbursed to communities under open CDBG Contracts prior to making additional draws from the U.S. Treasury. The funds thus freed up shall be allocated in accordance with Section VI.D. below.

NOTE: Program income generated by CDBG rental rehabilitation loan repayments is considered program income of the unit of local government, even though such repayments are made directly back to DSHA through its loan servicing agreement. All such program income will be distributed to the appropriate unit of local government in accordance with the provisions of Section VI.A. above.

C. Reallocated/Supplementary Funds

Reallocated funds are those HUD has recaptured from a Small Cities subgrantee and "reallocated" to Delaware. If Delaware should receive any "reallocated funds" from HUD for distribution as part of the FY14 CDBG Program, these funds shall be allocated in the same manner and under the same conditions as described in Section VI.D. below. Supplementary funds are those funds that HUD may award to the State after July 1, 2014, and shall also be allocated in the same manner and under the same conditions as described in Section VI.D. below.

D. Recaptured/Remaining Funds

1. Recaptured funds are those CDBG funds which remain unobligated after a CDBG contract has either been closed out or terminated; or after it has been determined that the total amount of CDBG funds originally allocated in a given contract are not required to complete the proposed activity for which they are allocated.

Remaining funds are funds for which a method of distribution was contained in a prior year's Program Guidelines, but which have not been, and are no longer intended to be so distributed. Remaining funds may also be an amount left over after the state has awarded all of its contracts, but the left over amount is too small to fund an application.

2. Recaptured/remaining funds that shall be received from its recipients by June 15, 2014, shall be included as part of the FY2014 allocations in accordance with all applicable requirements of these Program Guidelines.
3. Recaptured/remaining funds that shall be received from its recipients after June 15, 2014 shall be set aside for the following purposes:
 - a. To provide additional funding for any activity already under contract so long as the total amount of funds allocated does not exceed the \$1,100,000 maximum allocation for any single applicant; in those cases where an unforeseen situation may have arisen after the original contract budget had been approved (the burden of proof will rest with the applicant); or when the activity has not been funded in the total amount originally requested;
 - b. To fund emergency activities and infrastructure for housing development that were not previously submitted as part of the FY2014 CDBG Program and the need for which may have arisen after the deadline for FY 2014 applications has passed. The \$1,100,000 maximum allocation of CDBG funds for any single applicant in any program year shall apply;

- c. At the discretion of the Director of DSHA, eligible applications not originally recommended for funding because of limited resources may be reconsidered for funding after approved activities noted in (a) and (b) above have been funded; and
- d. The priorities for distributing funds under this part shall be in accordance with the state's method of distribution found in Section V.

E. Combining Other Funding to Comprehensively Address Rehabilitation Needs

- A. Again in FY14, greater emphasis will be given to applications, which take a holistic approach to community development through comprehensively combining all funding sources, one community at a time. DSHA expects applications responsive to this change in emphasis to combine smaller CDBG funding requests with HRLP AND HPG funding in target areas. Where these other sources of funding are used to comprehensively address rehabilitation needs and to lessen the demand on CDBG rehabilitation funding, greater consideration will be given to CDBG infrastructure requests. As a result, rehabilitation needs will be comprehensively addressed, more CDBG funds will be available for infrastructure activities, and community development needs in general will be holistically addressed. In the scoring of applications, strong emphasis is given to leveraging, and, leveraging funds must be shown and identified in activity budgets. Letters of commitment signed by a majority of the board/council committing the match, and including the source of the match, must accompany any applications claiming to have matching funds.

VII. Waivers of Policy

The Director of DSHA may waive any requirement of these Policies not required by federal/state law or federal regulation, whenever it is determined that undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Delaware CDBG Program. Waivers shall be made in writing, citing the policy provision to be waived, the authority for the waiver, and be supported by documentation of the pertinent facts. Where only a portion of the policy provision is to be waived, the waiver must expressly limit itself to that portion.

Attachment A to the Delaware CDBG Program Guidelines

REVISED INCOME LIMITS
(EFFECTIVE 12/11/12)

	<u>Kent County</u>			<u>Sussex County</u>		
	30% of Median	Low	Moderate	30% of Median	Low	Moderate
1 Person	\$13,950	\$23,250	\$37,150	\$12,500	\$20,850	\$33,350
2 Person	\$15,950	\$26,550	\$42,450	\$14,300	\$23,800	\$38,100
3 Person	\$17,950	\$29,850	\$47,750	\$16,100	\$26,800	\$42,850
4 Person	\$19,900	\$33,150	\$53,050	\$17,850	\$29,750	\$47,600
5 Person	\$21,500	\$35,850	\$57,300	\$19,300	\$32,150	\$51,450
6 Person	\$23,100	\$38,500	\$61,550	\$20,750	\$34,550	\$55,250
7 Person	\$24,700	\$41,150	\$65,800	\$22,150	\$36,900	\$59,050
8 Person	\$26,300	\$43,800	\$70,050	\$23,600	\$39,300	\$62,850

Higher income limits apply to families with more than eight persons, although they are not included in the printed State lists because of space limitations. The lower income limits for families larger than eight persons are determined by adding 6.25 percent of the four-person income limit base to the eight-person limit for each person in excess of eight. For very low-income limits, 8 percent of the four-person base is added to the eight-person limit for each person in excess of eight (e.g., the nine-person very low limit equals 1.4 (1.32 + .08) times the four-person limit.) The limits developed by the use of these factors are to be rounded to the nearest \$50.

Attachment B to the Delaware CDBG Program Guidelines

LIST OF LOW/MODERATE-INCOME BENEFIT FIGURES
IN KENT AND SUSSEX MUNICIPALITIES (FY2013 HUD LMISD)

<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>	<u>Place Number</u>	<u>City / Town</u>	<u>% Persons Low/Mod</u>
07250	Bowers	42.1%	60290	Rehoboth B.	26%
10760	Camden	30.1%	64320	Seaford	50.5%
14660	Cheswold	58.7%	64840	Selbyville	43.6%
15440	Clayton	33.5%	67050	Slaughter B.	40.9%
21387	DAFB Housing	54.7%	67700	S. Bethany	12.3%
25840	Farmington	36.6%			
26620	Felton	35%			
28440	Frederica	49.4%			
33120	Harrington	53.5%			
33250	Hartly	51.9%			
36760	Houston	40%			
39100	Kenton	51.7%			
41700	Leipsic	45.5%			
42870	Little Creek	44.6%			
44430	Magnolia	32.1%			
47420	Milford	47.5%			
67310	Smyrna	44.1%			
74330	Viola	26.3%			
80830	Woodside	31.4%			
81350	Wyoming	25.8%			
05690	Bethany Beach	18.5%			
05820	Bethel	35.3%			
06730	Blades	55.7%			
08680	Bridgeville	55.6%			
18950	Dagsboro	38.9%			
20380	Delmar	55.3%			
20900	Dewey Beach	19.6%			
24020	Ellendale	44.7%			
26880	Fenwick Island	21.3%			
28310	Frankford	49.6%			
29090	Georgetown	54.9%			
31560	Greenwood	47.8%			
33900	Henlopen Acres	9.2%			
41310	Laurel	55.8%			
41830	Lewes	24.7%			
47420	Milford	47.5%			
47940	Millsboro	53.8%			
48200	Millville	35.5%			
48330	Milton	46.6%			
53920	Ocean View	24.8%			

Attachment C to The Delaware
CDBG Program Guidelines

CERTIFICATIONS BY APPLICANTS
FOR
THE DELAWARE CDBG PROGRAM

The applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required.
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
 - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.);

- 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated May 15, 2010 and Section 508 of the Housing and Community Development Act of 1987; and
 - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

"...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals..."
- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the applicant certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
 - (e) Its chief executive officer or other officer of the applicant approved by DSHA:
 - (1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1 (a)(3) and carry out this responsibility in accordance with the "Overview of Environmental Review Procedures" issued for the Delaware CDBG Program and dated July 1989; and meet the requirements of 24 CFR Part 58 and 24 CFR 570.604; and
 - (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.
 - (f) The program will be conducted and administered in compliance with:
 - (1) Title VI of the Civil Rights Act of 1964 (Pub. L 88-352) and implementing regulations issued in 24 CFR Part 1;
 - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
 - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);

- (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
- (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the State review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
- (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
- (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
- (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;
- (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
- (10) The labor standards requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
- (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
- (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
- (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
- (14) Section 106 of the National Historic Preservation Act of 1966, as amended via the Advisory Council on Historic Preservation's Regulations, Protection of Historic and Cultural Properties (36 CFR 80);
- (15) The provisions of the Hatch Act, which limits the political activity of employees; and

- (16) The lead-based paint requirements of 24 CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).
- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with the HUD Standards of Conduct issued on November 1, 1985.
- (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.
- (i) It will give HUD, DSHA, the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.
- (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended, and agrees to participate in fair housing planning by cooperating in any analysis to identify impediments to fair housing choice within the jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and to maintain records reflecting the analysis and actions in this regard.
- (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts.

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY14 Program Guidelines shall govern the use of the assistance provided by the State to local government units in FY14-FY15.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
 - 2) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income, who are not persons of very low income.

- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).

Signature of Authorized Official Date

Title of Official

Attachment D to the Delaware
CDBG Program Guidelines

DSHA-35

**SECTION 8 EXISTING FAIR MARKET RENTS
AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS**

I. FAIR MARKET RENTS - (Revised 10/1/13)

KENT COUNTY					
0-BR	1-BR	2-BR	3-BR	4-BR	Manufactured (Mobile) Home Space
600	768	910	1,274	1,608	364

SUSSEX COUNTY					
0-BR	1-BR	2-BR	3-BR	4-BR	Manufactured (Mobile) Home Space
603	616	834	1,138	1,608	333

**II. CONTRACT RENT ANNUAL ADJUSTMENT FACTORS FOR UNITS WITH NO
TURNOVER - (Effective 5/22/13 - Revised 5/22/13)**

HIGHEST COST UTILITY		
	Included	Excluded
Southern Region	1.026	1.024

NOTE: The Annual Rent Adjustment Factors shown above may be used by investors/owners after the first year of the rehabilitation loan. However, the rents charged by investors/owners may not exceed the current Fair Market Rents for the duration of the loan.

**DELAWARE STATE HOUSING AUTHORITY (DSHA)
FY14 DELAWARE CDBG APPLICATION FORM**

I. General Application Information

A. Name, address, phone number, DUNS number, and EIN number of Applicant:

B. Name, position and signature of Person Submitting Application:

Signature and Date:

C. Application on behalf of:

--

Name and position of authorizing official:

Signature and Date:	

D. For “On Behalf of” applications, written documentation authorizing each “on behalf of” application request must be attached as Exhibit 1. If information contained in a county’s application for its unincorporated areas is to be repeated in the body of the “on behalf of” applications, e.g. administrative budget, management capacity, etc., then these sections contained in the “on behalf of” applications may simply reference the appropriate section in the county’s application.

E. Name, address and phone number of Contact Person (if different from B above):

--

F. Summary of Request:

(Attach cost breakdown for each activity requested on page two. Activities must be in order of priority).

Total Units/Low-Moderate Income Units Served: _____/_____
Total CDBG Program Funds Requested: \$ _____
Total Cash Matching Funds: \$ _____
Total In-Kind Match Value: \$ _____
Total Program Cost (if different from amount requested) \$ _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____/_____
Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____/_____
Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____/_____
Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____/_____
Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

Activity: _____ Amount Requested: \$ _____
Total/L-M Units Served: _____/_____
Cash Matching Funds: \$ _____
CDBG Cost/Unit: \$ _____ In-Kind Value: \$ _____
Total Activity Cost (if different from amount requested): \$ _____
Census Tract Number(s) (L-M Area Benefit activities): _____
Outcome Statement: _____

(Attach additional pages as necessary.)

II. Low/Moderate-Income Benefit:

LOW/MODERATE-INCOME BENEFIT TABLE – INSTRUCTIONS

The amount of benefit to low- and moderate-income persons must be calculated for each activity, as described below:

1. In column 1, list the activity.
2. In column 2, show the total number of persons that the activity will serve.
3. In column 3, show the number of low- and moderate-income persons that the activity will serve.
4. In column 4, divide column 3 by column 2 to show the percent of low- and moderate-income persons that the activity will serve.
5. In column 5, show the amount of funds requested for the activity.
6. In column 6, multiply column 4 by column 5 to show the amount of those funds that will be used to benefit low- and moderate-income persons.
7. List the source of data used to calculate benefit in the space provided at the bottom of this page. If a local survey was conducted, briefly summarize the survey method used and attach a copy of the survey instrument. (DASHA should be contacted before the survey is conducted to assure that the acceptable survey methodology is being used, or that prior surveys are still valid.)

LOW/MODERATE-INCOME BENEFIT TABLE

1. Activity	2. Total Persons Activity Will Serve	3. L/M Persons Activity Will Serve	4. % L/M Persons Activity Will Serve	5. Amount Requested For Activity	6. Amount L/M Benefit

Source of Data:

III. Management Capacity

- A. List the person(s) to be responsible for administering the CDBG Program, and title(s):

<u>CDBG Personnel</u>	<u>Title(s)</u>

- B. Attach resumes or other supporting documentation for the personnel of new applications and new CDBG Program managers, which establishes the capacity of the personnel above to effectively manage a CDBG Program. **Attach the salaries of all program administration personnel to be funded through CDBG funds.**
- C. If the applicant proposes to contract out any portion of its administration, a copy of the proposed subcontract **must be** attached.
- D. Past performances under the Delaware CDBG Program will be evaluated by DSHA based upon past monitoring reports, audit findings, and timely completion of contracts. No additional documentation is required of the applicant under this section.

IV. Application Work Plan

Each proposed program activity must address each of the following areas. Failure to specifically address any of these elements will make the application incomplete, forcing DSHA to consider the application unresponsive.

- A. Each program activity must be addressed separately. Program activities must be listed in order of priority with the program activity of highest priority first. This order of priority for program activities must be followed on all forms contained in this application.
- B. Each program activity must be fully described. For rehabilitation programs, this description must include THE NEED FOR THE PROPOSED ACTIVITY, the numbers of units to be rehabilitated, any special population groups the rehabilitation program will address, the target area, the NUMBER OF UNITS NEEDING REHABILITATION ASSISTANCE, THE PERCENTAGE OF UNITS NEEDING ASSISTANCE THAT ARE TO RECEIVE ASSISTANCE, AND THE PROPOSED OUTCOME.
- C. For public infrastructure projects, a detailed description of the work to be accomplished, the need for the proposed activity, the target area, the linear footage of what type and size of infrastructure to be provided, the NUMBER OF UNITS NEEDING INFRASTRUCTURE ASSISTANCE, THE PERCENTAGE OF THE UNITS NEEDING ASSISTANCE THAT ARE TO RECEIVE ASSISTANCE, THE PROPOSED OUTCOME, the location of what type and size of land acquisition, the matching funds to be provided, and the population groups to be addressed must be provided.
- D. Provide a timetable showing monthly milestones for completion of each activity. All FY14 Contracts will commence on July 1, 2014 and terminate on June 30, 2015.
- E. Attach maps indicating target areas.
- F. Attach drawings, plans, or other documentation necessary to describe program activities.
- G. Describe each activity's conformance with the goals and objectives of the Delaware Consolidated Plan.
- H. Describe the extent to which the proposed project(s) will result in a measurable concrete reduction of one or more significant problems identified in the Delaware Consolidated Plan.
- I. Describe the extent to which the project builds upon previous work or supplements other work that will be funded from other sources.

- J. Analyze the reasonableness of total cost in view of the cost benefit(s) to be achieved.
- K. Describe source and amount of any funds used to leverage the CDBG portion of the project. Indicate when these funds will be available. Attach documentation of any match.
- L. Describe any in-kind resources to be applied to the project. Attach documentation of any match.
- M. Attach documentation of any match. Matching resolutions must be signed by a majority of Board/Council members and must include the source of funds.
- N. For infrastructure projects, a description of why the jurisdiction is unable to pay for the activity without CDBG assistance.

V. Each application should also describe the following:

- A. Describe any plans for the provision of housing for existing residents and anticipated growth for the area;
- B. Describe any plans for the provision of adequate sites with supporting infrastructure for future housing, including housing for low/moderate-income residents of the area; and
- C. Describe any efforts to coordinate with businesses regarding the development of the community as it affects low/moderate-income residents of the area.

VI. Application Submission

1. Submission Date for the FY14 CDBG Program

Applications for the state's FY14 CDBG Program must be received in DSHA's office at 18 The Green, Dover, Delaware 19901 no later than **4:00 p.m on February 27, 2014** ONE SIGNED ORIGINAL AND TWO COPIES of the application must be submitted.

2. Application Content and Format

Applications for CDBG funds must be made on such forms and in accordance with such instructions as are prescribed by DSHA, and include all forms as may be applicable to the specific proposed activity.

VII. Additional Requirements

- A. Re-Use Plan.
- B. Rehabilitation Manual.
- C. Target Area Approval.
- D. Boards and Commissions Reporting Form.
- E. Form HUD-2880 (Disclosure/Update Report).

STATE OF DELAWARE
 DELAWARE STATE HOUSING AUTHORITY
DELAWARE CDBG PROGRAM – PROJECT COST SUMMARY

CONTACT PERIOD – FROM: _____ TO: _____

Summary of Program Activities
 Amount of Source

I. PROGRAM ACTIVITIES	CDBG/HOME PROGRAM FUNDS	LOCAL FUNDS	OTHER FUNDS	TOTAL
A.				
B.				
C.				
D.				
E.				
F.				
G.				
H.				
I.				
J.				
TOTAL PROG. ACTIVITY COST				
II. ADMINISTRATION				
A. SALARIES				
B. OTHER EMPLOYMENT COSTS				
C. TRAVEL				
D. CONTRACTUAL SERVICES				
E. SUPPLIES & MATERIALS				
TOTAL ADMINISTRATION COSTS				
III. TOTAL PROGRAM COSTS				

NOTES:

1. * Denotes Cash Match
2. ** Denotes In-kind Match
3. List Sources of Each Match Amount on Additional Page

CERTIFICATION BY APPLICATIONS
FOR
THE DELAWARE CDBG PROGRAM

The application hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements with respect to the acceptance and use of Federal funds for this federally-assisted program. Also, the applicant gives assurance and certifies with respect to the program that:

- (a) It possesses legal authority to make an application and to execute a community development program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the applicant to submit this application, all understanding and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the submission of the application and to provide such additional information as may be required.
- (c) That prior to submission of its application to DSHA, the applicant has met the following citizen participation requirements:
 - 1) Each applicant shall have provided all citizens, especially those living within the area(s) affected by the proposed application, with adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation and assessment of its community housing and development plans and all CDBG applications related thereto. At the time of preparation of any application for funds under this program, the applicant shall provide adequate information to citizens including reasonable access to records on the past use of CDBG funds; and hold at least one public meeting (pursuant to advertisement in a publication of general local circulation) so that citizens will have the opportunity to comment on the community's past performance under the CDBG Program. A copy of the legal advertisement announcing the date, place and time of the meeting, and a transcript or summary of the comments received at the meeting must be included with the application. (Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.);
 - 2) Each applicant certifies that it has obtained the review and comment of its Community Development Advisory Committee as required by the Delaware CDBG Citizen Participation Plan dated May 15, 2010 and Section 508 of the Housing and Community Development Act of 1987; and
 - 3) Each applicant certifies that it has included in its notice of public meeting the following language:

“...In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals...”
- (d) It has developed its application so as to give maximum feasible priority to activities which benefit low-and moderate-income families or aid in the prevention or elimination of slums and blight; and activities which the application certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs.
- (e) Its chief executive officer or other officer of the applicant approved by DSHA:
 - (1) Consents to assume the state of a responsible Federal official under the National Environmental Policy Act of 1969 and other authorities as specified in 24 CFR 58.1(a)(3) and carry out this responsibility in accordance with the “Overview of Environmental Review Procedures” issued for the Delaware CDBG Program and dated July 1989; and meet the requirement of 24 CFR Part 58 and 24 CFR 570.604; and

- (2) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.
- (f) The program will be conducted and administered in compliance with:
- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations issued in 24CFR Part 1;
 - (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
 - (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);
 - (4) Section 3 of the Housing and Urban Development Act of 1968, as amended and implementing regulations of 24 CFR Part 135;
 - (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60; and the state review requirements of the Architectural Accessibility Act (Chapter 73, Title 29, Delaware Code) and the applicable rules and regulations promulgated by the State Architectural Accessibility Board;
 - (6) Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
 - (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations at 24 CFR Part 8;
 - (8) The Age Discrimination Act of 1975 (Pub. L. 94-135) and implementing regulations when published;
 - (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR Part 42 and all applicable regulations of the Delaware Uniform Relocation Act (Chapter 93, Title 29, Delaware Code);
 - (10) The labor standard requirements as set forth in 24 CFR, Parts 3 and 5, and HUD regulations issued to implement such requirements;
 - (11) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
 - (12) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
 - (13) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, A-87, A-110, A-122, and A-133 as they relate to the acceptance and use of Federal funds under this federally-assisted program and the Delaware CDBG Financial Management Handbook;
 - (14) Section 106 of the National Historic Preservation Act 1966, As amended via the Advisory Council on Historic Preservation's regulations, Protection of Historic and Cultural Properties (36 CFR 80);
 - (15) The provisions of the Hatch Act, which limits the political activity of employees;
 - (16) The lead-based paint requirements of 24CFR Part 35, Subpart B issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et. seq.).

- (g) It will comply with the CDBG Regulation CFR 570.611, which prohibits conflicts of interest and with HUD Standards of Conduct issued on November 1, 1985.
- (h) No member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the program assisted under the CDBG Program, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
- (i) It will give HUD, DSHA and the State Auditor and the Federal and State Comptroller Generals or any authorized representatives access to all records, books, papers, or documents related to the CDBG Program.
- (j) It certifies to affirmatively further fair housing in accordance with Section 104(b)(2) of the Act as amended, and agrees to participate in fair housing planning by cooperating in any analysis to identify impediments to fair housing choice within the jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and to maintain records reflecting the analysis and actions in this regard.
- (k) Because HUD has not issued final regulations implementing the 1983 and 1984 amendments to the Housing and Community Development Act of 1974, as amended, the following "special condition" is incorporated into these Program Guidelines as a certification by the applicant and will also be utilized in all CDBG contracts:

Notwithstanding any other provisions of these Program Guidelines, requirements of the Amendments to Title I of the Housing and Community Development Act of 1974, and HUD's final regulations related thereto, which supersede or are not provided in the FY14 Program Guidelines shall govern the use of the assistance provided by the state to local government units in FY14-FY15.

- (l) It will not attempt to recover any capital costs of public improvements assisted in whole or part with the Title I funds by assessing any amount against properties owned and occupied by persons of low-and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 - 1) assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or
 - 2) for purposes of assessing any amount against properties owned and occupied by persons of low- and moderate-income who are not persons of very low income.
- (m) It certifies to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-44, (the 1990 HUD Appropriations Act).

Date

Signature of Authorized Official

Title of Official

- A. The following exhibits should be attached to the application, as applicable, in order noted below:
1. Authorization for “on behalf of” applications.
 2. A copy of the notice of public hearing and summary of comments received.
 3. Activities Under the Existing Housing Set Aside:
 - a. Rehabilitation:
 - 1) Copy of rehabilitation manual;
 - 2) Re-use plan for program income generated by rental rehab;
 - 3) DSHA target area approval attached;
 - 4) Identification of amount of funds and number of units to be accomplished in approved target areas and community-wide; and
 - 5) Identification of mobile home units to be rehabilitated including number owner-and/or renter-occupied.
 - b. Demolition:
 - 1) Amount of funds and units to be accomplished in approved target areas and community-wide identified; and
 - 2) Re-use Plan for program income from demolition liens attached.
 4. Activities Under Infrastructure Project Set Aside:
 - a. Water and Sewer:
 - 1) Letters from appropriate agencies documenting serious and immediate threat attached;
 - 2) Documentation attached demonstrating community’s inability to finance project without CDBG funds, including
 - a) letters from other grantor agencies
 - b) financial statements
 - c) financial analysis
 - 3) Letters from community or appropriate agencies documenting commitment and source of matching funds.
 5. Activities Under Emergency Project Set-Aside:
 - a. Water and Sewer:
 - 1) Letters from appropriate agencies documenting serious and immediate threat attached;
 - 2) Documentation attached demonstrating that condition developed or became critical within 18 months of application; and
 - 3) Documentation attached demonstrating community’s inability to finance project without CDBG funds, including
 - a) letters from other grantor agencies
 - b) financial statements
 - c) financial analysis



PUBLIC WORKS DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

NOTICE

To: Residents in Vicinity of Washington St. Water Tower
RE: Washington Street Production Well Project



Please be advised that the City will be conducting some investigatory drilling work at the Elevated Water Tank site along Washington Street. Work is scheduled to begin the morning of **Monday, September 30, 2013** and continue through the night into the following day. These drilling activities are not quiet and will create a significant amount of noise at times. Please note this will only be a temporary inconvenience and should not last more than one day.

This investigatory work must be completed to identify the optimal location for our new production well to be constructed as part of the Washington Street Water Treatment Facility Replacement project. We appreciate your understanding and will make every effort to minimize any negative impacts that may result.

PUBLIC NOTICE
ORDINANCE NO. 2013-07
AN ORDINANCE AMENDING CHAPTER 200 - SUBDIVISION OF LAND

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

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

AN ORDINANCE TO AMEND Chapter 200-Subdivision of Land, §200-5 General requirements and design standards of the Code of the City of Milford.

Section 1. Amends §200-5 General requirements and design standards (H) Improvements (4) to read as follows:

The developer shall pay the review and inspection fees as set forth in Chapter 230, Zoning, § 230-57, ~~Planning and zoning fees.~~ **PLANNING, AND ZONING AND ENGINEERING FEES.** The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.

Section 2. All ordinances or parts of ordinances previously adopted and in conflict with this ordinance are hereby repealed.

Section 3. Dates.

Introduction to City Council: September 9, 2013

City Council Review and Public Hearing: September 23, 2013

Section 4. The Ordinance shall become effective no sooner than Ten Days after Adoption by City Council.

A complete copy of the Code of the City of Milford is available by request through the City Clerk's Office or by accessing the website cityofmilford.com.

By: Terri K. Hudson, MMC
City Clerk

Words stricken are deletions; words underlined are additions.



Sylvia Henderson, Ed.D.
Director of Student Support

Tammy Korosec, MBA
Chief Financial Officer

Laura L. Manges, M. Ed.
Director of Special
Education

Travis Moorman, M. Ed.
Director of Teaching/Learning

Glen Stevenson, Ed.D.
Supervisor of
Buildings & Grounds

Paul Waimsley, Ed.D.
Director of Personnel

September 16, 2013

Dear Members of Milford City Council:

The Milford School District has been working on constructing a new agri-science building that will serve as an additional teaching area/lab for students in the agri-science pathway. As a part of this pathway, under the title of Animal Science I, II, and III, students will “learn to identify economically important breeds of livestock and companion animals” and “develop safety procedures to use in animal science” [as well as] analyze livestock, and learn about the health care of animals. In meeting the state wide requirements for Animal Science, students will be involved in a hands-on program that prepares them for the care, raising, handling, sale, etc. of animals as they explore careers in a variety of areas including becoming a veterinary technologist. Due for the need of direct exposure to a variety of animals, there will be times when the animals will be on the premises overnight or for longer periods of time. Please be assured that our ag barn will be equipped with a dry sprinkler system required for the housing of animals overnight as per state regulations. Milford High School has a very active FFA (Future Farmers of America) group that will work and care for the animals in preparation for the Delaware State Fair. In that case, smaller animals such as goats, sheep, or even pigs could be on the premises from approximately March through June in preparation for being taken to the Fair and sold.

According to the City Code, Article III, Prohibited Animals, we must appeal to the City of Milford for a waiver of subsection 79-13: Keeping or slaughtering of certain animals within City limits. In doing so, we realize that we must abide by any regulations placed upon us in regards to keeping animals overnight on our premises. Again, please know that we do not wish to “raise” animals as a normal practice at the Milford High School Agri-Science facility, and we will not be “slaughtering” any animals. Our primary plan is to temporarily house animals in the facility for a few months leading up to a major competition or showing such as the State Fair.

If further information is needed, please feel free to contact me at any time.

Sincerely,

A handwritten signature in black ink that reads "Phyllis Kohel". The signature is written in a cursive, flowing style.

Phyllis Kohel, Ed.D.

ARTICLE III - Prohibited Animals

§ 79-13. - Keeping or slaughtering of certain animals within City limits.

§ 79-14. - Exception for parade animals.

§ 79-15. - Violations and penalties.

§ 79-13. - Keeping or slaughtering of certain animals within City limits.

No person shall keep or slaughter any swine, cow, bull, sheep, goat, goose, duck, hen, rooster, turkey or like animal or other farm animal within the City of Milford unless in conformity with Chapter 230, Zoning, and properly licensed and inspected by the appropriate state agencies.

§ 79-14. - Exception for parade animals.

Animals used in parades where a City of Milford parade permit has been issued are exempt from the provisions of this chapter.

§ 79-15. - Violations and penalties.

Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$100 but not more than \$500, plus the costs of prosecution.

ADVERTISEMENT FOR BIDS

**City of Milford
201 S. Walnut Street
Milford, Delaware 19963**

Sealed bids for the necessary labor, equipment, and materials as specified for the construction of 138kV Transmission Line will be received by The City of Milford, Delaware at City Hall, 201 S. Walnut Street, Milford, Delaware, at 2:00 p.m. local time on Thursday, September 5, 2013, at which time they will be publicly opened and read. Proposals shall be addressed to 201 S. Walnut Street, Milford, Delaware, 19963, Attention: Ms. Terri Hudson.

The Contract Documents may be examined at the following locations:

City of Milford, City Hall	Milford, Delaware
Progressive Engineering Consultants, Inc.	Charlotte, North Carolina

Copies of the Contract Documents may be obtained at the office of Progressive Engineering Consultants, Inc., P.O. Box 690638, Charlotte, N.C., 28227, (physical address 4700-D Lebanon Road, Charlotte, NC 28227) or by telephone (704)545-7327.

A certified check payable to The City of Milford, Delaware or a satisfactory Bid Bond executed by a Corporate Surety licensed under the laws of Delaware to execute such bonds in the amount equal to five (5) percent of the total bid price shall be submitted with each bid. Bid proposals may not be withdrawn for ninety (90) days after the date of receipt of bids.

The successful bidder shall be required to furnish a separate one hundred (100) percent Performance Bond on the forms included as a part of the Contract Documents. The Performance Bond shall be in full force and effect for twenty-four (24) months after the date of final acceptance of the equipment by The City of Milford, Delaware

The bid deposit or bid bond shall be retained by The City of Milford, Delaware if the successful bidder fails to execute the contract or fails to provide the required performance bonds, as stated above, within ten (10) days after award of the contract.

The City of Milford, Delaware reserves the right to reject any or all bid proposals and to accept any bid proposal which is deemed to be in their best interest.

CITY OF MILFORD, DELAWARE

By _____

Title _____

CITY OF MILFORD, DELAWARE - BID TABULATION

138 kV TRANSMISSION LINE

E: THURSDAY, SEPTEMBER 5, 2013 @ 2:00 PM

BIDDER	<u>T&D Solutions</u>	<u>CW Wright</u>	<u>Richardson Wayland</u>	<u>Miller Bros</u>	<u>Barnard Construction</u>	<u>Williams Electric</u>
BID BOND	Yes	Yes	Yes	Yes	Yes	No Bid
COMPLETION TIME (Calendar Days)	149	200	250	180	129	No Bid

LABOR & MATERIALS AS SPECIFIED:

<u>INSTALLATION UNITS</u>						
Pole Units	\$ 1,032,245.00	\$ 901,437.00	\$ 1,188,493.80	\$ 1,787,579.00	\$ 1,716,900.00	No Bid
138 kV Pole Top Units	\$ 133,900.00	\$ 151,084.00	\$ 72,347.64	\$ 362,966.00	\$ 214,000.00	
25 kV Pole Top Units	\$ 244,000.00	\$ 433,206.00	\$ 723,966.30	\$ 725,835.00	\$ 761,200.00	
Conductor Units/1000 ft.	\$ 355,117.80	\$ 614,024.11	\$ 689,683.94	\$ 1,048,711.58	\$ 2,267,807.00	
Transformer Units	\$ 19,700.00	\$ 53,351.00	\$ 31,261.40	\$ 73,780.00	\$ 119,000.00	
Miscellaneous Units	\$ 259,416.64	\$ 576,276.00	\$ 651,068.58	\$ 705,512.00	\$ 1,031,145.00	
Subtotal, Installation Units	\$ 2,044,379.44	\$ 2,729,378.11	\$ 3,356,821.66	\$ 4,704,383.58	\$ 6,110,052.00	
<u>REMOVAL UNITS</u>						
Pole Units	\$ 6,950.00	\$ 132,452.00	\$ 76,438.75	\$ 366,111.00	\$ 166,800.00	
Pole Top Units	\$ 25,200.00	\$ 79,040.00	\$ 41,269.75	\$ 100,560.00	\$ 200,200.00	
Conductor Units/1000 ft.	\$ 93,381.40	\$ 92,138.57	\$ 304,257.44	\$ 244,029.34	\$ 279,038.00	
Transformer Units/1000 ft.	\$ 4,670.00	\$ 21,554.00	\$ 17,763.93	\$ 21,945.00	\$ 24,450.00	
Miscellaneous Units	\$ 123,488.00	\$ 446,118.00	\$ 183,583.98	\$ 8,012.00	\$ 800,590.00	
Subtotal, Installation Units	\$ 253,689.40	\$ 771,302.57	\$ 623,313.85	\$ 740,657.34	\$ 1,471,078.00	
TOTAL UNITS	\$ 2,298,068.84	\$ 3,500,680.68	\$ 3,980,135.51	\$ 5,445,040.92	\$ 7,581,130.00	

Accurate	Accurate	Calculation corrections Incomplete Bid	Calculation corrections	Accurate
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Rock removal / drilling per cu. Yard steel pole foundation	\$1,200.00	\$2,200.00	\$3,100.00	\$1,800.00	\$2,000.00
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Unit price per cu yard for concrete added to compensate for over excavation of solid rock.	\$400.00	\$900.00	\$300.00	\$200.00	\$500.00
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Progressive Engineering Consultants, Inc.

P.O. BOX 690638 CHARLOTTE, NC 28227 - 7011

TELEPHONE (704) 545 - 7327

FACSIMILE (704) 545 - 2315

progress@pecinc.net

September 13, 2013

City of Milford
180 Vickers Drive
Milford, DE 19963
Attention: Mr. Rick Carmean

Re: Award Recommendation - 138kV Transmission Line

Gentlemen:

Sealed bids were received, publicly opened, and read on September 5, 2013 for furnishing the necessary labor and equipment for the 138 kV Transmission Line Project. As shown by the enclosed tabulation of five (5) bids received, T&D Solutions, LLC of Kinston, North Carolina submitted the most attractive proposal in the amount of \$2,298,068.84. We recommend that the City accept this proposal as submitted.

Please notify us of your decision in order that we may prepare the necessary contract documents for execution.

Should you have questions or comments, please call our office.

Very Truly Yours,

PROGRESSIVE ENGINEERING CONSULTANTS, INC.

By 
Lloyd G. Weatherman

**LICENSE AGREEMENT
FIBER OPTIC TELECOMMUNICATIONS CABLE**

THIS LICENSE AGREEMENT, made this _____ day of _____, 2013, by and between THE CITY OF MILFORD (MILFORD), an incorporated municipality located in the State of Delaware and _____, created under the laws of the State of _____, hereinafter called Licensee.

WITNESSETH THAT:

WHEREAS, Licensee proposes to install certain facilities in the State of Delaware and will need to erect and maintain aerial fiber optic communication facilities and associated appliances for the telecommunications facilities only (referred to collectively herein as Licensee's facilities) throughout said areas in order to furnish such service, and desires to attach said cables and appliances to certain of Milford's poles and

WHEREAS, to the extent that it may lawfully do so, Milford is willing to permit Licensee to attach its facilities to Milford's poles where, in the sole judgment of Milford, such use will not interfere with Milford's own requirements, including considerations of safety and economy, and will not interfere with the terms of licenses previously granted by Milford to other parties for the use of Milford's poles.

NOW THEREFORE, in consideration of the premises and of the payments to be made by Licensee to Milford as hereinafter set forth, Milford hereby gives its permission to Licensee to attach its facilities upon certain of Milford's poles, subject to the terms, conditions, and covenants contained in this Agreement all of which are hereby specifically agreed to by Licensee namely:

1. Procedure For Attachment of Licensee's Facilities

When Licensee desires to attach to poles owned by Milford, Licensee shall request permission from Milford in writing. Such request will include drawings showing location, numbers, and type of proposed attachments to said Milford poles.

Upon receiving written application by Licensee to Milford of Licensee's desire to install facilities on a pole or poles of Milford, Milford shall determine the changes, if any, required to make each pole accommodate the proposed Licensee's facilities thereon and an estimate the cost of such changes to be paid by Licensee. The decision to replace an existing pole as part of such change shall be within Milford's sole discretion, with due regard for the requirements of Paragraph #3 of this agreement.

- (a) An application fee of \$200 shall be paid with the application and shall include an additional fee of \$10.50 per pole for a Milford representative to compile a preliminary inspection of the poles in order to determine any make-ready requirements. The inspection fee shall be paid in advance and included with the application for attachment to Milford's poles.
- (b) Milford shall complete its make-ready inspection in accordance with a work schedule mutually agreed to between the parties and notify Licensee of the estimated cost of such changes. The estimated cost of such changes shall be paid to Milford prior to the make-ready being completed.
- (c) Upon completion of the changes, Milford shall deliver to Licensee a statement of the actual cost of making such changes. If the actual cost is greater than the estimated cost, Licensee shall promptly pay Milford the difference between the estimated and the actual cost. If the actual cost is less than the estimated cost, Milford shall promptly refund to Licensee the difference.
- (d) "Cost", as used in this section and elsewhere in this Agreement, shall include:
 - (i) all expenses incurred by Milford in performing the work required, including without limitation, the cost of preliminary survey and inspections, materials, labor, engineering, supervision, and other charges, both direct and indirect, customarily charged to any work project under the standard accounting practices of Milford, and
 - (ii) all costs of replacement, if any, relocation and rearrangement of poles and the facilities of Milford thereon, together with the cost of relocation and rearrangement of the facilities of others, if any, at that time lawfully occupying such poles, in order to accommodate Licensee's facilities. If a pole must be replaced in making changes necessary to accommodate Licensee's facilities, the cost of replacement shall be calculated by Milford according to the following formula:

Cost of new pole in place, plus cost of removal of existing pole, plus cost of transferring existing facilities from old pole to new pole, minus the calculated credit for the used life value of the old pole replace, minus salvage value of the old pole, if any. Poles that are 15 years or more in age shall be deemed to have no salvage value.
- (e) Upon mutual agreement between Milford and Licensee, a schedule of unit prices for billing will be established. These prices may be used for billing purposes in lieu of estimates and actual costs.

2. Licensee's Equipment

- (a) Description: Licensee shall file with Milford a written memorandum describing each item of equipment for which Licensee desires approval from Milford for attachment to Milford's poles. No equipment may be attached without Milford's consent, and Licensee specifically agrees that the use of any item of equipment shall be subject to all the terms, conditions and covenants of this agreement.
- (b) Attachment of Licensee's Facilities: Licensee shall have the right to attach its facilities to Milford's poles solely in accordance with the terms and conditions of this Agreement, the facilities attached to any of Milford's poles is limited to not more than one cable, associated equipment, and appliances for its telecommunication facilities. Licensee shall reapply, as provided for in Paragraph 1, and pay an additional pole attachment rental, for any additional cables or future attachments including but not limited to, overlapping or the use of standoff brackets, to Milford's poles. Licensee will be responsible to tag each attachment to ensure proper identification of said fiber optic facility.

3. Regulation of Licensee's Facilities

Licensee's facilities shall be used and its attachments shall be made and maintained by Licensee in accordance with the requirements and specifications of the latest edition of the National Electrical Safety Code in effect from time to time, with Milford's regulations and specifications, and those of any public regulatory body having jurisdiction over Milford, and in a manner that will not conflict with Milford's use of its poles and facilities or with the use of Milford's pole by other parties under present or future licenses to use such poles.

4. Annual Payment Per Pole

The Annual Payment per pole payable by Licensee to Milford shall be \$23.77. Licensee shall pay Milford the Annual Payment per Pole for the first year hereunder prorated through December 31 from the effective date of this Agreement. Payment shall be made based on the number of poles for which Licensee has permission to attach on the date of the effective agreement and each anniversary date hereof.

- (a) Annual pole rental fee prorated for each full month from permit date to December 31. In the event the Licensee shall default in the payment of the Annual Rent per Pole or in any other terms and conditions of this Agreement, and said default shall continue for a period of thirty days past the date Licensee receives written notification for Licensee to cure said default, Milford may terminate this Agreement forthwith by notifying the Licensee in writing of such termination. Payments are subject to a penalty of 1 1/2% per month on the amount due but not paid within 30 days from the date of invoice. In the event collection of any past due payment requires Milford to bring legal action, Milford shall be entitled to recover all reasonable costs and expenses of the suit, including, but not limited to, all attorney fees.

5. Surrender by Licensee

If Licensee gives up and surrenders the use of any pole or poles prior to the expiration of any one year period under this Agreement, the entire rental for such pole or poles for the year shall be considered earned and shall be retained by Milford.

6. Removal at Milford's Request

Should the use of any pole or poles by Licensee be discontinued at the request of Milford, a proportionate abatement of any rent paid in advance for the use of such pole or poles shall be made as of the end of the month in which such use is discontinued at the request of Milford, and Licensee shall have no other or further claim or right against Milford by reason of any discontinued use.

7. Term

The term of this Agreement shall be for one year after the effective date, and thereafter on a year-to-year basis unless cancelled by either party giving the other party 3 months advance written notice.

8. Termination Upon Action of Third Party

During the first year or at any time, upon notice from Milford to Licensee that the use of Milford's poles is forbidden by municipal or other public authorities, or that property owners on whose land the poles are located object to Milford's or Licensee's use, or upon notice from any public regulatory body that it has acquired jurisdiction of the operations of Licensee, the Agreement shall immediately terminate, and Licensee shall forthwith discontinue the occupancy of all poles and shall remove its facilities there from at its own expense, and upon Licensee's failure to do so, Milford shall have the right to cause such discontinuance and removal at Licensee's expense, and no liability shall inure to Milford on account of such discontinuance and/or removal. In the event of a termination of this Agreement pursuant to this Paragraph, rent paid in advance shall be abated as provided in Paragraph #6.

9. Changes in Licensee's Facilities

Licensee shall not at any time make any changes in the location, size, or number of its attachments on Milford's poles without applying for a permit and obtaining Milford's written approval.

10. Facilities of Milford and Third Parties

Licensee shall not interfere with nor disturb the facilities of Milford or the facilities of any other person or company occupying any pole or poles of Milford, under present or future grants for such occupancy, unless permission in writing is first obtained from Milford, and all other licensees with attachments on the poles.

11. Assignment

Licensee shall not assign, transfer nor sublet any of the privileges described in this Agreement without prior consent in writing of Milford. However, that Licensee may by providing written notice to Milford assign this entire Agreement to any wholly owned subsidiary of Licensee.

12. Licenses and Permits

Nothing herein contained shall be construed to confer upon Licensee any rights of property in the poles of Milford, nor to constitute a guarantee to Licensee of permission from municipal or other public authorities or property owners to occupy the poles of Milford. On the contrary, prior to installing its facilities as herein provided, Licensee shall obtain (and shall maintain for as long as required) any or all necessary permits and permission from each municipal or public authority having jurisdiction in the premises and from all property owners affected, giving Licensee (and Milford where necessary) permission to install.

13. Indemnification

Licensee agrees to indemnify and save harmless Milford from and against any and all claims, expenses, losses and liability for damage, including destruction to any property (including Milford's property) or injuries (including death) to any person that results from, arises out of or is connected in any way with Licensee's occupancy of Milford's poles or any act including negligent acts, of Licensee, its employees or agents. The claims, expenses, losses and liability for which Licensee hereby indemnifies Milford shall include those for worker's compensation, those brought against Licensee by its own employees or agents and those for personal injury, including death or property damage, including destruction, resulting directly or indirectly from the proximity or contact of Licensee's facilities with energized facilities of Milford.

14. Insurance

Licensee shall at all times maintain in force liability insurance, with an insurance company satisfactory to Milford, in an amount not less than one million dollars (\$1,000,000.00) per occurrence, combined single limit for bodily injury and property damage, two million dollars (\$2,000,000.00) aggregate. This insurance shall be suitably endorsed to reflect the interest of Milford therein. Licensee shall also carry such insurance as will protect it from all claims under any worker's compensation laws in effect that may apply to Licensee. All insurance companies shall submit to Milford certificates confirming the insurance coverage of Licensee and state that the company will not cancel or change any policy of insurance issued to Licensee except after thirty days prior notice to Milford. Collectively the certificates shall show that such companies have insured Licensee for all liabilities of Licensee under this agreement, specifically including those set forth in Paragraph #13 above.

15. Inspections

Milford shall have the right at any time and from time to time inspect Licensee's facilities for the purpose of determining that Licensee is fully complying with this Agreement and that Licensee's facilities are not interfering with the facilities of Milford or of any other person lawfully occupying the poles of Milford. Licensee shall reimburse Milford for all expenses incurred by Milford in making said inspections. Milford shall be under no obligation to make any such inspections nor shall any liability or responsibility attach to Milford for not making such inspections or for the failure of Milford to discover or to correct conditions discovered during such inspections or to notify Licensee of such conditions.

16. Pole Counts

In addition to its right to conduct inspections under Paragraph #15 above, Milford shall have the right at any time and from time-to-time conduct periodic pole counts to identify the number of and specifically to which of Milford's poles Licensee's facilities are attached. The entire cost of the pole count shall be borne by the Licensee.

If Licensee has attached its facilities to a pole or poles of Milford not identified pursuant to Paragraphs #1 and 2, Milford shall have the right to require Licensee immediately to remove its facilities from said pole or poles. If Milford so directs Licensee, and Licensee fails immediately to remove its facilities from said poles at Licensee's expense and Licensee shall promptly reimburse Milford for its costs in doing so. Milford shall have no liability to Licensee with respect to Licensee's facilities removed by Milford under this Paragraph. Regardless of which party removes such unauthorized facilities, Licensee shall make immediate payment to Milford of back rent for prior unauthorized use of Milford's pole or poles as set forth below.

Alternatively, if Licensee has attached its facilities to a pole or poles of Milford not identified pursuant to Paragraphs #1 and 2, Milford shall have the right to permit Licensee's facilities to remain attached to said pole or poles subject to immediate payment of a \$50.00 service fee for each such pole plus back rent for prior use of said pole or poles calculated as set forth below. Additionally, Licensee must, within ten days of notification of such unauthorized attachment, make application to Milford as outlined in the aforementioned Section I and all the terms and conditions of this agreement shall be met.

Back rent shall be calculated for purposes of this agreement as the total of the Annual Payment per Pole that Licensee would have made for use of Milford's pole or poles, if such use had been authorized hereunder, retroactive to the date such use began if known, or if not known, then to the date of the most recent pole count conducted by Milford or the date of this Agreement whichever is later. Licensee shall pay interest on this back rent to the extent permitted by law. If Milford elects to permit Licensee to leave its facilities attached to said poles but Licensee fails to make the payments of the service fee and back rent required under this Paragraph within a reasonable period of time, Milford shall then have the option to exercise its rights under this Paragraph either to require Licensee to remove its facilities from said pole or poles, or to remove the facilities itself, at Licensee's expense and without liability to Licensee. Exercise

by Milford of this right shall not relieve Licensee of the obligation to make such payment.

17. Default

If Licensee shall fail to comply with any of the provisions of this Agreement or default in any of its obligations hereunder, including, without limitation, the failure to pay the Annual Payment per Pole as provided herein, and shall fail within thirty days after written notice from Milford to correct any such failure to comply or default, Milford may, at its option, forthwith cancel this Agreement. In such event, Milford shall have the right to cause the removal of Licensee's facilities from Milford's poles. Milford shall bill the costs of removal to Licensee and Licensee shall promptly reimburse Milford for such costs. Prepaid rentals of Licensee shall be retained by Milford as liquidated damages in part for such failure to comply or default and shall not be applied against costs of removal.

18. Removal or Abandonment by Licensee

Licensee agrees to notify Milford in writing immediately upon the removal by Licensee of any of its facilities from any pole or poles of Milford. If Licensee abandons its use of any or all of its facilities covered by this agreement, Licensee shall immediately remove from Milford's poles all of the facilities so abandoned. If Licensee fails to do so, Milford may remove the abandoned facilities at Licensee's expense and Licensee shall promptly reimburse Milford for its costs in doing so. Milford shall have no liability to Licensee with respect to Licensee's facilities removed by Milford under this Paragraph.

19. Succession

This agreement shall extend to and bind the successors and assigns of the parties hereto.

20. No Waiver

The Failure of Milford to enforce or insist upon compliance with any of the terms or conditions of this agreement shall not constitute a waiver of relinquishment of any failure to comply or default, and Milford shall have the right at any time to enforce strictly any and all of the terms, conditions and covenants of this agreement, regardless of its prior failure to do so.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

ATTEST:

CITY OF MILFORD

Teresa K. Hudson
City Clerk

BY: _____
Joseph R Rogers
Mayor, City of Milford

ATTEST:

(Licensee Name)

Corporate Secretary

BY: _____
(Name)
(Title, Licensee Name)

CONVEYANCE AGREEMENT

THIS CONVEYANCE AGREEMENT (this "Agreement") is being executed and delivered by JSI Construction Group LLC, a Delaware limited liability company ("JSI") to be effective for all purposes as of [____], 2013 (the "Effective Date") in favor of the City of Milford, a Municipal Corporation, recognized by the Internal Revenue Service of the United States of America (the "IRS") as a tax exempt entity (the "City"). JSI and the City each may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

Introduction

A. In December 2012, JSI completed the construction of a 12 MW (AC) solar generation facility located in Milford, Delaware (the "Project") on behalf of Milford Solar LLC ("Owner"), the owner of the Project.

B. The City serves as the interconnection provider for the Project, pursuant to an Interconnection Agreement between the City and Owner dated August 13, 2012.

C. At the request of JSI and Owner, the City agreed to accelerate the construction of certain interconnection facilities to enable the Project to be interconnected promptly following the completion of the Project construction.

D. In consideration of the effort expended and costs incurred by the City to accelerate its construction of the interconnection facilities and as an inducement to do so, JSI desires to construct and convey, and the City desires to accept, a 48 kW (AC) solar generation facility.

E. JSI and the City desire to enter into this Agreement, pursuant to which (i) JSI shall convey to the City solar equipment, as more particularly described on Schedule 1 (collectively, the "Equipment") and (ii) JSI shall install the Equipment at a facility site owned by the City, which is more particularly described on Schedule 1 hereto (the "Site").

Agreement

In consideration of the premises and the mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Transfer of Equipment. Subject to the release and waivers contained in Section 4 below and the other terms and conditions of this Agreement, JSI hereby irrevocably quitclaims, transfers, conveys, assigns, and sets over to the City all of JSI's right, title, and interest, if any, and to the Equipment.
2. Access. The City agrees to provide JSI with access to the Site on such days and at such times as necessary to permit JSI to deliver and install the Equipment at the Site.

3. JSI Representations and Warranties. JSI represents and warrants to the City as of the date hereof that JSI has full power and authority (including full company power and authority) to execute and deliver this Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder. The execution and delivery by JSI of this Agreement, the consummation of the transactions contemplated hereby, and the performance by JSI of its obligations hereunder, have been duly authorized by all requisite company actions on the part of JSI. This Agreement has been duly executed and delivered by JSI, and when executed and delivered by the City will constitute the valid and legally binding obligation of JSI, enforceable in accordance with its terms and conditions, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization, or other similar laws affecting the enforcement of creditors' rights and general equitable principles.

4. The City Representations, Warranties and Covenants. The City represents, warrants and covenants to JSI as of the date hereof that:

(a) Organization. The City is recognized by the IRS as a tax exempt entity such that, subject to the IRS rules and regulations, transfers and conveyances made to the City are tax-deductible.

(b) Authorization. The City has full power and authority (including full corporate power and authority) to execute and deliver this Agreement and to consummate the transactions contemplated hereby and perform its obligations hereunder. The execution and delivery by the City of this Agreement, the consummation of the transactions contemplated hereby, and the performance by the City of its obligations hereunder, have been duly authorized by all requisite actions on the part of the City. This Agreement has been duly executed and delivered by the City, and when executed and delivered by JSI will constitute the valid and legally binding obligation of the City, enforceable in accordance with its terms and conditions, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization, or other similar laws affecting the enforcement of creditors' rights and general equitable principles.

5. AS-IS CONDITION; DISCLAIMER OF WARRANTIES; RELEASE.

(A) "AS-IS"; NO WARRANTIES. **THE PARTIES ACKNOWLEDGE THAT THE EQUIPMENT IS BEING TRANSFERRED TO THE CITY STRICTLY ON AN "AS-IS," "WHERE-IS" BASIS, WITH ALL FAULTS, AND JSI MAKES NO, AND HEREBY DISCLAIMS ANY, REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE ARISING BY LAW OR OTHERWISE, EXPRESS OR IMPLIED, WRITTEN OR ORAL, WITH RESPECT TO THE EQUIPMENT, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO MERCHANTABILITY OR THAT THE EQUIPMENT IS FIT, APPROPRIATE OR OTHERWISE SUITABLE FOR ANY INTENDED OR PARTICULAR PURPOSE OR FREE FROM. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, JSI MAKES NO WARRANTIES WITH RESPECT TO THE QUALITY, CONTENTS, DESIGN, VALUE, MARKETABILITY, MAINTENANCE, OPERATIONS OR CONDITION OF THE EQUIPMENT, INCLUDING HIDDEN AND/OR LATENT DEFECTS;**

NO WARRANTIES REGARDING FACTS, CIRCUMSTANCES OR CONDITIONS OF THE PAST OR PRESENT USE OF THE EQUIPMENT WITH RESPECT TO LAWS IMPOSING LIABILITY OR STANDARDS OF CONDUCT FOR OR RELATING TO THE PROTECTION OF HUMAN HEALTH AND SAFETY, THE ENVIRONMENT OR NATURAL RESOURCE; AND NO WARRANTIES AGAINST PATENT INFRINGEMENT OR THE LIKE.

THE CITY ACCEPTS THE EQUIPMENT IN SUCH AS-IS CONDITION AND WITHOUT ANY SUCH WARRANTY OR REPRESENTATION.

(B) Release. The City assumes full responsibility for making an independent determination of the appropriateness of the Equipment (or any part thereof) before using it and for discarding any Equipment which is not appropriate for use now or in the future. Under no circumstances shall JSI, any of its subsidiaries or affiliates or any of their respective shareholders, members, partners, officers, directors, employees, distributors, agents, counsel or representatives (collectively, the "JSI Parties") be liable to the City, the Site or anyone for any Claims (as defined below) resulting from the Equipment or its installation, use or operations, whatsoever or howsoever caused. To the maximum extent permitted by law, the City fully accepts and assumes all risks and all responsibility for losses, costs, damages or other Claims that the City, its affiliates or any of their respective members, directors, officers, officials (elected or otherwise), agents, representatives, employees, contractors or transferees (collectively, the "City Parties") may incur as a result of the Equipment or its installation or use, including, but not limited to, personal injuries, illness, damage, loss to property and death.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE CITY, ON BEHALF OF ITSELF AND EACH OF THE CITY PARTIES, FULLY RELEASES, WAIVES, ACQUITS AND FOREVER DISCHARGES THE JSI PARTIES FROM ANY AND ALL LOSS, DAMAGES, CLAIMS, CAUSES OF ACTION, SUITS, DEBTS, LIENS, OBLIGATIONS, LIABILITIES, DEMANDS, COSTS AND EXPENSES OF ANY KIND, CHARACTER OR NATURE WHATSOEVER (INCLUDING ATTORNEYS' FEES), KNOWN OR UNKNOWN, FIXED OR CONTINGENT, INCLUDING, BUT NOT LIMITED TO, ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE (COLLECTIVELY, "CLAIMS") WHICH MIGHT ARISE FROM OR BE RELATED OR ASSOCIATED IN ANY WAY WITH THE INSTALLATION (INCLUDING, BUT NOT LIMITED TO, ACCESSING THE SITE), USE, OPERATION OR POSSESSION OF THE EQUIPMENT, INCLUDING, BUT NOT LIMITED TO, ANY INJURY, ILLNESS, DISEASE, PROPERTY DAMAGE, DEATH OR LOSS OF ANY NATURE SUFFERED OR SUSTAINED IN CONNECTION WITH THE INSTALLATION (INCLUDING, BUT NOT LIMITED TO, ACCESSING THE SITE), USE, OPERATION OR POSSESSION OF THE EQUIPMENT.

6. Further Assurances. At any time or from time to time after the date hereof, at JSI's reasonable request, the City shall execute and deliver to JSI such other instruments as JSI

may reasonably require or deem necessary in order to evidence the conveyance of the Equipment to the City for federal income tax purposes.

7. Successors and Assigns. The City shall not assign its rights and obligations under this Agreement without the prior written consent of JSI. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns.
8. Governing Law. The construction and performance of this Assignment shall be governed by the laws of the State of Delaware without regard to its principles of conflicts of law.
9. Amendment. This Agreement shall not be modified or amended except by an instrument or instruments in writing signed by each Party.
10. Schedules. All schedules attached hereto are hereby made a part hereof and incorporated herein by this reference.
11. Entire Agreement. This Agreement and the schedule(s) attached hereto set forth a complete and exclusive statement of all of the promises, covenants, agreements, conditions and undertakings between the Parties with respect to the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous agreements and understandings, negotiations, inducements or conditions, express or implied, oral or written, among the Parties with respect to the subject matter of this Agreement. This Agreement is not intended to confer upon any person other than the Parties any rights or remedies under this Agreement.
12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
13. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, whether by present or future law of any nation, or by decision of any court, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (ii) the Parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions.
14. Press Release. JSI shall be entitled to announce by press release or other means that it has agreed to furnish, construct and convey the Equipment to the City. Any press releases or other means of media outreach by the City relating to the Equipment shall be coordinated with and approved in writing by JSI.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered effective as of the Effective Date.

JSI:

JSI Construction Group LLC

By: _____

Name: _____

Title: _____

THE CITY:

The City of Milford

By: _____

Name: _____

Title: _____

SCHEDULE 1

Equipment

First Solar panels (50+/- kW)
AC Panel
Cable and Conduit
SMA Combiner Box
Sunny Tripower 24000TL-US Inverter
Grounding Conductors and connectors
14 Schletter Racks
Signs and Labels

SCHEDULE 2

Site Description

All that certain lot, piece and parcel of land situate, lying and being in The City of Milford, Milford Hundred, Kent County, State of Delaware being known and designated as "PARCEL 13", MILFORD INDEPENDENCE COMMONS, as shown on a plot of Milford Independence Commons prepared by Davis, Bowen & Friedel, Inc., Dated July 2005, Revised April 19, 2008, Revised November 19, 2008 and recorded in the Office of the Recorder of Deeds, in and for Kent County, Delaware in Plot Book 104 page 14.

City of Milford



SECTION 230-57 OF THE CITY OF MILFORD ZONING CODE PREVIOUSLY ESTABLISHED FEES;
ORDINANCE 2008-13 AUTHORIZES CITY COUNCIL, THROUGH RESOLUTION,
TO ESTABLISH ALL FUTURE PLANNING, ZONING AND ENGINEERING FEES

RESOLUTION 2013-20 PLANNING, ZONING AND ENGINEERING FEES

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Mayor and Council of the City of Milford, the Planning, Zoning and Engineering Fee Schedule is hereby revised as reflected in the Proposed Fee Schedule.

BE IT FURTHER RESOLVED that the revised fee schedule shall be effective on 09/23/2013.

- A. Planning and Zoning Fees:
1. Site plan: \$700.
 - a. Amendments to a Site Plan: \$100
 2. Subdivision:
 - a. Minor residential: \$300 plus \$50 per unit
 - b. Minor commercial or industrial, less than four acres: \$500 plus \$100 per lot
 - c. Major residential: \$1,000 plus \$10 per unit
 - d. Major commercial or industrial, in excess of four acres: \$1,000 plus \$100 per lot
 3. Conditional Use: \$700
 - a. Amendment to a Conditional Use: \$700
 4. Variance/Board of Adjustment hearing:
 - a. Residential: \$300.
 - b. Commercial/industrial: \$1,000.
 5. Rezoning: \$1,000, plus \$100 per acre.
 6. Commercial maintenance agreement: \$500.
 7. Interpretations of Subdivision or Zoning Code: \$300.
 8. Application resubmission or rescheduling fee (required with each resubmission as a result of a revised design or a request for change in public hearing date): \$200.
 9. Annexation.
 - a. Residential, less than one acre: \$350
 - b. Residential, one acre to five acres: \$2,500
 - c. Residential, in excess of five acres: \$2,500 plus \$100 per acre
 - d. Commercial: \$2,500 plus \$500 per acre
 10. Zoning inspection.
 - a. Proposed use: \$200.
 - b. Violation of use: \$200 for first visit; \$500 for each subsequent visit.

- B. Land Use Planning Review Fees: Owner/Applicant shall be responsible for any and all professional service costs associated with their project, if deemed necessary, plus an additional 10% to cover city administration costs. These costs will be billed as encumbered.
- C. Engineering Review Fees:
Owner/Applicant shall be responsible for any and all professional service costs associated with their project, if deemed necessary, plus an additional 10% to cover city administration costs. These costs will be billed as encumbered.
- D. Project Management and Infrastructure Inspection Fees: Owner/Developer shall be responsible for any and all direct costs for construction phase services, **plus an additional 10% to cover city administration costs**, related to construction of any infrastructure improvements including but not limited to stormwater management, drainage, sanitary sewer and water systems, roads, curb, gutter and sidewalks and other systems that are to be dedicated to the City and/or impact the City's infrastructure.
- E. Any constructions fees (i.e., grading, curbing, gutter, subbase, traveling surface, sidewalks, etc.) incurred by the City relative to the development of any property shall be paid by the owner/developer.
- F. Subdivision Agreement: \$2,500 per agreement.
- G. Alley or Street Closing Petition: \$300.

Words in red are additions.

From: Jeffrey Portmann

Sent: Thursday, September 12, 2013 3:09 PM

To: Richard D. Carmean

Cc: Terri Hudson

Subject: Finance Department Vehicle

I would like to request from council that the balance of Capital funds approved for the attic steps \$5000(\$16,000-\$11,000) be used to purchase a used vehicle for the finance department and used by other departments as needed. The current vehicle is a used police crown Victoria. Several members of my office staff have expressed difficulty driving this vehicle. I would like to sell the finance department vehicle and use the funds along with the \$5000 left over from the attic steps to purchase a used vehicle for around \$10,000. We will be looking to purchase a full size vehicle such as a Ford Taurus or Chevy Impala or similar vehicle where four people can be seated. I would assume the vehicle would be around 5 years old and under 100,000 miles. The balance of the funds needed to make up the difference for the vehicle will have to come from the finance budget. I won't know which line items will be reduced until we know how much the new vehicle will cost. I respectfully request approval to use the \$5000 from the balance of the attic steps capital and the proceeds from the vehicle sale with the remainder of funds needed coming from the finance department budget to purchase this vehicle. Thank you in advance for your consideration.

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 9, 2013

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, September 9, 2013.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Bryan Shupe, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr. and Katrina Wilson

City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/
Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilwoman Wilson.

APPROVAL OF MINUTES

Motion made by Mr. Pikus, seconded by Mr. Grier to approve the minutes of the August 5, 12, 15 and 26, 2013 Council and Committee Meetings as presented. Motion carried.

RECOGNITION

No special guests were present to be recognized.

MONTHLY POLICE REPORT

After Police Committee Chairman Morrow presented the monthly police report on behalf of Chief Hudson, Mr. Pikus moved to accept the report as submitted, seconded by Mr. Shupe. Motion carried.

CITY MANAGER REPORT

Mr. Carmean presented the following report:

Administration

The new billing format has now been sent to customers in all four cycles. There are still some things that will be changed. We instituted our outsourced mailing of utility bills at the same time. There were a few problems in the first two cycles, but nothing out of the ordinary considering the scope of the changes. In particular, our e-notification customers did not receive a hard copy of the bill. We did mail taxes in-house this year, but next year they will also be handled off-site.

The new and very large tower for our radio system has been installed at public works. We are within a month of completion of the changeover from the analog system to a digital system.

Electric

We are continuing to receive materials for our 138 transmission line on Route 113. Electrical Engineer Alan Cobb has been on site several times the past few weeks overseeing the initial work. Electric Superintendent Rick Carmean and I have been communicating on a regular basis with Delmarva Power due to the fact they share space on our present poles. We are trying to coordinate our construction plans with them. Solicitor Rutt is assisting me in any matters that require legal interpretation.

Warfel Construction has basically finished the concrete work for the substation and the steel was erected for the transformer bays. This means the substation is about 40% complete. This should be complete and on line no later than the first of the year.

Our crews are trimming trees that are a danger to our service lines. I have instructed them to make every effort to contact owners of trees in need of trimming before the work is done. We do maintain the right to do emergency trimming without contact. This work is instrumental to help maintain our excellent record of keeping the electric on for our customers.

Sewer and Water

The Washington Street Treatment Plant demolition is finished. The next step is to drill a test well at the Washington Street tower to make sure we have a sufficient supply and quality of water for a permanent well at the site. This well is only possible because of our purchase of the PNC property. According to Eric Retzlaff of Davis, Bowen and Friedel, the ability to place this well at the tower instead of on the lot behind City Hall could save us approximately \$200,000.00. This proves the point that the PNC property had much more value to the City than to most other purchasers.

In addition, the new well will require very little property.

Streets & Solid Waste

I have realized that we have a glaring problem with our new solid waste ordinance regarding our spring and fall cleanup. I feel certain that some customers will take these two occasions to demand we pick up ANYTHING. During the spring clean-up week, we had several customers demand we remove truckloads of tree limbs because we stated we would pick up everything they wanted removed from their property. The ordinance states we will only pick up yard debris that fits into the yard waste can. If we do not enforce that during the special cleanup dates, people will simply wait for these clean-up weeks to cut a massive number of tree limbs or in some cases, whole trees, then bring them to the curb. We no longer remove construction materials, which includes scrap materials from home remodeling and materials from demolition. These items are also stockpiled awaiting our seasonal cleanup weeks. I will try to develop a notice to customers outlining what we will not remove on the special cleanup weeks.

In the past, the trucks would cover the entire city every day. However, we are down 30% in personnel and have one less trash truck on the route. Therefore, it is difficult to return to a customer for a second visit. The letter will state that all items must be put out for one pickup.

Anyone with a problem should contact me and we will work it out.

Mr. Brooks asked if the customer's pickup is on Monday and another collection is needed later in the week due to additional yard debris, for example, is Mr. Carmean indicating the customer should contact him, public works or are they required to wait until the next regularly scheduled collection. Mr. Carmean stated that the solid waste department plan is to have one open day per week that would not be dedicated to yard debris and recycling. He agreed that in the situation Mr. Brooks explained, it could be done on a limited basis and they would be willing to try and schedule it.

Mr. Pikus asked if the press will be contacted when the letters will be sent out. He is concerned we will get phone calls saying the customers did not see the letter. Mr. Carmean explained the letter will be mailed with every utility bill so everyone will receive it.

Southeast Front Street engineering is complete and bids will soon be available to interested contractors. In the past month, we have discovered other problems with our stormwater collection system on that street, but will not hold up this overdue project.

After many years of investigation by numerous people, the constantly standing water problem on Northeast Front Street has been solved. Public Works Director and the Street Superintendent had equipment to excavate the roadway to determine the source of the water. They found there were no leaks in water services and found it was groundwater and water from several underground springs. By using the curbing and sidewalk, they are directing the water into a flexible line that goes down to the stormwater drain. They have suggested we continue about another 150 feet east to further alleviate any similar problems.

Mr. Brooks recalled the previous problem discussed in regard to the traffic light at Northeast Front and Washington Street. He reported that vehicles traveling south on Washington Street are delayed for long periods of time. It appears the light may be skipping a cycle for vehicles traveling in that direction.

Mr. Carmean agreed and advised council that he had ordered some white signs with arrows pointing to the stop line. He has experienced the same problem traveling north and believes the problem is that vehicles go beyond the white stop line and miss the trip.

The city manager will follow up and get back with Mr. Brooks.

Mr. Carmean then reported that the markings at the entrance into the Milford Square Shopping Center are being addressed. Mr. Brooks noted that the stripings have worn off. Mr. Carmean agreed but believes the current configuration is very confusing to drivers. The idea was to have two lanes, one being used as a turn lane into McDonalds. This would prevent traffic from backing up.

Mr. Brooks agreed a simpler configuration could be made.

Mr. Pikus asked if the city has control over the Milford Plaza Shopping Center and the markings within the lot. He reported that the majority of the striping is gone because of the construction that has occurred the past few years. Vehicles are drifting into the wrong lanes and in particular, the area where Chick-Fil-At is going.

Mr. Pikus asked Mr. Carmean to contact the owner and request the markings be repainted as was done several years ago. Mr. Carmean recalled the time when he got tired of waiting for the owner to respond and he ended up having our employees install the stop signs within the parking lot.

Mr. Carmean said he will see that the owner/manager is informed.

When asked the schedule of the billing staff relocating to the PNC building, Mr. Carmean said that he will have the initial drawings of the layout for council to approve at the workshop. Once approved, we can proceed with the bidding process for the construction. The billing staff should be operating there by January 2014.

Mr. Pikus moved to accept the city manager's report, seconded by Mr. Gleysteen. Motion carried.

COMMITTEE AND WARD REPORTS

1st Ward

Mr. Shupe expressed his appreciation for the work that was done in his ward. He said there have been some ongoing problems at the Meadows at Shawnee as a result of the road construction. He thanked Chief Hudson for placing the speed signs on Rehoboth Boulevard several weekends to slow vehicles coming off the Route 1 overpass. He also thanked the public works department for getting and installing the no u-turn signs at the entrance of Meadows at Shawnee.

Circle of Light

Ms. Wilson said that the Circle of Light is preparing to come back before council. They are in the process of finalizing their report for council consideration.

COMMUNICATIONS AND CORRESPONDENCE

Documents included in packet.

UNFINISHED BUSINESS

Referendum Process/Update

Mr. Carmean said this was discussed briefly and asked that council make a determination on the \$3.5 million loan and whether to proceed with the referendum.

Mr. Pikus moved to proceed with a referendum to borrow \$3.5 million at 1.5%, seconded by Mr. Grier. Motion carried.

NEW BUSINESS

*FY 2013-2014 Budget Adjustment/Parks and Recreation
Award of Bid/Bocce Ball Court/Parks & Recreation*

Parks and Recreation Director Gary Emory requested the \$18,800 proceeds from the sale of the Masten Park land will be transferred to pay for two projects that are underway. The money will be put toward the Banneker Basketball Court renovations and the Bocce Ball Court.

Mr. Pikus asked if the turf at the Bocce Ball Court is interlocked. Mr. Emory explained it is a state of the art, synthetic turf court. They were planning two courts, but the bids came in two times the estimated costs. As a result, only one will be built at this time.

Matthew Spong of Landscape Architectural Services of Dover, oversaw the bid process and submitted the following recommendation to city council:

Advertisements for bids for this project were placed in the Delaware State News Public Notices on 8/2/13 and 8/5/13. On 8/6/13 a non-mandatory pre-bid meeting was held at the City of Milford Parks Department. Bids were due on Tuesday 8/20/13 at 11:00 a.m. at the City Hall Council Room.

The bid price solicited from contractors was requested as follows:

Base Bid: provide all labor, materials and equipment to construct (1) Bocce Ball Court, including sediment & erosion control, grading, concrete slab, artificial turf surface, 6X6 wood edging, concrete paver access walk, sodding and clean-up.

Add Alternate #1 was to add the construction of a 2nd Bocce Ball Court to the Base Bid.

Deduct Alternate #1 was to deduct the cost of sod from the Base Bid and provide a seeded lawn in lieu of sod.

On 8/20/13 (3) bids were received from the following contractors. All bidders submitted the required bonds, bid forms, non-collusion statements and acknowledged receiving Addendums #1 & #2.

<i>Contractor</i>	<i>Base Bid</i>	<i>Add Alternate #1 2nd Court</i>	<i>Deduct Alternate #1 Deduct Sod</i>	<i>Total with Alternates</i>
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<i>Gateway Construction, Inc. Hartly, DE</i>	\$51,588	+\$30,000	-\$1,000	\$80,588
<i>Conventional Builders, Inc. Houston, DE</i>	\$38,000	+21,300	-\$500	\$58,800
<i>Road Site Construction, Inc. DBA/Clean Cut Interlocking Pavers Lewes, DE</i>	\$33,809	+24,056.50	-\$337.30	\$57,528.20

The low bidder is Road Site Construction, Inc.

After discussion with Gary Emory, Parks & Recreation Director, it is my recommendation that the base bid for construction of (1) Bocce Ball Court be awarded to Road Site Construction, Inc. DBA/Clean Cut Interlocking Pavers for \$33,809.

Mr. Emory advised that Milford Senior Center will take an active part in overseeing the court which includes signing out the balls and the overall operation of this facility.

When asked if the senior center will schedule the court, Mr. Emory said that Parks and Recreation will schedule tournaments but he believes the court be an 'open to the public type' situation.

He reported the facility will be open to the public next spring though it could be done by fall depending on the weather.

Mr. Emory confirmed that no maintenance is required on the court. The boards will be removed prior to any festivals to make the area more suitable for a large crowd.

The following request was submitted by Mr. Emory:

I would like to request a transfer of funds from the recent Masten Park land sale totaling \$18,800 to the following line items:

\$13,809 (Capital Parks 451-70-50) Bocce Ball Court Development
 \$4,991 (Facility Maintenance and Repairs 451-40-34) Banneker Basketball Court Renovations
 \$18,800 Total Transfers

Mr. Carmean said that because the billing office/building was eliminated from the Washington Street Water Treatment facility, there will be an open area in the front which can accommodate a small pocket park. The suggestion was to place a parking lot there though that would not be allowed by DNREC due to the impervious surface requirements.

When asked the status of the dog park, Mr. Emory said that is also underway and is being done in house. It will be open by spring.

He explained that approximately six inches of dirt needs to be removed and topsoil brought in and seeded. The fence already exists and water will need to be made available.

Mr. Pikus said that Mr. Emory informed him that he is responsible for cutting sixty-one parcels every week; Mr. Emory clarified it is actually 200 acres. Mr. Carmean pointed out that includes the cemetery.

Ms. Wilson asked Mr. Emory to inform council of the plans at the Banneker Basketball court. Mr. Emory reported the court will be completely renovated. The court was installed 35 years ago with funds from the Land and Water Conservation Trust Fund Grant in partnership with Milford School District. The city is mandated to take care of that park. He made a pledge to refurbish the park which will be state of the art and good for another 35 years.

Mr. Pikus confirmed that balance of the money will go toward those renovations. Mr. Emory said the Banneker Court will be paid out of the operations and maintenance budget because capital funds could not be used because it is already owned by the city.

The total renovations are between \$20,000 and \$25,000.

He explained that five years ago, the city entered into a lease agreement with Milford School District that charged the city with perpetual maintenance. At that time, the school district was going to turn the court into a storage shed area. City council became involved which resulted in the lease agreement. Mr. Emory said he is very proud of his accomplishments there.

Mr. Pikus moved to transfer \$13,809 to Capital Parks 451-70-50 for the Bocce Ball Court Development and \$4,991 to Facility Maintenance and Repairs 451-40-34 for the Banneker Basketball Court Renovations. The funds will come from the proceeds from the sale of the Masten Park to Sudler Lofland. Ms. Wilson seconded the motion. Motion carried.

Mr. Emory then announced to city council that Wednesday is his 35th Anniversary.

Mr. Grier then moved that the base bid for the construction of one Bocce Ball Court be awarded to Road Site Construction, Inc. DBA/Clean Cut Interlocking Pavers for \$33,809, seconded by Mr. Pikus. Motion carried.

Introduction/Ordinance 2013-6/Chapter 230-Zoning Code/Planning & Zoning Fees

The city manager introduced the following ordinance whose language in the Zoning Code will coincide with the changes to the Planning, Zoning and Engineering fees adopted by council via a resolution at the last meeting:

AN ORDINANCE TO AMEND Chapter 230-Zoning, Article XI-Administration of the Code of the City of Milford.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Amends §230-57 Planning and Zoning Fees to read as follows:

ARTICLE XI - Administration

§ 230-57. Planning, and zoning AND ENGINEERING fees.

Planning, and zoning AND ENGINEERING fees shall be set by resolution ADOPTED by City Council and are maintained by the City Clerk's office.

Section 2. All ordinances or parts of ordinances previously adopted and in conflict with this ordinance are hereby repealed.

Section 3. Dates.

Introduction to City Council: September 9, 2013

Planning Commission Review and Public Hearing: September 17, 2013

City Council Review and Public Hearing: September 23, 2013

Section 4. The Ordinance shall become effective no sooner than Ten Days after Adoption by City Council.

It was confirmed the matter will go before the Planning Commission for their recommendation. Council will consider that during their public hearing and make a final determination.

Introduction/Ordinance 2013-7Chapter 200-Subdivision of Land/General Requirements & Design Standards

The city manager introduced the following ordinance whose language in the Subdivision Code will now coincide with the changes to the Planning, Zoning and Engineering fees adopted by council via a resolution at the last meeting:

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

AN ORDINANCE TO AMEND Chapter 200-Subdivision of Land, §200-5 General requirements and design standards of the Code of the City of Milford.

Section 1. Amends §200-5 General requirements and design standards (H) Improvements (4) to read as follows:

*The developer shall pay the review and inspection fees as set forth in Chapter 230, Zoning, § 230-57, ~~Planning and zoning fees.~~ **PLANNING, AND ZONING AND ENGINEERING FEES.** The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.*

Section 2. All ordinances or parts of ordinances previously adopted and in conflict with this ordinance are hereby repealed.

Section 3. Dates.

Introduction to City Council: September 9, 2013

City Council Review and Public Hearing: September 23, 2013

Section 4. The Ordinance shall become effective no sooner than Ten Days after Adoption by City Council.

A final determination will be made at the next council meeting.

Adoption/Resolution 2013-18/Halloween Events

Mr. Brooks moved to adopt Resolution 2013-18, seconded by Mr. Shupe:

WHEREAS, the children of Milford are entitled to the fun and festivity associated with the observance of the Halloween; and

WHEREAS, we would like to continue the celebration in an orderly manner.

NOW, THEREFORE, BE IT RESOLVED, I, Joseph R. Rogers, Mayor of the City of Milford, do hereby request and urge the observance of this annual period as follows:

WEDNESDAY, October 16, 2013 starting at 6:30 p.m. and ending at 9:00 p.m. shall be the time for the Annual Community Parade.

THURSDAY, October 31, 2013 shall be the official date for youngsters to observe Halloween Trick or Treat Night.

AND, BE IT FURTHER RESOLVED THAT:

**Only celebrants of 12 years and under will be permitted to engage in Trick or Treat between the hours of 6:00 p.m. and 8:00 p.m.*

**All celebrants are requested to refrain from committing acts of vandalism or destruction.*

**Residents are requested to indicate their willingness to welcome children by keeping their porch or exterior lights on and that youngsters call only on homes so lighted.*

Motion carried.

It was noted the Community Parade is always held the third Wednesday of October.

Adoption/Resolution 2013-19/Fall Clean-Up Week

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Milford, in Council met:

WHEREAS, it is desirous to promote the general cleaning of the City of Milford and improve its overall beauty to the maximum enjoyment and benefit of all citizens and visitors; and

WHEREAS, we are fortunate to live in a community so abundantly blessed with natural assets that we have a continuing responsibility to preserve our environment by keeping it clean, healthy and in order by organizing and carrying out clean-up and fix-up projects which will enhance, restore and maintain the beauty of all properties; and

WHEREAS, all maintenance and clean-up debris, including large and bulk items, shall be placed for curbside pickup in order to exemplify cleanliness and beauty.

NOW, THEREFORE, I, Joseph R. Rogers, Mayor of the City of Milford, by the power vested in me, do hereby proclaim the week of September 30, 2013 to October 4, 2013 "Fall Clean-Up Week" in the City of Milford.*

Motion carried.

Permission to Sell and Consume Alcohol/Downtown Milford, Incorporated/Eat in the Street Event

Mr. Carmean advised that Downtown Milford is closing off a portion of Walnut Street and will be setting a table in the middle of the street for one hundred guests. Different restaurants will be participating and Dog Fish Head Brewery will be providing a different beer for each course. Approval is needed to serve the beer on the street.

When asked if permission is needed from the State Office of Alcoholic Beverage Control Commissioner, Mr. Carmean stated that the commissioner requires permission from the city before their application can be considered by the state.

Mr. Shupe then moved to grant permission to sell and consume alcohol at the designated areas as noted on the map submitted by DMI for the Eat in the Street Event on September 22, 2013, seconded by Mr. Morrow. Motion carried.

MONTHLY FINANCE REPORT

Finance Committee Chairman Pikus reported that through the first month of Fiscal Year 2013-2014 with 8.3% of the fiscal year having passed, 7.8% of revenues have been received and 7.8% of the operating budget expended.

He noted that some departments are over the 7.8% mark at the end of July; that is due to a number of major purchases, repairs and contracts that are paid at the beginning of the fiscal year. Mr. Pikus anticipates it will even out as the year progresses.

Mr. Brooks asked if the \$5,000 that has been spent out of council is the result of Delaware League and SCAT dues. Mr. Carmean stated yes and pointed out that Delaware League dues alone are \$4,000.

Mr. Pikus moved to accept the finance report, seconded by Mr. Morrow. Motion carried.

ADJOURN

Mr. Pikus moved to adjourn the meeting, seconded by Mr. Morrow. Motion carried.

The Monthly Meeting adjourned at 7:49 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

SUSSEX COUNTY ASSOCIATION OF TOWNS

MEETING NOTICE

OCTOBER 2, 2013

LOCATION: Seaford Fire Hall
302 E. King Street, Seaford

DATE: Wednesday, October 2, 2013

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

PROGRAM: To Be Determined
(Information will follow ASAP)

HOST: City of Seaford

COST: \$20.00

MENU: Chicken Cordon Bleu
Pork Tenderloin
Sweet Potatoes
Broccoli Casserole
Assorted Desserts

PLEASE RSVP PROMPTLY

For reservations, please call Tracy at the City of Seaford at 629-9173 no later than Noon on MONDAY, September 23rd. Please make checks payable to the City of Seaford.

**DELAWARE LEAGUE OF LOCAL GOVERNMENTS
MONTHLY DINNER MEETING
OCTOBER 24TH, 2013
DOVER DOWNS HOTEL
2ND FLOOR
1131 NORTH DUPONT HIGHWAY
DOVER, DELAWARE**

SOCIAL HOUR: 6:00 P.M. - 6:45 P.M.
OPENING: 6:45 P.M. - 7:00P.M.
DINNER: 7:00 P.M. - 7:30 P.M.
PROGRAM: 7:30 P.M. - 8:00 P.M.

PROGRAM

We will be discussing pending and new state legislation that will have an impact on municipalities. American Solutions (ATS), which currently has the State contract for the red-light photo enforcement program, will make a presentation on the next generation equipment, software, and management systems that will be coming to the industry this year. They will also explain how these operate and where municipalities may wish to deploy the RLC Systems.

NEXT MEETING: THURSDAY NOVEMBER 21ST, 2013

Special diets can be accommodated with 24 hours notice

WE MUST HAVE YOUR RESERVATIONS NO LATER THAN October 11th, 2013

Mail To: Delaware League of Local Governments
P.O. Box 484
Dover, Delaware 19903

Telephone: 302-678-0991 Fax: 302-678-4777 Email: gwright@udel.edu

_____ will have _____ attendees
(Municipality/County/Agency)

PLEASE LIST THE NAMES OF THOSE ATTENDING

<u>Name</u>		<u>Title</u>
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____

- () Check enclosed for () dinners @ \$30.00 each
- () Please direct bill the Municipality/County/Agency
- () Payment will be made at the door
- () Enclosed for () dinners @ \$30.00 each