MILFORD CITY COUNCIL
MINUTES OF MEETING
March 24, 2008

A Public Hearing was held before Milford City Council on Monday, March 24, 2008 in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware to review Ordinance 2008-2 and make a final determination.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Owen Brooks, Jr. and Katrina Wilson.

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

Mayor Rogers called the Public Hearing to order at 7:06 p.m.

Assistant City Manager David Baird presented the following final draft of Ordinance 2008-2 noting the amendments (as underlined in the ordinance) since its introduction on March 10, 2008. He reminded council the city is required to adopt a Source Water Protection Ordinance which is a federal mandate of the Safe Drinking Water Act Amendments of 1996 and the Delaware Source Water Protection Law of 2001. Municipalities are required to govern the use of land within the source water assessment, wellhead protection and excellent groundwater recharge potential areas by protecting those critical areas from activities and substances that may harm water quality and subtract from overall quality.

ORDINANCE NO. 2008-2

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 230, ZONING, FOR THE PURPOSE OF ESTABLISHING WATER RESOURCE PROTECTION AREAS.

WHEREAS, the City of Milford relies on groundwater as its sole source of drinking water; and

WHEREAS, the protection of existing and proposed sources of water for public consumption is critical to the protection of public health, the environment, and continued economic prosperity; and

WHEREAS, the United States Congress has mandated the assessment of drinking water supplies through the provisions of the Safe Drinking Water Act Amendments of 1996; and

WHEREAS, the United States Congress has encouraged the protection of drinking water supplies through the provisions of the Safe Drinking Water Act Amendments of 1996; and

WHEREAS, the State of Delaware requires counties and municipalities with a population of 2,000 or more to adopt overlay maps delineating, as critical areas, source water assessment, wellhead protection, and excellent groundwater recharge potential areas through the provisions of the Delaware Source Water Protection Law of 2001; and

WHEREAS the State of Delaware, through the provisions of the Source Water Protection Law of 2001, requires counties and municipalities with a population of 2,000 or more to adopt regulations governing the use of land within source water assessment, wellhead protection, and excellent groundwater recharge potential areas to protect those critical areas from activities and substances that may harm water quality and subtract from overall water quality.

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

Section 1. Amend §230-4 A by inserting the following definitions:

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

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

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

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

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

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

Environmental Impact Assessment Report (EIAR): A report required by this ordinance that assesses the environmental characteristics of a source water protection area and determines what effects or impacts will result if the area is altered or disturbed by a proposed action that would increase impervious cover beyond the recommended 20% threshold.

Excellent Ground-Water Recharge Potential Area: Those areas with high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the Report of Investigations No. 66, Ground-water Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004.

Geologist: An individual who is registered in the State of Delaware to practice the profession of geology.

Ground Water: The water contained in interconnected pores located below the water table in an unconfined aquifer or located in a confined aquifer.

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

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

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

Natural Condition: Open space that is essentially unimproved and set aside, dedicated, designated, or reserved for public or private use.

Passive Recreation: Recreation that involves existing natural resources and has a minimal impact because they do not require the alteration of existing topography. Such passive recreation shall include but not be limited to non-motorized vehicles, hiking, bicycling, picnicking, and bird-watching.

Public Water Supply Well: Any well from which the water is used to serve a community water system by section 22.146 (Public Water Systems) in the Delaware State Regulations Governing Public Drinking Water Systems.

Public Drinking Water System: A community, non-community, or non-transient non-community water system, which provides piped water to the public for human consumption. The system must have at least 15 service connections or regularly serve at least 25 individuals daily for at least 60 days.

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

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

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

Site plan approval: Process for the review and approval of a development or redevelopment plan prior to the issuance of a development.

Source Water: Any aquifer from which water is drawn either periodically or continuously by a public water system.

Source Water Assessment Area: The area delineated by DNREC Source Water Assessment and Protection Program that contributes water to a public water supply system.

Source Water Assessment and Protection Program: Created by Congress as part of the Safe Drinking Water Act Amendments of 1996. The goal of the SWAPP is to better protect public drinking water resources by providing local and state governments, and the public more information about those resources. The susceptibility of each source of public drinking water to various types of contamination will be determined and published.

Source Water Assessment Plan: The October 1999 U.S. EPA approved plan for evaluating the sources of public drinking water in Delaware for their vulnerability and susceptibility to contamination.

Source Water Assessment Report (SWAP): The identification and evaluation of the sources of water within the state used by public water systems in an effort to determine the vulnerability and susceptibility to contamination.

Stormwater: The runoff of water from the surface of the land resulting from precipitation or snow or ice melts

Stormwater Management:

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

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

Source Water Protection Area: Wellhead Protection Areas and Excellent Ground-Water Recharge Potential Areas.
Vacant Property: Lands or buildings that are not actively used for any purpose as designated in the underlying zoning district/overlay for one year.

Underground Storage Tank (UST): A UST is one or a combination of Tanks including underground Pipes, the volume of which is 10% or more belowground, as defined in the Delaware Regulations Governing Underground Storage Tank Systems. The following USTs are not subject to the design, construction, operation, and maintenance requirements of the Delaware UST Regulations: Residential Heating Fuel, Agricultural, and Residential Motor Fuel USTs less than 1,100 gallons and any UST less than 110 gallons.

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

Water Quality: Those characteristics of stormwater runoff from an impervious surface or a land disturbing activity that relate to the chemical, physical, biological, or radiological integrity of water.

Water Quantity:

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

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

Wellhead: The upper terminal of a well, including adapters, ports, seals, valves, and other attachments

Wellhead Protection Areas (WHPA): Surface and subsurface areas surrounding public water supply wells or well fields where the quantity or quality of ground water moving toward the wells or well fields may be adversely affected by land use activity.

Wellhead Protection Plan: The March 1990 U.S. EPA approved plan for protecting the quality of drinking water derived from public water supply wells in Delaware.

Section 2. *Amend Chapter 230, Article III by adding a new section 19.2 to read as follows:*

§230-19.2 Source Water Protection District

A. *The purpose of the Source Water Protection District is to protect public health and safety in the City of Milford by minimizing contamination of aquifers, preserving, and protecting existing and potential sources of drinking water supplies. The district shall be established in delineated wellhead protection areas around all public water wells and excellent groundwater recharge potential areas located within the corporate limits of the City of Milford.*

B. *Superimposed district; effect on other provisions.*
1) To enable the Source Water Protection District to operate in harmony with the land use component of the City's Comprehensive Plan, subdivision and zoning regulations, the Source Water Protection District is created as a special district to be superimposed on other districts contained in the City of Milford's Zoning Ordinance.
2) The requirements and provisions established in this district shall prevail over conflicting requirements of the zoning and subdivision ordinances.

C. *Source Water Protection Area Maps*
1) Overlay maps prepared or provided by the Department of Natural Resources and Environmental Control (DNREC) delineating wellhead protection and excellent groundwater recharge potential areas in the City of Milford are included as a part of the City's Official Zoning Map and shall be designated as the Source Water Protection District.

2) The maps shall be utilized by the administrative official in determining whether a lot or parcel lies within the source water protection district as described in subparagraph D of this section. The lack of an indication on this map as to whether certain property is within or outside of the boundaries of this overlay district shall not be constructed as a conclusive determination that said property is within or outside the boundaries of the source water protection overlay district. Rather, the controlling factor in making such a determination shall be the description contained in subparagraph E of this section.

D. Source Water Protection Standards.

1) For a confined wellhead the wellhead protection area shall be 150 feet from the wellhead.

2) For an unconfined wellhead generating less than 50,000 gallons a day the wellhead protection area shall be 150 feet from the wellhead.

3) For an unconfined wellhead generating greater than 50,000 gallons a day the wellhead protection area shall be delineated by the State of Delaware, Department of Natural Resources and Environmental Control, Division of Water Resources, Source Water Assessment and Protection Program.

4) The area contained within a source water protection area shall be divided into zones:

a. Zone 1: A surface area extending in a 150 foot radius around the wellhead.

b. Zone 2: The remaining surface area of a delineated wellhead protection area outside of Zone 1.

c. Zone 3: Excellent groundwater recharge areas.

5) Zone 1 Requirements

a. Permitted Uses

1. Infrastructure, equipment, buildings, access and other uses associated with the well, distribution and treatment facilities of the water system and their maintenance.

2. Wells existing prior to December 31, 2007. No other structures or uses shall be permitted in Zone 1 unless the application, which shall demonstrate the proposed structure or use will not harm or potentially harm the public drinking water supply, is approved as a Conditional Use by City Council.

6) Zone 2 Requirements

a. Permitted Uses

1. Uses permitted in the underlying zoning district may be permitted under an approved Conditional Use that protects the public drinking water supply for the City and meets the minimum requirements for stormwater management, impervious cover, above ground and underground storage tanks.

b. Stormwater Management

1. Stormwater shall be treated by an approved stormwater quality management practice in accordance with current requirements of the Delaware Sediment and Stormwater Regulations dated October 11, 2006 or as later revised.

2. For all new construction, all structures shall be required to discharge roof drains into recharge systems. Recharge systems shall be in accordance with Section 10.0 of the Delaware Sediment and Stormwater Regulations dated October 11, 2006 or as later revised.

c. Impervious Cover

1. Wellhead Protection Areas should not exceed 20% impervious cover. New development in this Zone may exceed the 20% impervious cover threshold within Wellhead protection Areas, but shall be no more than 50% impervious cover, provided the applicant submits an Environmental Assessment Impact Report as provided for in §230-19.2F indicating the additional impervious area will not have an adverse impact on the drinking water supply.

d. Underground Storage Tanks (UST)

1. Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained, and operated in accordance with the Delaware Regulations Governing Underground Storage Tank Systems, or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.) The property owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.

2. *Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained and operated in accordance with the Delaware Regulations Governing Underground Storage Tank Systems. (NOTE: Regulated USTs must be constructed with secondary containment of the Tanks and piping and must have continuous monitoring for releases.) The property owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.*

c. *Above Ground Storage Tanks*

1. *Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene shall be permitted in a delineated wellhead area if the ASTs are designed, constructed, operated and maintained with the applicable requirements in the Delaware Regulations Governing Aboveground Storage Tanks.*

7) *Zone 3 Requirements*

a. *Permitted Uses*

1. *Uses permitted within the underlying zoning district unless prohibited by this Section.*
2. *Hazardous Waste Storage, Treatment, and Disposal Facilities, Hazardous Waste Generators, Sanitary and Industrial Facilities as defined in the Delaware Regulations Governing Hazardous Waste, Vehicle Repair, Salvage Operations, Waste Sludge Storage or Application, Solid Waste Landfills, Tire Piles and Dredge Spoil Sites shall not be permitted in Zone 3.*

b. *Stormwater Management and Impervious Cover*

1. *There are no requirements contained in this section in order for the development to occur provided the impervious cover of that portion of the parcel within the excellent recharge area is thirty-five (35) percent or less.*
2. *Impervious cover of that portion of the parcel within the excellent recharge area or greater than thirty-five (35) percent but no more than sixty (60) percent is allowed provided the applicant demonstrates through a report prepared by a registered professional geologist or registered professional engineer familiar with the hydro geologic characteristics of the City of Milford and the surrounding areas using climatic water budget that post-development recharge quantity will meet or exceed the existing (pre-development) recharge quantity. Efforts to mitigate discharges to impervious surfaces shall count towards the formula used to compute post-development mitigation of any discharges.*
3. *For all new construction where the impervious surfaces exceed sixty (60) percent or where the level of post-development recharge is less than pre-development recharge, all structures shall be required to discharge roof drains into underground recharge systems or permeable surfaces that allow the discharges to infiltrate into the ground. Efforts to mitigate discharges to impervious surfaces shall count towards the formula used to compute post-development mitigation of any discharges.*
4. *Discharge from roof drains, containment areas or impoundments that have run-off from an area that may contain contaminants from mechanical systems shall be segregated and treated prior to discharge.*

c. *Underground Storage Tanks (UST)*

1. *Underground storage tanks with a capacity greater than 110 gallons containing petroleum, and Residential and Agricultural USTs with a capacity greater than 1,100 gallons containing heating fuel or motor fuel shall be permitted in a designated wellhead area if the USTs are designed, constructed, maintained, and operated in accordance with the Delaware Regulations Governing Underground Storage Tank Systems, or as later revised. (NOTE: Regulated USTs must be constructed with secondary containment of the tanks and piping and must have continuous monitoring for releases.) The property owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.*
2. *Underground storage tanks with a capacity greater than 110 gallons containing a hazardous substance as defined in CERCLA §101(14) shall be permitted in zone 3 if the USTs are designed, constructed, maintained and operated in accordance with the Delaware Regulations Governing Underground Storage Tank Systems. (NOTE: Regulated USTs must be constructed with secondary containment of the Tanks and piping and must have continuous monitoring for releases.) The property*

owner shall be required to submit an annual report, prepared by a licensed tank inspector, certifying the UST meets the criteria established herein.

d. Above Ground Storage Tanks

1. Aboveground storage tanks with a capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesel, heating fuel or kerosene shall be permitted in Zone 3 if the ASTs are designed, constructed, operated and maintained with the applicable requirements in the Delaware Regulations Governing Aboveground Storage Tanks.

E. Boundary Determination for Source Water Protection Areas

1) All subdivision and land development plans depicting development or land disturbance submitted for City review shall be evaluated for the existence of source water protection areas. All such areas are as depicted on Source Water Protection Area maps Maps/overlays are available from Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Water Resources, Source Water Assessment and Protection Program (SWAPP). If a SWPA exists within a proposed development site, the boundaries of these areas shall be delineated on the plan by the applicant's State of Delaware Professional Engineer or Professional Geologist.

2) DNREC SWAPP may, when based on sound science and information, revise and update the overlay maps of wellhead protection areas.

3) The Delaware Geological Survey (DGS) may, when based on sound science and information, revise and update the overlay maps of good or excellent ground-water recharge potential areas.

4) When there appears to be a conflict between the mapped boundary and actual site conditions, the applicant may engage the services of Professional Geologist to prepare a report intended to determine more accurately the precise boundary of the Source water Protection Area. The Report shall include:

a) A detailed topographic layout of the subdivision and/or area to be developed and prepared by a State-registered professional land surveyor or Professional Geologist;

b) Evidence derived from a site-specific investigation that may include aquifer testing, test borings, test pits, observation wells, groundwater elevations, and topography surveys as appropriate for the type of source water protection area that clearly demonstrate that the area in question does not meet the definition of a source water protection area as defined.

c) Any challenges to the delineations of the good or excellent ground-water recharge potential areas must follow the methods used in the Delaware Geological Survey publication: Report of Investigations No. 66, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware. The challenge must be approved by DGS and DNREC SWAPP.

d) Notwithstanding any other section of this Chapter, if an owner initiates a precise boundary delineation pursuant to this section, any and all time review limitations shall be stayed pending the submission of the complete report contemplated by this section. Following submission of the report and all supporting documents, DNREC shall have ninety (90) days to finally approve or disapprove the exploratory sketch plan submission or such further time as deemed necessary by the Department, but not to exceed an additional ninety (90) days.

F. Environmental Impact Assessment Report

New development may exceed the 20% impervious cover threshold within the Source Water Protection Area Zone 2, but be no more than 50% impervious, provided the applicant submits an environmental assessment report including a climatic water budget and systems to augment recharge that assure water quality as well as quantity. The environmental impact assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey pretreated rooftop runoff for infiltration to ground water. Refer to Supplement 1 entitled Ground-Water Recharge Design Methodology for the details of how to design recharge facilities in Delaware source water protection areas.

A Delaware Registered Professional Engineer and/or Professional Geologist prepares an environmental assessment report, usually containing the following elements of planning, design, construction, and maintenance of ground-water recharge facilities:

1) Site description of proposed development within the water resource protection area

2) *Climatic water balance comparing predevelopment and post-development recharge potential*
3) *Subsurface exploration including borings, test pits, and infiltration tests*
4) *Design of ground-water recharge facilities that assure water quality as well as quantity*
5) *Construction and maintenance considerations*
6) *Recommended ground-water monitoring plan*
7) *Water management agreement between the applicant and the town, city, or county providing for monitoring and maintenance of the recharge system. The applicant will abide by the Ground Water Management Agreement as written in DNREC Supplement 1 to the Source Water Protection Guidance Manual for the Local Governments of Delaware: Ground-Water Recharge Design Methodology, dated May 2005 or as later revised.*

G. *Nonconforming Uses*

Nonconforming uses may continue in a source water protection area in the form in which they existed at the time of the adoption of this ordinance, unless they pose a direct hazard to the city's water supply, as determined by the water and waste water department upon advice from the Delaware Division of Public Health, or are causing some foreign substances (oil, salts, chemicals, or other substances) to be introduced into the city's water supply, as determined by the water and waste water department upon advice from DNREC's Division of Air and Waste Management and/or Division of Water Resources. In the latter case, the building department shall issue a mandatory cease and desist to stop the offending activity within the area. Nonconforming existing underground or above-ground storage of oil, petroleum, and petroleum products shall require secondary containment pursuant to the State of Delaware regulations governing underground storage tanks or for above-ground storage of petroleum products secondary containment facilities capable of capturing the material stored on the site, for existing facilities that are proposed either to be upgraded or replaced.

H. *Replacement and New Wells*

1) *The replacement of any existing public water supply well that was not required to meet this wellhead protection requirement at the date of its original installation and that has failed shall be exempt from meeting this wellhead protection requirement.*
2) *All public water supply wells within a housing development, subdivision, or strip development recorded on or after the implementation of the Delaware Regulations Governing the Construction and Use of Wells, dated April 6, 1997 or as later revised, shall be located at least one-hundred fifty (150) feet within the subdivision's or development's outermost property lines.*

Section 3. Dates.
Adoption Date: March 24, 2008
Effective Date: April 3, 2008

Mr. Baird explained the first change involves those areas identified as excellent groundwater recharge potential areas that were removed from zone 2 and will now stand alone as zone 3.

The next amendment adds a grandfathering clause for wells existing prior to December 31, 2007. A conditional use application can be applied for which shall demonstrate the structure or use will not harm the drinking water supply. Final approval of the conditional use is required by city council. Mr. Baird advised the reason for this clause is the Milford Library expansion project and its proximity to the public drinking water well across the street. Other existing properties in the downtown and surrounding areas could also be impacted though the city will own a 150-foot radius for any new wellheads to prevent future private property infringements.

The third amendment establishes regulations for the newly added zone 3, Excellent Groundwater Recharge Areas.

Mr. Baird said the proposed amendments are similar to those being considered as part of the Sussex County Source Water Ordinance.

Neither council nor the public had any comments or questions.

Mr. Workman moved for adoption of Ordinance 2008-2, seconded by Mr. Brooks. Motion carried by unanimous roll call vote:

Mayor Rogers declared the Public Hearing adjourned at 7:13 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 24, 2008

A Public Hearing was held before Milford City Council on Monday, January 28, 2008 in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware, to take final action upon:

> The request of Scott Engineering, Incorporated on behalf of First United Pentecostal Church for a Conditional Use to allow a Hotel in a C-3 District on the north side of Lighthouse Estates Drive, 322 feet east of Carpenter Pit Road in Milford, Delaware. Tax Map No. MD-16-174.00-03-01-000.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Owen Brooks, Jr. and Katrina Wilson

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

Mayor Rogers called the Public Hearing to order at 7:13 p.m.

Gregg Scott of Scott Engineering presented the application on behalf of the property owner. Mr. Scott recalled this property being the subject of a number of applications over the past couple of years. The original property was approximately 73 acres; that southeast parcel was subdivided into a residential single family subdivision called Lighthouse Estates which is presently under construction. The property then went through a preliminary plan submission for the construction of a church on the northern portion of the property. As that was occurring, a change of zone was requested to change the remaining balance outside of residential area to C-3 in order to develop it as commercial property. Following that, a minor subdivision plan was submitted to cut out a series of lots. The church parcel is 27 +/- acres and the remaining three commercial sites include a 7.2 acre parcel, a 2.3 acre parcel and a 4.8 parcel.

Tonight he is presenting the preliminary plan and a conditional use which will permit the construction of a Hampton Inn on the 2.3 acre commercial as was highlighted on the drawing he presented. He explained that currently Carpenter Pit Road is being extended to the north to ultimately tie into New Wharf Road. A bridge was built over the stream to allow the extension of the road. The road to the north will also be improved according to DELDOT standards. All improvements are being done to accommodate the commercial properties including the Hampton Inn up through the corridor. Lighthouse Estates Drive is presently designed as a single family residential type road but will be upgraded as part of the Hampton Inn application to a commercial road.

Mr. Scott explained that as this property progresses through the development with different users, additional improvements will be made to add in the required right and left turn lanes on Carpenter Pit Road as well as the intersection of Lighthouse Estates Drive and Carpenter Pit Road.

He said the conditional use application is for an 81-room, 3-story Hampton Inn off Lighthouse Estates Drive adjacent to the residential subdivision. A 100-foot buffer is required between the residential subdivision and the commercial property. They are proposing 87 parking spaces though the minimum required is 85. Utilities will be present to serve the hotel. Sewer was extended by the residential subdivision and a pumping station installed. Adequate capacity is available for the Hampton Inn as well as the other commercial properties.

Bored beneath Route 1, water has been extended along Lighthouse Estates Drive and is being looped up Carpenter Pit Road. The force main for the pumping station follows the same route, crosses the highway and discharges into the city system. He advised there is adequate capacity to serve the hotel.

Comments have been received from the Development Advisory Committee which Mr. Scott has no problem meeting.

Council had no comments or questions on the application.

City Planner Gary Norris reported that by a vote of 7 to 0, the planning commission recommended approval of the conditional use for the hotel.

No one from the public spoke for or against the application.

Mr. Kramlich moved for approval of the conditional use to allow the hotel, seconded by Mr. Workman. Motion carried by unanimous roll call vote.

With no further business, Mayor Rogers declared the Public Hearing adjourned at 7:19 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 24, 2008

A Public Hearing was held before Milford City Council on Monday, March 24, 2008 in the Meeting Room of the Delaware Rural Water Association Facility, 210 Vickers Drive, Milford, Delaware, to take final action upon:

> Davis, Bowen and Friedel, Incorporated on behalf of Shawnee Farm LLC for a Conditional Use to allow a Shopping Center and 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 Shawnee Road/Route 36. Tax Map No. 1-30-3.00-261.00.

PRESIDING: Honorable Mayor Joseph R. Rogers

IN ATTENDANCE: Councilpersons Irvin Ambrose, John Kramlich, John Workman, Owen Brooks, Jr. and Katrina Wilson

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

Mayor Rogers called the Public Hearing to order at 7:19 p.m.

Randy Duplechain, P.E. of Davis, Bowen and Friedel, Incorporated was present to speak on behalf of the applicant. He presented a drawing of the proposed shopping center noting the plan has been reviewed by the Milford Planning Commission who approved the preliminary subdivision and conditional use. He is presenting the conditional use and preliminary subdivision plan for council's approval this evening.

Mr. Duplechain referred to the map showing the location of the project. He explained the first phase of the project is 237,000 square feet of commercial on a 44-acre parcel. He noted another section of approximately 15 acres of commercial which involves Phase 2, though there are no immediate plans for that area.

They are proposing an approximate 139,000 square foot home improvement store with a 55,000 square foot grocery store and another 55,000 square feet of miscellaneous retail.

The application has gone through DELDOT with a traffic impact study. Three site accesses are proposed; the first is from Route 36 with a change to a T-type intersection with protected left turn lanes. Currently, it angles in coming into Old Shawnee Road and goes through Route 36. When the intersection is restructured, this portion of Seabury Avenue would become a cul-de-sac

Mr. Duplechain advised the second access will be from a major interchange across from the Simpson Farm property which will become a fully signalized intersection with full movements from all directions.

The third point of access is on Route 113 and will be a rights in/rights out along with a left in.

Mr. Duplechain feels it will relieve some of the southbound traffic that would otherwise have to go through the signalized intersection.

He said a fourth connection will be added to the residential and future commercial portion. Another entrance further to the south will tie into the residential portion of the project. Mr. Duplechain reiterated this has gone through DELDOT along, with a review of the traffic impact study, and agrees with the location and types of entrances proposed.

He noted there was some discussion related to pedestrian access. Sidewalks will be added throughout the project and will be connected to the residential portion. A 12-foot wide multi-modal path along the frontage of Route 113 and Route 36 will allow bicycle and pedestrian uses.