

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
July 22, 2019

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, July 22, 2019.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilmembers Daniel Marabello, Mike Boyle, Lisa Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow, Jason James Sr. and Katrina Wilson

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

*Board of Revision and Appeal-FY 2019-2020 City of Milford General Property Assessment*

Matter is currently being worked on by the City Assessor and has been postponed.

#### CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:05 p.m.

#### INVOCATION AND PLEDGE

The Pledge of Allegiance, followed the invocation was given by Councilmember Wilson.

#### RECOGNITION

*ICMA Fellow Christine Hoh*

City Manager Norenberg introduced Local Government Management Fellow Christine Hoh, who began her employment last week. Milford will again be sharing the LGM Fellow this year with the City of Lewes for one, possibly two years. She will continue the work of the former Fellow including the capital improvement program, strategic planning update and other key projects.

Ms. Hoh informed Council she from Erie, Pennsylvania and recently earned her MPA at the University of Delaware and completed her time as a Legislative Fellow at the Delaware General Assembly.

#### PUBLIC HEARINGS:

*Ordinance 2019-25  
Amending and Adopting by Ordinance  
2018 City of Milford Comprehensive Plan/Southeast Milford Plan  
Amendments to Receiving Areas*

*Ordinance 2019-13  
Amendment to Chapter 200-Subdivision of Land  
Renaming and Renumbering of Sections  
Transfer of Development Rights Provisions Added*

*Ordinance 2019-20  
Amendment to Chapter 230-Zoning  
Transfer of Development Rights Provisions Added*

*Resolution 2019-05  
Planning Department Fee Schedule*

Planning Director Rob Pierce advised that Ordinances 25, 13, 20 and Resolution 05 all relate to the implementation of a Transfer Development Rights Program.

He referenced the Comprehensive Plan Amendment application submitted to the State Planning Office which included a Transfer Development Rights Program.

Mr. Pierce recalled when the Department of Ag provided an overview of their preservation program and how the City's Transfer Development Rights Program would work. In 2011, the City of Milford adopted a Southeast Master Plan (SE Master Plan), in conjunction with the Office of State Planning Coordination (OSPC), Department of Transportation (DelDOT), Department of Natural Resources and Environmental Control (DNREC) and Department of Agriculture (DDA) for the Southeast Neighborhood around the new Sussex Health Campus.

He noted that Connie Holland and David Edgell of the Office of State Planning and Scott Blair and Austin Short of the Department of Agriculture were in attendance.

The first commitment of the SE Master Plan titled Implementation states that "the City will develop and adopt an ordinance to enable the use of transfer-of-development credits in receiving zones. This ordinance will enable developers build at up to eight (8) units per acre by-right through the purchase of TDR credits from farms in the sending areas."

Ordinances 2019-13 and 2019-20 include amendments to the Subdivision of Land and Zoning Codes that would implement that program. Resolution 2019-05 adds the TDR Credits to the Planning Department Fee Schedule, along with the recently adopted Police and General Government Facilities Fee.

Mr. Pierce referenced the areas designated as TDR Sending Areas in the Comprehensive Plan. These parcels must convey all available transfer credits at the time of the preservation easement dedication and property owners who have transferred development rights from their land must forfeit the ability to subdivide for residential development.

The Department of Agriculture (DOA) would assist the City in purchasing the agricultural easements, including preparing and recording any of the required legal documentation.

He said this is a voluntary program and does not require any property owner to enter into the preservation owner. However, the DOA would seek willing participants to sell their credits.

All areas designated as TDR Receiving Areas in the adopted plan would be eligible to purchase additional density; however, the City will have the flexibility to determine the exact location on the receiving parcel where the TDR credits may be applied. That location would be determined based on the availability of public utilities, road and traffic considerations, availability of public transportation, environmental considerations, proximity to public services and existing density. The Southeast Master Plan states that developers are able to build at up to eight units per acre by-right. Therefore, the receiving areas would be rezoned to R-8 Garden Apartment and Townhouse District, in accordance with the Zoning Ordinance and upon payment of the TDR credit fee.

The rezoning would permit by-right the construction of single-family detached, semi-detached, attached and multi-family housing as permitted under the R-8 zoning category. The TDR credit value was based on the enclosed appraisal report prepared by Karen Belinko Appraisals, LLC, who was authorized by City Council to prepare the appraisal document in December 2018. The appraisal evaluated the sending areas adjacent to Milford and recent comparable farm sales in Kent and Sussex Counties. The report determined that the market value of the agricultural preservation easement was approximately \$6,000 per acre. Assuming that two dwelling units per acre of development is permitted within the County zoning ordinance, the TDR Credit value would be established at \$3,000 per dwelling unit. The Code requires that the transfer credit value be reviewed every two years.

When he was preparing the draft ordinance on the TDR program, a couple of established receiving areas straddled several parcels which will make it difficult to utilize the TDR program. Receiving Area 4 straddled two dozen parcels and he

felt it was beneficial to move the area further south to encompass two parcels under one ownership. In that manner, it would be easier for potential developers to work with one property owner when trying to take advantage of the density bonuses in lieu of having to buy strip lots from multiple owners.

The first comp plan amendment involves the receiving area location for areas 2 and 4 to allow one single parcel. Previously it bled over three other parcels but was shaved off and added to the southeast portion of the receiving area.

He also updated table 4.2 of the master plan outlining specifically what parcels would be eligible as receiving areas to include that in the ordinance, as well as how the program will work.

Mr. Pierce reiterated that only the areas in the comp plan designated would be eligible as receiving areas.

Councilmember Peel confirmed there is no changes to the premise of the TDR area and this is only a minor adjustment. Mr. Pierce said when he was developing the ordinances, he had to find a mechanism to specify where the receiving areas were and he discovered there were 25 different properties in two of the designated receiving areas. As a result, they shifted the one south to an undeveloped farm which makes it easier for developers to take advantage of the program and more successful. The State supported his amendment during the PLUS review.

Mr. Pierce confirmed the Planning Commission reviewed the ordinances at their July 16, 2019 and recommended approval of the three ordinances and resolutions by unanimous vote. No one from the public was present to comment.

Councilmember Peel wanted to make sure she understood that what is being presented is only a very simple change; Mr. Pierce stated that is correct.

Councilmember Marabello referenced areas 1 and 2 and asked if they are two of the receiving zones; Mr. Pierce said the four receiving areas are labeled 1, 2, 3 and 4 and are shown on the map as cross hatching.

Councilmember Marabello recalled a large controversial public hearing involving the property next to Knollac Acres and asked if that area would be subject to possibly eight units per acre. Mr. Pierce stated that 1, 2, 3 and 4 could be rezoned to R8 if they participate in the program.

Councilmember Marabello reiterated there was a big outcry from the Knollac Acres residents and asked if he is concerned about that; Mr. Pierce said that was regarding an amendment to make 120 acres adjacent to them community highway commercial. He said to keep in mind, area 1 has been in the comprehensive plan as a receiving area for the past eight years. As a result, there are no changes being made to the plan other than simply implementing that plan from eight years ago.

Mr. Pierce then added that does not mean there may not be opposition when the TDR credits are purchased and a rezoning hearing is scheduled.

Mayor Campbell opened the floor to public comment.

Director Connie Holland from the Office of State Planning stated that she could not be prouder of Milford than she is tonight. She noted that Planner David Edgell and representative from the Department of Agriculture can verify that for twenty-five years, Secretary Scuse and her have been working on Transfer Development Rights, if not longer. Kent County now has a program and it has the ability to save the farming industry because the farmer keeps his land but also receives something in return.

She commended Milford's staff who have worked together to make Milford a great place, between the new hospital, the master plan and this.

No one else spoke and the floor was closed.

Councilmember Boyle moved to adopt Ordinance 2019-25, seconded by Councilmember Peel. Motion carried.

Councilmember Peel moved to adopt Ordinance 2019-13, seconded by Councilmember Wilson. Motion carried.

Councilmember Wilson moved to adopt Ordinance 2019-20, seconded by Councilmember Peel. Motion carried.

Councilmember Wilson moved to adopt Resolution 2019-05, seconded by Councilmember James. Motion carried.

*Ordinance 2019-26*

*Amending and Adopting by Ordinance*

*2018 City of Milford Comprehensive Plan*

*Milford Marina Enterprises LLC*

*Future Land Use Designation Change*

*Ordinance 2019-24*

*Milford Marina Enterprise LLC on behalf of Limitless Development Company LLC/Knight Crossing/Change of Zone*

*Current & Proposed Zoning: R-3 (Garden Apartment & Townhouse) and C-3 (Highway Commercial)*

*Present Use: Vacant; Proposed Use: Planned Unit Development and Commercial Residual Land*

*Size/Location: 12.90 +/- acres of land located at 19859 Cedar Beach Road*

*Tax Map & Parcel(s): 3-30-7.00-035.00, -036.00 & -037.00 (portions of)*

Mr. Pierce explained that Ordinances 26 and 24 relate to a comprehensive plan amendment for a future land use and a change of zone for the Milford Marina property located east of Beaver Dam Road, south of Route 36 and west of State Route 1.

The City has received a request from the owner/developer of the three parcels located along the south side of Cedar Beach Road to develop the site into highway commercial and residential uses. The adopted future land use exhibit shows commercial along Route 36, with limited Moderate Density Residential, along two of the parcels off Beaver Dam Road. The developer has requested to change the future land use of the area shown by the hatch cross pattern of 12.9 acres from highway commercial to moderate density residential.

The request will shift the residential/commercial line further to the north to allow for a larger area to be developed for residential uses.

The packet includes a staff report related to the change of zone request to be named Knight Crossing.

He stated that if the comprehensive plan amendment is approved, the change of zone would be consistent with the plan. It would become a Planned Unit Development containing 101 single family detached condominium units and 30 townhouse condominium units along the southside of the property.

Mr. Pierce then referenced Section 230-11 related to garden apartments which details the permitted uses if the zoning change was approved.

He reiterated this is a comprehensive plan/future land use request along with a related change of zone which shifts the boundary further north and changes the zoning of 12.9 acres of land from C-3 to R-3.

Mr. Pierce reported the Planning Commission reviewed the ordinances at their July 16, 2019 and recommended approval of the two ordinances by unanimous vote. The public notice was mailed to properties within 200 feet of the affected area and was published in the Milford Beacon.

Mayor Campbell opened the floor to public comment.

Brenda Watson of Beaver Dam Manor, which is the development adjacent to the property, stated that they are unsure of what is going to occur with the property. The biggest concern is that originally, they were told it would become single family dwellings and were decreasing the zoning and less commercial. Moving the property line is based on more housing versus commercial.

Solicitor Rutt explained that at this point, any comments should be related to the comprehensive plan map change from commercial to residential.

Ms. Watson asked that Council to consider the density to be less commercial and more townhomes versus commercial though she feels having more townhouses or apartments is what is being considered. The letter she received stated apartments and she has a concern this will become more apartments and less commercial.

Planning Director Pierce explained the zoning category is R-3 garden apartment and townhouse district. The public notice explained this was a change of zone from C-3 highway commercial to R-3 garden apartment and townhouse district. The applicant has submitted for preliminary approval, which is not for review tonight. However, there is a concept rendering of 101 single family detached, which is standard single-family homes and thirty townhouses. Although they can return with something different, what they are proposing now is 131 total units.

In the C-3, Mr. Pierce said, up to 12 units per acre can be developed. And in the R-3, up to 12 units per acre can be built. This was more of the use and area regulation setbacks, lot sizes, etc. The developer wants to move the line to make the project cleaner versus trying to accomplish this through a mixed zone.

Mr. Rutt shared that Ms. Watson's comments may be more significant to Ordinance 2019-26.

No other persons wished to speak. The public hearing was closed.

Councilmember Boyle moved to adopt Ordinance 2019-26, seconded by Councilmember Morrow. Motion carried.

Stephen Gorski with Duffield Associates, 5400 Limestone Road, Wilmington, stated they are the engineer for the project. Don Lockwood, owner and developer of the property, stated that he will be turning the technical information over to Mr. Gorski and will be happy to follow up with any further questions.

Mr. Gorski said they in attendance for the change of zone of the strip of land in the middle of the property. This will downzone from the current highway commercial zoning to residential (R-3), which will permit the planned unit development that will be proposed. The actual development referred to by Mr. Pierce, will be presented in the very near future and Council will see the actual details of what is proposed at that time.

He referenced the concept plan showing 101 single family detached units and 30 townhome units which results in a density of approximately 5 units per acre though 12 is allowed in the R-3 district.

Mr. Gorski confirmed that though apartments are permitted, that is not proposed. Owned units and not rented are planned. All will be either single-family detached, condo units owned by the owner and 30 townhouse units.

Councilmember Boyle questioned the concept of single-family condominiums; Mr. Lockwood explained they used this business model at the beach which allows the owner to control the landscaping which creates a more sophisticated neighborhood. The resident will own the actual home but instead of being condominiums, will be single, family detached homes in a condo-documented HOA type situation.

Councilmember Boyle confirmed that all the grounds will be maintained by the HOA. Mr. Lockwood stated yes and explained they do not want one or two properties going unmaintained and instead want a nice view from a curb appeal sense. They found if they handle that throughout the development, it works out much better aesthetically.

When asked about amenities, Mr. Lockwood said there will be a pool and a clubhouse for use by the residents.

Councilman Culotta pointed out those are items that will be discussed when the application is submitted for what is actually being built. Mr. Lockwood confirmed this is the plan they will be moving forward and he does not expect many deviations and are attempting to fast track the project due to the current market.

When no additional persons wished to speak, Mayor Campbell closed the hearing to further remarks.

For clarification, Councilmember Peel confirmed they are permitted to build more though they have selected less density than permitted. Mr. Pierce confirmed the proposal is less density though they could present something different in the future because the zoning will be in place. However, the application has been submitted and fees paid, after which a couple of reviews have already taken place.

It was again confirmed this is a downzoning.

Solicitor Rutt emphasized that Council is not voting on what is being built, only the change of zone.

When questioned, Mr. Pierce confirmed the Knight Crossing project only came in a few years ago. However, the land was annexed into the City during the early 2000's and there may have been a preliminary or concept plan submitted for a planned unit development that never progressed that he is aware of.

Councilmember Wilson moved to adopt Ordinance 2019-24, seconded by Councilmember Culotta. Motion carried by the following unanimous roll call vote:

Marabello-yes and is happy it is more residential than commercial.

Boyle-yes it conforms to the City code and he agrees, it downzones somewhat, which will result in a less dense area.

Peel-yes based on the recommendation of the Planning Commission and for the same reasons mentioned.

Culotta-yes based on the recommendation of the Planning Commission. He also likes the concept of the stand-alone condo and though he knows the Mayor does not want to call Milford a retirement community, he said we do have a lot of retirees here. Having an option for a stand-alone residence that someone else can take care outside and maintain is very important and he thinks it is a neat concept and believes we will see a lot more of that.

Brooks-yes based on the Planning Commission.

Morrow-yes based on the Planning Commission recommendation in addition to liking the concept.

James-yes because of the downzoning from commercial to residential and feels that residential is important and needed and a better fit for the area.

Wilson-yes based on the Planning Commission recommendation and agrees with all the previous reasons stated by Councilmembers.

Planning Director Pierce stated that for the benefit of the Beaver Dam residents in attendance, there will be additional public hearings in relation to any development that occurs on the property. New notices will be mailed to residents inviting them to attend those hearings so that they can keep an eye on what is occurring on the property.

*Ordinance 2019-29*

*Amending and Adopting by Ordinance*

*2018 City of Milford Comprehensive Plan*

*K&G Associates LLC*

*Future Land Use Designation Change*

*Ordinance 2019-22*

*K&G Associates LLC for a Change of Zone*

*Current Zoning: H-1 (Institutional Development); Proposed Zoning: OB-1 (Office Building)*

*Present & Proposed Use: Medical Office*

*Size/Location: .29 +/- acres of land located at 302 Polk Avenue*

*Tax Map & Parcel(s): 1-30-3.08-067.00*

Planning Director Pierce stated similar to the previous application, this involves a comprehensive plan map amendment, along with a change of zone application.

He referenced the staff report in the packet stating this involves a small existing doctor's office on Polk Avenue adjacent to the former Milford Memorial Hospital. The owner requested a change of zone from H-1 Institutional Development to OB-1 Office Building. Most of the area was zoned H-1 when the hospital was functioning. This will allow different types of professional offices to occupy the existing structure.

The property contains a residential structure that was previously converted into a medical office by Dr. William Kaplan and the existing and future use will be better suited under the OB-1 zoning category.

To accomplish this, a comprehensive map amendment was needed that would change the future land use of this area from employment (more targeted for the Milford Wellness Village) to low density residential.

This will be a true downzoning of the property and opens more opportunities and options for the property.

The application was reviewed by the Planning Commission at their July 16<sup>th</sup> meeting at which time they recommended approval of both ordinances by unanimous vote. All property owners within 200 feet were mailed a public notice. In addition, it was published in the Milford Beacon as required.

Councilmember Wilson asked if this is approved, will this set a precedence for other structures in that area. She asked if different businesses will come through with similar requests which she feels could create spot zoning; Mr. Pierce explained the OB-1 category is set up for office type uses to occur in residential zones. Most OB-1 parcels will be intermixed with residential uses. Milford's Comprehensive Plan allows OB-1 within residential zones because the intent is low traffic, low profile uses.

The Planning Director referred to the former Masten Dermatology Office on Lakeview Avenue, Hermann Financial on Causey Avenue and the old library which is now a dentist's office on South Walnut Street. All three are zoned OB-1. He does not feel that is spot zoning and will fit well in those areas. The same would apply to neighborhood commercial that is intermixed with residential zones.

Mr. Pierce is confident it meets the intent of the zoning ordinance and expects more of the converted doctor offices in the area of the old hospital that are no longer owned by Bayhealth, to convert back to this option. The H-1 requires 50 acres of land and allows 50-foot buildings and is more geared toward a large parcel and an institutional use, not a house that has been converted into an office. The purpose the OB-1 zone was to allow houses to be converted into offices with appropriate setbacks. That meets the intent of the zoning code and comp plan.

Councilman James believes it would be beneficial to convert the zoning of these homes back to OB-1. Mr. Pierce said that he has spoken with several physician offices about converting to the OB-1, though many had reverted during the recent comprehensive plan update. At some point, a rezoning would occur as a result of the comprehensive plan that would change them.

This was requested specifically by the applicant due to their time restraints.

Mayor Campbell opened the floor to public comments on Ordinance 2019-29; no one responded. The floor was closed.

Councilmember Boyle moved to adopt Ordinance 2019-29, seconded by Councilmember Peel. Motion carried.

Deborah Kaplan was present on behalf of the request for the change of zone and Ordinance 2019-22. Ms. Kaplan stated that her husband is the sole principal of K&G Associates. He is unable to attend due to medical reasons and she is in attendance to present the request.

Ms. Kaplan told Council that for approximately 35 years, this has been a doctor's office. When Dr. Kaplan retired, they reviewed the zoning and realized the H-1 district limited the use of the building to medical or dental offices. Since Bayhealth has relocated to its new location, they felt it was appropriate to request a change of zone to allow other low-volume traffic businesses to locate to this area.

The office building presently has 13 parking spaces in the rear and is handicapped accessible. No changes are being requested to the building or to the property. They only want to be able to offer the building for use by other professional offices like an attorney, insurance agent, photographer, etc.

Mayor Campbell opened the floor for public comment on Ordinance 2019-22; no one responded and the floor was closed.

Councilmember Peel moved to adopt Ordinance 2019-22, seconded by Councilmember Wilson. Motion carried by the following unanimous roll call vote:

Marabello-yes and he thinks changing to OB-1 will not have any adverse effect in the neighborhood.

Boyle-yes, the request is consistent with the 2018 Comprehensive Plan Future Land Use Map, as amended.

Peel-yes because of the functionality of the offices that are intermixed with residential within the neighborhood now.

Culotta-yes feels it corrects something that was not right to begin with and it also gives a lot more flexibility to the owner.

Brooks-yes for all the reasons the other Councilmembers stated.

Morrow-yes, it makes more sense for the area.

James-yes, it provides the property flexibility and as a result, the change of the nature of the area seems more appropriate for this zoning.

Wilson-yes for all the reasons previously stated.

*Ordinance 2019-27*

*Amending and Adopting by Ordinance*

*2018 City of Milford Comprehensive Plan*

*Maloney, Mitchell Rentals LLC*

*Future Land Use Designation Change*

Mr. Pierce stated this is a simple comprehensive plan map amendment and there is no corresponding change of zone. Three of the properties identified in the 2018 Comprehensive Plan update to be commercial future land use had requested to keep their current I-1 limited industrial zoning designation.

They owners had some initial feelings they wanted to go commercial and the reason that designation occurred in the comp plan. When they began to initiate notices related to an upcoming comprehensive rezoning, they provided written requests to maintain their I-1 zoning. The three parcels are shown on the exhibit in the packet.

This will not impact any current land used in the area and basically contains the two businesses of Jor-lin Charter Bus Service and Rumpstich in the 300 block of South Rehoboth Boulevard.

This aligns with the comprehensive plan and zoning map by reverting back to industrial future land use to prevent forcefully rezoning these three parcels who are not interested in commercial zoning.

The application was reviewed by the Planning Commission at their July 16<sup>th</sup> meeting at which time they recommended approval by unanimous vote.

Mayor Campbell opened the floor to public hearing; no one responded. The floor was closed for further remarks.

Councilmember Culotta moved to adopt Ordinance 2019-27, seconded by Councilmember Morrow. Motion carried.

*Ordinance 2019-28*

*Amending and Adopting by Ordinance*

*2018 City of Milford Comprehensive Plan*

*Webb, Swain, Simpson Properties*

*Future Land Use Designation Change*

Mr. Piece reported the last map plan amendment to the comprehensive plan amendment relates to the properties impacted by the Windward on the River residential and commercial developments. The site is south of Southeast Second Street in the vicinity of the Putt-A-Rosa/batting cages and vacant single-family detached dwelling.

The three changes involve tax parcel 3-30-11.00-261.00 from commercial to moderate density residential, parcel 3-30-7.00-033.00 from moderate density residential to commercial, and parcel number 3-30-11.00-043.00 from low density residential to commercial.

The triangle piece of property (261) is currently zoned C-3 highway commercial and is part of the residential development that contains the open space stormwater pond for the proposed 264 apartment unit project. This will clean up the boundary and prevent any split zone open space.

This only straightens out the future land use exhibits.

It also involves a sliver of land (033) that extends out to the right-of-way from the Webb piece. Changing to commercial will better square off the commercial portion of the project.

The last parcel (043) was annexed into the City with a C-1 zone from low density residential. This is similar to the marina application and shifts the residential/commercial boundary to more accurately fit the projects.

This has no impact on the approvals currently underway.

The application was reviewed by the Planning Commission at which time they recommended approved by unanimous vote.

Mr. Pierce referenced the Windward on the River commercial project that was approved for a conditional use, is split zone between C-3 and C-1 and meets all zoning requirements. It involves two restaurants, three retail and one office building. He confirmed the residential project is on the Planning Commission's August agenda for final site plan.

No construction plans for the commercial project have been submitted as of this date.

He reiterated this is only a map amendment to the comprehensive plan.

Mayor Campbell opened the floor to public comment. No one responded and the floor was closed.

Councilmember Wilson moved to adopt Ordinance 2019-28, seconded by Councilmember Culotta. Motion carried.

*Ordinance 2019-23*

*Beach Babies on behalf of Liborio Watergate LLC for a Conditional Use*

*Current Zoning: R-3 (Garden Apartment and Townhouse District)*

*Present Use: Vacant Land; Proposed Use: Day Care Center*

*Size/Location: 1.82 +/- acres of land located at the northeast corner of Watergate Boulevard North and Marshall Street Within the Watergate Subdivision*

*Tax Map & Parcel(s): 3-30-11.09-030.00, 3-30-11.09-031.00 & 3-30-11.09-115.00*

*Communication & Correspondence*

Mr. Pierce explained this is a conditional use application to allow a proposed daycare facility in front of the Watergate Community. Public notices were published in the Milford Beacon and all properties within 200 feet of the subject property were mailed a copy of the public notice.

The applicant proposed to construct a two-story, 14,781 square foot daycare facility along the east side of Marshall Street, and north of Watergate Boulevard South, which is the southern entrance to the community.

The subject parcel is on lot 2 of the recorded Watergate Planned Unit Development approved by City Council on January 28, 2019. The applicant proposes to revise the PUD by removing the proposed apartment buildings 'B' & 'C' containing 24 dwelling units along Marshall Street and designating this area as residual R-3 lands.

The revised subdivision plan needs to be recorded with Sussex County before the daycare receives final site plan approval.

The applicant desired to obtain approval for the daycare before they proceeded with the revision of the planned unit development.

The R-3 zone permits all uses within the R-1 and R-2 zoning districts of which a daycare center is a conditional use in the R-1 category.

The site plan requires a variance from maximum lot coverage which allowed a maximum lot coverage of 30%. The Board of Adjustment approved a variance on July 11, 2019 to allow an increase in the maximum lot coverage of 12%, resulting in a proposed lot coverage of 42%.

Aside from the variance, the preliminary site plan meets the minimum standards for the zoning ordinance.

The plan has been reviewed for general compliance with the City's construction standards by the Public Works Department and Planning Staff.

The approval will be subject to final site plan approval from the Planning Commission after all agency approvals are obtained.

Mr. Pierce then referenced several documents included in the Council packet.

He reviewed a map showing its proximity to Milford Rental, who was not in attendance this evening. The Planning Director stated the owner of the rental is in favor of the application because it reduces the building height of the apartments from three to two stories and sets the building back further off the road.

The applicant will be required to maintain the buffering requirements agreed upon during the planned unit development hearings involving landscaping screening. Those notes shall be transferred to the new project.

PE Scott Lobdell of Van Cleef Engineering of Newark, Delaware, was present on behalf of the applicant. He stated that the City Planning Director reviewed the project sufficiently and explained that Beach Babies is hoping to open a daycare facility to serve the area developments and the City in general.

Originally, there were two apartment buildings approved with setbacks of approximately twelve feet from the right-of-way. To be in compliance with the R-1 zone, the daycare will have a 25-foot setback or additional 13 feet off the roadway.

Instead of being two separate buildings with one being closer to Milford Mini Storage, this is now one building shifted closer to the roadway. The visibility issue discussed as part of the original Watergate plan will be improved because the playground area has been moved to the other end.

Mr. Lobdell confirmed the variance for the impervious coverage was approved. However, though the Watergate plan with the apartments had 72% impervious surface, that has been reduced to 42%.

Water, sewer and parking already exist in the development.

Lou Ramunno was present on behalf of the owner, in addition to a representative of Beach Babies.

Mr. Lobdell also presented a rendering of the building.

Councilman Boyle commented that he observes the playgrounds at daycares are always adjacent to the highway with only a cyclone fence separating it. The drawing shows the playground against the highway and he recommends pushing it back further as an added precaution, due to safety concerns from a vehicle veering off the road and going through the fence.

Mr. Lobdell said there is some additional space toward the end of the parking area and they will discuss that with Beach Babies. He feels the critical issue is the access point from the building, though they can shift the fence line slightly to accommodate that.

Councilmember Peel pointed out there are rigorous regulations by the State of Delaware in relation to playground space and safety.

The Engineer confirmed there is a post and rail fence proposed along the right-of-way, in addition to the fence surrounding the play area. Though two forms of fencing will not guarantee a vehicle would be stopped, it does provide an additional layer of protection.

Mayor Campbell opened the floor to public comment. No one responded and the floor was closed.

Councilmember Morrow moved to adopt Ordinance 2019-23, seconded by Councilmember James. Motion carried by the following unanimous roll call vote:

Marabello-yes and he thinks it will be a good facility and provide a service for a lot of families that are nearby.

Boyle-yes, the plan does fulfill a need in that portion of the City and particularly in the Watergate Complex where there is no other daycare facility available.

Peel-yes, it is a reputable business and she thinks that quality, early childhood programming leads to better prepared students.

Culotta-yes and referenced his earlier comment about Milford being a retirement community and having a facility like this will attract younger residents when people learn that daycares are available for their kids.

Brooks-yes and feels it is much needed.

Morrow-yes, because he knows it is needed.

James-yes, it is a needed service and it also accommodates some of the desires of the adjacent business owner.

Wilson-yes for all the reasons previously stated.

## COMMUNICATIONS & CORRESPONDENCE

### *Water Issues*

Councilmember Boyle reported that he continues to receive emails from constituents. Though he understands it is related to the hydrant flushing, it seems as though there is not a week that goes by that he does not receive complains about dirty water. He wants to make sure the City stays on top of it and explores all options about possible causes.

Councilmember Culotta agrees there are constant comments. He saw a new one about moldy water which is not necessary the City's issue, but there are questions. He thinks it may make sense for the City to explain how our water system works. He agrees we need to get ahead of it and really appreciates the Public Works Director taking him around to the different facilities to see how our water system works. That was very informational though most people do not have that ability and don't understand the system as a result.

Mr. Whitfield recalled that the City has not had a flushing program for several years. A routine flushing program has since been instituted and because he has been short of staff, the project seems to have been put on the back burner. When the flushing was done last year, there were very few complaints. This year was the reverse.

He recalled when the City had a major water line hit by a private contractor in June that could be related to the amount of dirt that has impacted the water.

Once he is fully staffed, the plan is to do more routine, system-wide flushing. He is aware of many towns who do a flushing once a month or once a quarter. Milford has most recently been doing it once a year and he does not believe that is enough.

Mr. Whitfield agrees the City needs to do a better job of educating our residents about our water system works and the importance of flushing those lines. In addition to water quality, it is important to make sure all hydrants work.

Councilman Brooks recommended contacting all the neighbors in the hydrant area. Mr. Whitfield said a system-wide telephone call was made to residents to notify them of the flushing project. In addition, an ad was published in the local newspapers.

Councilmember Morrow also suggests calling the local industries who are also impacted. Mr. Whitfield said they generally provide alerts to industries, as well as medical facilities, who are extremely sensitive. They will flush those hydrants at night in an attempt to prevent any negative reaction.

An open house was discussed by the City Manager at which time a couple facilities could be visited. A five-minute video was also suggested.

Mayor Campbell referenced the continuing problems at Hearthstone and concerns of residents related to construction problems. A meeting will be held this Wednesday to discuss those concerns.

#### UNFINISHED BUSINESS

##### *Board of Adjustment/Appointment*

The City Planner advised that they received an application from Nadia Zychal of 303 Walnut Street expressing an interest in the Board of Adjustment. She has since been interviewed and Mayor Campbell is prepared to make that recommendation.

Mayor Campbell asked that Council approve Ms. Zychal to fill the vacancy on the Board of Adjustment.

Councilmember Boyle moved to appoint Nadia Zychal to the Board of Adjustment, seconded by Councilmember Culotta. Motion carried.

##### *Adoption/Resolution 2019-10/Updated FY19-20 City of Milford Annual & Capital Budget*

City Manager Norenberg explained that this is a minor adjustment to the original budget approved a month ago. He referenced the memo emailed to City Council discussing the two minor errors and related corrections.

Councilmember James moved to adopt Resolution 2019-10, readopting and updating the FY19-20 budget approved in June, seconded by Councilmember Morrow:

WHEREAS, the operating and capital budgets of the City of Milford for Fiscal Year 2019-2020 have been prepared and submitted to the City Council by the City Manager in accordance with Article VI 'Financial Procedures' of the City Charter; and

WHEREAS, the City Council was presented with the proposed budget following a comprehensive study and review while meeting in public sessions on June 3, 2019 and June 4, 2019 and initially adopted on June 24, 2019; and

WHEREAS, the City Council approved Resolution 2019-07, adopting the FY 2019-2020 Budget, presented on June 10, 2019 and June 24, 2019; and

WHEREAS, the City of Milford Finance Staff recommends amendments to the adopted FY 2019-2020 Budget presented on June 24, 2019; and

WHEREAS, Resolution 2019-07 is hereby rescinded and replaced by Resolution 2019-10, and all FY 2019-2020 budgets approved prior to this date are null and void; and

WHEREAS, in the opinion of the City Council, the budget, as amended, most accurately reflects the City's anticipated revenues and expenditures for the fiscal year, retroactive to July 1, 2019 and ending June 30, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILFORD, that the City of Milford's Operating Budget for Departments shown under General Fund as Administration, Planning and Zoning, Code Enforcement and Inspections, Finance, Information Technology, Police, Streets Division, Parks and Recreation and Council; and the Water, Sewer, Sanitation and Electric Divisions was adopted and approved as the budget of the City of Milford for Fiscal Year 2019-2020 in the following amounts:

Operations and Maintenance - \$41,742,787  
 Debt Service - \$1,109,160  
 Capital Program - \$2,423,029  
 1. Total Expenditures - \$45,274,976

A copy of said budget, is on file in the Office of the City Clerk, as was adopted by majority vote of Milford City Council on the 22<sup>nd</sup> day of July 2019.

Motion carried.

*Bid Award/Sidewalk Repair Project*

Public Works Director Whitfield reported that as part of the Sidewalk Repair program implemented by the City in 2017, bids were solicited for the replacement work of the sidewalks. Council agreed the City would be responsible for the repair of sidewalks where there are water meter pits, utility poles, street signs, hydrants, street tree roots, and sewer cleanouts, and the bid includes these sidewalks as well.

Bids for the project were opened on July 18, 2019. One bid, received from Mitten Construction Co of Dover, DE is as follows:

\$13.00 square foot 4” sidewalk  
 \$16.00 square foot 6” sidewalk

Based on the lowest responsible bid, the replacement of sidewalks under the City’s responsibility would be as follows:

Water            \$26,975  
 Electric        \$11,700  
 Sewer            \$ 650  
 Streets         \$21,450

Based on the lowest responsible bid, the replacement of sidewalks under the City’s responsibility would be as follows: Costs to property owners for a single sidewalk block (approximately 25 sf) would be as follows:

<u>Thickness</u>	<u>Approx. price/block</u>	<u>Discounted price/block</u>
4” thick	\$325	\$275
6” thick (at driveways)	\$400	\$350

If Council agrees, the discounted price would be \$2.00 per square foot; if the property owner selects the City to remove and replace the sidewalk, the cost would be \$275 for a 4” walk and \$350 for a 6’ walk if paid in full at time of receipt.

Mr. Whitfield noted that those prices are below what was budgeted.

Included in the packet is the amended Sidewalk Repair Notice that will be sent to residents, explaining the financing and alternative options. It also added a paragraph explaining the appeal process.

When asked how many City sidewalks were inspected, Mr. Whitfield said approximately half of the sidewalks were inspected. He is currently in the process of repairing all sidewalks along City owned property and curbing, unrelated to this contract. He said that based on the Spring 2017 inspection, roughly 47,000 square feet of 4” sidewalks were inspected and 3,600 square feet of 6” sidewalks need repair.

Councilman Brooks pointed out there are about a dozen sidewalks need replacing in the downtown area. Mr. Whitfield explained that sidewalks adjacent to the parking lot are the responsibility of the City.

Councilmember Wilson moved to award the Sidewalk Replacement Project to Mitten Construction at a not-to-exceed price of \$677,275 with funding as follows:

City responsible sidewalks to be funded through: Water Operating Budget \$26,975, Electric Operating Budget \$11,700, Sewer Operating Budget \$650, and Streets Operating Budget \$21,450. Discounted price for residents choosing the City's contractor to complete repairs to come from Real Estate Transfer Tax, which would not to exceed \$96,350. All other costs shall be paid from Real Estate Transfer Tax Reserves and paid back through assessments to abutting property owners.

Councilmember Peel seconded motion which carried by the following unanimous roll call vote:

Marabello-yes to award the bid to the company so named because the work has to be done.

Boyle-yes, this has been a long time coming and the Public Works Director has done everything they have been asked to do and it is time to move forward.

Peel-yes, the pricing is much better and there is a specific plan to lessen the burden of costs by not charging interest.

Culotta-yes though he is not happy about the method he votes yes because the pricing has come down and we are not charging interest and there are options for homeowners and they don't have to go with this pricing.

Brooks-yes.

Morrow-yes, it has answered some of his concerns and this is a good deal for residents because we are not charging interest and there is a pay early discount. They also have the option to do it themselves and the repairs are going to make the town safer. He has had phone calls congratulating Council on fixing a thirty-year problem for the City that has been tough and he agrees we need to move on.

James-yes, we have moved a long way from where we were and this is a much better option for the residents and it adds a lot of clarity for the sake of the residents. They now know their options and costs and he personally wishes to thank the Public Works Director and the City Manager for all the work that has been done on the project.

Wilson-yes, based on all the hard work that has been put into this project adding this has been going on for more than a year and she used to feel bad for Mr. Whitfield because she knew Council was going to chop his head off. But Mr. Whitfield has continued working to make it happen and doable for our residents and that is all Council wanted in addition to enhancing the City with safer sidewalks.

## NEW BUSINESS

### *Adoption/City of Milford Tax Warrant for Fiscal Year 2019-2020*

Mr. Norenberg noted that the earlier Appeal Hearing had been postponed so they continue to work with the appellant in an attempt to resolve one issue.

The following calculations do not include the tax numbers associated with that particular property.

Councilmember Wilson moved to adopt the FY 2019-2020 Tax Warrant, seconded by Councilmember James:

### *GREETINGS:*

*The Charter of the City of Milford provides the following:*

*"Article VII, Section 7.12: Attached to said tax list shall be a warrant, under the Seal of the City of Milford, Signed by the Mayor and Attested to by the City Clerk, commanding the City Manager to make collection of Taxes as stated in the Tax Lists."*

***THEREFORE, YOU, THE CITY MANAGER, DULY APPOINTED BY THE COUNCIL OF THE CITY OF MILFORD, ARE HEREBY COMMANDED TO COLLECT THE TAXES AS LEVIED IN THE FOUR WARDS, AS FOLLOWS:***

<i>Assessed Per Billing Register</i>	<i>\$1,095,473,359</i>
<i>Exemptions</i>	<i>[\$213,083,800]</i>

<i>TOTAL ASSESSED VALUE</i>	\$882,389,559
	<u>      x .0046</u>
<i>ESTIMATED TAX PER PROPERTY VALUES</i>	\$4,058,992
<i>Senior Citizen Discount</i>	[\$34,040]
<b><i>TOTAL TAXABLE (Fiscal Year 2019-2020)</i></b>	<b>\$4,024,952</b>
<i>Due Date:</i>	<i>September 30, 2019</i>

Motion carried.

*Bid Award/Digger Derrick Truck/Electric Division*

Mr. Whitfield requested City Council consider a recommendation to replace the existing 2000 International Digger Derrick line truck (Unit E-110) used by the Electric Division with a 2020 International truck with a Versalift Digger derrick body. The existing unit has approximately 30,000 miles/5,000 engine hours, is 20 years old, and has been used beyond its life expectancy. The replacement of the unit was identified in the 2020 Capital Improvement Plan. The truck is used for drilling holes for poles and craning poles into place for electric distribution lines.

The purchase of this truck will be made through Sourcewell Cooperative Purchasing (formerly NJPA Purchasing Agreement) through the Delaware State Contract. Specifications for the 2020 International truck and Versalift Digger Derrick body were included in the packet. The Electric Division budgeted \$275,000.00 for the purchase of this unit, and the Sourcewell final cost is \$265,717.10.

Councilmember Boyle moved to authorize a purchase to Navistar Incorporated for a 2020 International Truck with a Versalift Digger Derrick body in the amount of \$265,717.10, in accordance with Sourcewell Contract #081716-NVS, with funding coming from electric reserves, seconded by Councilmember Peel. Motion carried.

*Bid Award/Trencher/Electric Division*

Public Works Director asked City Council to authorize replacing the existing 2003 Vemeer Trencher (Unit E-130) used by the Electric Division with a 2020 Vemeer RTX750 Trencher. The existing unit has approximately 1,900 engine hours, is 16 years old, and has been used beyond its life expectancy. The replacement of the unit was identified in the 2020 Capital Improvement Plan. The trencher is used for excavating to allow the placement of underground electric distribution lines.

The purchase of the unit will be made through the Sourcewell Cooperative Purchasing (formerly NJPA Purchasing Agreement) through the Delaware State Contract. Specifications for the 2020 Vemeer RTX750 Trencher are included in the packet. The Electric Division budgeted \$125,000.00 for the purchase of this unit, and the Sourcewell final cost is \$117,845.00.

Councilmember Peel moved to authorize a purchase to Vemeer Mid-Atlantic for a 2020 Vemeer RTX750 Trencher in the amount of \$117,845 in accordance with the Sourcewell contract #0124-18-VRM, with funding from Electric Reserves, seconded by Councilmember Culotta. Motion carried.

*Bid Award/Vacuum Pump/Wastewater Division*

The Public Works Director asked Council to authorize the replacement of the existing 2005 Vemeer trailer mounted vacuum pump (Unit SE-13) used by the Water/Sewer Division with a 2020 Vemeer LP573SDT Vacuum Pump. The existing unit has approximately 500 engine hours, is 15 years old, and has been used beyond its life expectancy. The circuit board is outdated and repair parts are no longer available, the pump needs to be rebuilt, and the motor mounts need replacing. This was identified in the 2020 Capital Improvement Plan.

The vacuum pump is used for dewatering trenches when making water or sewer line repairs.

The purchase of the unit will be made through the Sourcewell Cooperative Purchasing (formerly NJPA Purchasing Agreement) through the Delaware State Contract. Specifications for the 2020 Vemeer LP573SDT Vacuum Pump are included in the packet. The Sewer Division budgeted \$75,000.00 for the purchase of this unit, and the Sourcewell final cost is \$68,259.00.

Councilmember James moved to authorize the purchase to Vemeer Mid-Atlantic for a 2020 Vemeer LP573SDT Trailer Mounted Vacuum Pump in the amount of \$68,259.00 in accordance with Sourcewell Contract #012418-VRM, with funding coming from Wastewater Reserves, seconded by Councilmember Boyle. Motion carried.

**ADJOURNMENT**

There being no further business, Councilmember Peel moved to adjourn the Council Meeting, seconded by Councilmember Wilson. Motion carried.

The Council Meeting adjourned at 8:42 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Recorder

**Attachment:**

Ordinances 2019-13, 20, 22-29

ORDINANCE 2019-13  
CODE OF THE CITY OF MILFORD  
PART II-GENERAL LEGISLATION  
CHAPTER 200-SUBDIVISION OF LAND

WHEREAS, the Mayor and Council of the City of Milford are charged with the protection of the public health, safety, and welfare of the citizens of the City of Milford; and

WHEREAS, the City Comprehensive Plan and Southeast Master Plan recognize the pressure to develop rural agricultural areas east of the City where adequate infrastructure does not exist to support such development and the fact that development of such agricultural, environmentally sensitive, and architecturally and culturally significant land threatens the character and quality of life that residents of the Milford area expect; and

WHEREAS, the Council of the City of Milford has considered the proposed text amendment changes to the Subdivision of Land, with regard to the establishment of a Transfer of Development Rights Program, and finds that the amendment is warranted in order to achieve the purposes of the City Comprehensive Plan and Southeast Master Plan, as it relates to those goals; and

WHEREAS, City Council found that the updated provisions are in the best interest of the health, safety, convenience and general welfare of the citizens of the City.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

*Section 1.* The Title and Text of Section 200-5 General Requirements and Design Standards is hereby renumbered Section 8 as set forth below:

**§ 200-8. General Requirements and Design Standards**

*Section 2.* The Title and Text of 200-6 Variances and Waivers is hereby renumbered Section 9 as set forth below:

**§200-9. Variances and Waivers**

*Section 3.* Section 200-6 is hereby renamed Revisions to Recorded Subdivision Plats as set forth below:

**§200-6. Revisions to Recorded Subdivision Plats**

*Section 4.* The Title and Text of 200-7 Administrative Approvals is hereby renumbered Section 5 as set forth below:

**§200-5. Administrative Approvals**

*Section 5.* Section 7 is hereby renamed Expiration of Approved Subdivision Development Plans as set forth below:

**§200-7. Expiration of Approved Subdivision Development Plans**

*Section 6.* Section 9 is hereby renamed Variances and Waivers as set forth below:

**§200-9. Variances and Waivers**

*Section 7.* A new Section 10 is hereby added to read as follows:

**§ 200-10. – Transfer of development rights.**

**A. Purpose and intent. This section is intended to promote more efficient utilization of land resources through the creation of a transfer of development rights program available to land owners. The transfer of development rights program enables developers of land within receiving areas the ability to purchase development credits to be used to increase the number of residential units per acre for development within the receiving areas. Funds paid by developers of land within receiving areas would be utilized to purchase the development rights of property owners of certain land designated as sending areas. This option was**

conceived in response to increasing pressure to develop rural agricultural areas where essential infrastructure and support services necessary to sustain suburban and urban land uses do not exist and are not planned. This section endeavors to achieve well designed and efficient communities inside the City of Milford while preserving, protecting and enhancing precious agricultural lands and rural and natural landscapes from encroachment by sprawl development that threatens the unique character and quality of life that Milford citizens enjoy and expect. The purpose of this section is further described as follows:

- (1) Enables the purchase of transfer credits by developers of land within designated receiving areas;
- (2) Enables the purchase of development rights for willing land owners within designated sending areas;
- (3) Provides for farmland, open space and natural resource preservation through the transfer of development rights that permits an increased density on a receiving parcel and preservation of a sending parcel;
- (4) Provides transit oriented, pedestrian friendly communities with parks, greenways, mixed uses and interconnectivity thereby reinforcing community character;
- (5) Provides adequate and efficient density to support infrastructure investment within the City.
- (6) To further discourage sprawling of urban development into rural areas; and
- (7) Ensures that development credits be utilized for properties that are in areas that have adequate support facilities, including, but not limited to, transportation, water, sewer, employment, recreation and commercial services to accommodate additional development.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

DEVELOPMENT RIGHTS – The rights of the owner of a parcel of land to develop or use the parcel in accordance with Chapters 230 and 200 of the City of Milford Code.

RECEIVING AREA – One or more designated areas within which the development credits from sending areas may be purchased for use within development projects.

RECEIVING PARCEL – A parcel of land in a receiving area that is the recipient of development credits for the purpose of development with an increase in the number of dwelling units equivalent to the number of development credits purchased in addition to the number of dwelling units that would otherwise be permitted on the parcel.

SENDING AREA – One or more areas in which the development rights of parcels may be purchased from for the use in one or more receiving areas.

SENDING PARCEL – A parcel of land in a sending area from which development rights are being transferred for use on a parcel within a designated receiving area, and upon which a legally binding and irrevocable preservation easement has been placed and recorded that would prohibit the future development of such parcel.

TRANSFER OF DEVELOPMENT RIGHTS – The procedure prescribed by this section whereby the owner of a parcel in the sending area may convey development rights in perpetuity to the City and State of Delaware, Department of Agriculture, and the owner of a parcel in a receiving area may purchase development credits from the City to be utilized on the receiving parcel in addition to the development rights already existing on the parcel.

C. General Provisions.

- (1) A system of transferable development rights credit for properties situated within designated sending areas is established in Subsection D, Sending areas.
- (2) A system of limitations on the quantity of development rights credits that may be imported into designated receiving areas is established in Subsection E, Receiving areas.
- (3) The designation, tabulation, tracking, recordkeeping, management and transfer of development rights shall be under the direction of the City Manager or designee in accordance with the provisions of this section, and procedures established by the Planning Department.
- (4) All sending parcels shall be encumbered in perpetuity by an irrevocable preservation easement of the development rights. Such preservation easement shall be recorded and become codicil to the property deed of the sending parcel, and shall have the effect of limiting in perpetuity the future construction of dwellings on the sending parcel to a maximum allowed by the State of Delaware, Department of Agriculture preservation program.

(5) All properties to which development rights are planned to be transferred shall comply with the provisions of Subsection E Receiving Areas, of this section and shall be subject to the plan review and approval processes set forth in Chapter 200 and Chapter 230 of the City Code.

D. Sending areas.

(1) All areas designated as TDR Sending Areas in the adopted City of Milford Comprehensive Plan shall be considered sending areas.

(2) Sending area value. Sending areas are assigned a value of transferable development right credits that may be transferred for utilization within a designated receiving area. The sending area value is determined by the development potential based on the property's current zoning classification, exclusive of undevelopable land such as wetlands, floodplain or other natural features.

(3) Sending parcels shall convey all of their available transfer credits at the time of preservation easement dedication.

(4) Lands for which the State of Delaware, or any other entity, such as the federal government, a nature conservancy, or any other nongovernmental agency has purchased or otherwise secured the development rights, either through fee simple acquisition, condemnation, eminent domain, deed restriction, easement or any other legal means for the expressed purpose of preventing the development of such lands, shall be ineligible for participation in the City's Transfer of Development Rights Program. Examples of such lands include any state or federal owned property and lands on which agricultural preservation easements have been purchased.

(5) Property owners who have transferred development rights from their land forfeit the ability to use the land for any purpose or use other than those permitted by right in the underlying zoning district, except that such property shall not be subdivided for residential development.

E. Receiving areas.

(1) All areas designated as TDR Receiving Areas in the adopted City of Milford Comprehensive Plan shall be considered receiving areas. The receiving area acreage and number of TDR credits shall be limited to what is provided in the Comprehensive Plan; however, the City of Milford shall have the flexibility to determine the exact location on the receiving parcel where the TDR credits may be applied based on the availability of public utilities, road and traffic considerations, availability of public transportation, environment considerations, proximity to public services and existing density.

(2) Receiving area value. The maximum gross development densities shall be limited to eight (8) dwelling units per acre.

(3) Receiving areas may be rezoned to R-8 Garden Apartment and Townhouse District in accordance with Chapter 230-58 if the developer participates in the TDR program and purchases TDR credits.

(4) Developers may purchase available credits from the TDR bank at a value per transfer credit established by the City in accordance with Section G.

F. Irrevocable Preservation Easement

(1) Preparation of irrevocable preservation easement. Prior to the purchase of transfer credits, the State of Delaware, Department of Agriculture shall prepare an irrevocable preservation easement for the purposes of establishing a perpetual restriction upon the sending area property from which development credits are being purchased. The irrevocable preservation easement shall be prepared by and at the expense of the State of Delaware, Department of Agriculture and shall be subject to review and approval of the Planning Department.

(2) Recordation of irrevocable preservation easement. Such preservation easement shall be recorded in the Office of the Recorder of Deeds for the County at the time of purchase of any development credits, and shall become a permanent, perpetual preservation easement on the deed of the sending property. No such preservation easement shall be recorded without the signature of the City Manager and Planning Director.

G. Administration.

(1) A value for each transfer credit shall be established by a licensed and certified Delaware real estate appraiser and adopted by resolution by the City Council. The value shall be reviewed every two years.

(2) The City may include the cost of administering the TDR program, including but not limited to, the performance of appraisals, in the value per unit established by City Council.

*Section 8.* A revision to the City of Milford Subdivision Code is hereby granted, as specified in the motion approved by a majority vote of City Council.

*Section 9. Dates*

City Council Introduction: July 8, 2019

Planning Commission Public Hearing: July 16, 2019

City Council Public Hearing: July 22, 2019

Effective Date: August 1, 2019

**ORDINANCE 2019-20**  
Chapter 230-Zoning  
Transfer Development Rights Program. §230-19.6

WHEREAS, the Mayor and Council of the City of Milford are charged with the protection of the public health, safety, and welfare of the citizens of the City of Milford; and

WHEREAS, the City Comprehensive Plan and Southeast Master Plan recognize the pressure to develop rural agricultural areas east of the City where adequate infrastructure does not exist to support such development and the fact that development of such agricultural, environmentally sensitive, and architecturally and culturally significant land threatens the character and quality of life that residents of the Milford area expect; and

WHEREAS, a transfer of development rights program is a tool that can be used to preserve agricultural land and environmentally sensitive areas and the City desires to use this tool; and

WHEREAS, it is necessary to amend Chapter 230, entitled Zoning Code, of the City of Milford Code to establish a Transfer Development Rights Program.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 230 is hereby amended by adding a new §230-19.6 entitled Transfer of Development Rights that shall read as follows:

§ 230-19.6. – Transfer of Development Rights.

- (1) In recognition of the pressure to develop rural agricultural areas where adequate infrastructure does not exist to support such development and the fact that development of such agricultural, environmentally sensitive and architecturally and culturally significant land threatens the character and quality of life that residents of the Milford area expect, a Transfer of Development Rights Program has been established.
- (2) Areas considered to be sending areas for transferred development rights are identified in the Comprehensive Plan and SE Master Plan as TDR Sending Areas, and are outlined in Chapter 200-10 Paragraph D.
- (3) Areas considered to be receiving areas for transferred development rights are identified in the Comprehensive Plan and SE Master Plan as TDR Receiving Areas, and are outlined in Chapter 200-10 Paragraph E.
- (4) The Official Map may be amended by City Council to allow Receiving Areas to be zoned R-8 Garden Apartment and Townhouse District if the developer participates in the TDR program and purchases TDR credits. Amendments to the zoning map shall follow the procedures outlined in Chapter 230-58.

Section 2. Dates

City Council Introduction: July 8, 2019

Planning Commission Public Hearing: July 16, 2019

City Council Public Hearing: July 22, 2019

Effective: August 1, 2019

# Ordinance 2019-22

Change of Zone

K&G Associates LLC

Current Zoning: H-1 (Institutional Development)

Proposed Zoning: OB-1 (Office Building)

Present & Proposed Use: Medical Office

Size/Location: .29 +/- acres of land located along the east side of  
Polk Avenue between Sussex Avenue and Kings Highway.

Address: 302 Polk Avenue

Tax Map & Parcel(s): 1-30-3.08-067.00

Whereas, the City of Milford Planning Commission reviewed and made recommendations on Ordinance 2019-22 following a Public Hearing on Tuesday, July 16, 2019; and

Whereas, Milford City Council held a Public Hearing on Monday, July 22, 2019 to allow for additional debate and further review of the Zoning Ordinance; and

Whereas, it is deemed in the best interest of the City of Milford to permit the Change of Zone from H-1 to OB-1 as described within the application.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

*Section 1.* Following adoption of Ordinance 2019-22, and upon the effective date, the property owned and managed by K&G Associates LLC located on .29 +/- acres of land at 302 Polk Avenue, is hereby designated d OB-1 (Office Building) in accordance with Chapter 230 §230-19.

*Section 2.* A revision to the City of Milford Zoning Map is hereby granted, as specified in the motion approved by a majority vote of City Council.

*Section 3. Dates*

City Council Introduction: July 8, 2019

Planning Commission Public Hearing: July 16, 2019

City Council Public Hearing: July 22, 2019

Effective: August 1, 2019

# ORDINANCE 2019-23

Liborio Watergate LLC on behalf of Beach Babies  
Conditional Use to allow a Daycare Center  
R-3 Zoning District on 1.82 +/- acres of land  
Northeast Intersection of Watergate Boulevard North and Marshall Street.  
Contains portions of Lot 2 within the Watergate Planned Unit Development.  
Present Use: Vacant Land (Planned Unit Development)  
Proposed Use: Day Care Center  
3-30-11.09-030.00, 3-30-11.09-031.00 & 3-30-11.09-115.00

WHEREAS, the City of Milford Planning Commission has considered the conditional use application at a Public Hearing on Tuesday, July 16, 2019; and

WHEREAS, Milford City Council held a Public Hearing on Monday, July 22, 2019, to allow for public comment and further review of the ordinance and related recommendations and comments; and

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

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

*Section 1.* Following adoption of Ordinance 2019-23, and upon the effective date, Liborio Watergate LLC, on behalf of Beach Babies, is hereby granted a Conditional Use Permit to allow a two-story, 14,781 square foot Day Care Center, on lands located as described herein.

*Section 2.* The Conditional Use, is hereby granted, as specified in the motion approved by a majority vote of City Council.

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

*Section 4. Dates*

City Council Introduction: July 8, 2019

Planning Commission Public Hearing: July 16, 2019

City Council Public Hearing: July 22, 2019

Effective: August 1, 2019

# Ordinance 2019-24

## Change of Zone

Milford Marina Enterprise LLC on behalf of Applicant Limitless Development Company LLC  
Current & Proposed Zoning: R-3 (Garden Apartment & Townhouse) and C-3 (Highway Commercial)  
Present Use Vacant; Proposed Use Planned Unit Development and Commercial Residual Land  
Size: 12.90 +/- Acres of 60.58 +/- total Acres of Land  
South of Cedar Beach Road, East of Beaver Dam Road and West of State Route 1  
Site Address: 19859 Cedar Beach Road, Milford, DE  
Tax Map & Parcel(s) 3-30-7.00-035.00, 036.00 & 037.00 (portions of)

Whereas, the City of Milford Planning Commission reviewed and made recommendations on Ordinance 2019-22 following a Public Hearing on Tuesday, July 16, 2019; and

Whereas, Milford City Council held a Public Hearing on Monday, July 22, 2019 to allow for additional debate and further review of the Zoning Ordinance; and

Whereas, it is deemed in the best interest of the City of Milford to permit a Change of Zone by allowing the Zoning Boundary Line to be moved further north resulting in an additional 12.9 +/- acres of R-3 Garden Apartment & Townhouse District and reduction of C-3 Highway Commercial-zoned lands, as described within the application.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

*Section 1.* Following adoption of Ordinance 2019-24, and upon its effective date, approximately 12.9 acres of lands zoned C-3 become R-3 zoned lands, as found on the south of Cedar Beach Road, east of Beaver Dam Road and west of State Route 1, on portions of Tax Parcels 3-30-7.00-035.00, 036.00 & 037.00.

*Section 2.* A revision to the City of Milford Zoning Map is hereby granted, as specified in the motion approved by a majority vote of City Council.

*Section 3.* Dates

City Council Introduction: July 8, 2019

Planning Commission Public Hearing: July 16, 2019

City Council Public Hearing: July 22, 2019

Effective: August 1, 2019

**ORDINANCE 2019-25**  
AMENDING AND ADOPTING BY ORDINANCE  
THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN  
SE MASTER PLAN/TDR RECEIVING AREAS

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

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

WHEREAS, the Planning and Economic Development Director has prepared and consulted with the Office of State Planning during a PLUS review on May 22, 2019 the first amendment to the 2018 Comprehensive Plan; and

WHEREAS, the amendment will amend the SE Master Plan by relocating Transfer of Development Rights Receiving Areas #2 and #4; and

WHEREAS, Receiving Area #2 has been reshaped to encompass a single track of land versus four parcels; and

WHEREAS, Receiving Area #4 has been shifted further south to encompass two tracks of land versus twenty-five parcels; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the 2018 Comprehensive Plan amendment on July 16, 2019 and did recommend approval and adoption of the first amendment of the 2018 Comprehensive Plan; and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the first amendment of the 2018 Comprehensive Plan on July 22, 2019 at which time the amendment of the 2018 Comprehensive Plan was reviewed with the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the amended 2018 Comprehensive Plan is hereby adopted on July 22, 2019 and made effective as the amended 2018 Comprehensive Plan for Milford on this 1<sup>st</sup> day of August 2019.

Planning Commission Review & Public Hearing: July 16, 2019

City Council Introduction: July 8, 2019

City Council Review & Public Hearing: July 22, 2019

Adoption: July 22, 2019

Effective: August 1, 2019

**SYNOPSIS:**

	<b>Node ID / Receiving Area ID</b>	<b>Receiving Area Acres</b>	<b>Base Zoning at 3 DU/Ac</b>	<b>TDR Zoning at 8 DU/Ac</b>	<b>Additional DUs Through TDR Use</b>
Current	1	58	174	464	290
Amendment	3	60	180	480	300
Current	2	118	354	944	590
Amendment	4	120	360	960	600
Current	3	107	321	856	535
Amendment	1 & 2	110	330	880	550
<b><i>TOTAL</i></b>					
<b><i>Current</i></b>	<b><i>3</i></b>	<b><i>283</i></b>	<b><i>849</i></b>	<b><i>2264</i></b>	<b><i>1415</i></b>
<b><i>Amendment</i></b>	<b><i>4</i></b>	<b><i>290</i></b>	<b><i>870</i></b>	<b><i>2320</i></b>	<b><i>1450</i></b>

**ORDINANCE 2019-26**  
AMENDING AND ADOPTING BY ORDINANCE  
THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN  
MILFORD MARINA ENTERPRISES LLC  
FUTURE LAND USE DESIGNATION CHANGE

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

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

WHEREAS, the Planning and Economic Development Director has prepared and consulted with the Office of State Planning during a PLUS review on May 22, 2019 the second amendment to the 2018 Comprehensive Plan; and

WHEREAS, the amendment involves changes to the SE Master Plan, which will permit the future land use designation of three properties to alternate future land use designations; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the second 2018 Comprehensive Plan amendment on July 16, 2019 and did recommend approval and adoption of the amendment of the 2018 Comprehensive Plan, and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the second amendment of the 2018 Comprehensive Plan on July 22, 2019 at which time the amendment of the 2018 Comprehensive Plan was reviewed with the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the amended 2018 Comprehensive Plan is hereby adopted on July 22, 2019 and made effective as the amended 2018 Comprehensive Plan for Milford on this 1<sup>st</sup> day of August 2019.

Planning Commission Review & Public Hearing: July 16, 2019

City Council Introduction: July 8, 2019

City Council Review & Public Hearing: July 22, 2019

Effective: August 1, 2019

**SYNOPSIS:** Milford Marina Enterprises LLC, Cedar Beach Road (3-30-7.00-035.00, 3-30-7.00- 036.00, 3-30-7.00-037.00; change in future land use designation from commercial to moderate density residential)

**ORDINANCE 2019-27**  
AMENDING AND ADOPTING BY ORDINANCE  
THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN  
MALONEY, MITCHELL RENTALS LLC  
FUTURE LAND USE DESIGNATION CHANGE

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

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

WHEREAS, the Planning and Economic Development Director has prepared and consulted with the Office of State Planning during a PLUS review on May 22, 2019 the third amendment to the 2018 Comprehensive Plan; and

WHEREAS, the amendment involves changes to the SE Master Plan, which will permit the future land use designation of three properties to alternate future land use designations; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the third 2018 Comprehensive Plan amendment on July 16, 2019 and did recommend approval and adoption of the amendment of the 2018 Comprehensive Plan, and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the third amendment of the 2018 Comprehensive Plan on July 22, 2019 at which time the amendment of the 2018 Comprehensive Plan was reviewed with the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the amended 2018 Comprehensive Plan is hereby adopted on July 22, 2019 and made effective as the amended 2018 Comprehensive Plan for Milford on this 1<sup>st</sup> day of August 2019.

Planning Commission Review & Public Hearing: July 16, 2019

City Council Introduction: July 8, 2019

City Council Review & Public Hearing: July 22, 2019

Effective: August 1, 2019

**SYNOPSIS:** Joan Maloney, and Mitchell Rentals LLC, South Rehoboth Boulevard (3-30-7.18-022.00, 3-30-7.18-023.00, 3-30-7.18-025.02; change in future land use designation from commercial to industrial)

**ORDINANCE 2019-28**  
AMENDING AND ADOPTING BY ORDINANCE  
THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN  
WEBB, SWAIN, SIMPSON  
FUTURE LAND USE DESIGNATION CHANGE

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

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

WHEREAS, the Planning and Economic Development Director has prepared and consulted with the Office of State Planning during a PLUS review on May 22, 2019 the fourth amendment to the 2018 Comprehensive Plan; and

WHEREAS, the amendment involves changes to the SE Master Plan, which will permit the future land use designation of three properties to alternate future land use designations; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the fourth 2018 Comprehensive Plan amendment on July 16, 2019 and did recommend approval and adoption of the amendment of the 2018 Comprehensive Plan, and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the fourth amendment of the 2018 Comprehensive Plan on July 22, 2019 at which time the amendment of the 2018 Comprehensive Plan was reviewed with the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the amended 2018 Comprehensive Plan is hereby adopted on July 22, 2019 and made effective as the amended 2018 Comprehensive Plan for Milford on this 1<sup>st</sup> day of August 2019.

Planning Commission Review & Public Hearing: July 16, 2019

City Council Introduction: July 8, 2019

City Council Review & Public Hearing: July 22, 2019

Effective: August 1, 2019

**SYNOPSIS:**

Jesse C. & Joyce L. Webb, G. Walter & Janet R. Swain, and Gilbert C. & Irene D. Simpson, South Rehoboth Boulevard (3-30-7.00-033.00 (portion of); change in future land use designation from moderate density residential to commercial) (3-30-11.00-261.00; change in future land use designation from commercial to moderate density residential) (3-30-11.00-043.00; change in future land use designation from low density residential to commercial)

**ORDINANCE 2019-29**  
AMENDING AND ADOPTING BY ORDINANCE  
THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN  
K&G ASSOC LLC  
FUTURE LAND USE DESIGNATION CHANGE

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

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

WHEREAS, the Planning and Economic Development Director has prepared and consulted with the Office of State Planning during a PLUS review on May 22, 2019 the fifth amendment to the 2018 Comprehensive Plan; and

WHEREAS, the amendment involves changes to the SE Master Plan, which will permit the future land use designation of one property to an alternate future land use designation; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the fifth 2018 Comprehensive Plan amendment on July 16, 2019 and did recommend approval and adoption of the amendment of the 2018 Comprehensive Plan, and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the fifth amendment of the 2018 Comprehensive Plan on July 22, 2019 at which time the amendment of the 2018 Comprehensive Plan was reviewed with the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the amended 2018 Comprehensive Plan is hereby adopted on July 22, 2019 and made effective as the amended 2018 Comprehensive Plan for Milford on this 1<sup>st</sup> day of August 2019.

Planning Commission Review & Public Hearing: July 16, 2019

City Council Introduction: July 8, 2019

City Council Review & Public Hearing: July 22, 2019

Effective: August 1, 2019

**SYNOPSIS:**

K&G Assoc LLC, Polk Avenue (1-30-3.08-067.00; change in future land use designation from employment to low density residential)