

# City of Milford



## City Council Committee Agenda

Monday, September 9, 2019

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

6:45 P.M.

### Annexation Committee Meeting

Call to Order - Chairman Owen Brooks Jr.

Annexation/Lands belonging to Baltimore Aircoil Company, Incorporated

1162 Holly Hill Road

Milford, DE 19963

Tax Map MD-00-182.00-01-14.00-000

49.25 +/- Acres

Current Zone IL/Proposed Zone I-2

Recommendation

Adjourn

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

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

City of Milford  
RESOLUTION 2019-12

Annexation/Lands belonging to Baltimore Aircoil Company, Incorporated  
1162 Holly Hill Road, Milford, DE 19963  
Tax Map MD-00-182.00-01-14.00-000  
49.25 +/- Acres  
Current Zone IL/Proposed Zone I-2

**COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION**

Whereas, a Petition, signed by the legal property owners and duly witnessed, requesting annexation into the City of Milford, all that certain lot, piece or parcel of land, situated in the Milford Hundred, Kent County, State of Delaware, lying on the southerly side of Holly Hill Road, being bounded on the north by said Holly Hill Road, on the east by lands now or formerly of Crop Production Services, on the south by lands now or formerly Delaware Railroad Real Estate Agent and on the west by lands now or formerly of R & C Fry Farms LP and as shown on a plan entitled "Annexation Plan – Lands of Baltimore Aircoil Company, Inc." as prepared by Becker Morgan Group, Inc., dated February 12, 2018 and being more particularly described as follows to wit:

All that certain lot, piece or parcel of land, situated in the Milford Hundred, Kent County, State of Delaware, lying on the southerly side of Holly Hill Road, being bounded on the north by said Holly Hill Road, on the east by lands now or formerly of Crop Production Services, on the south by lands now or formerly Delaware Railroad Real Estate Agent and on the west by lands now or formerly of R & C Fry Farms LP and as shown on a plan entitled "Annexation Plan – Lands of Baltimore Aircoil Company, Inc." as prepared by Becker Morgan Group, Inc., dated February 12, 2018 and being more particularly described as follows to wit:

Beginning at a set iron rod with cap at a corner for the southerly right of way of Holly Hill Road and this property, said point being South 84°50'14" West 1179.37 feet as measured from the intersection of centerline of a ditch and the southerly right of way line of Holly Hill Road; thence leaving said point of beginning and running in part with Holly Hill Road right of way, lands of Crop Production Services, Inc. and lands of Delaware Railroad Real Estate Agent 1) South 05°33'56" East 1794.82 feet to a found concrete monument at a corner for this parcel and lands of Delaware Railroad Real Estate Agent; thence running with the northerly right of way of a railroad, lands of Delaware Railroad Real Estate Agent 2) South 87°03'19" West 901.13 feet to a point at the intersection of the centerline of Ludnam Branch and the northerly right of way of railroad, thence running by and with the centerline of Ludnam Branch and lands of R & C Fry Farms LP the following fifty one courses and distances:

3) North 06°45'46" West 78.53 feet; thence 4) North 21°43'49" West 76.42 feet; thence 5) North 32°09'39" West 128.58 feet; thence 6) North 78°17'45" West 37.14 feet; thence 7) South 68°06'32" West 26.11 feet; thence 8) North 66°22'48" West 23.24 feet; thence 9) North 34°55'59" West 11.56 feet; thence 10) North 78°12'49" West 10.31 feet; thence 11) North 50°01'04" West 12.45 feet; thence 12) North 10°04'15" West 14.21 feet; thence 13) North 78°42'40" West 43.16 feet; thence 14) South 74°46'37" West 47.89 feet; thence 15) North 36°28'42" West 22.28 feet; thence 16) North 77°51'17" West 9.36 feet; thence 17) South 55°33'29" West 35.98 feet; thence 18) North 82°03'35" West 15.89 feet; thence 19) North 61°40'39" West 18.26 feet; thence 20) South 80°33'17" West 12.51 feet; thence 21) North 45°30'31" West 10.86 feet; thence 22) North 03°24'47" East 12.49 feet; thence 23) North 26°34'45" West 15.29 feet; thence 24) North 73°07'32" West 12.01 feet; thence 25) South 72°10'42" West 12.32 feet; thence 26) North 62°21'41" West 24.20 feet; thence 27) North 29°28'45" East 25.11 feet; thence 28) North 40°26'54" West 16.55 feet; thence 29) North 27°59'18" West 11.04 feet; thence 30) North 03°42'11" West 14.75

feet; thence 31) North 59°40'16" West 10.03 feet; thence 32) North 88°18'36" West 13.89 feet; thence 33) North 62°46'45" West 15.18 feet; thence 34) South 81°50'06" West 20.75 feet; thence 35) North 54°24'29" West 15.51 feet; thence 36) South 76°51'26" West 13.13 feet; thence 37) North 66°25'07" West 13.71 feet; thence 38) North 87°30'28" West 10.26 feet; thence 39) North 69°01'09" West 41.09 feet; thence 40) North 22°10'06" East 12.99 feet; thence 41) North 11°30'44" West 40.88 feet; thence 42) North 44°46'42" West 40.57 feet; thence 43) North 77°21'51" West 24.59 feet; thence 44) North 29°29'46" East 26.54 feet; thence 45) North 75°44'13" West 36.96 feet; thence 46) North 05°37'15" East 28.39 feet; thence 47) North 55°01'12" West 33.19 feet; thence 48) North 22°48'04" East 11.59 feet; thence 49) North 23°36'25" West 7.85 feet; thence 50) South 87°13'13" West 15.76 feet; thence 51) North 49°19'05" West 29.82 feet; thence 52) North 40°14'52" West 47.03 feet; thence 53) North 25°06'01" East 5.56 feet to a point in the centerline of Ludnem Branch and at a corner of this parcel and the lands of R & C Fry Farms LP, said courses and distances having a tie line with a bearing and distance of North 48°31'06" West 1035.23 feet; thence departing the centerline of Ludnem Branch and continuing with the lands of R & C Fry Farms LP the following two courses and distances 54) North 85°01'06" East, passing over a found concrete monument at 5.42 feet and continuing a total distance of 405.34 feet to a found concrete monument; thence 55) North 05°33'56" West 1000.05 feet to a found concrete monument at the corner of this parcel and in line with the southerly right of way of Holly Hill Road; thence with said Holly Hill Road right of way 56) North 84°26'04" East 1200.27 feet to the point and place of beginning, and

CONTAINING 49.25 +/- acres of land, more or less.

has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing the legally described property, said Committee to be comprised of Chair Owen Brooks, Councilmembers Daniel Marabello, Todd Culotta and Douglas Morrow, along with Planning Commission Chairman Marvin Sharp.

Be it Further Resolved, that said Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore, as well as a recommended zoning district for the property to be annexed.



City Clerk Teresa K. Hudson

Adopted: August 26, 2019



**BALTIMORE AIRCOIL COMPANY**

1162 Holly Hill Road Milford, DE 19963 · tel 302.424.2558 · fax 302.422-2850 · www.BaltimoreAircoil.com

08/15/19

City of Milford  
Rob Pierce, Planning & Development Director  
201 S. Walnut Street  
Milford, DE 19963

RE: Request for Annexation

Property Address: 1162 Holly Hill Road, Milford, DE 19963  
Owner: Baltimore Aircoil Company, Inc.  
Tax Parcel # MD-00-182.00-01-14.00-000

Dear Mr. Pierce,

Please accept this letter as a formal request for annexation of the above referenced parcel located at 1162 Holly Hill Road, Milford, DE 19963 containing the existing Baltimore Aircoil Company, Inc. (BAC) manufacturing facility and 49.6 +/- acres. BAC respectfully requests the property be zoned I-2 (General Industrial) which is consistent with the City's Comprehensive Plan future land use exhibit and the existing and proposed uses on the property.

Regarding the Annexation Fee we request deferment of the payment until Annexation is complete and agree to remit payment no more than 30 days from the date of annexation. In the unlikely event payment hasn't been made within 30 days we agree to have the fee added to our Tax Bill.

Please contact me with any questions.

Sincerely,

Stephen Tsotsoros  
Plant Manager, Milford DE

Notarized

*Kahlina Dudley* 8/16/2019  
**KAHLIMA DUDLEY**  
NOTARY PUBLIC  
HOWARD COUNTY  
MARYLAND  
MY COMMISSION EXPIRES AUG. 17, 2022



# Land Use Application Cover Sheet

File Name: \_\_\_\_\_

Date Stamp

File Number: \_\_\_\_\_

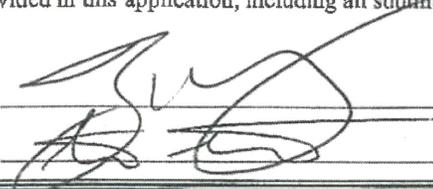
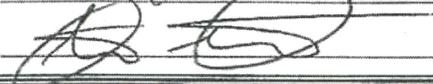
**Instructions for Applicants:**

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

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

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

**Please Type or Print Legibly**

|  |                  |                   |                            |
|--|------------------|-------------------|----------------------------|
| Property Owner(s): <u>Baltimore Aircoil Company</u>  |                  |                   | Phone: <u>410-799-6200</u> |
| Address: <u>7600 Dorsey Run Road</u>   |                  |                   | Cell: <u>410-302-2366</u>  |
| City: <u>Jessup</u>  | State: <u>MD</u> | Zip: <u>20794</u> | Fax:                       |
| E-Mail: <u>tbuzby@baltimoreaircoil.com</u>   |                  |                   |                            |
| Applicant Name and Company: <u>Stephen Tsotsoros Baltimore Aircoil Co</u>  |                  |                   | Phone: <u>302-424-2556</u> |
| Address: <u>1162 Holly Hill Rd</u>   |                  |                   | Cell: <u>302-228-9745</u>  |
| City: <u>Milford</u>   | State: <u>DE</u> | Zip: <u>19963</u> | Fax:                       |
| E-Mail: <u>stotsoros@baltimoreaircoil.com</u>  |                  |                   |                            |
| Surveyor or Engineer: <u>Becker Morgan Group</u>   |                  |                   | Phone: <u>302-734-7950</u> |
| Address: <u>309 S Governors Ave</u>  |                  |                   | Cell:                      |
| City: <u>Dover</u>   | State: <u>DE</u> | Zip: <u>19904</u> | Fax:                       |
| E-Mail:  |                  |                   |                            |
| Site Address: <u>1162 Holly Hill Rd Milford, DE</u>  |                  |                   | Zoning: <u>I-2</u>         |
| Tax Map & Parcel Number(s): <u>MD-00-182.00-01-14.00-000</u>   |                  |                   | Acreage: <u>49.6 ±</u>     |
| I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge. |                  |                   |                            |
| Signature of Property Owner(s):   |                  |                   | Date: <u>8/16/19</u>       |
| Signature of Applicant(s):    |                  |                   | Date: <u>8-15-19</u>       |
| <b>Office Use Only:</b>  |                  |                   |                            |
| <input type="checkbox"/> Current on Utilities <input type="checkbox"/> Current on Taxes <input type="checkbox"/> No Outstanding Violations                     |                  |                   |                            |

REVISED: 05.2016



# Annexation Application

File Name: \_\_\_\_\_

Date Stamp

File Number: \_\_\_\_\_

A Land Use Application for Annexation is deemed complete when it is accompanied by the required items identified below. Please be advised that additional information may be required during the review process in order to respond to or resolve particular issues. No application shall be considered complete if any of the required information is missing.

Current County Zoning: \_\_\_\_\_ Requested Zoning: \_\_\_\_\_ Comprehensive Plan Designation: \_\_\_\_\_

| REQUIRED ITEMS                      |  | For Staff Use ONLY |        |
|-------------------------------------|--|--------------------|--------|
|                                     |  | Verified           | Waived |
| <input checked="" type="checkbox"/> | 1. Land Use Application Cover Sheet.   |                    |        |
| <input checked="" type="checkbox"/> | 2. Petition for annexation, signed by ALL property owners with signature of each petitioner duly witnessed; petition must contain: |                    |        |
|                                     | A. Site address;   |                    |        |
|                                     | B. Tax map number (s);   |                    |        |
|                                     | C. Size of property in acres;  |                    |        |
|                                     | D. Reasons for request;  |                    |        |
|                                     | E. General location description (proximity to closest roadways, streets and intersections).  |                    |        |
| <input checked="" type="checkbox"/> | 3. A full legal description of the property in Word format.  |                    |        |
| <input checked="" type="checkbox"/> | 4. Current recorded deed showing legal description and ownership.  |                    |        |
| <input type="checkbox"/>            | 5. Current sealed survey (no larger than 11" x 17"), drawn to scale, showing:  |                    |        |
|                                     | A. Property identified for annexation which clearly shows the parcel(s) and demonstrates contiguity to the City;                   |                    |        |
|                                     | B. Date, scale and north arrow;  |                    |        |
|                                     | C. Existing right-of-ways and improvements;  |                    |        |
|                                     | D. Existing utilities;   |                    |        |
|                                     | E. Existing natural features;  |                    |        |
|                                     | F. Existing structures and other improvements;   |                    |        |
|                                     | G. All structures, natural features and other improvements on abutting property.   |                    |        |
| <input type="checkbox"/>            | 6. Application fee (see page 2).   |                    |        |

I/We certify that the information provided in this application, including all submittals are attachments, is true and correct to the best of my/our knowledge.

Signature of Property Owner:  Date: 8/16/19

Signature of Applicant:  Date: 08/15/19

| FOR STAFF USE ONLY |                      |                     |              |
|--------------------|----------------------|---------------------|--------------|
| City Council       | Annexation Committee | Planning Commission | City Council |
| Applicant          |                      |                     |              |
| Owner              |                      |                     |              |

REVISED: 01.2014

*ORDINANCE 2005-1  
(Section 8 Annexation Requests)*

*Section 230-57 of Chapter 230, Zoning, of the Code of the City of Milford, is hereby amended by adding the following fees for annexation requests, zoning inspections, utility agreements and the City Subdivision and Specifications Manual.*

*Annexation:*

*Residential: \$2,500 plus \$100 per acre in excess of five acres (restricted to residential use)*

*Residential: \$350 (less than one acre, restricted to residential use)*

*Commercial: \$2,500 plus \$500 per acre*

*(Mixed Commercial and Residential Requests will be determined by amount of commercial and residential acreage.)*

*Effective June 2, 2005*



TO: Mayor & Council Members  
FROM: Annexation Committee  
DATE: September 9, 2019  
RE: Annexation Committee Report

A public meeting was held in Council Chambers on September 9, 2019 to consider the annexation request for lands described as:

|                            |                                       |
|----------------------------|---------------------------------------|
| Property Owner:            | Baltimore Aircoil Company, Inc.       |
| Location:                  | 1162 Holly Hill Road                  |
| Size:                      | 49.25 +/- acres                       |
| Existing Zoning:           | IL – Limited Industrial (Kent County) |
| Proposed Zoning:           | I-2 – General Industrial              |
| Tax Map and Parcel Number: | MD-00-182.00-01-14.00-000             |

**APPLICANT**

A petition by the property owners was submitted on August 15, 2019 to annex 49.25 +/- acres into the corporate limits of the City of Milford.

**LOCATION**

The property is identified as Sussex County tax parcel MD-16-182.00-01-14.00-000 and is located along the south side of Holly Hill Road approximately 3,000 feet south of the Milford-Harrington Highway (Route 14) intersection.

**STREETS**

The property contains an existing industrial site where all internal roadways and parking lots are privately owned and maintained. The site has access to an existing DeIDOT road. Any modifications of the entrance would require approval from the State of Delaware.

**DRAINAGE**

The industrial site is already developed. Any future development and expansion of the manufacturing facility would be subject to DNREC storm-water regulations and the owner would be required to obtain any and all permits from the Kent Conservation District and State of Delaware.

**ZONING**

The area proposed to be annexed is currently zoned IL (Limited Industrial) in Kent County under the Kent County Levy Court zoning ordinance. The applicant requests the property be zoned I-2 (General Industrial District) under the City of Milford zoning ordinance.

## **SEWER**

The property is currently served by the City of Milford with a small lift station and force main that discharges wastewater into the City's gravity collection system along Milford-Harrington Highway. Future planned improvements associated with the Hickory Glen project will allow the City to abandon this lift station and the wastewater will be conveyed to the new pumping station associated with the residential project.

## **WATER**

City water is not currently available to the site and the closest connection point is 3,000 feet to the east along Milford-Harrington Highway. The property is currently served by a State approved drinking well. The City requests that the owner connect to the water system if and when water service becomes technically available at a connection point located along Holly Hill Road, within the BAC property. The City will require the applicant sign an annexation agreement where CPCN rights will be assigned to the City.

## **ELECTRIC**

The property is currently served by the Delaware Electric Cooperative and the City will not be providing electric service to the property unless mutually agreed upon by BAC, the City and DEC.

## **TRAFFIC**

The existing site has an internal network of parking lots and driveways that are privately maintained. The existing entrances located along Holly Hill Road are permitted by DelDOT and any alteration of the entrances or use of the property would need to be approved by the State of Delaware.

## **ENVIRONMENTAL ISSUES**

The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel. According to the DNREC Navigator website, the property contains state mapped wetlands. The property is not located within the 100-year floodplain according to the most recent FEMA Flood Insurance Rate Maps (FIRMs). However, the property contains areas of excellent groundwater recharge and would be subject to the City's sourcewater protection ordinance.

## **AREA LAND USES**

The properties to the north and west of the subject parcel are currently used for agricultural purposes. The property to the east is located within the City of Milford and is being developed by Nutrien Ag Solutions as an industrial site. The property to the northeast, known as the proposed Hickory Glen subdivision, is currently used for agricultural purposes but is in the final subdivision and site plan review process for 399 residential units. The subject parcel is bound on the south by an active railroad. The property to the south of the railroad, known as the Draper Farm, is annexed into the City as R-2 but is currently undeveloped and used for agricultural purposes.

## **FIRE AND POLICE**

The subject parcel is located within the Carlisle Fire Company district area according to Kent County's online mapping application. Carlisle Fire Dept. already provides fire and EMS coverage to this area. EMS is also currently provided by Kent County Levy Court. Milford Police Department will provide police service.

## **COMPREHENSIVE LAND USE PLAN**

The annexation is consistent with the 2018 Comprehensive Plan Future Land Use Plan and is designated as Proposed Industrial.

**PROPERTY TAXES AND OTHER ECONOMIC CONSIDERATIONS**

The proposed annexation will generate new property tax revenue to the City along with revenues for any future expansion of the facility.

**ADVANTAGES TO THE CITY**

- 1. The property is within the planning area of the City of Milford.
- 2. The City would receive revenues (property tax, building permits, etc.) for activity on the property.
- 3. Potential for additional water.
- 4. The annexation would satisfy the requirement to annex as stated in the 2006 Sewer Collection Agreement signed by both the City and BAC.
- 5. Identified within the Urban Growth Boundary of the 2018 Comprehensive Plan.
- 6. Consistent with the Comprehensive Plan Future Land Use exhibits.

**DISADVANTAGES TO THE CITY**

- 1. None.

**RECOMMENDATION**

Based on the issues and comments discussed in this report, the Annexation Committee of the City of Milford recommends approval of the application, following a unanimous vote, with the following comments:

- 1. Annexation is consistent with the “Comprehensive Land Use Plan.”
- 2. Property is contiguous to existing City Limits.
- 3. Any changes to the property are subject to review by the City of Milford Planning Commission and/or City Council.
- 4. Property is already served by City Sewer and should be served by City Water in the future.
- 5. The annexation will benefit the City through additional revenues, including property taxes.
- 6. An executed Annexation Agreement is required prior to final City Council approval.
- 7. Upon approval of the annexation committee report, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.

The property should be annexed with the following zoning classification: I-2 (General Industrial)

\_\_\_\_\_

Council Representative/Committee Chairman

\_\_\_\_\_

Date

\_\_\_\_\_

Council Representative

\_\_\_\_\_

Date

\_\_\_\_\_

Council Representative

\_\_\_\_\_

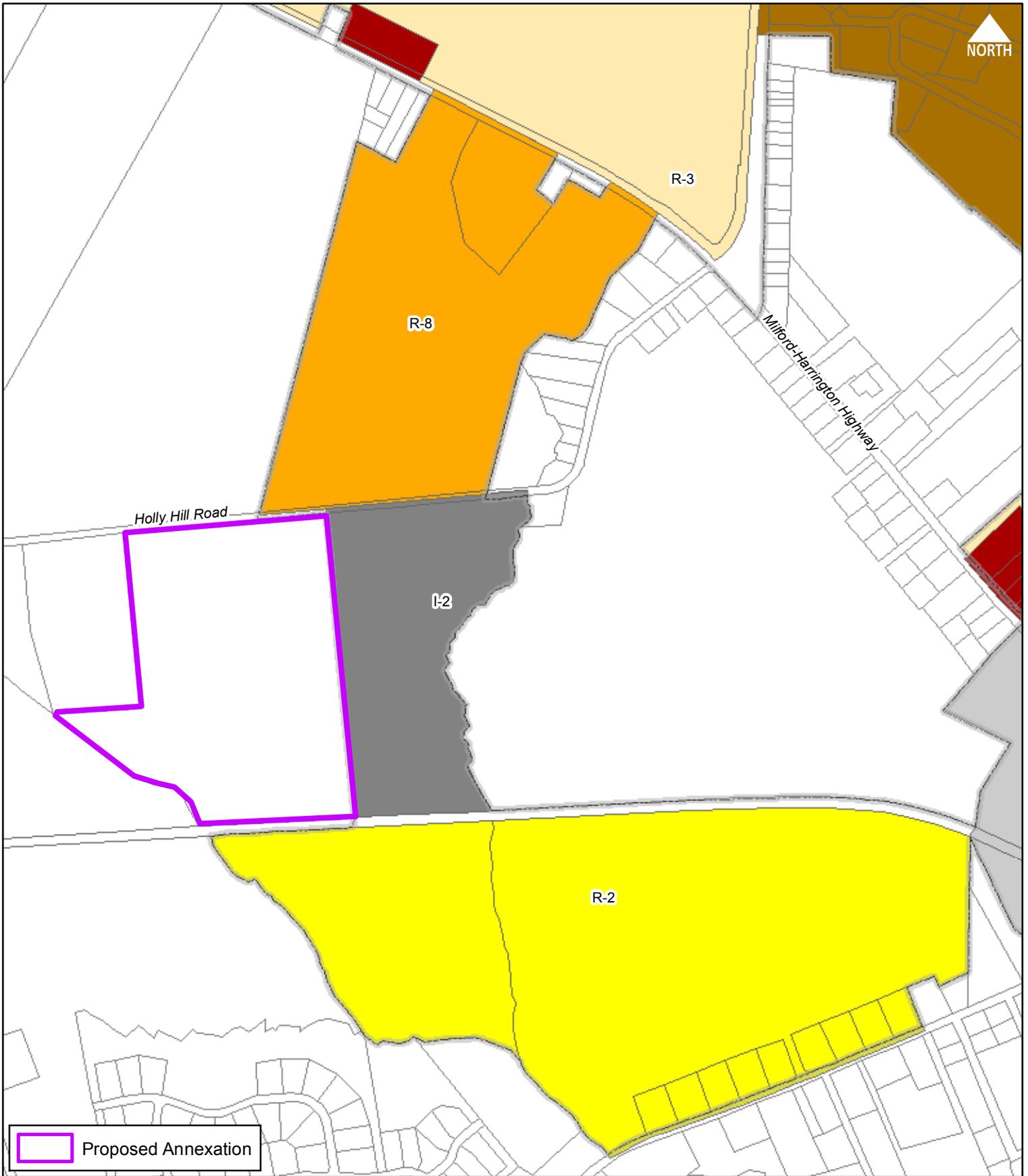
Date

\_\_\_\_\_

Planning Commission Chairman

\_\_\_\_\_

Date



 Proposed Annexation



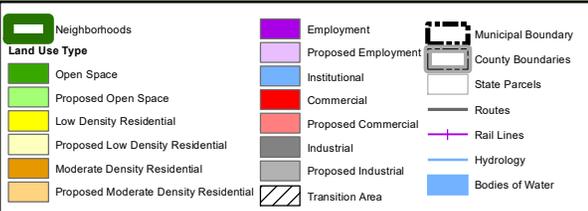
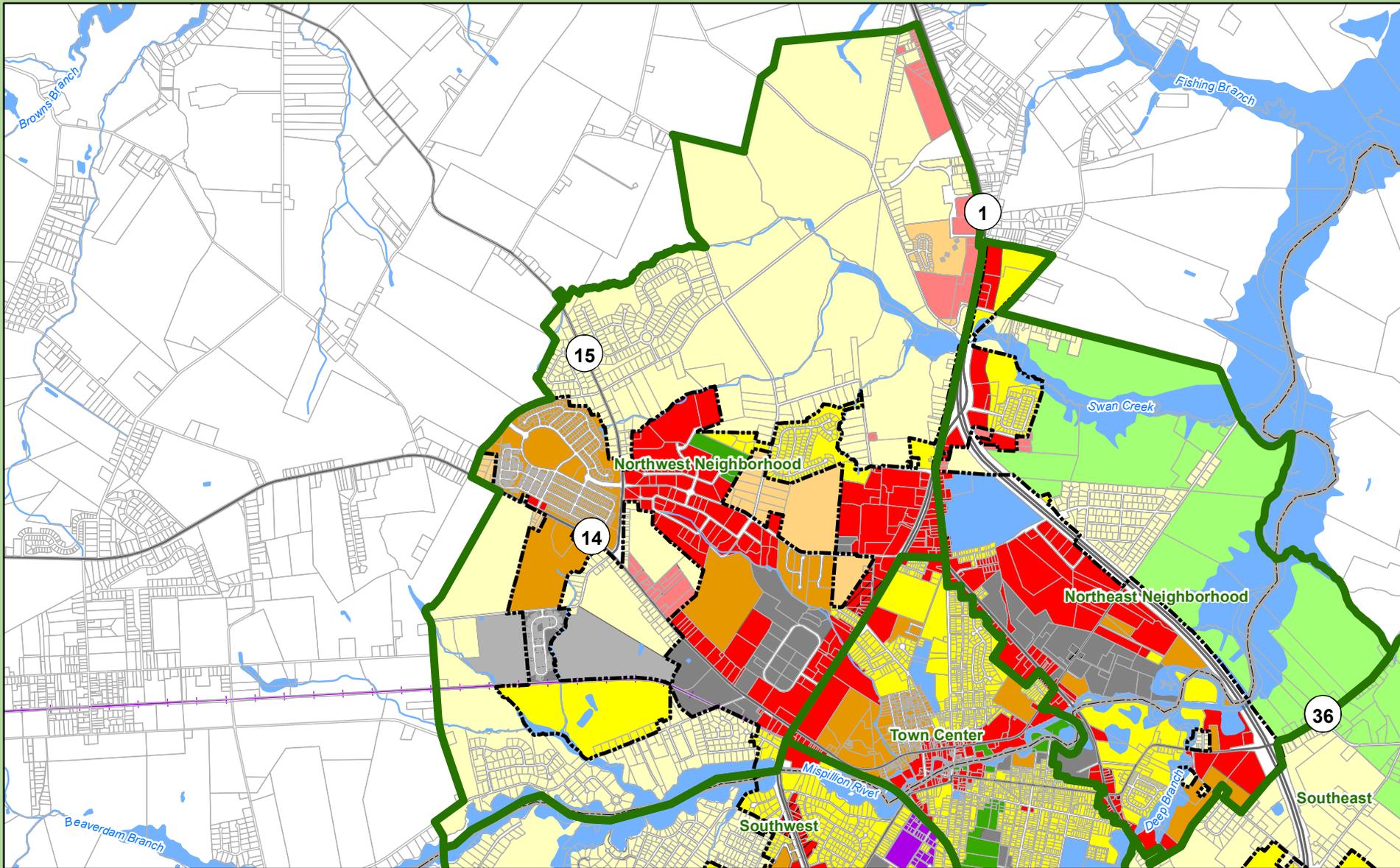
Scale:  Feet  
0 375 750

Drawn by: WRP      Date: 03/15/18

Title:

**Proposed Annexation  
Baltimore Aircoil Company  
Location & Zoning Map**

Filepath: Annexation\_BaltimoreAircoilCompany.mxd

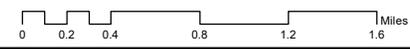


## City of Milford, Delaware

### Future Land Use

#### Northwest Neighborhood

Adopted Jan. 22, 2018, Certified TBD



Sources:  
 Municipal Boundaries - Delaware Office of State Planning Coordination, FirstMap 10/17.  
 DRAFT Future Landuse - City of Milford, Delaware 01/18.  
 Road and Rail Network - Delaware Department of Transportation, FirstMap 01/18.  
 Hydrology - USGS and EPA, FirstMap 01/18.

Note: This map is provided by the University of Delaware, Institute for Public Administration (IPA) solely for display and reference purposes and is subject to change without notice. No claims, either real or assumed, as to the absolute accuracy or precision of any data contained herein are made by IPA, nor will IPA be held responsible for any use of this document for purposes other than which it was intended.



[www.ipa.udel.edu](http://www.ipa.udel.edu)  
 Institute for Public Administration

Tax Parcel No. MD-00-182.00-01-14.00-000

Prepared by: Planning & Zoning

City of Milford  
201 S. Walnut St.  
Milford, DE 19963

Return to: The Honorable Arthur J. Campbell, Mayor

City of Milford, 201 S. Walnut St.  
Milford, DE 19963

BALTIMORE AIRCOIL COMPANY, INC. PLAN OF SERVICES AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between BALTIMORE AIRCOIL COMPANY, INC. (hereinafter “BAC”) whose principal location is located at 1126 Holly Hill Road, Milford, Delaware 19963, and the City of Milford, a municipal corporation of the State of Delaware, with its principal offices located at 201 South Walnut Street, Milford Delaware, 19963 (hereinafter “City”).

RECITALS

- A. WHEREAS, BAC is the record title owner of a parcel of land consisting of 49.25 acres, more or less, lying contiguous to the City of Milford, said tract identified on the Kent County, Delaware tax maps as Tax Parcel No. MD-00-182.00-01-14.00-000, said tract hereinafter referred to as “BAC PROPERTY”.

BAC is desirous of having the BAC PROPERTY annexed into the City of Milford and requested the land use to be Industrial in nature.

- B. WHEREAS the City, through its City Council (in consultation with the City Solicitor and City Planner), has duly considered the proposed annexation and has determined that the proposed annexation would be in the City’s overall best interest for the following reasons among others:

1. The property would be within the planning area of the City of Milford.
2. Identified within the Urban Growth Boundary Area of the 2018 Comprehensive Plan.
3. Consistent with the Future Land Figure of the 2018 Comprehensive Plan.

- C. Recognizing that BAC’s request for annexation is unilateral (in that the City cannot annex the BAC PROPERTY unless BAC desires the property to be annexed) and further recognizing that the intended land use is consistent with the City’s Land Use Plan, and can be accommodated within the City’s long range Comprehensive Plan, the City

Council has determined that it is in the City's best interest to provide BAC with binding assurances to proceed with annexation.

- D. Article I, Section 1.04 of the City Charter of the City of Milford (pursuant to Chapter 148, Volume 72, Laws of Delaware {as amended}) authorizes and empowers the Mayor of the City of Milford to appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation.

NOW THEREFORE, in consideration of the premises, and in consideration of BAC's request to be annexed into the City of Milford, in consideration of \$27,125.00 to be paid no later than October 31, 2019 to the City by BAC for filing and administrative expenses, the receipt whereof is hereby acknowledged, and for other good and valuable consideration, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Annexation Contingency. This Agreement is expressly contingent upon the annexation, by the City, of the BAC PROPERTY. In the event that such annexation does not occur, this Agreement shall be null, void, and of no legal force or effect.
2. Land Subject to Annexation. The land subject to this Agreement consists of 49.25 acres, more or less, said tract identified on the Kent County, Delaware tax maps as Tax Parcel No.MD-00-182.00-01-14.00-000.

The hereinabove described parcel of land is more fully depicted on that certain Survey "Baltimore Aircoil Company, Inc.," dated February 12, 2018, prepared by Becker Morgan Group a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; metes and bounds description for parcel is attached hereto as Exhibit "B" and incorporated herein by specific reference.

3. Water Distribution System and Sanitary Sewer. Notwithstanding any other provision or requirement under any City ordinance or regulation, BAC agrees that the BAC PROPERTY will be connected to the City water distribution system if and when water service becomes technically available at a connection point located along Holly Hill Road, within the BAC Property. The actual Equivalent Dwelling Units (EDU's) cannot be calculated at this time and shall be determined when the time of connection occurs. The parties agree that BAC is connected to City sanitary sewer and at its sole expense shall be responsible for the upgrade to any and all infrastructure to accommodate any future increase in EDU's from its existing capacity. BAC agrees to execute any documents needed for the City to obtain Certificate of Public Convenience and Necessity (CPCN) rights.
4. Electric Distribution System. The property currently obtains electric service through Delaware Electric Cooperative and notwithstanding any annexation of the BAC Property into the City, BAC shall have the right to select the electric utility provider of its choice for service to the BAC Property.

5. Natural Features. The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel.
6. Zoning. The BAC shall be annexed as City district I-2 General Industrial District and shall be developed in accordance with said district. Nothing in this agreement shall remove or eliminate the owner from the necessary site plan reviews, fees, public hearings and all other requirements under the City's Land Use Ordinance.
5. City Not Responsible for Infrastructure Improvements; BAC Right to Assign.

Anything herein to the contrary notwithstanding:

- a) The City shall have no obligation or responsibility (financial or otherwise) for providing, installing, or constructing any of the required infrastructure improvements;
  - b) BAC may, with the City's prior written consent, which shall not be unreasonably withheld, sell, lease, or convey all or any portion of BAC PROPERTY to any third party and, as part of such sale, lease, or conveyance, assign all or any of its rights and *corresponding obligations* hereunder to such third party.
6. Except as Modified, All Other City Ordinances and Regulations to Control. Except as specifically provided herein, once finally annexed into the City of Milford, all lands subject to this Agreement shall be subject to and governed by all provisions of the City Charter and all City ordinances and regulations as they now exist or may hereafter be amended, revised, or repealed, as well as any new ordinances or regulations adopted by the City Council, to the same effect and degree as all other lands within the City boundaries of the City of Milford.
  7. Annexation Agreement to be a Material Part of Annexation Proceedings. Pursuant to Title 22, Delaware Code §101 Plan of Services Reporting, this Agreement shall be deemed to be a material part of the annexation proceedings conducted pursuant hereto; that is to say:
    - a. The resolutions and notices adopted by the City Council, including any resolution and notices for public hearings, proposing the aforesaid annexation shall recite that the proposed annexation includes, and is subject to, an annexation agreement, shall briefly summarize the terms of this annexation agreement, and shall state that copies of the annexation agreement are available upon request at the City Hall.
    - b. If the results of the annexation hearings are favorable to the proposed annexation, the final resolution annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such annexation agreement by specific reference.

8. Land Use Planning Act. The City of Milford shall notify the Delaware State Planning Office, Kent County Department of Public Works, Milford Police Department, Carlisle Fire Department and Milford School District of the proposed annexation contemplated by this Agreement and the parties shall comply with the requirements of the Delaware Land Use Planning of Title 29 of Delaware Code, Chapter 92 (Land Use Planning Act effective until February 14, 2004; Preliminary Land Use Services effective February 14, 2004), as amended.
9. Governing Law. This Agreement shall be governed by the laws of the State of Delaware (notwithstanding the fact that one or more parties may now or later become a resident of another state) and the parties hereto agree that the courts of the State of Delaware shall have jurisdiction over any case or controversy and hereby consent to such jurisdiction.
10. Separability. If any section, paragraph, sentence or clause of this Agreement is determined or declared to be invalid or unenforceable by any court of competent jurisdiction, the remainder hereof shall remain in full force and effect.
11. Entire Agreement. This Agreement constitutes the entire understanding of the parties. It supersedes any and all prior agreements between them. There are no representations or warranties other than those herein contained.
12. Amendments. This Agreement shall not be amended except in writing executed by all parties hereto.
13. Binding Effect. This Agreement shall be binding upon the parties hereto, their administrators, successors, successors in interest and assigns.
14. Contra Proferentum. The fact that one party has drafted this Agreement shall in no way be used against that party in construing the terms, condition, and obligations hereunder.
15. Headings. Headings and captions used herein are solely for the convenience of the parties and shall have no legal significance in construing the terms of this Agreement.
16. Non-Waiver. The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.
17. Enforcement. In the event of a breach, this Agreement shall be enforced through a decree of specific performance, the parties agreeing that monetary damages would not provide an adequate remedy.
18. Recording. This agreement, dully executed by the City and BAC, shall be recorded in the office of the Recorder of Deeds, in and for Kent County,

Delaware. The cost of recording shall be paid by BAC.

- 19. Plan of Services Requirement. This Agreement shall not be considered or deemed to be contract zoning. The parties hereto acknowledge their respective obligations to enter into a Plan of Services Agreement as part of the annexation process according to 22 Del.C., §101(3) and Milford City Charter Article 1.04(a)(3).

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

BALTIMORE AIRCOIL COMPANY, INC.

Attest: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF MILFORD

Attest: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_ (Seal)  
Arthur J. Campbell, Mayor

STATE OF DELAWARE :

:

COUNTY OF KENT :

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by **NAME**, **TITLE** of Baltimore Aircoil Company, Inc.

\_\_\_\_\_  
Signature of Notary Public

STATE OF DELAWARE :

:

COUNTY OF SUSSEX :

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Arthur J. Campbell, Mayor of the City of Milford.

\_\_\_\_\_  
Signature of Notary Public

**Exhibit A**

DRAFT



**Exhibit B**

DRAFT

**OWNER:** Baltimore Aircoil Company, Inc.  
**TAX MAP NO.:** 05-00-18200-01-1400-00001

**49.25 ACRES ±**

All that certain lot, piece or parcel of land, situated in the Milford Hundred, Kent County, State of Delaware, lying on the southerly side of Holly Hill Road, being bounded on the north by said Holly Hill Road, on the east by lands now or formerly of Crop Production Services, on the south by lands now or formerly Delaware Railroad Real Estate Agent and on the west by lands now or formerly of R & C Fry Farms LP and as shown on a plan entitled "Annexation Plan – Lands of Baltimore Aircoil Company, Inc." as prepared by Becker Morgan Group, Inc., dated February 12, 2018 and being more particularly described as follows to wit:

Beginning at a set iron rod with cap at a corner for the southerly right of way of Holly Hill Road and this property, said point being South 84°50'14" West 1179.37 feet as measured from the intersection of centerline of a ditch and the southerly right of way line of Holly Hill Road; thence leaving said point of beginning and running in part with Holly Hill Road right of way, lands of Crop Production Services, Inc. and lands of Delaware Railroad Real Estate Agent 1) South 05°33'56" East 1794.82 feet to a found concrete monument at a corner for this parcel and lands of Delaware Railroad Real Estate Agent; thence running with the northerly right of way of a railroad, lands of Delaware Railroad Real Estate Agent 2) South 87°03'19" West 901.13 feet to a point at the intersection of the centerline of Ludnam Branch and the northerly right of way of railroad, thence running by and with the centerline of Ludnam Branch and lands of R & C Fry Farms LP the following fifty one courses and distances:

3) North 06°45'46" West 78.53 feet; thence 4) North 21°43'49" West 76.42 feet; thence 5) North 32°09'39" West 128.58 feet; thence 6) North 78°17'45" West 37.14 feet; thence 7) South 68°06'32" West 26.11 feet; thence 8) North 66°22'48" West 23.24 feet; thence 9) North 34°55'59" West 11.56 feet; thence 10) North 78°12'49" West 10.31 feet; thence 11) North 50°01'04" West 12.45 feet; thence 12) North 10°04'15" West 14.21 feet; thence 13) North 78°42'40" West 43.16 feet; thence 14) South 74°46'37" West 47.89 feet; thence 15) North 36°28'42" West 22.28 feet; thence 16) North 77°51'17" West 9.36 feet; thence 17) South 55°33'29" West 35.98 feet; thence 18) North 82°03'35" West 15.89 feet; thence 19) North 61°40'39" West 18.26 feet; thence 20) South 80°33'17" West 12.51 feet; thence 21) North 45°30'31" West 10.86 feet; thence 22) North 03°24'47" East 12.49 feet; thence 23) North 26°34'45" West 15.29 feet; thence 24) North 73°07'32" West 12.01 feet; thence 25) South 72°10'42" West 12.32 feet; thence 26) North 62°21'41" West 24.20 feet; thence 27) North 29°28'45" East 25.11 feet; thence 28) North 40°26'54" West 16.55 feet; thence 29) North 27°59'18" West 11.04 feet; thence 30) North 03°42'11" West 14.75 feet; thence 31) North 59°40'16" West 10.03 feet; thence 32) North 88°18'36" West 13.89 feet; thence 33) North 62°46'45" West 15.18 feet; thence 34) South 81°50'06" West 20.75 feet; thence 35) North 54°24'29" West 15.51 feet; thence 36) South 76°51'26" West 13.13 feet; thence 37) North 66°25'07" West 13.71 feet; thence 38) North 87°30'28" West 10.26 feet; thence 39) North 69°01'09" West 41.09 feet; thence 40)

North 22°10'06" East 12.99 feet; thence 41) North 11°30'44" West 40.88 feet; thence 42) North 44°46'42" West 40.57 feet; thence 43) North 77°21'51" West 24.59 feet; thence 44) North 29°29'46" East 26.54 feet; thence 45) North 75°44'13" West 36.96 feet; thence 46) North 05°37'15" East 28.39 feet; thence 47) North 55°01'12" West 33.19 feet; thence 48) North 22°48'04" East 11.59 feet; thence 49) North 23°36'25" West 7.85 feet; thence 50) South 87°13'13" West 15.76 feet; thence 51) North 49°19'05" West 29.82 feet; thence 52) North 40°14'52" West 47.03 feet; thence 53) North 25°06'01" East 5.56 feet to a point in the centerline of Ludnem Branch and at a corner of this parcel and the lands of R & C Fry Farms LP, said courses and distances having a tie line with a bearing and distance of North 48°31'06" West 1035.23 feet; thence departing the centerline of Ludnem Branch and continuing with the lands of R & C Fry Farms LP the following two courses and distances 54) North 85°01'06" East, passing over a found concrete monument at 5.42 feet and continuing a total distance of 405.34 feet to a found concrete monument; thence 55) North 05°33'56" West 1000.05 feet to a found concrete monument at the corner of this parcel and in line with the southerly right of way of Holly Hill Road; thence with said Holly Hill Road right of way 56) North 84°26'04" East 1200.27 feet to the point and place of beginning, and containing 49.25 acres of land be the same, more or less.