

City of Milford



CITY COUNCIL COMMITTEE AGENDA Monday, May 10, 2021

In accordance with the State of Emergency Declaration issued by Governor John Carney that became effective on March 13, 2020, and as extended, all public meetings of the City of Milford shall be conducted electronically through Zoom until further notice to prevent unnecessary public gatherings.

*This meeting is available for viewing by the public by accessing the following link:
<https://zoom.us/j/99156131279>*

*Members of the public may also dial in by phone using the following number:
Call 301 715 8592 Webinar ID: 991 5613 1279*

Public Comments are encouraged on the items noted on the agenda and may be submitted via email to cityclerk@milford-de.gov no later than the start of the meeting. Attendees may also alert the City Clerk they wish to speak at the appropriate time by submitting their name, address, and agenda item via the Zoom Q&A function or by using the Raise Your Hand function during the meeting. All written comments received will be read into the record during the meeting.

6:30 P.M.

ANNEXATION COMMITTEE MEETING

Call to Order – Chairman Dan Marabello

Review & Recommendation:

Annexation/Lands belonging to Walter G. & Sharon A. Feindt, Trustees East side of South Rehoboth Boulevard, approximately .4 mile south/southeast of Delaware Route 36 Milford, DE 19963 Sussex County Tax Map No(s): 330 -11.00-44.05, 330 -11.00-44.06 & 330 -11.00- 44.07 1.994 +/- Acres Current Zone: Agricultural Residential (AR-1) Proposed Zone: Community Neighborhood Commercial (C-1)

All that certain lot, pieces or parcels of land situate in Cedar Creek Hundred, Sussex County in the State of Delaware, in accordance with a recent survey prepared by Christopher D. Waters, Professional Land Surveyor, DE NO. S6-647, dated March 22, 2021

Adjournment

All items on the Council Meeting Agenda are subject to a potential vote.

**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.**

040621

cc: Chair Dan Marabello; Members Brian Baer, Katrina Wilson, PC Chair Sharp

CITY OF MILFORD RESOLUTION 2021-05

Annexation/Lands belonging to Walter G. & Sharon A. Feindt, Trustees
East side of South Rehoboth Boulevard, approximately .4 mile south/southeast of Delaware Route 36
Milford, DE 19963
Sussex County Tax Map No(s): 330 -11.00-44.05, 330 -11.00-44.06 & 330 -11.00- 44.07
1.994 +/- Acres
Current Zone: Agricultural Residential (AR-1)
Proposed Zone: Community Neighborhood Commercial (C-1)

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, pieces or parcels of land situate in Cedar Creek Hundred, Sussex County in the State of Delaware, in accordance with a recent survey prepared by Christopher D. Waters, Professional Land Surveyor, DE NO. S6-647, dated March 22, 2021, attached hereto as Exhibit A, more particularly described as follows, to wit:

LEGAL DESCRIPTION LANDS OF WALTER G. & SHARON A. FEINDT, TRUSTEES

PARCEL 44.06

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of S. Rehoboth Boulevard and being located in Cedar Creek Hundred, Sussex County, Delaware, being all of Parcel “44.06,” as shown on a plat entitled “Topographic Survey Plan,” completed by Davis Bowen & Friedel, Inc., dated March 2021; said piece or parcel being more particularly described as follows:

BEGINNING at point formed by an iron pipe found at the intersection of northeasterly right-of-way line of S. Rehoboth Boulevard, 60 feet wide, with the westerly line of lands of, now or formerly, Christopher J. Nelson, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware; said beginning point being coordinated on the Delaware State Grid System as North: 329,964.46 feet, East: 657,906.64 feet; thence,

- 1) leaving said Christopher J. Nelson lands and running by and with said right-of-way line of S. Rehoboth Boulevard, North 32 degrees 56 minutes 09 seconds West 121.62 feet to an iron pipe found at a point, thence running,
- 2) by and with Parcel 44.07, other lands of Walter G. & Sharon A. Feindt, trustees, North 59 degrees 37 minutes 25 seconds East 200.00 feet to an iron pipe found at a point, thence running,
- 3) by and with Parcel 44.05, other lands of Walter G. & Sharon A. Feindt, trustees, South 32 degrees 56 minutes 09 seconds East 121.62 feet to an iron pipe found at a point, thence running,
- 4) by and with lands of Christopher J. Nelson, South 59 degrees 37 minutes 25 seconds West 200.00 feet to an iron pipe found at a point and place of beginning; **CONTAINING** 24,300 square feet of land, more or less.

PARCEL 44.07

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of S. Rehoboth Boulevard and being located in Cedar Creek Hundred, Sussex County, Delaware, being all of Parcel “44.07,” as shown on a plat entitled “Topographic Survey Plan,” completed by Davis Bowen & Friedel, Inc., dated March 2021; said piece

or parcel being more particularly described as follows:

COMMENCING at point formed by an iron pipe found at the intersection of northeasterly right-of-way line of S. Rehoboth Boulevard, 60 feet wide, with the westerly line of lands of, now or formerly, Christopher J. Nelson, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware; said beginning point being coordinated on the Delaware State Grid System as North: 329,964.46 feet, East: 657,906.64 feet; thence running North 32 degrees 56 minutes 09 seconds West 121.62 feet to an iron pipe found at a point and place of beginning, thence,

- 1) leaving Parcel 44.06, other lands of Walter G. & Sharon A. Feindt, trustees and running by and with said right-of-way line of S. Rehoboth Boulevard, North 32 degrees 56 minutes 09 seconds West 50.03 feet to an iron rod with cap set at a point, thence running,
- 2) by and with lands of Windward Milford, LLC., North 59 degrees 37 minutes 25 seconds East 250.00 feet to an iron pipe found at a point, thence running,
- 3) by and with Parcel 44.05, other lands of Walter G. & Sharon A. Feindt, trustees, South 32 degrees 56 minutes 09 seconds East 50.03 feet to an iron pipe found at a point, thence running,
- 4) by and with other lands of Walter G. & Sharon A. Feindt, trustees, South 59 degrees 37 minutes 25 seconds West passing through an iron pipe found at a distance of 50.00 feet and having a total distance of 250.00 feet to an iron pipe found at a point and place of beginning; **CONTAINING** 12,495 square feet of land, more or less.

PARCEL 44.05

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of S. Rehoboth Boulevard and being located in Cedar Creek Hundred, Sussex County, Delaware, being all of Parcel "44.05," as shown on a plat entitled "Topographic Survey Plan," completed by Davis Bowen & Friedel, Inc., dated March 2021; said piece or parcel being more particularly described as follows:

COMMENCING at point formed by an iron pipe found at the intersection of northeasterly right-of-way line of S. Rehoboth Boulevard, 60 feet wide, with the westerly line of lands of, now or formerly, Christopher J. Nelson, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware; said beginning point being coordinated on the Delaware State Grid System as North: 329,964.46 feet, East: 657,906.64 feet; thence running North 59 degrees 37 minutes 25 seconds East 200.00 feet to an iron pipe found at a point and place of beginning, thence,

- 1) leaving lands of Christopher J. Nelson, and running by and with Parcel 44.06, other lands of Walter G. & Sharon A. Feindt, trustees, North 32 degrees 56 minutes 09 seconds West 121.62 feet to an iron pipe found at a point, thence running,
- 2) by and with Parcel 44.07, other lands of Walter G. & Sharon A. Feindt, trustees, the following two (2) courses; North 59 degrees 37 minutes 25 seconds East 50.00 feet to an iron pipe found at a point, thence,
- 3) North 32 degrees 56 minutes 09 seconds West 50.03 feet to an iron pipe found at a point, thence running,
- 4) by and with lands of Windward Milford LLC., North 59 degrees 37 minutes 25 seconds East 285.38 feet to an iron rod with cap set at a point, thence running,
- 5) by and with lands of Ann B. Freeman, the following three (3) courses; South 12 degrees 48 minutes 03 seconds East 70.59 feet to a point, thence running,
- 6) South 16 degrees 29 minutes 39 seconds East 100.13 feet to a point, thence running,

- 7) South 22 degrees 07 minutes 29 seconds East 7.05 feet to a point, thence running,
- 8) by and with lands of Christopher J. Nelson, South 59 degrees 37 minutes 25 seconds West passing through an iron pipe found at a distance of 10.14 feet and having a total distance of 281.36 feet to an iron pipe found at a point and place of beginning; **CONTAINING 50,077** square feet 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 Dan Marabello, Councilmembers Brian Baer and Katrina Wilson 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.

s/City Clerk Teresa K. Hudson

Adopted: April 12, 2021

Walter G. Feindt, Trustee
Sharon A. Feindt, Trustee
4 Lakelawn Drive
Milford, DE 19963

March , 2021

City of Milford
City Council
201 South Walnut Street
Milford, Delaware 19963

Re: **Petition for Annexation**
Sussex County Tax Map No. 330-11.00-44.05, 44.06 & 44.07
Property Address: east side of S. Rehoboth Blvd, approximately 0.4 miles
south/southeast of Route 36

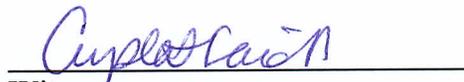
Dear Mayor and City Council,

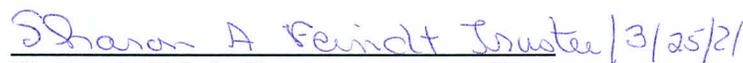
Please accept this letter as our formal request for annexation of the above referenced parcels into the City of Milford. The land is currently zoned as Agricultural Residential (AR-1) and the land is currently vacant. As per the City's 2018 Comprehensive Plan the parcel is classified as proposed Residential – Low Density. Based on this, we are requesting Community Neighborhood Commercial (C-1) zoning for all three parcels, which contain 1.994 +/- acres. The purpose of this request is to utilize all the services and resources that the City has to offer as well as provide support to the nearby hospital with medical offices.

If you should have any questions, please contact us via Windward Milford, LLC at 302-226-6631.

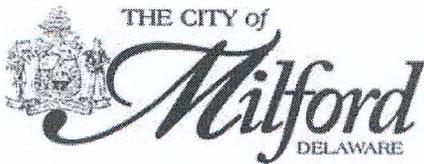
Sincerely,


Walter G. Feindt, Trustee Date 3/25/21


Witness


Sharon A. Feindt, Trustee Date 3/25/21


Witness



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): Walter G. & Sharon A. Feindt Trustees			Phone: 302-422-4811
Address: 4 Lakelawn Drive			Cell:
City: Milford	State: DE	Zip: 19963	Fax:
E-Mail: wgfeindt@netscape.net			
Applicant Name and Company: Windward Milford, LLC			Phone: 302-226-6631
Address: 246 Rehoboth Avenue			Cell:
City: Rehoboth Beach	State: DE	Zip: 19971	Fax: 302-226-6408
E-Mail: nhammonds@jacklingo.com			
Surveyor or Engineer: Cliff Mumford - Davis, Bowen & Friedel, Inc.			Phone: (302) 424-1441
Address: 1 Park Ave			Cell:
City: Milford	State: DE	Zip: 19963	Fax: (302) 424-0430
E-Mail: cdm@dbfinc.com			
Site Address: east side of S. Rehoboth Blvd, approximately 0.4 miles south/southeast of Route 36			Zoning: AR-1
Tax Map & Parcel Number(s): 330-11.00-44.05, 44.06 & 44.07			Acreage: 1.994 +/-
<p>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. I/We acknowledge that we are responsible for any and all professional service costs (i.e. legal, engineering construction plan review) associated with the project per the City Code and adopted fee schedule.</p>			
Signature of Property Owner(s):		Sharon A Feindt ^{Trustee} Date: 3/25/21	
Signature of Applicant(s):		 Date: 3/26/2021	
Office Use Only: <input type="checkbox"/> Current on Utilities <input type="checkbox"/> Current on Taxes <input type="checkbox"/> No Outstanding Violations			

REVISED: 03.2020



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: AR-1

Requested Zoning: C-1

Comprehensive Plan Designation: LDR

REQUIRED ITEMS		For Staff Use ONLY	
		Verified	Waived
<input type="checkbox"/>	1. Land Use Application Cover Sheet.		
<input 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 type="checkbox"/>	3. A full legal description of the property in Word format.		
<input 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 Planning Department Fee Schedule.		

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:

Sharon A Penn at Trustee 3/25/21
Sharon A Penn at Trustee Date: 3/25/21

Signature of Applicant:

[Signature] Date: 3/26/2021

FOR STAFF USE ONLY

City Council

Annexation Committee

Planning Commission

City Council

REVISED: 03.2020



TO: Mayor & Council Members
FROM: Annexation Committee
DATE: May 10, 2021
RE: Annexation Committee Report

A public meeting was held in Council Chambers on May 10, 2021 to consider the annexation request for lands described as:

Property Owner:	Walter G. & Sharon A. Feindt Trustees
Location:	S. Rehoboth Boulevard
Size:	1.994 +/- acres
Existing Zoning:	AR-1 – Agricultural Residential (Sussex County)
Proposed Zoning:	C-1 (Neighborhood Commercial)
Tax Map and Parcel Number:	3-30-11.00-044.05, 044.06 & 044.07

APPLICANT

A petition by the property owners was submitted on March 31, 2021 to annex 1.994 +/- acres into the corporate limits of the City of Milford.

LOCATION

The properties are identified as Sussex County tax parcel(s) 3-30-11.00-044.05, 044.06 & 044.07 and are located along the east side of S. Rehoboth Boulevard, just south of the proposed entrance to Windward Boulevard and approximately 1,150 feet south of the SE Second Street intersection.

STREETS

The properties are currently vacant and do not contain an entrance onto S. Rehoboth Boulevard. S. Rehoboth Boulevard is a State Maintained roadway and any entrances would require DelDOT approval. Additionally, the developer for Windward on the River – Residential and Deep Branch Plaza granted a cross-access easement to these parcels onto Windward Boulevard, which would be the preferred access point for these properties, if developed. It is anticipated that any internal streets to the proposed commercial development will be privately owned and maintained.

DRAINAGE

The properties are currently undeveloped and any future development of the properties would be subject to DNREC storm-water regulations and the owner would be required to obtain any and all permits from the Sussex Conservation District and State of Delaware.

ZONING

The area proposed to be annexed is currently zoned AR-1 (Agricultural Residential) in Sussex County under the Sussex County zoning ordinance. The applicant requests the properties be zoned C-1 (Neighborhood Commercial District) under the City of Milford zoning ordinance.

SEWER

The properties would be served by the newly constructed Windward on the River regional pump station. The developer would be responsible for any required upgrades and utility extensions to serve the proposed development on the site. All costs associated with the design and construction of the sewer extension would be borne by the applicant. Any construction improvements would need to be reviewed and approved by the City Engineer.

WATER

The properties would be served by the existing 10" water main that is located along Windward Boulevard. The developer would be responsible for any required upgrades and utility extension to serve the proposed development of the site. All costs associated with the design and construction of the water main extension would be borne by the applicant. Any construction improvements would need to be reviewed and approved by the City Engineer.

ELECTRIC

The properties would be served by City of Milford electric utility. All costs associated with the design and construction of electric improvements would be borne by the applicant. Any construction improvements would need to be reviewed and approved by the City Engineer and the City Electric Division.

TRAFFIC

The properties are located along S. Rehoboth Boulevard and would gain access with an entrance along this roadway or via Windward Boulevard directly to the north. S. Rehoboth Boulevard is a State Maintained roadway and any entrances would require approval from DelDOT.

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 properties may contain wetlands at the far eastern limits of parcel 044.05. Additionally, the same portion of the site is impacted by the 100-year floodplain with a base flood elevation of 9 feet above sea level according to the most recent FEMA Flood Insurance Rate Maps (FIRMs). The properties do not contain areas of excellent groundwater recharge according to DNREC Navigator website.

AREA LAND USES

The properties to the south and west are primarily single-family detached dwellings on larger lots developed in Sussex County's AR-1 zoning district. The property to the north is the site of the proposed Deep Branch Plaza commercial center and is zoned C-1. The property to the northeast is the site of the Windward on the River-Residential project containing 264 residential apartment units and is zoned R-3. The property to the east is a 30 +/- acre parcel containing a single dwelling unit in Sussex County and is zoned AR-1.

FIRE AND POLICE

The subject parcel is located within the Carlisle Fire Company district area according to Sussex 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 request is consistent with the 2018 Comprehensive Plan Future Land Use Plan and is designated as Proposed Low Density Residential. C-1 is an allowable zone in the comprehensive plan's future land use and zoning link table.

PROPERTY TAXES AND OTHER ECONOMIC CONSIDERATIONS

The proposed annexation would generate new property tax revenue and potentially allow the expansion of neighborhood commercial services to the eastern and southeastern portions of Milford. Development of the properties would provide additional revenue within the electric, water and sewer systems.

ADVANTAGES TO THE CITY

1. The properties are within the planning area of the City of Milford.
2. The City would receive revenues (property tax, building permits, etc.) associated with activity on these parcels.
3. Potential for additional water, sewer and electric users.
4. Identified within the Urban Growth Boundary of the 2018 Comprehensive Plan.
5. The proposed zoning is consistent with the 2018 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. Properties are contiguous to existing City Limits.
3. Any changes to the properties are subject to review by the City of Milford Planning Commission and/or City Council.
4. Properties will be served by City water, sewer and electric.
5. An executed Annexation Agreement is required prior to final City Council approval.
6. 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 properties should be annexed with the following zoning classification: C-1 (Neighborhood Commercial)

Council Representative/Committee Chairman

Date

Council Representative

Date

Council Representative

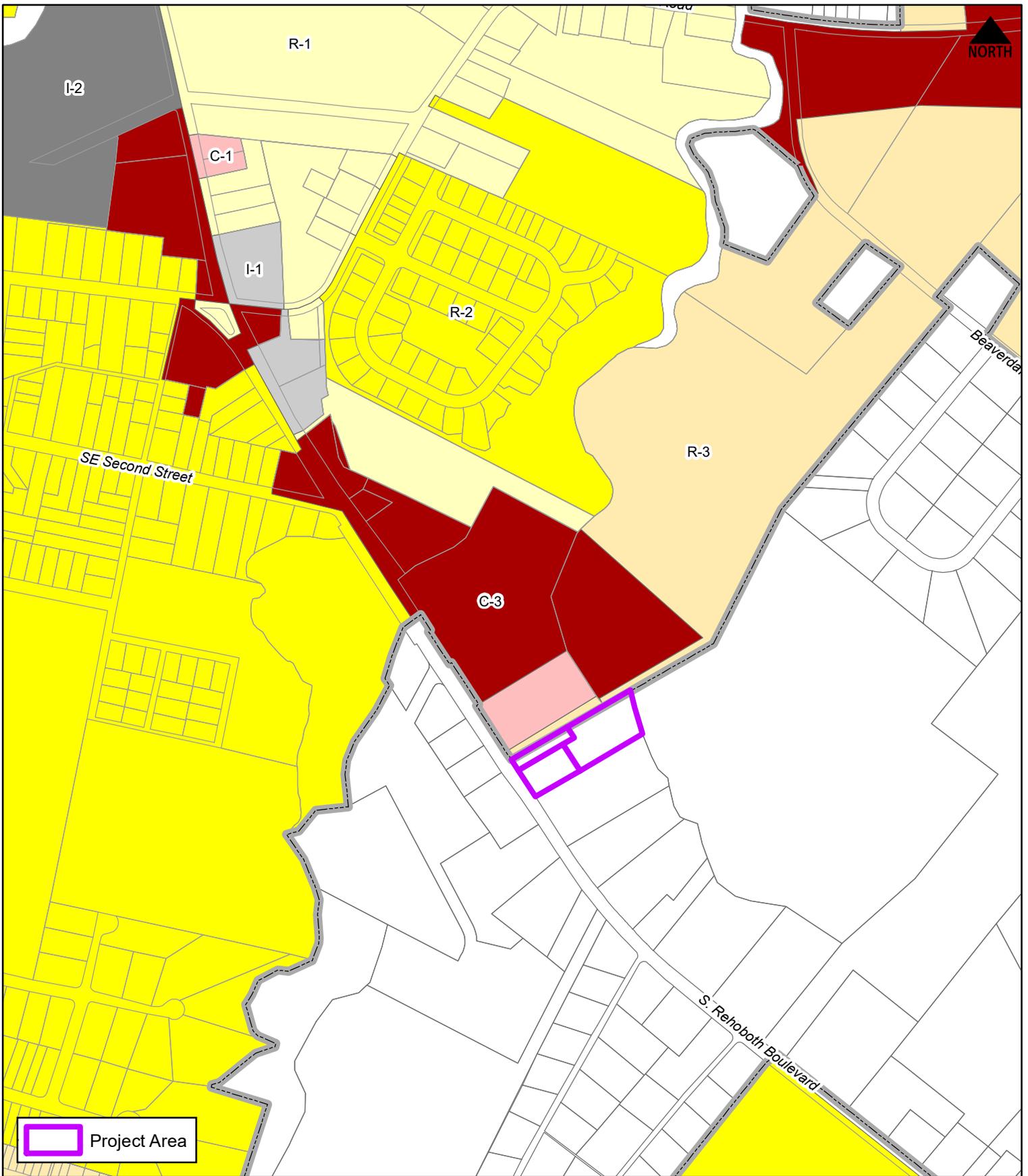
Date

Council Representative

Date

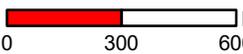
Planning Commission Chairman

Date



 Project Area



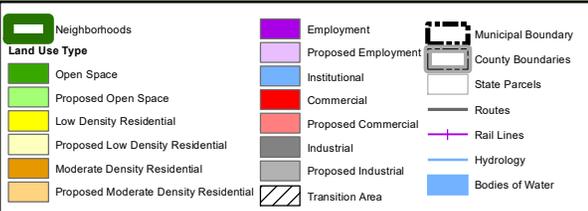
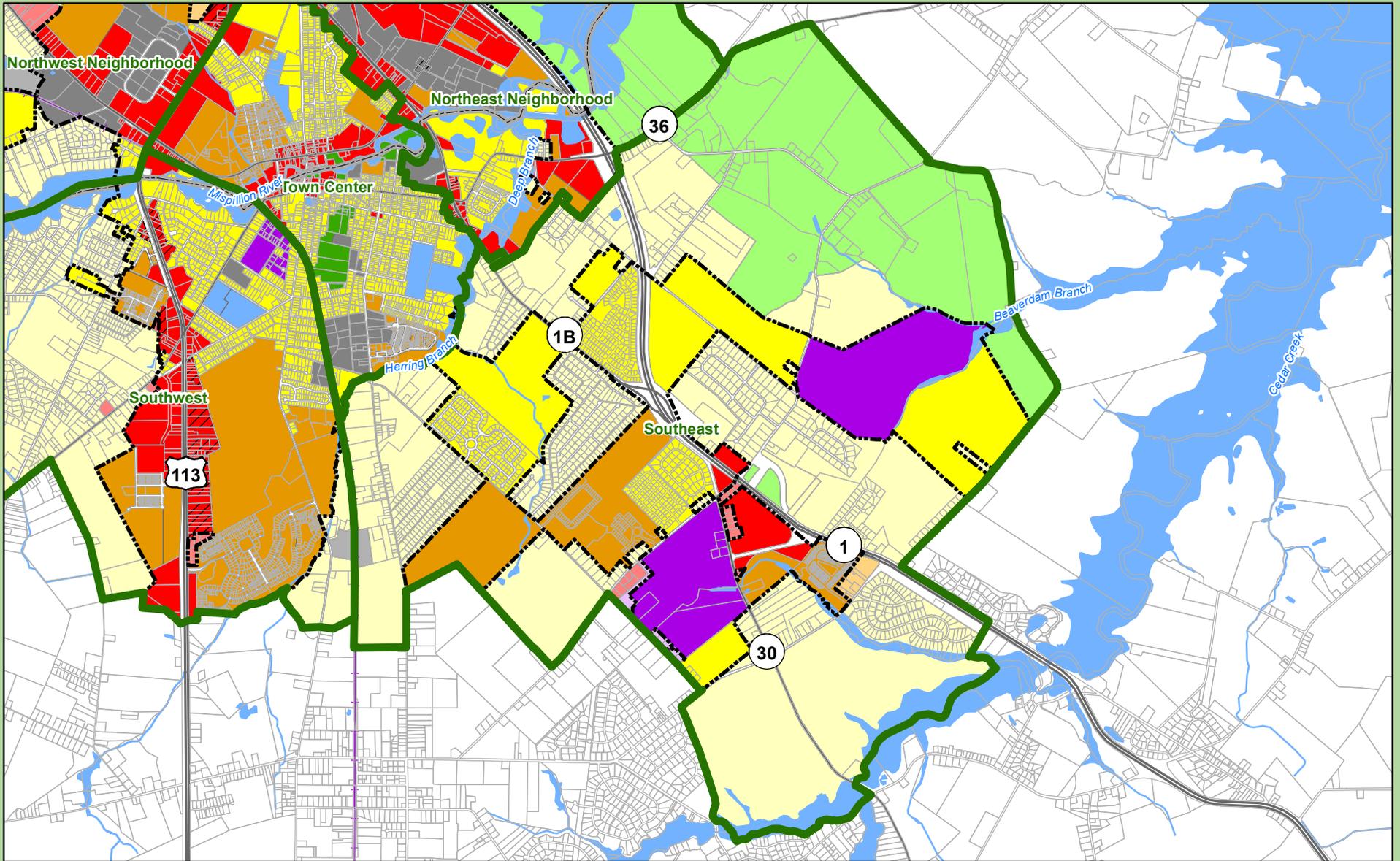
Scale:  Feet
0 300 600

Drawn by: WRP Date: 04/05/21

Title:

Annexation
Lands of Walter Feindt
Location & Zoning Map

Filepath: Annexation_WalterFeindt.mxd

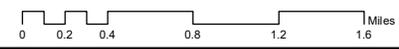


City of Milford, Delaware

Future Land Use

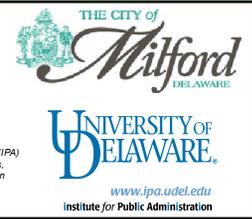
Southeast

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.



Tax Parcel No. 3-30-11.00-044.05, 044.06 & 044.07

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

WALTER G. & SHARON A. FEINDT, TRUSTEES
PLAN OF SERVICES AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2021, by and between WALTER G. & SHARON A. FEINDT TRUSTEES (hereinafter “FEINDT”) located at 4 Lakelawn Drive, 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, FEINDT is the record title owner of a parcel of land consisting of 1.994 acres, more or less, lying contiguous to the City of Milford, said tract identified on the Sussex County, Delaware tax maps as Tax Parcel No. 3-30-11.00-044.05, 044.06 & 044.07, said tract hereinafter referred to as “FEINDT PROPERTY”.

FEINDT is desirous of having the FEINDT PROPERTY annexed into the City of Milford and requested the land use to be Low Density Residential in nature.

- B. WHEREAS the City, through its City Council (in consultation with the City Solicitor and Planning Director), 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 FEINDT’S request for annexation is unilateral (in that the City cannot annex the FEINDT PROPERTY unless FEINDT 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 FEINDT 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 FEINDT'S request to be annexed into the City of Milford, in consideration of the annexation filing fee for 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 FEINDT 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 1.994 acres, more or less, said tract identified on the Sussex County, Delaware tax maps as Tax Parcel No. 3-30-11.00-044.05, 044.06 & 044.07.

The hereinabove described parcel of land is more fully depicted on that certain Survey "Topographic Survey Plan of the Lands of Walter G. & Sharon A. Feindt Trustees" dated March 2021, prepared by Davis, Bowen & Friedel, Inc. 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, FEINDT agrees that the FEINDT PROPERTY will be connected to the City water distribution system and to the City's sanitary sewer system, treatment of which is provided by Kent County, if and when the property is developed. The parties agree that FEINDT would be responsible for the costs to design and construct any utility extensions and service connections needed to serve the FEINDT PROPERTY. FEINDT agrees to execute any documents needed for the City to obtain Certificate of Public Convenience and Necessity (CPCN) rights.
4. Electric Distribution System. Notwithstanding any other provisions or requirements under any City ordinance or regulation, FEINDT agrees that the FEINDT PROPERTY will be connected to the City electric distribution system if and when the property is developed. The parties agree that FEINDT would be responsible for the costs to design and construct any utility extensions and service

connections needed to serve the FEINDT PROPERTY. FEINDT agrees to execute any documents needed for the City to obtain Certificate of Public Convenience and Necessity (CPCN) rights.

5. Natural Features. The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel.
6. Zoning. The FEINDT PROPERTY shall be annexed as City district C-1 Neighborhood Commercial 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; FEINDT 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) FEINDT may, with the City's prior written consent, which shall not be unreasonably withheld, sell, lease, or convey all or any portion of FEINDT 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 FEINDT, shall be recorded in the office of the Recorder of Deeds, in and for Sussex County, Delaware. The cost of recording shall be paid by FEINDT.
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).

DRAFT

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

WALTER G. & SHARON A. FEINDT,
TRUSTEES

Attest: _____

By: _____
Walter G. Feindt

By: _____
Sharon A. Feindt

CITY OF MILFORD

Attest: _____
City Clerk

By: _____ (Seal)
Arthur J. Campbell, Mayor

STATE OF DELAWARE :
:
COUNTY OF SUSSEX :

Signed and sworn to before me this _____ day of _____, 2021, by Walter G. & Sharon A. Feindt.

Signature of Notary Public

STATE OF DELAWARE :
:
COUNTY OF SUSSEX :

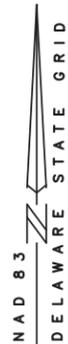
Signed and sworn to before me this _____ day of _____, 2021, by Arthur J. Campbell, Mayor of the City of Milford.

Signature of Notary Public

Exhibit A

DRAFT

S:\2261m\2261J011 SWAIN\44.05-44.07\topo.dwg Mar 16, 2021 - 8:04am



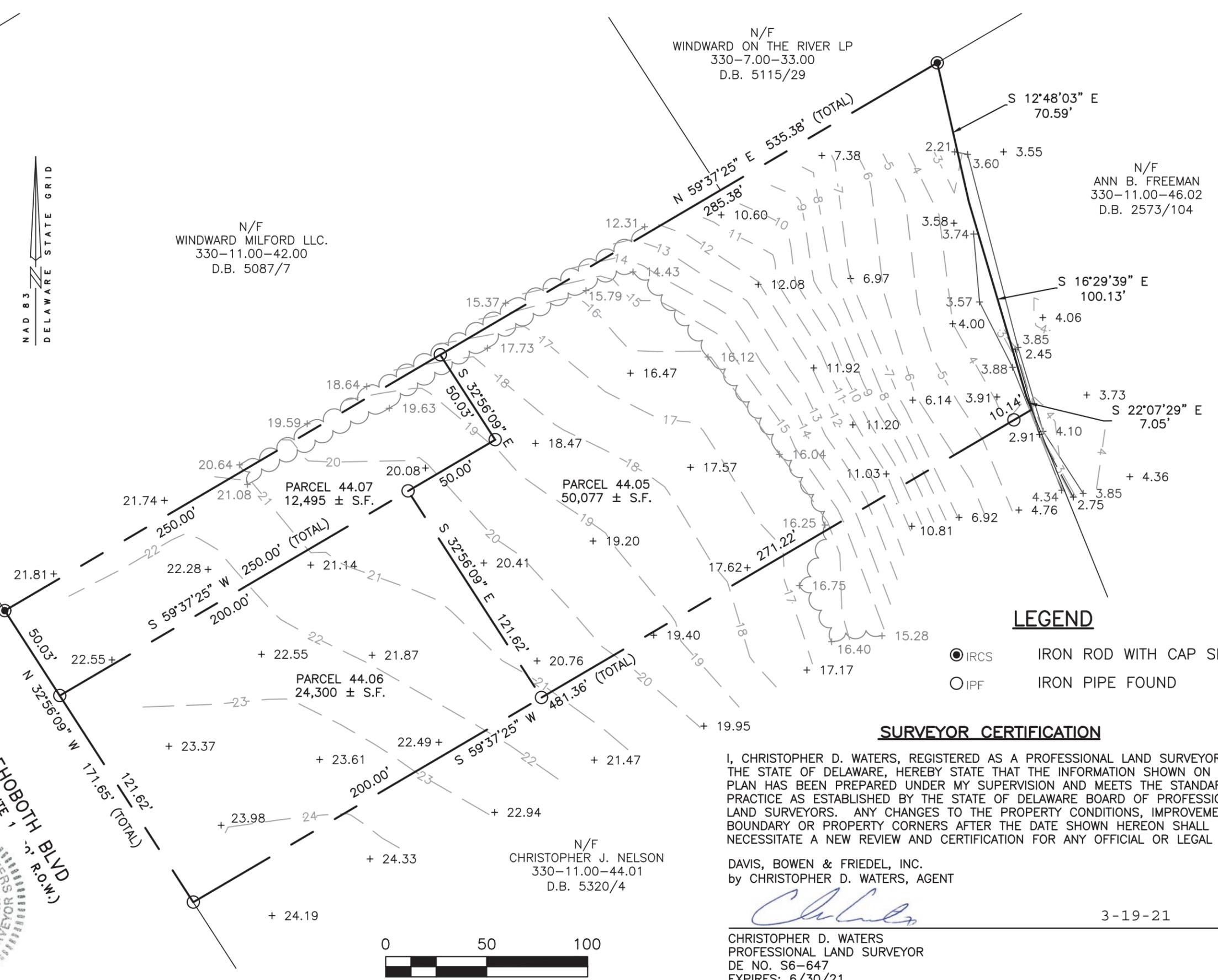
N/F
WINDWARD MILFORD LLC.
330-11.00-42.00
D.B. 5087/7

N/F
WINDWARD ON THE RIVER LP
330-7.00-33.00
D.B. 5115/29

N/F
ANN B. FREEMAN
330-11.00-46.02
D.B. 2573/104

N/F
CHRISTOPHER J. NELSON
330-11.00-44.01
D.B. 5320/4

S. REHOBOTH BLVD
BUSINESS ROUTE 1, S. R.O.W.)



LEGEND

- IRCS IRON ROD WITH CAP SET
- IPF IRON PIPE FOUND

SURVEYOR CERTIFICATION

I, CHRISTOPHER D. WATERS, REGISTERED AS A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE, HEREBY STATE THAT THE INFORMATION SHOWN ON THIS PLAN HAS BEEN PREPARED UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS ESTABLISHED BY THE STATE OF DELAWARE BOARD OF PROFESSIONAL LAND SURVEYORS. ANY CHANGES TO THE PROPERTY CONDITIONS, IMPROVEMENTS, BOUNDARY OR PROPERTY CORNERS AFTER THE DATE SHOWN HEREON SHALL NECESSITATE A NEW REVIEW AND CERTIFICATION FOR ANY OFFICIAL OR LEGAL USE.

DAVIS, BOWEN & FRIEDEL, INC.
by CHRISTOPHER D. WATERS, AGENT

3-19-21

CHRISTOPHER D. WATERS
PROFESSIONAL LAND SURVEYOR
DE NO. S6-647
EXPIRES: 6/30/21

DAVIS, BOWEN & FRIEDEL, INC. ARCHITECTS ENGINEERS SURVEYORS

SALISBURY, MARYLAND (410) 543-9091
MILFORD, DELAWARE (302) 424-1441
EASTON, MARYLAND (410) 770-4744

TOPOGRAPHIC SURVEY PLAN
of the Lands of
WALTER G. & SHARON A. FEINDT, TRUSTEES
CEDAR CREEK HUNDRED
SUSSEX COUNTY, DELAWARE

Date:	MARCH 2021
Scale:	1"=50'
Dwn.By:	KTH
Proj.No.:	2261J011
Dwg.No.:	

Exhibit B

DRAFT

LEGAL DESCRIPTION

LANDS OF

WALTER G. & SHARON A. FEINDT, TRUSTEES

March 22, 2021

PARCEL 44.06

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of S. Rehoboth Boulevard and being located in Cedar Creek Hundred, Sussex County, Delaware, being all of Parcel "44.06," as shown on a plat entitled "Topographic Survey Plan," completed by Davis Bowen & Friedel, Inc., dated March 2021; said piece or parcel being more particularly described as follows:

BEGINNING at point formed by an iron pipe found at the intersection of northeasterly right-of-way line of S. Rehoboth Boulevard, 60 feet wide, with the westerly line of lands of, now or formerly, Christopher J. Nelson, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware; said beginning point being coordinated on the Delaware State Grid System as North: 329,964.46 feet, East: 657,906.64 feet; thence,

1) leaving said Christopher J. Nelson lands and running by and with said right-of-way line of S. Rehoboth Boulevard, North 32 degrees 56 minutes 09 seconds West 121.62 feet to an iron pipe found at a point, thence running,

2) by and with Parcel 44.07, other lands of Walter G. & Sharon A. Feindt, trustees, North 59 degrees 37 minutes 25 seconds East 200.00 feet to an iron pipe found at a point, thence running,

3) by and with Parcel 44.05, other lands of Walter G. & Sharon A. Feindt, trustees, South 32 degrees 56 minutes 09 seconds East 121.62 feet to an iron pipe found at a point, thence running,

4) by and with lands of Christopher J. Nelson, South 59 degrees 37 minutes 25 seconds West 200.00 feet to an iron pipe found at a point and place of beginning; **CONTAINING** 24,300 square feet of land, more or less.

PARCEL 44.07

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of S. Rehoboth Boulevard and being located in Cedar Creek Hundred, Sussex County, Delaware, being all of Parcel "44.07," as shown on a plat entitled "Topographic Survey Plan," completed by Davis Bowen & Friedel, Inc., dated March 2021; said piece or parcel being more particularly described as follows:

COMMENCING at point formed by an iron pipe found at the intersection of northeasterly right-of-way line of S. Rehoboth Boulevard, 60 feet wide, with the westerly line of lands of, now or formerly, Christopher J. Nelson, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware; said beginning point being coordinated on the Delaware State Grid System as North: 329,964.46 feet, East: 657,906.64 feet; thence running North 32 degrees 56 minutes 09 seconds West 121.62 feet to an iron pipe found at a point and place of beginning, thence,

1) leaving Parcel 44.06, other lands of Walter G. & Sharon A. Feindt, trustees and running by and with said right-of-way line of S. Rehoboth Boulevard, North 32 degrees 56 minutes 09 seconds West 50.03 feet to an iron rod with cap set at a point, thence running,

2) by and with lands of Windward Milford, LLC., North 59 degrees 37 minutes 25 seconds East 250.00 feet to an iron pipe found at a point, thence running,

3) by and with Parcel 44.05, other lands of Walter G. & Sharon A. Feindt, trustees, South 32 degrees 56 minutes 09 seconds East 50.03 feet to an iron pipe found at a point, thence running,

4) by and with other lands of Walter G. & Sharon A. Feindt, trustees, South 59 degrees 37 minutes 25 seconds West passing through an iron pipe found at a distance of 50.00 feet and having a total distance of 250.00 feet to an iron pipe found at a point and place of beginning; **CONTAINING** 12,495 square feet of land, more or less.

PARCEL 44.05

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the northeasterly side of S. Rehoboth Boulevard and being located in Cedar Creek Hundred, Sussex County, Delaware, being all of Parcel "44.05," as shown on a plat entitled "Topographic Survey Plan," completed by Davis Bowen & Friedel, Inc., dated March 2021; said piece or parcel being more particularly described as follows:

COMMENCING at point formed by an iron pipe found at the intersection of northeasterly right-of-way line of S. Rehoboth Boulevard, 60 feet wide, with the westerly line of lands of, now or formerly, Christopher J. Nelson, as recorded in the Office of the Recorder of Deeds in and for Sussex County and the State of Delaware; said beginning point being coordinated on the Delaware State Grid System as North: 329,964.46 feet, East: 657,906.64 feet; thence running North 59 degrees 37 minutes 25 seconds East 200.00 feet to an iron pipe found at a point and place of beginning, thence,

1) leaving lands of Christopher J. Nelson, and running by and with Parcel 44.06, other lands of Walter G. & Sharon A. Feindt, trustees, North 32 degrees 56 minutes 09 seconds West 121.62 feet to an iron pipe found at a point, thence running,

2) by and with Parcel 44.07, other lands of Walter G. & Sharon A. Feindt, trustees, the following two (2) courses; North 59 degrees 37 minutes 25 seconds East 50.00 feet to an iron pipe found at a point, thence,

3) North 32 degrees 56 minutes 09 seconds West 50.03 feet to an iron pipe found at a point, thence running,

4) by and with lands of Windward Milford LLC., North 59 degrees 37 minutes 25 seconds East 285.38 feet to an iron rod with cap set at a point, thence running,

5) by and with lands of Ann B. Freeman, the following three (3) courses; South 12 degrees 48 minutes 03 seconds East 70.59 feet to a point, thence running,

6) South 16 degrees 29 minutes 39 seconds East 100.13 feet to a point, thence running,

7) South 22 degrees 07 minutes 29 seconds East 7.05 feet to a point, thence running,

8) by and with lands of Christopher J. Nelson, South 59 degrees 37 minutes 25 seconds West passing through an iron pipe found at a distance of 10.14 feet and having a total distance of 281.36 feet to an iron pipe found at a point and place of beginning; **CONTAINING** 50,077 square feet of land, more or less.