



NEW CASTLE COUNTY COUNCIL LAND USE COMMITTEE MEETING

Co-Chair: David Tackett, Eleventh District
Co-Chair: Janet Kilpatrick, Third District

June 18, 2024
3:00 PM

VIRTUAL ZOOM WEBINAR MEETING &
LOUIS L. REDDING CITY/COUNTY BUILDING
1ST FLOOR COUNCIL CHAMBERS
800 N. FRENCH STREET, WILMINGTON, DE 19801**

AGENDA

A. Meeting Call to Order

B. Approval of Minutes

C. Review/Discussion of Resolution(s)

R24-: PLAN OF VISTA AT RED LION – SECTION 1; NEW CASTLE HUNDRED; NORTH SIDE OF OLD PORTER ROAD, 2000 FEET WEST OF RED LION ROAD; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO SUBDIVIDE TAX PARCEL NO. 10-052.00-011 INTO 240 TOWNHOUSE UNITS UTILIZING THE SINGLE FAMILY ATTACHED OPTION; ST ZONING; [APPLICATION NO. 2008-0002](#); COUNCIL DISTRICT 12

Prime Sponsor(s): Mr. Bell

R24-: PLAN OF VISTA AT RED LION – SECTION 2; NEW CASTLE HUNDRED; SOUTH SIDE OF OLD PORTER ROAD, 2700 FEET WEST OF RED LION ROAD; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO SUBDIVIDE TAX PARCEL NO. 10-052.00-011 AND TAX PARCEL NO. 10-052.00-018 INTO 279 AGE-RESTRICTED LOTS WITH A 4,800 SQUARE FOOT CLUBHOUSE UTILIZING THE SINGLE FAMILY DETACHED OPTION; ST ZONING; [APPLICATION NO. 2008-0003](#); COUNCIL DISTRICT 12

Prime Sponsor(s): Mr. Bell

R24-: PLAN OF 2805 PULASKI HIGHWAY; PENCADER HUNDRED; NORTH SIDE OF PULASKI HIGHWAY, 885 FEET EAST OF PLEASANT VALLEY ROAD; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO COMBINE TAX PARCELS 11-026.00-002 AND 003 INTO ONE PARCEL TO CONSTRUCT 89,400 SQUARE FEET OF SELF-STORAGE WAREHOUSE, EXTERIOR STORAGE AREA FOR VEHICLES AND ASSOCIATED IMPROVEMENTS; RECONFIRMATION OF CR ZONING; [APPLICATION NO. 2021-0004-S/Z](#); COUNCIL DISTRICT 5

Prime Sponsor(s): Ms. George

D. Review/Discussion of Ordinance(s)

°24-023: COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS IN COUNTY COUNCIL DISTRICT 1 REGARDING THE FOLLOWING TAX PARCELS: WHITE CLAY CREEK HUNDRED: [09-011.00-070 \(606 Stanton Christiana Rd\)](#), [09-030.30-091 \(2008 Point Hamlet Rd, Christiana Village\)](#)

Introduced by: Mr. Toole

°24-024: COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS IN COUNTY COUNCIL DISTRICT 10 REGARDING THE FOLLOWING TAX PARCELS: CHRISTIANA HUNDRED: [07-043.40-054 \(2 Highspeed Way\)](#), [07-043.40-055 \(1400 Delmarva Ln, Russell W Peterson Urban Wildlife Refuge\)](#), [07-044.30-003 \(0 S Madison St Off\)](#) Introduced by: Mr. Street

°24-025: COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS IN COUNTY COUNCIL DISTRICT 3 REGARDING THE FOLLOWING TAX PARCELS: CHRISTIANA HUNDRED: [07-009.00-027 \(17 Gun Club Rd, Auburn Valley\)](#), [07-009.00-028 \(0 Creek Rd\)](#); MILL CREEK HUNDRED: [07-009.00-027 \(17 Gun Club Rd, Auburn Valley\)](#), [08-001.00-022 \(1166 Yorklyn Rd, Auburn Valley\)](#), [08-007.40-124 \(623 Yorklyn Rd, Hockessin Center\)](#), [09-008.00-010 \(0 Creek Rd, 555 Paper Mill Road\)](#) Introduced by: Ms. Kilpatrick

E. Presentations

F. Other

G. Public Comment

H. Adjournment

AGENDA POSTED: June 11, 2024

*The agenda is posted (7) seven days in advance of the scheduled meeting in compliance with 29 *Del. C.* Section 10004(e)(2). The meeting may go into Executive Session to address issues that arise at the time of the meeting.

**Under Title 29, Section 10006A of *Delaware Code*, New Castle County Council is holding this meeting as a

telephone and video conference, utilizing  Webinar. In addition, this meeting is open to the public in Council Chambers (800 N. French Street, Wilmington, DE 19801). The link to join the meeting via computer, smart device, or smart phone is : <https://zoom.us/j/377322142> You may also call into the meeting (audio) using the following call in numbers: 1-312-626-6799 or +1-646-558-8656 or +1-346-248-7799 or +1-669-900-9128 or +1-253-215-8782 or +1-301-715-8592. Then enter the Webinar ID: 377 322 142. If you do not have a good connection with one, please try the others. Additional information regarding phone functionality during the meeting is available at: <https://support.zoom.us/hc/en-us/articles/360029527911-Live-Training-Webinars>

Meeting materials, including a meeting agenda, legislation to be addressed during the meeting, and other materials related to the meeting are electronically accessible at <https://www.nccde.org/2351/Agendas-and-Minutes> Members of the public joining the meeting may be provided an opportunity to make comments in real time. A comment period will be administered by a moderator to ensure everyone may have an opportunity to comment.

If permitted to comment, you will not be able to speak until called upon by the moderator. For those appearing virtually, there are functions in the program that allow you to do this. Please see the link in the previous paragraph.

Prime Sponsor(s): Mr. Bell
Requested by: Department of Land Use
Date of introduction: June 25, 2024

RESOLUTION NO. 24-

**PLAN OF VISTA AT RED LION – SECTION 1; NEW CASTLE HUNDRED;
NORTH SIDE OF OLD PORTER ROAD, 2000 FEET WEST OF RED LION ROAD;
MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO SUBDIVIDE
TAX PARCEL NO. 10-052.00-011 INTO 240 TOWNHOUSE UNITS
UTILIZING THE SINGLE FAMILY ATTACHED OPTION; ST ZONING;
APPLICATION NO. 2008-0002; COUNCIL DISTRICT 12**

NOW, THEREFORE, BE IT RESOLVED by and for the County Council of New Castle County that County Council hereby. approves the following major land development plan, Plan of Vista at Red Lion—Section 1 (Application No. 2008-0002) as heretofore approved by the Land Use Department, and the President of County Council is hereby authorized to endorse her approval upon the following plan.

**PLAN OF VISTA AT RED LION – SECTION 1
New Castle Hundred**

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

SYNOPSIS: Same as title

FISCAL IMPACT: This will have no immediately discernible fiscal impact on the county but, if the parcel is developed in accordance with this record plan, there may be one or more fiscal effects on New Castle County government including, but not limited to, an increase in the assessed value of the property with the resultant increase in taxes collectible thereon and an increased demand for County services.

NOTES & DATA:

1. **TAX PARCEL NUMBERS:** 10-052-00-011 PO, 10-052-00-018
2. **EXISTING ZONING :** S (SUBURBAN)
PROPOSED ZONING (ORDINANCE #17-096) ST - (SUBURBAN TRANSITION)
3. **SOURCE OF TITLE:** 20150615-0023034, 20150615-0023036
4. **SURVEY DATUM:** NAVD88
LOCAL BENCHMARK: FOUND CONCRETE MONUMENT ON THE SOUTHWEST AREA OF TAX PARCEL 10-052-00-011 WITHIN OLD PORTER ROAD RIGHT OF WAY. ELEVATION= 80.09
2 (■)
85 (□)
- NUMBER OF EXISTING MONUMENTS:**
NUMBER OF PROPOSED MONUMENTS:
5. **SITE GROSS ACREAGE:** 147.2176 ACRES
SITE NET ACREAGE: 143.9462 ACRES

6. **WATER SUPPLIER:** SUEZ WATER OF DELAWARE
WATER SUPPLY IS SUBJECT TO THE APPROVAL OF THE DELAWARE STATE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND THE DELAWARE DEPARTMENT OF PUBLIC HEALTH.
7. **SANITARY SEWER:** NEW CASTLE COUNTY
SEWERAGE IS SUBJECT TO THE APPROVAL OF THE NEW CASTLE COUNTY DEPARTMENT OF PUBLIC WORKS. AT THE TIME OF APPROVAL OF THIS PLAN, SEWER CAPACITY EXISTED TO ACCOMMODATE THE ANTICIPATED FLOWS GENERATED BY THIS ADDITIONAL DEVELOPMENT. NEW CASTLE COUNTY HAS COMMITTED TO PROVIDE SEWER SERVICE IN ACCORDANCE WITH THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT FOR THIS DEVELOPMENT. THE OWNER OF THIS PROPERTY, HIS SUCCESSORS OR ASSIGNS, SHALL BE RESPONSIBLE FOR EXTENDING SEWER SERVICE TO EACH LOT SHOWN ON OR CREATED BY THIS PLAN.

PROPOSED SEWER FLOWS:
SINGLE FAMILY DETACHED: 279 LOTS x 300 G.P.D./LOT = 83,700 G.P.D.
CLUB HOUSE: 300 MEMBERS X 2.5 G.S.P./MEMBER = 750 G.P.D.
PEAK FLOW: 84,4500 x 4 x IDAY/1440 MIN = 235 G.P.M.

NOTE: BUILDING PERMITS FOR LOTS 229-279 MAY NOT BE APPLIED FOR UNTIL SUCH TIME THAT ALL THE PROPOSED SANITARY SEWER LOCATED DOWNSTREAM OF THOSE LOTS, INCLUDING THE PROPOSED PUMPING STATION AND FORCE MAIN (WITHIN VISTA AT RED LION - SECTION 1), UP TO THE CONNECTION TO THE EXISTING SEWER HAS BEEN AS-BUILT AND ACCEPTED BY THE DEPARTMENT.

8. **SEPTIC FEASIBILITY**
NOT APPLICABLE
9. **PROPERTY OWNER:** RED LION HP LLC
PO BOX 7189
WILMINGTON, DE 19803
10. **EXISTING LOTS AND/OR DWELLING UNITS:** 0
PROPOSED LOTS AND/OR DWELLING UNITS: 279
(LOT NUMBERS 41, 175 AND 194 ARE NOT IN USE)
11. **INTENTIONALLY LEFT BLANK**
12. **PARKING RATIONALE**
SINGLE FAMILY DETACHED
PARKING REQUIRED: 1.50 SP/UNIT x 279 UNITS = 419 SPACES
DRIVEWAY SPACES PROVIDED: 2 SP/UNIT x 279 UNITS = 558 SPACES
- CLUBHOUSE PARKING:
4,800 S.F. @ 6 SPACES/1000 S.F. = 29 REQUIRED
PARKING SPACES PROVIDED = 47 PROVIDED (INCLUDES 4 HANDICAP)

13. **SUBDIVISION / SITE DATA**
GROSS AREA: = 147.2176 ACRES
AREA IN ADDITIONAL DEDICATED R.O.W. (OLD PORTER ROAD) = 3.1692 ACRES
AREA IN ADDITIONAL DEDICATED R.O.W. (RED LION ROAD) = 0.1022 ACRES
NET SITE AREA = 143.9462 ACRES
AREA IN PROPOSED 50' R.O.W. = 12.8087 ACRES
AREA IN PROPOSED 60' R.O.W. = 2.1164 ACRES
AREA IN PROPOSED 80' R.O.W. = 1.1119 ACRES
AREA IN PROPOSED LOTS = 51.4023 ACRES
AREA IN OPEN SPACE = 76.5069 ACRES*
*INCLUDES 2.3942 ACRES OF STORMWATER MANAGEMENT AREA AND 3.9796 ACRES OF USABLE OPEN SPACE.

14. **FLOODPLAIN**
A PORTION OF THE SITE LIES WITHIN THE 100-YEAR FLOODPLAIN. LIMITS OF THE 100-YEAR FLOOD PLAIN WERE TAKEN FROM THE FLOOD INSURANCE RATE MAP NO. 1000302031, REVISED JANUARY 22, 2020.
15. **WATER RESOURCE PROTECTION AREA (WRPA)**
NO PORTION OF THE SITE WITHIN THE WRPA. AS PER THE "WATER RESOURCE PROTECTION AREAS FOR THE CITY OF NEWARK, CITY OF WILMINGTON, NEW CASTLE COUNTY DELAWARE" MAP 2 OF 3, REVISED MARCH 2022.
16. **WETLANDS**
THE WETLANDS BOUNDARIES DEPICTED ON THIS PLAN WERE TAKEN FROM A WETLAND DELINEATION REPORT BY JCM ENVIRONMENTAL, DATED MARCH 2008. THE DEPARTMENT OF ARMY CORPS OF ENGINEERS APPROVED THE DISTURBANCE OF WETLANDS AS SHOWN ON THIS PLAN PER NAP-2023-00270-85, DATED 08/15/2023.
17. **CRITICAL NATURAL AREAS**
THE STATE INVENTORY OF NATURAL AREAS HAS BEEN EXAMINED AND NO CRITICAL NATURAL AREAS (CINA) EXIST ON SITE.
18. **DEED RESTRICTIONS**
AT THE TIME OF THIS PLAN SUBMITTAL THERE WERE NO DEED RESTRICTIONS ASSOCIATED WITH THIS PARCEL.
19. **SUPERSIDES NOTE**
NO PREVIOUS PLAN HAS BEEN RECORDED FOR THIS PARCEL.
20. **TRAFFIC IMPACT STUDY AND ROADWAY IMPROVEMENTS**
A TRAFFIC IMPACT STUDY (TIS), BASED ON VISTA AT RED LION - SECTION 1 AND VISTA AT RED LION - SECTION 2 (THE PROJECT) BY KARINS AND ASSOCIATES AND REVIEWED AND APPROVED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT), BASED ON DELDOT'S OCTOBER 01, 2020 REVIEW COMMENTS, THE FOLLOWING SHALL APPLY:

- A. THE DEVELOPER SHALL RECONSTRUCT OLD PORTER ROAD, ON BOTH SIDES OF THE ROADWAY ALONG THE ENTIRE LENGTH OF THE PROJECT FRONTAGE AND TO THE WEST TO A POINT JUST EAST OF GRISSOM DRIVE. THE RECONSTRUCTION SHALL CONSIST OF TWO ELEVEN-FOOT LANES WITH SHOULDERS AS FOLLOWS:
1. ON THE NORTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 1 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 1 PROPERTY FRONTAGE ALONG OLD PORTER ROAD.
2. ON THE SOUTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 2 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 2 PROPERTY FRONTAGE ALONG OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383 (200-FEET WEST OF THE CENTER OF THE BRIDGE).
3. THE DEVELOPER SHALL PROVIDE A BITUMINOUS CONCRETE OVERLAY TO THE EXISTING TRAVEL LANES ON OLD PORTER ROAD FROM THE WESTERN PROJECT LIMIT TO A POINT WHICH IS 200-FEET WEST OF THE OLD PORTER ROAD/ROUTE 71 INTERSECTION.
4. THE DEVELOPER WILL MAKE SUCH IMPROVEMENTS TO OLD PORTER ROAD EAST OF VISTA AT RED LION SECTION-1 TO THE POINT WHICH IS 200 FEET WEST OF THE CENTER OF DELDOT'S BRIDGE #1300383. AT THE DEVELOPERS COST, SO AS TO PROVIDE TWO ELEVEN-FOOT LANES WITH THREE-FOOT SHOULDERS FOR THIS PORTION OF OLD PORTER ROAD.
5. THE TIMING FOR COMPLETION OF THE IMPROVEMENTS OUTLINED HEREIN WILL BE PHASED CONSISTENT WITH THE PHASING OF THE DEVELOPMENT AS SET FORTH IN THE RECORD PLAN TO BE APPROVED BY THE NEW CASTLE COUNTY, BUT, IN ANY EVENT, THESE IMPROVEMENTS WILL NOT BE REQUIRED TO BE IN PLACE PRIOR TO THE ISSUANCE OF FIFTY PERCENT (50%) OF CERTIFICATES OF OCCUPANCY FOR BOTH VISTA AT RED LION SECTIONS 1 AND SECTIONS 2.
- B. THE DEVELOPER SHALL CONSTRUCT TWO FULL MOVEMENT ACCESS ENTRANCES ON OLD PORTER ROAD (SITE ACCESS EAST AND SITE ACCESS WEST) AND SHALL PROVIDE ONE LEFT TURN LANE AND ONE RIGHT TURN LANE FOR BOTH EASTBOUND AND WEST BOUND TRAFFIC AT BOTH ACCESS POINTS.
- C. THE DEVELOPER SHALL ENTER INTO A TRAFFIC SIGNAL AGREEMENT WITH DELDOT FOR THE PORTER ROAD/OLD PORTER ROAD INTERSECTION, WHERE THE DEVELOPER WILL PAY AN EQUITABLE CONTRIBUTION TOWARDS THE TRAFFIC SIGNAL REVOLVING FUND.
- D. THE FOLLOWING BICYCLE, PEDESTRIAN, AND TRANSIT IMPROVEMENTS SHALL BE INCLUDED:

1. A MINIMUM FIFTEEN-FOOT-WIDE PERMANENT EASEMENT FROM THE EDGE OF THE RIGHT-OF-WAY SHOULD BE DEDICATED TO DELDOT ALONG THE PROJECT FRONTAGE ON OLD PORTER ROAD. WITHIN THIS EASEMENT, THE DEVELOPER SHALL CONSTRUCT A TEN-FOOT WIDE SHARED-USE PATH ALONG EACH SIDE OF OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383. A MINIMUM FIVE-FOOT SETBACK WILL BE MAINTAINED FROM THE EDGE OF THE PAVEMENT TO THE SHARED-USE PATHS.
2. SIDEWALKS SHALL BE PROVIDED ON BOTH SIDES OF ALL INTERNAL STREETS.
3. MINIMUM FIVE-FOOT WIDE BICYCLE LANES SHALL BE INCORPORATED IN THE SHOULDER ALONG BOTH DIRECTIONS OF OLD PORTER ROAD WITHIN THE PROJECT FRONTAGE LIMITS.
4. UTILITY COVERS SHALL BE MOVED OUTSIDE OF ANY DESIGNATED BICYCLE LANES AND ANY PROPOSED SIDEWALKS/SHARED-USE PATHS OR SHOULD BE FLUSH WITH THE PAVEMENT.

21. **DEBRIS DISPOSAL**
NO DEBRIS SHALL BE BURIED ON THE SITE.
22. **IMPACT FEES**
THIS PLAN IS SUBJECT TO THE IMPACT FEE PROVISIONS OF CHAPTER 40, ARTICLE 14 OF THE NEW CASTLE COUNTY CODE, AS MAY BE AMENDED BY NEW CASTLE COUNTY COUNCIL.
23. **LANDSCAPE PLAN**
A LANDSCAPE PLAN, PREPARED BY DESIGN ETC., LAST DATED 10/12/2023 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, IS HEREBY CONSIDERED A PART OF THE RECORD PLAN.
24. **SIDEWALKS**
UNLESS OTHERWISE SPECIFIED ON THE PLAN, SIDEWALKS SHALL BE INSTALLED IN THE LOCATIONS SHOWN ON THIS PLAN PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR THE PROJECT. SIDEWALKS SHALL BE CONSTRUCTED OF PORTLAND CEMENT CONCRETE. THEY ARE SHOWN. SIDEWALKS SHALL BE FIVE (5) FEET IN WIDTH AND CONSTRUCTED OF PORTLAND CEMENT CONCRETE.
25. **MAINTENANCE OF COMMON FACILITIES**
FOR MAINTENANCE OF THE COMMON FACILITIES INCLUDING: PRIVATE OPEN SPACE, SIDEWALKS AND WALKWAYS WITHIN PRIVATE OPEN SPACE, LANDSCAPED AREAS WITHIN PRIVATE OPEN SPACE, LANDSCAPING WITHIN RIGHT-OF-WAY (INCLUDING WITHIN MEDIAN) AND STORM WATER MANAGEMENT AREAS SHOWN ON THE PLAN, SEE THE MAINTENANCE DECLARATION DATED 2/12/2024, AND OF RECORD IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE, INSTRUMENT NO 20240213-0009431.
26. **UTILITY EASEMENTS**
A 6' FOOT WIDE EASEMENT ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SHOWN ON THE PLAN, AND ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SUBSEQUENTLY ESTABLISHED WITHIN THE AREA SHOWN ON THIS PLAN IS HEREBY DEDICATED TO BE AVAILABLE FOR ANY UTILITY USE, PROVIDED THAT WHERE ANY LOT LINE IS ELIMINATED THE EASEMENT ALONG SAID LOT LINE SHALL BE EXTINGUISHED EXCEPT AS TO UTILITIES THEN EXISTING IN SAID EASEMENT.
27. **TOTAL LENGTH OF PUBLIC AND PRIVATE RIGHT-OF-WAYS:**
PROPOSED 50' WIDE R.O.W. 10,181'
PROPOSED 60' WIDE R.O.W. 1,532'
PROPOSED 80' WIDE R.O.W. 617'
28. **SUBDIVISION STREETS:**
A. ALL ENTRANCES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO THEIR APPROVAL.
B. ALL RIGHTS-OF-WAY ARE INTENDED FOR DEDICATION TO PUBLIC USE.
C. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE STATE OF DELAWARE. UPON THE COMPLETION OF THE STREETS TO THE SATISFACTION OF THE STATE, THE STATE ASSUMES NO MAINTENANCE RESPONSIBILITIES WITHIN THE DEDICATED STREET RIGHT-OF-WAY UNTIL THE STREETS HAVE BEEN ACCEPTED BY THE STATE.
29. **EXISTING FIRE HYDRANTS:** 0 (■)
PROPOSED FIRE HYDRANTS: 17 (■)
30. **COASTAL ZONE**
THIS SITE DOES NOT LIE WITHIN DELAWARE'S COASTAL ZONE.
31. **AVIATION RESTRICTIONS**
U. S. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION RESTRICTIONS AND SAFEGUARDS ARE NOT APPLICABLE TO THIS PROJECT.
32. **CONSERVATION EASEMENT**
ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO CHAPTER 40 ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE IS HEREBY PROTECTED BY A CONSERVATION EASEMENT THAT SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY.
33. **NONCONFORMITIES**
NOT APPLICABLE
34. **TOPOGRAPHY**
TOPOGRAPHY DEPICTED ON THIS PLAN WAS DERIVED FROM AN AERIAL SURVEY PERFORMED BY WINGS AERIAL MAPPING COMPANY, INC. IN 2007.
35. **COMMUNITY POSTAL BOXES**
POSTAL BOXES SHALL BE INSTALLED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE UNITED STATES POSTAL SERVICE.
36. **LAND DEVELOPMENT IMPROVEMENT AGREEMENT**
ALL IMPROVEMENTS REQUIRED BY THIS PLAN AND THE NEW CASTLE COUNTY CODE SHALL BE SUBJECT TO THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT (LDA), AND THE PERFORMANCE GUARANTEE INCORPORATED THEREIN. THE LDA IS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 11/27/2023, AT INSTRUMENT NO. 20231127-0078733.
37. **RIGHT OF ACCESS**
NEW CASTLE COUNTY HAS THE RIGHT OF ACCESS TO THE SITE FOR THE PURPOSES OF OPERATING, MAINTAINING AND REPAIRING THE SANITARY SEWER LINES CONTAINED WITHIN THE SEWER EASEMENTS SHOWN ON THIS PLAN.
38. **NEW CASTLE COUNTY DRAINAGE CODE**
DRAINAGE, EROSION AND SEDIMENT CONTROL, AND STORMWATER MANAGEMENT SHALL BE PROVIDED IN ACCORDANCE WITH THE NEW CASTLE COUNTY DRAINAGE CODE AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S DELAWARE SEDIMENT AND STORMWATER REGULATIONS AND THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK.
39. **RESIDENTIAL STORMWATER MANAGEMENT FACILITY MAINTENANCE FEE**
THE OWNER/DEVELOPER SHALL PAY, TO NEW CASTLE COUNTY, FUNDS FOR RESIDENTIAL STORM WATER MANAGEMENT FACILITY MAINTENANCE AND INSPECTIONS PURSUANT TO SECTION 40.27.230 OF THE COUNTY CODE. THE FUNDS SHALL BE USED FOR THE COSTS ASSOCIATED WITH INSPECTIONS, LONG-TERM SEDIMENT CLEANOUT AND STRUCTURAL REPAIR AND RECONSTRUCTION OF STORM WATER MANAGEMENT FACILITIES. AN AMOUNT OF \$171,500, AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES, SHALL BE FUNDED UPON THE ISSUANCE OF SEVENTY-FIVE (75) PERCENT OF THE BUILDING PERMITS FOR THE LOTS IN THE SUBDIVISION, OR PHASE THEREOF. THE DEPARTMENT OF LAND USE SHALL WITHHOLD THE ISSUANCE OF ANY ADDITIONAL BUILDING PERMITS UNTIL THE DEPARTMENT OF LAND USE IS FURNISHED WITH SATISFACTORY WRITTEN PROOF THAT THE FUNDS HAVE BEEN PAID TO NEW CASTLE COUNTY IN ACCORDANCE WITH THE REQUIREMENTS.
40. **DELDOT**
ENTRANCE/EXIT FACILITIES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO DELDOT APPROVAL. THE DEVELOPER IS REQUIRED TO OBTAIN A PERMIT FROM THE DELDOT NORTH DISTRICT PERMIT OFFICE.
41. **MISS UTILITY NOTE:**
THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO PROTECT ALL EXISTING UTILITIES AND MAINTAIN UNINTERRUPTED SERVICE. ANY AND ALL DAMAGES DONE TO THEM DUE TO THE CONTRACTOR'S NEGLIGENCE SHALL BE IMMEDIATELY AND COMPETENTLY REPAIRED AT HIS EXPENSE. EXISTING UTILITIES ARE SHOWN IN ACCORDANCE WITH THE BEST AVAILABLE INFORMATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY AND ALLOW FOR THEIR LOCATIONS. CONTACT "MISS UTILITY" THREE (3) WORKING DAYS PRIOR TO CONSTRUCTION.
- UTILITY CONTACT INFORMATION IS AS FOLLOWS:
MISS UTILITY 1-800-282-8565
THE FOLLOWING TICKET NUMBERS APPLY:
- PRIOR TO ANY CONSTRUCTION, THE CONTRACTOR SHALL EXCAVATE IN THE AREA OF ANY POTENTIAL UTILITY CROSSING TO VERIFY THAT THE UTILITY WILL NOT INTERFERE WITH CONSTRUCTION. IF, AFTER UNCOVERING OF THE UTILITY, THERE IS ANY QUESTION CONCERNING A POSSIBLE CONFLICT, THE CONTRACTOR SHALL IMMEDIATELY CONTACT THE ENGINEER.
42. **VIDEO INSPECTION:**
PER SECTION 40.27.340E, ALL STORM SEWERS WITHIN PRIVATE OPEN SPACE REQUIRE VIDEO INSPECTION. A THIRD-PARTY PROFESSIONAL MUST CERTIFY THAT THE PRIVATE STORM SEWER AND STREETS ARE CONSTRUCTED IN COMPLIANCE WITH DELDOT STANDARDS. THE DEPARTMENT MUST FIND THE REPORT, AS-BUILT PLAN AND PIPE VIDEO ACCEPTABLE PRIOR TO THE INSPECTION OF THE OPEN SPACE.
43. **OPEN SPACE MAINTENANCE ESCROW**
PURSUANT TO SECTION 40.27 OF THE NEW CASTLE COUNTY CODE, THE DEVELOPER SHALL PLACE FUNDS IN AN INTEREST ESCROW ACCOUNT EQUIVALENT TO THE COST OF MAINTAINING THE PRIVATE OPEN SPACE AND COMMON FACILITIES FOR A TWO (2) YEAR PERIOD. THE AMOUNT SHALL BE \$889 PER LOT/UNIT SHOWN ON THIS PLAN OR SUBSEQUENT PLANS (\$889 X 279 LOTS/UNITS = \$248,031). THE OPEN SPACE TURNOVER IS TO BE PHASED PER LANDSCAPE AND OPEN SPACE MANAGEMENT PLAN.
44. **LIMIT OF DISTURBANCE:**
THE LIMIT OF DISTURBANCE(LOD) AS SHOWN IS TO DELINEATE THE LIMIT OF THE INITIAL CONSTRUCTION, SO AS TO PRESERVE THE MAXIMUM NUMBER OF TREES AND STEEP SLOPES ON THE SITE. ON-LOT RESOURCES ARE NOT PART OF THE REQUIRED PROTECTION LEVEL. UPON ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR EACH LOT THE FINAL LOD WILL FOLLOW THE PROPERTY LINE.
45. **FIRE MARSHAL NOTE:**
ALL FIRE LANES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE MARSHAL PREVENTION REGULATIONS. TOWNHOUSE AND DUPLEX UNITS SHARING A COMMON WALL(PARTY WALL) WHICH ARE GROUPED BY THIS PLAN SHALL BE SEPARATED BY A FIRE BARRIER WALL THAT MEETS THE PROVISIONS OF NFPA221. FIRE WALLS AND FIRE BARRIER WALLS SHALL HAVE A TWO (2) HOUR FIRE RESISTANCE RATING.
46. **RECREATIONAL AREAS:**
ALL ACTIVE RECREATION AREAS AND STRUCTURED RECREATIONAL FACILITIES (CLUBHOUSES, PAVILIONS, ETC.) SHALL BE COMPLETED PRIOR TO THE ISSUANCE OF FIFTY (50) PERCENT OF THE TOTAL BUILDING PERMITS WITHIN THE SUBDIVISION.

47. **AGE RESTRICTED DEVELOPMENT:**
THIS DEVELOPMENT IS AN AGE RESTRICTED COMMUNITY SUBJECT TO DIVISION 40.07.700 AND TABLE 40.04.110.A OF THE N.C.C. CODE AND THE HOUSING FOR OLDER PERSONS ACT (HOPA) OF 1995 OF THE FEDERAL FAIR HOUSING ACT 42 U.S.C. 3601 ET. SEQ. AGE RESTRICTED UNITS SHALL CONTAIN ALL NECESSARY LIVING ARRANGEMENTS ON THE FIRST FLOOR. THIS SHALL INCLUDE AT LEAST ONE BEDROOM AND FULL SANITARY FACILITIES. A DENSITY BONUS OF 20% PROVIDED FOR IN UDC DIVISION 40.07.700 HAS BEEN APPLIED. THE PROPERTY TO PROVIDE THE SITE CAPACITY FOR THE PROJECT.
48. **TRESPASS PROVISION ON TO LOTS:**
ALL PURCHASERS SHALL PERMIT THE DEVELOPER OR HIS ASSIGNS TEMPORARY ACCESS UPON THE PURCHASERS LOT OR LOTS TO COMPLETE GRADING AND/OR LANDSCAPING AS REQUIRED BY THE APPROVED PLANS FOR A PERIOD OF ONE YEAR, COMMENCING WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
49. **GEOTECHNICAL EVALUATION:**
A GEOTECHNICAL EVALUATION HAS BEEN PERFORMED TO APPROXIMATE THE SEASONAL HIGH WATER TABLE (SHWT) ELEVATION(S) AND THE FOLLOWING LOTS REQUIRE FURTHER EVALUATION, AS IT PERTAINS TO THEIR LOWEST PROPOSED FLOOR ELEVATION PRIOR TO THE ISSUANCE OF A BUILDING PERMIT: TBD.

- DOCUMENTATION OF ANY/ALL CONSTRUCTION LIMITATIONS BASED ON THE GEOTECHNICAL EVALUATION OF THE SHWT ELEVATION(S) IS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE. ALL STRUCTURES PROPOSED WITH LOWEST FLOOR WITHIN 3 FEET OF THE ESTIMATED SHWT SHALL BE WATERPROOFED (UDC §40.22.130). NO LOWEST FLOOR SHALL BE CONSTRUCTED WITHIN 2 FEET OF THE ESTIMATED SHWT (UDC §40.22.220).
50. **UTILITY EASEMENTS:**
UNLESS OTHERWISE DESCRIBED BY METES AND BOUNDS, OR BY MATHEMATICAL REFERENCE TO A PROPERTY LINE, A 40' WIDE PERMANENT EASEMENT, 20' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER IS DESIGNATED FOR PUBLIC USE IN UNPAVED AREAS AND IS OUTSIDE OF A DEDICATED PUBLIC ROW. A 20' WIDE PERMANENT EASEMENT, 10' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER PIPE IS DESIGNATED FOR PUBLIC USE IN PRIVATELY MAINTAINED PAVED AREAS, SUCH AS PARKING LOTS, PRIVATE STREETS OR DRIVEWAYS. IF THE CONSTRUCTED HORIZONTAL SEWER MAIN LOCATION DEVIATES BY MORE THAN 2.5' FROM THE DESIGN LOCATION, THE PROJECT MAY BE SUBJECT TO A RESUBDIVISION PLAN OR PIPE LOCATION AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES.
51. **RETAINING WALLS:**
SEPARATE BUILDING PERMIT IS REQUIRED FOR THE INSTALLATION OF EACH RETAINING WALL.
52. **PHASING OF RECORD PLAN:**
FOR PURPOSES OF PHASING, AS REFERRED TO IN NOTE #20.A.5, VISTA AT RED LION - SECTION 2 (APPLICATION # 2008-0003) WILL BE CONSIDERED PHASE 1, AND VISTA AT RED LION - SECTION 1 (APPLICATION # 2008-0002) WILL BE CONSIDERED PHASE 2.

DELDOT NOTES (LAST REVISED MARCH 21, 2019)

1. ALL ENTRANCES SHALL CONFORM TO THE DELAWARE DEPARTMENT OF TRANSPORTATION'S (DELDOT'S) CURRENT DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO ITS APPROVAL.
2. NO LANDSCAPING SHALL BE ALLOWED WITHIN THE RIGHT-OF-WAY UNLESS THE PLANS ARE COMPLIANT WITH SECTION 3.7 OF THE DEVELOPMENT COORDINATION MANUAL.
3. SHRUBBERY, PLANTINGS, SIGNS AND/OR OTHER VISUAL BARRIERS THAT COULD OBSTRUCT THE SIGHT DISTANCE OF A DRIVER PREPARING TO ENTER THE ROADWAY ARE PROHIBITED WITHIN THE DEFINED DEPARTURE SIGHT TRIANGLE AREA ESTABLISHED ON THIS PLAN. IF THE ESTABLISHED DEPARTURE SIGHT TRIANGLE AREA IS OUTSIDE THE RIGHT-OF-WAY OR PROJECTS ONTO AN ADJACENT PROPERTY OWNERS LAND, A SIGHT EASEMENT SHOULD BE ESTABLISHED AND RECORDED WITH ALL AFFECTED PROPERTY OWNERS TO MAINTAIN THE REQUIRED SIGHT DISTANCE.
4. UPON COMPLETION OF THE CONSTRUCTION OF THE SIDEWALK OR SHARED-USE PATH ACROSS THIS PROJECT'S FRONTAGE AND PHYSICAL CONNECTION TO ADJACENT EXISTING FACILITIES, THE DEVELOPER, THE PROPERTY OWNERS OR BOTH ASSOCIATED WITH THIS PROJECT, SHALL BE RESPONSIBLE TO REMOVE ANY EXISTING ROAD TIE-IN CONNECTIONS LOCATED ALONG ADJACENT PROPERTIES, AND RESTORE THE AREA TO GRASS. SUCH ACTIONS SHALL BE COMPLETED AT DELDOT'S DISCRETION, AND IN CONFORMANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.
5. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT) FOLLOWING THE ACCEPTANCE OF THE STREETS. DELDOT ASSUMES NO MAINTENANCE RESPONSIBILITIES WITHIN THE DEDICATED STREET RIGHT-OF-WAY UNTIL THE STREETS HAVE BEEN ACCEPTED BY DELDOT.
6. THE SIDEWALK SHALL BE THE RESPONSIBILITY OF THE DEVELOPER, THE PROPERTY OWNERS OR BOTH WITHIN THIS SUBDIVISION. THE STATE OF DELAWARE ASSUMES NO RESPONSIBILITY FOR THE FUTURE MAINTENANCE FOR THE SIDEWALK.
7. DRIVEWAY ACCESS:
A. ALL LOTS SHALL HAVE ACCESS FROM THE INTERNAL SUBDIVISION STREET.
B. DRIVEWAYS WILL NOT BE PERMITTED TO BE PLACED AT CATCH BASIN LOCATIONS.
C. LOTS WILL BE PERMITTED TO HAVE ACCESS POINTS THAT COMPLY WITH THE DEVELOPMENT COORDINATION MANUAL (DCM) SPACING REQUIREMENTS OF CHAPTER 1 AND LIMITATIONS ON NUMBER OF ACCESS POINTS ESTABLISHED IN DCM CHAPTER 7. HORSESHOE DRIVEWAYS AND SECONDARY ENTRANCES REQUIRE ADDITIONAL DELDOT REVIEW AND SEPARATE PERMITTING. RESTRICTIONS AS DESCRIBED IN THE DCM CHAPTER 7 MAY PROHIBIT SOME SECONDARY ENTRANCE REQUESTS FROM BEING GRANTED.
8. TO MINIMIZE RUTTING AND EROSION OF THE ROADSIDE DUE TO ON-STREET PARKING, DRIVEWAY AND BUILDING LAYOUTS MUST BE CONFIGURED TO ALLOW FOR VEHICLES TO BE STORED IN THE DRIVEWAY BEYOND THE RIGHT-OF-WAY, WITHOUT INTERFERING WITH SIDEWALK ACCESS AND CLEARANCE.
9. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS IN ACCORDANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.
10. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS ON THE DEDICATED SUBDIVISION STREET RIGHT-OF-WAY IN ACCORDANCE WITH SECTION 3.2.4.1 OF THE DEVELOPMENT COORDINATION MANUAL, AND THE REQUIREMENTS OF THE LAND USE AGENCY. RIGHT-OF-WAY MONUMENTS SHALL BE PLACED ALONG THE RIGHT-OF-WAY LINES, AT A MINIMUM ON ONE SIDE OF THE STREET AT EVERY CHANGE IN HORIZONTAL ALIGNMENT TO PROVIDE A PERMANENT REFERENCE FOR THE RE-ESTABLISHING THE CENTERLINE AND RIGHT-OF-WAY LINE.
11. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MARKERS TO PROVIDE A PERMANENT REFERENCE FOR RE-ESTABLISHING THE RIGHT-OF-WAY AND PROPERTY CORNERS ON LOCAL AND HIGHER ORDER FRONTAGE ROADS. RIGHT-OF-WAY MARKERS SHALL BE SET AND/OR PLACED ALONG THE FRONTAGE ROAD RIGHT-OF-WAY AT PROPERTY CORNERS AND AT EACH CHANGE IN RIGHT-OF-WAY ALIGNMENT IN ACCORDANCE WITH SECTION 3.2.4.2 OF THE DEVELOPMENT COORDINATION MANUAL.
12. CONSTRUCTION WILL NOT BE PERMITTED UNTIL CONSTRUCTION PLANS HAVE BEEN APPROVED. SURETY HAS BEEN RECEIVED AND THE TRAFFIC SIGNAL AGREEMENT IS COMPLETE. AT DELDOT'S DISCRETION, A TEMPORARY CONSTRUCTION ENTRANCE PERMIT MAY BE ISSUED FOR CLEARING, GRUBBING, TEMPORARY ENTRANCE CONSTRUCTION, BULK GRADING AND PERIMETER EROSION AND SEDIMENT CONTROLS UP TO THIRTY (30) DAYS PRIOR TO PLAN APPROVAL. NO BUILDING CONSTRUCTION WILL BE PERMITTED UNDER A TEMPORARY ENTRANCE CONSTRUCTION PERMIT. IF PLAN APPROVAL IS NOT RECEIVED WITHIN THIRTY (30) CALENDAR DAYS, ALL CONSTRUCTION ACTIVITIES SHALL BE STOPPED. DELDOT WILL NOT PROVIDE A GO APPROVAL FOR A COMMERCIAL ENTRANCE TO NCC UNTIL THE ENTRANCE(S) ARE COMPLETED TO THE SATISFACTION OF THE DEPARTMENT.

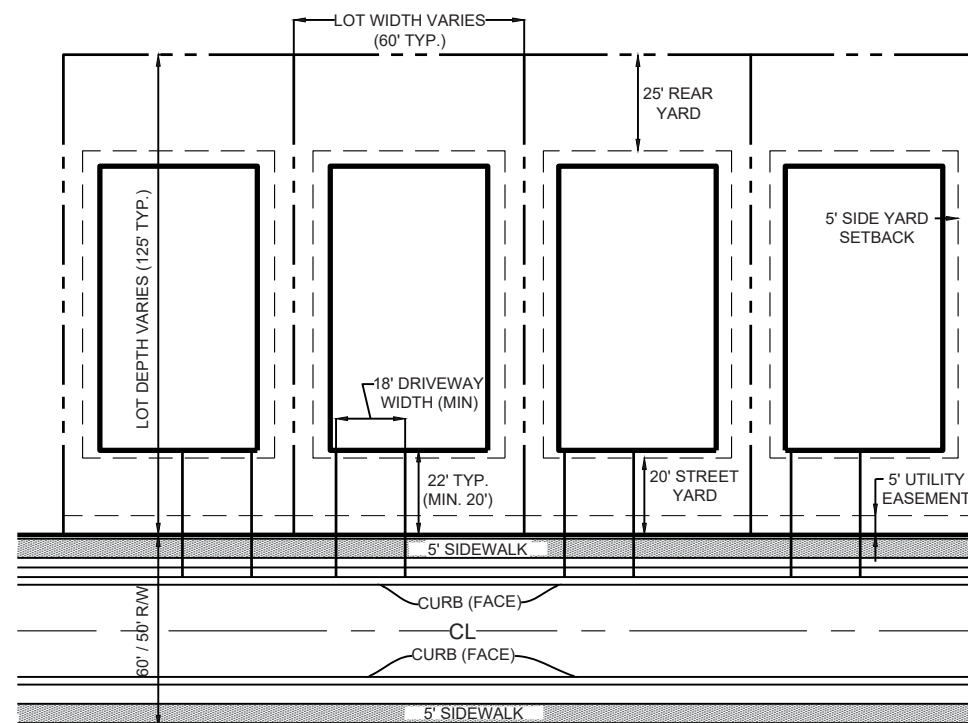
NATURAL RESOURCE PROTECTION TABLE

NATURAL RESOURCE	TOTAL AREA	REQUIRED PROTECTED %	DISTURBED	PROVIDED PROTECTED %
WETLAND AREA	7.68± ACRES	100%	*0.03± ACRES	*99.6%
FLOOD PLAIN	11.29± ACRES	100%	*0.48± ACRES	*95.7%
RIPARIAN BUFFER	25.83± ACRES	100%	*1.58± ACRES	*93.9%
MATURE FOREST	60.42 ± ACRES	70%	17.16± ACRES	71.9%
PRECAUTIONARY SLOPES	0.45± ACRES	50%	0.04± ACRES	91.2%

* 0.03 ACRES OF DISTURBANCE WITHIN WETLAND AREA, 0.48 ACRES OF DISTURBANCE WITHIN THE FLOOD PLANE AREA, 0.28 ACRES OF DISTURBANCE WITHIN ZONE 1 RIPARIAN BUFFER FOR UTILITY CROSSINGS AND STORM SEWER OUTFALL LISTED "L" FOR PERMITTED DISTURBANCE AND 1.30 ACRES OF DISTURBANCE WITHIN ZONE 2 RIPARIAN BUFFER AREA FOR STORM WATER MANAGEMENT PRACTICES, LISTED "Y" FOR PERMITTED DISTURBANCE UNDER TABLE 40.10.210.

EASEMENT TABLE

DESCRIPTION OF EASEMENT	IN FAVOR OF	MAINTENANCE RESPONSIBILITY
40' WIDE AND VARIABLE WIDTH SANITARY SEWER EASEMENT	NEW CASTLE COUNTY	SEWER LINE - NEW CASTLE COUNTY GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE
TYPE A - 20' WIDE AND VARIABLE WIDTH STORM DRAINAGE EASEMENTS (FOR PIPES AND/OR SWALES THAT CONVEY DRAINAGE FROM DELDOT MAINTAINED RIGHT-OF-WAYS THROUGH PRIVATE OPEN SPACE)	NEW CASTLE COUNTY DELDOT	STORM PIPE - DELDOT GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE
TYPE B - 20' WIDE AND VARIABLE WIDTH STORM DRAINAGE EASEMENTS (FOR PIPES AND/OR SWALES LOCATED IN PRIVATE OPEN SPACE OR WITHIN LOTS THAT DO NOT CONVEY DRAINAGE FROM DELDOT MAINTAINED RIGHT-OF-WAYS)	NEW CASTLE COUNTY	STORM PIPE - MAINTENANCE ORGANIZATION GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE
TYPE C - IRREGULAR SHAPE STORMWATER MANAGEMENT (SWM) AREA INCLUDING VARIABLE WIDTH (15' WIDE MIN.) ACCESS AND MAINTENANCE EASEMENT AND 20' WIDE STORM DRAINAGE EASEMENT FOR PIPE	NEW CASTLE COUNTY DELDOT	MAINTENANCE ORGANIZATION
5' WIDE UTILITY EASEMENT	DELDOT AND UTILITY COMPANIES	PIPES AND UTILITIES - DELDOT AND/OR UTILITY COMPANY AS APPLICABLE GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE



TYPICAL LOT LAYOUT

SCALE: 1"=50'

BULK STANDARDS - ST ZONING (SINGLE FAMILY DETACHED)

MIN. LOT AREA: 4,800 S.F.
MIN. LOT WIDTH: 48'
MIN. SIDE YARD: 5'
MIN. STREET YARD: 20'
MIN. REAR YARD: 25'
MAX. HEIGHT: 35'

NOTES AND LEGEND
RECORD MAJOR SUBDIVISION PLAN
FOR
VISTA AT RED LION - SECTION 2
SITUATE IN: NEW CASTLE HUNDRED, NEW CASTLE COUNTY, DELAWARE

02-21-24	01-30-24	12-13-23	date	checked
PER NCC COMMENTS DATED 03-14-24	U.S.Q.	D.S.	UHQ	checked
ADDED NOTE #62	U.S.Q.	D.S.	UHQ	checked
PER NCC COMMENTS DATED 11-27-23	U.S.Q.	D.S.	UHQ	checked
revisions	U.S.Q.	D.S.	UHQ	checked
Karins and Associates ENGINEERS • PLANNERS • SURVEYORS NEWARK, DE & GEORGETOWN, DE www.karinsengineering.com 17 POLLY DRUMMOND CENTER • SUITE 201 NEWARK, DELAWARE 19711 PHONE: (302) 369-2900 FAX: (302) 369-2975				
OWNER: RED LION HP LLC PO BOX 7189 WILMINGTON, DE 19803 PHONE: 302-479-8314				
PROPERTY ADDRESS: 564 OLD PORTER ROAD BEAR, DE 19701 570 OLD PORTER ROAD BEAR, DE 19701				
SURVEY BY: KARINS AND ASSOCIATES			SCALE: AS SHOWN	
DESIGNED BY: KARINS			DATE: 01-29-2022 SHEET: 2 OF 9	
DRAWN BY: J.L.			DRAWING NO.: 2554 - A02	
CHECKED BY: U.R.Q., D.S.			DRAWING NO.: 2554 - A02	

MEMORANDUM

To: Council President
Members of County Council
Council to Council
Clerk of County Council

From: Charuni Patibanda

Re: Application No. 2008-0003
Vista at Red Lion – Section 2
Record Major Land Development Plan

Date: May 28, 2024

Enclosed for Council's review and consideration of approval are paper prints of the above-referenced plan. The Department has determined that this proposal complies with all applicable requirements of the New Castle County Code.

A suggested title, synopsis, and fiscal note are attached.

cc: Matthew Meyer, County Executive
Vanessa Phillips, Chief Administrative Officer
Brian Boyle, Senior Policy Director

Plan of Vista at Red Lion – Section 2; New Castle Hundred; South side of Old Porter Road, 2700' west of Red Lion Road; Major Land Development Plan that proposes to subdivide TP No. 10-052.00-011 and TP No. 10-052.00-018 into 279 age-restricted lots with a 4,800 SF clubhouse utilizing the single family detached option; ST zoning.

Synopsis: Same as title

Fiscal Note: This will have no immediately discernible fiscal impact on the county but, if the parcel is developed in accordance with this record plan, there may be one or more fiscal effects on New Castle County government including, but not limited to, an increase in the assessed value of the property with the resultant increase in taxes collectible thereon and an increased demand for County services.

Prime Sponsor(s): Mr. Bell
Requested by: Department of Land Use
Date of introduction: June 25, 2024

RESOLUTION NO. 24-

**PLAN OF VISTA AT RED LION – SECTION 2; NEW CASTLE HUNDRED;
SOUTH SIDE OF OLD PORTER ROAD, 2700 FEET WEST OF RED LION ROAD;
MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO SUBDIVIDE
TAX PARCEL NO. 10-052.00-011 AND TAX PARCEL NO. 10-052.00-018 INTO
279 AGE-RESTRICTED LOTS WITH A 4,800 SQUARE FOOT CLUBHOUSE
UTILIZING THE SINGLE FAMILY DETACHED OPTION; ST ZONING;
APPLICATION NO. 2008-0003; COUNCIL DISTRICT 12**

NOW, THEREFORE, BE IT RESOLVED by and for the County Council of New Castle County that County Council hereby. approves the following major land development plan, Plan of Vista at Red Lion—Section 2 (Application No. 2008-0003) as heretofore approved by the Land Use Department, and the President of County Council is hereby authorized to endorse her approval upon the following plan.

**PLAN OF VISTA AT RED LION – SECTION 2
New Castle Hundred**

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

SYNOPSIS: Same as title

FISCAL IMPACT: This will have no immediately discernible fiscal impact on the county but, if the parcel is developed in accordance with this record plan, there may be one or more fiscal effects on New Castle County government including, but not limited to, an increase in the assessed value of the property with the resultant increase in taxes collectible thereon and an increased demand for County services.

MEMORANDUM

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Members of County Council
Council to Council
Clerk of County Council

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Re: Application No. 2008-0003
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NOTES & DATA:

1. **TAX PARCEL NUMBERS:** 10-052-00-011 PO, 10-052-00-018
2. **EXISTING ZONING :** S (SUBURBAN)
PROPOSED ZONING (ORDINANCE #17-096) ST - (SUBURBAN TRANSITION)
3. **SOURCE OF TITLE:** 20150615-0023034, 20150615-0023036
4. **SURVEY DATUM:** NAVD88
LOCAL BENCHMARK: FOUND CONCRETE MONUMENT ON THE SOUTHWEST AREA OF TAX PARCEL 10-052-00-011 WITHIN OLD PORTER ROAD RIGHT OF WAY. ELEVATION= 80.09
2 (■)
85 (□)
- NUMBER OF EXISTING MONUMENTS:**
NUMBER OF PROPOSED MONUMENTS:
5. **SITE GROSS ACREAGE:** 147.2176 ACRES
SITE NET ACREAGE: 143.9462 ACRES

6. **WATER SUPPLIER:** SUEZ WATER OF DELAWARE
WATER SUPPLY IS SUBJECT TO THE APPROVAL OF THE DELAWARE STATE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND THE DELAWARE DEPARTMENT OF PUBLIC HEALTH.
7. **SANITARY SEWER:** NEW CASTLE COUNTY
SEWERAGE IS SUBJECT TO THE APPROVAL OF THE NEW CASTLE COUNTY DEPARTMENT OF PUBLIC WORKS. AT THE TIME OF APPROVAL OF THIS PLAN, SEWER CAPACITY EXISTED TO ACCOMMODATE THE ANTICIPATED FLOWS GENERATED BY THIS ADDITIONAL DEVELOPMENT. NEW CASTLE COUNTY HAS COMMITTED TO PROVIDE SEWER SERVICE IN ACCORDANCE WITH THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT FOR THIS DEVELOPMENT. THE OWNER OF THIS PROPERTY, HIS SUCCESSORS OR ASSIGNS, SHALL BE RESPONSIBLE FOR EXTENDING SEWER SERVICE TO EACH LOT SHOWN ON OR CREATED BY THIS PLAN.
- PROPOSED SEWER FLOWS:**
SINGLE FAMILY DETACHED: 279 LOTS x 300 G.P.D./LOT = 83,700 G.P.D.
CLUB HOUSE: 300 MEMBERS X 2.5 G.S.P./MEMBER = 750 G.P.D.
PEAK FLOW: 84,4500 x 4 x IDAY/1440 MIN = 235 G.P.M.
- NOTE: BUILDING PERMITS FOR LOTS 229-279 MAY NOT BE APPLIED FOR UNTIL SUCH TIME THAT ALL THE PROPOSED SANITARY SEWER LOCATED DOWNSTREAM OF THOSE LOTS, INCLUDING THE PROPOSED PUMPING STATION AND FORCE MAIN (WITHIN VISTA AT RED LION - SECTION 1), UP TO THE CONNECTION TO THE EXISTING SEWER HAS BEEN AS-BUILT AND ACCEPTED BY THE DEPARTMENT.

8. **SEPTIC FEASIBILITY**
NOT APPLICABLE
9. **PROPERTY OWNER:** RED LION HP LLC
PO BOX 7189
WILMINGTON, DE 19803
10. **EXISTING LOTS AND/OR DWELLING UNITS:** 0
PROPOSED LOTS AND/OR DWELLING UNITS: 279
(LOT NUMBERS 41, 175 AND 194 ARE NOT IN USE)
11. **INTENTIONALLY LEFT BLANK**
12. **PARKING RATIONALE**
SINGLE FAMILY DETACHED
PARKING REQUIRED: 1.50 SP/UNIT x 279 UNITS = 419 SPACES
DRIVEWAY SPACES PROVIDED: 2 SP/UNIT x 279 UNITS = 558 SPACES
- CLUBHOUSE PARKING:
4,800 S.F. @ 6 SPACES/1000 S.F. = 29 REQUIRED
PARKING SPACES PROVIDED = 47 PROVIDED (INCLUDES 4 HANDICAP)

13. **SUBDIVISION / SITE DATA**
GROSS AREA: = 147.2176 ACRES
AREA IN ADDITIONAL DEDICATED R.O.W. (OLD PORTER ROAD) = 3.1692 ACRES
AREA IN ADDITIONAL DEDICATED R.O.W. (RED LION ROAD) = 0.1022 ACRES
NET SITE AREA = 143.9462 ACRES
AREA IN PROPOSED 50' R.O.W. = 12.8087 ACRES
AREA IN PROPOSED 60' R.O.W. = 2.1164 ACRES
AREA IN PROPOSED 80' R.O.W. = 1.1119 ACRES
AREA IN PROPOSED LOTS = 51.4023 ACRES
AREA IN OPEN SPACE = 76.5069 ACRES*
*INCLUDES 2.3942 ACRES OF STORMWATER MANAGEMENT AREA AND 3.9796 ACRES OF USABLE OPEN SPACE.
14. **FLOODPLAIN**
A PORTION OF THE SITE LIES WITHIN THE 100-YEAR FLOODPLAIN. LIMITS OF THE 100-YEAR FLOOD PLAIN WERE TAKEN FROM THE FLOOD INSURANCE RATE MAP NO. 1000302031, REVISED JANUARY 22, 2020.
15. **WATER RESOURCE PROTECTION AREA (WRPA)**
NO PORTION OF THE SITE WITHIN THE WRPA. AS PER THE "WATER RESOURCE PROTECTION AREAS FOR THE CITY OF NEWARK, CITY OF WILMINGTON, NEW CASTLE COUNTY DELAWARE" MAP 2 OF 3, REVISED MARCH 2022.
16. **WETLANDS**
THE WETLANDS BOUNDARIES DEPICTED ON THIS PLAN WERE TAKEN FROM A WETLAND DELINEATION REPORT BY JCM ENVIRONMENTAL, DATED MARCH 2008. THE DEPARTMENT OF ARMY CORPS OF ENGINEERS APPROVED THE DISTURBANCE OF WETLANDS AS SHOWN ON THIS PLAN PER NHP-2023-00270-85, DATED 08/15/2023.
17. **CRITICAL NATURAL AREAS**
THE STATE INVENTORY OF NATURAL AREAS HAS BEEN EXAMINED AND NO CRITICAL NATURAL AREAS (CINA) EXIST ON SITE.
18. **DEED RESTRICTIONS**
AT THE TIME OF THIS PLAN SUBMITTAL THERE WERE NO DEED RESTRICTIONS ASSOCIATED WITH THIS PARCEL.
19. **SUPERSIDES NOTE**
NO PREVIOUS PLAN HAS BEEN RECORDED FOR THIS PARCEL.
20. **TRAFFIC IMPACT STUDY AND ROADWAY IMPROVEMENTS**
A TRAFFIC IMPACT STUDY (TIS), AS PER THE "VISTA AT RED LION - SECTION 1 AND VISTA AT RED LION - SECTION 2 (THE PROJECT)" BY KARINS AND ASSOCIATES AND REVIEWED AND APPROVED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT), BASED ON DELDOT'S OCTOBER 01, 2020 REVIEW COMMENTS, THE FOLLOWING SHALL APPLY:

- A. THE DEVELOPER SHALL RECONSTRUCT OLD PORTER ROAD, ON BOTH SIDES OF THE ROADWAY ALONG THE ENTIRE LENGTH OF THE PROJECT FRONTAGE AND TO THE WEST TO A POINT JUST EAST OF GRISSOM DRIVE. THE RECONSTRUCTION SHALL CONSIST OF TWO ELEVEN-FOOT LANES WITH SHOULDERS AS FOLLOWS:
1. ON THE NORTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 1 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 1 PROPERTY FRONTAGE ALONG OLD PORTER ROAD.
2. ON THE SOUTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 2 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 2 PROPERTY FRONTAGE ALONG OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383 (200-FEET WEST OF THE CENTER OF THE BRIDGE).
3. THE DEVELOPER SHALL PROVIDE A BITUMINOUS CONCRETE OVERLAY TO THE EXISTING TRAVEL LANES ON OLD PORTER ROAD FROM THE WESTERN PROJECT LIMIT TO A POINT WHICH IS 200-FEET WEST OF THE OLD PORTER ROAD/ROUTE 71 INTERSECTION.
4. THE DEVELOPER WILL MAKE SUCH IMPROVEMENTS TO OLD PORTER ROAD EAST OF VISTA AT RED LION SECTION-1 TO THE POINT WHICH IS 200 FEET WEST OF THE CENTER OF DELDOT'S BRIDGE #1300383. AT THE DEVELOPERS COST, SO AS TO PROVIDE TWO ELEVEN-FOOT LANES WITH THREE-FOOT SHOULDERS FOR THIS PORTION OF OLD PORTER ROAD.
5. THE TIMING FOR COMPLETION OF THE IMPROVEMENTS OUTLINED HEREIN WILL BE PHASED CONSISTENT WITH THE PHASING OF THE DEVELOPMENT AS SET FORTH IN THE RECORD PLAN TO BE APPROVED BY THE NEW CASTLE COUNTY, BUT, IN ANY EVENT, THESE IMPROVEMENTS WILL NOT BE REQUIRED TO BE IN PLACE PRIOR TO THE ISSUANCE OF FIFTY PERCENT (50%) OF CERTIFICATES OF OCCUPANCY FOR BOTH VISTA AT RED LION SECTIONS 1 AND SECTIONS 2.
- B. THE DEVELOPER SHALL CONSTRUCT TWO FULL MOVEMENT ACCESS ENTRANCES ON OLD PORTER ROAD (SITE ACCESS EAST AND SITE ACCESS WEST) AND SHALL PROVIDE ONE LEFT TURN LANE AND ONE RIGHT TURN LANE FOR BOTH EASTBOUND AND WEST BOUND TRAFFIC AT BOTH ACCESS POINTS.
- C. THE DEVELOPER SHALL ENTER INTO A TRAFFIC SIGNAL AGREEMENT WITH DELDOT FOR THE PORTER ROAD/OLD PORTER ROAD INTERSECTION, WHERE THE DEVELOPER WILL PAY AN EQUITABLE CONTRIBUTION TOWARDS THE TRAFFIC SIGNAL REVOLVING FUND.
- D. THE FOLLOWING BICYCLE, PEDESTRIAN, AND TRANSIT IMPROVEMENTS SHALL BE INCLUDED:

1. A MINIMUM FIFTEEN-FOOT-WIDE PERMANENT EASEMENT FROM THE EDGE OF THE RIGHT-OF-WAY SHOULD BE DEDICATED TO DELDOT ALONG THE PROJECT FRONTAGE ON OLD PORTER ROAD. WITHIN THIS EASEMENT, THE DEVELOPER SHALL CONSTRUCT A TEN-FOOT WIDE SHARED-USE PATH ALONG EACH SIDE OF OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383. A MINIMUM FIVE-FOOT SETBACK WILL BE MAINTAINED FROM THE EDGE OF THE PAVEMENT TO THE SHARED-USE PATHS.
2. SIDEWALKS SHALL BE PROVIDED ON BOTH SIDES OF ALL INTERNAL STREETS.
3. MINIMUM FIVE-FOOT WIDE BICYCLE LANES SHALL BE INCORPORATED IN THE SHOULDER ALONG BOTH DIRECTIONS OF OLD PORTER ROAD WITHIN THE PROJECT FRONTAGE LIMITS.
4. UTILITY COVERS SHALL BE MOVED OUTSIDE OF ANY DESIGNATED BICYCLE LANES AND ANY PROPOSED SIDEWALKS/SHARED-USE PATHS OR SHOULD BE FLUSH WITH THE PAVEMENT.

21. **DEBRIS DISPOSAL**
NO DEBRIS SHALL BE BURIED ON THE SITE.
22. **IMPACT FEES**
THIS PLAN IS SUBJECT TO THE IMPACT FEE PROVISIONS OF CHAPTER 40, ARTICLE 14 OF THE NEW CASTLE COUNTY CODE, AS MAY BE AMENDED BY NEW CASTLE COUNTY COUNCIL.
23. **LANDSCAPE PLAN**
A LANDSCAPE PLAN, PREPARED BY DESIGN ETC., LAST DATED 10/12/2023 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, IS HEREBY CONSIDERED A PART OF THE RECORD PLAN.
24. **SIDEWALKS**
UNLESS OTHERWISE SPECIFIED ON THE PLAN, SIDEWALKS SHALL BE INSTALLED IN THE LOCATIONS SHOWN ON THIS PLAN PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR THE BUILDING(S) IN FRONT OF WHICH THEY ARE SHOWN. SIDEWALKS SHALL BE FIVE (5) FEET IN WIDTH AND CONSTRUCTED OF PORTLAND CEMENT CONCRETE.
25. **MAINTENANCE OF COMMON FACILITIES**
FOR MAINTENANCE OF THE COMMON FACILITIES INCLUDING: PRIVATE OPEN SPACE, SIDEWALKS AND WALKWAYS WITHIN PRIVATE OPEN SPACE, LANDSCAPED AREAS WITHIN PRIVATE OPEN SPACE, LANDSCAPING WITHIN RIGHT-OF-WAY (INCLUDING WITHIN MEDIAN) AND STORM WATER MANAGEMENT AREAS SHOWN ON THE PLAN, SEE THE MAINTENANCE DECLARATION DATED 2/12/2024, AND OF RECORD IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE, INSTRUMENT NO 20240213-0009431.
26. **UTILITY EASEMENTS**
A 6' FOOT WIDE EASEMENT ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SHOWN ON THE PLAN, AND ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SUBSEQUENTLY ESTABLISHED WITHIN THE AREA SHOWN ON THIS PLAN IS HEREBY DEDICATED TO BE AVAILABLE FOR ANY UTILITY USE, PROVIDED THAT WHERE ANY LOT LINE IS ELIMINATED THE EASEMENT ALONG SAID LOT LINE SHALL BE EXTINGUISHED EXCEPT AS TO UTILITIES THEN EXISTING IN SAID EASEMENT.
27. **TOTAL LENGTH OF PUBLIC AND PRIVATE RIGHT-OF-WAYS:**
PROPOSED 50' WIDE R.O.W. 10,181'
PROPOSED 60' WIDE R.O.W. 1,532'
PROPOSED 80' WIDE R.O.W. 617'
28. **SUBDIVISION STREETS:**
A. ALL ENTRANCES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO THEIR APPROVAL.
B. ALL RIGHTS-OF-WAY ARE INTENDED FOR DEDICATION TO PUBLIC USE.
C. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE STATE OF DELAWARE. UPON THE COMPLETION OF THE STREETS TO THE SATISFACTION OF THE STATE, THE STATE ASSUMES NO MAINTENANCE RESPONSIBILITIES WITHIN THE DEDICATED STREET RIGHT-OF-WAY UNTIL THE STREETS HAVE BEEN ACCEPTED BY THE STATE.
29. **EXISTING FIRE HYDRANTS:** 0 (■)
PROPOSED FIRE HYDRANTS: 17 (■)
30. **COASTAL ZONE**
THIS SITE DOES NOT LIE WITHIN DELAWARE'S COASTAL ZONE.
31. **AVIATION RESTRICTIONS**
U. S. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION RESTRICTIONS AND SAFEGUARDS ARE NOT APPLICABLE TO THIS PROJECT.
32. **CONSERVATION EASEMENT**
ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO CHAPTER 40 ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE IS HEREBY PROTECTED BY A CONSERVATION EASEMENT THAT SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY.
33. **NONCONFORMITIES**
NOT APPLICABLE
34. **TOPOGRAPHY**
TOPOGRAPHY DEPICTED ON THIS PLAN WAS DERIVED FROM AN AERIAL SURVEY PERFORMED BY WINGS AERIAL MAPPING COMPANY, INC. IN 2007.
35. **COMMUNITY POSTAL BOXES**
POSTAL BOXES SHALL BE INSTALLED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE UNITED STATES POSTAL SERVICE.
36. **LAND DEVELOPMENT IMPROVEMENT AGREEMENT**
ALL IMPROVEMENTS REQUIRED BY THIS PLAN AND THE NEW CASTLE COUNTY CODE SHALL BE SUBJECT TO THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT (LDA), AND THE PERFORMANCE GUARANTEE INCORPORATED THEREIN. THE LDA IS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 11/27/2023, AT INSTRUMENT NO. 20231127-0078733.
37. **RIGHT OF ACCESS**
NEW CASTLE COUNTY HAS THE RIGHT OF ACCESS TO THE SITE FOR THE PURPOSES OF OPERATING, MAINTAINING AND REPAIRING THE SANITARY SEWER LINES CONTAINED WITHIN THE SEWER EASEMENTS SHOWN ON THIS PLAN.
38. **NEW CASTLE COUNTY DRAINAGE CODE**
DRAINAGE, EROSION AND SEDIMENT CONTROL, AND STORMWATER MANAGEMENT SHALL BE PROVIDED IN ACCORDANCE WITH THE NEW CASTLE COUNTY DRAINAGE CODE AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S DELAWARE SEDIMENT AND STORMWATER REGULATIONS AND THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK.
39. **RESIDENTIAL STORMWATER MANAGEMENT FACILITY MAINTENANCE FEE**
THE OWNER/DEVELOPER SHALL PAY, TO NEW CASTLE COUNTY, FUNDS FOR RESIDENTIAL STORM WATER MANAGEMENT FACILITY MAINTENANCE AND INSPECTIONS PURSUANT TO SECTION 40.27.230 OF THE COUNTY CODE. THE FUNDS SHALL BE USED FOR THE COSTS ASSOCIATED WITH INSPECTIONS, LONG-TERM SEDIMENT CLEANOUT AND STRUCTURAL REPAIR AND RECONSTRUCTION OF STORM WATER MANAGEMENT FACILITIES. AN AMOUNT OF \$171,500, AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES, SHALL BE FUNDED UPON THE ISSUANCE OF SEVENTY-FIVE (75) PERCENT OF THE BUILDING PERMITS FOR THE LOTS IN THE SUBDIVISION, OR PHASE THEREOF. THE DEPARTMENT OF LAND USE SHALL WITHHOLD THE ISSUANCE OF ANY ADDITIONAL BUILDING PERMITS UNTIL THE DEPARTMENT OF LAND USE IS FURNISHED WITH SATISFACTORY WRITTEN PROOF THAT THE FUNDS HAVE BEEN PAID TO NEW CASTLE COUNTY IN ACCORDANCE WITH THE REQUIREMENTS.
40. **DELDOT**
ENTRANCE/EXIT FACILITIES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO DELDOT APPROVAL. THE DEVELOPER IS REQUIRED TO OBTAIN A PERMIT FROM THE DELDOT NORTH DISTRICT PERMIT OFFICE.
41. **MISS UTILITY NOTE:**
THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO PROTECT ALL EXISTING UTILITIES AND MAINTAIN UNINTERRUPTED SERVICE. ANY AND ALL DAMAGES DONE TO THEM DUE TO THE CONTRACTOR'S NEGLIGENCE SHALL BE IMMEDIATELY AND COMPETENTLY REPAIRED AT HIS EXPENSE. EXISTING UTILITIES ARE SHOWN IN ACCORDANCE WITH THE BEST AVAILABLE INFORMATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY AND ALLOW FOR THEIR LOCATIONS. CONTACT "MISS UTILITY" THREE (3) WORKING DAYS PRIOR TO CONSTRUCTION.
- UTILITY CONTACT INFORMATION IS AS FOLLOWS:
MISS UTILITY 1-800-282-8565
THE FOLLOWING TICKET NUMBERS APPLY:
- PRIOR TO ANY CONSTRUCTION, THE CONTRACTOR SHALL EXCAVATE IN THE AREA OF ANY POTENTIAL UTILITY CROSSING TO VERIFY THAT THE UTILITY WILL NOT INTERFERE WITH CONSTRUCTION. IF, AFTER UNCOVERING OF THE UTILITY, THERE IS ANY QUESTION CONCERNING A POSSIBLE CONFLICT, THE CONTRACTOR SHALL IMMEDIATELY CONTACT THE ENGINEER.
42. **VIDEO INSPECTION:**
PER SECTION 40.27.340E, ALL STORM SEWERS WITHIN PRIVATE OPEN SPACE REQUIRE VIDEO INSPECTION. A THIRD-PARTY PROFESSIONAL MUST CERTIFY THAT THE PRIVATE STORM SEWER AND STREETS ARE CONSTRUCTED IN COMPLIANCE WITH DELDOT STANDARDS. THE DEPARTMENT MUST FIND THE REPORT, AS-BUILT PLAN AND PIPE VIDEO ACCEPTABLE PRIOR TO THE INSPECTION OF THE OPEN SPACE.
43. **OPEN SPACE MAINTENANCE ESCROW**
PURSUANT TO SECTION 40.27 OF THE NEW CASTLE COUNTY CODE, THE DEVELOPER SHALL PLACE FUNDS IN AN INTEREST ESCROW ACCOUNT EQUIVALENT TO THE COST OF MAINTAINING THE PRIVATE OPEN SPACE AND COMMON FACILITIES FOR A TWO (2) YEAR PERIOD. THE AMOUNT SHALL BE \$889 PER LOT/UNIT SHOWN ON THIS PLAN OR SUBSEQUENT PLANS (\$889 X 279 LOTS/UNITS = \$248,031). THE OPEN SPACE TURNOVER IS TO BE PHASED PER LANDSCAPE AND OPEN SPACE MANAGEMENT PLAN.
44. **LIMIT OF DISTURBANCE:**
THE LIMIT OF DISTURBANCE(LOD) AS SHOWN IS TO DELINEATE THE LIMIT OF THE INITIAL CONSTRUCTION, SO AS TO PRESERVE THE MAXIMUM NUMBER OF TREES AND STEEP SLOPES ON THE SITE. ON-LOT RESOURCES ARE NOT PART OF THE REQUIRED PROTECTION LEVEL. UPON ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR EACH LOT THE FINAL LOD WILL FOLLOW THE PROPERTY LINE.
45. **FIRE MARSHAL NOTE:**
ALL FIRE LANES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE MARSHAL PREVENTION REGULATIONS. TOWNHOUSE AND DUPLEX UNITS SHARING A COMMON WALL(PARTY WALL) WHICH ARE GROUPED BY THIS PLAN SHALL BE SEPARATED BY A FIRE BARRIER WALL THAT MEETS THE PROVISIONS OF NFPA221. FIRE WALLS AND FIRE BARRIER WALLS SHALL HAVE A TWO (2) HOUR FIRE RESISTANCE RATING.
46. **RECREATIONAL AREAS:**
ALL ACTIVE RECREATION AREAS AND STRUCTURED RECREATIONAL FACILITIES (CLUBHOUSES, PAVILIONS, ETC.) SHALL BE COMPLETED PRIOR TO THE ISSUANCE OF FIFTY (50) PERCENT OF THE TOTAL BUILDING PERMITS WITHIN THE SUBDIVISION.

47. **AGE RESTRICTED DEVELOPMENT:**
THIS DEVELOPMENT IS AN AGE RESTRICTED COMMUNITY SUBJECT TO DIVISION 40.07.700 AND TABLE 40.04.110.A OF THE N.C.C. CODE AND THE HOUSING FOR OLDER PERSONS ACT (HOPA) OF 1995 OF THE FEDERAL FAIR HOUSING ACT 42 U.S.C. 3601 ET. SEQ. AGE RESTRICTED UNITS SHALL CONTAIN ALL NECESSARY LIVING ARRANGEMENTS ON THE FIRST FLOOR. THIS SHALL INCLUDE AT LEAST ONE BEDROOM AND FULL SANITARY FACILITIES. A DENSITY BONUS OF 20% PROVIDED FOR IN UDC DIVISION 40.07.700 HAS BEEN APPLIED. THE PROPERTY TO PROVIDE THE SITE CAPACITY FOR THE PROJECT.
48. **TRESPASS PROVISION ON TO LOTS:**
ALL PURCHASERS SHALL PERMIT THE DEVELOPER OR HIS ASSIGNS TEMPORARY ACCESS UPON THE PURCHASERS LOT OR LOTS TO COMPLETE GRADING AND/OR LANDSCAPING AS REQUIRED BY THE APPROVED PLANS FOR A PERIOD OF ONE YEAR, COMMENCING WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
49. **GEOTECHNICAL EVALUATION:**
A GEOTECHNICAL EVALUATION HAS BEEN PERFORMED TO APPROXIMATE THE SEASONAL HIGH WATER TABLE (SHWT) ELEVATION(S) AND THE FOLLOWING LOTS REQUIRE FURTHER EVALUATION, AS IT PERTAINS TO THEIR LOWEST PROPOSED FLOOR ELEVATION PRIOR TO THE ISSUANCE OF A BUILDING PERMIT: TBD.
- DOCUMENTATION OF ANY/ALL CONSTRUCTION LIMITATIONS BASED ON THE GEOTECHNICAL EVALUATION OF THE SHWT ELEVATION(S) IS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE. ALL STRUCTURES PROPOSED WITH LOWEST FLOOR WITHIN 3 FEET OF THE ESTIMATED SHWT SHALL BE WATERPROOFED (UDC §40.22.130). NO LOWEST FLOOR SHALL BE CONSTRUCTED WITHIN 2 FEET OF THE ESTIMATED SHWT (UDC §40.22.220).
50. **UTILITY EASEMENTS:**
UNLESS OTHERWISE DESCRIBED BY METES AND BOUNDS, OR BY MATHEMATICAL REFERENCE TO A PROPERTY LINE, A 40' WIDE PERMANENT EASEMENT, 20' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER IS DESIGNATED FOR PUBLIC USE IN UNPAVED AREAS AND IS OUTSIDE OF A DEDICATED PUBLIC ROW. A 20' WIDE PERMANENT EASEMENT, 10' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER PIPE IS DESIGNATED FOR PUBLIC USE IN PRIVATELY MAINTAINED PAVED AREAS, SUCH AS PARKING LOTS, PRIVATE STREETS OR DRIVEWAYS. IF THE CONSTRUCTED HORIZONTAL SEWER MAIN LOCATION DEVIATES BY MORE THAN 2.5' FROM THE DESIGN LOCATION, THE PROJECT MAY BE SUBJECT TO A RESUBDIVISION PLAN OR PIPE LOCATION AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES.
51. **RETAINING WALLS:**
SEPARATE BUILDING PERMIT IS REQUIRED FOR THE INSTALLATION OF EACH RETAINING WALL.
52. **PHASING OF RECORD PLAN:**
FOR PURPOSES OF PHASING, AS REFERRED TO IN NOTE #20.A.5, VISTA AT RED LION - SECTION 2 (APPLICATION # 2008-0003) WILL BE CONSIDERED PHASE 1, AND VISTA AT RED LION - SECTION 1 (APPLICATION # 2008-0002) WILL BE CONSIDERED PHASE 2.

DELDOT NOTES

(LAST REVISED MARCH 21, 2019)

1. ALL ENTRANCES SHALL CONFORM TO THE DELAWARE DEPARTMENT OF TRANSPORTATION'S (DELDOT'S) CURRENT DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO ITS APPROVAL.
2. NO LANDSCAPING SHALL BE ALLOWED WITHIN THE RIGHT-OF-WAY UNLESS THE PLANS ARE COMPLIANT WITH SECTION 3.7 OF THE DEVELOPMENT COORDINATION MANUAL.
3. SHRUBBERY, PLANTINGS, SIGNS AND/OR OTHER VISUAL BARRIERS THAT COULD OBSTRUCT THE SIGHT DISTANCE OF A DRIVER PREPARING TO ENTER THE ROADWAY ARE PROHIBITED WITHIN THE DEFINED DEPARTURE SIGHT TRIANGLE AREA ESTABLISHED ON THIS PLAN. IF THE ESTABLISHED DEPARTURE SIGHT TRIANGLE AREA IS OUTSIDE THE RIGHT-OF-WAY OR PROJECTS ONTO AN ADJACENT PROPERTY OWNERS LAND, A SIGHT EASEMENT SHOULD BE ESTABLISHED AND RECORDED WITH ALL AFFECTED PROPERTY OWNERS TO MAINTAIN THE REQUIRED SIGHT DISTANCE.
4. UPON COMPLETION OF THE CONSTRUCTION OF THE SIDEWALK OR SHARED-USE PATH ACROSS THIS PROJECT'S FRONTAGE AND PHYSICAL CONNECTION TO ADJACENT EXISTING FACILITIES, THE DEVELOPER, THE PROPERTY OWNERS OR BOTH ASSOCIATED WITH THIS PROJECT, SHALL BE RESPONSIBLE TO REMOVE ANY EXISTING ROAD TIE-IN CONNECTIONS LOCATED ALONG ADJACENT PROPERTIES, AND RESTORE THE AREA TO GRASS. SUCH ACTIONS SHALL BE COMPLETED AT DELDOT'S DISCRETION, AND IN CONFORMANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.
5. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT) FOLLOWING THE ACCEPTANCE OF THE STREETS. DELDOT ASSUMES NO MAINTENANCE RESPONSIBILITIES WITHIN THE DEDICATED STREET RIGHT-OF-WAY UNTIL THE STREETS HAVE BEEN ACCEPTED BY DELDOT.
6. THE SIDEWALK SHALL BE THE RESPONSIBILITY OF THE DEVELOPER, THE PROPERTY OWNERS OR BOTH WITHIN THIS SUBDIVISION. THE STATE OF DELAWARE ASSUMES NO RESPONSIBILITY FOR THE FUTURE MAINTENANCE FOR THE SIDEWALK.
7. DRIVEWAY ACCESS:
A. ALL LOTS SHALL HAVE ACCESS FROM THE INTERNAL SUBDIVISION STREET.
B. DRIVEWAYS WILL NOT BE PERMITTED TO BE PLACED AT CATCH BASIN LOCATIONS.
C. LOTS WILL BE PERMITTED TO HAVE ACCESS POINTS THAT COMPLY WITH THE DEVELOPMENT COORDINATION MANUAL (DCM) SPACING REQUIREMENTS OF CHAPTER 1 AND LIMITATIONS ON NUMBER OF ACCESS POINTS ESTABLISHED IN DCM CHAPTER 7. HORSESHOE DRIVEWAYS AND SECONDARY ENTRANCES REQUIRE ADDITIONAL DELDOT REVIEW AND SEPARATE PERMITTING. RESTRICTIONS AS DESCRIBED IN THE DCM CHAPTER 7 MAY PROHIBIT SOME SECONDARY ENTRANCE REQUESTS FROM BEING GRANTED.
8. TO MINIMIZE RUTTING AND EROSION OF THE ROADSIDE DUE TO ON-STREET PARKING, DRIVEWAY AND BUILDING LAYOUTS MUST BE CONFIGURED TO ALLOW FOR VEHICLES TO BE STORED IN THE DRIVEWAY BEYOND THE RIGHT-OF-WAY, WITHOUT INTERFERING WITH SIDEWALK ACCESS AND CLEARANCE.
9. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS IN ACCORDANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.
10. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS ON THE DEDICATED SUBDIVISION STREET RIGHT-OF-WAY IN ACCORDANCE WITH SECTION 3.2.4.1 OF THE DEVELOPMENT COORDINATION MANUAL, AND THE REQUIREMENTS OF THE LAND USE AGENCY. RIGHT-OF-WAY MONUMENTS SHALL BE PLACED ALONG THE RIGHT-OF-WAY LINES, AT A MINIMUM ON ONE SIDE OF THE STREET AT EVERY CHANGE IN HORIZONTAL ALIGNMENT TO PROVIDE A PERMANENT REFERENCE FOR THE RE-ESTABLISHING THE CENTERLINE AND RIGHT-OF-WAY LINE.
11. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MARKERS TO PROVIDE A PERMANENT REFERENCE FOR RE-ESTABLISHING THE RIGHT-OF-WAY AND PROPERTY CORNERS ON LOCAL AND HIGHER ORDER FRONTAGE ROADS. RIGHT-OF-WAY MARKERS SHALL BE SET AND/OR PLACED ALONG THE FRONTAGE ROAD RIGHT-OF-WAY AT PROPERTY CORNERS AND AT EACH CHANGE IN RIGHT-OF-WAY ALIGNMENT IN ACCORDANCE WITH SECTION 3.2.4.2 OF THE DEVELOPMENT COORDINATION MANUAL.
12. CONSTRUCTION WILL NOT BE PERMITTED UNTIL CONSTRUCTION PLANS HAVE BEEN APPROVED. SURETY HAS BEEN RECEIVED AND THE TRAFFIC SIGNAL AGREEMENT IS COMPLETE. AT DELDOT'S DISCRETION, A TEMPORARY CONSTRUCTION ENTRANCE PERMIT MAY BE ISSUED FOR CLEARING, GRUBBING, TEMPORARY ENTRANCE CONSTRUCTION, BULK GRADING AND PERIMETER EROSION AND SEDIMENT CONTROLS UP TO THIRTY (30) DAYS PRIOR TO PLAN APPROVAL. NO BUILDING CONSTRUCTION WILL BE PERMITTED UNDER A TEMPORARY ENTRANCE CONSTRUCTION PERMIT. IF PLAN APPROVAL IS NOT RECEIVED WITHIN THIRTY (30) CALENDAR DAYS, ALL CONSTRUCTION ACTIVITIES SHALL BE STOPPED. DELDOT WILL NOT PROVIDE A GO APPROVAL FOR A COMMERCIAL ENTRANCE TO NCC UNTIL THE ENTRANCE(S) ARE COMPLETED TO THE SATISFACTION OF THE DEPARTMENT.

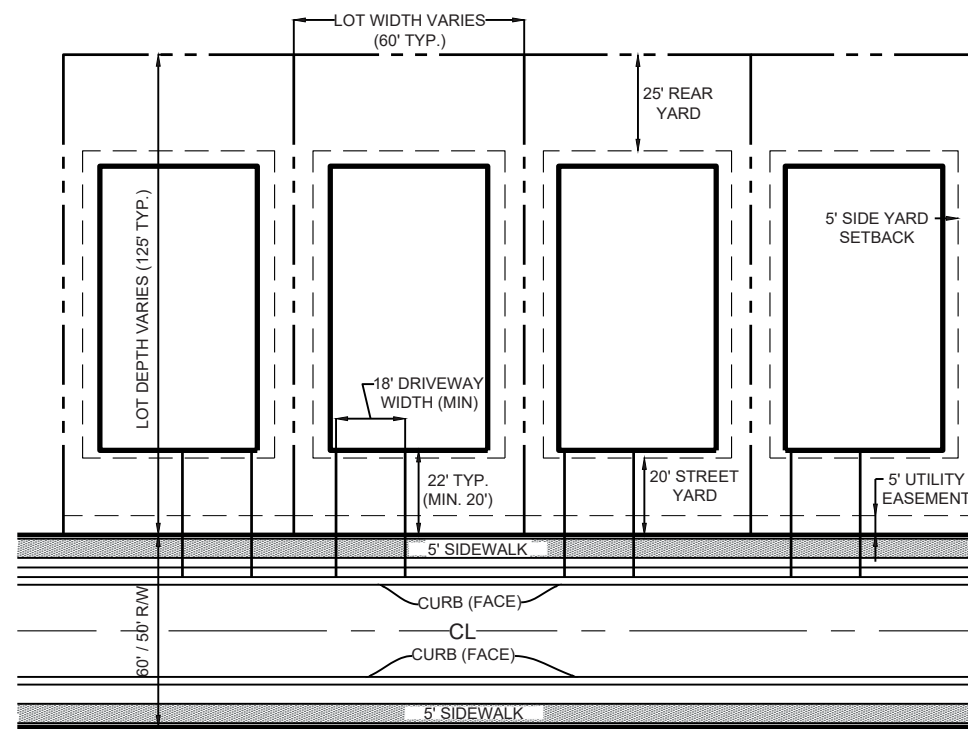
NATURAL RESOURCE PROTECTION TABLE

NATURAL RESOURCE	TOTAL AREA	REQUIRED PROTECTED %	DISTURBED	PROVIDED PROTECTED %
WETLAND AREA	7.68± ACRES	100%	*0.03± ACRES	*99.6%
FLOOD PLAIN	11.29± ACRES	100%	*0.48± ACRES	*95.7%
RIPARIAN BUFFER	25.83± ACRES	100%	*1.58± ACRES	*93.9%
MATURE FOREST	60.42 ± ACRES	70%	17.16± ACRES	71.9%
PRECAUTIONARY SLOPES	0.45± ACRES	50%	0.04± ACRES	91.2%

* 0.03 ACRES OF DISTURBANCE WITHIN WETLAND AREA, 0.48 ACRES OF DISTURBANCE WITHIN THE FLOOD PLANE AREA, 0.28 ACRES OF DISTURBANCE WITHIN ZONE 1 RIPARIAN BUFFER FOR UTILITY CROSSINGS AND STORM SEWER OUTFALL LISTED "L" FOR PERMITTED DISTURBANCE AND 1.30 ACRES OF DISTURBANCE WITHIN ZONE 2 RIPARIAN BUFFER AREA FOR STORM WATER MANAGEMENT PRACTICES, LISTED "Y" FOR PERMITTED DISTURBANCE UNDER TABLE 40.10.210.

EASEMENT TABLE

DESCRIPTION OF EASEMENT	IN FAVOR OF	MAINTENANCE RESPONSIBILITY
40' WIDE AND VARIABLE WIDTH SANITARY SEWER EASEMENT	NEW CASTLE COUNTY	SEWER LINE - NEW CASTLE COUNTY GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE
TYPE A - 20' WIDE AND VARIABLE WIDTH STORM DRAINAGE EASEMENTS (FOR PIPES AND/OR SWALES THAT CONVEY DRAINAGE FROM DELDOT MAINTAINED RIGHT-OF-WAYS THROUGH PRIVATE OPEN SPACE)	NEW CASTLE COUNTY DELDOT	STORM PIPE - DELDOT GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE
TYPE B - 20' WIDE AND VARIABLE WIDTH STORM DRAINAGE EASEMENTS (FOR PIPES AND/OR SWALES LOCATED IN PRIVATE OPEN SPACE OR WITHIN LOTS THAT DO NOT CONVEY DRAINAGE FROM DELDOT MAINTAINED RIGHT-OF-WAYS)	NEW CASTLE COUNTY	STORM PIPE - MAINTENANCE ORGANIZATION GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE
TYPE C - IRREGULAR SHAPE STORMWATER MANAGEMENT (SWM) AREA INCLUDING VARIABLE WIDTH (15' WIDE MIN.) ACCESS AND MAINTENANCE EASEMENT AND 20' WIDE STORM DRAINAGE EASEMENT FOR PIPE	NEW CASTLE COUNTY DELDOT	MAINTENANCE ORGANIZATION
5' WIDE UTILITY EASEMENT	DELDOT AND UTILITY COMPANIES	PIPES AND UTILITIES - DELDOT AND/OR UTILITY COMPANY AS APPLICABLE GROUND SURFACE - PROPERTY OWNER AND/OR MAINTENANCE ORGANIZATION AS APPLICABLE



TYPICAL LOT LAYOUT

SCALE: 1"=50'

BULK STANDARDS - ST ZONING (SINGLE FAMILY DETACHED)

MIN. LOT AREA	4,800 S.F.
MIN. LOT WIDTH:	48'
MIN. SIDE YARD:	5'
MIN. STREET YARD:	20'
MIN. REAR YARD:	25'
MAX. HEIGHT:	35'

NOTES AND LEGEND
RECORD MAJOR SUBDIVISION PLAN
FOR

VISTA AT RED LION - SECTION 2
SITUATE IN: NEW CASTLE HUNDRED, NEW CASTLE COUNTY, DELAWARE

02-21-24	01-30-24	12-13-23	date		Karins and Associates ENGINEERS • PLANNERS • SURVEYORS NEWARK, DE & GEORGETOWN, DE www.karinsengineering.com 17 POLLY DRUMMOND CENTER • SUITE 201 NEWARK, DELAWARE 19711 PHONE: (302) 369-2900 FAX: (302) 369-2975	
PER NCC COMMENTS DATED 03-14-24	ADDED NOTE #62	1-7-23	checked			
U.S.Q.	D.S.	UNQ	date			
PER NCC COMMENTS DATED 03-14-24	ADDED NOTE #62	1-7-23	checked			
SURVEY BY: KARINS AND ASSOCIATES					SCALE: AS SHOWN	
DESIGNED BY: KARINS						
DRAWN BY: J.L.					DATE: 01-29-2022 SHEET: 2 OF 9	
CHECKED BY: U.R.Q., D.S.					DRAWING NO.: 2554 - A02	

Prime Sponsor(s): Ms. George
Requested by: Department of Land Use
Date of introduction: June 25, 2024

RESOLUTION NO. 24-

PLAN OF 2805 PULASKI HIGHWAY; PENCADER HUNDRED; NORTH SIDE OF PULASKI HIGHWAY, 885 FEET EAST OF PLEASANT VALLEY ROAD; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO COMBINE TAX PARCELS 11-026.00-002 AND 003 INTO ONE PARCEL TO CONSTRUCT 89,400 SQUARE FEET OF SELF-STORAGE WAREHOUSE, EXTERIOR STORAGE AREA FOR VEHICLES AND ASSOCIATED IMPROVEMENTS; RECONFIRMATION OF CR ZONING; APPLICATION NO. 2021-0004-S/Z; COUNCIL DISTRICT 5

NOW, THEREFORE, BE IT RESOLVED by and for the County Council of New Castle County that County Council hereby. approves the following major land development plan, Plan of 2805 Pulaski Highway (Application No. 2021-0004) as heretofore approved by the Land Use Department, and the President of County Council is hereby authorized to endorse her approval upon the following plan.

**PLAN OF 2805 PULASKI HIGHWAY
Pencader Hundred**

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

SYNOPSIS: Same as title

FISCAL IMPACT: This will have no immediately discernible fiscal impact on the county but, if the parcel is developed in accordance with this record plan, there may be one or more fiscal effects on New Castle County government including, but not limited to, an increase in the assessed value of the property with the resultant increase in taxes collectible thereon and an increased demand for County services.

23. THIS PLAN IS SUBJECT TO THE IMPACT FEE PROVISIONS OF CHAPTER 40, ARTICLE 14 OF THE NEW CASTLE COUNTY CODE, AS MAY BE AMENDED BY NEW CASTLE COUNTY COUNCIL.
24. A LANDSCAPE PLAN, PREPARED BY DESIGNS ETC, LAST DATED 1/4/24 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, PREPARED FOR APPLICATION NO.: 2021-0004, IS HEREBY CONSIDERED A PART OF THE RECORD PLAN.
25. UNLESS OTHERWISE SPECIFIED ON THE PLAN, SIDEWALKS SHALL BE INSTALLED IN THE LOCATIONS SHOWN ON THE PLAN PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY. SIDEWALKS SHALL BE FIVE (5) FEET IN WIDTH AND CONSTRUCTED OF PORTLAND CEMENT CONCRETE.
26. DEED RESTRICTIONS FOR THE PROPERTIES SUBJECT TO THIS PLAN ARE NOT KNOWN TO EXIST.
27. NEW CASTLE COUNTY ORDINANCE 21-004 FOR THE CONFIRMATION OF THE CR ZONING OF THE PROPERTY WAS ADOPTED BY NEW CASTLE COUNTY COUNCIL ON 12/14/21.

PROTECTED NATURAL RESOURCES:

PROTECTED RESOURCES	PROTECTION RATIO	TOTAL AREA (ac)	PROTECTED AREA (ac)	PROTECTED RATIO
FLOODPLAIN	1.0	2.49	2.49	1.0
RBA *	1.0	4.13	3.94 **	0.95
MATURE FOREST	0.5	5.08	4.36	0.86
WETLANDS	1.0	2.50	2.50	1.0

* RIPARIAN BUFFER INCLUDING WETLANDS AND FLOODPLAIN
** RBA DISTURBANCE IS FOR SWM FACILITIES WITHIN ZONE 2 AND FOR SWM OUTFALLS WITHIN ZONE 1. THIS AREA IS INCLUDED IN THE CONSERVATION EASEMENT

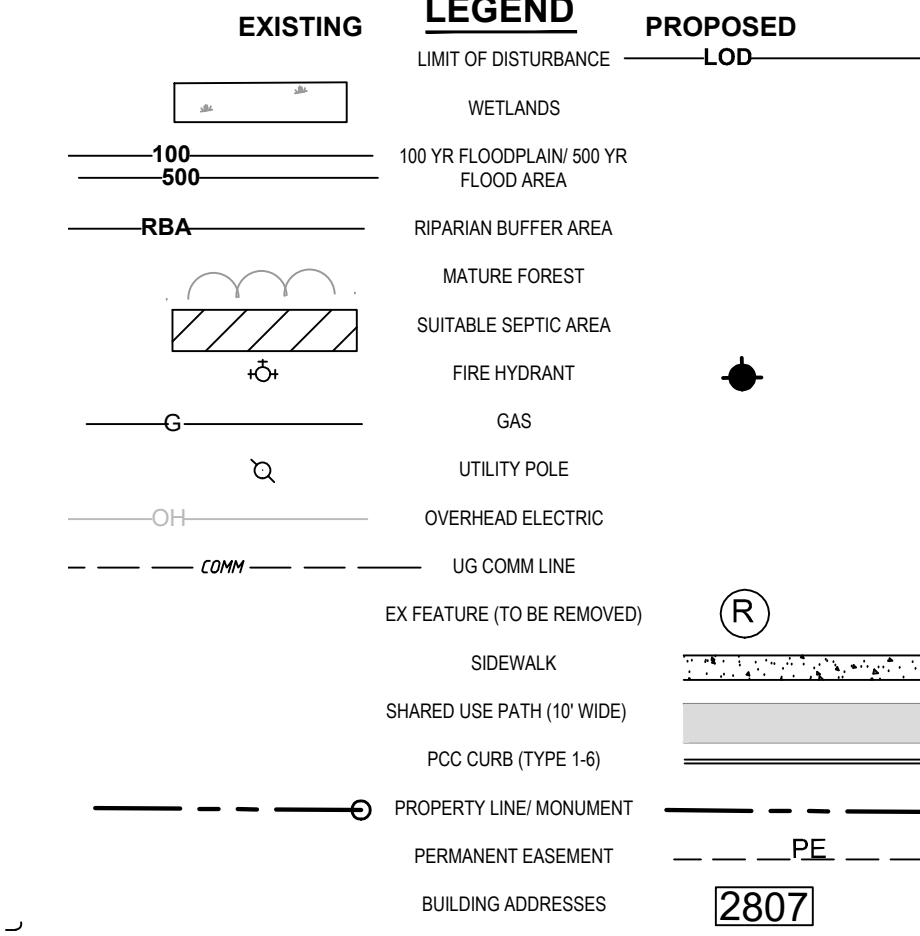
PARKING RATIONALE:

REQUIRED (PER NCC UDC):
900 SF MINI-STORAGE OFFICE X 3.5 SP/1,000 SF = 4 SP
PROVIDED:
8 SP (INC 2 HC VAN ACCESSIBLE SPACES)

18. DRAINAGE, EROSION AND SEDIMENT CONTROL, AND STORMWATER MANAGEMENT SHALL BE PROVIDED IN ACCORDANCE WITH THE NEW CASTLE COUNTY DRAINAGE CODE.
19. ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE IS HEREBY PROTECTED BY A CONSERVATION EASEMENT THAT SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY. ANY AREA ON THIS PLAN DELINEATED AS A CONSERVATION EASEMENT SHALL REMAIN IN ITS NATURAL STATE.
20. THE OWNER/DEVELOPER SHALL PAY TO NEW CASTLE COUNTY, FUNDS FOR LONG TERM STORMWATER MAINTENANCE AND INSPECTION FUND PURSUANT TO UDC SECTION 40.27.440 OF THE COUNTY CODE. THE FUNDS SHALL BE USED FOR THE COSTS ASSOCIATED WITH INSPECTIONS. AN AMOUNT OF \$4,800 SHALL BE FUNDED PRIOR TO RECEIVING THE FIRST CERTIFICATE OF OCCUPANCY. THE DEPARTMENT OF LAND USE SHALL WITHHOLD THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY UNTIL SATISFACTORY WRITTEN PROOF THAT THE FUNDS HAVE BEEN PAID TO NEW CASTLE COUNTY IS FURNISHED IN ACCORDANCE WITH THE REQUIREMENTS.
21. SUPERSEDES NOTE: THIS PLAN SUPERSEDES, IN PART, THE PLAN OF "RECORD RESUBDIVISION PLAN LANDS OF DOMINIC SCARFO, ET AL" RECORDED ON 11-19-2004 IN THE RECORD OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE, INSTRUMENT NO.: 200411190125405 AND THE PLAN OF "RECORD MINOR SUBDIVISION PLAN LANDS OF PERCIVAL A. ROY & ETHEL M. ROY" APPROVED ON 12-16-68 AND RECORDED ON THE RECORD OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE MICROFILM NO.: 1230.
22. A STORMWATER MANAGEMENT ACCESS EASEMENT IN FAVOR OF NEW CASTLE COUNTY, ITS AGENTS AND ASSIGNS IS HEREBY CREATED ON, OVER, UNDER AND ACROSS THE ENTIRE AREA OF ALL STORMWATER MANAGEMENT FACILITIES INCLUDING STORMWATER CONVEYANCE SYSTEMS, BASINS, AND ALL COMPONENTS THEREOF, IDENTIFIED ON THE PLAN AND ALL WATERCOURSES FOR THE PURPOSE OF INSPECTING, EVALUATING, AND MAINTAINING THE STORMWATER MANAGEMENT FACILITIES AND WATERCOURSES. THE EASEMENT SHALL EXTEND 15' FROM THE OUTER EDGES OF EACH SUCH STORMWATER MANAGEMENT FACILITY. A GENERAL ACCESS EASEMENT IS HEREBY CREATED OVER AND ACROSS THE PROPERTY SHOWN ON THIS PLAN GRANTING NEW CASTLE COUNTY, ITS AGENTS AND ASSIGNS THE RIGHT, PRIVILEGE AND AUTHORITY TO ENTER UPON AND TRAVEL ACROSS THE PROPERTY TO EACH STORMWATER MANAGEMENT FACILITY. THE EASEMENTS HEREIN CREATED SHALL BE FOR PEDESTRIAN, VEHICULAR AND EQUIPMENT USE. IF NEW CASTLE COUNTY, ITS AGENTS OR ASSIGNS DETERMINES THAT MAINTENANCE IS REQUIRED TO A STORMWATER MANAGEMENT FACILITY, NEW CASTLE COUNTY SHALL PROVIDE NOTICE OF THE REQUIRED MAINTENANCE AND THE TIME FRAME IN WHICH SUCH MAINTENANCE SHALL BE COMPLETED TO THE PROPERTY OWNER OR RESPONSIBLE PARTY. NO NOTICE SHALL BE REQUIRED WHERE NEW CASTLE COUNTY PERFORMS MAINTENANCE WHERE THERE IS IMMINENT THREAT TO LIFE, HEALTH OR PROPERTY. IN THE EVENT NEW CASTLE COUNTY ELECTS TO MAINTAIN THE STORMWATER MANAGEMENT FACILITIES, ALL EXPENSES SHALL BE ASSESSED JOINTLY AND SEVERALLY AGAINST THE OWNERS OF THE PROPERTY SHOWN ON THIS PLAN.

31. POSTAL ADDRESS 2787 PULASKI HIGHWAY NEWARK, DE 19702 IS BEING REMOVED AND ADDRESS OF 2805 PULASKI HIGHWAY NEWARK, DE 19702 IS BEING ADDED.
34. WATER RESOURCE PROTECTION: THIS PARCEL IS NOT LOCATED IN A WATER RESOURCE PROTECTION AREA, ACCORDING TO WRPA MAP 2 OF 3, DATED MARCH 2022.
35. PER THE STATE INVENTORY OF NATURAL AREAS, THIS SITE IS NOT LOCATED WITHIN A CRITICAL NATURAL AREA.
36. NO DEBRIS SHALL BE BURIED ON THE SITE.
37. ALL IMPROVEMENTS REQUIRED BY THIS PLAN AND THE NEW CASTLE COUNTY CODE SHALL BE SUBJECT TO THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT (LDA), AND THE PERFORMANCE GUARANTEE INCORPORATED THEREIN. THE LDA IS RECORDED IN THE OFFICE OF THE RECORDED OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 1/31/24, AT INS NO: 202401310006677.
- DelDOT Record Plan Notes (3/21/19):**
- All entrances shall conform to the Delaware Department of Transportation's (DelDOT's) current Development Coordination Manual and shall be subject to its approval.
 - No landscaping shall be allowed within the right-of-way unless the plans are compliant with Section 3.7 of the Development Coordination Manual.
 - Shrubbery, plantings, signs and/or other visual barriers that could obstruct the sight distance of a driver preparing to enter the roadway are prohibited within the defined departure sight triangle area established on this plan. If the established departure sight triangle area is outside the right-of-way or projects onto an adjacent property owner's land, a sight easement should be established and recorded with all affected property owners to maintain the required sight distance.
 - Upon completion of the construction of the sidewalk or shared-use path across this project's frontage and physical connection to adjacent existing facilities, the Developer, the property owners or both associated with this project, shall be responsible to remove any existing road tie-in connections located along adjacent properties, and restore the area to grass. Such actions shall be completed at DelDOT's discretion, and in conformance with DelDOT's Development Coordination Manual.
 - The sidewalk and shared-use path shall be the responsibility of the Developer, the property owners or both within this subdivision. The State of Delaware assumes no responsibility for the future maintenance of the sidewalk and/or shared-use path.
 - The Developer shall be required to furnish and place right-of-way monuments in accordance with DelDOT's Development Coordination Manual.
 - The Developer shall be required to furnish and place right-of-way markers to provide a permanent reference for re-establishing the right-of-way and property corners on local and higher order frontage roads. Right-of-way markers shall be set and/or placed along the frontage road right-of-way at property corners and at each change in right-of-way alignment in accordance with Section 3.2.4.2 of the Development Coordination Manual.
 - Construction will not be permitted until construction plans have been approved, surety has been received and the traffic signal agreement is complete. At DelDOT's discretion, a temporary construction entrance permit may be issued for clearing, grubbing, temporary entrance construction, bulk grading and perimeter erosion and sediment controls up to thirty (30) days prior to plan approval. No building construction will be permitted under a temporary entrance construction permit. If plan approval is not received within thirty (30) calendar days, all construction activities shall be stopped. DelDOT will not provide a C/O approval for a commercial entrance to NCC until the entrance(s) are completed to the satisfaction of the Department.
 - This commercial parcel has direct frontage along Pulaski Highway (NCR 032), which has a functional classification of principal arterial/freeway/interstate as defined by the State of Delaware's Department of Transportation. Per Section 3.6.1 of the DelDOT Development Coordination Manual (DCM): It is the Developer's responsibility to evaluate noise levels and their impacts on proposed development, for projects adjacent to existing transportation facilities with this functional classification. Roadways with this classification can be expected to generate elevated levels of road and traffic related noise, similar to what can be expected in urban areas. A detailed noise analysis per DCM 3.6 is typically recommended to help gauge the actual impacts that roadway related noise may have on various potential land-uses (such as those described in DCM Figure 3.6.3-a: Noise Abatement Criteria). With the inclusion of this note, the Developer is acknowledging that the proposed site and/or building location can be expected to exceed the specific maximum noise levels for certain commercial and non-residential uses as shown in DCM Figure 3.6.3-a. The Developer's waiver of the noise analysis and review of potential noise mitigation measures are supported by the infeasibility of applying noise mitigation measures, based on engineering considerations and factors that would limit the ability to achieve substantial noise reduction, related to the commercial use of the site and/or buildings. This waiver acknowledges that the decibel level for this parcel may exceed the applicable limits for some current or future proposed uses. The use of this note signifies the Subdivision Engineer's concurrence with waiving the Developer's completion of a detailed noise study and subsequent review of resulting noise abatement findings or mitigation measures. Any future complaints relating to existing or future noise levels impacting proposed uses on this site and along this existing transportation facility shall be the responsibility of the Developer or Land Owner or both.

9. WATER SUPPLY: ARTESIAN WATER COMPANY
- WATER SUPPLY IS SUBJECT TO THE APPROVAL OF THE DELAWARE STATE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND THE DELAWARE STATE DIVISION OF PUBLIC HEALTH.
10. SEPTIC FEASIBILITY: SEPTIC SYSTEM FEASIBILITY HAS BEEN SATISFACTORILY ESTABLISHED FOR EACH LOT IN THIS SUBDIVISION. THE FEASIBILITY INDICATES ONLY THAT, AT THE TIME OF TESTING, THERE WAS AT LEAST ONE AREA ON EACH LOT THAT COULD MEET THE STANDARDS FOR AN ON-SITE SEWAGE DISPOSAL SYSTEM. FEASIBILITY IS NOT A DESIGN APPROVAL AND DOES NOT IMPLY A GUARANTEE THAT SUCH APPROVAL CAN BE OBTAINED. SUCH FACTORS AS BUILDING SIZE AND USE, PLACEMENT ON THE LOT, AND LOCATION OF WATER WELLS WILL INFLUENCE THE FINAL DESIGN. NO BUILDING PERMITS WILL BE ISSUED WITHOUT THE REVIEW AND APPROVAL OF A DETAILED DESIGN FOR EACH LOT. (SEE DNREC APPROVED SITE EVALUATION REPORT DATED 9/3/20)
11. ACCORDING TO FEMA FIRM PANEL 1003C0225L, DATED JANUARY 22, 2020, THIS SITE CONTAINS A 100 YEAR FLOODPLAIN (ZONE A). THIS FIRM HAS BEEN REVISED BY A LETTER OF MAP REVISION (LOMR CASE NO.: 23-03-0281P) EFFECTIVE APRIL 18, 2024 TO ESTABLISH A 100 YEAR FLOODPLAIN ZONE AE WITH FLOOD ELEVATIONS AND A 500 YEAR FLOODPLAIN.
12. WETLANDS: THIS SITE HAS BEEN INVESTIGATED FOR WETLANDS IN ACCORDANCE WITH THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL (TECHNICAL REPORT Y-47-1) AND WETLANDS ARE FOUND TO EXIST AS SHOWN ON THE PLAN AND IN ACCORDANCE WITH WETLANDS REPORT BY WATERSHED ECO DATED DECEMBER 2020.



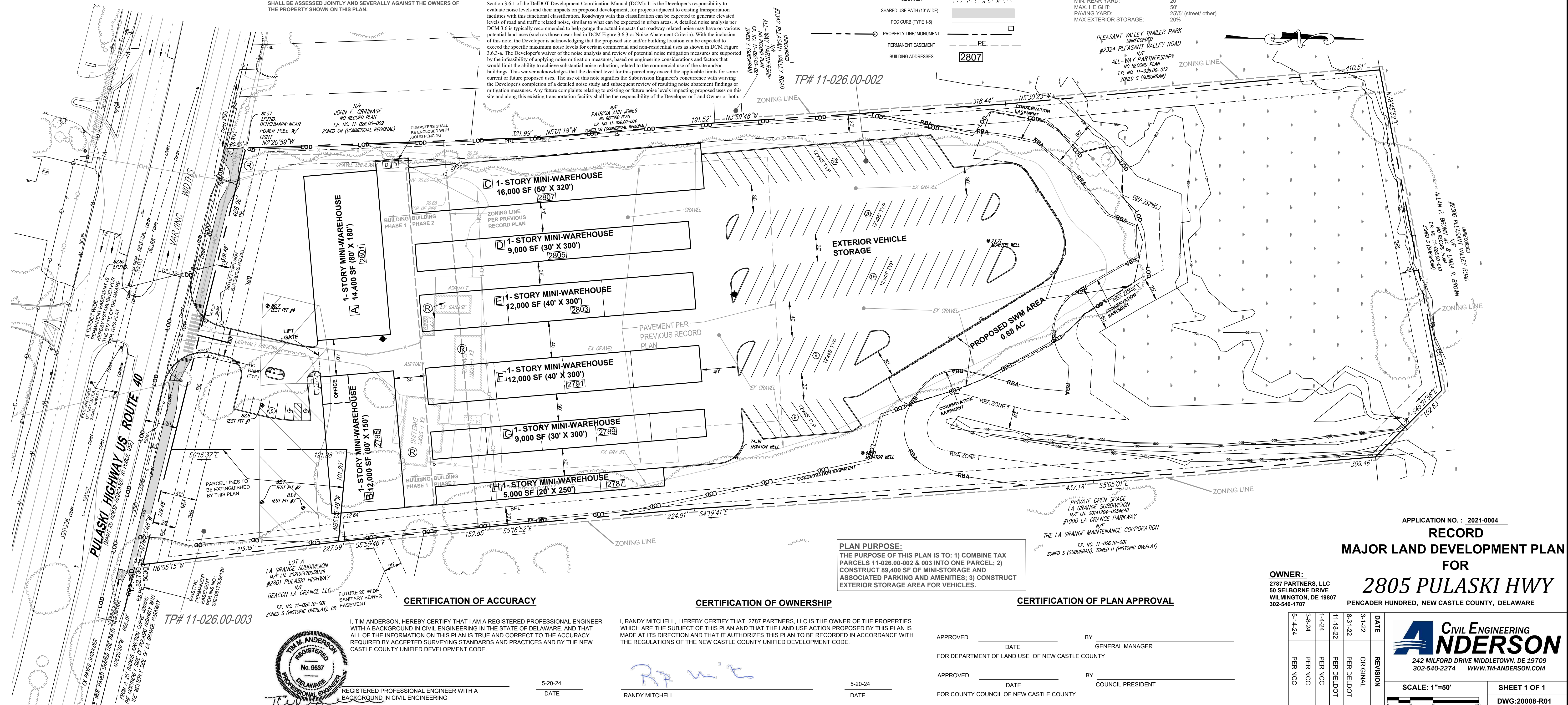
PLAN DATA

- APPLICATION NO.: 2021-0004
 - TAX PARCEL NUMBER: 11-026.00-002 & 003 (TWO EXISTING PARCELS COMBINED INTO ONE PARCEL- SEE PLAN PURPOSE NOTE)
 - EXISTING ZONING: CR (COMMERCIAL REGIONAL)
EXISTING USE: RESIDENTIAL/ EXTERIOR STORAGE
PROPOSED USE: HEAVY RETAIL AND SERVICE
INS NO: 202106220072343
 - SOURCE OF TITLE: BENCHMARK: IP FOUND EL: 81.57 (SEE PLAN)
 - DATUM: HORZ. DATUM: NAD 83 DE STATE PLANE/ VERTICAL DATUM: NAVD 88
 - GROSS AREA: 12.4036 +/- Ac (TP 11-026.00-002)
0.5218 +/- Ac (TP 11-026.00-003)
12.9254 +/- Ac TOTAL
 - SITE COVERAGE:
BUILDING COVER**: 0.131% +/- Ac (1%)
PAVING/GRAVEL: 4.85% +/- Ac (38%)
SIDEWALK: 0.00% +/- Ac (0%)
OPEN AREA: 7.95% +/- Ac (61%)
TOTAL: 12.93% +/- Ac (100%)
IMPERVIOUS COVER: 4.98 Ac (39%)
EXTERIOR STORAGE: * 2.01 Ac (16%)
SWM AREA: 0 Ac (0%)
9.02% +/- Ac
- ** ALL EXISTING BUILDINGS WERE APPROVED BY PREVIOUS RECORD PLAN (INS NO: 200411190125405. ALL PROPOSED BUILDING (LABELED A THROUGH H ON THE PLAN) ARE PROPOSED BY THIS PLAN. (SEE USE BREAKDOWN BELOW)

EXISTING	PROPOSED
RESIDENTIAL DWELLING: 2,900 SF	MINI-STORAGE: 89,400 SF
GARAGES/ SHED: 2,876 SF	
TOTAL: 5,776 SF	

8. BULK AREA REQUIREMENTS: REQUIRED (PER UDC)

MIN. LOT AREA:	2 AC
MIN. LOT WIDTH:	100'
MIN. SIDE YARD:	20'
MIN. STREET YARD:	40'
MIN. REAR YARD:	20'
MAX. HEIGHT:	50'
PAVING YARD:	25'/5' (street/ other)
MAX EXTERIOR STORAGE:	20%



CERTIFICATION OF ACCURACY

I, TIM ANDERSON, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL ENGINEER WITH A BACKGROUND IN CIVIL ENGINEERING IN THE STATE OF DELAWARE, AND THAT ALL OF THE INFORMATION ON THIS PLAN IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY ACCEPTED SURVEYING STANDARDS AND PRACTICES AND BY THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE.

CERTIFICATION OF OWNERSHIP

I, RANDY MITCHELL, HEREBY CERTIFY THAT 2787 PARTNERS, LLC IS THE OWNER OF THE PROPERTIES WITHIN THE SUBJECT OF THIS PLAN AND THAT THE LAND USE ACTION PROPOSED BY THIS PLAN IS MADE AT ITS DIRECTION AND THAT IT AUTHORIZES THIS PLAN TO BE RECORDED IN ACCORDANCE WITH THE REGULATIONS OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE.

CERTIFICATION OF PLAN APPROVAL

APPROVED _____ DATE _____ BY _____
GENERAL MANAGER
FOR DEPARTMENT OF LAND USE OF NEW CASTLE COUNTY

APPROVED _____ DATE _____ BY _____
COUNCIL PRESIDENT
FOR COUNTY COUNCIL OF NEW CASTLE COUNTY

APPLICATION NO.: 2021-0004
RECORD
MAJOR LAND DEVELOPMENT PLAN
FOR
2805 PULASKI HWY

OWNER:
2787 PARTNERS, LLC
50 SELBORNE DRIVE
WILMINGTON, DE 19807
302-540-1707

PENCADER HUNDRED, NEW CASTLE COUNTY, DELAWARE

DATE	REVISION
3-1-22	ORIGINAL
8-31-22	PER DELDOT
11-18-22	PER DELDOT
1-4-24	PER NCC
3-5-24	PER NCC
5-14-24	PER NCC

SCALE: 1"=50'

SHEET 1 OF 1
DWG:20008-R01

CIVIL ENGINEERING
ANDERSON
242 MILFORD DRIVE MIDDLETOWN, DE 19709
302-540-2274 WWW.TM-ANDERSON.COM



Department of Land Use

MEMORANDUM

TO: Council President
Members of County Council
Counsel to Council
Clerk of County Council

FROM: Charuni Patibanda

RE: Application Number 2021-0004-S/Z
2805 Pulaski Highway
Record Major Land Development Plan

DATE: May 28, 2024

Enclosed for Council's review and consideration of approval are paper prints of the above-referenced plan. The Department has determined that this proposal complies with all applicable requirements of the New Castle County Code.

A suggested title and synopsis are attached.

cc: Matthew Meyer, County Executive
Vanessa Phillips, Chief Administrative Officer
Brian Boyle, Senior Policy Director

Plan of 2805 Pulaski Highway; Pencader Hundred; North side of Pulaski Highway, 885 feet east of Pleasant Valley Road; Major Land Development Plan that proposes to combine tax parcels 11-026.00-002 and 003 into one parcel to construct 89,400 s.f. of self-storage warehouse, exterior storage area for vehicles and associated improvements; reconfirmation of CR zoning; Council District 5.

Synopsis: Same as title

ORDINANCE NO. 24-023

**COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING
MAPS IN COUNTY COUNCIL DISTRICT 1 REGARDING THE FOLLOWING
TAX PARCELS: WHITE CLAY CREEK HUNDRED: 09-011.00-070 (606 Stanton
Christiana Rd), 09-030.30-091 (2008 Point Hamlet Rd, Christiana Village)**

1 **WHEREAS**, County Council adopted Substitute No. 2 to Ordinance No. 22-024 as
2 amended by Floor Amendment No. 1 ("New Castle County Comprehensive Plan" or "the
3 Plan"), on July 26, 2022, and the County Executive approved the Ordinance on August
4 4, 2022; and

5
6 **WHEREAS**, the Future Land Use Element and Map Series of the New Castle
7 County Comprehensive Plan designates proposed future general distribution, location
8 and extent of the uses of land consistent with goals, policies and measurable objectives
9 enumerated in the Plan; and

10
11 **WHEREAS**, the New Castle County Comprehensive Plan guides and encourages
12 sustainable economic development sensitive to the context of neighboring residential
13 developments; and

14
15 **WHEREAS**, the New Castle County Comprehensive Plan guides and encourages
16 preservation efforts to best protect important ecological habitats; and

17
18 **WHEREAS**, 9 Del. C. § 2660 requires New Castle County to amend its official
19 zoning map within eighteen months of the date of adoption of a revision to the county
20 comprehensive plan "to rezone all lands in accordance with the uses and intensities of
21 uses provided for in the future land use element for the County"; and

22
23 **WHEREAS**, Ordinance No. 23-083 was introduced on June 13, 2023, to amend
24 the official zoning map in accordance with the uses and intensities of uses provided for in
25 the future land use element of the New Castle County Comprehensive Plan; and

26
27 **WHEREAS**, the County can foster more informed participation by the public,
28 including increased opportunities for review, by amending the zoning map in smaller
29 portions, such as by Councilmanic District; and

30 **WHEREAS**, this County-initiated rezoning is intended to guide and control future
31 growth consistent with the spirit and intent of the Comprehensive Development Plan as
32 provided by State law; and

33 **WHEREAS**, County Council has determined that the amendments to the zoning
34 map substantially advance, and are reasonably and rationally related to, legitimate
35 government interests (i.e., promoting the health, safety, morals, convenience, order,
36 prosperity and/or welfare of the present and future inhabitants of this State).

37
38 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
39

40 Section 1. The Zoning Maps of White Clay Creek Hundred are hereby amended
41 by changing the zoning classification of the land shown on attached Exhibit "A", Maps 1-
42 2 dated February 4, 2024, as set forth therein.
43

44 Section 2. This Ordinance shall become effective immediately upon passage by
45 New Castle County Council and approval of the County Executive, or as otherwise
46 provided in 9 Del. C. § 1156.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

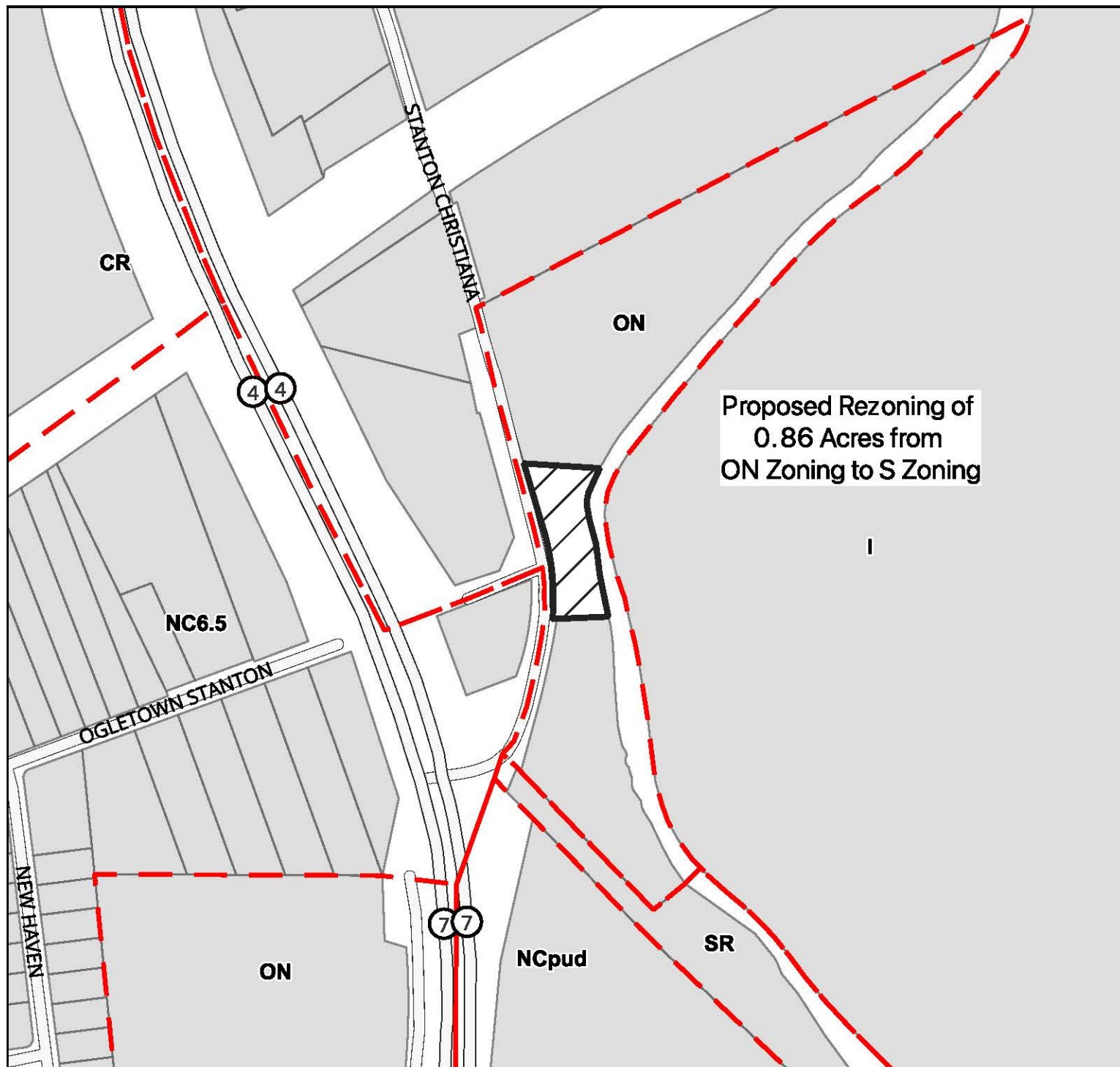
Approved on:

Matthew Meyer
County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL IMPACT: None

APPLICATION NO. 2024-0086-Z
TAX PARCEL NO: 09-011.00-070



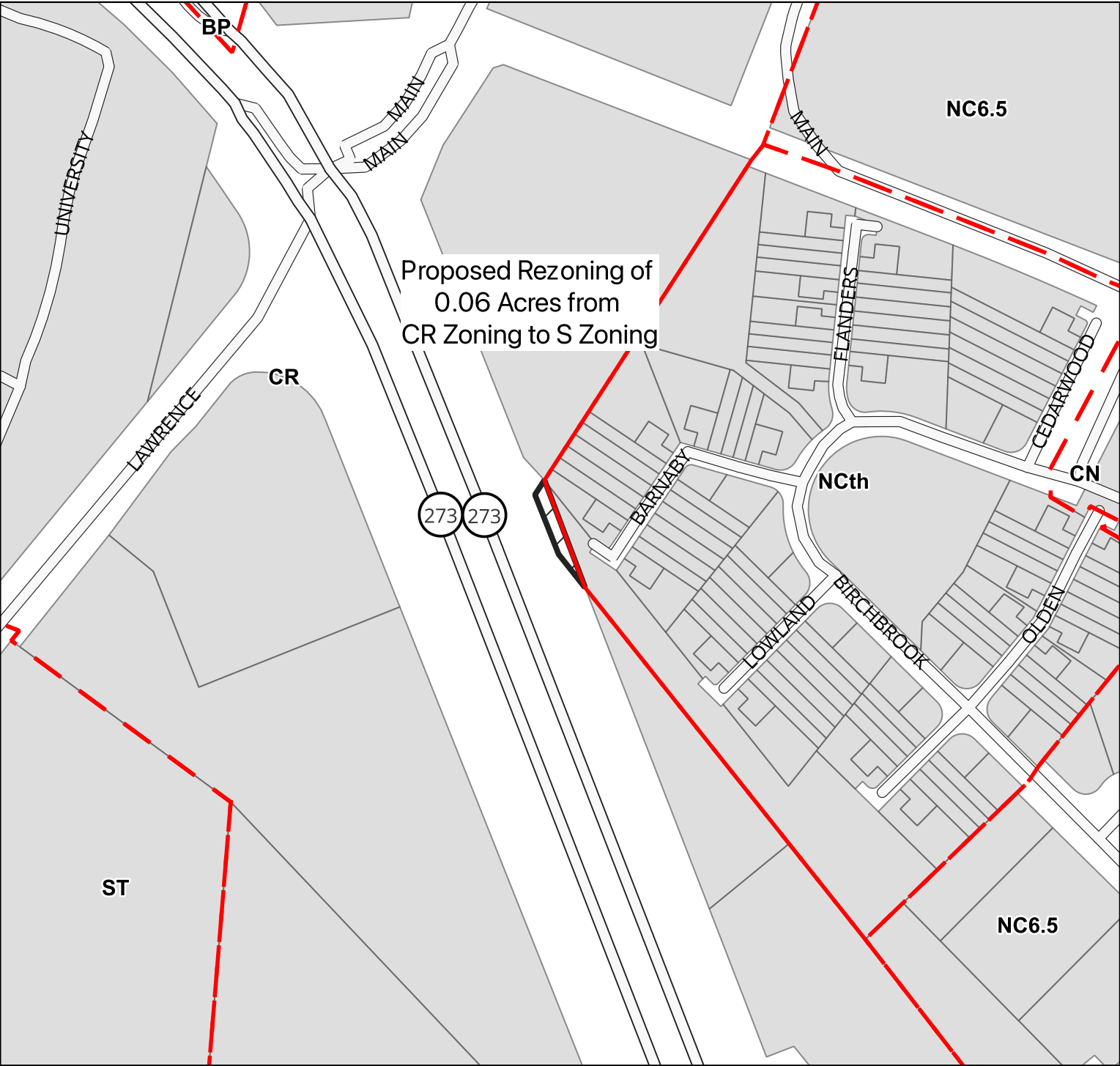
Date: 2/04/2024



PERMANENT ORDINANCE NO. 24- 023
Date Adopted by County Council:
Date Approved by County Executive:

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: CR ZONING TO S ZONING

APPLICATION NO. 2024-0086-Z
TAX PARCEL NO: 09-030.30-091



HUNDRED: WHITE CLAY CREEK
NEW CASTLE COUNTY, DELAWARE

Scale: 1:2407
Prepared by: Matthew Rogers

Date: 2/4/2024



PERMANENT ORDINANCE NO. 24- 023
Date Adopted by County Council:
Date Approved by County Executive:



Department of Land Use
**JOINT DEPARTMENT OF LAND USE / PLANNING BOARD
RECOMMENDATION**

**Ordinance No. 24-023
Application No. 2024-0086-Z
Comprehensive Rezoning**

May 21, 2024

Sponsor: Councilman Toole (District 1)

Description: Amend the Zoning Map for County Council District 1 consistent with the Future Land Use Map

EXECUTIVE SUMMARY

The 2022 Update to the New Castle County Comprehensive Development Plan (NCC2050) was the product of more than 2 years of extensive public outreach interacting with thousands of County residents through a variety of virtual and in person meetings.

Ordinance 24-023 proposes to amend the County's official zoning map to rezone lands in County Council District 1 in accordance with the uses and intensities of uses provided for in the Future Land Use Element in the 2022 Update to the New Castle County Comprehensive Development Plan. While the Future Land Use map itself is by Code *not a rezoning*¹ it effectuates future development, preservation, and rezonings in the County.² It further prescribes a range of permissible zoning districts within each designation. The County rezoning process and standards are how the appropriate district for each parcel is designated.

The 2022 Update to the New Castle County Comprehensive Development Plan designates parcels 09-011.00-070 and 09-030.30-091 as Resource Preservation in the Future Land Use Map. This designation described in the Comprehensive Plan as:

These areas include existing preserved lands as well as those appropriate for future preservation. Land within this district includes important environmental and agricultural resources as well as National Scenic Byway areas. Land Use policies shall discourage development and incentivize preservation of these resources.

¹ Del Code, Title 9, Chapter 26, § 2656, New Castle County Code Chapter 28, & NCC2050 Future Land Use Element Page 86.

² Farmers For Fairness v. Kent County Levy Court, 2012 WL 295060: Chancery Court discussed that since no development can occur that is inconsistent with the Land Use Map, that it can be an "effective rezoning"

Rezoning parcels 09-011.00-070 and 09-030.30-091, from a nonresidential to residential zoning designation (Suburban) will better preserve and protect these open space, environmental, and historical resources, while discouraging development that could be detrimental.

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use map, comments received from outside agencies, and comments received from the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

DESCRIPTION

Ordinance 24-023 is a rezoning ordinance that rezones 2 parcels (09-011.00-070 and 09-030.30-091) from nonresidential designations to residential designations consistent with the Future Land Use map and pursuant to Delaware State Law.³

BACKGROUND

The history of the comprehensive rezoning process dates to the 1950s. Subsequent sections examine how State and County codes evolved over time as well as important comprehensive rezonings in New Castle County history.

Establishment of Zoning & the Rezoning Process

The process and set of standards established in Delaware State Code for rezonings has largely been unchanged since 1951. On June 5, 1951, the State of Delaware granted the Levy Court of New Castle County the authority to adopt zoning regulations and provided a process and legal notice requirements for the establishment and amendment of zoning maps. The process required that the Levy Court establish a Zoning Plan, have a public hearing with the Zoning Commission with notice at least 15 days prior to the hearing in the newspaper of general circulation in the County and adoption by the Levy Court. The process for amendments to the zoning map largely mirrored that of establishing zoning, with the exception of reducing the notice requirement to seven days prior to the Zoning Commission hearing.⁴ New Castle County adopted zoning regulations in September of 1954.

Levy Court to County Executive/Council/Planning Board & Comprehensive Planning⁵

³ Ibid.

⁴ Zoning Enabling Legislation: <https://legis.delaware.gov/SessionLaws/Chapter?id=33182> Dillon's Rule additional reading: <https://www.planning.org/planning/2020/mar/tools-legal-lessons/>

⁵ Reorganization Of The Government Of New Castle County And Amending And Repealing Existing Laws Pertaining Thereto: <https://legis.delaware.gov/SessionLaws/Chapter?id=17035>

In 1965, the structure of New Castle County government was reorganized, replacing the Levy Court with a County Executive and County Council. The rezoning regulations were revised to accommodate this change. This legislation also set forth the requirement that the County adopt a Comprehensive Plan to guide future development but provided limited guidance regarding the drafting or utility of the document.

Quality of Life Act of 1988⁶

Delaware State government adopted the Quality of Life Act in 1988 to further “*strengthen the existing role, processes, and powers of County governments in the establishment and implementation of comprehensive planning programs to guide and control future development.*” Adoption of the Quality of Life Act largely established and standardized the requirements, elements, and overall utility of the County’s Comprehensive Development Plan that exists today. A key provision in the Quality of Life Act detailed the effect of the adoption of comprehensive plan’s land use maps:

*After a comprehensive plan or element or portion thereof has been adopted by County Council or Levy Court in conformity with this Act, the land use map or map series forming part of the comprehensive plan as required by this Act shall have the **force of law**, and no development, as defined in this Act, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.*⁷

The Delaware Chancery Court confirmed that the land use element/map had the force of law, and that no development is permitted that is not in conformity to it.⁸ When the Quality of Life Act was adopted, there was no time requirement for the zoning map to be brought into conformity with the land use map. In 2001, State Code was revised to read:

*Within 18 months of the date of adoption of the county comprehensive plan or revisions thereof, New Castle County shall amend its official zoning map(s) to rezone all lands in accordance with the uses and intensities of uses provided for in the future land use element for the county. In the event that the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the county, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.*⁹

Rezoning in New Castle County

⁶ Quality of Life Act of 1988: <https://legis.delaware.gov/SessionLaws/Chapter?id=22445>

⁷ Ibid. Emphasis added.

⁸ In *Farmers for Fairness v. Kent County Levy Court*, 2012 WL 295060, the Court of Chancery stated; *The Act is unambiguous. The land use map or map series has “the force of law,” and the County may not permit development contrary to that provided for in the land use map. The statutory language ...is straightforward and uncomplicated. The “force of law” means that any provisions in the land use map or map series have a “legally binding effect.”*

⁹ <https://legis.delaware.gov/SessionLaws/Chapter?id=19151>

Since the adoption of zoning in 1954, all changes to New Castle County's zoning map have fundamentally followed the process that was originally established in 1951, whether for 1 or 100,000 parcels. The utility of these rezonings ranged from larger initiatives, such as the adoption of the UDC, Diversified Planned Unit Developments, Hometown and Historic Overlays to smaller initiatives such as to legalize existing uses or to support the subsequent recordation of a plan that provides for important residential and nonresidential development.

2022 Update to the New Castle County Comprehensive Plan

The 2022 Update to the New Castle County Comprehensive Plan (The Plan) was the product of more than two years of extensive public outreach. During that process, the Department made extensive efforts to reach out and garner public feedback on not only the overall Goals/Objectives/Strategies expressed in the plan, but also the Future Land Use map and Element.

The Future Land Use map prescribed changing designations from residential to nonresidential in instances where property owners believed that development was likely within the next ten years, to avoid repetitive amendments to the Future Land Use map outside of the formal comprehensive planning process.

The Future Land Use map prescribed changing designations from nonresidential to Resource Preservation in recognition of protected open space and to further protect ecological resources such as Critical Natural Areas.

Ordinance 23-083 Comprehensive Rezoning

Ordinance 23-083 was introduced on June 13, 2023, proposing the rezoning 33 parcels from residential zoning designations to nonresidential zoning designations and 61 parcels from nonresidential designations to residential designations consistent with the Future Land Use map and pursuant to Delaware State Law.¹⁰ The Ordinance was reviewed and recommended for approval by the Department of Land Use and the Planning Board, however was subsequently withdrawn on February 13, 2024, by County Council to facilitate the Department pursuing the *Take 2* initiative. This effort includes conducting additional public outreach and dividing rezoning effort by County Council District.

Ordinance 24-023 Comprehensive Rezoning County Council District 1

Ordinance 24-023 was introduced on February 27, 2024, proposing to rezone 2 parcels from residential to nonresidential zoning designations:

Parcel 09-011.00-070 - 0.86 acres from Office Neighborhood (ON) to Suburban (S)

¹⁰ Ibid.

Owner: State of Delaware
Address: 606 Stanton Christiana Rd

Parcel 09-030.30-091 - 0.06 acres from Commercial Regional (CR) to Suburban (S)
Owner: New Castle County
Address: 2008 Point Hamlet Rd

Take 2 Community Meeting

On March 11, 2024, in coordination with County Councilmembers held a community meeting at the Gilliam Building regarding the Group 1 Comprehensive Rezoning (Ordinances; 24-023, 24-024, and 24-025). Residents had the opportunity to review maps of the proposed rezonings and have their questions answered by Department of Land Use staff.

PLUS REVIEW (Preliminary Land Use Service)

The Rezoning proposed by Ordinance 24-023 were originally proposed by Ordinance 23-083 and as such the PLUS Report, dated August 23, 2023, contains relevant comments from State agencies. The Office of State Planning Coordination reiterated their support for the 2022 New Castle County Comprehensive Plan and its goals and strategies as well as for the rezonings proposed. No other State agency had any comments.¹¹

PLANNING BOARD PUBLIC HEARING – April 4, 2024

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use and hyperlinked below.¹²

Presentation

Matthew Rogers, Planner for the Department of Land Use, presented the Ordinance 24-023, discussing the process, outreach, and specific properties proposed to be rezoned as well as the rationale for the rezoning. There were no questions or comments from the Planning Board following Mr. Rogers' presentation.

Public Comment

There was no public comment on the application at the public hearing.

Written Public Comment:

The Department of Land Use did not receive written public comment while the record was open.

¹¹ PLUS Report: <https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=770318>

¹² April 2, 2024, Planning Board Public Hearing:
<https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=789150>

ANALYSIS

Ordinance 24-023 proposes rezoning 2 parcels (09-011.00-070 and 09-030.30-091) from nonresidential designations; Office Neighborhood (ON) and Commercial Regional (CR) respectively, to a residential zoning designation Suburban (S), consistent with the 2022 Update to the New Castle County Comprehensive Plan, which designated both parcels as Resource Preservation.

Parcel 09-011.00-070, owned by the State of Delaware is home to the National Register listed Hale-Byrnes House. As discussed at the Planning Board Public Hearing, this is a home that was built in 1750, and was specifically notable since after the Battle of Cooch's Bridge, General George Washington held council at the house (September 6, 1777). Additionally, the site is home to the George Washington Witness Tree of Delaware. The site is also encumbered by environmental resources being in the 100-year floodplain.

Parcel 09-030.30-091 is owned by New Castle County and is part of the Christiana Village Development's open space. The 0.06-acre portion of the 1.30-acre parcel is the only part that has a nonresidential zoning designation, the remainder is zoned Neighborhood Conservation (NCth). Since land cannot be rezoned to Neighborhood Conservation, the appropriate zoning designation is Suburban for this area of the county.

The 2022 Update to the New Castle County Comprehensive Development Plan describes land designated as Resource Preservation as:

These areas include existing preserved lands as well as those appropriate for future preservation. Land within this district includes important environmental and agricultural resources as well as National Scenic Byway areas. Land Use policies shall discourage development and incentivize preservation of these resources.

Rezoning parcels 09-011.00-070 and 09-030.30-091, from a nonresidential to residential zoning designation serves to better preserve and protect these open space, environmental, and historical resources, while discouraging development that could be detrimental.

Standards of Review

Pursuant to Section 40.31.410 of the New Castle County Code, in determining whether an amendment to the zoning map shall be recommended or approved, the following factors shall be considered:

A. *Consistency with the Comprehensive Development Plan and the purposes of this Chapter.*

Parcels 09-011.00-070 and 09-030.30-091 are both designated as Resource Preservation by the Future Land Use Maps. Nonresidential zoning designations are not permissible within this designation. Residential districts such as Suburban are appropriate for the land designated as Resource Preservation. The County has determined that land use policy for land with the Future Land Use designation of Resource Preservation, is to encourage the preservation of environmental, agricultural, and historic resources and would permit development consistent and sensitive to existing community character. The rezoning of parcels 09-011.00-070 and 09-030.30-091 proposed by Ordinance 24-023 is consistent with the Future Land Use Map, as well as the Comprehensive Development Plan as a whole.

B. Consistency with the character of the neighborhood.

While parcel 09-011.00-070 is bordered by nonresidential uses to the north and south of the site, it has residential land to the west as well as the White Clay Creek to the east. Parcel 09-030.30-091 is part of the Christiana Village Development's open space and will continue to exist in this capacity.

C. Consistency with zoning and use of nearby properties.

While neither parcel 09-011.00-070 nor 09-030.30-091 are adjacent to Suburban (S) zoned land, it is appropriate to zone these properties to S, since the Unified Development Code does not permit rezoning land to a Neighborhood Conservation district.

D. Suitability of the property for the uses for which it has been proposed or restricted.

Parcel 09-011.00-070, owned by the State of Delaware is home to the historic Hale-Byrnes House, and Parcel 09-030.30-091 is part of the Christiana Village Development's open space. The rezoning of these parcels is consistent with the current and future use of these properties.

E. Effect on nearby properties.

The rezoning of parcels 09-011.00-070 and 09-030.30-091 to Suburban, discouraging development and encouraging preservation of the land will not have a negative impact on nearby properties, and will be consistent with their current use and that of nearby properties.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use Map, the comments received from outside agencies, and the comments received by the public. Based on this analysis,

the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

PLANNING BOARD RECOMMENDATION

At a business meeting held on May 21, 2024, the Planning Board considered the recommendation provided by the Department of Land use as well as comments from outside agencies and the public.

On a motion made by Mr. Snowden and seconded by Ms. Visvardis, the Board voted to recommend **APPROVAL** of Ordinance 24-023 as recommended by the Department of Land Use.

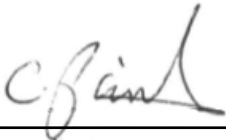
The motion was adopted by a vote of 7-0-0-2 (In Favor: Peterson, Cahill-Krout, Cantrell, Drake, Gray, Snowden, Visvardis; In Opposition: None; Abstention: None; Absent: Cochran, Daigle).

Prior to the vote the following discussion occurred:

Matthew Rogers read the Department of Land Use recommendation into the record. There were no questions from the Board.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code Section 2603 (a), the Department of Land Use finds that this rezoning would promote the convenience, order, and welfare of the present and future inhabitants of this state.

 05/24/2024

Charuni Patibanda date
General Manager
Department of Land Use

 05/24/2024

Karen Peterson date
Chair
Planning Board

ORDINANCE NO. 24-024

**COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING
MAPS IN COUNTY COUNCIL DISTRICT 10 REGARDING THE FOLLOWING
TAX PARCELS: CHRISTIANA HUNDRED: 07-043.40-054 (2 Highspeed Way), 07-
043.40-055 (1400 Delmarva Ln, Russell W Peterson Urban Wildlife Refuge), 07-044.30-
003 (0 S Madison St Off)**

1 **WHEREAS**, County Council adopted Substitute No. 2 to Ordinance No. 22-024 as
2 amended by Floor Amendment No. 1 ("New Castle County Comprehensive Plan" or "the
3 Plan"), on July 26, 2022, and the County Executive approved the Ordinance on August
4 4, 2022; and

5
6 **WHEREAS**, the Future Land Use Element and Map Series of the New Castle
7 County Comprehensive Plan designates proposed future general distribution, location
8 and extent of the uses of land consistent with goals, policies and measurable objectives
9 enumerated in the Plan; and

10
11 **WHEREAS**, the New Castle County Comprehensive Plan guides and encourages
12 sustainable economic development sensitive to the context of neighboring residential
13 developments; and

14
15 **WHEREAS**, the New Castle County Comprehensive Plan guides and encourages
16 preservation efforts to best protect important ecological habitats; and

17
18 **WHEREAS**, 9 *Del. C. § 2660* requires New Castle County to amend its official
19 zoning map within eighteen months of the date of adoption of a revision to the county
20 comprehensive plan "to rezone all lands in accordance with the uses and intensities of
21 uses provided for in the future land use element for the County"; and

22
23 **WHEREAS**, Ordinance No. 23-083 was introduced on June 13, 2023, to amend
24 the official zoning map in accordance with the uses and intensities of uses provided for in
25 the future land use element of the New Castle County Comprehensive Plan; and

26
27 **WHEREAS**, the County can foster more informed participation by the public,
28 including increased opportunities for review, by amending the zoning map in smaller
29 portions, such as by Councilmanic District; and

30
31 **WHEREAS**, this County-initiated rezoning is intended to guide and control future
32 growth consistent with the spirit and intent of the Comprehensive Development Plan as
33 provided by State law; and

34 **WHEREAS**, County Council has determined that the amendments to the zoning
35 map substantially advance, and are reasonably and rationally related to, legitimate
36 government interests (i.e., promoting the health, safety, morals, convenience, order,
37 prosperity and/or welfare of the present and future inhabitants of this State).

38
39 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
40

41 Section 1. The Zoning Maps of Christiana Hundred, are hereby amended by
42 changing the zoning classification of the land shown on attached Exhibit "A", Map 1 dated
43 February 4, 2024, as set forth therein.
44

45 Section 2. This Ordinance shall become effective immediately upon passage by
46 New Castle County Council and approval of the County Executive, or as otherwise
47 provided in 9 *Del. C.* § 1156.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

Approved on:

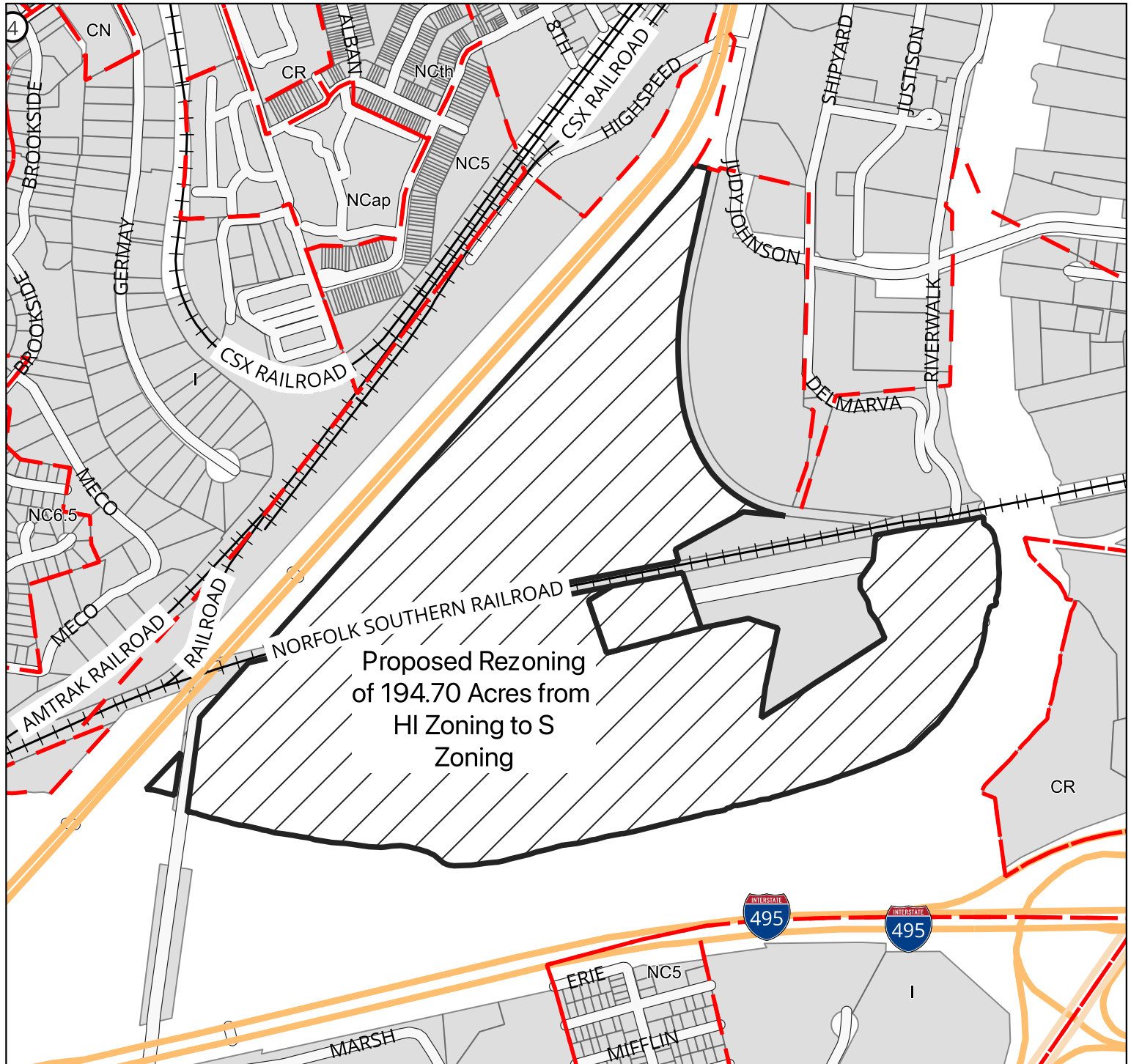
Matthew Meyer
County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL IMPACT: None

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: HI ZONING TO S ZONING

APPLICATION NO. 2024-0088-Z
TAX PARCEL NO: 07-043.40-054, 07-043.40-055,
07-044.30-003



HUNDRED: CHRISTIANA
NEW CASTLE COUNTY, DELAWARE

Scale: 1:10031
Prepared by: Matthew Rogers

Date: 2/4/2024



PERMANENT ORDINANCE NO. 24- 024
Date Adopted by County Council:
Date Approved by County Executive:



Department of Land Use
**JOINT DEPARTMENT OF LAND USE / PLANNING BOARD
RECOMMENDATION**

**Ordinance No. 24-024
Application No. 2024-0088-Z
Comprehensive Rezoning**

May 21, 2024

Sponsor: Councilman Street (District 10)

Description: Amend the Zoning Map for County Council District 10 consistent with the Future Land Use Map

EXECUTIVE SUMMARY

The 2022 Update to the New Castle County Comprehensive Development Plan (NCC2050) was the product of more than 2 years of extensive public outreach interacting with thousands of County residents through a variety of virtual and in person meetings.

Ordinance 24-024 proposes to amend the County's official zoning map to rezone lands in County Council District 10 in accordance with the uses and intensities of uses provided for in the Future Land Use Element in the 2022 Update to the New Castle County Comprehensive Development Plan. While the Future Land Use map itself is by Code *not a rezoning*¹ it effectuates future development, preservation, and rezonings in the County.² It further prescribes a range of permissible zoning districts within each designation. The County rezoning process and standards are how the appropriate district for each parcel is designated.

The 2022 Update to the New Castle County Comprehensive Development Plan designates parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 as Resource Preservation in the Future Land Use Map. This designation described in the Comprehensive Plan as:

These areas include existing preserved lands as well as those appropriate for future preservation. Land within this district includes important environmental and agricultural resources as well as National Scenic Byway areas. Land Use policies shall discourage development and incentivize preservation of these resources.

¹ Del Code, Title 9, Chapter 26, § 2656, New Castle County Code Chapter 28, & NCC2050 Future Land Use Element Page 86.

² Farmers For Fairness v. Kent County Levy Court, 2012 WL 295060: Chancery Court discussed that since no development can occur that is inconsistent with the Land Use Map, that it can be an "effective rezoning"

Rezoning parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003, from a nonresidential to residential zoning designation (Suburban) will better preserve and protect these open space and environmental resources, while discouraging development that could be detrimental.

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use map, comments received from outside agencies, and comments received from the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

DESCRIPTION

Ordinance 24-024 is a rezoning ordinance that rezones 3 parcels (07-043.40-054, 07-043.40-055, and 07-044.30-003) from nonresidential designations to residential designations consistent with the Future Land Use map and pursuant to Delaware State Law.³

BACKGROUND

The history of the comprehensive rezoning process dates to the 1950s. Subsequent sections examine how State and County codes evolved over time as well as important comprehensive rezonings in New Castle County history.

Establishment of Zoning & the Rezoning Process

The process and set of standards established in Delaware State Code for rezonings has largely been unchanged since 1951. On June 5, 1951, the State of Delaware granted the Levy Court of New Castle County the authority to adopt zoning regulations and provided a process and legal notice requirements for the establishment and amendment of zoning maps. The process required that the Levy Court establish a Zoning Plan, have a public hearing with the Zoning Commission with notice at least 15 days prior to the hearing in the newspaper of general circulation in the County and adoption by the Levy Court. The process for amendments to the zoning map largely mirrored that of establishing zoning, with the exception of reducing the notice requirement to seven days prior to the Zoning Commission hearing.⁴ New Castle County adopted zoning regulations in September of 1954.

Levy Court to County Executive/Council/Planning Board & Comprehensive Planning⁵

³ Ibid.

⁴ Zoning Enabling Legislation: <https://legis.delaware.gov/SessionLaws/Chapter?id=33182> Dillon's Rule additional reading: <https://www.planning.org/planning/2020/mar/tools-legal-lessons/>

⁵ Reorganization Of The Government Of New Castle County And Amending And Repealing Existing Laws Pertaining Thereto: <https://legis.delaware.gov/SessionLaws/Chapter?id=17035>

In 1965, the structure of New Castle County government was reorganized, replacing the Levy Court with a County Executive and County Council. The rezoning regulations were revised to accommodate this change. This legislation also set forth the requirement that the County adopt a Comprehensive Plan to guide future development but provided limited guidance regarding the drafting or utility of the document.

Quality of Life Act of 1988⁶

Delaware State government adopted the Quality of Life Act in 1988 to further “*strengthen the existing role, processes, and powers of County governments in the establishment and implementation of comprehensive planning programs to guide and control future development.*” Adoption of the Quality of Life Act largely established and standardized the requirements, elements, and overall utility of the County’s Comprehensive Development Plan that exists today. A key provision in the Quality of Life Act detailed the effect of the adoption of comprehensive plan’s land use maps:

*After a comprehensive plan or element or portion thereof has been adopted by County Council or Levy Court in conformity with this Act, the land use map or map series forming part of the comprehensive plan as required by this Act shall have the **force of law**, and no development, as defined in this Act, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.*⁷

The Delaware Chancery Court confirmed that the land use element/map had the force of law, and that no development is permitted that is not in conformity to it.⁸ When the Quality of Life Act was adopted, there was no time requirement for the zoning map to be brought into conformity with the land use map. In 2001, State Code was revised to read:

*Within 18 months of the date of adoption of the county comprehensive plan or revisions thereof, New Castle County shall amend its official zoning map(s) to rezone all lands in accordance with the uses and intensities of uses provided for in the future land use element for the county. In the event that the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the county, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.*⁹

Rezoning in New Castle County

⁶ Quality of Life Act of 1988: <https://legis.delaware.gov/SessionLaws/Chapter?id=22445>

⁷ Ibid. Emphasis added.

⁸ In *Farmers for Fairness v. Kent County Levy Court*, 2012 WL 295060, the Court of Chancery stated; *The Act is unambiguous. The land use map or map series has “the force of law,” and the County may not permit development contrary to that provided for in the land use map. The statutory language ...is straightforward and uncomplicated. The “force of law” means that any provisions in the land use map or map series have a “legally binding effect.”*

⁹ <https://legis.delaware.gov/SessionLaws/Chapter?id=19151>

Since the adoption of zoning in 1954, all changes to New Castle County's zoning map have fundamentally followed the process that was originally established in 1951, whether for 1 or 100,000 parcels. The utility of these rezonings ranged from larger initiatives, such as the adoption of the UDC, Diversified Planned Unit Developments, Hometown and Historic Overlays to smaller initiatives such as to legalize existing uses or to support the subsequent recordation of a plan that provides for important residential and nonresidential development.

2022 Update to the New Castle County Comprehensive Plan

The 2022 Update to the New Castle County Comprehensive Plan (The Plan) was the product of more than two years of extensive public outreach. During that process, the Department made extensive efforts to reach out and garner public feedback on not only the overall Goals/Objectives/Strategies expressed in the plan, but also the Future Land Use map and Element.

The Future Land Use map prescribed changing designations from residential to nonresidential in instances where property owners believed that development was likely within the next ten years, to avoid repetitive amendments to the Future Land Use map outside of the formal comprehensive planning process.

The Future Land Use map prescribed changing designations from nonresidential to Resource Preservation in recognition of protected open space and to further protect ecological resources such as Critical Natural Areas.

Ordinance 23-083 Comprehensive Rezoning

Ordinance 23-083 was introduced on June 13, 2023, proposing the rezoning 33 parcels from residential zoning designations to nonresidential zoning designations and 61 parcels from nonresidential designations to residential designations consistent with the Future Land Use map and pursuant to Delaware State Law.¹⁰ The Ordinance was reviewed and recommended for approval by the Department of Land Use and the Planning Board, however was subsequently withdrawn on February 13, 2024, by County Council to facilitate the Department pursuing the *Take 2* initiative. This effort includes conducting additional public outreach and dividing rezoning effort by County Council District.

Ordinance 24-024 Comprehensive Rezoning County Council District 1

Ordinance 24-024 was introduced on February 27, 2024, proposing to rezone 3 parcels from residential to nonresidential zoning designations:

Parcel 07-043.40-054 – 73.58 acres from Heavy Industry (HI) to Suburban (S)

¹⁰ Ibid.

Owner: Riverfront Development Corporation of Delaware
Address: 2 Highspeed Way

Parcel 07-043.40-055- 118.05 acres from Heavy Industry (HI) to Suburban (S)
Owner: Riverfront Development Corporation of Delaware
Address: 1400 Delmarva Ln.

Parcel 07-044.30-003 - 4.58 acres from Heavy Industry (HI) to Suburban (S)
Owner: Riverfront Development Corporation of Delaware
Address: 0 Off S Madison St

Take 2 Community Meeting

On March 11, 2024, in coordination with County Councilmembers held a community meeting at the Gilliam Building regarding the Group 1 Comprehensive Rezoning (Ordinances; 24-023, 24-024, and 24-025). Residents had the opportunity to review maps of the proposed rezonings and have their questions answered by Department of Land Use staff.

PLUS REVIEW (Preliminary Land Use Service)

The Rezonings proposed by *Ordinance 24-024* were originally proposed by Ordinance 23-083 and as such the PLUS Report, dated August 23, 2023, contains relevant comments from State agencies. The Office of State Planning Coordination reiterated their support for the 2022 New Castle County Comprehensive Plan and its goals and strategies as well as for the rezonings proposed. No other State agency had any comments.¹¹

PLANNING BOARD PUBLIC HEARING – April 2, 2024

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use and hyperlinked below.¹²

Presentation

Matthew Rogers, Planner for the Department of Land Use, presented the *Ordinance 24-024*, discussing the process, outreach, and specific properties proposed to be rezoned as well as the rationale for the rezoning. After the presentation, Ms. Gray inquired if rezoning the land to Suburban would permit future development of the land. Mr. Rogers explained that in their capacity as open space and being as extensively encumbered by environmental resources (floodplain and wetlands, both of which are 100% protected by the UDC) that the land was not developable. There were no additional questions or comments from the Planning Board following Mr. Rogers' presentation.

¹¹ PLUS Report: <https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=770318>

¹² April 2, 2024, Planning Board Public Hearing:
<https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=789152>

Public Comment

There was no public comment on the application at the public hearing.

Written Public Comment:

The Department of Land Use did not receive written public comment while the record was open.

ANALYSIS

Ordinance 24-024 proposes rezoning 3 parcels (07-043.40-054, 07-043.40-055, and 07-044.30-003) from nonresidential designations; Heavy Industry (HI) to a residential zoning designation Suburban (S), consistent with the 2022 Update to the New Castle County Comprehensive Plan, which designated both parcels as Resource Preservation.

Parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003, are collectively owned by the Riverfront Development Corporation of Delaware. As discussed at the Planning Board Public Hearing, these parcels are part of the Russell W. Peterson Wildlife Refuge. Additionally, the site is home to a portion of the Governor Markell Trail, providing recreational opportunities for county residents. The site is also encumbered by environmental resources being in the 100-year floodplain and wetlands.

The 2022 Update to the New Castle County Comprehensive Development Plan describes land designated as Resource Preservation as:

These areas include existing preserved lands as well as those appropriate for future preservation. Land within this district includes important environmental and agricultural resources as well as National Scenic Byway areas. Land Use policies shall discourage development and incentivize preservation of these resources.

Rezoning parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003, from a nonresidential to residential zoning designation serves to better preserve and protect these open space, and environmental resources, while discouraging development that could be detrimental.

Standards of Review

Pursuant to Section 40.31.410 of the New Castle County Code, in determining whether an amendment to the zoning map shall be recommended or approved, the following factors shall be considered:

- A. *Consistency with the Comprehensive Development Plan and the purposes of this Chapter.*

Parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 are all designated as Resource Preservation by the Future Land Use Maps. Nonresidential zoning designations are not permissible with in this designation. Residential districts such as Suburban are appropriate for the land designated as Resource Preservation. The County has determined that land use policy for land with the Future Land Use designation of Resource Preservation, is to encourage the preservation of environmental, agricultural, and historic resources and would permit development consistent and sensitive to existing community character. The rezoning of parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 proposed by Ordinance 24-024 is consistent with the Future Land Use Map, as well as the Comprehensive Development Plan as a whole.

B. Consistency with the character of the neighborhood.

While parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 are bordered by nonresidential uses to the north, it is bordered by the Christina River to the south. As a longtime part of the Russell W. Peterson Wildlife Refuge and home to the Governor Markell Trail continued existence as an environmental and recreational open space area will be consistent with the character of the neighborhood.

C. Consistency with zoning and use of nearby properties.

While parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 are not bordered by existing Suburban zoned land, they individually and collectively meet the Site Area requirements in Article 3 of the UDC to rezone to Suburban.

D. Suitability of the property for the uses for which it has been proposed or restricted.

Parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 are proposed to continue to be an environmental and recreational open space area being part of the Russell W. Peterson Wildlife Refuge and home to the Governor Markell Trail. The rezoning of these parcels is consistent with the current and future use of these properties.

E. Effect on nearby properties.

The rezoning of parcels 07-043.40-054, 07-043.40-055, and 07-044.30-003 to Suburban, discouraging development and encouraging preservation of the land will not have a negative impact on nearby properties, and will be consistent with their current use as open space areas.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E *of the Unified Development Code*, the Future Land Use Map, the comments

received from outside agencies, and the comments received by the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

PLANNING BOARD RECOMMENDATION

At a business meeting held on May 21, 2024, the Planning Board considered the recommendation provided by the Department of Land use as well as comments from outside agencies and the public.

On a motion made by Ms. Cahill-Krout and seconded by Ms. Visvardis, the Board voted to recommend **APPROVAL** of Ordinance 24-024 as recommended by the Department of Land Use.

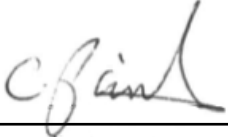
The motion was adopted by a vote of 7-0-0-2 (In Favor: Peterson, Cahill-Krout, Cantrell, Drake, Gray, Snowden, Visvardis; In Opposition: None; Abstention: None; Absent: Cochran, Daigle).

Prior to the vote the following discussion occurred:

Matthew Rogers read the Department of Land Use recommendation into the record. There were no questions from the Board.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code Section 2603 (a), the Department of Land Use finds that this rezoning would promote the convenience, order, and welfare of the present and future inhabitants of this state.

 05/24/2024

Charuni Patibanda date
General Manager
Department of Land Use

 05/24/2024

Karen Peterson date
Chair
Planning Board

ORDINANCE NO. 24-025

COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS IN COUNTY COUNCIL DISTRICT 3 REGARDING THE FOLLOWING TAX PARCELS: CHRISTIANA HUNDRED: 07-009.00-027 (17 Gun Club Rd, Auburn Valley), 07-009.00-028 (0 Creek Rd); MILL CREEK HUNDRED: 07-009.00-027 (17 Gun Club Rd, Auburn Valley), 08-001.00-022 (1166 Yorklyn Rd, Auburn Valley), 08-007.40-124 (623 Yorklyn Rd, Hockessin Center), 09-008.00-010 (0 Creek Rd, 555 Paper Mill Road)

1 **WHEREAS**, County Council adopted Substitute No. 2 to Ordinance No. 22-024 as
2 amended by Floor Amendment No. 1 ("New Castle County Comprehensive Plan" or "the
3 Plan"), on July 26, 2022, and the County Executive approved the Ordinance on August
4 4, 2022; and
5

6 **WHEREAS**, the Future Land Use Element and Map Series of the New Castle
7 County Comprehensive Plan designates proposed future general distribution, location
8 and extent of the uses of land consistent with goals, policies and measurable objectives
9 enumerated in the Plan; and
10

11 **WHEREAS**, the New Castle County Comprehensive Plan guides and encourages
12 sustainable economic development sensitive to the context of neighboring residential
13 developments; and
14

15 **WHEREAS**, the New Castle County Comprehensive Plan guides and encourages
16 preservation efforts to best protect important ecological habitats; and
17

18 **WHEREAS**, 9 *Del. C. § 2660* requires New Castle County to amend its official
19 zoning map within eighteen months of the date of adoption of a revision to the county
20 comprehensive plan "to rezone all lands in accordance with the uses and intensities of
21 uses provided for in the future land use element for the County"; and
22

23 **WHEREAS**, Ordinance No. 23-083 was introduced on June 13, 2023, to amend
24 the official zoning map in accordance with the uses and intensities of uses provided for in
25 the future land use element of the New Castle County Comprehensive Plan; and
26

27 **WHEREAS**, the County can foster more informed participation by the public,
28 including increased opportunities for review, by amending the zoning map in smaller
29 portions, such as by Councilmanic District; and
30

31 **WHEREAS**, this County-initiated rezoning is intended to guide and control future
32 growth consistent with the spirit and intent of the Comprehensive Development Plan as
33 provided by State law; and

34 **WHEREAS**, County Council has determined that the amendments to the zoning
35 map substantially advance, and are reasonably and rationally related to, legitimate
36 government interests (i.e., promoting the health, safety, morals, convenience, order,
37 prosperity and/or welfare of the present and future inhabitants of this State).

38
39 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
40

41 Section 1. The Zoning Maps of Christiana Hundred and Mill Creek Hundred are
42 hereby amended by changing the zoning classification of the land shown on attached
43 Exhibit "A", Maps 1-3 dated February 4, 2024, as set forth therein.
44

45 Section 2. This Ordinance shall become effective immediately upon passage by
46 New Castle County Council and approval of the County Executive, or as otherwise
47 provided in 9 *Del. C.* § 1156.

Adopted by County Council of
New Castle County on:

Karen Hartley-Nagle
President of County Council
of New Castle County

Approved on:

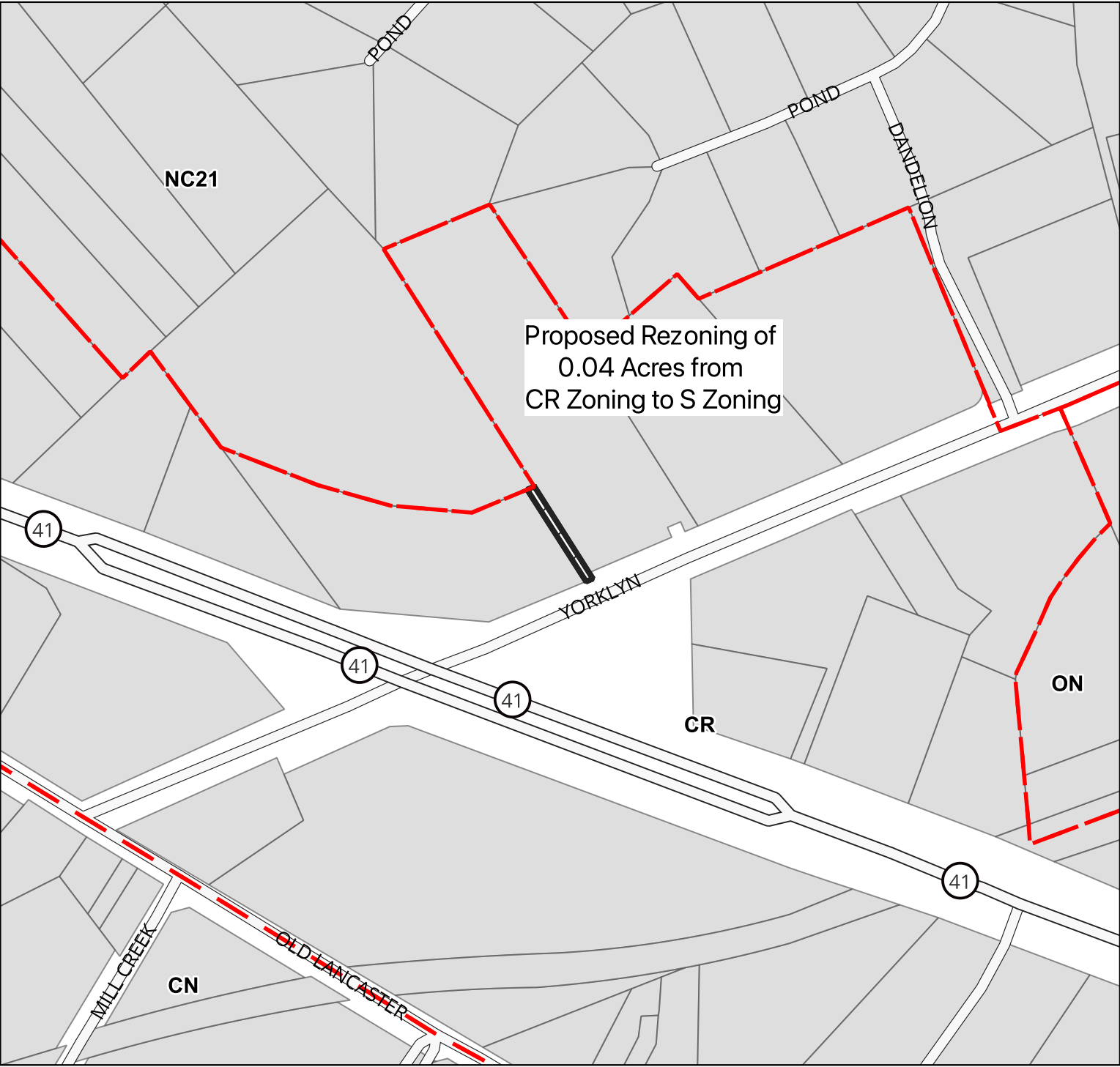
Matthew Meyer
County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL IMPACT: None

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: CR ZONING TO S ZONING

APPLICATION NO. 2024-0087-Z
TAX PARCEL NO: 08-007.40-124



HUNDRED: MILL CREEK
NEW CASTLE COUNTY, DELAWARE

Scale: 1:2355
Prepared by: Matthew Rogers

Date: 2/4/2024



PERMANENT ORDINANCE NO. 24-025
Date Adopted by County Council:
Date Approved by County Executive:

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: HI ZONING TO SE ZONING
I ZONING TO SE ZONING

APPLICATION NO. 2024-0087-Z
TAX PARCEL NO: 07-009.00-027,
08-001.00-022, 07-009.00-028



HUNDRED: CHRISTIANA AND MILL CREEK
NEW CASTLE COUNTY, DELAWARE

Scale: 1:2659
Prepared by: Matthew Rogers

Date: 2/4/2024



PERMANENT ORDINANCE NO. 24-025
Date Adopted by County Council:
Date Approved by County Executive:

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: OR ZONING TO SE ZONING

APPLICATION NO. 2024-0087-Z
TAX PARCEL NO: 09-008.00-010



HUNDRED: MILL CREEK
NEW CASTLE COUNTY, DELAWARE

Scale: 1:4347
Prepared by: Matthew Rogers

Date: 2/4/2024



PERMANENT ORDINANCE NO. 24-025
Date Adopted by County Council:
Date Approved by County Executive:



Department of Land Use
**JOINT DEPARTMENT OF LAND USE / PLANNING BOARD
RECOMMENDATION**

**Ordinance No. 24-025
Application No. 2024-0087-Z
Comprehensive Rezoning**

May 21, 2024

Sponsor: Councilwoman Kilpatrick (District 3)

Description: Amend the Zoning Map for County Council District 3 consistent with the Future Land Use Map

EXECUTIVE SUMMARY

The 2022 Update to the New Castle County Comprehensive Development Plan (NCC2050) was the product of more than 2 years of extensive public outreach interacting with thousands of County residents through a variety of virtual and in person meetings.

Ordinance 24-025 proposes to amend the County's official zoning map to rezone lands in County Council District 1 in accordance with the uses and intensities of uses provided for in the Future Land Use Element in the 2022 Update to the New Castle County Comprehensive Development Plan. While the Future Land Use map itself is by Code *not a rezoning*¹ it effectuates future development, preservation, and rezonings in the County.² It further prescribes a range of permissible zoning districts within each designation. The County rezoning process and standards are how the appropriate district for each parcel is designated.

The 2022 Update to the New Castle County Comprehensive Development Plan designates parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010 as Resource Preservation in the Future Land Use Map. This designation described in the Comprehensive Plan as:

These areas include existing preserved lands as well as those appropriate for future preservation. Land within this district includes important environmental and agricultural resources as well as National Scenic Byway areas. Land Use policies shall discourage development and incentivize preservation of these resources.

¹ Del Code, Title 9, Chapter 26, § 2656, New Castle County Code Chapter 28, & NCC2050 Future Land Use Element Page 86.

² Farmers For Fairness v. Kent County Levy Court, 2012 WL 295060: Chancery Court discussed that since no development can occur that is inconsistent with the Land Use Map, that it can be an "effective rezoning"

Rezoning parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010, from a nonresidential to residential zoning designations (Suburban & Suburban Estate) will better preserve and protect these open space, environmental, and historical resources, while discouraging development that could be detrimental.

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use map, comments received from outside agencies, and comments received from the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

DESCRIPTION

Ordinance 24-025 is a rezoning ordinance that rezones 5 parcels (07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010) from nonresidential designations to residential designations consistent with the Future Land Use map and pursuant to Delaware State Law.³

BACKGROUND

The history of the comprehensive rezoning process dates to the 1950s. Subsequent sections examine how State and County codes evolved over time as well as important comprehensive rezonings in New Castle County history.

Establishment of Zoning & the Rezoning Process

The process and set of standards established in Delaware State Code for rezonings has largely been unchanged since 1951. On June 5, 1951, the State of Delaware granted the Levy Court of New Castle County the authority to adopt zoning regulations and provided a process and legal notice requirements for the establishment and amendment of zoning maps. The process required that the Levy Court establish a Zoning Plan, have a public hearing with the Zoning Commission with notice at least 15 days prior to the hearing in the newspaper of general circulation in the County and adoption by the Levy Court. The process for amendments to the zoning map largely mirrored that of establishing zoning, with the exception of reducing the notice requirement to seven days prior to the Zoning Commission hearing.⁴ New Castle County adopted zoning regulations in September of 1954.

Levy Court to County Executive/Council/Planning Board & Comprehensive Planning⁵

³ Ibid.

⁴ Zoning Enabling Legislation: <https://legis.delaware.gov/SessionLaws/Chapter?id=33182> Dillon's Rule additional reading: <https://www.planning.org/planning/2020/mar/tools-legal-lessons/>

⁵ Reorganization Of The Government Of New Castle County And Amending And Repealing Existing Laws Pertaining Thereto: <https://legis.delaware.gov/SessionLaws/Chapter?id=17035>

In 1965, the structure of New Castle County government was reorganized, replacing the Levy Court with a County Executive and County Council. The rezoning regulations were revised to accommodate this change. This legislation also set forth the requirement that the County adopt a Comprehensive Plan to guide future development but provided limited guidance regarding the drafting or utility of the document.

Quality of Life Act of 1988⁶

Delaware State government adopted the Quality of Life Act in 1988 to further “*strengthen the existing role, processes, and powers of County governments in the establishment and implementation of comprehensive planning programs to guide and control future development.*” Adoption of the Quality of Life Act largely established and standardized the requirements, elements, and overall utility of the County’s Comprehensive Development Plan that exists today. A key provision in the Quality of Life Act detailed the effect of the adoption of comprehensive plan’s land use maps:

*After a comprehensive plan or element or portion thereof has been adopted by County Council or Levy Court in conformity with this Act, the land use map or map series forming part of the comprehensive plan as required by this Act shall have the **force of law**, and no development, as defined in this Act, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.*⁷

The Delaware Chancery Court confirmed that the land use element/map had the force of law, and that no development is permitted that is not in conformity to it.⁸ When the Quality of Life Act was adopted, there was no time requirement for the zoning map to be brought into conformity with the land use map. In 2001, State Code was revised to read:

*Within 18 months of the date of adoption of the county comprehensive plan or revisions thereof, New Castle County shall amend its official zoning map(s) to rezone all lands in accordance with the uses and intensities of uses provided for in the future land use element for the county. In the event that the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the county, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.*⁹

⁶ Quality of Life Act of 1988: <https://legis.delaware.gov/SessionLaws/Chapter?id=22445>

⁷ Ibid. Emphasis added.

⁸ In *Farmers for Fairness v. Kent County Levy Court*, 2012 WL 295060, the Court of Chancery stated; *The Act is unambiguous. The land use map or map series has “the force of law,” and the County may not permit development contrary to that provided for in the land use map. The statutory language ...is straightforward and uncomplicated. The “force of law” means that any provisions in the land use map or map series have a “legally binding effect.”*

⁹ <https://legis.delaware.gov/SessionLaws/Chapter?id=19151>

Rezoning in New Castle County

Since the adoption of zoning in 1954, all changes to New Castle County's zoning map have fundamentally followed the process that was originally established in 1951, whether for 1 or 100,000 parcels. The utility of these rezonings ranged from larger initiatives, such as the adoption of the UDC, Diversified Planned Unit Developments, Hometown and Historic Overlays to smaller initiatives such as to legalize existing uses or to support the subsequent recordation of a plan that provides for important residential and nonresidential development.

2022 Update to the New Castle County Comprehensive Plan

The 2022 Update to the New Castle County Comprehensive Plan (The Plan) was the product of more than two years of extensive public outreach. During that process, the Department made extensive efforts to reach out and garner public feedback on not only the overall Goals/Objectives/Strategies expressed in the plan, but also the Future Land Use map and Element.

The Future Land Use map prescribed changing designations from residential to nonresidential in instances where property owners believed that development was likely within the next ten years, to avoid repetitive amendments to the Future Land Use map outside of the formal comprehensive planning process.

The Future Land Use map prescribed changing designations from nonresidential to Resource Preservation in recognition of protected open space and to further protect ecological resources such as Critical Natural Areas.

Ordinance 23-083 Comprehensive Rezoning

Ordinance 23-083 was introduced on June 13, 2023, proposing the rezoning 33 parcels from residential zoning designations to nonresidential zoning designations and 61 parcels from nonresidential designations to residential designations consistent with the Future Land Use map and pursuant to Delaware State Law.¹⁰ The Ordinance was reviewed and recommended for approval by the Department of Land Use and the Planning Board, however was subsequently withdrawn on February 13, 2024, by County Council to facilitate the Department pursuing the *Take 2* initiative. This effort includes conducting additional public outreach and dividing rezoning effort by County Council District.

Ordinance 24-025 Comprehensive Rezoning County Council District 1

Ordinance 24-025 was introduced on February 27, 2024, proposing to rezone 5 parcels from residential to nonresidential zoning designations:

¹⁰ Ibid.

Parcel 08-007.40-124 - 0.04 acres from Commercial Regional (CR) to Suburban (S)

Owner: New Castle County

Address: 623 Yorklyn Rd.

Parcels: (1) 07-009.00-027, (2) 08-001.00-022, (3) 07-009.00-028 – 6.68 acres from Industrial (I) to Suburban Estate (SE), 7.57 acres from Heavy Industry (HI) to Suburban Estate (SE)

Owners: (1) & (2) – State of Delaware, (3) Historic Red Clay Valley Inc.

Addresses: (1) 17 Gun Club Rd., (2) 1166 Yorklyn Rd., (3) 0 Creek Rd.

Parcel 09-008.00-010 – 4.07 acres from Office Regional (OR) to Suburban Estate (SE)

Owner: State of Delaware

Address: 0 Creek Rd.

Take 2 Community Meeting

On March 11, 2024, in coordination with County Councilmembers held a community meeting at the Gilliam Building regarding the Group 1 Comprehensive Rezoning (*Ordinances; 24-025, 24-024, and 24-025*). Residents had the opportunity to review maps of the proposed rezonings and have their questions answered by Department of Land Use staff.

PLUS REVIEW (Preliminary Land Use Service)

The Rezoning proposed by *Ordinance 24-025* were originally proposed by Ordinance 23-083 and as such the PLUS Report, dated August 23, 2023, contains relevant comments from State agencies. The Office of State Planning Coordination reiterated their support for the 2022 New Castle County Comprehensive Plan and its goals and strategies as well as for the rezonings proposed. No other State agency had any comments.¹¹

PLANNING BOARD PUBLIC HEARING – April 4, 2024

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use and hyperlinked below.¹²

Presentation

¹¹ PLUS Report: <https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=770318>

¹² April 2, 2024, Planning Board Public Hearing:
<https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=789151>

Matthew Rogers, Planner for the Department of Land Use, presented the *Ordinance 24-025*, discussing the process, outreach, and specific properties proposed to be rezoned as well as the rationale for the rezoning. After the presentation, Mr. Snowden inquired about the ownership of parcel 08-007.40-124 (623 Yorklyn Rd.) and that the portion proposed for rezoning was for access to the parcel. Mr. Rogers affirmed that the portion proposed to be rezoned was access to the open space area and that the property was owned by New Castle County. There were no additional questions or comments from the Planning Board following Mr. Rogers' presentation.

Public Comment

Councilwoman Kilpatrick voiced support for the ordinance, and the proposed downzonings as being consistent with the current use of the property. She also remarked that she had discussed the ordinance with the Greater Hockessin Area Development Association and that they support the rezoning as well. There was no public comment on the application at the public hearing.

Written Public Comment:

The Department of Land Use did not receive written public comment while the record was open.

ANALYSIS

Ordinance 24-025 proposes rezoning 5 parcels (07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010) from nonresidential designations; Industrial (I), Heavy Industry (HI), Office Regional (OR), and Commercial Regional (CR), to residential zoning designation Suburban (S) and Suburban Estate (SE), consistent with the 2022 Update to the New Castle County Comprehensive Plan, which designated both parcels as Resource Preservation.

Parcels 07-009.00-027 and 08-001.00-022 are owned by the State of Delaware and are both the Auburn Heights Preserve and immediately adjacent to the National Register Listed Garrett Snuff Mills.¹³ The site is also encumbered by environmental resources being in the 100-year floodplain area and having wetlands.

Parcel 07-009.00-028 owned by Historic Red Clay Valley Inc. is wholly located in the flood plain. The approximately 0.02-acre portion of the 2.27-acre parcel proposed to be rezoned to Suburban Estate (SE) is the only part that has a nonresidential zoning designation, the remainder is zoned Suburban Estate (SE).

Parcel 08-007.40-124 is owned by New Castle County and is public open space area to the north of the Hockessin Shopping Center providing a separation between the commercial use and residential development to the north. The 0.04-acre portion of the 2.99-acre parcel is the only part that has a nonresidential zoning designation, the remainder is zoned Neighborhood

¹³ https://npgallery.nps.gov/NRHP/GetAsset/NRHP/78000913_text

Conservation (NC₂₁). Since land cannot be rezoned to Neighborhood Conservation, the appropriate zoning designation is Suburban for this area of the county.

Parcel 09-008.00-010 owned by the State of Delaware and part of the White Clay Creek State Park. The site is also encumbered by environmental resources being in the 100-year floodplain area and having wetlands. The approximately 4.07-acre portion of the 20.07-acre parcel proposed to be rezoned to Suburban Estate (SE) is the only part that has a nonresidential zoning designation, the remainder is zoned Suburban Estate (SE).

The 2022 Update to the New Castle County Comprehensive Development Plan describes land designated as Resource Preservation as:

These areas include existing preserved lands as well as those appropriate for future preservation. Land within this district includes important environmental and agricultural resources as well as National Scenic Byway areas. Land Use policies shall discourage development and incentivize preservation of these resources.

Rezoning parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010, from a nonresidential to residential zoning designation serves to better preserve and protect these open space, environmental, and historical resources, while discouraging development that could be detrimental.

Standards of Review

Pursuant to Section 40.31.410 of the New Castle County Code, in determining whether an amendment to the zoning map shall be recommended or approved, the following factors shall be considered:

A. Consistency with the Comprehensive Development Plan and the purposes of this Chapter.

Parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010 are all designated as Resource Preservation by the Future Land Use Maps. Nonresidential zoning designations are not permissible within this designation. Residential districts such as Suburban and Suburban Estate are appropriate for the land designated as Resource Preservation. The County has determined that land use policy for land with the Future Land Use designation of Resource Preservation, is to encourage the preservation of environmental, agricultural, and historic resources and would permit development consistent and sensitive to existing community character. The rezoning of parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010 proposed by Ordinance 24-025 is consistent with the Future Land Use Map, as well as the Comprehensive Development Plan as a whole.

B. Consistency with the character of the neighborhood.

While parcels 07-009.00-027, 08-001.00-022, and 07-009.00-028 are bordered by the Industrial zoned Garrett Snuff Mill site to the west they are bordered by residential uses and zoning to the north and south east.

Parcel 08-007.40-124 is a public open space area providing a separation between the commercial use and residential development to the north. The 0.04-acre will rezone the access to the open space consistent with the zoning on the remainder of the parcel.

Parcel 09-008.00-010 is part of the White Clay Creek State Park. The portion of the 20.07-acre parcel proposed to be rezoned to Suburban Estate (SE) is consistent with the park use on the remainder of the 20.07 acre property.

C. Consistency with zoning and use of nearby properties.

While parcels 07-009.00-027, 08-001.00-022, and 07-009.00-028 are bordered Suburban Estate zoning to southeast, Suburban and Neighborhood Conservation (NC₁₅) to the north. The UDC does not permit zoning to Neighborhood Conservation, and the property does not have sewer service. As such rezoning the parcels to Suburban Estate is the appropriate zoning designation.

The existing residentially zoned portion of parcel 08-007.40-124 is Neighborhood Conservation (NC₂₁), however since the UDC does not permit zoning to Neighborhood Conservation, and the property is in the sewer service area Suburban is the appropriate zoning designation.

The residential portion of parcel 09-008.00-010 is currently zoned Suburban Estate and is not in the sewer service area as such Suburban Estate (SE) is the appropriate zoning designation.

D. Suitability of the property for the uses for which it has been proposed or restricted.

The is no proposed change in the uses of parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010, and their continued use will not be further encumbered by the proposed rezoning.

E. Effect on nearby properties.

The rezoning of parcels 07-009.00-027, 07-009.00-028, 08-001.00-022, 08-007.40-124, and 09-008.00-010 to Suburban and Suburban Estate, discouraging development and encouraging preservation of the land will not have a negative impact on nearby properties, and will be consistent with their current use and that of nearby properties.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use Map, the comments received from outside agencies, and the comments received by the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of the rezoning application.

PLANNING BOARD RECOMMENDATION

At a business meeting held on May 21, 2024, the Planning Board considered the recommendation provided by the Department of Land use as well as comments from outside agencies and the public.

On a motion made by Mr. Snowden and seconded by Ms. Cahill-Krout, the Board voted to recommend **APPROVAL** of Ordinance 24-025 as recommended by the Department of Land Use.

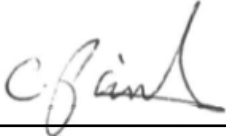
The motion was adopted by a vote of 7-0-0-2 (In Favor: Peterson, Cahill-Krout, Cantrell, Drake, Gray, Snowden, Visvardis; In Opposition: None; Abstention: None; Absent: Cochran, Daigle).

Prior to the vote the following discussion occurred:

Matthew Rogers read the Department of Land Use recommendation into the record. There were no questions from the Board.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code Section 2603 (a), the Department of Land Use finds that this rezoning would promote the convenience, order, and welfare of the present and future inhabitants of this state.

 05/24/2024

Charuni Patibanda date
General Manager
Department of Land Use

 05/24/2024

Karen Peterson date
Chair
Planning Board