



NEW CASTLE COUNTY COUNCIL COUNCIL MEETING

July 23, 2024
6:30 PM

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

AGENDA

A. Call to Order

- **Moment of Silence**
- **Pledge of Allegiance**
- **Roll Call**

B. Approval of Minutes

C. Announcements

D. Introduction of Ordinances

°24-124: AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET: TRANSFER \$500,000 FROM THE AGRICULTURAL PRESERVATION CAPITAL PROJECT TO THE OPEN SPACE PRESERVATION CAPITAL PROJECT

Prime Sponsor(s): Ms. Durham, Mr. Smiley

°24-125: AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET: APPROPRIATE \$3,500,000 IN FUNDING RECEIVED FROM THE STATE OF DELAWARE FISCAL YEAR 2025 BOND AND CAPITAL IMPROVEMENTS ACT TO THE DEPARTMENT OF COMMUNITY SERVICES, NEWARK LIBRARY CAPITAL PROJECT

Prime Sponsor(s): Mr. Hollins, Mr. Street

°24-126: AMEND THE GRANTS BUDGET: APPROPRIATE \$10,818 ADDITIONAL STATE OF DELAWARE GRANT-IN-AID FUNDS TO THE ABSALOM JONES SENIOR CENTER FY2025 GRANT, WHICH WILL BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES, COMMUNITY RESOURCES DIVISION

Prime Sponsor(s): Mr. Hollins, Mr. Street

°24-127: AMEND THE GRANTS BUDGET: APPROPRIATE \$853,500 TO THE CONTRACTED POLICE DUTY REVOLVING FUND, WHICH IS ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF POLICE

Prime Sponsor(s): Mr. Bell, Ms. Hartley-Nagle

°24-128: AMEND THE GRANTS BUDGET: APPROPRIATE \$244,149 TO THE CONTRACTED PARAMEDIC DUTY REVOLVING FUND, WHICH IS ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF EMERGENCY MEDICAL SERVICES
Prime Sponsor(s): Mr. Bell, Ms. Hartley-Nagle

°24-129: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), ARTICLE 31 ("PROCEDURES AND ADMINISTRATION") AND ARTICLE 33 ("DEFINITIONS") RELATING TO REZONINGS
Prime Sponsor(s): Ms. Hartley-Nagle

°24-130: AMENDING NEW CASTLE COUNTY CODE CHAPTER 40 (THE "UNIFIED DEVELOPMENT CODE") TO ESTABLISH A ZONING DISTRICT FOR PUBLICLY OWNED CONSERVED LAND AND PUBLIC PARKS
Prime Sponsor(s): Mr. Carter, Ms. Durham, Mr. Toole, Mr. Cartier

°24-131: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 26 ("HUMAN RESOURCES"), ARTICLE 3 ("MERIT SYSTEM"), SECTION 26.03.1403 ("HOLIDAYS") CONVERTING TWO EXISTING HOLIDAYS TO FLOATING HOLIDAYS AND DECLARING JUNETEENTH AN OFFICIAL HOLIDAY
Prime Sponsor(s): Ms. Kilpatrick

E. Reports from Select and Special Committees

F. Consent Calendar

R24-155: CELEBRATING AND HONORING REVEREND MONSIGNOR STANLEY J. RUSSELL ON THE OCCASION OF HIS RETIREMENT FROM ST. HELENA'S PARISH AFTER FIFTY YEARS AS PASTOR
Prime Sponsor(s): Mr. Cartier

R24-156: REAPPOINTING JOSEPH MANNION TO THE NEW CASTLE COUNTY BOARD OF ASSESSMENT REVIEW
Prime Sponsor(s): Ms. Durham

NOTE: If an item on the Consent Calendar is objected to by a Council member, or a member of the public wishes to obtain additional information about the candidate or proposed legislation, or if a Councilmember intends to offer an amendment to a resolution, seek additional information, or state a conflict, it shall be removed from the Consent Calendar and voted upon separately.

G. Presentations

H. Consideration of Resolutions Removed from the Consent Calendar and Other Resolutions

R24-157: ALLOCATING \$33,000 FROM THE NEW CASTLE COUNTY COUNCIL CONTINGENCY FUND TO THE NEW CASTLE COUNTY FIRE CHIEFS' ASSOCIATION TO FUND THE NEW CASTLE COUNTY COLLAPSE TEAM
Prime Sponsor(s): Mr. Cartier, Mr. Smiley

R24-145: (STATUS: TABLED) 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, Ms. Kilpatrick

R24-146: (STATUS: TABLED) 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, Ms. Kilpatrick

I. Consideration of Ordinances

°24-118: AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET: APPROPRIATE \$5,000,000 IN FUNDING FROM THE REASSESSMENT RESERVE ACCOUNT TO THE DEPARTMENT OF ADMINISTRATION, REASSESSMENT 2024 CAPITAL PROJECT
Prime Sponsor(s): Mr. Smiley, Mr. Cartier

°24-119: AMEND THE GRANTS BUDGET: APPROPRIATE FUNDING FROM THE NEW CASTLE COUNTY COUNCIL FY2025 APPROVED OPERATING BUDGET TO THE SENIOR HOME REPAIR PROGRAM GRANT, WHICH IS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES
Prime Sponsor(s): Mr. Smiley

°24-120: AMEND THE FY2025 APPROVED OPERATING BUDGET: REDUCE THE GRANTS AND FIXED CHARGES BUDGET LINE ITEM OF COUNTY COUNCIL TO PROVIDE FUNDING FOR NEW CASTLE COUNTY OPERATING PROGRAMS AND GRANTS
Prime Sponsor(s): Mr. Smiley

°24-121: AMEND THE FY2024 APPROVED OPERATING BUDGET: REALIGN \$375,000 WITHIN THE SEWER FUND IN ORDER TO PROVIDE FUNDING FOR SALARIES AND WAGES
Prime Sponsor(s): Mr. Smiley, Mr. Cartier

°24-122: AMEND THE FY2024 APPROVED OPERATING BUDGET: APPROPRIATE STATE OF DELAWARE FUNDING RECEIVED FOR THE NEW CASTLE COUNTY POLICE EMPLOYEE'S RETIREMENT SYSTEM TO THE DEPARTMENT OF PUBLIC SAFETY EMPLOYEE BENEFITS BUDGETARY LINE ITEM
Prime Sponsor(s): Mr. Smiley, Mr. Cartier

°24-123: TO AMEND NEW CASTLE COUNTY CODE, CHAPTER 38 ("UTILITIES") REGARDING ARTICLE 2 ("SEWERS AND SEWAGE DISPOSAL") AND ARTICLE 3 ("PROHIBITIONS, ENFORCEMENT, AND PENALTIES")
Prime Sponsor(s): Mr. Sheldon, Mr. Carter

°24-032: COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS IN COUNTY COUNCIL DISTRICT 8 REGARDING THE FOLLOWING TAX PARCELS: ARDENTOWN: 27-001.00-001(2206 MILLERS RD, ARDENTOWN); BRANDYWINE HUNDRED: 06-060.00-010 (1 NAAMANS RD, GILBERT SUBDIVISION), 06-122.00-081 (301 CARR RD, ROCKWOOD OFFICE PARK), 06-147.00-017 (1204 LIGHTHOUSE RD)
Prime Sponsor(s): Mr. Cartier

°24-008: (STATUS: TABLED) TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), ARTICLE 14 ("IMPACT FEES") REGARDING ADJUSTMENTS TO IMPACT FEES
Prime Sponsor(s): Ms. Durham, Mr. Carter, Mr. Toole
Co-sponsor(s): Mr. Cartier, Mr. Smiley

J. Time Sensitive Congratulatory/Honorary Resolutions

R24-158: RECOGNIZING AND CELEBRATING THE LEGACY AND IMPACT OF THE
AUGUST QUARTERLY FESTIVAL

Prime Sponsor(s): Ms. Hartley-Nagle

Co-sponsor(s): Mr. Toole

K. Introduction/Consideration of Emergency Ordinances

L. Public Comment/Other

M. Motion to Adjourn

AGENDA POSTED: July 16, 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): Ms. Durham, Mr. Smiley
Requested by: County Council
Date of introduction: July 23, 2024

ORDINANCE NO. 24-124

**AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET:
TRANSFER \$500,000 FROM THE AGRICULTURAL PRESERVATION CAPITAL
PROJECT TO THE OPEN SPACE PRESERVATION CAPITAL PROJECT**

1 **WHEREAS**, New Castle County has established a goal of protecting at least 30%
2 of the County's total land area as open space over the next 30 years; and
3

4 **WHEREAS**, currently, the County's total of preserved land area falls significantly
5 below this target, with the current total of preserved acres constituting approximately 27%
6 of the County land mass; and
7

8 **WHEREAS**, the County's open space preservation spending needs to be
9 increased substantially to achieve the stated goal of preserving 30% of the total land area
10 in the County; and
11

12 **WHEREAS**, approximately 7,100 acres need to be protected to meet the 30%
13 goal; and
14

15 **WHEREAS**, as development pressures and land values increase, it is unlikely that
16 much land will remain to be preserved in 30 years, and, thus, it is imperative that
17 preservation efforts increase in earnest; and
18

19 **WHEREAS**, the Agricultural Preservation Capital Project has a substantial unused
20 balance that carries over from year to year; and
21

22 **WHEREAS**, the State Agricultural Preservation Program matches only up to \$1
23 million in County funds each year; and
24

25 **WHEREAS**, unused monies in the Agricultural Preservation Capital Project fail to
26 capture matching state funding and, consequently, are not maximizing land preservation
27 potential and use of these funds; and
28

29 **WHEREAS**, funds in the Open Space Preservation Capital Project are not
30 restricted to protecting only agricultural lands and, thus allow more flexibility in protecting
31 open space of all types in seeking to achieve the County's open space preservation goal,
32 and

33 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
34

35 Section 1. The Capital Budget Ordinance for the fiscal year beginning July 1, 2024,
36 is hereby amended by deleting the material stricken and adding the material underscored
37 on the attached "Exhibit A."
38

39 Section 2. The Capital Program Resolution for the fiscal year beginning July 1,
40 2024 is hereby amended by deleting the material stricken and adding the material
41 underscored on the attached "Exhibit B".
42

43 Section 3. This Ordinance shall become effective immediately upon its adoption
44 by County Council and approval by the County Executive, or as otherwise provided in 9
45 *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
of New Castle County

SYNOPSIS: This Ordinance, if approved, will amend the FY2025 Approved Capital Budget by transferring \$500,000 from the Agricultural Preservation Capital Project to the Open Space Preservation Capital Project. These funds are needed to fund the purchase of open space as committed to by the County in its Comprehensive Plan.

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Approved Capital Budget by transferring \$500,000 from the Agricultural Preservation Capital Project to the Open Space Preservation Capital Project. These funds are needed to fund the purchase of open space as committed to by the County in its Comprehensive Plan.

The revised FY2025 Approved Capital Budget will remain \$34,207,715. Fiscal impact for future years will be determined on an as-needed basis. Upon passage of this Ordinance, the Agricultural Preservation Capital Project and the Open Space Preservation Capital Project cash balance will be \$4,584,613.62 and \$3,664,605.93, respectively.

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-124

DEPARTMENT OF ADMINISTRATION

Firewall Replacement	\$	425,000
Reassessment 2024		5,000,000
Subtotal	\$	5,425,000

DEPARTMENT OF COMMUNITY SERVICES

Appoquinimink Library	\$	54,482
Glasgow Library		150,000
Newark Library		4,700,000
Rockwood Museum		175,000
Surratte Pool Renovations		50,000
Subtotal	\$	5,129,482

DEPARTMENT OF PUBLIC SAFETY

Public Safety Equipment	\$	136,000
Public Safety Vest Protection Program		264,515
Subtotal	\$	400,515

DEPARTMENT OF PUBLIC WORKS

Facilities/Equipment

Electric Vehicle Infrastructure	\$	2,019,708
Fleet Equipment 2022		(450,000)
Fleet Equipment 2023		(1,900,000)
Fleet Equipment 2024		49,590
Fleet Equipment 2025		6,510,906
Subtotal	\$	6,230,204

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-124

DEPARTMENT OF PUBLIC WORKS (Continued)

Parks

Agricultural Preservation	4,500,000	\$ 1,000,000
Bechtel Park Improvements		2,250,000
Game Court Improvements Pre-2021		(106,744)
Game Court Improvements 2021		181,744
General Parkland Improvements 2024-2025		750,000
Greenway Systems		1,000,000
Open Space Preservation	1,000,000	1,500,000
Southern Regional Park		4,400,000
Subtotal	10,975,000	\$ 10,975,000

Sewer/Stormwater

Airport Road System Rehabilitation		\$ 2,500,000
Brandywine Hundred South Rehabilitation Phase I		(450,000)
Christiana Pump Station Upgrade		(500,000)
Christina River Force Main		1,000,000
Countywide Drainage Problems		(500,000)
Delaware City Industrial Sewer Expansion		(2,500,000)
Delaware City Treatment Plant Rehab		(500,000)
DeIDOT Coordination Project 2021		(500,000)
General Sewer Improvements		1,000,000
Glasgow Area Sewer Improvements		(400,000)
Holloway Terrace Outfall Replace		(1,000,000)
Public Works Complex		400,000
Pump Station Rehab 2024-2025		500,000
Septage Receiving Station Upgrade		300,000
Sewer Fleet Equipment 2022		(3,051)
Sewer Fleet Equipment 2023		(764,800)
Sewer Fleet Equipment 2025		2,665,366
Sewer Repairs and Rehabilitation 2024-2025		2,000,000
Stormwater Basin Renovation II		1,500,000
Terminal Avenue System Rehabilitation		(500,000)
Water Farm #1 System Rehabilitation		300,000
Water Quality Improvement Plans		2,400,000
White Clay System Rehabilitation		4,100,000
Subtotal		\$ 11,047,515

CAPITAL BUDGET TOTAL

\$ 39,207,715

EXHIBIT B**PROJECT PROFILES
PUBLIC WORKS - PARKS (continued)**

Project Name (Number): Agricultural Preservation (C300330)					
Description: Acquire land or development rights for unincorporated New Castle County.				Council Districts: All	
Funding Schedule					
	Bonds	Federal	State	Other	Total
Prior Authorizations	\$ 14,246,024	\$ -	\$ -	\$ 4,502,600	\$ 18,748,624
FY2025		-	-	1,500,000	1,500,000
				<u>1,000,000</u>	<u>1,000,000</u>
FY2026		-	-	1,500,000	1,500,000
FY2027		-	-	1,500,000	1,500,000
FY2028		-	-	1,500,000	1,500,000
FY2029		-	-	1,500,000	1,500,000
FY2030		-	-	1,500,000	1,500,000
Future Years	-	-	-	1,500,000	1,500,000
Total	\$ 14,246,024	\$ -	\$ -	\$ 15,002,600	\$ 29,248,624
			\$ -	<u>\$ 14,502,600</u>	<u>\$ 28,748,624</u>
Available Authorizations:		\$ 4,630,776			
Available Funding:		\$ 4,630,776			
Operating Budget Impact:		\$ -			

*Available Authorizations / Funding as of February 29, 2024, net of obligations.

FY2025 Activity:

Partner with State of Delaware to acquire land and/or development rights in unincorporated New Castle County.

Future Activity:

Continue to acquire land and/or development rights in unincorporated New Castle County.

EXHIBIT B**PROJECT PROFILES
PUBLIC WORKS - PARKS (continued)**

Project Name (Number): Open Space Preservation (C302201)					
Description: Acquire properties and/or easements for the protection of natural resources and conservation land.				Council Districts: All	
Funding Schedule					
	Bonds	Federal	State	Other	Total
Prior Authorizations	\$ -	\$ -	\$ -	\$ 3,275,000	\$ 3,275,000
FY2025		-	-	1,000,000	1,000,000
				1,500,000	1,500,000
FY2026		-	-	1,000,000	1,000,000
FY2027		-	-	1,000,000	1,000,000
FY2028		-	-	1,000,000	1,000,000
FY2029		-	-	1,000,000	1,000,000
FY2030		-	-	1,000,000	1,000,000
Future Years	-	-	-	1,000,000	1,000,000
Total	\$ -	\$ -	\$ -	\$ 10,275,000	\$ 10,275,000
			\$ -	\$ 10,775,000	\$ 10,775,000
Available Authorizations:		\$ 2,183,000			
Available Funding:		\$ 2,183,000			
Operating Budget Impact:		\$ -			

*Available Authorizations / Funding as of February 29, 2024, net of obligations.

FY2025 Activity:

Select appropriate acquisitions based on criteria identified in consultation with the Open Space Advisory Board. Purchase of open space as committed to by the County in its Comprehensive Plan.

Future Activity:

Continued coordination with the Open Space Advisory Board on prioritization of county acquisitions.

oPrime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: July 23, 2024

ORDINANCE NO. 24-125

**AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET: APPROPRIATE
\$3,500,000 IN FUNDING RECEIVED FROM THE STATE OF DELAWARE FISCAL
YEAR 2025 BOND AND CAPITAL IMPROVEMENTS ACT TO THE DEPARTMENT
OF COMMUNITY SERVICES, NEWARK LIBRARY CAPITAL PROJECT**

1 **WHEREAS**, the Department of Public Safety has received documentation
2 certifying that the State of Delaware Fiscal Year 2025 Bond and Capital Improvements
3 Act (152nd General Assembly, House Bill 475, signed into law June 30, 2024) has
4 appropriated \$3,500,000 to New Castle County from the State of Delaware, Department
5 of State; and
6

7 **WHEREAS**, the funding is for the design and construction of a community library
8 in Newark.
9

10 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
11

12 Section 1. The Capital Budget Ordinance for the fiscal year beginning July 1, 2024
13 is hereby amended by deleting the material that is stricken and adding the material that
14 is underscored on the attached Exhibit "A."
15

16 Section 2. The Capital Program Resolution for the fiscal year beginning July 1,
17 2024 is hereby amended by adding the material on the attached Exhibit "B," which shall
18 be considered underscored in its entirety.
19

20 Section 3. State funding in the amount of \$3,500,000 is appropriated to the
21 Department of Community Services, Newark Library Capital Project for the design and
22 construction of a community library in Newark.
23

24 Section 3. This Ordinance shall become effective immediately upon its adoption
25 by County Council and approval by the County Executive, or as otherwise provided in 9
26 *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: This Ordinance, if approved, will appropriate \$3,500,000 in funding received from the State of Delaware Fiscal Year 2025 Bond and Capital Improvements Act (152nd General Assembly, House Bill 475, signed into law June 30, 2024) to the Newark Library Capital Project for the design and construction of a community library in Newark.

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Capital Budget by appropriating \$3,500,000 in funding received from the State of Delaware Fiscal Year 2025 Bond and Capital Improvements Act (152nd General Assembly, House Bill 475, signed into law June 30, 2024) to the Newark Library Capital Project.

The revised FY2025 Capital Budget amount for the Newark Library Capital Project will be \$8,200,000.

The revised FY2025 New Castle County Capital Budget grand total will be \$42,707,715.

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-125

DEPARTMENT OF ADMINISTRATION

Firewall Replacement	\$	425,000
Reassessment 2024		5,000,000
Subtotal	\$	5,425,000

DEPARTMENT OF COMMUNITY SERVICES

Appoquinimink Library	\$	54,482
Glasgow Library		150,000
Newark Library	4,700,000	<u>8,200,000</u>
Rockwood Museum		175,000
Surratte Pool Renovations		<u>50,000</u>
Subtotal	5,120,482	<u>\$ 8,629,482</u>

DEPARTMENT OF PUBLIC SAFETY

Public Safety Equipment	\$	136,000
Public Safety Vest Protection Program		<u>264,515</u>
Subtotal	\$	400,515

DEPARTMENT OF PUBLIC WORKS

Facilities/Equipment

Electric Vehicle Infrastructure	\$	2,019,708
Fleet Equipment 2022		(450,000)
Fleet Equipment 2023		(1,900,000)
Fleet Equipment 2024		49,590
Fleet Equipment 2025		<u>6,510,906</u>
Subtotal	\$	6,230,204

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-125

DEPARTMENT OF PUBLIC WORKS (Continued)

Parks

Agricultural Preservation	\$ 1,000,000
Bechtel Park Improvements	2,250,000
Game Court Improvements Pre-2021	(106,744)
Game Court Improvements 2021	181,744
General Parkland Improvements 2024-2025	750,000
Greenway Systems	1,000,000
Open Space Preservation	1,500,000
Southern Regional Park	4,400,000
Subtotal	\$ 10,975,000

Sewer/Stormwater

Airport Road System Rehabilitation	\$ 2,500,000
Brandywine Hundred South Rehabilitation Phase I	(450,000)
Christiana Pump Station Upgrade	(500,000)
Christina River Force Main	1,000,000
Countywide Drainage Problems	(500,000)
Delaware City Industrial Sewer Expansion	(2,500,000)
Delaware City Treatment Plant Rehab	(500,000)
DeIDOT Coordination Project 2021	(500,000)
General Sewer Improvements	1,000,000
Glasgow Area Sewer Improvements	(400,000)
Holloway Terrace Outfall Replace	(1,000,000)
Public Works Complex	400,000
Pump Station Rehab 2024-2025	500,000
Septage Receiving Station Upgrade	300,000
Sewer Fleet Equipment 2022	(3,051)
Sewer Fleet Equipment 2023	(764,800)
Sewer Fleet Equipment 2025	2,665,366
Sewer Repairs and Rehabilitation 2024-2025	2,000,000
Stormwater Basin Renovation II	1,500,000
Terminal Avenue System Rehabilitation	(500,000)
Water Farm #1 System Rehabilitation	300,000
Water Quality Improvement Plans	2,400,000
White Clay System Rehabilitation	4,100,000
Subtotal	\$ 11,047,515

CAPITAL BUDGET TOTAL

39,207,715

\$ 42,707,715

EXHIBIT B**PROJECT PROFILES
COMMUNITY SERVICES (continued)**

Project Name (Number): Newark Library (C402301)					
Description: Land Acquisition, design and construction of a community library in Newark.				Council Districts: 5	
Funding Schedule					
	Bonds	Federal	State	Other	Total
Prior Authorizations	\$ 21,700,000	\$ -	\$ 13,500,000	\$ 1,000,000	\$ 36,200,000
FY2025	1,700,000	-	3,000,000	-	4,700,000
			6,500,000		8,200,000
FY2026		-		-	-
FY2027		-	-	-	-
FY2028		-	-	-	-
FY2029		-	-	-	-
FY2030		-	-	-	-
Future Years	-	-	-	-	-
Total	\$ 23,400,000	\$ -	\$ 16,500,000	\$ 1,000,000	\$ 40,900,000
			\$ 20,000,000		\$ 44,400,000
Available Authorizations:		\$ 28,779,333			
Available Funding:		\$ (7,420,667)			
Operating Budget Impact:		\$ 3,740			

*Available Authorizations / Funding as of February 29, 2024, net of obligations.

FY2025 Activity:

Complete design of a new two-story (40,000 square foot) regional library in Newark and demolition of the current one-story (27,000 square foot) facility.

Future Activity:

Construction of a new 40,000 square foot regional library in Newark, with an anticipated completion in Fall 2026.

Prime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: July 23, 2024

ORDINANCE NO. 24-126

**AMEND THE GRANTS BUDGET:
APPROPRIATE \$10,818 ADDITIONAL STATE OF DELAWARE GRANT-IN-AID FUNDS
TO THE ABSALOM JONES SENIOR CENTER FY2025 GRANT, WHICH WILL BE
ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES, COMMUNITY
RESOURCES DIVISION**

1 **WHEREAS**, original funds from the State of Delaware Grant-In-Aid in the amount of
2 \$225,490 was previously approved by New Castle County Council and appropriated to the
3 Absalom Jones Senior Center FY2025 Grant via Ordinance 24-099; and
4

5 **WHEREAS**, authorization is being sought through this Ordinance for the additional
6 appropriation of \$10,818 based on the final award allocation of State of Delaware Grant-In-
7 Aid funds to the Absalom Jones Senior Center FY2025 Grant; and
8

9 **WHEREAS**, the Absalom Jones Senior Center provides a variety of services for the
10 elderly in the surrounding community including transportation to the center, adult programs,
11 activities and social services; and
12

13 **WHEREAS**, the County Executive has determined that a grant is anticipated to be
14 received and shall be sufficient to cover the increase in the Grants Budget as hereinafter
15 amended; and
16

17 **WHEREAS**, Council has determined that the provisions of this Ordinance substantially
18 advance, and are reasonably and rationally related to, legitimate government interests (i.e.,
19 promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the
20 present and future inhabitants of this State).
21

22 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
23

24 Section 1. The Grants Budget as adopted by Ordinance No. 75-173 is hereby
25 amended by adding the material on the attached Exhibit "A" which shall be considered
26 underscored in its entirety.
27

28 Section 2. This Ordinance shall become effective immediately upon its adoption by
29 County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C.*
30 § 1156.
31

32 Section 3. It is the intent of the County Council that the provisions of this Ordinance
33 shall be effective retroactive to July 1, 2024.

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: This Ordinance, if approved, will appropriate additional State of Delaware Grant-In-Aid funds of \$10,818 to the Absalom Jones Senior Center FY2025 Grant for the period July 1, 2024 through June 30, 2025, which will be administered by the Department of Community Services, Division of Community Resources.

The Absalom Jones Senior Center provides a variety of services for the elderly in the surrounding community including transportation to the center, adult programs, activities and social services.

It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to July 1, 2024.

FISCAL NOTE: This Ordinance, if approved, will amend the Grants Budget by appropriating additional State of Delaware Grant-In-Aid funds of \$10,818 to the Absalom Jones Senior Center FY2025 Grant for the period July 1, 2024 through June 30, 2025, which will be administered by the Department of Community Services, Division of Community Resources. This additional appropriation brings the Absalom Jones Senior Center FY2025 Grant to \$236,308.

The fiscal impact of this Ordinance, if approved, will be an increase in the authorized spending authority of the Grants Budget. This increase will affect FY2025 since the targeted program completion date for this grant is June 30, 2025. There is no fiscal impact anticipated beyond FY2025. FY2024 original funding was authorized in the amount of \$219,362.

DEPARTMENT:	Community Services	EXHIBIT: "A"
GRANT TITLE:	Absalom Jones Senior Center FY2025	Ordinance No. 24-126
PROGRAM TITLE:	Absalom Jones Senior Center FY2025	

Revenue	Current	Change	Revised
Federal	\$ -	\$ -	\$ -
State	\$ 225,490.00	\$ 10,818.00	\$ 236,308.00
County	\$ -	\$ -	\$ -
Program Income	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -
Total	\$ 225,490.00	\$ 10,818.00	\$ 236,308.00

Expense	Current	Change	Revised
Salaries and Wages	\$ 95,426.00	\$ -	\$ 95,426.00
Benefits	\$ 37,292.00	\$ -	\$ 37,292.00
Training/Civic Affairs	\$ -	\$ -	\$ -
Communication/Utilities	\$ -	\$ -	\$ -
Materials/Supplies	\$ 1,100.00	\$ 1,000.00	\$ 2,100.00
Contractual Services	\$ 91,672.00	\$ 9,818.00	\$ 101,490.00
Equipment	\$ -	\$ -	\$ -
Grants/Fixed Charges	\$ -	\$ -	\$ -
Land and Structures	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -
Operating Transfer Charges	\$ -	\$ -	\$ -
Operating Transfer Credits	\$ -	\$ -	\$ -
Total	\$ 225,490.00	\$ 10,818.00	\$ 236,308.00

SUPPLEMENTAL INFORMATION

Estimated Program Initiation:	7/1/2024
Estimated Program Completion:	6/30/2025
The Local Match:	Found in (ORG):
Ordinance Passed: <u>24-099</u>	Date Revised: <u>6/11/2024</u>

PROGRAM DESCRIPTION:

The Absalom Jones Senior Center provides a variety of services to the elderly population in the neighboring community including; transportation to the center, adult programs, activities and social services.

6/11/2024

7/23/2024

ORDINANCE NO. 24-127

**AMEND THE GRANTS BUDGET:
APPROPRIATE \$853,500 TO THE CONTRACTED POLICE DUTY REVOLVING FUND,
WHICH IS ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY,
DIVISION OF POLICE**

1 **WHEREAS**, the Contracted Police Duty Revolving Fund authorizes the Director of
2 Public Safety to enter into contracts with individuals, companies, corporations, private entities,
3 or other government sectors for public safety services on a contractual basis; and
4

5 **WHEREAS**, this legislation recognizes the anticipated reimbursements for police
6 services to be received through June 30, 2025; and
7

8 **WHEREAS**, the County Executive has determined that funds will be received sufficient
9 to cover the increase in the Grants Budget as hereinafter amended; and
10

11 **WHEREAS**, Council has determined that the provisions of this Ordinance substantially
12 advance, and are reasonably and rationally related to, legitimate government interests (i.e.,
13 promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the
14 present and future inhabitants of this State).
15

16 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
17

18 Section 1. The Grants Budget as adopted by Ordinance No. 75-173 is hereby amended
19 by deleting the material bracketed and stricken and adding the material underscored on the
20 attached "Exhibit A."
21

22 Section 2. This Ordinance shall become effective immediately upon its adoption by
23 County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C.* §
24 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: This Ordinance, if approved, appropriates \$853,500 to the Contracted Police Duty Revolving Fund, which is administered by the Department of Public Safety, Division of Police for police services to be performed on a contractual basis.

FISCAL NOTE: This Ordinance, if approved, will amend the Grants Budget by appropriating \$853,500 to the Contracted Police Duty Revolving Fund, which is administered by the Department of Public Safety, Division of Police.

This legislation recognizes the anticipated reimbursements for police services to be received through June 30, 2025 and authorizes the Director of Public Safety to enter into contracts (with individuals, companies, corporations, private entities, or other government sectors for public safety services) on a contractual basis.

The Director of Public Safety with the concurrence of the Chief Financial Officer establishes rates no less than the amount necessary to reimburse for the cost of providing this service. Contracted police services will be administered in a manner that will not interfere with, or reduce, the effectiveness of regular patrol service levels for residents of the County. The Contract Duty Fund rate will be \$94.00 per hour which includes the officer and vehicle.

The fiscal impact of this Ordinance, if approved, will be an increase in the authorized spending authority of the Grants Budget of \$853,500. This increase will affect FY2025 and beyond, since this is a continuous program.

DEPARTMENT:	Public Safety	EXHIBIT:	"A"
GRANT TITLE:	Contracted Police Duty Revolving Fund	Ordinance No.	24-127
PROGRAM TITLE:	Contracted Police Duty Revolving Fund		

Revenue	Current	Change	Revised
Federal	\$ -	\$ -	\$ -
State	\$ -	\$ -	\$ -
County	\$ -	\$ -	\$ -
Program Income	\$ -	\$ -	\$ -
Other	\$ 9,040,451.01	\$ 853,500.00	\$ 9,893,951.01
Total	\$ 9,040,451.01	\$ 853,500.00	\$ 9,893,951.01

Expense	Current	Change	Revised
Salaries and Wages	\$ 7,317,730.81	\$ 763,000.00	\$ 8,080,730.81
Benefits	\$ 361,733.07	\$ 16,000.00	\$ 377,733.07
Training/Civic Affairs	\$ -	\$ -	\$ -
Communication/Utilities	\$ -	\$ -	\$ -
Materials/Supplies	\$ 129.88	\$ -	\$ 129.88
Contractual Services	\$ 1,360,857.25	\$ 74,500.00	\$ 1,435,357.25
Equipment	\$ -	\$ -	\$ -
Grants/Fixed Charges	\$ -	\$ -	\$ -
Land and Structures	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -
Operating Transfer Charges	\$ -	\$ -	\$ -
Operating Transfer Credits	\$ -	\$ -	\$ -
Total	\$ 9,040,451.01	\$ 853,500.00	\$ 9,893,951.01

SUPPLEMENTAL INFORMATION

Estimated Program Initiation: 9/13/2005

Estimated Program Completion: Ongoing

The Local Match: **Found in (ORG):**

Ordinance Passed:	Date Revised:
05-089 15-061	July 2005 June 2015
06-015 16-062	March 2006 June 2016
06-108 17-059	August 2006 June 2017
07-074 18-067	June 2007 June 2018
08-077 19-060	July 2008 June 2019
11-066 20-073	June 2011 June 2020
12-085 21-080	July 2012 July 2021
13-044 <u>23-100</u>	July 2013 <u>July 2023</u>
14-061	July 2014

PROGRAM DESCRIPTION:

The Contracted Police Duty Revolving Fund authorizes the Director of Public Safety to enter into contracts with individuals, companies, corporations, private entities or other government sectors for public safety services on a contractual basis.

7/25/2023

7/23/2024

ORDINANCE NO. 24-128

**AMEND THE GRANTS BUDGET:
APPROPRIATE \$244,149 TO THE CONTRACTED PARAMEDIC DUTY REVOLVING FUND,
WHICH IS ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY,
DIVISION OF EMERGENCY MEDICAL SERVICES**

1 **WHEREAS**, the Contracted Paramedic Duty Revolving Fund authorizes the Director of
2 Public Safety to enter into contracts with individuals, companies, corporations, private entities,
3 or other government sectors for paramedic services on a contractual basis; and
4

5 **WHEREAS**, this legislation recognizes the anticipated reimbursements for paramedic
6 services to be received through June 30, 2025; and
7

8 **WHEREAS**, the County Executive has determined that funds will be received sufficient
9 to cover the increase in the Grants Budget as hereinafter amended; and
10

11 **WHEREAS**, Council has determined that the provisions of this Ordinance substantially
12 advance, and are reasonably and rationally related to, legitimate government interests (i.e.,
13 promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the
14 present and future inhabitants of this State).
15

16 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
17

18 Section 1. The Grants Budget as adopted by Ordinance No. 75-173 is hereby amended
19 by deleting the material bracketed and stricken and adding the material underscored on the
20 attached "Exhibit A."
21

22 Section 2. This Ordinance shall become effective immediately upon its adoption by
23 County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C.* §
24 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: This Ordinance, if approved, appropriates \$244,149 to the Contracted Paramedic Duty Revolving Fund, which is administered by the Department of Public Safety, Division of Emergency Medical Services for paramedic services to be performed on a contractual basis.

FISCAL NOTE: This Ordinance, if approved, will amend the Grants Budget by appropriating \$244,149 to the Contracted Paramedic Duty Revolving Fund, which is administered by the Department of Public Safety, Division of Emergency Medical Services.

This legislation recognizes the anticipated reimbursements for paramedic services to be received through June 30, 2025 and authorizes the Director of Public Safety to enter into contracts (with individuals, companies, corporations, private entities, or other government sectors for paramedic services) on a contractual basis.

The Director of Public Safety with the concurrence of the Chief Financial Officer establishes rates no less than the amount necessary to reimburse for the cost of providing this service. Contracted paramedic services will be administered in a manner that will not interfere with, or reduce, the effectiveness of regular paramedic service levels for residents of the County. The Contract Duty Fund rate will be \$68.00 per hour which includes the paramedic and vehicle.

The fiscal impact of this Ordinance, if approved, will be an increase in the authorized spending authority of the Grants Budget of \$244,149. This increase will affect FY2025 and beyond, since this is a continuous program.

DEPARTMENT:	Public Safety	EXHIBIT:	"A"
GRANT TITLE:	Contracted Paramedic Duty Revolving Fund	Ordinance No.	24-128
PROGRAM TITLE:	Contracted Paramedic Duty Revolving Fund		

Revenue	Current	Change	Revised
Federal	\$ -	\$ -	\$ -
State	\$ -	\$ -	\$ -
County	\$ -	\$ -	\$ -
Program Income	\$ -	\$ -	\$ -
Other	\$ <u>307,540.06</u>	\$ <u>244,149.00</u>	\$ <u>551,689.06</u>
Total	\$ <u>307,540.06</u>	\$ <u>244,149.00</u>	\$ <u>551,689.06</u>

Expense	Current	Change	Revised
Salaries and Wages	\$ <u>199,411.41</u>	\$ <u>193,717.04</u>	\$ <u>393,128.45</u>
Benefits	\$ <u>23,093.09</u>	\$ <u>20,631.96</u>	\$ <u>43,725.05</u>
Training/Civic Affairs	\$ -	\$ -	\$ -
Communication/Utilities	\$ -	\$ -	\$ -
Materials/Supplies	\$ -	\$ -	\$ -
Contractual Services	\$ <u>85,035.56</u>	\$ <u>29,800.00</u>	\$ <u>114,835.56</u>
Equipment	\$ -	\$ -	\$ -
Grants/Fixed Charges	\$ -	\$ -	\$ -
Land and Structures	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -
Operating Transfer Charges	\$ -	\$ -	\$ -
Operating Transfer Credits	\$ -	\$ -	\$ -
Total	\$ <u>307,540.06</u>	\$ <u>244,149.00</u>	\$ <u>551,689.06</u>

SUPPLEMENTAL INFORMATION

Estimated Program Initiation:	1/1/2012
Estimated Program Completion:	Ongoing
The Local Match:	Found in (ORG):
Ordinance Passed:	Date Revised:

PROGRAM DESCRIPTION:

The Contracted Paramedic Duty Revolving Fund authorizes the Director of Public Safety to enter into contracts with individuals, companies, corporations, private entities or other government sectors for paramedic services on a contractual basis.

7/25/2023

7/23/2024

ORDINANCE NO. 24-129

TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 31 (“PROCEDURES AND ADMINISTRATION”) AND ARTICLE 33 (“DEFINITIONS”) RELATING TO REZONINGS

1 **WHEREAS**, rezoning a property is an important legal process that can have
2 weighty ramifications; and
3

4 **WHEREAS**, rezoning a property can, and often does, have an impact – positive
5 and negative – on neighboring properties; and
6

7 **WHEREAS**, it is especially important during the hearing on a potential rezoning of
8 a property that there be a robust and full discussion of the potential impacts of the
9 proposed rezoning; and
10

11 **WHEREAS**, requiring that each proposed rezoning be considered individually by
12 County Council pursuant to a separate proposed ordinance will substantially simplify the
13 public hearing and meetings on the proposed rezoning, and thereby ensure a more
14 comprehensive understanding of the proposed rezoning and its potential impact; and
15

16 **WHEREAS**, County Council has determined that the provisions of this Ordinance
17 substantially advance and are reasonably and rationally related to legitimate
18 government interests, including, but not limited to, promoting the public health, safety,
19 welfare, and quality of life of present and future inhabitants of New Castle County.
20

21 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
22

23 Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”),
24 Article 31 (“Procedures and Administration”) is hereby amended by adding the material
25 that is underscored and deleting the material that is stricken, as set forth below.
26

27 **Sec. 40.31.111. - Actions on rezoning applications.**

28 A. All rezoning amendment applications shall be processed in accordance with
29 the provisions of this Article and the applicable provisions of this Code.

30 B. Each tax parcel proposed for a rezoning must be considered by County Council
31 pursuant to a separate ordinance for each tax parcel.
32

33 Section 2. *New Castle County Code* Chapter 40 (“Unified Development Code”),
34 Article 31 (“Procedures and Administration”) is hereby amended by adding the material
35 that is underscored and deleting the material that is stricken, as set forth below.

36 **Sec. 40.31.340. - Notice of public hearings.**

37 Except as required below...

38
39 **C. County Council public hearings.**

- 40 1. *Text amendments and County initiated ~~comprehensive~~ rezonings.* Notice
41 requirements for text amendments and County initiated ~~comprehensive~~
42 rezonings need only comply with the applicable provisions of State law, as may
43 be amended from time to time.

44 ...

45 Section 3. *New Castle County Code* Chapter 40 ("Unified Development Code"),
46 Article 31 ("Procedures and Administration") is hereby amended by adding the material
47 that is underscored and deleting the material that is stricken, as set forth below.

48 ...
49 **Sec. 40.31.390. - Time limits and expiration.**

50 **A. ...**

- 51
52 **B.** After a rezoning of a property by County Council, no ordinance to amend the
53 zoning map regarding the zoning designation of the property shall be
54 considered until the expiration of three (3) years from the date of the rezoning
55 except for zoning corrections pursuant to Section 40.02.110 C, and New Castle
56 County initiated rezonings, ~~and comprehensive rezonings.~~ ...

57
58 Section 4. *New Castle County Code* Chapter 40 ("Unified Development Code"),
59 Article 33 ("Definitions") is hereby amended by adding the material that is underscored
60 and deleting the material that is stricken, as set forth below.

61
62 **Division 40.33.300. General definitions.**

63 ...
64 ~~*Comprehensive rezoning.* A County-initiated rezoning intended to guide and control~~
65 ~~future growth consistent with the spirit and intent of the Comprehensive Development~~
66 ~~Plan as provided by State law.~~

67
68 Section 5. The provisions appearing in this proposed Ordinance are prospective in
69 nature.

70
71 Section 6. This Ordinance shall become effective upon its adoption by County
72 Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* §
73 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
of New Castle County

SYNOPSIS: This Ordinance, if adopted, would require that each tax parcel proposed for a rezoning, including proposed rezonings relating to an adopted comprehensive plan, be considered by County Council pursuant to a separate ordinance for each tax parcel. In addition, the Ordinance makes conforming changes to related sections of Chapter 40.

FISCAL NOTE: There is no discernible fiscal impact with the adoption of this Ordinance.

Prime sponsor(s): Mr. Carter, Ms. Durham,
Mr. Toole, Mr. Cartier
Date of introduction: July 23, 2024

ORDINANCE NO. 24-130

AMENDING NEW CASTLE COUNTY CODE CHAPTER 40 (THE “UNIFIED DEVELOPMENT CODE”) TO ESTABLISH A ZONING DISTRICT FOR PUBLICLY OWNED CONSERVED LAND AND PUBLIC PARKS

1 **WHEREAS**, in 1997, New Castle County Council enacted a comprehensive overhaul
2 of New Castle County’s original 1954 zoning and subdivision regulations with the addition of
3 Chapter 40 to the *New Castle County Code* (the “Unified Development Code” or “UDC”);
4 and

5
6 **WHEREAS**, the Unified Development Code has since undergone considerable
7 evolution to better reflect growth trends in the County and to advance the UDC regulations
8 to include planning and land use ideas and values to meet today’s needs; and

9
10 **WHEREAS**, both the 2007 and 2012 Comprehensive Plans of New Castle County
11 called for the creation of a zoning category recognizing conserved lands, and

12
13 **WHEREAS**, Strategy 1.1.6 of the 2022 New Castle County Comprehensive Plan
14 reiterates that the County should consider the addition of a preservation zoning category,
15 and defines “Protected Open Space” as privately or publicly held land that has been
16 protected from future development; and

17
18 **WHEREAS**, the zoning of parks and open space protected in perpetuity in categories
19 which describe other uses is confusing to the public and leads to a practical
20 misunderstanding of the future growth patterns of the County, rather than clearly depicting
21 the real world current and future land use conditions; and

22
23 **WHEREAS**, it is important to establish a Publicly Conserved Lands & Parks Zoning
24 District (P) to readily show the extent of publicly protected lands and provide a clearer vision
25 of the size and extent of these important land uses; and

26
27 **WHEREAS**, the County established a goal in its 2022 Comprehensive Plan to
28 conserve 30% of its land by 2030 and the current estimate of government-owned
29 protected open space is estimated at more than twenty percent, a significant portion of
30 the County’s overall acreage deserved of its own zoning category, and

31
32 **WHEREAS**, the establishment of a zoning category recognizing parcels owned by
33 Federal, State, County, and municipal governments within unincorporated New Castle
34 County and which have been acquired through donation or purchased with public funds for
35 the purpose of conservation or public parkland will provide a clearer picture of the extent of
36 permanently protected open space and recreational lands in the County and their protected
37 class; and

38 **WHEREAS**, this Ordinance is enabling legislation in nature and does not rezone
39 any parcel within the unincorporated areas of the County currently utilized as parkland or
40 conserved open space as such a rezoning would require separate parcel specific rezoning
41 legislation; and
42

43 **WHEREAS**, County Council has determined that the provisions of this Ordinance
44 substantially advance, and are reasonably and rationally related to, legitimate government
45 interests, including the protection and preservation of public health, safety, prosperity,
46 general welfare, and quality of life.
47

48 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
49

50 Section 1. *New Castle County Code* Chapter 40 (the “Unified Development Code”),
51 Article 2 (“Establishment of Zoning Districts”), Division 40.02.200 (“Statement of purpose
52 and intent of districts”) is hereby amended by adding the material that is underlined and
53 deleting the material with strikethroughs, as set forth below.
54

55 **Division 40.02.200. - Statement of purpose and intent of districts.**
56

57 This Division specifies the purpose and intent of the zoning districts established by
58 this Chapter. The major community character classes (urban, suburban transition,
59 suburban, [and] special, and protected parks and conservation parcels) are used to
60 organize the districts. Uses within a community character class are more similar in
61 character than uses in a different class. All districts share the purpose of implementing
62 the Comprehensive Development Plan.
63

64 Section 2. *New Castle County Code* Chapter 40 (“Unified Development Code”),
65 Article 2 (“Establishment of Zoning Districts”), Division 40.02.200 (“Statement of purpose
66 and intent of districts”) is hereby by adding the material that is underlined and deleting the
67 material with strikethroughs, as set forth below.
68

69 **Sec. 40.02.248. - Publicly Conserved Lands & Parks (P) District.**
70

71 The Publicly Conserved Lands & Parks District (P) includes publicly owned land that is
72 protected in perpetuity through protective covenants, deed restrictions, or conservation
73 easements or other documented intent including parcels obtained for use as public parks,
74 to protect ecological habitats, or any other lands acquired for environmental protection or
75 outdoor recreation.
76

77 A. Land designated under P zoning includes:
78

- 79 1. Parcels owned by federal, state, county and municipal entities in the
80 unincorporated County that has been permanently protected from
81 development as open space or set aside for public enjoyment as
82 parkland; and
83
- 84 2. Private land protected in perpetuity through conservation easement that
85 is voluntarily zoned P at the request of the property owner.

B. P Zoning Districts shall not include privately held land protected under the County or Delaware Agricultural Lands Preservation programs, or *Open space, community areas* and *Open space, natural resource areas* (as defined in Chapter 40 (“Unified Development Code”), Article 33 (“DEFINITIONS”), Division 40.33.300 (“General Definitions”)) set aside as part of a development record plan.

C. By July 1 of each year, the Departments of Land Use and Public Works are to jointly advise County Council of all parcels in the unincorporated County which satisfy the above criteria but are not currently zoned P, and in conjunction with and by permission of the entity owners, initiate the rezoning process to P, consistent with the provisions of this Chapter.

Section 3. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.100 (“Use regulations”), Section 40.03.110 (“Use table”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

Sec. 40.03.110. – Use table.

Table 40.03.110 lists the type of uses permitted in each district. Refer to Division 40.33.200 for definitions of the various use categories and their components...

Table 40.03.110 A GENERAL USE TABLE										Table 40.03.110 B GENERAL USE TABLE								Table 40.03.110 C GENERAL USE TABLE	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory,										Zoning District (Suburban and Special Character)								Additional Standards (all districts)	
Land Use	* TN	ST	M M	ON	OR	CR	BP	I	CN	*** S	SE	** NC	HI	EX	SR	P	Parking	Limited & Special Use Standards	
Agricultural										Agricultural								Agricultural	
Agriculture (includes uses pursuant to Delaware Law)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	na.	---	
Clearing	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	na.	Section 40.03.301	
Farmstead	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	2.0/du.	---	
Farm market	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Y	8 spaces	Section 40.03.328	
Commercial stables	N	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	1 per 2 stalls	Section 40.03.302	
Residential										Residential								Residential	
Single-family, detached	Y	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	2.0/du.	---	
Open space subdivision, option 1	N	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	3.0/du.	---	
Open space subdivision, option 2	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	2.0/du.	---	
Single-family, attached	Y	Y	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	2.25/du.	---	
Open space planned	Y	Y	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	2.25/du.	---	
Apartments	Y	Y	N	N	N	N	N	N	N	N	N	N	L	N	N	N	Table 40.03.522	Section 40.03.303	
Apartment conversions	L	L	N	N	N	N	N	N	N	N	L	N	L	N	N	N	2.0/du.	Section 40.03.304	
Commercial apartments	L	N	N	N	N	L	N	N	L	N	N	N	N	N	N	N	2.0/du.	Section 40.03.305	
Hamlet	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	Division 40.25.100	Division 40.25.100	
Village	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	Division 40.25.100	Division 40.25.100	
Group home	Y	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	1.0/2 beds	---	
Manufactured home park	N	N	L	N	N	N	N	N	N	N	N	N	L	N	N	N	2.25/du.	Section 40.03.306	

Small single-family	L	L	N	N	N	L	N	N	L	L	N	L	N	N	N	<u>N</u>	[2.0/du.]	[---]
Home Uses									Home Uses								Home Uses	
Day care, family/large family	A	A	A	N	N	N	N	N	N	A	A	A	N	N	A	<u>N</u>	Section 40.03.420	Section 40.03.420
Home occupation	A	A	A	N	N	A	N	N	A	A	A	A	N	N	A	<u>N</u>	Table 40.03.522	Section 40.03.420
Home business	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Cottage industry	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Institutional									Institutional								Institutional	

Table 40.03.110 A GENERAL USE TABLE										Table 40.03.110 B GENERAL USE TABLE										Table 40.03.110 C GENERAL USE TABLE	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory.										Zoning District (Suburban and Special Character)										Additional Standards (all districts)	
Land Use	* TN	ST	M M	ON	OR	CR	BP	I		CN	*** S	SE	** NC	HI	EX	SR	P			Parking	Limited & Special Use Standards
Assembly and worship	L	L	N	N	L	Y	L	L		L	L	L	L	N	N	L	N			Table 40.03.522	Section 40.03.307, Division 40.25.200
Schools	L	L	N	N	L	Y	L	L		L	L	L	L	N	N	L	N			Table 40.03.522	Section 40.03.307
Colleges	Y	Y	N	L	Y	Y	Y	Y		L	N	N	N	N	N	N	N			Table 40.03.522	Section 40.03.307
Institutional, regional	N	L	N	N	L	L	L	L		N	L	L	L	N	N	L	N			Table 40.03.522	Section 40.03.308
Institutional, neighborhood	L	L	L	L	L	L	L	L		L	L	L	L	N	N	L	N			Table 40.03.522	Section 40.03.309
Institutional, residential (Type I)	L	L	N	N	N	Y	N	N		L	L	L	L	N	N	Y	N			Table 40.03.522	Table 40.03.210
Institutional, residential (Type II)	L	L	N	N	N	L	N	N		L	L	L	L	N	N	L	N			Table 40.03.522	Table 40.03.210
Protective care	N	N	N	N	S	N	S	S		N	N	N	N	S	N	S	N			Table 40.03.522	Table 40.03.210, Section 40.03.310
Public service	L	L	L	Y	Y	Y	Y	Y		Y	L	L	L	Y	Y	L	L			Table 40.03.522	Section 40.03.311
Hospitals	N	N	N	N	Y	Y	Y	Y		N	N	N	L	N	N	N	N			1/bed	Table 40.03.210
Commercial										Commercial										Commercial	
Adaptive reuse, historic building	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L			Table 40.03.522	Section 40.15.240
Adult uses	N	N	N	N	N	S	N	N		N	N	N	N	N	N	N	N			1/100 GFA	Section 40.03.313
Agricultural support and other rural services	N	N	N	N	Y	Y	Y	Y		Y	S	S	S	Y	Y	S	L			Table 40.03.522	Section 40.03.314 and Section 40.03.336
Bed and breakfast	L	L	N	N	N	N	N	N		L	L	L	L	N	N	L	N			1 / room plus 2 / du	Section 40.03.315
Commercial lodging	N	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	N			Table 40.03.522	Table 40.03.210
Commercial retail and service	L	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	N			Table 40.03.522	Table 40.03.210, Division 40.25.200
Corporate guest house	N	L	N	N	Y	Y	Y	Y		N	L	L	L	N	N	L	N			Table 40.03.522	Table 40.03.210
Craft alcohol production establishment	N	N	N	N	N	L	L	L		L	L	L	N	N	N	L	N			Table 40.03.522	Table 40.03.210, Section 40.03.318, Section 40.03.338
Drive-in facility	L	N	N	L	L	L	L	L		L	N	N	N	L	N	N	N			Table 40.03.522	Table 40.03.210, Section 40.03.316
Heavy retail and service	N	N	N	N	N	Y	N	Y		N	N	N	N	S	N	N	N			Table 40.03.522	Section 40.31.430
Light automobile service	L	N	N	N	L	Y	L	Y		Y	N	N	N	N	N	N	N			Table 40.03.522	Section 40.03.317
Mixed use	L	N	N	L	L	L	N	N		L	N	N	N	N	N	N	N			Table 40.03.522	Section 40.03.318, Division 40.25.200
Restaurants	L	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	S			Table 40.03.522	Table 40.03.210, Division 40.25.200
Office	L	N	N	Y	Y	Y	Y	Y		Y	N	N	N	L	N	N	N			Table 40.03.522	Table 40.03.210, Section 40.03.321, Division 40.25.200
Shopping center	N	N	N	N	N	Y	N	N		Y	N	N	N	N	N	N	N			Table 40.03.522	---
Vehicular sales, rental and service	N	N	N	N	N	Y	N	N		N	N	N	N	N	N	N	N			Table 40.03.522	---
Recreation and Amusement										Recreation and Amusement										Recreation and Amusement	
Campground	N	N	N	N	N	N	N	N		N	L	N	N	N	N	L	L			1/space + 3/50 spaces at office	Table 40.03.210

Table 40.03.110 A GENERAL USE TABLE										Table 40.03.110 B GENERAL USE TABLE										Table 40.03.110 C GENERAL USE TABLE	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory.										Zoning District (Suburban and Special Character)										Additional Standards (all districts)	
Land Use	* TN	ST	M	ON	OR	CR	BP	I		CN	*** S	SE	** NC	HI	EX	SR	P			Parking	Limited & Special Use Standards
Recreation, high intensity	N	N	N	N	S	Y	S	S		L	N	N	N	N	L	N	<u>L</u>			Table 40.03.522	Table 40.03.210. In EX, see also Section 40.03.324
Recreation, low intensity	L	L	L	L	L	Y	L	L		Y	L	L	L	L	N	L	<u>L</u>			Table 40.03.522	Table 40.03.210
Resort	N	N	N	N	N	L	N	N		N	L	L	N	N	N	L	<u>N</u>			Table 40.03.522	Table 40.03.210, Section 40.03.322
Industrial Uses										Industrial Uses										Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L		N	N	N	N	L	L	S	<u>L</u>			Table 40.03.522	Section 40.03.336
Extraction	N	N	N	N	N	N	N	N		N	N	N	N	N	L	N	<u>N</u>			Table 40.03.522	Section 40.03.324 and Table 40.03.210
Heavy industry	N	N	N	N	N	N	N	N		N	N	N	N	S	N	N	<u>N</u>			Table 40.03.522	---
Light industry	N	N	N	N	L	S	Y	Y		N	N	N	N	Y	Y	N	<u>N</u>			Table 40.03.522	Section 40.03.333
Recycling or storage	N	N	N	N	L	N	L	L		N	N	N	N	L	N	N	<u>N</u>			Table 40.03.522	Table 40.03.210
Utilities, maintenance facilities	N	N	N	N	Y	L	Y	Y		N	N	N	N	Y	N	N	<u>L</u>			Table 40.03.522	Section 40.03.312
Utility, minor	L	L	L	L	L	L	L	L		L	L	L	L	Y	Y	L	<u>L</u>			Table 40.03.522	Section 40.03.334
Utility, major	S	S	S	S	S	S	S	L		S	S	S	S	L	S	S	<u>L</u>			Table 40.03.522	Section 40.03.312
Solar energy system, large-scale	N	N	L	L	L	L	L	L		N	L	N	N	L	N	L	<u>N</u>			na.	Section 40.03.337
Other Uses										Other Uses										Other Uses	
Airports	N	N	N	N	L	N	L	L		N	S	N	N	L	N	S	<u>N</u>			Special study, Section 40.03.524	Table 40.03.210, Section 40.03.325 and 40.03.432
Commercial communications towers	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>S</u>			2 per tower	Section 40.03.326
Community recycling bins	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	<u>A</u>			---	Section 40.03.430
Exterior lighting for outdoor recreational uses	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	<u>S</u>			Table 40.03.522	Table 40.03.210 and Division 40.22.700
Park and ride facility	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>N</u>			---	Table 40.03.210
Parking structures	N	N	N	S	S	S	S	S		S	S	N	N	S	N	N	<u>S</u>			---	Sections 40.03.528, 40.01.320, and 40.25.137
Temporary Uses										Temporary Uses										Temporary Uses	
Temporary storage, office or classroom modulars or trailers	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>L</u>			Table 40.03.522	Table 40.03.210
Concrete/asphalt batch plant	N	N	N	N	N	N	N	L		N	N	N	N	L	L	L	<u>N</u>			Table 40.03.522	Section 40.03.327
Contractor's office	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>L</u>			1/200 sf.	---
Model homes/sale office	L	L	L	N	N	N	N	N		N	L	L	L	N	N	L	<u>N</u>			2/model	Section 40.03.335
Commercial temporary outdoor sales	L	N	N	N	N	L	N	N		L	N	N	N	N	N	N	<u>L</u>			None	Section 40.03.329
Public interest and special events	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>L</u>			Table 40.03.522	Section 40.03.330
Temporary miscellaneous sales	L	N	N	N	N	L	N	N		L	N	N	N	N	N	N	<u>L</u>			Table 40.03.522	Table 40.03.210, Section 40.03.331
										NOTES: * Refer to Article 25 for design standards for TN District. ** Refer to Section 40.02.241 for identification of permitted residential uses by specific NC zoning district. *** See Division 40.25.100 for Village and Hamlet Standards.											

107

108 Section 4. *New Castle County Code* Chapter 40 (“Unified Development
109 Code”), Article 4 (“District Intensity and Bulk Standards”), Division 40.04.100 (“District
110 performance standards”), Section 40.04.110 (“District and bulk standards”) is hereby
111 amended by adding the material that is underlined and deleting the material with
112 strikethroughs, as set forth below.

113 **Sec. 40.04.110. - District and bulk standards.**

Table 40.04.110 A. DISTRICT AND BULK STANDARDS								Table 40.04.110 B. DISTRICT AND BULK STANDARDS								Table 40.04.110 C. DISTRICT AND BULK STANDARDS	
District Standards								Lot, and Building Standards								Storage and Comments	
Zoning District & Development Type	Min. OSR / LSR	Density		Floor Area Ratio		Utilities (on-site, public)	Min. Site Area	Minimum							Maximum	Exterior Storage	Notes
		Max. Gross	Max Net	Max. Gross	Max Net			Lot Area	Lot Width (feet)	Street Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Paving street yard/other yard (feet)	Unit Mix (%)	Building Height (feet)	Percent of Lot Area	
Publicly Conserved Lands & Parks District (P)								Publicly Conserved Lands & Parks District (P)								Publicly Conserved Lands & Parks District	
																(P)	
Permitted uses*	0.70	na.	na.	0.12	0.45	PO	na.	na.	na.	50	40	50	50/30	na.	40	na.	*The standards are applicable unless explicitly established otherwise by a governmental agreement. ...

114
115 Section 5. *New Castle County Code* Chapter 40 (“Unified Development Code”),
116 Article 4 (“District Intensity and Bulk Standards”), Division 40.04.100 (“District performance
117 standards”), Section 40.04.111 (“Landscape and illumination standards”), Table 40.04.111
118 (“Use and Lot Standards”) is hereby amended by adding the material that is underlined and
119 deleting the material with strikethroughs, as set forth below.

120
121 **Sec. 40.04.111. - Landscape and illumination standards.**
122

123 Bufferyard, landscaping standards and lighting standards are provided in Table
124 40.04.111.

Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS															Table 40.04.111 C. USE AND LOT STANDARDS			
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)															Street Tree Spacing (feet)	Max. Illumination/Height		Notes *NC6.5 or less includes NC5, NCap, NCga, NCth, NCsd, CNmm, and NCpud
				Adjoining Streets			Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like developments options are adjacent)																Illumination	Height	
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor	SR	SE NC 2a	S	NC 40-10	ST	TN	MM	NC 6.5 or less*	ON	OR	CN	CR	BP	I	HI	E	X	C=Cutoff fc=footcandles S=Semi-Cutoff	C=Cutoff ft=feet S=Semi-Cutoff
Publicly Conserved Lands & Parks District (P)							Publicly Conserved Lands & Parks District (P)															Publicly Conserved Lands & Parks District (P)			
Permitted uses	5/ac.	4	1/12	0.4		0.3	0.2	0.3	0.3	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2		40	C=4 fc S=2 fc	C=20 ft S=20 ft	---

125
126 Section 6. *New Castle County Code* Chapter 40 (“Unified Development Code”),
127 Article 6 (“Sign Regulations”), Division 40.06.000 (“Applicability”) is hereby amended by
128 adding the material that is underlined and deleting the material with strikethroughs, as set
129 forth below.

130 **Division 40.06.000. - Applicability.**

131
132 A. With regard to Section 40.06.060 Schedule of Sign Restrictions, the following rules
133 shall govern:

- 134
135 1. Publicly Conserved Lands & Parks District (P), Neighborhood
136 Conservation (NC), Suburban Reserve (SR), Suburban Estate (SE),
137 Suburban (S), Suburban Transition (ST), and Traditional Neighborhood
138 (TN) districts shall all be considered residential districts.
139
140 2. Commercial Neighborhood (CN)...

141
142 Section 7. New Castle County Code Chapter 40 ("Unified Development Code"),
143 Article 33 ("DEFINITIONS"), Division 40.33.300 ("General Definitions") is hereby
144 amended by adding the material that is underlined and deleting the material with
145 strikethroughs, as set forth below.

146 **Division 40.33.300. – General definitions.**

147 ...

148 *Property line.* See Lot line.

149
150
151 Protected Public Parks and Conservation Lands. Parcels of land which are protected
152 in perpetuity through acquisition, purchase or donation of conservation easements
153 or development rights, deed restrictions limiting development in favor of
154 conservation, or protective covenants including public parks, ecological habitats,
155 environmentally sensitive areas, or passive or active outdoor recreational area, but
156 not including privately held parcels under County or Delaware Agricultural Lands
157 Preservation programs nor private *open space* set aside in development plans.

158 ...

159
160 Section 8. New Castle County Council finds that the provisions of this Ordinance
161 are consistent with the spirit and intent of the New Castle County Comprehensive Plan.

162
163 Section 9. This Ordinance shall become effective immediately upon its adoption by
164 County Council and approval by the County Executive, or as otherwise provided in 9 Del.
165 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: This ordinance proposes the creation of a new zoning district known as the Publicly Conserved Lands & Parks District (P). The P Zoning District will become the new zoning designation of publicly owned parks and conservation lands that have been conserved as such or acquired for public use primarily for outdoor recreation in perpetuity. The Ordinance sets forth the purposes of the P District. Moreover, the Ordinance establishes permitted and prohibited uses, as well as limited and accessory uses within the district.

FISCAL NOTE: There is no discernible fiscal impact with the adoption of this Ordinance.

ORDINANCE NO. 24-131

**TO AMEND NEW CASTLE COUNTY CODE CHAPTER 26 (“HUMAN RESOURCES”),
ARTICLE 3 (“MERIT SYSTEM”), SECTION 26.03.1403 (“HOLIDAYS”) CONVERTING
TWO EXISTING HOLIDAYS TO FLOATING HOLIDAYS AND DECLARING
JUNETEENTH AN OFFICIAL HOLIDAY**

1 **WHEREAS**, converting two holidays to floating holidays will give County
2 employees greater flexibility; and
3

4 **WHEREAS**, in 2020 through 2024, County Executive Matthew Meyer declared
5 Juneteenth a New Castle County holiday in recognition of its historical importance and in
6 2021, the State of Delaware designated Juneteenth a legal holiday.
7

8 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
9

10 **Section 1.** *New Castle County Code* Chapter 26 (“Human Resources”), Article
11 (“Merit System”), Sec. 26.03.1403 (“Holidays”) is hereby amended by adding the
12 language that is underscored and the deletion of the stricken text:
13

14 **Sec. 26.03.1403. Holidays.**
15

16 A. The following Holidays shall be holidays with pay:
17

- 18 1. January 1 (New Year’s Day).
- 19 2. Martin Luther King’s Birthday.
- 20 3. ~~Lincoln’s Birthday.~~
- 21 4. President’s Day.
- 22 5. Good Friday.
- 23 6. Memorial Day.
- 24 7. Juneteenth
- 25 8. Fourth of July (Independence Day).
- 26 9. Labor Day.
- 27 10. ~~Columbus Day.~~
- 28 11. Veterans Day.
- 29 12. Thanksgiving Day.
- 30 13. Friday following Thanksgiving.
- 31
- 32
- 33
- 34
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- 37
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- 39
- 40
- 41
- 42

14. December 24 (Christmas Eve Day), normal workday before
Christmas holiday to end at 12:00 noon.

15. Christmas Day

16. Election Day (Every two (2) years)

B. Effective immediately upon passage of this ordinance, employees shall be granted one (1) floating holiday for 2024 and two (2) floating holidays each subsequent calendar year, starting January 1, 2025. Floating holidays must be taken by December 31st of each calendar year. Unused floating holidays shall not carryover to the next calendar year. Employees shall be paid straight time for floating holidays.

The Office of Human Resources shall promulgate a personnel policy to establish the terms of use for floating holidays.

C. Salaried employees in pay grades 18 and below ...

D. When a holiday falls on a regularly assigned day ...

E. Whenever a holiday falls on Saturday ...

F. Holidays which occur during vacation period ...

G. Where administratively possible ...

H. In order to receive holiday pay ...

I. Employees who have holiday work assignments ...

Section 2. This ordinance shall become effective immediately upon its adoption and signature of the County Executive or as otherwise provided in 9 Del. C. Section 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: This ordinance, if approved, will amend the *New Castle County Code* Chapter 26, Article 3, Section 26.03.1403, by removing two holidays and converting them to floating holidays, as well as declaring Juneteenth an official New Castle County holiday.

FISCAL NOTE: This ordinance will have a de minimus impact upon the County's operating budget.

RESOLUTION NO. 24-155

**CELEBRATING AND HONORING REVEREND MONSIGNOR STANLEY J. RUSSELL ON THE
OCCASION OF HIS RETIREMENT FROM ST. HELENA'S PARISH
AFTER FIFTY YEARS AS PASTOR**

1 **WHEREAS**, Stanley J. Russell was born in Brooklyn, NY on February 26, 1936, the only son of
2 Adelaide C. and Stanley J. Russell; and
3

4 **WHEREAS**, he attended St. John's University in Brooklyn and Jamaica, NY and studied for the
5 priesthood at St. John's Seminary in Collegeville, MN and Catholic University in Washington, DC.; and
6

7 **WHEREAS**, he was ordained to the priesthood on May 27, 1961 in St. Peter's Cathedral and his
8 first assignment was at St. Edmond's parish in Rehoboth Beach; and
9

10 **WHEREAS**, Father Russell served at St. Peter's Cathedral and St. Anne's. He then served as
11 an associate at Immaculate Heart of Mary in Brandywine Hundred and then assumed his first pastorate
12 at Holy Rosary in Claymont where he stayed for 11 years followed by 12 years at Our Lady of Fatima in
13 New Castle; and
14

15 **WHEREAS**, Father Russell moved to St. Helena's in Edgemoor in 1994 as pastor. During his
16 faithful and prophetic leadership, St. Helena's has sustained, through Sunday Mass collections, its
17 invaluable Parish Social Ministry program which provides direct financial help to those in need; and
18

19 **WHEREAS**, on November 2, 2017, Pope Francis named Fr. Russell a Chaplain to His Holiness
20 with the title of Monsignor, having been nominated by the Most Reverend W. Francis Malooly, Bishop
21 of Wilmington; and
22

23 **WHEREAS**, Monsignor Russell was involved with the Diocese of Wilmington and was on the
24 council of priests and the Priests' Senate. He was also involved with the formation of the National
25 Federation of Priests' Councils, chairing that body's first personnel committee; and
26

27 **WHEREAS**, Monsignor Russell has been a passionate advocate for the pro-life movement and
28 was director of the diocesan Family Life Bureau. When Roe v. Wade was decided, he travelled
29 throughout the diocese promoting the annual March for Life; and
30

31 **WHEREAS**, Monsignor Russell will continue to be part of parish life at St. Helena's and will be
32 close by, living at his home in Bellefonte.
33

34 **NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New Castle County
35 that County Council hereby expresses their congratulations to Monsignor Stanley J. Russell.

Adopted by County Council
of New Castle County

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

SYNOPSIS: Same as title.

FISCAL NOTE: There is no discernible fiscal impact with the adoption of this resolution.

RESOLUTION NO. 24-156

**REAPPOINTING JOSEPH MANNION TO THE NEW
CASTLE COUNTY BOARD OF ASSESSMENT REVIEW**

1 **WHEREAS**, Joseph T. Mannion has served on the New Castle County Board of
2 Assessment Review since 2007; and
3

4 **WHEREAS**, pursuant to 9 Del C. Sec. 1318 and New Castle County Code Sec.
5 2.05.102, the Board of Assessment Review is vested with the responsibility of hearing
6 appeals from property owners regarding improper assessment, following the hearing of
7 any property owner and determining whether the assessment is correct, and reviewing
8 the methods by which the general manager of the Department of Land Use has
9 established the assessments, among other duties; and
10

11 **WHEREAS**, pursuant to 9 Del C. Sec. 1317, Mr. Mannion is a resident and
12 property owner in the County; and
13

14 **WHEREAS**, Mr. Mannion resides in Council District 2 in New Castle County.
15

16 **NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New
17 Castle County that County Council hereby reappoints Joseph T. Mannion to the New
18 Castle County Board of Assessment Review for a term beginning on June 25, 2024 and
19 expiring on June 25, 2028.

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 NOTE: There is no discernible fiscal impact upon the adoption of this legislation.

Prime Sponsor(s): Mr. Cartier, Mr. Smiley
Date of introduction: July 23, 2024

RESOLUTION NO. 24-157

**ALLOCATING \$33,000 FROM THE NEW CASTLE COUNTY COUNCIL
CONTINGENCY FUND TO THE NEW CASTLE COUNTY FIRE CHIEFS'
ASSOCIATION TO FUND THE NEW CASTLE COUNTY COLLAPSE TEAM**

1 **WHEREAS**, the New Castle County Collapse Team performs an incredibly
2 dangerous, but necessary, function when a building fails; and
3

4 **WHEREAS**, the Collapse Team is responsible for, among other roles, saving
5 persons who, often times, are stuck in rubble when a building has fallen; and
6

7 **WHEREAS**, the Collapse Team is in need of additional funding so that it is able to
8 purchase a necessary insurance policy.
9

10 **NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New Castle
11 County that County Council hereby allocates \$33,000 from the New Castle County Council
12 Contingency Fund to the New Castle County Fire Chiefs' Association to fund the New
13 Castle County Collapse Team.

Adopted by County Council
of New Castle County on:

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

SYNOPSIS: This Resolution, if approved, will allocate \$33,000 from the New Castle County Council Contingency Fund to the New Castle County Fire Chiefs' Association to fund the New Castle County Collapse Team. The Administration will make a matching contribution of \$33,000.

FISCAL NOTE: This Resolution allocates \$33,000 from the New Castle County Council Contingency Fund to the New Castle County Fire Chiefs' Association to fund the New Castle County Collapse Team.

RESOLUTION NO. 24-145

**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.

MEMORANDUM

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

From: Charuni Patibanda

Re: Application No. 2008-0002
Vista at Red Lion – Section 1
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 1; New Castle Hundred; North side of Old Porter Road, 2000' west of Red Lion Road; Major Land Development Plan that proposes to subdivide TP No. 10-052.00-011 into 240 townhouse units utilizing the single family attached 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.

NOTES & DATA:

1. TAX PARCEL NUMBER(S):

2. ZONING DISTRICT DESIGNATION:

3. SOURCE OF TITLE:

4. SURVEY DATUM:
LOCAL BENCHMARK:

NUMBER OF EXISTING MONUMENTS:
NUMBER OF PROPOSED MONUMENTS:

5. SITE GROSS ACREAGE:
SITE NET ACREAGE:

6. WATER SUPPLIER:

7. SANITARY SEWER:

PROPOSED SEWER FLOWS:
SINGLE FAMILY ATTACHED: 240 LOTS x 250 G.P.D.
PEAK FLOW: 60,000 x 4 x 1DAY/1440 MIN.

8. SEPTIC FEASIBILITY:

9. PROPERTY OWNER:

10. EXISTING LOTS AND/OR DWELLING UNITS:
PROPOSED LOTS AND/OR DWELLING UNITS:

11. INTENTIONALLY LEFT BLANK

12. PARKING RATIONALE:
SINGLE-FAMILY ATTACHED
PARKING REQUIRED: 2.25 SP/UNIT x 240 UNITS
DRIVEWAY SPACES PROVIDED: 2 SP/UNIT x 240 UNITS
OVERFLOW / OFF-STREET PROVIDED:
PARKING PROVIDED:

13. SUBDIVISION / SITE DATA:

14. FLOODPLAIN

15. WATER RESOURCE PROTECTION AREA (WRPA)

16. WETLANDS

A. APPLICANT SHALL PROVIDE RESULTS FROM TEST BORINGS WITHIN AND NEAR THE MITIGATION AREAS AND PROVIDE ANALYSIS BY A QUALIFIED PROFESSIONAL TO LAND USE. LAND USE WILL REVIEW THE INFORMATION AND FORWARD TO RPATAC. THIS IS NEEDED TO VERIFY THAT THE MITIGATION WILL BE SUSTAINABLE AS A WETLAND AREA AND NOT BE DETRIMENTALLY AFFECTED BY CONSTRUCTION RELATED ACTIVITY.

B. MITIGATION AREA MUST BECOME PART OF THE VISTA AT RED LION SECTION ONE IN ORDER TO MITIGATE AT A 1-1 RATIO.

C. APPLICANT TO PROVIDE SIGNAGE AROUND THE MITIGATION AREA DESCRIBING ITS PURPOSE AND INTENT, AND APPLICANT TO PLACE LANGUAGE ON THE DEEDS OF THE LOTS IMMEDIATELY ADJACENT TO THE MITIGATION AREAS DESCRIBING PURPOSE AND INTENT OF THE MITIGATION AREA.

17. CRITICAL NATURAL AREAS

18. DEED RESTRICTIONS

19. SUPERSEDES NOTE

20. TRAFFIC IMPACT STUDY AND ROADWAY IMPROVEMENTS

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 #1300393 (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 ROADROUTE 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 ENTRIES 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. 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.

10-052 00-011 PO

ST - (SUBURBAN TRANSITION)
ORDINANCES 17-095 AND 17-096

20150515-0023034

NAD83
FOUND CONCRETE MONUMENT ON THE SOUTHWEST AREA OF TAX PARCEL 10-052-00-011 WITHIN OLD PORTER ROAD RIGHT OF WAY.
ELEVATION= 80.09
3 (1)

57.9815 ACRES
55.4225 ACRES

VEOLIA NORTH AMERICA

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 PROVIDING 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.

= 60,000 G.P.D.
= 167 G.P.M.

NOT APPLICABLE

RED LION HP LLC
PO BOX 7189
WILMINGTON, DE 19803

1
240 SINGLE FAMILY ATTACHED

= 57.9815 ACRES
= 2.5590 ACRES
= 55.4225 ACRES
= 3.7222 ACRES
= 2.4818 ACRES
= 0.4277 ACRES
= 17.1951 ACRES
= 0.0878 ACRES
= 31.5079 ACRES
(INCLUDES 2.3047 ACRES OF SWM AREAS, 2.4004 ACRES OF USABLE OPEN SPACE AND 3.0203 ACRES OF OPEN SPACE UTILIZED FOR WETLAND MITIGATION.)

A PORTION OF THE SITE LIES WITHIN THE FEMA 100-YEAR FLOODPLAIN, AS PER FLOOD INSURANCE RATE MAP NO. 10003C0231L, REVISED JANUARY 22, 2022. IN ACCORDANCE WITH UDC 10.320 C5, A LETTER OF MAP REVISION IS REQUIRED FOR ALL PORTIONS OF RED LION CREEK WITHOUT PUBLISHED BASE FLOOD ELEVATIONS AND FLOODWAY. A LETTER OF MAP REVISION HAS BEEN SUBMITTED TO FEMA AND APPROVED IN A LETTER DATED 9/29/23, CASE NUMBER 23-02-0137P.
A 100-YEAR NON-DELINEATED FLOOD PLAIN SHOWN ON THE PLAN WAS ESTABLISHED BY HOWARD L. ROBERTSON INC.

NO PORTION OF THE SITE LIES 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.

THE WETLANDS BOUNDARIES DEPICTED ON THIS PLAN WERE TAKEN FROM A WETLAND DELINEATION REPORT BY JCM ENVIRONMENTAL DATED MARCH 2008. AS PER THE NCC BOARD OF ADJUSTMENT DECISION DATED JULY 9, 2009, APPLICATION NO. 2009-0090-A, A JURISDICTIONAL DECISION FROM THE ARMY CORP OF ENGINEERS IS NOT REQUIRED. ±1.35 ACRES OF WETLANDS MAY BE FILLED AND REPLACED WITH ±1.35 ACRES (MINIMUM) OF MITIGATED WETLANDS, WITH THE FOLLOWING CONDITIONS:

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 #1300393 (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 ROADROUTE 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 ENTRIES 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. 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

22. IMPACT FEES

23. LANDSCAPE PLAN

24. SIDEWALKS

25. MAINTENANCE OF COMMON FACILITIES

26. UTILITY EASEMENTS

27. TOTAL LENGTH OF PUBLIC AND PRIVATE RIGHT-OF-WAYS:

28. SUBDIVISION STREETS:

29. EXISTING FIRE HYDRANTS:
PROPOSED FIRE HYDRANTS:

30. COASTAL ZONE

31. AVIATION RESTRICTIONS

32. CONSERVATION EASEMENT

33. NONCONFORMITIES

34. TOPOGRAPHY

35. COMMUNITY POSTAL BOXES

36. LAND DEVELOPMENT IMPROVEMENT AGREEMENT

37. RIGHT OF ACCESS

38. NEW CASTLE COUNTY DRAINAGE CODE

39. RESIDENTIAL STORMWATER MANAGEMENT FACILITY MAINTENANCE FEE

40. DELDOT

41. MISS UTILITY NOTE:

UTILITY CONTACT INFORMATION IS AS FOLLOWS:
MISS UTILITY 1-800-282-8555
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. VOLUNTARY SCHOOL ASSESSMENT:

43. RESERVED

44. LIMIT OF DISTURBANCE:

45. FIRE MARSHAL NOTE:

46. OPEN SPACE MAINTENANCE ESCROW:

47. MATURE FOREST:

48. STORM SEWER PIPE VIDEO:
- NO DEBRIS SHALL BE BURIED ON THE SITE.

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.

A LANDSCAPE PLAN, PREPARED BY DESIGNS ETC, LAST DATED 2/12/2023 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, IS HEREBY CONSIDERED A PART OF THE RECORD PLAN.

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 DWELLING (OR GROUP OF DWELLINGS FOR ATTACHED DWELLINGS) IN FRONT OF WHICH THEY ARE SHOWN. SIDEWALKS SHALL BE FIVE (5) FEET IN WIDTH AND CONSTRUCTED OF PORTLAND CEMENT CONCRETE.

FOR MAINTENANCE OF THE COMMON FACILITIES, INCLUDING (LIST APPLICABLE COMMON FACILITIES SUCH AS PRIVATE OPEN SPACE, PRIVATE STREETS, ETC) 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. 20240213-0009430.

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 OTHER THAN COMMON PROPERTY LINES FOR TOWNHOUSES, 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.

PROPOSED 28' WIDE R.O.W. 542ft
PROPOSED 60' WIDE R.O.W. 1660'
PROPOSED 80' WIDE R.O.W. 286'

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 FOLLOWING 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.

0 (0)
14 (3)

THIS SITE DOES NOT LIE WITHIN DELAWARE'S COASTAL ZONE.

U. S. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION RESTRICTIONS AND SAFEGUARDS ARE NOT APPLICABLE TO THIS PROJECT.

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. ANY AREA ON THIS PLAN DELINEATED AS A CONSERVATION EASEMENT SHALL REMAIN IN ITS NATURAL STATE.

NOT APPLICABLE

THE TOPOGRAPHY DEPICTED ON THIS PLAN WAS DERIVED FROM AN AERIAL SURVEY PERFORMED BY WINGS AERIAL MAPPING COMPANY, INC. IN 2007. FIELD VERIFIED BY KARINS AND ASSOCIATES 02/04/2022

POSTAL BOXES SHALL BE INSTALLED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE UNITED STATES POSTAL SERVICE.

ALL IMPROVEMENTS REQUIRED BY THIS PLAN AND THE NEW CASTLE COUNTY CODE SHALL BE SUBJECT TO THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT (LDIA), AND THE PERFORMANCE GUARANTEE INCORPORATED THEREIN. THE LDIA IS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 11/27/2023, AT INSTRUMENT NO. 20231127-0078734."

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.

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 CONTROLS' DELAWARE SEDIMENT AND STORMWATER REGULATIONS AND THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK.

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 FUNDS IS DETERMINED BY THE DEPARTMENT OF PUBLIC WORKS. 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.

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.

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 1-800-282-8555
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.

THE OWNERS SHALL PAY ANY VOLUNTARY SCHOOL ASSESSMENT REQUIRED BY TITLE 9, SECTION 2961(C) OF THE DELAWARE CODE, CALCULATED ON A PER UNIT BASIS AT THE TIME OF ISSUANCE OF THE FIRST BUILDING PERMIT AND IN AN AMOUNT DETERMINED PURSUANT TO TITLE 14 SECTION 103(C) OF THE DELAWARE CODE. PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY FOR ANY LOT OR UNIT SHOWN ON THIS PLAN, THE OWNER/DEVELOPER SHALL PROVIDE A CERTIFICATION FROM THE SECRETARY OF THE DEPARTMENT OF EDUCATION THAT THE VOLUNTARY SCHOOL ASSESSMENT FOR THAT LOT OR UNIT HAS BEEN PAID. A VOLUNTARY SCHOOL ASSESSMENT AGREEMENT WAS EXECUTED ON 08/11/2023 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 08/23/2023. INSTRUMENT NO. 20230823-0058511.

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.

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 GROUDED 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.

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 \$706 PER LOT / UNIT SHOWN ON THIS PLAN OR SUBSEQUENT PLANS. (\$706 X 240 LOTS/UNITS = \$169,440)
THE OPEN SPACE TURNOVER IS TO BE PHASED PER LANDSCAPE AND OPEN SPACE MANAGEMENT PLAN.

LIMITS OF THE MATURE FOREST TAKEN FROM "RECORD MAJOR LAND DEVELOPMENT PLAN, VISTA AT RED LION SECTION 1" PREPARED BY HOWARD L. ROBERTSON, INC. DATED JUNE 13, 2011 AND LAST REVISED FEBRUARY 17, 2015.

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.
49. CONSERVATION EASEMENT:

THE NATURAL RESOURCE AREAS DESIGNATED ON THIS PLAN (OPEN SPACE PARCEL 1 OR OS 1) TO BE DEDICATED TO THE STATE OF DELAWARE SHALL BE KNOWN AS THE STATE TRACT OF THE VISTA AT RED LION NATURE PRESERVE. THESE LANDS SHALL BE PRESERVED IN PERPETUITY AND MAINTAINED PURSUANT TO THE NATURAL AREAS PRESERVATION SYSTEM ESTABLISHED BY THE STATE OF DELAWARE PURSUANT TO 7 DEL. C. CHAPTER 73. THESE LANDS SHALL BE MANAGED AND PROTECTED BY THE OFFICE OF NATURE PRESERVES WITHIN THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL (DNREC), OR ITS SUCCESSOR OR ASSIGN, WITH THE ASSISTANCE OF THE NATURAL AREAS ADVISORY COUNCIL, SUBJECT TO THE RULES AND REGULATIONS ESTABLISHED BY THE DNREC. DEDICATION OR CONVEYANCE OF THESE LANDS TO THE STATE MUST BE COMPLETED PRIOR TO THE ISSUANCE OF TWENTY-FIVE (25) PERCENT OF BUILDING PERMITS.

51. RETAINING WALLS:

52. RECREATIONAL AREAS:

53. 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.
51. RETAINING WALLS:

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

RESOLUTION NO. 24-146

**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

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.

NOTES & DATA:

1. TAX PARCEL NUMBERS:
2. EXISTING ZONING :
PROPOSED ZONING (ORDINANCE #17-096)
3. SOURCE OF TITLE:
4. SURVEY DATUM:
LOCAL BENCHMARK:

NUMBER OF EXISTING MONUMENTS:
NUMBER OF PROPOSED MONUMENTS:
5. SITE GROSS ACREAGE:
SITE NET ACREAGE:
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
CLUB HOUSE: 300 MEMBERS x 2.5 G.P.D./MEMBER
PEAK FLOW: 84,4500 x 4 x IDAY/1440 MIN
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:
10. EXISTING LOTS AND/OR DWELLING UNITS:
PROPOSED LOTS AND/OR DWELLING UNITS:
(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
DRIVEWAY SPACES PROVIDED: 2 SP/UNIT x 279 UNITS

CLUBHOUSE PARKING:
4,800 S.F. @ 6 SPACES/1000 S.F
PARKING SPACES PROVIDED
13. SUBDIVISION / SITE DATA
GROSS AREA:
AREA IN ADDITIONAL DEDICATED R.O.W. (OLD PORTER ROAD)
AREA IN ADDITIONAL DEDICATED R.O.W. (RED LION ROAD)
NET SITE AREA
AREA IN PROPOSED 50' R.O.W.
AREA IN PROPOSED 60' R.O.W.
AREA IN PROPOSED 80' R.O.W.
AREA IN PROPOSED LOTS
AREA IN OPEN SPACE
*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 "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. SUPERSEDES 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 "WATER RESOURCE PROTECTION AREAS FOR THE CITY OF NEWARK, CITY OF WILMINGTON, NEW CASTLE COUNTY DELAWARE" MAP 2 OF 3, REVISED MARCH 2022, 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:

1. 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:
2. 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.
3. 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).
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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 BUILDINGS (OR LOT(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 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:
PROPOSED FIRE HYDRANTS:
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 | |
| U.S.Q. | D.S. | URQ | checked | |
| PER NCC COMMENTS DATED 03-14-24 | ADDED NOTE #62 | PER NCC COMMENTS DATED 11-27-23 | revisions | |
| Karins and Associates
ENGINEERS • PLANNERS • SURVEYORS
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17 POLLY DRUMMOND CENTER • SUITE 201
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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 | | | | |
| DRAWN BY: J.L. | | | | DATE: 01-29-2022 SHEET: 2 OF 9 |
| CHECKED BY: U.R.Q., D.S. | | | | DRAWING NO.: 2554 - A02 |
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- Page 50 of 221

ORDINANCE NO. 24-118

AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET: APPROPRIATE \$5,000,000 IN FUNDING FROM THE REASSESSMENT RESERVE ACCOUNT TO THE DEPARTMENT OF ADMINISTRATION, REASSESSMENT 2024 CAPITAL PROJECT

1 **WHEREAS**, New Castle County awarded a contract for a third-party vendor to conduct a
2 general reassessment to reflect revised assessments of real property for taxes levied in Fiscal
3 Year 2026; and
4

5 **WHEREAS**, based on the awarded vendor bid contract and other related project
6 activities, total general reassessment costs are estimated at \$20,000,000; and
7

8 **WHEREAS**, an original appropriation of \$8,000,000 from the Reassessment Reserve
9 Account to the Reassessment 2024 Capital Project was previously approved by County Council
10 via Ordinance 21-078; and
11

12 **WHEREAS**, appropriation of \$7,000,000 from the Reassessment Reserve Account to the
13 Reassessment 2024 Capital Project was previously approved by County Council via Ordinance
14 23-025; and
15

16 **WHEREAS**, authorization is being sought for the appropriation of an additional
17 \$5,000,000 from the Reassessment Reserve Account to the Reassessment 2024 Capital Project
18 to support the final expenditures for the current reassessment initiative, including costs
19 associated with appeals.
20

21 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
22

23 Section 1. The Capital Budget Ordinance for the fiscal year beginning July 1, 2024 is
24 hereby amended by deleting the material stricken and adding the material underscored on the
25 attached Exhibit "A."
26

27 Section 2. The Capital Program Resolution for the fiscal year beginning July 1, 2024 is
28 hereby amended by deleting the material stricken and adding the material underscored on the
29 attached Exhibit "B."
30

31
32 Section 3. Reassessment Reserve funding in the amount of \$5,000,000 is appropriated
33 to the Department of Administration, Reassessment 2024 Capital Project to support the final
34 expenditures for the current reassessment initiative, including costs associated with appeals.
35

36 Section 4. This Ordinance shall become effective immediately upon its adoption by
37 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* §
38 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: This Ordinance, if approved, will appropriate \$5,000,000 in funding from the Reassessment Reserve Account to the Department of Administration, Reassessment 2024 Capital Project to support the final expenditures for the current reassessment initiative, including costs associated with appeals.

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Capital Budget by appropriating \$5,000,000 from Reassessment Reserve Account to the Department of Administration, Reassessment 2024 Capital Project.

The revised FY2025 Capital Budget amount for the Reassessment 2024 Capital Project will be \$5,000,000.

The revised FY2025 New Castle County Capital Budget grand total will be \$39,207,715. There is no fiscal impact on the Operating Budget. The Reassessment Reserve balance upon passage of this Ordinance will be approximately \$2,000,000.

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-118

DEPARTMENT OF ADMINISTRATION

Firewall Replacement		\$	425,000
<u>Reassessment 2024</u>	0		<u>5,000,000</u>

Subtotal	425,000	\$	<u>5,425,000</u>
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DEPARTMENT OF COMMUNITY SERVICES

Appoquinimink Library		\$	54,482
Glasgow Library			150,000
Newark Library			4,700,000
Rockwood Museum			175,000
<u>Surratte Pool Renovations</u>			<u>50,000</u>

Subtotal		\$	5,129,482
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DEPARTMENT OF PUBLIC SAFETY

Public Safety Equipment		\$	136,000
Public Safety Vest Protection Program			<u>264,515</u>

Subtotal		\$	400,515
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DEPARTMENT OF PUBLIC WORKS

Facilities/Equipment

Electric Vehicle Infrastructure		\$	2,019,708
Fleet Equipment 2022			(450,000)
Fleet Equipment 2023			(1,900,000)
Fleet Equipment 2024			49,590
<u>Fleet Equipment 2025</u>			<u>6,510,906</u>

Subtotal		\$	6,230,204
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EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-118

DEPARTMENT OF PUBLIC WORKS (Continued)

Parks

Agricultural Preservation	\$ 1,500,000
Bechtel Park Improvements	2,250,000
Game Court Improvements Pre-2021	(106,744)
Game Court Improvements 2021	181,744
General Parkland Improvements 2024-2025	750,000
Greenway Systems	1,000,000
Open Space Preservation	1,000,000
Southern Regional Park	4,400,000
Subtotal	\$ 10,975,000

Sewer/Stormwater

Airport Road System Rehabilitation	\$ 2,500,000
Brandywine Hundred South Rehabilitation Phase I	(450,000)
Christiana Pump Station Upgrade	(500,000)
Christina River Force Main	1,000,000
Countywide Drainage Problems	(500,000)
Delaware City Industrial Sewer Expansion	(2,500,000)
Delaware City Treatment Plant Rehab	(500,000)
DelDOT Coordination Project 2021	(500,000)
General Sewer Improvements	1,000,000
Glasgow Area Sewer Improvements	(400,000)
Holloway Terrace Outfall Replace	(1,000,000)
Public Works Complex	400,000
Pump Station Rehab 2024-2025	500,000
Septage Receiving Station Upgrade	300,000
Sewer Fleet Equipment 2022	(3,051)
Sewer Fleet Equipment 2023	(764,800)
Sewer Fleet Equipment 2025	2,665,366
Sewer Repairs and Rehabilitation 2024-2025	2,000,000
Stormwater Basin Renovation II	1,500,000
Terminal Avenue System Rehabilitation	(500,000)
Water Farm #1 System Rehabilitation	300,000
Water Quality Improvement Plans	2,400,000
White Clay System Rehabilitation	4,100,000
Subtotal	\$ 11,047,515

CAPITAL BUDGET TOTAL

34,207,715

\$ 39,207,715

EXHIBIT B**PROJECT PROFILES
ADMINISTRATION (continued)**

Project Name (Number): Reassessment 2024 (C122101)					
Description: Conduct a general reassessment and implement a computer assisted mass appraisal system.				Council Districts: All	
Funding Schedule					
	Bonds	Federal	State	Other	Total
Prior Authorizations	\$ -	\$ -	\$ -	\$ 15,000,000	\$ 15,000,000
FY2025		-	-	-	-
				5,000,000	5,000,000
FY2026		-	-	-	-
FY2027		-	-	-	-
FY2028		-	-	-	-
FY2029		-	-	-	-
FY2030		-	-	-	-
Future Years	-	-	-	-	-
Total	\$ -	\$ -	\$ -	\$ 15,000,000	\$ 15,000,000
			\$ -	\$ 20,000,000	\$ 20,000,000
Available Authorizations:		\$ 2,491,144			
Available Funding:		\$ 1,491,144			
Operating Budget Impact:		\$ -			

*Available Authorizations / Funding as of February 29, 2024, net of obligations.

FY2025 Activity:

The anticipated go-live date for the Tyler Enterprise Assessment system is 7/30/24. The "value" notices informing all parcel owners of their parcel's assessed value generated from the reassessment project are scheduled to be mailed in November, 2024. Property owners will be able to contest the assessed value from the reassessment project through an informal appeal process for three months after the value notices have been mailed. The BOAR will certify the values generated from the reassessment project in February, 2025. Assessment will accept formal appeals on the new assessed value from property owners through 3/14/25.

Future Activity:

No activity planned.

Prime Sponsor(s): Mr. Smiley
Requested by: County Council
Date of introduction: July 9, 2024

ORDINANCE NO. 24-119

AMEND THE GRANTS BUDGET:

**APPROPRIATE FUNDING FROM THE NEW CASTLE COUNTY COUNCIL FY2025
APPROVED OPERATING BUDGET TO THE SENIOR HOME REPAIR PROGRAM GRANT,
WHICH IS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES**

1 **WHEREAS**, the Senior Home Repair Program Grant is designed to provide minor
2 housing repair assistance to eligible senior homeowners age 60 and older with a maximum grant
3 amount of \$2,500.00; and
4

5 **WHEREAS**, the home must be located in New Castle County, outside the boundaries of
6 Wilmington and Newark; and
7

8 **WHEREAS**, there are currently over 129 seniors on the waiting list for this program; and
9

10 **WHEREAS**, New Castle County Council has determined that there will be unspent
11 funding available in the Grants and Fixed Charges Budget Line Item at the end of FY2025; and
12

13 **WHEREAS**, New Castle County Council wishes to provide \$5,000 to the Senior Home
14 Repair Program Grant from their Grants and Fixed Charges Budget Line Item within the FY2025
15 Approved Operating Budget; and
16

17 **WHEREAS**, Council has determined that the provisions of this Ordinance substantially
18 advance, and are reasonably and rationally related to, legitimate government interests (i.e.,
19 promoting the health, safety, morals, convenience, order, prosperity and/or welfare of the
20 present and future inhabitants of this State).
21

22 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
23

24 Section 1. The Grants Budget as adopted by Ordinance No. 75-173 is hereby amended
25 by adding the material underscored and deleting the material bracketed and stricken on the
26 attached "Exhibit A."
27

28 Section 2. This Ordinance shall become effective immediately upon its adoption by
29 County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C. §*
30 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: This Ordinance, if approved, will appropriate \$5,000 from the County Council – Grants and Fixed Charges Budget Line Item within the FY2025 Approved Operating Budget to the Senior Home Repair Program Grant. In order to complete this transaction, **Ordinance No. 24-120 must be passed by County Council to complete this transaction.**

The Senior Home Repair Program Grant is designed to provide minor housing repair assistance to eligible senior homeowners age 60 and older, who own and reside in their home as their primary residence, have assets under the asset limit and have homeowners insurance. The maximum grant amount is \$2,500. The home must be located in New Castle County, outside the boundaries of Wilmington and Newark. There are currently over 129 seniors on the waiting list for this program. Funding for the program is from the Community Development Block Grant Program.

FISCAL NOTE: This Ordinance, if approved, will amend the Grants Budget by appropriating \$5,000 in funding to the Senior Home Repair Program Grant, which is administered by the Department of Community Services. Partial funding for this program will be provided from the County Council – Grants and Fixed Charges Budget Line Item in the FY2025 Approved Operating Budget.

The fiscal impact of this Ordinance, if approved, will be an increase in the authorized spending authority of the Grants Budget by \$5,000. This increase will affect FY2025 and beyond since this program is ongoing, without an expiration date, until all funds have been expended.

DEPARTMENT:	Community Services	EXHIBIT:	"A"
GRANT TITLE:	Senior Home Repair Program	Ordinance No.	24-119
PROGRAM TITLE:	Senior Home Repair Program		

Revenue	Current	Change	Revised
Federal	\$ -	\$ -	\$ -
State	\$ -	\$ -	\$ -
County	\$ 646,569.51	\$ 5,000.00	\$ 651,569.51
Program Income	\$ -	\$ -	\$ -
Other	\$ -	\$ -	\$ -
Total	\$ 646,569.51	\$ 5,000.00	\$ 651,569.51

Expense	Current	Change	Revised
Salaries and Wages	\$ -	\$ -	\$ -
Benefits	\$ -	\$ -	\$ -
Training/Civic Affairs	\$ -	\$ -	\$ -
Communication/Utilities	\$ -	\$ -	\$ -
Materials/Supplies	\$ -	\$ -	\$ -
Contractual Services	\$ 60,205.50	\$ -	\$ 60,205.50
Equipment	\$ -	\$ -	\$ -
Grants/Fixed Charges	\$ 586,364.01	\$ 5,000.00	\$ 591,364.01
Land and Structures	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -
Operating Transfer Charges	\$ -	\$ -	\$ -
Operating Transfer Credits	\$ -	\$ -	\$ -
Total	\$ 646,569.51	\$ 5,000.00	\$ 651,569.51

SUPPLEMENTAL INFORMATION

Estimated Program Initiation: 7/1/2012

Estimated Program Completion: ongoing

The Local Match: **Found in (ORG):**

Ordinance Passed:	Date Revised:
12-043 4/24/2012	21-106 9/30/2021
18-072 7/16/2018	22-068 5/24/2022
19-065 7/3/2019	23-064 5/23/2023
20-060 6/9/2020	<u>24-090 Sub 1</u> <u>6/11/2024</u>
21-075 Floor Amend 1 6/16/2021	

PROGRAM DESCRIPTION:

The Senior Home Repair Program is designed to provide minor housing repair assistance to eligible senior homeowners age 60 and older, who own and reside in their home as their primary residence, have assets under the asset limit and have homeowners insurance. The maximum grant amount is \$2,500. The home must be located in New Castle County, outside the boundaries of Wilmington and Newark. There are currently over 129 seniors on the waiting list for this program. Funding for the program is from the Sheriff's Office, Program Income and the General Fund.

5/28/2024

7/9/2024

ORDINANCE NO. 24-120

**AMEND THE FY2025 APPROVED OPERATING BUDGET:
REDUCE THE GRANTS AND FIXED CHARGES BUDGET LINE ITEM OF COUNTY
COUNCIL TO PROVIDE FUNDING FOR NEW CASTLE COUNTY OPERATING
PROGRAMS AND GRANTS**

1 **WHEREAS**, County Council has budgeted funding available in the Grants and Fixed
2 Charges Budget Line Item; and

3
4 **WHEREAS**, the Department of Public Safety, Division of Communication provides New
5 Castle County with a computer aided emergency communications center that is easily
6 accessible to all residents and is responsive to all emergency 911 and non-emergency call
7 requests for police, fire, and emergency medical services, regardless of callers' location; and

8
9 **WHEREAS**, County Council would like to contribute \$5,000 to enable the Department of
10 Public Safety, Division of Emergency Communications to continue its successful community
11 outreach program by offering a training course and certification as an Emergency
12 Telecommunicator for up to twenty-five participants; and

13
14 **WHEREAS**, successful completion of the training program will assist future, interested
15 job applicants who apply for 911 system positions in meeting minimum and/or preferred
16 qualifications during the application process; and

17
18 **WHEREAS**, the Department of Community Services, Division of Community
19 Development and Housing provides Community Cleanup efforts to areas in need in New Castle
20 County; and

21
22 **WHEREAS**, County Council would like to contribute \$5,000 to enable the Department of
23 Community Services, Division of Community Development and Housing to continue its
24 successful Community Cleanup efforts to areas in need in New Castle County; and

25
26 **WHEREAS**, the Senior Home Repair Program Grant is designed to provide minor
27 housing repair assistance to eligible senior homeowners age 60 and older with a maximum grant
28 amount of \$2,500.00; and

29
30 **WHEREAS**, the home must be located in New Castle County, outside the boundaries of
31 Wilmington and Newark and there are currently over 129 seniors on the waiting list for this
32 program; and

33 **WHEREAS**, New Castle County Council wishes to provide \$5,000 to the Senior Home
34 Repair Program Grant from their Grants and Fixed Charges Budget Line Item within the FY2025
35 Approved Operating Budget; and

36
37 **WHEREAS**, the revenue measures heretofore adopted by the County Council are, in the
38 opinion of the County Executive, estimated to yield sums at least sufficient to balance the
39 proposed expenditures as set forth in the Annual Operating Budget as hereinafter amended.

40
41 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
42

43 Section 1. The Annual Operating Budget Ordinance for the fiscal year beginning July 1,
44 2024, is hereby amended by deleting the material that is stricken and adding the material that is
45 underscored on the attached Exhibit "A."

46
47 Section 2. The foregoing amendment shall be considered a part of the Annual Operating
48 Budget for the fiscal year beginning July 1, 2024 and shall be effective as though incorporated
49 initially in the Annual Operating Budget Ordinance.

50
51 Section 3. This Ordinance shall become effective immediately upon its adoption by
52 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* §
53 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: This Ordinance, if approved, will transfer \$5,000 from the County Council – Grants and Fixed Charges Budget Line Item to the Department of Public Safety – Salaries and Wages, Employee Benefits and Materials and Supplies Budget Line Items to enable the Department of Public Safety, Division of Emergency Communications to reach out to the community by offering a training course and certification as an Emergency Telecommunicator for up to twenty-five participants. This Ordinance, if approved, will also transfer \$5,000 from the County Council –

Grants and Fixed Charges Budget Line Item to the Department of Community Services – Contractual Services Budget Line Item to enable the Department of Community Services, Division of Community Development and Housing to provide Community Cleanup efforts to areas in need in New Castle County. This Ordinance, if approved, will also transfer \$5,000 from the County Council – Grants and Fixed Charges Budget Line Item to the Senior Home Repair Program Grant. **Ordinance No. 24-119 must first be passed by County Council to amend the existing grant.**

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Approved Operating Budget by reducing the County Council – Grants and Fixed Charges Budget Line Item by \$15,000 and appropriating \$5,000 to the Department of Public Safety – Salaries and Wages, Employee Benefits and Materials and Supplies Budget Line Items, \$5,000 to the Department of Community Services – Contractual Services Budget Line Item and \$5,000 to the Senior Home Repair Program Grant.

This legislation will result in no increase to the FY2025 Approved Operating Budget as the legislation is a transfer of \$10,000 between departments and the transfer of \$5,000 of FY FY2025 Approved Operating Budget spending authority to the Grants Budget. There is no fiscal impact beyond FY2025.

COUNTY COUNCIL

Salaries and Wages		\$	2,552,351
Benefits			1,493,866
Training and Civic Affairs			70,388
Communication and Utilities			17,483
Materials and Supplies			62,776
Contractual Services			256,588
Equipment			1,600
Grants and Fixed Charges	440,233		<u>425,233</u>
Operating Transfer Charges			175,627
Total	5,070,912	\$	<u>5,055,912</u>
Total Authorized Full-Time Positions	35		

COUNTY EXECUTIVE

Salaries and Wages		\$	2,033,684
Benefits			1,190,296
Training and Civic Affairs			31,904
Communication and Utilities			16,798
Materials and Supplies			22,236
Contractual Services			148,565
Equipment			1,000
Grants and Fixed Charges			43,000
Contingency			55,000
Operating Transfer Charges			105,264
Total		\$	<u>3,647,747</u>
Total Authorized Full-Time Positions	17		

DEPARTMENT OF ADMINISTRATION

Salaries and Wages		\$	12,986,061
Benefits			7,506,461
Training and Civic Affairs			132,825
Communication and Utilities			8,258,220
Materials and Supplies			162,673
Contractual Services			6,855,976
Equipment			392,900
Grants and Fixed Charges			3,932,350
Operating Transfer Charges			1,142,324
Operating Transfer Credits			(12,812,422)
Total		\$	<u>28,557,368</u>
Total Authorized Full-Time Positions	168		

DEPARTMENT OF PUBLIC WORKS

Salaries and Wages		\$	27,135,440
Benefits			15,765,968
Training and Civic Affairs			45,445
Communication and Utilities			26,068,271
Materials and Supplies			4,565,701
Contractual Services			10,843,698
Equipment			483,333
Grants and Fixed Charges			1,192,757
Land and Structures			35,000
Operating Transfer Charges			4,574,405
Operating Transfer Credits			(7,722,122)
Total		\$	82,987,896
Total Authorized Full-Time Positions	389		

DEPARTMENT OF LAND USE

Salaries and Wages		\$	8,156,971
Benefits			4,742,077
Training and Civic Affairs			66,975
Communication and Utilities			111,242
Materials and Supplies			101,727
Contractual Services			1,447,909
Equipment			44,940
Grants and Fixed Charges			56,500
Operating Transfer Charges			1,061,595
Total		\$	15,789,936
Total Authorized Full-Time Positions	112		

DEPARTMENT OF COMMUNITY SERVICES

Salaries and Wages		\$	12,519,168
Benefits			5,565,327
Training and Civic Affairs			18,560
Communication and Utilities			1,069,498
Materials and Supplies			1,429,039
Contractual Services	2,214,606		<u>2,219,606</u>
Equipment			18,900
Grants and Fixed Charges			3,235,149
Operating Transfer Charges			1,175,272
Operating Transfer Credits			(225,977)
Total	27,019,542	\$	<u>27,024,542</u>
Total Authorized Full-Time Positions	162		

DEPARTMENT OF PUBLIC SAFETY

Salaries and Wages	77,332,068	\$	77,334,401
Benefits	42,954,368		<u>42,955,735</u>
Training and Civic Affairs			206,456
Communication and Utilities			1,008,304
Materials and Supplies	1,069,526		<u>1,070,826</u>
Contractual Services			2,251,228
Equipment			1,660,283
Grants and Fixed Charges			8,345,222
Operating Transfer Charges			7,843,655
Total	142,671,110	\$	<u>142,676,110</u>
Total Authorized Full-Time Positions	728		

REGISTER OF WILLS

Salaries and Wages		\$	1,159,211
Benefits			660,186
Training and Civic Affairs			34,950
Communication and Utilities			12,209
Materials and Supplies			10,053
Contractual Services			62,715
Equipment			2,800
Operating Transfer Charges			82,214
Total		\$	<u>2,024,338</u>
Total Authorized Full-Time Positions	20		

RECORDER OF DEEDS

Salaries and Wages		\$	1,256,525
Benefits			723,402
Training and Civic Affairs			40,170
Communication and Utilities			33,689
Materials and Supplies			12,398
Contractual Services			82,718
Equipment			6,150
Grants and Fixed Charges			18,350
Operating Transfer Charges			162,265
Total		\$	2,335,667
Total Authorized Full-Time Positions	23		

SHERIFF

Salaries and Wages		\$	1,380,772
Benefits			804,406
Training and Civic Affairs			29,452
Communication and Utilities			14,993
Materials and Supplies			21,259
Contractual Services			55,999
Equipment			5,000
Operating Transfer Charges			142,020
Total		\$	2,453,901
Total Authorized Full-Time Positions	21		

CLERK OF THE PEACE

Salaries and Wages		\$	483,477
Benefits			282,975
Training and Civic Affairs			9,600
Communication and Utilities			5,484
Materials and Supplies			8,754
Contractual Services			18,268
Equipment Replacement			6,000
Operating Transfer Charges			30,824
Total		\$	845,382
Total Authorized Full-Time Positions	7		

DEBT SERVICE

Debt Service		\$	45,778,427
Total		\$	45,778,427
Total Authorized Full-Time Positions			

ETHICS COMMISSION

Salaries and Wages	\$	40,200
Benefits		4,181
Training and Civic Affairs		10,500
Communication and Utilities		1,898
Materials and Supplies		2,450
Contractual Services		235,747
Equipment		500
Operating Transfer Charges		6,360
Total	\$	301,836
Total Authorized Full-Time Positions	0	

COUNCIL CONTINGENCY

Contingency	\$	250,000
Total	\$	250,000
Total Authorized Full-Time Positions		

EXECUTIVE CONTINGENCY

Contingency	\$	600,000
Total	\$	600,000
Total Authorized Full-Time Positions		

PERSONNEL CONTINGENCY

Contingency	\$	455,000
Total	\$	455,000
Total Authorized Full-Time Positions		

ATTRITION CONTINGENCY

Personal Services - Salaries and Wages	\$	(6,164,693)
Personal Services - Employee Benefits	\$	(3,608,135)
Total	\$	(9,772,828)
Total Authorized Full-Time Positions		

ONE-TIME CONTINGENCY

Contingency	\$	478,539
Total	\$	478,539

NEW CASTLE COUNTY

Salaries and Wages	140,871,235	\$	<u>140,873,568</u>
Benefits	78,085,378		<u>78,086,745</u>
Training and Civic Affairs			697,225
Communication and Utilities			36,618,089
Materials and Supplies	7,468,592		<u>7,469,892</u>
Contractual Services	24,474,017		<u>24,479,017</u>
Equipment			2,623,406
Grants and Fixed Charges	17,263,561		<u>17,248,561</u>
Debt Service			45,778,427
Land and Structures			35,000
Contingency			1,838,539
Operating Transfer Charges			16,501,825
Operating Transfer Credits			(20,760,521)
<i>Sub-Total New Castle County</i>	<i>351,494,773</i>	\$	<u>351,489,773</u>
<i>Total Authorized Full-Time Positions</i>	<i>1,682</i>		

RESERVE ACCOUNTS ANTICIPATED BALANCES AS OF JUNE 30, 2024

Tax Stabilization Reserve Account	63,193,549
Sewer Rate Stabilization Reserve Account	7,482,353
General Fund Budget Reserve Account	44,592,418
Sewer Fund Budget Reserve Account	18,872,304
<i>Total Reserves:</i>	<u>134,140,624</u>

Prime Sponsor(s): Mr. Smiley, Mr. Cartier
Requested by: Administration/Finance
Date of introduction: July 9, 2024

ORDINANCE NO. 24-121

**AMEND THE FY2024 APPROVED OPERATING BUDGET:
REALIGN \$375,000 WITHIN THE SEWER FUND IN ORDER TO PROVIDE FUNDING FOR
SALARIES AND WAGES**

1 **WHEREAS**, realignment of funds is required for the FY2024 County's salaries and
2 wages; and

3
4 **WHEREAS**, the Sewer Fund will require a realignment of \$375,000 from the Debt
5 Service Budget Line Item to the Salaries and Wages Budget Line Item in the Department of
6 Public Works; and

7
8 **WHEREAS**, the revenue measures heretofore adopted by the County Council, are, in
9 the opinion of the County Executive, estimated to yield sums at least sufficient to balance the
10 proposed expenditures as set forth in the Annual Operating Budget as hereinafter amended.

11
12 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**

13
14 Section 1. The Annual Operating Budget for the fiscal year beginning July 1, 2023 is
15 hereby amended by deleting the matter stricken and adding the matter underscored on the
16 attached Exhibit "A."

17
18 Section 2. The foregoing amendment shall be considered a part of the Annual
19 Operating Budget for the fiscal year beginning July 1, 2023 and shall be effective as though
20 incorporated initially in the Annual Operating Budget.

21
22 Section 3. This Ordinance shall become effective immediately upon its adoption by
23 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*
24 1156.

25
26 Section 4. It is the intent of the County Council that the provisions of this Ordinance
27 shall be effective retroactive to June 30, 2024.

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: This Ordinance, if approved, will realign \$375,000 within the Sewer Fund from the Debt Service Budget Line Item to the Salaries and Wages Budget Line Item in the Department of Public Works. This realignment of funds is necessary to cover FY2024 County's salaries and wages.

It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to June 30, 2024.

FISCAL NOTE: This Ordinance, if approved, will realign \$375,000 within the Sewer Fund from the Debt Service Budget Line Item to the Salaries and Wages Budget Line Item in the Department of Public Works. This realignment of funds is necessary to cover FY2024 County's salaries and wages. This realignment of funding will result in no increase to the FY2024 Approved Operating Budget as the legislation is a transfer of funds between Departments and within the same fund.

COUNTY COUNCIL

Salaries and Wages	\$	2,428,665
Benefits		1,428,590
Training and Civic Affairs		61,851
Communication and Utilities		19,219
Materials and Supplies		31,022
Contractual Services		280,991
Equipment		19,766
Grants and Fixed Charges		279,165
Operating Transfer Charges		162,739
Total	\$	4,712,008
Total Authorized Full-Time Positions	35	

COUNTY EXECUTIVE

Salaries and Wages	\$	1,777,524
Benefits		1,045,578
Training and Civic Affairs		34,379
Communication and Utilities		18,399
Materials and Supplies		15,535
Contractual Services		586,454
Equipment		1,000
Grants and Fixed Charges		1,140,000
Contingency		9,025
Operating Transfer Charges		82,016
Total	\$	4,709,910
Total Authorized Full-Time Positions	16	

DEPARTMENT OF ADMINISTRATION

Salaries and Wages	\$	12,188,612
Benefits		8,338,475
Training and Civic Affairs		125,761
Communication and Utilities		8,323,497
Materials and Supplies		143,194
Contractual Services		6,974,962
Equipment		380,184
Grants and Fixed Charges		3,925,350
Operating Transfer Charges		1,163,567
Operating Transfer Credits		(12,098,321)
Total	\$	27,710,648
Total Authorized Full-Time Positions	172	

DEPARTMENT OF PUBLIC WORKS

Salaries and Wages	24,597,539	\$	<u>24,972,539</u>
Benefits			14,348,323
Training and Civic Affairs			52,527
Communication and Utilities			27,191,724
Materials and Supplies			4,991,480
Contractual Services			10,503,388
Equipment			471,133
Grants and Fixed Charges			1,193,757
Land and Structures			35,000
Operating Transfer Charges			4,845,806
Operating Transfer Credits			(7,438,785)
Total	80,791,892	\$	<u>81,166,892</u>
Total Authorized Full-Time Positions	384		

DEPARTMENT OF LAND USE

Salaries and Wages		\$	8,375,178
Benefits			4,899,879
Training and Civic Affairs			52,615
Communication and Utilities			111,337
Materials and Supplies			88,807
Contractual Services			1,604,118
Equipment			71,090
Grants and Fixed Charges			56,500
Operating Transfer Charges			1,136,835
Operating Transfer Credits			(803,217)
Total		\$	<u>15,593,142</u>
Total Authorized Full-Time Positions	118		

DEPARTMENT OF COMMUNITY SERVICES

Salaries and Wages		\$	11,809,417
Benefits			5,323,852
Training and Civic Affairs			22,984
Communication and Utilities			1,242,364
Materials and Supplies			1,550,793
Contractual Services			4,288,362
Equipment			39,167
Grants and Fixed Charges			3,110,149
Operating Transfer Charges			1,221,236
Operating Transfer Credits			(190,829)
Total		\$	<u>28,417,495</u>
Total Authorized Full-Time Positions	160		

DEPARTMENT OF PUBLIC SAFETY

Salaries and Wages	\$	67,293,955
Benefits		39,178,888
Training and Civic Affairs		185,941
Communication and Utilities		1,030,869
Materials and Supplies		1,061,793
Contractual Services		2,182,319
Equipment		1,445,272
Grants and Fixed Charges		6,791,770
Operating Transfer Charges		7,298,634
Total	\$	126,469,441
Total Authorized Full-Time Positions		711

REGISTER OF WILLS

Salaries and Wages	\$	1,111,172
Benefits		634,647
Training and Civic Affairs		39,075
Communication and Utilities		12,374
Materials and Supplies		9,230
Contractual Services		56,175
Equipment		6,038
Operating Transfer Charges		85,180
Total	\$	1,953,891
Total Authorized Full-Time Positions		20

RECORDER OF DEEDS

Salaries and Wages		\$	1,232,844
Benefits			712,707
Training and Civic Affairs			36,970
Communication and Utilities			30,977
Materials and Supplies			9,315
Contractual Services			97,001
Equipment			1,150
Grants and Fixed Charges			18,350
Operating Transfer Charges			148,002
Total		\$	2,287,316
Total Authorized Full-Time Positions	23		

SHERIFF

Salaries and Wages		\$	1,260,692
Benefits			737,678
Training and Civic Affairs			29,452
Communication and Utilities			16,189
Materials and Supplies			21,259
Contractual Services			55,999
Equipment			5,000
Operating Transfer Charges			144,938
Total		\$	2,271,207
Total Authorized Full-Time Positions	21		

CLERK OF THE PEACE

Salaries and Wages		\$	474,736
Benefits			279,250
Training and Civic Affairs			14,130
Communication and Utilities			5,168
Materials and Supplies			5,424
Contractual Services			30,043
Equipment Replacement			6,000
Operating Transfer Charges			31,776
Total		\$	846,527
Total Authorized Full-Time Positions	7		

DEBT SERVICE

Debt Service	45,398,069	\$	<u>45,023,069</u>
Land and Structures			
Contingency			
Intragovernmental Service Charges			
Intragovernmental Service Credits			
Total	45,398,069	\$	<u>45,023,069</u>
Total Authorized Full-Time Positions			

ETHICS COMMISSION

Salaries and Wages	\$	38,000
Benefits		3,385
Training and Civic Affairs		10,500
Communication and Utilities		1,922
Materials and Supplies		2,450
Contractual Services		290,642
Equipment		500
Operating Transfer Charges		6,699
Total	\$	354,098
Total Authorized Full-Time Positions	0	

COUNCIL CONTINGENCY

Contingency	\$	220,000
Total	\$	220,000
Total Authorized Full-Time Positions		

EXECUTIVE CONTINGENCY

Contingency	\$	(60,089)
Total	\$	(60,089)
Total Authorized Full-Time Positions		

PERSONNEL CONTINGENCY

Contingency	\$	455,000
Total	\$	455,000
Total Authorized Full-Time Positions		

ATTRITION CONTINGENCY

Personal Services - Salaries and Wages	\$	(4,293,340)
Personal Services - Employee Benefits	\$	(2,525,429)
Total	\$	(6,818,769)
Total Authorized Full-Time Positions		

ONE-TIME CONTINGENCY

Contingency	\$	1,139,722
Total	\$	1,139,722

NEW CASTLE COUNTY

Salaries and Wages	128,294,994	\$	<u>128,669,994</u>
Benefits			74,405,823
Training and Civic Affairs			666,185
Communication and Utilities			38,004,039
Materials and Supplies			7,930,302
Contractual Services			26,950,454
Equipment			2,446,300
Grants and Fixed Charges			16,515,041
Debt Service	45,398,069		<u>45,023,069</u>
Land and Structures			35,000
Contingency			1,763,658
Operating Transfer Charges			16,327,428
Operating Transfer Credits			(20,531,152)
<i>Sub-Total New Castle County</i>		\$	<u>338,206,141</u>
<i>Total Authorized Full-Time Positions</i>	<i>1,667</i>		

RESERVE ACCOUNTS AS OF JUNE 11, 2024

Tax Stabilization Reserve Account (Unaudited)	80,059,107
Sewer Rate Stabilization Reserve Account (Unaudited)	6,261,142
General Fund Budget Reserve Account	44,592,418
Sewer Fund Budget Reserve Account	18,872,304
<i>Total Reserves:</i>	<u>149,784,971</u>

ORDINANCE NO. 24-122

**AMEND THE FY2024 APPROVED OPERATING BUDGET:
APPROPRIATE STATE OF DELAWARE FUNDING RECEIVED FOR THE NEW CASTLE
COUNTY POLICE EMPLOYEE'S RETIREMENT SYSTEM TO THE DEPARTMENT OF
PUBLIC SAFETY EMPLOYEE BENEFITS BUDGETARY LINE ITEM**

1 **WHEREAS**, New Castle County receives pension contributions from the State of
2 Delaware for the New Castle County Police Employee's Retirement System; and
3

4 **WHEREAS**, the revenue measures heretofore adopted by the County Council are, in the
5 opinion of the County Executive, estimated to yield sums at least sufficient to balance the
6 proposed expenditures as set forth in the Annual Operating Budget as hereinafter amended.
7

8 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
9

10 Section 1. The Annual Operating Budget Ordinance for the fiscal year beginning July 1,
11 2023, is hereby amended by deleting the matter stricken and adding the matter underscored on
12 the attached Exhibit "A".
13

14 Section 2. The foregoing amendment shall be considered a part of the Annual Operating
15 Budget for the fiscal year beginning July 1, 2023 and shall be effective as though incorporated
16 initially in the FY2024 Annual Operating Budget Ordinance.
17

18 Section 3. This Ordinance shall become effective immediately upon its adoption by
19 County Council and signature of the County Executive, or as otherwise provided in 9 *Del. C.* §
20 1156.
21

22 Section 4. It is the intent of the County Council that the provisions of this Ordinance shall
23 be effective retroactive to June 30, 2024.

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: This Ordinance will appropriate \$8,365,517.15 of revenue received from the State of Delaware to the New Castle County Department of Public Safety Employee Benefits Budgetary Line Item. New Castle County receives pension contributions from the State of Delaware for the New Castle County Police Employee's Retirement System.

It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to June 30, 2024.

FISCAL NOTE: This Ordinance, if approved will appropriate \$8,365,517.15 of revenue received from the State of Delaware to the New Castle County Department of Public Safety Employee Benefits Budgetary Line Item.

Prior to 1996, New Castle County would deposit the revenue received from the State directly to the Pension Trust Fund. Upon the passage of Governmental Accounting Standards Board Statement # 24 (GASB 24), the County was required to record all on-behalf payments in the General Fund as revenue and expense the proceeds to the General Fund. The revenue is then recorded in the Pension Trust Fund.

The fiscal impact of this Ordinance, if approved, would increase the Employee Benefits line of the Department of Public Safety by \$8,365,517.15.

The fiscal impact in subsequent years will be contingent upon any change by the State of Delaware in regards to the police pension program.

Overview of the Police Pension Funding from the State:

Police Officers hired subsequent to January 31, 1993 become members of the State of Delaware's County and Municipal Police/Firefighter's Pension Plan (C/M Plan). The pension contribution rate is established annually by the C/M Plan's actuary.

Since at least 1990, the County receives distributions of tax proceeds from the State of Delaware for County police (*18 Del. C. 707*). The State of Delaware funds distributions through a special tax levied on gross insurance premiums. The tax proceeds are deposited into a special fund, managed by the State Board of Pension Trustees and distributed based on two components:

1. Under *18 Del. C. 708 (b)*, the State Board of Pension Trustees allocates the special fund deposits based on eligibility and proportionately distributes the funds on a per capita basis based on the total number of state, county and municipal police entitled to benefits from an annual registry in accordance with *18 Del. C. 709(a)*. Funds are distributed to the proper officers of the state, county or municipal police department or bureau. Distribution takes place twice annually, on or before June 30 and December 31.
2. Under *18 Del. C. 708 (c)*, the allocation of the special fund for "state police" provides post-retirement increases for retired county and municipal police and firefighters. The State Board of Pension Trustees allocates these funds on a per capita basis to the account of each eligible county or municipality upon the annual registry in accordance with *18 Del. C. 709(b)*. Any county or municipality wishing to grant a post-retirement increase from the special fund shall submit a proposal to the State Board of Pension Trustees. In addition, prior to the implementation of such increase, the County must deposit into the special fund sufficient funds to cover 25% of the total actuarial cost of such increase.

COUNTY COUNCIL

Salaries and Wages	\$	2,428,665
Benefits		1,428,590
Training and Civic Affairs		61,851
Communication and Utilities		19,219
Materials and Supplies		31,022
Contractual Services		280,991
Equipment		19,766
Grants and Fixed Charges		279,165
Operating Transfer Charges		162,739
Total	\$	4,712,008
Total Authorized Full-Time Positions	35	

COUNTY EXECUTIVE

Salaries and Wages	\$	1,777,524
Benefits		1,045,578
Training and Civic Affairs		34,379
Communication and Utilities		18,399
Materials and Supplies		15,535
Contractual Services		586,454
Equipment		1,000
Grants and Fixed Charges		1,140,000
Contingency		9,025
Operating Transfer Charges		82,016
Total	\$	4,709,910
Total Authorized Full-Time Positions	16	

DEPARTMENT OF ADMINISTRATION

Salaries and Wages	\$	12,188,612
Benefits		8,338,475
Training and Civic Affairs		125,761
Communication and Utilities		8,323,497
Materials and Supplies		143,194
Contractual Services		6,974,962
Equipment		380,184
Grants and Fixed Charges		3,925,350
Operating Transfer Charges		1,163,567
Operating Transfer Credits		(12,098,321)
Total	\$	27,710,648
Total Authorized Full-Time Positions	172	

DEPARTMENT OF PUBLIC WORKS

Salaries and Wages	\$	24,597,539
Benefits		14,348,323
Training and Civic Affairs		52,527
Communication and Utilities		27,191,724
Materials and Supplies		4,991,480
Contractual Services		10,503,388
Equipment		471,133
Grants and Fixed Charges		1,193,757
Land and Structures		35,000
Operating Transfer Charges		4,845,806
Operating Transfer Credits		(7,438,785)
Total	\$	80,791,892
Total Authorized Full-Time Positions		384

DEPARTMENT OF LAND USE

Salaries and Wages	\$	8,375,178
Benefits		4,899,879
Training and Civic Affairs		52,615
Communication and Utilities		111,337
Materials and Supplies		88,807
Contractual Services		1,604,118
Equipment		71,090
Grants and Fixed Charges		56,500
Operating Transfer Charges		1,136,835
Operating Transfer Credits		(803,217)
Total	\$	15,593,142
Total Authorized Full-Time Positions		118

DEPARTMENT OF COMMUNITY SERVICES

Salaries and Wages	\$	11,809,417
Benefits		5,323,852
Training and Civic Affairs		22,984
Communication and Utilities		1,242,364
Materials and Supplies		1,550,793
Contractual Services		4,288,362
Equipment		39,167
Grants and Fixed Charges		3,110,149
Operating Transfer Charges		1,221,236
Operating Transfer Credits		(190,829)
Total	\$	28,417,495
Total Authorized Full-Time Positions		160

DEPARTMENT OF PUBLIC SAFETY

Salaries and Wages		\$	67,293,955
Benefits	39,178,888		<u>47,544,405</u>
Training and Civic Affairs			185,941
Communication and Utilities			1,030,869
Materials and Supplies			1,061,793
Contractual Services			2,182,319
Equipment			1,445,272
Grants and Fixed Charges			6,791,770
Operating Transfer Charges			7,298,634
Total	126,469,441	\$	<u>134,834,958</u>
Total Authorized Full-Time Positions	711		

REGISTER OF WILLS

Salaries and Wages		\$	1,111,172
Benefits			634,647
Training and Civic Affairs			39,075
Communication and Utilities			12,374
Materials and Supplies			9,230
Contractual Services			56,175
Equipment			6,038
Operating Transfer Charges			85,180
Total		\$	<u>1,953,891</u>
Total Authorized Full-Time Positions	20		

RECORDER OF DEEDS

Salaries and Wages	\$	1,232,844
Benefits		712,707
Training and Civic Affairs		36,970
Communication and Utilities		30,977
Materials and Supplies		9,315
Contractual Services		97,001
Equipment		1,150
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Operating Transfer Charges		148,002
Total	\$	2,287,316
Total Authorized Full-Time Positions	23	

SHERIFF

Salaries and Wages	\$	1,260,692
Benefits		737,678
Training and Civic Affairs		29,452
Communication and Utilities		16,189
Materials and Supplies		21,259
Contractual Services		55,999
Equipment		5,000
Operating Transfer Charges		144,938
Total	\$	2,271,207
Total Authorized Full-Time Positions	21	

CLERK OF THE PEACE

Salaries and Wages	\$	474,736
Benefits		279,250
Training and Civic Affairs		14,130
Communication and Utilities		5,168
Materials and Supplies		5,424
Contractual Services		30,043
Equipment Replacement		6,000
Operating Transfer Charges		31,776
Total	\$	846,527
Total Authorized Full-Time Positions	7	

DEBT SERVICE

Debt Service	\$	45,398,069
Land and Structures		
Contingency		
Intragovernmental Service Charges		
Intragovernmental Service Credits		
Total	\$	45,398,069
Total Authorized Full-Time Positions		

ETHICS COMMISSION

Salaries and Wages	\$	38,000
Benefits		3,385
Training and Civic Affairs		10,500
Communication and Utilities		1,922
Materials and Supplies		2,450
Contractual Services		290,642
Equipment		500
Operating Transfer Charges		6,699
Total	\$	354,098
Total Authorized Full-Time Positions	0	

COUNCIL CONTINGENCY

Contingency	\$	220,000
Total	\$	220,000
Total Authorized Full-Time Positions		

EXECUTIVE CONTINGENCY

Contingency	\$	(60,089)
Total	\$	(60,089)
Total Authorized Full-Time Positions		

PERSONNEL CONTINGENCY

Contingency	\$	455,000
Total	\$	455,000
Total Authorized Full-Time Positions		

ATTRITION CONTINGENCY

Personal Services - Salaries and Wages	\$	(4,293,340)
Personal Services - Employee Benefits	\$	(2,525,429)
Total	\$	(6,818,769)
Total Authorized Full-Time Positions		

ONE-TIME CONTINGENCY

Contingency	\$	1,139,722
Total	\$	1,139,722

NEW CASTLE COUNTY

Salaries and Wages		\$	128,294,994
Benefits	74,405,823		<u>82,771,340</u>
Training and Civic Affairs			666,185
Communication and Utilities			38,004,039
Materials and Supplies			7,930,302
Contractual Services			26,950,454
Equipment			2,446,300
Grants and Fixed Charges			16,515,041
Debt Service			45,398,069
Land and Structures			35,000
Contingency			1,763,658
Operating Transfer Charges			16,327,428
Operating Transfer Credits			(20,531,152)
<i>Sub-Total New Castle County</i>	<i>338,206,141</i>	\$	<u>346,571,658</u>
<i>Total Authorized Full-Time Positions</i>	<i>1,667</i>		

RESERVE ACCOUNTS AS OF JUNE 11, 2024

Tax Stabilization Reserve Account (Unaudited)	80,059,107
Sewer Rate Stabilization Reserve Account (Unaudited)	6,261,142
General Fund Budget Reserve Account	44,592,418
Sewer Fund Budget Reserve Account	18,872,304
<i>Total Reserves:</i>	<u>149,784,971</u>

ORDINANCE NO. 24-123

**TO AMEND *NEW CASTLE COUNTY CODE*,
CHAPTER 38 (“UTILITIES”) REGARDING
ARTICLE 2 (“SEWERS AND SEWAGE DISPOSAL”) AND
ARTICLE 3 (“PROHIBITIONS, ENFORCEMENT, AND PENALTIES”)**

1 **WHEREAS**, *New Castle County Code*, Chapter 38 regulates discharges to the sanitary
2 sewer system and includes the U. S. Environmental Protection Agency’s (“EPA”) approved local
3 limits for the discharge of certain constituents into wastewater (“Local Limits”); and
4

5 **WHEREAS**, Local Limits are set to ensure that wastewater discharged into the sanitary
6 sewer system does not contain pollutants at levels that could pass through, interfere with, or be
7 otherwise incompatible with Publicly Owned Treatment Works (“POTW”); and
8

9 **WHEREAS**, as the County is a jurisdiction that contributes wastewater to the Wilmington
10 Wastewater Treatment Plant (“WWTP”), the County must update Chapter 38 to reflect any
11 revisions by EPA to the Local Limits that govern discharges to the WWTP; and
12

13 **WHEREAS**, earlier this year, EPA reviewed and approved modifications to the Local
14 Limits, necessitating revisions to Chapter 38 to reflect the County’s share of those Local Limits;
15 and
16

17 **WHEREAS**, in addition to revising the Local Limits, the County wishes to update certain
18 other pretreatment provisions found in Chapter 38 to reflect EPA model language and best
19 practices; and
20

21 **WHEREAS**, County Council has determined that the provisions of this Ordinance
22 substantially advance and are reasonably and rationally related to legitimate governmental
23 interests, including promoting the public health, safety, welfare and quality of life of present and
24 future in habitants of New Castle County.
25

26 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
27

28 Section 1. *New Castle County Code* Chapter 38 (“Utilities”), Article 2 (“Sewers and
29 Sewage Disposal”), Division 38.02.700 (“Regulation of non-domestic wastewater discharges into
30 the public sewer system”) is hereby amended by adding the material that is underlined and
31 deleting the material with strikethroughs, as set forth below:
32

33 **Sec. 38.02.701. Definitions.**
34

35 The following words, terms and phrases, when used in this Division, shall have the
36 meanings ascribed to them in this Section, except where the context clearly indicates a
37 different meaning:
38 ...

39 Authorized or duly authorized representative means the following: shall be defined as
40 under Code of Federal Regulations (CFR), 40 CFR 403.12(k)(1)(1)-(3).

41 A. If the user is a corporation:

- 42 1. The president, secretary, treasurer, or a vice-president of the corporation in
43 charge of a principal business function, or any other person who performs similar
44 policy or decision-making functions for the corporation; or
- 45 2. The manager of one or more manufacturing, production, or operating facilities,
46 provided the manager is authorized to make management decisions that govern
47 the operation of the regulated facility including having the explicit or implicit duty
48 of making major capital investment recommendations, and initiate and direct other
49 comprehensive measures to assure long-term environmental compliance with
50 environmental laws and regulations; can ensure that the necessary systems are
51 established or actions taken to gather complete and accurate information for
52 individual wastewater discharge permit requirements; and where authority to sign
53 documents has been assigned or delegated to the manager in accordance with
54 corporate procedures.

55 B. If the user is a partnership or sole proprietorship: a general partner or proprietor,
56 respectively.

57 C. If the user is a Federal, State, or local governmental facility: a director or highest
58 official appointed or designated to oversee the operation and performance of the
59 activities of the government facility, or his or her designee.

60 D. The individuals described in paragraphs A through C, above, may designate a duly
61 authorized representative if the authorization is in writing, the authorization specifies
62 the individual or position responsible for the overall operation of the facility from which
63 the discharge originates or having overall responsibility for environmental matters for
64 the company, and the written authorization is submitted to the General Manager.

65 ...

66 Categorical industrial user means an industrial user subject to a categorical pretreatment
67 standard or categorical standard.

68 Categorical pretreatment standard or categorical standard means standards specifying the
69 quantity, concentration, or pollutant properties of pollutants that may be discharged to POTWs.
70 EPA promulgates pretreatment standards for specific industry categories in accordance with
71 CWA section 307. These standards are codified in 40 CFR Chapter I, Subchapter N, Parts
72 405-471.

73 ...

74 Discharge or indirect discharge means the introduction of pollutants into a POTW from any
75 non-domestic source as regulated under the Act. includes deposit, conduct, drain, emit, throw,
76 run, allow, seep or otherwise release or dispose of or allow, permit or suffer any of these acts
77 or omissions.

78 ...

79 Interference means a discharge which, alone or in conjunction with a discharge or
80 discharges from other sources, inhibits or disrupts the POTW, its treatment processes or
81 operations or its sludge processes, use or disposal and hence causes a violation of the
82 County's POTW's NPDES permit or prevents sewage sludge use or disposal in compliance
83 with any federal, State or local statutory/regulatory provisions or permits.

84 ...

85 New source means:

86 A. Any any-building, structure, facility or installation from which there is (or may be) a
87 discharge of pollutants, the construction of which is commenced after the publication of

proposed national pretreatment standards under Section 307(c) of the federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with ~~Section 307(c) of the Act.~~ that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (A)(2) or (A)(3) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin as part of a continuous onsite construction program:
 - a. Any placement, assembly, or installation of facilities or equipment; or
 - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

...

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the ~~County's~~ POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

...

Publicly owned treatment works or *POTW* means any devices or systems owned by a municipality (as defined by section 502(4) of the Act) used in the storage, conveyance, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

...

Significant industrial user means:

- (1) any industrial user (IU) subject to ~~Environmental Protection Agency~~ categorical pretreatment standards; or
- (2) any ~~noncategorical~~ industrial user that:

- 136 a. discharges twenty-five thousand (25,000) gallons per day or more of process
137 wastewater to the ~~sewer~~ POTW (excluding sanitary, noncontact cooling and boiler
138 blowdown wastewater); or ~~any user~~
139 b. that contributes a process waste stream which makes up five (5) percent or more
140 of the average dry-weather hydraulic or organic capacity of the POTW treatment
141 plant; or
142 c. ~~any user~~ is designated as significant by the General Manager on the basis that the
143 user has a reasonable potential for adversely affecting the POTW's treatment
144 plant's operation or for violating any pretreatment standard or requirement.

145 *Significant noncompliance* means any one (1) or more of the following:

- 146 A. Chronic violations of wastewater discharge limits in which sixty-six (66) percent or
147 more of all of the measurements taken for the same pollutant parameter during a six
148 (6) month period ~~equal or~~ exceed (by any magnitude) a numeric pretreatment
149 standard or requirement, including instantaneous permit limits for the same pollutant
150 parameter.
151 ...
152 E. Failure to meet, within ninety (90) calendar days after a schedule date, a compliance
153 schedule milestone contained in the wastewater discharge permit or enforcement
154 order for starting construction, completing construction or attaining final compliance.
155 F. Failure to provide within forty-five (45) calendar days after the due date, any required
156 reports such as baseline monitoring reports, ninety (90) day compliance reports,
157 compliance with categorical pretreatment standard deadlines, periodic self-monitoring
158 reports, and reports on compliance schedules.
159 ...

160 *Slug load* or *slug* means any discharge at a flow rate or concentration which could cause a
161 violation of the prohibited discharge standards in Section 38.02.702 of this Code or any
162 discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a
163 noncustomary batch discharge, which has a reasonable potential to cause interference or pass
164 through, or in any other way violate the POTW's regulations, local limits or permit conditions.
165 ...

166 **Sec. 38.02.702. Prohibited discharges.**

167
168 No user shall introduce or cause to be introduced into the POTW any pollutant or
169 wastewater which causes pass through or interference. These general prohibitions apply to all
170 users of the POTW whether or not they are subject to categorical pretreatment standards or
171 any other national, state, or local pretreatment standards or requirements. It shall also be
172 unlawful for any person to discharge or permit the discharge or infiltration into any public sewer
173 any of the following:
174 ...

- 175 C. Any water or wastes that contain more than ten (10) mg/l of hydrogen sulfides; in the
176 liquid phase. The County reserves the right to require installation of either vapor phase
177 and or liquid phase on-line monitoring equipment if a hydrogen sulfide or other vapor
178 phase constituent source is suspected.
179 ...
180 J. Any liquid having a pH lower than 6.0 or higher than 9.0 or having any property
181 capable of causing damage or hazard to structures, equipment ~~and or~~ or personnel of
182 the ~~sewer works~~ POTW. pH deviations between 5.0 and 11.0 shall be permitted for a
183 total of ten (10) percent of the time in an eight (8) hour work shift, provided the user

installs and operates a pH-monitoring device to continuously monitor and record the pH of the discharge.

...

- L. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- M. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
- N. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the County or City of Wilmington's NPDES permit.
- O. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
- P. Sludges, screenings, or other residues from the pretreatment of industrial wastes.
- Q. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.
- R. Detergents, surface-active agents, or other substances in quantities that cause excessive foaming in the POTW.
- S. Wastewater causing two readings on an explosion hazard meter more than five percent or any single reading over ten percent of the lower explosive limit of the meter at the point of discharge into the POTW, or at any point in the POTW. The County reserves the right to require installation of either vapor phase and or liquid phase on-line monitoring equipment if a hydrogen sulfide or other vapor phase constituents source is suspected.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

Sec. 38.02.703. Maximum constituents.

- A. Limitations of concentrations and maximum allowable industrial loadings. The thirty (30) day average concentration in wastewater of any of the following ~~below~~ constituents shall be limited to the ~~following concentrations~~ listed below for dischargers in the Middletown-Odessa-Townsend service area. The maximum allowable industrial loadings for the Wilmington service area below are established to protect against pass through and interference. Maximum allowable industrial loadings may be allocated on a mass- or concentration-basis through individual wastewater discharge permits or other control mechanisms (see also Section 38.02.704):

Constituent	Industrial Point Source		
	<u>Local</u> Middletown-Odessa-Townsend (30-Day Average, mg/l)	<u>Limit</u> Service Area	<u>In</u> Maximum Allowable Industrial Loading In Wilmington Service Area (30 Day Average, mg/l) (lb/day)

Arsenic	1.00	0.09 <u>2.69</u>
Cadmium	0.015	0.07 <u>2.53</u>
Chromium, Total	1.50	4.00 <u>175.63</u>
Chromium, VI	0.50	—
Copper	1.0	0.91 <u>37.29</u>
Lead	3.00	1.94 <u>22.07</u>
Mercury	0.001	0.0057 <u>0.33</u>
<u>Molybdenum</u>	—	<u>18.42</u>
Nickel	1.00	1.00 <u>24.78</u>
Selenium	—	0.65 <u>6.29</u>
Silver	0.015	—
Zinc	1.00	3.49 <u>64.99</u>
Ammonia as Nitrogen	35.00	35.00 <u>26,000</u>
TKN	15	—
Phosphorus	45	—
Cyanide, Total	—	0.49 <u>31.73</u>
PCBs	Non-Detectable	—
Phenolics	10.00	10.00 <u>4,520</u>
BODs	350	500 <u>120,667</u>
<u>CBODs</u>		<u>88,667</u>
Total Suspended solids (TSS)	500	500 <u>110,000</u>

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- ...
- G. *General requirements.*
1. All industrial users shall:
- ...

c. Notify the County and POTW immediately of any slugs or slug loadings in accordance with 40 CFR 403.12.

i. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the POTW of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

ii. Within five business days following such discharge, the user shall, unless waived by the POTW, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

iii. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (i). Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

iv. Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

2. All users to which the National Pretreatment Standards apply shall submit BMRs in accordance with 40 CFR § 403.12.

H. The General Manager may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of Section 38.02.702.

Sec. 38.02.704. Wastewater discharge permits.

...

D. *Permit conditions.* Wastewater discharge permits shall be expressly subject to all sections of this Division and all other regulations, user charges and fees established by the County. The conditions of wastewater discharge permits shall be uniformly enforced by the General Manager. The General Manager may deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit. Wastewater discharge permits shall contain the following:

1. A statement of duration including issuance date, effective date, and expiration date.
2. Effluent limits, including ~~I~~limits on the average and maximum wastewater constituents and characteristics, consistent with the applicable discharge standards in Section 38.02.703 and the monitoring frequency established for the discharge.
3. Limits on rate and time of discharge or requirements for flow regulation.
4. Requirements for installation of inspection and sampling facilities.
5. Pretreatment requirements, including national pretreatment standards.

6. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule.
7. A statement of applicable civil and criminal pPenalties for violation(s) of the permit as specified in Section 38.03.003 and the pretreatment program enforcement response plan.
8. Requirements for maintaining plant records relating to wastewater discharge and for providing access to the records for inspecting and copying.
9. Where appropriate, cCompliance schedules containing increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment or other means required for the discharger to meet the applicable discharge standards (e.g., hiring an engineer, completing preliminary plans, executing contracts, etc.). Increments of progress shall not exceed nine (9) months.
10. The requirement to notify the County in advance of any planned significant change in the volume or character of pollutants in the discharge, or to notify the County immediately after discovery of any unplanned significant change.
11. A statement of nontransferability of the permit.
12. The requirement that all users shall notify the General Manager of any significant changes to the user's operations or system that may affect the potential for slug discharges at least ninety (90) days before the change.
13. The requirement to develop and implement a slug control plan if required by the General Manager.
14. Best Management Practices, when applicable.
15. The requirement to notify the County in the event sampling performed by the user indicates a violation.
156. Other conditions as deemed appropriate by the General Manager to ensure compliance.

E. *Reporting requirements.*

- ...
3. ~~Filing of periodic discharge/compliance progress reports.~~ The discharge report may include, but not be limited to wastewater volume rates of flow, constituent concentrations and mass emission rates, compliance with Best Management Practices, hours of operation, number of employees, or other information which relates to the wastewater discharge to the sewers. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the General Manager a report containing the information described in Subsection B. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), periodic reports on continued compliance shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the actual average production rate for the appropriate sampling period. The IU shall sign and certify all compliance reports in accordance with Subsection B.9; and, not later than fourteen (14) days following each date in the schedule and the final date for compliance, the IU shall submit its progress reports on the compliance schedules in accordance with

Subsections B.10, D.9 and this Subsection. Periodic Compliance Reports. All significant industrial users must, at a frequency determined by the General Manager, submit no fewer than twice per year (June and December or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the General Manager or the pretreatment standard necessary to determine the compliance status of the user.

...

5. Baseline Monitoring Reports. Within either one hundred eighty (180) calendar days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the General Manager a report which contains the information listed below. At least ninety (90) calendar days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the General Manager a report which contains the information listed below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users described above shall submit the information set forth below (as described in 40 CFR 403.12(b)).
- a. All information required in 38.02.704.B paragraphs 1-8 and 12.
 - b. Measurement of pollutants.
 - i. The user shall identify the pretreatment standards applicable to each regulated process; in addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or General Manager) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the General Manager or the applicable standards to determine compliance with the standard.
 - ii. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - iii. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the General Manager.
 - iv. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136

377 does not contain sampling or analytical techniques for the pollutant in question, or
378 where the Administrator determines that the part 136 sampling and analytical
379 techniques are inappropriate for the pollutant in question, sampling and analysis
380 shall be performed by using validated analytical methods or any other applicable
381 sampling and analytical procedures, including procedures suggested by the
382 POTW or other parties, approved by the EPA.

383 v. The General Manager may allow the submission of a baseline report which
384 utilizes only historical data so long as the data provides information sufficient to
385 determine the need for industrial pretreatment measures.

386 vi. The baseline report shall indicate the time, date and place of sampling and
387 methods of analysis, and shall certify that such sampling and analysis is
388 representative of normal work cycles and expected pollutant discharges to the
389 POTW.

390 c. *Compliance Certification.* A statement, reviewed by the user's authorized
391 representative as defined in Section 38.02.701 and certified by a qualified
392 professional, indicating whether pretreatment standards are being met on a
393 consistent basis, and, if not, whether additional operation and maintenance
394 (O&M) and/or additional pretreatment is required to meet the pretreatment
395 standards and requirements.

396 d. *Compliance Schedule.* If additional pretreatment and/or O&M will be required to
397 meet the pretreatment standards, the shortest schedule by which the user will
398 provide such additional pretreatment and/or O&M must be provided. The
399 completion date in this schedule shall not be later than the compliance date
400 established for the applicable pretreatment standard. A compliance schedule
401 pursuant to this Section must meet the requirements set out in subsection 6
402 below.

403 e. *Signature and Report Certification.* All baseline monitoring reports must be
404 certified with the statement in Section 38.02.704.E.1. of this ordinance and signed
405 by an authorized representative as defined in Section 38.02.701.

406 6. *Compliance Schedule Progress Reports.* The following conditions shall apply to the
407 compliance schedule required by Section 38.02.704.E.5.d. of this ordinance:

408 a. *The schedule shall contain progress increments in the form of dates for the*
409 *commencement and completion of major events leading to the construction and*
410 *operation of additional pretreatment required for the user to meet the applicable*
411 *pretreatment standards (such events include, but are not limited to, hiring an*
412 *engineer, completing preliminary and final plans, executing contracts for major*
413 *components, commencing and completing construction, and beginning and*
414 *conducting routine operation);*

415 b. *No increment referred to above shall exceed nine (9) months;*

416 c. *The user shall submit a progress report to the General Manager no later than*
417 *fourteen (14) calendar days following each date in the schedule and the final date*
418 *of compliance including, as a minimum, whether or not it complied with the*
419 *increment of progress, the reason for any delay, and, if appropriate, the steps*
420 *being taken by the user to return to the established schedule; and*

421 d. *In no event shall more than nine (9) months elapse between such progress*
422 *reports to the General Manager.*

423 7. *Reports on Compliance with Categorical Pretreatment Standard Deadline.* Within
424 ninety (90) calendar days following the date for final compliance with applicable
425 categorical pretreatment standards, or in the case of a new source following

commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the General Manager a report containing the information described in paragraphs 5.a, 5.b, and 5.c. of this subsection. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified. All sampling will be done in conformance with Section 38.02.706.C.

- F. *Duration of permit.* All wastewater permits shall contain a statement of duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit shall be issued for a period of not less than a year or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modifications and change by the General Manager during the life of the permit as limitations or requirements are modified and changed. The user shall be informed of any proposed changes in the permit at least ninety (90) calendar days prior to the effective date of change. Every user shall be allowed a comment period relating to any of the proposed changes in his or her permit and which shall be the first forty-five (45) calendar days of the ninety (90) calendar day period prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- ...
J. *Permit reissuance.* A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application a minimum of 120 calendar days prior to the expiration of the user's existing individual wastewater discharge permit.

Sec. 38.02.706. Compliance monitoring.

At all times and at his or her discretion, the General Manager shall have the power to take samples or require sampling of any user's discharge to the public sewers in accordance with the following:

- A. *Inspections.* The General Manager and other duly authorized employees of the County, bearing proper credentials and identification, shall be permitted to enter all premises at a reasonable hour for the purpose of inspection, observation, measurement, sampling and testing in accordance with this Division. The user shall not be held liable for any unsafe acts performed by the General Manager or his or her representative while on the user's premises, and any loss to the user as a direct result of any unsafe acts performed by the General Manager or his or her representative while on the user's premises shall be the responsibility of the General Manager. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the General Manager or his or her representative shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. *Sampling points.* ~~Samples shall be taken and flow measurements made, whenever possible, at a common manhole into which all flows from such premises are combined. Such manhole shall be constructed by the owner of such premises, at his~~

or her own expense, when directed by order of the General Manager. Whenever the installation of a common manhole is impossible or impractical, the owner of such premises shall construct and maintain at his or her own expense, in lieu of the common manhole, two (2) or more manholes as required by order of the General Manager for accurate measurement of all flows discharged from such premises into the sewer system; if no special manhole has been required, the control sample shall be taken at a point to be mutually selected by representatives of the General Manager and the user.

1. The General Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

2. The General Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually or as otherwise agreed upon by the General Manager to ensure their accuracy.

3. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the General Manager and shall not be replaced. The costs of clearing such access shall be born by the user.

C. *Sample collection.* With the exception of samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds which must be obtained by grab collection techniques, the user must collect wastewater samples using twenty-four (24) hour flow-proportioned composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the General Manager. Where time-proportional composite or grab sampling is authorized, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four hour (24) period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; and for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the composting procedures as documented in approved EPA methodologies may be authorized as appropriate. For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the General Manager may authorize a lower minimum. For the reports required by paragraph 38.02.704.E.3, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

D. *Method of analysis.* ~~All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Division shall be determined in accordance with 40 CFR 136 to reflect the composition of the user's discharge to the public sewers.~~ All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard.

If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the General Manager or other parties, approved by EPA. All analysis shall be conducted either using a lab certified by either a national or other state accreditation program or the lab must be able to provide documentation that sufficient quality control/quality assurance procedures are in place to ensure verifiable results. At such time the State implements a statewide laboratory accreditation program, then analysis shall be conducted using the requirements of that program.

- F. *Disputed constituent concentration.* If the constituent concentration of the wastes discharged from an industrial user to the POTW as determined under this Section is disputed by the IU, the following procedure shall be instituted:
1. Within five (5) business days of receipt of the analysis in question, the IU shall submit a request for review setting forth the nature of the dispute and reasons for the request.

- ...
- G. *Noncompliance notification.* If a discharge does not comply with any effluent limitations specified in this Division or within the industrial user's permit, the industrial user shall inform the County via telephone within twenty-four (24) hours of becoming aware of the violation and in writing within five (5) working business days of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results to the General Manager within thirty (30) calendar days of becoming aware of the violation. Resampling by the industrial user is not required if the County performs sampling at the user's facility at least once a month, or if the County performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the County receives the results of this sampling, or if the County has performed the sampling and analysis in lieu of the industrial user.

Sec. 38.02.708. Accidental discharges, slug, and spill notification.

- A. *Notification of discharge.* All users shall notify the General Manager within twenty-four (24) hours by telephone upon accidentally discharging wastes in violation of this Division, upon discharging wastes which exceed the prohibitions in 40 CFR Section 403(5)(b), including any slug loadings, or upon discharging wastes which could potentially harm the POTW to enable countermeasures to be taken to minimize damage to the public sewer, treatment facility, treatment processes and the receiving waters. Such notification shall be followed, within five (5) working business days of the date of occurrence, by a detailed written statement to the General Manager describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.

- ...
- C. *Preventive measures.* All users shall notify the General Manager of any significant changes to the user's operations or system that may affect the potential for slug discharges at least ninety (90) calendar days before the change. The General Manager may require users to develop spill prevention plans where there is a potential for adverse input

573 **Sec. 38.02.709. Public notification.**

574 The General Manager shall annually publish in the newspapers(s) of general circulation
575 that provide meaningful public notice within the jurisdiction a list of the industrial users which
576 were in significant noncompliance with any pretreatment requirements or standards during the
577 previous calendar year. The notification shall also summarize any enforcement actions taken
578 against the users during the same twelve (12) months.

579
580 **Sec. 38.02.710. Confidentiality.**

581 Information and data on an industrial user from reports, questionnaires, permit
582 applications, permits and monitoring programs and from inspections shall be available to the
583 public or other governmental agency without restriction unless the user specifically requests
584 and is able to demonstrate to the satisfaction of the General Manager that the release would
585 divulge information, processes or methods of production entitled to protection as trade secrets
586 of the user. Any such request must be asserted at the time of submission of the information or
587 data. When requested and demonstrated by the user furnishing a report that such information
588 should be held confidential, the portions of a report which might disclose trade secrets or secret
589 processes shall not be made available for inspection by the public, but shall be made available
590 immediately upon request to governmental agencies for uses related to the NPDES program or
591 pretreatment program, and in enforcement proceedings involving the person furnishing the
592 report. Wastewater constituents and characteristics will not be recognized as confidential
593 information. The County shall make all records and files pertaining to permitted facilities
594 available to the U.S. Environmental Protection Agency and Delaware Department of Natural
595 Resources and Environmental Control, unless otherwise prohibited by law.

596
597 Section 2. *New Castle County Code* Chapter 38 (“Utilities”), Article 3 (“Prohibitions,
598 Enforcement, and Penalties”) is hereby amended by adding the material that is underlined and
599 deleting the material with strikethroughs, as set forth below:

600
601 **Sec. 38.03.002. Enforcement.**

602 ...

- 603
604
605 B. *Right of entry.* The General Manager of the Department of Public Works or his or her
606 representatives, or an authorized representative of the POTW, if not the County, may go
607 upon any land for the purpose of making surveys for sewers, sewer systems, sewage
608 disposal plants or pumping plants, or for rights-of-way or other property rights, or periodic
609 inspections and monitoring to determine compliance required for the sewers, sewer
610 systems, sewage disposal plants and pumping plants.
611 ...
- 612 C. *Notice of violation.* When the General Manager of the Department of Public Works has
613 reasonable cause to believe that any person has violated or is violating this Chapter or a
614 permit or an order issued under this Chapter, the General Manager of the Department of
615 Public Works or his or her agent may serve upon such person a written notice of violation.
616 Within ten (10) working business days of receipt of this notice, the person shall submit to
617 the General Manager of the Department of Public Works an explanation of the violation and
618 a plan for satisfactory correction and prevention of potential future violations, including
619 specific required actions. Submission of this plan shall not relieve the person of liability for
620 any violation occurring before or after the receipt of the notice of violation.

621
622 D. *Show cause hearing.* The General Manager of the Department of Public Works may order
623 any person who contributes to violation of this Chapter or permit or order issued under this
624 Chapter to show cause why a proposed enforcement action should not be taken. Notice
625 shall be served on the person specifying the time and place for the meeting, the proposed
626 enforcement action and the reasons for such action and requesting that the person show
627 cause why the proposed enforcement action should not be taken. The notice of the meeting
628 shall be served personally or by registered or certified mail, return receipt requested, at least
629 ten (10) ~~working~~ business days prior to the scheduled hearing, except in an emergency as
630 determined by the General Manager of the Department of Public Works. Such notice shall
631 be served to any ~~principal executive, general partner or corporate officer~~ authorized
632 representative. Whether or not a duly notified person appears as noticed, additional
633 enforcement action may be pursued.

634 ...
635 G. *Notification of proposed termination of service or revocation of discharge permit.*
636 ...

- 637
638 3. Continuing noncompliance. The General Manager may, upon thirty (30) calendar days'
639 notice to the permittee, revoke the permit and/or terminate service to the permittee
640 unless, at the expiration of such period, the General Manager is satisfied that the
641 permittee is making satisfactory progress to eliminate or correct the conditions which
642 caused such notice.

643 ...

644 **Sec. 38.03.004. - Means of appeal.**
645

646 A. Fines. Persons disputing fines shall send within ten (10) ~~working~~ business days of
647 receipt of notification of the fine a written request to the General Manager for
648 reconsideration. Where the General Manager believes the dispute has merit, he or she
649 shall convene a show cause hearing on the matter within thirty (30) working days of
650 receiving the request.

651
652 B. Appeals. Any person aggrieved by any decision, action or determination made by the
653 General Manager of the Department of Public Works interpreting or implementing this
654 Chapter or in any permit issued in this Chapter may file with the General Manager of
655 the Department of Public Works a written request for reconsideration within ten (10)
656 working business days of receipt of such decision, action or determination, setting forth
657 in detail the facts supporting the request for reconsideration. The General Manager of
658 the Department of Public Works decision, action or determination shall remain in effect
659 during such period of reconsideration. Any person or entity aggrieved by a decision of
660 the General Manager of the Department of ~~Special Services~~ Public Works may appeal
661 such decision in any manner provided by law.

662
663 Section 3. This Ordinance shall become effective upon passage by New Castle County
664 Council and approval of the County Executive, or as otherwise 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
of New Castle County

SYNOPSIS: This Ordinance revises Chapter 38 to reflect recent EPA approved changes to the Local Limits. As the County is a jurisdiction that contributes wastewater to the Wilmington Wastewater Treatment Plant (“WWTP”), the County must update Chapter 38 to reflect any revisions by EPA to the Local Limits that govern discharges from the WWTP. This Ordinance also updates certain other pretreatment provisions found in Chapter 38 to reflect EPA model language and best practices

FISCAL IMPACT: There will be no discernible fiscal impact from the passage of this Ordinance.

Prime Sponsor(s): Mr. Cartier
Requested by: Land Use
Date of introduction: March 12, 2024

ORDINANCE NO. 24-032

**COMPREHENSIVE REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS
IN COUNTY COUNCIL DISTRICT 8 REGARDING THE FOLLOWING
TAX PARCELS: ARDENTOWN: 27-001.00-001(2206 MILLERS RD, ARDENTOWN);
BRANDYWINE HUNDRED: 06-060.00-010 (1 NAAMANS RD, GILBERT SUBDIVISION), 06-
122.00-081 (301 CARR RD, ROCKWOOD OFFICE PARK),
06-147.00-017 (1204 LIGHTHOUSE RD)**

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 Plan"),
3 on July 26, 2022, and the County Executive approved the Ordinance on August 4, 2022; and
4

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

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

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

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

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

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

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

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

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

39 Section 1. The Zoning Maps of Ardentown and Brandywine Hundred, are hereby
40 amended by changing the zoning classification of the land shown on attached Exhibit "A", Maps
41 1-5 dated 2/04/2024, as set forth therein.
42

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

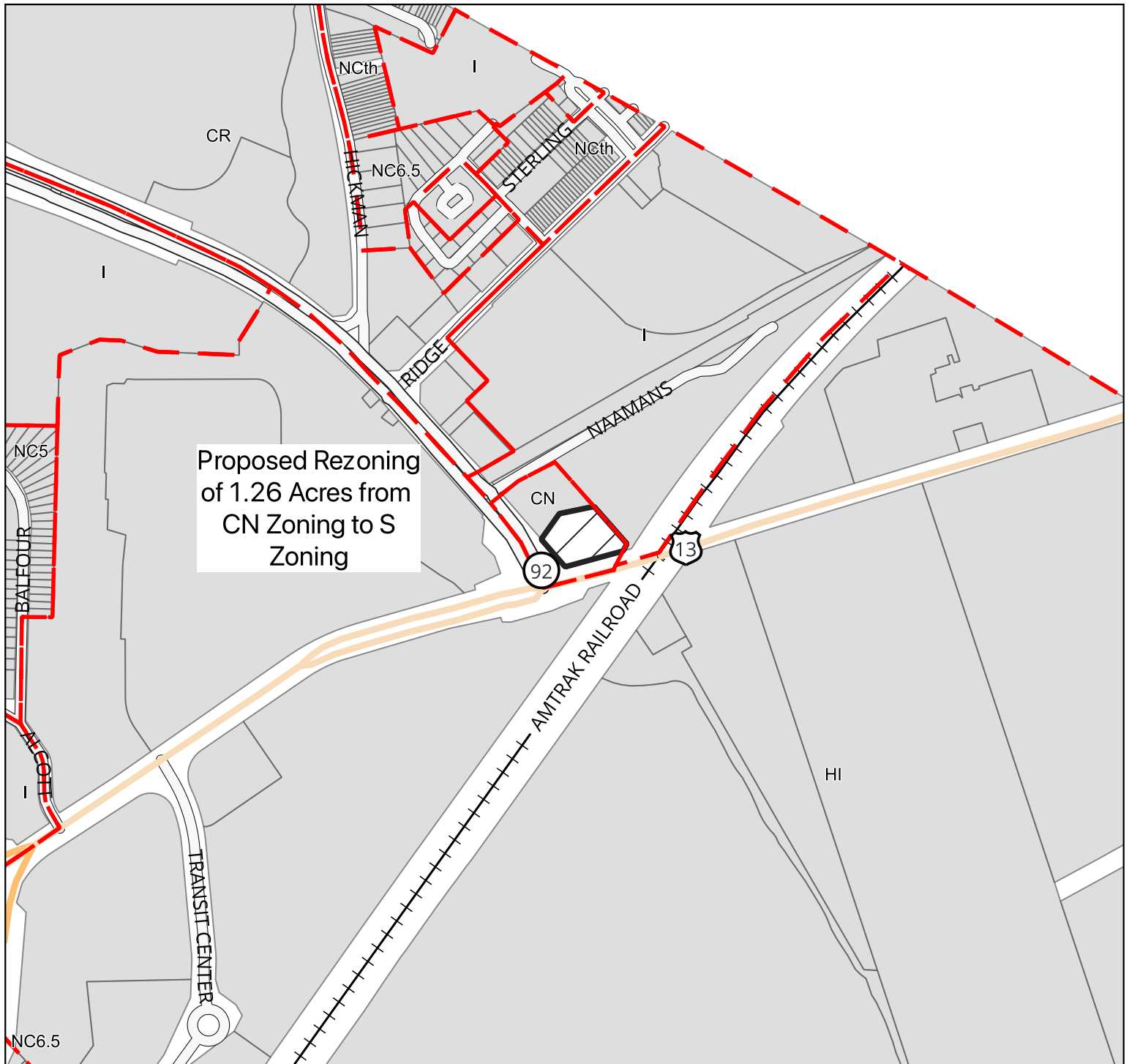
FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this ordinance.

PROPERTY MAP

EXHIBIT A: MAP 1
ZONING ORDINANCE AS INTRODUCED

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

APPLICATION NO. 2024-0125-Z
TAX PARCEL NO: 06-060.00-010



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

Scale: 1:6960
Prepared by: Matthew Rogers

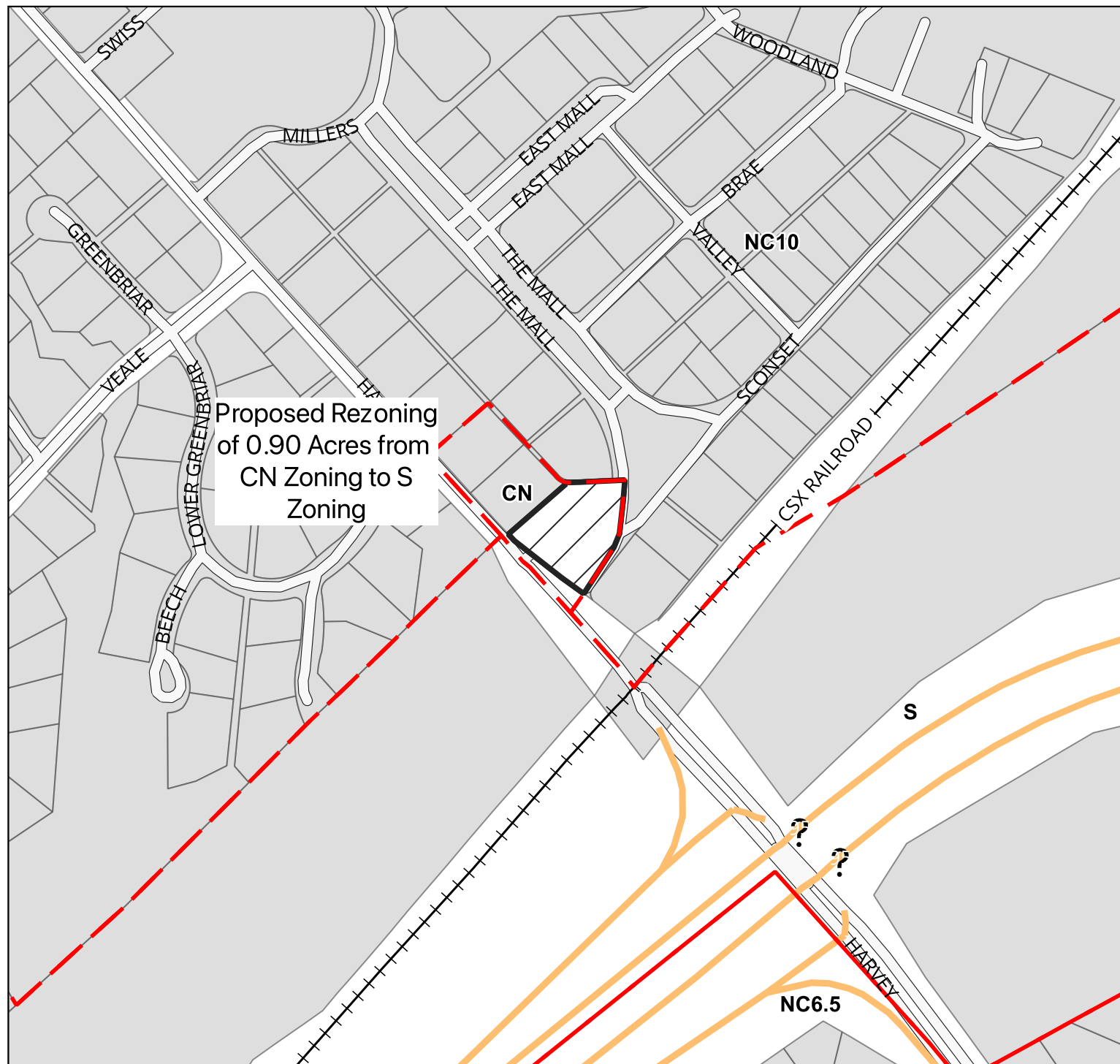
Date: 2/04/2024



PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

EXHIBIT A: MAP 2
ZONING ORDINANCE AS INTRODUCED

APPLICATION NO. 2024-0125-Z
TAX PARCEL NO: 27-001.00-001

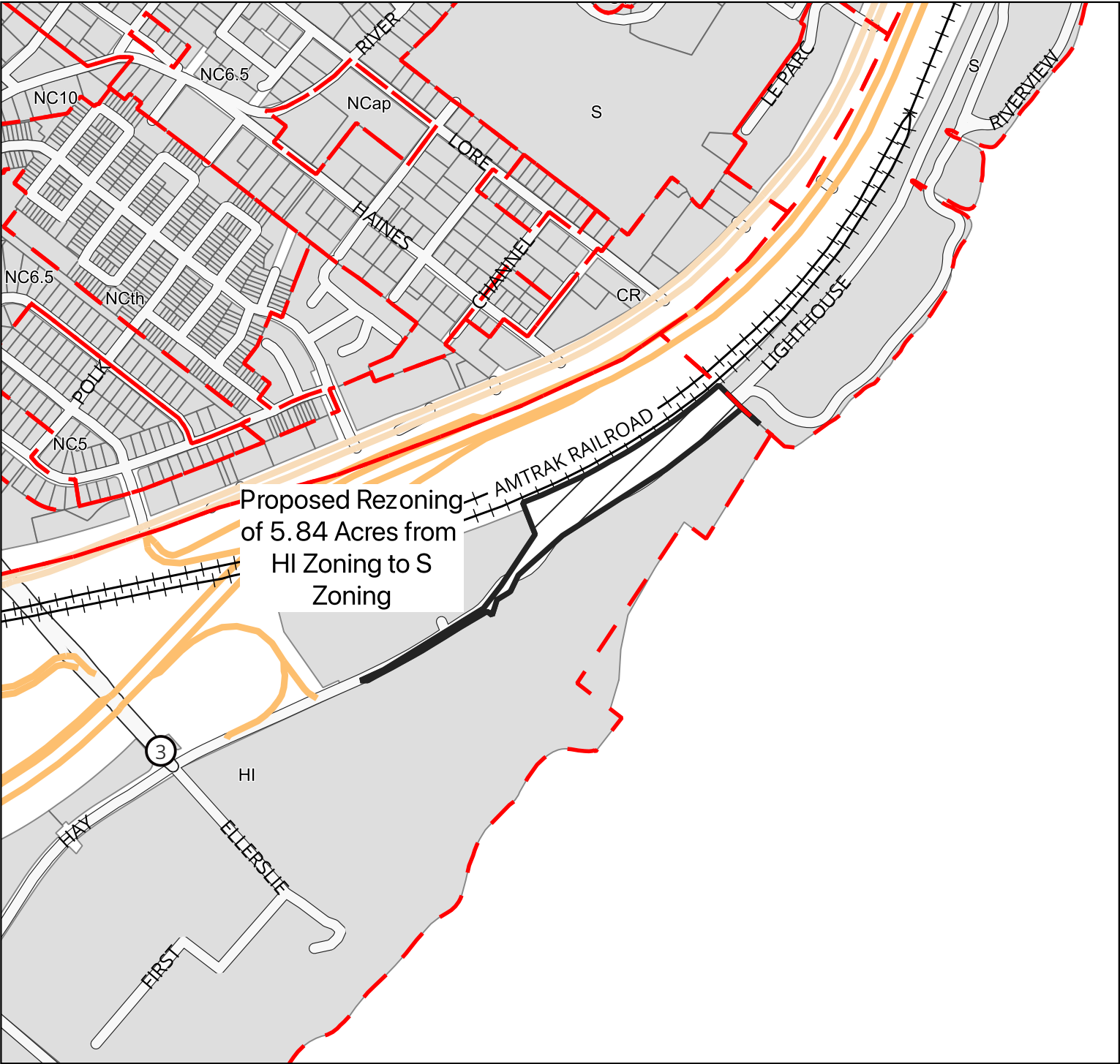


PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

Date: 2/04/2024

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

APPLICATION NO. 2024-0125-Z
TAX PARCEL NO: 06-147.00.017



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

Scale: 1:8362
Prepared by: Matthew Rogers

Date: 2/04/2024



PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

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

APPLICATION NO. 2024-0125-Z
TAX PARCEL NO: 06-147.00.017



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

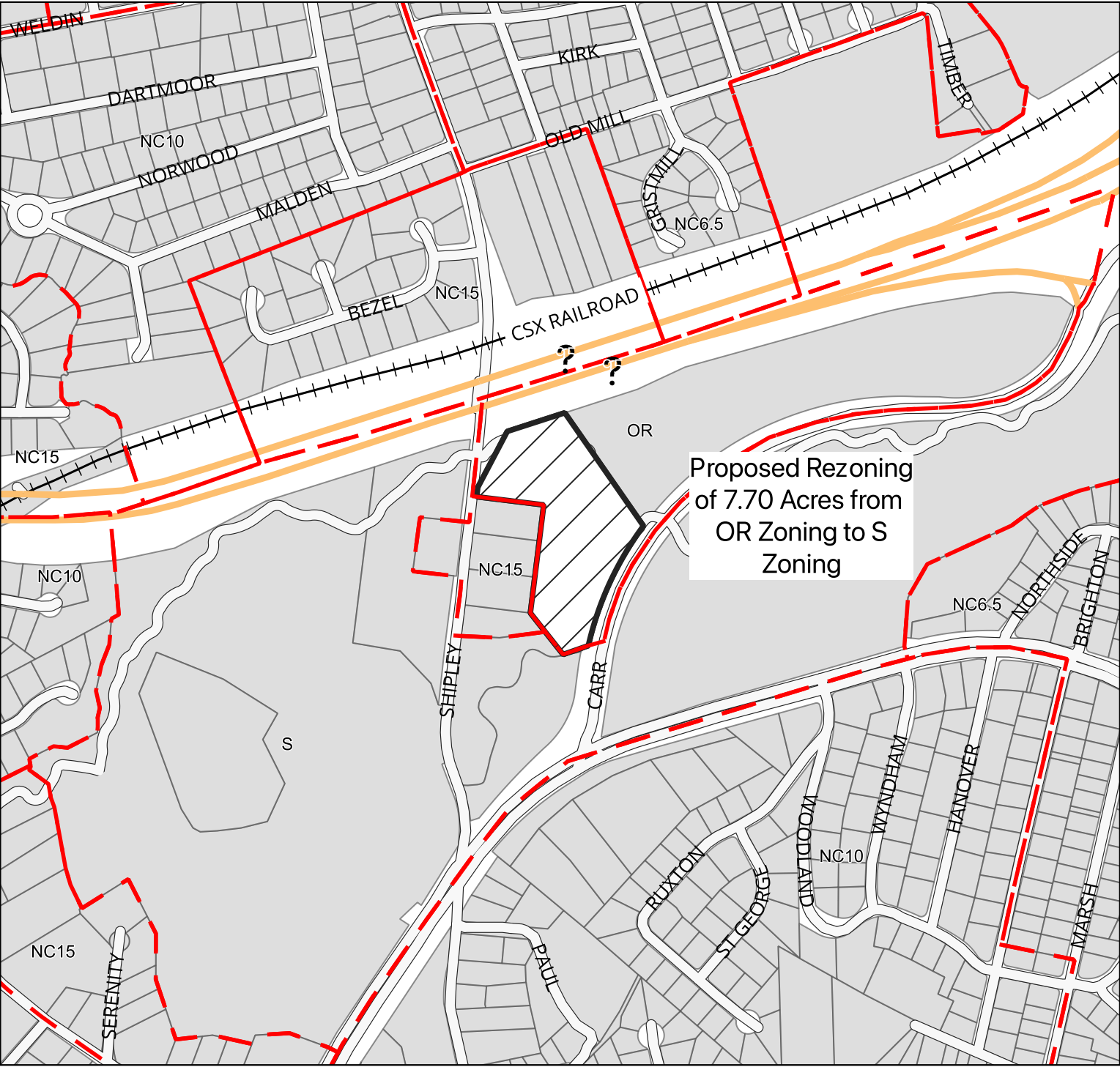
Scale: 1:9188
Prepared by: Matthew Rogers
Date: 2/04/2024



PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

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

APPLICATION NO. 2024-0125-Z
TAX PARCEL NO: 06-122.00-081



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

Scale: 1:6972
Prepared by: Matthew Rogers

Date: 2/04/2024



PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

Prime Sponsor(s): Ms. Durham, Mr. Carter,
Mr. Toole
Co-Sponsors: Mr. Cartier, Mr. Smiley
Date of introduction: January 23, 2024

SUBSTITUTE NO. 1 TO ORDINANCE NO. 24-008

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED
DEVELOPMENT CODE”), ARTICLE 14 (“IMPACT FEES”) REGARDING
ADJUSTMENTS TO IMPACT FEES**

1 **WHEREAS**, New Castle County imposes impact fees to pay for a portion of
2 additional public services needed as the result of new development for which the County
3 would bear the additional or increased costs; and
4

5 **WHEREAS**, impact fees, when accurately maintained, can be an effective tool for
6 ensuring adequate infrastructure to accommodate growth where and when it is
7 anticipated; and
8

9 **WHEREAS**, the impact fees raise funds to pay for increased cost of services and
10 infrastructure projects for parks and special facilities, libraries, county facilities, EMS, fire
11 and rescue, and law enforcement; and
12

13 **WHEREAS**, except for fire and rescue, impact fees for the above services have
14 not been adjusted for more than 20 years (since 1999), meanwhile there have been
15 significant increases in the costs of construction during this timeframe; and
16

17 **WHEREAS**, New Castle County has established a goal of preserving a minimum
18 of 30% of its acreage as protected open space by 2030, and assessing an open space
19 impact fee would be a key component to providing the funding to meet that goal and offset
20 the loss of greenfields as development occurs, and
21

22 **WHEREAS**, the NCC2050 Comprehensive Plan states, “in alignment with
23 recommendations from the Housing Advisory Board evaluate possible adjustments to
24 Impact Fees, such as an exemption/waiver for developers of low to very low-income
25 housing in exchange for covenants that run with the land to continue affordability for 30
26 years and accept all sources of income for rental unit developments,” and
27

28 **WHEREAS**, the NCC2050 Comprehensive Plan calls for ensuring the current fees
29 are commensurate with the true costs of providing services and facilities, and for the
30 study, implementation and enactment of adjustments to impact fees to ensure
31 sustainability of community infrastructure and services over time; and
32

33 **WHEREAS**, County Council has determined that the provisions of this Ordinance
34 substantially advance and are reasonably and rationally related to legitimate
35 government interests, including, but not limited to, promoting the public health, safety,
36 welfare, and quality of life of the present and future inhabitants of New Castle County.

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

40 Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”),
41 Article 14 (“Impact Fees”), Section 40.14.230 is hereby amended by adding the material
42 that is underscored and deleting the material with strikethroughs, as set forth below.
43

44 **Sec. 40.14.230. - Other necessary adjustments.**
45

- 46 A. All costs in the impact fee calculations are given in current dollars with no assumed
47 inflation rate over time. Necessary cost adjustments will be made as part of the
48 periodic evaluation and corresponding update of impact fees which shall occur
49 annually as of February 1, 2028 and be adjusted utilizing the Engineering News-
50 Record Construction Cost Index (ENR CCI), published each January providing
51 data for the previous year.
52

53 Following enactment of this ordinance, the next adjustments shall be proposed to
54 County Council by the Department by no later than July 1, 2025 using one of the
55 methods proposed in the Development Impact Fee Study conducted by the Rossi
56 Group and Century Engineering (published June 13, 2023), and utilizing the
57 cumulative ENR CCI for the period back to the most recent prior fee update. This
58 next round of adjustments to each fee may be phased in as long as 100% of the
59 ENR CCI change since the most recent prior fee update is captured in full by no
60 later than February 1, 2028.
61

- 62 B. As of August 1, 2024 the following are exempt from impact fees:
63

- 64 • any dwelling unit built as a Moderately Priced Dwelling Unit (MPDU) as
65 identified in Division 40.07.500
66 • any dwelling unit built by an IRS 501(c)(3) nonprofit organization for the
67 intent and purpose of providing low or moderate priced housing
68 • any qualified units built using the IRS Low Income Housing Tax Credit (IRS
69 Section 42) or participating in the Delaware State Housing
70 Authority/Cinnaire’s Catalyst Fund.
71

- 72 C. In addition, the Department shall:
73

- 74 1. Study the potentially higher costs of providing services in Delaware State
75 Strategy Levels 3 and 4 and propose to County Council an impact fee structure
76 reflecting this by no later than July 1, 2025, to take effect February 1, 2026.
77
78 2. Guided by the recommendations in the Development Impact Fee Study
79 conducted by the Rossi Group and Century Engineering (published June 13,
80 2023), and with advice from the County Open Space Advisory Board and input
from other stakeholders, propose to County Council an open space impact fee
by no later than July 1, 2025, to take effect February 1, 2026.

81 D. Impact fees ~~will~~ are to be adjusted for inflation in construction costs as reflected in
82 the Engineering News Record (ENR CCI) index and upon approval by New Castle
83 County Council. Any impact fee based in part upon land cost shall be reviewed
84 and adjusted annually ~~periodically~~ by the Departments of Land Use and Finance
85 and adjusted to account for any significant change in the cost of land upon approval
86 of County Council.
87

88 Section 2. This Ordinance shall become effective upon its adoption by County
89 Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* §
90 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
of New Castle County

SYNOPSIS: This Ordinance amends *New Castle County Code* Section 40.14.230 to, among other things, provide for review and necessary adjustments to impact fees at least every 5 years.

Substitute No. 1 amends the original proposed ordinance by: (1) clarifying that updates to the impact fees will occur annually, by February 1, pursuant to the Engineering News-Record Construction Cost Index; (2) requiring that the Land Use Department propose updates on fees to County Council by no later than 7/1/25, utilizing one of the methods outlined in the impact fee study produced by the Rossi Group and Century Engineering in 2023; (3) creating several new subsections, requiring that any dwelling unit built as a MPDU and any nonprofit organization is exempt from impact fees; and (4) the Department is to study the potentially higher costs of providing services in Levels 3 and 4 and to propose an impact fee structure that reflects this as well as propose an open space impact fee by no later than 7/1/25.

FISCAL NOTE: There is no discernible negative fiscal impact with the adoption of this Ordinance.

Prime Sponsor(s): Ms. Durham, Mr. Carter
Mr. Toole
Co-sponsor(s): Mr. Cartier, Mr. Smiley
Date of introduction: January 23, 2024

ORDINANCE NO. 24-008

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED
DEVELOPMENT CODE”), ARTICLE 14 (“IMPACT FEES”) REGARDING
ADJUSTMENTS TO IMPACT FEES**

1 **WHEREAS**, New Castle County imposes impact fees to pay for a portion of
2 additional public services needed as the result of new development for which the County
3 would bear the additional or increased costs; and
4

5 **WHEREAS**, impact fees, when accurately maintained, can be an effective tool for
6 ensuring adequate infrastructure to accommodate growth where and when it is
7 anticipated; and
8

9 **WHEREAS**, the impact fees raise funds to pay for services such as parks, libraries,
10 EMS, and law enforcement; and
11

12 **WHEREAS**, impact fees for the above services and others have not been adjusted
13 for more than 20 years (since 1999), meanwhile there have been significant increases in
14 the costs of construction during this timeframe; and
15

16 **WHEREAS**, County Council has determined that the provisions of this Ordinance
17 substantially advance and are reasonably and rationally related to legitimate
18 government interests, including, but not limited to, promoting the public health, safety,
19 welfare, and quality of life of the present and future inhabitants of New Castle County.
20

21 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
22

23 Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”),
24 Article 14 (“Impact Fees”), Section 40.14.230 is hereby amended by adding the material
25 that is underscored and deleting the material that is stricken, as set forth below.
26

27 **Sec. 40.14.230. - Other necessary adjustments.**
28

29 All costs in the impact fee calculations are given in current dollars with no assumed
30 inflation rate over time. Necessary cost adjustments will be made as part of the periodic
31 evaluation and corresponding update of impact fees which shall occur at least once every
32 5 years, with the next adjustment being effectuated no later than January 1, 2025.

33 Impact fees ~~will~~ are to be adjusted for inflation in construction costs as reflected in
34 the Engineering News Record (ENR) index and upon approval by New Castle County
35 Council. Any impact fee based in part upon land cost also shall be reviewed and adjusted
36 at least once every five years ~~periodically~~ by the Departments of Land Use and Finance
37 and adjusted to account for any significant change in the cost of land upon approval of
38 County Council.

39
40 Section 2. This Ordinance shall become effective upon its adoption by County
41 Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* §
42 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
of New Castle County

SYNOPSIS: This Ordinance amends *New Castle County Code*, Section 40.14.230 to provide for review and necessary adjustments to impact fees at least every 5 years.

FISCAL NOTE: There is no discernible fiscal impact with the adoption of this Ordinance.

**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance No. 24-008
Application No. 2024-0062-T
Impact Fees**

May 21, 2024

Sponsor: Councilwoman Dee Durham (District 2), Councilman David Carter
(Council District 6)

Description: To amend New Castle County Code, Section 40.14.230 to provide for review and necessary adjustments to impact fees at least every five years.

EXECUTIVE SUMMARY

Ordinance 24-008 (Application 2024-0062-T) proposes changes to Section 40.14.230 of the New Castle County Code to require the County's impact fees be regularly adjusted every five years in order to account for inflation in construction costs which are reflected in the Engineering News Record (ENR) index. The proposed ordinance follows the completion of a *2023 Development Impact Fee Study* that was undertaken by the County and completed in June of 2023. As currently written, the adjustment of impact fees would be required to occur by January 1, 2025.

The Department of Land Use concurs that the County's impact fees should be evaluated regularly and acknowledges the bearing the collection of impact fees has on the County's infrastructure. Based on the recommendations from the *2023 Development Impact Fee Study*, the Department believes a comprehensive look at Article 14 ("Impact Fees") and Section 40.14.110 ("Impact Fee Methodology") in consultation with the Department of Finance to ensure that specific changes to the impact fee structure are based on a rational nexus and do not result in arbitrary increases.

The Department of Land Use recommends **DENIAL** of Ordinance 24-008 (Application 2024-0062-T) as written to allow for further evaluation and implementation of an updated impact fee methodology and structure.

DESCRIPTION

Ordinance 24-008 proposes revisions to Section 40.14.203 of the New Castle County Code to require the County's impact fees be regularly adjusted every five years in order to account for inflation and construction costs reflected in the Engineering News Record (ENR) index, with the first adjustment beginning by January 1, 2025.

BACKGROUND

The collection of impact fees in New Castle County began with the adoption of the Unified Development Code in 1997. Since the adoption of the UDC, the County has consistently considered changes and updates to the structure / methodology of impact fees to account for development and changing economies.

1998 New Castle County Impact Fee Study

Between 1997 and June of 1998, New Castle County conducted an impact fee study with Tischler & Associates. The study recommended both a methodology and fee structure for new development in the county that the legal standards established by the U.S. Supreme Court in *Nollan v. California Coastal Commission* (483 U.S. 825, 1987)¹ and *Dolan v. City of Tigard* (512 U.S. 687, 1994).² For an impact fee to be legal it must meet two standards; (1) there must be a “*rationale nexus*”³ between the imposition of the fee and the achievement of a legitimate public purpose, and (2) the amount of the fee must be “*roughly proportionate*”⁴ to the impact of the proposed development.

The report recommended three specific methodologies to determine impact fees; (1) plan based, (2) incremental expansion, and (3) buy-in approach. The plan-based approach was proposed for libraries, because they have specific capital improvement plans. The incremental expansion method was recommended for parks, public facilities and equipment, EMS, fire/rescue and law enforcement, and are derived by comparing the current level of service (LOS) to what is projected to be needed to expand or provide additional facilities, to accommodate new development.⁵ The buy-in approach was recommended for parks under the rationale that new development is paying for its share of the useful life and remaining capacity of existing facilities.

Ordinance 97-172 Unified Development Code

On December 31, 1997, New Castle County adopted the Unified Development Code (UDC) (Ordinance 97-172). Among the many changes brought by the UDC was the enactment of the first impact fee structure in Article 14. Since the Impact Fee Study (1998), was still in production, the updated UDC only included specific fees related to providing sewer service to the Southern Service Area. Fees for this were based on the *Wastewater Needs Evaluation and Plan for Southern New Castle County (1992)* and *Southern New Castle County Land Use Study (1996)* as well as the *1996 New Castle County Comprehensive Development Plan*.

Ordinance 98-130 Impact Fees on New Development

¹Nollan v. California Coastal Commission 483 U.S. 825 (1987):

<https://supreme.justia.com/cases/federal/us/483/825/>

² Dolan v. City of Tigard 512 U.S. 687, (1994): <https://supreme.justia.com/cases/federal/us/512/374/>

³ Established by Nollan v. California Coastal Commission 483 U.S. 825 (1987)

⁴ Established by Dolan v. City of Tigard 512 U.S. 687 (1994)

⁵ The County cannot use the funds for maintenance or replacement of existing facilities.

With the Impact fee study complete in June of 1998, Ordinance 98-130 was adopted on January 12, 1999. Ordinance 98-130 revised the UDC to include the methodology and fee structure in the 1998 study. Services that received impact fees included:

- Libraries
- Fire
- Emergency Medical Services (EMS)
- Police
- Parks & Special Facilities
- Sewers
- County Facilities
- Schools

Most of the fee values and services receiving impact fees have remained largely consistent since the adoption of Ordinance 98-130

Ordinance 99-042 Impact Fees and Schools

Ordinance 99-042 was adopted on June 22, 1999, removing the impact fees related to school capacity, in favor of relying on certification by the school district that adequate capacity exists in the school district to support development.

Ordinance 06-042

Ordinance 06-042 was adopted on July 25, 2006, shifting the method for recovering sewer service expansion from an impact fee to a capital recovery fee.

2006 Fire Impact Fee Study and Ordinance 06-047

New Castle County conducted an update to the 1998 Impact Fee Study with TischlerBise (formerly Tischler & Associates) to revise fees collected, to support expanded fire services that were needed to accommodate the increased development trends. The study was commenced in 2005 and was completed on January 26, 2006. The recommended changes from the study were adopted on August 22, 2006.

2009 Impact Fee Study and the Great Recession

New Castle County initiated a comprehensive update to the 1998 Impact Fee Study with TischlerBise to update fees collected and to support expanded fire services needed to accommodate the increased development trends in 2009. A draft of the study was completed on December 28, 2009. The study was never finalized and recommendations from the draft study were not pursued due in part to concerns related to the Great Recession and the effect increasing fees would have on the housing market.

2023 Development Impact Fee Study

Following the New Castle County Audit Report (May 2020), which recommended the County consider reviewing current impact fee amounts, the Rossi Group and Century Engineering were contracted to look at best practices. The *2023 Development Impact Fee Study* proposed that the County consider specific changes to the impact fee structure based on best practices by the American Planning Association, neighboring jurisdictions, and nation-wide trends. Based on this analysis, the study includes six key recommendations:

1. Utilization of the Delaware State Strategies Map to assess a surcharge impact fee to cover additional costs associated with developments in Levels 3 and 4.
2. Expansion of the uses included in the Impact Fee Table (Table 40.15.210)⁶.
3. Incentivizing low-income housing through the potential exemption or reduction of impact fees for Moderately Price Dwelling Units (MPDU's).
4. Graduated fee increases based on the ENR CCI, whether it be annual indexing adjustments or phased increases over time.
5. Creation of an impact fee for open space.
6. Consideration of impact fees for certain redevelopment proposals that may require additional services.

The *2023 Development Impact Fee Study* recommendations were obtained via an online survey presented at a public workshop held on December 13, 2022. Some recommendations were more favored than others and were considered as part of the final report.

While there were several recommendations in the memorandums that made up the report, it is important to note that the report did not evaluate the necessary data to assure that changes in fees were “roughly proportionate” to the impact from the development:

... Thorough documentation of the current practices along with best practices and case studies will allow the County and its residents to determine needs and opportunities to refine impact fees to align with the County's long-range plans and achieve a sustainable source of revenue.⁷

It is for this reason that the report recommends additional research be conducted. Ensuring that any proposed change in fees meets the legal tests established by the U.S. Supreme Court is an essential next step in the process to determine appropriate impact fees. Additionally, it is important for the County to evaluate how an increase would be consistent with the methodologies set by County Code.

⁶ [Impact Fee Table](#)

⁷ 2023 Development Impact Fee Study, Memo 1, Page 5 of 5

PLUS REVIEW

The PLUS Report dated March 27, 2024, contains comments from State agencies. The Office of State Planning and Coordination (OSPC) commended the County for proposing to review impact fees every five years to ensure they align with development costs. There were no additional comments from other State agencies.

PLANNING BOARD PUBLIC HEARING – May 7, 2024

Councilman Carter presented Ordinance 24-008 at the May 7, 2024, joint New Castle County Department of Land Use and Planning Board Public Hearing. During his presentation, he discussed the history of impact fees in New Castle County as well as the scope and intent of the ordinance.

Chairwoman Peterson asked Councilman Carter if there was a definition for “significant change.” Councilman Carter stated that he will need to confer with Counsel to Council. Mr. Snowden voiced concerns regarding the time that fees have remained constant and asked if the intent was to increase fees all at once. Councilman Carter stated that while the ordinance does not directly address this, he believes that County Council would be most comfortable with an incremental increase. He further remarked that he would prefer to not use the tax stabilization fund for capital projects such as the Boyd’s Corner EMS station. Mr. Cantrell referenced the requirement that impact fees be adjusted for inflation, and asked if the intent was that the fees would be adjusted annually. Councilman Carter stated that the fees would be required to be adjusted every five years, however it could occur more frequently if something drastic happened. Mr. Cantrell asked about the mechanism for adjusting the fees after an event such as the COVID 19 pandemic. Councilman Carter stated that in such a circumstance he would hope that any shortfall would be funded by the tax stabilization fund.

Antoni Sekowski, Assistant Land Use Manager for the Department of Land Use made a brief presentation expressing the Department’s concerns with Ordinance 24-008. He discussed the background of the *2023 Development Impact Fee Study*, as well as key recommendations of the report. He stated that while the Department concurs that updating impact fees every five years is warranted, Ordinance 24-008 is as drafted, premature because the Department has not had adequate time to evaluate how to best implement recommendations from the study. Specific concerns are that the study does not determine which fees should be modified, what new fees should be included, and the impacts on affordable housing. He further discussed specific concerns regarding recommendations in the study and the additional research (as noted in the study) needed to best address their implementation. He reiterated the Department’s support for increasing fees at regular intervals, however voiced concern that a flat increase in fees may have unintended consequences and may not have a rationale nexus between the fee and improvement.

Chairwoman Peterson asked if the Department knew if Kent and Sussex Counties had a similar fee structure. Mr. Sekowski stated that from his understanding their structure was significantly more limited. Ms. Drake expressed concern about the potential time that it would take to conduct the recommended research, considering the amount of time since the

last increase in impact fees. Mr. Sekowski discussed the Department's current efforts to address recommendations of the study, including having an expert evaluate Area Median Income requirements for affordable housing. He also discussed proposed changes in Ordinance 24-054 on how impact fees would be addressed in redevelopment.

Charuni Patibanda, General Manager for the Department of Land Use, remarked that the Department is not looking to hold up the process in pursuit of perfection, but wants to make sure that affordable housing in New Castle County is not adversely impacted. She acknowledged Councilman Carter's comments but stressed the importance of a balanced approach in order to minimize impacts to affordable housing.

Councilwoman Durham stated that the American Planning Association calls for a review of impact fees every two years, and that she had requested an ordinance from the Department to increase fees consistent with the recommendations of the study. She further remarked that the Open Space Advisory Board supports the ordinance and that the Chair of the Board intends to submit a letter of support. Councilwoman Durham indicated that there are a number of ways that fees could be phased in, and in what is to be included and that affordable housing could be exempted. She stated that it is disingenuous for the Department to state that they need to study, since they have a study.

Public Comment

During the public comment period three residents spoke in favor of the ordinance: (1) Dale Swain, (representing the Facebook group RADAR), (2) RJ Miles (CCOBH), and (3) Robin Glaiser (Delaware Nature Society). Mr. Swain expressed support for the ordinance, and concern that the fees had not been adjusted in twenty-five years. He also stated that a lot of the concerns that Land Use has addressed could be added to the bill. Mr. Miles expressed support for the ordinance, stating the importance of having proposed development equitably contribute to the infrastructure demands that will be created. He mentioned traffic impacts from the Incyte development as an example. Ms. Glaiser voiced support for the ordinance specifically with respect to the acquisition and preservation of open space land.

Rebuttal

Councilman Carter committed to work as closely as possible with the Department of Land Use but has no intention of slowing down. He remarked that he does not feel that the increase in impact fees will significantly affect affordable housing since they can be spread out over a thirty-year mortgage.

Written Public Comment

The Department received letters of support for Ordinance 24-008 from the following agencies / individuals, which are enclosed with this report.

Delaware Nature Society (Mark Nardone)
Kristina Brandis (Middletown resident)
Joshua Fischer (MOT resident)
Amanda Fischer (MOT resident)
Andy Olenderski (Middletown resident)

ANALYSIS

As noted in the purpose statement of Article 14 (Impact Fees), the intent behind the collection of impact fees is to addresses facilities and services that New Castle County provides, which are impacted by population growth and new development. Article 14 (Impact Fees) of the UDC includes a detailed methodology, determination of the cost of service, and Impact Fee Table that provide detailed instruction to the County regarding the collection of impact fees and the subsequent administration of funds. Understanding the changes and expected growth trends in New Castle County, the County acknowledged the need for updates to the fee structure through the most recently completed impact study.

Following the completion of the *2023 Development Impact Fee Study*, Ordinance 24-008 was introduced by its sponsors in the spirit of the study. Ordinance 24-008 proposes to require impact fees be updated once every five years, with a deadline for the first date being January 1, 2025. Based on best practices and the recommendations of the *2023 Development Impact Fee Study*, the Department agrees that the five-year time period is an appropriate update cycle. The requirement that the next adjustment be conducted by January 1, 2025, does not provide the County sufficient time to perform the research recommended by the study to implement recommendations in a manner consistent with legal requirements for impact fees. The Department of Land Use prefers to take a comprehensive look at Article 14 and make changes that would not be arbitrary, noting that changes to the impact fees will have a significant impact on the County.

2023 Development Impact Fee Study Recommendation	Department Comment
Utilizing State Strategies Map <i>Implementation of a surcharge for development in Investment Levels 3 and 4.</i>	Additional research needed and coordination with the OSPC
Expanding the list of uses in the Impact Fee Table	Need to understand the actual costs vs. forecasted increases for existing impact fees to ensure there is a rational nexus
	The Department would like to more narrowly define the list of uses and assess their impacts.
	Additional research needed
Strategic incentives for low-income housing.	Consideration of a sliding scale relative to home prices and Area Median Income (AMI)
	Department is currently working with an expert to determine appropriate AMI levels with respect to MPDU locations, results will be shared with DHSA and Community Services.
	Additional research & outreach needed.
Graduated Fee increase	Additional study is needed to assess a phased approach for increasing fees over a period of multiple years.
Creation of an Open Space Impact Fee	Article 14 already has a Parks and Special Facilities impact fee
	Recommend further consultation with the Open Space Advisory Committee should a fee be proposed / adopted.
	Public feedback during the <i>2023 Development Impact Fee Study</i> indicated that this should be included within existing categories
Change / Use of Redevelopment Impact Fees	Concern about disincentivizing redevelopment of underutilized properties. The Comprehensive Plan encourages the redevelopment of underutilized sites.

As directed by the US Supreme Court in *Nollan v. California Coastal Commission* (483 U.S. 825, 1987)⁸ and *Dolan v. City of Tigard* (512 U.S. 687, 1994),⁹ when government enacts an exaction (such as the collection of impact fees), it is essential that it provides both a “rational nexus” as well as fees that are “roughly proportionate” to the impact created by the development. The *2023 Development Impact Fee Study* provided recommendations for further analysis into areas where additional impact fees might be appropriate, as well as potential ways to avoid longer periods between updates. It did not perform the analysis at the depth required to ensure that proposed changes would meet the *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*.

Impact fees must be based on an accurate inventory of existing capital inventory and what increase in capital is needed to support future development needs. Because impact fees must be specifically based on the impact that new development creates, the fees cannot be used for replacement capital, only for new/additional improvements. Any proposed increase needs to be based on a thorough understanding of capital needs for existing residents, as well as on formally approved population, household and job projections adopted by the Delaware Population Consortium. The 1998, 2006 (Fire Impact Fees), and 2009 studies were completed with a thorough knowledge of both existing capital and projected needs. The *2023 Development Impact Fee Study* provides valuable and important recommendations for consideration, but as the study stated, requires additional research.

Specifically, one area that needs additional evaluation is the tying of future increases in impact fees to the Construction Cost Index. While this may be an adequate measure for approximating capital costs associated with *construction*, it would fail to address important capital expenses that are not associated with construction. For example, while there are construction related capital expenses for the volunteer fire services, the vast majority of requests for reimbursement that the Department receives are for new, non-replacement equipment such as computers, fire hoses, fire trucks, radios, and other non-construction related expenses. Because there is no nexus between the cost of non-construction capital expenses and construction costs, relying on the Construction Cost Index for future increases in impact fees would be ill-suited to account for non-construction related needs. Another point of concern, regarding the Construction Cost Index approach is that it relies on population and households continuing to increase. According to the Delaware Population Consortium’s demographic trends and projections, households and overall population in New Castle County will likely peak in the next decade and a half. After that, both will likely decline.

The Department concurs with the sponsors that impact fees do need to be updated every five-years. However, the Department disagrees with the requirement that fees be adjusted by January 1, 2025, as research has not yet been completed that would assure that any increase

⁸Nollan v. California Coastal Commission 483 U.S. 825 (1987):

<https://supreme.justia.com/cases/federal/us/483/825/>

⁹ Dolan v. City of Tigard 512 U.S. 687, (1994): <https://supreme.justia.com/cases/federal/us/512/374/>

would be “roughly proportionate” to impacts from new development. Impact fees are not and cannot be punitive measures to have new development pay for services for existing communities. Impact fees can *only* be used to pay for the expansion of services and capital development to accommodate the proposed new development. The Department is committed to completing a study to evaluate impact fees based on the methodology established in the UDC in accordance with the recommendations made in the *2023 Development Impact Fee Study*.

Standards of Review

Pursuant to **Section 40.31.420 of the New Castle County Code**, in determining whether a text amendment shall be recommended or approved, all of the following factors shall be considered:

A. *Implementation of a new portion of the Comprehensive Development Plan.*

N/A

B. *Implementation and achievement of the Comprehensive Plan’s goals and objectives.*

Goal 17 of the Comprehensive Plan calls on the County to conduct a study of impact fees and other economic cost-benefit analysis to ensure sustainability of community infrastructure and services over time, with a commitment to commence the study by 2022. Furthermore, Strategy 17.4.2 calls for the County to ensure emergency and police services, capacity and funding are available as population grows by re-evaluating impact fees to ensure that monies levied from new development adequately address the impact of increased demand for fire, police and EMS expansion and service.

The *2023 Development Impact Fee Study* is the first step in meeting the goals and strategies of the Comprehensive Plan, not the end result. Additional research needs to be conducted, as recommended by the study, to responsibly and legally determine appropriate changes to the impact fees collected associated with new development.

C. *Consistency with the provisions of this Chapter and the standards for similar uses.*

N/A

D. *Necessity to respond to State and/or Federal legislation.*

N/A

E. *Flexibility in meeting the objectives of this Chapter.*

N/A

F. Changes to conditions, interpretations, and/or clarifications to existing language for new uses.

N/A

G. Consideration of specific problems found in this Chapter.

Ordinance 24-008 seeks to address the eighteen-year time lapse since the last update to the impact fees collected by the County. The Ordinance requires that fees be adjusted over regular, five-year periods, while further requiring that fees be adjusted by January 1, 2025. The Department agrees with setting a required interval for updating fees but disagrees with the requirement that fees be adjusted by January 1, 2025, as the recommended research has not been conducted that would assure that any increase would be “roughly proportionate” to impact from development.

DEPARTMENT OF LAND USE RECOMMENDATION

Based on the analysis above and the Standards included in **Section 40.31.420 of the New Castle County Code**, the Department of Land Use recommends **DENIAL** of Ordinance 24-008 (Application 2024-0062-T) as written to allow for further evaluation and implementation of an updated impact fee methodology and structure.

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. The Planning Board voted on a motion by Mr. Snowden and seconded by Ms. Gray, to recommend **DENIAL** of Ordinance No. 24-008 (Application 2024-0062-T) based on the recommendation and rationale made 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:

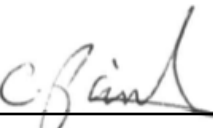
Elizabeth Hatch, Planner for the Department of Land Use read the Department of Land Use recommendation into the record. Charuni Patibanda, General Manager for the Department of Land Use, commented that the Department recognizes the need for an update to the impact fee provisions to the UDC, and that it doesn't oppose the intent of the ordinance, however the research necessary to ensure that the increase in impact fees meet legal requirements. She further committed to further work on updating impact fees, while acknowledging the importance of addressing affordable housing and other initiatives currently underway.

Robert Snowden remarked that the difficulty is the 2025 deadline to update the impact fees, and asked if putting it off a year make the ordinance work. Ms. Patibanda, stated that the additional year would help, but the that the scope of the ordinance was too limited to address other concerns identified by the Department. She further expressed the importance of an update to the impact fee provision appropriately taking into consideration the impacts to affordable housing. Karen Peterson remarked about the challenges in setting an implementation date within the first year of a new administration. Neil Cantrell, asked the Department to further explain the potential impacts of increasing impact fees on affordable housing. Ms. Patibanda explained that since impact fees are assessed per housing unit at a set rate, regardless of the sales price for the home (there is no sliding scale). She further stated that the cost gets passed on to the purchaser. Mr. Cantrell asked if the Department sees the increased cost being passed on to the purchaser dollar for dollar. Ms. Patibanda stated that depending on the market sometimes fees are passed on dollar for dollar, sometimes at a higher rate, and at other times the fee is just absorbed into the cost of the house. Mr. Cantrell, asked if updating fees would result in doubling the fees. Ms. Patibanda stated that in some instances, if the 18 year gap was immediately closed it would result in doubling the fees or more. Antoni Sekowski, Assistant Land Use Manager for the Department of Land Use, explained that the Rossi Group report estimated that t increase would be closer to 75%. Mr. Cantrell inquired about ways to mitigate the potential adverse impacts of the ordinance being adopted as written. Ms. Patibanda remarked that the ordinance does not provide for the ability, to address the Department's concerns, and that any effort should be more comprehensive in nature. Mr. Cantrell then asked about the time that it would take to complete a more comprehensive effort. Ms. Patibanda remarked about the complexity of the process and the difficulty in providing an accurate time frame. Matthew Rogers, Planner for the Department of Land Use explained the three different methods for evaluating impact fees within the UDC. He further explained the importance of having accurate and update inventory for Fire, EMS and other services, since impact fees can only legally be used on capital expansions to support new development, and that the funds cannot be allocated to the replacement of existing inventory. Mr. Rogers further explained that the TischlerBise studies that were the basis to establish the impact fee provisions in the UDC had substantially greater depth and detail to ensure that the fees met the legal standards than the Rossi Group report. He further expressed the importance providing the detail and research that TischlerBise conducted in previous studies. Mr. Cantrell asked when the Rossi Group study was submitted to the Department. Mr. Rogers stated the Department received the report in June of 2023. Mr. Cantrell remarked that it isn't possible to complete a holistic effort by January of 2025. Mr. Rogers agreed and expanded on some of the challenges to the recommendations in the reports, specifically using the construction index, where much of the funded capital improvements are not related to construction at all (fire hoses, computers and tablets). Ms. Patibanda, remarked that while completing a comprehensive study within 6 months is not possible that the Department will begin the effort. Leah Gray asked if there was a way to exempt to some extent affordable housing from impact fees. Ms. Patibanda stated that creating a balance between affordable housing and impact fees would be part of the needed research, noting that 55 and older communities have exemptions. She further remarked about the importance that changes to impacts stand up

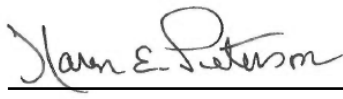
to legal challenge. Ruth Visvardis asked if the intent is to exempt affordable housing from the increase in fees or impact fees as a whole. Ms. Patibanda stated that the level of exemption had not been determined. Ms. Patibanda then discussed the potential moral hazard abating fees, thereby potentially reducing services in areas where affordable housing is constructed. She further remarked about the fact that impact fees are refunded is not used within a specific time period. Mr. Rogers expanded on this by discussing the streamlined approach to administering fire impact fees that the Department developed. Mr. Rogers also discussed how some impact fees are permitted in the UDC to defrayed to fund the preservation of a historic resource on a site. Mary Jacobson, Attorney for the Planning Board, inquired if there was a budgetary need to conduct the impact fee study. Ms. Patibanda and Mr. Sekowski explained that the study was a recommendation made by an audit to the Finance Department, not from a specific budgetary need. Ms. Jacobson remarked that at times working on administering impact fees, that there is at times a surplus, making an automatic increase questionable. Ms. Jacobson also questioned if the increases in the report were based on a need analysis. Mr. Sekowski confirmed that there was no need based analysis performed, noting that the current fee structure is need based. Ms. Jacobson stressed the importance of a rational nexus for increasing fees. Mr. Cantrell inquired about the degree that services south of the C&D Canal would be impacted if fees are not increased. Ms. Patibanda stated that services will be provided and explained that impact fees are a small portion of the funding to bring services to an area. Mr. Snowden, remarked that there is a lot of work to evaluate and implement an increase in impact fees, while acknowledging that there is a desire for immediacy. He asked if it was possible to implement an arbitrary 35% increase in impact fees until an adequate study was complete was a possibility. Ms. Patibanda, stated that such an increase would conflict with the legal standards established in *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*. Ms. Gray inquired about funding sources outside of impact fees for fire services. Ms. Patibanda said she'd reach out to the Department of Finance for additional information. Ms. Jacobson discussed the fact that fire companies receive funding from the State, and that there is an ongoing study to reevaluate their funding levels. Ms. Peterson, further expanded on the level of funding that fire companies receive from the State. Mr. Snowden asked about the potential risk for legal challenge should the ordinance pass, and impact fees be increased uniformly. Ms. Patibanda stated that there is a potential risk that could come to fruition from a developer at the time of pulling a building permit.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code, Section 2603(a), the Department finds that this text amendment **would not** promote the convenience, order, and welfare of the present and future inhabitants of this state.



Charuni Patibanda 06/11/24
General Manager date
Department of Land Use



Karen Peterson 06/11/24
Chair date
Planning Board



STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF STATE PLANNING COORDINATION

March 27, 2024

Councilperson Dee Durham
c/o Elizabeth Hatch
Department of Land Use
New Castle County
Government Center
87 Reads Way
New Castle, DE 19720

RE: PLUS review – 2024-02-08; New Castle County Ordinance on Impact Fees

Dear Ms. Durham,

Thank you for meeting with State agency planners on February 28, 2024 to discuss the proposed ordinance to update the Unified Development Code. According to the application, the County is proposing to amend the New Castle County Code Section 40.14.230 to provide for review and necessary adjustments to impact fee at least every 5 years.

The Office of State Planning Coordination acknowledges the work that has been put into this ordinance. The comments below reflect only issues that are the responsibility of the agencies that were represented at the meeting.

Office of State Planning Coordination – Contact Samantha Bulkilvish 302-739-3090

- OSPC commends the County for proposing to review impact fees every 5 years to ensure the fees are in line with development costs. We have no objections to the ordinance as submitted.

Department of Transportation – Contact Stephen Bayer 302-760-4834

- DelDOT has no comments on the proposed ordinance.

Department of Natural Resources and Environmental Control – Contact Beth Krumrine
302-735-3480

Disclaimer Clause: Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the project submitted for PLUS review. The absence of comments does not indicate that there are not additional constraints, nor does it indicate DNREC support of a project, code or ordinance.

- DNREC reviewers have no comments or concerns at this time.

Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

- DEMA has no comments or objections on the proposed ordinance as this is not our area of expertise.

State Historic Preservation Office – Contact Carlton Hall 736-7400

- The Delaware SHPO has no objections.

Delaware State Fire Marshall's Office – Contact Duane Fox 302-739-4394

- The DE State Fire Marshal's Office has no objection to the impact fee ordinance changes.

Once the ordinance is voted on by Planning and Zoning and/or County Council, please forward a copy of the decision regarding the amendment to this office for our files. Thank you for the opportunity to review this amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David L. Edgell, AICP
Director, Office of State Planning Coordination



NEW CASTLE COUNTY, DE

DEVELOPMENT IMPACT FEE STUDY FINAL REPORT

June 13, 2023



I. Executive Summary

Delaware Code Title 29, Chapter 91, Section 9124 gives county governments the authority to charge impact fees for services for which the County will bear increased costs associated with development. The County must strike a balance between keeping the fees low while also providing a source of revenue for capital improvements.

New Castle County impact fees are addressed in Article 14 of the New Castle County Unified Development Code (UDC). In particular, § 40.14.010 outlines the services for which the County may require new development to provide impact fees, § 40.14.210 outlines the impact fee amounts by service and different development categories, and § 40.14.260 states how impact fee funds should be administered.

New Castle County UDC § 40.14 states “All costs in the impact fee calculations are given in current dollars with no assumed inflation rate over time. Necessary cost adjustments will be made as part of the periodic evaluation and update of impact fees. Impact fees will be adjusted for inflation in construction costs as reflected in the Engineering News Record (ENR) index and upon approval by County Council ...” However, New Castle County received an audit in May 2020 which found that the only impact fees adjusted since 1999 have been the fire & rescue impact fees. County Council adopted legislation in August 2006 raising these fees based upon another study performed by TischlerBise earlier in 2006. “Thus, the impact fees for Parks, Libraries, County Facilities, EMS, and Law Enforcement have not been adjusted for over 20 years – while, undoubtedly, there have been increases in the costs of construction over that timeframe.”

Rossi Group was contracted by New Castle County to assist in conducting a development impact fee study and updating current regulations. Over the course of several months, Rossi Group worked with the County and its residents to review the current fee schedule and determine the needs and opportunities to apply best/recommended practices to achieve sustainable, just, and fair public finance in line with the County’s long-range plans (e.g., Comprehensive Development Plan, Southern New Castle County Master Plan). This included obtaining feedback during a public workshop and an online survey.

A series of memos were developed to document the process. A summary of each memo is provided below, and memos are attached to this summary:

Memo #1: Summary of Current Practices

Memo #1 provides a summary of the May 2020 audit and presents recommendations to be included in the study of development impact fees as proposed in the County’s Draft Comprehensive Plan updates, currently underway. Recommendations include:

- Study and consider different funding strategies, such as impact fees, for the preservation and acquisition of county owned open space and easements. This was further reinforced by New Castle County Council passing Resolution No. 21-160 that “urges the Administration to include the creation of an impact fee to fund preservation in its 2021 Impact Fee Report and to otherwise pursue a permanent funding mechanism for preservation if the preservation impact fee is not legally or otherwise feasible.”
- Study/adjust impact fees and conduct economic cost-benefit analysis of other policies associated with financing infrastructure and service, to address issues such as ongoing parks and open space maintenance needs that cut across multiple departments.
- In alignment with recommendations from the Housing Advisory Board evaluate possible adjustments to Impact Fees, such as an exemption/waiver for developers of low to very low-income housing in exchange for covenants that run with the land to continue affordability for 30 years and accept all sources of income for rental unit developments. Importantly, the study will need to weigh the benefit of expected impacts from this type of policy change relative to the loss of fees.

- Consider establishing sliding scale for moderately priced dwelling unit (MPDU) requirements, which should factor access to transit and nonmotorized transportation modes.
- Ensure emergency and police services capacity and funding is available as population grows by re-evaluating impact fee to ensure the monies levied from new development adequately address the impact of increased demand for fire, EMS and police expansion and service.
- Consider adjustments to impact fees based on housing unit size as opposed to a flat per unit basis to incentivize smaller, more affordable units.

This memo further details New Castle County's current regulations (Castle County UDC Chapter 40, Article 14 (40.14)) and summarizes FY 2021 impact fee account balances with total revenues and expenditures.

Memo #2: Summary of Best Practices

Memo #2 presents best practices as recommended by the American Planning Association as well as case studies for current practices by regional communities in support for New Castle County's Impact Fee Study. The case studies include jurisdictions from Delaware, New Jersey, Pennsylvania, Maryland, and Florida. This memo also provided a summary impact fees or exemptions to be considered during the impact fee study: 1) green infrastructure; 2) land preservation/agriculture land preservation; 3) affordable housing; and 4) administration and reassessments.

Take aways from analysis of the best practices included:

- Local examples: New Castle County's impact fee program compares most favorably with the more comprehensive and modern impact fee programs found in Anne Arundel County, Maryland and Seminole County, Florida.
- Indexing benchmark: Construction Cost Index (CCI) from the Engineering News-Record (ENR) is the recommended benchmark comparison for impact fee increases with annual reviews.
- Annual increases: The easiest and most straightforward method to address fee increases is to adopt the annual increase in code using the CCI. Mandating annual increases by code eliminates political influences on the fees. A limit of 4 or 5% per year could be adopted so that in periods of high inflation, fee increases are somewhat mitigated.
- Needs based assessments: Periodic reviews should assess needs for each area of impact based on the County's capital improvement plan for each geographic area. As growth levels change for each area, the fees could be adjusted based on needs.
- Impact fee credits: Many jurisdictions allow for credits if the applicant builds facilities or donates real estate for the construction of facilities.
- Affordable housing provisions: Most jurisdictions provide for a reduction or elimination of impact fees for affordable housing initiatives. A wide of alternatives are possible but factors such as replacing the reduced revenue, income levels, number of units eligible, reducing/waiving only some portions of the impact fees should be considered.
- Fee rates are often tied to a proposed use.
- Sustainability of impact fees to keep taxes low: Impact fees will continue to provide the County with dedicated revenue below the canal for the foreseeable future to help fund projects. Revenue for the area above the canal for parks and libraries is fairly limited.
- Open space: An open space impact fee seems reasonable in the update of the code to help fund land acquisition and preservation.

Memo #3: Special Topics Reviewed

Memo #3 builds on the data collected in the prior memos to present recommendations for New Castle County to consider in their assessment of current regulations and the development of any subsequent updates. These initial recommendations include: 1) an assessment of the ability to apply a sliding scale to the impact fees based on the *Delaware Strategies for State Policies and Spending* (2020) and taking into account the five established investment levels; 2) expanding the list of uses in the Impact Fee Table; 3) developing strategies for incentivizing low-income housing; 4) implementing graduated impact fee increases; 5) creating an Open Space fee; and 6) revision of use/redevelopment charges.

Memo #4: Final Recommendations

A public workshop was held December 12, 2022 to present the findings of Memos 1 through 3 and solicit feedback from interested stakeholders. Attendees could view the presentation virtually or in-person. Approximately 25 individuals attended in person and 45 attendees signed in online.

Data from the workshop was used to finalize recommendations to prioritize proposed changes to the existing code. The following final recommendations will be presented to New Castle County Council's Finance Committee for further consideration:

1. **Utilizing Delaware's State Strategies:** New Castle County to implement a surcharge to cover the additional costs associated with development in Levels 3 and 4; New Castle County will work with OSPC and conduct additional research to determine the actual cost of providing services to these areas and will modify proposed percentages accordingly.
2. **Expanding the List of Uses in the Impact Fee Table:** New Castle County to add new categories to the impact fee table (Multi-use Residential, Institutional Uses, Commercial Lodging, Restaurants).
3. **Strategies for Incentivizing Low-Income Housing:** New Castle County should establish a sliding scale system based on the home price relative to the AMI.
 - >120% of AMI => 75%
 - 100 – 120% => 50%
 - 80 – 100% => 25%
 - <80% => No fee assessed
4. **Graduated Fee Increases/ENR Recommendations:** New Castle County should consider increasing their current Impact Fees in a phased approach of 10% per year for 3 years, then annually adjust the fee for ENR CCI.
5. **Open Space Fee Creation:** New Castle County should further explore the option of an additional impact fee category to fund Open Space. This would align with the County's goal for dedicated Open Space funding.
6. **Change of Use/Redevelopment Charges:** New Castle County will continue to work with developers to determine if the waiver on impact fees is a deciding factor in redevelopment and/or brownfield development. New Castle County should also consult with the Public Works Department and Emergency Services to determine actual costs of increased services from redevelopment cases.

MEMO #1: SUMMARY OF CURRENT PRACTICES

Date: August 2, 2022
To: Antoni Sekowski, Acting Assistant Land Use Manager, New Castle County
From: Savannah Edwards, AICP Candidate; Associate Planner; Rossi Group
CC: Marc Coté, PE, AICP; Director of Planning and Engineering; Rossi Group

Re: New Castle County Impact Fee Study
Memo #1 – Summary of Current Practices

New Castle County received an Audit Report dated May 20, 2020. The results informed the need for further study of New Castle County Unified Development Code (UDC) Chapter 40, Article 14 (40.14); which indicates, “All costs in the impact fee calculations are given in current dollars with no assumed inflation rate over time. Necessary cost adjustments will be made as part of the periodic evaluation and update of impact fees. Impact fees will be adjusted for inflation in construction costs as reflected in the Engineering News Record (ENR) index and upon approval by County Council ...” Since 1999, however, the only impact fees which have been adjusted have been the fire & rescue impact fees. County Council adopted legislation in August 2006 raising these fees based upon another study performed by TischlerBise earlier in 2006. Thus, the impact fees for Parks, Libraries, County Facilities, EMS, and Law Enforcement have not been adjusted for over 20 years – while, undoubtedly, there have been increases in the costs of construction over that timeframe.”

Rossi Group is supporting New Castle County’s study of its development impact fee to assess and update current regulations. In support for New Castle County’s development impact fee study, the following memo presents New Castle County’s current regulations, fee amounts and processes. Concurrently, the County is completing its 10-year comprehensive development plan updates. Based on review of the Draft Comprehensive Plan the following recommendations should be considered as part of this study:

- Study and consider different funding strategies, such as impact fees, for the preservation and acquisition of county owned open space and easements. This was further reinforced by New Castle County Council passing Resolution No. 21-160 that “urges the Administration to include the creation of an impact fee to fund preservation in its 2021 Impact Fee Report and to otherwise pursue a permanent funding mechanism for preservation if the preservation impact fee is not legally or otherwise feasible.”
- Study/adjust impact fees and conduct economic cost-benefit analysis of other policies associated with financing infrastructure and service, to address issues such as ongoing parks and open space maintenance needs that cut across multiple departments.
- In alignment with recommendations from the Housing Advisory Board evaluate possible adjustments to Impact Fees, such as an exemption/waiver for developers of low to very low-income housing in exchange for covenants that run with the land to continue affordability for 30 years and accept all sources of income for rental unit developments. Importantly, the study will need to weigh the benefit of expected impacts from this type of policy change relative to the loss of fees.
 - Consider establishing sliding scale for moderately priced dwelling unit (MPDU) requirements, which should factor access to transit and nonmotorized transportation modes.
- Ensure emergency and police services capacity and funding is available as population grows by re-evaluating impact fee to ensure the monies levied from new development adequately address the impact of increased

demand for fire, EMS and police expansion and service.

- Consider adjustments to impact fees based on housing unit size as opposed to a flat per unit basis to incentivize smaller, more affordable units.

I. SUMMARY OF NEW CASTLE COUNTY UDC CHAPTER 40, ARTICLE 14 (40.14)

Delaware Code Title 29, Chapter 91, Section 9124 gives the County Government the authority to charge impact fees for services for which the County will bear increased costs of development. Pursuant to State Code, New Castle County adopted UDC 40.14 in 1997. The code defines impact fees as one (1) time payments on new use development to ensure that the development contributes adequate funds to enable the County to provide necessary services and facilities in a timely manner and at established levels of service. New Castle County currently requires that new residential use development provide impact fees for libraries, fire and rescue, emergency medical services, law enforcement, parks and special facilities, and county facilities. All other uses shall pay impact fees for fire and rescue, law enforcement, emergency medical services (EMS), and county facilities.

With the adoption of 40.14 the County determined impact fees that would be proportionate and reasonable related to the capital facility service demands of a new development. Impact fees for libraries were determined using a plan-based methodology, a method best suited for public facilities that have specific capital improvement plans. Impact fees for parks, public facilities and equipment, EMS, fire/rescue, and law enforcement are derived mainly from the incremental expansion method which would allow the use impact fee revenue to expand or provide additional facilities, as needed to accommodate new development. Parks impact fees also used the buy-in approach to calculate fees, where new development would pay for its share of the useful life and remaining capacity of existing facilities.

The impact fees also considered and established potential credits for new developments. The first, a future revenue credit avoids double payment for capital facilities through both one (1) time impact fees and ongoing revenues that may fund system improvements. The second type of credit is a site-specific credit for system improvements that have been included in the impact fee calculations. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees. When building or expanding a nonresidential building, the first 1,000 square feet are exempt from the assessment of impact fees. For all impact fees, the Department shall waive the applicant's responsibility to pay said fees for redevelopment or Brownfields. As a condition of such waiver, the Department may require that an alternative funding source be identified to pay the applicable impact fee.

The Code defined impact fees in current (last amended, 2006) dollars with no assumed inflation rate over time. The Code indicated that cost adjustments would be made as part of a periodic evaluation. Impact fees would be adjusted for inflation in construction costs as reflected in the Engineering News Record (ENR) index and upon approval by New Castle County Council. Any impact fee based in part upon land cost shall be reviewed periodically by the Departments of Land Use and Finance and adjusted to account for any significant change in the cost of land upon approval of County Council. Though the Code was amended several times following its initial adoption, New Castle County has not updated its code or related fees since 2006. Current impact fees, as detailed in Table 40.14.210 are presented in **Table 1**. For comparison, **Table 1** also presents impact fee amounts if they had been reviewed and adjusted in accordance with the ENR Index as recommended in the Code as well as impact fee amounts adjusted in accordance with the Consumer Price Index (CPI).

Table 1: Impact Fees (Dollars)

Service	Parks & Special Facilities			Libraries			County Facilities			EMS			Fire and Rescue			Law Enforcement			Total		
	Code ¹	ENR Index ²	CPI Index ³	Code ¹	ENR Index ²	CPI Index ³	Code ¹	ENR Index ²	CPI Index ³	Code ¹	ENR Index ²	CPI Index ³	Code ¹	ENR Index ²	CPI Index ³	Code ¹	ENR Index ²	CPI Index ³	Code ¹	ENR Index ²	CPI Index ³
RESIDENTIAL Per Housing Unit																					
Single-family detached	\$328	\$574	\$492	\$138	\$242	\$207	\$112	\$196	\$168	\$7	\$12.25	\$10.50	\$510	\$893	\$765	\$62	\$109	\$93	\$1157	\$2,025	\$1,736
Single-family attached	\$304	\$532	\$456	\$129	\$226	\$194	\$105	\$184	\$158	\$6	\$10.50	\$9.00	\$442	\$774	\$663	\$58	\$102	\$87	\$1044	\$1,827	\$1,566
All other housing ⁴	\$225	\$394	\$338	\$95	\$166	\$143	\$77	\$135	\$116	\$5	\$8.75	\$7.50	\$317	\$555	\$476	\$43	\$75	\$65	\$762	\$1,334	\$1,143
NONRESIDENTIAL Per 1,000 Square Feet of Floor Area⁵																					
Commercial/shopping center (less than 60,000 sf. GFA)	NA	NA	NA	NA	NA	NA	\$127	\$222	\$191	\$8	\$14.00	\$12.00	\$210	\$368	\$315	\$42	\$74	\$63	\$387	\$677	\$581
Commercial/shopping center (60,000 sf. to 200,000 sf. GFA)	NA	NA	NA	NA	NA	NA	\$95	\$166	\$143	\$6	\$10.50	\$9.00	\$163	\$285	\$245	\$33	\$58	\$50	\$297	\$520	\$446
Commercial/shopping center (greater than 200,000 sf. GFA)	NA	NA	NA	NA	NA	NA	\$76	\$133	\$114	\$5	\$8.75	\$7.50	\$147	\$257	\$221	\$28	\$49	\$42	\$256	\$448	\$384
Office/institutional (less than 10,000 sf. GFA)	NA	NA	NA	NA	NA	NA	\$176	\$308	\$264	\$11	\$19.25	\$16.50	\$112	\$196	\$168	\$24	\$42	\$36	\$323	\$565	\$485
Office/institutional (10,000 sf. to 50,000 sf. GFA)	NA	NA	NA	NA	NA	NA	\$150	\$263	\$225	\$10	\$17.50	\$15.00	\$287	\$502	\$431	\$16	\$28	\$24	\$463	\$810	\$695
Office/institutional (greater than 50,000 sf. GFA)	NA	NA	NA	NA	NA	NA	\$142	\$249	\$213	\$9	\$15.75	\$13.50	\$272	\$476	\$408	\$14	\$25	\$21	\$437	\$765	\$656
Business Park	NA	NA	NA	NA	NA	NA	\$120	\$210	\$180	\$8	\$14.00	\$12.00	\$232	\$406	\$348	\$14	\$25	\$21	\$374	\$655	\$561
Light industrial	NA	NA	NA	NA	NA	NA	\$88	\$154	\$132	\$5	\$8.75	\$7.50	\$170	\$298	\$255	\$7	\$12.25	\$10.50	\$270	\$473	\$405
Warehousing	NA	NA	NA	NA	NA	NA	\$47	\$82	\$71	\$3	\$5.25	\$4.50	\$94	\$165	\$141	\$4	\$7.00	\$6.00	\$148	\$259	\$222
Manufacturing	NA	NA	NA	NA	NA	NA	\$70	\$123	\$105	\$4	\$7.00	\$6.00	\$131	\$229	\$197	\$3	\$5.25	\$4.50	\$208	\$312	\$364

1. Impact Fees according to current Code 40.14 (last amended 2006).
2. Impact Fee if adjusted in accordance with ENR Index.
3. Impact Fee if adjusted in accordance with CPI Index.
4. Due to similar square footage, small single-family units and single-wide mobile homes will be included under the "All other housing" designation.
5. When building or expanding a nonresidential building, the first 1,000 square feet are exempt from the assessment of impact fees. For all impact fees, the Department shall waive the applicant's responsibility to pay said fees for redevelopment or Brownfields. As a condition of such waiver, the Department may require that an alternative funding source be identified to pay the applicable impact fee.

Section 40.14.260 outlined the administration of impact fees. Each fee is deposited into separate interest-bearing trust funds for each impact fee types. With exceptions, outlined per the Code, impact fees collected from new development north of the C&D Canal shall only be used for services and facilities located or provided north of the canal. Impact fees collected from new development south of the C&D Canal shall only be used for services and facilities located and provided south of the C&D Canal. Within each area, the impact fees shall only be used to adequately benefit the development which is the source of the fee. Exceptions include impact fees assessed for fire/rescue and county facilities. Impact fees within a specific fire and rescue district shall only be used to adequately benefit the development which is the source of the fee regardless of whether the fee was collected north or south of the C&D Canal. Because County facilities benefit new development on a Countywide basis, County facility impact fees can be used anywhere in the County regardless of whether the fee was collected north or south of the C&D Canal.

Fees collected during any fiscal year must be expended or encumbered by contract within the ten (10) fiscal years

immediately following for parks and special facilities, libraries, county facilities, and fire/rescue or five (5) years for EMS or law enforcement impact fees. If fees are not expended or encumbered by contract, the owner of the address for which an impact fee had been paid is entitled to a refund and will be notified by the General Manager. Any person so entitled shall have six (6) months from the date of the notice within which to apply to the Department of Finance for a refund of the fees paid.

II. IMPACT FEES TO DATE

Impact Fee Account Balances for Fiscal Year 2021 are presented in **Table 2** along with total revenue and expenditures.

Table 2: Impact Fee Account Balances - FY 2021

Parks - North C & D		Parks - South C & D	
Balance 6/30/2021	\$ 35,418.26	Balance 6/30/2021	\$ 473,309.23
Revenue	\$ 123,782.16	Revenue	\$ 245,523.77
Expenditures	\$ (100,936.64)	Expenditures	\$ (328.00)
Balance 6/30/2022	\$ 58,263.78	Balance 6/30/2022	\$ 718,505.00
Libraries - North C & D		Libraries - South C & D	
Balance 6/30/2021	\$ 16,951.54	Balance 6/30/2021	\$ 204,778.06
Revenue	\$ 52,349.83	Revenue	\$ 103,334.27
Expenditures	\$ (40,267.00)	Expenditures	\$ (138.00)
Balance 6/30/2022	\$ 29,034.37	Balance 6/30/2022	\$ 307,974.33
EMS - North C & D		EMS - South C & D	
Balance 6/30/2021	\$ 1,798.36	Balance 6/30/2021	\$ 9,442.31
Revenue	\$ 16,550.54	Revenue	\$ 6,701.16
Expenditures	\$ (5,023.70)	Expenditures	\$ (7.00)
Balance 6/30/2022	\$ 13,325.20	Balance 6/30/2022	\$ 16,136.47
Law Enforcement - North C & D		Law Enforcement - South C & D	
Balance 6/30/2021	\$ 14,443.02	Balance 6/30/2021	\$ 128,293.26
Revenue	\$ 48,672.85	Revenue	\$ 48,998.98
Expenditures	\$ (30,176.20)	Expenditures	\$ (5,062.00)
Balance 6/30/2022	\$ 32,939.67	Balance 6/30/2022	\$ 172,230.24
Fire Service		County Facilities	
Balance 6/30/2021	\$ 360,298.10	Balance 6/30/2021	\$ 56,683.39
Revenue	\$ 1,048,360.68	Revenue	\$ 384,988.45
Expenditures	\$ (694,583.68)	Expenditures	\$ (220,498.93)
Balance 6/30/2022	\$ 714,075.10	Balance 6/30/2022	\$ 221,172.91

Note: Expenditures in accounts in blue were less than 50% of the total revenue.

Expenditures in accounts in blue were less than 50% of the total revenue. This may indicate that the County is saving funds towards a large capital improvement. Per code, impact fees must be expended within ten or five fiscal years from the year in which they are collected. It is unknown to Rossi Group if the County has a tracking system to confirm that

funds are being expended within the required timeframe. The balances in Law Enforcement - South C & D and EMS – South C & D have multiple years of revenue as an end of year balance, 3.5x and 2.4x respectively.

III. NEXT STEPS

In support of New Castle County's study of its development impact fees to assess and update current regulations Rossi Group will document in a second memo a summary of best practices and case studies. Thorough documentation of the current practices along with best practices and case studies will allow the County and its residents to determine needs and opportunities to refine impact fees to align with the County's long-range plans and achieve a sustainable source of revenue.

MEMO #2: SUMMARY OF BEST PRACTICES

Date: August 17, 2022
To: Antoni Sekowski, Acting Assistant Land Use Manager, New Castle County
From: Savannah Edwards, AICP; Associate Planner; Rossi Group
CC: Marc Coté, PE, AICP; Director of Planning and Engineering; Rossi Group

Re: New Castle County Impact Fee Study
Memo #2 – Summary of Best Practices

Rossi Group conducted a review of best practices in support of New Castle County's study of its development impact fees to assess and update current regulations. In support for New Castle County's Impact Fee Study, the following memo presents best practices as recommended by planning professionals as well as case studies for current practices by regional communities.

III. BEST PRACTICES AS RECOMMENDED BY THE AMERICAN PLANNING ASSOCIATION

The American Planning Association (APA) has developed several policy guides to help jurisdictions across America develop their own policies and regulations. In 1997, the APA updated its policy guide on Impact Fees after conducting a review of local practices. The following overarching standards are recommended to all jurisdictions when formulating or reassessing their own impact fee policies:

"The imposition of a fee must be rationally linked (the "rational nexus") to an impact created by a particular development and the demonstrated need for related capital improvements pursuant to a capital improvement plan and program.

Some benefit must accrue to the development as a result of the payment of a fee.

The amount of the fee must be a proportionate fair share of the costs of the improvements made necessary by the development and must not exceed the cost of the improvements.

A fee cannot be imposed to address existing deficiencies except where they are exacerbated by new development.

Funds received under such a program must be segregated from the general fund and used solely for the purposes for which the fee is established.

The fees collected must be encumbered or expended within a reasonable timeframe to ensure that needed improvements are implemented.

The fee assessed cannot exceed the cost of the improvements, and credits must be given for outside funding sources (such as federal and state grants, developer-initiated improvements for impacts related to new development, etc.) and local tax payments which fund capital improvements, for example.

The fee cannot be used to cover normal operation and maintenance or personnel costs, but must be used for capital improvements, or under some linkage programs, affordable housing, job training, childcare, etc.

The fee established for specific capital improvements should be reviewed at least every two years to

determine whether an adjustment is required, and similarly the capital improvement plan and budget should be reviewed at least every 5 to 8 years.

Provisions must be included in the ordinance to permit refunds for projects that are not constructed, since no impact will have manifested.

Impact fee payments are typically required to be made as a condition of approval of the development, either at the time the building or occupancy is issued.”

II. CASE STUDIES

A. Jurisdictions

1. Sussex County, Delaware

Sussex County, DE does not assess impact fees on properties. Funds for parks and special facilities, libraries, county facilities, EMS, Fire and Rescue, and Law Enforcement are collected via property taxes and allocated through the General Fund.

As required by § 115-25B(3) and F(3), the Council reviews fees for a density bonus (Cluster Fees) on an annual basis and revises such fees as it deems necessary. For the town centers and developing areas around Greenwood, Bridgeville, Seaford, Blades, Laurel, and Delmar, fees of \$15,000 per unit in excess of two dwelling units per acre are assessed. For the town centers and developing areas around Milford, Milton, Ellendale, Georgetown, Millsboro, Dagsboro, Frankford and Selbyville, fees of \$15,000 per unit in excess of two dwelling units per acre are assessed. For the Coastal Area, fees of \$20,000 per unit in excess of two dwelling units per acre are assessed.

Fees collected from these density bonuses are allocated to the Sussex County Land Trust (SCLT) in a pool with other funding mechanisms to preserve Open Space throughout the County. The Sussex County Land Trust (SCLT) was formed in December 2001 as a nonprofit conservation organization dedicated to protecting natural, cultural, agricultural and recreational resources through land preservation, stewardship and education for today and tomorrow. The Sussex County Council holds two seats on the SCLT Board, forming a unique public-private partnership between Sussex County Council and the SCLT. Over its 17-year history, SCLT has partnered with the Council, the state and non-profit conservation agencies on 18 different projects and has raised over \$4 million in private funds to leverage the protection of 5,784 acres of land.

2. Kent County, Delaware

Kent County, DE also does not assess impact fees on properties. Instead, Kent County passed an Adequate Public Facilities Ordinance (APFO). The provisions of the APFO are to ensure that essential public facilities (including roads, schools, emergency medical services, and water supply are distribution systems) needed to support new development meet or exceed the level of service standards established by the County at the time that a development is approved. This occurs in four ways:

- (1) The public facilities and/or related services needed to support, and off-set, the impacts of new development already exist; or
- (2) The public facilities and/or related services needed to support, and off-set, the impacts of new development are constructed in conjunction with new development; or
- (3) The new development is phased, so that the public facilities and related services deemed necessary by Kent County are available concurrently with the new development; or

- (4) The public facilities and/or services needed to support, and off-set, the impacts of new development are planned and funded for construction within two years of final plan approval.

EMS Impact Fee:

Kent County Code Article XVII 'Supplementary Regulations', §187-90 Adequate Public Facilities:

To offset the increased cost of providing emergency medical services (EMS) to an expanding County population, County Code states, an EMS impact fee shall be assessed. The level of service standard for emergency medical services is based upon aggregate average call volume to the Kent County Emergency Dispatch Center. On average, 0.07 dispatch calls per person are received by the Kent County Department of Public Safety each year. Based on the dispatch call factor of 0.07 calls per person per year, the number of calls generated by proposed residential development is determined by projecting the total population of the proposed residential development at build-out. The average number of persons per household is determined by the most recent population statistics published by the United States Census Bureau for Kent County.

The Kent County Department of Public Safety calculates the total impact fee per dwelling unit for each new residential development proposal based upon the projected number of annual dispatch calls for the proposed development multiplied by the per-capita EMS costs per the most recent reporting year. The impact fee for the proposed development is apportioned equally to each proposed dwelling unit and is paid to Kent County on a per-dwelling-unit basis prior to the issuance of a building permit.

The EMS impact fee, as stated in the code, is automatically adjusted on January 1 of each year based upon the average per-capita EMS costs derived from the most recent reporting year as determined by the Department of Public Safety. All EMS impact fee funds collected are deposited into a separate interest-earning reserve account for the purpose of funding upgrades and/or expansion of County EMS services and/or County EMS infrastructure within Kent County. Currently the Impact fee for EMS is \$66.77 payable at time of building permit that charge goes toward EMS infrastructure.

Kent County also implements an APFO School Fee based on construction cost, school district, and type of home (single family homes have a 0.6 multiplier, while Multi-Family and Manufactured Homes have a 0.2 multiplier.) Construction cost and Local Share are updated April/May timeframe each year.

The Emergency Services Assistance Fund is separate from the EMS impact fee that is collected to help support local volunteer fire companies.

Kent County Code Emergency Services Assistant Fund §37-1:

"All applications for building permits shall be subject to a surcharge of 1/4 of 1% of the proposed construction valuation as determined by the Department of Planning Services for the purpose of establishing a fund to provide financial assistance to Kent County Volunteer Fire Companies and Kent County Volunteer Ambulance and Emergency Medical Service providers that are members of the Kent County Volunteer Firemen's Association. Existing structures destroyed or demolished will not be assessed a surcharge for the reconstruction, provided that the replacement structure has the same or less square footage and occurs within 24 months of the demolition. If the square footage is greater than the original structure, the surcharge shall be assessed based upon the value of the additional square footage."

3. Salem County, New Jersey

Salem County, NJ assesses fees on new development permit approvals; however, these are administrative fees and not impact fees. As a result, a detailed summary was determined to be irrelevant to this memo.

4. Various Pennsylvania Counties

At the request of New Castle County, Rossi researched impact fees in various counties and municipalities in Pennsylvania. Impact fees are not assessed at the County level within the State. Various municipalities assess a tax for services such as streetlights, fire hydrants, transportation, etc.

5. Anne Arundel County, Maryland

Anne Arundel County, MD Code outlines impact fees (§ 17-11 Subtitle 2) for new development to accommodate service impacts on public schools, transportation, and public safety facilities. Impact fees are required to be paid for new developments and any improvements or changes of use to real property based on the net increase in service impacts. Exemptions from impact fees include facilities for assisted living programs, hospice facilities, hospitals, nursing homes, a fire station on property owned by a volunteer fire fighting company, facilities owned by or leased to Anne Arundel Community College, and residential dwelling units that the sale or rental of the units is restricted to persons with a household income not exceeding 120 percent of the area median income. The code states that each year the impact fees will be adjusted by the percent change rounded to the nearest dollar from the most recent 20-City Annual National Average Construction Cost Index from the Engineering News-Record (ENR).

Annually, the boundaries of the school impact fee districts and transportation impact districts are reviewed and amendments to the boundaries may be proposed. Every three years, the development impact fee schedule is reviewed to consider new data and changes in costs, revenues, student generation rates, trip generation rates, trip lengths and other factors. The County Executive may propose amendments to the schedule which are submitted to the Planning Advisory Board for review and public hearing.

Credits for impact fees can be provided to developers from the County or County Board of Education. Transportation impact fee credits are allowed for transportation improvements that provide transportation capacity above the requirements for road facilities. Credit for construction and conveyance of land will be deemed paid when construction is finished. School impact fee credits are provided for capital improvements to increase school capacity.

Mixed use unit fees are computed by calculating the space committed to the various land use types on the schedule. If the development includes fractional units, the fee shall be computed to the appropriate fraction. If the Planning and Zoning Officer determines there is not a comparable land use type for the development in the impact fee schedule, or that the development may have higher impacts than assumed for its land use, an independent impact analysis will be done. This will assess a school fee, transportation fee, and public safety fee separately. As used in the fee schedules in **Table 1**, "square feet" refers to the finished area for residential development, and to floor area for non-residential development.

Table 1: Anne Arundel County Impact Fees

Development Type	Roads	Schools	Public Safety	Total
Residential (By Square Foot)				
Under 500 Feet	\$1,954	\$2,954	\$132	\$5,040
500 - 999 Feet	\$3,205	\$5,435	\$214	\$8,854
1,000 - 1,499 Feet	\$4,161	\$7,453	\$279	\$11,893
1,500- 1,999 Feet	\$4,828	\$8,780	\$323	\$13,931
2,000 - 2,499 Feet	\$5,328	\$9,772	\$355	\$15,455
2,500 - 2,999 Feet	\$5,715	\$10,565	\$382	\$16,662
3,000 - 3,499 Feet	\$6,009	\$11,224	\$402	\$17,635
3,500 - 3,999 Feet	\$6,286	\$11,789	\$421	\$18,496
4,000 - 4,499 Feet	\$6,536	\$12,284	\$438	\$19,258

4,500 - 4,999 Feet	\$6,759	\$12,722	\$452	\$19,933
5,000 - 5,499 Feet	\$6,952	\$13,118	\$464	\$20,534
5,500 - 5,999 Feet	\$7,113	\$13,476	\$476	\$21,065
6,000 Feet and Over	\$7,197	\$13,644	\$481	\$21,322
Non-residential				
Amusement, recreation, and place of assembly per required parking space	\$1,375	\$0	\$54	\$1,429
Hotel/Motel room	\$6,621	\$0	\$169	\$6,790
Industrial per 1,000 Sq Ft	\$5,712	\$0	\$211	\$5,923
Mini-warehouse per 1000 Sq Ft	\$941	\$0	\$47	\$988
For profit hospital per bed	\$7,451	\$0	\$223	\$7,674
For profit nursing home per bed	\$1,658	\$0	\$182	\$1,840
Marinas per berth	\$1,739	\$0	\$62	\$1,801
Office per 1,000 sq. ft.				
Under 100,000 sq. ft.	\$9,236	\$0	\$504	\$9,740
100,000 - 199,999 sq. ft.	\$7,999	\$0	\$450	\$8,449
200,000 sq. ft. and over	\$7,122	\$0	\$413	\$7,535
Mercantile per 1,000 sq. ft.	\$9,623	\$0	\$1,284	\$10,907

Source: <https://www.aacounty.org/departments/inspections-and-permits/fees/utility-and-impact-fees/>

6. Seminole County, FL

Seminole County, Florida is located in central Florida, as of the 2020 Census it has a population of 470,856. Seminole County collects impact fees for mobility, education, fire and rescue, libraries, and water and wastewater connection.

Seminole County recently evaluated its Impact Fee Rate Schedules for Water and Wastewater connection fees, Library impact fees, and Fire impact fees. This update included coordination between County staff including Environmental Services, Leisure Services and Public Safety/Fire. The library, fire and rescue, and mobility impact fees are reviewed every four years or as directed by the Board since the update.

In June 2021, Seminole County commissioners unanimously agreed to new impact fees — in some cases increases to fees were more than seven times the existing rate.— The increases were needed to help pay for new roads, trails, library materials and fire stations as the county expects more than 100,000 new residents over the next two decades. Seminole's impact fees for roads, libraries and fire and rescue services had not been raised since the mid-1990s. School impact fees were not under review after being raised by Seminole commissioners in January 2018 **Table 2**. Commissioners also agreed to lower impact fees for residential developments that include affordable and workforce housing. The following impact fees were updated in June 2021, shown in **Table 3**. Note, a mobility fee is another name for a road impact fee. Mobility/road impact fee programs set a one-time charge assessed only against those projects creating additional impacts to the transportation system by way of new development or expanding existing development.

Table 2: Seminole County Education Impact Fees

Education System Impact Fees	Fee Rate per Dwelling Unit
Residential:	
Single Family	\$9,000
Condominium, Townhomes & Duplex	\$5,000
Apartments (Multi-Family) < 850 sq. ft.	\$4,900
Apartments (Multi-Family) 851 to 1,000 sq. ft.	\$7,100

Apartments (Multi-Family) > 1,000 sq. ft.	\$8,700
Mobile Home	\$4,700

Source: <https://www.seminolecountyfl.gov/departments-services/development-services/fees-calculators/building-permit-impact-fees/county-impact-fees.stml>

Table 3: Seminole County Impact Fees

Development Type	Impact Unit	Library	Fire Rescue	Mobility		
				Rural	Suburb	Core
Residential:						
Single Family - Affordable Housing	DU	\$198	\$249	\$3,656	\$1,357	\$906
Single Family (<1,500 sq. ft.)	DU	\$351	\$440	\$5,923	\$2,198	\$1,467
Single Family (1,500 to 2,499 sq. ft.)	DU	\$395	\$497	\$7,312	\$2,714	\$1,811
Single Family (>=2,500 sq. ft.)	DU	\$443	\$557	\$9,798	\$3,636	\$2,427
Multi-Family - Affordable Housing	DU	\$148	\$183	n/a	\$916	\$576
Multi-Family (1-2 Floor)	DU	\$269	\$332	n/a	\$1,665	\$1,048
Multi-Family (3+ Floor)	DU	\$269	\$332	n/a	\$1,237	\$779
Transient, Assisted, Group:						
Mobile Home	DU	\$280	\$318	\$2,456	\$875	\$537
Congregate Care Facility	DU		\$436	\$2,518	\$906	\$570
Hotel	Room		\$397	\$4,446	\$1,644	\$1,086
Motel	Room		\$342	\$1,699	\$618	\$399
Nursing Home	1,000 sf		\$836			
Nursing Home	bed			\$593	\$299	\$210
Recreational:						
Marina	Boat berth		\$42	\$1,180	\$617	\$480
Golf Course	Hole		\$273	\$10,557	\$5,491	\$4,019
Movie Theater	Screen		\$1,688			
Racquet/Tennis Club	Court		\$416			
Health/Fitness Club	1,000 sf		\$784	\$8,100	\$4,180	\$2,975
Institutional:						
Elementary School (private)	Student		\$26	\$451	\$229	\$165
Middle/Junior High School (private)	Student		\$29	\$451	\$229	\$165
High School (private)	Student		\$29	\$451	\$229	\$165
University/Jr College (7,500 or fewer students)(private)	Student		\$33	\$451	\$229	\$165
University/Jr College (more than 7,500 students)(private)	Student		\$26	\$451	\$229	\$165
Church (non-sanctuary space for mobility fee)	1,000 sf		\$120	\$1,757	\$893	\$652
Day Care Center	1,000 sf		\$264			
Day Care Center (Child or Adult)	Student			\$405	\$209	\$131
Medical:						
Hospital	1,000 sf		\$420	\$4,048	\$2,082	\$1,713
Office:						
Office	1,000 sf		\$290	\$3,614	\$1,840	\$1,470
Medical Office (10,000 sq ft or less)	1,000 sf		\$390	\$13,431	\$6,859	\$5,614
Medical Office (greater than 10,000 sf)	1,000 sf		\$560	\$13,431	\$6,859	\$5,614
Retail:						

Retail (less than 20,000 sq ft)	1,000 sf			\$5,417	\$2,777	\$1,737
Retail (greater than or equal to 20,000 sq ft)	1,000 sf			\$7,369	\$3,819	\$2,523
Convenience Retail	1,000 sf			\$24,008	\$12,297	\$7,686
Discount Superstore, Free-Standing	1,000 sf		\$534	Calculated based on size (see above)		
Retail/Shopping Center	1,000 sf		\$491	Calculated based on size (see above)		
New/Used Auto Sales	1,000 sf		\$511	Calculated based on size (see above)		
Supermarket	1,000 sf		\$784	\$9,168	\$4,707	\$3,023
Pharmacy/Drug Store with & without Drive-Thru	1,000 sf		\$602	Calculated based on size (see above)		
Furniture Store	1,000 sf		\$104	Calculated based on size (see above)		
Services:						
Bank with Walk-In	1,000 sf		\$335	\$7,226	\$3,655	\$2,483
Bank with Drive-Thru	1,000 sf		\$485	\$7,226	\$3,655	\$2,483
Quality Restaurant	1,000 sf		\$1,874	\$19,548	\$10,079	\$6,817
High-Turnover (Sit-Down) Restaurant	1,000 sf		\$1,812	\$19,548	\$10,079	\$6,817
Fast Food Restaurant with Drive-Thru	1,000 sf		\$3,156	\$17,783	\$9,031	\$5,261
Coffee/Donut Shop	1,000 sf			\$9,142	\$4,643	\$2,705
Automobile Care Center	1,000 sf		\$543	\$4,415	\$2,227	\$1,603
Gas Station with Convenience Market (less than 2,000 sq ft)	Fuel pos.		\$475	\$12,605	\$6,326	\$4,223
Gas Station with Convenience Market (2,000-2,999 sq ft)	Fuel pos.		\$579	\$12,605	\$6,326	\$4,223
Gas Station with Convenience Market (3,000+ sq ft)	Fuel pos.		\$657	\$12,605	\$6,326	\$4,223
Industrial:						
General Light Industrial	1,000 sf		\$163	\$2,027	\$1,024	\$761
Manufacturing	1,000 sf		\$150	\$2,027	\$1,024	\$761
Passive Warehouse (storage)	1,000 sf		\$36	\$793	\$401	\$298
Active Warehouse (parcel hub/fulfillment center)	1,000 sf		\$36	\$3,634	\$1,837	\$1,365
Mini-Warehouse	1,000 sf		\$13	\$451	\$233	\$166
Utility	1,000 sf		\$342			

Additional details on these impact fees can be found at <https://www.seminolecountyfl.gov/departments-services/development-services/fees-calculators/building-permit-impact-fees/county-impact-fees.stml>

B. Special Topics for Consideration

1. Green Infrastructure

A report from the EPA suggests that impact fees can be an advantageous mechanism for funding green infrastructure projects because the fees collected are linked directly to the services provided, which avoids competing with other programs and needs that might be covered by general funds. However, they also point out that impact fees can be an unreliable source when development slows down. (EPA, 2014, Getting to Green: Paying for Green Infrastructure) https://www.epa.gov/sites/default/files/2015-02/documents/gi_financing_options_12-2014_4.pdf

City of Newark

The City of Newark has established a Stormwater Utility Fee that is based on impervious area on a property (**Table 4**). This captures the impact of each individual property on the stormwater system. This also provides a dedicated funding source for stormwater management that is fair in cost recovery. The City offers fee reduction opportunities to users that implement stormwater management practices that go above and beyond local ordinance requirements. They also offer stormwater grants to residential customers for rain barrels, design service support, and stormwater project cost sharing. The Stormwater User fee for each individual property will be based on the Equivalent Stormwater Unit (ESU). One ESU is equivalent to 1,620 sq. ft. of impervious area. This represents the median impervious area of all single-family residential parcels in the city. Unlike a single time impact fee, the City of Newark assesses their Stormwater Utility Fee on a monthly basis, included as a line item in City water and sewer bills.

Table 4: City of Newark Stormwater Utility Charge Estimator

Tier	Impervious Area (sq ft)	ESU* Factor	Monthly Fee**
1	0 to 1,289	0.60	\$2.12
2	1,290 to 1,950	1.00	\$3.54
3	1,951 to 2,610	1.30	\$4.61
4	2,611 or more	1.80	\$6.37

Source: <https://newarkde.gov/877/Stormwater-Utility#:~:text=The%20current%20rate%2C%20based%20on,the%20City%20is%20%243.54%2FESU.>

*Equivalent Stormwater Unit

** Monthly fee as of January 1, 2019

Non-Residential parcels are assigned stormwater run-off factor based on use as shown in **Table 5**. Then their fee is calculated by multiplying the stormwater runoff factor by the parcel's total area.

Table 5: City of Newark Non-Residential Stormwater Runoff Factors

Stormwater Class	Description	Runoff Factor
COM	Commercial	0.95
GOV	Government	0.95
IND	Industrial	0.90
INS	Institutional	0.90
MFA	Multi-family Apartments	0.75
PAR	Parks and Cemeteries	0.25
PAV	Paved Surfaces	0.95
PKG	Parking	0.95
REC	Recreational Areas/Playgrounds	0.35
UTI	Utilities	0.90
VAC	Vacant	0.30

Source: <https://newarkde.gov/DocumentCenter/View/9452/SW-Utility-First-Reading---Non-Residential-FAQ?bidId=>

Non-residential users have an opportunity to reduce their monthly stormwater fee by up to 25% through two types of credits. Quality credit is based on the capture and infiltration of runoff. If the technical criteria is met, a maximum 15% reduction in the stormwater fee is possible. The Quantity Credit is for reductions in peak stormwater discharge rates. If the technical criteria is met, a maximum 10% reduction in the stormwater fee is possible. Credit applications can be submitted through an online application that calls for as-built drawings by a certified engineer, site map or plan, drainage area information, pre-development and post-development calculations, routing calculations, a maintenance

plan and schedule, and \$150 application fee.

2. Land Preservation/Agricultural Land Preservation

Preserving open space is important for a variety of reasons and collecting impact fees allows a community to mitigate the effects of development on open space by investing in acquiring or improving existing open space.

City of Chicago

The City of Chicago, IL operates an Open Space Impact Fee program that allocates fees applied to new residential developments to pay for land acquisition and park improvements in each of Chicago's 77 community areas. Fees range from \$313 to \$1,253 depending on the size of the dwelling units (**Table 6**). These fees were determined by a formula that factors in the open space need due to the size of the new development, the open space cost of \$12 per square foot, and the thirty percent developers share of the cost. Units that count as affordable housing are charged a flat nominal fee. Credits are provided for certain projects that include open space on site. Expenditures require City Council approval and are allocated within the community where the funds were generated. The funds are not used for ongoing maintenance or for playground replacement. Fees are processed through an Open Space Impact Fee worksheet that requires approval from the Department of Buildings or DPD staff.

Table 6: City of Chicago Open Space Impact Fee

Dwelling Unit Size	Fee per Unit
Up to 799 sf	\$313.00
800 to 1,599 sf	\$626.00
1,600 sf to 2,999 sf	\$940.00
3,000 sf and up	\$1,253.00
Affordable Housing	\$100.00

Source: https://www.chicago.gov/city/en/depts/dcd/supp_info/open

Martin County, FL

In 2016, Martin County, FL established a Conservation/Open Space impact fee that is assessed on residential properties, hotels/motels and RV parks. The total amount of fees for those properties are included in **Table 7**.

Table 7: Martin County Conservation Impact Fees

Development Type	Conservation/Open Space
Residential:	
800 SF & under	\$540
801 to 1,100	\$579
1,101 to 2,300	\$661
2,301 & over	\$755
Non-Residential	
Hotel/ Motel Room	\$654
RV Park per Lot	\$491

Source: <https://www.martin.fl.us/resources/impact-fee-schedule-pdf>

American Farmland Trust

"Spurred by post-war sprawl that consumed farmland at an alarming rate, and recognizing that farmers and environmentalists seldom recognized their overlapping interests, American Farmland Trust (AFT) was founded to put agriculture on a different track. AFT pioneered use of various land conservation tools, previously used to preserve wilderness or create parks, to now protect working farmland; and AFT brought together two divergent communities—farmers and environmentalists—to catalyze transformational public policy that has dramatically reduced soil erosion

and improved water quality and soil health. This in turn has laid the groundwork for farming to play its most important environmental role yet, helping combat climate change” (<https://farmland.org/>).

Agricultural easements are a well-established tool that enable landowners to protect their property in perpetuity. Easements are flexible instruments that are designed to align with the landowner’s individual conservation goals. Agricultural easements limit non-agricultural development on valuable farmland while allowing the continued productive agricultural use of the land. Impact fees, grants, and donations, like in the case of the Sussex County Land Trust, can be used to pool funds together to outright purchase property or establish easements on agricultural land.

The Delaware Nature Conservancy

The Nature Conservancy has worked with the University of Delaware’s Water Resources Center and other partners to develop the Brandywine-Christina Revolving Water Fund (the “Water Fund”). This work is part of the Delaware River Watershed initiative. A water fund is a finance and governance mechanism to invest in conservation practices designed to secure freshwater resources, both in terms of water quality and quantity. The Brandywine-Christina watershed is comprised of the Brandywine, Red Clay and White Clay Creeks, and the Christina River. Collectively the watershed provides over 100 million gallons of drinking water per day to over half a million people in Delaware and Pennsylvania. However, the majority of the creeks and streams are now unsafe for drinking due to legacy pollutants, nutrient and sediment overloads, and urban runoff. The Water Fund increases the pace, scale and efficiency of water-quality conservation in the Brandywine-Christina watershed (<https://www.nature.org/en-us/about-us/where-we-work/united-states/delaware/stories-in-delaware/brandywine-christina-revolving-water-fund/>).

This conservation financing mechanism is the first of its kind in the Country. Unlike a typical impact fee that would need to expend funds on an annual basis, a program structure like this would allow the County flexibility. This would allow for conservation planning, or the acquisition of Open Space, tied directly to County-wide benefits as they arise.

The Delaware Nature Conservancy should be consulted as a partner when implementing any open-space master plan, to help identify the most ecologically beneficial properties. (<https://www.nature.org/en-us/about-us/where-we-work/united-states/delaware/>).

3. Affordable Housing

In areas with high fees and/or a large number of special assessment districts, the cumulative cost can erode the financial viability of affordable housing projects. Local jurisdictions can encourage the development of new affordable housing by reducing or waiving these fees for qualifying projects. Although fees are waived, developers still receive the services supported by the fee and/or must secure the associated permits or approvals. This incentive is likely to have the greatest impact in jurisdictions with a robust level of construction activity, or where new development is anticipated) and where impact and permitting fees are relatively high.

There are a variety of ways that cities can make fee waivers and reductions available to developers of qualifying projects. Typically, developers need to submit an application for the waiver or reduction to the planning or housing and community development department, along with documentation proving their intention to comply with eligibility requirements. Once the application has been approved for a qualifying project, the benefit is provided.

In some cities, such as Portland, OR, a specified set of fees may be waived by city staff, while waivers of larger fees must be approved by the City Council. Instead of providing as-of-right waivers, it is also possible for local jurisdictions to consider waivers on a case-by-case basis. However, this approach may be administratively burdensome for the jurisdiction, and makes the development process and associated costs less transparent and predictable for

developers, who need a clear picture of development costs to develop an accurate project budget.

Rather than reducing or waiving fees, some local jurisdictions allow payment on a deferred basis. The short-term construction loans available at the start of the development process carry relatively high interest rates compared with longer-term permanent financing. Deferred fee payments allow developers to make payments after securing long-term, lower-cost financing, while the jurisdiction still collects the expected revenue and avoids budget shortfalls in other areas. Regulations will need to specify when payment of deferred fees is required (e.g., when permanent financing is secured, when a certificate of occupancy is issued, etc.), as well as any penalties associated with failure to deliver the affordable units within the promised timeframe.

Cities, towns and counties should establish clear criteria for eligibility for fee reductions or waivers. Program guidelines should specify the income level(s) that must be served to qualify for this incentive, as well as any minimum threshold(s) for the share of units in the development that must meet affordability requirements. Guidelines should also specify whether there are any requirements for how long the units must remain affordable.

Cities, towns and counties will also need to specify whether fee waivers or reductions are available in all geographic areas within the jurisdiction or only in specified zones.

Revenue from impact fees and other fees assessed during the permitting process is used to address community needs—including infrastructure expansion, administrative functions associated with the fee, or other projects that are planned or underway. Waivers or reductions in fee revenue could undermine the ability to cover these costs if other revenue sources are not readily available. Cities, towns and counties that wish to offer fee waivers or reductions should consider careful monitoring of the program, especially in early years of operation, to ensure there are no unintended negative effects on other programs or the city's ability to meet growing demand on public services.

The SMART housing program in Austin, TX provides a variety of incentives for private developers who create and preserve housing for low- and moderate households and for persons with disabilities. Projects that set aside units as affordable to homeowners and renters earning no more than 80 percent of the median family income (120 percent for owner-occupied units located in certain areas) are eligible for full or partial waivers of 29 separate fees. Fee reductions range from 25 percent for developments where 10 percent of units meet affordability requirements to 100 percent for developments where 40 percent of units meet affordability requirements.

In Anne Arundel County affordable housing is exempt from impact fees. Residential dwelling units, provided that the sale or rental of the units is restricted to persons with a household income not exceeding 120 percent of the area median income, adjusted by household size, or units that were constructed under a program that requires homebuyers to participate in the initial construction or rehabilitation of the units they are also exempt from impact fees. The residential dwelling unit must be constructed by or under a program sponsored by an entity exempt from taxation at least three years prior.

4. Administration and Reassessments

Federal Highway Administration suggests that impact fees be reviewed and updated at least every three to five years, as most jurisdictions require with some updating every year.

As detailed in APA's summary of Best Practices, it is recommended that fees should be reviewed at least every two years to determine whether an adjustment is required, and similarly the capital improvement plan and budget should be reviewed at least every 5 to 8 years.

IV. TAKE AWAYS

1. Local examples – a review of nearby local jurisdictions did not yield a useful comparison to New Castle County's Impact Fees Schedule. More comprehensive and modern impact fee programs were found in Anne Arundel County, Maryland and Seminole County, Florida. These two counties outlined the impact fees in a clear straightforward process. In many jurisdictions, funds for parks and special facilities, libraries, county facilities, EMS, fire and rescue, and law enforcement are collected via property taxes. New Castle County's impact fee compares favorably with other jurisdictions in terms of comprehensiveness and best practices
2. Indexing Benchmark – it is recommended that Construction Cost Index(CCI) from the Engineering News-Record (ENR), as outlined in current code, continue to be the benchmark comparison for impact fee increases with annual reviews.
3. Annual increases – in APA's summary of Best Practices, it is recommended that fees should be reviewed at least every two years to determine whether an adjustment is required. It is recommended that a more formal review of increases occur in a timely manner. The easiest and most straightforward method to address fee increases is to adopt the annual increase in code using the CCI. Increases in fees are always a sensitive subject politically and no one wants to vote in favor of increasing fees every year at a County Council meeting. Mandating the annual increases by code eliminates political influences on the fees. Transportation Improvement District fees are reviewed and new rates are set every February 1st. A cap could also be instituted as part of the code so that fees do not increase by more than X% per year based on what Council approves in the code. A limit of 4 or 5% per year could be adopted so that in periods of high inflation, fee increases are somewhat mitigated.
4. Needs Based Assessments – in addition to the fees being reviewed annually, periodic reviews should include needs for each area of impact based on the County's capital improvement plan for each geographic area. As the level of growth changes for each area, the fees could change based on the needs as planned by the County for each area to provide services in each area of impact.
5. Impact Fee Credits – many jurisdictions allow for credits if the applicant builds facilities or donates real estate for the construction of facilities. Providing credits allows for greater flexibility in working with larger developments. Providing a parcel for a new library would be a credit to offset the library portion of the impact fee.
6. Affordable housing provisions – most jurisdictions provide for a reduction or elimination of impact fees for affordable housing initiatives. A wide range of alternatives are possible but factors such as replacing the reduced revenue, income levels, number of units eligible, reducing/waiving only some portions of the impact fees will have to be thoroughly discussed. Other incentives such as density bonuses help provide incentives for developers to provide affordability but further stress the areas of impact.
7. Fee rate is tied to the proposed use – jurisdictions have different rates based on the type of residential and non-residential uses. Seminole County has the most comprehensive list of uses to determine different rates.

8. Sustainability of impact fees carrying the load to keep taxes low – growth is projected to be much higher in the area below the canal. Impact fees will continue to provide the County with dedicated revenue below the canal for the foreseeable future to help fund projects. Revenue for the area above the canal for parks and libraries is fairly limited.
9. Open Space – many jurisdictions have provisions for requiring open space and also have impact fees related to open space that are fairly significant in relation to the total fee. An open space impact fee seems reasonable in the update of the code to help fund land acquisition and preservation.

MEMO #3: SPECIAL TOPICS REVIEWED

Date: November 2, 2022
To: Antoni Sekowski, Acting Assistant Land Use Manager, New Castle County
From: Savannah Edwards, AICP; Associate Planner; Rossi Group
CC: Marc Coté, PE, AICP; Director of Planning and Engineering; Rossi Group

Re: New Castle County Impact Fee Study
Memo #3 – Special Topics Reviewed

After presenting Memos #1 and #2 regarding current practices and best practices in support of New Castle County (NCC)'s study of development impact fees. Rossi Group prepared the following memo presenting recommendations for NCC to consider in their assessment of current regulations and the development of any updates to those.

I. UTILIZING DELAWARE'S STATE STRATEGIES

A. Background

The project team was asked to assess the ability to apply a sliding scale to the impact fees based on the *Delaware Strategies for State Spending and Policy* (2020). In 1999, the State of Delaware created a framework that guides decision makers on the most desirable pattern of land use within the state, the major circulation patterns, and the general locations of major public and private works and facilities. These Strategies identify the State's goals and policies for land use, infrastructure investment, and other priorities as developed by the Cabinet Committee on State Planning Issues. Associated with these Strategies is a map depicting the Investment Levels described in the document. The maps are based on data collected from a variety of state and local agencies. Both the document and associated maps are a culmination of extensive coordination with local governments, citizens, and state agencies to determine what areas are most prepared for growth and where the state can make the most cost-effective investments in roads, schools, and other public facilities and services.

These Strategies acknowledge the fact that it is more expensive to provide necessary services the further you get away from the core developed areas. The goals of the program are:

- Goal 1: Direct investment and future development to existing communities, urban concentrations, and growth areas.
- Goal 2: Protect farmlands and critical natural resource areas.
- Goal 3: Improve housing quality, variety, and affordability for all income levels.
- Goal 4: Ensure objective measurement of long-term community effects of land-use policies and infrastructure investments.
- Goal 5: Streamline regulatory processes and provide flexible incentives and disincentives to encourage development in desired areas.
- Goal 6: Encourage redevelopment and improve the livability of existing communities and urban areas and guide new employment into underused commercial and industrial sites.
- Goal 7: Provide high-quality employment opportunities for citizens with various skill levels to retain and attract a diverse economic base.
- Goal 8: Protect the state's water supplies, open spaces, farmlands, and communities by encouraging revitalization of existing water and wastewater systems and the construction of new systems.
- Goal 9: Promote mobility for people and goods through a balanced system of transportation options.
- Goal 10: Improve access to educational opportunities, health care, and human services for all Delawareans.

- Goal 11: Coordinate public policy planning and decisions among the state, counties, and municipalities.

There are five investment levels including levels 1, 2, 3, 4, and Out-of-Play areas, as described below and mapped in **Figure 22**.

Investment Level 1 Areas are often municipalities, towns, or urban/urbanizing places in counties. Density is generally higher than in the surrounding areas. There are a variety of transportation opportunities available. Buildings may have mixed uses, such as a business on the first floor and apartments above. As the State Strategies describes, “these areas would be a prime location for designating “pre-permitted areas” to help steer development where the local government and citizens are most prepared to accept it.”

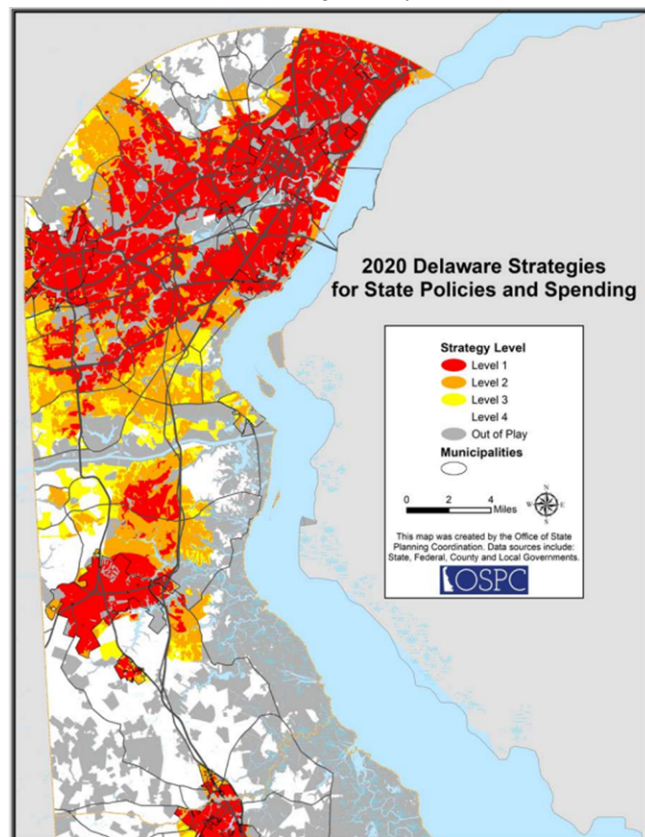
Investment Level 2 areas can be composed of less developed areas within municipalities, rapidly growing areas in the counties that have or will have public water and wastewater services and utilities, areas that are generally adjacent to or near Investment Level 1 Areas. “Like the Level 1 Areas, Level 2 Areas would be a prime location for designating “pre-permitted areas”” ([2020 Delaware Strategies for State Policies and Spending](#).)

Investment Level 3 Areas generally fall into two categories. The first category covers lands that are in the long-term growth plans of counties or municipalities where development is not necessary to accommodate expected population growth during this five-year planning period (or longer). In these instances, development in Investment Level 3 may be least appropriate for new growth and development in the near term. The second category includes lands that are adjacent to or intermingled with fast-growing areas within counties or municipalities that are otherwise categorized as Investment Levels 1 or 2. “Due to the limits of finite financial resources, state infrastructure spending on “hard” or “grey” infrastructure such as roads, sewer, water, and public facilities will generally be directed to Investment Level 1 and 2 Areas during this planning period. The State will consider investing in these types of infrastructure in Investment Level 3 Areas once the Investment Level 1 and 2 Areas are substantially built out, or when the infrastructure or facilities are logical extensions of existing systems and deemed appropriate to serve a particular area” ([2020 Delaware Strategies for State Policies and Spending](#).)

Investment Level 4 Areas are rural in nature and are where the bulk of the state’s open space/natural areas and agricultural industry is located. These areas contain agribusiness activities, farm complexes, and small settlements.

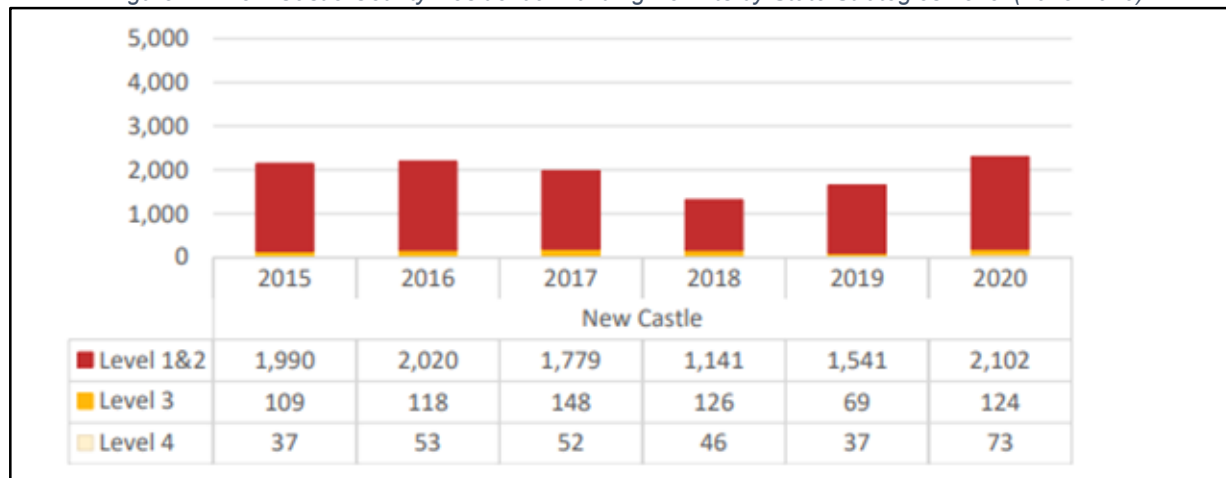
Out of Play Areas are lands which are not available for private development, include publicly owned lands, private conservation lands, lands for which serious legal and/or environmental constraints on development are identified, and lands in some form of permanent open-space protection (such agricultural preservation easements and conservation easements).

Figure 1: 2020 Delaware Strategy Level Areas



The 2021 annual report to the governor from the Office of State Planning Coordination included the number of building permits issues in each investment level (**Figure 22**).

Figure 22: New Castle County Residential Building Permits by State Strategies Level (2015-2020)



Source: Cabinet Committee on State Planning Issues, 2021 Report on State Planning Issues

B. Analysis

The building permit data trends show that the majority of building permits are issued in Levels 1 and 2. In 2020, only 8.5% of the building permits were issued in Levels 3 and 4. This trend has been consistent over the last six years. Based on the work of the Office of State Planning Coordination a nexus could be drawn between the cost of providing services in levels 3 and 4 and the cost of providing those same services in levels 1 and 2 and therefore it would be reasonable to assess a surcharged impact fee to cover those additional costs. Based on the current mapping any surcharge on impact fees within Levels 3 and 4 would mostly affect properties south of the canal.

If NCC were to utilize the State Strategies maps to assess impact fees that would be commensurate with the cost of capital investments needed to supply the services funded through those impact fees, they could either provide discounts or surcharges on impact fees. It should be noted that this is not intended to infer any incentive/disincentive for development in any specific area but to establish a nexus to the additional costs of services provided in Levels 3 and 4.

There are several ways to incorporate either discounts or surcharges based on what level the project is in according to the State Strategies mapping. Consideration needs to be given to the overall level of funding needed to support the capital investments associated with each impact fee. If discounts are provided for development in Levels 1 and 2, which is over 90% of the development, the overall revenue collected from those developments would be reduced. Any reduction in revenue would need to be assessed to ensure that the services associated with the impact fees would not be impacted.

Another way to create discounts or surcharges associated with what level a project is in according to the State Strategies mapping is to establish a baseline Level and create discounts for development above that level and surcharges for development in the lower investment levels. If there is a concern with the loss of revenue associated with discounts, then this option could just assess the surcharge above the base impact fee rates for development in areas where it is more costly to provide the services. This would account for the additional costs needed to supply services to areas outside of Levels 1 and 2.

C. Recommendations

The overall study effort is to reassess the impact fees to better correlate the fees collected with the capital costs needed to supply the services. Based on this goal the team is recommending to assess a surcharge to cover the additional costs associated with development in Levels 3 and 4. Should NCC want to cover the additional costs of providing services outside of the growth area a surcharge could be placed on any development within Level 3 and 4 areas. The initial recommendation for consideration will be a 20% surcharge for level 3 and a 40% surcharge for level 4. More research will be needed to assess the actual increase in costs for providing the service to better justify the surcharge percentage.

II. EXPANDING THE LIST OF USES IN THE IMPACT FEE TABLE

A. Background

New Castle County asked the project team to consider possible updates to the uses listed within the impact fee table. We compared NCC's permitted uses and considered the case studies included in Memo #2. The following categories are currently captured:

- Residential (per housing unit)
 - Single-family detached
 - Single-family attached
 - All other housing (small single-family units and single-wide mobile homes will be included under the "All other housing" designation)
- Nonresidential (per 1,000 SF of floor area)
 - Commercial/shopping center (less than 60,000 SF)
 - Commercial/shopping center (60,000 – 200,000SF)
 - Commercial/shopping center (greater than 200,000 SF)
 - Office/Institutional (less than 10,000 SF)
 - Office/Institutional (less than 10,000 SF)
 - Office/Institutional (less than 10,000 SF)
 - Business Park
 - Light Industrial
 - Warehousing
 - Manufacturing

Rossi Group compared NCC's current permitted uses (UDC §40.03.110) and impact fees (UDC §40.14.210) to see how closely the categories in each aligned (**Table 1**). Uses highlighted in yellow should be considered for amendments or additions. to the current Impact Fee Table and Schedule. Explanations for each of the categories are listed below.

Table 1: Permitted Use Table and Impact Fee Table Compared

Land Use	Impact Fee Category
Agricultural	
Agriculture (includes uses pursuant to Delaware Law)	N/A
Clearing	
Farmstead	

Land Use	Impact Fee Category	
Farm market		
Commercial stables		
Residential		
Single-family, detached	Single-family detached	
Open space subdivision, option 1		
Open space subdivision, option 2		
Single-family, attached	Single-family attached	
Open space planned		
Apartments		
Apartment conversions		
Commercial apartments		
Hamlet		
Village		
Group home		
Manufactured home park		All other housing*
Small single-family		All other housing*
Home Uses		
Day care, family/large family		
Home occupation		
Home business		
Cottage industry		
Institutional		
Assembly and worship	Office/institutional (less than 10,000 sf. GFA) Office/institutional (10,000 sf. to 50,000 sf. GFA) Office/institutional (greater than 50,000 sf. GFA)	
Schools		
Colleges		
Institutional, regional		
Institutional, neighborhood		
Institutional, residential (Type I)		
Institutional, residential (Type II)		
Protective care		
Public service		

Land Use	Impact Fee Category
Hospitals	
Commercial	
Adaptive reuse, historic building	
Adult uses	
Agricultural support and other rural services	
Bed and breakfast	
Commercial lodging	
Commercial retail and service	
Corporate guest house	
Craft alcohol production establishment	
Drive-in facility	
Heavy retail and service	
Light automobile service	
Mixed use	
Restaurants	
Office	
Shopping center	
Vehicular sales, rental and service	
Recreation and Amusement	
Campground	
Recreation, high intensity	
Recreation, low intensity	
Resort	
Industrial Uses	
Compost operations	
Extraction	

Land Use	Impact Fee Category
Heavy industry	Manufacturing Light industrial
Light industry	
Recycling or storage	
Utilities, maintenance facilities	
Utility, minor	
Utility, major	
Solar energy system, large-scale	
Other Uses	
Airports	N/A
Commercial communications towers	
Community recycling bins	
Exterior lighting for outdoor recreational uses	
Park and ride facility	
Parking structures	
Note: Uses highlighted in yellow should be considered for amendments or additions.	Warehousing Business park

B. Case Studies and Recommendations

After conducting a comparison of the two tables (permitted uses UDC §40.03.110 and impact fee UDC §40.14.210) there are several uses not explicitly being charged an impact fee. Within the residential impact fee category: apartments may currently be included with “all other housing” however the definition is unclear. Group homes and congregate care facilities are also not listed under the residential impact fee category. These should be charged separately on a dwelling unit basis.

Currently institutional uses are being grouped together with offices to assess impact fees. Some jurisdictions charge impact fees to schools and places of assembly as institutional uses. UDC §40.05.050 enumerates that public facilities needed to support development (including hospitals) shall be exempt from Article 14 (impact fees.) However, NCC may want to reconsider capturing impact fees from private hospitals or facilities, such as assisted care facilities. Seminole County, Florida charges impact fees on private institutional uses, New Castle County could consider a similar tactic. Moreover, a nexus can be drawn between extra need for services for some institutional uses like hospital and assisted care facilities.

Within the commercial land use category, many individual uses are assessed impact fees as office/institutional and commercial/shopping center uses. However, bed and breakfasts/commercial lodging are not assessed impacts fees and should be charged on a room basis. Transient occupancy taxes are collected on visitors to these establishments; however, these dollars do not go towards capital improvement in NCC. Restaurants are also assessed impacts fees

as retail use; however, their high-turnover rate may warrant a separate category from retail uses. Some jurisdictions break down restaurants further based on whether it is drive-thru establishment or sit-down restaurant. For example, Seminole County, Florida (referenced in Memo #2) charges \$1,874 for Fire & Rescue fees to 'Quality Restaurants', \$1,812 to 'High-Turnover (Sit-Down) Restaurants', and \$3,156 to 'Fast Food Restaurants with Drive-Thru.'

Within the recreation and amusement land use category, no uses are charged impact fees. NCC should consider assessing campgrounds and resorts impact fees. Campgrounds have evolved over recent years to include extra uses such as restaurants, bath houses, stores, and recreational facilities that have a larger impact on land and draw more users. Some individuals also stay long-term at campgrounds and/or resorts, again drawing on NCC's services.

Most industrial uses are adequately being captured by the current categories. The impact fee categories of 'warehousing' and 'business park' did not align directly with any uses listed on the permitted use table. The business park district allows office, manufacturing, light industrial, warehousing, and uses that support them. Each of these individual uses (office, manufacturing, light industrial, and warehousing) are assessed impact fee separately; therefore, New Castle County may consider omitting 'business park' from the impact fee table and charging based on the mix of individual uses instead.

III. STRATEGIES FOR INCENTIVIZING LOW-INCOME HOUSING

A. Background

<https://www.newcastlede.gov/1505/Moderately-Priced-Dwelling-Units>

Moderately Price Dwelling Units (MPDUs) are required for all residential rezonings or variance applications with density increases proposing twenty-five (25) or more dwelling units except for mixed-use developments. The program also offers a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are designated as moderately priced. Currently there are no Impact Fee reductions or exemptions for development of MPDUs. A control period is the timeframe during with a MPDU is subject to resale price controls and owner occupancy requirements. The control period for NCC's MPDUs program is 10 years and begins on the date of sale for new or resale MPHUs. NCC is interested in methods to further incentivize providing MPDUs (<https://www.newcastlede.gov/1505/Moderately-Priced-Dwelling-Units>).

B. Case Studies and Recommendations

As detailed in Memo 2, B.3. Affordable Housing, in areas with high fees and/or a large number of special assessment districts, the cumulative cost can erode the financial viability of affordable housing projects. Local jurisdictions can encourage the development of new affordable housing through methods including:

- Flat fee
- Fee reductions
- Fee waivers based on number of units
- Complete fee exemption

Although fees are waived or reduced, developers still receive the services supported by the fee and must secure the associated permits or approvals. This incentive is likely to have the greatest impact in jurisdictions with a robust level of construction activity, or where new development is anticipated) and where impact and permitting fees are relatively high.

Memo 2 presents case studies where fee waivers and reductions are available to developers of qualifying projects. For example, Anne Arundel County, Maryland exempts Affordable Housing Units from all impact fees; however, the

residential dwelling unit must be constructed by or under a program sponsored by an entity exempt from taxation at least three years prior. Seminole County, Florida (see Memo 2, Table 3) specifies a discounted fee across the board for Affordable Housing Units. Affordable Single-family dwellings are discounted at a rate of approximately 44% to 73%, while Affordable Multi-Family Units are discounted between 24% to 45%, depending on fee type.

NCC currently provides a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are designated as moderately priced. However, providing an impact fee reduction or exemption would further reduce the cumulative cost for providing affordable housing within NCC. This could be full exemption to all impact fees applied to MPDUs. It may also be reasonable to view each impact fees assessed and determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee. All fees may also be reduced by a specified percentage or amount or each impact fee may be evaluated to determine if the specified fee should be reduced by a specified percentage or amount.

IV. GRADUATED FEE INCREASES/ENR RECOMMENDATIONS

A. Background

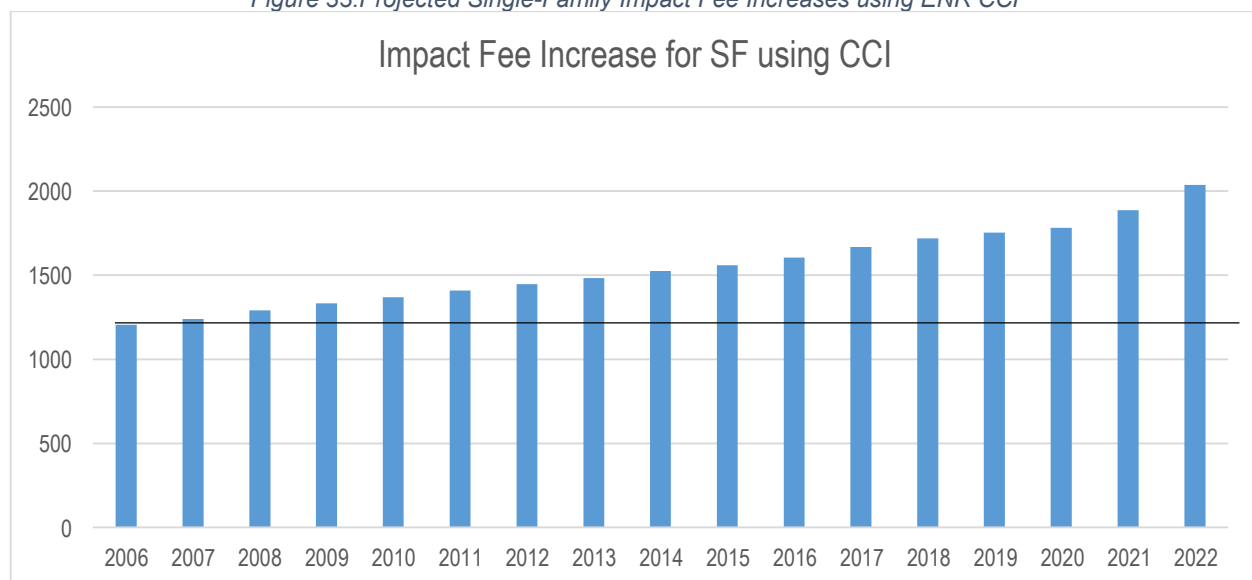
Since 1999, the only impact fees which have been adjusted have been the fire & rescue impact fees. County Council adopted legislation in August 2006 raising these fees based upon a 2006 study performed by TischlerBise. The impact fees for parks, libraries, county facilities, EMS, and law enforcement have not been adjusted for 23 years.

The UDC allows for impact fee cost adjustments as part of a periodic evaluation and update to adjust for inflation in construction costs as reflected in the Engineering News Record (ENR) Construction Cost Index (CCI). Adjustments would be subject to approval by NCC Council.

The cumulative increase for fees using the ENR CCI from 2006 to 2022 is 75%. As another base of comparison, the cumulative Consumer Price Index (CPI) increase from 2006 -2022 is 50%.

Figure 33 illustrates the increase to the impact fee for a single-family detached unit from the 2006 fee of \$1,157 to \$2,036 in 2022, if adjusted according to ENR CCI calculations. See chart below.

Figure 33: Projected Single-Family Impact Fee Increases using ENR CCI



B. Recommendations

Recommendations for adjusting the fee to make up the difference in holding the impact fees unadjusted for the last 16-23 years can be accomplished in many different scenarios based on NCC's goals and policies that are being considered. Currently the general budget is carrying the load to make up for inflation and the erosion of purchasing power of the impact fees as established in 2006. That means that existing residents of NCC are paying for and subsidizing the costs of the new infrastructure intended to be paid for with impact fees. If NCC's goal is to restore the impact fee revenues to the originally intended levels of providing revenue for infrastructure projects, gradual increases in fees while providing a provision for annual indexing would allow NCC to slowly increase fees.

Scenarios could range from:

- No increases in fees
- No increases in fees, annual indexing adjustments
- Phased in approach of 5% increases over a period of 2-5 years to slowly make up for the last 16 years, then annual indexing adjustments
- Phased in approach of 10% increases over a period of 2-5 years to slowly make up for the last 16 years, then annual indexing adjustments
- 50% increase to match the CPI cumulative total, then annual indexing adjustments
- 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments

Regardless of the decision to raise fees to account for the last 16 years of no increases, it is recommended that yearly adjustments to the fees be done, as periodic evaluations are required by code, so that the fees are adjusted annually based on the ENR CCI. Most jurisdictions that have indexing do so annually to avoid having to revisit the fees every few years and keep increases in fees in small increments. This sets up an expectation that the impact fee will increase yearly to keep pace with inflation and provide for more infrastructure to be funded and constructed using the impact fees collected by new development. It is a straightforward method that is easy to communicate to the public and easier to implement. If NCC wants to establish an increase every two years, that can be accomplished by Council approving the changes every two years instead of annually. It is recommended that the adjustment be done using the cumulative CCI for the two years. The data to calculate the ENR CCI comes out in January and the new fee can be adopted by Council in the spring with an effective date of July 1 each year.

V. Open Space Fee Creation

NCC Council adopted a resolution to spend \$7.5 million dollars over 3 years, which is \$2.5 million/year to ensure consistent funding for the preservation of Open Space and Agricultural land. In our research of best practices, the City of Chicago used a formula of new development carrying 30% of the cost for open space preservation.

The City of Chicago Open Space fees range from \$313-1,253/unit based on the type of development. Affordable housing units are only charged \$100/unit.

Marin County in Florida Open Space fees range from \$540-755 based on size of the unit. A land value of \$12/sf is used for the cost of Open Space land acquisition.

Using the same formula to help provide a dedicated source of funding to provide 30% of the \$2.5 million Open Space preservation goal requires revenue from impact fees to be \$750k/year.

One policy decision that will need to be more broadly discussed is redevelopment. Redevelopment could be exempt

from the Open Space impact fee.

In New Castle County, there is an average of 2000 residential building permits/year and 4 million sf/year of non-residential development, as demonstrated in **Figure 22**.

A. Implementation

The NCC Council can then determine whether to create an open space fee, and what level of funding support for the Open Space Preservation Fund, any potential UDC changes that would be required, and an implementation schedule.

VI. CHANGE OF USE/REDEVELOPMENT CHARGES

A. Background

As part of our review on impact fees the team was asked to assess the redevelopment and brownfield development waiver that currently exists in the UDC.

As an incentive for redevelopment and brownfield development the current code provides a waiver provision for all impact fees. The current definition of redevelopment contained in the UDC is:

A process used to identify previously developed land that is now vacant, abandoned, or underutilized real property where older structures if they exist are rehabilitated or replaced.

The waiver for impact fees for redevelopment and brownfield development is one of several incentives that NCC uses to promote the reuse of existing properties that are currently underutilized. This waiver seems appropriate for redevelopment or brownfield development where the previous use and the proposed use are similar and there would be no necessary increase in the capital costs needed to supply the services funded under the impact fee, however based on the broad definition of redevelopment, there are redevelopment projects that will increase the overall need for capital investments for those services that are funded through impact fees.

The team looked at several other justifications to determine how they applied impact fees to redevelopment or repurposing of land and the common theme for redevelopment was to try to capture the difference between the current use the proposed use and apply a prorated portion of the impact fee. The following case studies outline how each jurisdiction applies impact fees.

B. Case Studies

1. Palm Beach County (PBC, http://www.pbcgov.com/uldc/Article13.htm#_Toc24701204)
 - With PBC's intent that new development bear a proportionate share of the cost of capital expenditures necessary to provide park, fire-rescue, library, law enforcement, public building, schools, and road capital facilities in PBC, impact fees were established representative of a fair and equitable allocation of costs, past and future payments from new development. This included credits for in-kind contributions, and municipal provision of like facilities under certain circumstances. Funds collected from impact fees shall not be used to replace existing capital facilities or to fund existing deficiencies, but only to provide for new capital facilities which are necessitated by new development.
 - Any existing land use that is expanded, replaced, or changed shall be required to pay impact fees based on the new or additional impact as a result of the expansion, replacement, or change of use. The fee payer may be eligible for credit for the existing land use pursuant to [Art. 13.A.11.A.1](#).

2. Johnstown, CO (-

https://library.municode.com/co/johnstown/codes/municipal_code?nodeId=CH17SU_ARTXIIMFE_S17-228POFADEFE)

- Johnstown defines land development as issuance of a building permit or a connection permit for the construction, reconstruction, redevelopment or conversion of a use of land or any structural alteration, relocation or enlargement which results in an increase in the number of "service units" required, or, the extension of a use or a new use of land which results in an increase in the number of service units.
- No impact fee shall be imposed on land development for which a building permit has been issued prior to the effective date of the impact fee, except in the event of a change of use.
- Waivers are granted for the following conditions. There is a nexus between the proposed redevelopment and the increase in the need for capital improvements associated with the impact fees.
 - No impact fee shall be imposed on any new residential development which does not add a new dwelling unit (service unit).
 - No impact fee shall be imposed on any new nonresidential development which does not add square footage, unless the new nonresidential development increases the demand for capital improvements (service units) for which impact fees are being imposed.
 - Other uses. No impact fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a building permit is required, which does not result in an increase in the demand for capital improvements (service units).

3. City of Federal Way (traffic impact fee program) -

https://www.cityoffederalway.com/sites/default/files/Documents/Department/PW/Traffic/Resources/FW%20GUIDE%20TO%20TRAFFIC%20IMPACT%20FEES_Jan2018.pdf City of Federal Way, WA (traffic impact fee program) -
(https://www.cityoffederalway.com/sites/default/files/Documents/Department/PW/Traffic/Resources/FW%20GUIDE%20TO%20TRAFFIC%20IMPACT%20FEES_Jan2018.pdf)

- For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement, or new accessory building that generates new trips, the impact fee will be assessed based on the difference between the new uses and the prior use. If no impact fee was required for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

4. Alachua County - [https://growth-](https://growth-management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf)

[management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf](https://growth-management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf) Alachua County, FL (-
https://growth-management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf)

- For change of use projects the impact fee is prorated based on the change of use
- Should the change of use, redevelopment, or modification result in a net decrease in the impact, no refunds or credits for impact fees previously paid shall be made.
- If the change of land use does not require the issuance of a building permit, zoning or development order approval, then there shall be no requirement to pay an impact fee.

5. Mount Vernon, WA - [https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-](https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-Fees--2022?bidId=)

[Fees--2022?bidId=](https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-Fees--2022?bidId=) Mount Vernon, WA -
(<https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-Fees--2022?bidId=>)

- Not all impact fees are assessed on redevelopment. Only those that have a nexus to the capital cost associated with the service provided

- Transportation & Fire Impact Fees apply to all new non-residential buildings, and additions to existing buildings. Transportation impact fees are also calculated for a change of use on an existing non-residential building. The number of average trips per peak p.m. hours are calculated by a traffic engineer which the city has contracted with to review all commercial projects for trip generation.

The case study jurisdictions all assess some type of impact fee for additions and redevelopment of existing buildings and structures. The jurisdiction makes the connection between assessing the impact fee and the need for the capital improvements funded by that impact fee. How this is applied varies across jurisdictions, however there is a theme of comparing the original use to the new use being considered for the project.

NCC's existing code provides many incentives for redevelopment and brownfields on non-residential uses and sites. This includes processing the plan as a minor subdivision and allowing for additional gross floor area. In some cases, this redevelopment or brownfield development may repurpose a use that was exempt from or had a minimal impact fees to a use that would have a much higher demand on the services funded under the impact fees. It would be appropriate that this type of redevelopment or brownfield development pay additional impact fees.

C. Recommendations

Should NCC determine that the current impact fee waiver for redevelopment and brownfield development is a critical decision factor for developers considering the reuse and repurpose of existing properties then it would be logical to maintain the existing waiver structure. The additional burden of increased capital costs associated with the redevelopment and brownfield development would continue to be borne by the general fund.

Should NCC determine that eliminating the waiver on impact fees for redevelopment and brownfield development would not discourage developers considering the reuse and repurpose of existing properties then it would be appropriate to assess the nexus between the impact fee and the need for that service based on the proposed development. The following is a recommended framework for how NCC might assess impact fees for redevelopment and brownfield development

- Assess a prorated impact fee for the actual change of use of the property based on the difference between the historical use and the proposed use.
- The new open space impact fee would be waived since this type of development supports infill and reuse of existing properties therefore maintaining existing open space.
- Brownfields would still be exempted

VII. NEXT STEPS

The project team will continue to work with NCC to better document the past and current relationship between impact fees and NCC capital costs.

NCC is planning a public workshop for December 2022 to present the findings of memos 1 through 3 and solicit feedback from interested stakeholders. Stakeholder and NCC feedback will be considered as the project team finalizes recommendations to prioritize proposed changes to the existing code in Memo 4. The final report (including memos 1 through 4) will be presented to NCC Council's Finance Committee for further consideration.

MEMO #4: FINAL RECOMMENDATIONS

Date: June 13, 2023
To: Antoni Sekowski, Acting Assistant Land Use Manager, New Castle County
From: Savannah Edwards, AICP; Associate Planner; Rossi Group
Heather Coons, Senior Planner; Rossi Group
CC: Marc Coté, PE, AICP; Director of Planning and Engineering; Rossi Group
Re: New Castle County Impact Fee Study
Memo #4 – Recommendations

Memos #1 and #2 summarized the current and best practices in support of New Castle County's (NCC) study of development impact fees. Memo #3 provided a series of initial recommendations, including 1) an assessment of the ability to apply a sliding scale to the impact fees based on the *Delaware Strategies for State Policies and Spending* (2020) and taking into account the five established investment levels; 2) expanding the list of uses in the Impact Fee Table; 3) developing strategies for incentivizing low-income housing; 4) implementing graduated impact fee increases; 5) creating an Open Space fee; and 6) revision of use/redevelopment charges. The analysis process resulted in the presentation of recommendations for NCC to consider in their assessment of current regulations and the development of associated updates to those regulations. A public workshop was held December 12, 2022 to present the findings of Memos 1 through 3 and solicit feedback from interested stakeholders. The following information details feedback received from the public workshop and uses this data to finalize recommendations to prioritize proposed changes to the existing code.

I. NEW CASTLE COUNTY PUBLIC WORKSHOP SUMMARY

The project team held a hybrid public workshop with New Castle County on December 12, 2022. Attendees could view the presentation virtually or in-person. Approximately 25 individuals attended in person and 45 attendees signed in online. Comments and questions brought up at the workshop include:

- Why do the fire companies have to submit inventory every year and show need in excess of 1988 inventory?
- Are businesses that have an addition installed currently not charged an impact fee? For example, the Tri-State Mall?
- Lower income housing traditionally has a great need for the types of services funded by impact fees.
- A representative from the Middletown Fire & Rescue company expressed a need for less administrative burden to secure funds.
- Redevelopment for conversion of houses to more units should be charged an impact fee.
- Where do transient occupancy fees go?
- What is the criteria for the Office of State Planning Coordination's Strategy Level classifications?

A. Interactive Workshop Feedback

The in-person session was followed with an hour-long interactive workshop where the project team fielded questions and answers and solicited feedback on proposed recommendations. The following feedback was received via the interactive activities (clarification on handwritten comments made on the display boards is provided in the bullets below each photo):




Utilizing Delaware's State Strategies

Should NCC consider assessing an impact fee surcharge to cover the additional costs associated with development in Levels 3 and 4?

Yes, assess a surcharge for development in Level 3 and 4 Areas.	No, assess the same impact fees regardless of where development occurs.	Other
<i>- West wing in SNCC needs most new services + infrastructure in SNCC!</i> <i>100% Agree!</i> <i>Agree</i>	<i>For open space & parks the same</i>	

Handwritten comments:

Yes, assess a surcharge for development in Level 3 and 4 Areas.

- West wing in SNCC needs most new services & infrastructure in SNCC.
- 100% agree.
- Agree.

No, assess the same impact fee regardless of where development occurs.

- For open space & park the same.



Residential & Institutional Uses of Impact Fees

Residential Uses

Impact fees are assessed under the use category of all other housing.

- Group homes and congregate care facilities are not listed under the residential impact fee category.

Should NCC consider charging a separate **Multi-resident Facility Use** Impact Fee based on number of dwelling unit?

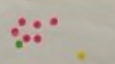
Yes	No	Other
		

Institutional Uses

Impact fees are assessed under the use category of office/institutional.

- UDC §40.05.050 enumerates that public facilities needed to support development (including hospitals) shall be exempt from Article 14 (impact fees.)
- Some institutional uses may require additional services.
- Some jurisdictions charge impact fees on **private** institutional uses.

Should NCC consider charging a separate **Institutional Use** Impact Fee?

Yes	No	Other
		

No handwritten comments received.

Commercial Uses of Impact Fees

Lodging

Impact fees are assessed as commercial/shopping center uses.

Bed and breakfasts/commercial lodging are not assessed impacts fees separately. Transient occupancy taxes are collected on visitors to these establishments; however, these dollars do not go towards capital improvement in NCC.

Restaurants

Impact fees are assessed as commercial/shopping center uses.

- High-turnover rate may warrant a separate category.
- Some jurisdictions break down restaurants based on whether it is drive-thru establishment or sit-down restaurant.

Should NCC consider charging a separate Lodging Use Impact Fee on a room basis?

Yes	No	Other
Yes They require services. Logistic centers. Require new higher ladder trucks for fire company. Etc.		Other Should consider # of visitors. Diff assessment for major hotels.

Should NCC consider charging a separate Restaurant Impact Fee based on anticipated turnover?

Yes	No	Other
Yes Drive through restaurants at peak meal hours place a large burden on traffic infrastructure.		

Handwritten comments:

Should NCC consider charging a separate Lodging Use Impact Fee on a room basis?

- Yes
 - o They require services.
 - o Logistic centers.
 - Require new higher ladder trucks for fire company.
 - o Etc.
- Other
 - o Should consider # of visitors.
 - Diff assessment for major hotels.

Should NCC consider charging a separate Restaurant Impact Fee based on anticipated turnover?

- Yes
 - o Drive through restaurants at peak meal hours place a large burden on traffic infrastructure.

Strategies for Incentivizing Low-Income Housing

Should NCC consider providing an affordable housing impact fee reduction or exemption on a per unit basis? This could be a full exemption to all impact fees applied to MPDUs or NCC may determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee. All fees may also be reduced by a specified percentage or amount, or each impact fee may be evaluated to determine if the specified fee should be reduced by a specified percentage or amount.

Should NCC consider applying a full exemption to all impact fees to MPDUs?	Should NCC determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee?	Should all impact fees to MPDUs be reduced by a specified percentage or amount?	Other
<i>Scale</i> <120% AMI => 75% 100-120% => 50% 80-100% => 25% <80% => No fee			

Handwritten comments:

Should NCC consider applying a full exemption to all impact fees to MPDUs?

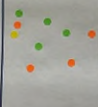
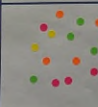
- Scale
 - o <120% AMI => 75%
 - o 100-120% => 50%
 - o 80-100% => 25%
 - o <80% => No fee

Graduated Fee Increases

Place three stickers on your most preferred scenarios to increase Impact Fees.

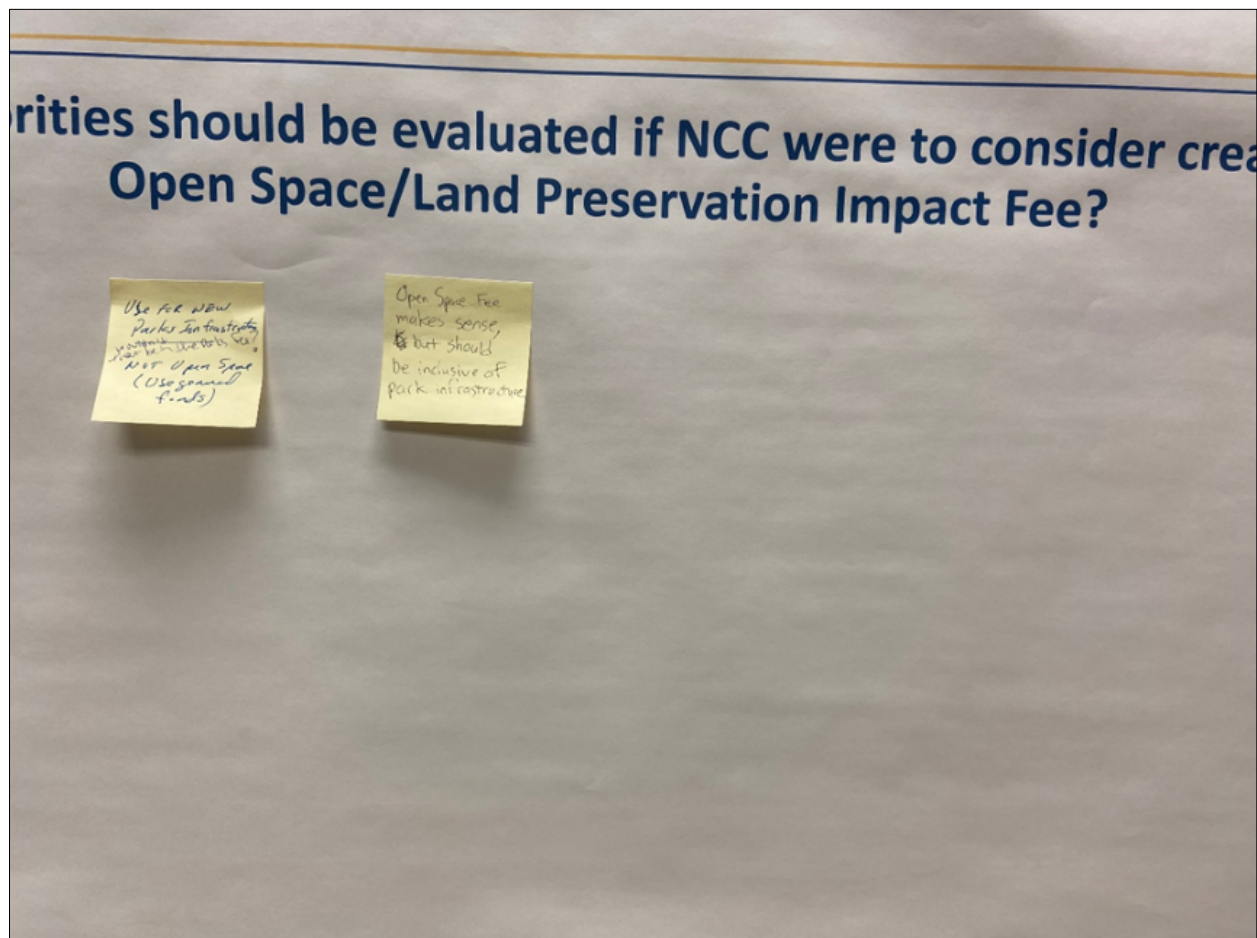



- = Favorite scenario/first choice
- = Second favorite scenario/second choice
- = Third favorite scenario/third choice

No increases in fees	
No increases in fees, then annual indexing adjustments	
Phased in approach of 5% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments	
Phased in approach of 10% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments	
75% increase to match the ENR CCI cumulative total, then annual indexing adjustments	 Yes, with scaled levels for MPDU. SNCC Development has gotten away with paying less of their fair share for ~25 years. We need infrastructure and services.

Handwritten comments:

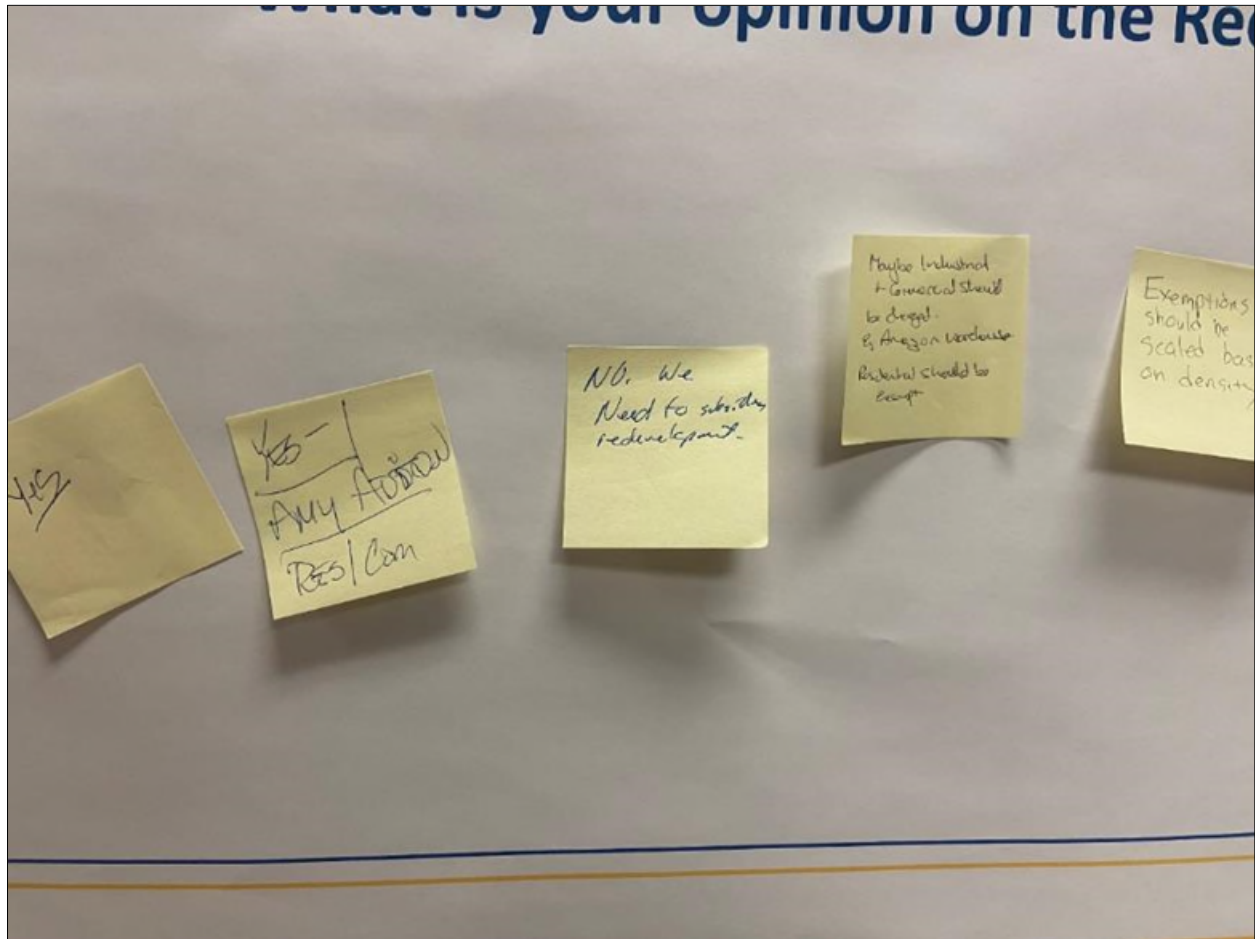
- Yes, with scaled levels for MPDU.
- SNCC Development has gotten away with paying less of their fair share for ~25 years. We need infrastructure and services.



Handwritten comments:

What priorities should be evaluated if NCC were to consider creating an Open Space/Land Preservation Impact Fee?

- Use for new Parks Infrastructure.
 - o Not open space (use general funds).
- Open Space Fee makes sense, but should be inclusive of park infrastructure.



Handwritten comments:

What is your opinion on the Redevelopment Impact Fee?

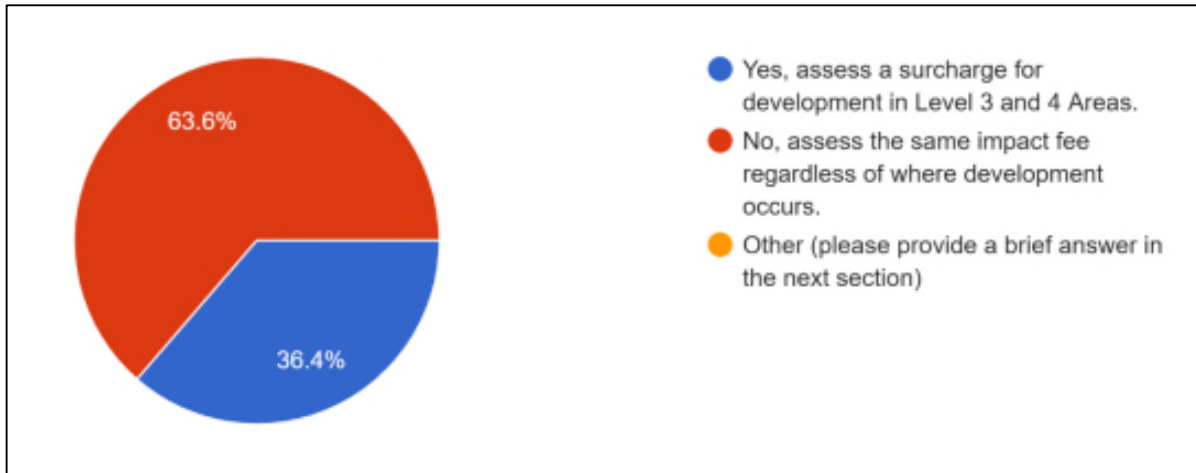
- Yes.
- Yes – any addition Res/Com.
- No, we need to subsidize redevelopment.
- Maybe Industrial and Commercial should be merged.
 - E.g., Amazon warehouse.
- Residential should be exempt.
- Exemptions should be scaled based on density.

B. Online Survey Feedback

Online attendees were invited to share their feedback via a Google Form survey that was emailed out the morning of December 13, 2022, to anyone who had registered for the public workshop. Participants were asked to complete the survey by December 30, 2022. Participants were also prompted to review the December 12 presentation before responding, if they had not attended the live event. Eleven (11) individuals completed the survey.

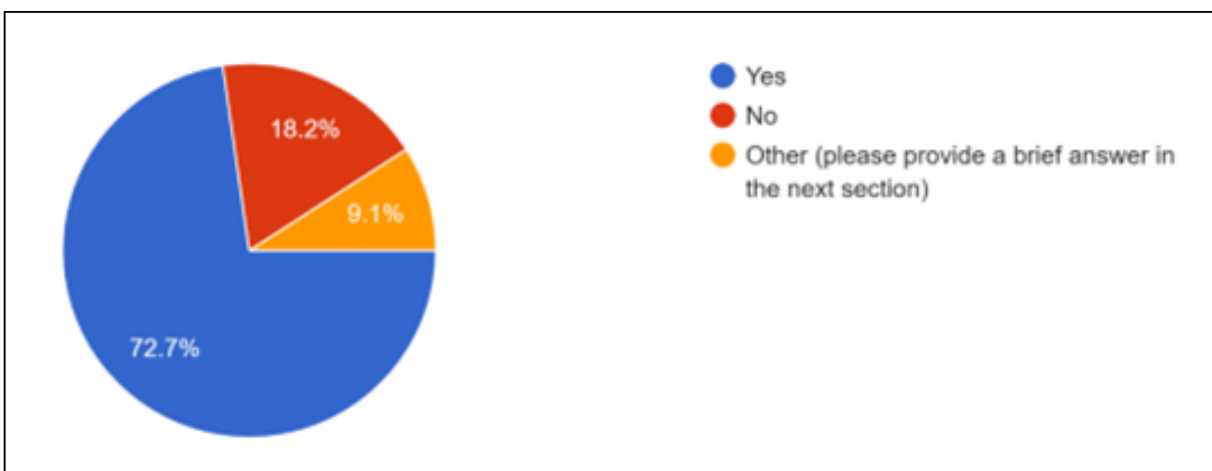
The online survey posed eleven (11) questions for respondents to consider. The first eight (8) questions allowed for a 'Yes,' 'No,' or 'Other' response. If 'Other' was chosen, respondents were provided the option to provide a short answer. The remaining three (3) questions had a more open-ended format. The following is a summary of the responses:

1. Should NCC consider assessing an impact fee surcharge to cover the additional costs associated with development in Levels 3 and 4?



"Other" responses: N/A

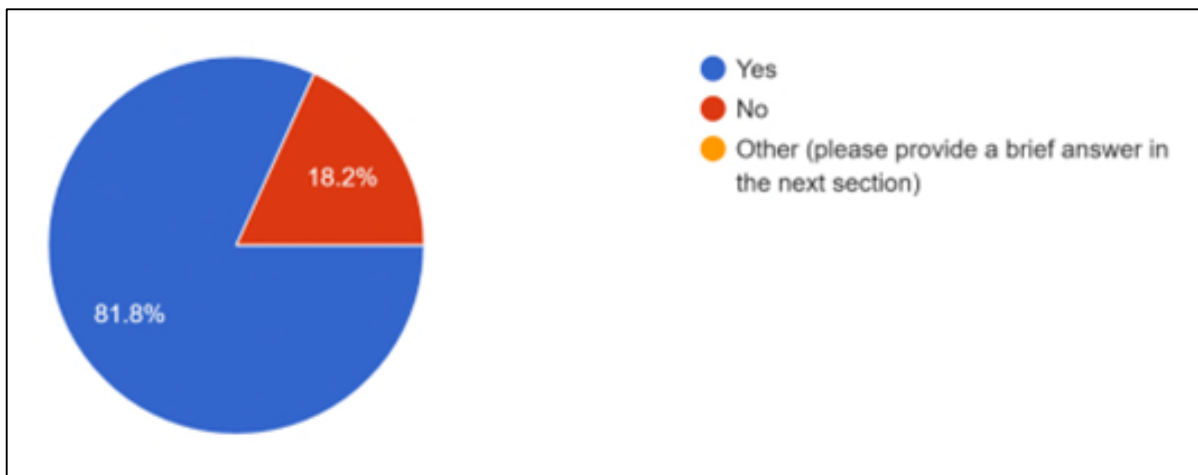
2. Should NCC consider charging a separate Multi-family Resident Facility Use Impact Fee based on number of dwelling units?



"Other" responses:

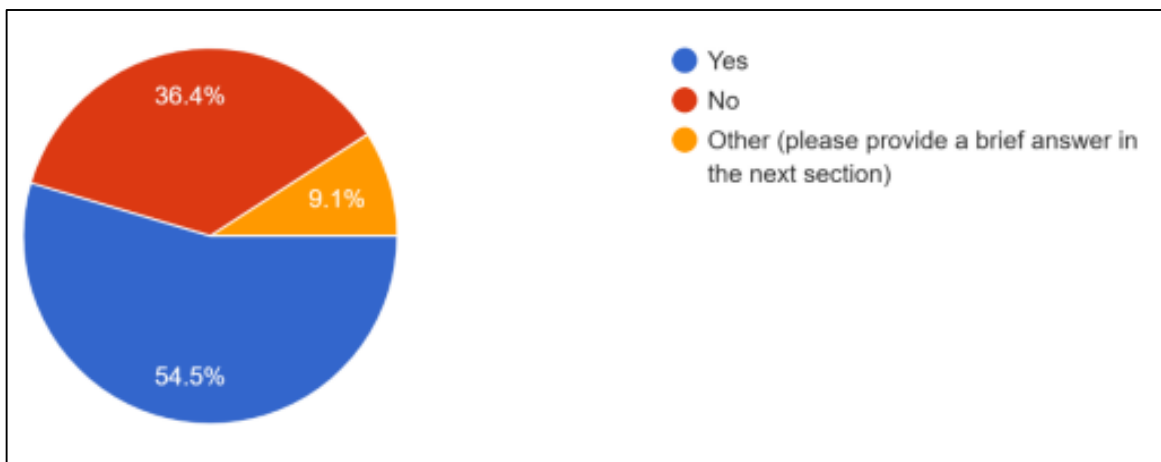
- Thought that is what is.

3. Should NCC consider charging a separate Institutional Use Impact Fee?



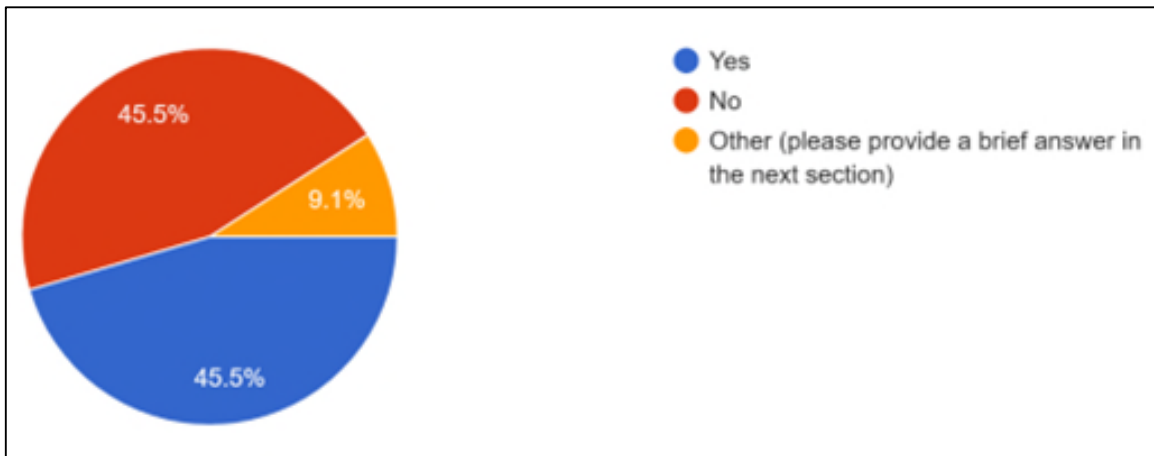
"Other" responses: N/A

4. Should NCC consider charging a separate Lodging Use Impact Fee?



"Other" responses: N/A

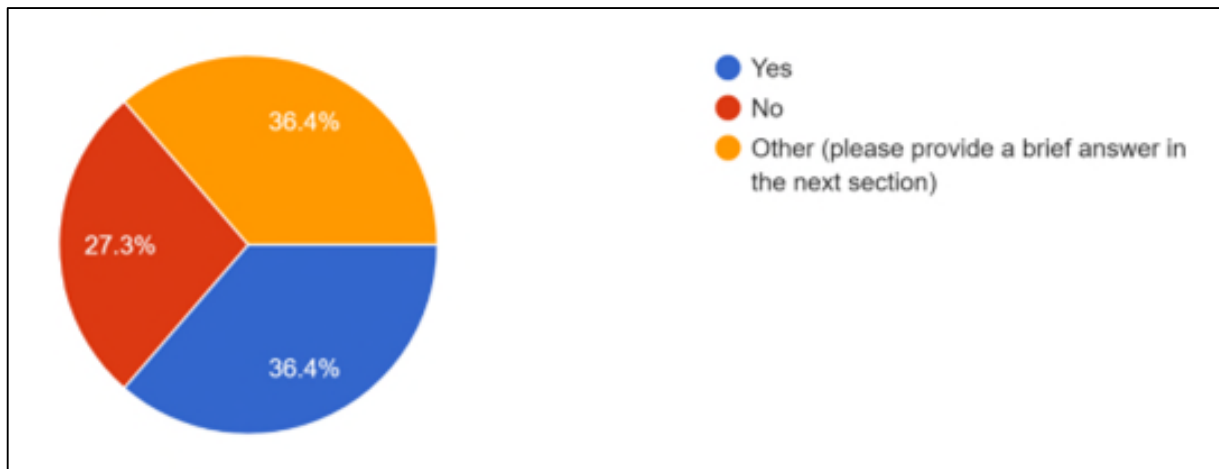
5. Should NCC consider charging a separate Restaurant Impact Fee based on anticipated customer turnover?



"Other" responses:

- No, one of the items in the presentation was the impact of trips from a restaurant, this is already handled with the DelDOT requirements.

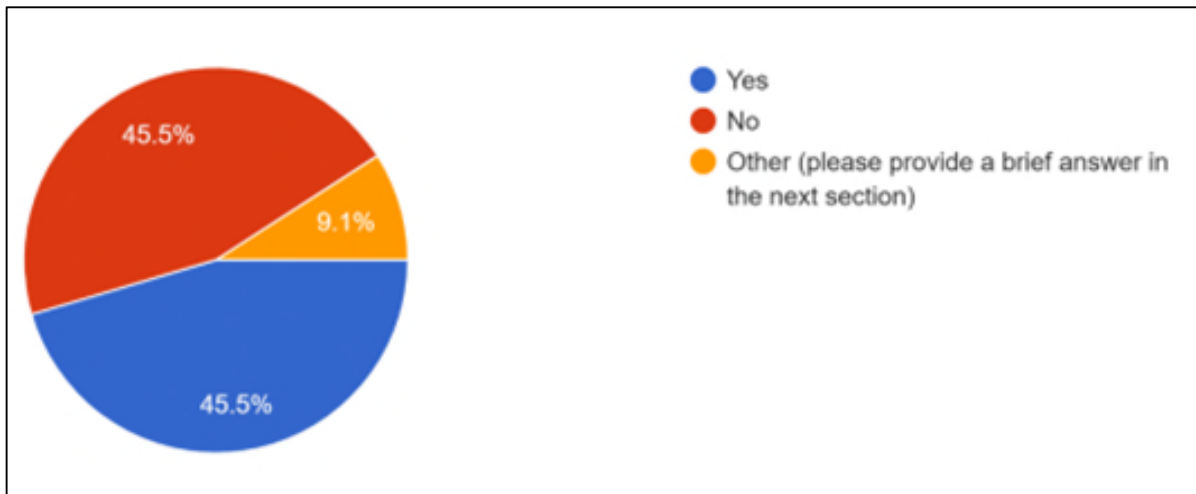
6. Should NCC consider applying a full exemption to all impact fees to Moderately Priced Dwelling Units (MPDUs)?



"Other" responses:

- Potential for a reduced amount, but not a full reduction.
- Only for truly affordable housing.
- We need to implement a scaled system of discounting based on affordability. Something like 100-120 percent of AMI at 80% fee, 80-100 percent AMI at 50 percent, and below 80 percent AMI pays no impact fee.
- Only if MPDUs have residential fire sprinklers installed.

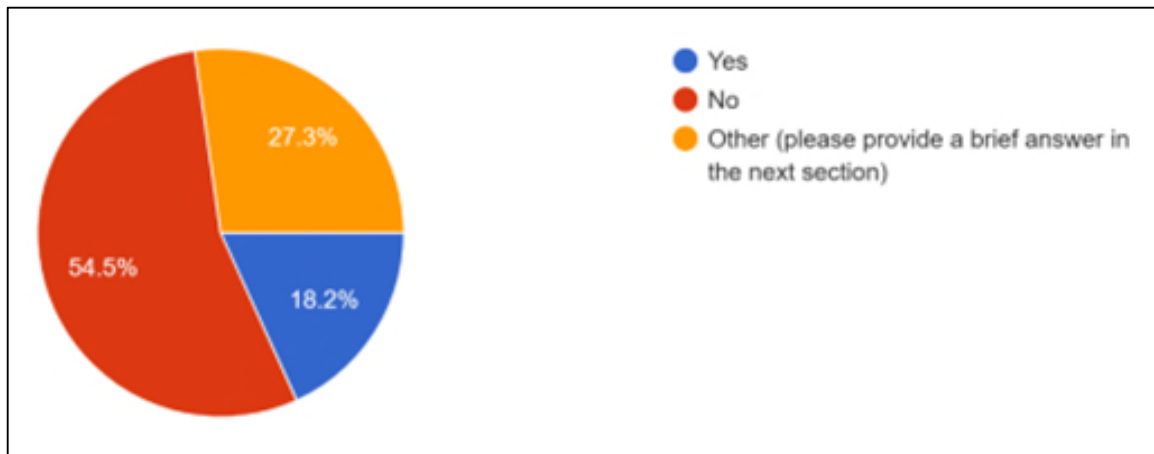
7. Should NCC determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee?



"Other" responses:

- Potential for a reduced amount, but not a full reduction.

8. Should all impact fees to MPDUs be reduced by a specified percentage or amount?



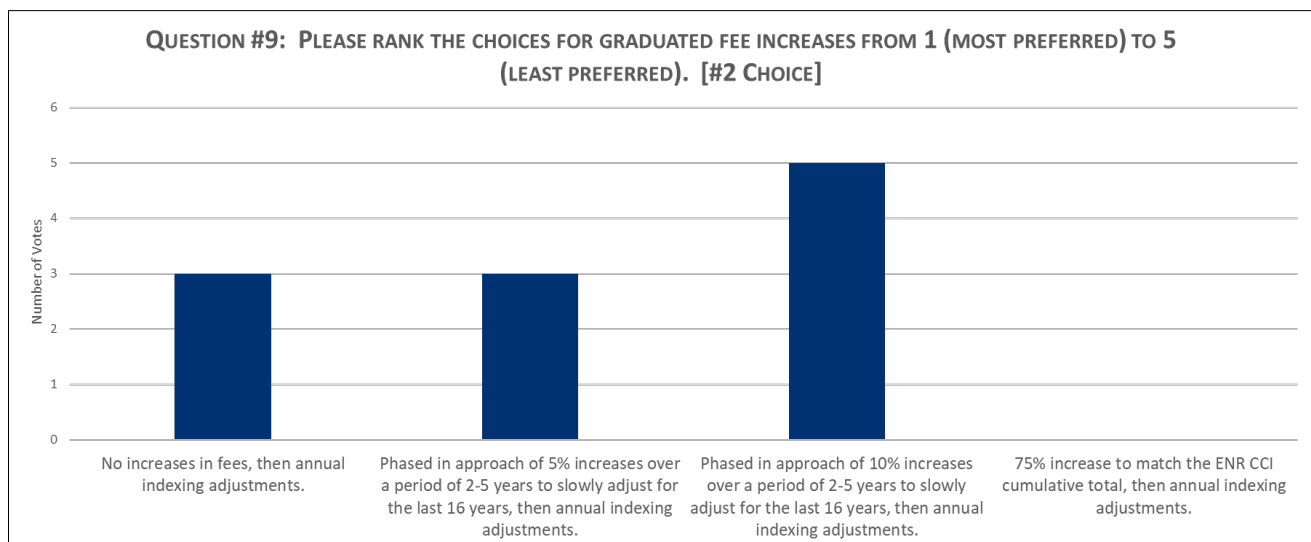
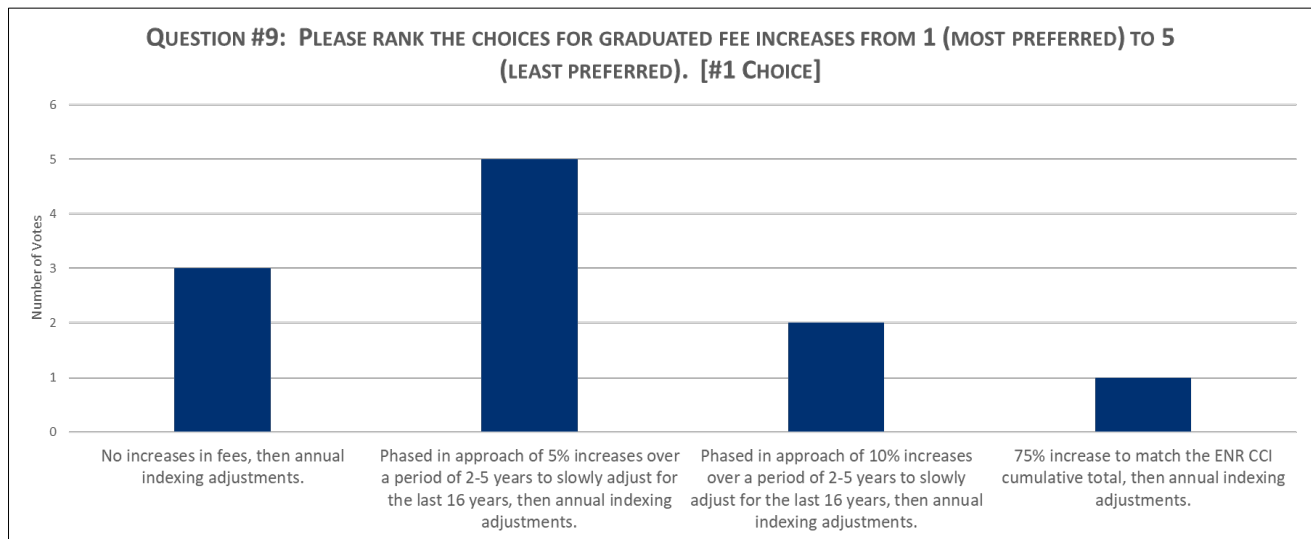
"Other" responses:

- Potential for a reduced amount, but not a full reduction.
- Impact fees to MPDUs should not apply, or should be exempt.
- If you truly want to make progress waiver the fees entirely.

9. Please rank the choices for graduated fee increases from 1 (most preferred) to 5 (least preferred.)

- No increases in fees.
- No increases in fees, then annual indexing adjustments.
- Phased in approach of 5% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments.
- Phased in approach of 10% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments.
- 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments.

The top ranked option was “C - phased in approach of 5% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments” with five individuals choosing this as their top option. “D - Phased in approach of 10% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments” was the second most popular option, with five individuals ranking this as their second choice.



10. Considering a proposed new fee, what priorities should be evaluated if NCC were to consider creating an Open Space/Land Preservation Impact Fee?

Long answer responses to this question varied, there did not seem to be a clear consensus via the online survey. Some selected verbatim responses included:

- Provide land banking opportunities on projects that provide more than 50% open space and increase the base density permitted within each residential zone.
- This should not be done. These funds should be put toward park improvement and enhancement. Anyone who has a house put pressure on open space, so all should pay for open space through general property tax funds.
- no new fee for open land / preservation
- As development costs continue to surge, this is yet another example of death by a thousand cuts. The priority should be placed on maintaining and improving affordability with housing throughout New Castle County. This fee will be passed down to the consumer.

11. What is your opinion on the Redevelopment Impact Fee?

Long answer responses to this question were also mixed with some respondents in favor and others opposed. Verbatim responses included (spelling has been corrected):

- No, we should be encouraging redevelopment as infrastructure is already in place.
- There should be an exemption for all fees, other than sewer and traffic.
- Uncertain at this point.
- I do not think this should be implemented, a NCC should be incentivizing redevelopment. We need to revitalize existing developed areas that have declined as a much higher priority than continuing the development of green fields.
- If impact fees were collected initially, the redevelopment impact fee should be waived.
- all additional redevelopments should be assessed an impact fee if any structure is added to
- Due to the increased number of new developments, To avoid increasing property taxes to maintain and improve Delaware's infrastructure the impact fee is necessary.
- Counter productive.
- If the redevelopment causes a change to commercial/Office/Business park/ all residential, a fee should be charged for Law Enforcement, Fire & Rescue, and EMS due to eventual increased demand for these services.
- In favor. If a brownfield is being redeveloped, then reduce the impact fee. If developing farmland, then apply the full fee.
- Go for it!

II. RECOMMENDATION DISCUSSION

As previously mentioned, Memo #3 presented draft recommendations for NCC to consider in their assessment of current regulations and the development of associated updates to those regulations. The following reiterates those suggestions and takes into consideration feedback received from the public workshop to provide final recommendations.

A. Utilizing Delaware's State Strategies

The overall study effort is to reassess the impact fees to better correlate the fees collected with the capital costs needed to supply the services. Based on this goal the team is recommending assessing a surcharge to cover the additional costs associated with development in Levels 3 and 4. The initial recommendation for consideration would be a 20% surcharge for Level 3 and a 40% surcharge for Level 4. As previously noted, prior to adoption, additional research would be needed to assess the actual increase in costs for providing the service to better justify the surcharge percentage.

The feedback received regarding the assessment of a surcharge for development in Levels 3 and 4 was generally positive; however, there were still responses to assess the same impact fee regardless of where development occurs. This feedback indicates the importance of clearly showing the nexus between increased service delivery costs in Levels 3 and 4 and any possible surcharge.

The Cabinet Committee on State Planning Issues (CCSPI), as part of the 2022 Annual Report on State Planning Issues has established a recommendation to develop new methods for calculating the long-term costs of providing state services for land-use actions that are inconsistent with State Strategies. The CCSPI agreed that this is a priority for 2023 but the effort has not begun to date. The County should coordinate with OSPC and the assigned agencies to utilize their findings in determining an appropriate surcharge in levels 3 and 4.

Final recommendation: NCC to implement a surcharge to cover the additional costs associated with development in Levels 3 and 4; NCC will work with OSPC and conduct additional research to determine the actual cost of providing services to these areas and will modify proposed percentages accordingly.

B. Expanding the List of Uses in the Impact Fee Table

As identified in Memo #3, analysis of the permitted uses (UDC §40.03.110) and impact fee (UDC §40.14.210) tables identified several uses not explicitly being charged an impact fee. The team recommended adding impact fees to multi-unit residential facilities (including group homes and congregate care facilities); private hospitals or facilities (e.g., assisted care facilities); commercial lodging/bed and breakfast establishments, restaurants (based on turnover); and campgrounds/resorts. A recommendation to further breakout "business park" use to better assess the various uses (light/heavy manufacturing, office space, etc.) separately. After discussion with the County about possible confusion, the project team chose not to pursue feedback on any business park changes.

The feedback received from the public workshop and online survey revealed generally positive responses to expanding the list of uses in the impact fee table. Respondents were more favorable towards NCC charging separate Multi-family Resident Facility and Institutional Use Impact fees compared to assessing separate fees for Lodging or Restaurant Uses; however, the overall outcome was positive.

Final Recommendation: NCC to add the following new categories to the impact fee table:

- Multi-use Residential (Apartments, Commercial Apartments, Apartment Conversions) (per unit)
- Institutional Uses (private)
- Commercial Lodging (per room)
- Restaurants
 - The County should consider whether multiple restaurant categories should be broken out to differentiate between fast-food restaurants and sit-down restaurants. Then analysis should be conducted to determine the appropriate fee level that should not be based on the number of cars

visiting the facility since this is not a transportation/mobility impact fee, but instead the number of EMS visits and impact on capital infrastructure.

C. Strategies for Incentivizing Low-Income Housing

As detailed in Memo 2, B.3. Affordable Housing, in areas with high fees and/or a large number of special assessment districts, the cumulative cost can erode the financial viability of affordable housing projects. Local jurisdictions can encourage the development of new affordable housing through methods including:

- Flat fee
- Fee reductions
- Fee waivers based on number of units
- Complete fee exemption

NCC currently provides a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are designated as moderately priced. However, providing an impact fee reduction or exemption would further reduce the cumulative cost for providing affordable housing within NCC. This could be full exemption to all impact fees applied to Moderately Price Dwelling Units (MPDUs). It may also be reasonable to view each impact fee assessed and determine on a fee-by-fee basis if MPDUs should be reduced or exempt from a specific fee. All fees may also be reduced by a specified percentage or amount, or each impact fee may be evaluated to determine if the specified fee should be reduced by a specified percentage or amount. Although fees are reduced or exempt for developers, future homeowners still receive the services supported by the fee and must secure the associated permits or approvals.

Public workshop participants and survey respondents had a general consensus of not reducing impact fees by a specific percentage or amount. Responses regarding a full exemption and reducing on a fee-by-fee basis were mixed; some were in favor of reducing the amount, but not a full exemption where others supported a complete exemption. There were two suggestions of using a sliding scale system based on affordability. This concept would use the Area Median Income (AMI) to determine the impact fee imposed on MPDUs. Comments across the board indicated that affordable housing is a concern for NCC residents.

Final recommendation: NCC should establish a sliding scale system based on the home price relative to the AMI.

- >120% of AMI => 75%
- 100 – 120% => 50%
- 80 – 100% => 25%
- <80% => No fee assessed

D. Graduated Fee Increases/ENR Recommendations

Recommendations for adjusting the fee to make up for lost buying power due to no fee adjustments for the last 16-23 years can be accomplished in many different scenarios based on NCC's goals and policies that are being considered. Currently the general budget is carrying the load to make up for inflation and the erosion of purchasing power of the impact fees as established in 2006. That means that existing residents of NCC are paying for and subsidizing the costs of the new infrastructure intended to be paid for with impact fees. If NCC's goal is to restore the impact fee revenues to the originally intended levels of providing revenue for infrastructure projects, gradual increases in fees while providing a provision for annual indexing would allow NCC to slowly increase fees.

Scenarios could range from:

- No increases in fees
- No increases in fees, annual indexing adjustments
- Phased in approach of 5% increases over a period of 2-5 years to slowly make up for the last 16 years, then annual indexing adjustments
- Phased in approach of 10% increases over a period of 2-5 years to slowly make up for the last 16 years, then annual indexing adjustments
- 50% increase to match the CPI cumulative total, then annual indexing adjustments
- 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments

Regardless of the decision to raise fees to account for the last 16 years of no increases, it is recommended that yearly adjustments to the fees be done, as periodic evaluations are required by code, so that the fees are adjusted annually based on the ENR CCI. Most jurisdictions that have indexing do so annually to avoid having to revisit the fees every few years and keep increases in fees in small increments. This sets up an expectation that the impact fee will increase yearly to keep pace with inflation and provide for infrastructure to be consistently funded and constructed using the impact fees collected by new development. It is a straightforward method that is easy to communicate to the public and easier to implement. If NCC wants to establish an increase every two years, that can be accomplished by Council approving the changes every two years instead of annually. It is recommended that the adjustment be done using the cumulative CCI for the two years. The data to calculate the ENR CCI comes out in January and the new fee can be adopted by Council in the spring with an effective date of July 1 each year.

Feedback from the public workshop resulted in the majority of participants in favor of increasing fees with annual indexing adjustments; however, responses on how to approach the fee increases were evenly distributed between the phased approach of 5% over 2-5 years, phased approach of 10% over 2-5 years, and a 75% increase to match the ENR CCI cumulative.

Final recommendation: NCC should consider increasing their current Impact Fees in a phased approach of 10% per year for 3 years, then annually adjust the fee for ENR CCI.

E. Open Space Fee Creation

NCC Council adopted a resolution to spend \$7.5 million dollars over 3 years, which is \$2.5 million/year to ensure consistent funding for the preservation of Open Space and Agricultural land. In our research of best practices, the City of Chicago used a formula of new development carrying 30% of the cost for open space preservation.

The City of Chicago Open Space fees range from \$313-1,253/unit based on the type of development. Affordable housing units are only charged \$100/unit.

Marin County in Florida Open Space fees range from \$540-755 based on size of the unit. A land value of \$12/sf is used for the cost of Open Space land acquisition.

Using the same formula to help provide a dedicated source of funding to provide 30% of the \$2.5 million Open Space preservation goal requires revenue from impact fees to be \$750k/year.

The NCC Council can then determine whether to create an open space fee, and what level of funding support for the Open Space Preservation Fund, any potential UDC changes that would be required, and an implementation schedule.

Comments received on the evaluation of priorities regarding an Open Space Fee did not provide a clear consensus. Some workshop participants and survey respondents stated the Open Space Fee should be included in the Parks Fee or included in parks infrastructure for improvements. Others were against the concept all together.

Final recommendation: NCC should further explore the option of an additional impact fee category to fund Open Space. This would align with the County's goal for dedicated Open Space funding.

F. Change of Use/Redevelopment Charges

Should NCC determine that the current impact fee waiver for redevelopment and brownfield development is a critical decision factor for developers considering the reuse and repurpose of existing properties, then it would be logical to maintain the existing waiver structure. The additional burden of increased capital costs associated with the redevelopment and brownfield development would continue to be borne by the general fund.

Should NCC determine that eliminating the waiver on impact fees for redevelopment and brownfield development would not discourage developers considering the reuse and repurpose of existing properties, then it would be appropriate to assess the nexus between the impact fee and the need for that service based on the proposed development. The following is a recommended framework for how NCC might assess impact fees for redevelopment and brownfield development:

- o Assess a prorated impact fee for the actual change of use of the property based on the difference between the historical use and the proposed use.
- o Brownfields would still be exempted.

Feedback received from the public workshop on the implementation of a Redevelopment Fee were also mixed with some respondents in favor and others opposed.

Final recommendation: NCC will continue to work with developers to determine if the waiver on impact fees is a deciding factor in redevelopment and/or brownfield development. NCC should also consult with the Public Works Department and Emergency Services to determine actual costs of increased services from redevelopment cases.

III. NEXT STEPS

The final report (including memos 1 through 4) will be presented to NCC Council's Finance Committee for further consideration.

DEVELOPMENT IMPACT FEE STUDY

FINAL RECOMMENDATIONS

June 13, 2023



New Castle County Government



Presenters



Marc Coté, PE, AICP



Drew Boyce, PE



Agenda

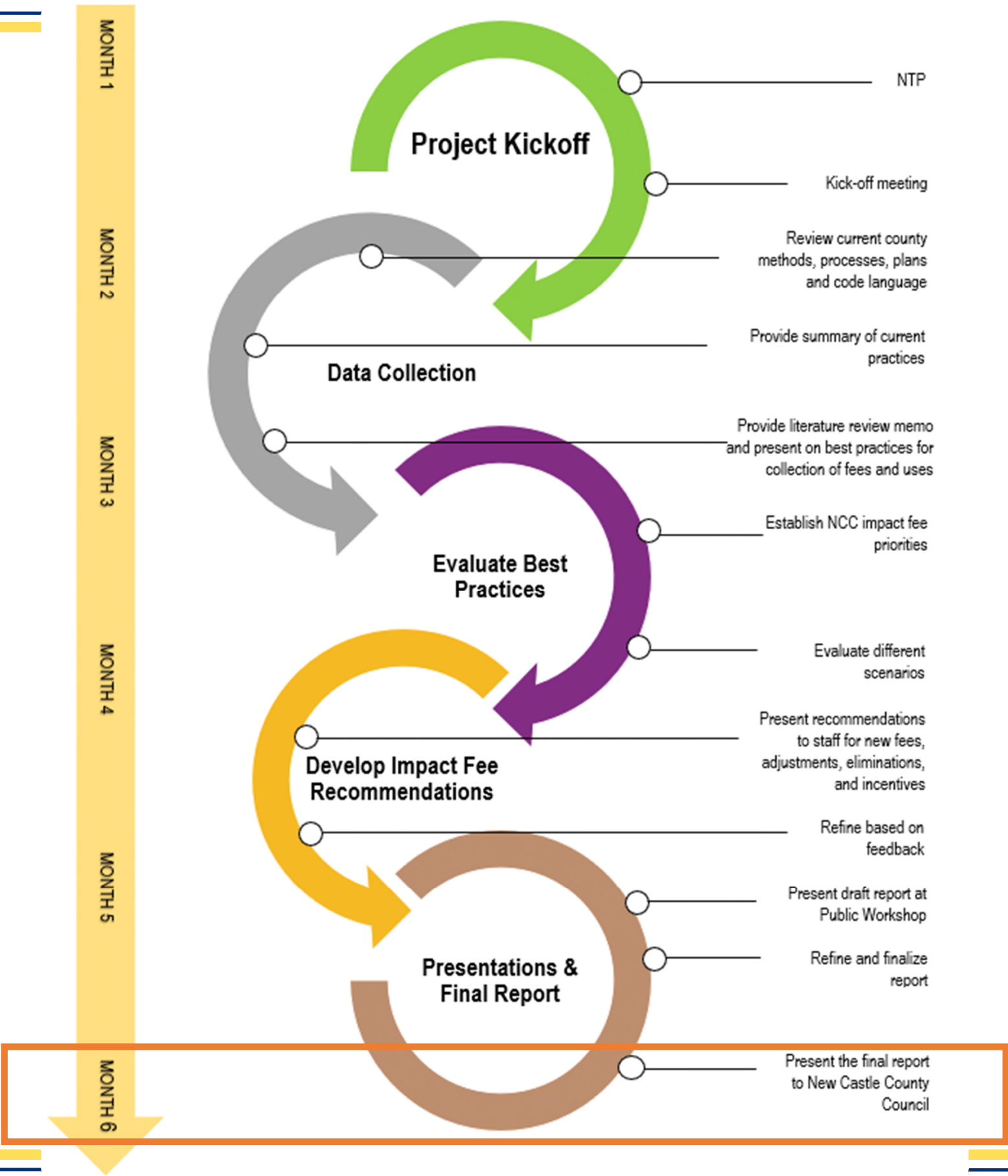
- Project Overview
 - Scope
 - Timeline
- Methodology
 - Existing Practices
 - Best Practices
- Public Feedback
- Final Recommendations

Project Overview >>>

Project Scope

- NCC Audit Report from May 2020 recommended reviewing current fee amounts.
- Review includes recommendations that will:
 - Balance keeping the fees low while also providing a source of revenue for capital improvements.
 - Identify fee updates to ensure they are proportionate and related to the County's infrastructure and service needs.
 - Include practices to achieve sustainable, just, and fair public finance in line with the County's long-range plans.
 - Assess the need for additional impact fees and/or an updated methodology.

Project Timeline



Existing Practices >>>>>>>>>>

New Castle County Impact Fees

- Impact Fees were adopted by New Castle County in 1999.
- Finance new or expanded infrastructure and service needs for development.
- Unified Development Code (UDC) Chapter 40, Article 14 (40.14)
“Cost adjustments will be made as part of the periodic evaluation and update of impact fees. Impact fees will be **adjusted for inflation in construction costs as reflected in the Engineering News Record (ENR) index and upon approval by County Council ...**”
- The only impact fees adjusted since 1999 have been Fire & Rescue.

NCC Impact Fee Table

Service	Parks & Special Facilities	Libraries	County Facilities	EMS	Fire and Rescue	Law Enforcement	Total
Residential Per Housing Unit							
Single-family detached	\$328	\$138	\$112	\$7	\$510	\$62	\$1,157
Single-family attached	\$304	\$129	\$105	\$6	\$442	\$58	\$1,044
All other housing†	\$225	\$95	\$77	\$5	\$317	\$43	\$762
Nonresidential Per 1,000 Square Feet‡							
Commercial/shopping center (less than 60,000 sf. GFA)	na.	na.	\$127	\$8	\$210	\$42	\$387
Commercial/shopping center (60,000 sf. to 200,000 sf. GFA)	na.	na.	\$95	\$6	\$163	\$33	\$297
Commercial/shopping center (greater than 200,000 sf. GFA)	na.	na.	\$76	\$5	\$147	\$28	\$256
Office/institutional (less than 10,000 sf. GFA)	na.	na.	\$176	\$11	\$112	\$24	\$323
Office/institutional (10,000 sf. to 50,000 sf. GFA)	na.	na.	\$150	\$10	\$287	\$16	\$463
Office/institutional (greater than 50,000 sf. GFA)	na.	na.	\$142	\$9	\$272	\$14	\$437
Business park	na.	na.	\$120	\$8	\$232	\$14	\$374
Light industrial	na.	na.	\$88	\$5	\$170	\$7	\$270
Warehousing	na.	na.	\$47	\$3	\$94.	\$4	\$148
Manufacturing	na.	na.	\$70	\$4	\$131	\$3	\$208
† Due to similar square footage, small single-family units and single-wide mobile homes will be included under the "All other housing" designation.							
‡ When building or expanding a nonresidential building, the first 1,000 square feet are exempt from the assessment of impact fees. For all impact fees except sewer impact fees required by this Article, the Department shall waive the applicant's responsibility to pay said fees for redevelopment or Brownfields. As a condition of such waiver, the Department may require that an alternative funding source be identified to pay the applicable impact fee.							

Best Practices

APA Recommendations

- An Impact Fee must be rationally linked to the impact created.
- Some benefit must accrue to the development as a result of the payment of a fee.
- The amount of the fee must be a proportionate fair share of the costs of the improvements made necessary.
- A fee cannot be imposed to address existing deficiencies except where they are exacerbated by new development.
- Funds received under such a program must be segregated from the general fund and used solely for the purposes for which the fee is established.
- The fees collected must be encumbered or expended within a reasonable timeframe to ensure that needed improvements are implemented.

APA Recommendations (continued)

- The fee assessed cannot exceed the cost of the improvements, and credits must be given for outside funding sources.
- The fee cannot be used to cover normal operation and maintenance or personnel costs, but must be used for capital improvements, or under some linkage programs, affordable housing, job training, childcare, etc.
- The **fee established for specific capital improvements should be reviewed at least every two years** to determine whether an adjustment is required, and similarly the capital improvement plan and budget should be reviewed at least every 5 to 8 years.
- Provisions must be included in the ordinance to permit refunds for projects that are not constructed, since no impact will have manifested.
- Impact fee payments are typically required to be made as a condition of approval of the development, either at the time the building or occupancy is issued.

Neighboring Jurisdictions

- Sussex County, Delaware
 - Funds for parks and special facilities, libraries, county facilities, EMS, Fire and Rescue, and Law Enforcement are collected via property taxes.
 - Impact Fees are assessed to fund the preservation of Open Space.
- Kent County, Delaware
 - Uses an Adequate Public Facilities Ordinance (APFO) to fund public facility improvements (roads, schools, EMS, water supply and distribution).
- Salem County, New Jersey
 - No impact fees.
- Various Pennsylvania Counties
 - No impact fees.
 - Improvements funded through special taxes.
- Anne Arundel County, Maryland
 - Impact fees assessed to fund public schools, transportation, and public safety facilities.

Nation-wide Scan and Special Topics

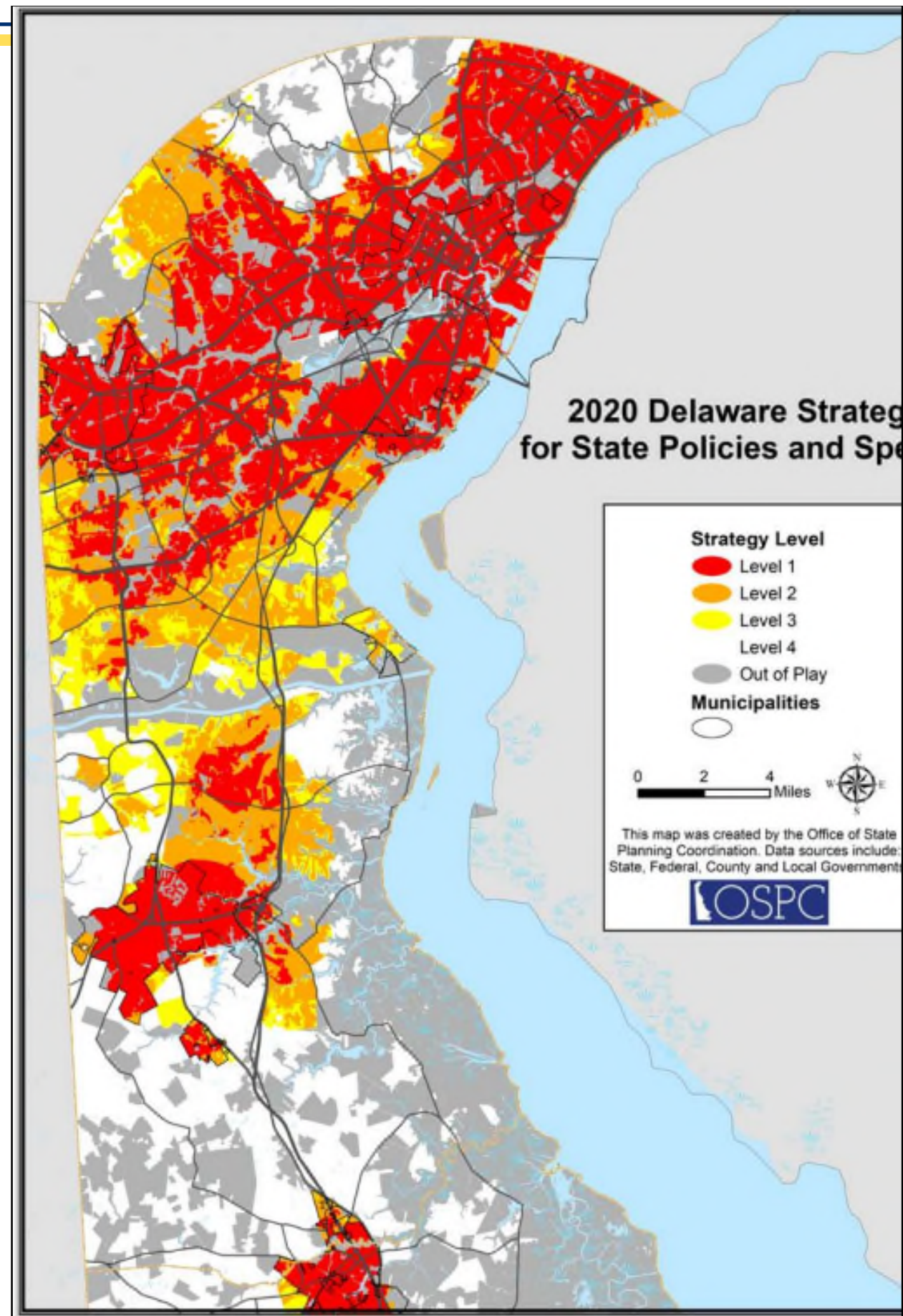
- Seminole County, Florida
- Green Infrastructure
 - City of Newark, DE
- Open Space Preservation Impact Fee
 - City of Chicago, Illinois
 - Martin County, Florida
 - Delaware Nature Conservancy
- Affordable Housing Considerations
 - Portland, Oregon
 - Austin, Texas

Recommendations

Recommendations for Consideration

1. Utilizing Delaware's State Strategies
2. Expanding the List of Uses in the Impact Fee Table
3. Strategies for Incentivizing Low-Income Housing
4. Graduated Fee Increases/ENR Recommendations
5. Open Space Impact Fee Creation
6. Redevelopment Charges

Utilizing Delaware's State Strategies



- State Strategies is a framework that guides decision makers on the most desirable pattern of land use within the state
- It is more expensive to provide necessary services the further you get from core developed areas
- Five investment levels:
 - Levels 1-4 and 'Out of Play'
- **Should NCC consider assessing a surcharge impact fee to cover the additional costs associated with development in Levels 3 and 4?**

Recommendation 1 - Feedback

- The feedback received regarding the assessment of a surcharge for development in Levels 3 and 4 was generally positive; however, there were still responses to assess the same impact fee regardless of where development occurs. This feedback indicates the importance of clearly showing the nexus between increased service delivery costs in Levels 3 and 4 and any possible surcharge.

Expanding the list of Uses in the Impact Fee Table

2

Current uses being assessed:

Residential (per housing unit)	Nonresidential (per 1,000 SF of floor area)
• Single-family detached • Single-family attached • All other housing (small single-family units and single-wide mobile homes will be included under the "All other housing" designation)	• Commercial/shopping center (less than 60,000 SF) • Commercial/shopping center (60,000 – 200,000SF) • Commercial/shopping center (greater than 200,000 SF) • Office/Institutional (less than 10,000 SF) • Office/Institutional (less than 10,000 SF) • Office/Institutional (less than 10,000 SF) • Business Park • Light Industrial • Warehousing • Manufacturing

Recommendations for Consideration

- **Should NCC consider charging a separate:**
 - **Multi-resident Facility Use Impact Fee based on number of dwelling units?**
 - **Institutional Use Impact Fee?**
 - **Lodging Use Impact Fee on a room basis?**
 - **Restaurant Impact Fee based on anticipated turnover?**

Recommendation 2 - Feedback

- The feedback received from the public workshop and online survey revealed generally positive responses to expanding the list of uses in the impact fee table. Respondents were more favorable towards NCC charging separate Multi-family Resident Facility and Institutional Use Impact fees compared to assessing separate fees for Lodging or Restaurant Uses; however, the overall outcome was positive.

Strategies for Incentivizing Low-Income Housing

3

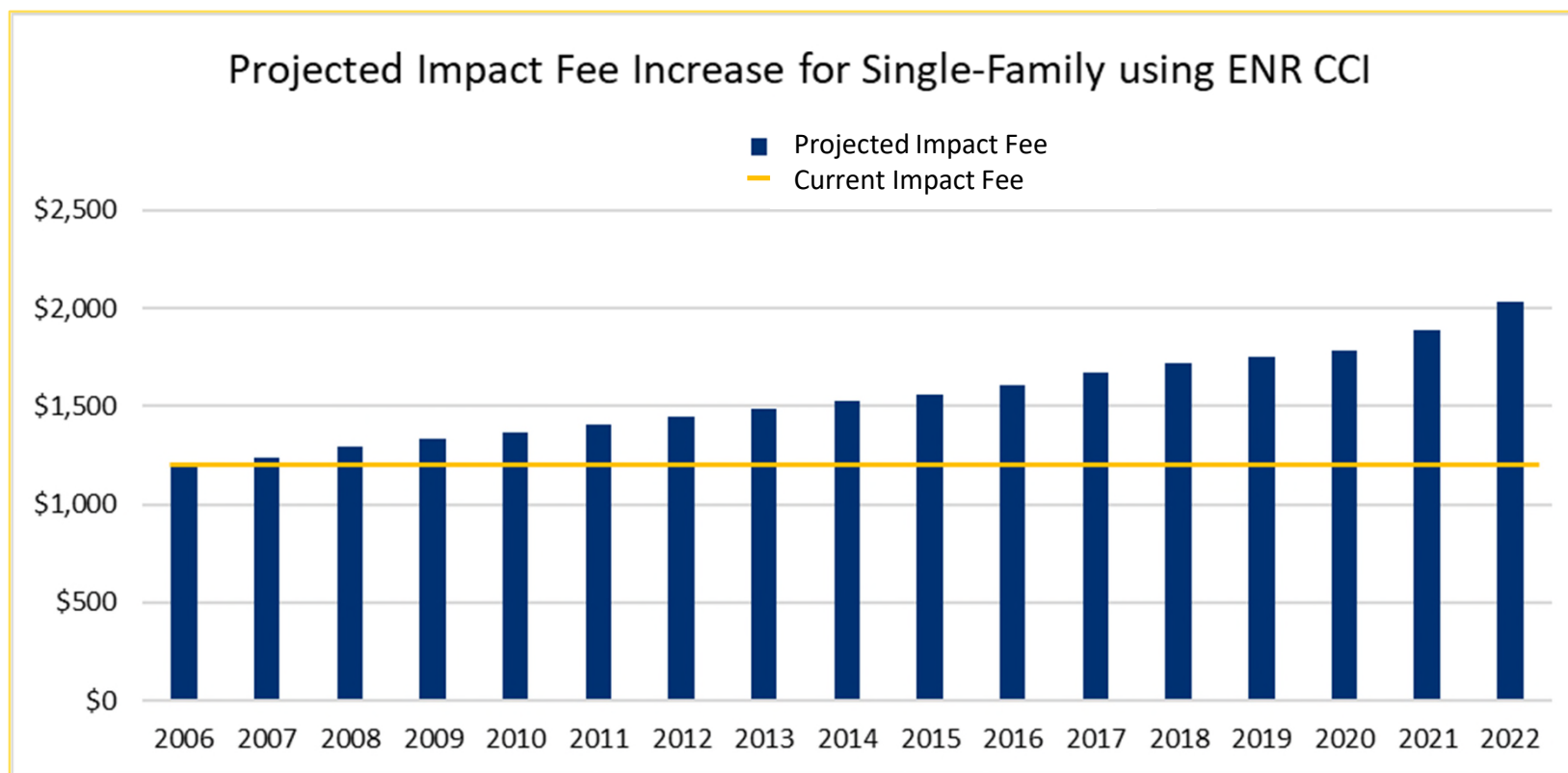
- Moderately Price Dwelling Units (MPDUs) are required for all residential rezonings or variance applications with density increases except for mixed-use developments.
- Currently there are no Impact Fee reductions or exemptions for development of MPDUs.
- NCC provides a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are MPDUs.
- Local jurisdictions can prioritize the development of new affordable housing by offering to reduce or waive impact fees for MPDUs.
- Developers still receive the services supported by the fee and must secure the associated permits or approvals.
- Providing an impact fee reduction or exemption would reduce the cumulative cost for providing affordable housing within NCC.
- **Should NCC consider applying a full exemption to all impact fees to MPDUs?**
- **Should NCC review each impact fee to determine in a fee-by-fee basis if MPDUs should be exempt from a specific fee?**
- **Should all impact fees to MPDUs be reduced by a specified percentage amount?**

Recommendation 3 - Feedback

- Public workshop participants and survey respondents had a general consensus of not reducing impact fees by a specific percentage or amount. Responses regarding a full exemption and reducing on a fee-by-fee basis were mixed; some were in favor of reducing the amount, but not a full exemption where others supported a complete exemption. There were two suggestions of using a scale-based system based on affordability. This concept would use the Area Median Income (AMI) to determine the impact fee posed on MPDUs. Comments across the board indicated that affordable housing is a concern for NCC residents, though.

Graduated Fee Increases/ENR Recommendations

- If fees increased using the ENR CCI from 2006 to 2022, increase would be 75%.
- The chart (below) illustrates the increase to the impact fee for a single-family detached unit from the 2006 cost of \$1,157 to \$2,036 in 2022, if adjusted according to ENR CCI calculations.

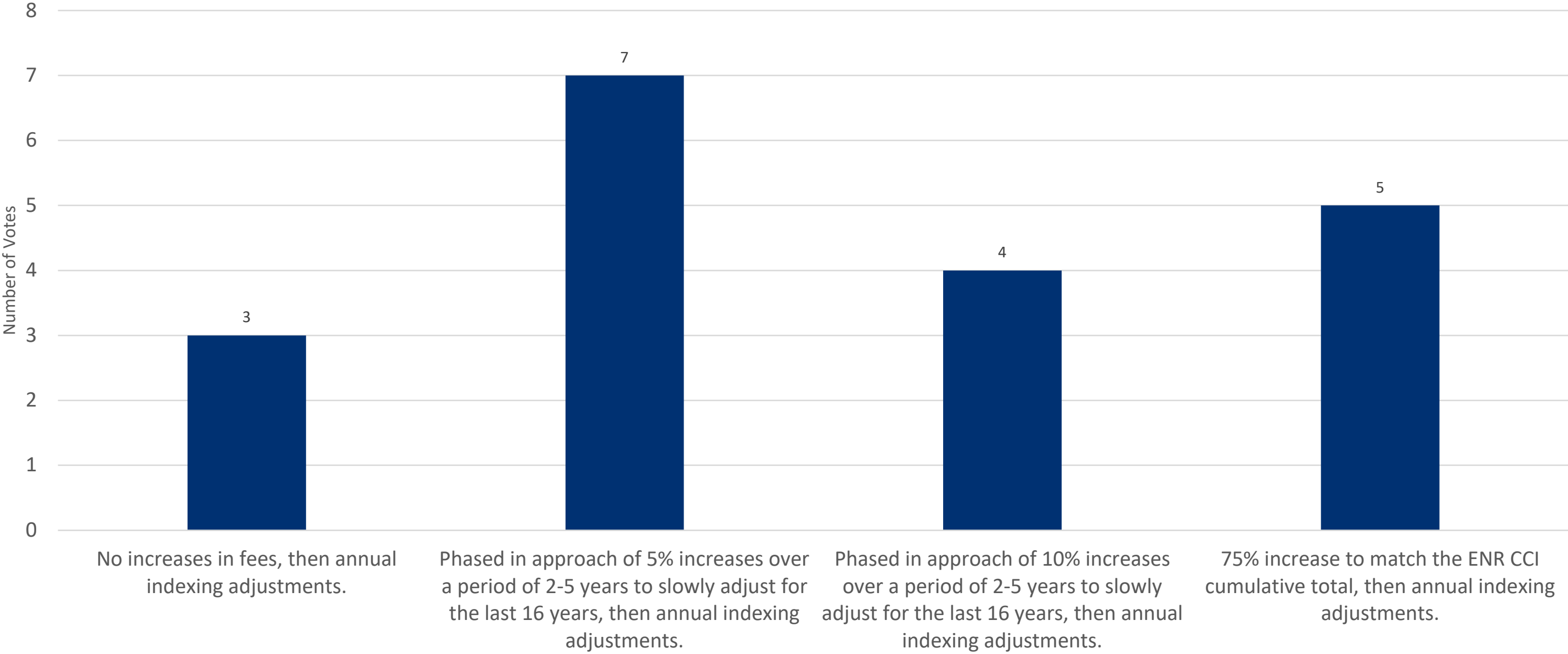


- **Should NCC consider:**
 - No increases in fees
 - No increases in fees, then annual indexing adjustments
 - Phased in approach of 5% increases over a period of 2-5 years, then annual indexing adjustments
 - Phased in approach of 10% increases over a period of 2-5 years, then annual indexing adjustments
 - 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments

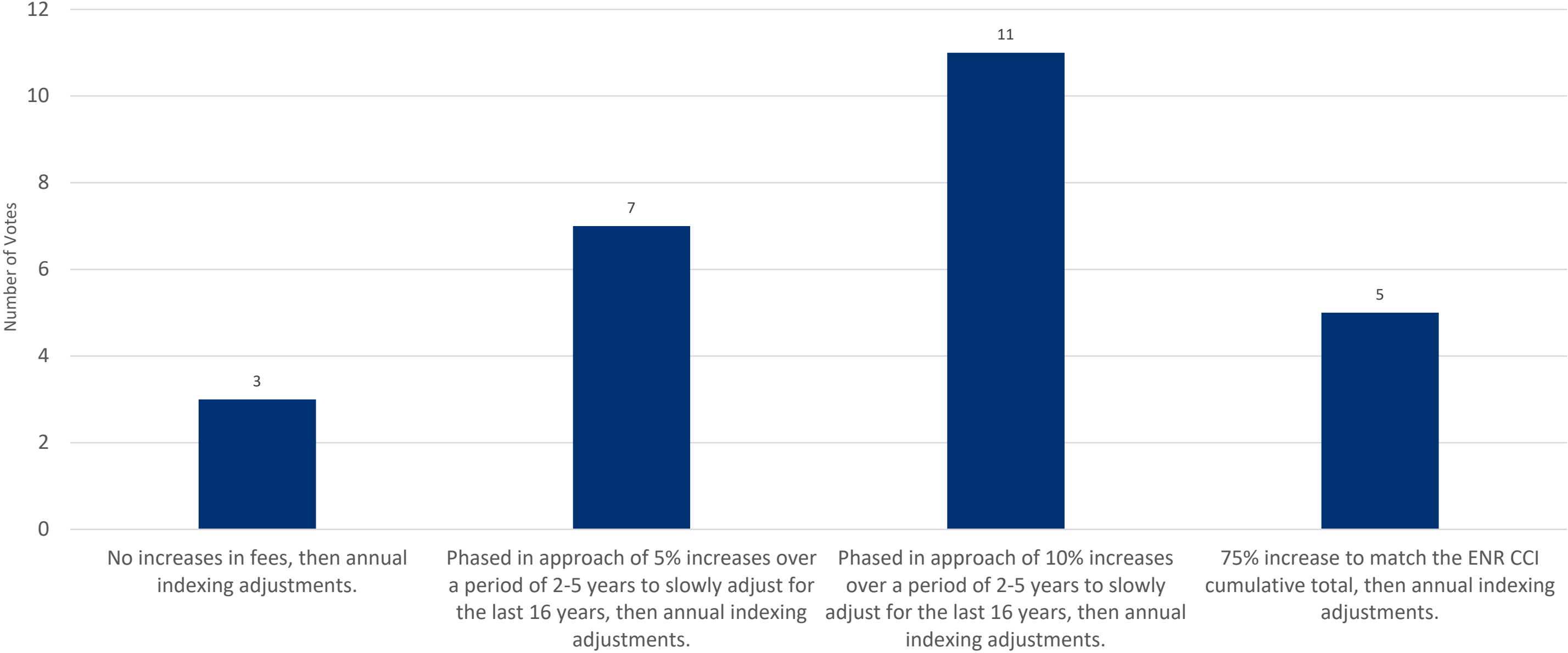
Recommendation 4 - Feedback

- Feedback from the public workshop resulted in the majority of participants in favor of increasing fees with annual indexing adjustments; however, responses on how to approach the fee increases were evenly distributed between the phased approach of 5% over 2-5 years, phased approach of 10% over 2-5 years, and a 75% increase to match the ENR CCI cumulative.

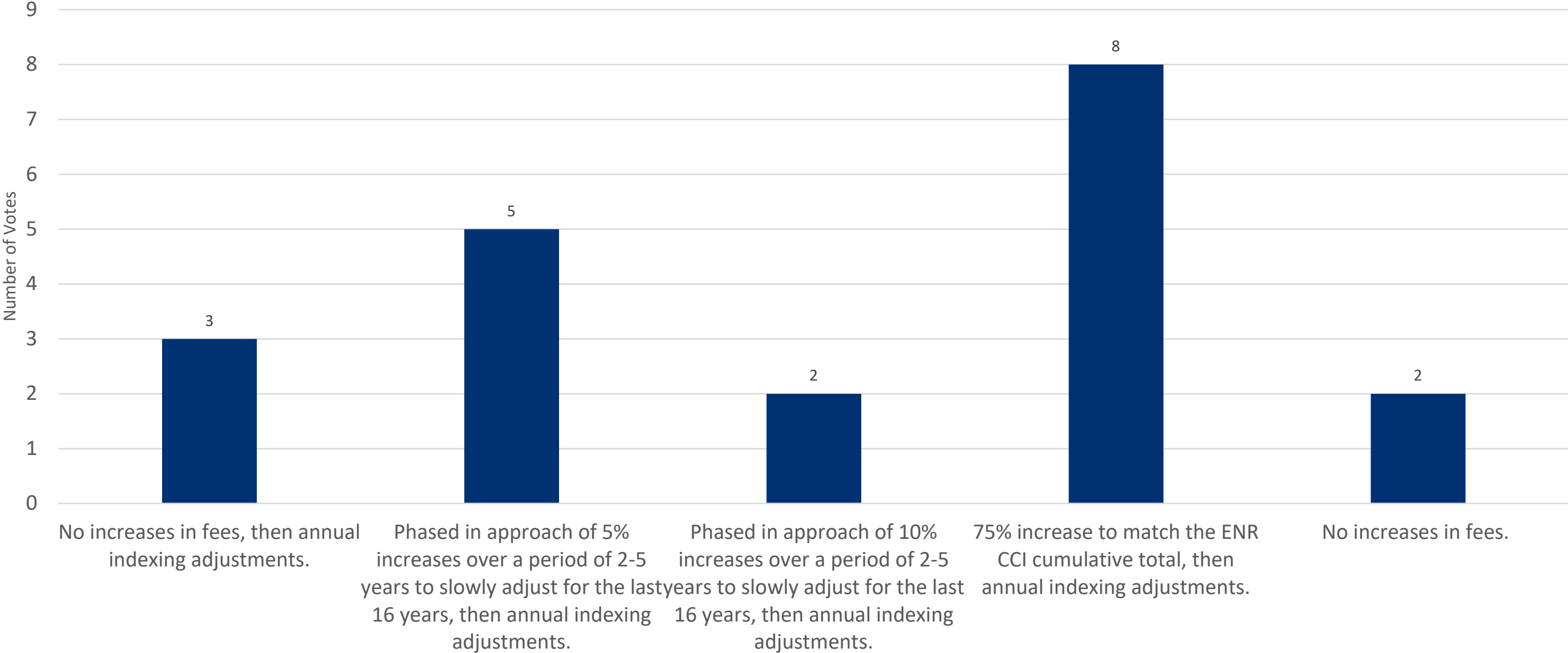
QUESTION #9: PLEASE RANK THE CHOICES FOR GRADUATED FEE INCREASES FROM 1 (MOST PREFERRED) TO 5 (LEAST PREFERRED). [#1 CHOICE]



QUESTION #9: PLEASE RANK THE CHOICES FOR GRADUATED FEE INCREASES FROM 1 (MOST PREFERRED) TO 5 (LEAST PREFERRED). [#2 CHOICE]



QUESTION #9: PLEASE RANK THE CHOICES FOR GRADUATED FEE INCREASES FROM 1 (MOST PREFERRED) TO 5 (LEAST PREFERRED). [#3 CHOICE]



Open Space Fee Creation

- In Fall 2022, NCC Council adopted a resolution to spend \$7.5 million over 3 years
 - FY 22 budget has \$1.5 million for Agriculture Land Preservation and \$1 million for Open Space Preservation
- In NCC, there is an average of 2,000 residential building permits/year and 4 million sf/year of non-residential development
- Assessing Open Space/Land Preservation Impact Fees could provide \$750,000 per year
 - 30% of each fiscal year's funding goal

Proposed Open Space Impact Fee

- **What priorities should be evaluated if NCC were to consider creating an Open Space/Land Preservation Impact Fee?**

RESIDENTIAL Per Housing Unit	Enact
Single-family detached	\$ 377
Single-family attached	\$ 350
All other housing*	\$ 255
NONRESIDENTIAL Per 1,000 Square Feet of Floor Area**	
Commercial/shopping center (less than 60,000 sf. GFA)	\$ 62
Commercial/shopping center (60,000 sf. to 200,000 sf. GFA)	\$ 48
Commercial/shopping center (greater than 200,000 sf. GFA)	\$ 41
Office/institutional (less than 10,000 sf. GFA)	\$ 52
Office/institutional (10,000 sf. to 50,000 sf. GFA)	\$ 74
Office/institutional (greater than 50,000 sf. GFA)	\$ 70
Business park	\$ 60
Light industrial	\$ 43
Warehousing	\$ 24
Manufacturing	\$ 33

Recommendation 5 - Feedback

- Comments received on the evaluation of priorities regarding an Open Space Fee did not provide a clear consensus Some workshop participants and survey respondents stated the Open Space Fee should be included in the Parks Fee or included in parks infrastructure for improvements. Others were against the concept all together.

Redevelopment

- NCC's existing code provides many incentives for redevelopment and brownfields on non-residential uses and sites.
- Including processing plans as minor subdivisions and allowing for additional gross floor area.
 - Redevelopment or brownfield development may repurpose a use that was exempt from or assessed minimal impact fees to a use that would have a much higher demand on services
- A waiver would be appropriate for redevelopment or brownfield development there would be no necessary increase in the capital costs needed to supply services
- Some redevelopment projects will increase the need for capital investments and services that are funded through impact fees.

Redevelopment (continued)

- Should NCC considering a Redevelopment Impact Fee where:
 - Assess a prorated impact fee based on the difference between the historical use and the proposed use.
 - If adopted, the new open space impact fee would be waived since this type of development supports infill and reuse of existing properties
 - Brownfields would be exempted
- **What is your opinion on the Redevelopment Impact Fee, as proposed?**

Recommendation 6 - Feedback

- Feedback received from the public workshop on the implementation of a Redevelopment Fee were also mixed with some respondents in favor and others opposed.

Final Recommendations

For Consideration by NCC Council

1. Implement a surcharge to cover the additional costs associated with development in Levels 3 and 4; NCC will conduct additional research to determine the actual cost of providing services to these areas and will modify proposed percentages accordingly.
2. Add the following new categories to the impact fee table:
 - Multi-use Residential (Apartments, Commercial Apartments, Apartment Conversions)
 - Institutional Uses (private)
 - Commercial Lodging
 - Restaurants
 - The County should consider whether multiple restaurant categories should be broken out to differentiate between fast-food restaurants and sit-down restaurants. Then analysis should be conducted to determine the appropriate fee level that should not be based on the number of cars visiting the facility since this is not a transportation/mobility impact fee, but instead the number of EMS visits and impact on capital infrastructure.

For Consideration by NCC Council

3. Establish a scale-based system based on the home price relative to the AMI.
 - >120% of AMI => 75%
 - 100 – 120% => 50%
 - 80 – 100% => 25%
 - <80% => No fee assessed
4. Consider increasing current Impact Fees in a phased approach of 10% per year for 3 years, then annually adjust the fee for ENR CCI.
5. Further explore the option of an additional impact fee category to fund Open Space as this would align with the County's goal for dedicated Open Space funding.
6. Continue to work with developers to determine if the waiver on impact fees is a deciding factor in redevelopment and/or brownfield development. NCC should also consult with the Public Works Department and Emergency Services to determine actual losses to do upzoning redevelopment cases.

RESOLUTION NO. 24-158

**RECOGNIZING AND CELEBRATING THE LEGACY AND IMPACT
OF THE AUGUST QUARTERLY FESTIVAL**

WHEREAS, Carter G. Woodson once said, “Those who forget their history are destined to repeat it.” This profound statement underscores the importance of remembering and celebrating our past, particularly the pivotal moments and movements that have shaped our society and our values of freedom and equality; and

WHEREAS, the August Quarterly Festival, also known as the Big Quarterly, is the oldest African American religious festival in the United States, initiated in 1814 by Peter Spencer to commemorate the founding of the Union Church of Africans in Wilmington, Delaware—the first African American church independently incorporated in the United States; and

WHEREAS, the festival has historically provided a rare platform for enslaved and free African Americans to worship together, discuss critical issues such as colonization and abolition, and celebrate their cultural and religious freedoms. It was a crucial event for the African American community, especially during the years of slavery, offering one of the few opportunities for social interaction and reunion; and

WHEREAS, Peter Spencer, born in captivity and later a free man, played a significant role in the African independent church movement, leading to the establishment of the Union Church of Africans in 1813. His leadership and vision culminated in the creation of the August Quarterly, which became a symbol of religious and civil freedom; and

WHEREAS, the August Quarterly Festival became a key gathering for abolitionists and Underground Railroad conductors like Harriet Tubman and Thomas Garrett, providing a space for planning escapes and offering hope and support to those seeking freedom from slavery; and

WHEREAS, the festival has evolved over the centuries but continues to be a beacon of African American cultural and religious heritage, attracting thousands to Wilmington each year to celebrate with music, crafts, preaching, and community activities, fostering a spirit of unity and freedom; and

WHEREAS, the August Quarterly remains a testament to the enduring struggle for freedom and equality, reflecting the themes of community, hope, salvation, self-determination, and liberation preached by its founder, Peter Spencer. It stands as a historic testament to African American resilience and the pursuit of religious and civil liberties.

NOW, THEREFORE, BE IT RESOLVED that the County Council of New Castle County hereby recognizes and honors the August Quarterly Festival, acknowledging its profound historical significance and ongoing impact on the community. We celebrate the festival's role in promoting African American cultural and religious freedom and its continued importance as a symbol of unity and resilience.

BE IT FURTHER RESOLVED that we encourage all residents of New Castle County to participate in and support the August Quarterly Festival, joining in the celebration of this vital part of our shared heritage and commitment to freedom and equality for all.

Adopted by County Council of
New Castle County on: 7/23/2024

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

SYNOPSIS: Same as title.

FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this resolution.