



NEW CASTLE COUNTY COUNCIL COUNCIL MEETING

August 27, 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**

REVISED AGENDA

A. Call to Order

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

B. Approval of Minutes

C. Announcements

D. Introduction of Ordinances

°24-132: TO AUTHORIZE ABATEMENT OF OUTSTANDING NEW CASTLE COUNTY REAL PROPERTY TAXES AND PENALTIES AND INTEREST ON THE PROPERTY OF WILSON FARM ASSOCIATES, LLC LOCATED AT 100 DEAN DRIVE, NEWARK, DE, TAX PARCEL NUMBERS 18-024.00-422, 18-030.00-139, AND 18-030.00-138

Prime Sponsor(s): Ms. George

°24-133: AMEND THE GRANTS BUDGET: APPROPRIATE FEDERAL FUNDS OF \$1,991,000 FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE 2024 HOPE CENTER CAPITAL IMPROVEMENTS AND TRANSPORTATION GRANT, WHICH IS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES, DIVISION OF COMMUNITY DEVELOPMENT AND HOUSING

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

°24-134: AMEND THE FY2025 APPROVED OPERATING BUDGET: REALIGN UP TO \$40,000 FROM COUNTY COUNCIL CONTINGENCY TO THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF POLICE, TO PROVIDE REIMBURSEMENT FOR CERTAIN EXPENSES RELATED TO THE NEW CASTLE COUNTY POLICE ACCOUNTABILITY BOARD

Prime Sponsor(s): Ms. Kilpatrick

Co-sponsor(s): Mr. Smiley

°24-135: AMEND THE FY2025 APPROVED OPERATING BUDGET: APPROPRIATE FUNDING FROM THE NEW CASTLE COUNTY TECHNOLOGY FEE ACCOUNT WITHIN THE OFFICE OF THE RECORDER OF DEEDS AND RECORDER OF DEEDS TECHNOLOGY FEE

ACCOUNT TO THE DEPARTMENT OF ADMINISTRATION, OFFICE OF FINANCE FOR A TRANSACTION MANAGEMENT SYSTEM

Prime Sponsor(s): Mr. Smiley, Mr. Cartier

°24-136: REVISE ZONING MAP; BRANDYWINE HUNDRED, SOUTH EAST SIDE OF PHILADELPHIA PIKE, 400 FEET NORTH OF THE INTERSECTION OF INTERSTATE 495 AND PHILADELPHIA PIKE; REZONE TAX PARCEL 06-059.00-165 (4150 PHILADELPHIA PIKE, CITISTEEL), TAX PARCEL 06-059.00-171 (4106 PHILADELPHIA PIKE, CITISTEEL), TAX PARCEL 06-060.00-012 (0 OFF PHILADELPHIA PIKE), TAX PARCEL 06-072.00-098 (6.05 ACRES), 06-072.00-198 (110 TRANSIT CENTER DR, CITISTEEL) (12.36 ACRES), 06-072.00-199 (150 TRANSIT CENTER DR, CITISTEEL) (4.71 ACRES), AND TAX PARCEL 06-073.00-001 (5988 PHILADELPHIA PIKE, COLORADO FUEL & IRON) (258.38 ACRES), FROM "HI" (HEAVY INDUSTRY) TO "CR" (COMMERCIAL REGIONAL)

Prime Sponsor(s): Mr. Cartier

E. Reports from Select and Special Committees

F. Consent Calendar

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

R24-159: AUTHORIZING THE EXECUTION OF ONE CONTRACT WITH THE CITY OF NEWARK TO PROVIDE A PASS-THROUGH GRANT FOR THE DEPARTMENT OF COMMUNITY SERVICES, DIVISION OF COMMUNITY DEVELOPMENT AND HOUSING IN THE AMOUNT OF \$289,911.98

Prime Sponsor: Mr. Smiley, Mr. Cartier

R24-160: AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A GROUND LEASE FOR A CELL TOWER ON A PORTION OF TAX PARCEL NO. 08-008.30-102, DESIGNATED PARKLAND

Prime Sponsor(s): Ms. Kilpatrick

R24-161: APPROVING THE RECREATIONAL PROPERTY TAX EXEMPT STATUS OF THE MAPLE VALLEY SWIM CLUB LOCATED AT 8 OLD POSSUM PARK ROAD, NEWARK, DELAWARE TAX PARCEL NO. 08-053.00-039

Prime Sponsor(s): Mr. Sheldon

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

°24-124: 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

°24-131: 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

°22-152: REVISE PREVIOUSLY APPROVED EXPLORATORY MAJOR SUBDIVISION AND LAND DEVELOPMENT PLAN WITH REZONING FOR BOYDS CORNER FARM LLC; ST GEORGES HUNDRED; NORTHWESTERLY CORNER OF DUPONT PARKWAY AND GREYLAG ROAD; TAX PARCELS 13-013.00-156 AND 13-013.42-091; COUNCIL DISTRICT 6. (The plan for The Plaza at Boyds proposes to revise the previously approved design of the Exploratory Major Land Development Plan with a 341,500 square foot mixed use development consisting of 274 apartment units, 15,000 square feet of retail, 6,480 square feet of office GFA, and 6,040 square feet of amenity GFA with associated site improvements instead of 94,000 square feet of shopping center GFA and 12,500 square feet of office GFA. This new plan will supersede the previously approved Exploratory Major Subdivision and Land Development Plan and rezoning. Section 40.31.113 of the New Castle County Code requires that the submitted record plan be in general conformance with the development on the approved exploratory plan that was relied upon by County Council when it granted the rezoning. County Council adopted Ordinance 11-077 in June 2012. CR (Commercial Regional) zoning district. [App. 2022-0413-S/Z.](#))
Prime Sponsor(s): Mr. Carter

°24-031: AMENDING NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), ARTICLE 31 ("PROCEDURES AND ADMINISTRATION") RELATING TO COUNTY COUNCIL REFERRALS

Prime Sponsor(s): Mr. Carter

SUBSTITUTE NO. 1 TO °24-059: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), SECTION 40.03.410 ("ACCESSORY USES, RESIDENTIAL") RELATING TO FENCE STANDARDS

Prime Sponsor(s): Mr. Cartier

°24-032: (STATUS: TABLED) 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

R24-162: HONORING THE LIFE AND LEGACY OF SHIRLEY ANN AGNOR, ESTEEMED FORMER CLERK OF NEW CASTLE COUNTY COUNCIL

Prime Sponsor(s): Mr. Hollins

Co-sponsor(s): Mr. Bell, Mr. Carter, Mr. Cartier, Ms. Durham, Ms. George, Ms. Hartley-Nagle, Ms. Kilpatrick, Mr. Sheldon, Mr. Smiley, Mr. Street, Mr. Tackett, Mr. Toole

R24-163: RECOGNIZING AND CELEBRATING THE CONTRIBUTIONS OF WORKERS ON LABOR DAY 2024

Prime Sponsor(s): Mr. Sheldon, Mr. Smiley, Mr. Cartier, Mr. Tackett

Co-sponsor(s): Mr. Bell, Mr. Carter, Ms. George, Ms. Hartley-Nagle, Mr. Hollins, Ms. Kilpatrick, Mr. Toole

K. Introduction/Consideration of Emergency Ordinances

L. Public Comment/Other

M. Motion to Adjourn

REVISED AGENDA POSTED: August 26, 2024

AGENDA POSTED: August 20, 2024

*The revised agenda was posted on 8/26/24 to add 24-136 under introductions, which was inadvertently left off the agenda. 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.nccode.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.

ORDINANCE NO. 24-

**TO AUTHORIZE ABATEMENT OF OUTSTANDING NEW CASTLE COUNTY REAL
PROPERTY TAXES AND PENALTIES AND INTEREST ON THE PROPERTY OF
WILSON FARM ASSOCIATES, LLC LOCATED AT 100 DEAN DRIVE, NEWARK, DE,
TAX PARCEL NUMBERS 18-024.00-422, 18-030.00-139, AND 18-030.00-138**

1 **WHEREAS**, the Lang Development Group (“LDG”) is a full-service, real estate
2 acquisition, development, and property management company located in Newark,
3 Delaware; and
4

5 **WHEREAS**, LDG submitted the Wilson Farm Rezoning and Record Major Land
6 Development Plan (“Record Plan”) and Construction Improvement Plan (“CIP”) for
7 property held in the name of Wilson Farm Associates, LLC and identifying a multi-acre
8 site for sub-division as a 55-and-up housing community consisting of attached senior
9 housing; and
10

11 **WHEREAS**, notations in both the Record Plan and the CIP indicate that LDG
12 intended to dedicate three parcels located at 100 Dean Drive, Newark, DE to the City of
13 Newark as open space, those being tax parcel numbers 18-024.00-422, 18-030.00-139,
14 and 18-030.00-138 (collectively, the “Property”); and
15

16 **WHEREAS**, the City of Newark approved the Record Plan in 2011 and the CIP in
17 2012; and
18

19 **WHEREAS**, the transfer of ownership by deed from Wilson Farm Associates,
20 LLC to the City of Newark was not effectuated and the three parcels remain in the name
21 of Wilson Farm Associates, LLC; and
22

23 **WHEREAS**, Wilson Farm Associates, LLC is anticipated to accrue New Castle
24 County real property taxes in the amount of \$13,707.04, as of September 30, 2024, for
25 tax parcel numbers 18-024.00-422, 18-030.00-139, and 18-030.00-138, including
26 penalties and interest (but excluding principal and any penalties pertaining to school
27 taxes); and
28

29 **WHEREAS**, the District Council member has reviewed the request and
30 documentation from LDG, detailing the unique circumstances of this case, which
31 supports their request for abatement; and
32

33 **WHEREAS**, the District Council member has requested that a Special Ordinance
34 be prepared to abate the outstanding New Castle County annual property taxes
35 assessed for all years since the year of last payment, pursuant to *New Castle County*
36 *Code* § 14.05.003; and

37 **WHEREAS**, this Ordinance, if adopted, will authorize the abatement of
38 outstanding New Castle County taxes (and penalty and interest), excluding principal
39 and any penalties pertaining to school taxes, assessed against the Property as of July
40 23, 2024; and

41
42 **WHEREAS**, it has been determined that unique circumstances, equity and other
43 factors provide a rational basis for the abatement of County taxes assessed and any
44 penalties and interest related thereto on the Property.

45
46 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
47

48 Section 1. Exercising the power vested in it by 9 *Del. C.* § 8604(c) and *New*
49 *Castle County Code* Chapter 14, Article 5, New Castle County Council authorizes the
50 Office of Finance to abate all outstanding New Castle County taxes and related
51 penalties and interest assessed against the Property as of the effective date of this
52 Ordinance, exclusive of school taxes and penalties, which is estimated at \$13,707.44
53 through September 30, 2024.

54
55 Section 2. This Ordinance shall become effective immediately upon its adoption
56 by County Council and approval by the County Executive, or as otherwise provided in 9
57 *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 abate outstanding New Castle County taxes, penalty and interest, exclusive of school taxes and penalty, assessed against the Property, estimated at \$13,707.44 through September 30, 2024, for tax parcel numbers 18-024.00-422, 18-030.00-139, 18-030.00-138 and all penalties and interest accrued thereon.

Lang Development Group failed to record a deed to transfer ownership of the parcels to the City of Newark and, consequently, has requested an abatement. It has been determined that unique circumstances, equity, and other factors provide a rational basis

for the abatement of Wilson Farm Associates, LLC's outstanding New Castle County taxes, penalty, and interest.

FISCAL NOTE: This Ordinance, if approved, will abate outstanding New Castle County taxes, penalty and interest, exclusive of school taxes and penalty, assessed against the Property, estimated at \$13,707.44 through September 30, 2024, for tax parcel numbers 18-024.00-422, 18-030.00-139, 18-030.00-138 and all penalties and interest accrued thereon. Future fiscal year budgets are not impacted as a result of this abatement.

Prime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: August 27, 2024

ORDINANCE NO. 24-133

**AMEND THE GRANTS BUDGET:
APPROPRIATE FEDERAL FUNDS OF \$1,991,000 FROM THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE
2024 HOPE CENTER CAPITAL IMPROVEMENTS AND TRANSPORTATION GRANT,
WHICH IS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES,
DIVISION OF COMMUNITY DEVELOPMENT AND HOUSING**

1 **WHEREAS**, New Castle County has been awarded \$1,991,000 in federal funding
2 from the U.S. Department of Housing and Urban Development (HUD) to the 2024 Hope
3 Center Capital Improvements and Transportation Grant; and
4

5 **WHEREAS**, the grant funding will be used to make repairs and improvements to
6 the HOPE Center and provide transportation for the participants; and
7

8 **WHEREAS**, the County Executive has determined that grants anticipated to be
9 received from the U.S. Department of Housing and Urban Development (HUD) will be
10 sufficient to cover the increase in the Grants Budget as hereinafter amended; and
11

12 **WHEREAS**, Council has determined that the provisions of this Ordinance
13 substantially advance, and are reasonably and rationally related to, legitimate
14 government interests (i.e., promoting the health, safety, morals, convenience, order,
15 prosperity and/or welfare of the present and future inhabitants of this State).
16

17 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
18

19 Section 1. The Grants Budget as adopted by Ordinance No. 75-173 is hereby
20 amended by adding the material on the attached Exhibits "A", which shall be considered
21 underscored in its entirety.
22

23 Section 2. This Ordinance shall become effective immediately upon its adoption
24 by County Council and approval by the County Executive, or as otherwise provided by 9
25 *Del. C. § 1156*.
26

27 Section 3. It is the intent of the County Council that the provisions of this
28 Ordinance shall be effective retroactive to March 9, 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 federal funds of \$1,991,000 from the U.S. Department of Housing and Urban Development (HUD) to the 2024 Hope Center Capital Improvements and Transportation Grant, which will be administered by the Department of Community Services, Division of Community Development and Housing. These funds will be used to make repairs and improvements to the HOPE Center and provide transportation for the participants.

It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to March 9, 2024.

FISCAL NOTE: This Ordinance, if approved, will amend the Grants Budget by appropriating federal funds of \$1,991,000 from the U.S. Department of Housing and Urban Development (HUD) to the 2024 Hope Center Capital Improvements and Transportation Grant, which will be administered by the Department of Community Services, Division of Community Development and Housing.

The fiscal impact of this Ordinance, if approved, will be an increase in the authorized spending authority of the Grants Budget by \$1,991,000. The increase will affect FY2025 through FY2033 since the targeted program completion date for this grant is August 31, 2032. FY2024 funding was authorized in the amount of \$750,000.

DEPARTMENT:

GRANT TITLE:

PROGRAM TITLE:

Community Services

2024 HOPE Center Capital Improvements and Transportation

2024 HOPE Center Capital Improvements and Transportation

EXHIBIT:

Ordinance No.

"A"

24-133

Revenue	Current		Change		Revised
Federal	\$	1,991,000.00	\$	-	\$ 1,991,000.00
State	\$	-	\$	-	\$ -
County	\$	-	\$	-	\$ -
Program Income	\$	-	\$	-	\$ -
Other	\$	-	\$	-	\$ -
Total	\$	1,991,000.00	\$	-	\$ 1,991,000.00

Expense	Current		Change		Revised
Salaries and Wages	\$	-	\$	-	\$ -
Benefits	\$	-	\$	-	\$ -
Training/Civic Affairs	\$	-	\$	-	\$ -
Communication/Utilities	\$	-	\$	-	\$ -
Materials/Supplies	\$	-	\$	-	\$ -
Contractual Services	\$	490,000.00	\$	-	\$ 490,000.00
Equipment	\$	-	\$	-	\$ -
Grants/Fixed Charges	\$	-	\$	-	\$ -
Land and Structures	\$	1,501,000.00	\$	-	\$ 1,501,000.00
Contingency	\$	-	\$	-	\$ -
Operating Transfer Charges	\$	-	\$	-	\$ -
Operating Transfer Credits	\$	-	\$	-	\$ -
Total	\$	1,991,000.00	\$	-	\$ 1,991,000.00

SUPPLEMENTAL INFORMATION

Estimated Program Initiation:

Estimated Program Completion:

The Local Match:

Ordinance Passed:

3/9/2024

8/31/2032

Found in (ORG):

Date Revised:

PROGRAM DESCRIPTION:

Funds will be used to make repairs and improvements to the HOPE Center and provide transportation for the participants.

Prime Sponsor(s): Ms. Kilpatrick
Co-Sponsor(s): Mr. Smiley
Requested by: County Council
Date of introduction: August 27, 2024

ORDINANCE NO. 24-134

AMEND THE FY2025 APPROVED OPERATING BUDGET: REALIGN UP TO \$40,000 FROM COUNTY COUNCIL CONTINGENCY TO THE DEPARTMENT OF PUBLIC SAFETY, DIVISION OF POLICE, TO PROVIDE REIMBURSEMENT FOR CERTAIN EXPENSES RELATED TO THE NEW CASTLE COUNTY POLICE ACCOUNTABILITY BOARD

1 **WHEREAS**, 11 *Del. C.* § 8404 requires that all police departments establish a
2 committee to advise each department on policy, training, and other issues relating to the
3 departments and the communities they serve; and
4

5 **WHEREAS**, consistent with the above, on November 14, 2023, New Castle County
6 Council passed Ordinance No. 23-148, creating the New Castle County Police Accountability
7 Board ("Board"); and
8

9 **WHEREAS**, the Board provides community members an opportunity to provide input
10 on policing in the communities. In addition, the Department of Public Safety "Department",
11 Division of Police, benefits from constructive feedback to reform policies and practices,
12 improve police-community relations, and, thereby, improve public safety; and
13

14 **WHEREAS**, the Board and its individual members could benefit from a facilitator,
15 training opportunities, including police accountability conferences, or other assistance; and
16

17 **WHEREAS**, to foster the success of the Board, County Council has determined that
18 it has up to \$40,000 in the FY2025 Approved Operating Budget County Council Contingency,
19 in collaboration with the Administration, to provide funding for the Board for purposes of
20 engaging a facilitator, training opportunities, including police accountability conferences, or
21 other assistance, if the Board, by a majority vote of its voting members, deems it appropriate
22 and necessary for the success of the Board; and
23

24 **WHEREAS**, the Department will track all expenditures related to the purposes of
25 engaging a facilitator, training opportunities, including police accountability conferences, or
26 other assistance; and
27

28 **WHEREAS**, on a monthly basis, the Department will report to County Council the
29 expenditures associated with this initiative including the purpose of the expense, amount of
30 the expense, the transaction number and transaction date; and
31

32 **WHEREAS**, County Council will initiate a transfer to reimburse the Department for
33 expenditures associated with this initiative during FY2025; and
34

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

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

41 Section 1. New Castle County Council finds that, subject to majority vote of the Board,
42 an appropriation of up to \$40,000, in the aggregate, for purposes of engaging a facilitator,
43 training opportunities, including police accountability conferences, or other assistance, is
44 beneficial to fostering the success of the Board, the benefit of which will accrue to New Castle
45 County and its residents.
46

47 Section 2. This Ordinance authorizes the transfer of funds up to \$40,000 in the
48 aggregate, from the FY2025 Approved Operating Budget County Council Contingency to the
49 Department, reimbursing the Department for certain expenditures related to the Board.
50

51 Section 3. It is the intent of County Council that the provisions of this Ordinance shall
52 be effective retroactive to July 1, 2024.
53

54 Section 4. The Department will track all expenditures relating to the Board and, on a
55 monthly basis, the Department will report to County Council all expenditures related to this
56 initiative including the purpose of the expense, amount of the expense, the transaction
57 number and transaction date.
58

59 Section 5. The above-referenced amendments, as necessary, shall be considered a
60 part of the Annual Operating Budget for the fiscal year beginning July 1, 2024, and shall be
61 effective retroactively as though incorporated initially in the Annual Operating Budget
62 Ordinance.
63

64 Section 6. This Ordinance shall become effective immediately upon its adoption by
65 the County Council and approval by the County Executive, or as otherwise provided in 9 Del.
66 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, allows for transfers up to \$40,000 in the aggregate, from the FY2025 Approved Operating Budget New Castle County Council Contingency to the Department of Public Safety for expenditures related to the engagement of a facilitator, training opportunities, including police accountability conferences, or other assistance, to support the New Castle County Police Accountability Board. The Department of Public Safety will track all expenditures related to this initiative and on a monthly basis, report to County Council all expenditures including the purpose of the expense, amount of the expense, and the transaction number and transaction date. Upon receipt of the monthly report, County Council will initiate a transfer of funds the Department of Public Safety.

FISCAL NOTE: This Ordinance, if approved, has no fiscal impact since the intent of the legislation is to transfer funds up to \$40,000 in the aggregate, from the FY2025 Approved Operating Budget New Castle County Council Contingency to the Department of Public Safety for reimbursing for certain expenditures related to the Police Accountability Board. Fiscal impact for future fiscal years will be determined during the development of the annual operating budget through department budget requests.

Prime Sponsor(s): Mr. Smiley, Mr. Cartier
Requested by: Administration
Date of introduction: August 27, 2024

ORDINANCE NO. 24-135

**AMEND THE FY2025 APPROVED OPERATING BUDGET:
APPROPRIATE FUNDING FROM THE NEW CASTLE COUNTY TECHNOLOGY FEE
ACCOUNT WITHIN THE OFFICE OF THE RECORDER OF DEEDS AND RECORDER OF
DEEDS TECHNOLOGY FEE ACCOUNT TO THE DEPARTMENT OF ADMINISTRATION,
OFFICE OF FINANCE FOR A TRANSACTION MANAGEMENT SYSTEM**

1 **WHEREAS**, this Ordinance will amend the FY2025 Approved Operating Budget by
2 appropriating \$30,000 from the New Castle County Technology Fee Account within the Office
3 of the Recorder of Deeds and \$30,000 from the Recorder of Deeds Technology Fee Account
4 to the Department of Administration, Office of Finance; and
5

6 **WHEREAS**, additional funding is needed to procure a transaction management system
7 to assist the Office of Finance team with transitioning the lockbox operation in-house and will
8 permit processing large volumes of check payments in an efficient and timely manner; and
9

10 **WHEREAS**, the revenue measures heretofore adopted by the County Council, are, in
11 the opinion of the County Executive, estimated to yield sums at least sufficient to balance the
12 proposed expenditures as set forth in the Approved Annual Operating Budget as hereinafter
13 amended.
14

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

17 Section 1. The Annual Operating Budget for the fiscal year beginning July 1, 2024, is
18 hereby amended by deleting the material stricken and adding the material underscored on the
19 attached "Exhibit A."
20

21 Section 2. The foregoing amendment shall be considered a part of the Annual
22 Operating Budget for the fiscal year beginning July 1, 2024, and shall be effective retroactively
23 as though incorporated initially in the Annual Operating Budget.
24

25 Section 3. This Ordinance shall become effective immediately upon its adoption by
26 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*
27 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, amends the FY2025 Approved Operating Budget by appropriating \$30,000 from the New Castle County Technology Fee Account within the Office of the Recorder of Deeds and \$30,000 from the Recorder of Deeds Technology Fee Account to the Department of Administration, Office of Finance. These funds are needed to procure a transaction management system to assist the Office of Finance team with transitioning the lockbox operation in-house and will permit processing large volumes of check payments in an efficient and timely manner.

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Approved Operating Budget by appropriating \$30,000 from the New Castle County Technology Fee Account within the Office of the Recorder of Deeds and \$30,000 from the Recorder of Deeds Technology Fee Account to the Department of Administration, Office of Finance in the Contractual Service Budget Line Item.

The revised FY2025 Approved Operating Budget will be \$353,841,162. Fiscal impact for future years is estimated at \$18,574 in FY2026 and \$18,130 in FY2027.

The balance in the New Castle County Technology Fee Account after this appropriation will be \$250,915.25. The balance in the Recorder of Deeds Technology Fee Account after this appropriation will be \$155,845.68.

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			358,233
Operating Transfer Charges			175,627
Total		\$	4,988,912
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			200,565
Equipment			1,000
Grants and Fixed Charges			343,000
Contingency			3,000
Operating Transfer Charges			105,264
Total		\$	3,947,747
Total Authorized Full-Time Positions	17		

DEPARTMENT OF ADMINISTRATION

Salaries and Wages		\$	12,986,061
Benefits			7,506,461
Training and Civic Affairs			125,475
Communication and Utilities			8,286,620
Materials and Supplies			162,673
Contractual Services	6,835,976		<u>6,895,976</u>
Equipment			391,850
Grants and Fixed Charges			3,932,350
Operating Transfer Charges			1,142,324
Operating Transfer Credits			(12,812,422)
Total	28,557,368	\$	<u>28,617,368</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		10,870,338
Equipment		509,559
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	\$	83,040,762
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	\$	12,609,748
Benefits		5,574,747
Training and Civic Affairs		30,067
Communication and Utilities		1,576,998
Materials and Supplies		1,679,039
Contractual Services		3,546,554
Equipment		30,034
Grants and Fixed Charges		3,250,899
Contingency		168,550
Operating Transfer Charges		1,175,272
Operating Transfer Credits		(225,977)
Total	\$	29,415,931
Total Authorized Full-Time Positions	162	

DEPARTMENT OF PUBLIC SAFETY

Salaries and Wages	\$	77,334,401
Benefits		42,955,735
Training and Civic Affairs		206,456
Communication and Utilities		1,008,304
Materials and Supplies		1,070,826
Contractual Services		2,251,228
Equipment		1,660,283
Grants and Fixed Charges		8,345,222
Operating Transfer Charges		7,843,655
Total	\$	142,676,110
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	\$	2,024,338
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		31,829
Materials and Supplies		12,398
Contractual Services		84,578
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	\$	217,000
Total	\$	217,000
Total Authorized Full-Time Positions		

EXECUTIVE CONTINGENCY

Contingency	\$	300,000
Total	\$	300,000
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	\$	425,673
Total	\$	425,673

NEW CASTLE COUNTY

Salaries and Wages		\$	140,964,148
Benefits			78,096,165
Training and Civic Affairs			701,382
Communication and Utilities			37,152,129
Materials and Supplies			7,719,892
Contractual Services	<u>25,866,465</u>		<u>25,926,465</u>
Equipment			2,659,716
Grants and Fixed Charges			17,497,311
Debt Service			45,778,427
Land and Structures			35,000
Contingency			1,569,223
Operating Transfer Charges			16,501,825
Operating Transfer Credits			(20,760,521)
<i>Sub-Total New Castle County</i>	<i>353,781,162</i>	\$	<u>353,841,162</u>
<i>Total Authorized Full-Time Positions</i>	<i>1,682</i>		

RESERVE ACCOUNTS ANTICIPATED BALANCES AS OF JULY 23, 2024

Tax Stabilization Reserve Account	61,278,051
Sewer Rate Stabilization Reserve Account	7,617,215
General Fund Budget Reserve Account	45,312,006
Sewer Fund Budget Reserve Account	18,734,142
<i>Total Reserves:</i>	<u>132,941,414</u>

Primary Sponsor(s): Mr. Cartier
Requested by: Land Use
Date of introduction: August 27, 2024

ORDINANCE NO. 24-136

**REVISE ZONING MAP; BRANDYWINE HUNDRED, SOUTH EAST SIDE OF
PHILADELPHIA PIKE, 400 FEET NORTH OF THE INTERSECTION OF INTERSTATE
495 AND PHILADELPHIA PIKE; REZONE TAX PARCEL 06-059.00-165 (4150
PHILADELPHIA PIKE, CITISTEEL), TAX PARCEL 06-059.00-171(4106
PHILADELPHIA PIKE, CITISTEEL), TAX PARCEL 06-060.00-012 (0 OFF
PHILADELPHIA PIKE), TAX PARCEL 06-072.00-098 (6.05 ACRES), 06-072.00-198
(110 TRANSIT CENTER DR, CITISTEEL) (12.36 ACRES), 06-072.00-199 (150
TRANSIT CENTER DR, CITISTEEL) (4.71 ACRES), AND TAX PARCEL 06-073.00-
001 (5988 PHILADELPHIA PIKE, COLORADO FUEL & IRON) (258.38 ACRES),
FROM "HI" (HEAVY INDUSTRY) TO "CR" (COMMERCIAL REGIONAL)**

(The purpose of this County Initiated Rezoning is to rezone tax parcel 06-059.00-165 (31.72 acres), tax parcel 06-059.00-171 (2.38 acres), tax parcel 06-060.00-012 (3.12 acres), tax parcel 06-072.00-098 (6.05 acres), 06-072.00-198 (12.36 acres), 06-072.00-199 (4.71 acres), and tax parcel 06-073.00-001 (258.38 acres), from "HI" (Heavy Industry) to "CR" (Commercial Regional) to permit commercial, retail and service uses including Mixed Use consistent with the Future Land Use Map in the 2022 Update to the New Castle County Comprehensive Development Plan.)

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. The Zoning Map of Brandywine Hundred, as amended, is hereby further amended by changing the zoning classification of the land shown on attached Exhibits "A" and "L" dated May 29, 2024, as set forth therein.

Section 2. This Ordinance shall become effective immediately upon passage by New Castle County 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:

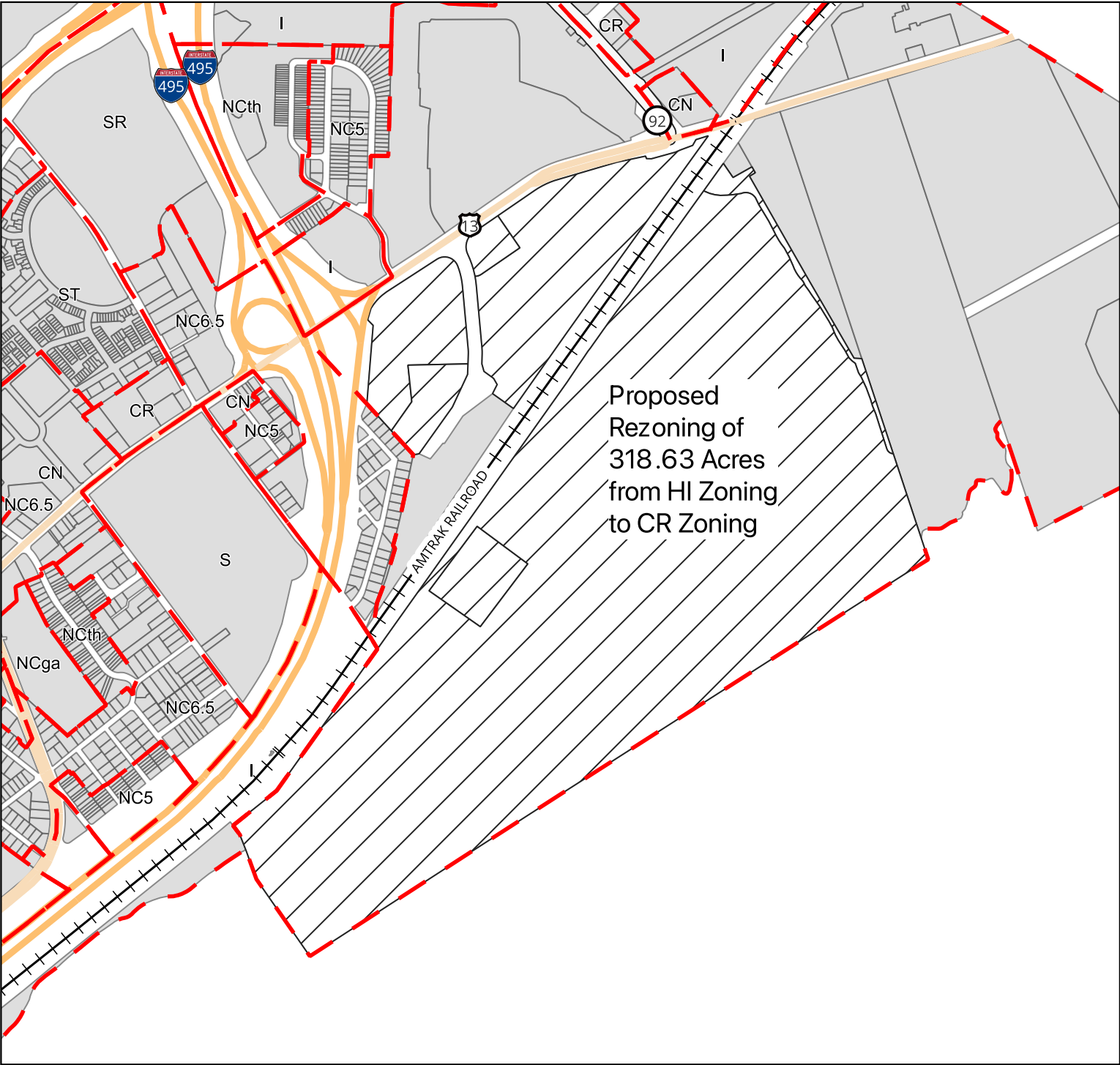
Matthew Meyer
County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL NOTE: This rezoning ordinance will have no immediate discernable fiscal impact on the County, but if the parcel rezoned is developed in accordance with the new rezoning, there may be one or more indirect fiscal effects on New Castle County government, including, but not limited to, an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for county services.

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: HI TO CR

APPLICATION NO. 2024- -Z
TAX PARCEL NO: 06-059.00-165,
06-059.00-171, 06-060.00-012,
06-072.00-098, 06-072.00-198,
06-072.00-199, 06-073.00-001



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:12131
Prepared by: Matthew Rogers

Date: 5/29/2024



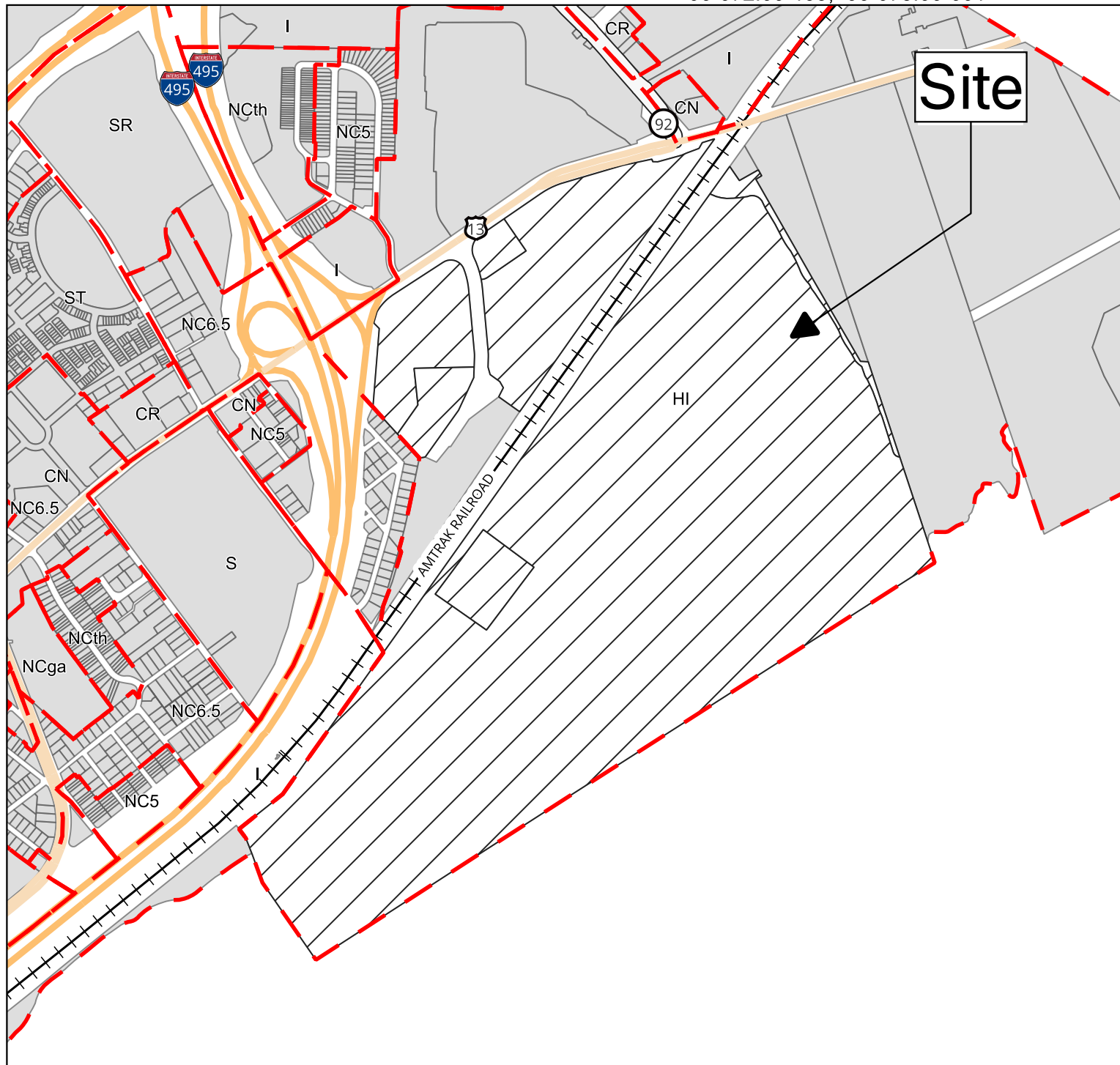
PERMANENT ORDINANCE NO. 24-136
Date Adopted by County Council:
Date Approved by County Executive:

PROPERTY MAP

EXHIBIT L: MAP 1
ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: HI TO CR

APPLICATION NO. 2024- -Z
TAX PARCEL NO: 06-059.00-165,
06-059.00-171, 06-060.00-012,
06-072.00-098, 06-072.00-198,
06-072.00-199, 06-073.00-001



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:12131
Prepared by: Matthew Rogers

Date: 5/29/2024



PERMANENT ORDINANCE NO. 24- 136
Date Adopted by County Council:
Date Approved by County Executive:

RESOLUTION NO. 24-160

**AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A GROUND LEASE FOR
A CELL TOWER ON A PORTION OF TAX PARCEL NO. 08-008.30-102,
DESIGNATED PARKLAND**

1 **WHEREAS**, New Castle County (the "County") owns and maintains land identified
2 on New Castle County tax maps as Tax Parcel No. 08-008.30-102, consisting of 5.4 acres
3 and having a physical address of 7259 Lancaster Pike, Hockessin, Delaware, 19707, (the
4 "Property"); and
5

6 **WHEREAS**, the County has a strong interest in ensuring that residents and visitors
7 have robust mobile connectivity throughout the County location; and
8

9 **WHEREAS**, mobile connectivity is essential to supporting public safety, economic
10 development, and quality of life; and
11

12 **WHEREAS**, lessons learned from the COVID-19 pandemic highlighted
13 underserved areas where gaps in service are more prevalent, and where Public Safety
14 cannot be reached consistently, where cold spots can interfere with critical 911 calls and
15 the timely dispatch of emergency response, and Next Generation 911 (NG911) allows
16 attaching video, photos, and texting to 911, which also increases bandwidth demands on
17 mobile networks to support Public Safety; and
18

19 **WHEREAS**, to improve mobile connectivity and digital equity countywide, the
20 County conducted a study to identify gaps in coverage by testing signal strengths County-
21 wide; and
22

23 **WHEREAS**, the study identified optimal County-owned parcels to erect
24 communications towers, based on concentrated cold spots, population density, existing
25 fiber within a 0.5 mile radius, and existing roads to facilitate maintenance; and
26

27 **WHEREAS**, the Property fell within those parameters; and
28

29 **WHEREAS**, the County issued a Request for Proposals for the construction of a
30 wireless communications facility on the Property, and Cellco Partnership (d/b/a Verizon
31 Wireless) was the successful bidder; and
32

33 **WHEREAS**, 9 *Del. C. § 1341(4)* establishes the functions of the Department of
34 Public Works to include managing, maintaining, and operating parks, open spaces,
35 natural areas and greenways, including the authority to execute leases for wireless
36 communication facilities on park land with the approval by resolution of County Council;
37 and
38

39 **WHEREAS**, the Department of Public Works seeks County Council's approval to
40 enter a wireless communications facility lease agreement with Cellco Partnership for a
41 portion of the Property, as required by 9 *Del. C. § 1341(4)*.

42 **NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New
43 Castle County that County Council hereby approves the lease and memorandum of
44 agreement listed on the attached Exhibit A, entitled "Concession Agreement" and
45 "Memorandum of Concession Agreement."

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 authorize the County Executive to enter into an initial ten-year lease agreement with Cellco Partnership (d/b/a Verizon Wireless) for use of County Property located at 7259 Lancaster Pike in Hockessin, Delaware. The lease agreement permits the vendor to construct, reconstruct, erect, install, improve, replace and remove from time to time the communications tower; and use, maintain, repair, operate and monitor the communications tower for wireless communications. The communications tower will enhance mobile connectivity in the area. The lease shall automatically renew for three successive five-year periods, unless the vendor provides written notice.

FISCAL NOTE: This Resolution, if approved, provides \$500,000 in ARPA grant funds to the vendor to construct a communications tower. There are no other fiscal impacts as a result of approval of this Resolution.

CONCESSION AGREEMENT

This Concession Agreement ("Agreement") is made and entered into this [_____] day of [_____] 2024 (the "Effective Date") by and between New Castle County, with an address of 87 Reads Way, New Castle, DE 19720 (the "County"), and Cellco Partnership (d/b/a Verizon Wireless), a Delaware general partnership, with an address at One Verizon Way, Basking Ridge, NJ 07920 ("Verizon"). Each of County and Verizon is sometimes referred to herein as a "Party" and are collectively sometimes referred to herein as the "Parties".

RECITALS

A. County owns a certain parcel of land located at 7259 Lancaster Pike, Hockessin, DE 19707, comprised of approximately 5.40 acres and being New Castle County Tax Parcel No. 08-008.30-102 (the "Owner's Lot");

B. Intending to be legally bound hereunder, County desires to lease a portion of the Owner's Lot to Verizon, which portion is approximately 2,400 square feet acres of real property (the "Leased Property"), as depicted in Exhibit A attached hereto, for the purpose of developing and constructing a multi-tenant communications tower (the "Communications Tower").

C. Intending to be legally bound hereunder, Verizon desires to lease the Leased Property from County to construct, install, own, operate and maintain the Communications Tower subject to this Agreement.

D. The development and construction of the Communications Tower will be funded, in whole or in part, with State and Local Fiscal Recovery Funds ("SLFRF") authorized by the American Rescue Plan Act ("ARPA"), thereby requiring certain terms and conditions specific to the development and construction of the Communications Tower.

E. Intending to be legally bound hereunder and effective as of the Effective Date, County agrees to lease the Leased Property to Verizon for the purposes set forth in this Lease, all on the terms and conditions herein contained.

ARTICLE 1 DEFINITIONS

In addition to the terms defined in the introductory Preamble hereof and in the Recitals set forth above, the following terms shall have the indicated meanings:

1.1 "Access Easement Area" means the portion of the Owner's Lot, the Leased Property and/or certain adjacent real property owned by the County over which Verizon has appurtenant rights for ingress, egress, and access to and from the Leased Property pursuant to Section 7.2, as is described, depicted or mapped on Exhibit B.

1.2 "Affiliate" means, each Person that, directly or indirectly, controls, is controlled by or is under common control with a Party. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Party and/or such Person, as applicable, whether through the ownership of voting securities or by contract or otherwise.

1.3 “Applicable Requirements” means any present and future law, act, rule, requirement, order, by-law, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, and other governmental consents, which may at any time be applicable to a Party’s rights and obligations hereunder, including, without limitation (i) Verizon’s leasehold, access and easement interests in and to the Leased Property or any part thereof in connection with the Operations and (ii) the construction, operation, ownership, maintenance, repair, decommissioning and removal of the Communications Tower.

1.4 “Assignee” has the meaning set forth in Section 20.1(b).

1.5 “Assign” or “Assignment” has the meaning set forth in Section 20.3.

1.6 “Commercial Operation Date” shall mean and shall be deemed to have occurred when: (a) the Communications Tower has been completely installed, is mechanically and electrically sound, and is ready for start-up and commercial operation; (b) the mechanical tests relating to completion of the Communications Tower have been conducted and the requirements with respect thereto have been satisfied in the reasonable discretion of the County; and (c) the Communications Tower complies with all applicable Governmental Approvals and has passed all required inspections by any applicable Governmental Authority.

1.7 “Commercial Operation Date Notice” shall have the meaning set forth in Section 8.4.

1.8 “Construction Easement Area” means that certain portion of the Owner’s Lot and the Leased Property for installation and construction of the Communications Tower pursuant to Section 7.2, as described or depicted on **Exhibit C**.

1.9 “Creditworthy” means a Person that has a net worth which equals or exceeds the net worth of Verizon measured at the time of the applicable Assignment or Sublease arising under Article 20.

1.10 “Default Rate” means a rate of interest equal to two percent (2%) plus the prime rate published from time to time in The Wall Street Journal or its successor publication, per annum.

1.11 “Easements” means the easements granted pursuant to Section 7.2 effective on the Effective Date.

1.12 “Effective Date” has the meaning as set forth in the preamble above.

1.13 “Environmental Laws” means any federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees applicable to the Leased Property or the Owner’s Lot now or hereinafter in effect relating to: (a) pollution; (b) the protection or regulation of human health, natural resources or the environment; (c) the treatment, storage or disposal of Hazardous Substances; or (d) the emission, discharge, Release or threatened release of Hazardous Substances into the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. 2601, et seq.; the Clean Air Act, 42 U.S.C. 7401, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.; and the Occupational Safety and Health Act, 29 U.S.C. 651 et seq. (to the extent relating to Hazardous Substances); 7 Del. C., Chapter 60, the Environmental Control Act; 7 Del.

C., Chapter 62, the Oil Pollution Liability Act; 7 Del. C., Chapter 63, the Hazardous Waste Management Act; 7 Del. C., Chapter 67, the Motor Vehicle Emissions Act; 7 Del. C., Chapter 74, the Delaware Underground Storage Tank Act; 7 Del. C., Chapter 77, the Extremely Hazardous Substance Risk Management Act; 7 Del. C., Chapter 78, the Pollution Prevention Act; and 7 Del. C., Chapter 91, the Delaware Hazardous Substance Cleanup Act; and any other Applicable Requirements that govern: (1) the existence, removal, or remediation of Hazardous Substances on real property; (2) the emission, discharge, Release, or control of Hazardous Substances into or in the environment; or (3) the use, generation, handling, transport, treatment, storage, disposal, or recovery of Hazardous Substances, each as amended, and together with all applicable regulations, orders, and binding guidance documents issued thereunder.

1.14 “Event of Default” has the meaning set forth in Section 23.1.

1.15 “First Renewal Term” shall have the meaning set forth in Section 8.1.

1.16 Intentionally Deleted.

1.17 “Force Majeure” means, when used in connection with the performance of a Party’s obligations under this Agreement, any act, condition or event (to the extent not caused by such Party or its Affiliates, agents, subcontractors or employees) which is unforeseeable, or being foreseeable, unavoidable and outside the reasonable control of the Party which invokes it, and which renders said Party unable to comply totally or partially with its obligations under this Agreement. Without limiting the meaning of the preceding sentence, the following events constitute Force Majeure to the extent that they render a Party unable to comply totally or partially with its obligations under this Agreement:

(a) war (whether or not war is declared), hostilities, revolution, rebellion, insurrection against any Governmental Authority, riot, terrorism, acts of a public enemy or other civil disturbance;

(b) acts of God, including but not limited to, as storms, floods, lightning, earthquakes, hailstorms, ice storms, tornados, hurricanes, landslides, and fires, and objects striking the earth from space (such as meteorites); and

(c) acts of any Governmental Authority that materially restrict or limit Verizon’s access or any Verizon Access Parties’ access to the Leased Property or its Operations at the Leased Property.

Notwithstanding anything to the contrary in this definition, the term Force Majeure shall not include any of the following:

(i) any act, event or condition caused by the negligence or willful misconduct of, or breach of this Agreement by, the Party or any of its agents or suppliers or subcontractors claiming such act, event or condition as a Force Majeure;

(ii) the financial inability of any Party to perform its obligations under this Agreement; and

(iii) any strike, walkout, or other industrial or labor action caused by any Verizon Access Parties.

1.18 “Governmental Approvals” means all authorizations, consents, decisions, licenses, certifications, grants, registrations, exemptions, permits, certificates and approvals from any Governmental Authority.

1.19 “Governmental Authority” means any foreign, national, federal, state, county, city, regional or local government, any political subdivision thereof, or any governmental, quasi-governmental, regulatory, judicial or administrative agency, authority, commission, board or similar entity having jurisdiction over the performance of Operations, the Communications Tower or its operations, the Leased Property or otherwise over any Party.

1.20 “Hazardous Substances” means and includes any substance that is or contains (a) any “hazardous substance” as now or hereafter defined in § 101(14) of CERCLA; (b) any “hazardous waste” as now or hereafter defined in RCRA; (c) any toxic substance now or hereafter regulated by TSCA; (d) petroleum, petroleum by-products, gasoline, diesel fuel, or other petroleum hydrocarbons; (e) asbestos and asbestos-containing material, in any form, whether friable or non-friable; (f) polychlorinated biphenyls; (g) lead and lead-containing materials; (h) any additional substance, material or waste: (i) the presence of which on or about the Leased Property (1) requires reporting, investigation or remediation under any Environmental Laws, (2) causes or threatens to cause a nuisance on the Leased Property or any adjacent area or property or poses or threatens to pose a hazard to the health or safety of persons on the Leased Property or any adjacent area or property, or (3) which, if it emanated or migrated from the Leased Property, could constitute a trespass, or (ii) which is now or is hereafter classified or considered to be hazardous or toxic under any Environmental Laws.

1.21 INTENTIONALLY DELETED

1.22 “Improvements” means all facilities, apparatus, systems, structures, equipment, machinery, fencing, materials and personal property of every kind and character that are constructed, installed and/or placed on the Leased Property, or on, above or under the Leased Property by or on behalf of Verizon during the Lease Term.

1.23 “Initial Lease Term” shall have the meaning set forth in Section 8.1.

1.24 “Land Records” means the Official Land Records of New Castle County, Delaware.

1.25 “Lease Term” shall have the meaning set forth in Section 8.1.

1.26 “Leased Property” shall have the meaning set forth in the Recitals.

1.27 “Leasehold Mortgagees” has the meaning set forth in Section 20.1.

1.28 “Lender” shall have the meaning set forth in Section 20.1.

1.29 “Verizon” shall have the meaning set forth in the preamble.

1.30 “Verizon Access Parties” means Verizon and its Affiliates, contractors, consultants and Lenders and other financing sources and each of their respective agents, representatives, subcontractors, consultants, employees and invitees.

1.31 “County” shall have the meaning set forth in the preamble.

1.32 “County Default” has the meaning set forth in Section 23.3.

1.33 “County Indemnified Party” has the meaning set forth in Section 17.1.

1.34 “Liabilities” has the meaning set forth in Section 17.1.

1.35 “Memorandum of Lease” shall mean the Memorandum of Lease attached hereto as **[Exhibit D]**.

1.36 “Operations” shall have the meaning set forth in Section 2.1.

1.37 “Owner’s Lot” shall have the meaning set forth in the Recitals.

1.38 “Party” and “Parties” shall mean the Verizon and/or the County.

1.39 “Permits” shall mean applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shutdown, start-up, testing, operation or maintenance of the Communications Tower or any other transactions or matter contemplated by this Agreement (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

1.40 “Person” means any individual, entity, corporation, general or limited partnership, limited liability company, joint venture, estate, trust, association or other entity or governmental authority.

1.41 “Reclamation Estimate” shall have the meaning set forth in Section 24.2.

1.42 “RCRA” means the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.) or any regulations promulgated under RCRA.

1.43 “Release” means a “release” as defined under §101(22) of CERCLA.

1.44 “Removal Obligations” means removal from the Leased Property of the Communications Tower and all other Improvements, and any personal property owned or leased by Verizon.

1.45 “Renewal Term” means the First Renewal Term and/or the Second Renewal Term and/or the Third Renewal Term.

1.46 “Commencement Date” means the first day of the month in which the Commercial Operation Date occurs.

1.47 “Second Renewal Term” shall have the meaning set forth in Section 8.1.

1.48 “Communications Tower” means: the structure developed, constructed and installed by Verizon (a) for the provision of current or future communication services, including voice, video, internet and other data services, and (b) which includes switches, antennas, panels, conduits, poles, flexible transmission lines, cables, radios, amplifiers, filters, interconnect transmission equipment and all associated software, hardware and equipment (such as vaults,

ground-mounted cabinets, generator pads, diesel storage tanks, etc.), in each case, including any modifications, replacements and upgrades thereto. .

1.49 “Substantial Alteration” has the meaning set forth in Section 25.2.

1.50 “Taxes” has the meaning set forth in Section 15.1.

1.51 “Third Renewal Term” has the meaning set forth in Section 8.1.

1.52 “TSCA” means the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.) or any regulations promulgated under TSCA.

1.53 “Work” has the meaning set forth in Section 22.3.

ARTICLE 2 PURPOSE OF AGREEMENT

2.1 Operations. Pursuant to this Agreement, Verizon shall have sole and exclusive possession of the Leased Property during the Lease Term for the following purposes (collectively, “Operations”):

(a) To (i) construct, reconstruct, erect, install, improve, replace, and remove from time to time the Communications Tower, and (ii) use, maintain, repair, operate and monitor the Communications Tower for wireless communications and uses incidental thereto in accordance with this Agreement and all applicable Governmental Approvals including, without limitation, an antenna which can and shall be used for communication purposes by both the New Castle County Department of Public Safety and the New Castle County Department of Public Works (the “County Antenna”). Verizon shall work in good faith with the County to ensure that the County Antenna is installed in accordance with any specific design or location requirements;

(b) Vehicular and pedestrian ingress, egress and access to and from Communications Tower on, over and across the Leased Property by means of the Easements, including, without limitation any curb cuts required by applicable governing authorities;

(c) Removing, trimming, pruning, topping or otherwise controlling the growth of any tree, shrub, plant or other vegetation on the Leased Property that could obstruct, interfere with or impair the Communications Tower or the use of the Leased Property by Verizon; and

(d) Solely in the strictest adherence to Applicable Requirements, an exclusive right to extract soil samples, perform geotechnical tests, and conduct such other tests, studies, inspections and analysis of or on the Leased Property as Verizon deems necessary, useful or appropriate.

Notwithstanding anything contained in Section 2.1 and Section 2.2 to the contrary, Verizon may, in accordance with all Applicable Requirements, Governmental Approvals and Section 20.5 hereof, sublease the Leased Property, inclusive of tower space on the Communications Tower, to other wireless carriers.

2.2 Exclusive Rights. Subject to the provisions of Section 2.1, Verizon shall have the exclusive right to develop and use the Leased Property for Operations and County shall not sell, partition, finance, mortgage, assign, or encumber the Leased Property in any way that could

materially interfere with the rights granted to the Verizon Access Parties hereunder, except as provided for in Section 20.3 and in accordance with Article 25.

2.3 Access.

(a) During the Lease Term, and subject to the provisions of Section 2.1 and this Section 2.3(a), County shall grant the Verizon Access Parties rights of ingress and egress to and from the Leased Property in designated areas as approved by County in accordance with and subject to the provisions of this Agreement and the Easements and County shall not grant any rights in the Leased Property purporting to permit County or any other Person to: (i) conduct business, activities or other operations on the Leased Property in derogation of Verizon's sole and exclusive right to conduct Operations on the Leased Property; or (ii) do or perform any other act relating to, nor undertake any other use of, the Leased Property other than as may be required under this Agreement and Applicable Requirements. All Verizon Access Parties, without exception, shall be subject to the insurance requirements set forth in Article 3. During the Lease Term, Verizon, at its sole cost and expense, shall perform all activities and construction as permitted under this Agreement in a good, careful, proper and workmanlike manner, and in accordance with good engineering practices, and all applicable laws, rules and regulations. No vehicles of Verizon or its contractors, employees, agents or invitees shall exceed the legal speed limit on the Leased Property and Easements.

(b) During the Lease Term, Verizon shall grant the County, its officers, delegated representatives, consultants and agents' rights of entry onto the Leased Property at reasonable times and upon reasonable prior written notice to Verizon in order to inspect the Leased Property and the Communications Tower.

2.4 Security. Verizon, at its expense, shall be solely responsible for the security and protection of the Communications Tower once installed on the Leased Property. Verizon acknowledges that County shall not carry insurance on, and shall not be responsible for damage to, any property of Verizon or any Verizon Access Parties located in or about the Leased Property or areas covered by the Easements.

ARTICLE 3 INSURANCE

3.1 Waiver of Subrogation. County and Verizon each waive any right to recover against the other on account of all claims County or Verizon may have against the other with respect to insurance actually carried, or required to be carried hereunder, to the extent of the proceeds that are or would have been recoverable from such insurance coverage and all such policies shall be endorsed to recognize such waiver of claims and subrogation.

3.2 Verizon's Insurance. Commencing as specified below and continuing thereafter during the Lease Term, Verizon shall procure and maintain at its sole costs and expense, and provide evidence to County of, the following insurance:

(a) On the Effective Date, Commercial General Liability Insurance with limits of seven million dollars (\$7,000,000) per occurrence for bodily injury and property damage, and nine million dollars (\$9,000,000) general aggregate including premises operations, personal and advertising injury, products/completed operations, contractual liability and independent contractors', which policy will include the County as an additional insured as their interest may appear under this Agreement;

(b) Commencing on date Verizon commences installation of the Communications Tower, builders all risk (non-reporting form) coverage, which insurance shall include County as an additional insured; and

(c) As of the Commercial Operation Date, Property Insurance for the full replacement cost of the Communications Tower.

3.3 Certain Endorsements. The Commercial General Liability Insurance referenced in Section 3.2 shall be endorsed to include the County as an additional insured as their interest may appear under this Agreement and shall be primary and noncontributory with County's insurance, if any. Verizon shall deliver to County certificates of insurance evidencing the coverage required under Section 3.2 at the times stated in Section 3.2. All insurance required under Section 3.2 shall be issued by insurers licensed, authorized or permitted to do business in the state in which the Leased Property is located and which are rated A: VII or better by Best's Key Rating Guide. Upon receipt of notice from its insurer(s), Verizon shall provide County thirty (30) days prior notice of cancellation of any required coverage. County agrees that the name of any Leasehold Mortgagee, as hereinafter defined, may be added to the loss payable endorsement of any and all insurance policies required to be carried by Verizon hereunder.

3.4 Contractors and Subcontractors. Verizon shall require all contractors and subcontractors to obtain and maintain substantially the same insurance as required of Verizon with limits commensurate with the work or service to be provided.

ARTICLE 4 INTENTIONALLY DELETED

ARTICLE 5 VERIZON'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

5.1 Verizon's Authority. Verizon hereby represents and warrants that Verizon has the full power and authority to enter into this Agreement and has obtained all required consents or approvals in connection therewith.

5.2 Use. Verizon covenants to use the Leased Property for the Operations including without limitation: (a) the construction, installation, use, operation, repair, maintenance, modification, decommissioning, removal and replacement of the Communications Tower; (b) all other Operations reasonably necessary or ancillary in connection with such uses; and (c) any and all other activities related to any of the foregoing, including, without limitation, any and all uses necessary or contemplated by any equipment, procurement and construction agreement relating to installation of the Communications Tower and all contracts or documents entered into in connection therewith.

ARTICLE 6 COUNTY'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 County's Authority. County represents and warrants that it has the full power and authority to enter into this Agreement and has obtained all required consents or approvals in connection therewith.

6.2 County Ownership of the Owner's Lot; No Liens. County represents and warrants to Verizon that the Owner's Lot is not encumbered by or the subject of any liens, mortgages, options, tax liens or other forms of encumbrance of any Person, [except as evidenced by any documents or materials filed or recorded in any public records or as would otherwise be revealed by a current, accurate survey or physical inspection of the Owner's Lot].

6.3 Condemnation. County represents and warrants to Verizon that: (a) there is no pending or, to County's knowledge, threatened condemnation proceedings or other governmental, municipal, administrative or judicial proceedings affecting the Owner's Lot; and (b) there are no agreements with any third parties entered into by County (including, but not limited to, any other leases, use or occupancy agreements, easements, licenses or other rights of possession or use, or any option for any of the foregoing) that could interfere with, conflict with, prohibit or restrict Verizon's ability, or the ability of any Verizon Access Parties, to enter upon and use the Leased Property as contemplated by this Agreement.

6.4 Legal Proceedings. County represents and warrants that, to County's knowledge, there are no pending or threatened actions or legal proceedings affecting the Owner's Lot.

6.5 [Intentionally omitted].

6.6 Other Representations and Warranties. County represents and warrants that County shall not make any improvements to the Owner's Lot during the Lease Term without the express, prior written consent of Verizon, which shall not be unreasonably withheld.

6.7 "AS IS" "WHERE IS" Condition. Except for County's representations and warranties expressly provided in this Agreement, Verizon acknowledges that it is leasing the Leased Property in its AS IS, WHERE IS condition, without any representation, warranty, or obligation of County, express or implied whatsoever concerning the condition of the Leased Property, title thereto, zoning, environmental status, or any other matter in any way related to the Leased Property or the proposed Communications Tower.

ARTICLE 7 LEASE AND EASEMENTS

7.1 Lease.

(a) **Lease.** Effective as of the Effective Date and upon the terms and subject to the conditions set forth herein, County does hereby demise and lease unto Verizon, and Verizon does hereby take and lease from County the Leased Property. Appurtenant to Verizon's rights to the Leased Property is the non-exclusive right, subject to the terms set forth herein, to use each of the Access Easement Area and Construction Easement Area for its specified purpose and within such defined easement areas in locations to be approved by County and in accordance with the respective Easement.

(b) **Exhibit A** attached to this Agreement, as of the Effective Date, includes the Parties' initial approximation of the Leased Property. Verizon shall be permitted to propose amendments to **Exhibit A** if (i) agreed to in writing by both Parties, or (ii) such amendments are proposed in connection with a request or order from a Governmental Authority, or otherwise required in conjunction with any Governmental Approval. Such proposed amendments to **Exhibit A** are subject to County's written approval not to be unreasonably withheld, conditioned or delayed. In the event County does not provide such approval, the Parties shall be obligated to negotiate in good faith in order to reach a mutually acceptable agreement on the form of such proposed amendment(s). Upon condition of the Communications Tower, Verizon shall provide to the County an as-built survey depicting the installation of the Communications Tower and related improvement.

7.2 Easements.

(a) Grant. [Effective as of the Effective Date, County hereby grants to Verizon the easements (the “Easements”), which pertain to the Access Easement Area and the Construction Easement Area described on [Exhibit B and Exhibit C],] respectively, attached hereto. In each case, such Easements, including the location of each easement area and curb cut to provide access to the Leased Property, shall be reasonably acceptable to County. The rights, interests and entitlements created in favor of Verizon pursuant to this Section 7.2 and or this Agreement are and shall at all times during the Lease Term be for the benefit of the Verizon Access Parties and their permitted successors and assigns, except for any access, ingress or egress rights, inclusive of curb cuts, which may be shared among Verizon, Verizon Access Parties, County, and its successor, assigns, agents and representatives. Verizon shall be solely responsible for all cost and expense in obtaining, constructing, and maintaining the Easements, and any other entitlements, inclusive of any curb cuts to provide access to the Leased Property.

(b) No Interference. Notwithstanding that the Easements may be non-exclusive, County warrants, covenants and agrees that it will not grant any easements, licenses, rights or other interests of any kind to Persons other than Verizon within areas encumbered by the Easements (the Access Easement Area and the Construction Easement Area) that could materially interfere in any way with the rights granted to Verizon hereunder and under the Easements. County shall not tamper with or disturb any Improvements of Verizon located in the Access Easement Area, the Construction Easement Area or use such areas in a manner that interferes with Verizon’s Operations. Any easements, licenses, rights or other interests of any kind granted by County subsequent to the Effective Date that encroach upon the Easements granted hereunder shall be subordinate thereto and subject to Verizon’s reasonable design, construction, operation and maintenance standards so as not to damage the equipment, facilities and systems located or constructed therein or thereon or interfere with Verizon’s Operations.

(c) Termination of Easements. All easements granted hereunder to Verizon, including the Easements, shall terminate automatically upon expiration or earlier termination of the Lease Term. Verizon shall, at its sole cost and expense, within twenty (20) days after the expiration or termination of this Agreement, deliver easement termination agreements to County and record the same.

ARTICLE 8 LEASE TERM; EXPIRATION AND TERMINATION

8.1 Lease Term. The Initial Lease Term shall commence on the Commencement Date and shall be for an initial term (without giving effect to any Renewal Term) that expires ten (10) years from the Commercial Operation Date. The Initial Lease Term shall automatically renew for three successive five (5) year periods (each, a “Renewal Term”), unless Verizon provides written notice to County of non-renewal at least ninety (90) days prior to the expiration of the applicable Lease Term. Each Renewal Term shall be subject to the same terms and conditions as the terms and conditions set forth in this Agreement; provided, however, that there is no outstanding Event of Default by Verizon at the commencement of any Renewal Term. The Initial Lease Term and the First Renewal Term, Second Renewal Term and the Third Renewal Term, if applicable, collectively being the “Lease Term” or “Term” of this Agreement.

8.2 Expiration and Termination. The Lease Term shall end at 11:59 p.m., local time on the last day of the Lease Term, or earlier termination thereof as provided herein.

8.3 Early Termination.

(a) Termination by Either Party. Either Party may, at its option, terminate this Agreement upon thirty (30) days prior written notice to the other Party if the Commercial Operation Date has not occurred within 24 months following the Effective Date (the “Outside COD”). In the event such termination right is exercised, Verizon, at its sole cost and expense, shall promptly restore the Leased Property to substantially the same condition as existed prior to the Effective Date and complete its Removal Obligations, which such obligations shall expressly survive termination of this Agreement. County shall have, however, no right to terminate this Agreement if Verizon is diligently pursuing all required Governmental Approvals and has an application pending before any Governmental Authority, or has commenced litigation challenging denial of any Governmental Approval and no final non-appealable order has been entered.

(b) No Termination Damages. If either Party elects to terminate this Agreement pursuant to Section 8.3(a), neither Party shall incur any liability in connection with such termination and neither Party shall be obligated to pay damages to the other Party, and upon the effective date of such termination, the Parties shall have no further rights or obligations hereunder other than those that are expressly stated to survive the expiration or termination of this Agreement.

(c) Automatic Termination. This Agreement shall terminate automatically on the date set forth in the termination notice delivered pursuant to Section 8.3(a) (or if no termination date is specified in such notice, thirty (30) days following receipt of such notice by the non-delivering Party), and the Parties shall have no further rights or obligations hereunder, other than those that are expressly stated to survive the expiration or termination of this Agreement.

(d) Termination by Verizon.

(i) Following the 5th anniversary of the Commencement Date, Verizon shall have the right, at any time during the Term, to terminate this Agreement upon sixty (60) days prior written notice to County, if (i) Verizon determines, in its sole discretion, that the continued use, maintenance or operation of the Communications Tower, in accordance with this Agreement, is no longer financially or commercially viable, and (ii) on the date of Verizon’s termination notice, Verizon is not in material breach or default of its obligations under this Agreement.

(ii) Verizon shall have the right, at any time during the Term, to terminate this Agreement upon fourteen (14) days prior written notice to County, if the use of the Leased Property becomes obsolete or unnecessary as a result of the termination or withdrawal of any Governmental Approval, which is required in connection with the use, maintenance or operation of the Communications Tower.

8.4 Commercial Operation Date Notice. Verizon shall provide written notice to County that the Communications Tower has been commissioned and is ready to commence commercial operation in accordance with the Commercial Operation Date no later than ten (10) business days following such date (the “Commercial Operation Date Notice”).

ARTICLE 9 RENT

9.1 INTENTIONALLY OMITTED.

ARTICLE 10 APPROVALS AND CONSTRUCTION

10.1 Approvals. Verizon, at its sole cost and expense, must obtain final approval of a site plan (or such other plan as required by the Governmental Authority) (the “Site Plan”) approving the development and construction of the Communications Tower on the Owner’s Lot, inclusive of any curb cuts requiring access to the Owner’s Lot. Prior to submitting any Site Plan with any applicable Governmental Authority, Verizon shall provide for County’s prior written approval of the Site Plan, which approval shall not be unreasonably withheld, conditioned, or delayed.

10.2 Construction. Commencing on the date Verizon receives all necessary Governmental Approvals to construct the Communication Tower pursuant to the Site Plan, Verizon shall diligently construct the Communications Tower (or cause the Communications Tower to be constructed) consistent with industry standards and in accordance with Applicable Requirements, which shall be completed no later than the Outside COD, unless otherwise agreed to in writing by County. County agrees to cooperate with Verizon in Verizon’s applications for Governmental Approvals necessary to permit the construction, installation, use, operation, repair, maintenance, modification, decommissioning, removal and replacement of the Communications Tower. County shall receive no additional compensation for such cooperation, but Verizon shall pay all fees and costs associated with those applications.

10.3 Liens. If any Person hired or retained by or under contract with Verizon or its contractors, or if any judgment creditor, mortgagee, governmental authority or any other Person making a claim against Verizon shall file or perfect a lien against County’s fee interest in the Leased Property or any portion thereof, Verizon shall, within forty-five (45) days after receiving notice of the filing thereof, discharge such lien by bond or otherwise. If any Person hired or retained by or under contract with County or its contractors or if any judgment creditor, mortgagee, governmental authority or any other Person making a claim against County shall file or perfect a lien against all or any portion of the Leased Property that would impact the Operations, the Communications Tower or the Easements, County shall within forty-five (45) days after receiving notice of the filing thereof, discharge such lien by bond or otherwise.

ARTICLE 11 MAINTENANCE AND REPAIR

During the Lease Term, Verizon shall, at its sole cost, maintain and repair the Leased Property, the Communications Tower, and the Easements, consistent with industry standards and, in all material respects, in accordance with Applicable Requirements. Verizon shall be solely responsible for maintaining and keeping the foregoing in good order and condition. Notwithstanding the foregoing, Verizon may seek reimbursement of all maintenance costs from any of the collocating or subleasing third party wireless providers.

ARTICLE 12 TITLE TO THE COMMUNICATIONS TOWER

County (including any mortgagee of County) shall have no rights in or to the Communications Tower, or any appurtenances thereto, and the Communications Tower and all appurtenances thereto shall be solely the personal property of Verizon. At no time shall the Communications Tower and all appurtenances thereto or any portion thereof be a fixture or be deemed a permanent improvement or any other character of property that would attach to the Leased Property or give County or any mortgagee of County any rights thereto.

ARTICLE 13 NO INTERFERENCE

13.1 County Agreements. As of the Effective Date County shall not enter into any agreements, leases (including any renewals thereof), easements, or any other arrangements for rights to or for the Leased Property that could adversely affect the Operations, Leased Property, the Easements or the ownership or operation of the Communications Tower, without the express prior written consent of Verizon. County's activities and any grant of rights by County to any third party shall not, now or in the future, interfere with any rights granted to Verizon under this Agreement.

13.2 County Actions. Except in the event of an emergency, any trenching, digging or any other activity by County that could damage or interfere with any portion of the Communications Tower that is located or installed underground (including cables, wires and conduit) shall be subject to the prior written consent of Verizon, which consent shall not be unreasonably conditioned, withheld or delayed. If approved, (a) County shall give Verizon at least thirty (30) days prior written notice of the time and location of such activity and permit a representative of Verizon to be present (although Verizon shall not be obligated to have a representative present) during such activity, and (b) Verizon shall provide County with access to and, upon request, copies of all site diagrams in Verizon's possession, as well as descriptions of all known underground utilities and structures installed by Verizon on the Leased Property during the Lease Term and their locations.

13.3 Quiet Enjoyment. During the Term, County agrees that Verizon shall quietly and peaceably hold, possess and enjoy the Leased Property pursuant to the terms of this Agreement and for the Lease Term, without any hindrance or molestation caused by any party claiming by, through or under County. County shall defend title to the Leased Property, and the use and occupancy of the same, against the claims of all others, except those claiming by or through Verizon. County shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, which may materially affect the Leased Property, or the rights and/or obligations of Verizon hereunder, without first obtaining the prior written consent of Verizon.

ARTICLE 14 FORCE MAJEURE

If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure, the affected Party, upon giving notice to the other Party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference. The affected Party shall use all reasonable efforts to avoid, mitigate or remove such causes of nonperformance and shall resume or continue performance promptly upon the removal or mitigation of such causes. If, at any time during the Term of this Agreement, an event of Force Majeure (i) substantially precludes operation of the Communications Tower, (economically or otherwise), and (ii) notwithstanding the affected Party's efforts to avoid, mitigate or remove, lasts for a period of six (6) months or longer, then Verizon may terminate this Agreement without incurring any liability to County with respect to such termination by giving written notice to County indicating the effective date of such termination, provided, however, that in the event of termination Verizon shall remain obligated to perform the Removal Obligations.

ARTICLE 15 TAXES

15.1 County shall invoice and Verizon shall pay any applicable transaction tax (including sales, use, gross receipts, or excise tax) imposed on Verizon and required to be collected by the County based on any service, rental space, or equipment provided by the County to Verizon. Verizon shall pay all personal property taxes, fees, assessments, or other taxes and charges imposed by any Governmental Authority that are imposed on Verizon and required to be paid by Verizon that are directly attributable to Verizon's equipment or Verizon's use and occupancy of the Leased Property. Payment shall be made by Verizon within 60 days after presentation of a receipted bill and/or assessment notice which is the basis for such taxes or charges. County shall pay all ad valorem, personal property, real estate, sales and use taxes, fees, assessments or other taxes or charges that are attributable to County's property (Owner's Lot) or any portion thereof imposed by any Governmental Authority.

15.2 Verizon shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which Verizon is wholly or partly responsible for payment. County shall reasonably cooperate with Verizon at Verizon's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by Verizon, there is a reduction, credit or repayment received by the County for any taxes previously paid by Verizon, County agrees to promptly reimburse to Verizon the amount of said reduction, credit or repayment. In the event that Verizon does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, County will pursue such dispute at Verizon's sole cost and expense upon written request of Verizon.

15.3 Failure to Pay Taxes. Verizon's failure to pay the Taxes for which it is obligated pursuant to Section 15.1 prior to delinquency shall constitute a default hereunder. In the event of such a default or failure, the County shall have the right, but not the obligation, to cure such default by payment of those Taxes which are due. If the County elects to cure such default, the County shall provide written notice of the amount due to the County by the Verizon and such amount shall immediately become due and payable to the County by the Verizon, together with any interest plus penalties on such Taxes, plus interest on money advanced by the County in satisfaction thereof at the Default Rate from the date payment was made by the County through the date the County is reimbursed by the Verizon for such payment. County's failure to pay the Taxes for which it is obligated pursuant to Section 15.1 prior to delinquency shall constitute a default hereunder. In the event of such a default or failure, the Verizon shall have the right, but not the obligation, to cure such default by payment of those Taxes which are due. If the Verizon elects to cure such default, the Verizon shall provide written notice of the amount due to the Verizon by the County and such amount shall immediately become due and payable to the Verizon by the County, together with any interest plus penalties on such Taxes, plus interest on money advanced by the Verizon in satisfaction thereof at the Default Rate from the date payment was made by the Verizon through the date the Verizon is reimbursed by the County for such payment.

15.4 Right to Contest Taxes. The Verizon may contest the legal validity or amount of any Taxes, assessments, or other charges for which it is responsible under this Agreement, and may institute such proceedings as it considers necessary, provided that such contest shall be prosecuted to a final conclusion as speedily as possible, and Verizon shall bear all costs and expenses in pursuing such contest or proceeding.

ARTICLE 16 ENVIRONMENTAL MATTERS

16.1 Compliance. Verizon's use of the Leased Property shall materially comply with all Environmental Laws applicable to the Leased Property, including compliance with any reporting obligations under Environmental Laws, and such use shall not endanger the health or safety of any Persons. To the extent that it is unrelated to Verizon's use of the Leased Property, County shall comply with all Environmental Laws applicable to the Leased Property, including compliance with any reporting obligations under Environmental Laws.

16.2 Notices. County and Verizon shall promptly deliver to one another copies of all written notices or correspondence or requests from, or required to be submitted to, any Governmental Authority or other third party relating to non-compliance with any Environmental Laws with respect to the Leased Property or the Release, disposal, use, storage, generation, treatment, transportation or handling of Hazardous Materials on, in, under or about the Leased Property, including copies of any notices of violation.

16.3 Covenants. Each of County and Verizon agrees that it will: (a) not: (i) permit Hazardous Substances to be present on or about the Leased Property in violation of any Applicable Requirements, including Environmental Laws, or (ii) Release any Hazardous Substances on, in, at, under, or from, the Leased Property, other than in accordance with any Applicable Requirements; and (b) comply in all material respects with Environmental Laws relating to the Leased Property and the use of Hazardous Substances on or about the Leased Property or in connection with the Communications Tower and not engage in or permit its employees, agents or contractors to engage in any activity at the Leased Property in violation of any Environmental Laws or that results in a Release of Hazardous Substances as set forth in this Section 16.3.

16.4 Releases; Discharges. If County or Verizon or any of their respective employees, agents or contractors Releases, discharges or disposes of Hazardous Substances on, in, at, from or about the Leased Property or any portion thereof to the environment in a manner that violates any Environmental Law, or results in a requirement to report, contain, remove or otherwise respond to such Release, discharge or disposal, the violating party agrees to report such occurrence to the appropriate Governmental Authorities to the extent required by Applicable Requirements, and to investigate, clean up, remove or remediate such Hazardous Substances at such violating Party's cost in full compliance with: (a) the requirements of all Environmental Laws; (b) any additional requirements of County that are reasonably necessary to protect the value of the Leased Property (such value shall be based on the official zoning and land use of the Leased Property immediately prior to the Effective Date); and (c) any additional requirements of Verizon that are reasonably necessary to protect Verizon's use of the Leased Property to construct, install, own, operate and maintain the Communications Tower. As long as the violating Party is diligently proceeding with the actions specified in the previous sentence and such violation does not have a material adverse effect on the operations of the other Party, it shall be deemed to have cured any breach of the covenants set forth in this Article 16.

16.5 Surrender. Verizon shall surrender the Leased Property to County upon the expiration or earlier termination of this Agreement: (a) free of debris and waste except for any such materials existing on the Leased Property as of the Effective Date or thereafter placed on, about or near the Leased Property by County, or its employees, agents or contractors, and (b) in a condition which complies with all Environmental Laws and all obligations on Verizon's part.

16.6 Environmental Matters. County represents and warrants that the Leased Property has not been used by County for the disposal of refuse or waste, or for the generation, processing, manufacture, storage, handling, treatment or disposal of any Hazardous Substances. County has not received any notice from any governmental body claiming any violation of any Environmental Law, and neither County, its agents or employees, nor, any occupant or prior County of the Leased Property, has ever been informed of any threatened or proposed serving of any such notice of violation or corrective work order under applicable statute, governmental regulation and/or rule.

16.7 Survival. The provisions of this Article 16 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 17 INDEMNIFICATION

17.1 Verizon. Verizon shall indemnify, defend and hold harmless County, its members, officers, directors, agents, trustees, beneficiaries, representatives, legal counsel and employees (collectively and individually, the "County Indemnified Party"), from and against any and all liabilities, claims, demands, actions, causes of action, counterclaims, suits, injunctive proceedings, administrative actions, investigations, judgments, losses, damages, expenses and other obligations (collectively, "Liabilities") including court costs, experts' fees and all attorneys' fees arising out of, relating to or incurred in connection with any third party claim against the County Indemnified Party based upon or arising out of: (a) the breach or default by Verizon of any covenant, representation or warranty made by Verizon in this Agreement; (b) any injury or damage to life, limb or person, or the property or chattel of such third party; (c) the presence or Release of Hazardous Substances in, under, on or about the Leased Property or any part thereof, which are brought or permitted to be brought onto the Leased Property or any part thereof by Verizon, its employees, agents, contractors or representatives; or (d) the violation of or creation of any Liabilities under any Environmental Laws by Verizon, its employees, agents, contractors or representatives; provided that any indemnity obligation set forth in this Section 17.1 shall not apply to any Liabilities caused by a negligent act or omission of any County Indemnified Party. Verizon's obligation under this Section 17.1 shall survive the termination of this Agreement.

17.2 No Punitive Damages. Notwithstanding anything herein to the contrary, neither Party shall be liable to the other for any punitive damages, consequential damages or "lost profits" under or arising out of its performance or non-performance of this Agreement, whether the claims for such damages are actionable under this Agreement, in tort or otherwise (including strict liability), whether at law or in equity, and expressly including claims of any third parties for which a Party has an indemnification obligation hereunder.

ARTICLE 18 PERMITTING AND ZONING

After the Effective Date, County agrees to cooperate, at Verizon's sole cost and expense, with Verizon in obtaining any Permits necessary for the construction, installation, operation and maintenance of the Communications Tower and all appurtenances thereto and for Verizon to perform its obligations under this Agreement including obtaining, amending, assigning or transferring to Verizon any Governmental Approvals held by County applicable to the Communications Tower and all appurtenances thereto. If it is reasonably anticipated at the time of obtaining any Governmental Approval that such Governmental Approval will remain in effect following the expiration of the Lease Term, Verizon shall obtain written approval from County prior to obtaining such Governmental Approval. County shall have no liability to Verizon if Verizon is unable to obtain any Governmental Approval. Notwithstanding the foregoing, subject

to the provisions of Section 26 (ARPA Requirements), the County shall reimburse Verizon for expenses incurred in connection with the development and construction of the Communications Tower up to \$500,000.

ARTICLE 19 UTILITIES

In the event that County transfers the Leased Property or any portion thereof (voluntarily or otherwise) during the Term, upon request of Verizon, County shall grant to Verizon (at Verizon's sole cost and expense) such easements, on terms and conditions satisfactory to Verizon, as shall be reasonably necessary to ensure that utility services continue to be provided to the Leased Property and the Communications Tower for the full duration of the Lease Term. County shall grant Verizon the additional easements if County approves their use and location, which approval shall not be unreasonably withheld, delayed or conditioned.

ARTICLE 20 ASSIGNMENTS & SUBLEASES

20.1 Right to Mortgage, Assign and Sublease.

(a) This Agreement may be sold, assigned, or transferred by Verizon to (i) any Verizon Affiliate, and (ii) any entity that acquires all or substantially all of Verizon's assets in the market defined by the FCC in which the Leased Property is located by virtue of a merger, acquisition or other business reorganization, in each case without the approval or consent of County. In all other cases, this Agreement may not be sold, assigned or transferred by Verizon without the written consent of County, which consent will not be unreasonably withheld, delayed or conditioned.

(b) In addition to the foregoing rights of assignment, Verizon (without County's prior written consent or approval, but with prior notice to County) may (i) assign, encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security instrument) all or any portion of its right, title or interest under this Agreement, in any Sublease and/or in any of the Communications Tower to Verizon's Affiliate, or a financing entity or Lender designated by Verizon, as security for the repayment of any indebtedness and/or the performance of any obligation or for any other purpose; and (ii) mortgage its leasehold interest hereunder and/or collaterally assign its interest in this Agreement and in any monies due under this Agreement in connection with obtaining financing for the Communications Tower and all appurtenances thereto or otherwise encumber and grant security interests in all or any part of its interest in this Agreement, the Leased Property, the Easements, or the Communications Tower (holders of these various security interests are referred to as "Leasehold Mortgagees"). Any Leasehold Mortgagee that has succeeded to Verizon's interests under this Agreement shall also have the right, without County's prior written consent or approval (but with prior written notice to County) to assign or sublet the whole or any portion or portions of its interest in the this Agreement, the Leased Property, the Communications Tower and all appurtenances thereto and the Easements for the uses permitted under this Agreement, or grant co-leases, separate leases, easements, licenses or similar rights (however denominated) to one (1) or more Creditworthy persons or entities (each, an "Assignee"). Following any such sale, conveyance, lease, assignment or sublet, the term "Verizon" shall be deemed to include each "Assignee" then holding Verizon's interest in this Agreement. However, no Leasehold Mortgagee or Assignee shall by virtue of Verizon's conveyance to it acquire any greater interest in the Leased Property or the Easements than Verizon then has under this Agreement.

20.2 [Intentionally omitted].

20.3 Assignment by County. County may not sell, transfer, sell, encumber, assign, pledge or cause to be assumed (together, “Assign”; and any such action, an “Assignment”) this Agreement, in whole or in part, to any Person unless such Person shall execute a written agreement in form and substance reasonably acceptable to Verizon under which such Person unconditionally agrees to assume and undertake all duties and responsibilities of “County” hereunder, whether arising prior to the effective date of such Assignment. County shall be permitted to Assign its rights under this Agreement to, or to otherwise mortgage and encumber the Leased Property for the benefit of, lenders or other investors providing financing of the Leased Property in County’s sole and absolute discretion, subject, however, to the provisions of this Agreement, including, without limitation, the provisions of Section 20.5.

20.4 Effect of Assignment. If the rights and interests of Verizon in this Agreement shall be assigned in accordance with Section 20.1(a) (except for assignments referenced in Section 20.1(b)(i) or (ii)) and the assuming party shall agree in writing to be bound by, and to assume, the terms and conditions hereof and any and all obligations to County arising or accruing hereunder from and after the date of such assumption, Verizon shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and County shall continue this Agreement with the assuming party as if such person had been named as Verizon under this Agreement, provided, however, that the assuming party is Creditworthy.

20.5 Sublease. Verizon may sublease the Leased Property, inclusive of tower space on the Communications Tower, in its discretion, upon notice to County. Verizon shall not be entitled to any rental consideration in conjunction with any such sublease. While Verizon shall not be entitled to any sublease rent, it shall be entitled to recover from any sublessee a pro rata share of the unreimbursed tower costs. The unreimbursed tower costs shall be the total tower construction costs, inclusive of any common improvements for the benefit of potential sublessees (“Tower Construction Costs”), less the amount of the Award to Verizon under Article 26. By way of illustration, if the total tower construction costs are \$900,000.00 and the Award under Article 26 is \$500,000.00, the unreimbursed tower costs shall be \$400,000.00. In addition, the sublessee shall be responsible, on a pro rata basis, for any common maintenance or repair costs associated with the Tower Construction Costs. The payment of unreimbursed Tower Construction Costs shall be a precondition of said sublessee being granted the right to utilize the Communications Tower pursuant to a sublease agreement with Verizon.

ARTICLE 21 MORTGAGEE PROTECTION

21.1 INTENTIONALLY DELETED.

ARTICLE 22 CONDEMNATION AND CASUALTY

22.1 Condemnation. If, at any time during the Lease Term, any authority having the power of eminent domain shall condemn a portion of the Leased Property, the Easements or the Communications Tower for any public use or otherwise, such that the operation of the Communications Tower becomes, in the reasonable discretion of Verizon, impractical, then Verizon may terminate this Agreement without incurring any liability to County with respect to such termination by giving written notice to County indicating the effective date of such termination except that Verizon will have responsibility to remove the Communications Tower from the Leased Property.

22.2 Apportionment, Distribution of Award. Subject to Section 21.9, all sums awarded, including damages and interest, shall be divided as follows and in the order of priority listed:

(a) First, County shall be entitled to receive payment for the taking of the real property constituting the Leased Property (including any "bonus value" in this Agreement).

(b) Second, Verizon shall be entitled to receive payment for any cost or loss that Verizon may sustain in the taking, removal and/or relocation of the Communications Tower, or the Easements, if any.

(c) Fifth, all remaining amounts of the award shall be paid to County.

22.3 Verizon Repair and Restoration. If, at any time during the Term, the Communications Tower shall be substantially damaged or destroyed and rendered inoperable by fire or other occurrence of any kind, Verizon shall at its sole cost and expense either (a) repair or replace the Improvements, or (b) elect to terminate this Agreement by providing sixty (60) days prior written notice to County in which case Verizon shall decommission and remove the Communications Tower and promptly restore the Leased Property to substantially the same condition as existed prior to the Effective Date. Such removal, repair or replacement, including such changes and alterations as aforementioned and including temporary repairs, are referred to in this Article as the "Work."

22.4 Conditions of the Work. Except as otherwise provided in this Article 22, the conditions under which any Work is to be performed and the method of proceeding with and performing the same shall be governed by all of the provisions of this Agreement.

22.5 Payment of Insurance Proceeds. All insurance money paid to Verizon on account of such damage or destruction under the policies of insurance provided for in Article 3, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof shall be applied by Verizon to the payment of the cost of the Work to the extent such insurance proceeds shall be sufficient for the purpose. If the insurance proceeds received by Verizon shall not be sufficient to pay the entire cost of the Work or if Verizon finds that the Work is otherwise not economically justified, Verizon may elect not to repair and replace the Communications Tower, and to terminate this Agreement upon written notice to the County.

22.6 Failure to Commence Repairs. If the Work shall not have been commenced within one hundred eighty (180) days of the date of the casualty or other occurrence, or such longer period as may be reasonably required to adjust the insurance, achieve final plans and obtain all necessary Permits, or if such Work after commencement shall not proceed with due diligence (any Force Majeure event excepted), County may terminate this Agreement upon written notice to Verizon. On such termination, the insurance proceeds received by Verizon shall be used to the extent necessary to demolish and remove the Communications Tower and any other structures on the Leased Property and to restore the Leased Property. Upon the completion of such activities, Verizon shall have no further obligation to pay County any other amount under this Agreement (other than payments due as of the effective date of termination and payments required by any provisions of this Agreement that expressly survive termination).

22.7 Verizon Right to Terminate in Event of Shutdown. In the event a Governmental Authority decrees, orders or demands that operation of the Communications Tower cease or that the Communications Tower must be removed from the Leased Property, Verizon shall

have the right to terminate this Agreement without penalty to either Party upon delivery to County of thirty (30) days prior written notice.

ARTICLE 23 DEFAULT AND TERMINATION

23.1 Default by Verizon. The occurrence of any of the following shall constitute an event of default ("Event of Default") on the part of Verizon:

(a) A default in the payment by Verizon of any sum under this Agreement due and owing to the County shall have occurred and remains uncured for thirty (30) days after written notice to Verizon;

(b) A default by Verizon under this Agreement, other than a default in the payment of any sum due and owing to the County, as provided in Section 23.1(a) above, shall have occurred and remains uncured for thirty (30) days after County provides Verizon with written notice of such default; provided, however, that if such default is not reasonably capable of being cured within such thirty (30) day period, Verizon shall have such longer period as is reasonably necessary to remedy such default so long as Verizon continuously and diligently pursues such remedy at all times until such default is cured;

(c) Abandonment of the Leased Property after the Commercial Operation Date, where such abandonment continues for a period of thirty (30) days after written notice thereof by County to Verizon; or

(d) If Verizon shall (a) become insolvent or generally unable to pay its debts as they become due; (b) apply for, consent to, or acquiesce in the appointment of a trustee, receiver, sequestrator or other custodian for it or any of its property, or make a general assignment for the benefit of its creditors; (c) in the absence of any such application, consent or acquiescence, permit or suffer to exist the appointment of a trustee, receiver, sequestrator or other custodian for it or a substantial portion of its property, and such trustee, receiver, sequestrator or other custodian shall not be discharged within sixty (60) days; (d) permit or suffer to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency Applicable Requirements, or any dissolution, winding up or liquidation proceeding, in respect of it, and, if any such case or proceeding shall be consented to or acquiesced in by it or shall result in the entry of an order for relief or shall remain for sixty (60) days without such being dismissed; or (e) take any formal action authorizing or in furtherance of any of the foregoing.

23.2 Remedies of County. Upon the occurrence of an Event of Default, County shall have all of the rights of a County at law or in equity, including the following:

(a) After expiration of the applicable cure periods specified therein and herein, County shall have the right to terminate this Agreement, and at any time thereafter recover possession of the Leased Property or any part thereof through legal action and expel and remove therefrom Verizon and any other person occupying the same, by any lawful means, and again repossess and enjoy the Leased Property without prejudice to any of the remedies that County may have under this Agreement, or at law or equity by reason of Verizon's default or of such termination.

(b) Pursue any remedies available to it at law or in equity including damages, specific performance, injunction, or other equitable relief.

All of the remedies permitted or available to County under this Agreement, or at law or in equity, shall be cumulative and not alternative and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

23.3 Default by County. The occurrence of any of the following shall constitute an event of default ("County Default") on the part of County:

(a) A default in the payment by County of amounts owed by County to Verizon, if any, under this Agreement shall have occurred and remains uncured for thirty (30) days after written notice by Verizon to County; or

(b) A default by County under this Agreement, other than a default in the payment of amounts owed by County to Verizon as provided in Section 23.3(a) above, shall have occurred and remains uncured for thirty (30) days after Verizon provides County with written notice of such default; provided, however, that if such default is not reasonably capable of being cured within such thirty (30) day period, County shall have such longer period as is reasonably necessary to remedy such default so long as County continuously and diligently pursues such remedy at all times until such default is cured.

23.4 Remedies of Verizon. Upon the occurrence of a County Default, which remains uncured after the applicable cure period has expired, Verizon shall have the following remedies:

(a) Terminate this Agreement by providing to County sixty (60) days written notice and, in connection therewith remove all of the tangible property comprising the Communications Tower from the Leased Property at Verizon's expense.

(b) Pursue any remedies available to it at law or in equity including damages, specific performance, injunction, or other equitable relief.

All of the remedies permitted or available to Verizon under this Agreement, or at law or in equity, shall be cumulative and not alternative and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, BOTH PARTIES HEREBY WAIVE THEIR RIGHT TO RECOVER, CONSEQUENTIAL, INCIDENTAL, AND PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER ARISING, WHETHER IN CONTRACT, IN TORT, OR OTHERWISE, UNDER OR WITH RESPECT TO ANY ACTION TAKEN IN CONNECTION WITH THIS AGREEMENT.

ARTICLE 24 DECOMMISSIONING

24.1 Removal Obligations. Upon the termination or expiration of this Agreement and as soon as reasonably practicable thereafter, but no later than three (3) months thereafter, Verizon is required to remove the Communications Tower and other Improvements owned by Verizon from the Leased Property and appurtenant areas, and return the Leased Property and appurtenant areas to their original condition existing on the Effective Date, with the exception that (i) roadway grading may remain in place provided that the roadway surfacing (if any) is removed and the remaining sub-grade is de-compacted and re-vegetated, (ii) buried conduit (and

other below ground components) more than two (2) feet below grade may be left in place, and (iii) any other below ground components of the Improvements may be left in place at the unilateral election of County.

24.2 Decommissioning Bond. In the event the applicable Governmental Authority requires as a condition of its site plan or other zoning approval of the Communications Tower that Verizon deposit with the such Governmental Authority a decommissioning bond, surety, escrow or similar removal fund, then Verizon shall request that such Governmental Authority permit County to be named as an additional insured as it interests may appear under such bond, surety, escrow or fund. County acknowledges that such Governmental Authority may require County to enter into an agreement with such Governmental Authority in regards to the respective priority of enforcement and rights arising under such bond, surety, escrow or fund. In the event the applicable Governmental Authority does not require that Verizon deposit with the such Governmental Authority a decommissioning bond, surety, escrow or similar removal fund, then within thirty (30) days after construction of the Communications Tower, Verizon will retain an independent and registered professional engineer with prior experience estimating decommissioning costs of communications towers, to calculate the decommissioning costs for the Communications Tower and any other improvements installed by Verizon. This calculation will include the total cost estimate for implementing the decommissioning plan, accounting for any unanticipated contingencies and estimates of salvage value of the Communications Tower components (as updated, "Reclamation Estimate"). Verizon shall thereafter deliver to County a decommission bond, surety, escrow, or similar removal fund issued by a credit worthy bonding company or financial institution, as applicable, for the amount of the Reclamation Estimate. Any payment bond or letter of credit required to be issued to County shall be released and returned to Verizon upon County's reasonable satisfaction that removal and restoration obligations under this Agreement have been fulfilled. The bond or letter of credit provided by Verizon shall be updated as needed to take into consideration the then-current Reclamation Estimate.

ARTICLE 25 COMPLIANCE WITH LAW AND ALTERATIONS

25.1 Compliance with Laws. Verizon, at Verizon's expense, shall comply with all Applicable Requirements, Governmental Approvals and Permits issued to Verizon and related to the Communications Tower or their operation.

25.2 Alterations. Verizon shall have the right from time to time both before and after the completion of the Improvements and at Verizon's sole cost and expense to make additions, alterations and changes, structural or otherwise in or to the Leased Property as is reasonably required to conduct the Operations in compliance with the provisions of this Agreement, subject, however, in all cases to the following:

(a) Except as set forth herein, no alteration shall be made which would tend to materially change, reduce or impair the general design, purpose, use, character, output or structure of the Communications Tower, subject to applicable laws and safety standards (any such alteration, a "Substantial Alteration").

(b) No Substantial Alteration shall be commenced except after prior written notice to and consent from County, which consent shall not be unreasonably conditioned, withheld or delayed by County.

(c) Any Substantial Alteration shall be conducted under the supervision of a contractor, architect or engineer selected by Verizon and approved in writing by County, which

approval shall not be unreasonably conditioned, withheld or delayed, and no such Substantial Alteration shall be made except in accordance with detailed plans and specifications and cost estimates prepared and approved in writing by such contractor, architect or engineer and approved in writing by County, which approval shall not be unreasonably conditioned, withheld or delayed.

(d) Any alteration or Substantial Alteration shall be made with reasonable dispatch (Force Majeure events excepted) and in a good and workmanlike manner and in compliance with all applicable permits and authorizations and buildings and zoning laws, and with all other Applicable Requirements.

(e) At or prior to completion of any Substantial Alteration, Verizon will provide County with complete copies of all final plans and specifications therefor not previously provided.

ARTICLE 26 ARPA REQUIREMENTS

26.1 Award Data.

Contractor Name	Cellco Partnership
Contractor Unique Entity Identifier:	CK77N4SCAJD3
Federal Award Identification Number (FAIN):	SLFRP4273
Period of Performance Start Date:	Effective Date
Period of Performance End Date:	December 31, 2026
CFDA Number and Name:	21.027- Coronavirus State and Local Fiscal Recovery Funds ("SLFRF")
Award Amount	\$500,000.00 (the "Award")

26.2 Scope of Award. The Award may be applied to costs incurred for the development and construction of the Communications Tower, which is defined to include activities occurring from October 11, 2023 (i.e., the date of the award to Verizon for construction and operation of a tower as set forth in this Agreement) to the Commercial Operation Date ("Tower Construction Activity").

26.3 SLFRF Requirements. The Parties understand and acknowledge that use of the Award for the Tower Construction Activity is enabled through the SLFRF Program established under the American Rescue Plan Act of 2023 (Pub. L. No. 117-2), as amended (the "SLFRF Program"). County and Verizon may be subject to various requirements under the SLFRF Program. Without limiting the generality of the foregoing, the SLFRF Program includes Subpart A of 31 CFR Part 35 (Coronavirus State and Local Fiscal Recovery Funds), as adopted in the Coronavirus State and Local Fiscal Recovery Funds interim final rule (86 FR 26786, applicable May 17, 2021 through March 31, 2022), 2022 final rule (87 FR 4338, applicable January 27, 2022 through the end of the SLFRF Program award term), 2023 interim final rule (88 FR 64986, applicable September 20, 2023 through the end of the SLFRF Program award term), and obligation interim final rule (88 FR 80584, applicable November 20, 2023 through the end of the SLFRF Program award term) and other subsequent regulations enacted prior to the Effective Date implementing Section 603 of the Social Security Act (42 U.S.C. 803), as well as applicable guidance documents issued from time-to-time by the US Department of Treasury prior to the Effective Date, including the applicable versions of each of the "Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds" and the "Coronavirus State and Local Fiscal

Recovery Funds Final Rule: Frequently Asked Questions” (the “FAQs,” the most-recent compilation of which as of the Effective Date was released on March 29, 2024 (“March 2024 SLFRF FAQ”)).

County represents and warrants that the Award and costs incurred for the Tower Construction Activity are eligible to be categorized under Expenditure Award Category 6, “Revenue Replacement,” of the SLFRF Program. The Parties understand and agree that Treasury has determined that; there are no subawards under this eligible use category; the definition of subrecipient in the Uniform Guidance provides that a subaward is provided for the purpose of “carrying out” a portion of a federal award, and; County’s use of revenue loss funds does not give rise to a subrecipient relationship with Verizon under this Agreement given that there is no federal program or purpose to carry out in the case of the revenue loss portion of the Award.

Verizon understands and acknowledges that County’s administration and disbursement of the Award is subject to Subparts A, B, C, and F of the Uniform Guidance and only a subset of the requirements in Subparts D and E of the Uniform Guidance, as set forth in and modified by the response to FAQ 13.15 from the March 2024 SLFRF FAQ (“Uniform Guidance Requirements”), which, for convenience, has been provided to Verizon. Verizon shall provide all commercially reasonable assistance to the County to enable the County to meet its obligations under the SLFRF Program including without limitation the Uniform Guidance Requirements.

Pursuant to 2 C.F.R. § 200.331, County has assessed the substance and nature of the work being obtained herein for the Tower Construction Activity, and made the determination that Verizon is properly designated as a contractor under this Agreement for purposes of the Tower Construction Activity and for all purposes with respect to the SLFRF Program and Uniform Guidance Requirements. County represents that it has received all federal, state, or other approvals necessary, if any, in connection with this designation.

The estimated cost of the Tower Construction Activity as determined by Verizon is \$922,029.00 (“Estimated Tower Cost”). This Agreement shall be deemed to be a fixed-price contract with respect to the funding of the Tower Construction Activity using the Award.

For clarity, the Parties agree that Verizon shall:

- not be required to provide any matching funds, provided that Verizon shall be responsible for all costs of Tower Construction Activity in excess of the Award;
- receive disbursements of Award funds periodically as set forth in this Agreement;
- not be subject to 2 CFR 200.307 (Program Income); not be required to comply with the cost principles and procurement practices of the Uniform Guidance; not be subject to property standards including without limitation 2 CFR 200.311, .313, .314, .315, and .316; not be subject to 2 CFR 200.321, .322; and not be subject to Subpart F;
- take and hold all rights, title, and interest to all property, plant and equipment purchased with Award funds, subject to the terms of this Agreement;
- apply its standard commercial design principles as set forth in its commercial design and engineering policies and procedures used for its commercial networks in the ordinary course of business;
- not be deemed to have purchased third-party products for the government by virtue of any of its activities under this Agreement;

- be entitled to use its existing books, records, financial systems and procedures, and accounting practices in accordance with generally accepted accounting principles (GAAP); and
- be permitted to use its existing suppliers and vendors of goods and services and existing supply chain arrangements, irrespective of the procurement standards of the Uniform Guidance Requirements.

26.4 **Performance Monitoring.** Verizon is responsible for and shall monitor its performance of the Tower Construction Activity under this Agreement. Verizon shall monitor the performance of its subcontractors, consultants, and agents engaged for Tower Construction Activity who are paid from Award funds or acting in furtherance of the Tower Construction Activity. In addition to reviews of reports, records and other information submitted by Verizon to the County, monitoring procedures by County staff may include, but are not limited to, desk reviews and on-site visits by County staff, audits, and other procedures.

26.5 **Award Administration Terms.**

(a) **Award Obligations Contingent on Federal Funding and Verizon Compliance.** The payment of Award funds to Verizon for Tower Construction Activity under the terms of this Agreement shall be contingent on the receipt of such funds by the County from the SLFRF and shall be subject to Verizon's continued eligibility to receive funds under the applicable provisions of state and federal laws. If the amount of Award funds that the County receives from the SLFRF is reduced, such reduction shall be addressed through the procedure on Change in Program below. The County also may deny payment for Verizon's expenditures where invoices or other reports are not submitted as required by this Agreement or for failure of Verizon to comply with the terms and conditions of this Agreement applicable to Tower Construction Activity.

(b) **Financial Management.** Verizon shall maintain a financial management system and financial records related to all transactions with funds received for Tower Construction Activity pursuant to this Agreement. Verizon must administer funds received for Tower Construction Activity pursuant to this Agreement in accordance with all federal and state requirements applicable to Verizon, including the SLFRF Program and Uniform Guidance Requirements. Provided, however, the Tower Construction Activity provided for under this Agreement shall be identified by the County to Expenditure Category Group 6 "Revenue Replacement" and Verizon shall only be required to comply with those Uniform Guidance Requirements applicable to projects reported in Expenditure Category Group 6 "Revenue Replacement." Verizon shall maintain detailed, itemized documentation and expenses incurred for Tower Construction Activity pursuant to this Agreement.

(c) **Improper Payments.** Any item of expenditure by Verizon for Tower Construction Activity under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of the County, the US Department of Treasury, the State of Delaware, or other federal or state instrumentality to be improper, unallowable, in violation of applicable federal or state law, or the terms of this Agreement for Tower Construction Activity, or involving any fraudulent, deceptive, or misleading representations or activities of Verizon, shall become Verizon's liability, and shall be paid solely by Verizon, immediately upon notification of such, from funds other than those provided by the County under this Agreement for Tower Construction Activity or any other agreements between the County and Verizon. This provision shall survive the completion, expiration or termination of this Agreement. If the County shall become liable to the US Department of Treasury as a result of a finding that any expenditure by Verizon for Tower Construction Activity was improper, unallowable, in violation of applicable

federal or state law, or the terms of this Agreement for Tower Construction Activity, or involving any fraudulent, deceptive, or misleading representations or activities of Verizon then Verizon shall reimburse the County for any and all amounts paid to the US Department of Treasury incident to such liability up to the full amount of the Award.

26.6 Failure to Maintain Project. In the event that during the term of this Agreement, Verizon ceases to operate the project in accordance with the terms of this Agreement, such event shall be addressed through the procedure on Change in Program below. If requested, a return of Award funds to the County incident to any recapture must be made within ten (10) days of receipt of written notice for a return of Award funds provided by the County. Such written notice for a return of Award funds shall include documentation of Verizon's failure to operate the project in a manner consistent with the provisions of the Agreement applicable to Tower Construction Activity.

26.7 Verizon Reporting. As it relates to the Tower Construction Activity, Verizon shall provide a report (a "Verizon Report") not later than fifteen days prior to each date on which the County is required to submit a project and Expenditure Report to the US Department of Treasury, through December 31, 2026 or the submission of Verizon's final report of Tower Construction Activity, whichever comes later, detailing each of the following:

- (a) Project expenditures during each of:
 - (i) The reporting period beginning on the last date on which Verizon shall have submitted a Verizon Report to the County under this section and ending on the date of the Verizon Report in question.
 - (ii) The reporting period beginning on the date of the Award and ending on the date of the Verizon Report in question.
 - (iii) The anticipated expenditures in the reporting period beginning on the date of the Verizon Report in question and extending to the next date on which Verizon shall be expected to make a Verizon Report to the County.
- (b) Level of Project completion including:
 - (i) Identification of specific project timeline milestone completions during the current reporting period and expected in the next occurring reporting period.
 - (ii) Evaluation of failures to meet project timeline milestones, if applicable.
 - (iii) Reporting and documentation on project construction progress.
- (c) Information and documentation on project performance during those reporting periods in which the project begins and is completed.
- (d) Certification by Verizon of compliance with non-discrimination and civil rights laws identified in Section 26.10(c) hereof in the advancement and operation of the project during the reporting period.
- (e) The County may, in its sole discretion, question any information, documentation, or explanation provided by Verizon in any Verizon Report submitted. Verizon

shall promptly respond to any inquiry by the County on any item included in the Verizon Report and in any case, such response shall be made not later than five (5) business days after an inquiry by the County.

(f) Verizon shall promptly respond to any and all requests for information from the County which the County has, in its sole discretion, determined solicit information necessary for the County to meet its obligations to the US Department of Treasury regarding the Award.

26.8 Audit and Access to Records.

(a) Verizon agrees to permit persons duly authorized by the County, US Department of Treasury, or any other federal agency (if applicable) to inspect all records (including audits and other financial records), papers, documents, goods, and services of Verizon, and to interview any client or employee of the Verizon to be assured of satisfactory performance of the terms and conditions of this Agreement applicable to Tower Construction Activity to the extent permitted by law after giving Verizon reasonable notice. Monitoring by the County shall not relieve Verizon of its obligation to manage the Award in accordance with all applicable federal, state, and local laws, rules, and regulations.

(b) Verizon shall keep and maintain all records and accounts, including property, personnel and financial records, contractual agreements, memoranda of understanding, subcontracts, proof of insurance, and any other records related to or resulting from Tower Construction Activity under this Agreement to assure a proper accounting and monitoring of all funds. Such records shall include, but not be limited to, the following:

(i) Records providing a full description of each activity undertaken;

(ii) Adequate documentation to support costs charged to the Award;

(iii) Records documenting compliance with the non-discrimination and equal opportunity components of this Agreement applicable to Tower Construction Activity; and

(iv) Other records necessary to document compliance with provisions applicable to the Tower Construction Activity under this Agreement.

(c) Verizon must maintain records and financial documents for the Tower Construction Activity in compliance with the SLFRF Program requirements and Uniform Guidance Requirements. Wherever possible, such records shall be collected, transmitted, and stored in open and machine-readable formats. Verizon agrees to provide or make available such records for the Tower Construction Activity to the County upon request, to the US Department of Treasury upon request, to the Government Accountability Office upon request, or to the US Department of Treasury's Office of Inspector General upon request, including all of their authorized representatives, in order to conduct audits or other investigations. All records and financial documents for Tower Construction Activity must be kept and maintained until December 31, 2031.

(d) If any litigation, claim, negotiation, audit, monitoring, inspection or other action commences before the expiration of the required record retention period, such records must

be retained until completion of the action and resolution of all issues that arise from it, or the end of the required retention period, whichever is later.

(e) With respect to all matters covered by this Agreement for Tower Construction Activity, records will be made available for examination, audit, inspection, or copying purposes at any time during normal business hours and as often as the County may require. Verizon will permit the same to be examined and excerpts or transcriptions made or duplicated from such records, and audits made of all contracts, invoices, materials, records of personnel and of employment, and other data relating to all matters covered by this Agreement for the Tower Construction Activity. The County possesses an absolute right to inspect or copy all documentation associated with Tower Construction Activity under this Agreement. The rights of the County to access and copy documents for Tower Construction Activity set forth in this Section are not limited to the required retention period and shall survive past the termination of this Agreement as long as the records are retained by Verizon.

26.9 Award Disbursement and Closeout.

(a) Verizon may request disbursement of Award funds for the Tower Construction Activity periodically (e.g., monthly, quarterly, or based on completion of project-specific milestones for the Tower Construction Activity). The County shall agree to any such disbursement schedule reasonably proposed by Verizon. Verizon shall request a disbursement through use of a disbursement request, the form and substance of which shall be reasonably agreed-upon in advance with the County ("Disbursement Request"). The Disbursement Request shall include such copies of records, documentation, and other information as may be reasonably requested by the County. County shall make each disbursement of Award funds within thirty (30) days of the date of the Disbursement Request. Payment shall be made electronically in accordance with electronic payment instructions provided by Verizon.

(b) Final payment request(s) under this Agreement for Tower Construction Activity must be received by the County no later than thirty (30) days after the earlier of the expiration or termination of this Agreement. The County will not accept a payment request for Tower Construction Activity submitted after this date without prior authorization from the County. Under no circumstance shall the County have any obligation to make a payment to Verizon of Award funds after December 31, 2026. In consideration of the execution of this Agreement by the County, Verizon agrees that acceptance of final payment from the County for Tower Construction Activity will constitute an agreement by Verizon to release and forever discharge the County, its agents, employees, officers, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Verizon has at the time of acceptance of final payment for Tower Construction Activity or may thereafter have, arising out of, in connection with or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to the Tower Construction Activity under this Agreement. Verizon's obligations to the County under this Agreement for Tower Construction Activity shall not terminate until all closeout requirements are completed to the satisfaction of the County and in accordance with 2 CFR 200.344. Such requirements shall include submitting final reports to the County and providing any closeout-related information requested by the County by the deadlines specified by the County. This provision shall survive the expiration or termination of this Agreement.

26.10 Compliance Matters.

(a) The Tower Construction Activity under this Agreement is subject to the SLFRF Program requirements and the Uniform Guidance Requirements, as well as the following:

(i) Applicable guidance documents issued from time-to-time by the US Department of Treasury, including the currently applicable versions of each of the “Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds” and the “Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions” provided that any change or modification in requirements after the Effective Date shall be addressed by the Parties through the procedure for Change in Program below.

(b) Verizon agrees and certifies that it shall adhere to Federal Executive Order 12549, Debarment and Suspension, and further certifies that neither Verizon nor its principals have been suspended or debarred from participation in federal grants or other federal funding programs. Verizon shall not make or enter into any contract, with third parties that are debarred, suspended, or otherwise excluded or ineligible for participation in federal programs or activities. This Award is subject to 2 CFR Part 180 and the US Department of Treasury’s implementing regulation at 31 CFR Part 19.

(c) Verizon shall not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity) in accordance with all applicable federal, state, and local laws. Statutes and regulations prohibiting discrimination applicable to this Award, include, without limitation, the following:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and the US Department of Treasury’s implementing regulations at 31 CFR Part 22, which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;

(ii) The Fair Housing Act, Title VIII-IX of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;

(iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;

(iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.) and the US Department of Treasury’s implementing regulations at 31 CFR Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

(v) The Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

(d) Verizon must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and The US Department of Treasury's implementing regulations published at 31 CFR Part 20, which require that non-federal entities take actions to provide a drug-free workplace.

(e) Pursuant to Federal Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Verizon should encourage its employees and contractors engaged for Tower Construction Activity to adopt and enforce policies that ban text messaging while driving, and Verizon should establish workplace safety policies to decrease accidents caused by distracted drivers.

(f) Pursuant to Federal Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Verizon should encourage its contractors engaged for Tower Construction Activity to adopt and enforce on-the job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

(g) Verizon agrees to comply with the following generally applicable environmental requirements insofar as they apply to the performance of the Tower Construction Activity under this Agreement:

(i) Clean Air Act, 42 U.S.C., 7401, as amended.

(ii) Federal Water Pollution Control Act, 33 U.S.C., 1251, as amended;

(iii) Environmental Protection Agency ("EPA") regulations pursuant to 40 CFR Part 50, as amended; and

(iv) Flood Disaster Protection - In accordance with the requirements of the Flood Disaster Protection Act of 1973, Verizon shall assure that for Tower Construction Activity located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes.

(h) Verizon shall obtain and keep current any license, certification, permit, or accreditation required by federal, state, or local law for the ordinary operations of Verizon, for the Tower Construction Activity, or for the operation of the project and shall submit to County proof of any licensure, certification, permit or accreditation upon request.

(i) The names and total compensation of the five most highly compensated officers of Verizon shall be listed if Verizon in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards; and \$25,000,000 or more in annual gross revenues from federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1) Code of 1986. If this requirement applies to Verizon, Verizon will submit the list of its five most highly compensated officers to the County within thirty (30) days of the execution of this Agreement and yearly thereafter during the Lease Term.

(j) Verizon shall obtain, and provide to the County, a unique entity identifier assigned by the System for Award Management (SAM), which is accessible at www.sam.gov. Verizon shall maintain its registration with SAM at all times during the term of Tower Construction Activity under this Agreement.

(k) Upon substantial completion of the Tower Construction Activity Verizon shall certify in writing to the County that the Tower Construction Activity has been substantially completed pursuant to the terms of this Agreement. Verizon shall promptly notify the County upon its becoming aware of circumstances which may result in Verizon's inability or unwillingness to proceed with completion of the Tower Construction Activity. Under no circumstances will Verizon fail to achieve substantial completion of the Tower Construction Activity by December 31, 2026.

26.11 Federal Restrictions on Lobbying. Verizon shall comply with the restrictions on lobbying in 31 CFR Part 21. Pursuant to this regulation, Verizon may not use any federal funds to pay any person to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. Verizon shall certify in writing that Verizon has not made, and will not make, any payment prohibited by these requirements using the form attached hereto as Exhibit E. Verizon shall require each party which Verizon enters into an agreement of any kind related to the Tower Construction Activity to complete the Certification Regarding Lobbying attached hereto as Exhibit E and Verizon shall retain such certifications as records pursuant to this Agreement.

26.12 Publications. Any publications produced with funds from the Tower Construction Activity shall display the following language: "This project [is being / was] supported, in whole or in part, by federal award number SLFRP4273 awarded to New Castle County, Delaware by the U.S. Department of the Treasury."

26.13 Change in Program. If there is a change in any legal or program requirement including without limitation the requirements of the SLFRF Program, the Uniform Guidance Requirements, or the amount or availability of Award funds that, as reasonably determined by either Party, has a material adverse effect on such Party's rights or obligations in connection with the Tower Construction Activity, both Parties shall meet to discuss the change and shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in a mutually acceptable manner in light of the change.

26.14 Confidentiality of Records. Any documents, records, information, reports, summaries, or other such materials, in tangible or intangible form, (collectively, "Verizon Records") provided by Verizon to the County under this Agreement may be marked by Verizon as containing trade secrets, commercial or financial information of a confidential nature or; as items that could jeopardize the security of any structure owned by the State or any of its political subdivisions, or could facilitate the planning of a terrorist attack, or could endanger the life or physical safety of an individual or; as being of any other type exempt from disclosure pursuant to Chapter 100 (Freedom of Information Act), Title 29, State Government, General Regulations for State Agencies under Delaware law. The County agrees to treat any Verizon Records so marked as exempt from disclosure to the fullest extent permitted under State and local law.

ARTICLE 27 MISCELLANEOUS

27.1 Covenants Running with the Land. This Agreement and all of the Easements, covenants, agreements, conditions and restrictions set forth in this Agreement are effective as of the Effective Date with respect to the lease of the Leased Property by Verizon and are intended to be and shall be construed as covenants that burden and run with the Owner's Lot or the adjacent real property owned by County, as may be applicable.

27.2 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon County and Verizon, their heirs, successors and assigns (including each Assignee). County agrees that the rights of Verizon under this Agreement shall extend to agents, representatives, employees, contractors, subcontractors and other service providers of Verizon.

27.3 Memoranda. County and Verizon shall execute in recordable form the Memorandum of Lease attached hereto as **Exhibit D** and Verizon shall be authorized to record such instrument in the Land Records at Verizon's cost. Any amendment to this Agreement and between the parties hereto (or any related memoranda reflecting any such amendments) shall be recorded in the Land Records.

27.4 Notices. Any notice required under this Agreement shall be in writing and shall be sent to the appropriate notice address by overnight delivery using a nationally recognized overnight courier. Notice given will be effective upon the earlier to occur of actual delivery to the Notice Address of the addressee or refusal of receipt by the addressee. Any party may change its notice address by delivering appropriate written notice to the other party in the manner described above; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice by the addressee.

if to County:

New Castle County Government Center
Attn: []
87 Reads Way
New Castle, DE 19720

With a copy to:

Barnes & Thornburg LLP
Attn: Thomas McGonigle, Esq.
222 Delaware Avenue, Suite 1200
Wilmington, DE 19801

if to Verizon:

Cellco Partnership
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

With a copy to:

Basking Ridge Mail Hub

Attn: Legal Intake
 One Verizon Way
 Basking Ridge, NJ 07920

If to any Leasehold Mortgagee: at the address indicated in the notice to County provided under Article 20, above or, if none, at the address in the recorded instrument evidencing its leasehold mortgage.

27.5 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF EITHER PARTY RELATED TO THE PROVISIONS OF THIS Agreement, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY.

27.6 Entire Agreement; Amendments. This Agreement and the Easements constitute the entire agreement between County and Verizon respecting the subject matter herein and it replaces and supersedes any prior agreements. This Agreement shall not be modified or amended except in writing signed by both Parties or their lawful successors in interest.

27.7 Governing Law and Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of Delaware. Subject to the limitations and other provisions set forth in Section 27.10, the Parties irrevocably submit to the personal jurisdiction of any federal court located in Delaware that may properly exercise subject matter jurisdiction, and waive any objection to the jurisdiction of such court, including, without limitation, objections that such forum is inconvenient or prejudicial. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement, and is hereby waived.

27.8 [Intentionally omitted].

27.9 Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court or regulatory agency of competent jurisdiction, to be either invalid, void or unenforceable: (a) the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding; and (b) County and Verizon shall negotiate an equitable adjustment in the provisions of this Agreement with a view toward effecting the purposes of this Agreement, and the validity and enforceability of the remaining provisions hereof shall not be affected thereby. Notwithstanding any other provision of this Agreement, the Parties agree that in no event shall the Lease Term be for a longer period than the longest period therefore permitted by Applicable Requirements.

27.10 No Brokers. The Parties hereby represent and warrant to each other that they have not used the services of any broker in regard to this transaction and agree to indemnify and hold each other harmless from any and all claims of brokers arising out of or in connection with the negotiation of or the entering into this Agreement, if such broker claims that he acted through or on behalf of such Party.

27.11 Further Assurances. The Parties hereto shall at all times hereafter execute any documents and do any further acts that may be necessary or desirable to carry out the purposes of this Agreement.

27.12 Counterparts. This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which shall collectively constitute a single instrument. The Parties agree that this Agreement may be executed and delivered by electronic signatures and that the signatures appearing on this Agreement are the same as handwritten signatures for purposes of validity, enforceability and admissibility.

27.13 Rules of Interpretation. For purposes of this Agreement, except where otherwise expressly provided or unless the context otherwise necessarily requires:

(a) references to this Agreement shall include a reference to all appendices, annexes, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time;

(b) the words “herein,” “hereof,” “hereunder” and “herewith” shall refer to this Agreement as a whole and not to any particular Section or subsection of this Agreement;

(c) the terms “include,” “includes” and “including” shall be construed to mean “including, without limitation” or “including but not limited to” and shall not be construed to mean that the examples given are an exclusive list of the topics covered;

(d) references to “Sections,” “Schedules” or “Exhibits” shall be to Sections, Schedules and Exhibits of this Agreement;

(e) the introductory paragraph hereof, all Recitals and all Schedules and Exhibits are incorporated herein;

(f) references to a given agreement, instrument or other document shall be a reference to that agreement, instrument or other document as modified, amended, supplemented and restated through the date as of which such reference is made;

(g) references to a Person include its successors and permitted assigns;

(h) the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa; and

(i) reference to a given governmental rule is a reference to that governmental rule and the rules and regulations adopted or promulgated thereunder, in each case, as amended, modified, supplemented or restated as of the date on which the reference is made.

27.14 No Dedication. Nothing herein shall be construed as the dedication by either Party of the Communications Tower to the public or any part thereof. Neither Party shall take any action that would subject the other Party, or the Communications Tower, to the jurisdiction of any Governmental Authority or public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement.

[signature page to follow]

IN WITNESS WHEREOF, Verizon and County have executed this Concession Agreement
on the day and date first above.

CELLCO PARTNERSHIP
d/b/a Verizon Wireless

By: _____ (SEAL)

Name:

Title:

NEW CASTLE COUNTY

By: _____ (SEAL)

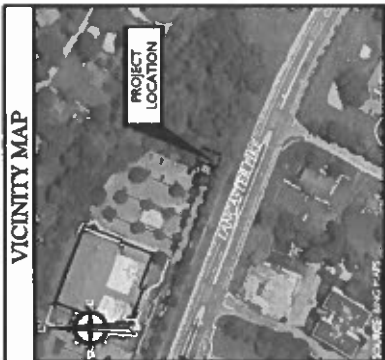
Name:

Title:

Exhibit A

Depiction of Leased Property

[To be attached.]



VICINITY MAP



Existing Subject Property Line
Approximate Location of Adjacent Property Line (Typ.)



SITE PLAN
NOT TO SCALE

PROJECT NOTES

- SITE INFORMATION OBTAINED FROM THE FOLLOWING:
 - LEASE EXHIBIT ENTITLED "WIL LANCASTER PK" PREPARED BY FRANK COLASIMINO ARCHITECTS, INC. DATED 1/17/20
 - EXISTING CONDITIONS PLAN ENTITLED "HOCKESSIN PARK" PREPARED BY LANDHAUS SCIENCE & ENGINEERING DATED 05/20/14
- EXHIBIT "A" AS SUBMITTED IS A CONCEPTUAL REPRESENTATION OF THE LEASE AGREEMENT ONLY. FINAL CONSTRUCTION OF THE PROPOSED MONOPOLE SHALL BE SUBJECT TO THE BUILDING CODES AND ZONING ORDINANCES AND SHALL SUPERSEDE EXHIBIT "A".
- THE LOCATION OF EXISTING PROPOSED UTILITIES AND EASEMENTS ARE SUBJECT TO THE REVIEW AND APPROVAL OF THE RESPECTIVE UTILITY COMPANIES AND MAY NEED TO BE RELOCATED.

PROJECT INFORMATION

SITE INFORMATION
 JURISDICTION: NEW CASTLE COUNTY
 APN: 09-008 J0-102 & 09-008 J0-100

APPLICANT
 COMPANY: CELCO PARTNERSHIP dba VERIZON WIRELESS
 ADDRESS: 513 TOWNSHIP LINE ROAD BUILDING 2 FLOOR 3
 CITY, STATE, ZIP: BLUE BEL, PA 19022

SITE ACQUISITION
 COMPANY: WIRELESS ACCESS TECHNOLOGIES, INC.
 CONTACT: MATT GRAUBART
 PHONE: (247) 353-2762

CONSTRUCTION MANAGER
 COMPANY: CELCO PARTNERSHIP dba VERIZON WIRELESS
 ADDRESS: 513 TOWNSHIP LINE ROAD BUILDING 2 FLOOR 3
 CITY, STATE, ZIP: BLUE BEL, PA 19022
 CONTACT: BUC ROSEN
 PHONE: (247) 431-3610

ENGINEER
 COMPANY: COLLIERS ENGINEERING & DESIGN, INC.
 ADDRESS: 2000 MIDLAND DRIVE SUITE 100
 CITY, STATE, ZIP: HATFIELD, PA 19324
 PHONE: (610) 977-0412
 EMAIL: MATTHEW.GRAUBART@COLLIERSINC.COM

Engineering & Design
www.colliersengineering.com

CELCO PARTNERSHIP dba VERIZON WIRELESS
513 TOWNSHIP LINE ROAD BUILDING 2 FLOOR 3
BLUE BEL, PA 19022

Matthew Graubart
Professional Engineer
License No. 00000000000000000000

NO.	DATE	DESCRIPTION
1	09/08/20	ISSUED FOR PERMIT
2	09/08/20	ISSUED FOR PERMIT
3	09/08/20	ISSUED FOR PERMIT
4	09/08/20	ISSUED FOR PERMIT
5	09/08/20	ISSUED FOR PERMIT
6	09/08/20	ISSUED FOR PERMIT
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59	09/08/20	ISSUED FOR PERMIT
60	09/08/20	ISSUED FOR PERMIT

IF YOU ARE A USER OF ANY OF THE INFORMATION CONTAINED HEREIN, YOU AGREE TO HOLD THE ENGINEER AND DESIGNER HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST THEM BY ANY THIRD PARTY.

SITE NAME:
 WIL LANCASTER PIKE
 7250 LANCASTER PIKE
 HOCKESSIN, DE 19097
 NEW CASTLE COUNTY

Matthew Graubart
Professional Engineer
License No. 00000000000000000000

24 SITE PLAN

60 LE-1

Exhibit B

Depiction of Access Easement Area

[To be attached.]

Exhibit C

Depiction of Construction Easement Area

[To be attached.]

QUALITY DO NOT MEAN BUILT FOR CONSTRUCTION.

Exhibit D

Memorandum of Concession Agreement

[To be attached.]

PREPARED BY:

Richard L. Schneider, Esq.
Vogel, Chait, Collins and Schneider, PC
25 Lindsley Drive, Suite 200
Morristown, New Jersey 07960

STATE OF DELAWARE

COUNTY OF NEW CASTLE

PARCEL NOS: 08-008-100
08-008-102

MEMORANDUM OF CONCESSION AGREEMENT

THIS MEMORANDUM OF CONCESSION AGREEMENT ("Memorandum"), made this ____ day of _____, 20__, between NEW CASTLE COUNTY, with an address of 87 Reads Way, New Castle, DE 19720, hereinafter designated "County", and Cellco Partnership d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter designated as "Verizon".

1. County and Verizon entered into a Concession Agreement ("Agreement") on _____ for an initial term of ten (10) years with the right of Verizon to renew for three (3) additional five (5) year terms.

2. County hereby grants to Verizon the right to operate a wireless communications facility upon the Premises, which are a part of that real property owned, leased or controlled by County and designated as Parcel 08-008-102 (the "Property"). The rights granted to Verizon to operate its wireless communications facility include a right of access pursuant to a Declaration of Access Easement through Parcel 08-008-100 ("Access Parcel") to be recorded simultaneously herewith. The Property and Access Parcel are legally described on Exhibit "A" attached hereto and made a part hereof. The Premises are a portion of the Property and are shown in detail on Exhibit "B" attached hereto and made a part hereof.

3. A copy of the Concession Agreement is on file in the offices of the County and Verizon.

4. The terms, covenants and provision of the Agreement, of which this is a Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of County and Verizon.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, County and Verizon have caused this Memorandum to be duly executed on _____, 20__.

COUNTY:

New Castle County

Witness

Print Name

By: _____

Name: _____

Title: _____

Date: _____

VERIZON:

Cellco Partnership d/b/a Verizon Wireless

Witness

Print Name

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

DESCRIPTION OF PROPERTY

SEE ATTACHED

RECORDED - 169

(100-44-24)

DEED-4778WSTER

2122

Printed and Sold by Hugh A. George Co., Stationers, 625 Third St., Wilmington, Del.

This Deed, Made this28th day of AUGUST

in the year of

our LORD one thousand nine hundred and eighty

BETWEEN, the 17-41 COMPANY, a Delaware partnership



A N D

NEW CASTLE COUNTY, a political subdivision of the State of Delaware, party of the second part.

Witnesseth. That the said part of the first part, for and in consideration of the sum of TWO HUNDRED FORTY-SIX THOUSAND AND NO/100 lawful money of the United States of America, DOLLARS (\$246,000) the receipt whereof is hereby acknowledged, hereby grant and convey unto the said part of the second part,

ALL

those certain lots, pieces or parcels of land, situate in Mill Creek Hundred, New Castle County, State of Delaware, and shown as PARCELS 1 and 2 on a Record Minor Subdivision Plan, Drawing No. 7701271-1328, dated May 16, 1977, prepared by McBride & Ziegler, Inc., Professional Land Surveyors, recorded on June 17, 1977 in the office of the Recorder of Deeds in and for New Castle County in Microfilm No. 4497, and more particularly described as follows:

BEGINNING at a concrete monument set in the northeasterly right-of-way line of Delaware State Route 41, also known as the New Lancaster Pike (at 105 feet wide), said point of Beginning being also a point in the easterly boundary of lands now or formerly of Steven Michael Castorani, and which point of Beginning can be located from the intersection of the centerline of Delaware State Route 41 with the centerline track of the Baltimore & Ohio Railroad (Landenberg Branch), by the two (2) following described courses and distances: (1) South 60° 28' East along the centerline of Delaware State Route 41 a distance of 508.14 feet to a point, and (2) North 29° 32' 00" East 50.0 feet to the point of Beginning;

THENCE North 5° 46' 03" East along the easterly boundary of lands now or formerly of Steven Michael Castorani 283.99 feet to a concrete monument set in the southerly right-of-way line of the Baltimore & Ohio Railroad;

THENCE along the southerly right-of-way line of the Baltimore & Ohio Railroad the two (2) following described courses and distances: (1) North 77° 19' 07" East 272.97 feet to a concrete monument set at a point of curvature, and (2) on a curve to the left having a radius of 2900.0 feet, an arc distance of 212.27 feet, the chord equivalent being 212.22 feet measured North 75° 13' 18" East to an iron pipe found, replaced by a concrete monument, at a corner for lands now or formerly of Arcada Development, Inc.;

THENCE South 47° 12' 17" East along the southwesterly boundary of lands now or formerly of Arcada Development, Inc., 325.48 feet to a iron pipe found at a corner for Lot 12 "WHITEBRIAR;"

THENCE in a general southeasterly direction along the southwesterly boundary of "WHITEBRIAR," the six (6) following described courses and distances: (1) South 47° 12' 17" East 416.05 feet to a concrete monument set; (2) South 47° 12' 17" East 126.30 feet to a point; (3) North 47° 42' 44" East 24.75 feet to a point; (4) South 36° 10' 16" East 99.90 feet to a concrete monument found; (5) South 72° 12' 13" West 7.35 feet to a concrete monument found, and (6) South 47° 14' 59" East 326.36 feet to a stone with a drill hole found at a common corner of lands now or formerly of Joseph D. Durso and Theresa M. Durso, his wife, and lands now or formerly of David Co., Inc.;

THENCE along the northwesterly boundary of lands now or formerly of Joseph D. Durso and Theresa M. Durso, his wife the two (2) following described courses and distances: (1) South 75° 19' 17" West 355.62 feet to an iron pipe found, and (2) South 75° 19' 17" West 8.23 feet to a concrete monument set in the north-

THENCE along said northeasterly right-of-way line the three (3) following described courses and distances: (1) on a curve to the left having a radius of 2341.95 feet, an arc distance of 146.41 feet, the chord equivalent being 146.39 feet measured North 58° 40' 32.5" West to an iron pipe found and replaced by a concrete monument; (2) North 60° 28' West 421.36 feet to a concrete monument set, and (3) North 60° 28' West 862.0 feet to the point of BEGINNING.

CONTAINING within said described metes and bounds 16.3963 Acres, more or less.

SUBJECT to a sanitary sewer easement, in perpetuity, granted to the New Castle County Department of Public Works, said easement being a strip of land 10 feet in perpendicular width lying southerly of and in the vicinity of the northerly boundary of the herein described parcel and extending from the easterly boundary of lands of Steven Michael Castorani to the southwesterly boundary of lands now or formerly of Arcada Development, Inc., which easement is shown on the above referenced plan.

BEING part of the same lands and premises which Robert B. Walker and Mary E. D. Walker, his wife by their deed dated June 25, 1963, and recorded in the office of the Recorder of Deeds in and for New Castle County, Delaware, at Wilmington, in Deed Record F, Volume 649, granted and conveyed unto 17-41 Co., in fee.

This land is being acquired for the use of the Department of Parks and Recreation of New Castle County.

PARCEL NO. 08-008.30-100 and 08-008.30-102

GRANTER'S ADDRESS: City County Building
800 French Street
Wilmington, Delaware 19801



In Witness Whereof,

and seal

the said part of the first part has hereunto set
the day and year aforesaid.

THE 17-41 COMPANY, a Delaware partnership

Sealed and Delivered in the Presence of

W. A. J. Jr.
W. A. J. Jr.

By *Benjamin M. Davis Jr.* (Seal) Partner
By *William H. Davis* (Seal) Partner
By *William F. Brooks* (Seal) Partner
By *Jane Ramsey Brown* (Seal) Partner
By *Charles Johnson* (Seal) Partner

State of Delaware,

NEW CASTLE

County.

this 28th

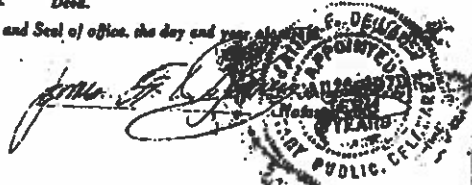
day of AUGUST in the year of our LORD, one thousand

nine hundred and eighty,

a Notary Public for the County and State aforesaid, Benjamin M. Davis Jr., William H. Davis, William F. Brooks, Jane Ramsey Brown and Charles Johnson, partners of The 17-41 Company, a Delaware partnership,

parties to this Indenture, known to me personally to be such, and they acknowledged this Indenture to be their Deed.

GIVEN under my Hand and Seal of office, the day and year above written.

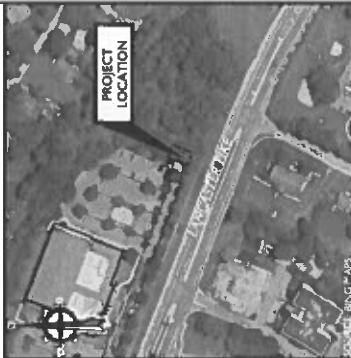


LEO J. DUGAN, JR. Recorder

SEP 11 1980

EXHIBIT B
PREMISES
SEE ATTACHED

VICINITY MAP



PROJECT NOTES

1. SITE INFORMATION OBTAINED FROM THE FOLLOWING:
A. LEASE EXHIBIT ENTITLED "WIL LANCASTER PIKE" PREPARED BY FRANK CALABRO ARCHITECTS, INC. DATED 11/17/2013.
B. EXISTING CONDITIONS PLAN ENTITLED "HOCKESSIN PARK" PREPARED BY LANDMARK SERVICE & ENGINEERING DATED 12/20/14.
2. EXHIBIT "A" AS SUBMITTED IS A CONCEPTUAL REPRESENTATION DRAWING. THE DRAWING IS NOT TO BE USED FOR CONSTRUCTION. THE DRAWING MAY VARY TO COMPLY WITH APPLICABLE BUILDING CODES AND ZONING APPROVALS AND WILL SUPERSEDE EXHIBIT "A".
3. THE LOCATION OF LESSEES PROPOSED UTILITIES AND EASEMENTS ARE SUBJECT TO THE REVIEW AND APPROVAL OF THE RESPECTIVE UTILITY COMPANIES AND MAY NEED TO BE RELOCATED.

PROJECT INFORMATION

SITE INFORMATION
 JURISDICTION: NEW CASTLE COUNTY
 APN: 08-008-30-102 & 08-008-30-100

APPLICANT
 COMPANY: CELCO PARTNERSHIP d/b/a VERIZON WIRELESS
 ADDRESS: 512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 CITY, STATE, ZIP: BLUE BELL, PA 19422

SITE ACQUISITION
 COMPANY: WIRELESS ACCESS TECHNOLOGIES, INC.
 CONTACT: SUE MANCHEL
 PHONE: (267) 332-7421

CONSTRUCTION MANAGER
 COMPANY: CELCO PARTNERSHIP d/b/a VERIZON WIRELESS
 ADDRESS: 512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 CITY, STATE, ZIP: BLUE BELL, PA 19422
 CONTACT: ERIC FISHER
 PHONE: (267) 411-5410

ENGINEER
 COMPANY: COLLIER ENGINEERING & DESIGN, INC.
 ADDRESS: 1000 W. MARKET STREET, SUITE 100
 CITY, STATE, ZIP: MT. LAUREL, NJ 08054
 CONTACT: MATT GRABMANN, P.E.
 PHONE: (856) 972-6412
 EMAIL: MATTHEW.GRABMANN@COLLIERENGINE.COM

Existing Subject Property Line

Approximate Location of Adjacent Property Line (Typ.)



SITE PLAN
 NOT TO SCALE

Collins Engineering & Design
 www.collinsengineering.com
 1000 W. Market Street, Suite 100
 Mt. Laurel, NJ 08054
 (856) 972-6412
 matthew.grabmann@collinseng.com

verizon

CELCO PARTNERSHIP d/b/a
 VERIZON WIRELESS
 512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 BLUE BELL, PA 19422

PROJECT LOCATION
 512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 BLUE BELL, PA 19422

NO.	DATE	DESCRIPTION	BY	CHKD
1	08/08/2013	PRELIMINARY	SM	SM
2	08/08/2013	REVISED	SM	SM
3	08/08/2013	REVISED	SM	SM
4	08/08/2013	REVISED	SM	SM
5	08/08/2013	REVISED	SM	SM
6	08/08/2013	REVISED	SM	SM
7	08/08/2013	REVISED	SM	SM
8	08/08/2013	REVISED	SM	SM
9	08/08/2013	REVISED	SM	SM
10	08/08/2013	REVISED	SM	SM

IF A CONFLICT OF ANY KIND SHOULD ARISE UNDER THIS AGREEMENT, THE PARTIES HERETO AGREE TO SUBMIT THE DISPUTE TO THE ARBITRATION OF THE AMERICAN ARBITRATION ASSOCIATION (AAA) IN ACCORDANCE WITH THE RULES OF THE AAA.

SITE NAME:
 WIL LANCASTER PIKE
 7359 LANCASTER PIKE
 HOCKESSIN, DE 19707
 NEW CASTLE COUNTY

CELL ID:
 08-008-30-102 & 08-008-30-100
 08-008-30-102 & 08-008-30-100
 08-008-30-102 & 08-008-30-100

DATE:
 08/08/2013
 08/08/2013
 08/08/2013

NOT TO SCALE

Page 83 of 302

ACKNOWLEDGMENT

State of _____)
:ss.:

County of _____)

On this _____ day of _____, 202_, before me, the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as _____, that by his/her signature on the instrument, the individual, or the entity, Cellco Partnership d/b/a Verizon Wireless, upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the municipality of _____, County of _____ State of _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state of the day and year first above written.

Notary Public of _____

ACKNOWLEDGMENT

STATE OF _____ :
 COUNTY OF _____ :SS.:

On this _____ day of _____, 20____, before me appeared _____
 _____, personally known to me or proved to me on the basis of
 satisfactory evidence to be the individual whose name is subscribed to the within instrument and
 acknowledged to me that he/she executed the same in his/her capacity, that by his/her signature
 on the instrument, the individual, or the entity, TODE, LLC, upon behalf of which the individual
 acted, executed the instrument, and that such individual made such appearance before the
 undersigned in the municipality of _____, County of _____, State
 of _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in
 the County and State aforesaid, the day and year first as above written.

 Notary Public of _____

Exhibit E**Certification Regarding Lobbying**

1. The below Authorized Senior Official of the party (the "Party") entering into the agreement for which this certification is required (the "Agreement"), hereby certifies, to the best of its knowledge and belief, that no federal appropriated funds have been paid or will be paid, by or on behalf of the Party, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Party shall require that the language of this certification be included in the award documents for all Awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by title 31 U.S. Code section 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Authorized Senior Official:	
Name:	Date:
Title:	Organization:

PREPARED BY:

Richard L. Schneider, Esq.
Vogel, Chait, Collins and Schneider, PC
25 Lindsley Drive, Suite 200
Morristown, New Jersey 07960

STATE OF DELAWARE

COUNTY OF NEW CASTLE

PARCEL NOS: 08-008-100
08-008-102

MEMORANDUM OF CONCESSION AGREEMENT

THIS MEMORANDUM OF CONCESSION AGREEMENT ("Memorandum"), made this ____ day of _____, 20__, between NEW CASTLE COUNTY, with an address of 87 Reads Way, New Castle, DE 19720, hereinafter designated "County", and Cellco Partnership d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter designated as "Verizon".

1. County and Verizon entered into a Concession Agreement ("Agreement") on _____ for an initial term of ten (10) years with the right of Verizon to renew for three (3) additional five (5) year terms.

2. County hereby grants to Verizon the right to operate a wireless communications facility upon the Premises, which are a part of that real property owned, leased or controlled by County and designated as Parcel 08-008-102 (the "Property"). The rights granted to Verizon to operate its wireless communications facility include a right of access pursuant to a Declaration of Access Easement through Parcel 08-008-100 ("Access Parcel") to be recorded simultaneously herewith. The Property and Access Parcel are legally described on Exhibit "A" attached hereto and made a part hereof. The Premises are a portion of the Property and are shown in detail on Exhibit "B" attached hereto and made a part hereof.

3. A copy of the Concession Agreement is on file in the offices of the County and Verizon.

4. The terms, covenants and provision of the Agreement, of which this is a Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of County and Verizon.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, County and Verizon have caused this Memorandum to be duly executed on _____, 20__.

COUNTY:

New Castle County

Witness

Print Name

By: _____

Name: _____

Title: _____

Date: _____

VERIZON:

Cellco Partnership d/b/a Verizon Wireless

Witness

Print Name

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

DESCRIPTION OF PROPERTY

SEE ATTACHED

(Rev. 4-4-61)

1122

RE 1111-100-100

DEED-7777777777

Printed and Sold by Hugh A. Gump Co., Baltimore, 200 Tenth St., Washington, D.C.

This Deed, Made this

28th day of AUGUST

in the year of

our LORD one thousand nine hundred and eighty

BETWEEN, the 17-41 COMPANY, a Delaware partnership



AND

NEW CASTLE COUNTY, a political subdivision of the State of Delaware, party of the second part.

Witnesseth. That the said part of the first part, for and in consideration of the sum of TWO HUNDRED FORTY-SIX THOUSAND AND NO/100 lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and convey unto the said part of the second part,

ALL

those certain lots, pieces or parcels of land, situate in Mill Creek Hundred, New Castle County, State of Delaware, and shown as PARCELS 1 and 2 on a Record Minor Subdivision Plan, Drawing No. 7701271-1328, dated May 16, 1977, prepared by McBride & Ziegler, Inc., Professional Land Surveyors, recorded on June 17, 1977 in the office of the Recorder of Deeds in and for New Castle County in Microfilm No. 4497, and more particularly described as follows:

BEGINNING at a concrete monument set in the northeasterly right-of-way line of Delaware State Route 41, also known as the New Lancaster Pike (at 105 feet wide), said point of Beginning being also a point in the easterly boundary of lands now or formerly of Steven Michael Castorani, and which point of Beginning can be located from the intersection of the centerline of Delaware State Route 41 with the centerline track of the Baltimore & Ohio Railroad (Landenberg Branch), by the two (2) following described courses and distances: (1) South 60° 28' East along the centerline of Delaware State Route 41 a distance of 508.14 feet to a point, and (2) North 29° 32' 00" East 50.0 feet to the point of Beginning;

THENCE North 5° 46' 03" East along the easterly boundary of lands now or formerly of Steven Michael Castorani 283.99 feet to a concrete monument set in the southerly right-of-way line of the Baltimore & Ohio Railroad;

THENCE along the southerly right-of-way line of the Baltimore & Ohio Railroad the two (2) following described courses and distances: (1) North 77° 19' 07" East 272.97 feet to a concrete monument set at a point of curvature, and (2) on a curve to the left having a radius of 2900.0 feet, an arc distance of 212.27 feet, the chord equivalent being 212.22 feet measured North 75° 13' 18" East to an iron pipe found, replaced by a concrete monument, at a corner for lands now or formerly of Arcadia Development, Inc.;

THENCE South 47° 12' 17" East along the southwesterly boundary of lands now or formerly of Arcadia Development, Inc., 325.48 feet to a iron pipe found at a corner for Lot 12 "WHITEBRIAR;"

THENCE in a general southeasterly direction along the southwesterly boundary of "WHITEBRIAR," the six (6) following described courses and distances: (1) South 47° 12' 17" East 416.05 feet to a concrete monument set; (2) South 47° 12' 17" East 126.30 feet to a point; (3) North 47° 42' 44" East 24.75 feet to a point; (4) South 36° 10' 16" East 99.90 feet to a concrete monument found; (5) South 72° 12' 13" West 7.35 feet to a concrete monument found, and (6) South 47° 14' 59" East 326.36 feet to a stone with a drill hole found at a common corner of lands now or formerly of Joseph D. Durso and Theresa M. Durso, his wife, and lands now or formerly of David Co., Inc.;

THENCE along the northwesterly boundary of lands now or formerly of Joseph D. Durso and Theresa M. Durso, his wife the two (2) following described courses and distances: (1) South 75° 19' 17" West 355.62 feet to an iron pipe found, and (2) South 15° 18' 17" West 8.23 feet to a concrete monument set in the north-

THENCE along said northeasterly right-of-way line the three (3) following described courses and distances: (1) on a curve to the left having a radius of 2341.95 feet, an arc distance of 146.41 feet, the chord equivalent being 146.39 feet measured North 58° 40' 32.5" West to an iron pipe found and replaced by a concrete monument; (2) North 60° 28' West 421.36 feet to a concrete monument set, and (3) North 60° 28' West 862.0 feet to the point of BEGINNING.

CONTAINING within said described metes and bounds 16.3963 Acres, more or less.

SUBJECT to a sanitary sewer easement, in perpetuity, granted to the New Castle County Department of Public Works, said easement being a strip of land 10 feet in perpendicular width lying southerly of and in the vicinity of the northerly boundary of the herein described parcel and extending from the easterly boundary of lands of Steven Michael Castorani to the southwesterly boundary of lands now or formerly of Arcada Development, Inc., which easement is shown on the above referenced plan.

BEING part of the same lands and premises which Robert E. Walker and Mary E. D. Walker, his wife by their deed dated June 25, 1963, and recorded in the office of the Recorder of Deeds in and for New Castle County, Delaware, at Wilmington, in Deed Record F, Volume 75, Page 649, granted and conveyed unto 17-41 Co., in fee.

This land is being acquired for the use of the Department of Parks and Recreation of New Castle County.

PARCEL NO. 08-008.30-100 and 08-008.30-102

GRANTER'S ADDRESS: City County Building
800 French Street
Wilmington, Delaware 19801



In Witness Whereof,

and seal

the said part of the first part has hereunto set
the day and year aforesaid.

THE 17-41 COMPANY, a Delaware partnership

Sealed and Delivered in the Presence of

W. A. J. Jr.
as to seal

By: *Benjamin M. Davis Jr.* (Seal) partner
By: *William H. Davis* (Seal) partner
By: *William F. Brooks* (Seal) partner
By: *Jane Ramsey Brown* (Seal) partner
By: *Charles Johnson* (Seal) partner

State of Delaware,

NEW CASTLE

County.

this 28th

day of AUGUST

As It Reminded, That on

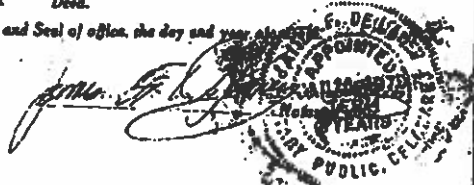
nine hundred and eighty,

personally came before me, the Subscriber,

a Notary Public for the County and State aforesaid, Benjamin M. Davis Jr., William H. Davis, William F. Brooks, Jane Ramsey Brown and Charles Johnson, partners of The 17-41 Company, a Delaware partnership,

parties to this Indenture, known to me personally to be such, and they acknowledged this Indenture to be their Deed.

GIVEN under my Hand and Seal of office, the day and year above written.



REC'D FOR RECORD SEP 11 1988

EXHIBIT B
PREMISES
SEE ATTACHED

VICINITY MAP



PROJECT NOTES

1. SITE INFORMATION OBTAINED FROM THE FOLLOWING:
 A. LEASE EXHIBIT ENTITLED "WIL LANCASTER PIKE" PREPARED BY FRANK COLOMBO ARCHITECTS INC. DATED 11/17/04.
 B. EXISTING CONDITIONS PLAN ENTITLED "HOCKESSIN PARK" PREPARED BY LANCASTER SERVICE & ENGINEERING DATED 03/04/04.
2. EXHIBIT 'A' AS SUBMITTED IS A CONCEPTUAL REPRESENTATION DRAWING THAT MAY VARY TO COMPLY WITH APPLICABLE BUILDING CODES AND ZONING APPROVALS AND WILL SUPERSEDE EXHIBIT 'A'.
3. THE LOCATION OF LESSEES PROPOSED UTILITIES AND EASEMENTS ARE SUBJECT TO THE REVIEW AND APPROVAL OF THE RESPECTIVE UTILITY COMPANIES AND MAY NEED TO BE RELOCATED.

PROJECT INFORMATION

SITE INFORMATION

LAUSANCA: NEW CASTLE COUNTY
 APN: 08-008.30-101 & 08-008.30-100

APPLICANT

COMPANY: CELCO PARTNERSHIP d/b/a VERIZON WIRELESS
 ADDRESS: 512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 BLUE BELL, PA 19422
 CITY, STATE, ZIP: BLUE BELL, PA 19422

SITE ACQUISITION

COMPANY: WIRELESS ACCESS TECHNOLOGIES, INC.
 CONTACT: SUE MANCHEL
 PHONE: (267) 532-2782

CONSTRUCTION MANAGER

COMPANY: CELCO PARTNERSHIP d/b/a VERIZON WIRELESS
 ADDRESS: 512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 CITY, STATE, ZIP: BLUE BELL, PA 19422
 CONTACT: BUC ROPER
 PHONE: (267) 411-8410

ENGINEER

COMPANY: COLLIER ENGINEERING & DESIGN, INC.
 ADDRESS: 1111 MARKET STREET, SUITE 100
 CITY, STATE, ZIP: MT. LAUREL, NJ 08054
 CONTACT: MATT GRUBBART, P.E.
 PHONE: (856) 979-0012
 E-MAIL: MATTGRUBBART@COLLIERENG.COM



Collins Engineering & Design
 www.collinsengineering.com

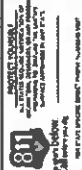
100% of all sales are made in the state of New Jersey. Collins Engineering & Design is a registered professional engineering firm in the state of New Jersey. Collins Engineering & Design is not responsible for any errors or omissions in this drawing or any other documents prepared by this firm. Collins Engineering & Design is not responsible for any errors or omissions in this drawing or any other documents prepared by this firm.

Daniel Burdette as MASTER



CELCO PARTNERSHIP d/b/a VERIZON WIRELESS

512 TOWNSHIP LINE ROAD
 BUILDING 2, FLOOR 3
 BLUE BELL, PA 19422



PROJECT LOCATION: 512 TOWNSHIP LINE ROAD, BUILDING 2, FLOOR 3, BLUE BELL, PA 19422. THE LOCATION OF THE PROJECT IS SHOWN ON THE ATTACHED AERIAL PHOTOGRAPH. THE PROJECT IS SHOWN ON THE ATTACHED AERIAL PHOTOGRAPH. THE PROJECT IS SHOWN ON THE ATTACHED AERIAL PHOTOGRAPH.

NO.	AS SHOWN	PER CODE	200800006
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97	EXISTING	EXISTING	EXISTING
98	EXISTING	EXISTING	EXISTING
99	EXISTING	EXISTING	EXISTING
100	EXISTING	EXISTING	EXISTING

IF A NEW FORM OF ANY NEW OR EXISTING UTILITIES ARE ACTIVE UNDER THE DIRECTION OF THE PROJECT, THE PROJECTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF THE UTILITIES TO BE LOCATED TO AVOID THE PROJECT.

SITE NAME:

WIL LANCASTER PIKE
 7259 LANCASTER PIKE
 HOCKESSIN, DE 19707
 NEW CASTLE COUNTY



Collins Engineering & Design
 1111 MARKET STREET, SUITE 100
 MT. LAUREL, NJ 08054
 PHONE: (856) 979-0012
 E-MAIL: MATTGRUBBART@COLLIERENG.COM

DATE: 10/1/04

SITE PLAN

LE-1

NOT TO SCALE

NOTES DO NOT SCALE DRAWINGS FOR CONSTRUCTION.

Page 95 of 302

ACKNOWLEDGMENT

State of _____)
:ss.:

County of _____)

On this _____ day of _____, 202_, before me, the undersigned personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as _____, that by his/her signature on the instrument, the individual, or the entity, Cellco Partnership d/b/a Verizon Wireless, upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in the municipality of _____, County of _____ State of _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said county and state of the day and year first above written.

Notary Public of _____

ACKNOWLEDGMENT

STATE OF _____ :
 COUNTY OF _____ :SS.:

On this _____ day of _____, 20____, before me appeared _____
 _____, personally known to me or proved to me on the basis of
 satisfactory evidence to be the individual whose name is subscribed to the within instrument and
 acknowledged to me that he/she executed the same in his/her capacity, that by his/her signature
 on the instrument, the individual, or the entity, TODE, LLC, upon behalf of which the individual
 acted, executed the instrument, and that such individual made such appearance before the
 undersigned in the municipality of _____, County of _____, State
 of _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in
 the County and State aforesaid, the day and year first as above written.

 Notary Public of _____

RESOLUTION NO. 24-161

**APPROVING THE RECREATIONAL PROPERTY TAX EXEMPT STATUS OF THE
MAPLE VALLEY SWIM CLUB LOCATED AT 8 OLD POSSUM PARK ROAD,
NEWARK, DELAWARE TAX PARCEL NO. 08-053.00-039**

1 **WHEREAS**, Article VIII, Section 1 of the Delaware Constitution of 1897 authorizes
2 counties to exempt from county taxation such property in their respective jurisdictions
3 that, in their opinion, will best promote the public welfare; and
4

5 **WHEREAS**, in accordance with this authorized power, New Castle County enacted
6 Section 14.06.601 of the *New Castle County Code*, which provides an exemption from
7 county taxation for recreational property – meaning property used primarily for
8 recreational purposes and owned and operated by a community chest, fund, foundation,
9 or corporation and meeting nine criteria, the first seven of which are determined as a
10 matter of law and fact by the Office of Finance, Assessment Division, and Office of Law,
11 can be exempt from taxation; and
12

13 **WHEREAS**, the eighth criterion is a finding by the Department of Public Works that
14 the property is suitable for recreational use and consistent with the recreational needs of
15 the County; and
16

17 **WHEREAS**, the ninth and final criterion for exemption of taxation is a review by
18 County Council of the impact of the exemption on the assessment roll and consideration
19 of other facts deemed important; and
20

21 **WHEREAS**, the Assessment Division and the Office of Law determined that the
22 application has met the requirements of New Castle County Code Section 14.06.601(A)-
23 (G) as follows: (A) the owner is qualified as an exempt organization under Section 501(c)
24 of the Internal Revenue Code of 1986 as amended; (B) no part of the net earnings of the
25 owner inures to the benefit of any private shareholder or individual; (C) the property is
26 used for the operation of the exempt activity and does not exceed an amount of property
27 reasonably necessary for the accomplishment of the exempt activity; (D) the property is
28 not used by the owner or other person to benefit any officer, trustee, director, shareholder,
29 member, employee, contributor, or bondholder of the owner or operator or any other
30 person through the distribution of profits or the payment of excessive charges or
31 compensation; (E) the property is used for recreational purposes, and, upon liquidation,
32 dissolution or abandonment of the owner, none of the assets of the owner will inure to the
33 benefit of anyone except a community chest, fund, foundation, government or
34 governmental agency, or corporation organized and operated for charitable or religious
35 purposes; (F) the use of the property is open to the public regardless of sex, race, creed,
36 color or national origin; and (G) the fees and charges for the use of such property and the
37 facilities thereon are such that people of low income will not be denied the privileges and
38 benefits provided by such property (the Maple Valley Swim Club represents that
39 opportunities, sliding-scale payment, and payment assistance are available to low-
40 income families); and

41 **WHEREAS**, the Assessment Division and Office of Law forwarded the subject
42 application to the Department of Public Works which, pursuant to Section 14.06.601(H),
43 in turn advised the Sponsor through the Clerk of Council that the property is suitable for
44 recreational use and that such use is consistent with the recreational needs of the County;
45 and

46
47 **WHEREAS**, the sponsoring Council Member reviewed the impact of an exemption
48 on the assessment roll, and other facts, and determined that the exempt status should be
49 granted pursuant to Section 14.06.601(I) and presented the same to the body of Council.
50

51 **NOW, THEREFORE, BE IT RESOLVED BY AND FOR THE COUNTY OF NEW**
52 **CASTLE:**

53
54 That County Council hereby approves the recreational property tax exemption
55 request for the property owned by the Maple Valley Swim Club located at 8 Old Possum
56 Park Rd, Newark, Delaware, Tax Parcel No. 08-053.00-039, with an effective date of
57 March 10, 2024.

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: This Resolution, if approved, will exempt Tax Parcel No. 08-053.00-039 from paying annual county real estate taxes effective March 10, 2024. The estimated fiscal impact for FY2024 is \$358.27 and FY2025 based on proposed tax rate will be \$1,152.15. All amounts are county taxes only and do not include school taxes due.

MATTHEW MEYER
COUNTY EXECUTIVE



87 READS WAY
NEW CASTLE, DE 19720
(302) 395-5130
nccde.org

WILSON B. DAVIS
COUNTY ATTORNEY

OFFICE OF LAW

April 3, 2024

Via Electronic Mail at maplevalleyswimclub@gmail.com and First Class Mail

Kristen Scully, Board President
Maple Valley Swim Club
PO Box 7654
Newark, DE 19714

RE: Application for Recreational Property Tax Exemption

Address:
8 Old Possum Park Rd
Newark, DE 19711

Tax Parcel No.:
08-053.00-039

Dear Ms. Scully:

The New Castle County Office of Finance, Division of Assessment (“Assessment”), and New Castle County Office of Law (“Office of Law”) have reviewed the application filed on behalf of **The Maple Valley Swim Club** (the “Owner”) for a recreational property tax exemption for the above-noted parcel (the “Property”). Based upon our review, we conclude that the Delaware Code provisions for a recreational tax exemption are not satisfied. However, because subsections A through G of *New Castle County Code* § 14.06.601 are met as of March 10, 2024, a copy of this determination letter and the application file are being forwarded to the Department of Public Works to make a recommendation to the Clerk of County Council, after which County Council will determine whether to grant a recreational exemption effective March 10, 2024.

I. Facts¹

The Owner acquired the Property on or about November 10, 1999.² New Castle County received the tax exemption application on June 20, 2023. In connection with the application, the Owner submitted the following documents: a determination letter from the Internal Revenue Service finding that the Owner is exempt from federal taxation pursuant to Section 501(c)(7) of the Internal Revenue Code, a certificate of incorporation; bylaws; Revival of Charter; Deed, email

¹ Unless otherwise stated, all facts are based upon the Owner’s representations in the application materials it submitted and publicly available information.

² See Deed recorded in Book 2798, Page 0334, see also Book U65; Pages 488 and 495.

to Wilson Davis regarding billed School Taxes; and IRS Form 990N for 2021. The Office of Law also engaged in communications with the Owner to obtain additional information to assist in understanding the factual basis for the application.

The Owner is a Delaware non-profit, non-stock corporation established in 1960 to “promote the health and general welfare of its membership, and in pursuance thereof to construct, own, and operate a swimming pool and other recreational facilities.”³ Additional facts are discussed below in connection with the analysis of the tax exemption application.

II. Burden and Standard of Proof

The property owner bears the burden of proving eligibility for a property tax exemption.⁴ As a general rule, property will be considered taxable until the property owner “clearly and convincingly” establishes that the property owner meets the requirements for exemption.⁵ Because taxation is the rule and exemption the exception, a claim of exemption on a recreational basis will be strictly construed against the property owner.⁶

III. Analysis

A. Delaware Code Analysis

The Delaware Code creates a recreational tax exemption for “civic organizations” that own “parkland.” Specifically, 9 *Del. C.* § 8110(b) states: “[n]o parkland owned by a civic organization shall be liable to taxation and assessment for public purposes by any county or other political subdivision of the State or county.”

Civic organizations and parkland are defined in 9 *Del. C.* § 8110(a). That subsection states:

(a) As used in this section:

³ Certificate of Incorporation, para. 3; Bylaws, Art. II, Sec. 2.1.

⁴ *Stirlith Bros. Co. v. Mayor and Council of Wilmington*, 189 A. 880, 881 (Del. Ch. 1937) (“The burden is on the land owner to prove every fact essential to show the exempt status of his land.”) (cited by *Reinvestment II LLC v Bd. of Assessment Review of New Castle Cnty.*, 2013 WL 5496778, at *2 n.33 (Del. Super. Sept. 20, 2013)); see also *New Castle County Code* § 14.06.1102.

⁵ 16 McQuillen, *Law of Municipal Corporations* (3d Ed.), § 44.84 at p. 296; *W. Mass. Lifecare Corp. v. Bd. of Assess. of Springfield*, 747 N.E.2d 97, 101-102 (Mass. 2001).

⁶ *Milford Housing Dev. Corp. v. New Castle County Office of Fin.*, 2016 WL 5852468, at *4 (Del. Super. June 30, 2016) (“[s]tatutory exemptions from taxation are strictly construed [according to the statutory language] and any doubt is resolved in favor of the public and against the claimed exemption.”) (quoting *Univ. of Delaware v. New Castle County Dep’t of Land Use*, 2003 WL 220509, at *5 (Del. Super. Jan. 30, 2003)). *Accord Banks v. Wilmington Terminal Co.*, 24 A.2d 592, 596 (Del. Super. 1941), *aff’d*, 28 A.2d 616 (Del. 1942); *Mayor and Council of Wilmington v. Riverview Cemetery*, 190 A. 111, 113 (Del. Super. 1937).

(1) The term “civic organization” shall be defined as any nonprofit organization that is the owner of parkland, as defined herein, provided that:

- a. The organization is not organized for profit or is qualified as an exempt organization under § 501(c) of the Internal Revenue Code of 1954 [26 U.S.C. § 501(c)], as amended;
- b. No part of the net earnings of the organization inures to the benefit of any private shareholder or individual; and
- c. Upon liquidation or dissolution of the organization, or abandonment by the organization, none of the assets of the organization or benefits from its property will inure to the benefit of any person or organization except a community chest, fund, foundation, government, governmental agency, civic organization, maintenance corporation or other nonprofit organization.

(2) The term “parkland” shall be defined as real property, including improvements erected thereon and fixtures attached thereto, used primarily for recreational purposes and dedicated as parkland, public open space, private open space or other public use on a recorded subdivision plan, or through valid and binding restrictive covenants, provided that:

- a. The property is not used by the civic organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or bondholder of the organization or operator or any other person through the distribution of profits or the payment of excessive compensation;
- b. The property is used for recreational purposes; and
- c. The use of the property is open, without charge, to the public, or to members of the civic organization, or to the residents of the neighborhood, or to residents of the community or to residents of the subdivision in which the property is located, regardless of sex, race, creed, color or national origin.⁷

Therefore, the Delaware Code legal framework requires the Owner to show that it is a “civic organization,” and that the Property is “parkland.” We now apply this legal framework to the facts here.

⁷ The Delaware Code requirements for real property to be “parkland” for exemption purposes are different from whether that property is zoned as parkland.

1. The Owner is a civic organization.

The Owner is qualified as an exempt organization under Section 501(c)(7) of the Internal Revenue Code. Thus, the Owner meets the first statutory criterion stated in 9 *Del. C.* § 8110(a)(1)a.

The Owner's certificate of incorporation states that "The Corporation is not organized for pecuniary profit and shall not have any capital stock."⁸ The Owner's certificate of incorporation also provides "that any property received by this corporation shall be used in furthering the objects of the corporation as herein set forth."⁹

In the application, the Owner affirms that the funds of the organization are not used to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the Owner or any other person through the distribution of profits or the payment of compensation. The quoted language from the certificate of incorporation, coupled with the Owner's affirmation, satisfies the second statutory criterion stated in § 8110(a)(1)b.

With respect to the third statutory criterion that addresses distribution of assets upon dissolution, according to Article V, Section 5.B of the Owner's Bylaws (revised March 10, 2024), upon dissolution, the remaining assets of the organization will go only to nonprofit organizations or the state for public purposes.¹⁰ The amended bylaws provision satisfies § 8110(a)(1)c. Therefore, as of March 10, 2024, the Owner has satisfied its burden to show that it is a "civic organization" within the meaning of 9 *Del. C.* § 8110(a)(1).

2. The Property is not Parkland.

The Owner has not satisfied its burden to demonstrate that the Property is parkland as defined by 9 *Del. C.* § 8110(a)(2). The Club has demonstrated that the Property is used primarily for recreational purposes. There is, however, no evidence that the Property meets the requirement that it be "dedicated as parkland, public open space, private open space or other public use on a recorded subdivision plan, or through valid and binding restrictive covenants." Therefore, the prefatory paragraph of 9 *Del. C.* § 8110(a)(2) is not satisfied.

The Owner has affirmed that the property is not used by the Owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or

⁸ Certificate of Incorporation, Paragraph. IV.

⁹ Certificate of Incorporation, Paragraph III.

¹⁰ By-Laws of The Maple Valley Club, Inc. Art. V, Sec. 5.B. The provisions in this section describe the conditions of which certain bonds predating the Owner's current organizational status will be redeemed prior to or during the Owner's dissolution. This type of bond certificate issued to the bond holders found on the Owner's Bond Holder Redemption List as of November 24, 2009 are debt obligations of Owner, such that payment of them before or upon dissolution is not a distribution of assets and does not invalidate this third statutory criterion.

bondholder of the organization or operator or any other person through the distribution of profits or the payment of compensation. The Property is used for recreational purposes as a private community pool. Consequently, Sections 8110(a)(2)a. and b. are satisfied.

The use of the Property, however, is not “open, *without charge*, to the public, or to members of the civic organization, or to the residents of the neighborhood, or to residents of the community or to residents of the subdivision in which the property is located”¹¹ The Owner is a members-only swim club whose membership is granted through the purchase of a one-time, non-refundable membership certificate or as a seasonal associate member.¹² Each member also pays an annual membership fee and maintenance fee, which is \$450 and \$500, respectively, for a single member for the year of 2024. There are additional fees for additional adults and children in the same household with rates set according to the bylaws and posted on the Owner’s website.¹³ Consequently, Section 8110(a)(2)c. is not satisfied.

Because each subsection of the applicable Delaware Code statute is not satisfied, the County concludes the Owner has not met its burden of proving entitlement to a recreational exemption under State law.

B. New Castle County Code Analysis

The New Castle County Code also creates a tax exemption for recreational property. This legal basis is distinct from that of the Delaware Code. Section 14.06.601 of the County Code provides:

As used in this Division, the term “recreational property” means property used primarily for recreational purposes and owned and operated by a community chest, fund, foundation, or corporation. Recreational property shall be exempt from all real property taxes, provided that:

A. The owner is not organized for profit or is qualified as an exempt organization under Section 501(c) of the Internal Revenue Code of 1986, as amended from time to time.

B. No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

C. The property is used for the actual operation of the exempt activity and does not exceed an amount of property reasonably necessary for the accomplishment of the exempt activity.

¹¹ 9 Del. C. § 8110(a)(2)c. (emphasis added).

¹² The purchaser of a membership certificate becomes a bondholder. This bond is not refundable. A bondholder is allowed voting privileges for the Club.

¹³ <https://maplevalleyswimclub.org/membership/> (Last visited March 18, 2024).

D. The property is not used by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person through the distribution of profits or the payment of excessive charges or compensation.

E. The property is used for recreational purposes and upon liquidation, dissolution, or abandonment of the owner none of the assets of the owner or benefits from the property will inure to the benefit of anyone except a community chest, fund, foundation, government or governmental agency, or corporation organized and operated for charitable or religious purposes.

F. The use of such property is open to the public regardless of sex, race, creed, color, or national origin.

G. The fees and charges for the use of such property and facilities thereon are such that people of low income will not be denied the privileges and benefits provided by such property.

H. The Department of Public Works has filed with the Clerk of Council its recommendations as to the suitability of such property for recreational use and as to whether such use would be consistent with the recreational needs of the County.

I. County Council has by passage of a resolution granted such exemption after reviewing its impact upon the assessment roll and the recommendation of the Department of Public Works.

If Assessment and Law determine that subsections A through G of *New Castle County Code* § 14.06.601 have been satisfied, Law then forwards the application to the Department of Public Works (“Public Works”) for its recommendation “as to the suitability of such property for recreational use and as to whether such use would be consistent with the recreational needs of the County.”¹⁴ Public Works files its recommendation with the Clerk of Council.¹⁵ County Council then considers whether to pass a resolution granting a recreational exemption after reviewing its impact upon the assessment roll and the recommendation of Public Works.¹⁶ This letter now analyzes whether the terms of subsections A through G stated above are satisfied:

For the reasons previously discussed in connection with the state recreational exemption requirements, the Owner has established subsections A, B, D and E are met as of March 10, 2024.

¹⁴ *New Castle County Code* § 14.06.1107.

¹⁵ *New Castle County Code* § 14.06.601(H).

¹⁶ *New Castle County Code* § 14.06.601(I).

With respect to subsection C, the Property consists of 4.36 acres containing: a pool with the main pool building with bathrooms and the pool pump house that comprise about one acre; an dedicated parking space on approximately an acre; and the surrounding acreage has been and will continue to be dedicated forest space. The size of the Property does not exceed an amount reasonably necessary to achieve the purpose of a recreational pool facility since the balance of the Property is functionally parkland. Subsection C is satisfied.

Subsection F requires that the “use of such Property is open to the public....” The Owner has affirmed that use of the Property is open to the public regardless of sex, race, creed, color, or national origin. Subsection F is satisfied.

With respect to subsection G’s low-income provision, the Owner provides several avenues so that the membership costs do not operate as a barrier to all low-income applicants. The Owner has a sliding-scale payment option and payment assistance on an as needed basis.¹⁷ The Owner also allows for volunteerism to waive the maintenance fee associated with membership.¹⁸ And, the Owner’s website shows both a senior and a military discount.¹⁹ These provisions are sufficient to allow people of low income to enjoy the privileges and benefits provided by the Property.

In conclusion, the Property satisfies subsections A through G of the New Castle County Code recreational property exemption as of March 10, 2024.

Assessment and Law will forward this application to Public Works for its recommendation to County Council “as to the suitability of such property for recreational use and as to whether such use would be consistent with the recreational needs of the County.”²⁰

IV. Right to Appeal

This Owner may appeal to the Board of Assessment Review (the “Board”) from any portion of this opinion relating to the exemption determination by which it might feel aggrieved.²¹ Please note that the Board is bound by the same legal constraints as the Office of Law. The Board cannot disregard applicable law or grant an application out of mere sympathy for the Owner.²²

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ [Membership – Maple Valley Swim Club](#) (last visited March 18, 2024).

²⁰ *New Castle County Code* § 14.06.1107.

²¹ *New Castle County Code* § 14.06.1111; *Bd. of Assess. Rev. of New Castle County R. of Proc.*, Art. II, § 2. The Board’s *Rules of Procedure* are available online at <http://nccde.org/DocumentCenter/View/1063>.

²² *See, e.g., New Castle County Code* § 14.06.1111(C); *New Castle County v. Moore*, 1984 WL 1076099, at *1-2 (Del. Super. May 24, 1984).

Maple Valley Swim Club
 Tax Parcel No.: 08-053.00-039
 Page 8 of 8

Any appeal must be received by the Board within 30 days from the date of this letter.²³ Any appeal must be filed on the Board form entitled “Appeal of Exemption Removal or Denial,” which may be obtained from Assessment.²⁴ You may reach Assessment at (302) 395-5520. If you choose to appeal, please complete the entire form. You should present a written statement providing the full basis for your appeal and provide all supporting documents you intend to present at the hearing.²⁵ Please also identify who the County should contact about the appeal.

V. Conclusion

In this letter, we conclude that the Owner has established that, as of March 10, 2024, it meets the criteria of *New Castle County Code* §§ 14.06.601(A)-(G) with respect to the Property. Consequently, I am forwarding the Owner’s application to Public Works to consider the application for a recreational property tax exemption. If, after reviewing this letter, you have any questions, please feel free to contact me at Michael.Gordon@newcastlede.gov.

Sincerely,

/s/ Mike Gordon

Mike Gordon
 Assistant County Attorney

cc: John Avera, Treasury Supervisor (via email)
 Gale Taylor, Treasury Specialist (via email)
 Rafat Kille, Property Assessment Administrator (via email)
 Lauren Arthur, Assessment Analyst (via email)
 Erin Drysdale, Assessment Analyst (via email)
 Rachel Sacher, Assessment Technician (via email)

²³ *New Castle County Code* § 14.06.1111(A). Penalties upon unpaid tax amounts will continue to accrue during the pendency of the appeal.

²⁴ See, e.g., 9 Del. C. § 8311(a); *Bd. of Assess. Rev. of New Castle Cnty. R. of Proc.*, Art. VI, § 4.

²⁵ *Bd. of Assess. Rev. of New Castle Cnty. R. of Proc.*, Art. VI, § 6(c).



DEPARTMENT OF PUBLIC WORKS
187-A OLD CHURCHMANS ROAD
NEW CASTLE, DE 19720
(302) 395-5700

MEMORANDUM

TO: Nellie Hill
Clerk of Council

FROM: Yvonne A. Gordon *Yvonne A. Gordon*/AGM
Acting General Manager, Department of Public Works

SUBJECT: Recreational Property Tax Exemption
Maple Valley Swim Club
Tax Parcel No.: 08-053.00-039

DATE: August 8, 2024

In accordance with the *New Castle County Code* (“Code”) Section 14.06.601(H), the Department of Public Works (“Department”) must review recreational property tax exemption applications and file its recommendation with the Clerk of Council “as to the suitability of such property for recreational use and as to whether such use would be consistent with the recreational needs of the County.”

The New Castle County Office of Finance, Division of Assessment and the New Castle County Office of Law provided the Department information regarding Maple Valley Swim Club’s application for a recreational property tax exemption for tax parcel number 08-053.00-039 (the “Property”) and its determination letter dated April 3, 2024. The following information was gathered by the Department:

- The Maple Valley Swim Club (“Maple Valley”) provides a recreational opportunity not offered by the County in this area.
- The Maple Valley is open to anyone regardless of race, sex, creed, color, national origin.
- Maple Valley offers grants and payment assistance for low-income families.
- A review of the site determined that the Property consists of an L-shaped adult pool, basketball court, horseshoe pits, volleyball, tetherball, toddler area, picnic area, and a snack bar. The Property is used for the actual operation of the swim club and its amenities.

Given the above information, the Department believes the Property is suitable for recreational use and believes that the recreational use established at the Property by Maple Valley is consistent with the recreational needs of the County.

cc: Council President Karen Hartley-Nagle
Councilman Timothy Sheldon
Victoria Ford, Accounting & Fiscal Manager
Mike Gordon, Assistant County Attorney
Aysha L. Gregory, Assistant County Attorney

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 (H)

57.9815 ACRES
55.4225 ACRES

VEOLIA NORTH AMERICA

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.

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

= 540 SPACES
= 480 SPACES
= 74 SPACES
= 554 SPACES

GROSS AREA = 57.9815 ACRES
AREA IN ADDITIONAL DEDICATED R.O.W. (OLD PORTER ROAD) = 2.5590 ACRES
NET SITE AREA = 55.4225 ACRES
AREA IN PROPOSED 28' R.O.W. = 3.7222 ACRES
AREA IN PROPOSED 60' R.O.W. = 2.4818 ACRES
AREA IN PROPOSED 80' R.O.W. = 0.4277 ACRES
AREA IN PROPOSED LOTS = 17.1951 ACRES
AREA TO BE DEDICATED TO N.C.C. (PUMP STATION) = 0.0878 ACRES
AREA IN OPEN SPACE = 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 PLAN 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:

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.

THE STATE INVENTORY OF NATURAL AREAS HAS BEEN EXAMINED AND NO CRITICAL NATURAL AREAS (CNA) EXIST ON SITE.

AT THE TIME OF THIS PLAN SUBMITTAL THERE WERE NO DEED RESTRICTIONS ASSOCIATED WITH THIS PARCEL.

NO PREVIOUS PLAN HAS BEEN RECORDED FOR THIS PARCEL.

A TRAFFIC IMPACT STUDY (TIS), WAS PREPARED FOR VISTA AT RED LION - SECTION 1 AND VISTA AT RED LION - SECTION 2 (THE"PROJECT") BY KARINS AND ASSOCIATES AND REVIEWED AND APPROVED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT), BASED ON DELDOT'S OCTOBER 01, 2020 REVIEW COMMENTS. THE FOLLOWING SHALL APPLY.

A. THE DEVELOPER SHALL RECONSTRUCT OLD PORTER ROAD, ON BOTH SIDES OF THE ROADWAY ALONG THE ENTIRE LENGTH OF THE PROJECT FRONTAGE AND TO THE WEST TO A POINT JUST EAST OF GRISSOM DRIVE. THE RECONSTRUCTION SHALL CONSIST OF TWO ELEVEN-FOOT LANES WITH SHOULDERS AS FOLLOWS:

1. ON THE NORTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 1 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 1 PROPERTY FRONTAGE ALONG OLD PORTER ROAD.

2. ON THE SOUTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 2 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 2 PROPERTY FRONTAGE ALONG OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #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

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 DESIGNS ETC, LAST DATED 2/1/2023 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 DWELLING (OR GROUP OF DWELLINGS ATTACHED DWELLINGS) 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 (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.

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 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.

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

PROPOSED 28' WIDE R.O.W. 5428'
PROPOSED 60' WIDE R.O.W. 1660'
PROPOSED 80' WIDE R.O.W. 286'

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 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.

29. EXISTING FIRE HYDRANTS:
PROPOSED FIRE HYDRANTS:

0 (H)
14 (H)

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

33. NONCONFORMITIES

NOT APPLICABLE

34. TOPOGRAPHY

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

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 (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."

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 CONTROLS' 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 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.

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 1-800-282-8555
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:

THE OWNERS SHALL PAY ANY VOLUNTARY SCHOOL ASSESSMENT REQUIRED BY TITLE 9, SECTION 296(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.

43. RESERVED

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 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.

46. 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 \$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.

47. MATURE FOREST:

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.

48. STORM SEWER PIPE VIDEO:

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:

CONSERVATION OF NATURAL RESOURCE PROTECTION AREAS: ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE SHALL REMAIN IN ITS NATURAL STATE. A CONSERVATION EASEMENT IS HEREBY ESTABLISHED OVER THOSE NATURAL RESOURCE AREAS LOCATED IN PRIVATE OPEN SPACE (PARTICULARLY POS 9) AND SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY. THOSE CONSERVATION AREAS WITHIN THE PRIVATE OPEN SPACE MAY BE DISTURBED ONLY FOR SAFETY REASONS AND UPON RECEIPT OF NECESSARY APPROVALS BY THE COUNTY AND OTHER GOVERNMENT ENTITIES.

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:

SEPARATE BUILDING PERMIT IS REQUIRED FOR THE INSTALLATION OF EACH RETAINING WALL.

52. 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.

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.

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 OWNER'S 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 C/O 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	2.25± ACRES	100%	1.28± ACRES**	43.1%*
MITIGATED WETLANDS	1.44± ACRES	100%	0± ACRES	100%**
FLOOD PLAIN	1.33± ACRES	100%	0± ACRES	100%
RIPIARIAN BUFFER	7.14± ACRES	100%	0.40± ACRES*	94.4%*
PROHIBITIVE SLOPES	0.02± ACRES	100%	0± ACRES	100%
PRECAUTIONARY SLOPES	0.09± ACRES	50%	0.04± ACRES	55.6%
MATURE FOREST	16.77 ACRES	70%	5.03± ACRES	70.0%

* 0.65± ACRES OF DISTURBED RBA WITHIN ZONE 2 FOR STORMWATER MANAGEMENT PRACTICES, LISTED UNDER "Y" FOR PERMITTED DISTURBANCE UNDER TABLE 40.10.210.
** REFER TO NOTE 16 THIS SHEET.

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 SWM EASEMENT FOR PIPE	NEW CASTLE COUNTY DELDOT	MAINTENANCE ORGANIZATION
5' WIDE UTILITY EASEMENT 15' WIDE UTILITY AND SIDEWALK 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

NEW CASTLE COUNTY LOT STANDARDS

LOT AREA (MIN)	2,200 SF
LOT WIDTH (MIN)	22 FT
SIDE YARD (MIN)	0 FT, 6 FT (END UNITS)
STREET YARD (MIN)	15 FT*
REAR YARD (MIN)	20 FT
BUILDING HEIGHT (MAX)	40 FT

*MIN 20 FT SETBACK FOR PARKING.

NOTES & LEGEND
RECORD MAJOR SUBDIVISION PLAN
FOR

VISTA AT RED LION - SECTION 1
SITUATE IN: NEW CASTLE HUNDRED, NEW CASTLE COUNTY, DELAWARE

U.S.G. 02-21-24	U.S.G. 01-30-24	U.S.G. 10-27-23	U.S.G. 04-25-23	U.S.G. 04-25-23	U.S.G. 04-25-23
PER NCC COMMENTS DATED 03-14-24	ADDED NOTE #63	PER NCC COMMENTS DATED 04-25-23	revisions		
Karins and Associates ENGINEERS • PLANNERS • SURVEYORS NEWARK, DE & GEORGETOWN, DE www.karinsengineering.com 17 POLLY DRUMMOND CENTER • SUITE 201 NEWARK, DELAWARE 19711 PHONE: (302) 369-2900 FAX: (302) 369-2975				DEV SITHARAN LICENSE No. 8799 Professional Engineer	
OWNER: RED LION HP LLC PO BOX 7189 WILMINGTON, DE 19803 TEL: 302-479-9314				PROPERTY ADDRESS: 570 OLD PORTER ROAD BEAR, DE 19701	
SURVEY BY: KARINS AND ASSOCIATES				SCALE: AS SHOWN	
DESIGNED BY: KARINS					
DRAWN BY: J.L.				DATE: 02-28-18 SHEET: 2 OF 6	
CHECKED BY: D.S.				DRAWING NO.: 2554 - A02	

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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:

10-052-00-011 PO, 10-052-00-018
2. EXISTING ZONING :
PROPOSED ZONING (ORDINANCE #17-096)

S (SUBURBAN)
ST - (SUBURBAN TRANSITION)
3. SOURCE OF TITLE:

20150615-0023034, 20150615-0023036
4. SURVEY DATUM:
LOCAL BENCHMARK:

NAVD88
FOUND CONCRETE MONUMENT ON THE SOUTHWEST AREA OF TAX PARCEL
10-052-00-011 WITHIN OLD PORTER ROAD RIGHT OF WAY.
ELEVATION= 80.09
2 (■)
85 (□)
- NUMBER OF EXISTING MONUMENTS:
NUMBER OF PROPOSED MONUMENTS:

147
147
5. SITE GROSS ACREAGE:
SITE NET ACREAGE:

147.2176 ACRES
143.9462 ACRES
6. WATER SUPPLIER:

SUEZ WATER OF DELAWARE
WATER SUPPLY IS SUBJECT TO THE APPROVAL OF THE DELAWARE STATE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND THE DELAWARE DEPARTMENT OF PUBLIC HEALTH.
7. SANITARY SEWER:

NEW CASTLE COUNTY
SEWERAGE IS SUBJECT TO THE APPROVAL OF THE NEW CASTLE COUNTY DEPARTMENT OF PUBLIC WORKS. AT THE TIME OF APPROVAL OF THIS PLAN, SEWER CAPACITY EXISTED TO ACCOMMODATE THE ANTICIPATED FLOWS GENERATED BY THIS ADDITIONAL DEVELOPMENT. NEW CASTLE COUNTY HAS COMMITTED TO PROVIDE SEWER SERVICE IN ACCORDANCE WITH THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT FOR THIS DEVELOPMENT. THE OWNER OF THIS PROPERTY, HIS SUCCESSORS OR ASSIGNS, SHALL BE RESPONSIBLE FOR EXTENDING SEWER SERVICE TO EACH LOT SHOWN ON OR CREATED BY THIS PLAN.

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

NOT APPLICABLE
9. PROPERTY OWNER:

RED LION HP LLC
PO BOX 7189
WILMINGTON, DE 19803
10. EXISTING LOTS AND/OR DWELLING UNITS:
PROPOSED LOTS AND/OR DWELLING UNITS:
(LOT NUMBERS 41, 175 AND 194 ARE NOT IN USE)

0
279
11. INTENTIONALLY LEFT BLANK
12. PARKING RATIONALE

SINGLE FAMILY DETACHED
PARKING REQUIRED: 1.50 SP/UNIT x 279 UNITS = 419 SPACES
DRIVEWAY SPACES PROVIDED: 2 SP/UNIT x 279 UNITS = 558 SPACES

CLUBHOUSE PARKING:
4,800 S.F. @ 6 SPACES/1000 S.F. = 29 REQUIRED
PARKING SPACES PROVIDED = 47 PROVIDED (INCLUDES 4 HANDICAP)
13. SUBDIVISION / SITE DATA

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

A PORTION OF THE SITE LIES WITHIN THE 100-YEAR FLOODPLAIN. LIMITS OF THE 100-YEAR FLOOD PLAIN WERE TAKEN FROM THE FLOOD INSURANCE RATE MAP NO. 1000302031, REVISED JANUARY 22, 2020.
15. WATER RESOURCE PROTECTION AREA (WRPA)

NO PORTION OF THE "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 (CNA) 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 "VISTA AT RED LION - SECTION 1 AND VISTA AT RED LION - SECTION 2 (THE PROJECT)" BY KARINS AND ASSOCIATES AND REVIEWED AND APPROVED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT), BASED ON DELDOT'S OCTOBER 01, 2020 REVIEW COMMENTS, THE FOLLOWING SHALL APPLY:

A. THE DEVELOPER SHALL RECONSTRUCT OLD PORTER ROAD, ON BOTH SIDES OF THE ROADWAY ALONG THE ENTIRE LENGTH OF THE PROJECT FRONTAGE AND TO THE WEST TO A POINT JUST EAST OF GRISSOM DRIVE. THE RECONSTRUCTION SHALL CONSIST OF TWO ELEVEN-FOOT LANES WITH SHOULDERS AS FOLLOWS:

1. ON THE NORTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 1 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 1 PROPERTY FRONTAGE ALONG OLD PORTER ROAD.

2. ON THE SOUTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 2 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 2 PROPERTY FRONTAGE ALONG OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383 (200-FEET WEST OF THE CENTER OF THE BRIDGE).

3. THE DEVELOPER SHALL PROVIDE A BITUMINOUS CONCRETE OVERLAY TO THE EXISTING TRAVEL LANES ON OLD PORTER ROAD FROM THE WESTERN PROJECT LIMIT TO A POINT WHICH IS 200-FEET WEST OF THE OLD PORTER ROAD/ROUTE 71 INTERSECTION.

4. THE DEVELOPER WILL MAKE SUCH IMPROVEMENTS TO OLD PORTER ROAD EAST OF VISTA AT RED LION SECTION-1 TO THE POINT WHICH IS 200 FEET WEST OF THE CENTER OF DELDOT'S BRIDGE #1300383. AT THE DEVELOPERS COST, SO AS TO PROVIDE TWO ELEVEN-FOOT LANES WITH THREE-FOOT SHOULDERS FOR THIS PORTION OF OLD PORTER ROAD.

5. THE TIMING FOR COMPLETION OF THE IMPROVEMENTS OUTLINED HEREIN WILL BE PHASED CONSISTENT WITH THE PHASING OF THE DEVELOPMENT AS SET FORTH IN THE RECORD PLAN TO BE APPROVED BY THE NEW CASTLE COUNTY, BUT, IN ANY EVENT, THESE IMPROVEMENTS WILL NOT BE REQUIRED TO BE IN PLACE PRIOR TO THE ISSUANCE OF FIFTY PERCENT (50%) OF CERTIFICATES OF OCCUPANCY FOR BOTH VISTA AT RED LION SECTIONS 1 AND SECTIONS 2.

B. THE DEVELOPER SHALL CONSTRUCT TWO FULL MOVEMENT ACCESS ENTRANCES ON OLD PORTER ROAD (SITE ACCESS EAST AND SITE ACCESS WEST) AND SHALL PROVIDE ONE LEFT TURN LANE AND ONE RIGHT TURN LANE FOR BOTH EASTBOUND AND WEST BOUND TRAFFIC AT BOTH ACCESS POINTS.

C. THE DEVELOPER SHALL ENTER INTO A TRAFFIC SIGNAL AGREEMENT WITH DELDOT FOR THE PORTER ROAD/OLD PORTER ROAD INTERSECTION, WHERE THE DEVELOPER WILL PAY AN EQUITABLE CONTRIBUTION TOWARDS THE TRAFFIC SIGNAL REVOLVING FUND.

D. THE FOLLOWING BICYCLE, PEDESTRIAN, AND TRANSIT IMPROVEMENTS SHALL BE INCLUDED:

1. A MINIMUM FIFTEEN-FOOT-WIDE PERMANENT EASEMENT FROM THE EDGE OF THE RIGHT-OF-WAY SHOULD BE DEDICATED TO DELDOT ALONG THE PROJECT FRONTAGE ON OLD PORTER ROAD. WITHIN THIS EASEMENT, THE DEVELOPER SHALL CONSTRUCT A TEN-FOOT WIDE SHARED-USE PATH ALONG EACH SIDE OF OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383. A MINIMUM FIVE-FOOT SETBACK WILL BE MAINTAINED FROM THE EDGE OF THE PAVEMENT TO THE SHARED-USE PATHS.

2. SIDEWALKS SHALL BE PROVIDED ON BOTH SIDES OF ALL INTERNAL STREETS.

3. MINIMUM FIVE-FOOT WIDE BICYCLE LANES SHALL BE INCORPORATED IN THE SHOULDER ALONG BOTH DIRECTIONS OF OLD PORTER ROAD WITHIN THE PROJECT FRONTAGE LIMITS.

4. UTILITY COVERS SHALL BE MOVED OUTSIDE OF ANY DESIGNATED BICYCLE LANES AND ANY PROPOSED SIDEWALKS/SHARED-USE PATHS OR SHOULD BE FLUSH WITH THE PAVEMENT.

21. DEBRIS DISPOSAL

NO DEBRIS SHALL BE BURIED ON THE SITE.
22. IMPACT FEES

THIS PLAN IS SUBJECT TO THE IMPACT FEE PROVISIONS OF CHAPTER 40, ARTICLE 14 OF THE NEW CASTLE COUNTY CODE, AS MAY BE AMENDED BY NEW CASTLE COUNTY COUNCIL.
23. LANDSCAPE PLAN

A LANDSCAPE PLAN, PREPARED BY DESIGN ETC, LAST DATED 10/12/2023 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, IS HEREBY CONSIDERED A PART OF THE RECORD PLAN.
24. SIDEWALKS

UNLESS OTHERWISE SPECIFIED ON THE PLAN, SIDEWALKS SHALL BE INSTALLED IN THE LOCATIONS SHOWN ON THIS PLAN PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR THE PROJECT. SIDEWALKS SHALL BE CONSTRUCTED OF PORTLAND CEMENT CONCRETE. THEY ARE SHOWN. SIDEWALKS SHALL BE FIVE (5) FEET IN WIDTH AND CONSTRUCTED OF PORTLAND CEMENT CONCRETE.
25. MAINTENANCE OF COMMON FACILITIES

FOR MAINTENANCE OF THE COMMON FACILITIES INCLUDING: PRIVATE OPEN SPACE, SIDEWALKS AND WALKWAYS WITHIN PRIVATE OPEN SPACE, LANDSCAPED AREAS WITHIN PRIVATE OPEN SPACE, LANDSCAPING WITHIN RIGHT-OF-WAY (INCLUDING WITHIN MEDIAN) AND STORM WATER MANAGEMENT AREAS SHOWN ON THE PLAN, SEE THE MAINTENANCE DECLARATION DATED 2/12/2024, AND OF RECORD IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE, INSTRUMENT NO 20240213-0009431.
26. UTILITY EASEMENTS

A 6' FOOT WIDE EASEMENT ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SHOWN ON THE PLAN, AND ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SUBSEQUENTLY ESTABLISHED WITHIN THE AREA SHOWN ON THIS PLAN IS HEREBY DEDICATED TO BE AVAILABLE FOR ANY UTILITY USE, PROVIDED THAT WHERE ANY LOT LINE IS ELIMINATED THE EASEMENT ALONG SAID LOT LINE SHALL BE EXTINGUISHED EXCEPT AS TO UTILITIES THEN EXISTING IN SAID EASEMENT.
27. TOTAL LENGTH OF PUBLIC AND PRIVATE RIGHT-OF-WAYS:

PROPOSED 50' WIDE R.O.W. 10,181'
PROPOSED 60' WIDE R.O.W. 1,532'
PROPOSED 80' WIDE R.O.W. 617'
28. SUBDIVISION STREETS:

A. ALL ENTRANCES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO THEIR APPROVAL.
B. ALL RIGHTS-OF-WAY ARE INTENDED FOR DEDICATION TO PUBLIC USE.
C. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE STATE OF DELAWARE. UPON 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:

0 (■)
17 (■)
30. COASTAL ZONE

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

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

ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO CHAPTER 40 ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE IS HEREBY PROTECTED BY A CONSERVATION EASEMENT THAT SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY.
33. NONCONFORMITIES

NOT APPLICABLE
34. TOPOGRAPHY

TOPOGRAPHY DEPICTED ON THIS PLAN WAS DERIVED FROM AN AERIAL SURVEY PERFORMED BY WINGS AERIAL MAPPING COMPANY, INC. IN 2007.
35. COMMUNITY POSTAL BOXES

POSTAL BOXES SHALL BE INSTALLED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE UNITED STATES POSTAL SERVICE.
36. LAND DEVELOPMENT IMPROVEMENT AGREEMENT

ALL IMPROVEMENTS REQUIRED BY THIS PLAN AND THE NEW CASTLE COUNTY CODE SHALL BE SUBJECT TO THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT (LDA), AND THE PERFORMANCE GUARANTEE INCORPORATED THEREIN. THE LDA IS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 11/27/2023, AT INSTRUMENT NO. 20231127-0078733.
37. RIGHT OF ACCESS

NEW CASTLE COUNTY HAS THE RIGHT OF ACCESS TO THE SITE FOR THE PURPOSES OF OPERATING, MAINTAINING AND REPAIRING THE SANITARY SEWER LINES CONTAINED WITHIN THE SEWER EASEMENTS SHOWN ON THIS PLAN.
38. NEW CASTLE COUNTY DRAINAGE CODE

DRAINAGE, EROSION AND SEDIMENT CONTROL, AND STORMWATER MANAGEMENT SHALL BE PROVIDED IN ACCORDANCE WITH THE NEW CASTLE COUNTY DRAINAGE CODE AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S DELAWARE SEDIMENT AND STORMWATER REGULATIONS AND THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK.
39. RESIDENTIAL STORMWATER MANAGEMENT FACILITY MAINTENANCE FEE

THE OWNER/DEVELOPER SHALL PAY, TO NEW CASTLE COUNTY, FUNDS FOR RESIDENTIAL STORM WATER MANAGEMENT FACILITY MAINTENANCE AND INSPECTIONS PURSUANT TO SECTION 40.27.230 OF THE COUNTY CODE. THE FUNDS SHALL BE USED FOR THE COSTS ASSOCIATED WITH INSPECTIONS, LONG-TERM SEDIMENT CLEANOUT AND STRUCTURAL REPAIR AND RECONSTRUCTION OF STORM WATER MANAGEMENT FACILITIES. AN AMOUNT OF \$171,500, AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES, SHALL BE FUNDED UPON THE ISSUANCE OF SEVENTY-FIVE (75) PERCENT OF THE BUILDING PERMITS FOR THE LOTS IN THE SUBDIVISION, OR PHASE THEREOF. THE DEPARTMENT OF LAND USE SHALL WITHHOLD THE ISSUANCE OF ANY ADDITIONAL BUILDING PERMITS UNTIL THE DEPARTMENT OF LAND USE IS FURNISHED WITH SATISFACTORY WRITTEN PROOF THAT THE FUNDS HAVE BEEN PAID TO NEW CASTLE COUNTY IN ACCORDANCE WITH THE REQUIREMENTS.
40. DELDOT

ENTRANCE/EXIT FACILITIES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO DELDOT APPROVAL. THE DEVELOPER IS REQUIRED TO OBTAIN A PERMIT FROM THE DELDOT NORTH DISTRICT PERMIT OFFICE.
41. MISS UTILITY NOTE:

THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO PROTECT ALL EXISTING UTILITIES AND MAINTAIN UNINTERRUPTED SERVICE. ANY AND ALL DAMAGES DONE TO THEM DUE TO THE CONTRACTOR'S NEGLIGENCE SHALL BE IMMEDIATELY AND COMPETENTLY REPAIRED AT HIS EXPENSE. EXISTING UTILITIES ARE SHOWN IN ACCORDANCE WITH THE BEST AVAILABLE INFORMATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY AND ALLOW FOR THEIR LOCATIONS. CONTACT "MISS UTILITY" THREE (3) WORKING DAYS PRIOR TO CONSTRUCTION.

UTILITY CONTACT INFORMATION IS AS FOLLOWS:
MISS UTILITY 1-800-282-8565
THE FOLLOWING TICKET NUMBERS APPLY:

PRIOR TO ANY CONSTRUCTION, THE CONTRACTOR SHALL EXCAVATE IN THE AREA OF ANY POTENTIAL UTILITY CROSSING TO VERIFY THAT THE UTILITY WILL NOT INTERFERE WITH CONSTRUCTION. IF, AFTER UNCOVERING OF THE UTILITY, THERE IS ANY QUESTION CONCERNING A POSSIBLE CONFLICT, THE CONTRACTOR SHALL IMMEDIATELY CONTACT THE ENGINEER.
42. VIDEO INSPECTION:

PER SECTION 40.27.340E, ALL STORM SEWERS WITHIN PRIVATE OPEN SPACE REQUIRE VIDEO INSPECTION. A THIRD-PARTY PROFESSIONAL MUST CERTIFY THAT THE PRIVATE STORM SEWER AND STREETS ARE CONSTRUCTED IN COMPLIANCE WITH DELDOT STANDARDS. THE DEPARTMENT MUST FIND THE REPORT, AS-BUILT PLAN AND PIPE VIDEO ACCEPTABLE PRIOR TO THE INSPECTION OF THE OPEN SPACE.
43. OPEN SPACE MAINTENANCE ESCROW

PURSUANT TO SECTION 40.27 OF THE NEW CASTLE COUNTY CODE, THE DEVELOPER SHALL PLACE FUNDS IN AN INTEREST ESCROW ACCOUNT EQUIVALENT TO THE COST OF MAINTAINING THE PRIVATE OPEN SPACE AND COMMON FACILITIES FOR A TWO (2) YEAR PERIOD. THE AMOUNT SHALL BE \$889 PER LOT/UNIT SHOWN ON THIS PLAN OR SUBSEQUENT PLANS (\$889 X 279 LOTS/UNITS = \$248,031). THE OPEN SPACE TURNOVER IS TO BE PHASED PER LANDSCAPE AND OPEN SPACE MANAGEMENT PLAN.
44. LIMIT OF DISTURBANCE:

THE LIMIT OF DISTURBANCE(LOD) AS SHOWN IS TO DELINEATE THE LIMIT OF THE INITIAL CONSTRUCTION, SO AS TO PRESERVE THE MAXIMUM NUMBER OF TREES AND STEEP SLOPES ON THE SITE. ON-LOT RESOURCES ARE NOT PART OF THE REQUIRED PROTECTION LEVEL. UPON ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR EACH LOT THE FINAL LOD WILL FOLLOW THE PROPERTY LINE.
45. FIRE MARSHAL NOTE:

ALL FIRE LANES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE MARSHAL PREVENTION REGULATIONS. TOWNHOUSE AND DUPLEX UNITS SHARING A COMMON WALL(PARTY WALL) WHICH ARE GROUPED BY THIS PLAN SHALL BE SEPARATED BY A FIRE BARRIER WALL THAT MEETS THE PROVISIONS OF NFPA221. FIRE WALLS AND FIRE BARRIER WALLS SHALL HAVE A TWO (2) HOUR FIRE RESISTANCE RATING.
46. RECREATIONAL AREAS:

ALL ACTIVE RECREATION AREAS AND STRUCTURED RECREATIONAL FACILITIES (CLUBHOUSES, PAVILIONS, ETC.) SHALL BE COMPLETED PRIOR TO THE ISSUANCE OF FIFTY (50) PERCENT OF THE TOTAL BUILDING PERMITS WITHIN THE SUBDIVISION.

47. AGE RESTRICTED DEVELOPMENT:

THIS DEVELOPMENT IS AN AGE RESTRICTED COMMUNITY SUBJECT TO DIVISION 40.07.700 AND TABLE 40.04.110.A OF THE N.C.C. CODE AND THE HOUSING FOR OLDER PERSONS ACT (HOPA) OF 1995 OF THE FEDERAL FAIR HOUSING ACT 42 U.S.C. 3601 ET. SEQ. AGE RESTRICTED UNITS SHALL CONTAIN ALL NECESSARY LIVING ARRANGEMENTS ON THE FIRST FLOOR. THIS SHALL INCLUDE AT LEAST ONE BEDROOM AND FULL SANITARY FACILITIES. A DENSITY BONUS OF 20% PROVIDED FOR IN UDC DIVISION 40.07.700 HAS BEEN APPLIED. THE PROPERTY TO PROVIDE THE SITE CAPACITY FOR THE PROJECT.
48. TRESPASS PROVISION ON TO LOTS:

ALL PURCHASERS SHALL PERMIT THE DEVELOPER OR HIS ASSIGNS TEMPORARY ACCESS UPON THE PURCHASERS LOT OR LOTS TO COMPLETE GRADING AND/OR LANDSCAPING AS REQUIRED BY THE APPROVED PLANS FOR A PERIOD OF ONE YEAR, COMMENCING WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
49. GEOTECHNICAL EVALUATION:

A GEOTECHNICAL EVALUATION HAS BEEN PERFORMED TO APPROXIMATE THE SEASONAL HIGH WATER TABLE (SHWT) ELEVATION(S) AND THE FOLLOWING LOTS REQUIRE FURTHER EVALUATION, AS IT PERTAINS TO THEIR LOWEST PROPOSED FLOOR ELEVATION PRIOR TO THE ISSUANCE OF A BUILDING PERMIT: TBD.

DOCUMENTATION OF ANY/ALL CONSTRUCTION LIMITATIONS BASED ON THE GEOTECHNICAL EVALUATION OF THE SHWT ELEVATION(S) IS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE. ALL STRUCTURES PROPOSED WITH LOWEST FLOOR WITHIN 3 FEET OF THE ESTIMATED SHWT SHALL BE WATERPROOFED (UDC §40.22.130). NO LOWEST FLOOR SHALL BE CONSTRUCTED WITHIN 2 FEET OF THE ESTIMATED SHWT (UDC §40.22.220).
50. UTILITY EASEMENTS:

UNLESS OTHERWISE DESCRIBED BY METES AND BOUNDS, OR BY MATHEMATICAL REFERENCE TO A PROPERTY LINE, A 40' WIDE PERMANENT EASEMENT, 20' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER IS DESIGNATED FOR PUBLIC USE IN UNPAVED AREAS AND IS OUTSIDE OF A DEDICATED PUBLIC ROW. A 20' WIDE PERMANENT EASEMENT, 10' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER PIPE IS DESIGNATED FOR PUBLIC USE IN PRIVATELY MAINTAINED PAVED AREAS, SUCH AS PARKING LOTS, PRIVATE STREETS OR DRIVEWAYS. IF THE CONSTRUCTED HORIZONTAL SEWER MAIN LOCATION DEVIATES BY MORE THAN 2.5' FROM THE DESIGN LOCATION, THE PROJECT MAY BE SUBJECT TO A RESUBDIVISION PLAN OR PIPE LOCATION AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES.
51. RETAINING WALLS:

SEPARATE BUILDING PERMIT IS REQUIRED FOR THE INSTALLATION OF EACH RETAINING WALL.
52. PHASING OF RECORD PLAN:

FOR PURPOSES OF PHASING, AS REFERRED TO IN NOTE #20.A.5, VISTA AT RED LION - SECTION 2 (APPLICATION # 2008-0003) WILL BE CONSIDERED PHASE 1, AND VISTA AT RED LION - SECTION 1 (APPLICATION # 2008-0002) WILL BE CONSIDERED PHASE 2.

DELDOT NOTES (LAST REVISED MARCH 21, 2019)

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

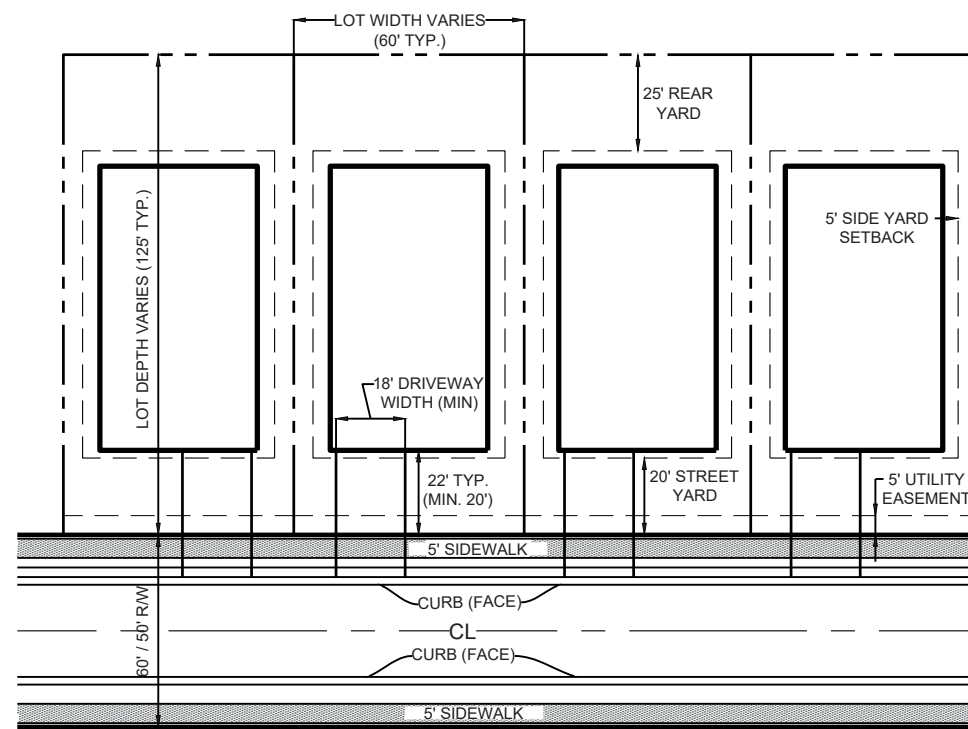
NATURAL RESOURCE PROTECTION TABLE

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

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

EASEMENT TABLE

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



TYPICAL LOT LAYOUT

SCALE: 1"=50'

BULK STANDARDS - ST ZONING (SINGLE FAMILY DETACHED)

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

NOTES AND LEGEND
RECORD MAJOR SUBDIVISION PLAN
FOR

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

02-21-24 U.S.Q.	01-30-24 D.S.	12-13-23 UHQ	date checked	 Karins and Associates ENGINEERS • PLANNERS • SURVEYORS NEWARK, DE & GEORGETOWN, DE www.karinsengineering.com 17 POLLY DRUMMOND CENTER • SUITE 201 NEWARK, DELAWARE 19711 PHONE: (302) 369-2900 FAX: (302) 369-2975		
PER NCC COMMENTS DATED 03-14-24	ADDED NOTE #62	PER NCC COMMENTS DATED 11-27-23	revisions			
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.						
CHECKED BY: U.R.Q., D.S.						
DATE: 01-29-2022				SHEET: 2 OF 9		
DRAWING NO.: 2554 - A02						

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		-	-	<u>1,500,000</u>	<u>1,500,000</u>
				<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	\$ -	\$ -	<u>\$ 15,002,600</u>	<u>\$ 29,248,624</u>
			\$ -	<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)
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

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. 24-131

**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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- 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.

Introduced by: Mr. Carter
Date of introduction: December 13, 2022

ORDINANCE NO. 22-152

**REVISE PREVIOUSLY APPROVED EXPLORATORY MAJOR SUBDIVISION AND
LAND DEVELOPMENT PLAN WITH REZONING FOR BOYDS CORNER FARM
LLC; ST GEORGES HUNDRED; NORTHWESTERLY CORNER OF DUPONT
PARKWAY AND GREYLAG ROAD; TAX PARCELS 13-013.00-156 AND 13-013.42-091;
COUNCIL DISTRICT 6.**

(The plan for **The Plaza at Boyds** proposes to revise the previously approved design of the Exploratory Major Land Development Plan with a 341,500 square foot mixed use development consisting of 274 apartment units, 15,000 square feet of retail, 6,480 square feet of office GFA, and 6,040 square feet of amenity GFA with associated site improvements instead of 94,000 square feet of shopping center GFA and 12,500 square feet of office GFA. This new plan will supersede the previously approved Exploratory Major Subdivision and Land Development Plan and rezoning. Section 40.31.113 of the *New Castle County Code* requires that the submitted record plan be in general conformance with the development on the approved exploratory plan that was relied upon by County Council when it granted the rezoning. County Council adopted Ordinance 11-077 in June 2012. CR (Commercial Regional) zoning district. **App. 2022-0413-S/Z.**)

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. The revised plan for The Plaza at Boyds (area shown on Exhibits A and L, dated September 15, 2022) is approved and shall supersede the previously approved exploratory plan associated with the rezoning that was approved in June 2012 by Ordinance 11-077.

Section 2. This Ordinance shall become effective immediately upon passage by New Castle County 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:

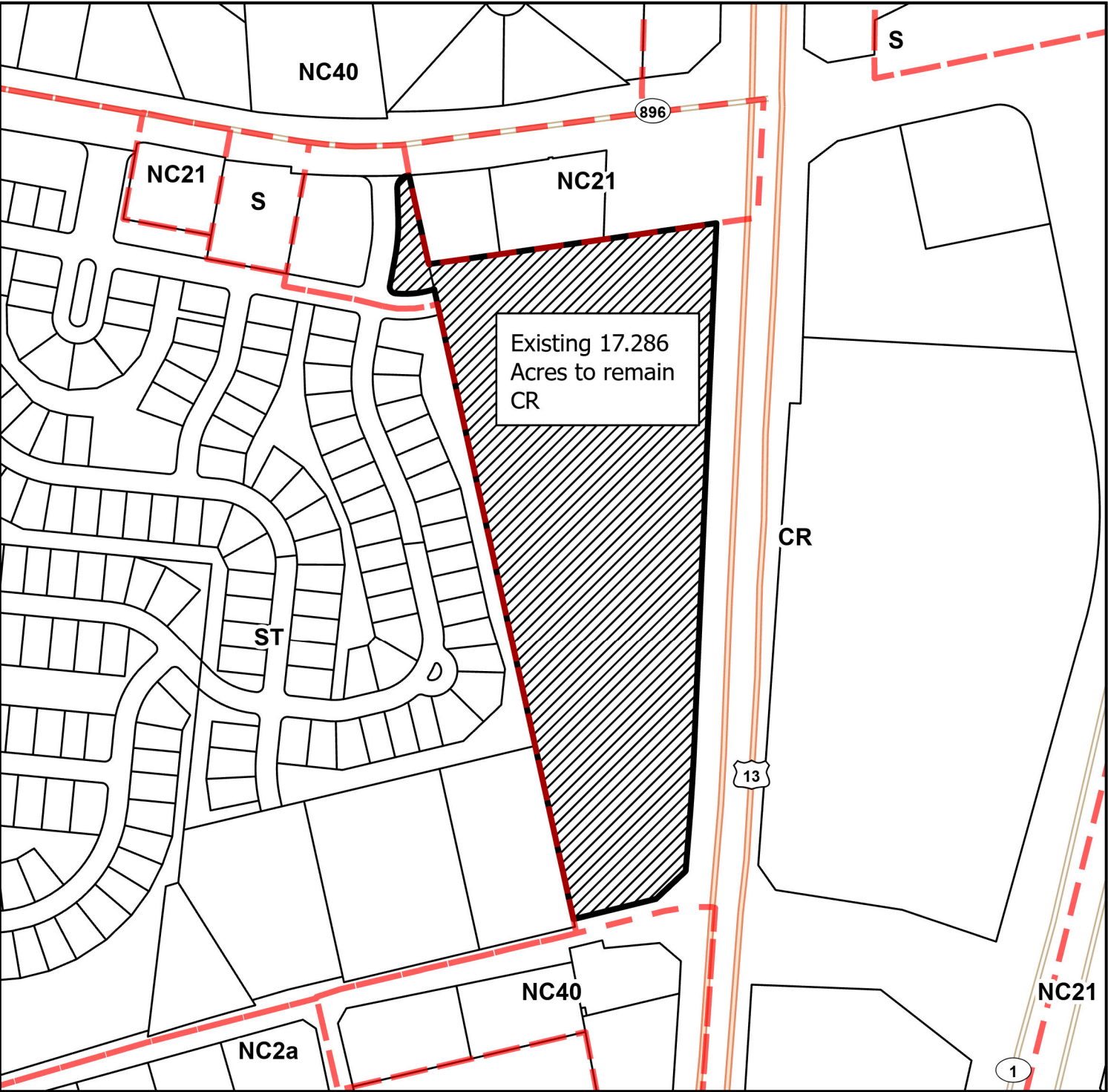
President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: Same as Title.

FISCAL IMPACT: This rezoning ordinance will have no immediate discernable fiscal impact on the County, but if the parcel(s) rezoned is (are) developed in accordance with the new rezoning, there may be one or more indirect fiscal effects on New Castle County government, including, but not limited to, an increase in the assessed value of the property with a resultant increase in taxes collectible thereon, and an increased demand for county services.



PROPERTY MAP

EXHIBIT "L"
ZONING ORDINANCE AS INTRODUCED

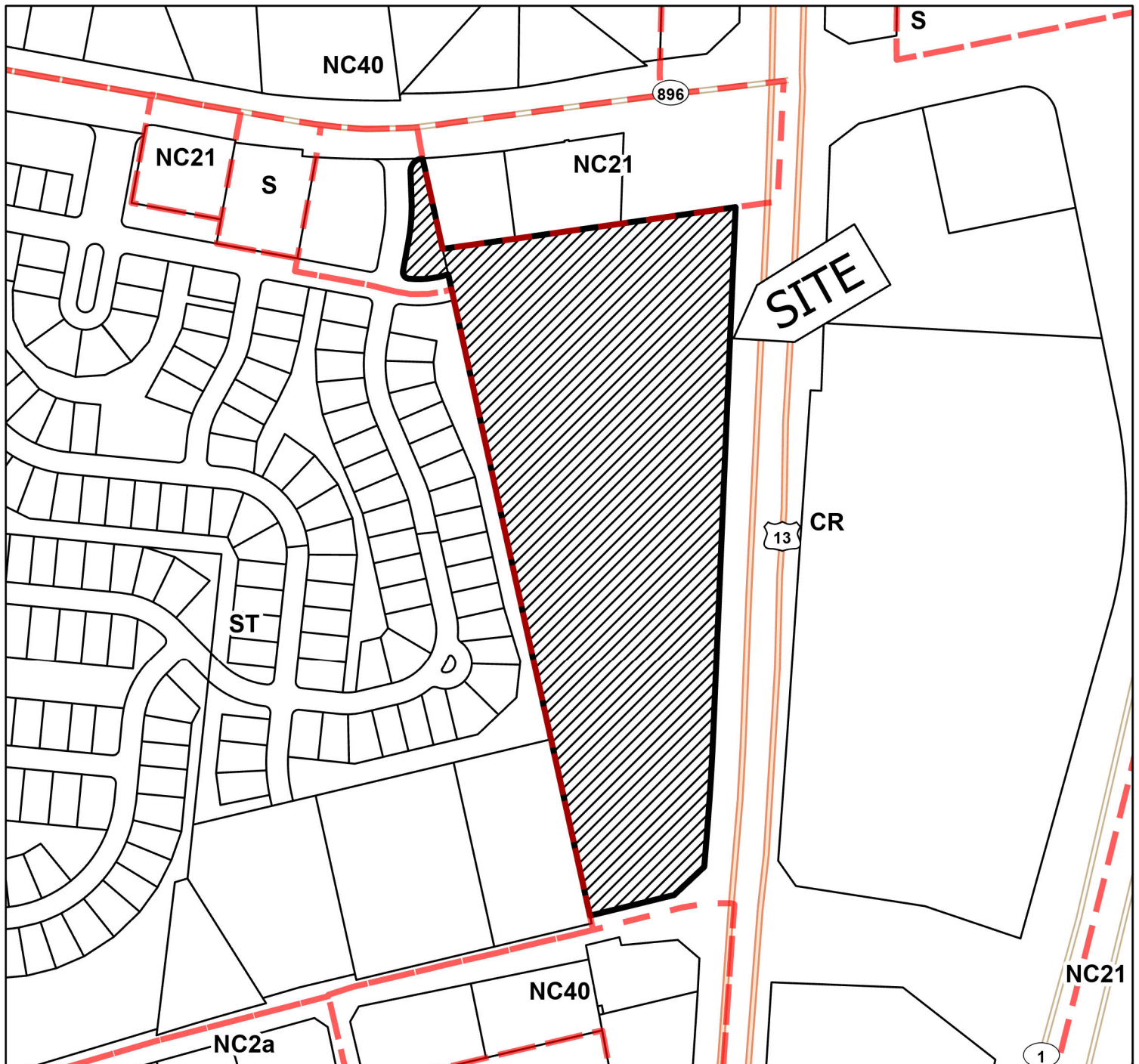
APPLICANT: AZB COMMERCIAL LLC

APPLICATION NO. 2022-0413-S/Z

PROPOSED REZONING: CR TO REMAIN CR

TAX PARCEL NO. 13-013.00-156;

13-013.42-091



HUNDRED: ST. GEORGES HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:4,000

Prepared by: property.munsaka

Date: 9/15/2022



PERMANENT ORDINANCE NO. 22- 152

Date Adopted by County Council _____

Date Approved by County Executive _____



Department of Land Use
**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance 22-152
Application 2022-0413-S/Z
Plaza at Boyds**

July 16, 2024

Location: Northwesterly corner of DuPont Parkway and Greylag Road

Sponsor: Councilman David Carter, District 6

Description: Confirmation rezoning for the construction of a 423,626 square foot, mixed-use development consisting of 300 apartment units, 19,450 square feet of retail, 14,909 square feet of office / amenity space, and associated site improvements

Applicant: AZB Commercial, LLC

EXECUTIVE SUMMARY

Before the Planning Board for consideration, is a confirmation of a rezoning for a major land development plan known as the Plaza at Boyds. The rezoning and accompanying land development plan (Boyds Corner Farm, App. 2011-0319-S/Z, Ord. 11-077) was approved by New Castle County Council on June 12, 2012. Due to market demand challenges in the decade following the plan's original approval, the construction of the project was not completed. The current plan proposes to construct a mixed-use development consisting of 300 apartment units, 19,450 square feet of retail space, and 14,909 square feet of office / amenity space.

As part of the proposed changes to the recorded plan, Section 40.31.114 *of the New Castle County Code* requires that all subsequent revisions to land development plans with rezonings be in general conformity with the plan that was relied upon by County Council when it granted the zoning. While the current plan is similar in nature to the existing record plan on file and aligns with the permitted uses within the Commercial Regional (CR) zoning district, the current proposal includes changes such as the construction of apartment units, changes to the amount of commercial GFA proposed, and layout / design modifications. Therefore, the provisions of the UDC require that the proposed plan be reevaluated by means of the rezoning process.

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

the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of Ordinance 22-152.

DESCRIPTION

The subject site is situated on the west side of DuPont Parkway (US Rt 13), just south of the intersection with Boyds Corner Road. The current plan (App. 2022-0413-S/Z) proposes to construct a mixed-use development consisting of 300 apartments over 389,267 square feet, 19,450 square feet of retail space, and 14,909 square feet of office / amenity space. Due to the proposed redesign of the overall development and the shift from commercial uses to primarily multi-family residential, the plan is not in general conformance with the existing record plan for the site. The Department and Planning Board are charged with evaluating the revised plan and the requested reconfirmation of rezoning in accordance with Standards for Map Amendment in Section 40.31.410 of the UDC.

ZONING & DEVELOPMENT PATTERN

The 17.29± acre site fronts DuPont Parkway (US Rt 13) near the intersection with Boyds Corner Road. The surrounding area is largely characterized by a mix of commercial uses (primarily along DuPont Parkway, US Rt 13) and medium-density residential developments. Directly to the west of the subject site is the Boyds Corner Farm subdivision (zoned Suburban Transition), which is comprised of medium density residential development that includes both single-family units and townhomes. Development to the north and south of the subject site is comprised of medium-density, single-family developments that are zoned Neighborhood Conservation (NC21, NC40, NC2a). Directly to the east of the site on the opposite side of DuPont Parkway (US Rt 13), the Hubers Crossing shopping center, Commercial Regional (CR) is currently under construction.

BACKGROUND

The development for the Plaza at Boyds was initially tied to the Boyds Corner Farm development, which proposed 116 single-family residential units as well as 146,800 square feet of retail, office, and restaurant space on parcel 13-013.00-156. While construction of the residential component of Boyds Corner Farm commenced, there has been no progress for the construction for the retail, office, and restaurant portion of the plan. The current proposal seeks to modify the plans for parcel 13-013.00-156 construct a mixed-use development consisting of 300 apartments over 389,267 square feet, 19,450 square feet of retail space, and 14,909 square feet of office / amenity space. Based on the testimony provided by the applicant's attorney at the public hearing, following the economic changes brought on by the COVID-19 pandemic, the property owner commissioned a market-study to determine whether the previously proposed would be viable. According to the applicant's consultant, there was limited demand for commercial construction in the area but instead a higher demand for multi-family residential units due to limited supply in the immediate area. The applicant indicated that their goal was to achieve a balance of commercial / office uses with residential uses to provide for a more walkable community with supporting amenities for the development.

PRELIMINARY LAND USE SERVICE (PLUS) REVIEW

The subject application was reviewed at a meeting held on October 24, 2022. The PLUS Review Letter, dated October 24, 2022, includes comments from various state agencies regarding the proposed land development plan. The letter states that the project is situated within a Level 2 investment area, which is consistent with the 2020 Strategies for State Policy and Spending. Investment Level 2 areas are comprised of lands where growth is anticipated by local, county, and State plans in the near-term future. The Office of State Planning indicated that they have no objections to the proposed application.

The Delaware Department of Transportation noted that all entrances must meet the standards in the Development Coordination Manual (DCM). DelDOT provided general comments regarding DelDOT's DCM and the requirements the plan would be subject to, as well as the development review process required for approval. The Delaware Department of Natural Resources and Environmental Control (DNREC) provided comments regarding the amount of disturbance proposed by the development and noted that the plan would be subject to Delaware Sediment and Stormwater Regulations. DNREC also noted that the site is impacted in its entirety by a Water Resource Protection Area (WRPA); therefore, the plan must follow all applicable WRPA regulations. Delaware Emergency Management Agency (DEMA) noted that the parcel is located within an area of minimal flood concerns of 1,000 years or greater. The Delaware Division of Historic and Cultural Affairs (DHCA) noted that there was no record of any archaeological resources present on the property; however, the potential for archaeological resources is high. For these reasons, DHCA recommended the applicant consult with an archaeologist prior to ground disturbance. The Delaware State Fire Marshall's Office provided general comments regarding Fire Protection Water Requirements, Fire Protection Features, and Accessibility. The letter also includes general recommendations from the State agencies.

PLANNING BOARD PUBLIC HEARING – June 4, 2023

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

John Tracey, the applicant's attorney, and Seth Shapiro, the applicant's design professional, and Dev Sitaram, the applicant's engineer, spoke on behalf of the application. Mr. Tracey began his presentation by providing a brief background of the project's history. He stated that the current record plan with rezoning was approved in 2012 and called for the construction 106,000 square feet of commercial and office space. He stated that following the recordation of the land development plan at the time, the market stalled as did the construction of the project. Mr. Tracey stated that following the COVID-19 pandemic, the property owner consulted a financial expert to conduct a market study of the subject site, which resulted in a recommendation that there was a limited appetite for commercial construction over the construction of multi-family housing. He stated in order to find a balance uses for the development; the applicants decided to pursue a mixed-use project that had a full redesign of the site. Mr. Tracey also noted that the plan had received a recommendation of approval from the Board of Adjustment regarding three variances dealing with landscaping and mixed-use parking requirements. He stated that the plan

still falls below the maximum density permitted under the Commercial Regional (CR) zoning district and seeks to establish placemaking aspects that provide for a walkable community.

Mr. Shapiro spoke to the proposed design of the community and the relationship of the proposed apartment buildings and commercial buildings on the site. He stated that the plan was designed to provide a pedestrian scale in order to provide a transition between nearby commercial and residential uses. He spoke to the architectural design of the three-story apartment buildings, the four-story, mixed use building, and the one-story, commercial structures. He noted that the plan also calls for the construction of one-story, garage buildings as well to support the residents of the community.

Following the presentation regarding the design of the proposed development, Mr. Tracey spoke to the Standards for Zoning Map Amendments required by the Code. He noted how the plan was in compliance with the 2022 Comprehensive Plan given the Business Flex designation on the Future Land Use Map. He noted how the plan remains consistent with the character of the surrounding community, fronting a major corridor that has similar mixed-use projects. He spoke to the consistency with surrounding zoning as well as how the property remains suitable for a mixed-use development. Mr. Tracey spoke to the traffic figures that were generated for the plan and stated that the plan generates fifty (50) percent less than what the currently approved shopping center would generate. He stated that the plan will have an updated TID agreement in place.

Ms. Peterson inquired about Note 42 on the proposed plan, which refers to eight and a half acres of impervious cover transfer. Mr. Tracey stated that the prior project had a WRPA component, which utilized the transfer of development rights to preserve properties in other areas of the County. He clarified that the current proposal preserved additional farmland within a WRPA to provide for development of the subject site. Ms. Peterson inquired if there was any community outreach completed. Mr. Tracey stated that there were not any community meetings held, but that the applicant had several conversations with the district councilman. He stated that the previous two public hearings that had been held regarding the current application had not generated a significant amount of public comment. Ms. Peterson inquired if there was a plan to utilize solar or geothermal energy. Mr. Tracey stated that it was something the applicant would consider.

Ms. Visvardis inquired about the amount of parking provided on the project. Mr. Tracey stated that there were 560 spaces provided after receiving approval from the Board of Adjustment regarding the amount of parking. He noted that the reduction of parking would also result in less impervious cover within the WRPA on the site. Mr. Tracey stated that the applicant did an analysis of similar communities in the surrounding area and stated that the study found that many extra parking spaces remain unused.

Ms. Gray inquired about the dumpster enclosure. Mr. Tracey noted that the comments regarding the dumpster enclosure maneuvering brought up by the Department would be addressed in construction review.

Public Comment

There were no public comments at the Planning Board Public Hearing.

Comments received while the record was open

The Department of Land Use received written correspondence from David Thomas, Steven and Mary Burns in opposition to Ordinance 22-152. Their concerns ranged from potential decrease in property value, wildlife, and trash.

ANALYSIS

When the previous plan, Boyd Corner Farm, was considered, it was noted that the DuPont Parkway and Boyds Corner intersection was an area where there was a significant amount of anticipated growth and that a mixed-use development consisting of both residential and commercial uses supported by Commercial Regional (CR) zoning was appropriate. While there have been economic and market shifts due to the COVID-19 pandemic, the DuPont Parkway (US Rt 13) corridor has continued to be characterized by commercial, mixed use, and residential development. The 2022 New Castle County Comprehensive Plan designates the subject site as Business Flex, which are areas that have existing and potential for nonresidential development under districts such as Commercial Neighborhood (CN), Commercial Regional (CR), Office Neighborhood (ON), and Office Regional (OR).

Based on the existing zoning and land development pattern in the surrounding area, the current proposal for a mixed-use development and the accompanying Commercial Regional (CR) zoning remains relevant in the present day. While the plan for the subject site has shifted from a strictly non-residential development to a mixed-use development, the intention of the plan is to have a multi-family housing units supported by retail and office spaces. In their presentation at the public hearing, the applicant presented the architectural concepts for the buildings, which include seven, three-story apartment buildings, a centralized, four-story apartment building, and two, one-story, multi-tenant commercial buildings. The overall community design of the development appears to be in character with other surrounding residential developments and appears it will be compatible with nearby single-family developments.

Standards for Zoning Map Amendment – Section 40.31.410 of the New Castle County Code

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

The 2022 New Castle County Comprehensive Plan classifies the subject site as Business Flex, which are areas existing and potential nonresidential development options. These areas are essential to the continued economic viability of the County. Confirmation of the existing rezoning is in conformance with the current Comprehensive Plan.

At the time of its initial approval, the Boyd Corner Farm plan was consistent with the 2007 Comprehensive Plan, which designated the site as a New Community Development Area.

B. Consistency with the character of the neighborhood.

The character of the surrounding neighborhood is comprised of a mix of medium-density residential developments and commercial developments that primarily front DuPont Parkway (US Rt 13). The proposed design of the community presented at the hearing appears to be compatible with surrounding residential development while also providing supporting multi-tenant, commercial buildings appropriate for the scale of the neighborhood. Therefore, the confirmation of the existing Commercial Regional (CR) zoning is appropriate with the character of the surrounding neighborhood.

C. Consistency with zoning and use of nearby properties.

Based on the existing zoning pattern of the surrounding area, the site remains adjacent to other Commercial Regional (CR) zoning fronting DuPont Parkway (US Rt 13). Due to the site's proximity to this major corridor and Boyd's Corner Road, which is characterized by medium-density residential zoning, Commercial Regional (CR) zoning continues to be an appropriate district for the subject site.

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

The revised plan includes a significant modification from the previous proposal, which was strictly commercial in nature on the proposed parcel. However, the proposed multi-family housing adjacent to existing medium-density developments to the east and the Hubers Crossing shopping center to the east makes the subject property a suitable location for a mixed-use development in accordance with the provisions of the Commercial Regional (CR) zoning district.

E. Effect on nearby properties.

As noted above, the proposed design of the community has been prepared in a sensitive nature to be compatible with surrounding residential developments. The mixed-use nature of the property will also provide for a more natural transition between the commercial uses fronting DuPont Parkway and the Boyds Corner Farm subdivision.

DEPARTMENT OF LAND USE RECOMMENDATION

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

PLANNING BOARD RECOMMENDATION

At the business meeting held on July 16, 2024, the Planning Board considered the recommendation provided by the Department of Land Use as well as comments from outside agencies and the public.

On a motion made by Ms. Drake and seconded by Ms. Gray, the Board voted to recommend **APPROVAL** of Ordinance 22-152 as recommended by the Department of Land Use.

The motion was adopted by a vote of 5-0-0-4 (In Favor: Cantrell, Cochran, Drake, Gray, Visvardis; In Opposition: None; Abstention: None; Absent: Cahill-Krout, Daigle, Peterson, Snowden).

Prior to the vote, the following discussion occurred:

Matthew Rogers read the Department of Land Use recommendation into the record. Ms. Gray remarked about the need for commercial uses in the corridor.



7/22/24

Charuni Patibanda
General Manager
Department of Land Use

date



07/22/2024

Karen Peterson
Chair
Planning Board

date

ORDINANCE NO. 24-031

**AMENDING NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED
DEVELOPMENT CODE"), ARTICLE 31 ("PROCEDURES AND ADMINISTRATION")
RELATING TO COUNTY COUNCIL REFERRALS**

1 **WHEREAS**, an orderly and predictable process for the review of plans is critically
2 important to land use decision making; and
3

4 **WHEREAS**, the current requirement for scheduling of action on a response to a
5 Council technical compliance referral is fluid and, consequently, depending on the
6 circumstances, may not provide adequate notice to Council, the plan applicant, or the
7 community to ensure adequate time for review and thoughtful engagement prior to a
8 final hearing and vote before County Council; and
9

10 **WHEREAS**, the general advance notice provided for many actions by County
11 Council and the State of Delaware is 7 days; and
12

13 **WHEREAS**, making the change proposed herein will afford a reasonable time to
14 review the findings and recommendations by the Department of Land Use, and is not
15 burdensome for Council or the Department, but, on the other hand, does help to ensure
16 a predictable and orderly process, which the law favors.
17

18 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
19

20 Section 1. *New Castle County Code* Chapter 40 ("Unified Development Code"),
21 Article 31 ("Procedures and Administration"), Section 40.31.114 ("Record Plan Review
22 Stage") is hereby amended by adding the material that is underscored and by deleting
23 the material that is stricken as set forth below.
24

25 **Division 40.31.114. Record plan review stage.**
26

27 ...

28 **D. Council consent.**

- 29 1. For major plans, the record plan shall be forwarded to County Council for its
30 consent. Upon receipt of the plan, County Council shall schedule the matter
for its next public hearing, and may take one (1) of the following actions:

- 31 a. Adopt a resolution approving the record major plan; or
32 b. Table and refer the plan back to the Department, no more than twice,
33 with specific questions relating to technical compliance with this
34 Chapter, State or federal constitutional requirements or any other
35 statute or ordinance for which compliance is required. Upon receipt of
36 a Department recommendation reaffirming approval of the plan,
37 County Council shall adopt the resolution of approval, unless a second
38 referral is made because of additional questions or concerns. Upon
39 receipt of the Department's recommendation reaffirming approval of
40 the plan after review of any additional concerns raised by County
41 Council, Council shall adopt the resolution of approval.

- 42 2. County Council may use any one (1) or more of the above options subject to
43 the limitations contained in each subparagraph.
44

45 *E. Action upon receipt of County Council referral.* Upon receipt of specific questions
46 from County Council, the Department shall respond with its findings and a
47 recommendation. The recommendation shall be one (1) of the following:

- 48 1. That the plan be approved, in which case County Council shall adopt the
49 resolution of plan approval at its next scheduled meeting which provides
50 Council with at least 7 days' notice of the Department's findings and
51 recommendation, unless a second referral is made, in which case Council
52 shall adopt the resolution of plan approval at its next scheduled meeting
53 following the second approval which provides Council with at least 7 days'
54 notice of the Department's findings and recommendation.
- 55 2. That the Department has rescinded its previous approval of the plan for
56 noncompliance, in which case County Council shall withdraw the resolution of
57 plan approval.
58

59 Section 2. This Ordinance shall become effective immediately upon its adoption
60 by County Council and approval by County Executive, or as otherwise provided in 9 Del.
61 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 ensures that County Council and the public have adequate notice and time for consideration of the findings and recommendation of the Department of Land Use, when recommending approval of a plan, by establishing that the Department's response to a referral by Council under Section 40.31.114 must be provided to County Council in such manner as to provide it with at least 7 days' notice of the Department's findings and recommendation before the resolution may be considered by Council.

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

**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance No. 24-031
Application No. 2024-0264-T
County Council Referrals**

July 16, 2024

Sponsor: Councilman David Carter (District 6)

Description: To amend New Castle County Code, Section 40.31.114 (“Record Plan Review Stage”) relating to refferrals

EXECUTIVE SUMMARY

Ordinance 24-031 (Application 2024-0264-T) proposes changes to Section 40.31.114 of the New Castle County Code to require the Department of Land Use provide County Council with at least 7 days’ notice Department findings and recommendations upon receipt of referrals from County Council. Currently, Section 40.31.114 of the New Castle County Code does not set a deadline for this process.

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 **APPROVAL** of Ordinance 24-031 (Application 2024-0264-T) as written to require a minimum of 7 days’ between receiving notice of the Department’ findings and recommendation and County Council consideration as outlined in Section 40.31.114 of this Chapter.

DESCRIPTION

Ordinance 24-031 proposes changes to Section 40.31.114 of the New Castle County Code to require the Department of Land Use provide County Council with at least 7 days’ notice of Department findings and recommendations upon receipt of referrals from County Council.

BACKGROUND

Ordinance 97-172 Unified Development Code

On December 31, 1997, New Castle County adopted the Unified Development Code (UDC) (Ordinance 97-172). At the time of UDC adoption, Section 40.31.114 stated the requirement of the Department to provide findings and recommendations to County Council referrals with no set deadline prior to the next County Council meeting.

Ordinance 24-031 County Council Referrals

The proposed ordinance (24-031) sets a 7 days' notice regarding Department of Land Use findings and recommendations to County Council referrals prior to the next County Council meeting.

PLUS REVIEW

The PLUS Report dated June 21, 2024, contains comments from State agencies. The Office of State Planning and Coordination (OSPC) had no concerns or objections to the proposed ordinance stating "This ordinance is to amend an internal process between the New Castle County Land Use Department and the County Council to ensure proper notice before land use decisions are made. The amendment provides for 7 days' notice before a scheduled County Council meeting which is in line with other County and State procedures." There were no additional comments from other State agencies.

PLANNING BOARD PUBLIC HEARING – July 2, 2024

Councilman Carter presented Ordinance 24-031 at the July 2, 2024, joint New Castle County Department of Land Use and Planning Board Public Hearing. During his presentation, Councilman Carter summarizes the County Council referral process and states that currently the UDC does not set a deadline on Department of Land Use notice to County Council referrals. He mentions similar processes have a 7 days' notice and the proposed ordinance would make the County Council referrals process consistent with these other notices.

Neal Cantrell asks if better decisions could be made at 14 days or 30 days. Councilman Carter affirms that more time would be welcome, however the proposed 7 days' notice would be consistent with other processes.

Public Comment

During the public comment period two residents spoke in favor of the ordinance: (1) Dale Swain, and (2) Alison West. Mr. Swain expressed support for the ordinance, noting that a 7 days' notice would allow for sufficient public review and notice regarding an upcoming County Council meeting. Ms. West expressed support for the ordinance, noting that the 7 days' notice would allow for the public to speak their concerns to their County Council representative prior to a meeting.

Written Public Comment

There was no written public comment.

ANALYSIS

As stated in the background section of this report, Section 40.31.114 has not been updated regarding County Council referrals since the adoption of the *Unified Development Code* in 1997. As stated in the sponsors testimony, County Council may need time to compile inquiries of the Department of Land Use prior to the approval and recordation of a land development plan. The Department of Land Use concurs that a 7 days' notice will provide County Council with sufficient time for review prior to a Council meeting.

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.*

N/A

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 24-031 seeks to address an issue where County Council referrals and Department of Land Use response may not provide adequate review time for County Councilmembers to review prior to a Council meeting.

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 **APPROVAL** of Ordinance 24-031 (Application 2024-0264-T) as written to require a minimum of 7 days' between receiving notice of the Department' findings and recommendation and County Council consideration as outlined in Section 40.31.114 of this Chapter.

PLANNING BOARD RECOMMENDATION

At the business meeting held on July 16, 2024, the Planning Board considered the recommendation provided by the Department of Land Use as well as comments from outside agencies and the public.

On a motion made by Mr. Cantrell and seconded by Ms. Visvardis, the Board voted to recommend **APPROVAL** of Ordinance 24-031 as recommended by the Department of Land Use.

The motion was adopted by a vote of 6-0-0-3 (In Favor: Peterson, Cantrell, Cochran, Drake, Gray, Visvardis; In Opposition: None; Abstention: None; Absent: Cahill-Krout, Daigle, Snowden).

Prior to the vote, the following discussion occurred:

Alec Davis read the Department of Land Use recommendation into the record. Ms. Gray asked if not requiring a 7-days' notice would inhibit County Council in performing its duties. Charuni Patibanda clarified that the ordinance addresses part of the administrative approval process, and the proposed changes are to the referral components of this process. She explained that the current process requires County Council to take up a Department of Land Use response immediately at the next County Council meeting, and that the proposed ordinance sets a 7-days' buffer between Department of Land Use response and the next County Council meeting. Mr. Cantrell posed a hypothetical scenario regarding the Department of Land Use and the timeline for when it would be heard by County Council, to which Ms. Patibanda responded. t. explained Mary Jacobson asked if the Department of Land Use has a specified amount of time to provide a response. Ms. Patibanda explained that while the Unified Development Code does not have a set timeline, there are response time requirements in State of Delaware Code.



7/22/24

Charuni Patibanda date
General Manager
Department of Land Use



07/22/2024

Karen Peterson date
Chair
Planning Board

SUBSTITUTE NO. 1 TO ORDINANCE NO. 24-059

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), SECTION 40.03.410 ("ACCESSORY USES, RESIDENTIAL") RELATING TO FENCE STANDARDS

1 **WHEREAS**, well maintained fences provide security and privacy to neighbors; and

2
3 **WHEREAS**, fences, if not properly constructed and maintained, can become an
4 eyesore or, worse, cause injury to the public; and

5
6 **WHEREAS**, it is important that New Castle County adopt clear fence regulations in
7 residential areas to ensure the safety and welfare of the residents of New Castle County;
8 and

9
10 **WHEREAS**, it is in the best interests of New Castle County and its residents that
11 the County regulate various aspects of fences in residential areas to ensure the safety,
12 welfare, and visual integrity of New Castle County.

13
14 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**

15
16 Section 1. *New Castle County Code* Chapter 40 ("Unified Development Code"),
17 Section 40.03.410 ("Accessory Uses, Residential") is hereby amended by adding the
18 material that is underlined and deleting the material with strikethroughs, as set forth below.

19
20 **Sec. 40.03.410. - Accessory uses, residential.**

21
22 Residential uses may have accessory buildings and accessory uses provided they
23 conform to the following standards:

24 ...

25 ~~E. **Fences.** Fences may be permitted in all yards and all yard setbacks and shall be~~
26 ~~constructed of materials specifically designed for fences and may not include barbed~~
27 ~~or razor wire. Fence panels and fence materials may not exceed six (6) feet in height.~~
28 ~~To account for installation on sloping ground and any necessary space between the~~
29 ~~ground and the bottom of the fence panels or materials, the top of the fence panels,~~
30 ~~materials, and posts may not exceed seven (7) feet in height when measured from the~~
31 ~~ground, except as permitted in Subsection G.~~

32
33 E. **Fences.** Fences are permissible in all yards and all yard setbacks, subject to the
34 following regulations.

- 35 1. **Maximum height.** Fences must be no more than 6' in height, except as
36 otherwise set forth herein. In zoning designations NC5, NC6.5, NC10, and
37 NC15, the maximum permissible fence height in the street yard is 4'.

- 38 2. **Approved fencing material.** Fences must be constructed of approved
39 materials, including: wood, brick, decorative masonry, stone, wrought iron,
40 manufactured vinyl, aluminum, and PVC fence material.
- 41 3. **Prohibited fencing material.** No fence shall be constructed of sheet or
42 corrugated metal, plywood, concrete masonry unit block (with the exception
43 of use for a retaining wall), or other materials not manufactured or designed
44 for the primary purpose of fence construction. Furthermore, metal prongs or
45 spikes not designed and manufactured as part of a fence section are
46 prohibited. Barbed or razor wire is prohibited for fence construction.
- 47 4. **Installation.** When constructed on sloping ground, a fence may be installed on
48 an incline or in stepped sections. To account for installation on sloping ground
49 and any necessary space between the ground and the bottom of the fence
50 panels or materials, the top of the fence panels, materials, and posts may not
51 exceed 7' in height when measured from the ground, except as permitted in
52 Subsection G.
- 53 5. **Maintenance.** Fences must be maintained in good condition, structurally sound
54 and safe, and shall not by reason of age, decay, accident, or otherwise be
55 allowed to become and remain in a state of disrepair so as to be a nuisance or
56 cause blight, or present a potential injury or threat to the public;
- 57 a. **Dilapidated fences shall be repaired or replaced in accordance with**
58 provisions of this Division.
- 59 b. **The property owner shall maintain each fence, including any fence existing**
60 prior to adoption of this section, at all times, in a state of good repair, safe
61 and secure condition, with all braces, bolts, nails, supporting frames and
62 fastenings free from deterioration, termite infestation, rot, rust, or loosening,
63 and able to withstand at all times the wind pressure for which they were
64 designed.
- 65 6. **Visibility triangle.** All walls and fences located on a corner lot shall comply
66 with any applicable visibility sight triangles as provided for in this Chapter.
- 67 7. **Floodplains.** Fences proposed in a floodplain must comply with the
68 requirements in Article 10, including the requirement to obtain a floodplain
69 permit.
- 70 8. **Nothing in this Section waives any restrictions otherwise applicable under the**
71 New Castle County Code including Chapter 7 (Property Maintenance Code)
72 and Chapter 40 (Unified Development Code). Moreover, the regulations set
73 forth herein do not override validly adopted deed restrictions.

74 Section 2. This Ordinance shall become effective immediately upon its adoption by
75 County Council and approval by the County Executive, or as otherwise provided in 9 Del.
76 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 amends *New Castle County Code*, Section 40.03.410 (“Accessory Uses, Residential”) to provide clarity regarding standards applicable to fences in residential areas, including permitted and prohibited fence materials and maintenance.

Substitute No. 1 to the original Ordinance to require that fences located within a floodplain must comply with Article 10, including the requirement to obtain a floodplain permit.

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

ORDINANCE NO. 24-059

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), SECTION 40.03.410 ("ACCESSORY USES, RESIDENTIAL") RELATING TO FENCE STANDARDS

WHEREAS, well maintained fences provide security and privacy to neighbors; and

WHEREAS, fences, if not properly constructed and maintained, can become an eyesore or, worse, cause injury to the public; and

WHEREAS, it is important that New Castle County adopt clear fence regulations in residential areas to ensure the safety and welfare of the residents of New Castle County; and

WHEREAS, it is in the best interests of New Castle County and its residents that the County regulate various aspects of fences in residential areas to ensure the safety, welfare, and visual integrity of New Castle County.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 40 ("Unified Development Code"), Section 40.03.410 ("Accessory Uses, Residential") is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

Sec. 40.03.410. - Accessory uses, residential.

Residential uses may have accessory buildings and accessory uses provided they conform to the following standards:

...

~~E. **Fences.** Fences may be permitted in all yards and all yard setbacks and shall be constructed of materials specifically designed for fences and may not include barbed or razor wire. Fence panels and fence materials may not exceed six (6) feet in height. To account for installation on sloping ground and any necessary space between the ground and the bottom of the fence panels or materials, the top of the fence panels, materials, and posts may not exceed seven (7) feet in height when measured from the ground, except as permitted in Subsection G.~~

E. **Fences.** Fences are permissible in all yards and all yard setbacks, subject to the following regulations.

1. **Maximum height.** Fences must be no more than 6' in height, except as otherwise set forth herein. In zoning designations NC5, NC6.5, NC10, and NC15, the maximum permissible fence height in the street yard is 4'.

- 38 2. **Approved fencing material.** Fences must be constructed of approved
39 materials, including: wood, brick, decorative masonry, stone, wrought iron,
40 manufactured vinyl, aluminum, and PVC fence material.
- 41 3. **Prohibited fencing material.** No fence shall be constructed of sheet or
42 corrugated metal, plywood, concrete masonry unit block (with the exception
43 of use for a retaining wall), or other materials not manufactured or designed
44 for the primary purpose of fence construction. Furthermore, metal prongs or
45 spikes not designed and manufactured as part of a fence section are
46 prohibited. Barbed or razor wire is prohibited for fence construction.
- 47 4. **Installation.** When constructed on sloping ground, a fence may be installed on
48 an incline or in stepped sections. To account for installation on sloping ground
49 and any necessary space between the ground and the bottom of the fence
50 panels or materials, the top of the fence panels, materials, and posts may not
51 exceed 7' in height when measured from the ground, except as permitted in
52 Subsection G.
- 53 5. **Maintenance.** Fences must be maintained in good condition, structurally sound
54 and safe, and shall not by reason of age, decay, accident, or otherwise be
55 allowed to become and remain in a state of disrepair so as to be a nuisance or
56 cause blight, or present a potential injury or threat to the public;
- 57 a. **Dilapidated fences shall be repaired or replaced in accordance with**
58 provisions of this Division.
- 59 b. The property owner shall maintain each fence, including any fence existing
60 prior to adoption of this section, at all times, in a state of good repair, safe
61 and secure condition, with all braces, bolts, nails, supporting frames and
62 fastenings free from deterioration, termite infestation, rot, rust, or loosening,
63 and able to withstand at all times the wind pressure for which they were
64 designed.
- 65 6. **Visibility triangle.** All walls and fences located on a corner lot shall comply
66 with any applicable visibility sight triangles as provided for in this Chapter.
- 67 7. Nothing in this Section is intended to waive any restrictions otherwise
68 applicable under Ch. 7 (Property Maintenance Code). Moreover, the
69 regulations set forth herein are not intended to override validly adopted deed
70 restrictions.

71 Section 2. This Ordinance shall become effective immediately upon its adoption by
72 County Council and approval by the County Executive, or as otherwise provided in 9 Del.
73 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 amends *New Castle County Code*, Section 40.03.410 (“Accessory Uses, Residential”) to provide clarity regarding standards applicable to fences in residential areas, including permitted and prohibited fence materials and maintenance.

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

**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance No. 24-059
Application No. 2024-0226-T
Fences Ordinance**

July 16, 2024

Sponsor: Councilman John Cartier (District 8)

Description: To amend New Castle County Code, Section 40.03.410 (“Accessory Uses, Residential”) relating to fence standards.

EXECUTIVE SUMMARY

Ordinance 24-059 (Application 2024-0226-T) proposes changes to Section 40.03.410 of the New Castle County Code to require additional fence design standards within New Castle County. Currently, Section 40.03.410 of the New Castle County Code does not address universal fence design and addresses fence design and construction with ambiguity. Ordinance 24-059 seeks to address fence design, construction, maintenance, and related safety concerns.

The Department of Land Use has considered the Standards for Text Amendment in Section 40.31.420 of the *New Castle County Code* and comments received from other agencies and the public. Based on this analysis, the Department recommends **CONDITIONAL APPROVAL** of Ordinance No. 24-059, with the condition that County Council consider amending the ordinance to:

- Clarify that all fences must meet requirements set forth in this New Castle County Code including the requirement to obtain a flood plain permit, if located in a floodplain.

DESCRIPTION

Ordinance 24-059 proposes revisions to Section 40.03.410 of the New Castle County Code to provide additional fence design standards within New Castle County. In summary, the ordinance seeks to revise the following:

- Set a height limitation of 4 feet within the street yard within the NC5, NC6.5, NC10, and NC15 zoning districts.
- Define a list of approved and prohibited fencing materials.

- Provide installation and maintenance standards.
- Prohibit installation of fences within visibility triangles.

BACKGROUND

Ordinance 97-172 Unified Development Code

On December 31, 1997, New Castle County adopted the Unified Development Code (UDC) (Ordinance 97-172). Residential fences were limited to six (6) feet in height with accompanying restrictions on chain-link fences in street yards. Walls on patios and atrium units were exempted from these regulations.

Ordinance 98-080 Amendment of the Unified Development Code

On September 22, 1998, the County adopted Ordinance 98-080 revising various articles of the Unified Development Code. With respect to fences, the ordinance enacted prohibitions on razor wire and barbed wire fences on residential properties. The ordinance also permitted fencing and privacy walls in all setbacks. Additionally, previous restrictions on fencing materials were removed.

Ordinance 18-021 Amendment of the Unified Development Code

On July 10, 2018, the County adopted Ordinance 18-021 (Design) revising various articles of the Unified Development Code. The ordinance revised the residential fence regulations to permit fences located on sloping ground to be seven (7) feet in height for fence panels, materials and posts.

Ordinance 24-059 Amendment of the Unified Development Code

The proposed amendment (Ordinance 24-059) would enact a 4-foot height limitation within the street yard in the NC5, NC6.5, NC10, and NC15 zoning districts, clearly define fence material, construction, and maintenance standards, and prohibit installation of fences within visibility triangles.

PLUS REVIEW

The PLUS Report dated June 21, 2024, contains comments from State agencies. The Office of State Planning and Coordination (OSPC) noted the subject ordinance will “clarity to the residents of New Castle County on the installation, permitted materials and maintenance requirements of fencing in residential areas.” There were no additional comments from other State agencies.

PLANNING BOARD PUBLIC HEARING – July 2, 2024

Councilman Cartier presented Ordinance 24-059 at the July 2, 2024, joint New Castle County Department of Land Use and Planning Board Hearing. During his presentation, he discussed the need for limiting fence heights in front yards on smaller properties along with several proposed changes to fence building and maintenance standards.

Chairwoman Peterson asked Councilman Cartier if any existing fencing that does not meet the proposed standards would be “grandfathered”. Councilman Cartier confirmed that existing fences will be grandfathered under the previous standards. Ms. Drake asked for clarification on the Ordinance’s proposed 4-foot height limitations for the front yard and whether that limitation would apply to the side yards as well. Councilman Cartier responded stating that only fences within the front yard would be subject to the 4-foot limitation. Ms. Visvardis asked about the effect the Ordinance would have on deed restrictions and community guidelines regarding fencing design. Councilman Cartier confirms that this ordinance will not supersede the restrictions and regulations put in place by a community. Ms. Gray inquired about if the 4-foot height limitation would apply to certain types of fencing material. Councilman Cartier clarified that the limitation would apply for all fencing types.

Public Comment

There was no public comment.

Written Public Comment

There was no written public comment.

ANALYSIS

Historically, fencing has been utilized to mark a boundary or provide a sense of privacy to property owners. Fencing regulations have always hinged on balancing the freedom of the landowner to protect and screen their property and setting standards to create a more uniform neighborhood character and sense of place. Neighborhood character is lost when privacy fencing is blocking the view of the front yard. As referenced in the background of UDC amendments above, fencing standards have not clearly addressed fencing material, construction, and maintenance with the current code stating “...shall be constructed of materials specifically designed for fences...” per Section 40.03.410.E of the UDC. The Department concurs with the sponsor that the proposed changes would better define these standards eliminating areas of confusion for both residents and the County.

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.*

N/A

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

One of the six themes in the 2022 Update to the New Castle County Comprehensive Development Plan is "Thriving Places and Community Character":

The places we live, work and play are well designed, accessible, and vibrant, with active locations for people to gather. Our communities reflect important aspects of our past and are places in which we take pride.

Restricting residential fence height in the Street Yard helps foster a built environment that both instills pride in communities, and helps Code Enforcement and Fire Companies to safely provide their services.

- 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 24-059 addresses ambiguity with respect to fencing standards that have existed since the adoption of the *Unified Development Code* along with addressing neighborhood street frontage characteristics and safety concerns. The Ordinance requires a standardization of fencing materials, construction, and maintenance in addition to limiting fence height within smaller residential zoning districts. The Department has no objection to the proposed changes as it resolves gray areas found within the current code.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Text Amendment in Section 40.31.420 of the *New Castle County Code* and comments received from other agencies and the public. Based on this analysis, the Department recommends **CONDITIONAL APPROVAL** of Ordinance No. 24-059, with the condition that County Council consider amending the ordinance to:

- Clarify that all fences must meet requirements set forth in this New Castle County Code including the requirement to obtain a flood plain permit, if located in a floodplain.

PLANNING BOARD RECOMMENDATION

At the business meeting held on July 16, 2024, the Planning Board considered the recommendation provided by the Department of Land Use as well as comments from outside agencies and the public.

On a motion made by Mr. Gray and seconded by Mr. Cantrell, the Board voted to recommend **APPROVAL** of Ordinance 24-059 as recommended by the Department of Land Use.

The motion was adopted by a vote of 6-0-0-3 (In Favor: Peterson, Cantrell, Cochran, Drake, Gray, Visvardis; In Opposition: None; Abstention: None; Absent: Cahill-Krout, Daigle, Snowden).

Prior to the vote, the following discussion occurred:

Alec Davis read the Department of Land Use recommendation into the record.

Ms. Visvardis asked if pallet fences are allowed . Antoni Sekowski stated that the New Castle County Code does not currently regulate fence material, however the proposed ordinance would clarify the types of fence material and construction allowed. Ms. Gray expressed concern over the 4-foot height restriction, may impact some property owner's specific uses of their property . Matthew Rogers noted that a variance may be requested to

the Board of Adjustment by the property owner under those circumstances. Ms. Drake expressed concern that the ordinance might be too restrictive with respect to the height limitation. Charuni Patibanda clarified that Councilman Cartier's concerns are not limited to access but also first responder and code enforcement's visibility of front yards. Mary Jacobson requested that the Department clarify current New Castle County Code restrictions on location of fences. Matthew Rogers confirmed that the Unified Development Code, allows a resident to build a fence, or wall, 6-feet in height along all property lines encircling a property. He further clarified the definition of the street yard and how it relates to the street lot line and the home. Mary Jacobson proceeded to inquire about the impact on corner lots. Mr. Rogers stated that where multiple street lot lines exist, street yards are established along those frontages. Mary Jacobson asked if the Department of Land Use had ever considered prohibiting fences within the street yard. Matthew Rogers stated that the Department of Land Use has not investigated prohibiting fences within street yards citing the property owners right to have a fence versus the uniformity of neighborhoods and safety concerns. Ms. Jacobson asked if currently she could place a 6-foot stockade fence on her property so long as there are no deed restrictions. Mr. Rogers confirmed that currently that is what the code allows. Ms. Visvardis states that a lot of communities have deed restrictions that currently prohibit fences within the street yard. Mr. Rogers explained a variety of reasons why a property owner would want a fence within their street yard. Ms. Patibanda remarked that if street yard fences were completely prohibited, a variance from the Board of Adjustment would be required for all street yard fencing creating a burden for residents of New Castle County. Chairwoman Peterson asked about enforcement and permitting with respect to fencing. Ms. Patibanda explained that the Department of Land Use does not issue permits for fences as well as the fact that code enforcement is largely complaint driven. The Department further discussed code enforcement process including due process requirements. Ms. Patibanda described recent changes to the County Code allowing code enforcement violation financial penalties to be applied to County tax bills. Mr. Cantrell inquired about how a resident would know the fence restrictions for their property. Mr. Rogers described existing resources on the County's website that summarize fencing restrictions. He also stated that residents can contact the Department of Land Use directly with any questions regarding fencing. Ms. Patibanda added that if the proposed ordinance be adopted, the Department of Land Use would display the changes on their website as prominently as possible. Ms. Gray asked if existing fencing on a property does not meet the requirements, if it would be considered "grandfathered.". Mr. Rogers confirmed that for those fences, they would be considered nonconforming and could remain, however should the fence be removed or replaced, the new fences would need to comply with the all provisions of the County Code.



7/22/24

Charuni Patibanda date
General Manager
Department of Land Use



07/22/2024

Karen Peterson date
Chair
Planning Board

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

**SUBSTITUTE NO. 1 TO
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, 2, and 5 dated 2/04/2024, and Maps 3 and 4 dated 8/23/2024, 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, however portion of parcel 06-147.00-017 zoned Industrial and Heavy Industry has been reconfirmed and will remain Industrial and Heavy Industry zoned.

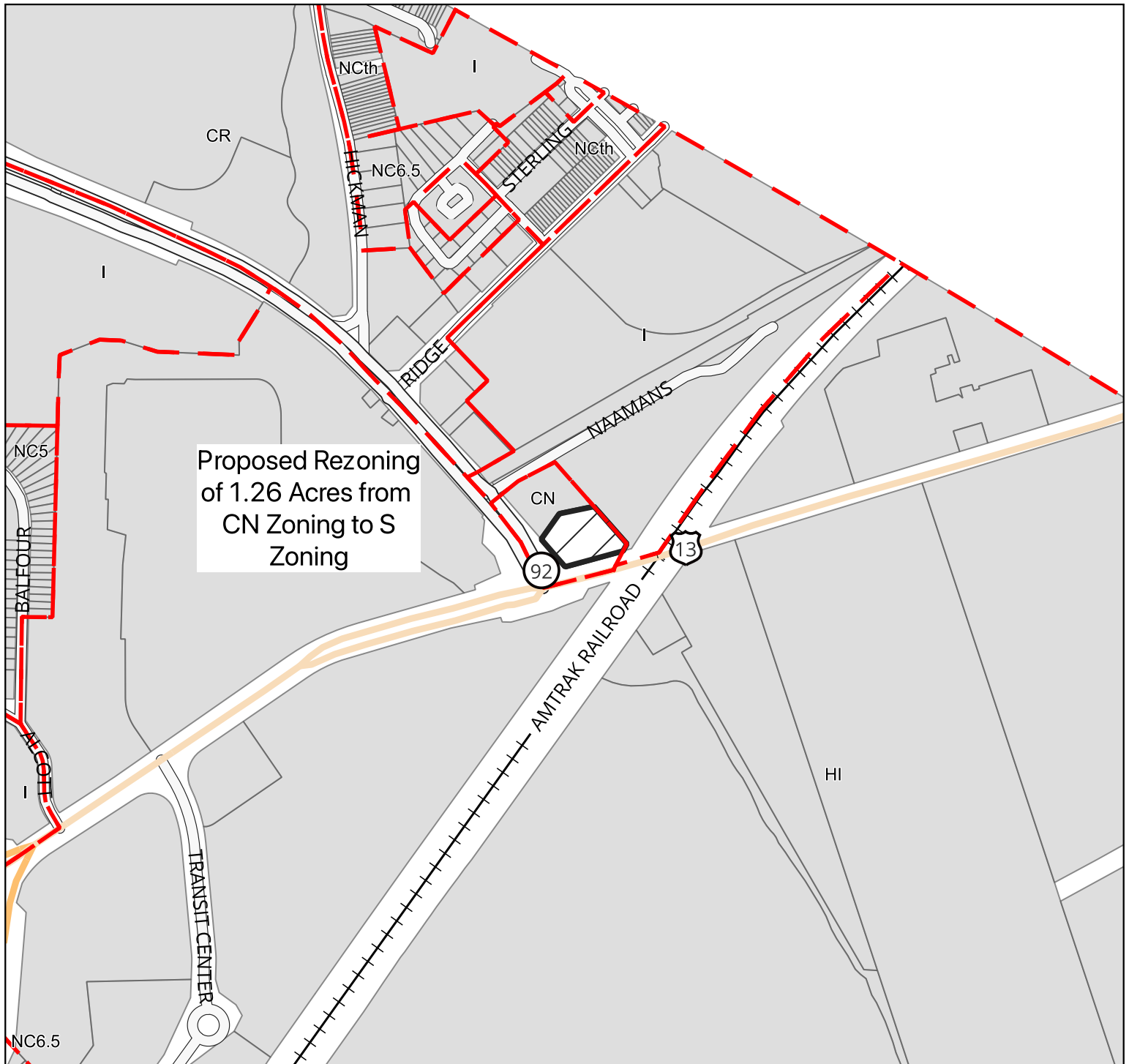
FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this ordinance.

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

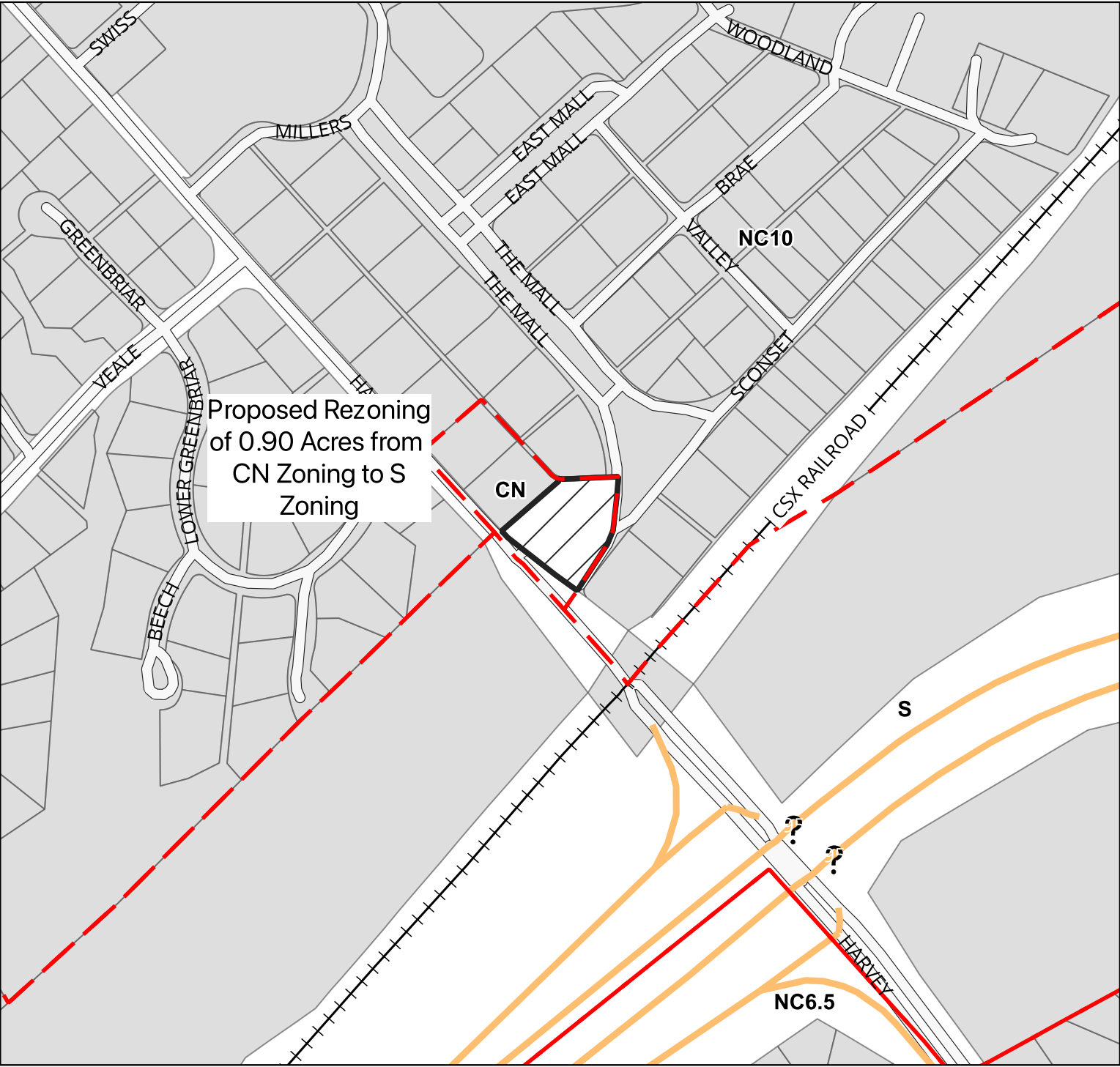
Date: 2/04/2024



Substitute No.1
PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

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

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



HUNDRED: ARDENTOWN
NEW CASTLE COUNTY, DELAWARE

Scale: 1:3754
Prepared by: Matthew Rogers

Date: 2/04/2024



Substitute No.1
PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

PROPERTY MAP

EXHIBIT A: MAP 3
ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: HI ZONING REMAINING HI

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: 8/23/2024



Substitute No.1
PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: I ZONING REMAINING I ZONING

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



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

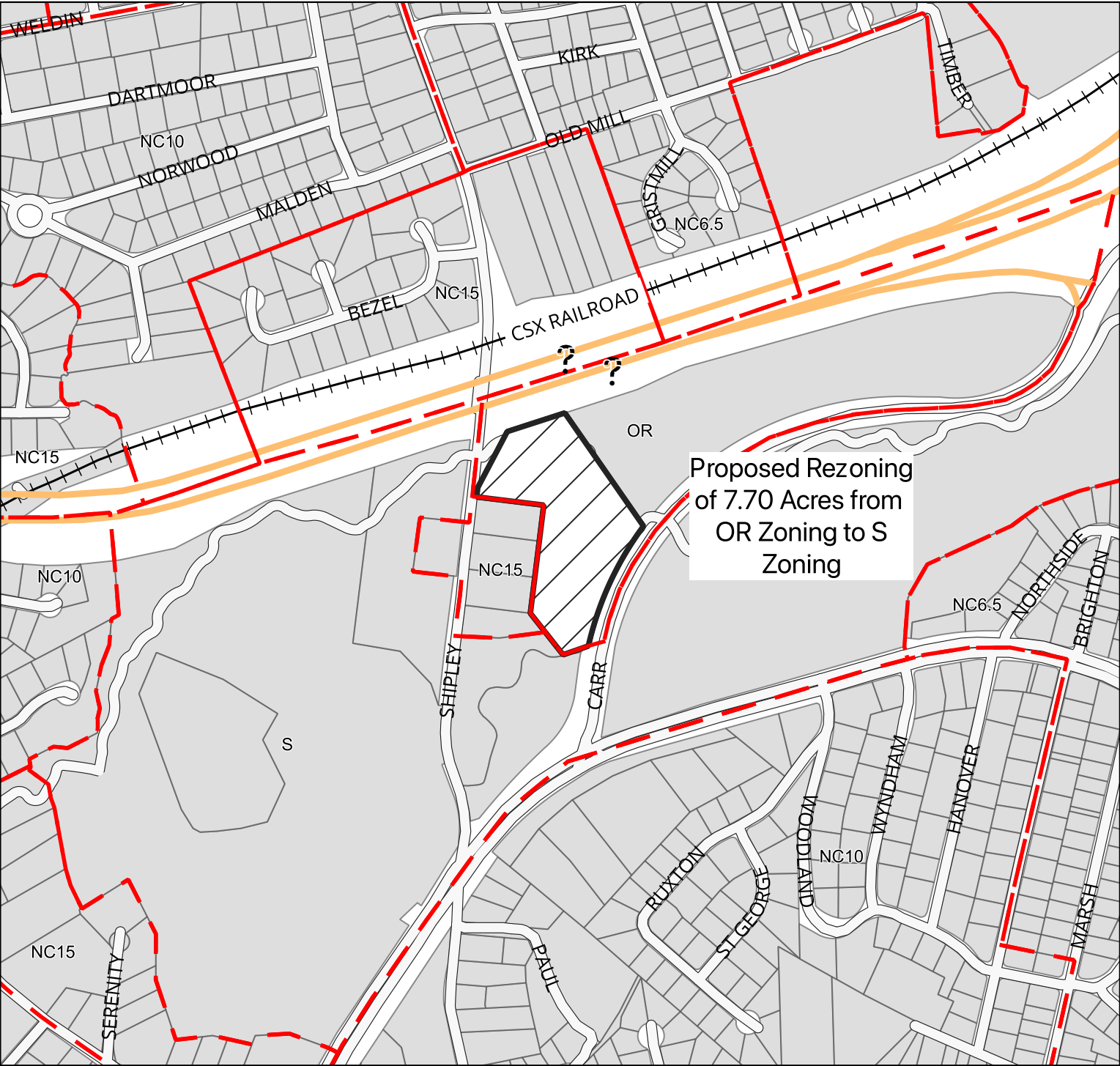
Scale: 1:9188
Prepared by: Matthew Rogers
Date: 8/23/2024



Substitute No.1
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



Substitute No.1

HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

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

Scale: 1:6972
Prepared by: Matthew Rogers

Date: 2/04/2024

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.

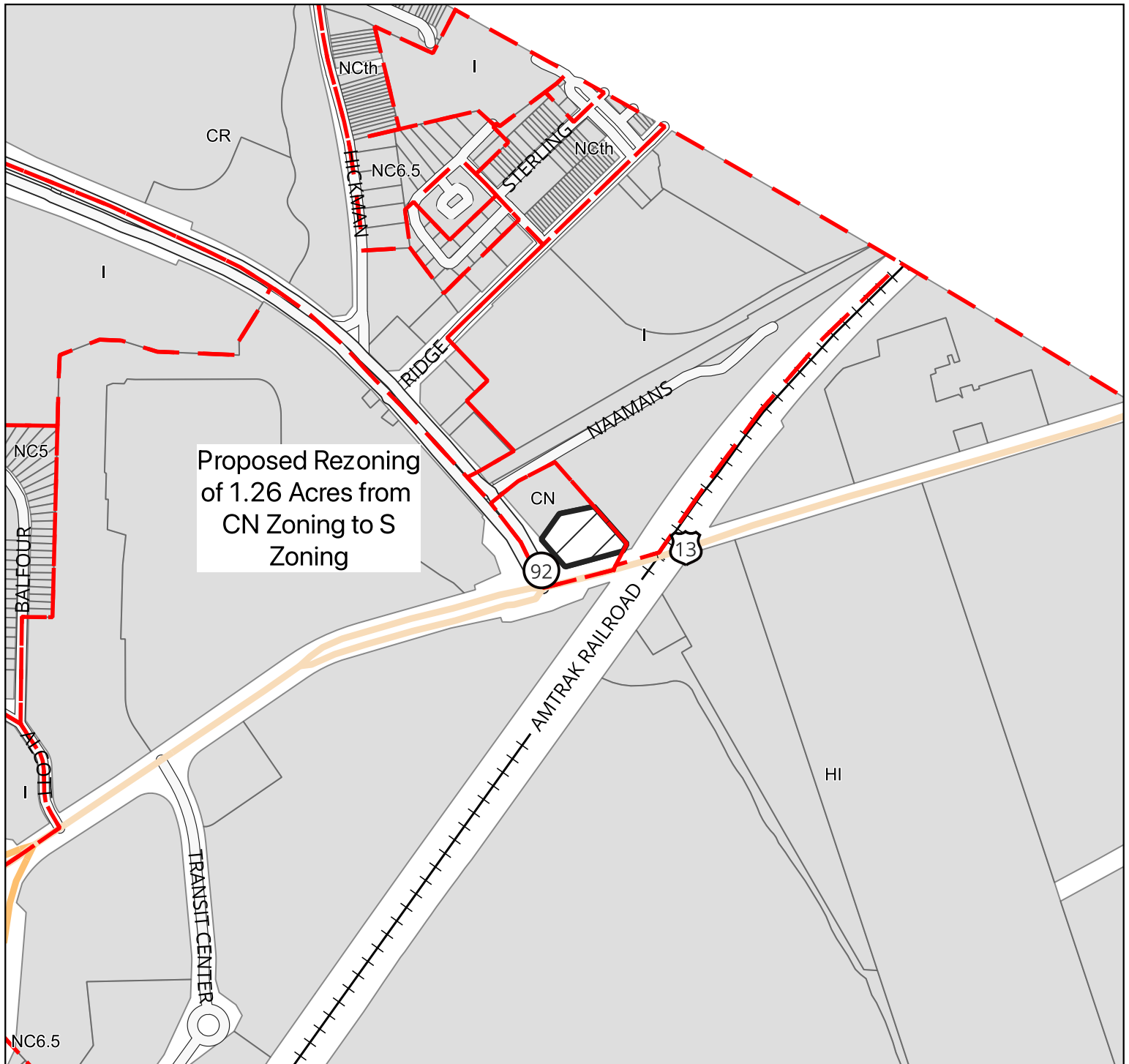
FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this ordinance.

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

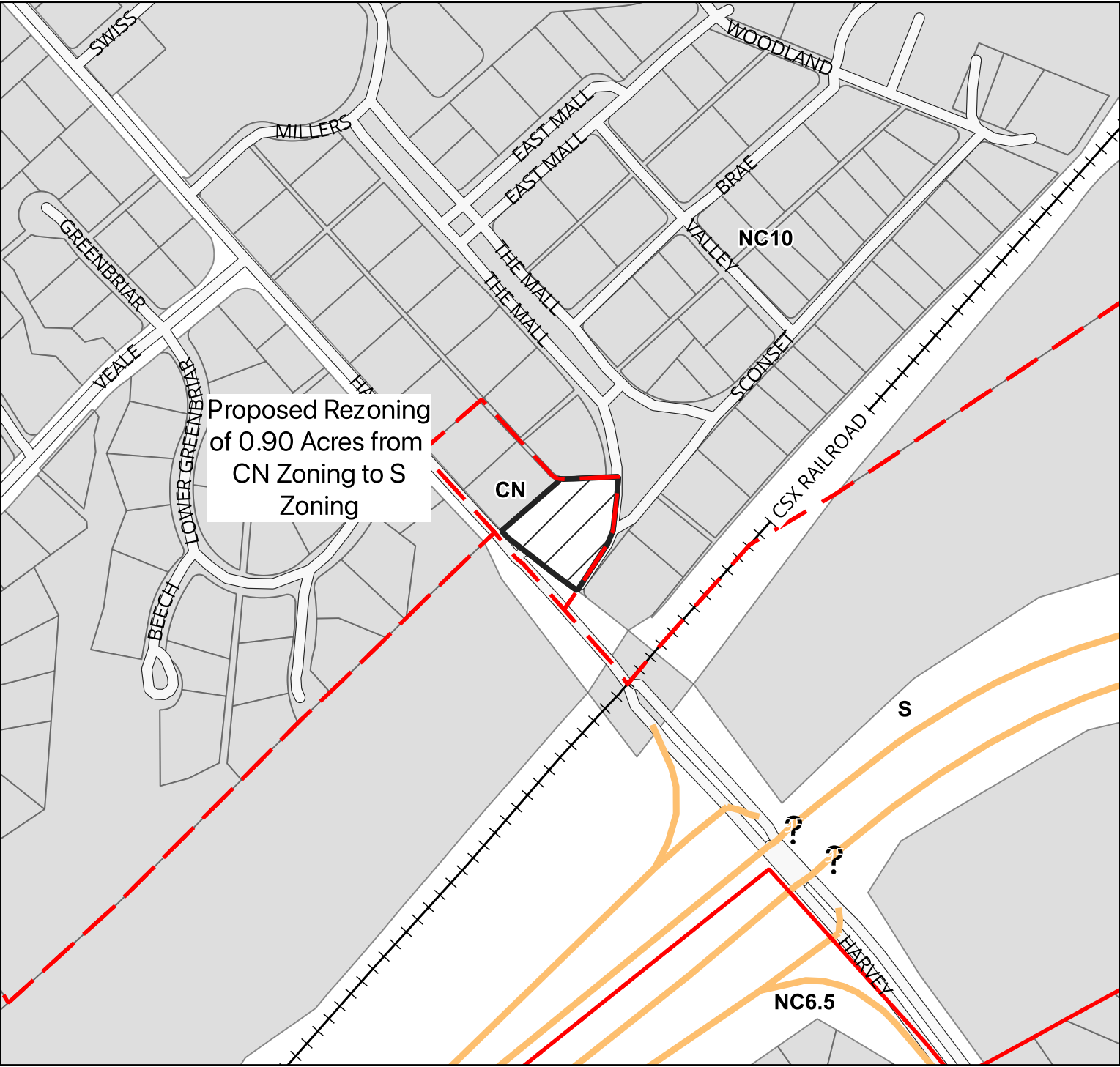
Date: 2/04/2024



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

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

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



HUNDRED: ARDENTOWN
NEW CASTLE COUNTY, DELAWARE

Scale: 1:3754
Prepared by: Matthew Rogers

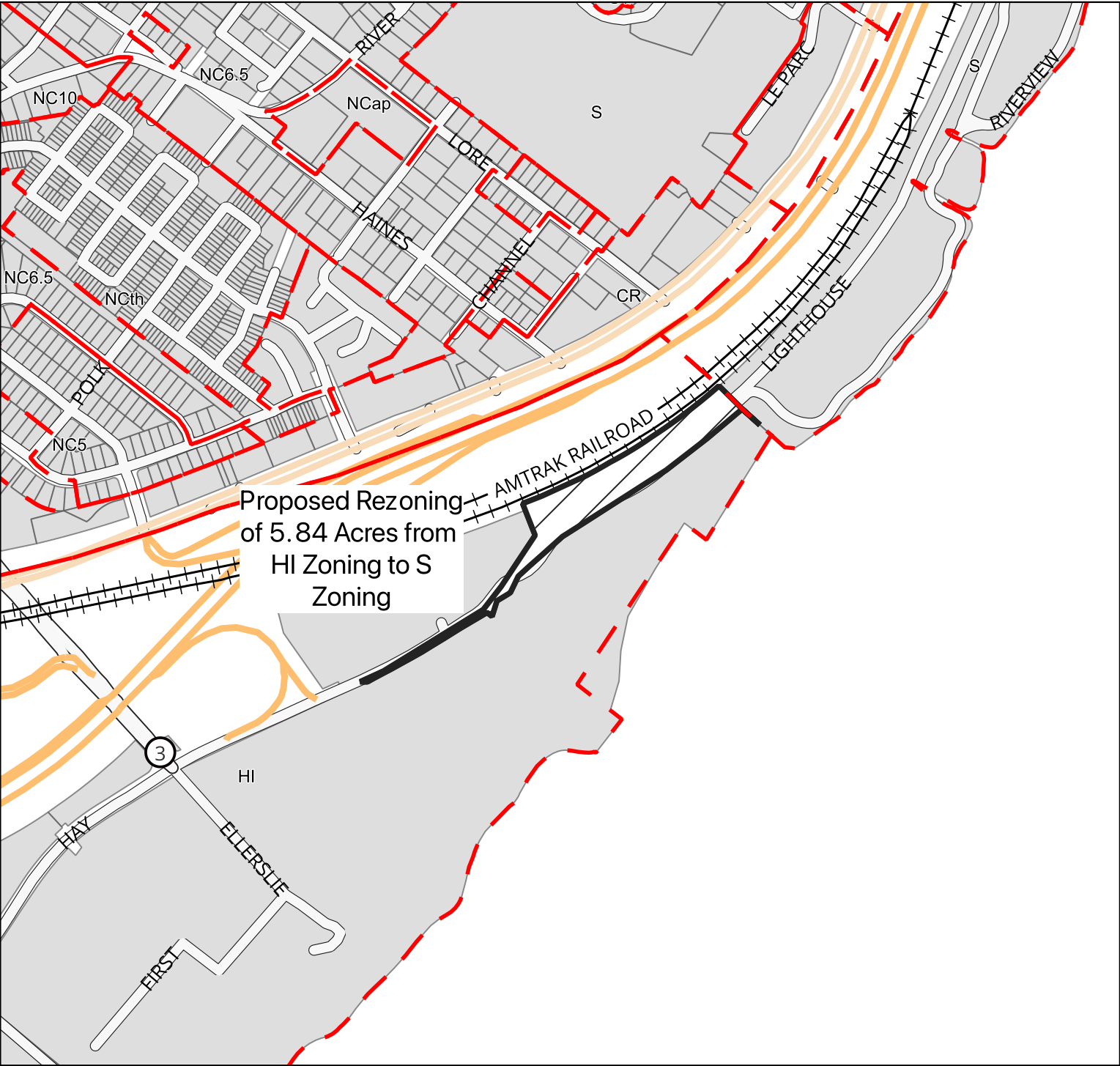
Date: 2/04/2024



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

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: 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

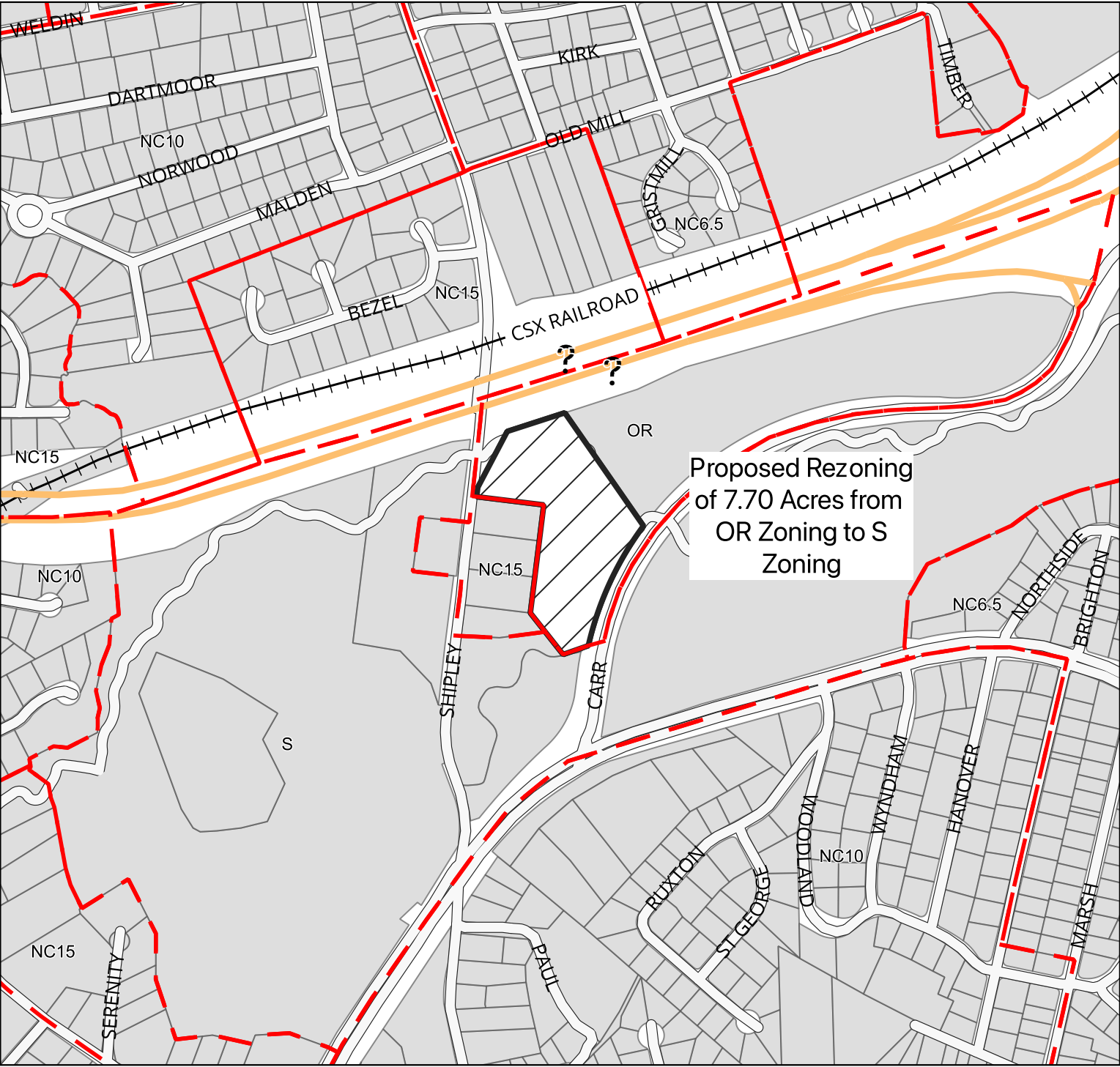
Scale: 1:9188
Prepared by: Matthew Rogers
Date: 2/04/2024



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
identified in Division 40.07.500
 - any dwelling unit built by an IRS 501(c)(3) nonprofit organization for the
intent and purpose of providing low or moderate priced housing
 - any qualified units built using the IRS Low Income Housing Tax Credit (IRS
Section 42) or participating in the Delaware State Housing
Authority/Cinnaire’s Catalyst Fund.
70

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

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

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:

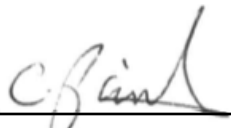
Elizabeth Hatch, Planner for the Department of Land Use read the Department of Land Use recommendation into the record. Charuni Patibanda, General Manager for the Department of Land Use, commented that the Department recognizes the need for an update to the impact fee provisions to the UDC, and that 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

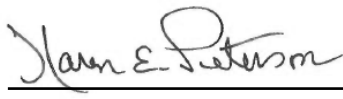
to legal challenge. Ruth Visvardis asked if the intent is to exempt affordable housing from the increase in fees or impact fees as a whole. Ms. Patibanda stated that the level of exemption had not been determined. Ms. Patibanda then discussed the potential moral hazard abating fees, thereby potentially 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.”

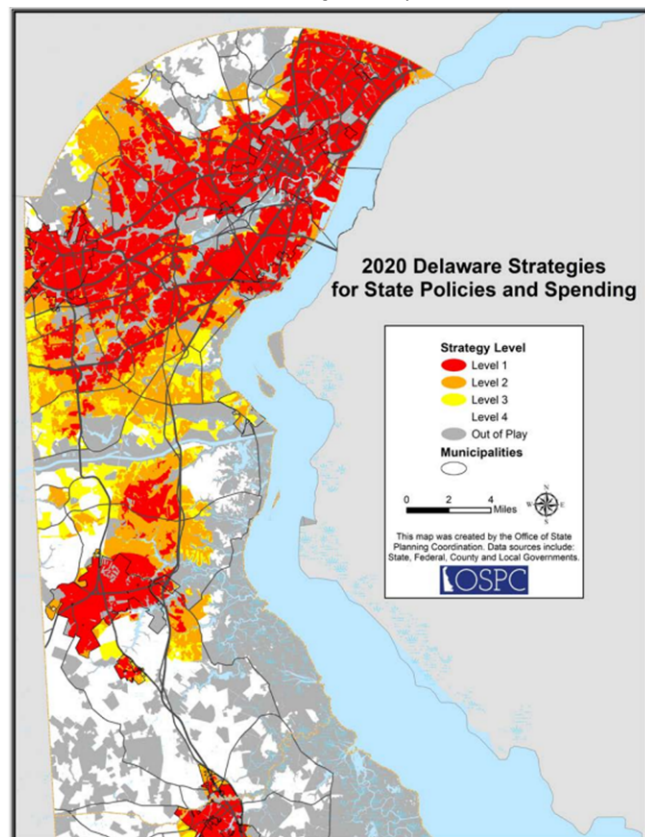
Investment Level 2 areas can be composed of less developed areas within municipalities, rapidly growing areas in the counties that have or will have public water and wastewater services and utilities, areas that are generally adjacent to or near Investment Level 1 Areas. “Like the Level 1 Areas, Level 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.

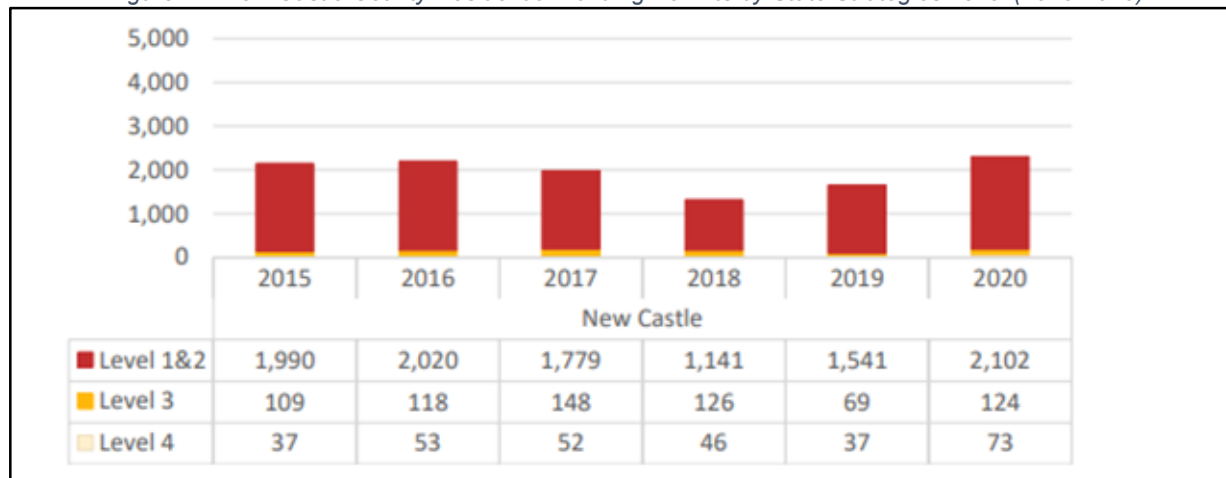
Out of Play Areas are lands which are not available for private development, include publicly owned lands, private conservation lands, lands for which serious legal and/or environmental constraints on development are identified, and lands in some form of permanent open-space protection (such agricultural 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

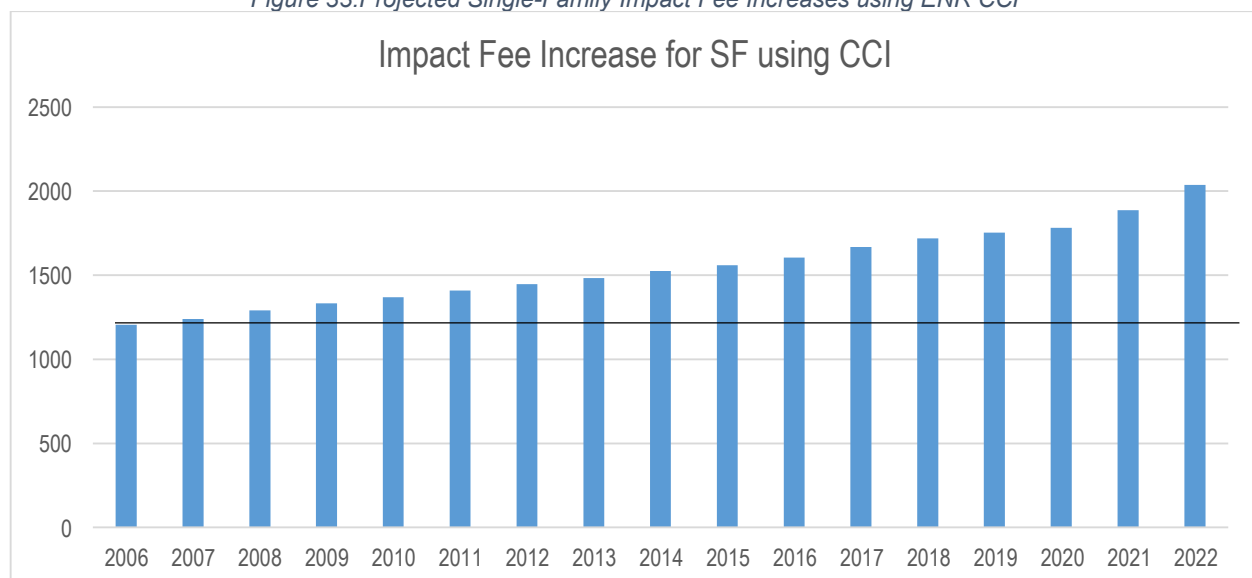
Since 1999, the only impact fees which have been adjusted have been the fire & rescue impact fees. County Council adopted legislation in August 2006 raising these fees based upon a 2006 study performed by TischlerBise. The impact fees for parks, libraries, county facilities, EMS, and law enforcement 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 & park 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
2023 - they require services - logistic centers - require new higher ladder trucks for fire company - Etc.		2023 - they require services - logistic centers - require new higher ladder trucks for fire company - Etc.

Should NCC consider charging a separate Restaurant Impact Fee based on anticipated turnover?

Yes	No	Other
2023 - they require services - logistic centers - require new higher ladder trucks for fire company - Etc.		

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:

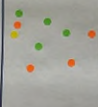
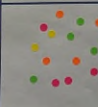
Should NCC consider applying a full exemption to all impact fees to MPDUs?

- Scale
 - o <120% AMI => 75%
 - o 100-120% => 50%
 - o 80-100% => 25%
 - o <80% => No fee

Graduated Fee Increases

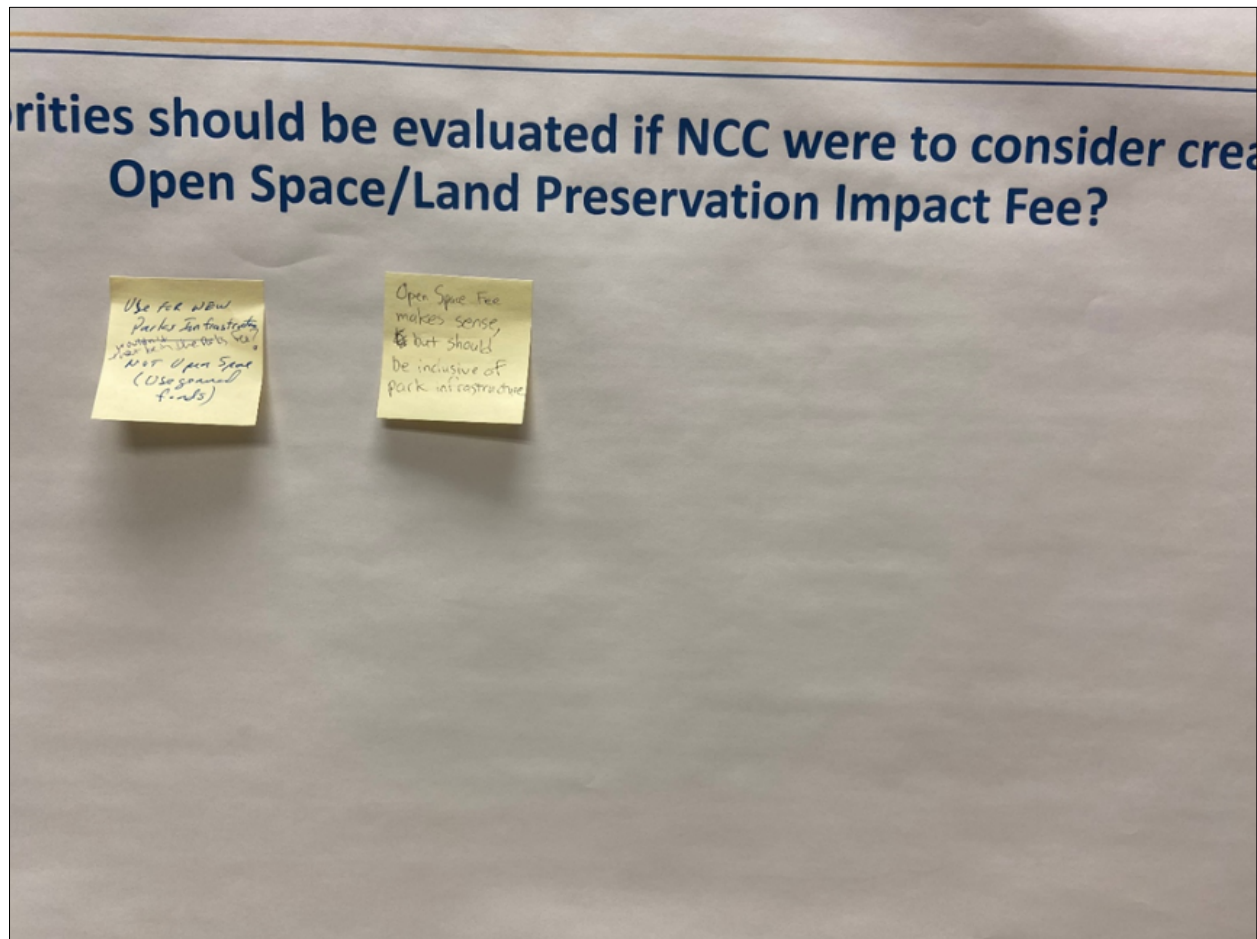
Place three stickers on your most preferred scenarios to increase Impact Fees.

● = 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:

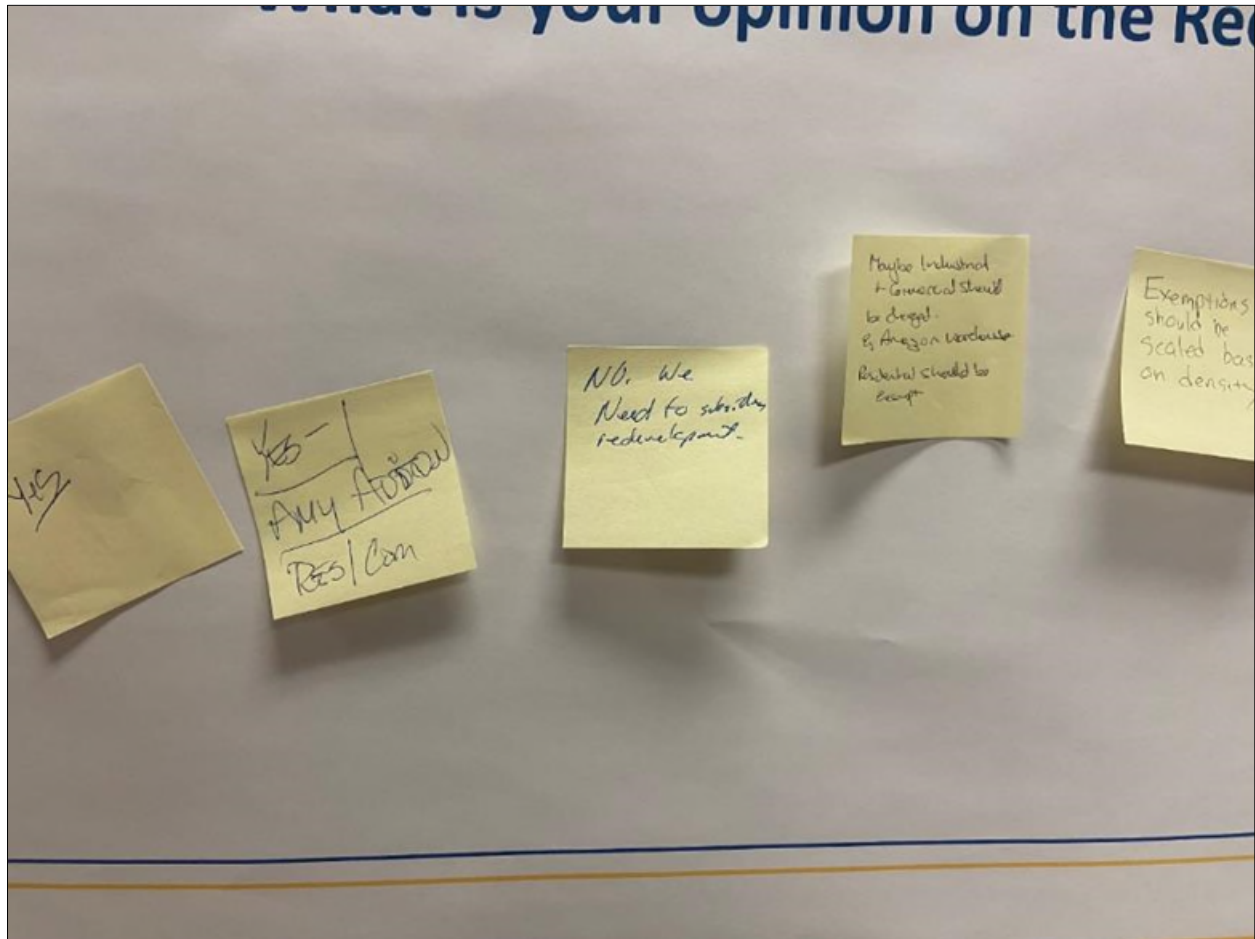
- Yes, with scaled levels for MPDU.
- SNCC Development has gotten away with paying less of their fair share for ~25 years. We need infrastructure and services.



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.
 - 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?

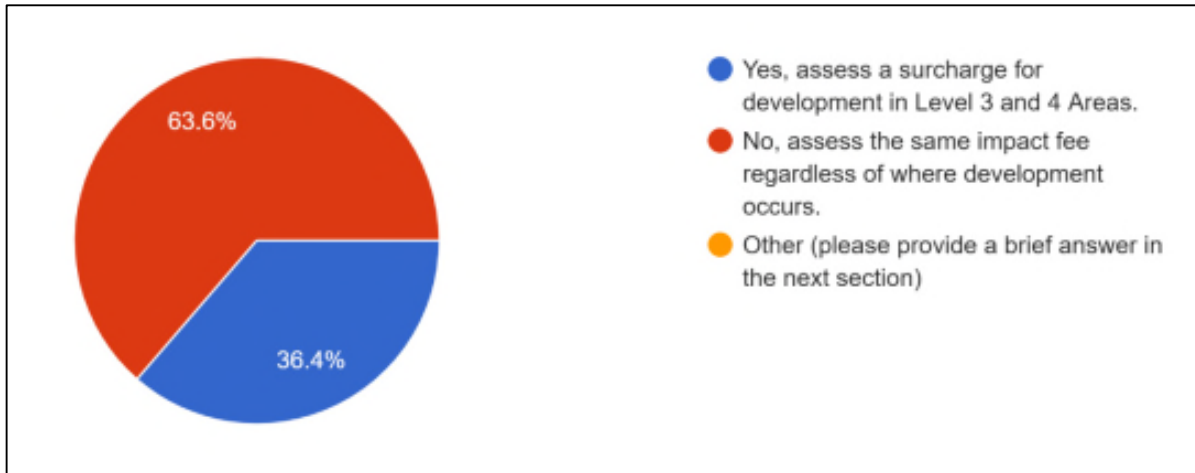
- Yes.
- Yes – any addition Res/Com.
- No, we need to subsidize redevelopment.
- Maybe Industrial and Commercial should be merged.
 - E.g., Amazon warehouse.
- Residential should be exempt.
- Exemptions should be scaled based on density.

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.

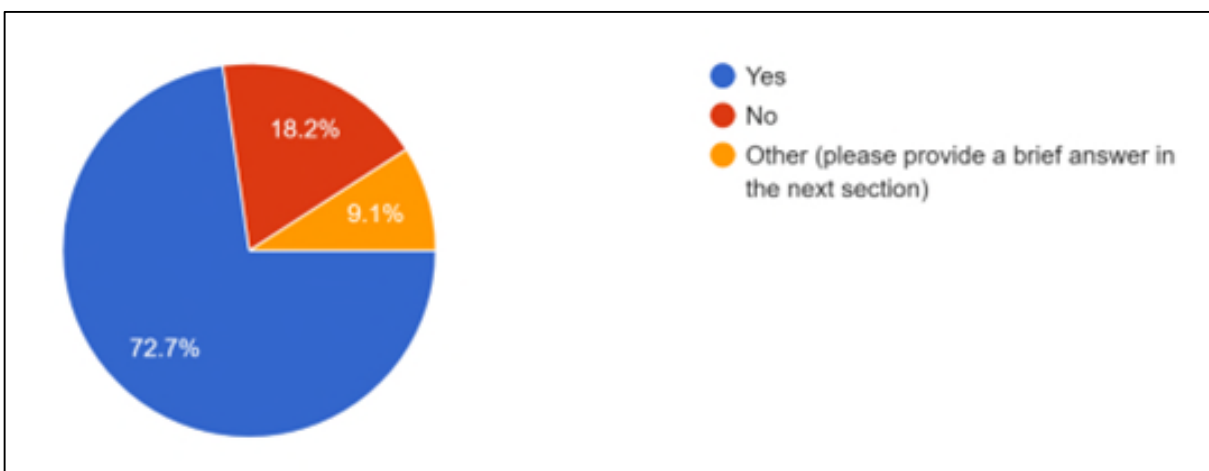
The online survey posed eleven (11) questions for respondents to consider. The first eight (8) questions allowed for a 'Yes,' 'No,' or 'Other' response. If 'Other' was chosen, respondents were provided the option to provide a short answer. The remaining three (3) questions had a more open-ended format. 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

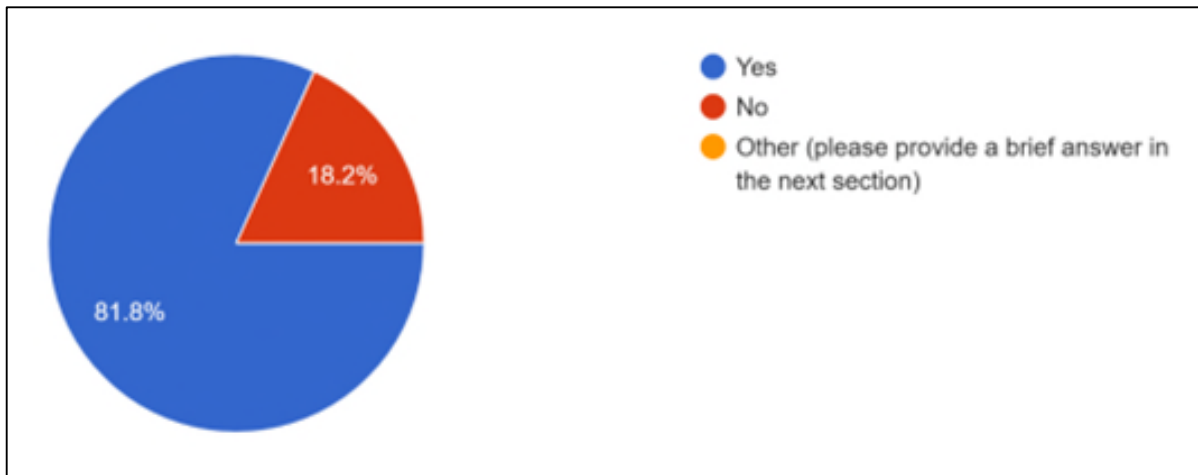
2. Should NCC consider charging a separate Multi-family Resident Facility Use Impact Fee based on number of dwelling units?



"Other" responses:

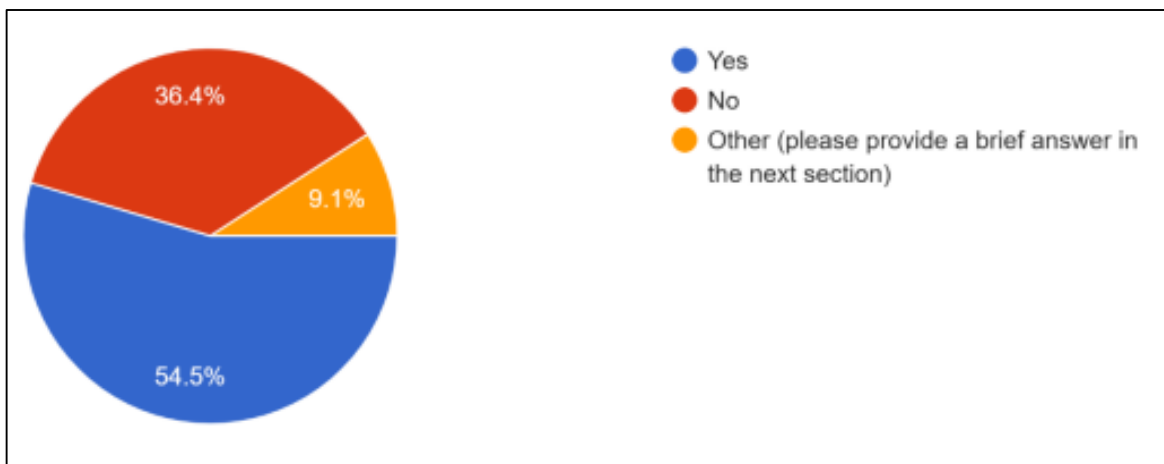
- Thought that is what is.

3. Should NCC consider charging a separate Institutional Use Impact Fee?



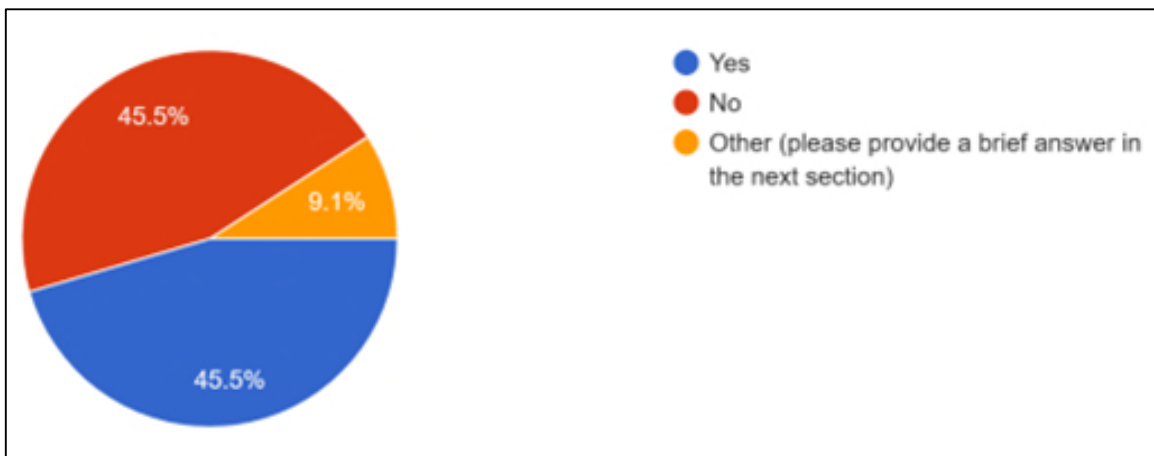
"Other" responses: N/A

4. Should NCC consider charging a separate Lodging Use Impact Fee?



"Other" responses: N/A

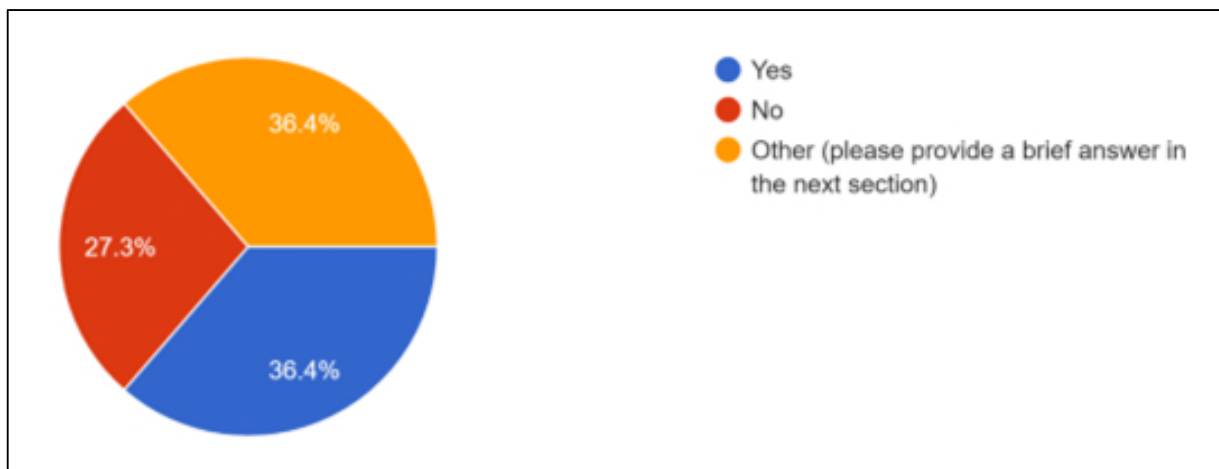
5. Should NCC consider charging a separate Restaurant Impact Fee based on anticipated customer turnover?



“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.

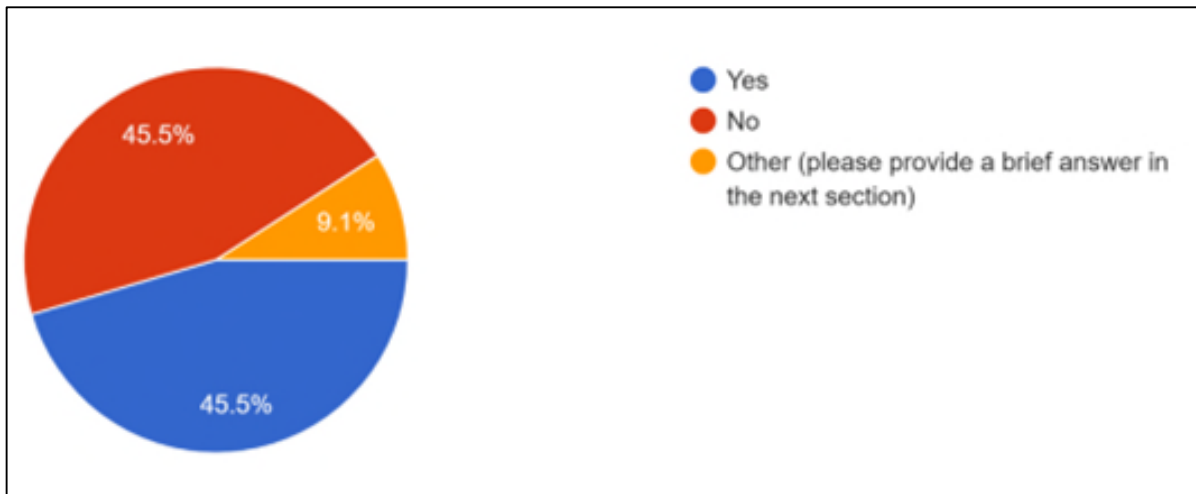
6. Should NCC consider applying a full exemption to all impact fees to Moderately Priced Dwelling Units (MPDUs)?



“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.

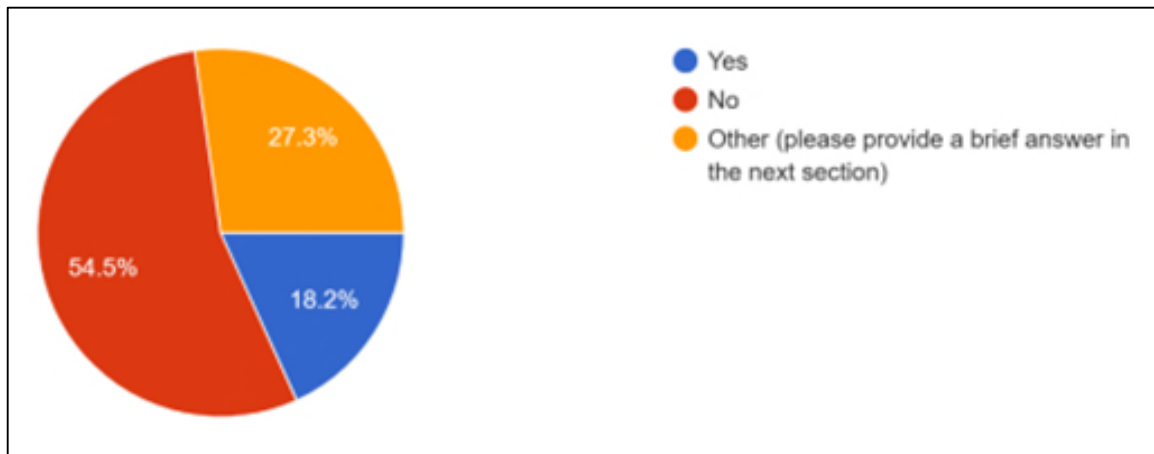
7. Should NCC determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee?



"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?



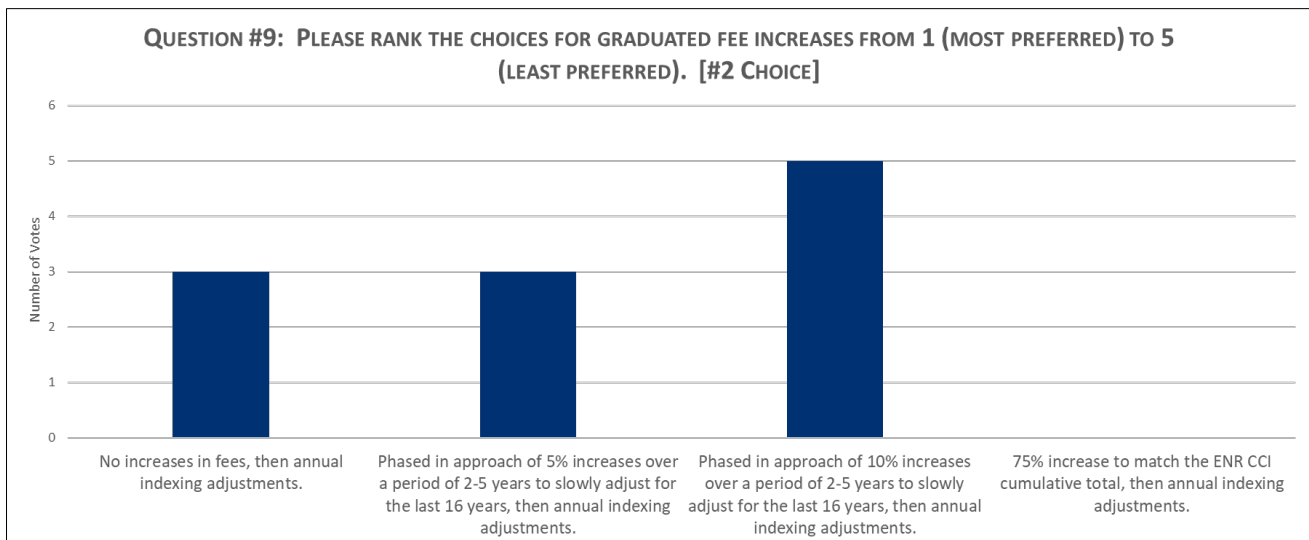
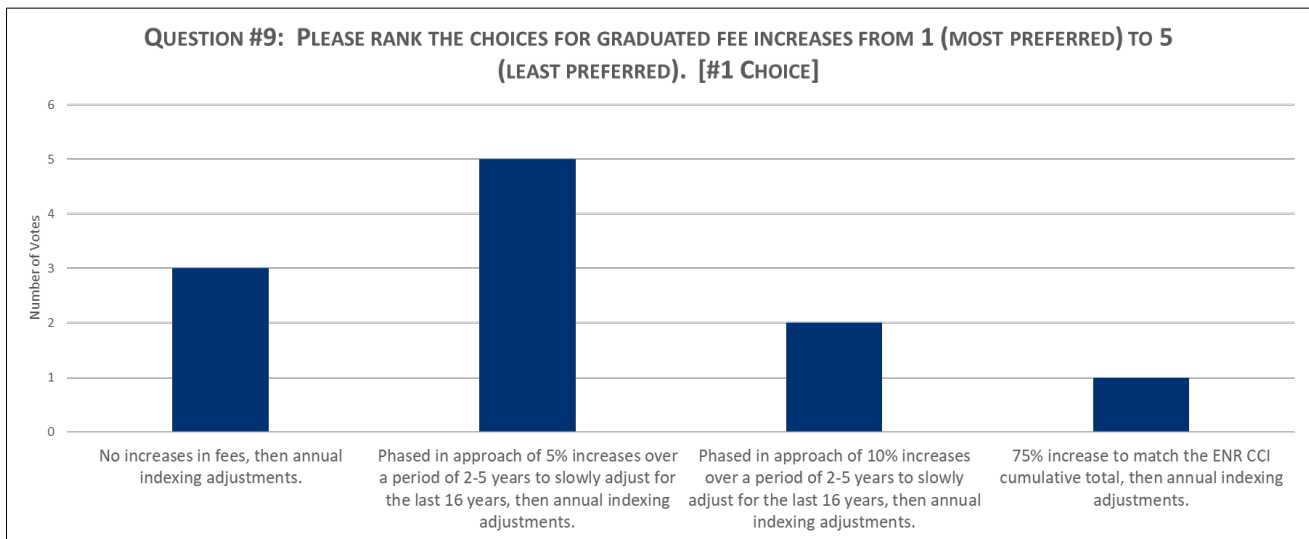
"Other" responses:

- 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

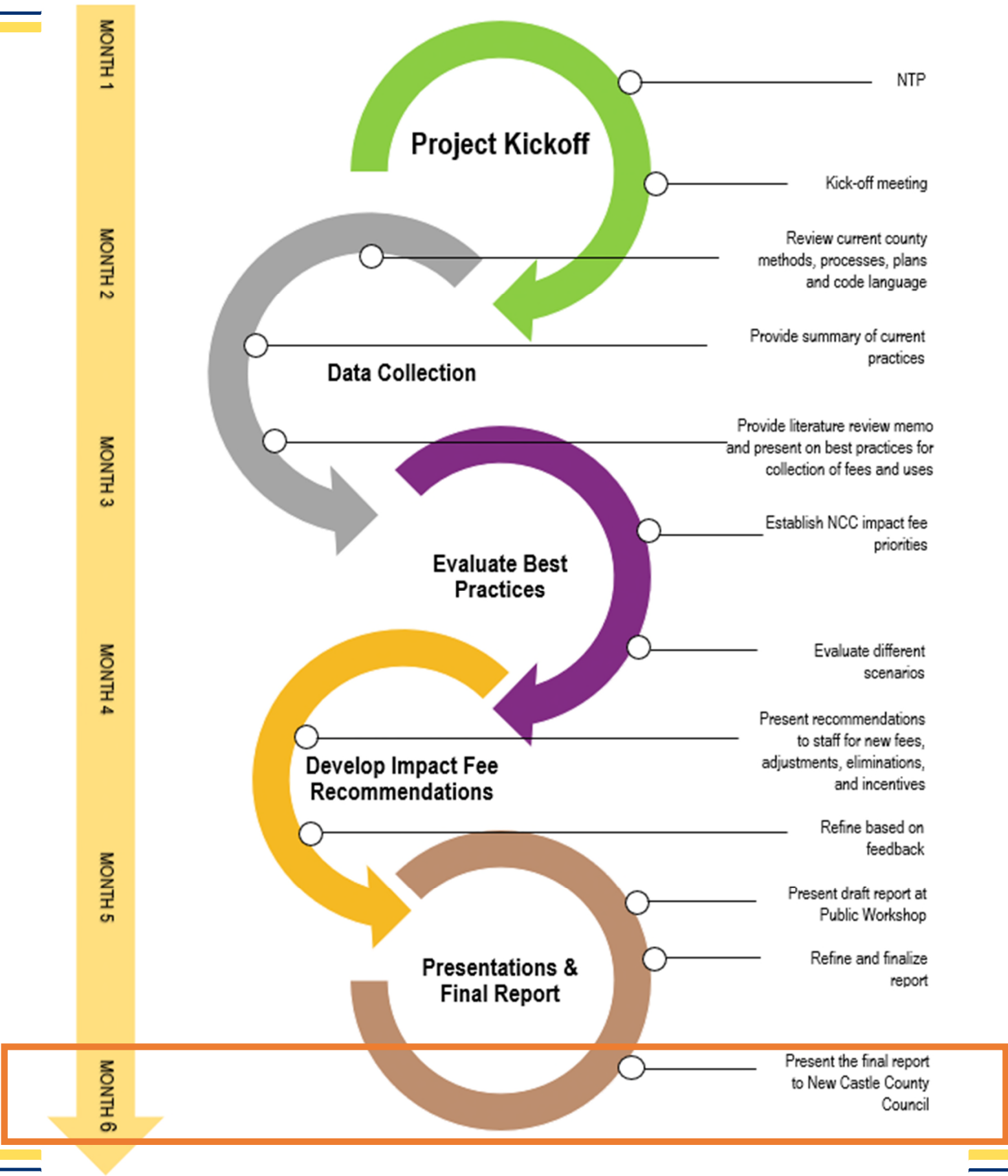
- Project Overview
 - Scope
 - Timeline
- Methodology
 - Existing Practices
 - Best Practices
- Public Feedback
- Final Recommendations

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

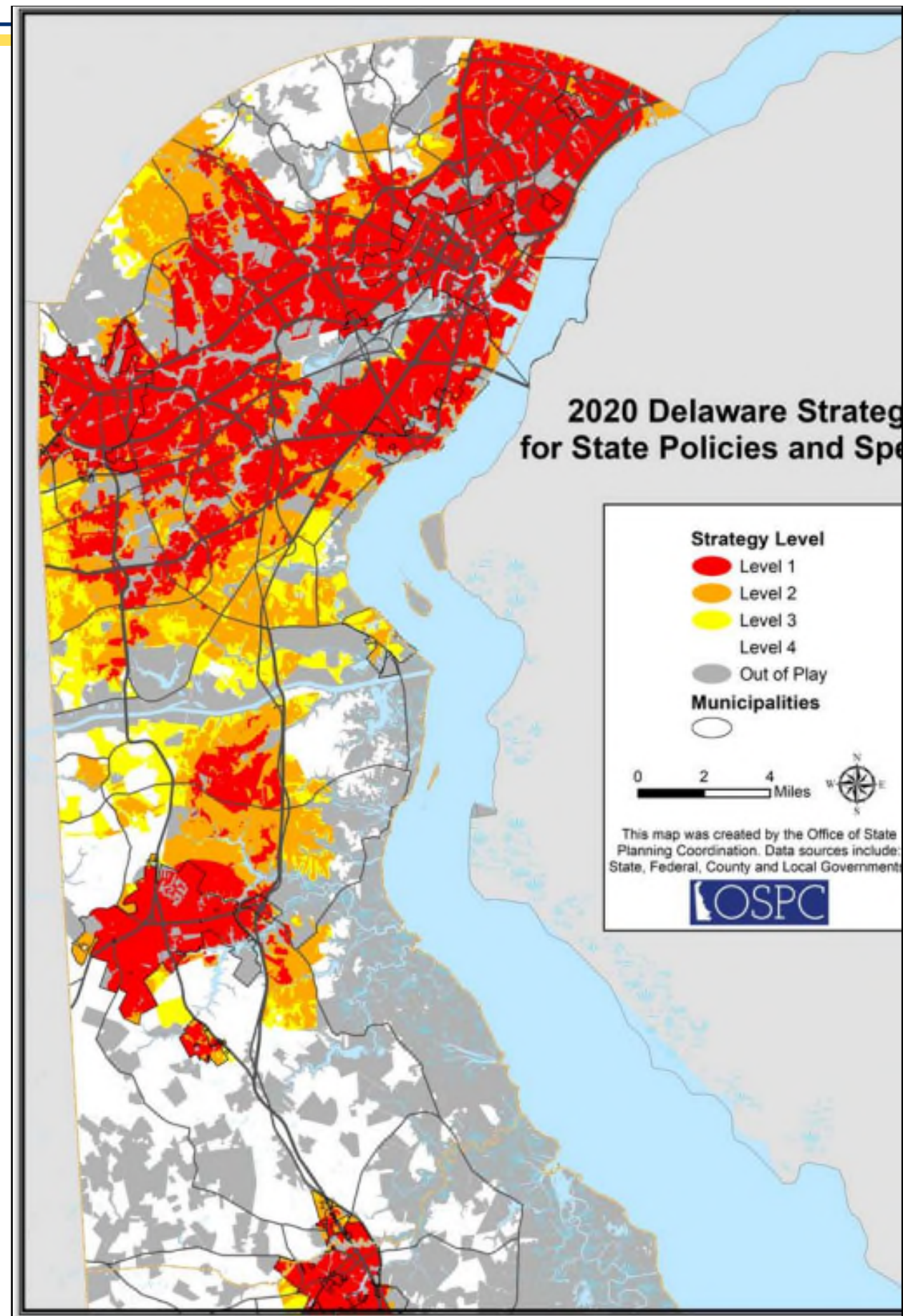
- Seminole County, Florida
- Green Infrastructure
 - City of Newark, DE
- Open Space Preservation Impact Fee
 - City of Chicago, Illinois
 - Martin County, Florida
 - Delaware Nature Conservancy
- Affordable Housing Considerations
 - Portland, Oregon
 - Austin, Texas

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

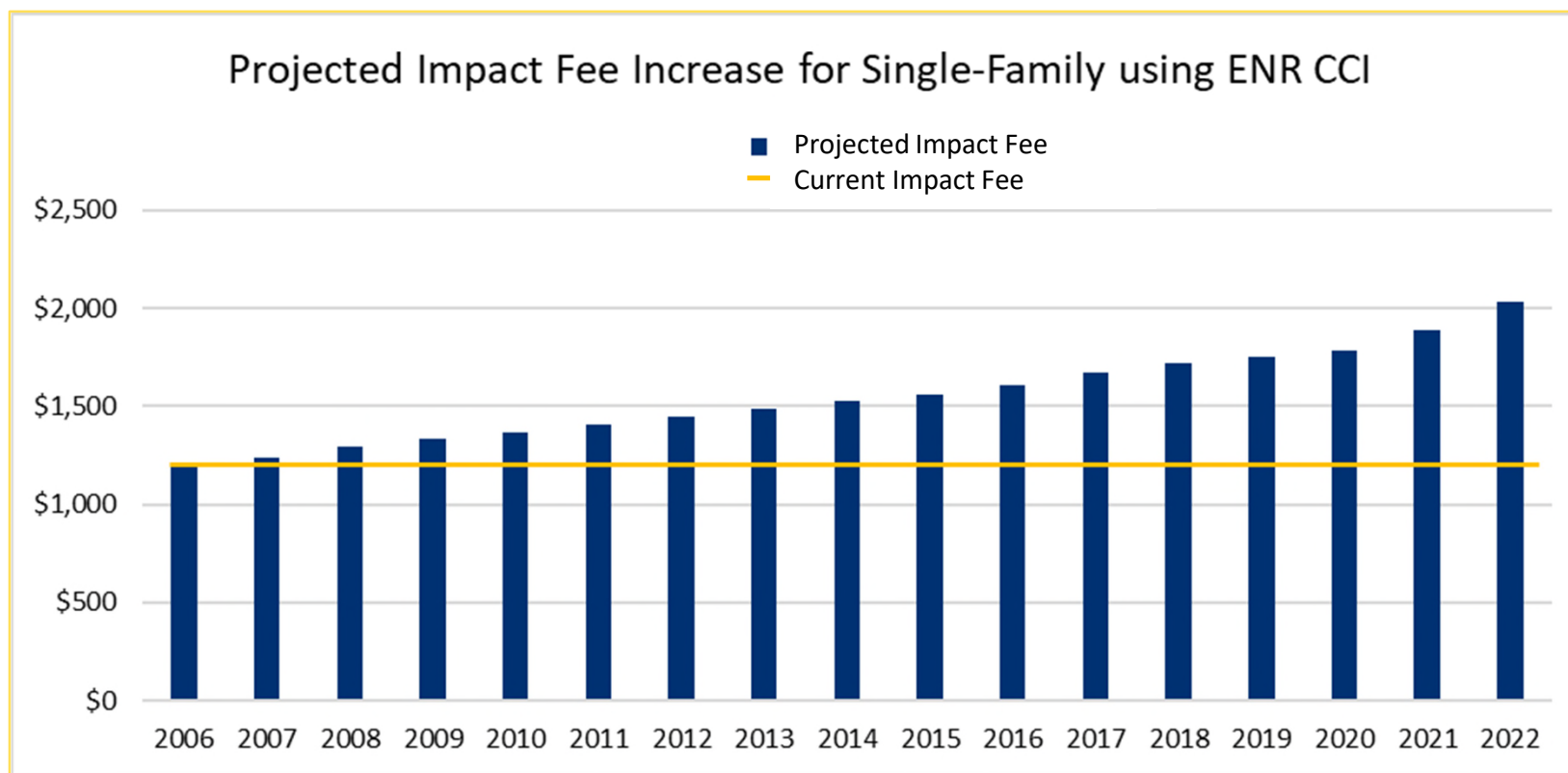
- Moderately Price Dwelling Units (MPDUs) are required for all residential rezonings or variance applications with density increases except for mixed-use developments.
- Currently there are no Impact Fee reductions or exemptions for development of MPDUs.
- NCC provides a density bonus for major residential 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.

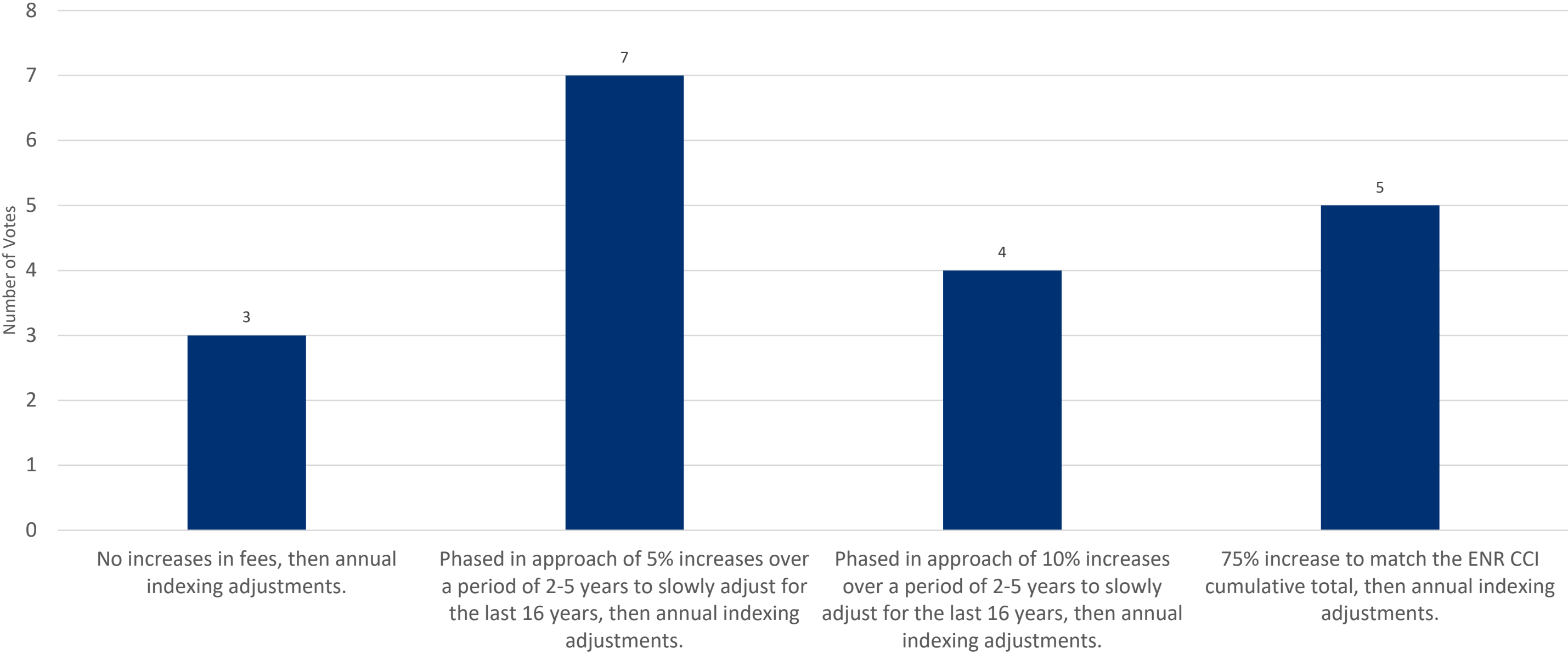


- Should NCC consider:
 - No increases in fees
 - No increases in fees, then annual indexing adjustments
 - Phased in approach of 5% increases over a period of 2-5 years, then annual indexing adjustments
 - Phased in approach of 10% increases over a period of 2-5 years, then annual indexing adjustments
 - 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments

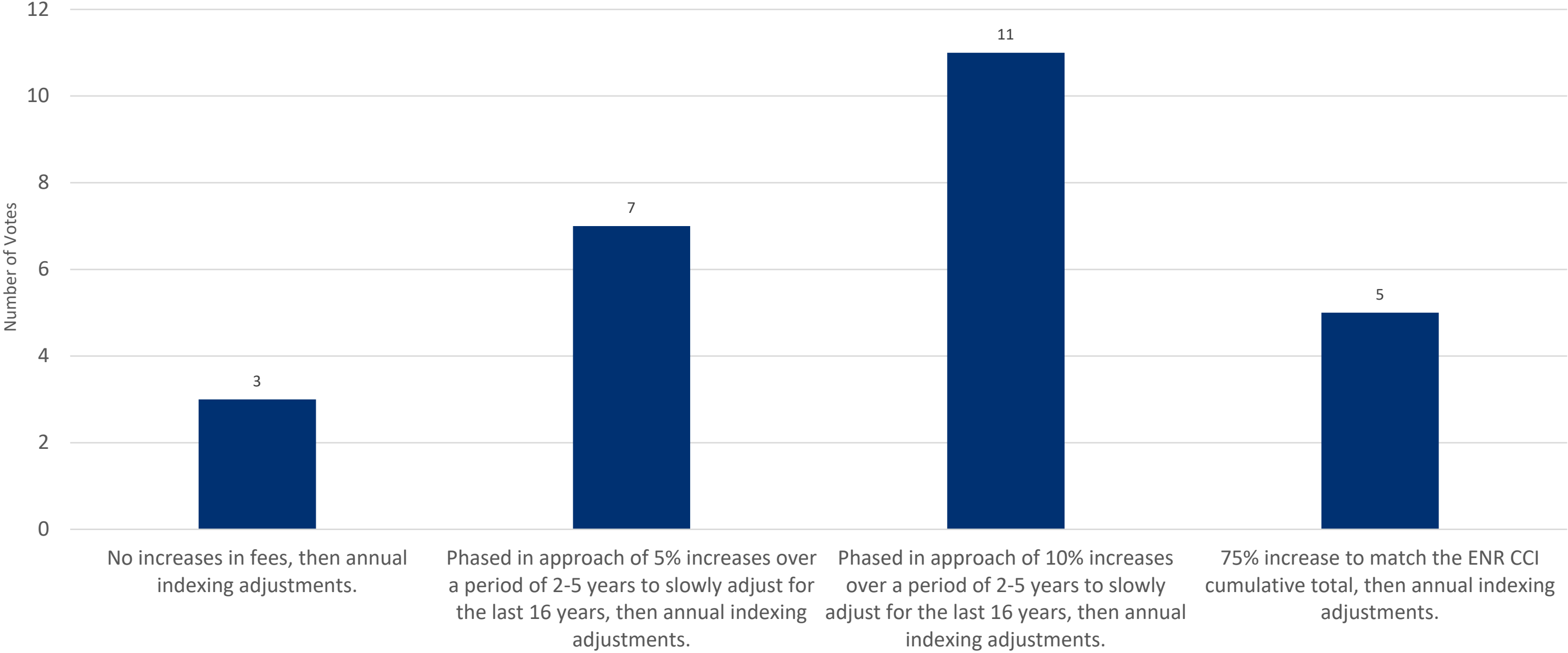
Recommendation 4 - Feedback

- 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.

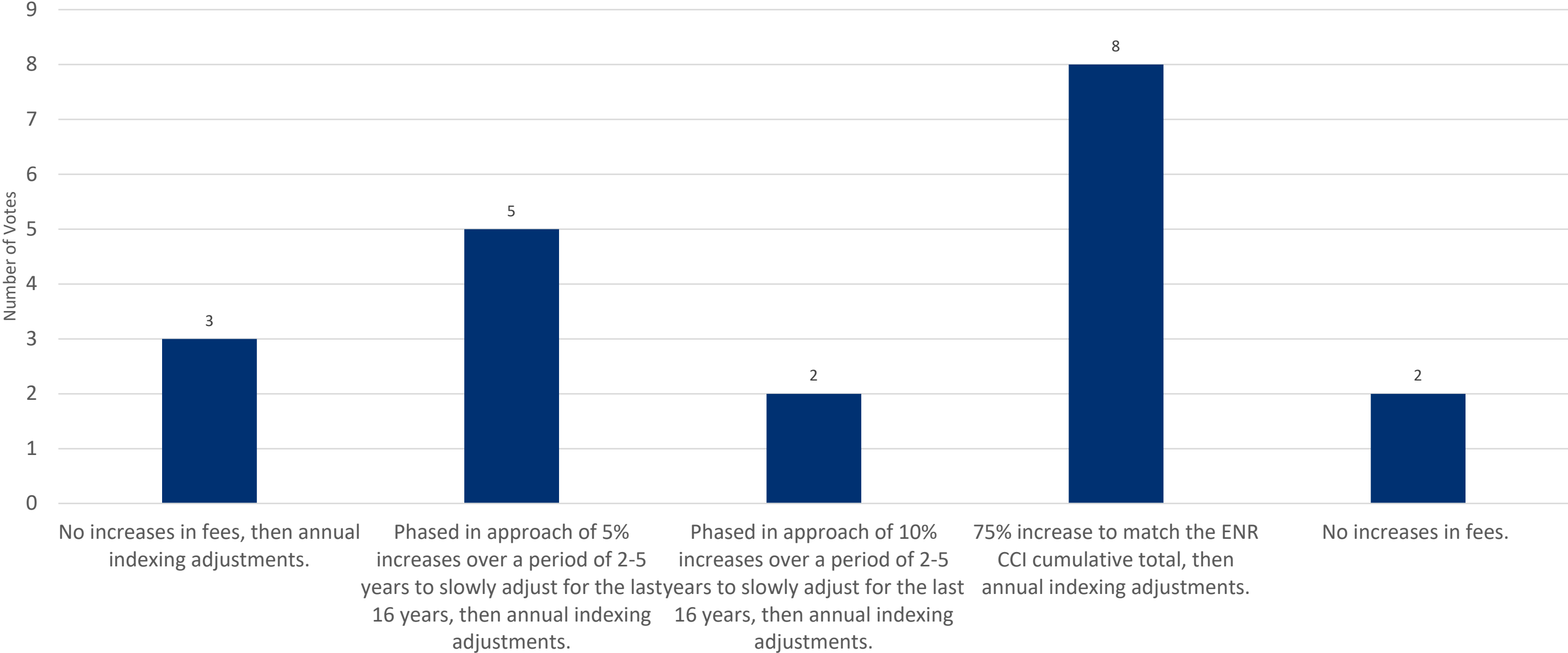
QUESTION #9: PLEASE RANK THE CHOICES FOR GRADUATED FEE INCREASES FROM 1 (MOST PREFERRED) TO 5 (LEAST PREFERRED). [#1 CHOICE]



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.

Prime Sponsor(s): Mr. Hollins
Co-sponsor(s): Mr. Bell, Mr. Carter
Mr. Cartier, Ms. Durham
Ms. George, Ms. Hartley-Nagle
Ms. Kilpatrick, Mr. Sheldon
Mr. Smiley, Mr. Street
Mr. Tackett, Mr. Toole

RESOLUTION NO. 24-162

HONORING THE LIFE AND LEGACY OF SHIRLEY ANN AGNOR, ESTEEMED FORMER CLERK OF NEW CASTLE COUNTY COUNCIL

WHEREAS, Shirley Ann Agnor was born on November 5, 1934 in Wilmington, Delaware to James F. and Mary Elizabeth (Harrison) Golden; and

WHEREAS, after graduating from A.I. DuPont High School and working a time for the Bell Telephone Company, Shirley began a career in politics, working for Senator Roger Martin in the Delaware State Senate and serving the Senate for over 15 years prior to her service at County Council; and

WHEREAS, Shirley was officially appointed Clerk of New Castle County Council on January 9, 1979; and

WHEREAS, Shirley was dedicated to her position at New Castle County Council for over twenty years until her retirement, putting her heart and soul into her position and managing the office extremely well; and

WHEREAS, Shirley passed away peacefully on August 14, 2024 surrounded by her loving family; and

WHEREAS, Shirley was preceded in death by her loving husband Robert B. Agnor and her brothers James and Thomas Golden and is survived by her loving children Robert Agnor, Jr. (Kathy), Cheryl Buckingham (Buck), Jeffrey Agnor (Colleen), David Agnor (Christine), and Beth Agnor, her brother Edward Golden (Nancy), sister-in-law Patricia Golden, 13 grandchildren, and 16 great-grandchildren; and

WHEREAS, Shirley left a lasting legacy at New Castle County Council; she was beloved by those that had the privilege of knowing her and in whose fond memories she will live on.

NOW, THEREFORE, BE IT RESOLVED by and for the County Council of New Castle County that County Council hereby honors the life and legacy of its former Clerk Shirley Ann Agnor and offers its sincerest condolences to her family and friends.

Adopted by County Council
of New Castle County:

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

SYNOPSIS: Same as title.

FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this legislation. Page 800 of 302

Prime sponsor(s): Mr. Sheldon, Mr. Smiley
Mr. Cartier, Mr. Tackett
Co-sponsor(s): Mr. Bell, Mr. Carter
Ms. George, Ms. Hartley-

Nagle

Mr. Hollins, Ms. Kilpatrick
Mr. Toole

Date of introduction: August 27, 2024

RESOLUTION NO. 24-163

RECOGNIZING AND CELEBRATING THE CONTRIBUTIONS OF WORKERS ON LABOR DAY 2024

1 **WHEREAS**, the first Labor Day holiday was celebrated on September 5, 1882, in
2 New York City; and

3
4 **WHEREAS**, by 1894, over 23 States had adopted Labor Day as a State holiday;
5 and

6
7 **WHEREAS**, that same year, President Grover Cleveland signed legislation
8 making Labor Day a Federal holiday; and

9
10 **WHEREAS**, Labor Day is a holiday that recognizes the historical contributions of
11 those who campaigned for workers' rights and participated in the early labor movement;
12 and

13
14 **WHEREAS**, Labor Day remains a significant occasion that recognizes and
15 celebrates the hard work, dedication, and invaluable contributions of workers across our
16 nation; and

17
18 **WHEREAS**, workers have played a pivotal role in the development, progress, and
19 prosperity of our society, contributing to economic growth, innovation, and the overall
20 well-being of our communities; and

21
22 **WHEREAS**, the accomplishments and achievements of workers from diverse
23 industries and sectors deserve recognition, as they have shaped the fabric of our nation
24 and helped establish a foundation for a brighter future; and

25
26 **WHEREAS**, it is essential to express gratitude and appreciation for the
27 commitment and resilience demonstrated by workers, particularly during challenging
28 times when their efforts have been paramount in ensuring the stability and continuity of
29 essential services; and

30
31 **WHEREAS**, Labor Day presents an opportunity to reflect upon the significance of
32 job security, fair wages, decent working conditions and the protection of workers' rights;

33 and

34 **WHEREAS**, through their collective power and unwavering dedication, workers
35 have consistently advocated for the betterment of the quality of life for all individuals; and
36

37 **WHEREAS**, we celebrate the workers of America and our County - - the best in
38 the world - - and recognize their importance; and
39

40 **WHEREAS**, this annual celebration offers leaders in business, government,
41 labor, education, and other partners the opportunity to show their support of our workers
42 in the local community; and
43

44 **WHEREAS**, in honor of Labor Day, New Castle County Council reaffirms its
45 commitment to safeguarding workers' rights, continual improvement of workplace
46 conditions and ensuring fair treatment for all employees, regardless of their occupation
47 or background; encourages all employers to foster a safe and healthy work environment,
48 implementing policies that prioritize the well-being and personal development of their
49 workforce; and is a strong supporter of workers and sees the valuable contributions to
50 developing the workforce and fostering economic development in our County.
51

52 **NOW, THEREFORE, BE IT RESOLVED**, by and for the County Council of New
53 Castle County, that County Council hereby honors and recognizes the contributions of
54 workers on Labor Day 2024, expressing gratitude for their relentless efforts in promoting
55 growth and prosperity in our County.

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 with the adoption of this
Resolution.