



NEW CASTLE COUNTY COUNCIL LAND USE COMMITTEE MEETING

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

September 3, 2024
3:00 PM

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

REVISED AGENDA II

A. Meeting Call to Order

B. Approval of Minutes

C. Review/Discussion of Resolution(s)

D. Review/Discussion of Ordinance(s)

°24-084: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE" OR "UDC"), ARTICLE 3 ("USE REGULATIONS"), AND ARTICLE 33 ("DEFINITIONS"), REGARDING FIREARM RETAIL BUSINESSES
Prime Sponsor(s): Ms. Kilpatrick

E. Presentations

F. Other

Executive Session regarding Plans of Vista at Red Lion and pending litigation (Sterling Properties Holdings, Inc. v. New Castle County), and DPML Jamison Corner, LLC v. New Castle County, et al.

G. Public Comment

H. Adjournment

REVISED AGENDA II POSTED: September 3, 2024 (9:00am)

REVISED AGENDA POSTED: August 29, 2024

AGENDA POSTED: August 27, 2024

*The revised agenda II was posted less than (7) seven days but more than (6) six hours in advance of the meeting to remove 24-168, which is being postponed until the September 17, 2024 Land Use Committee agenda.

*The revised agenda was posted less than (7) seven days in advance of the meeting and removes items 24-040, 24-041, 24-042, 24-043 and 24-057, which will be discussed at a future Land Use Committee meeting with proper notice provided. The items were removed to give ample time for discussion of the remaining items on 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.nccde.org/2351/Agendas-and-Minutes> Members of the public joining the meeting may be provided an opportunity to make comments in real time. A comment period will be administered by a moderator to ensure everyone may have an opportunity to comment.

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

Prime Sponsor(s): Ms. Kilpatrick
Requested by: Executive Office
Date of introduction: May 28, 2024

ORDINANCE NO. 24-084

TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 3 (“USE REGULATIONS”), AND ARTICLE 33 (“DEFINITIONS”), REGARDING FIREARM RETAIL BUSINESSES

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

6 **WHEREAS**, the New Castle County Comprehensive Plan guides development
7 and redevelopment to be sensitive to the context of neighboring residential
8 development; and
9

10 **WHEREAS**, the County recognizes the importance of updating its development
11 regulations to be consistent with, and implement, the New Castle County
12 Comprehensive Plan; and
13

14 **WHEREAS**, Delaware has the fifth highest rate of gun violence in the country
15 according to Everytown for Gun Safety. In an average year, 111 people die and 577 are
16 wounded by guns in Delaware; and
17

18 **WHEREAS**, research has shown that homicide rates increase in the years
19 following an increase in gun dealer density and that these effects are more severe in
20 black communities, as published in “*Gun Dealer Density and its Effect on Homicide*” by
21 David B. Johnson and Joshua J. Robinson; and
22

23 **WHEREAS**, guns are the leading cause of death for children in the United
24 States; and
25

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

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

Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code” or “UDC”), Article 3 (“Use Regulations”), Division 40.03.100 (“Use regulations”), is hereby amended by adding the material that is underscored as set forth below:

Sec. 40.03.110. Use Table.

Table 40.03.110 lists the type of uses...

Table 40.03.110A. General Use Table									Table 40.03.110B. General Use Table							Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)							Additional Standards (all districts)	
Land Use	TN*	ST	MM	ON	OR	CR	BP	I	CN	S***	SE	NC**	HI	EX	SR	Parking	Limited & Special Use Standards
Commercial									Commercial							Commercial	
...Drive-in facility	L	N	N	L	L	L	L	L	L	N	N	N	L	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.316
<u>Firearm retail business</u>	<u>L</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210 Section 40.03.342</u>
Heavy retail and service	N	N	N	N	N	Y	N	Y	N	N	N	N	S	N	N	Table 40.03.522	Section 40.31.430...

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40
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42
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Section 2. *New Castle County Code* Chapter 40 (“Unified Development Code” or “UDC”), Article 3 (“Use Regulations”), Division 40.03.200 (“Limited and special uses”), is hereby amended by adding the material that is underscored as set forth below:

Sec. 40.03.210. Buffering, location, bulk and scale standards. ...

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
Buffer Standards						Locational or Dimensional Standards						Additional Standards
Bufferyards			Separation			Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Commercial						Commercial						Commercial
Drive-in facility	Residential	0.4										Section 40.03.316
<u>Firearm retail business</u>												<u>Division 40.25.200 for TN districts. Max. 10% of GFA within the park or development and a maximum of 10% within any parcel in OR, BP and I districts</u>
Heavy retail and service...												

45 **Section 3.** *New Castle County Code* Chapter 40 (“Unified Development Code” or
46 “UDC”), Article 3 (“Use Regulations”), Division 40.03.300 (“Additional limited and special
47 use standards”), is hereby amended by adding the material that is underscored as set
48 forth below:
49

50 **Sec. 40.03.342. FIREARM RETAIL BUSINESSES**
51

52 The following requirements apply to any firearm retail business:
53

- 54 A. A firearm retail business is not permitted within a 500 foot radius of any
55 residentially zoned parcel.
56
57 B. A firearm retail business is not permitted within a 1,000 foot radius of any parcel
58 containing a, school, daycare center, or a parcel that contains government-
59 owned parkland.
60
61 C. A firearm retail business is not permitted within a 1,500 foot radius of any other
62 parcel containing a Firearm Retail store.
63

64 **Section 4.** *New Castle County Code* Chapter 40 (“Unified Development Code” or
65 “UDC”), Article 33 (“Definitions”), Division 40.33.300 (“General definitions”), is hereby
66 amended by adding the material that is underscored as set forth below:
67

68 **Sec. 40.33.240. Commercial uses.**
69

- 70 A. *Adult uses.* This includes...
71
72 P. *Vehicular sales, rental and service.* ...
73

74 Q. *Firearm retail business.* Any establishment or portion of an establishment which
75 engages in selling or purchasing guns, firearms, or ammunition.
76

77 **Section 5. Consistent with Comprehensive Development Plan.** New Castle
78 County Council finds that the provisions of this Ordinance are consistent with the spirit
79 and intent of the New Castle County Comprehensive Development Plan.
80

81 **Section 6. Inconsistent Ordinances and Resolutions Repealed.** All
82 ordinances or parts of ordinances and all resolutions or parts of resolutions that may be
83 in conflict herewith are hereby repealed except to the extent they remain applicable to
84 land use matters reviewed under previous Code provisions as provided in Chapter 40 of
85 the *New Castle County Code*.
86

87 **Section 7. Severability.** The provisions of this Ordinance shall be severable. If
88 any provision of this Ordinance is found by any court of competent jurisdiction to be
89 unconstitutional or void, the remaining provisions of this Ordinance shall remain valid,
90 unless the court finds that that the valid provisions of this Ordinance are so essentially
91 and inseparably connected with, and so dependent upon, the unconstitutional or void
92 provision that it cannot be presumed that County Council would have enacted the

93 remaining valid provisions, without the unconstitutional or void one, or unless the court
94 finds that the remaining valid provisions, standing alone, are incomplete and incapable
95 of being executed in accordance with the County Council's intent. If any provision of this
96 Ordinance or any zoning map or portion thereof is found to be unconstitutional or void,
97 all applicable former ordinances, resolutions, zoning maps or portions thereof shall
98 become applicable and shall be considered as continuations thereof as not as new
99 enactments regardless if severability is possible.

100
101 **Section 8. Effective Date.** This Ordinance shall become effective immediately
102 upon its adoption by County Council and approval by the County Executive or as
103 otherwise provided in 9 *Del. C.* § 1156 and shall only apply to land use applications
104 submitted after such date(s) unless the applicant by written request agrees to submit to
105 the provisions of this Ordinance.

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: The following is a summary of the revisions contained in this ordinance broken down by New Castle County Code Division or Section number.

Sec. 40.03.110. This amendment establishes which zoning districts permit firearm retail business uses.

Sec. 40.03.210. This amendment establishes limited use standards for firearm retail business uses in certain zoning districts.

Sec. 40.03.342. This amendment establishes limited use standards generally for firearm business store uses.

Sec. 40.33.240. This amendment defines firearm retail business.

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



Department of Land Use

**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance No. 24-084
Application No. 2024-0300-T
Firearm Retail Businesses**

August 20, 2024

Sponsor: Councilwoman Kilpatrick (District 3)

Description: To amend New Castle County Code Chapter 40 ("Unified Development Code" or "UDC"), Article 3 ("Use Regulations"), and Article 33 ("Definitions"), regarding firearm retail businesses.

EXECUTIVE SUMMARY

Ordinance 24-084 proposes to regulate firearm retail businesses as an individual Limited Use, with specific distancing requirements providing protections for children and families, where they live, gather, and play. The distance requirements proposed are consistent with those adopted by jurisdictions discussed at the Public Hearing. The Department was informed by statistics, analysis, and peer reviewed studies and finds that there is a strong correlation between an increase in gun store density and homicide rates. The regulations proposed for new firearm retail businesses by Ordinance 24-084 are an effective means to reduce the clustering and concentration of gun stores, and therefore potential homicides. This will have a positive impact on *public health, safety, morals, or general welfare* for New Castle County Residents. The Department also finds that the distances will still permit the establishment of firearm retail businesses in New Castle County. Furthermore, Ordinance 24-084 does not regulate the carrying or purchasing of firearms.

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 APPROVAL of Ordinance No. 24-084.

DESCRIPTION

Ordinance 24-084 (Application 2024-0300-T) proposes the following minimum distancing requirements to avoid the clustering of firearm retail businesses in close proximity to sensitive uses:

- 500 feet from any residentially zoned parcel;

- 1,000 feet from parcels with schools, daycare centers, or government owned parkland; and
- 1,500 feet from a parcel with an existing firearm retail store.

BACKGROUND

Uses in the Unified Development Code are structured in a hierarchical manner. There are currently 8 use categories:

1. Agricultural uses
2. Residential uses
3. Home uses
4. Institutional uses
5. Commercial uses
6. Amusement and resort uses
7. Industrial uses
8. Other uses

Under each of these broader uses are several defined uses that are uniquely regulated in the code. To ensure clarity and consistency in application of the code and with federal regulations and data, uses are matched with North American Industry Classification System Code number.¹ Some defined uses such as *commercial retail and service, heavy retail and service, office, heavy industry, and light industry* consist of more specifically identified uses. Uses that are within those broader categories have the same regulations unless specifically identified elsewhere in the code. Some uses are more specifically defined and individually regulated in the code to ensure proper standards are in place to mitigate their impact on surrounding communities.

Since the adoption of zoning regulations in New Castle County in 1954 businesses that engage in the selling or purchasing of guns firearms, or ammunition have been regulated under the umbrella definition of commercial uses. The Unified Development Code has considered gun shops as a *commercial retail and service* use under the subclassification of *sporting goods, hobbies, books and music stores (NAICS 451)*.² As such it has had the same restrictions as hardware, grocery, and department stores.

A 2021 study, *Gun Dealer Density and its Effect on Homicide* evaluated the relationship between gun prevalence and homicides in the United States from 2003-2019. The study found that an increase in gun dealer density is significantly and positively associated with increased homicides in subsequent years correlation in gun dealer density (areas where there is an increase in gun

¹ The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. <https://www.census.gov/naics/?999967> (Accessed: 8/12/2024).

² The 2022 Update to the NAICS reclassified sporting goods, hobbies, books and music stores as NAICS Code 459110. <https://www.census.gov/naics/?input=gun+shop&year=2022&details=459110> (Accessed: 8/12/2024)

dealer density statistically have an increase in homicide rates).³ At a local level, analysis conducted by Everytown indicates Delaware has 123 gun related deaths and 305 gun related injuries.⁴

Ordinance 24-084 was introduced at County Council on May 28, 2024, establishing firearm retail stores as an individually regulated Limited Use with specific distancing requirements to avoid the clustering of firearm retail businesses near sensitive uses.

PLUS REVIEW (Preliminary Land Use Service)

The PLUS Report, dated July 22, 2024, contains comments from State agencies. The Office of State Planning Coordination reiterated their support for the 2022 New Castle County Comprehensive Plan and for the potential of the ordinance to make “*New Castle County a safer place for current and future residents.*” The State Fire Marshall’s Office voiced no objection of to the ordinance, while explaining the Office’s responsibility in the review process. No other agencies provided any comments.

Planning Board Public Hearing – August 6, 2024

Charuni Patibanda, General Manager for the Department of Land Use presented Ordinance 24-084 at the August 6th joint New Castle County Department of Land Use and Planning Board Public Hearing. Ms. Patibanda explained that Ordinance 24-084 is part of a larger initiative consisting of three ordinances address gun safety in the county. The first two Ordinance 24-085⁵ and 24-086⁶, adopted June 11, 2024, by a unanimous vote, prohibit firearms in County buildings and amended the Building Code to provide security measures for gun stores making them harder targets for theft. She further explained that Ordinance 24-084 is the zoning component of this initiative that seeks to reduce gun store density in areas where children and families live and play, while staying within constitutional bounds. Ms. Patibanda further explained the authority and rationale for the ordinance, including recent findings and studies related to public health and safety. She further discussed historical precedent and provided examples of regulations enacted in other jurisdictions.

³ Johnson, David Blake and Robinson, Joshua J., Gun Dealer Density and its Effect on Homicide (November 17, 2021). Available at SSRN: <https://ssrn.com/abstract=3867782> or <http://dx.doi.org/10.2139/ssrn.3867782> (Accessed 8/13/2024); Later published in The Journal of Law & Economics (February 2024)

⁴ EveryState :

https://everystat.org/?_gl=1*1p750hx*_ga*OTYxMjEwODIwLjE3MjM1NTYwMjI.*_ga_LT0FWV3EK3*MTcyMzU1NjAyMS4xLjEuMTcyMzU1NjAzMS4wLjAuMA..#Delaware (Accessed 8/13/2024)

⁵ Ordinance 24-085:

<https://www3.newcastlede.gov/PDFDocument/default.aspx?DocumentID=80:FC40FF5826FBF7107D10260598B6C0724428DD1196872F86735C7182B4706D85B7BD5C22B5B6E237C395C77CFD3812FC&x=temp.pdf> (Accessed 8/13/2024)

⁶ Ordinance 24-086:

<https://www3.newcastlede.gov/PDFDocument/default.aspx?DocumentID=80:FC40FF5826FBF7107D10260598B6C0724428DD1196872F86735C7182B4706D85319E00628515BF7F2482B9D8DE87B6D5&x=temp.pdf> (Accessed 8/13/2024)

Planning Board members had several questions and comments in response to the presentation. Ms. Peterson inquired about the potential impact on municipalities such as Wilmington and asked if they had adopted regulations like those proposed by Ordinance 24-084. Ms. Patibanda acknowledged that the county would greatly benefit from municipalities adopted regulations that are akin to those proposed in Ordinance 24-084. She also remarked that the City of Wilmington may have some regulations in place, and that the County is currently working with them and open to working with other municipalities in developing effective legislation. She further discussed the County's desire to avoid the potential unintended consequence of concentrating gun stores in municipal areas. Ms. Cahill-Krout inquired about the potential impact on stores like Walmart and Cabela's. Ms. Patibanda stated that businesses such as Walmart have the option to open stores that do not sell guns, if they don't meet the separation distances. She likened it to restrictions on grocery stores such as Trader Joe's with respect to selling alcohol. Ms. Visvardis confirmed the ordinance would only apply to new stores. Ms. Patibanda affirmed that the regulations would only impact new stores. There were no additional comments or questions from the Planning Board.

Public Comment

There were no comments from the public at the Public Hearing.

Comments received while the record was open

The Department of Land Use received no written correspondence with respect to Ordinance 24-084.

Analysis

Zoning Regulations

Dating back to the 1926 US Supreme Court Case, *Village of Euclid v. Ambler Realty Co.* the regulation of property through zoning ordinances has been considered a valid and constitutional exercise of the police power provided the regulations are not "*arbitrary or unreasonable*" and have a "*relation to public health, safety, morals, or general welfare.*"⁷ New Castle County adopted the Zoning Code in 1954, and subsequently the Unified Development Code in 1997 consistent with State and Federal requirements. Uses as defined in the zoning regulations of the New Castle County Code are regulated in one of two ways, as a group or individually. When a use is determined to have a similar impact to several other uses, they are regulated as a group. When it is determined that there are impacts on *public health, safety, morals, or general welfare* and that specific regulations can potentially mitigate those impacts a use is identified and regulated individually. Examples of this range in intensity from daycare, schools, as well as places of assembly and worship to extraction and other industrial uses.

Zoning Regulations and the Commercial Sale of Firearms

⁷ Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926)

The *District of Columbia v. Heller* centered on the right of citizens to possess an “ordinary type of weapon” even when there is no relationship to a local militia (which it affirms), the Supreme Court goes to lengths to explain that “[N]othing in our opinion should be taken to cast doubt on . . . laws imposing conditions and qualifications on the commercial sale of arms.”⁸ The Supreme Court affirmed this stance in *McDonald v. City of Chicago*.⁹

In 2017, nearly a decade after the *Heller* decision this principle was again tested at the United States Court of Appeals for the Ninth Circuit in *Teixeira v. County of Alameda*. The County of Alameda had adopted distancing requirements akin to those proposed in Ordinance 24-084. The Court found in favor of the County not only validating the Conditional Use process required for the commercial sale of firearms but also tying the regulations to the test set by *Euclid* stating that the rationale for the regulations were to “preserve the health and safety of its residents” by “prohibiting firearm sales near residentially zoned districts, schools and day-care centers, other firearm retailers, and liquor stores.”¹⁰ *Teixeira* filed a petition for certiorari to the Supreme Court, which was denied on May 14, 2018.¹¹

Ordinance 24-084

The Department informed by statistics, analysis, and peer reviewed studies acknowledge a strong correlation between an increase in gun store density and homicide rates. Ordinance 24-084 proposes to individually regulate firearm retail businesses as an individual Limited Use, with specific distancing requirements providing protections for children and families, where the live, gather, and play. The distance requirements proposed are consistent with those adopted by jurisdictions discussed at the Public Hearing and tested in the Federal Courts. The Department believes that the regulations proposed for new firearm retail businesses by Ordinance 24-084 are an effective means to reduce the clustering and concentration of gun stores, and therefore potential homicides. This will have a positive impact on *public health, safety, morals, or general welfare* for New Castle County Residents. The Department also finds that the distances will still permit the establishment of firearm retail businesses and protections for nonconforming uses in Article 8 that residents will still have the ability to purchase firearms in the county.

Historical Precedence

Ordinance 24-084 contains provisions that are analogous to the well-established historical precedence of limiting the carrying of firearms in public places like parks and places of recreation. As the Supreme Court stated in *New York State Rifle and Pistol Association v. Bruen*, “The restriction of carrying a firearm in recreational facilities, where large numbers gather to engage in

⁸ *District of Columbia v. Heller*, 554 U.S. 570 (2008)

⁹ *McDonald v. City of Chicago*, 561 U.S. 742 (2010)

¹⁰ *Teixeira v. County of Alameda*, No. 13-17132 (9th Cir. 2017) <https://cases.justia.com/federal/appellate-courts/ca9/13-17132/13-17132-2017-10-10.pdf?ts=1507654910>

¹¹ <https://www.scotusblog.com/case-files/cases/teixeira-v-alameda-county-california/> (Accessed 8/13/2024)

recreation, is a well-established and representative historical analog of the historical precedence of restrictions of carrying firearms in parks.”¹²

Drawing from the reasoning in US Supreme Court Cases, *New York Rifle Association v. Bruen* and *District of Columbia v. Heller*, this ordinance follows in the footsteps of previous legislation that occurred in and around the time of the ratification of the 14th amendment.

The ordinance’s purpose and focus is on limiting gun stores in areas close to sensitive places like residentially zoned areas, schools, and parks.

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.*

The 2022 Update to the New Castle County Comprehensive Plan sets the goal (Goal #4) of providing “*Healthy, safe housing options throughout the County...*,” statistics, analysis, and peer reviewed studies demonstrate a strong correlation between an increase in gun store density and homicide rates. The distancing requirements proposed in Ordinance 24-084 have the potential to reduce the future concentration of firearm retail businesses and thus potentially positively impact the health, safety and welfare of future New Castle County residents.

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

Ordinance 24-084 proposes amendments to the code that will regulate firearm retail businesses as a Limited Use, with distancing requirements designed to stave off potential increases in the future density of gun shops. Regulating firearms retail businesses as an individual use Limited Uses to mitigate potential impacts on communities is consistent with how daycare centers, churches, solar energy systems and a variety of other uses are regulated in the UDC.

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

N/A

¹² *New York State Rifle and Pistol Association v. Bruen*, 594 U.S. 1 (2022)

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

The intent of the Unified Development Code, as stated in Section 40.01.015 is:

“to protect the interests of both current and future County residents and neighbors from the potential adverse impacts of land uses...”

“to encourage greater flexibility and more development options while minimizing development impact on current property owners and the environment...”

“to promote and protect the health, safety, prosperity, convenience, general welfare and quality of life for all present and future citizens of the County.”

As discussed above Ordinance 24-084 will provide important protections for communities, from potential increases in the density of firearm retail businesses and potentially reduce future homicide rates.

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.*

N/A

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 **APPROVAL** of Ordinance 24-084.

PLANNING BOARD RECOMMENDATION

At the business meeting held on August 20, 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. Cochran and seconded by Ms. Cahill-Krout, the Board voted to recommend **APPROVAL** of Ordinance 24-084.

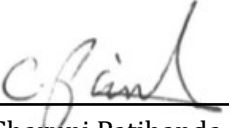
The motion was adopted by a vote of 6-0-0-3 (In Favor: Peterson, Cahill-Krout, Cantrell, Cochran, , Snowden, Visvardis; In Opposition: None; Abstention: None; Absent, Daigle, Drake, Gray).

Prior to the vote, the following discussion occurred:

Matthew Rogers read the Department of Land Use recommendation into the record.

STATUTORY GUIDELINES

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



Charuni Patibanda
General Manager
Department of Land Use

8/23/2024

date



Karen Peterson
Chair
Planning Board

8/21/2024

date