



NEW CASTLE COUNTY COUNCIL COUNCIL MEETING

September 17, 2024

6:30 PM

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

AGENDA

A. Call to Order

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

B. Approval of Minutes

C. Announcements

D. Introduction of Ordinances

°24-137: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE" OR "UDC"), ARTICLE 3 ("USE REGULATIONS"), ARTICLE 4 ("DISTRICT AND BULK STANDARDS"), ARTICLE 5 ("SITE CAPACITY AND CONCURRENCY CALCULATIONS"), ARTICLE 7 ("TRANSFER OF DEVELOPMENT RIGHTS AND OTHER INCENTIVES AND BONUSES"), ARTICLE 20 ("SUBDIVISION AND LAND DEVELOPMENT DESIGN PRINCIPLES"), ARTICLE 25 ("DESIGN"), ARTICLE 26 ("MODIFICATION OF STANDARDS"), AND ARTICLE 33 ("DEFINITIONS"), REGARDING EQUITABLE AFFORDABLE HOUSING OPPORTUNITIES AND POCKET NEIGHBORHOODS

Prime Sponsor(s): Mr. Hollins

°24-138: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE" OR "UDC"), ARTICLE 3 ("USE REGULATIONS"), AND ARTICLE 33 ("DEFINITIONS"), REGARDING MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND RETAIL MARIJUANA STORES

Prime Sponsor(s): Mr. Tackett, Ms. Kilpatrick

°24-139: TO APPROPRIATE \$150,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH CORNERSTONE WEST CDC TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

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

°24-140: TO APPROPRIATE \$98,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH GOOD NEIGHBORS TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

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

°24-141: AMEND THE PAY PLAN AND RATES OF PAY FOR HOURLY RATED CLASSIFIED SERVICE EMPLOYEES REPRESENTED BY THE DELAWARE PUBLIC EMPLOYEES COUNCIL 81, AFSCME, AFFILIATE LOCAL 459 AND ADOPT THE REVISED CLASS SPECIFICATION FOR TELEVISION GROUTER EQUIPMENT OPERATOR FOR THE DEPARTMENT OF PUBLIC WORKS

Prime Sponsor(s): Ms. Hartley-Nagle

°24-142: AMEND THE GRANTS BUDGET: APPROPRIATE FEDERAL FUNDS OF \$100,000 FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE COC PERMANENT SUPPORTIVE HOUSING GRANT, WHICH IS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES, DIVISION OF COMMUNITY DEVELOPMENT AND HOUSING

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

°24-143: DECLARING TAX PARCEL 24-003.00-020 AS SURPLUS LAND AND AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE DOCUMENTS NECESSARY TO TRANSFER SAID LAND TO VETERANS WATCHMAKERS INITIATIVE FOR \$267,000

Prime Sponsor(s): Mr. Bell

°24-144: AUTHORIZING THE ISSUANCE OF UP TO \$40,000,000 IN A GENERAL OBLIGATION BOND THROUGH THE U.S. ENVIRONMENTAL PROTECTION AGENCY ACTING BY AND THROUGH THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY FOR THE DEPARTMENT OF PUBLIC WORKS CHRISTINA RIVER FORCE MAIN REHABILITATION PROJECT

Prime Sponsor(s): Mr. Sheldon, Mr. Carter

°24-145: AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET: INCREASE BOND AUTHORIZATIONS IN THE AMOUNT UP TO \$40,000,000 TO THE DEPARTMENT OF PUBLIC WORKS, CHRISTINA RIVER FORCE MAIN REHABILITATION PROJECT

Prime Sponsor(s): Mr. Sheldon, Mr. Carter

°24-146: AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET BY REDUCING BOND AUTHORIZATIONS IN THE AMOUNT OF \$403,310 IN THE ELECTRICAL VEHICLE INFRASTRUCTURE CAPITAL PROJECT AND AMEND THE GRANTS BUDGET BY APPROPRIATING \$403,310 FROM THE U.S. DEPARTMENT OF ENERGY TO THE EECBG EV INFRASTRUCTURE DOE GRANT FOR THE DEPARTMENT OF PUBLIC WORKS

Prime Sponsor(s): Mr. Sheldon, Mr. Carter

°24-147: TO AMEND NEW CASTLE COUNTY CODE CHAPTER 7 ("PROPERTY MAINTENANCE CODE"), SECTION 7.01.002 ("AMENDMENTS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE") REGARDING RUBBISH AND GARBAGE CONTAINERS

Prime Sponsor(s): Mr. Tackett

E. Reports from Select and Special Committees

F. Consent Calendar

R24-164: RECOGNIZING AND CELEBRATING THE CONTRIBUTIONS OF THE INDO AMERICAN ASSOCIATION OF DELAWARE (IAAD)

Prime Sponsor(s): Ms. Hartley-Nagle

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

R24-165: AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A MASTER LOAN AGREEMENT, OR SUCH OTHER SIMILAR AGREEMENTS, WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY ACTING BY AND THROUGH THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, IN AN AMOUNT NOT TO EXCEED \$40,000,000 TO FUND THE INSTALLATION OF APPROXIMATELY (A) 2,000 LINEAR FEET ("LF") OF NEW 84-INCH FORCE MAIN PIPING TO SERVE AS PERMANENT BYPASS PIPING AROUND THE HEALD STREET BRIDGE, (B) 5,700 LF OF 84-INCH FORCE MAIN PIPING TO SERVE AS PERMANENT BYPASS PIPING AROUND THE MARKET STREET BRIDGE AND (C) 2,000 LF OF A NEW 36-INCH FORCE MAIN EXTENDING FROM THE MARKET STREET PUMP STATION, ALL PART OF THE CHRISTINA RIVER FORCE MAIN REHABILITATION PROJECT; PROVIDING FOR THE PURCHASE OF THE BOND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS IN CONNECTION THEREWITH.

Prime Sponsor(s): Mr. Sheldon, Mr. Carter

R24-166: SUPPORTING THE OFFICIAL RECOGNITION OF THE BATTLE OF COOCH'S BRIDGE AS A BONA FIDE MILITARY BATTLE AND URGING THE STATE OF DELAWARE TO FORMALLY RECOGNIZE IT AS SUCH AND TO RECOGNIZE ALL ASSOCIATED PROPERTIES IN AN APPROPRIATE MANNER

Prime Sponsor(s): Ms. George

Co-sponsor(s): Ms Durham, Mr. Tackett

R24-167: TO AMEND NEW CASTLE COUNTY COUNCIL PROCEDURAL RULE NO. 13 ("COUNCIL GRANTS") REGARDING EXPENDITURES

Prime Sponsor(s): Mr. Smiley

R24-145: (STATUS: TABLED) PLAN OF VISTA AT RED LION – SECTION 1; NEW CASTLE HUNDRED; NORTH SIDE OF OLD PORTER ROAD, 2000 FEET WEST OF RED LION ROAD; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO SUBDIVIDE TAX PARCEL NO. 10-052.00-011 INTO 240 TOWNHOUSE UNITS UTILIZING THE SINGLE FAMILY ATTACHED OPTION; ST ZONING; [APPLICATION NO. 2008-0002](#); COUNCIL DISTRICT 12

Prime Sponsor(s): Mr. Bell, Ms. Kilpatrick

R24-146: (STATUS: TABLED) PLAN OF VISTA AT RED LION – SECTION 2; NEW CASTLE HUNDRED; SOUTH SIDE OF OLD PORTER ROAD, 2700 FEET WEST OF RED LION ROAD; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO SUBDIVIDE TAX PARCEL NO. 10-052.00-011 AND TAX PARCEL NO. 10-052.00-018 INTO 279 AGE-RESTRICTED LOTS WITH A 4,800 SQUARE FOOT CLUBHOUSE UTILIZING THE SINGLE FAMILY DETACHED OPTION; ST ZONING; [APPLICATION NO. 2008-0003](#); COUNCIL DISTRICT 12

Prime Sponsor(s): Mr. Bell, Ms. Kilpatrick

I. Consideration of Ordinances

°24-132: 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

°24-084: 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

SUBSTITUTE NO. 1 TO °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

K. Introduction/Consideration of Emergency Ordinances

L. Public Comment/Other

M. Motion to Adjourn

AGENDA POSTED: September 10, 2024

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

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

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

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

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

Prime Sponsor(s): Mr. Hollins
Requested by: Land Use Department
Date of introduction: September 17, 2024

ORDINANCE NO. 24-137

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 3 (“USE REGULATIONS”), ARTICLE 4 (“DISTRICT AND BULK STANDARDS”), ARTICLE 5 (“SITE CAPACITY AND CONCURRENCY CALCULATIONS”), ARTICLE 7 (“TRANSFER OF DEVELOPMENT RIGHTS AND OTHER INCENTIVES AND BONUSES”), ARTICLE 20 (“SUBDIVISION AND LAND DEVELOPMENT DESIGN PRINCIPLES”), ARTICLE 25 (“DESIGN”), ARTICLE 26 (“MODIFICATION OF STANDARDS”), AND ARTICLE 33 (“DEFINITIONS”), REGARDING EQUITABLE AFFORDABLE HOUSING OPPORTUNITIES AND POCKET NEIGHBORHOODS

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 2050”
3 or “Comprehensive Plan”), on July 26, 2022, and the County Executive approved the
4 Ordinance on August 4, 2022; and
5

6 **WHEREAS**, in December of 2014, County Council adopted Substitute No. 2 to
7 Ordinance No. 14-109 creating the Traditional Neighborhood Housing Program
8 (“Program”) to facilitate the supply of housing available to households with moderate
9 incomes; and
10

11 **WHEREAS**, in October of 2017, County Council adopted Substitute No. 1 to
12 Ordinance No. 17-094 revising the Traditional Neighborhood Housing Program
13 (“Program”) to facilitate the supply of rental housing available to households with
14 moderate incomes; and
15

16 **WHEREAS**, the Delaware Housing Needs Assessment 2015-2022, issued by the
17 Delaware State Housing Authority, indicates an existing need for affordable housing in
18 New Castle County; and
19

20 **WHEREAS**, the New Castle County Comprehensive Plan directs the County to
21 increase the variety and range of safe, quality housing options for all, in a diversity of
22 locations; focus on revitalizing and preserving areas already developed, while responsibly
23 guiding future development in a manner that is consistent with adjacent communities; and
24

25 **WHEREAS**, pocket neighborhoods are an effective strategy to increase housing
26 diversity and to address the affordable housing needs in the County; and

27 **WHEREAS**, the New Castle County Comprehensive Plan guides development
28 and redevelopment to be sensitive to the context of neighboring residential development;
29 and

30 **WHEREAS**, the County recognizes the importance of updating its development
31 regulations to be consistent with, and implement, the New Castle County Comprehensive
32 Plan; and
33

34 **WHEREAS**, County Council has determined that the provisions of this Ordinance
35 substantially advance, and are reasonably and rationally related to, legitimate
36 government interests (i.e., promoting the health, safety, morals, convenience, order,
37 prosperity and/or welfare of the present and future inhabitants of this State).
38

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

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

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
Residential									Residential							Residential	
Single-family, detached	Y	Y	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	2.0/du.	—
Small single-family detached dwelling	L	L	N	N	N	N	N	N	N	L	N	L	N	N	N	2.0/du.	Only permitted in as an ADU Section 40.03.410, or in a Pocket Neighborhood Section 40.25.333...

46 **Section 2. New Castle County Code Chapter 40** (“Unified Development Code”
47 or “UDC”), Article 4 (“District and Bulk Standards”), Division 40.04.100 (“District and
48 bulk standards”), is hereby amended by adding the material that is underscored and
49 deleting the material that is bracketed and stricken, as set forth below:

50
51 **Sec. 40.04.110. District and bulk standards.**

52
53 This Section contains the basic district standards applicable to all uses. Table 40.04.110
54 contains intensity, lot, bulk and exterior storage standards. These standards may be
55 modified by the Department pursuant to Article 26.

- 56
57 A. *Minimum open space ratio. ...*
58
59 B. *Site area ...*
60
61 C. *Maximum building height. ...*
62
63 D. *Minimum lot area. ...*

Table 40.04.110A. DISTRICT AND BULK STANDARDS								Table 40.04.110B. DISTRICT AND BULK STANDARDS								Table 40.04.110C. DISTRICT AND BULK STANDARDS	
District Standards								Lot, and Building Standards								Storage and Comments	
		Density		Floor Area Ratio				Minimum							Max.	Exterior Storage	Notes
Zoning District & Type	Min. OSR/LSR	Max. Gross	Max Net	Max. Gross	Max Net	Utilities (on-site, public)	Site Area	Lot Area	Lot Width (feet)	Front and Street Yards (feet)	Side Yard (feet)	Rear Yard (feet)	Paving street yard/ other yard (feet)	Unit Mix (%)	Building Height (feet)	Percent of Lot Area	
Suburban Reserve (SR)...								Suburban Reserve (SR)...								Suburban Reserve (SR)...	
Suburban (S)								Suburban (S)								Suburban (S)	
Farmstead...																	
Pocket Neighborhood	<u>0.35</u>	<u>2.0</u>	<u>5.20</u>	<u>na.</u>	<u>na.</u>	<u>P</u>	<u>8 ac</u>	<u>See Table 40.04.112</u>								<u>na.</u>	<u>See Section 40.25.333</u>
Single-family ...																	
Suburban Transition (ST)								Suburban Transition (ST)								Suburban Transition (ST)	
Pocket Neighborhood	<u>0.15</u>	<u>4.7</u>	<u>6.0</u>	<u>na.</u>	<u>na.</u>	<u>P</u>	<u>8 ac</u>	<u>See Table 40.04.112</u>								<u>na.</u>	<u>See Section 40.25.333</u>
Single-family ...																	
Traditional Neighborhood (TN)								Traditional Neighborhood (TN)								Traditional Neighborhood (TN)	
Pocket Neighborhood	<u>0.15</u>	<u>5.20</u>	<u>8.50</u>	<u>na.</u>	<u>na.</u>	<u>P</u>	<u>20 ac.</u>	<u>See Table 40.04.112</u>								<u>na.</u>	<u>See Section 40.25.333</u>
Single-family village house ...																	

Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS			
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes *NC6.5 or less includes NC5, NCap, NCga, NCth, NCsd, CNmm, and NCpud
				Adjoining Streets			Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like developments options are adjacent)																		Illumination	Height	
	Lot	Acre Open Space	Parking Spaces																					Arterial			Collector
Suburban (S)							Suburban (S)																	Suburban (S)			
Farmstead...																											
Pocket Neighborhood	1/du	4	none	0.4	0.3	0	0.3	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	40	C=4 fc S=2 fc	C=20 ft S=20 ft	
Single-family ...																											
Suburban Transition (ST)							Suburban Transition (ST)																	Suburban Transition (ST)			
Pocket Neighborhood	1/du	4	none	0.4	0.3	0	0.3	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	40	C=4 fc S=2 fc	C=20 ft S=20 ft	
Single-family ...																											
Traditional Neighborhood (TN)							Traditional Neighborhood (TN)																	Traditional Neighborhood (TN)			
Pocket Neighborhood	1/du	4	none	0.4	0.3	0	0.3	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	40	C=4 fc S=2 fc	C=20 ft S=20 ft	
Single-family village house ...																											

Table 40.04.112 LOT STANDARDS FOR ATTACHED, POCKET NEIGHBORHOOD, AND OPEN SPACE PLANNED HOUSING TYPES													
Dwelling Unit Type	Minimum							Maximum	Patio Minimums		Side Load Garage Setback (ft)	Minimum Percent in Width Type	Setback to Parking/Paving: Street yard/ Other yard (feet)
	Site Area (sq. ft.)	Lot Area (sq. ft.)	Lot Width (ft)	Front and Street Yards (ft)	Side Yard (ft)	Building Spacing (ft)	Rear Yard (ft)	Height (ft)	Area (sq. ft.)	Width (ft)			
Single-Family Detached													
Single-family detached		12,000	85	25	6		30	36					25/2
Single-family detached		10,000	80	25	6		30	36					
Lot line		7,300	60	20 ¹	1@20	20	30	36			8	20	20
		8,000	65								8	40	
		8,600	70								8	remainder	
Village		4,800	48	12[/20 ³]	6	na.	25 ²	36					20/2
		5,400	54										
		6,000	60										
Patio		5000	55	8[/20 ³]	Patio	8	patio	36	1,000/48	20/6			20/2
Small Single-Family Dwelling		1,900	45	10	6		10	25					15/2
Single-Family Attached												Max Unit in a Row	
Twin	9,000	4,500	48	20[/20 ³]	1@8	12	25	36				2	20/0
Atrium	9,000	3,000	45	0[/20 ³]	0, 6' end unit	8	0	15	800/48	24/6		8	20/0
Weak-link townhouse	10,800	3,600	36	15[/20 ³]	0, 6' end unit	10	25	40				8	20/0
Townhouse	7,200	2,200 ^{[4]3}	22 ^{[4]3}	15[/20 ³]	0, 6' end unit	10	20	40				8	20/0
Duplex	7,000	3,500	70	20	8	na.	30	36				na.	20/2
Quadraplex	8,000	2,000	80	20	6	12	15	36			5	na.	20/2
Multi-Family													
Apartment	10,000	1,800	100	25[/45 ³]	12	30	20	50				na.	25/10
¹ Setback to garage from sidewalk. ² [Rear garage may have 5' rear yard setback provided access to alley. ³ Setback to parking. ⁴ Variable – See Section 40.04.121													

Section 3. New Castle County Code Chapter 40 (“Unified Development Code” or “UDC”), Article 5 (“Site Capacity and Concurrency Calculations”), Division 40.05.400 (“Site resource capacity”), is hereby amended by adding the material that is underscored, as set forth below:

Sec. 40.05.421. Residential capacity calculation.

Table 40.05.421 provides the procedure for calculating the residential use's capacity based on natural resources. Table 40.05.422 shall be used to determine nonresidential uses. Calculations shall be rounded down to a whole dwelling unit in determining the capacity of the site.

Table 40.05.421
RESIDENTIAL CAPACITY CALCULATION

Step 1	Take Base Site Area (Table 40.05.420 Step 1)	= ac.
	Subtract Total Resource Land (Table 40.05.420 Step 3)	- ac.
	Equals Total Unrestricted Land	= ac.
	Multiply by Usability Factor	
	Suburban Reserve 0.015	
	Suburban Estate 0.022 (includes NC2a)	
	Suburban - Single Family, <u>Pocket Neighborhood</u> , and Open Space (includes NC40, NC21 and NC15) 0.049	
	Suburban Transition - <u>Single Family, Pocket Neighborhood</u> , and Open Space (includes all other NC districts) 0.154	
	Traditional Neighborhood - <u>Single Family, Pocket Neighborhood</u> , and Open Space 0.150	
	Manufactured Homes 0.136	
	Equals Usable Land	= ac.
	Add Protected Resource Land (Table 40.05.420 Step 4)	+ ac.
	Equals Site Protected Land	= ac.
Step 2	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Multiply by Minimum Open Space Ratio (Table 40.04.110)	× ac.
	Equals Minimum District Required Open Space	= ac.
Step 3	Enter Base Site Area (Table 40.05.420 Step 1)	ac.

	Subtract Required Protected Land (Step 1 or 2, whichever is greater)	– ac.
	Equals Net Buildable Site Area	= ac.
	Multiply by Maximum Net Density (Table 40.04.110)	× ac.
	Equals Site Specific Maximum Density Yield	= du's
Step 4	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Multiply by Maximum Gross Density (Table 40.04.110)	× ac.
	Equals District Maximum Density Yield	= du's
Step 5	Maximum Yield for Site (Step 3 or 4, whichever is less)	= du's

Section 4. New Castle County Code Chapter 40 (“Unified Development Code” or “UDC”), Article 7 (“Transfer of Development Rights and Other Incentives and Bonuses”), Division 40.07.500 (“Traditional Neighborhood Housing Program”), is hereby amended by adding the material that is underscored, as set forth below:

Sec. 40.07.510. Mandatory applicability.

Required Moderately Priced Dwelling Units (“MPDUs”). MPDUs shall be required subject to the following conditions.

- A. On all rezoning applications proposing...
- B. Any variance application proposing an increase ...
- C. Payment-in-lieu of MPDU construction. ...
- D. This section shall not apply to rezoning applications ...
- E. This Section shall not apply to the acreage ...
- F. On all Multifamily Conversion...
- G. On all Pocket Neighborhood (Division 40.25.333) and Hamlet and Village Design (Division 40.25.100) development plans proposing twenty-five (25) or more dwelling units fifteen (15) percent of all dwelling units shall be set aside as MPDUs.

Section 5. New Castle County Code Chapter 40 (“Unified Development Code” or “UDC”), Article 20 (“Subdivision and Land Development Design Principles”), Division 40.20.200 (“Subdivision layout”), is hereby amended by adding the material that is underscored, as set forth below:

116 **Sec. 40.20.220. Lots.**

117
118 Design standards for lots in subdivisions shall be as follows:

- 119
120 A. Except where explicitly permitted elsewhere in this Chapter, e[E]very lot shall have
121 frontage along the right-of-way lines of a street.
122
123 B. Reverse frontage residential lots should be avoided...

124
125 **Section 6.** *New Castle County Code* Chapter 40 (“Unified Development Code”
126 or “UDC”), Article 25 (“Design”), Division 40.25.300 (“Character standards”), is hereby
127 amended by adding the material that is underscored, as set forth below:

128
129 **Sec. 40.25.333 Pocket Neighborhoods**

130
131 Pocket Neighborhoods are groups of smaller detached housing units, oriented around
132 a common open space such as a courtyard, garden, or walkway. This development
133 option is intended to create community-oriented, smaller scale housing that is an
134 effective infill option for single family neighborhoods through context sensitive design
135 with respect to the surrounding community aesthetics. In addition to the standards in
136 Article 3 and Article 4 of this Chapter, the following standards apply:

- 137
138 A. Pocket Neighborhood developments may include village homes and small single-
139 family detached dwelling units.
140
141 B. The maximum gross floor area for any dwelling unit in a Pocket Neighborhood is
142 1,200 square feet.
143
144 C. Pocket Neighborhood developments may either be developed as fee simple or
145 leasable lots.
146
147 D. Residential units in a Pocket Neighborhood may either be owner occupied or
148 rental.
149
150 E. Pocket Neighborhoods must be reviewed pursuant to Section 40.25.410.
151
152 F. Pocket Neighborhoods may not be located within one-half (0.5) mile of Heavy
153 Industry zoned land.
154
155 G. Pocket Neighborhoods must avoid monotony by varying at least three (3) of the
156 measures from Section 40.25.310.
157

158 **Section 7.** *New Castle County Code* Chapter 40 (“Unified Development Code”
159 or “UDC”), Article 26 (“Modification of Standards”), Division 40.26.300 (“Subdivision
160 standards”), is hereby amended by adding the material that is underscored and
161 deleting the material that is bracketed and stricken, as set forth below:

Division 40.26.300. Subdivision standards.

Sec. 40.26.310. No road frontage.

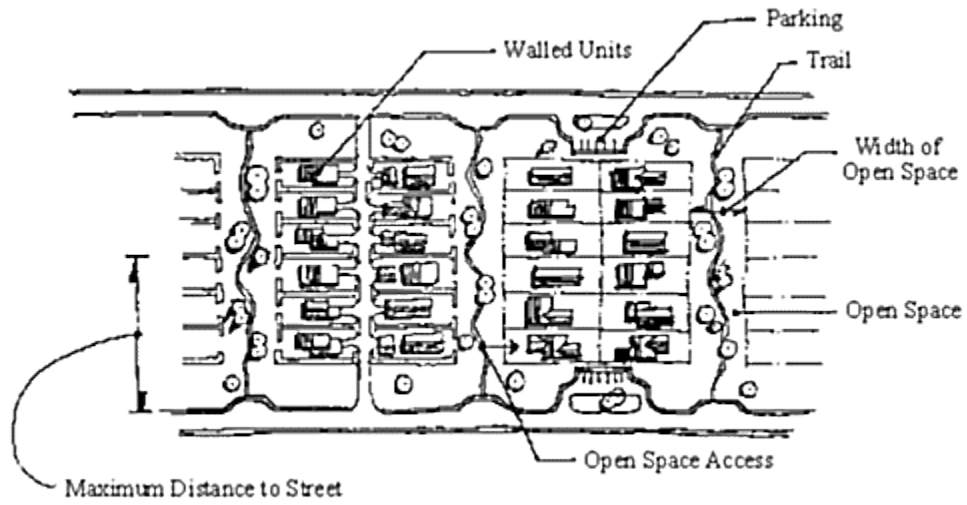
~~[Under certain circumstances atrium, patio, village houses, and townhouses of all types do not have to front on a street.]~~ In Pocket Neighborhoods, the Department may allow dwelling units to have no street frontage. All such units shall front an open space that meets the standards in Table 40.26.310. The maximum distance such a unit may be away from a street depends on whether the lot has direct access to both the open space and an alley that provides the lots with on-site parking and emergency access, or whether access is solely via the open space. The distance in Table 40.26.310 is doubled if a road or emergency access alley is available at both ends of the open space. Figure 40.26.310 illustrates the various conditions.

Table 40.26.310 STANDARDS FOR SPECIFIC RESIDENTIAL UNITS WITH NO ROAD FRONTAGE			
Width of Open Space (ft.)	[Walled Unit]	Maximum Distance from Street (ft.)	
		Open Space Access	Alley and Open Space Access
8	[yes]	60	100
12	[yes]	75	150
20	[no]	100	180
30	[no]	120	200

Section 8. *New Castle County Code* Chapter 40 (“Unified Development Code” or “UDC”), Article 26 (“Modification of Standards”), Division 40.26.300 (“Subdivision standards”), Figure 40.26.310 (“Residential Units With No Road Frontage”) is hereby amended by removing the current Figure 40.26.310, all of which shall be considered bracketed and stricken, and adding the below Figure 40.26.310, which shall be considered underscored in its entirety, as set forth below:

**Figure 40.26.310
RESIDENTIAL UNITS WITH NO ROAD FRONTAGE**

187



188



189

Section 9. New Castle County Code Chapter 40 (“Unified Development Code” or “UDC”), Article 33 (“Definitions”), Division 40.33.200 (“Use definitions”), is hereby amended by adding the material that is underscored and deleting the material that is bracketed and stricken, as set forth below:

Sec. 40.33.230. Institutional uses.

A. *Assembly and worship.* This use includes churches and...

F. *Institutional, residential:* Type I, facilities accommodating more than four (4) and not more than ten (10) persons; Type II facilities accommodating more than ten (10) persons. These uses include:

1. Convents or monasteries (NAICS 813110), and nursing homes...
2. Sheltered care facilities or group living facilities where the residents live in an institutional environment and are generally under the care or control of staff. All sheltered care[;] and group care facilities, [~~and group homes~~]except emergency shelters and residential substance abuse facilities where total occupancy is more than eight (8), [~~shall be~~]are considered an institutional residential use. The residents would be members of an institution, or would have institutional care, or would be treated by staff in an institutional setting rather than living independently (NAICS 623, 624221).
3. Institutional housing where...
4. Dormitories, fraternities, or sororities (NAICS 721310)...

Section 10. Consistent with Comprehensive Development Plan. New Castle County Council finds that the provisions of this Ordinance are consistent with the spirit and intent of the New Castle County Comprehensive Development Plan.

Section 11. Inconsistent Ordinances and Resolutions Repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County Code*.

Section 12. Severability. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions, without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable

of being executed in accordance with the County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof as not as new enactments regardless if severability is possible.

Section 13. Effective Date. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive or as otherwise provided in 9 *Del. C.* § 1156 and shall only apply to Land Use applications submitted after such date(s) unless the applicant by written request agrees to submit to 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 permits small single-family detached dwellings in pocket neighborhoods.

Sec. 40.04.110. This amendment provides district and bulk standards for pocket neighborhoods.

Sec. 40.04.111. This amendment provides use and lot standards for pocket neighborhoods.

Sec. 40.04.112. This amendment provides lot standards for dwelling units in pocket neighborhoods including small single-family dwelling units. This amendment also clarifies parking and paving setbacks in a new column. This amendment also corrects footnotes to reflect those changes and eliminates a superfluous footnote.

Sec. 40.05.421. This amendment updates the residential capacity calculation for pocket neighborhoods and revises the residential capacity calculations for consistency.

Sec. 40.07.510. This amendment clarifies that Hamlet and Village design development plans proposing 25 or more dwelling units provide 15% as MPDUs. This amendment also requires that all pocket neighborhoods proposing 25 or more dwelling units provide 15% as MPDUs.

Sec. 40.20.220. This amendment clarifies that unless permitted elsewhere, all lots are required to have road frontage.

Sec. 40.25.333. This amendment includes character and design standards for pocket neighborhoods.

Sec. 40.26.310. This amendment revises the existing zero-road-frontage provisions to only apply to pocket neighborhoods. This amendment also removes the walled unit option in Table 40.26.310 and replaces Figure 40.26.310 with an updated figure.

Sec. 40.33.230. This amendment removes the term group home from the definition of Institutional Residential to be consistent with the existing definition of the term Group Home.

FISCAL NOTE: This Ordinance will have no discernable fiscal impact.

Prime Sponsor(s): Mr. Tackett
Ms. Kilpatrick
Requested by: Land Use
Date of introduction: September 17, 2024

ORDINANCE NO. 24-138

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 3 (“USE REGULATIONS”), AND ARTICLE 33 (“DEFINITIONS”), REGARDING MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND RETAIL MARIJUANA STORES

1 **WHEREAS**, the State of Delaware adopted the Delaware Marijuana Control Act
2 on April 27, 2023; and
3

4 **WHEREAS**, the Delaware Marijuana Control Act does not permit New Castle
5 County to prohibit the operation of marijuana cultivation facilities, marijuana product
6 manufacturing facilities, marijuana testing facilities, or retail marijuana stores through
7 the enactment of an ordinance or through an initiated or referred measure; and
8

9 **WHEREAS**, the Delaware Marijuana Control Act permits New Castle County to
10 enact ordinances or regulations that do not conflict with Title 4, Chapter 13 of the
11 *Delaware Code*, or with regulations enacted by the State of Delaware’s Marijuana
12 Commissioner, governing the time, place, manner, and number of marijuana
13 establishment operations; and
14

15 **WHEREAS**, the Unified Development Code does not presently regulate the
16 operation of marijuana cultivation facilities, marijuana product manufacturing facilities,
17 marijuana testing facilities, or retail marijuana stores; and
18

19 **WHEREAS**, the New Castle County Comprehensive Plan guides development
20 and redevelopment to be sensitive to the context of neighboring residential
21 development; and
22

23 **WHEREAS**, the County recognizes the importance of updating its development
24 regulations to be consistent with *Delaware Code*, and the New Castle County
25 Comprehensive Plan; and
26

27 **WHEREAS**, County Council has determined that the provisions of this Ordinance
28 substantially advance, and are reasonably and rationally related to, legitimate
29 government interests (i.e., promoting the health, safety, morals, convenience, order,
30 prosperity and/or welfare of the present and future inhabitants of this State).
31

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

33 **Section 1.** *New Castle County Code* Chapter 40 (Unified Development Code or
34 “UDC”), Article 3 (“Use Regulations”), Division 40.03.110 (“Use table”), is hereby
35 amended by adding the material that is underscored, as set forth below:

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	
Adaptive reuse, historic building ...	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Table 40.03.522	Section 40.15.240
Shopping center	N	N	N	N	N	Y	N	N	Y	N	N	N	N	N	N	Table 40.03.522	—
Vehicular sales, rental and service	N	N	N	N	N	Y	N	N	N	N	N	N	N	N	N	Table 40.03.522	—
<u>Retail marijuana store</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>L</u>	<u>N</u>	<u>L*</u>	<u>S</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>Section 40.03.341</u> <u>*Site must have been established and operational as a medical marijuana dispensary before July 1, 2024</u>

37 **Section 2. New Castle County Code Chapter 40** (Unified Development Code or
38 "UDC"), Article 3 ("Use Regulations"), Division 40.03.300 ("Additional limited and special
39 use standards"), is hereby amended by adding the material that is underscored, as set
40 forth below:

41
42 **Sec. 40.03.333. Light Industry uses in OR, and CR zoning districts.**
43

44 A. Light Industry uses as defined in Section 40.33.270.D are considered Limited
45 Uses in the OR zoning district, except that the following uses require a special use
46 permit:

47
48 Marijuana cultivation facility (NAICS 111419, NAICS 424590)
49 Construction of buildings (NAICS 236)...
50

51 **Sec. 40.03.341. Retail marijuana store.**
52
53

54 A. Except for sites licensed by the State of Delaware and operating as medical
55 marijuana dispensaries (NAICS 459991) before July 1, 2024, under the Medical
56 Marijuana Act, as part of a complete submission, the property owner shall provide the
57 Department with a copy of a document (available from the Department) that has been
58 recorded in the New Castle County Office of the Recorder of Deeds certifying that no
59 portion of the proposed retail marijuana store building and signage is located within:

- 60
61 1. One mile of an existing retail marijuana store as verified by the State of
62 Delaware.
63
64 2. One thousand (1,000) feet of any parcel with a substance abuse treatment facility
65 as verified by the State of Delaware.
66
67 3. One thousand (1,000) feet of any parcel with an established day care center,
68 school (NAICS 6111), college (NAICS 6112, 6113), place of worship (NAICS
69 813110), governmental parkland, governmental office building, or library.
70

71 B. When a retail marijuana store is in a mall or shopping center, internal customer
72 access should be provided.
73

74 C. A retail marijuana store cannot serve as a home use (Section 40.33.221)

Section 3. New Castle County Code Chapter 40 (Unified Development Code or “UDC”), Article 33 (“Definitions”), Division 40.33.200 (“Use definitions”), is hereby amended by adding the material that is underscored, as set forth below.

Sec. 40.33.210. Agricultural uses.

A. *Agriculture.* These uses include crop production and animal production (NAICS 111 and 112), excluding marijuana grown under cover (NAICS 111419). These uses also include any other agricultural use recognized by Delaware law.

B. *Clearing...*

Sec. 40.33.240. Commercial uses.

A. *Adult uses...*

K. *Restaurants.* (NAICS 722, 722320, 531120)...

L. *Retail marijuana store.* This use includes entities licensed by the State of Delaware to purchase marijuana from marijuana cultivation facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; and to sell marijuana and marijuana products to consumers. (NAICS 459991)

[L]M. *Office.* Office uses include...

[M]N. *Craft alcohol production establishment ("CAPE")...*

[N]O. *Brewery-pub...*

[O]P. *Shopping center...*

[P]Q. *Vehicular sales, rental and service...*

Sec. 40.33.270. Industrial uses.

A. *Compost operations (NAICS 325314)...*

D. *Light industry.* This category is designed to accommodate limited intensity levels of manufacturing and assembly activities, storage, warehousing, services, associated offices and similar uses. This includes the following uses:

Marijuana cultivation facility. Entities licensed by the State of Delaware to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. A marijuana cultivation facility may not produce

marijuana concentrates, tinctures, extracts, or other marijuana products. (NAICS 111419, NAICS 424590)

Construction of buildings (NAICS 236)...

Division 40.33.300. General definitions.

Governmental body. ...

Governmental parkland. Land that is owned, developed, or controlled by Municipal, County, State, and Federal governments for outdoor passive or active recreational uses excluding open space recorded on a plan as a development's open space.

Grade. ...

Section 4. Consistent with Comprehensive Development Plan. New Castle County Council finds that the provisions of this Ordinance are consistent with the spirit and intent of the New Castle County Comprehensive Development Plan.

Section 5. Inconsistent Ordinances and Resolutions Repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed except to the extent they remain applicable to land use matters reviewed under previous Code provisions as provided in Chapter 40 of the *New Castle County Code*.

Section 6. Severability. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions, without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the County Council's intent. If any provision of this Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all applicable former ordinances, resolutions, zoning maps or portions thereof shall become applicable and shall be considered as continuations thereof as not as new enactments regardless if severability is possible.

Section 7. Effective Date. This Ordinance shall become effective immediately upon its adoption by County Council and approval by 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: The following is a summary of the revisions contained in this ordinance broken down by *New Castle County Code* Division or Section number.

Table 40.03.110. This amendment permits retail marijuana stores in the Commercial Neighborhood (CN) district as a Special Use and in the Commercial Regional (CR) and Industrial (I) district as a Limited Use pursuant to the standards in Section 40.03.340. Retail marijuana stores are also allowed on sites licensed by the State of Delaware as a medical marijuana dispensary (NAICS 459991) before July 1, 2024.

Sec. 40.03.333. This amendment establishes that a marijuana cultivation facility is a Special Use in the OR zoning district.

Sec. 40.03.341. This amendment establishes Limited and Special Use standards for retail marijuana stores. Prior to approving any land use application for a retail marijuana store use the applicant must provide written notice to all landowners within 1,000 feet of the proposed retail marijuana store use and written certification the use will meet the separation distances for existing uses.

Sec. 40.33.210. This amendment provides that marijuana grown under cover (NAICS 111419) is not considered an agricultural use unless recognized as an agricultural use by Delaware Law.

Sec. 40.33.240. This amendment defines retail marijuana stores consistent with Delaware State Code.

Sect. 40.33.270. This amendment defines marijuana cultivation facilities as a Light Industrial use consistent with Delaware State Code.

Prime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: September 17, 2024

ORDINANCE NO. 24-139

TO APPROPRIATE \$150,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH CORNERSTONE WEST CDC TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

1 **WHEREAS**, Ordinance 21-110 established the Affordable Housing Fund to preserve and
2 develop affordable housing within New Castle County (NCC Code 14.01.020); and
3

4 **WHEREAS**, Ordinance 21-111 allocated \$15,000,000 from the General Fund Tax
5 Stabilization Fund to the Affordable Housing Fund; and
6

7 **WHEREAS**, New Castle County Department of Community Services held public
8 stakeholder meetings to receive feedback and input on the Affordable Housing Fund created to
9 preserve and create affordable housing in New Castle County; and
10

11 **WHEREAS**, from that feedback, New Castle County Department of Community Services
12 released a public Request for Proposal for eligible applicants to apply for funding through the
13 Affordable Housing Fund; and
14

15 **WHEREAS**, Cornerstone West CDC was identified during this process to assist three
16 units with free home repairs in New Castle County that will ensure affordability for three
17 households over the next fifteen years; and
18

19 **WHEREAS**, the Housing Trust Fund is a separate fund from the Affordable Housing
20 Fund, and the Housing Trust Fund can only be expended for projects within unincorporated
21 areas of New Castle County and there are no Housing Trust Funds included in the funding of
22 this Ordinance; and
23

24 **WHEREAS**, the revenue measures heretofore adopted by County Council are necessary
25 to preserve and develop affordable housing within New Castle County; and
26

27 **WHEREAS**, each contract or purchase order funded through this Affordable Housing
28 Fund appropriation will be submitted on a Resolution for Council's consideration as required by
29 *New Castle County Code § 2.02.004*.
30

31 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
32

33 Section 1. To preserve and develop an affordable housing project, \$150,000 in the New
34 Castle County Affordable Housing Fund is hereby appropriated to be administered by the
35 Department of Community Services.
36

37 Section 2. This Ordinance shall become effective immediately upon its adoption by
38 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*
39 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 \$150,000 in the New Castle County Affordable Housing Fund. The available funding in the Affordable Housing Fund was transferred from the General Fund via Ordinance 21-111. There are no Housing Trust Funds included in the funding of this Ordinance. The funds will be administered by the Department of Community Services for Cornerstone West CDC to assist three units with free home repairs in New Castle County that will ensure affordability for three households over the next fifteen years.

FISCAL NOTE: This Ordinance, if approved, will appropriate \$150,000 in the New Castle County Affordable Housing Fund. There is no discernible impact to the Operating Budget since this is an appropriation in the Affordable Housing Fund. The intent is to appropriate funds in the Grant and Fixed Charges Budget Line Item. The balance of the Affordable Housing Fund is \$13,394,041.01 as of June 30, 2024.

Prime Sponsor(s): Mr. Hollins, Mr. Street
Requested by: Community Services
Date of introduction: September 17, 2024

ORDINANCE NO. 24-140

TO APPROPRIATE \$98,000 IN THE NEW CASTLE COUNTY AFFORDABLE HOUSING FUND, WITH FUNDS THAT ORIGINATED FROM THE GENERAL TAX STABILIZATION RESERVE, FOR A CONTRACT WITH GOOD NEIGHBORS TO BE ADMINISTERED BY THE DEPARTMENT OF COMMUNITY SERVICES

1 **WHEREAS**, Ordinance 21-110 established the Affordable Housing Fund to preserve and
2 develop affordable housing within New Castle County (NCC Code 14.01.020); and
3

4 **WHEREAS**, Ordinance 21-111 allocated \$15,000,000 from the General Fund Tax
5 Stabilization Fund to the Affordable Housing Fund; and
6

7 **WHEREAS**, New Castle County Department of Community Services held public
8 stakeholder meetings to receive feedback and input on the Affordable Housing Fund created to
9 preserve and create affordable housing in New Castle County; and
10

11 **WHEREAS**, from that feedback, New Castle County Department of Community Services
12 released a public Request for Proposal for eligible applicants to apply for funding through the
13 Affordable Housing Fund; and
14

15 **WHEREAS**, Good Neighbors was identified during this process to provide free home
16 repairs for low-income families earning less than 80% area median income (AMI) within New
17 Castle County; and
18

19 **WHEREAS**, the Housing Trust Fund is a separate fund from the Affordable Housing
20 Fund, and the Housing Trust Fund can only be expended for projects within unincorporated
21 areas of New Castle County and there are no Housing Trust Funds included in the funding of
22 this Ordinance; and
23

24 **WHEREAS**, the revenue measures heretofore adopted by County Council are necessary
25 to preserve and develop affordable housing within New Castle County; and
26

27 **WHEREAS**, each contract or purchase order funded through this Affordable Housing
28 Fund appropriation will be submitted on a Resolution for Council's consideration as required by
29 *New Castle County Code § 2.02.004*.
30

31 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
32

33 Section 1. To preserve and develop an affordable housing project, \$98,000 in the New
34 Castle County Affordable Housing Fund is hereby appropriated to be administered by the
35 Department of Community Services.
36

37 Section 2. This Ordinance shall become effective immediately upon its adoption by
38 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. §*
39 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 \$98,000 in the New Castle County Affordable Housing Fund. The available funding in the Affordable Housing Fund was transferred from the General Fund via Ordinance 21-111. There are no Housing Trust Funds included in the funding of this Ordinance. The funds will be administered by the Department of Community Services for Good Neighbors to provide free home repairs for low-income families earning less than 80% area median income (AMI) within New Castle County.

FISCAL NOTE: This Ordinance, if approved, will appropriate \$98,000 in the New Castle County Affordable Housing Fund. There is no discernible impact to the Operating Budget since this is an appropriation in the Affordable Housing Fund. The intent is to appropriate funds in the Grant and Fixed Charges Budget Line Item. The balance of the Affordable Housing Fund is \$13,394,041.01 as of June 30, 2024.

Prime Sponsor(s): Ms. Hartley-Nagle
Requested by: Administration/HR
Date of introduction: September 17, 2024

ORDINANCE NO. 24-141

**AMEND THE PAY PLAN AND RATES OF PAY FOR HOURLY RATED
CLASSIFIED SERVICE EMPLOYEES REPRESENTED BY THE DELAWARE PUBLIC
EMPLOYEES COUNCIL 81, AFSCME, AFFILIATE LOCAL 459 AND ADOPT THE
REVISED CLASS SPECIFICATION FOR TELEVISION GROUTER EQUIPMENT
OPERATOR FOR THE DEPARTMENT OF PUBLIC WORKS**

1 **WHEREAS**, the Department of Public Works has determined the class
2 specification for Television Grouter Equipment Operator needs to be updated to reflect
3 the work currently being performed; and
4

5 **WHEREAS**, the Department of Public Works has determined that it is necessary
6 to make changes to the Pay Grade for the class specification of Television Grouter
7 Equipment Operator; and
8

9 **WHEREAS**, it is recommended that the Pay Grade for the class specification
10 Television Grouter Equipment Operator be changed from Pay Grade 19H to Pay Grade
11 20H; and
12

13 **WHEREAS**, the Human Resources Advisory Board at its meeting on July 18,
14 2024, reviewed the revisions to the class specification for Television Grouter Equipment
15 Operator and recommended the change from Pay Grade 19H to Pay Grade 20H on the
16 Pay Plan and Rates of Pay for Hourly Rated Classified Service Employees Represented
17 by the Delaware Public Employees Council 81, AFSCME, Affiliate Local 459; and
18

19 **WHEREAS**, the Chief Human Resources Officer concurs with the
20 recommendation of the Human Resources Advisory Board.
21

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

24 Section 1. The revised Class Specification for Television Grouter Equipment
25 Operator is adopted as set forth in Exhibit "A."
26

27 Section 2. The Pay Plan and Rates of Pay for Hourly Rated Classified Service
28 Employees Represented by the Delaware Public Employees Council 81, AFSCME,
29 Affiliate Local 459, effective July 1, 2023 through June 30, 2024, is hereby amended by
30 adding the material that is underscored and deleting the material that is stricken as set
31 forth in Exhibit "B."
32

33 Section 3. The Pay Plan and Rates of Pay for Hourly Rated Classified Service
34 Employees Represented by the Delaware Public Employees Council 81, AFSCME,
35 Affiliate Local 459, effective July 1, 2024 through June 30, 2025, is hereby amended by
36 adding the material that is underscored and deleting the material that is stricken as set
37 forth in Exhibit "C."

38 Section 4. The Pay Plan and Rates of Pay for Hourly Rated Classified Service
39 Employees Represented by the Delaware Public Employees Council 81, AFSCME,
40 Affiliate Local 459, effective July 1, 2025, is hereby amended by adding the material that
41 is underscored and deleting the material that is stricken as set forth in Exhibit "D."

42
43 Section 5. 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*.

46
47 Section 6. It is the intent of the County Council that the provisions of this
48 Ordinance shall be effective retroactive to February 22, 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, changes the Pay Grade for the position title of Television Grouter Equipment Operator from Pay Grade 19H to Pay Grade 20H on the Pay Plan and Rates of Pay for Hourly Rated Classified Service Employees Represented by the Delaware Public Employees Council 81, AFSCME, Affiliate Local 459, and adopts the revised class specification, as recommended by the Human Resources Advisory Board.

It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to February 22, 2024.

FISCAL IMPACT: This Ordinance, if approved, changes the Pay Grade for the position title of Television Grouter Equipment Operator from Pay Grade 19H to Pay Grade 20H on the Pay Plan and Rates of Pay for Hourly Rated Classified Service Employees Represented by the Delaware Public Employees Council 81, AFSCME, Affiliate Local 459, and adopts the revised class specification, as recommended by the Human Resources Advisory Board.

There are currently three filled positions with the title of Television Grouter Equipment Operator. The estimated fiscal impact (Salaries/Wages and Benefits) of reclassifying the three employees currently in these positions is \$23,921 in FY2025, \$18,273 in FY2026 and \$18,742 in FY2027.

NEW CASTLE COUNTY GOVERNMENT

Number 0824

Page 1 of 2

CLASS SPECIFICATION

Date DRAFT

Title: TELEVISION/GROUTER EQUIPMENT OPERATOR

GENERAL STATEMENT OF DUTIES: Operates television camera to inspect sewer linee—s and uses a sealing mechanism to repair defects in sewer lines; does related work as required.

DISTINGUISHING FEATURES OF THE CLASS: An employee in this class operates a television camera and grouter (sealing mechanism) to inspect pipe for defects. The grouter is used to test and seal the line when defects are found. This employee is responsible for maintaining the grouter and auxiliary equipment and must be able to detect malfunctions in the television camera and its electronic components as well as replace malfunctioning components. This employee supervises Trades Helpers and ~~may supervise direct other personnel within the section who are needed in the operation to setup the job location, and perform pre-cleaning, or setup maintenance of traffic in order to complete the issued work orders. This employee is under direct supervision.~~

EXAMPLES OF WORK: (Illustrative only)

- Using CCTV television camera and related equipment accurately observes, records, and documents conditions and reports observations in computer using PACP codes as outlined in NASSCO's PACP Reference Manual; ~~Uploads data and completed videos to the CCTV software;~~
- ~~— Operates a personal computer and other related equipment in the course of the work;~~
- Positions the equipment, cables, and cable reels and directs the movement of a ~~television~~CCTV camera and grouter mechanism through the sewer pipeline;
- Operates a television system and observes the television picture of the sewer line on a monitor to locate cracks, holes, drop lines, and other defects in the sewer line; Operates the grouter (sealing mechanism) to repair defects in the sewer line when detected;
- ~~Operates locator and sounding equipment to mark out defects for repair;~~
- Performs ~~and schedules~~ preventive and corrective maintenance on the CCTV ~~and equipment,~~ grouting equipment, ~~and~~ generator;
- ~~—~~ Checks the electronic components of the ~~television~~CCTV system using an electronic test meter and replaces malfunctioning components when necessary;
- Mixes chemicals in correct proportions that form a gel which is used to repair the sewer line;
-

NEW CASTLE COUNTY GOVERNMENT

Number 0824

CLASS SPECIFICATION

Page 2 of 2

Date DRAFT

Title: TELEVISION/GROUTER EQUIPMENT OPERATOR

- Directs the assembly and set up of the ~~television~~-CCTV camera and grouter with cable lines;
- Keeps a daily log of sewer lines inspected; **Creates and updates work orders in the CMMS system;**
- **Operates a handheld GPS unit to collect and log manhole location data;**
- Drives truck **and off-road vehicles** which houses the ~~television~~-CCTV and grouting equipment; Stores all components for safe transportation;
- ~~Performs~~ operator maintenance on the truck;
- Promotes an ongoing attitude of dedication to excellent public service and ensures that external and internal customers are provided with the highest quality of service; Operates a personal computer, and other related equipment in the course of the work.

REQUIRED KNOWLEDGE. SKILLS AND ABILITIES: Good knowledge of the operation of ~~television~~-CCTV equipment including the skill and ability to test this equipment to locate malfunctions and to do repairs; good knowledge of the principles and methods used in constructing sewer lines; ability to operate the grouter and to mix the chemicals used in the grouter; ability to repair the grouter and auxiliary mechanical equipment; ability to supervise; ability to record data and keep accurate records pertaining to sewer lines **and CCTV inspections**; ability to take photographs; mechanical aptitude;

MINIMUM QUALIFICATIONS: At least three (3) years' experience in the construction of sewer lines or closely related experience in public works maintenance, with at least one year experience in the repair of ~~television~~-CCTV equipment, and completion of a high school diploma or GED; some course work in technical electronic training; or an equivalent combination of education, experience and training directly related to the required knowledge, skills, and abilities.

ADDITIONAL REQUIREMENTS: Possession of a valid Delaware class D driver's license or its equivalent. Must pass a Class II County physical examination.

HISTORY OF REVISIONS:

Established: 07/01/73
 Revised: 04/29/74
 Revised: 10/04/88
 Revised: 03/20/89
 Revised: 01/01/91
 Revised: 01/01/96
 Revised: 03/01/00
 Revised: 07/02/02
 Revised: 06/24/16
 Revised: 06/14/23

**PAY PLAN AND RATES OF PAY FOR
HOURLY RATED CLASSIFIED SERVICE EMPLOYEES REPRESENTED BY THE
DELAWARE PUBLIC EMPLOYEES COUNCIL 81, AFSCME, AFFILIATE LOCAL 459**

EXHIBIT B

CLASSIFICATION	PAY GRADE	1	2	3	4	5	6	7	8	9	10	11
CUSTODIAN	12H	15.27	16.05	16.86	17.73	18.61	19.55	20.54	21.58	22.66	23.80	24.99
COMMUNITY SERVICES SPECIALIST I MAINTENANCE AND CONSTRUCTION WORKER	14H	16.86	17.73	18.61	19.55	20.54	21.58	22.66	23.80	24.99	26.23	27.56
COMMUNITY SERVICES SPECIALIST II	15H	17.73	18.61	19.55	20.54	21.58	22.66	23.80	24.99	26.23	27.56	28.93
AUTOMOTIVE MECHANIC HELPER	16H	18.61	19.55	20.54	21.58	22.66	23.80	24.99	26.23	27.56	28.93	30.38
BUILDING MAINTENANCE APPRENTICE	16H											
CARPENTER APPRENTICE	16H											
ELECTRICIAN APPRENTICE	16H											
MOTOR EQUIPMENT OPERATOR I	16H											
PUMPING STATION MECHANIC APPRENTICE	16H											
TRADES HELPER	16H											
TREE TRIMMER HELPER	16H											
WASTEWATER TREATMENT PLANT OPERATOR TRAINEE	16H											
SENIOR CUSTODIAN	17H	19.55	20.54	21.58	22.66	23.80	24.99	26.23	27.56	28.93	30.38	31.90
HEATING, VENTILATION & AIR CONDITIONING APPRENTICE	18H	20.54	21.58	22.66	23.80	24.99	26.23	27.56	28.93	30.38	31.90	33.51
MOTOR EQUIPMENT OPERATOR II	18H											
PIPELAYER	18H											
PLUMBER APPRENTICE	18H											
BUILDING MAINTENANCE MECHANIC	19H	21.58	22.66	23.80	24.99	26.23	27.56	28.93	30.38	31.90	33.51	35.18
CARPENTER	19H											
MASON	19H											
PAINTER	19H											
TELEVISION/GROUTER EQUIPMENT OPERATOR	19H											
WASTEWATER TREATMENT PLANT OPERATOR	19H											
AUTOMOTIVE MECHANIC	20H	22.66	23.80	24.99	26.23	27.56	28.93	30.38	31.90	33.51	35.18	36.93
BARN MANAGER	20H											
CREW CHIEF I	20H											
MOTOR EQUIPMENT OPERATOR III	20H											
PUMPING STATION MECHANIC	20H											
TELEVISION/GROUTER EQUIPMENT OPERATOR	20H											
WELDER	20H											
UTILITY TECHNICIAN	20H											
ELECTRICIAN	21H	23.80	24.99	26.23	27.56	28.93	30.38	31.90	33.51	35.18	36.93	38.79
HEATING, VENTILATION & AIR CONDITIONING JOURNEYPEPERSON	21H											
JUNIOR ELECTRONICS TECHNICIAN	21H											
MASON SUPERVISOR	21H											
MASTER CARPENTER	21H											
PAINTER SUPERVISOR	21H											
PIPELAYER SUPERVISOR	21H											
PLUMBER	21H											
SENIOR WASTEWATER TREATMENT PLANT OPERATOR	21H											
TREE TRIMMER	21H											
SENIOR ELECTRICIAN	22H	24.99	26.23	27.56	28.93	30.38	31.90	33.51	35.18	36.93	38.79	40.72
CREW CHIEF II	23H	26.23	27.56	28.93	30.38	31.90	33.51	35.18	36.93	38.79	40.72	42.76
ELECTRONICS TECHNICIAN	23H											
PLANT OPERATIONS TECHNICIAN	23H											
SERVICE REQUEST COORDINATOR	23H											
TREE SURGEON	23H											

Effective: 07/01/2023 - 06/30/2024 (Ordinance 22-125)

Revised: 02/22/2024 (Ordinance 24-xxxx)

**PAY PLAN AND RATES OF PAY FOR
HOURLY RATED CLASSIFIED SERVICE EMPLOYEES REPRESENTED BY THE
DELAWARE PUBLIC EMPLOYEES COUNCIL 81, AFSCME, AFFILIATE LOCAL 459**

EXHIBIT C

CLASSIFICATION	PAY GRADE	1	2	3	4	5	6	7	8	9	10	11
CUSTODIAN	12H	15.65	16.45	17.28	18.17	19.08	20.04	21.05	22.12	23.23	24.40	25.61
COMMUNITY SERVICES SPECIALIST I MAINTENANCE AND CONSTRUCTION WORKER	14H	17.28	18.17	19.08	20.04	21.05	22.12	23.23	24.40	25.61	26.89	28.25
COMMUNITY SERVICES SPECIALIST II	15H	18.17	19.08	20.04	21.05	22.12	23.23	24.40	25.61	26.89	28.25	29.65
AUTOMOTIVE MECHANIC HELPER	16H	19.08	20.04	21.05	22.12	23.23	24.40	25.61	26.89	28.25	29.65	31.14
BUILDING MAINTENANCE APPRENTICE	16H											
CARPENTER APPRENTICE	16H											
ELECTRICIAN APPRENTICE	16H											
MOTOR EQUIPMENT OPERATOR I	16H											
PUMPING STATION MECHANIC APPRENTICE	16H											
TRADES HELPER	16H											
TREE TRIMMER HELPER	16H											
WASTEWATER TREATMENT PLANT OPERATOR TRAINEE	16H											
SENIOR CUSTODIAN	17H	20.04	21.05	22.12	23.23	24.40	25.61	26.89	28.25	29.65	31.14	32.70
HEATING, VENTILATION & AIR CONDITIONING APPRENTICE	18H	21.05	22.12	23.23	24.40	25.61	26.89	28.25	29.65	31.14	32.70	34.35
MOTOR EQUIPMENT OPERATOR II	18H											
PIPELAYER	18H											
PLUMBER APPRENTICE	18H											
BUILDING MAINTENANCE MECHANIC	19H	22.12	23.23	24.40	25.61	26.89	28.25	29.65	31.14	32.70	34.35	36.06
CARPENTER	19H											
MASON	19H											
PAINTER	19H											
TELEVISION/GROUTER EQUIPMENT OPERATOR	19H											
WASTEWATER TREATMENT PLANT OPERATOR	19H											
AUTOMOTIVE MECHANIC	20H	23.23	24.40	25.61	26.89	28.25	29.65	31.14	32.70	34.35	36.06	37.85
BARN MANAGER	20H											
CREW CHIEF I	20H											
MOTOR EQUIPMENT OPERATOR III	20H											
PUMPING STATION MECHANIC	20H											
TELEVISION/GROUTER EQUIPMENT OPERATOR	20H											
WELDER	20H											
UTILITY TECHNICIAN	20H											
ELECTRICIAN	21H	24.40	25.61	26.89	28.25	29.65	31.14	32.70	34.35	36.06	37.85	39.76
HEATING, VENTILATION & AIR CONDITIONING JOURNEYPERSON	21H											
JUNIOR ELECTRONICS TECHNICIAN	21H											
MASON SUPERVISOR	21H											
MASTER CARPENTER	21H											
PAINTER SUPERVISOR	21H											
PIPELAYER SUPERVISOR	21H											
PLUMBER	21H											
SENIOR WASTEWATER TREATMENT PLANT OPERATOR	21H											
TREE TRIMMER	21H											
SENIOR ELECTRICIAN	22H	25.61	26.89	28.25	29.65	31.14	32.70	34.35	36.06	37.85	39.76	41.74
CREW CHIEF II	23H	26.89	28.25	29.65	31.14	32.70	34.35	36.06	37.85	39.76	41.74	43.83
ELECTRONICS TECHNICIAN	23H											
PLANT OPERATIONS TECHNICIAN	23H											
SERVICE REQUEST COORDINATOR	23H											
TREE SURGEON	23H											

Effective: 07/01/2024 - 06/30/2025 (Ordinance 22-125)

Revised: 02/22/2024 (Ordinance 24-xxxx)

**PAY PLAN AND RATES OF PAY FOR
HOURLY RATED CLASSIFIED SERVICE EMPLOYEES REPRESENTED BY THE
DELAWARE PUBLIC EMPLOYEES COUNCIL 81, AFSCME, AFFILIATE LOCAL 459**

EXHIBIT D

CLASSIFICATION	PAY GRADE	1	2	3	4	5	6	7	8	9	10	11
CUSTODIAN	12H	16.04	16.86	17.71	18.62	19.56	20.54	21.58	22.67	23.81	25.01	26.25
COMMUNITY SERVICES SPECIALIST I MAINTENANCE AND CONSTRUCTION WORKER	14H	17.71	18.62	19.56	20.54	21.58	22.67	23.81	25.01	26.25	27.56	28.96
COMMUNITY SERVICES SPECIALIST II	15H	18.62	19.56	20.54	21.58	22.67	23.81	25.01	26.25	27.56	28.96	30.39
AUTOMOTIVE MECHANIC HELPER	16H	19.56	20.54	21.58	22.67	23.81	25.01	26.25	27.56	28.96	30.39	31.92
BUILDING MAINTENANCE APPRENTICE	16H											
CARPENTER APPRENTICE	16H											
ELECTRICIAN APPRENTICE	16H											
MOTOR EQUIPMENT OPERATOR I	16H											
PUMPING STATION MECHANIC APPRENTICE	16H											
TRADES HELPER	16H											
TREE TRIMMER HELPER	16H											
WASTEWATER TREATMENT PLANT OPERATOR TRAINEE	16H											
SENIOR CUSTODIAN	17H	20.54	21.58	22.67	23.81	25.01	26.25	27.56	28.96	30.39	31.92	33.52
HEATING, VENTILATION & AIR CONDITIONING APPRENTICE	18H	21.58	22.67	23.81	25.01	26.25	27.56	28.96	30.39	31.92	33.52	35.21
MOTOR EQUIPMENT OPERATOR II	18H											
PIPELAYER	18H											
PLUMBER APPRENTICE	18H											
BUILDING MAINTENANCE MECHANIC	19H	22.67	23.81	25.01	26.25	27.56	28.96	30.39	31.92	33.52	35.21	36.96
CARPENTER	19H											
MASON	19H											
PAINTER	19H											
TELEVISION/GROUTER EQUIPMENT OPERATOR	19H											
WASTEWATER TREATMENT PLANT OPERATOR	19H											
AUTOMOTIVE MECHANIC	20H	23.81	25.01	26.25	27.56	28.96	30.39	31.92	33.52	35.21	36.96	38.80
BARN MANAGER	20H											
CREW CHIEF I	20H											
MOTOR EQUIPMENT OPERATOR III	20H											
PUMPING STATION MECHANIC	20H											
TELEVISION/GROUTER EQUIPMENT OPERATOR	19H											
WELDER	20H											
UTILITY TECHNICIAN	20H											
ELECTRICIAN	21H	25.01	26.25	27.56	28.96	30.39	31.92	33.52	35.21	36.96	38.80	40.75
HEATING, VENTILATION & AIR CONDITIONING JOURNEYPerson	21H											
JUNIOR ELECTRONICS TECHNICIAN	21H											
MASON SUPERVISOR	21H											
MASTER CARPENTER	21H											
PAINTER SUPERVISOR	21H											
PIPELAYER SUPERVISOR	21H											
PLUMBER	21H											
SENIOR WASTEWATER TREATMENT PLANT OPERATOR	21H											
TREE TRIMMER	21H											
SENIOR ELECTRICIAN	22H	26.25	27.56	28.96	30.39	31.92	33.52	35.21	36.96	38.80	40.75	42.78
CREW CHIEF II	23H	27.56	28.96	30.39	31.92	33.52	35.21	36.96	38.80	40.75	42.78	44.93
ELECTRONICS TECHNICIAN	23H											
PLANT OPERATIONS TECHNICIAN	23H											
SERVICE REQUEST COORDINATOR	23H											
TREE SURGEON	23H											

Effective: 07/01/2025 (Ordinance 22-125)

Revised: 02/22/2024 (Ordinance 24-xxxx)

ORDINANCE NO. 24-142

**AMEND THE GRANTS BUDGET:
APPROPRIATE FEDERAL FUNDS OF \$100,000 FROM THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO THE
COC PERMANENT SUPPORTIVE HOUSING GRANT, WHICH IS ADMINISTERED
BY THE DEPARTMENT OF COMMUNITY SERVICES, DIVISION OF COMMUNITY
DEVELOPMENT AND HOUSING**

1 **WHEREAS**, funding has been awarded from the U.S. Department of Housing
2 and Urban Development (HUD) to the CoC Permanent Supportive Housing Grant; and
3

4 **WHEREAS**, funding will be used to operate eight (8) units dedicated for adult-
5 only and adult-child chronically homeless households; and
6

7 **WHEREAS**, tenants will have access to onsite services provided by several
8 community based organizations, including medical care, mental health and substance
9 abuse treatment, transportation, state benefit assistance, food, recreational activities,
10 employment and training programs and academic enrichment programs; and
11

12 **WHEREAS**, the County Executive has determined that grants anticipated to be
13 received from the U.S. Department of Housing and Urban Development (HUD) will be
14 sufficient to cover the increase in the Grants Budget as hereinafter amended; and
15

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

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

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

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

31 Section 3. It is the intent of the County Council that the provisions of this
32 Ordinance 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 federal funds of \$100,000 from the U.S. Department of Housing and Urban Development (HUD) to the CoC Permanent Supportive Housing Grant which will be administered by the Department of Community Services, Division of Community Development and Housing. Funding will be used to operate eight (8) units dedicated for adult-only and adult-child chronically homeless households. The required match of \$25,000 is budgeted as Program Income and Case Manager Salaries within the Approved Grant Budget.

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 federal funds of \$100,000 from the U.S. Department of Housing and Urban Development (HUD) to the CoC Permanent Supportive Housing Grant which will be administered by the Department of Community Services, Division of Community Development and Housing.

There is a required match on this grant of \$25,000 which will be met with Program Income and Case Manager Salaries within the Approved Grant Budget.

This increase will affect FY2025 only, since the targeted program completion date for this grant is June 30, 2025.

DEPARTMENT:	Community Services	EXHIBIT:	"A"
GRANT TITLE:	CoC Permanent Supportive Housing	Ordinance No.	24-142
PROGRAM TITLE:	CoC Permanent Supportive Housing		

Revenue	Current		Change		Revised
Federal	\$	100,000.00	\$	-	\$ 100,000.00
State	\$	-	\$	-	\$ -
County	\$	-	\$	-	\$ -
Program Income	\$	-	\$	-	\$ -
Other	\$	-	\$	-	\$ -
Total	\$	100,000.00	\$	-	\$ 100,000.00

Expense	Current		Change		Revised
Salaries and Wages	\$	4,945.00	\$	-	\$ 4,945.00
Benefits	\$	2,895.00	\$	-	\$ 2,895.00
Training/Civic Affairs	\$	-	\$	-	\$ -
Communication/Utilities	\$	13,277.00	\$	-	\$ 13,277.00
Materials/Supplies	\$	-	\$	-	\$ -
Contractual Services	\$	71,793.00	\$	-	\$ 71,793.00
Equipment	\$	2,688.00	\$	-	\$ 2,688.00
Grants/Fixed Charges	\$	4,402.00	\$	-	\$ 4,402.00
Land and Structures	\$	-	\$	-	\$ -
Contingency	\$	-	\$	-	\$ -
Operating Transfer Charges	\$	-	\$	-	\$ -
Operating Transfer Credits	\$	-	\$	-	\$ -
Total	\$	100,000.00	\$	-	\$ 100,000.00

SUPPLEMENTAL INFORMATION

Estimated Program Initiation:	7/1/2024
Estimated Program Completion:	6/30/2025
The Local Match: \$ 25,000.00	Found in (ORG): 11400601
Ordinance Passed:	Date Revised:

PROGRAM DESCRIPTION:

New Castle County Department of Community Services will use this grant to operate 8 units dedicated for chronically homeless households. The units will operate in compliance with HUD's NSPIRE standards. Tenants will have access to onsite services provided by several organizations, including medical care, mental health and substance abuse treatment, transportation, state benefit assistance, food, recreational activities, employment and training programs and academic enrichment programs.

9/17/2024

ORDINANCE NO. 24-143

**DECLARING TAX PARCEL 24-003.00-020 AS SURPLUS LAND AND
AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE DOCUMENTS
NECESSARY TO TRANSFER SAID LAND TO VETERANS WATCHMAKERS
INITIATIVE FOR \$267,000**

1 **WHEREAS**, New Castle County (the "County") owns and maintains land identified
2 on New Castle County tax maps as Tax Parcel No. 24-003.00-020, and having a physical
3 address of 307 N. Sixth Street, Odessa, Delaware 19730 (the "Property"); and
4

5 **WHEREAS**, the Property was previously used as a paramedic station by the
6 County; and
7

8 **WHEREAS**, in 2016, the County entered into a 10 year lease with the Veteran
9 Watchmakers Initiative ("VWI") for the purposes of providing disabled veterans with
10 training and support to earn gainful employment in the watch repair industry; and
11

12 **WHEREAS**, on January 23, 2024, VWI offered to purchase the Property for
13 \$267,000; and
14

15 **WHEREAS**, pursuant to 9 *Del. C.* § 1521(e), the County may determine that lands
16 owned by the County are surplus and no longer needed for County use and may authorize
17 their disposal after a notice and a public hearing; and
18

19 **WHEREAS**, notice of a public hearing was published on July 9, 2024 in a
20 newspaper of general circulation in New Castle County, and, in accordance with 9 *Del.*
21 *C.* § 1521(e), a public hearing was held on July 16, 2024 regarding the proposal to declare
22 the Property surplus to the needs of the County; and
23

24 **WHEREAS**, a summary of the public hearing dated August 21, 2024 was reported
25 to and considered by County Council; and
26

27 **WHEREAS**, New Castle County Council has determined that the sale of the
28 Property advances and is reasonably and rationally related to legitimate government
29 interests (i.e. promoting the health, safety, morals, convenience, order, prosperity and/or
30 welfare of the present and future inhabitants of this County and State).
31

32 **NOW, THEREFORE, BE IT RESOLVED BY AND FOR THE COUNTY OF NEW**
33 **CASTLE:**
34

35 Section 1. Upon the recommendations of the County Executive and the Chief of
36 Technology and Administrative Services, and after public notice and hearing as required
37 by 9 *Del. C.* § 1521(e), the New Castle County Council hereby finds that Tax Parcel No.
38 24-003.00-020 is surplus to the needs of the County and is not needed for the County's
39 present or likely future use.
40
41

42
43 Section 2. The New Castle County Council hereby authorizes the sale of the above
44 referenced properties to Veterans Watchmakers Initiative and hereby authorizes the
45 County Executive to sign the following Agreement of Sale:

46
47 An Agreement of Sale as negotiated between New Castle County
48 and Veterans Watchmakers Initiative, subsequent amendments thereto,
49 and any other documents necessary to transfer to the Veterans
50 Watchmakers Initiative the Property as herein listed. The consideration to
51 be paid to the County is \$267,000.
52

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 Ordinance, if approved, will increase New Castle County's receivable balance by \$267,000 for the sale of the property. Title insurance, deed preparation and recording expenses are to be paid by the Buyer. This transaction is exempt from State and County transfer taxes. Taxes, water, sewer and other lienable charges imposed by the State of Delaware, any political subdivision thereof or any school district in addition to all rents and income from the Property shall be apportioned pro-rata at the time of Closing.

It is estimated that property tax revenues will increase by \$446.86 for FY2025, FY2026 and FY2027 based on the current tax rates.

AGREEMENT FOR THE SALE OF REAL ESTATE

This Agreement for the Sale of Real Estate ("Agreement") is made this ____ day of _____ 2024, by and between New Castle County, a political subdivision of the State of Delaware ("Seller") and Veterans Watchmaker Initiative, a non-profit corporation in the State of Delaware ("Buyer").

RECITALS

WHEREAS, Seller owns a certain parcel or tract of land consisting of approximately 3.81 acres, situated in Odessa, New Castle County, State of Delaware, located at 307 N. Sixth Street, and identified in particularity as New Castle County tax parcel number: 24-003.00-020 ("Property"); and

WHEREAS, Seller is willing to sell to Buyer, and Buyer is willing to purchase the Property under the terms and conditions set forth herein and the parties desire to enter into this Agreement to evidence the terms and conditions of their agreements with respect thereto.

AGREEMENTS

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and intending to be legally bound hereby, the parties hereto mutually agree as follows:

1. **Sale and Purchase.** Seller shall sell and convey to Buyer, and Buyer shall purchase from Seller, the Property on the terms and conditions hereinafter set forth.

2. **Purchase Price.** The purchase price ("Purchase Price") for the Property shall be TWO HUNDRED AND SIXTY-SEVEN THOUSAND DOLLARS (\$267,000.00), subject to the prorations and adjustments herein provided for, which shall be payable at the time of Closing (defined below) by check or wire transfer from Buyer.

3. **Broker.** Seller and Buyer each represents to the other that it has not dealt with any broker or other person who may be entitled to a real estate broker's commission or a finder's fee in connection with this transaction and each party shall defend, indemnify and hold the other party harmless against all damages, liability, losses, costs and expenses incurred as a result of any claim for a commission or fee by any other broker, agent, finder or person who shall have dealt with such party in connection with this transaction.

4. **County Council.** Buyer understands this Agreement shall not be executed by the County Executive and become effective until and unless New Castle County Council approves it.

5. **Closing.** Closing shall be held within sixty (60) calendar days of the execution of this Agreement. Closing shall be held by mail or at such location as may be

mutually agreed upon by Seller and Buyer (“Closing”). At the Closing, Seller shall deliver to Buyer the Deed (defined below) and Buyer shall deliver to Seller the Purchase Price. If agreed by both parties in writing, the date of settlement may be extended.

6. **Title.** Title to the Property is to be conveyed by deed in statutory form (“Deed”) and at Closing shall be good and marketable, free and clear of all mortgages and liens, but subject to all existing easements, declarations, restrictions, plans and other matters of record. If Seller is unable to convey title as required by this paragraph, or such as will be insured at regular rates by a title insurer duly authorized to transact insurance in Delaware, Buyer shall have the option of taking such title as Seller can give, without reduction of purchase price, or of canceling this Agreement in writing.

7. **Possession.** Possession of the Property shall be delivered to Buyer at the time of Closing.

8. **Environmental Conditions.** Seller represents and warrants to Buyer that, as of Closing, to the best of Seller’s knowledge, the Property will be in full compliance with all applicable federal, state, and local environmental laws, ordinances, rules, regulations and orders. Buyer shall have the right to undertake environmental auditing and testing to determine the extent, if any, to which environmental hazards or contamination may exist upon the Property. Seller and Buyer shall execute an Access Agreement to allow for such testing prior to Closing. Seller agrees to cooperate with Buyer’s due diligence efforts. If Buyer discovers any environmental condition on the Property, Buyer shall have the option of either purchasing the Property, with no reduction in purchase price, or of canceling this Agreement.

9. **Property Condition.** The Buyer agrees to accept the Property and any improvements or structures thereon in “as-in” condition.

10. **Closing costs and transfer taxes.** Title insurance, deed preparation and recording expenses are to be paid by the Buyer. This transaction is exempt from State and County transfer taxes. Taxes, water, sewer and other lienable charges imposed by the State of Delaware, any political subdivision thereof or any school district in addition to all rents and income from the Property shall be apportioned pro-rata at the time of Closing.

11. **Buyer’s Default.** If Buyer fails to complete Closing or otherwise defaults in any of its obligations hereunder, then Seller shall have the right to terminate this Agreement and to exercise whatever other recourse to Seller at law or in equity with respect to Buyer’s default.

12. **Seller’s Default.** If Seller fails to complete Closing or otherwise defaults in any of its obligations owed to Buyer hereunder, then Buyer shall have the right to terminate this Agreement and to exercise whatever other recourse is available to Buyer at law or in equity with respect to Seller’s default.

13. **Condemnation/Casualty.**

(a) If the Property or any part thereof is taken by eminent domain prior to Closing, Seller shall give Buyer prompt notice thereof and Buyer shall have the right to terminate this Agreement. If Buyer shall elect not to terminate this Agreement, then at Closing Seller shall pay over to Buyer all of Seller's claims and rights with respect to such taking, including, without limitation, all rights and claims to all awards relating to such taking.

(b) If the property or any part thereof is damaged or destroyed prior to closing, Seller shall give Buyer prompt written notice thereof and Buyer shall have the right to terminate this Agreement, in which case Seller and Buyer shall be released from all further liability and obligations hereunder. If Buyer shall elect not to terminate this Agreement, then Seller shall, at closing, pay over to Buyer all sums theretofore paid to Seller by reason of such damage, including insurance proceeds, and shall assign to Buyer all of Seller's claims and rights with respect to such damage, including, without limitation, all rights and claims under all applicable policies of insurance. Seller shall maintain any existing casualty insurance through the date of settlement.

14. **Notices.** Any notice, demand or request pursuant to the provisions of this Agreement shall be in writing and shall be deemed to have been properly given if (i) hand delivered by a reputable delivery service providing for receipted delivery or (ii) sent by certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

To Seller:

General Manager
Department of Public Works
187-A Old Churchmans Road
New Castle, DE 19720

With a copy to:
Aysha Gregory
Assistant County Attorney
Aysha.Gregory@newcastlede.gov

To Buyer:

[Buyer to Insert]

Such notice shall be effective upon hand delivery or three (3) days after deposit in the United States Mail, as the case may be.

15. **Effective Date.** The Effective Date of this Agreement shall be the latest date on which both parties hereto shall have executed this Agreement.

16. **Time is of the Essence; Tender.** Seller and Buyer agree that time is of the essence for all dates and the performance of all obligations under this Agreement. Formal tender of deed and tender of purchase money are hereby waived.

17. **No Recording.** This Agreement shall not be recorded in the office of any recorder or filed in any place of public record. If Buyer records this Agreement or permits this Agreement to be recorded, Seller may elect to cancel this Agreement and/or to treat such act as default.

18. **Benefit.** This Agreement shall be binding upon and shall inure to the benefit of Seller and Buyer and their respective successors and assigns. This Agreement shall not be assigned by Buyer and any purported assignment by Buyer shall be void and constitute a default hereunder.

19. **Whole Agreement; Amendments.** This Agreement sets forth all of the agreements, representations, warranties and conditions of the parties hereto, with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, representations, warranties and conditions. The exhibits referred to above constitute parts of this Agreement. No alteration, amendment, modification or waiver of any of the terms or provisions hereof shall be valid unless the same be in writing and signed by the party against who enforcement of same is sought.

20. **Governing Law.** This Agreement and all issues arising hereunder shall be governed by the laws of the State of Delaware.

21. **Legal Construction.** If any one or more of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect for any reason, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been included.

22. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, all of which taken together, shall be deemed to be a single instrument. This Agreement may be executed and delivered by the parties by way of transmission through a facsimile machine or electronic mail; such a copy shall have the same legal enforceability and binding effect upon the parties as though it were signed by all parties in original form.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Agreement under seal as of the day and year first above written.

SELLER

Witness

By: _____
Matthew Meyer

County Executive

BUYER

Witness

By: _____
Name: _____
Title: _____

DRAFT

ORDINANCE NO. 24-144

**AUTHORIZING THE ISSUANCE OF UP TO \$40,000,000 IN A GENERAL
OBLIGATION BOND THROUGH THE U.S. ENVIRONMENTAL PROTECTION
AGENCY ACTING BY AND THROUGH THE ADMINISTRATOR OF THE
ENVIRONMENTAL PROTECTION AGENCY FOR THE DEPARTMENT OF
PUBLIC WORKS CHRISTINA RIVER FORCE MAIN REHABILITATION PROJECT**

1 **WHEREAS**, Chapter 22 of Title 9 of the *Delaware Code*, as amended, authorizes New
2 Castle County to plan, acquire, purchase, construct, reconstruct, improve, better and extend,
3 and maintain and operate sewerage systems therein defined, and the County Council of New
4 Castle County has determined to repair, replace, and provide redundancy to the existing
5 Christina River Force Main system now maintained by the County over an extended period;
6 and
7

8 **WHEREAS**, it has been deemed necessary to appropriate up to \$40,000,000 for the
9 installation of (i) approximately 2,000 linear feet ("LF") of new 84-inch force main piping to
10 serve as permanent bypass piping around the Heald Street Bridge, (ii) approximately 5,700
11 LF of 84-inch force main piping to serve as permanent bypass piping around the Market
12 Street Bridge, and (iii) approximately 2,000 LF of a new 36-inch force main extending from
13 the Market Street Pump Station (collectively, the "Project"); and
14

15 **WHEREAS**, the Project is part of the ongoing rehabilitation of the Christina River
16 Force Main to prevent sanitary sewer incidents that decrease water quality and have negative
17 environmental and public health impacts on wildlife, residents, and commercial entities; and
18

19 **WHEREAS**, this Ordinance corresponds to Resolution 24-xxx authorizing the County
20 Executive to execute a master loan agreement, or such other similar document as may be
21 necessary, in connection with the funding of the Project, for up to \$40,000,000 with the U.S.
22 Environmental Protection Agency acting by and through the Administrator of the
23 Environmental Protection Agency, or its assigns; and
24

25 **WHEREAS**, this Ordinance corresponds to Ordinance 24-xxx to amend the Capital
26 Program and Budget by increasing appropriations and bond authorizations up to
27 \$40,000,000 for the Department of Public Works, Christiana River Force Main Rehabilitation
28 Project.
29

30 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS** (10 of
31 13 of the members elected to the County Council concurring therein):
32

33 Section 1. New Castle County shall authorize the issuance of its negotiable general
34 obligation bond, in one or more series, at the same or different times, in the maximum
35 aggregate principal amount of up to \$40,000,000 (the "Bond") for the Project.
36

37 Section 2. The proceeds of the Bond, after the payment of the charges and expenses
38 connected with the preparation, sale, and issuance thereof, shall be expended only for the
39 purposes for which said Bond has been authorized, or for the payment of the principal of,
40 and interest on, loans made in anticipation of the sale of such Bond.

41 Section 3. The effect of the bonded indebtedness hereby authorized upon the total
42 bonded indebtedness of New Castle County is as shown on the attached Exhibit "A."
43

44 Section 4. It is hereby determined and declared that the normal life of said
45 improvements is not less than three (3) years (9 *Del. C.* § 1163(a)(1)).
46

47 Section 5. This Ordinance shall become effective immediately upon its adoption by
48 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.*
49 § 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: Authorize the issuance of up to \$40,000,000 of a general obligation bond through U.S. Environmental Protection Agency acting by and through the Administrator of the Environmental Protection Agency, or its assigns, to finance the Christina River Force Main Rehabilitation Project.

FISCAL NOTE: This Ordinance, if approved, will authorize the issuance of up to \$40,000,000 of a general obligation bond through U.S. Environmental Protection Agency acting by and through the Administrator of the Environmental Protection Agency, or its assigns, to finance the Christina River Force Main Rehabilitation Project.

The fiscal impact of issuing a County Bond with the maximum aggregate principal amount of up to \$40,000,000 assuming a term of thirty-five (35) years after construction with a constant principal amount, is demonstrated in the attached Exhibit "A."

EXHIBIT "A"

FISCAL NOTE: This Ordinance will authorize a County Bond in the maximum aggregate principal amount (net of issuance costs) of up to \$40,000,000.

The fiscal impact of this Ordinance, if approved, is demonstrated on a pro-forma basis below:

<u>Previous Authorizations</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
Authorized and Issued Bonds ^{(1), (2)} (8/27/2024)	\$519,069,177	\$153,737,468	\$672,806,645
Authorized and Unissued Bonds ⁽¹⁾ (8/27/2024)	<u>217,414,131</u>	<u>86,766,693</u> ⁽³⁾	<u>304,180,823</u>
Total Previous Authorizations	<u>736,483,307</u>	<u>240,504,161</u>	<u>976,987,468</u>
Proposed Net Authorizations ⁽⁵⁾ by the Ordinance	40,000,000	28,800,000 ⁽⁴⁾	68,800,000
Total Previous Authorizations and Proposed Net Authorizations	<u>\$776,483,307</u>	<u>\$269,304,161</u>	<u>\$1,045,787,468</u>

(1) Amounts include authorized bonded debt for general obligation bond issuances and State Revolving Fund loans that have been drawn down.

(2) Amounts have been adjusted to reflect retired principal and interest through 8/27/24.

(3) For general obligation bond considerations, interest is computed at 4.0 percent. For State Revolving Fund loans, interest is based on estimated future repayment schedules, with interest rates for various loans at 2.00, 2.394 and 2.601 percent.

(4) Interest is computed at 4.0 percent.

(5) Assuming a constant principal amount of \$1,142,857 over a term of thirty-five years, total debt service interest for the \$40,000,000 would be \$28,800,000.

Prime Sponsor(s): Mr. Sheldon, Mr. Carter
Requested by: Public Works
Date of introduction: September 17, 2024

ORDINANCE NO. 24-145

**AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET:
INCREASE BOND AUTHORIZATIONS IN THE AMOUNT UP TO \$40,000,000
TO THE DEPARTMENT OF PUBLIC WORKS, CHRISTINA RIVER FORCE MAIN
REHABILITATION PROJECT**

1 **WHEREAS**, this legislation will increase the FY2025 Capital Budget by up to
2 \$40,000,000 in General Obligation Bond Authorizations through the U.S. Environmental
3 Protection Agency acting by and through the Administrator of the Environmental Protection
4 Agency, or its assigns, to finance the Christina River Force Main Rehabilitation Project; and
5

6 **WHEREAS**, the additional funding is for installation of (i) approximately 2,000 linear
7 feet ("LF") of new 84-inch force main piping to serve as permanent bypass piping around the
8 Heald Street Bridge, (ii) approximately 5,700 LF of 84-inch force main piping to serve as
9 permanent bypass piping around the Market Street Bridge, and (iii) approximately 2,000 LF
10 of a new 36-inch force main extending from the Market Street Pump Station (collectively, the
11 "Project").
12

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

15 Section 1. The Capital Budget Ordinance for the fiscal year beginning July 1, 2024 is
16 hereby amended by deleting the material that is stricken and adding the material that is
17 underscored on the attached Exhibit "A."
18

19 Section 2. The Capital Program Resolution for the fiscal year beginning July 1, 2024
20 is hereby amended by adding the material on the attached Exhibit "B," which shall be
21 considered underscored in its entirety.
22

23 Section 3. Bond funding in the amount of up to \$40,000,000 is appropriated to the
24 Department of Public Works, Christina River Force Main Rehabilitation Project.
25

26 Section 3. This Ordinance shall become effective immediately upon its adoption by
27 County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.*
28 § 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 up to \$40,000,000 in General Obligation Bond funding through U.S. Environmental Protection Agency acting by and through the Administrator of the Environmental Protection Agency, or its assigns, to finance the Christina River Force Main Rehabilitation Project.

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Capital Budget by appropriating up to \$40,000,000 in General Obligation Bond funding through U.S. Environmental Protection Agency acting by and through the Administrator of the Environmental Protection Agency, or its assigns, to finance the Christina River Force Main Rehabilitation Project.

The revised FY2025 Capital Budget amount for the Christina River Force Main Rehabilitation Project will be \$41,000,000.

The revised FY2025 New Castle County Capital Budget grand total will be \$82,707,715.

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-145

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		8,200,000
Rockwood Museum		175,000
Surratte Pool Renovations		50,000
Subtotal	\$	8,629,482

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

24-145

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		41,000,000
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	\$	51,047,515

CAPITAL BUDGET TOTAL

42,707,715 **\$** **82,707,715**

EXHIBIT B**PROJECT PROFILES**
PUBLIC WORKS - SEWER/STORMWATER (continued)

Project Name (Number): Christina River Force Main (C300705)					
Description: Evaluation of the Christina River Force Main (CRFM) to determine present condition and develop a long-				Council Districts: All	
Funding Schedule					
	Bonds	Federal	State	Other	Total
Prior Authorizations	\$ 15,581,576	\$ -	\$ 49,659,005	\$ 4,343,424	\$ 69,584,005
FY2025	<u>1,000,000</u>	-	-	-	<u>1,000,000</u>
	<u>41,000,000</u>				<u>41,000,000</u>
FY2026	-	-		-	-
FY2027	35,000,000	-	-	-	35,000,000
FY2028	1,000,000	-	-	-	1,000,000
FY2029	8,000,000	-	-	-	8,000,000
FY2030	3,000,000	-	-	-	3,000,000
Future Years	340,000,000	-	-	-	340,000,000
Total	\$ 403,581,576	\$ -	\$ 49,659,005	\$ 4,343,424	\$ 457,584,005
	<u>\$ 443,581,576</u>				<u>\$ 497,584,005</u>
Available Authorizations:		\$ 5,487,711			
Available Funding:		\$ 1,491,180			
Operating Budget Impact:		\$ 2,200 \$ 90,200			

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

FY2025 Activity:

Begin to construct Heald Street. Complete Market Street Design. Installation of (i) approximately 2,000 linear feet ("LF") of new 84-inch force main piping to serve as permanent bypass piping around the Heald Street Bridge, (ii) approximately 5,700 LF of 84-inch force main piping to serve as permanent bypass piping around the Market Street Bridge, and (iii) approximately 2,000 LF of a new 36-inch force main extending from the Market Street Pump Station (collectively, the "Project").

Future Activity:

Construction of phased CRFM redundant system, continue assessment and protection of existing CRFM.

ORDINANCE NO. 24-146

**AMEND THE FY2025 CAPITAL PROGRAM AND BUDGET BY REDUCING BOND
AUTHORIZATIONS IN THE AMOUNT OF \$403,310 IN THE ELECTRICAL VEHICLE
INFRASTRUCTURE CAPITAL PROJECT AND AMEND THE GRANTS BUDGET BY
APPROPRIATING \$403,310 FROM THE U.S. DEPARTMENT OF ENERGY TO
THE EECBG EV INFRASTRUCTURE DOE GRANT FOR THE
DEPARTMENT OF PUBLIC WORKS**

1 **WHEREAS**, funding has been awarded in the amount of \$403,310 from the U.S.
2 Department of Energy to the Energy Efficiency and Conservation Block Grant Electric Vehicle
3 Infrastructure Department of Energy (EECBG EV Infrastructure DOE) Grant; and
4

5 **WHEREAS**, the EECBG provides grants to State and Local governments to help reduce
6 energy use and fossil fuel emissions; and
7

8 **WHEREAS**, funding shall be used for Electric Vehicle charging stations at Woodlawn
9 Library and Delcastle Park; and
10

11 **WHEREAS**, bond funding shall be reduced in the Electric Vehicle Infrastructure Capital
12 Project in the amount of \$403,310; and
13

14 **WHEREAS**, the County Executive has determined that funds received are sufficient
15 to cover the increase in the Grants Budget as hereinafter amended; and
16

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

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

24 Section 1. The Capital Budget Ordinance for the fiscal year beginning July 1, 2024 is
25 hereby amended by deleting the material that is stricken and adding the material that is
26 underscored on the attached Exhibit "A."
27

28 Section 2. The Capital Program Resolution for the fiscal year beginning July 1, 2024 is
29 hereby amended by adding the material on the attached Exhibit "B," which shall be considered
30 underscored in its entirety.
31

32 Section 3. The Grants Budget, as adopted by Ordinance No. 75-173, is hereby
33 amended by adding the material on the attached "Exhibit C," which is considered to be
34 underscored in its entirety.
35

36 Section 4. This Ordinance shall become effective immediately upon its adoption by
37 County Council and approval by the County Executive, or as otherwise provided by 9 *Del. C. §*
38 1156.

39
40
41

Section 5. It is the intent of the County Council that the provisions of this Ordinance shall be effective retroactive to May 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 reduce \$403,310 in bond funding in the Electric Vehicle Infrastructure Capital Project and appropriate \$403,310 from the U.S. Department of Energy to the EECBG EV Infrastructure DOE Grant. Funding shall be used for Electric Vehicle charging stations at Woodlawn Library and Delcastle Park.

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

FISCAL NOTE: This Ordinance, if approved, will amend the FY2025 Capital Budget by reducing \$403,310 in bond funding in the Electric Vehicle Infrastructure Capital Project and amend the Grants Budget by appropriating \$403,310 from the U.S. Department of Energy to the EECBG EV Infrastructure DOE Grant.

The fiscal impact of this Ordinance, if approved, will be a decrease in authorized spending authority of the Capital Budget of \$403,310. The revised FY2025 Capital Budget amount for the Electric Vehicle Infrastructure Capital Project will be \$1,616,398. The revised FY2025 New Castle County Capital Budget grand total will be \$42,304,405.

The fiscal impact of this Ordinance, if approved, will be an increase in the authorized spending authority of the Grants Budget of \$403,310. This increase will impact FY2025 and FY2026, since the targeted program completion date of this award is April 30, 2026.

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-146

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		8,200,000
Rockwood Museum		175,000
Surratte Pool Renovations		50,000
Subtotal	\$	8,629,482

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	\$	1,616,398
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	\$	5,826,894

EXHIBIT "A"
NEW CASTLE COUNTY
CAPITAL BUDGET - FY2025

24-146

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
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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
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CAPITAL BUDGET TOTAL

42,707,715

\$ 42,304,405

EXHIBIT B**PROJECT PROFILES**
PUBLIC WORKS - FACILITIES/EQUIPMENT (continued)

Project Name (Number): Electric Vehicle Infrastructure (C302421)					
Description: Installation and upgrades to accommodate electric vehicle assets.				Council Districts: All	
Funding Schedule					
	Bonds	Federal	State	Other	Total
Prior Authorizations	\$ 1,800,000	\$ -	\$ -	\$ -	\$ 1,800,000
FY2025	2,019,708	-	-	-	2,019,708
	<u>1,616,398</u>				<u>1,616,398</u>
FY2026	1,000,000	-		-	1,000,000
FY2027		-	-	-	-
FY2028		-	-	-	-
FY2029		-	-	-	-
FY2030		-	-	-	-
Future Years	-	-	-	-	-
Total	\$ 4,819,708	\$ -	\$ -	\$ -	\$ 4,819,708
	<u>\$ 4,416,398</u>				<u>\$ 4,416,398</u>
Available Authorizations:		\$ 952,093			
Available Funding:		\$ (847,908)			
Operating Budget Impact:		\$ 4,443 \$ 3,556			

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

FY2025 Activity:

Add capacity at NCC Parks and Libraries. Initial plans are to start with Kirkwood, Hockessin, Glasgow and Brandywine Hundred. Reducing bond authorizations due to receipt of Energy Efficiency and Conservation Block Grant (EECBG) that will be used for Electric Vehicle charging stations at Woodlawn Library and Delcastle Park.

Future Activity:

Add capacity at Conner Building and Government Center.

DEPARTMENT:	Public Works	EXHIBIT:	"C"
GRANT TITLE:	EECGB EV Infrastructure DOE	Ordinance No.	24-146
PROGRAM TITLE:	EECGB EV Infrastructure DOE		

Revenue	Current		Change		Revised
Federal	\$	403,310.00	\$	-	\$ 403,310.00
State	\$	-	\$	-	\$ -
County	\$	-	\$	-	\$ -
Program Income	\$	-	\$	-	\$ -
Other	\$	-	\$	-	\$ -
Total	\$	403,310.00	\$	-	\$ 403,310.00

Expense	Current		Change		Revised
Salaries and Wages	\$	-	\$	-	\$ -
Benefits	\$	-	\$	-	\$ -
Training/Civic Affairs	\$	-	\$	-	\$ -
Communication/Utilities	\$	-	\$	-	\$ -
Materials/Supplies	\$	-	\$	-	\$ -
Contractual Services	\$	-	\$	-	\$ -
Equipment	\$	403,310.00	\$	-	\$ 403,310.00
Grants/Fixed Charges	\$	-	\$	-	\$ -
Land and Structures	\$	-	\$	-	\$ -
Contingency	\$	-	\$	-	\$ -
Operating Transfer Charges	\$	-	\$	-	\$ -
Operating Transfer Credits	\$	-	\$	-	\$ -
Total	\$	403,310.00	\$	-	\$ 403,310.00

SUPPLEMENTAL INFORMATION

Estimated Program Initiation:	5/1/2024
Estimated Program Completion:	4/30/2026
The Local Match:	Found in (ORG):
Ordinance Passed:	Date Revised:

PROGRAM DESCRIPTION:

The Energy Efficiency and Conservation Block Grant (EECBG) is designed to assist state and local governments in implementing strategies to reduce energy use and fossil fuel emissions and to improve energy efficiency. This grant will be used for the Electric Vehicle charging stations at Woodlawn Library and Delcastle Park.

9/17/2024

ORDINANCE NO. 24-147

**TO AMEND NEW CASTLE COUNTY CODE CHAPTER 7 (“PROPERTY
MAINTENANCE CODE”), SECTION 7.01.002 (“AMENDMENTS TO THE
INTERNATIONAL PROPERTY MAINTENANCE CODE”)
REGARDING RUBBISH AND GARBAGE CONTAINERS**

1 **WHEREAS**, it is important, upon termination or conclusion of an agreement for the
2 private hauling of residential rubbish and garbage that the container issued by the hauler
3 is promptly removed from the residential property; and
4

5 **WHEREAS**, when a container is not promptly removed from a residential property,
6 it often leads to rubbish and/or garbage remaining or collecting in the container, which
7 then attracts rodents and vermin, which, in turn, often leads to health and safety concerns;
8 and
9

10 **WHEREAS**, it is best that rubbish and garbage containers are timely retrieved by
11 the trash hauler from the residential property; and
12

13 **WHEREAS**, it is in the best interests of New Castle County and its residents that
14 the County regulate issues relating to collection of rubbish and garbage in residential
15 areas in a manner that preserves and ensures the welfare, safety, and integrity of
16 neighborhoods in New Castle County.
17

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

20 Section 1. *New Castle County Code* Chapter 7 (“Property Maintenance Code”),
21 Section 7.01.002 (“Amendments to the International Property Maintenance Code”) is
22 hereby amended by adding the material that is underlined and deleting the material with
23 strikethroughs, as set forth below.
24

25 **Sec. 7.01.002. - Amendments to the International Property Maintenance Code.**
26

27 ...
28 SECTION PM 308. RUBBISH AND GARBAGE...

29 *Section PM 308.6, Rubbish and garbage containers – retrieval*, is added as a new
30 subsection, as indicated by underlines, to read as follows:
31

32 ...
33 *Section PM 308.6, Rubbish and garbage containers – retrieval. Within 14 business days*
34 *of termination or conclusion of an agreement for residential rubbish and/or garbage*
35 *removal, the hauler shall retrieve all rubbish and garbage containers issued by the*
36 *hauler at the residential property. Any hauler that fails to comply with this Section shall*
be subject to the following:

- 37 1. For the first non-compliance (i.e., failure to comply within 14 business days of
38 agreement termination or conclusion), the violator shall be subject to a fine of
39 \$50 and may be subject to administrative penalties and fees established by the
40 Department of Land Use.
- 41 2. For a continual non-compliance which persists after 30 calendar days (from the
42 date of the agreement termination or conclusion), in addition to the assessments
43 set forth in subsection 1., the violator shall be subject to a fine of \$50 per calendar
44 day while the non-compliance persists. The violator also may be subject to
45 administrative penalties and fees established by the Department.

46
47 Section 2. This Ordinance shall become effective immediately upon its adoption by
48 County Council and approval by the County Executive, or as otherwise provided in 9 Del.
49 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 enacted, will require, within 14 business days of termination or conclusion of a private agreement for rubbish and/or garbage removal in a residential neighborhood, that a residential hauler retrieve all rubbish and garbage containers issued by the hauler at the residential property. The Ordinance proposes certain assessments (fines, penalties, and fees) for non-compliance. The hauler will be subject to additional assessments if the non-compliance is not corrected and persists beyond 30 calendar days (from the date of the agreement termination or conclusion).

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

RESOLUTION NO. 24-164

**RECOGNIZING AND CELEBRATING THE CONTRIBUTIONS OF THE
INDO AMERICAN ASSOCIATION OF DELAWARE (IAAD)**

1 **WHEREAS**, Mahatma Gandhi once said, "The best way to find yourself is to lose
2 yourself in the service of others," and this guiding principle continues to resonate through
3 the work of community organizations dedicated to serving others, such as the Indo
4 American Association of Delaware (IAAD); and

5 **WHEREAS**, the Indo-American Association of Delaware (IAAD), a not-for-profit
6 organization incorporated in Delaware in 1984, has long fostered goodwill, friendship, and
7 unity among the Indo American community, while promoting Indian heritage and culture
8 for the benefit of both the community and the broader public; and

9 **WHEREAS**, IAAD serves as a bridge between cultures, organizing events such as
10 IndiaFest, an interactive multimedia festival that showcases Indian food, music, and
11 traditions, enriching the cultural landscape of New Castle County and beyond; and

12 **WHEREAS**, the IAAD's mission also extends to philanthropic and social service
13 initiatives, including the Annual Health Fair & Charity Event, where the IAAD Youth and
14 Seniors Groups work together to provide free health screenings, advice, and workshops,
15 as well as raise funds to support local and international charities; and

16 **WHEREAS**, the IAAD Youth Group, an exemplary body recognized by New Castle
17 County and the City of Wilmington for its community service, engages in numerous
18 volunteer and educational activities, further promoting cultural understanding and
19 community development; and

20 **WHEREAS**, the IAAD Seniors Group plays a vital role in providing opportunities
21 for older adults to participate in social, recreational, and educational activities, fostering a
22 sense of belonging and engagement within the community; and

23 **WHEREAS**, the IAAD has continuously strengthened the community through its
24 numerous events, educational programs, and volunteer efforts, making lasting
25 contributions to the well-being of New Castle County residents and promoting cross-
26 cultural understanding.

27 **NOW, THEREFORE, BE IT RESOLVED** that the County Council of New Castle
28 County hereby recognizes and commends the Indo American Association of Delaware
29 (IAAD) for its outstanding contributions to the cultural, social, and philanthropic fabric of
30 New Castle County and its unwavering commitment to enhancing the lives of its residents
31 through service, education, and cultural exchange.

32 **BE IT FURTHER RESOLVED** that the County Council of New Castle County
33 hereby extends its gratitude and best wishes to the IAAD, its board members, volunteers,
34 and all associated with the organization, for their continued service to the community, and
35 encourages all residents to participate in the rich cultural and community programs
36 offered by the IAAD.

Adopted by County Council of
New Castle County on: 9/17/2024

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

SYNOPSIS: Same as title.

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

RESOLUTION NO. 24-165

AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A MASTER LOAN AGREEMENT, OR SUCH OTHER SIMILAR AGREEMENTS, WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY ACTING BY AND THROUGH THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, IN AN AMOUNT NOT TO EXCEED \$40,000,000 TO FUND THE INSTALLATION OF APPROXIMATELY (A) 2,000 LINEAR FEET ("LF") OF NEW 84-INCH FORCE MAIN PIPING TO SERVE AS PERMANENT BYPASS PIPING AROUND THE HEALD STREET BRIDGE, (B) 5,700 LF OF 84-INCH FORCE MAIN PIPING TO SERVE AS PERMANENT BYPASS PIPING AROUND THE MARKET STREET BRIDGE AND (C) 2,000 LF OF A NEW 36-INCH FORCE MAIN EXTENDING FROM THE MARKET STREET PUMP STATION, ALL PART OF THE CHRISTINA RIVER FORCE MAIN REHABILITATION PROJECT; PROVIDING FOR THE PURCHASE OF THE BOND; AND AUTHORIZING THE EXECUTION OF VARIOUS DOCUMENTS IN CONNECTION THEREWITH.

1 **WHEREAS**, the County Council (the "Council") of New Castle County (the "County")
2 has, by the enactment of Ordinance No. 24-xxx (the "Bond Ordinance"), authorized the
3 issuance of its general obligation bond for public purposes, including the installation of
4 approximately (i) 2,000 linear feet ("LF") of new 84-inch force main piping to serve as
5 permanent bypass piping around the Heald Street Bridge, (ii) 5,700 LF of 84-inch force main
6 piping to serve as permanent bypass piping around the Market Street Bridge, and (iii) 2,000
7 LF of a new 36-inch force main extending from the Market Street Pump Station as part of
8 the Christina River Force Main Rehabilitation Project (collectively, the "Project"); and
9

10 **WHEREAS**, pursuant to and in accordance with 9 *Del. C. § 1163*, as amended, the
11 Bond Ordinance and this Resolution, the County desires to (i) issue its General Obligation
12 Bond, Series 2024A-WIFIA, or such other designation as the County shall determine at the
13 time of issuance, in one or more series, at the same or different times, for the Project, in the
14 maximum principal amount not to exceed \$40,000,000 (the "Bond") and (ii) authorize the
15 County Executive to determine the final terms and conditions of the Bond and to sell the
16 Bond in a negotiated sale and private placement of the Bond to the U.S. Environmental
17 Protection Agency (the "EPA"), acting by and through the Administrator of the Environmental
18 Protection Agency, or its assigns (the "WIFIA Lender"); and
19

20 **WHEREAS**, the Bond will be issued under, and subject to, the terms and conditions
21 contained in that certain master loan agreement or such other similar agreements, each
22 dated as of the date of closing, by and between the County and WIFIA Lender (the "Financing
23 Agreements") and pursuant to a letter of intent dated February 14, 2023, from the EPA to
24 the County; and
25

26 **WHEREAS**, the loan from the WIFIA Lender will have customized terms, including
27 repayment schedules matching the specific needs of the Project. The Bond and the
28 Financing Agreement will include the repayment provisions of the Bond; and

29 **WHEREAS**, the County has determined that it is not necessary to appoint a fiscal
30 agent or payment agent in connection with the issuance of the Bond; and
31

32 **WHEREAS**, by the adoption of this Resolution, the Council desires to exercise the
33 authority delegated to it under the Bond Ordinance and, on behalf of the County, to approve
34 the execution and delivery of the Financing Agreements, the Bond and any other documents
35 required to be delivered in connection with the issuance of the Bond.
36

37 **NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New Castle
38 County that County Council hereby approves the following:
39

40 Section 1. The Bond. The County hereby authorizes the issuance of its General
41 Obligation Bond, Series 2024A-WIFIA, or such other designation as the County shall
42 determine at the time of issuance, in one or more series, at the same or different times, for
43 the Project, in a principal amount not to exceed \$40,000,000, pursuant to and in accordance
44 with Title 9 *Del. C.* § 1163 for the purpose of financing (i) the Project and (ii) the costs
45 associated with issuing the Bond. The Bond shall be in such principal amount (not to exceed
46 \$40,000,000), shall bear such rate or rates of interest, shall mature in such principal amounts
47 and on such dates, shall be subject to redemption, shall be sold at such price and in such
48 manner, and shall be in such form and contain or be subject to such other terms and
49 conditions as shall be determined by the County Executive.
50

51 Section 2. Purpose. The Bond shall be issued for the purpose of financing the Project,
52 which includes, but is not limited to, the installation of two 84-inch force mains to serve as
53 permanent bypass piping, one at 2,000 LF around the Heald Street Bridge and one at 5,700
54 LF around the Market Street Bridge and a third 36-inch force main at 2,000 LF to extend
55 from the Market Street Pump Station, pursuant to and in accordance with Title 9 *Del. C.* §
56 1163, and the Bond Ordinance.
57

58 Section 3. Sale of Bond. The County hereby approves the private placement of the
59 Bond to the WIFIA Lender.
60

61 Section 4. Security for the Bond. The Bond will be a general obligation bond of the
62 County and the full faith, credit and taxing power of the County is pledged for the prompt
63 payment of the principal of, premium, if any, and the interest on the Bond. The Bond shall
64 be the direct and unlimited obligation of the County, and unless paid from other sources, the
65 County shall levy ad valorem taxes upon all taxable property in the County for the payment
66 of the Bond subject to the limitation contained in applicable law.
67

68 Section 5. Financing Agreements. The Financing Agreements shall be in such form
69 and contain or be subject to such other terms and conditions as shall be determined by the
70 County Executive, subject only to such changes and modifications as counsel may
71 recommend and the County Executive may approve, which approval shall be conclusively
72 evidenced by his execution thereof. The County Executive and other authorized officers of
73 the County are hereby authorized and directed to execute and deliver such documents to
74 take such further action, including amending or supplementing such documents, as they
75 deem necessary or appropriate to effectuate the purposes thereof.

76 Section 6. No Paying Agent. The County hereby determines that it is not necessary
77 to appoint a paying agent in connection with the issuance of the Bond and declines to make
78 such appointment.

79
80 Section 7. Further Action. The County Executive is hereby authorized to approve or
81 execute such other documents and to take such other actions as shall be necessary or
82 appropriate for the issuance of the Bond, or to implement the terms of the Financing
83 Agreements, as contemplated by the Bond Ordinance and this Resolution of the County.

84
85 Section 8. Effective Date. This Resolution shall become effective immediately upon
86 its approval by Council.

Adopted by County Council of
New Castle County on:

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

SYNOPSIS: This Resolution authorizes the County Executive to execute a financing agreement with U.S. Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the "WIFIA Lender"), or its assigns, in an amount not to exceed \$40,000,000 to include the installation of approximately (i) 2,000 LF of new 84-inch force main piping to serve as permanent bypass piping around the Heald Street Bridge, (ii) 5,700 LF of 84-inch force main piping to serve as permanent bypass piping around the Market Street Bridge, and (iii) 2,000 LF of a new 36-inch force main extending from the Market Street Pump Station, all as part of the Christina River Force Main Rehabilitation Project. This Resolution allows the Bond to be sold to the WIFIA Lender and authorizes the County Executive to execute various documents in connection with the issuance of the Bond and implementation of the master loan agreement.

FISCAL IMPACT: This Resolution pledges the full faith, credit, and taxing power of the County to the prompt payment of the principal of, premium, if any, and the interest on the Bond.

RESOLUTION NO. 24-166

**SUPPORTING THE OFFICIAL RECOGNITION OF
THE BATTLE OF COOCH’S BRIDGE AS A BONA FIDE MILITARY BATTLE
AND URGING THE STATE OF DELAWARE TO FORMALLY RECOGNIZE
IT AS SUCH AND TO RECOGNIZE ALL ASSOCIATED PROPERTIES
IN AN APPROPRIATE MANNER**

1 **WHEREAS**, on September 3, 1777, approximately 800 American Patriots forming
2 the “Special Corps” of Brigadier General William Maxwell of the Continental Army
3 engaged several thousand British Light Infantry, Hessian, and Anspach-Bayreuth Jägers
4 (light infantry) in the vicinity of Cooch’s Bridge. The British and its allies, earlier, had made
5 landfall at Elk Neck, Maryland, and were marching North, intent on capturing Philadelphia,
6 the new capital of the United States; and
7

8 **WHEREAS**, General Maxwell’s newly formed corps was composed of militia from
9 New Castle County and Continentals from New Jersey, North Carolina, Pennsylvania,
10 and Virginia, as well as volunteers from Pennsylvania; and
11

12 **WHEREAS**, this battle has become known as “The Battle of Cooch’s Bridge,”
13 which is an important element of the story of the United States fighting to gain
14 independence from Great Britain. The Battle at Cooch’s Bridge was the opening
15 engagement of the Philadelphia Campaign of 1777 by the British. It set the stage for a
16 series of maneuvers and battles that followed—at Brandywine, Paoli, Germantown, Fort
17 Mercer, and Fort Mifflin. The results of the Campaign were crucial to the successful
18 outcome of the American Revolution and independence; and
19

20 **WHEREAS**, the battlefield and connected area surrounding Cooch’s Bridge is one
21 of Delaware’s rare historic places. The area transcends other points in our State due to
22 its link to the Revolutionary War. American soldiers—from Delaware, New Jersey, North
23 Carolina, Pennsylvania, and Virginia—met British and Hessian troops in battle. American
24 Patriots sacrificed their lives on that field for the greatest of causes: a new nation, to be
25 respected and revered by the world. Many of the soldiers—estimates range in number
26 from 24 to perhaps 50—lie in unmarked graves on the battlefield. Although the exact
27 locations of their graves are unknown, the battlefield remains as a legacy of their sacrifice,
28 and it is, indeed, hallowed ground; and
29

30 **WHEREAS**, parts of the battlefield are remarkably preserved, which is testimony
31 to the efforts of generations of the Cooch family who strove to protect the battlefield as
32 the location of the largest land battle ever fought in Delaware. Thanks to them, the story
33 of the battle has been primed to reach a national audience. Of all the possible themes
34 that can be shared with the public, the American Revolution is a paramount theme—
35 within its limits are the people from throughout the fledgling United States who fought
36 here, the role of British and Hessian soldiers, the stories of the civilians affected by war,
37 and the effect of war more than two centuries ago on the Delaware landscape; and

38 **WHEREAS**, the State-owned Cooch’s Bridge Historic Site, which consists of the
39 Cooch Homestead property, the Cooch-Dayett Mill property, and several adjacent tracts,
40 is a unique space in Delaware and has been protected for future generations of
41 Delawareans and others; and

42
43 **WHEREAS**, the Cooch family has worked tirelessly to preserve open space and
44 protect the natural and historical elements of the area, in addition to preserving written
45 records, photographs, historical documents, and artifacts that will aid in understanding
46 who lived and worked on the Cooch Homestead property and at the Cooch-Dayett Mill;
47 and

48
49 **WHEREAS**, more recent archaeological and historical research has revealed a
50 field of conflict considerably larger than the area traditionally identified as the battlefield.
51 However, development has occurred, and pressures continue to mount. Much of the
52 battlefield and the associated encampments are in nearby agricultural fields and
53 woodlands; and

54
55 **WHEREAS**, further investigation of the archeological potential of the battlefield is
56 needed so that sound public policy and informed planning decisions can be made prior
57 to development of this one-of-a-kind legacy in Delaware. Cooch’s Bridge Historic Site is
58 poised to become a premier heritage site in Delaware and the region, especially with the
59 likely increase in heritage tourism from around the country with the coming of the 250th
60 Anniversary of the founding of the United States; and

61
62 **WHEREAS**, the national significance of the Battle of Cooch’s Bridge is unlike any
63 other area in Delaware, and its story must be told. Cooch’s Bridge Historic Site is a
64 National Registered Historic District, and has been since 1973; and

65
66 **WHEREAS**, planning for future use of this area as a public historic site is
67 paramount so future generations of Delawareans and others understand the unique jewel
68 that is found in our State. Ongoing planning for the site includes a possible new visitor
69 center and a pedestrian/bicycle trail linking Iron Hill Park with Glasgow Regional Park;
70 and

71
72 **WHEREAS**, as part of this story to be told, we must never forget that these
73 soldiers, sons, husbands, and fathers, all of whom were Patriots, laid down their lives for
74 a fledgling country and its freedom from the English Crown; this hallowed ground and the
75 blood shed there by soldiers on both sides is unquestionably due the respect of being
76 recognized as a bona fide battle, not a “skirmish” or any other reductive term lacking
77 recognition of what these soldiers endured, and, henceforth, should formally be referred
78 to as “The Battle of Cooch’s Bridge.”

79
80 **NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New
81 Castle County that County Council hereby supports *The Battle of Cooch’s Bridge* being
82 recognized for what it truly was, a bona fide battle of the American Revolutionary War,
83 and urges, in the strongest terms, that the General Assembly and the State of Delaware
84 recognize this battlefield and related properties with due consideration to afford all
85 necessary means of land preservation, protection, and conservation and with appropriate
86 identification to commemorate it as such to, hereby, fully honor the American Patriots who
87 fought this battle and gave their lives for the greatest of causes—the creation of a new
88 country and a new republic.

Adopted by County Council
of New Castle County on:

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

SYNOPSIS: This Resolution recognizes *The Battle of Cooch's Bridge* for what it is, a bona fide battle of the American Revolutionary War, not to be confused with a skirmish or any other reductive term lacking recognition or understanding of what the battle was, as has been, at times, inaccurately referenced. The truth is American Patriots from Delaware, Maryland, Pennsylvania, New Jersey, North Carolina, and Virginia, along with British, Hessian, and Anspach-Bayreuth soldiers sacrificed their lives and endured dozens of other casualties for their respective causes, during this battle. These men earned the respect and are entitled to have it recognized for what it was, a bona fide battle. Moreover, New Castle County Council urges the State of Delaware, including the Delaware General Assembly, to formally recognize this battle henceforth as "The Battle of Cooch's Bridge" and to recognize all associated properties and buildings in a manner that is appropriate and in concert with their historical significance.

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

RESOLUTION NO. 24-167

**TO AMEND NEW CASTLE COUNTY COUNCIL
PROCEDURAL RULE NO. 13 ("COUNCIL GRANTS")
REGARDING EXPENDITURES**

WHEREAS, from time to time, it becomes necessary to update and revise New Castle County Council's Procedural Rules; and

NOW, THEREFORE, BE IT RESOLVED by and for the County Council of New Castle County that County Council hereby amends New Castle County Council Procedural Rule No. 13 ("Council Grants") by adding the material that is underscored and deleting the material that is stricken as set forth below.

Rule No. 13. Council Grants.

13.1. Council Grants.

...
13.1.9. While a seat of New Castle County Council is contested, based on a candidate filing with the Department of Elections between July 1 and October 1 of an election year, or where an incumbent Council member is not seeking re-election, expenditures for that seat may not exceed 50% of the annually budgeted grant funds for such seat.

~~Between July 1 and the third Tuesday of November of an election year, any Council member representing a District seat of New Castle County Council who is subject to the State of Delaware election process or is not seeking re-election to that office may not expend more than 50% of the district's annually budgeted grant funds.~~

Adopted by County Council
of New Castle County on:

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

SYNOPSIS: The proposed rule change clarifies expenditures where any Council seat is contested or an incumbent Council member is not seeking re-election.

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

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.



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

OFFICE OF LAW

MEMORANDUM

To: County Council
From: Office of Law; Department of Land Use
Date: August 23, 2024
Subject: Response to Council Referral, re: Plans of Vista at Red Lion (Application Nos. 2008-0002 and 0003); R24-145, R24-146

At the June 25, 2024, Council Meeting, Council referred the Plans of Vista at Red Lion (Application Nos. 2008-0002 and 0003) ("the Plans") back to the Department of Land Use (the "Department") pursuant to UDC § 40.31.114. The Department subsequently received the following referral question from Councilman Street via e-mail:

Please identify and explain the justification, legal and factual, for exempting the Plans from the requirement in *County Code* that subdivision and land development plans incorporate affordable housing, including Moderately Priced Dwelling Units, as required under *County Code* Division 40.07.500 and other applicable laws.

The Plans are not subject to these requirements under 40.07.500 because the ordinance adopting them specifically exempted existing plans. Ordinance 14-109, which amended UDC § 40.07.510 to mandate the inclusion of affordable housing units, provided in Section 5 that the ordinance "shall not apply to existing land development plans currently in the review process or that have vested under Delaware law unless such plan has sunset pursuant to 9 *Del. C.* § 2659(f) and *New Castle County Code* § 40.01.130." By its own terms, the ordinance does not apply, because the Plans were in the review process at that time and remain active. Ordinance 14-109 was adopted in December of 2014. The Department's review of the Plans was well underway at that time.

As Council is aware, this property has been the subject of litigation between the County and the property owner for over 20 years. In 1975, the property owner recorded a 668-unit mobile home park development plan, known as Red Lion Village. The County expired this plan after the enactment of the UDC, and the property owner, Sterling Properties, filed suit in 2003, in a case titled *Sterling Properties v. NCC*, asserting that the expiration of the 1975 plan was unlawful. The parties settled the case in 2007. Under the 2007 settlement agreement, Sterling was required to prepare an exploratory sketch plan and seek a rezoning to an ST zoning classification for the subject property. Sterling successfully completed this phase of the settlement agreement, and an application for subdivision and rezoning was submitted to the County in March of 2008. Sterling made a complete record plan submission

by June of 2011, but litigation between the applicant and the County regarding the County's fee structure was not resolved until August of 2014, delaying record plan approval.

On May 9, 2017, outside counsel apprised Council of the status of the litigation in executive session. After consulting with Council and outside counsel, the County agreed to a stipulated status quo order, approved by the Court in July of 2017. The status quo order recognized the delay caused by litigation, and provided that the Plans had not expired and would not be subject to expiration during the status quo period.

At this point, in recognition of the pending application of new state stormwater management regulations, the Plans were subject to substantial revisions which New Castle County considered to be design improvements. As a result of these changes, however, the Department of Land Use required the developer to return to County Council for a confirmation of rezoning, because the plan was no longer in strict compliance with the preliminary plan County Council approved. In 2018, the applicant appeared before Council for the confirmation of rezoning, but ultimately acquiesced to requests by County Council members to provide certain traffic data. County Council tabled the rezoning pending receipt of that data, and the process of securing that data along with other factors ultimately delayed the confirmation of rezoning for the Plans to December 2020. The Court of Chancery continued to oversee implementation of the Settlement Agreement, granting a series of stipulated status quo orders since 2017, as reported by the Office of Law to Council in its monthly litigation reports.

A related question arose at the Council meeting as to why the Plans were required to follow new stormwater management provisions but not the affordable housing provisions. The difference is that the stormwater management plans are governed by state regulations that—unlike County zoning or subdivision rules—specifically required compliance with the updated rules within a set period of time. The stormwater management design could not be grandfathered under the state regulations. Even with a limited administrative extension allowed by DNREC, the Plans would not be approved in time, and had to be reworked.

In sum, the Plans were in the review process prior to the adoption of mandatory affordable housing provisions into the UDC. The County cannot mandate that the Plans comply with an ordinance adopted after review was well underway, and that by its terms does not apply to the Plans. Consequently, the Office of Law and the Department opine that the Plans are in legal and technical compliance with the UDC, and any other applicable authority. Therefore, the Department reaffirms its approval of the Plans.

/s/ Wilson B. Davis
WILSON B. DAVIS
County Attorney

/s/ Charuni Patibanda
CHARUNI PATIBANDA
Department of Land Use General Manager

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.

1. TAX PARCEL NUMBER(S):	10-052-00-011 PO	21. DEBRIS DISPOSAL	NO DEBRIS SHALL BE BURIED ON THE SITE.	49. CONSERVATION EASEMENT:	
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- 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
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), 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:

 - 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.
 - 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).
 - 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.
 - 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.
 - 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:

 - 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.
 - SIDEWALKS SHALL BE PROVIDED ON BOTH SIDES OF ALL INTERNAL STREETS.
 - MINIMUM FIVE-FOOT WIDE BICYCLE LANES SHALL BE INCORPORATED IN THE SHOULDER ALONG BOTH DIRECTIONS OF OLD PORTER ROAD WITHIN THE PROJECT FRONTAGE LIMITS.
 - 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. NEW CASTLE COUNTY DAMAGE LOG
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.

22. 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 \$152,000, AS 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.

23. 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.

24. 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.

25. VOLUNTARY SCHOOL ASSESSMENT:
THE OWNERS SHALL PAY ANY VOLUNTARY SCHOOL ASSESSMENT REQUIRED BY TITLE 9, SECTION 2661(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. 20230823-0056511.

26. RESERVED

27. LIMIT OF DISTURBANCE:
THE LIMIT OF DISTURBANCE(S) 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.

28. 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.

29. 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.

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

31. 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.

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.

TYPICAL LOT LAYOUT
(60' RIGHT OF WAY)
SCALE: 1"=40'

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%
RIPARIAN 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.

NEW CASTLE COUNTY LOT STANDARDS

LOT AREA (MIN)	2,200 SF
LOT WIDTH (MIN)	22 FT
SIDE YARD (MIN)	

- 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 REGULATIONS AND STORMWATER REGULATIONS AND THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK.

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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:
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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.

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NATURAL RESOURCE PROTECTION TABLE

NATURAL RESOURCE	TOTAL AREA	REQUIRED PROTECTED %	DISTURBED	PROVIDED PROTECTED %
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* 0.85± 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.

TYPICAL LOT LAYOUT
(60' RIGHT OF WAY)
SCALE: 1"=40'

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.	D.S.	U.S.	date
02-17-24	01-30-24	10-27-23	
U.S.	U.S.	checked	

Karins and Associates
ENGINEERS • PLANNERS • SURVEYORS
NEWARK, DE & GEORGETOWN, DE
www.karinsengineering.com
17 POLLY DRUMMOND CENTER • SUITE 201
NEWARK, DELAWARE 19711
PHONE: (302) 369-2900 FAX: (302) 369-2975

OWNER:
RED LION HP LLC
PO BOX 7189
WILMINGTON, DE 19803

PROPERTY ADDRESS:
570 OLD PORTER ROAD
BEAR, DE 19701

- 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 OF LOT IN ACCORDANCE WITH SECTION 3.2.4.2 OF THE DEVELOPMENT COORDINATION MANUAL.

CONSTRUCTION WILL NOT BE PERMITTED UNTIL CONSTRUCTION PLANS HAVE BEEN APPROVED. SURETY HAS BEEN RECEIVED AND THE TRAFFIC SIGNAL AGREEMENT IS COMPLETE. AT DELDOT'S DISCRETION, A TEMPORARY CONSTRUCTION ENTRANCE PERMIT MAY BE ISSUED FOR CLEARING, GRUBBING, TEMPORARY ENTRANCE CONSTRUCTION, BULK GRADING AND PERIMETER EROSION AND SEDIMENT CONTROLS UP TO THIRTY (30) DAYS PRIOR TO PLAN APPROVAL. NO BUILDING CONSTRUCTION WILL BE PERMITTED UNDER A TEMPORARY ENTRANCE CONSTRUCTION PERMIT. IF PLAN APPROVAL IS NOT RECEIVED WITHIN THIRTY (30) CALENDAR DAYS, ALL CONSTRUCTION ACTIVITIES SHALL BE STOPPED. DELDOT WILL NOT PROVIDE A C/O APPROVAL FOR A COMMERCIAL ENTRANCE TO NCC UNTIL THE ENTRANCE(S) ARE COMPLETED TO THE SATISFACTION OF THE DEPARTMENT.

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%
RIPARIAN 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.

20' STREET YARD
LOT DEPTH VARIES
20' (MIN)
18' DRIVEWAY WIDTH (MIN)
6' SIDE YARD SETBACK
5' UTILITY EASEMENT
5' SIDEWALK
CURB (FACE)
CL
CURB (FACE)
5' SIDEWALK
60' ROW
TYPICAL LOT LAYOUT
(60' RIGHT OF WAY)
SCALE: 1"=40'

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

02-21-24	01-26-24	10-27-23	date		Karins and Associates ENGINEERS • PLANNERS • SURVEYORS NEWARK, DE & GEORGETOWN, DE www.karinsengineering.com 17 POLLY DRUMMOND CENTER • SUITE 201 NEWARK, DELAWARE 19711 PHONE: (302) 369-2900 FAX: (302) 369-2975
U.R.Q.	D.S.	U.R.Q.	checked		
10-05-14-24		10-06-23		OWNER: RED LION HP LLC PO BOX 7189 WILMINGTON, DE 19803	PROPERTY ADDRESS: 570 OLD PORTER ROAD BEAR, DE 19701

DELTARAM
LICENSE
No. 8799
Professional Engineer
Delaware

1. ALL ENTRANCES SHALL CONFORM TO THE DELAWARE DEPARTMENT OF TRANSPORTATION'S (DELDOT'S) CURRENT DEVELOPMENT COORDINATION

3. 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 REQUIREMENTS 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 AGREEMENT. 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 OBTAINED 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.
-

[illegible]

	2.25± ACRES	100%	1.28± ACRES**	43.1%*
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%
RIPARIAN BUFFER	7.14± ACRES	100%	0.40± ACRES*	94.4%*
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MATURE FOREST	16.77 ACRES	70%	5.03± ACRES	70.0%

NEW CASTLE COUNTY LOT STANDARDS

LOT AREA (MIN) 2,200 SF

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

STA AT RED LION - SECTION 1

SITUATE IN: NEW CASTLE HUNDRED, NEW CASTLE COUNTY, DELAWARE

	and Associates	Karins and Associates	
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06/21	01/30	01/27	date	 KARINS & ASSOCIATES ENGINEERS • PLANNERS • SURVEYORS NEWARK, DE & GEORGETOWN, DE www.karinsengineering.com 17 POLLY DRUMMOND CENTER • SUITE 201 NEWARK, DELAWARE 19711 PHONE: (302) 369-2800 FAX: (302) 369-2975		
U.R.Q.	D.S.	checked	OWNER: RED LION HP LLC PO BOX 7189 WILMINGTON, DE 19803 TEL: 302-479-8314 PROPERTY ADDRESS: 570 OLD PORTER ROAD DEAR, DE 19701			
PER NCC COMMENTS DATED 03-14-21	ADDED NOTE #83	revisions	SURVEY BY: KARINS AND ASSOCIATES DESIGNED BY: KARINS DRAWN BY: J.L. CHECKED BY: D.S.			SCALE: AS SHOWN 
PER NCC COMMENTS DATED 06-16-23			DRAWING NO.: 2554 - A02			DATE: 02-28-18 SHEET: 2 OF 6

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.



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

OFFICE OF LAW

MEMORANDUM

To: County Council
From: Office of Law; Department of Land Use
Date: August 23, 2024
Subject: Response to Council Referral, re: Plans of Vista at Red Lion (Application Nos. 2008-0002 and 0003); R24-145, R24-146

At the June 25, 2024, Council Meeting, Council referred the Plans of Vista at Red Lion (Application Nos. 2008-0002 and 0003) ("the Plans") back to the Department of Land Use (the "Department") pursuant to UDC § 40.31.114. The Department subsequently received the following referral question from Councilman Street via e-mail:

Please identify and explain the justification, legal and factual, for exempting the Plans from the requirement in *County Code* that subdivision and land development plans incorporate affordable housing, including Moderately Priced Dwelling Units, as required under *County Code* Division 40.07.500 and other applicable laws.

The Plans are not subject to these requirements under 40.07.500 because the ordinance adopting them specifically exempted existing plans. Ordinance 14-109, which amended UDC § 40.07.510 to mandate the inclusion of affordable housing units, provided in Section 5 that the ordinance "shall not apply to existing land development plans currently in the review process or that have vested under Delaware law unless such plan has sunset pursuant to 9 *Del. C.* § 2659(f) and *New Castle County Code* § 40.01.130." By its own terms, the ordinance does not apply, because the Plans were in the review process at that time and remain active. Ordinance 14-109 was adopted in December of 2014. The Department's review of the Plans was well underway at that time.

As Council is aware, this property has been the subject of litigation between the County and the property owner for over 20 years. In 1975, the property owner recorded a 668-unit mobile home park development plan, known as Red Lion Village. The County expired this plan after the enactment of the UDC, and the property owner, Sterling Properties, filed suit in 2003, in a case titled *Sterling Properties v. NCC*, asserting that the expiration of the 1975 plan was unlawful. The parties settled the case in 2007. Under the 2007 settlement agreement, Sterling was required to prepare an exploratory sketch plan and seek a rezoning to an ST zoning classification for the subject property. Sterling successfully completed this phase of the settlement agreement, and an application for subdivision and rezoning was submitted to the County in March of 2008. Sterling made a complete record plan submission

by June of 2011, but litigation between the applicant and the County regarding the County's fee structure was not resolved until August of 2014, delaying record plan approval.

On May 9, 2017, outside counsel apprised Council of the status of the litigation in executive session. After consulting with Council and outside counsel, the County agreed to a stipulated status quo order, approved by the Court in July of 2017. The status quo order recognized the delay caused by litigation, and provided that the Plans had not expired and would not be subject to expiration during the status quo period.

At this point, in recognition of the pending application of new state stormwater management regulations, the Plans were subject to substantial revisions which New Castle County considered to be design improvements. As a result of these changes, however, the Department of Land Use required the developer to return to County Council for a confirmation of rezoning, because the plan was no longer in strict compliance with the preliminary plan County Council approved. In 2018, the applicant appeared before Council for the confirmation of rezoning, but ultimately acquiesced to requests by County Council members to provide certain traffic data. County Council tabled the rezoning pending receipt of that data, and the process of securing that data along with other factors ultimately delayed the confirmation of rezoning for the Plans to December 2020. The Court of Chancery continued to oversee implementation of the Settlement Agreement, granting a series of stipulated status quo orders since 2017, as reported by the Office of Law to Council in its monthly litigation reports.

A related question arose at the Council meeting as to why the Plans were required to follow new stormwater management provisions but not the affordable housing provisions. The difference is that the stormwater management plans are governed by state regulations that—unlike County zoning or subdivision rules—specifically required compliance with the updated rules within a set period of time. The stormwater management design could not be grandfathered under the state regulations. Even with a limited administrative extension allowed by DNREC, the Plans would not be approved in time, and had to be reworked.

In sum, the Plans were in the review process prior to the adoption of mandatory affordable housing provisions into the UDC. The County cannot mandate that the Plans comply with an ordinance adopted after review was well underway, and that by its terms does not apply to the Plans. Consequently, the Office of Law and the Department opine that the Plans are in legal and technical compliance with the UDC, and any other applicable authority. Therefore, the Department reaffirms its approval of the Plans.

/s/ Wilson B. Davis
WILSON B. DAVIS
County Attorney

/s/ Charuni Patibanda
CHARUNI PATIBANDA
Department of Land Use General Manager

MEMORANDUM

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

From: Charuni Patibanda

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

Date: May 28, 2024

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

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

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

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

Synopsis: Same as title

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

NOTES & DATA:

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

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

PROPOSED SEWER FLOWS:
SINGLE FAMILY DETACHED: 279 LOTS x 300 G.P.D./LOT
CLUB HOUSE: 300 MEMBERS x 2.5 G.P.D./MEMBER
PEAK FLOW: 84,4500 x 4 x IDAY/1440 MIN
NOTE: BUILDING PERMITS FOR LOTS 229-279 MAY NOT BE APPLIED FOR UNTIL SUCH TIME THAT ALL THE PROPOSED SANITARY SEWER LOCATED DOWNSTREAM OF THOSE LOTS, INCLUDING THE PROPOSED PUMPING STATION AND FORCE MAIN (WITHIN VISTA AT RED LION - SECTION 1), UP TO THE CONNECTION TO THE EXISTING SEWER HAS BEEN AS-BUILT AND ACCEPTED BY THE DEPARTMENT.
8. SEPTIC FEASIBILITY
NOT APPLICABLE
9. PROPERTY OWNER:
10. EXISTING LOTS AND/OR DWELLING UNITS:
PROPOSED LOTS AND/OR DWELLING UNITS:
(LOT NUMBERS 41, 175 AND 194 ARE NOT IN USE)
11. INTENTIONALLY LEFT BLANK
12. PARKING RATIONALE
SINGLE FAMILY DETACHED
PARKING REQUIRED: 1.50 SP/UNIT x 279 UNITS
DRIVEWAY SPACES PROVIDED: 2 SP/UNIT x 279 UNITS
CLUBHOUSE PARKING:
4,800 S.F. @ 6 SPACES/1000 S.F
PARKING SPACES PROVIDED
13. SUBDIVISION / SITE DATA
GROSS AREA:
AREA IN ADDITIONAL DEDICATED R.O.W. (OLD PORTER ROAD)
AREA IN ADDITIONAL DEDICATED R.O.W. (RED LION ROAD)
NET SITE AREA
AREA IN PROPOSED 50' R.O.W.
AREA IN PROPOSED 60' R.O.W.
AREA IN PROPOSED 80' R.O.W.
AREA IN PROPOSED LOTS
AREA IN OPEN SPACE
*INCLUDES 2.3942 ACRES OF STORMWATER MANAGEMENT AREA AND 3.9796 ACRES OF USABLE OPEN SPACE.
14. FLOODPLAIN
A PORTION OF THE SITE LIES WITHIN THE 100-YEAR FLOODPLAIN. LIMITS OF THE 100-YEAR FLOOD PLAIN WERE TAKEN FROM THE FLOOD INSURANCE RATE MAP NO. 1000302031. REVISED JANUARY 22, 2020.
15. WATER RESOURCE PROTECTION AREA (WRPA)
NO PORTION OF THE SITE WITHIN THE WRPA. AS PER THE "WATER RESOURCE PROTECTION AREAS FOR THE CITY OF NEWARK, CITY OF WILMINGTON, NEW CASTLE COUNTY DELAWARE" MAP 2 OF 3, REVISED MARCH 2022.
16. WETLANDS
THE WETLANDS BOUNDARIES DEPICTED ON THIS PLAN WERE TAKEN FROM A WETLAND DELINEATION REPORT BY JCM ENVIRONMENTAL, DATED MARCH 2008. THE DEPARTMENT OF ARMY CORPS OF ENGINEERS APPROVED THE DISTURBANCE OF WETLANDS AS SHOWN ON THIS PLAN PER NAP-2023-00270-85, DATED 08/15/2023.
17. CRITICAL NATURAL AREAS
THE STATE INVENTORY OF NATURAL AREAS HAS BEEN EXAMINED AND NO CRITICAL NATURAL AREAS (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) WAS CONDUCTED 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:

1. THE DEVELOPER SHALL RECONSTRUCT OLD PORTER ROAD, ON BOTH SIDES OF THE ROADWAY ALONG THE ENTIRE LENGTH OF THE PROJECT FRONTAGE AND TO THE WEST TO A POINT JUST EAST OF GRISSOM DRIVE. THE RECONSTRUCTION SHALL CONSIST OF TWO ELEVEN-FOOT LANES WITH SHOULDERS AS FOLLOWS:
2. ON THE NORTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 1 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 1 PROPERTY FRONTAGE ALONG OLD PORTER ROAD.
3. ON THE SOUTH SIDE OF OLD PORTER ROAD, FIVE-FOOT SHOULDERS SHALL BE PROVIDED FROM THE POINT EAST OF GRISSOM DRIVE TO THE WESTERN BOUNDARY OF THE VISTA AT RED LION - SECTION 2 PROPERTY. EIGHT-FOOT SHOULDERS SHOULD BE PROVIDED WITHIN THE LIMITS OF RED LION - SECTION 2 PROPERTY FRONTAGE ALONG OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383 (200-FEET WEST OF THE CENTER OF THE BRIDGE).
4. THE DEVELOPER SHALL PROVIDE A BITUMINOUS CONCRETE OVERLAY TO THE EXISTING TRAVEL LANES ON OLD PORTER ROAD FROM THE WESTERN PROJECT LIMIT TO A POINT WHICH IS 200-FEET WEST OF THE OLD PORTER ROAD/ROUTE 71 INTERSECTION.
5. THE DEVELOPER WILL MAKE SUCH IMPROVEMENTS TO OLD PORTER ROAD EAST OF VISTA AT RED LION SECTION-1 TO THE POINT WHICH IS 200 FEET WEST OF THE CENTER OF DELDOT'S BRIDGE #1300383. AT THE DEVELOPERS COST, SO AS TO PROVIDE TWO ELEVEN-FOOT LANES WITH THREE-FOOT SHOULDERS FOR THIS PORTION OF OLD PORTER ROAD.
6. THE TIMING FOR COMPLETION OF THE IMPROVEMENTS OUTLINED HEREIN WILL BE PHASED CONSISTENT WITH THE PHASING OF THE DEVELOPMENT AS SET FORTH IN THE RECORD PLAN TO BE APPROVED BY THE NEW CASTLE COUNTY, BUT, IN ANY EVENT, THESE IMPROVEMENTS WILL NOT BE REQUIRED TO BE IN PLACE PRIOR TO THE ISSUANCE OF FIFTY PERCENT (50%) OF CERTIFICATES OF OCCUPANCY FOR BOTH VISTA AT RED LION SECTIONS 1 AND SECTIONS 2.
7. THE DEVELOPER SHALL CONSTRUCT TWO FULL MOVEMENT ACCESS ENTRANCES ON OLD PORTER ROAD (SITE ACCESS EAST AND SITE ACCESS WEST) AND SHALL PROVIDE ONE LEFT TURN LANE AND ONE RIGHT TURN LANE FOR BOTH EASTBOUND AND WEST BOUND TRAFFIC AT BOTH ACCESS POINTS.
8. THE DEVELOPER SHALL ENTER INTO A TRAFFIC SIGNAL AGREEMENT WITH DELDOT FOR THE PORTER ROAD/OLD PORTER ROAD INTERSECTION, WHERE THE DEVELOPER WILL PAY AN EQUITABLE CONTRIBUTION TOWARDS THE TRAFFIC SIGNAL REVOLVING FUND.
9. THE FOLLOWING BICYCLE, PEDESTRIAN, AND TRANSIT IMPROVEMENTS SHALL BE INCLUDED:
1. A MINIMUM FIFTEEN-FOOT-WIDE PERMANENT EASEMENT FROM THE EDGE OF THE RIGHT-OF-WAY SHOULD BE DEDICATED TO DELDOT ALONG THE PROJECT FRONTAGE ON OLD PORTER ROAD. WITHIN THIS EASEMENT, THE DEVELOPER SHALL CONSTRUCT A TEN-FOOT WIDE SHARED-USE PATH ALONG EACH SIDE OF OLD PORTER ROAD TO THE WESTERLY LIMITS OF THE APPROACH TO DELDOT'S BRIDGE #1300383. A MINIMUM FIVE-FOOT SETBACK WILL BE MAINTAINED FROM THE EDGE OF THE PAVEMENT TO THE SHARED-USE PATHS.
2. SIDEWALKS SHALL BE PROVIDED ON BOTH SIDES OF ALL INTERNAL STREETS.
3. MINIMUM FIVE-FOOT WIDE BICYCLE LANES SHALL BE INCORPORATED IN THE SHOULDER ALONG BOTH DIRECTIONS OF OLD PORTER ROAD WITHIN THE PROJECT FRONTAGE LIMITS.
4. UTILITY COVERS SHALL BE MOVED OUTSIDE OF ANY DESIGNATED BICYCLE LANES AND ANY PROPOSED SIDEWALKS/SHARED-USE PATHS OR SHOULD BE FLUSH WITH THE PAVEMENT.
21. DEBRIS DISPOSAL
NO DEBRIS SHALL BE BURIED ON THE SITE.
22. IMPACT FEES
THIS PLAN IS SUBJECT TO THE IMPACT FEE PROVISIONS OF CHAPTER 40, ARTICLE 14 OF THE NEW CASTLE COUNTY CODE, AS MAY BE AMENDED BY NEW CASTLE COUNTY COUNCIL.
23. LANDSCAPE PLAN
A LANDSCAPE PLAN, PREPARED BY DESIGN ETC, LAST DATED 10/12/2023 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, IS HEREBY CONSIDERED A PART OF THE RECORD PLAN.
24. SIDEWALKS
UNLESS OTHERWISE SPECIFIED ON THE PLAN, SIDEWALKS SHALL BE INSTALLED IN THE LOCATIONS SHOWN ON THIS PLAN PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR THE PROJECT. SIDEWALKS SHALL BE CONSTRUCTED OF PORTLAND CEMENT CONCRETE.
25. MAINTENANCE OF COMMON FACILITIES
FOR MAINTENANCE OF THE COMMON FACILITIES INCLUDING PRIVATE OPEN SPACE, SIDEWALKS AND WALKWAYS WITHIN PRIVATE OPEN SPACE, LANDSCAPED AREAS WITHIN PRIVATE OPEN SPACE, LANDSCAPING WITHIN RIGHT-OF-WAY (INCLUDING WITHIN MEDIAN) AND STORM WATER MANAGEMENT AREAS SHOWN ON THE PLAN, SEE THE MAINTENANCE DECLARATION DATED 2/12/2024, AND OF RECORD IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE, INSTRUMENT NO 20240213-0009431.
26. UTILITY EASEMENTS
A 6' FOOT WIDE EASEMENT ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SHOWN ON THE PLAN, AND ON EACH SIDE OF EACH SIDE AND REAR LOT LINE SUBSEQUENTLY ESTABLISHED WITHIN THE AREA SHOWN ON THIS PLAN IS HEREBY DEDICATED TO BE AVAILABLE FOR ANY UTILITY USE, PROVIDED THAT WHERE ANY LOT LINE IS ELIMINATED THE EASEMENT ALONG SAID LOT LINE SHALL BE EXTINGUISHED EXCEPT AS TO UTILITIES THEN EXISTING IN SAID EASEMENT.
27. TOTAL LENGTH OF PUBLIC AND PRIVATE RIGHT-OF-WAYS:
PROPOSED 50' WIDE R.O.W. 10,181'
PROPOSED 60' WIDE R.O.W. 1,532'
PROPOSED 80' WIDE R.O.W. 617'
28. SUBDIVISION STREETS:
A. ALL ENTRANCES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO THEIR APPROVAL.
B. ALL RIGHTS-OF-WAY ARE INTENDED FOR DEDICATION TO PUBLIC USE.
C. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE STATE OF DELAWARE. UPON COMPLETION OF THE STREETS TO THE SATISFACTION OF THE STATE, THE STATE ASSUMES NO MAINTENANCE RESPONSIBILITIES WITHIN THE DEDICATED STREET RIGHT-OF-WAY UNTIL THE STREETS HAVE BEEN ACCEPTED BY THE STATE.
29. EXISTING FIRE HYDRANTS:
PROPOSED FIRE HYDRANTS:
30. COASTAL ZONE
THIS SITE DOES NOT LIE WITHIN DELAWARE'S COASTAL ZONE.
31. AVIATION RESTRICTIONS
U. S. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION RESTRICTIONS AND SAFEGUARDS ARE NOT APPLICABLE TO THIS PROJECT.
32. CONSERVATION EASEMENT
ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO CHAPTER 40 ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE IS HEREBY PROTECTED BY A CONSERVATION EASEMENT THAT SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY.
33. NONCONFORMITIES
NOT APPLICABLE
34. TOPOGRAPHY
TOPOGRAPHY DEPICTED ON THIS PLAN WAS DERIVED FROM AN AERIAL SURVEY PERFORMED BY WINGS AERIAL MAPPING COMPANY, INC. IN 2007.
35. COMMUNITY POSTAL BOXES
POSTAL BOXES SHALL BE INSTALLED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE UNITED STATES POSTAL SERVICE.
36. LAND DEVELOPMENT IMPROVEMENT AGREEMENT
ALL IMPROVEMENTS REQUIRED BY THIS PLAN AND THE NEW CASTLE COUNTY CODE SHALL BE SUBJECT TO THE LAND DEVELOPMENT IMPROVEMENT AGREEMENT (LDA), AND THE PERFORMANCE GUARANTEE INCORPORATED THEREIN. THE LDA IS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY ON 11/27/2023, AT INSTRUMENT NO. 20231127-0078733.
37. RIGHT OF ACCESS
NEW CASTLE COUNTY HAS THE RIGHT OF ACCESS TO THE SITE FOR THE PURPOSES OF OPERATING, MAINTAINING AND REPAIRING THE SANITARY SEWER LINES CONTAINED WITHIN THE SEWER EASEMENTS SHOWN ON THIS PLAN.
38. NEW CASTLE COUNTY DRAINAGE CODE
DRAINAGE, EROSION AND SEDIMENT CONTROL, AND STORMWATER MANAGEMENT SHALL BE PROVIDED IN ACCORDANCE WITH THE NEW CASTLE COUNTY DRAINAGE CODE AND THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S DELAWARE SEDIMENT AND STORMWATER REGULATIONS AND THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK.
39. RESIDENTIAL STORMWATER MANAGEMENT FACILITY MAINTENANCE FEE
THE OWNER/DEVELOPER SHALL PAY, TO NEW CASTLE COUNTY, FUNDS FOR RESIDENTIAL STORM WATER MANAGEMENT FACILITY MAINTENANCE AND INSPECTIONS PURSUANT TO SECTION 40.27.230 OF THE COUNTY CODE. THE FUNDS SHALL BE USED FOR THE COSTS ASSOCIATED WITH INSPECTIONS, LONG-TERM SEDIMENT CLEANOUT AND STRUCTURAL REPAIR AND RECONSTRUCTION OF STORM WATER MANAGEMENT FACILITIES. AN AMOUNT OF \$171,500, AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES, SHALL BE FUNDED UPON THE ISSUANCE OF SEVENTY-FIVE (75) PERCENT OF THE BUILDING PERMITS FOR THE LOTS IN THE SUBDIVISION, OR PHASE THEREOF. THE DEPARTMENT OF LAND USE SHALL WITHHOLD THE ISSUANCE OF ANY ADDITIONAL BUILDING PERMITS UNTIL THE DEPARTMENT OF LAND USE IS FURNISHED WITH SATISFACTORY WRITTEN PROOF THAT THE FUNDS HAVE BEEN PAID TO NEW CASTLE COUNTY IN ACCORDANCE WITH THE REQUIREMENTS.
40. DELDOT
ENTRANCE/EXIT FACILITIES SHALL CONFORM TO THE DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO DELDOT APPROVAL. THE DEVELOPER IS REQUIRED TO OBTAIN A PERMIT FROM THE DELDOT NORTH DISTRICT PERMIT OFFICE.
41. MISS UTILITY NOTE:
THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO PROTECT ALL EXISTING UTILITIES AND MAINTAIN UNINTERRUPTED SERVICE. ANY AND ALL DAMAGES DONE TO THEM DUE TO THE CONTRACTOR'S NEGLIGENCE SHALL BE IMMEDIATELY AND COMPETENTLY REPAIRED AT HIS EXPENSE. EXISTING UTILITIES ARE SHOWN IN ACCORDANCE WITH THE BEST AVAILABLE INFORMATION. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY AND ALLOW FOR THEIR LOCATIONS. CONTACT "MISS UTILITY" THREE (3) WORKING DAYS PRIOR TO CONSTRUCTION.

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

PRIOR TO ANY CONSTRUCTION, THE CONTRACTOR SHALL EXCAVATE IN THE AREA OF ANY POTENTIAL UTILITY CROSSING TO VERIFY THAT THE UTILITY WILL NOT INTERFERE WITH CONSTRUCTION. IF, AFTER UNCOVERING OF THE UTILITY, THERE IS ANY QUESTION CONCERNING A POSSIBLE CONFLICT, THE CONTRACTOR SHALL IMMEDIATELY CONTACT THE ENGINEER.
42. VIDEO INSPECTION:
PER SECTION 40.27.340E, ALL STORM SEWERS WITHIN PRIVATE OPEN SPACE REQUIRE VIDEO INSPECTION. A THIRD-PARTY PROFESSIONAL MUST CERTIFY THAT THE PRIVATE STORM SEWER AND STREETS ARE CONSTRUCTED IN COMPLIANCE WITH DELDOT STANDARDS. THE DEPARTMENT MUST FIND THE REPORT, AS-BUILT PLAN AND PIPE VIDEO ACCEPTABLE PRIOR TO THE INSPECTION OF THE OPEN SPACE.
43. OPEN SPACE MAINTENANCE ESCROW
PURSUANT TO SECTION 40.27 OF THE NEW CASTLE COUNTY CODE, THE DEVELOPER SHALL PLACE FUNDS IN AN INTEREST ESCROW ACCOUNT EQUIVALENT TO THE COST OF MAINTAINING THE PRIVATE OPEN SPACE AND COMMON FACILITIES FOR A TWO (2) YEAR PERIOD. THE AMOUNT SHALL BE \$889 PER LOT/UNIT SHOWN ON THIS PLAN OR SUBSEQUENT PLANS (\$889 X 279 LOTS/UNITS = \$248,031). THE OPEN SPACE TURNOVER IS TO BE PHASED PER LANDSCAPE AND OPEN SPACE MANAGEMENT PLAN.
44. LIMIT OF DISTURBANCE:
THE LIMIT OF DISTURBANCE(LOD) AS SHOWN IS TO DELINEATE THE LIMIT OF THE INITIAL CONSTRUCTION, SO AS TO PRESERVE THE MAXIMUM NUMBER OF TREES AND STEEP SLOPES ON THE SITE. ON-LOT RESOURCES ARE NOT PART OF THE REQUIRED PROTECTION LEVEL. UPON ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR EACH LOT THE FINAL LOD WILL FOLLOW THE PROPERTY LINE..
45. FIRE MARSHAL NOTE:
ALL FIRE LANES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE MARSHAL PREVENTION REGULATIONS. TOWNHOUSE AND DUPLEX UNITS SHARING A COMMON WALL(PARTY WALL) WHICH ARE GROUPED BY THIS PLAN SHALL BE SEPARATED BY A FIRE BARRIER WALL THAT MEETS THE PROVISIONS OF NFPA221. FIRE WALLS AND FIRE BARRIER WALLS SHALL HAVE A TWO (2) HOUR FIRE RESISTANCE RATING.
46. RECREATIONAL AREAS:
ALL ACTIVE RECREATION AREAS AND STRUCTURED RECREATIONAL FACILITIES (CLUBHOUSES, PAVILIONS, ETC.) SHALL BE COMPLETED PRIOR TO THE ISSUANCE OF FIFTY (50) PERCENT OF THE TOTAL BUILDING PERMITS WITHIN THE SUBDIVISION.
47. AGE RESTRICTED DEVELOPMENT:
THIS DEVELOPMENT IS AN AGE RESTRICTED COMMUNITY SUBJECT TO DIVISION 40.07.700 AND TABLE 40.04.110.A OF THE N.C.C. CODE AND THE HOUSING FOR OLDER PERSONS ACT (HOPA) OF 1995 OF THE FEDERAL FAIR HOUSING ACT 42 U.S.C. 3601 ET. SEQ. AGE RESTRICTED UNITS SHALL CONTAIN ALL NECESSARY LIVING ARRANGEMENTS ON THE FIRST FLOOR. THIS SHALL INCLUDE AT LEAST ONE BEDROOM AND FULL SANITARY FACILITIES. A DENSITY BONUS OF 20% PROVIDED FOR IN UDC DIVISION 40.07.700 HAS BEEN APPLIED. THE PROPERTY TO PROVIDE THE SITE CAPACITY FOR THE PROJECT.
48. TRESPASS PROVISION ON TO LOTS:
ALL PURCHASERS SHALL PERMIT THE DEVELOPER OR HIS ASSIGNS TEMPORARY ACCESS UPON THE PURCHASERS LOT OR LOTS TO COMPLETE GRADING AND/OR LANDSCAPING AS REQUIRED BY THE APPROVED PLANS FOR A PERIOD OF ONE YEAR, COMMENCING WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
49. GEOTECHNICAL EVALUATION:
A GEOTECHNICAL EVALUATION HAS BEEN PERFORMED TO APPROXIMATE THE SEASONAL HIGH WATER TABLE (SHWT) ELEVATION(S) AND THE FOLLOWING LOTS REQUIRE FURTHER EVALUATION, AS IT PERTAINS TO THEIR LOWEST PROPOSED FLOOR ELEVATION PRIOR TO THE ISSUANCE OF A BUILDING PERMIT: TBD.

DOCUMENTATION OF ANY/ALL CONSTRUCTION LIMITATIONS BASED ON THE GEOTECHNICAL EVALUATION OF THE SHWT ELEVATION(S) IS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE. ALL STRUCTURES PROPOSED WITH LOWEST FLOOR WITHIN 3 FEET OF THE ESTIMATED SHWT SHALL BE WATERPROOFED (UDC §40.22.130). NO LOWEST FLOOR SHALL BE CONSTRUCTED WITHIN 2 FEET OF THE ESTIMATED SHWT (UDC §40.22.220).
50. UTILITY EASEMENTS:
UNLESS OTHERWISE DESCRIBED BY METES AND BOUNDS, OR BY MATHEMATICAL REFERENCE TO A PROPERTY LINE, A 40' WIDE PERMANENT EASEMENT, 20' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER IS DESIGNATED FOR PUBLIC USE IN UNPAVED AREAS AND IS OUTSIDE OF A DEDICATED PUBLIC ROW. A 20' WIDE PERMANENT EASEMENT, 10' ON EACH SIDE OF THE CENTERLINE OF THE PIPE, SHALL BE CREATED WHERE A SANITARY SEWER OR STORM SEWER PIPE IS DESIGNATED FOR PUBLIC USE IN PRIVATELY MAINTAINED PAVED AREAS, SUCH AS PARKING LOTS, PRIVATE STREETS OR DRIVEWAYS. IF THE CONSTRUCTED HORIZONTAL SEWER MAIN LOCATION DEVIATES BY MORE THAN 2.5' FROM THE DESIGN LOCATION, THE PROJECT MAY BE SUBJECT TO A RESUBDIVISION PLAN OR PIPE LOCATION AS DETERMINED BY THE DEPARTMENT OF SPECIAL SERVICES.
51. RETAINING WALLS:
SEPARATE BUILDING PERMIT IS REQUIRED FOR THE INSTALLATION OF EACH RETAINING WALL.
52. PHASING OF RECORD PLAN:
FOR PURPOSES OF PHASING, AS REFERRED TO IN NOTE #20.A.5, VISTA AT RED LION - SECTION 2 (APPLICATION # 2008-0003) WILL BE CONSIDERED PHASE 1, AND VISTA AT RED LION - SECTION 1 (APPLICATION # 2008-0002) WILL BE CONSIDERED PHASE 2.
- DELDOT NOTES (LAST REVISED MARCH 21, 2019)
1. ALL ENTRANCES SHALL CONFORM TO THE DELAWARE DEPARTMENT OF TRANSPORTATION'S (DELDOT'S) CURRENT DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO ITS APPROVAL.
2. NO LANDSCAPING SHALL BE ALLOWED WITHIN THE RIGHT-OF-WAY UNLESS THE PLANS ARE COMPLIANT WITH SECTION 3.7 OF THE DEVELOPMENT COORDINATION MANUAL.
3. SHRUBBERY, PLANTINGS, SIGNS AND/OR OTHER VISUAL BARRIERS THAT COULD OBSTRUCT THE SIGHT DISTANCE OF A DRIVER PREPARING TO ENTER THE ROADWAY ARE PROHIBITED WITHIN THE DEFINED DEPARTURE SIGHT TRIANGLE AREA ESTABLISHED ON THIS PLAN. IF THE ESTABLISHED DEPARTURE SIGHT TRIANGLE AREA IS OUTSIDE THE RIGHT-OF-WAY OR PROJECTS ONTO AN ADJACENT PROPERTY OWNERS LAND, A SIGHT EASEMENT SHOULD BE ESTABLISHED AND RECORDED WITH ALL AFFECTED PROPERTY OWNERS TO MAINTAIN THE REQUIRED SIGHT DISTANCE.
4. UPON COMPLETION OF THE CONSTRUCTION OF THE SIDEWALK OR SHARED-USE PATH ACROSS THIS PROJECT'S FRONTAGE AND PHYSICAL CONNECTION TO ADJACENT EXISTING FACILITIES, THE DEVELOPER, THE PROPERTY OWNERS OR BOTH ASSOCIATED WITH THIS PROJECT, SHALL BE RESPONSIBLE TO REMOVE ANY EXISTING ROAD TIE-IN CONNECTIONS LOCATED ALONG ADJACENT PROPERTIES, AND RESTORE THE AREA TO GRASS. SUCH ACTIONS SHALL BE COMPLETED AT DELDOT'S DISCRETION, AND IN CONFORMANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.
5. SUBDIVISION STREETS CONSTRUCTED WITHIN THE LIMITS OF THE RIGHT-OF-WAY DEDICATED TO PUBLIC USE SHOWN ON THIS PLAN ARE TO BE MAINTAINED BY THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT) FOLLOWING THE ACCEPTANCE OF THE STREETS. DELDOT ASSUMES NO MAINTENANCE RESPONSIBILITIES WITHIN THE DEDICATED STREET RIGHT-OF-WAY UNTIL THE STREETS HAVE BEEN ACCEPTED BY DELDOT.
6. THE SIDEWALK SHALL BE THE RESPONSIBILITY OF THE DEVELOPER, THE PROPERTY OWNERS OR BOTH WITHIN THIS SUBDIVISION. THE STATE OF DELAWARE ASSUMES NO RESPONSIBILITY FOR THE FUTURE MAINTENANCE FOR THE SIDEWALK.
7. DRIVEWAY ACCESS:
A. ALL LOTS SHALL HAVE ACCESS FROM THE INTERNAL SUBDIVISION STREET.
B. DRIVEWAYS WILL NOT BE PERMITTED TO BE PLACED AT CATCH BASIN LOCATIONS.
C. LOTS WILL BE PERMITTED TO HAVE ACCESS POINTS THAT COMPLY WITH THE DEVELOPMENT COORDINATION MANUAL (DCM) SPACING REQUIREMENTS OF CHAPTER 1 AND LIMITATIONS ON NUMBER OF ACCESS POINTS ESTABLISHED IN DCM CHAPTER 7. HORSESHOE DRIVEWAYS AND SECONDARY ENTRANCES REQUIRE ADDITIONAL DELDOT REVIEW AND SEPARATE PERMITTING. RESTRICTIONS AS DESCRIBED IN THE DCM CHAPTER 7 MAY PROHIBIT SOME SECONDARY ENTRANCE REQUESTS FROM BEING GRANTED.
8. TO MINIMIZE RUTTING AND EROSION OF THE ROADSIDE DUE TO ON-STREET PARKING, DRIVEWAY AND BUILDING LAYOUTS MUST BE CONFIGURED TO ALLOW FOR VEHICLES TO BE STORED IN THE DRIVEWAY BEYOND THE RIGHT-OF-WAY, WITHOUT INTERFERING WITH SIDEWALK ACCESS AND CLEARANCE.
9. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS IN ACCORDANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.
10. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MONUMENTS ON THE DEDICATED SUBDIVISION STREET RIGHT-OF-WAY IN ACCORDANCE WITH SECTION 3.2.4.1 OF THE DEVELOPMENT COORDINATION MANUAL, AND THE REQUIREMENTS OF THE LAND USE AGENCY. RIGHT-OF-WAY MONUMENTS SHALL BE PLACED ALONG THE RIGHT-OF-WAY LINES, AT A MINIMUM ON ONE SIDE OF THE STREET AT EVERY CHANGE IN HORIZONTAL ALIGNMENT TO PROVIDE A PERMANENT REFERENCE FOR THE RE-ESTABLISHING THE CENTERLINE AND RIGHT-OF-WAY LINE.
11. THE DEVELOPER SHALL BE REQUIRED TO FURNISH AND PLACE RIGHT-OF-WAY MARKERS TO PROVIDE A PERMANENT REFERENCE FOR RE-ESTABLISHING THE RIGHT-OF-WAY AND PROPERTY CORNERS ON LOCAL AND HIGHER ORDER FRONTAGE ROADS. RIGHT-OF-WAY MARKERS SHALL BE SET AND/OR PLACED ALONG THE FRONTAGE ROAD RIGHT-OF-WAY AT PROPERTY CORNERS AND AT EACH CHANGE IN RIGHT-OF-WAY ALIGNMENT IN ACCORDANCE WITH SECTION 3.2.4.2 OF THE DEVELOPMENT COORDINATION MANUAL.
12. CONSTRUCTION WILL NOT BE PERMITTED UNTIL CONSTRUCTION PLANS HAVE BEEN APPROVED. SURETY HAS BEEN RECEIVED AND THE TRAFFIC SIGNAL AGREEMENT IS COMPLETE. AT DELDOT'S DISCRETION, A TEMPORARY CONSTRUCTION ENTRANCE PERMIT MAY BE ISSUED FOR CLEARING, GRUBBING, TEMPORARY ENTRANCE CONSTRUCTION, BULK GRADING AND PERIMETER EROSION AND SEDIMENT CONTROLS UP TO THIRTY (30) DAYS PRIOR TO PLAN APPROVAL. NO BUILDING CONSTRUCTION WILL BE PERMITTED UNDER A TEMPORARY ENTRANCE CONSTRUCTION PERMIT. IF PLAN APPROVAL IS NOT RECEIVED WITHIN THIRTY (30) CALENDAR DAYS, ALL CONSTRUCTION ACTIVITIES SHALL BE STOPPED. DELDOT WILL NOT PROVIDE A GO APPROVAL FOR A COMMERCIAL ENTRANCE TO NCC UNTIL THE ENTRANCE(S) ARE COMPLETED TO THE SATISFACTION OF THE DEPARTMENT.
- NATURAL RESOURCE PROTECTION TABLE
- | NATURAL RESOURCE | TOTAL AREA | REQUIRED PROTECTED % | DISTURBED | PROVIDED PROTECTED % |
|----------------------|---------------|----------------------|--------------|----------------------|
| WETLAND AREA | 7.68± ACRES | 100% | *0.03± ACRES | *99.6% |
| FLOOD PLAIN | 11.29± ACRES | 100% | *0.48± ACRES | *95.7% |
| RIPARIAN BUFFER | 25.83± ACRES | 100% | *1.58± ACRES | *93.9% |
| MATURE FOREST | 60.42 ± ACRES | 70% | 17.16± ACRES | 71.9% |
| PRECAUTIONARY SLOPES | 0.45± ACRES | 50% | 0.04± ACRES | 91.2% |
- * 0.03 ACRES OF DISTURBANCE WITHIN WETLAND AREA, 0.48 ACRES OF DISTURBANCE WITHIN THE FLOOD PLANE AREA, 0.28 ACRES OF DISTURBANCE WITHIN ZONE 1 RIPARIAN BUFFER FOR UTILITY CROSSINGS AND STORM SEWER OUTFALL LISTED "L" FOR PERMITTED DISTURBANCE AND 1.30 ACRES OF DISTURBANCE WITHIN ZONE 2 RIPARIAN BUFFER AREA FOR STORM WATER MANAGEMENT PRACTICES, LISTED "Y" FOR PERMITTED DISTURBANCE UNDER TABLE 40.10.210.
- EASEMENT TABLE
- | DESCRIPTION OF EASEMENT | IN FAVOR OF | MAINTENANCE RESPONSIBILITY |
|---|---------------------------------|--|
| 40' WIDE AND VARIABLE WIDTH
SANITARY SEWER EASEMENT | NEW CASTLE COUNTY | SEWER LINE - NEW CASTLE COUNTY
GROUND SURFACE - PROPERTY OWNER AND/OR
MAINTENANCE ORGANIZATION AS APPLICABLE |
| TYPE A - 20' WIDE AND VARIABLE WIDTH STORM
DRAINAGE EASEMENTS (FOR PIPES AND/OR SWALES
THAT CONVEY DRAINAGE FROM DELDOT MAINTAINED
RIGHT-OF-WAYS THROUGH PRIVATE OPEN SPACE) | NEW CASTLE COUNTY
DELDOT | STORM PIPE - DELDOT
GROUND SURFACE - PROPERTY OWNER AND/OR
MAINTENANCE ORGANIZATION AS APPLICABLE |
| TYPE B - 20' WIDE AND VARIABLE WIDTH STORM
DRAINAGE EASEMENTS (FOR PIPES AND/OR
SWALES LOCATED IN PRIVATE OPEN SPACE OR
WITHIN LOTS THAT DO NOT CONVEY DRAINAGE
FROM DELDOT MAINTAINED RIGHT-OF-WAYS) | NEW CASTLE COUNTY | STORM PIPE - MAINTENANCE ORGANIZATION
GROUND SURFACE - PROPERTY OWNER
AND/OR MAINTENANCE ORGANIZATION AS
APPLICABLE |
| TYPE C - IRREGULAR SHAPE STORMWATER
MANAGEMENT (SWM) AREA INCLUDING VARIABLE WIDTH
(15' WIDE MIN.) ACCESS AND MAINTENANCE EASEMENT
AND 20' WIDE STORM DRAINAGE EASEMENT FOR PIPE | NEW CASTLE COUNTY
DELDOT | MAINTENANCE ORGANIZATION |
| 5' WIDE UTILITY EASEMENT | DELDOT AND UTILITY
COMPANIES | PIPES AND UTILITIES - DELDOT AND/OR UTILITY
COMPANY AS APPLICABLE
GROUND SURFACE - PROPERTY OWNER AND/OR
MAINTENANCE ORGANIZATION AS APPLICABLE |
-
- TYPICAL LOT LAYOUT
- SCALE: 1"=50'
- BULK STANDARDS - ST ZONING
(SINGLE FAMILY DETACHED)
- | | |
|-------------------|------------|
| MIN. LOT AREA | 4,800 S.F. |
| MIN. LOT WIDTH: | 48' |
| MIN. SIDE YARD: | 5' |
| MIN. STREET YARD: | 20' |
| MIN. REAR YARD: | 25' |
| MAX. HEIGHT: | 35' |
- NOTES AND LEGEND
RECORD MAJOR SUBDIVISION PLAN
FOR
- VISTA AT RED LION - SECTION 2
SITUATE IN: NEW CASTLE HUNDRED, NEW CASTLE COUNTY, DELAWARE
- | | | | | |
|---|------------------|---------------------------------|-----------|--|
| 02-21-24
U.S.Q. | 01-30-24
D.S. | 12-13-23
UHQ | date | checked |
| PER NCC COMMENTS DATED 03-14-24 | ADDED NOTE #62 | PER NCC COMMENTS DATED 11-27-23 | revisions | |
| Karins and Associates
ENGINEERS • PLANNERS • SURVEYORS
NEWARK, DE & GEORGETOWN, DE
www.karinsengineering.com
17 POLLY DRUMMOND CENTER • SUITE 201
NEWARK, DELAWARE 19711
PHONE: (302) 369-2900 FAX: (302) 369-2975 | | | | |
| OWNER:
RED LION HP LLC
PO BOX 7189
WILMINGTON, DE 19803
PHONE: 302-479-8314 | | | | PROPERTY ADDRESS:
564 OLD PORTER ROAD
BEAR, DE 19701
570 OLD PORTER ROAD
BEAR, DE 19701 |
| SURVEY BY: KARINS AND ASSOCIATES | | | | SCALE: AS SHOWN |
| DESIGNED BY: KARINS | | | | |
| DRAWN BY: J.L. | | | | DATE: 01-29-2022 SHEET: 2 OF 9 |
| CHECKED BY: U.R.Q., D.S. | | | | DRAWING NO.: 2554 - A02 |
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- Page 84 of 242

ORDINANCE NO. 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**

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>	<u>353,781,162</u>	\$	<u>353,841,162</u>
<i>Total Authorized Full-Time Positions</i>	1,682		

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>

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...

39
40
41
42
43
44

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.

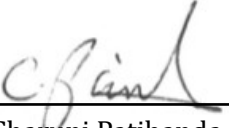
The motion was adopted by a vote of 6-0-0-3 (In Favor: Peterson, Cahill-Krout, Cantrell, Cochran, , Snowden, Visvardis; In Opposition: None; Abstention: None; Absent, Daigle, Drake, Gray).

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

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.

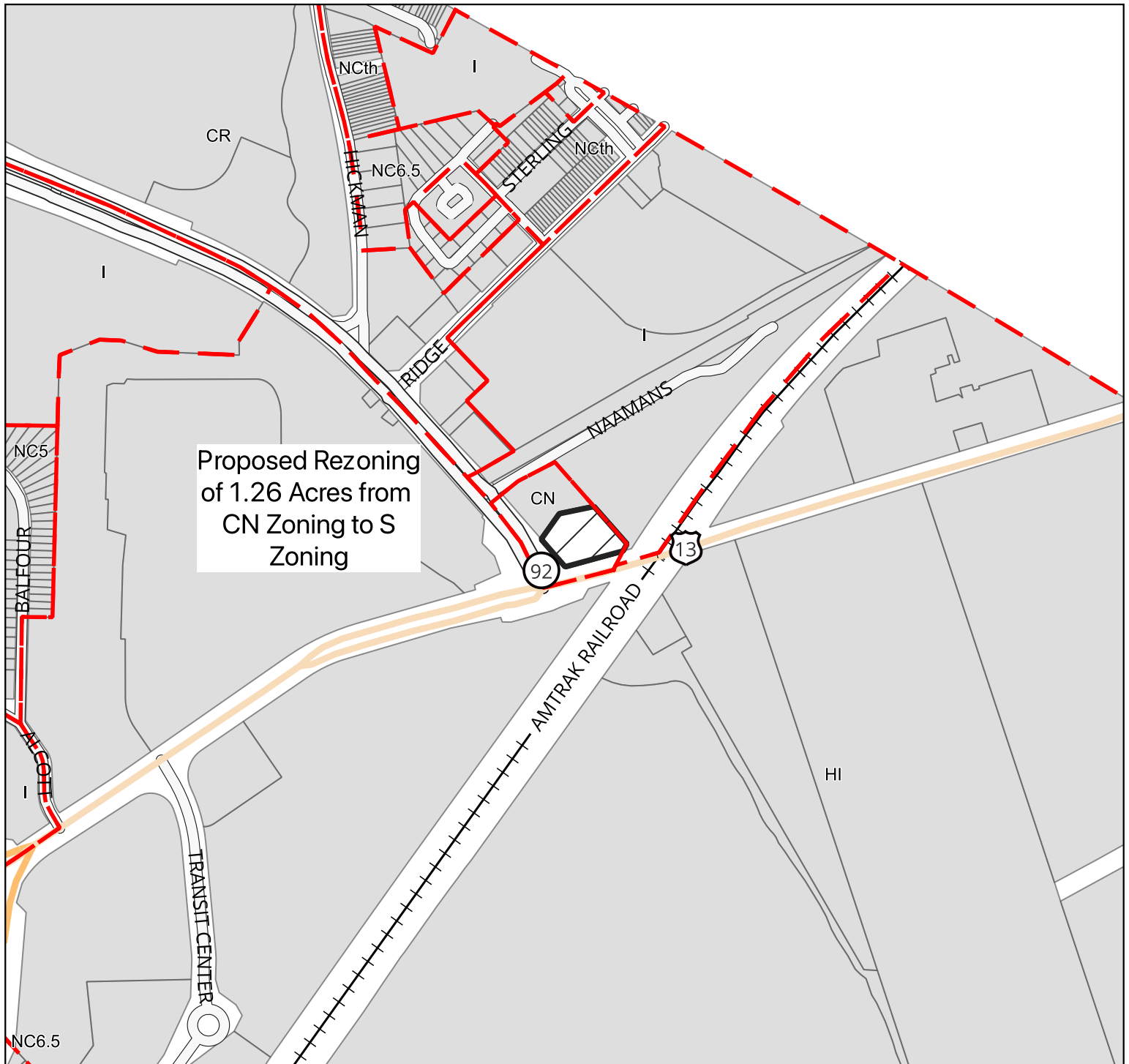
FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this ordinance.

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

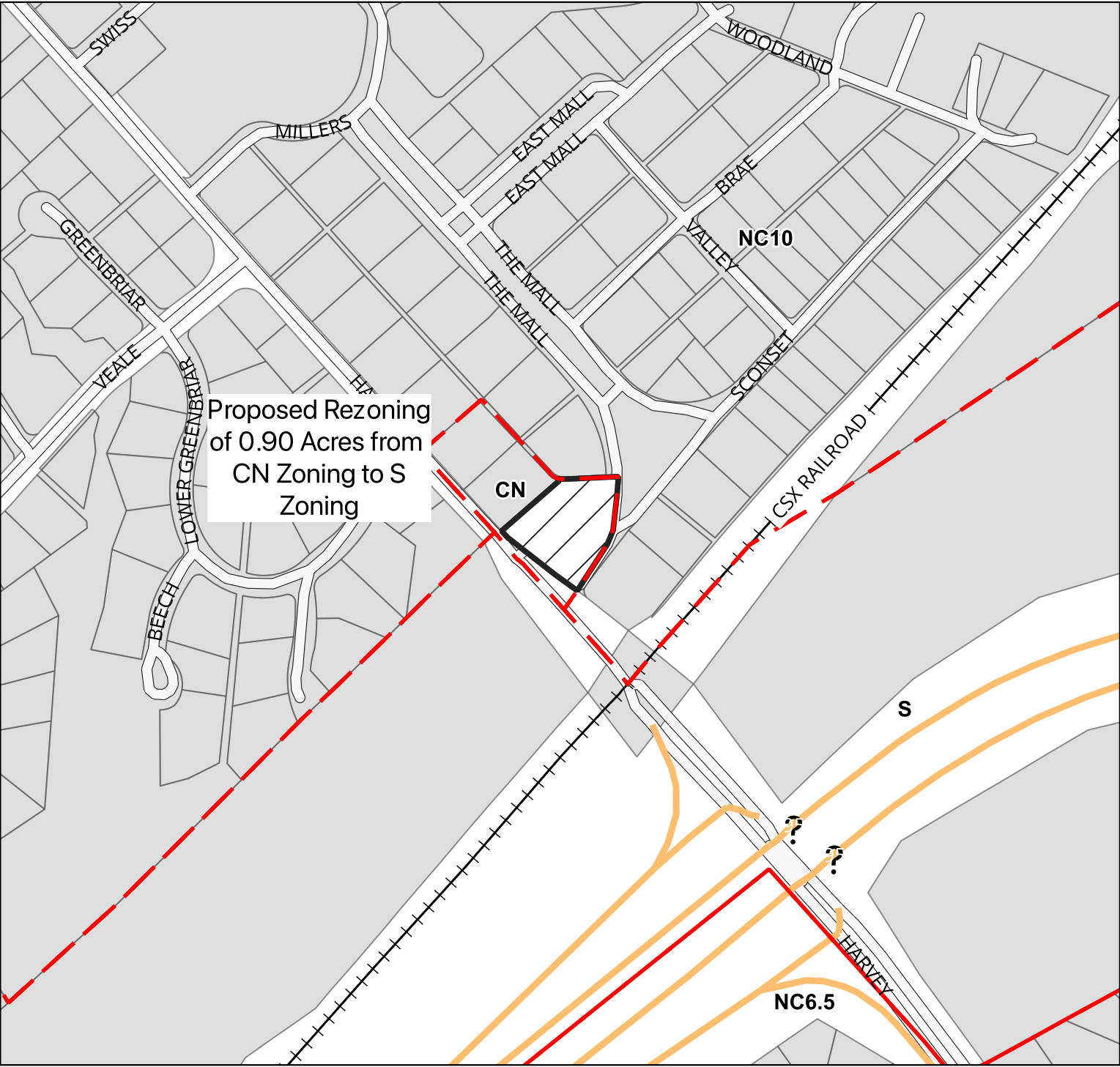
Date: 2/04/2024



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

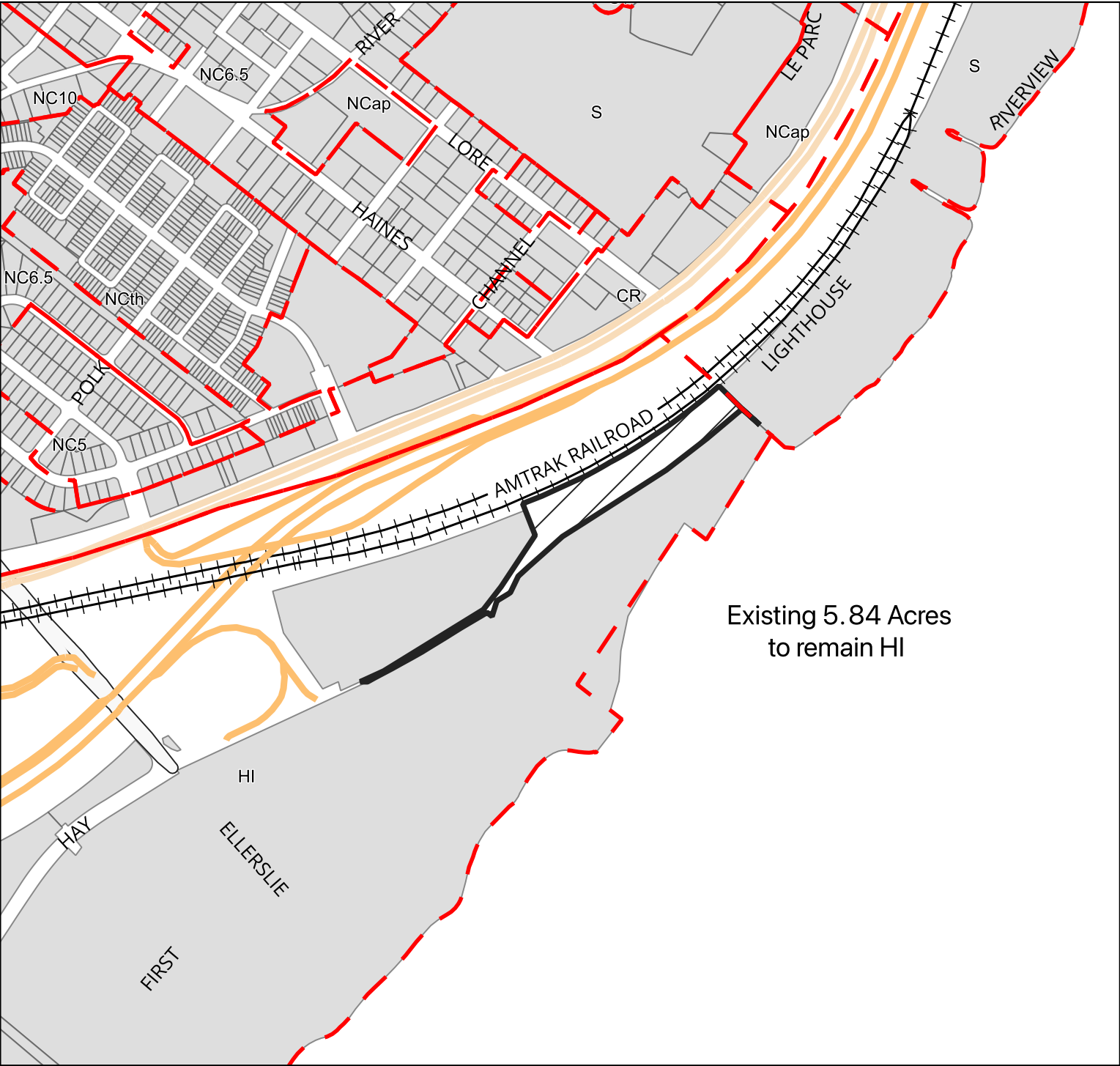
Date: 2/04/2024



Substitute No.1
PERMANENT ORDINANCE NO. 24-032
Date Adopted by County Council:
Date Approved by County Executive:

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

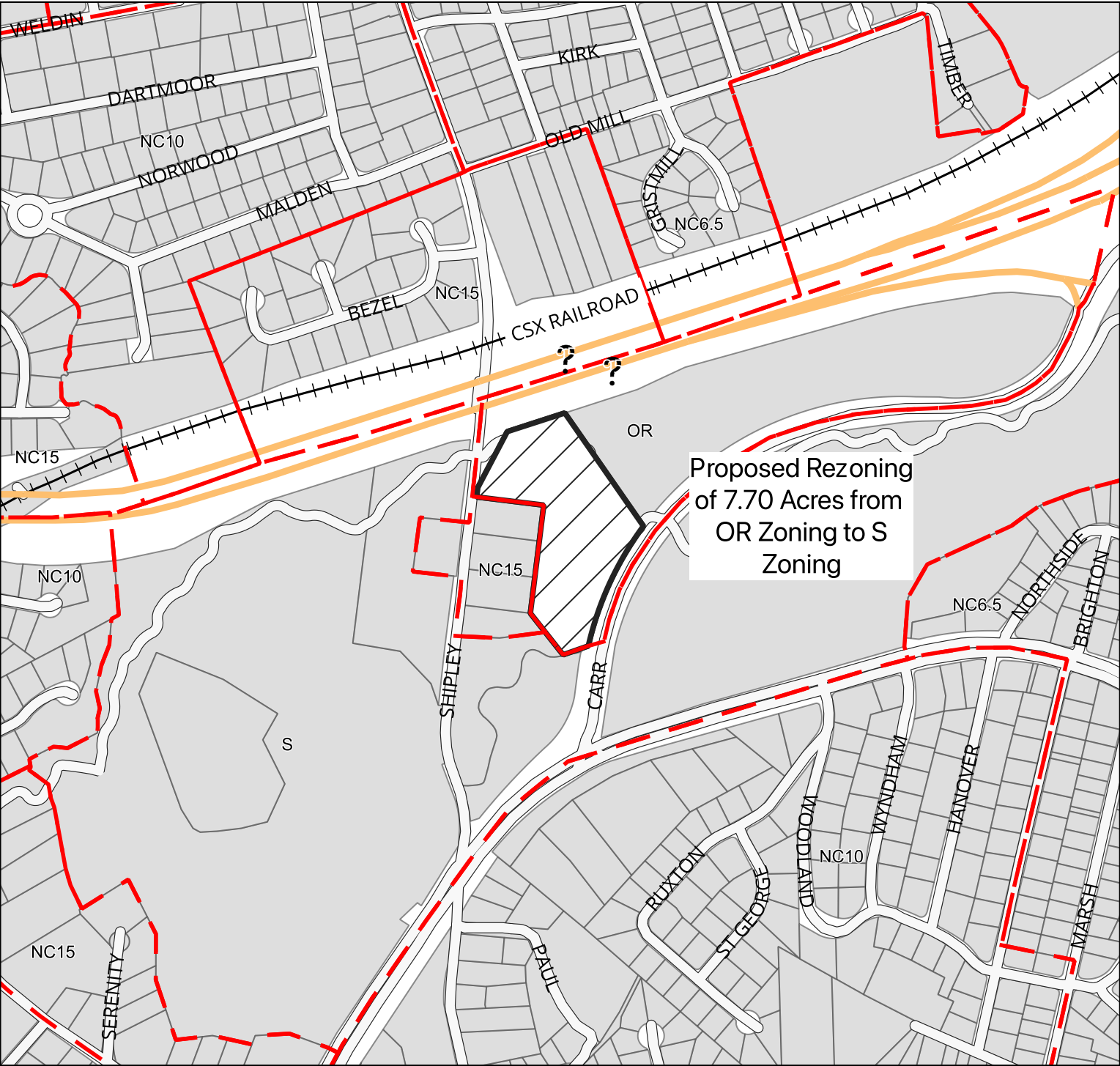
Scale: 1:9188
Prepared by: Matthew Rogers
Date: 8/23/2024



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:

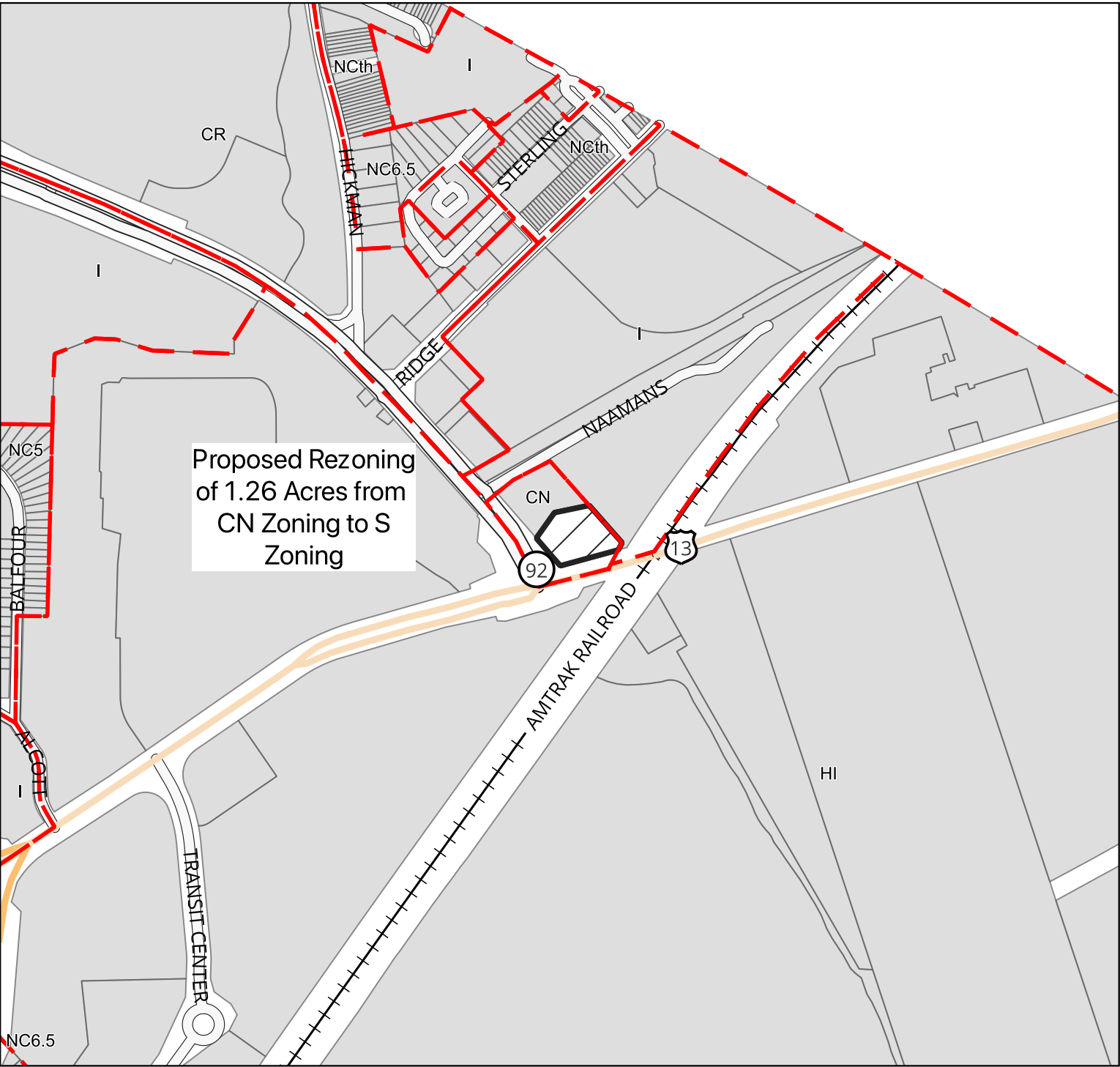
Matthew Meyer
County Executive
New Castle County

SYNOPSIS: Same as title.

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

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

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



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

Scale: 1:6960
Prepared by: Matthew Rogers

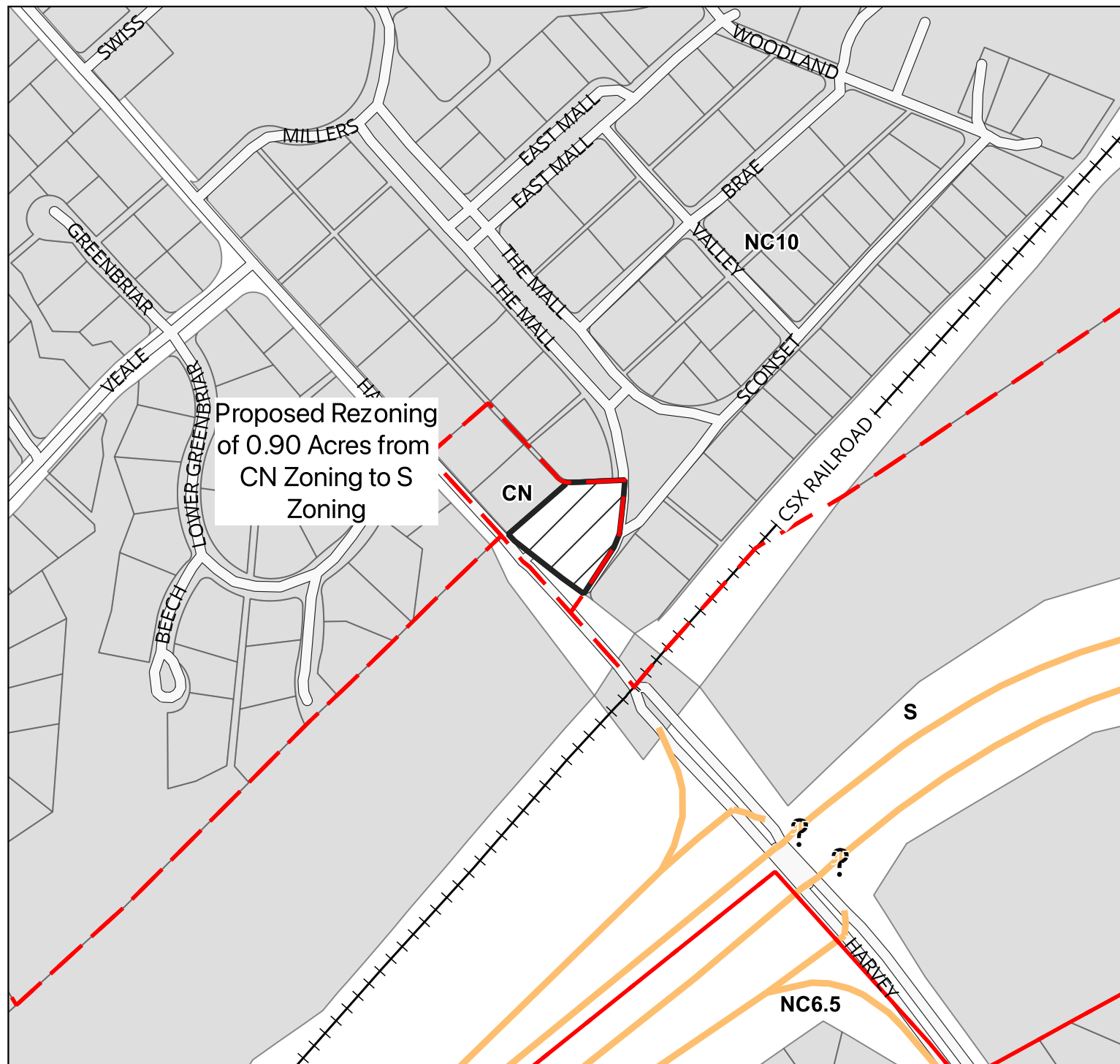
Date: 2/04/2024



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

EXHIBIT A: MAP 2
ZONING ORDINANCE AS INTRODUCED

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



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

Date: 2/04/2024

EXHIBIT A: MAP 3
ZONING ORDINANCE AS INTRODUCED

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



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

Date: 2/04/2024

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

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



HUNDRED: BRANDYWINE
NEW CASTLE COUNTY, DELAWARE

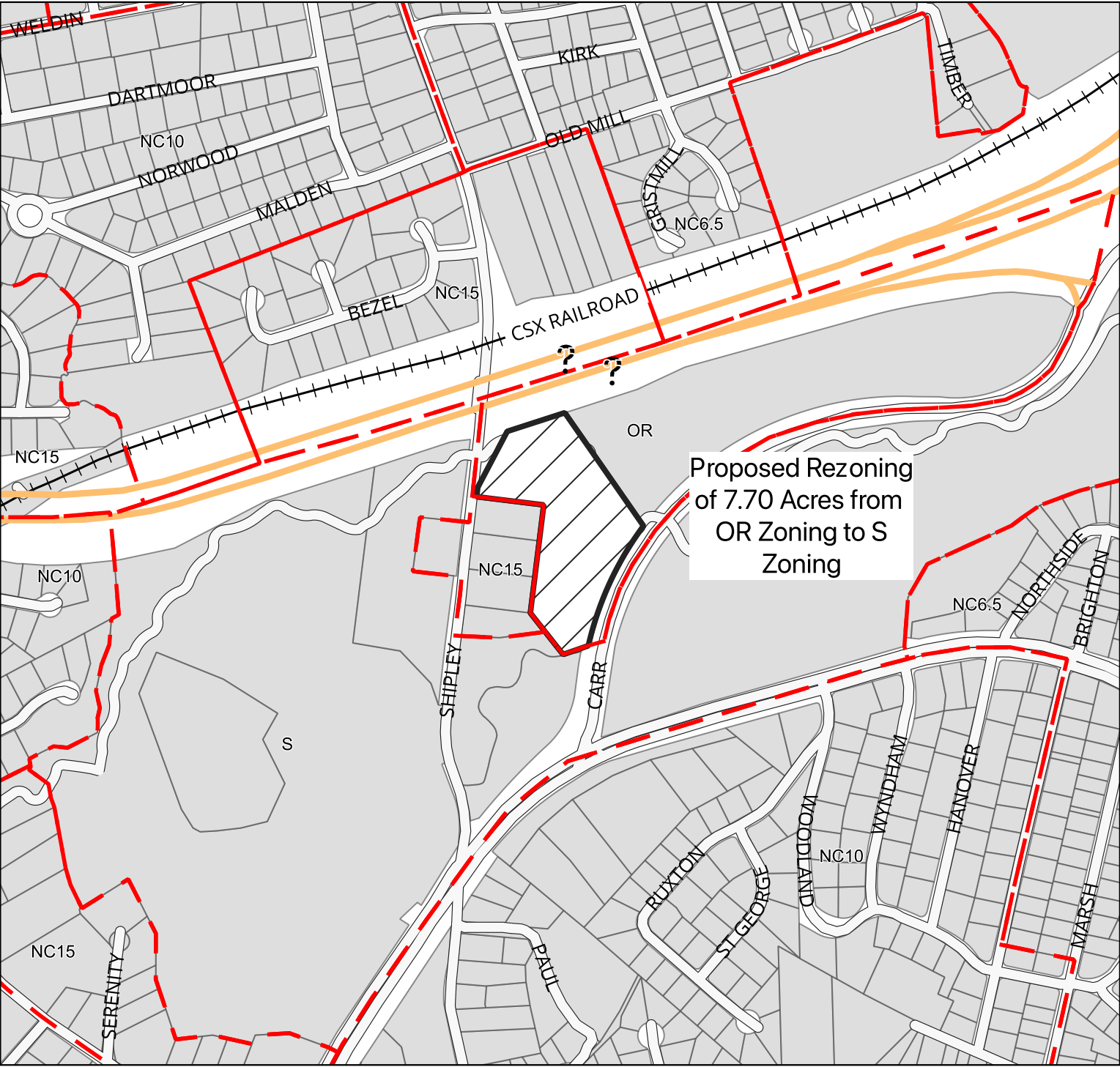
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Prepared by: Matthew Rogers
Date: 2/04/2024



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:

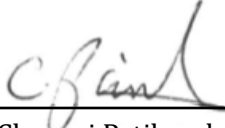
Elizabeth Hatch, Planner for the Department of Land Use read the Department of Land Use recommendation into the record. Charuni Patibanda, General Manager for the Department of Land Use, commented that the Department recognizes the need for an update to the impact fee provisions to the UDC, and that 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.”

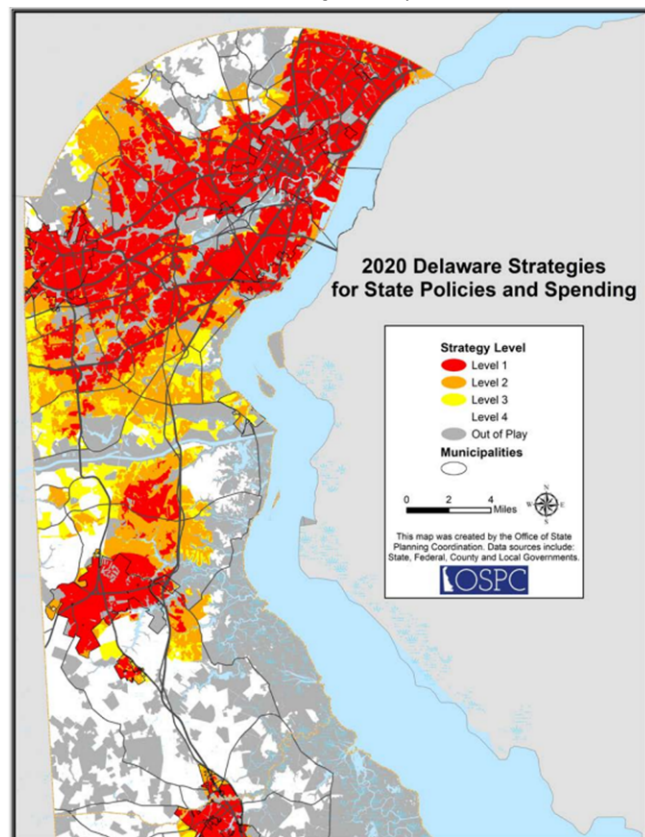
Investment Level 2 areas can be composed of less developed areas within municipalities, rapidly growing areas in the counties that have or will have public water and wastewater services and utilities, areas that are generally adjacent to or near Investment Level 1 Areas. “Like the Level 1 Areas, Level 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.

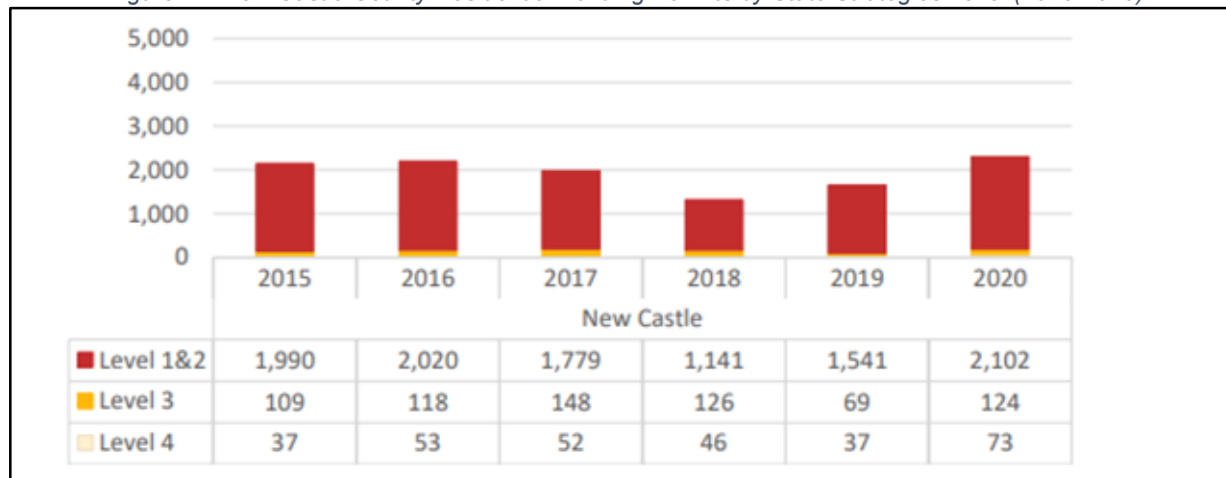
Out of Play Areas are lands which are not available for private development, include publicly owned lands, private conservation lands, lands for which serious legal and/or environmental constraints on development are identified, and lands in some form of permanent open-space protection (such agricultural 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 is it 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 with be a 20% surcharge for level 3 and a 40% surcharge for level 4. More research will be needed to assess the actual increase in costs for providing the service to better justify the surcharge percentage.

II. EXPANDING THE LIST OF USES IN THE IMPACT FEE TABLE

A. Background

New Castle County asked the project team to consider possible updates to the uses listed within the impact fee table. We compared NCC's permitted uses and considered the case studies included in Memo #2. The following categories are currently captured:

- Residential (per housing unit)
 - Single-family detached
 - Single-family attached
 - All other housing (small single-family units and single-wide mobile homes will be included under the "All other housing" designation)
- Nonresidential (per 1,000 SF of floor area)
 - Commercial/shopping center (less than 60,000 SF)
 - Commercial/shopping center (60,000 – 200,000SF)
 - Commercial/shopping center (greater than 200,000 SF)
 - Office/Institutional (less than 10,000 SF)
 - Office/Institutional (less than 10,000 SF)
 - Office/Institutional (less than 10,000 SF)
 - Business Park
 - Light Industrial
 - Warehousing
 - Manufacturing

Rossi Group compared NCC's current permitted uses (UDC §40.03.110) and impact fees (UDC §40.14.210) to see how closely the categories in each aligned (**Table 1**). Uses highlighted in yellow should be considered for amendments or additions. to the current Impact Fee Table and Schedule. Explanations for each of the categories are listed below.

Table 1: Permitted Use Table and Impact Fee Table Compared

Land Use	Impact Fee Category
Agricultural	
Agriculture (includes uses pursuant to Delaware Law)	N/A
Clearing	
Farmstead	

Land Use	Impact Fee Category	
Farm market		
Commercial stables		
Residential		
Single-family, detached	Single-family detached	
Open space subdivision, option 1		
Open space subdivision, option 2		
Single-family, attached	Single-family attached	
Open space planned		
Apartments		
Apartment conversions		
Commercial apartments		
Hamlet		
Village		
Group home		
Manufactured home park		All other housing*
Small single-family		All other housing*
Home Uses		
Day care, family/large family		
Home occupation		
Home business		
Cottage industry		
Institutional		
Assembly and worship	Office/institutional (less than 10,000 sf. GFA) Office/institutional (10,000 sf. to 50,000 sf. GFA) Office/institutional (greater than 50,000 sf. GFA)	
Schools		
Colleges		
Institutional, regional		
Institutional, neighborhood		
Institutional, residential (Type I)		
Institutional, residential (Type II)		
Protective care		
Public service		

Land Use	Impact Fee Category
Hospitals	
Commercial	
Adaptive reuse, historic building	
Adult uses	
Agricultural support and other rural services	
Bed and breakfast	
Commercial lodging	
Commercial retail and service	
Corporate guest house	
Craft alcohol production establishment	
Drive-in facility	
Heavy retail and service	
Light automobile service	
Mixed use	
Restaurants	
Office	
Shopping center	
Vehicular sales, rental and service	
Recreation and Amusement	
Campground	
Recreation, high intensity	
Recreation, low intensity	
Resort	
Industrial Uses	
Compost operations	
Extraction	

Land Use	Impact Fee Category
Heavy industry	Manufacturing Light industrial
Light industry	
Recycling or storage	
Utilities, maintenance facilities	
Utility, minor	
Utility, major	
Solar energy system, large-scale	
Other Uses	
Airports	N/A
Commercial communications towers	
Community recycling bins	
Exterior lighting for outdoor recreational uses	
Park and ride facility	
Parking structures	
Note: Uses highlighted in yellow should be considered for amendments or additions.	Warehousing Business park

B. Case Studies and Recommendations

After conducting a comparison of the two tables (permitted uses UDC §40.03.110 and impact fee UDC §40.14.210) there are several uses not explicitly being charged an impact fee. Within the residential impact fee category: apartments may currently be included with “all other housing” however the definition is unclear. Group homes and congregate care facilities are also not listed under the residential impact fee category. These should be charged separately on a dwelling unit basis.

Currently institutional uses are being grouped together with offices to assess impact fees. Some jurisdictions charge impact fees to schools and places of assembly as institutional uses. UDC §40.05.050 enumerates that public facilities needed to support development (including hospitals) shall be exempt from Article 14 (impact fees.) However, NCC may want to reconsider capturing impact fees from private hospitals or facilities, such as assisted care facilities. Seminole County, Florida charges impact fees on private institutional uses, New Castle County could consider a similar tactic. Moreover, a nexus can be drawn between extra need for services for some institutional uses like hospital and assisted care facilities.

Within the commercial land use category, many individual uses are assessed impact fees as office/institutional and commercial/shopping center uses. However, bed and breakfasts/commercial lodging are not assessed impacts fees and should be charged on a room basis. Transient occupancy taxes are collected on visitors to these establishments; however, these dollars do not go towards capital improvement in NCC. Restaurants are also assessed impacts fees

as retail use; however, their high-turnover rate may warrant a separate category from retail uses. Some jurisdictions break down restaurants further based on whether it is drive-thru establishment or sit-down restaurant. For example, Seminole County, Florida (referenced in Memo #2) charges \$1,874 for Fire & Rescue fees to 'Quality Restaurants', \$1,812 to 'High-Turnover (Sit-Down) Restaurants', and \$3,156 to 'Fast Food Restaurants with Drive-Thru.'

Within the recreation and amusement land use category, no uses are charged impact fees. NCC should consider assessing campgrounds and resorts impact fees. Campgrounds have evolved over recent years to include extra uses such as restaurants, bath houses, stores, and recreational facilities that have a larger impact on land and draw more users. Some individuals also stay long-term at campgrounds and/or resorts, again drawing on NCC's services.

Most industrial uses are adequately being captured by the current categories. The impact fee categories of 'warehousing' and 'business park' did not align directly with any uses listed on the permitted use table. The business park district allows office, manufacturing, light industrial, warehousing, and uses that support them. Each of these individual uses (office, manufacturing, light industrial, and warehousing) are assessed impact fee separately; therefore, New Castle County may consider omitting 'business park' from the impact fee table and charging based on the mix of individual uses instead.

III. STRATEGIES FOR INCENTIVIZING LOW-INCOME HOUSING

A. Background

<https://www.newcastlede.gov/1505/Moderately-Priced-Dwelling-Units>

Moderately Price Dwelling Units (MPDUs) are required for all residential rezonings or variance applications with density increases proposing twenty-five (25) or more dwelling units except for mixed-use developments. The program also offers a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are designated as moderately priced. Currently there are no Impact Fee reductions or exemptions for development of MPDUs. A control period is the timeframe during with a MPDU is subject to resale price controls and owner occupancy requirements. The control period for NCC's MPDUs program is 10 years and begins on the date of sale for new or resale MPHUs. NCC is interested in methods to further incentivize providing MPDUs (<https://www.newcastlede.gov/1505/Moderately-Priced-Dwelling-Units>).

B. Case Studies and Recommendations

As detailed in Memo 2, B.3. Affordable Housing, in areas with high fees and/or a large number of special assessment districts, the cumulative cost can erode the financial viability of affordable housing projects. Local jurisdictions can encourage the development of new affordable housing through methods including:

- Flat fee
- Fee reductions
- Fee waivers based on number of units
- Complete fee exemption

Although fees are waived or reduced, developers still receive the services supported by the fee and must secure the associated permits or approvals. This incentive is likely to have the greatest impact in jurisdictions with a robust level of construction activity, or where new development is anticipated) and where impact and permitting fees are relatively high.

Memo 2 presents case studies where fee waivers and reductions are available to developers of qualifying projects. For example, Anne Arundel County, Maryland exempts Affordable Housing Units from all impact fees; however, the

residential dwelling unit must be constructed by or under a program sponsored by an entity exempt from taxation at least three years prior. Seminole County, Florida (see Memo 2, Table 3) specifies a discounted fee across the board for Affordable Housing Units. Affordable Single-family dwellings are discounted at a rate of approximately 44% to 73%, while Affordable Multi-Family Units are discounted between 24% to 45%, depending on fee type.

NCC currently provides a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are designated as moderately priced. However, providing an impact fee reduction or exemption would further reduce the cumulative cost for providing affordable housing within NCC. This could be full exemption to all impact fees applied to MPDUs. It may also be reasonable to view each impact fees assessed and determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee. All fees may also be reduced by a specified percentage or amount or each impact fee may be evaluated to determine if the specified fee should be reduced by a specified percentage or amount.

IV. GRADUATED FEE INCREASES/ENR RECOMMENDATIONS

A. Background

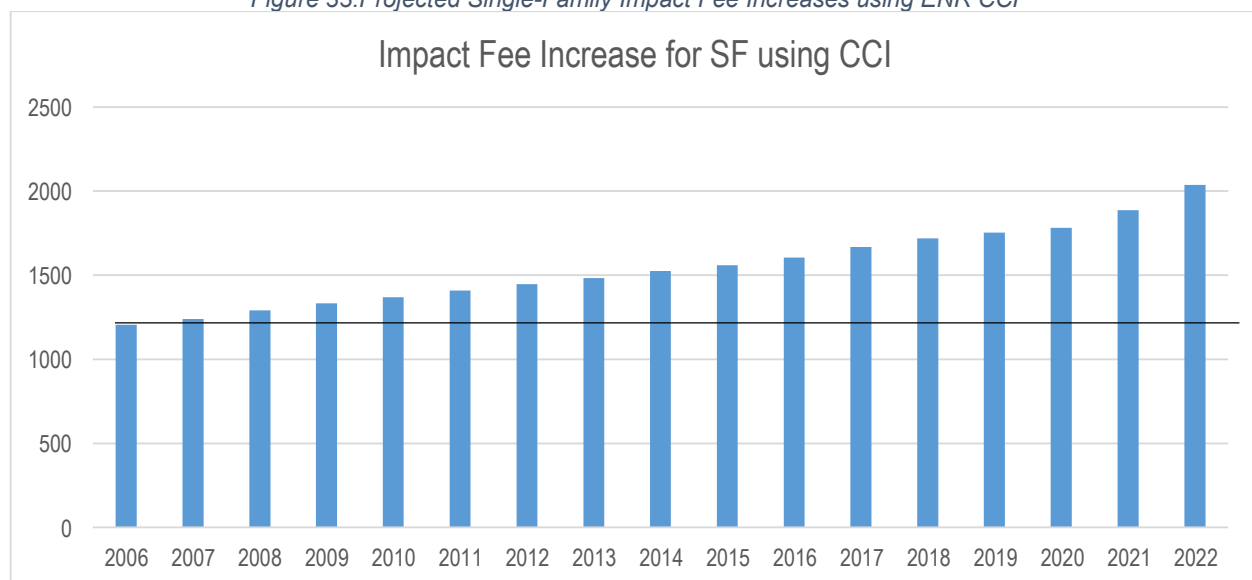
Since 1999, the only impact fees which have been adjusted have been the fire & rescue impact fees. County Council adopted legislation in August 2006 raising these fees based upon a 2006 study performed by TischlerBise. The impact fees for parks, libraries, county facilities, EMS, and law enforcement have not been adjusted for 23 years.

The UDC allows for impact fee cost adjustments as part of a periodic evaluation and update to adjust for inflation in construction costs as reflected in the Engineering News Record (ENR) Construction Cost Index (CCI). Adjustments would be subject to approval by NCC Council.

The cumulative increase for fees using the ENR CCI from 2006 to 2022 is 75%. As another base of comparison, the cumulative Consumer Price Index (CPI) increase from 2006 -2022 is 50%.

Figure 33 illustrates the increase to the impact fee for a single-family detached unit from the 2006 fee of \$1,157 to \$2,036 in 2022, if adjusted according to ENR CCI calculations. See chart below.

Figure 33: Projected Single-Family Impact Fee Increases using ENR CCI



B. Recommendations

Recommendations for adjusting the fee to make up the difference in holding the impact fees unadjusted for the last 16-23 years can be accomplished in many different scenarios based on NCC's goals and policies that are being considered. Currently the general budget is carrying the load to make up for inflation and the erosion of purchasing power of the impact fees as established in 2006. That means that existing residents of NCC are paying for and subsidizing the costs of the new infrastructure intended to be paid for with impact fees. If NCC's goal is to restore the impact fee revenues to the originally intended levels of providing revenue for infrastructure projects, gradual increases in fees while providing a provision for annual indexing would allow NCC to slowly increase fees.

Scenarios could range from:

- No increases in fees
- No increases in fees, annual indexing adjustments
- Phased in approach of 5% increases over a period of 2-5 years to slowly make up for the last 16 years, then annual indexing adjustments
- Phased in approach of 10% increases over a period of 2-5 years to slowly make up for the last 16 years, then annual indexing adjustments
- 50% increase to match the CPI cumulative total, then annual indexing adjustments
- 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments

Regardless of the decision to raise fees to account for the last 16 years of no increases, it is recommended that yearly adjustments to the fees be done, as periodic evaluations are required by code, so that the fees are adjusted annually based on the ENR CCI. Most jurisdictions that have indexing do so annually to avoid having to revisit the fees every few years and keep increases in fees in small increments. This sets up an expectation that the impact fee will increase yearly to keep pace with inflation and provide for more infrastructure to be funded and constructed using the impact fees collected by new development. It is a straightforward method that is easy to communicate to the public and easier to implement. If NCC wants to establish an increase every two years, that can be accomplished by Council approving the changes every two years instead of annually. It is recommended that the adjustment be done using the cumulative CCI for the two years. The data to calculate the ENR CCI comes out in January and the new fee can be adopted by Council in the spring with an effective date of July 1 each year.

V. Open Space Fee Creation

NCC Council adopted a resolution to spend \$7.5 million dollars over 3 years, which is \$2.5 million/year to ensure consistent funding for the preservation of Open Space and Agricultural land. In our research of best practices, the City of Chicago used a formula of new development carrying 30% of the cost for open space preservation.

The City of Chicago Open Space fees range from \$313-1,253/unit based on the type of development. Affordable housing units are only charged \$100/unit.

Marin County in Florida Open Space fees range from \$540-755 based on size of the unit. A land value of \$12/sf is used for the cost of Open Space land acquisition.

Using the same formula to help provide a dedicated source of funding to provide 30% of the \$2.5 million Open Space preservation goal requires revenue from impact fees to be \$750k/year.

One policy decision that will need to be more broadly discussed is redevelopment. Redevelopment could be exempt

from the Open Space impact fee.

In New Castle County, there is an average of 2000 residential building permits/year and 4 million sf/year of non-residential development, as demonstrated in **Figure 22**.

A. Implementation

The NCC Council can then determine whether to create an open space fee, and what level of funding support for the Open Space Preservation Fund, any potential UDC changes that would be required, and an implementation schedule.

VI. CHANGE OF USE/REDEVELOPMENT CHARGES

A. Background

As part of our review on impact fees the team was asked to assess the redevelopment and brownfield development waiver that currently exists in the UDC.

As an incentive for redevelopment and brownfield development the current code provides a waiver provision for all impact fees. The current definition of redevelopment contained in the UDC is:

A process used to identify previously developed land that is now vacant, abandoned, or underutilized real property where older structures if they exist are rehabilitated or replaced.

The waiver for impact fees for redevelopment and brownfield development is one of several incentives that NCC uses to promote the reuse of existing properties that are currently underutilized. This waiver seems appropriate for redevelopment or brownfield development where the previous use and the proposed use are similar and there would be no necessary increase in the capital costs needed to supply the services funded under the impact fee, however based on the broad definition of redevelopment, there are redevelopment projects that will increase the overall need for capital investments for those services that are funded through impact fees.

The team looked at several other justifications to determine how they applied impact fees to redevelopment or repurposing of land and the common theme for redevelopment was to try to capture the difference between the current use the proposed use and apply a prorated portion of the impact fee. The following case studies outline how each jurisdiction applies impact fees.

B. Case Studies

1. Palm Beach County (PBC, http://www.pbcgov.com/uldc/Article13.htm#_Toc24701204)
 - With PBC's intent that new development bear a proportionate share of the cost of capital expenditures necessary to provide park, fire-rescue, library, law enforcement, public building, schools, and road capital facilities in PBC, impact fees were established representative of a fair and equitable allocation of costs, past and future payments from new development. This included credits for in-kind contributions, and municipal provision of like facilities under certain circumstances. Funds collected from impact fees shall not be used to replace existing capital facilities or to fund existing deficiencies, but only to provide for new capital facilities which are necessitated by new development.
 - Any existing land use that is expanded, replaced, or changed shall be required to pay impact fees based on the new or additional impact as a result of the expansion, replacement, or change of use. The fee payer may be eligible for credit for the existing land use pursuant to [Art. 13.A.11.A.1](#).

2. Johnstown, CO (-

https://library.municode.com/co/johnstown/codes/municipal_code?nodeId=CH17SU_ARTXIIMFE_S17-228POFADEFE)

- Johnstown defines land development as issuance of a building permit or a connection permit for the construction, reconstruction, redevelopment or conversion of a use of land or any structural alteration, relocation or enlargement which results in an increase in the number of "service units" required, or, the extension of a use or a new use of land which results in an increase in the number of service units.
- No impact fee shall be imposed on land development for which a building permit has been issued prior to the effective date of the impact fee, except in the event of a change of use.
- Waivers are granted for the following conditions. There is a nexus between the proposed redevelopment and the increase in the need for capital improvements associated with the impact fees.
 - No impact fee shall be imposed on any new residential development which does not add a new dwelling unit (service unit).
 - No impact fee shall be imposed on any new nonresidential development which does not add square footage, unless the new nonresidential development increases the demand for capital improvements (service units) for which impact fees are being imposed.
 - Other uses. No impact fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a building permit is required, which does not result in an increase in the demand for capital improvements (service units).

3. City of Federal Way (traffic impact fee program) -

https://www.cityoffederalway.com/sites/default/files/Documents/Department/PW/Traffic/Resources/FW%20GUIDE%20TO%20TRAFFIC%20IMPACT%20FEES_Jan2018.pdf City of Federal Way, WA (traffic impact fee program) -
(https://www.cityoffederalway.com/sites/default/files/Documents/Department/PW/Traffic/Resources/FW%20GUIDE%20TO%20TRAFFIC%20IMPACT%20FEES_Jan2018.pdf)

- For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement, or new accessory building that generates new trips, the impact fee will be assessed based on the difference between the new uses and the prior use. If no impact fee was required for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

4. Alachua County - [https://growth-](https://growth-management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf)

[management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf](https://growth-management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf) Alachua County, FL (-
https://growth-management.alachuacounty.us/formsdocs/impactfees/if_admin_manual.pdf)

- For change of use projects the impact fee is prorated based on the change of use
- Should the change of use, redevelopment, or modification result in a net decrease in the impact, no refunds or credits for impact fees previously paid shall be made.
- If the change of land use does not require the issuance of a building permit, zoning or development order approval, then there shall be no requirement to pay an impact fee.

5. Mount Vernon, WA - [https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-](https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-Fees--2022?bidId=)

[Fees--2022?bidId=](https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-Fees--2022?bidId=) Mount Vernon, WA -
(<https://mountvernonwa.gov/DocumentCenter/View/9624/Impact-Fees--2022?bidId=>)

- Not all impact fees are assessed on redevelopment. Only those that have a nexus to the capital cost associated with the service provided

- Transportation & Fire Impact Fees apply to all new non-residential buildings, and additions to existing buildings. Transportation impact fees are also calculated for a change of use on an existing non-residential building. The number of average trips per peak p.m. hours are calculated by a traffic engineer which the city has contracted with to review all commercial projects for trip generation.

The case study jurisdictions all assess some type of impact fee for additions and redevelopment of existing buildings and structures. The jurisdiction makes the connection between assessing the impact fee and the need for the capital improvements funded by that impact fee. How this is applied varies across jurisdictions, however there is a theme of comparing the original use to the new use being considered for the project.

NCC's existing code provides many incentives for redevelopment and brownfields on non-residential uses and sites. This includes processing the plan as a minor subdivision and allowing for additional gross floor area. In some cases, this redevelopment or brownfield development may repurpose a use that was exempt from or had a minimal impact fees to a use that would have a much higher demand on the services funded under the impact fees. It would be appropriate that this type of redevelopment or brownfield development pay additional impact fees.

C. Recommendations

Should NCC determine that the current impact fee waiver for redevelopment and brownfield development is a critical decision factor for developers considering the reuse and repurpose of existing properties then it would be logical to maintain the existing waiver structure. The additional burden of increased capital costs associated with the redevelopment and brownfield development would continue to be borne by the general fund.

Should NCC determine that eliminating the waiver on impact fees for redevelopment and brownfield development would not discourage developers considering the reuse and repurpose of existing properties then it would be appropriate to assess the nexus between the impact fee and the need for that service based on the proposed development. The following is a recommended framework for how NCC might assess impact fees for redevelopment and brownfield development

- Assess a prorated impact fee for the actual change of use of the property based on the difference between the historical use and the proposed use.
- The new open space impact fee would be waived since this type of development supports infill and reuse of existing properties therefore maintaining existing open space.
- Brownfields would still be exempted

VII. NEXT STEPS

The project team will continue to work with NCC to better document the past and current relationship between impact fees and NCC capital costs.

NCC is planning a public workshop for December 2022 to present the findings of memos 1 through 3 and solicit feedback from interested stakeholders. Stakeholder and NCC feedback will be considered as the project team finalizes recommendations to prioritize proposed changes to the existing code in Memo 4. The final report (including memos 1 through 4) will be presented to NCC Council's Finance Committee for further consideration.

MEMO #4: FINAL RECOMMENDATIONS

Date: June 13, 2023
To: Antoni Sekowski, Acting Assistant Land Use Manager, New Castle County
From: Savannah Edwards, AICP; Associate Planner; Rossi Group
Heather Coons, Senior Planner; Rossi Group
CC: Marc Coté, PE, AICP; Director of Planning and Engineering; Rossi Group
Re: New Castle County Impact Fee Study
Memo #4 – Recommendations

Memos #1 and #2 summarized the current and best practices in support of New Castle County's (NCC) study of development impact fees. Memo #3 provided a series of initial recommendations, including 1) an assessment of the ability to apply a sliding scale to the impact fees based on the *Delaware Strategies for State Policies and Spending* (2020) and taking into account the five established investment levels; 2) expanding the list of uses in the Impact Fee Table; 3) developing strategies for incentivizing low-income housing; 4) implementing graduated impact fee increases; 5) creating an Open Space fee; and 6) revision of use/redevelopment charges. The analysis process resulted in the presentation of recommendations for NCC to consider in their assessment of current regulations and the development of associated updates to those regulations. A public workshop was held December 12, 2022 to present the findings of Memos 1 through 3 and solicit feedback from interested stakeholders. The following information details feedback received from the public workshop and uses this data to finalize recommendations to prioritize proposed changes to the existing code.

I. NEW CASTLE COUNTY PUBLIC WORKSHOP SUMMARY

The project team held a hybrid public workshop with New Castle County on December 12, 2022. Attendees could view the presentation virtually or in-person. Approximately 25 individuals attended in person and 45 attendees signed in online. Comments and questions brought up at the workshop include:

- Why do the fire companies have to submit inventory every year and show need in excess of 1988 inventory?
- Are businesses that have an addition installed currently not charged an impact fee? For example, the Tri-State Mall?
- Lower income housing traditionally has a great need for the types of services funded by impact fees.
- A representative from the Middletown Fire & Rescue company expressed a need for less administrative burden to secure funds.
- Redevelopment for conversion of houses to more units should be charged an impact fee.
- Where do transient occupancy fees go?
- What is the criteria for the Office of State Planning Coordination's Strategy Level classifications?

A. Interactive Workshop Feedback

The in-person session was followed with an hour-long interactive workshop where the project team fielded questions and answers and solicited feedback on proposed recommendations. The following feedback was received via the interactive activities (clarification on handwritten comments made on the display boards is provided in the bullets below each photo):




Utilizing Delaware's State Strategies

Should NCC consider assessing an impact fee surcharge to cover the additional costs associated with development in Levels 3 and 4?

Yes, assess a surcharge for development in Level 3 and 4 Areas.	No, assess the same impact fees regardless of where development occurs.	Other
<i>- West wing in SNCC needs most new services + infrastructure in SNCC!</i> <i>100% Agree!</i> <i>Agree</i> ● ● ●	<i>For open space & parks the same</i>	

Handwritten comments:

Yes, assess a surcharge for development in Level 3 and 4 Areas.

- West wing in SNCC needs most new services & infrastructure in SNCC.
- 100% agree.
- Agree.

No, assess the same impact fee regardless of where development occurs.

- For open space & park the same.



Residential & Institutional Uses of Impact Fees

Residential Uses

Impact fees are assessed under the use category of all other housing.

- Group homes and congregate care facilities are not listed under the residential impact fee category.

Should NCC consider charging a separate **Multi-resident Facility Use** Impact Fee based on number of dwelling unit?

Yes	No	Other
		

Institutional Uses

Impact fees are assessed under the use category of office/institutional.

- UDC §40.05.050 enumerates that public facilities needed to support development (including hospitals) shall be exempt from Article 14 (impact fees.)
- Some institutional uses may require additional services.
- Some jurisdictions charge impact fees on **private** institutional uses.

Should NCC consider charging a separate **Institutional Use** Impact Fee?

Yes	No	Other
		

No handwritten comments received.

Commercial Uses of Impact Fees

Lodging

Impact fees are assessed as commercial/shopping center uses.

Bed and breakfasts/commercial lodging are not assessed impacts fees separately. Transient occupancy taxes are collected on visitors to these establishments; however, these dollars do not go towards capital improvement in NCC.

Restaurants

Impact fees are assessed as commercial/shopping center uses.

- High-turnover rate may warrant a separate category.
- Some jurisdictions break down restaurants based on whether it is drive-thru establishment or sit-down restaurant.

Should NCC consider charging a separate Lodging Use Impact Fee on a room basis?

Yes	No	Other
2023 - they require services - logistic centers - require new higher ladder trucks for fire company - Etc.		2023 - 1st assessment - for major hotels

Should NCC consider charging a separate Restaurant Impact Fee based on anticipated turnover?

Yes	No	Other
2023 - restaurants at peak meal hours place a large burden on traffic infrastructure		

Handwritten comments:

Should NCC consider charging a separate Lodging Use Impact Fee on a room basis?

- Yes
 - o They require services.
 - o Logistic centers.
 - Require new higher ladder trucks for fire company.
 - o Etc.
- Other
 - o Should consider # of visitors.
 - Diff assessment for major hotels.

Should NCC consider charging a separate Restaurant Impact Fee based on anticipated turnover?

- Yes
 - o Drive through restaurants at peak meal hours place a large burden on traffic infrastructure.

Strategies for Incentivizing Low-Income Housing

Should NCC consider providing an affordable housing impact fee reduction or exemption on a per unit basis? This could be a full exemption to all impact fees applied to MPDUs or NCC may determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee. All fees may also be reduced by a specified percentage or amount, or each impact fee may be evaluated to determine if the specified fee should be reduced by a specified percentage or amount.

Should NCC consider applying a full exemption to all impact fees to MPDUs?	Should NCC determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee?	Should all impact fees to MPDUs be reduced by a specified percentage or amount?	Other
<i>Scale</i> <120% AMI => 75% 100-120% => 50% 80-100% => 25% <80% => No fee			

Handwritten comments:

Should NCC consider applying a full exemption to all impact fees to MPDUs?

- Scale
 - o <120% AMI => 75%
 - o 100-120% => 50%
 - o 80-100% => 25%
 - o <80% => No fee

Graduated Fee Increases

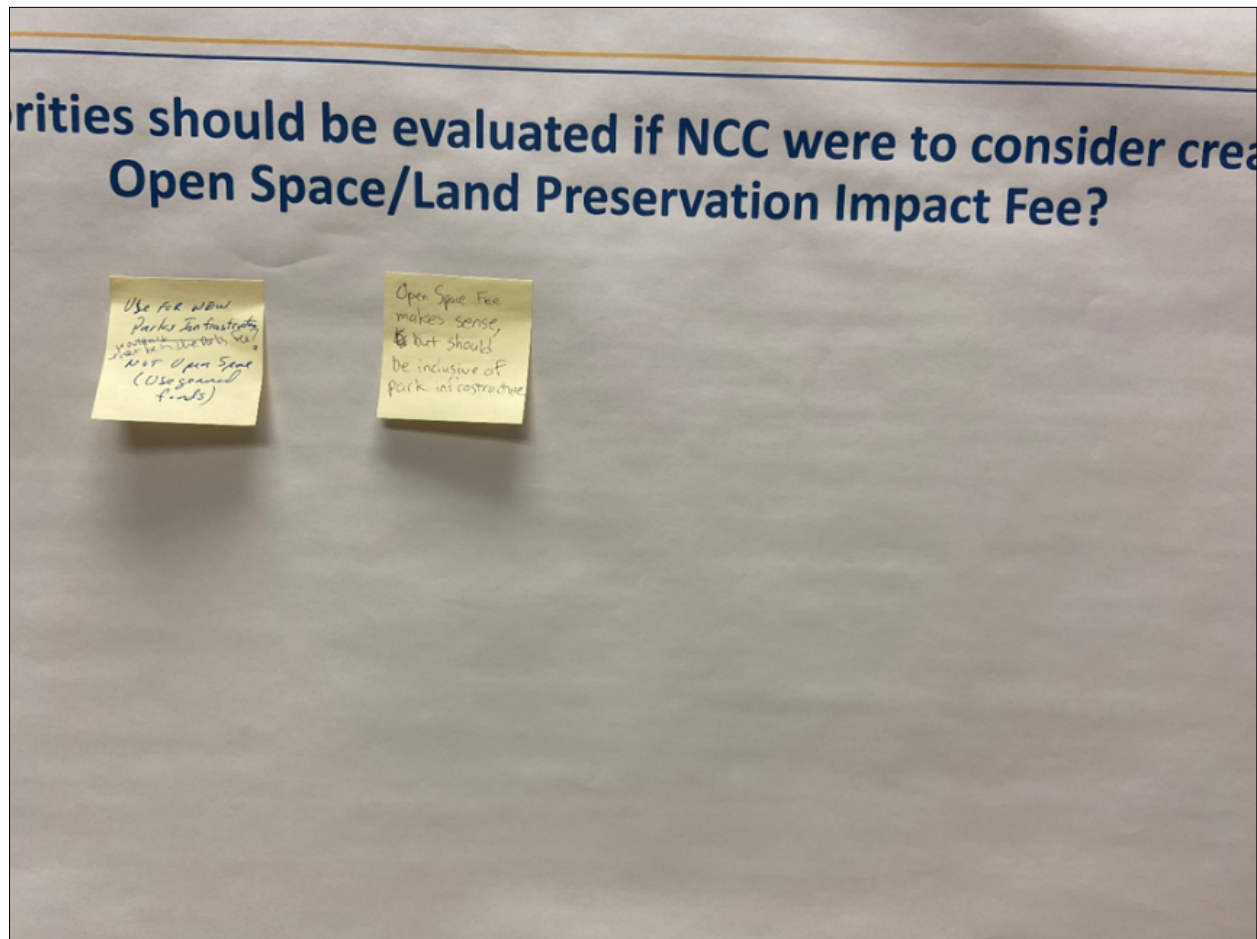
Place three stickers on your most preferred scenarios to increase Impact Fees.

- = Favorite scenario/first choice
- = Second favorite scenario/second choice
- = Third favorite scenario/third choice

No increases in fees	
No increases in fees, then annual indexing adjustments	
Phased in approach of 5% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments	
Phased in approach of 10% increases over a period of 2-5 years to slowly adjust for the last 16 years, then annual indexing adjustments	
75% increase to match the ENR CCI cumulative total, then annual indexing adjustments	Yes, with scaled levels for MPDU. SNCC Development has gotten away with paying less of their fair share for ~25 years. We need infrastructure and services.

Handwritten comments:

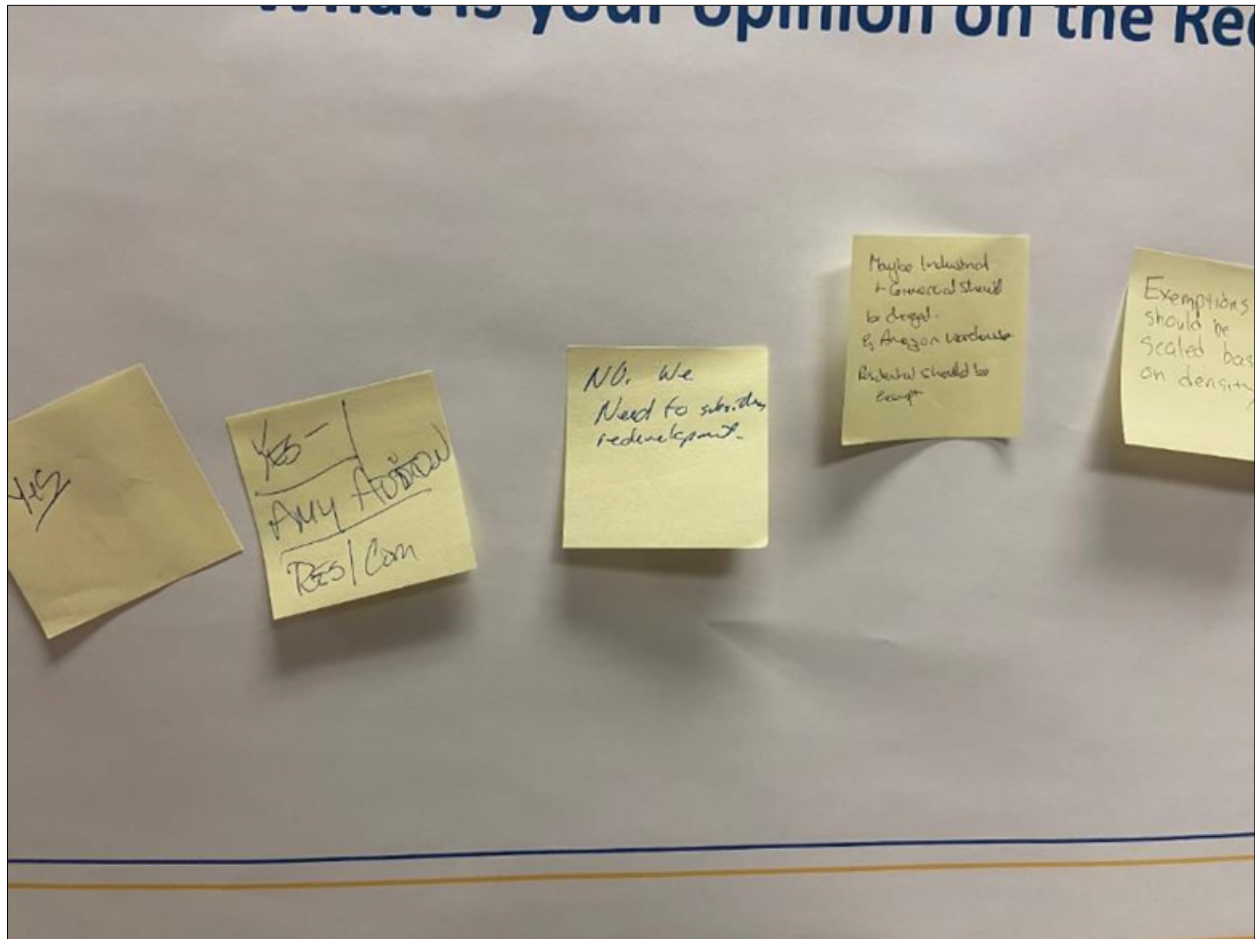
- Yes, with scaled levels for MPDU.
- SNCC Development has gotten away with paying less of their fair share for ~25 years. We need infrastructure and services.



Handwritten comments:

What priorities should be evaluated if NCC were to consider creating an Open Space/Land Preservation Impact Fee?

- Use for new Parks Infrastructure.
 - 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?

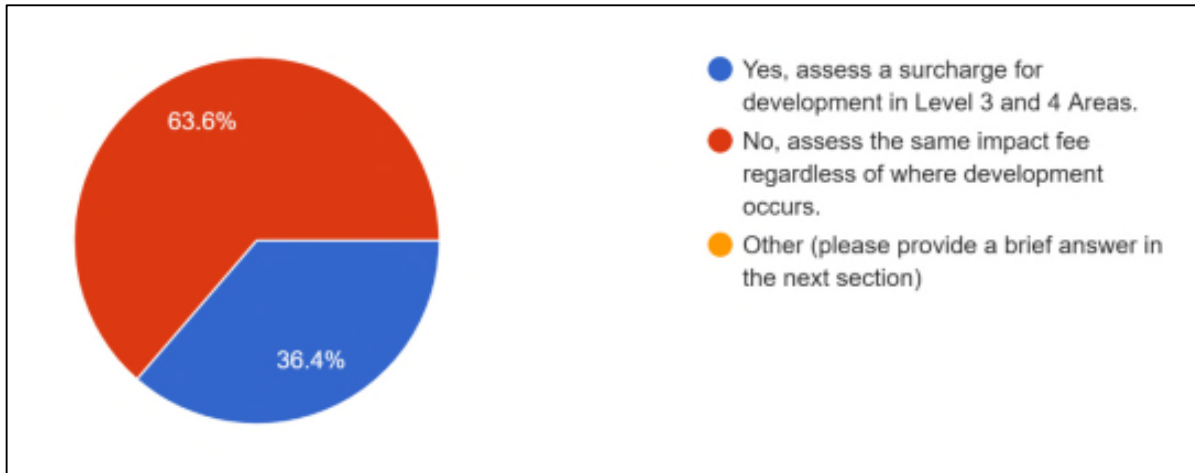
- Yes.
- Yes – any addition Res/Com.
- No, we need to subsidize redevelopment.
- Maybe Industrial and Commercial should be merged.
 - E.g., Amazon warehouse.
- Residential should be exempt.
- Exemptions should be scaled based on density.

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.

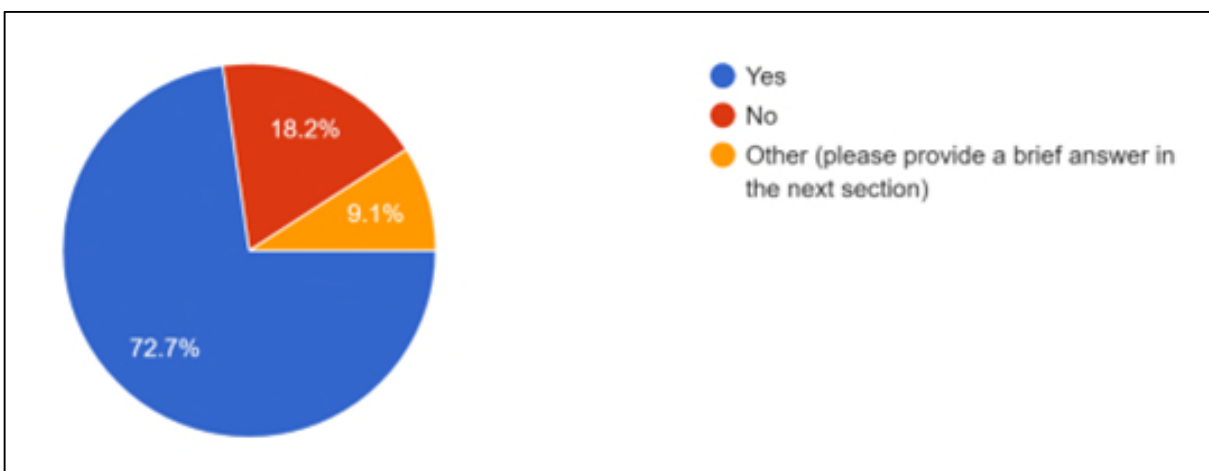
The online survey posed eleven (11) questions for respondents to consider. The first eight (8) questions allowed for a 'Yes,' 'No,' or 'Other' response. If 'Other' was chosen, respondents were provided the option to provide a short answer. The remaining three (3) questions had a more open-ended format. 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

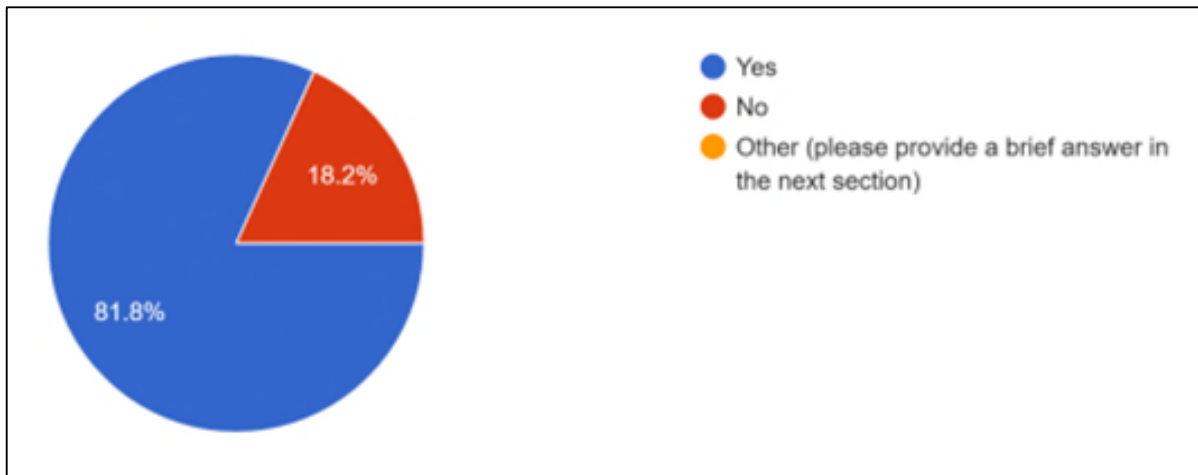
2. Should NCC consider charging a separate Multi-family Resident Facility Use Impact Fee based on number of dwelling units?



"Other" responses:

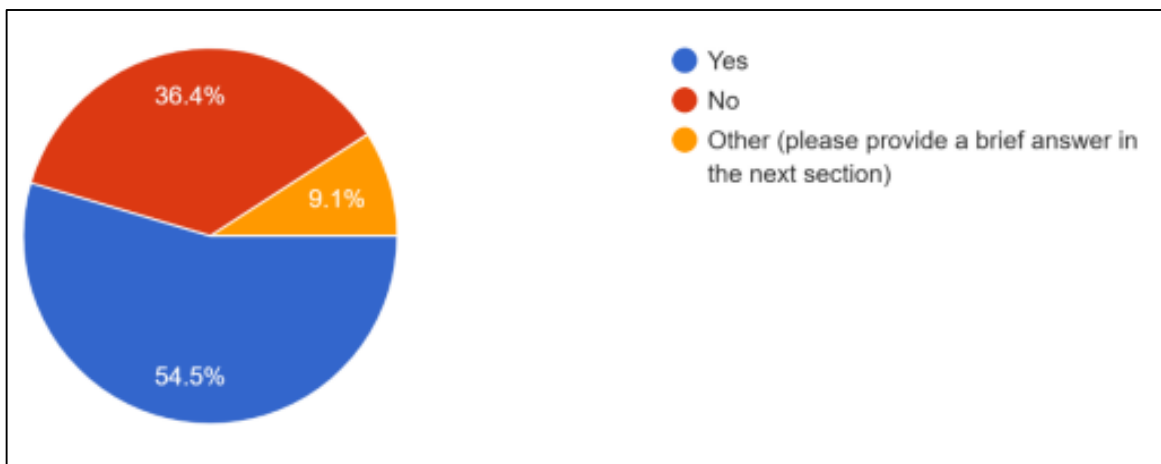
- Thought that is what is.

3. Should NCC consider charging a separate Institutional Use Impact Fee?



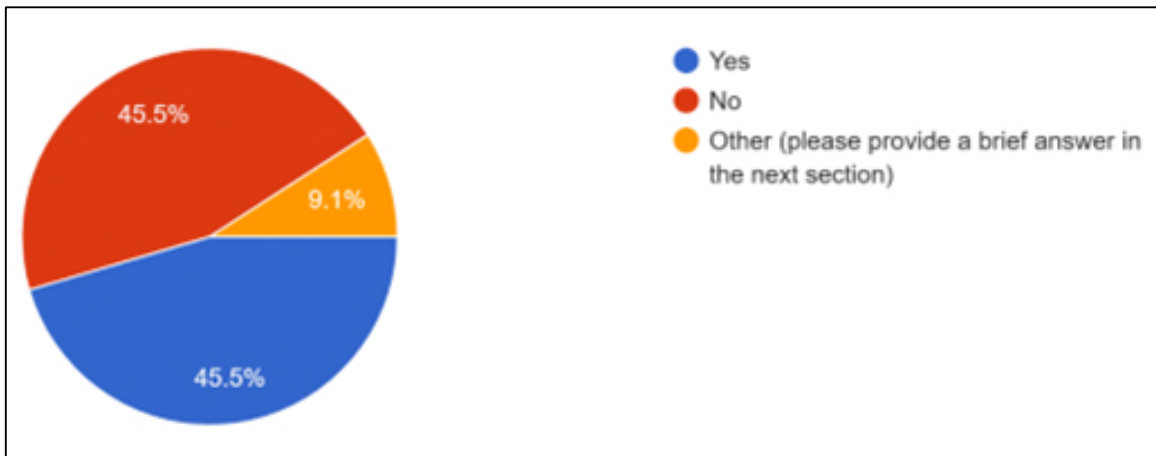
"Other" responses: N/A

4. Should NCC consider charging a separate Lodging Use Impact Fee?



"Other" responses: N/A

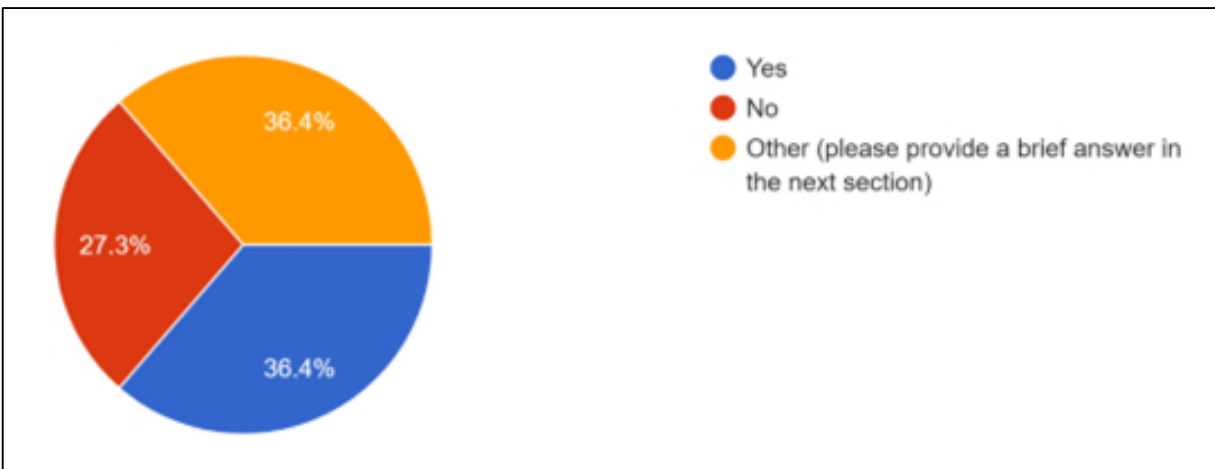
5. Should NCC consider charging a separate Restaurant Impact Fee based on anticipated customer turnover?



"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.

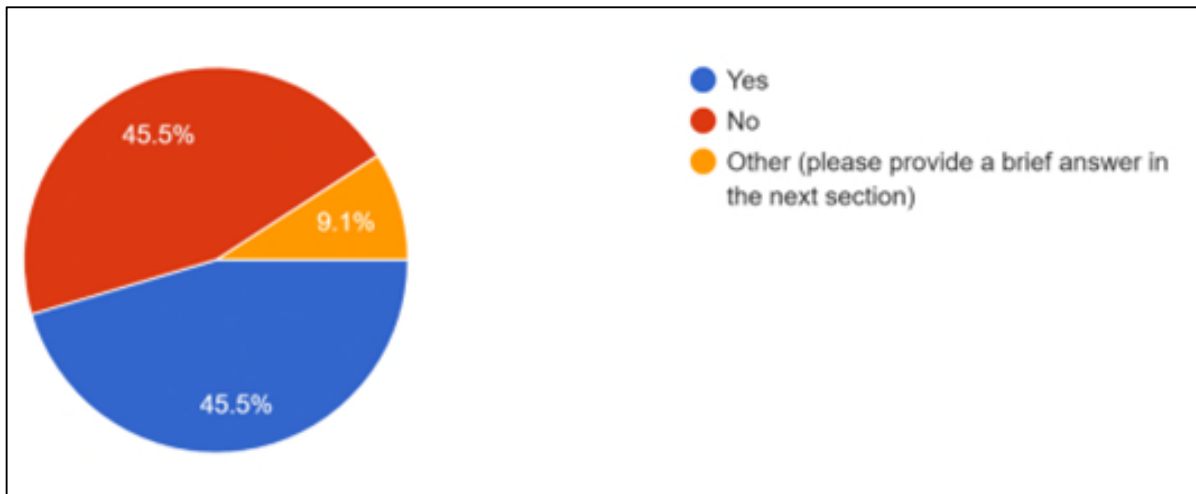
6. Should NCC consider applying a full exemption to all impact fees to Moderately Priced Dwelling Units (MPDUs)?



"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.

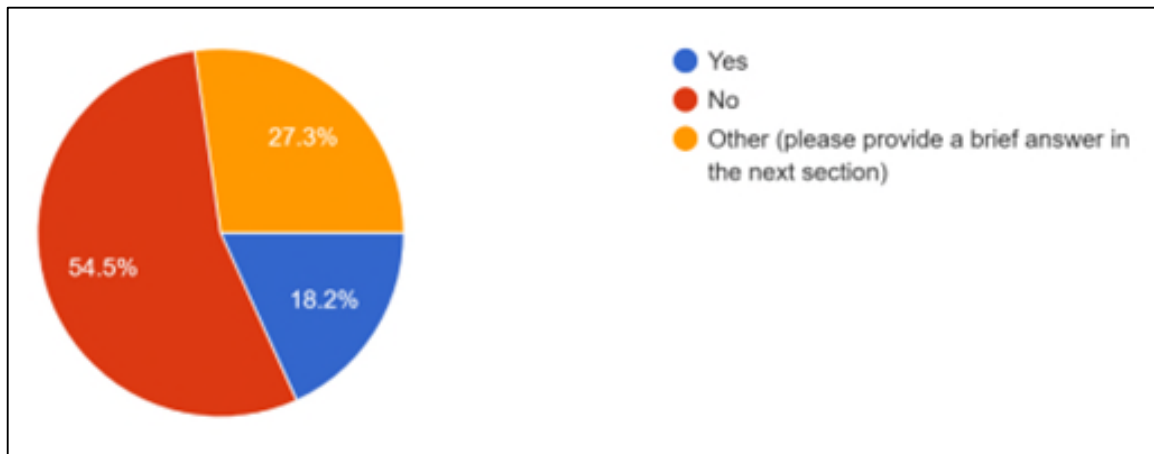
7. Should NCC determine on a fee-by-fee basis if MPDUs should be exempt from a specific fee?



"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?



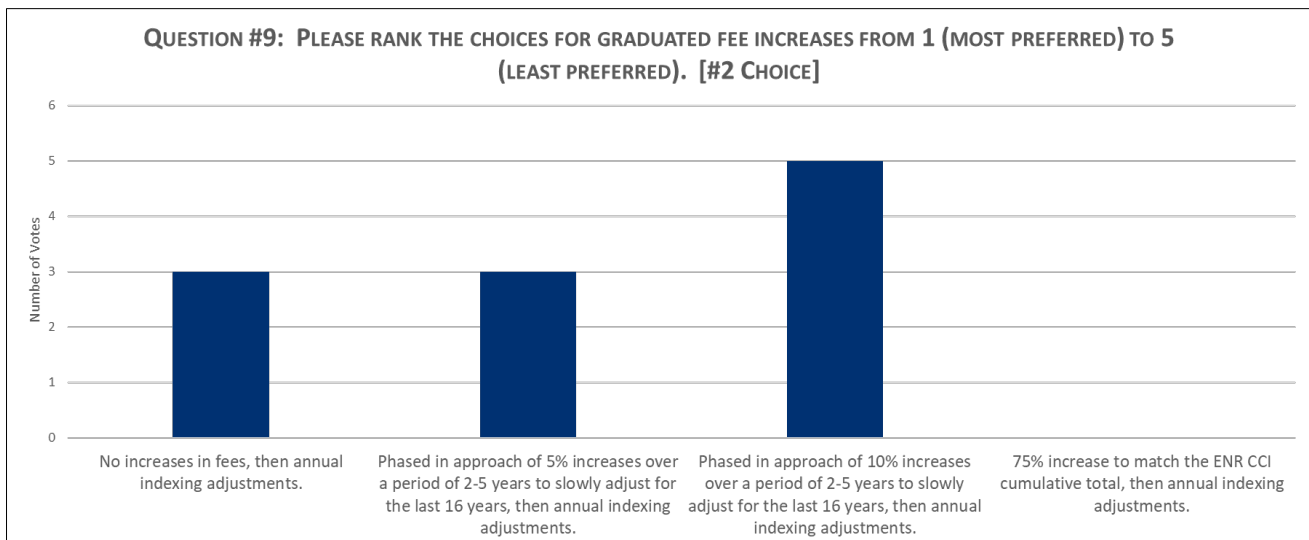
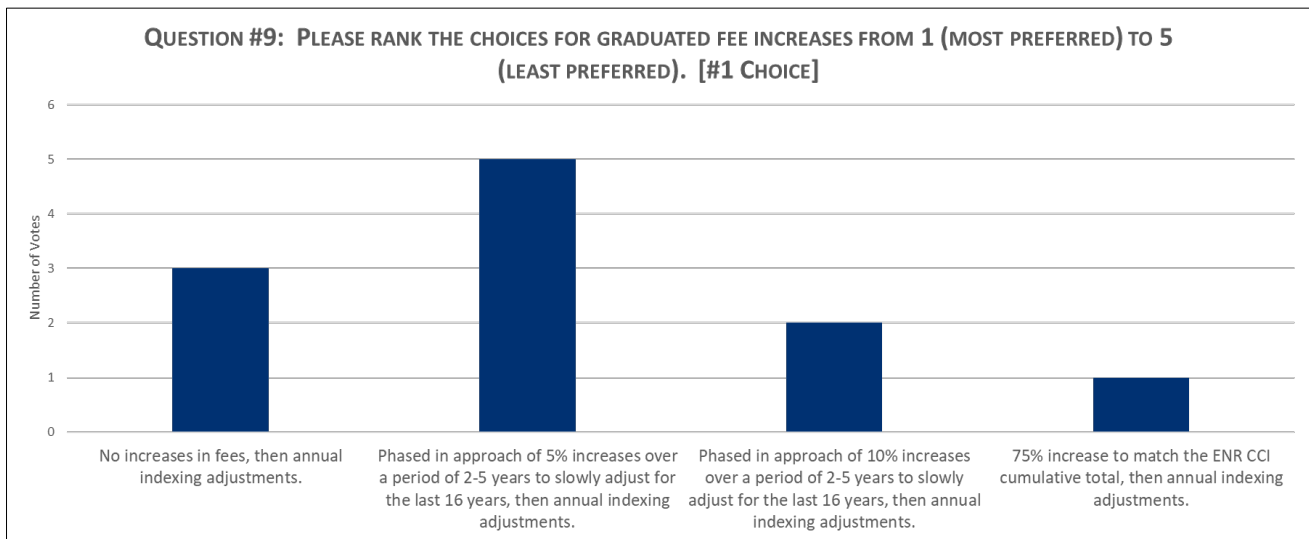
"Other" responses:

- 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

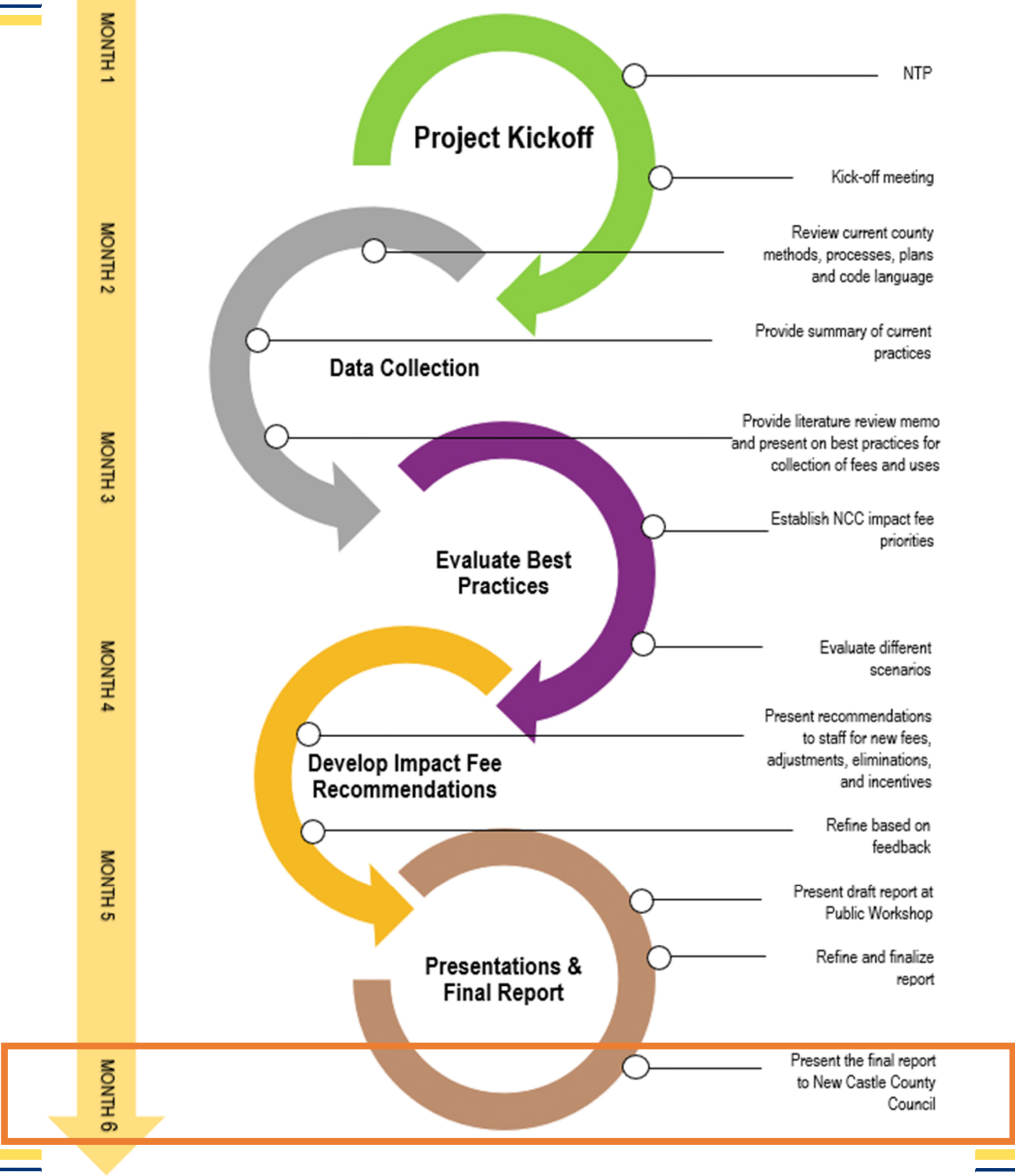
- Project Overview
 - Scope
 - Timeline
- Methodology
 - Existing Practices
 - Best Practices
- Public Feedback
- Final Recommendations

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

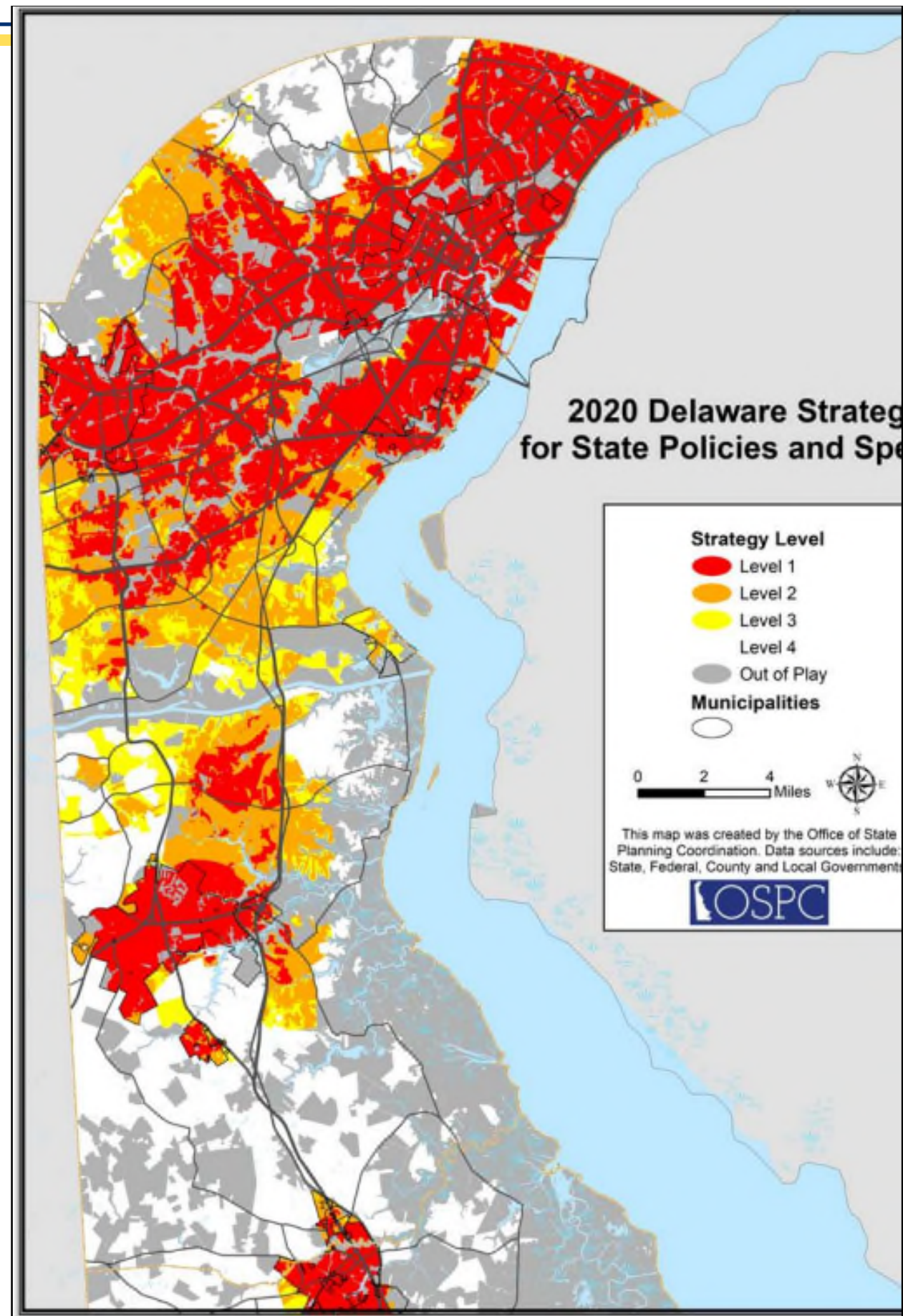
- Seminole County, Florida
- Green Infrastructure
 - City of Newark, DE
- Open Space Preservation Impact Fee
 - City of Chicago, Illinois
 - Martin County, Florida
 - Delaware Nature Conservancy
- Affordable Housing Considerations
 - Portland, Oregon
 - Austin, Texas

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

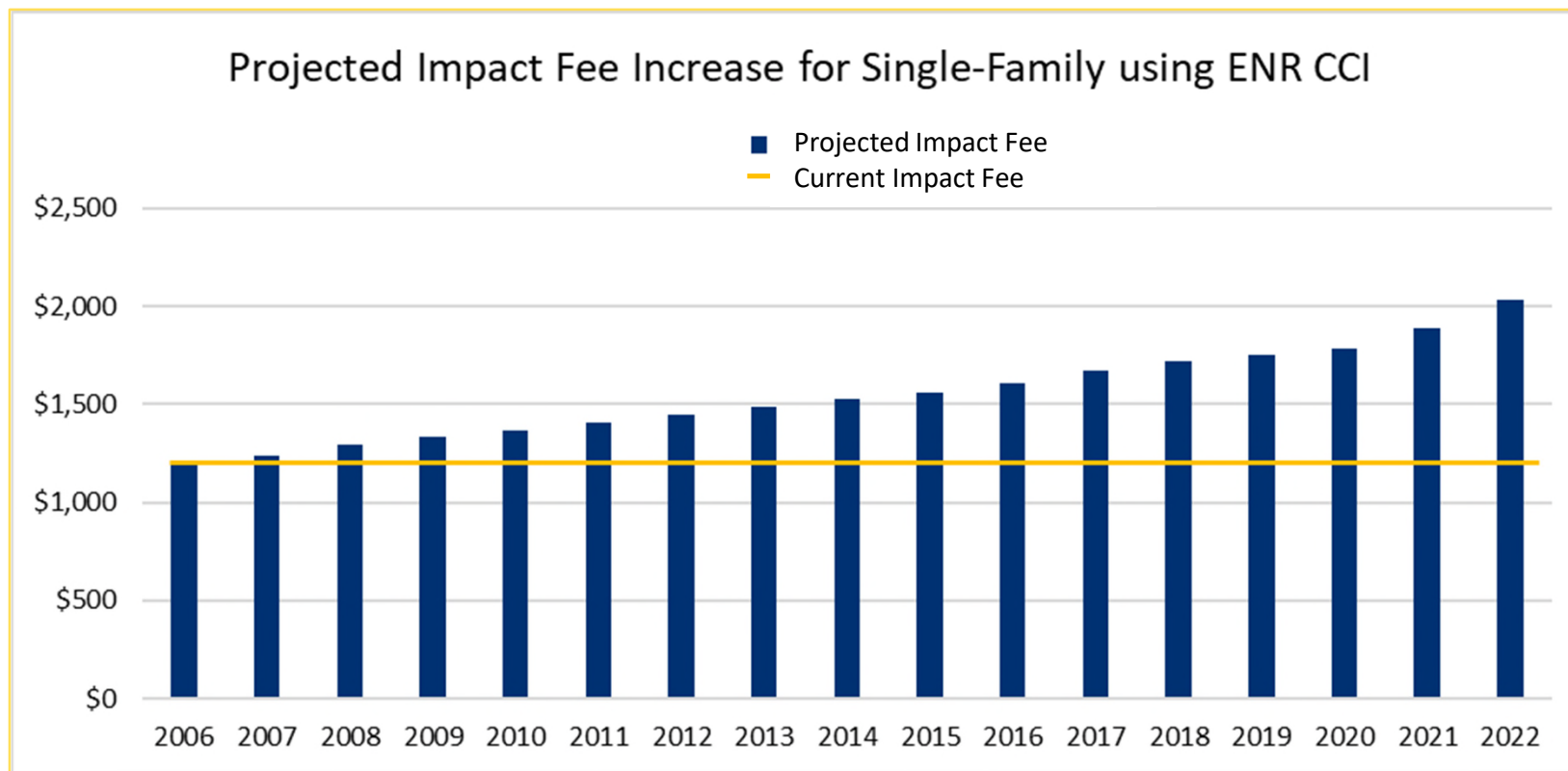
- Moderately Price Dwelling Units (MPDUs) are required for all residential rezonings or variance applications with density increases except for mixed-use developments.
- Currently there are no Impact Fee reductions or exemptions for development of MPDUs.
- NCC provides a density bonus for major residential 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.

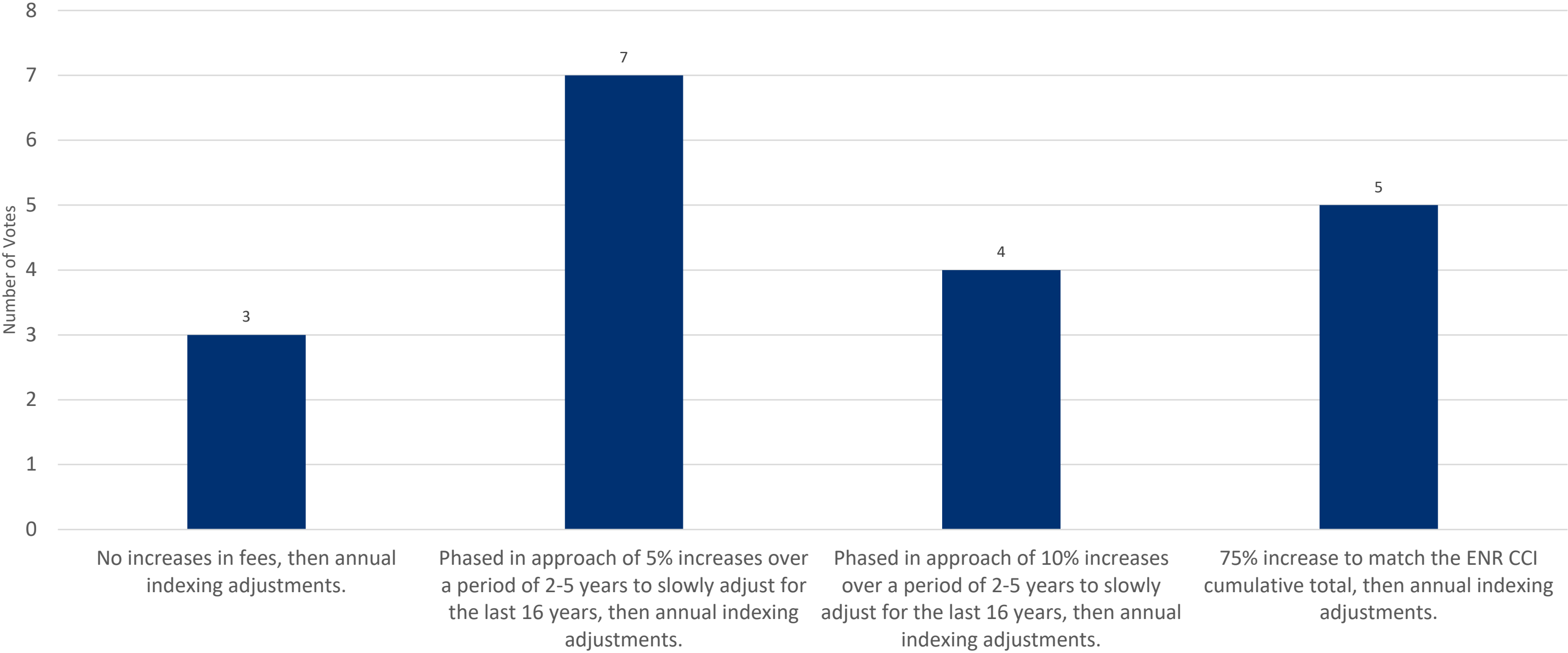


- Should NCC consider:
 - No increases in fees
 - No increases in fees, then annual indexing adjustments
 - Phased in approach of 5% increases over a period of 2-5 years, then annual indexing adjustments
 - Phased in approach of 10% increases over a period of 2-5 years, then annual indexing adjustments
 - 75% increase to match the ENR CCI cumulative total, then annual indexing adjustments

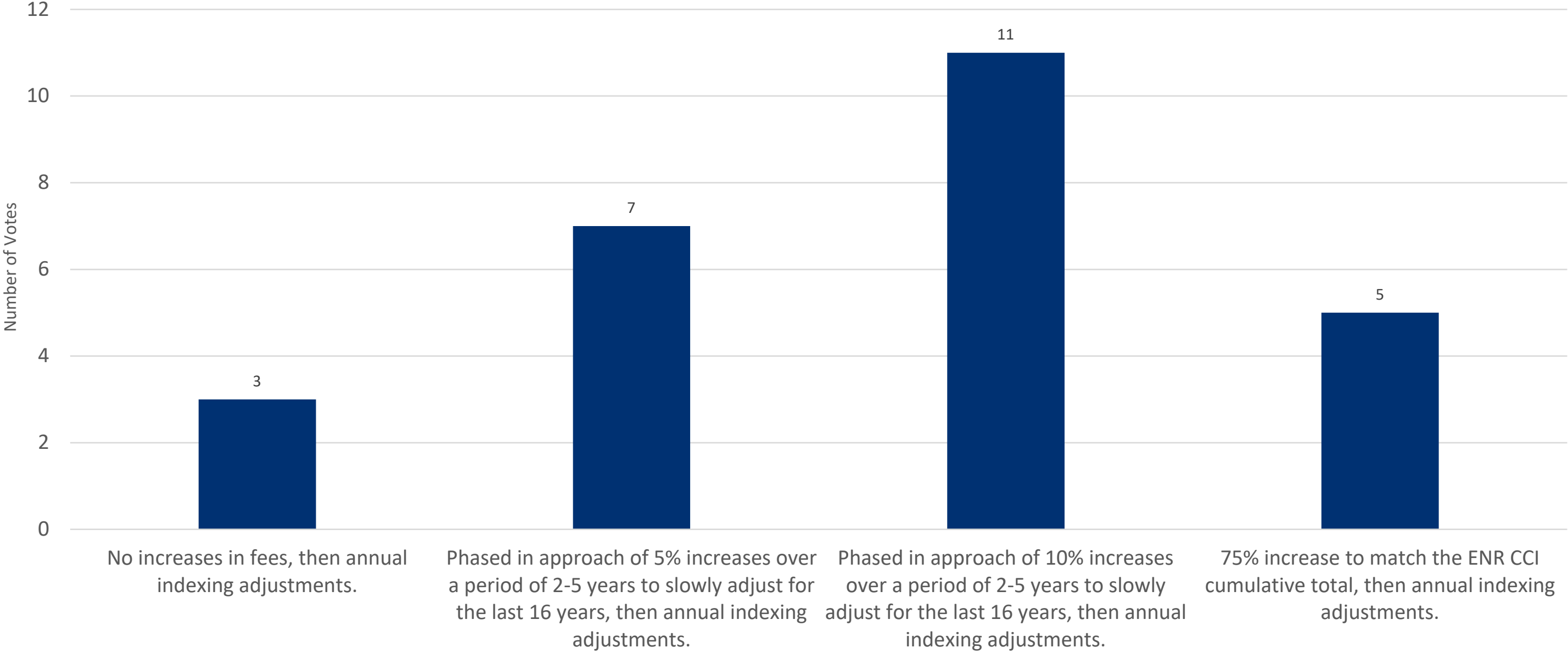
Recommendation 4 - Feedback

- 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.

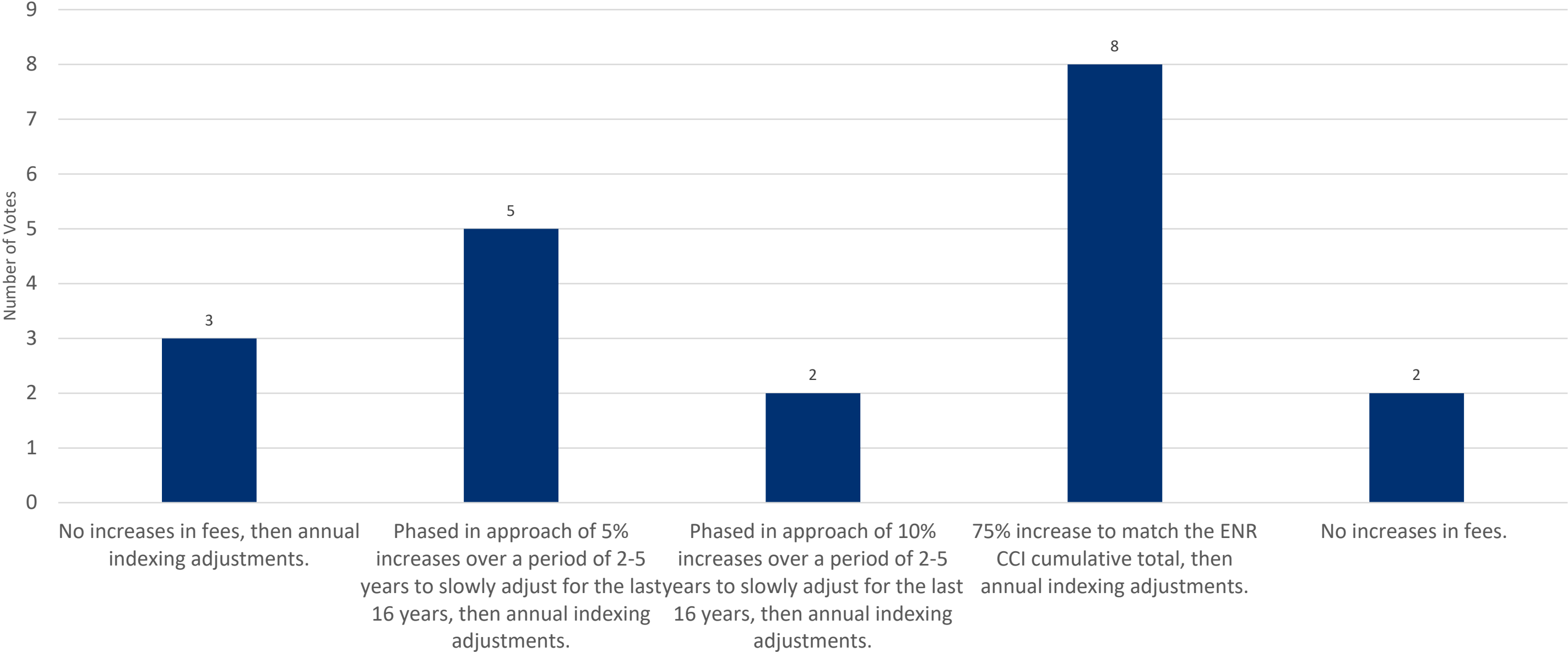
QUESTION #9: PLEASE RANK THE CHOICES FOR GRADUATED FEE INCREASES FROM 1 (MOST PREFERRED) TO 5 (LEAST PREFERRED). [#1 CHOICE]



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.