



NEW CASTLE COUNTY COUNCIL LAND USE COMMITTEE MEETING

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

March 25, 2025
4:30 PM

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

AGENDA

A. Meeting Call to Order

B. Approval of Minutes

C. Review/Discussion of Resolution(s)

R25-051: PLAN OF CLAYMONT SELF STORAGE; BRANDYWINE HUNDRED; WEST SIDE OF PHILADELPHIA PIKE, 800 FEET SOUTH OF MAPLE LANE; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO COMBINE TAX PARCELS 06-095.00-582 AND 06-095.00-588 TO CONSTRUCT A 100,862 SQUARE FOOT SELF-STORAGE BUILDING; CR ZONING; [APPLICATION NO. 2022-0475](#); COUNCIL DISTRICT 8
Prime Sponsor(s): Mr. Cartier

D. Review/Discussion of Ordinance(s)

SUBSTITUTE NO. 1 TO °24-130: AMENDING NEW CASTLE COUNTY CODE CHAPTER 40 (THE "UNIFIED DEVELOPMENT CODE") TO ESTABLISH A ZONING DISTRICT FOR PUBLICLY OWNED CONSERVED LAND AND PUBLIC PARKS
Prime Sponsor(s): Mr. Carter, Ms. Durham, Mr. Toole, Mr. Cartier, Mr. Caneco, Mr. Tackett

E. Presentations

F. Other

G. Public Comment

H. Adjournment

AGENDA POSTED: MARCH 11, 2025

*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. Cartier
Requested by: Department of Land Use
Date of introduction: March 25, 2025

RESOLUTION NO. 25-051

PLAN OF CLAYMONT SELF STORAGE; BRANDYWINE HUNDRED; WEST SIDE OF PHILADELPHIA PIKE, 800 FEET SOUTH OF MAPLE LANE; MAJOR LAND DEVELOPMENT PLAN THAT PROPOSES TO COMBINE TAX PARCELS 06-095.00-582 AND 06-095.00-588 TO CONSTRUCT A 100,862 SQUARE FOOT SELF-STORAGE BUILDING; CR ZONING; APPLICATION NO. 2022-0475; COUNCIL DISTRICT 8

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, Claymont Self Storage (Application No. 2022-0475) 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.

**CLAYMONT SELF STORAGE
Brandywine Hundred**

Adopted by County Council of
New Castle County on:

Monique Williams-Johns
President of County Council
of New Castle County

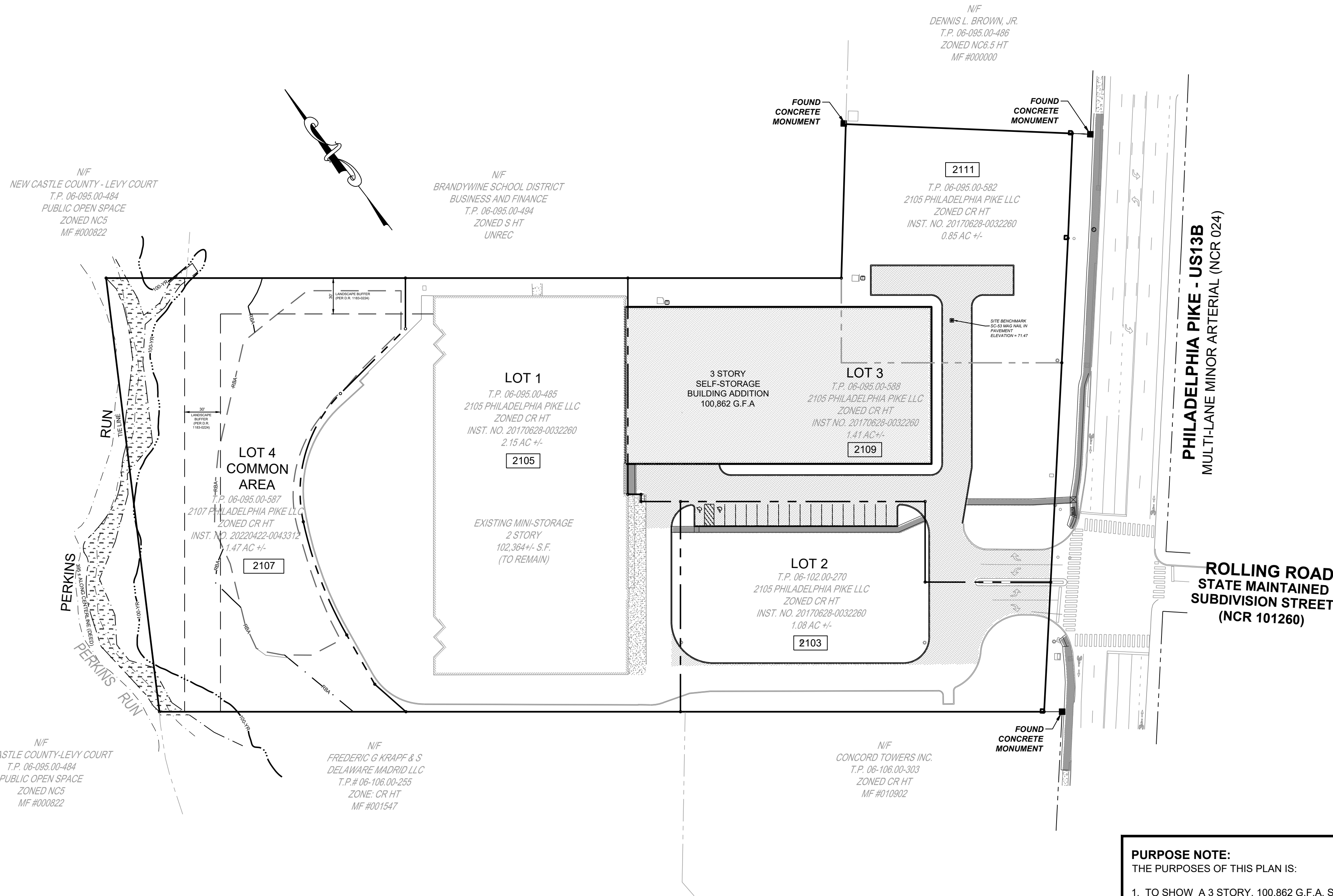
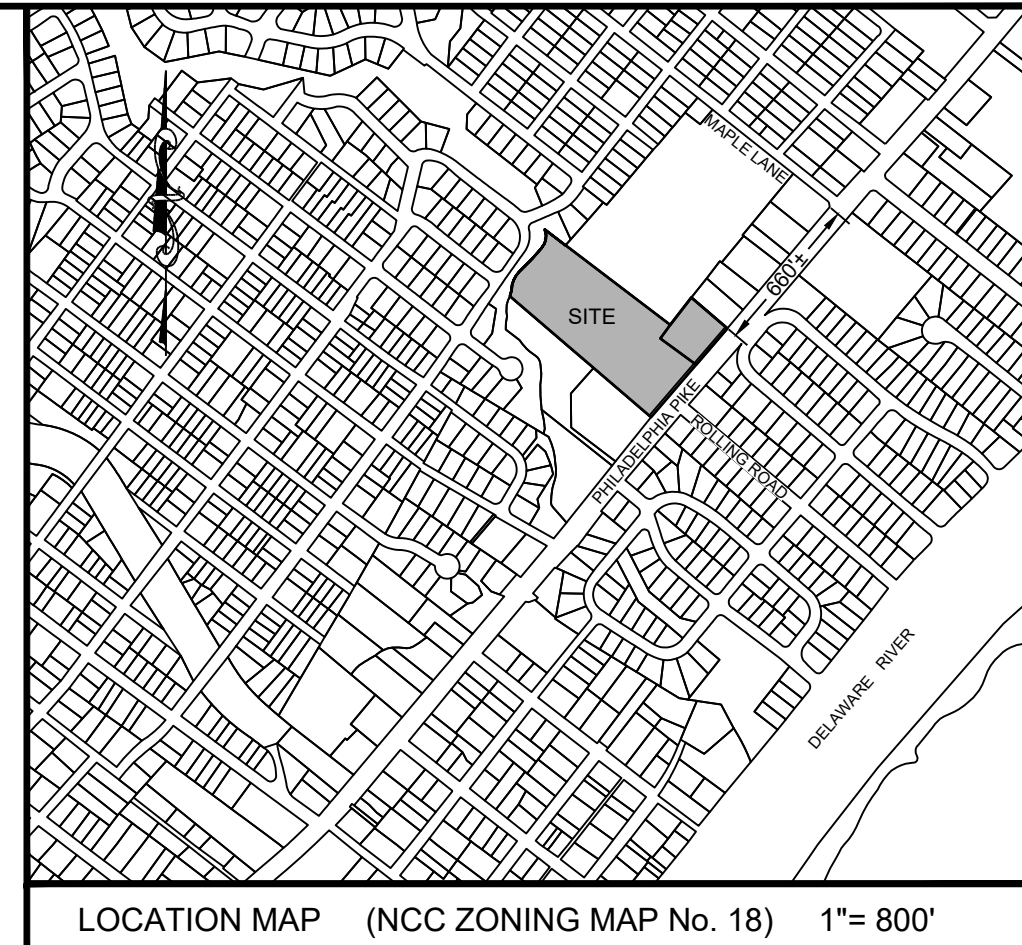
SYNOPSIS: Same as title

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.

RECORD MAJOR LAND DEVELOPMENT PLAN

CLAYMONT SELF STORAGE

BRANDYWINE HUNDRED - NEW CASTLE COUNTY, DE



PURPOSE NOTE:
THE PURPOSES OF THIS PLAN IS:

1. TO SHOW A 3 STORY, 100,862 G.F.A. SELF STORAGE BUILDING ADDITION AND RELATED SITE IMPROVEMENTS.
2. TO COMBINE T.P. 06-095.00-582 AND T.P. 06-095.00-588 INTO ONE SINGLE PARCEL.

INDEX OF SHEETS	
SHEET 1	COVER SHEET
SHEET 2	NOTES & LEGEND
SHEET 3	SUBDIVISION PLAN

PLAN DATA AND NOTES

- TAX MAP NUMBERS:** 06-102.00-270, 06-095.00-485, 582, 587 & 588
- EXISTING / PROPOSED ZONING:** CR - COMMERCIAL REGIONAL
HT - HOMETOWN OVERLAY
- SOURCE OF TITLE:** 20161213-0065291
- SURVEY DATUM:** BEARINGS SHOWN ARE IN DEED BEARING SYSTEM
HORIZ.-N.A.D. 83/91 DE STATE PLANE GRID
VERT.: N.A.V.D. 1988
LOCAL BENCHMARK: MAG NAIL, SC-53 ELEV. = 71.47 +/-
N:852148.2304; E:640458.7599
- NUMBER OF EXISTING MONUMENTS:** 3
NUMBER OF PROPOSED MONUMENTS: 3
- SITE GROSS ACREAGE:** 3.339± AC.
- WATER SUPPLIER:** VEOLIA NORTH AMERICA
WATER SUPPLY IS SUBJECT TO THE APPROVAL OF THE DELAWARE STATE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND THE DELAWARE DEPARTMENT OF PUBLIC HEALTH.
- 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.
NO ADDITIONAL FLOWS PROPOSED BY THIS PLAN.
- PROPERTY ADDRESS / OWNER:**
ADDRESS:
TP 06-102.00-270 (LOT 2)
2103 PHILADELPHIA PIKE
CLAYMONT, DE 19303
TP 06-095.00-485 (LOT 1)
2105 PHILADELPHIA PIKE
CLAYMONT, DE 19303
TP 06-095.00-588 (LOT 3)
2109 PHILADELPHIA PIKE
CLAYMONT, DE 19303
TP 06-095.00-587 (LOT 4)
2107 PHILADELPHIA PIKE LLC
CLAYMONT, DE 19303
TP 06-095.00-582
2111 PHILADELPHIA PIKE
CLAYMONT, DE 19303
OWNER:
2105 PHILADELPHIA PIKE LLC
70 E LANCASTER AVENUE
MALVERN, PA 19355
2105 PHILADELPHIA PIKE LLC
70 E LANCASTER AVENUE
MALVERN, PA 19355
2105 PHILADELPHIA PIKE LLC
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70 E LANCASTER AVENUE
MALVERN, PA 19355
2105 PHILADELPHIA PIKE LLC
70 E LANCASTER AVENUE
MALVERN, PA 19355
- EXISTING BUILDING GFA:** 102,364 SF (LOT 1 NOT IMPACTED)
PROPOSED BUILDING GFA: 100,862 SF (LOT 3)
TOTAL: 203,226 SF
- PARKING RATIONALE:**
PARKING REQUIRED:
(MINI STORAGE SALES FLOOR AREA) @ 3.5 P.S. PER 1,000 SF = (1,060 SF) * 3.5 PS/1000
SPACES REQUIRED: 4 SPACES
SPACES PROVIDED: 18 SPACES (2 VAN ACCESSIBLE HANDICAP)
LOADING BAYS REQUIRED: 4 LOADING BAYS
LOADING BAYS PROVIDED: 4 LOADING BAYS
BIKE SPACES REQUIRED: 2 SPACES
BIKE SPACES PROVIDED: 2 SPACES
- SUBDIVISION / SITE DATA**

	EXISTING	PROPOSED
LOT 2	1.081± AC.	
LOT 3 & T.P. 06-095.00-582 (COMBINED)	2.258± AC.	
- LAND DEVELOPMENT DATA (LOT 2 & 3)**

	EXISTING	PROPOSED
BUILDING COVERAGE:	0± AC. (0.0%)	0.772± AC. (23.1%)
OTHER IMPERVIOUS COVERAGE:	2.109± AC. (63.2%)	0.720± AC. (21.6%)
OPEN AREA (INCLUDES EXIST. SWM 0.561 +/- AC. PROP. SWM 0.044 +/- AC.)	1.230± AC. (36.8%)	1.847± AC. (55.3%)

(NOTES CONTINUED ON SHEET #2)

APPLICATION NO. 2022-0475

RECORD
MAJOR LAND DEVELOPMENT PLAN
FOR
CLAYMONT SELF STORAGE

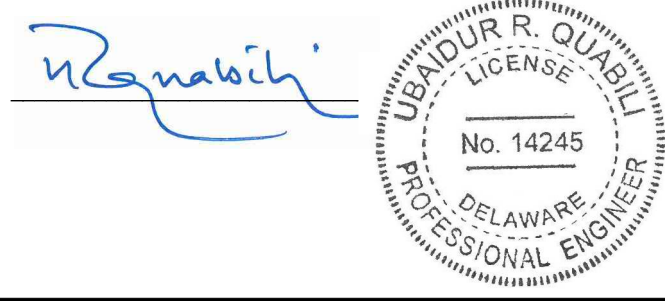
SITUATE IN: BRANDYWINE HUNDRED, NEW CASTLE COUNTY, DELAWARE

CERTIFICATION OF PLAN ACCURACY - (BOUNDARY ONLY)

THE PRECEDING "RECORD MINOR LAND DEVELOPMENT PLAN, MINI STORAGE CONVERSION, 2105 PHILADELPHIA PIKE", PREPARED BY DUFFIELD AND ASSOCIATES AND RECORDED 6/28/17, INSTRUMENT NO. 20170628-0032260 AND CERTIFIED BY JOHN J. TRAYNOR, III, P.L.S., WAS CERTIFIED WITH RESPECT TO THE BOUNDARY FOR THIS SUBDIVISION. THERE IS NO CHANGE IN THIS PLAN RELATIVE TO THAT BOUNDARY.

CERTIFICATION OF PLAN ACCURACY - (INTERIOR ONLY)

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

02/21/2025
DATE

CERTIFICATE OF OWNERSHIP (TP 06-102.00-270, 06-095.00-485, 582, 587 & 588)

I, RICHARD SUDALL, P.E. HEREBY CERTIFY THAT 2105 PHILADELPHIA PIKE, LLC IS THE OWNER OF THE PROPERTY WHICH IS SUBJECT OF THIS PLAN AND THE LAND USE ACTION PROPOSED BY THIS PLAN IS MADE AT ITS DIRECTION AND THAT IT AUTHORIZES THIS PLAN TO BE RECORDED IN ACCORDANCE WITH THE REGULATIONS OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE.

Richard Sudall, P.E.
AUTHORIZED MEMBER

02/21/2025
DATE

CERTIFICATION OF PLAN APPROVAL

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

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

02-20-2025	12-10-2024	09-10-2024	08-14-2024	10-27-2023	date
URQ	URQ	URQ	DS	DS	checked
PER NCC COMMENTS DATED 2-4-2025	PER BELDOT COMMENTS DATED 7-13-2024	PER BELDOT COMMENTS DATED 09-10-2024	PER BELDOT COMMENTS DATED 09-10-2024	PER NCC COMMENTS	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: 2105 PHILADELPHIA PIKE LLC 70 E LANCASTER AVE MALVERN, PA 19355					PROPERTY ADDRESS: 2105 & 2107 PHILADELPHIA PIKE CLAYMONT, DE 19303
SURVEY BY: KA					SCALE: 1" = 60'
DESIGNED BY: DE					0 60 120
DRAWN BY: DE					DATE: 06/14/2023 SHEET: 1 OF 3
CHECKED BY: DS					DRAWING NO.: 2855.03-A01

PLAN DATA AND NOTES CONTINUED:

13. EXISTING USE (ALL PARCELS): COMMERCIAL (MINI-STORAGE)

PROPOSED USE (ALL PARCELS): COMMERCIAL (MINI-STORAGE)

NUMBER OF EXISTING PARCELS = 3

NUMBER OF PROPOSED PARCELS = 0 (2 REMAINING)

CR ZONING BULK AREA RESTRICTIONS (HEAVY RETAIL AND SERVICE)

LOT AREA: 2 ACRES

LOT WIDTH: 100'

STREET YARD SETBACK: 40'

SIDE YARD: 20'

REAR YARD: 20'

PARKING SETBACK (STREET/OTHER): 25' / 5'

BUILDING HEIGHT: 50'
14. FLOODPLAIN

A PORTION OF THIS SITE LIES WITHIN A 100 YEAR FEMA FLOODPLAIN AS DEFINED IN THE FEMA FLOOD INSURANCE STUDY PREPARED FOR NEW CASTLE COUNTY BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AS SHOWN ON THE FLOOD INSURANCE RATE MAP NO. 10003C0086L DATED JANUARY 22, 2020.
15. WATER RESOURCE PROTECTION AREA (WRPA)

PROPERTY SHOWN HEREON IS NOT LOCATED WITHIN A WATER RESOURCE PROTECTION AREA AS SHOWN ON A MAP ENTITLED "WATER RESOURCE PROTECTION AREAS FOR NEW CASTLE COUNTY", MAP 1 OF 3, DATED MARCH 2022.
16. WETLANDS

THE WETLANDS BOUNDARIES DEPICTED ON THIS PLAN WERE TAKEN FROM A WETLANDS STUDY PREPARED BY DUFFIELD, ATLANTIC HYDROLOGIC, INC. DATED NOVEMBER 3, 2016. THE SITE WAS INVESTIGATED FOR WETLANDS IN ACCORDANCE WITH THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL (TECHNICAL REPORT Y-87-1).
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

THIS PLAN SUPERSEDES IN PART THE RECORD MINOR LAND DEVELOPMENT PLAN FOR 2105 PHILADELPHIA PIKE, DATED MARCH 28, 2017, AND RECORDED JUNE 28, 2017 IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE, INSTRUMENT NO. 20170628-0032280 AND THE RECORD TITLE SUBDIVISION PLAN FOR 2105 & 2107 PHILADELPHIA PIKE, DATED OCTOBER 12, 2021 IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR NEW CASTLE COUNTY, STATE OF DELAWARE INSTRUMENT NO. 20220422-0043312.
20. DEBRIS DISPOSAL

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

THIS PLAN IS SUBJECT TO IMPACT FEE PROVISIONS OF CHAPTER 40, ARTICLE 14, OF THE NEW CASTLE COUNTY CODE AS MAY BE AMENDED BY NEW CASTLE COUNTY COUNCIL.
22. 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. SIDEWALKS SHALL BE FIVE (5) FEET IN WIDTH AND CONSTRUCTED OF PORTLAND CEMENT CONCRETE.
23. MAINTENANCE OF COMMON FACILITIES

ALL COMMON FACILITIES, INCLUDING, BUT NOT LIMITED TO PAVED AREAS, SIDEWALKS, CURBING, LANDSCAPING, OPEN SPACE, STORMWATER MANAGEMENT AREAS AND / OR DRAINAGE FACILITIES SHALL BE KEPT IN GOOD REPAIR AND MAINTAINED IN A SAFE AND SANITARY CONDITION IN ACCORDANCE WITH THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE.
24. TOTAL LENGTH OF PUBLIC AND PRIVATE RIGHT-OF-WAYS: N/A
25. FIRE PROTECTION

ALL FIRE LANES, FIRE HYDRANTS AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED AND MAINTAINED IN ACCORDANCE WITH THE STATE OF DELAWARE FIRE PROTECTION REGULATIONS.

EXISTING FIRE HYDRANTS: 1

PROPOSED FIRE HYDRANTS: 0
26. COASTAL ZONE

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

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

ANY AREA DESIGNATED FOR PROTECTION AS A NATURAL RESOURCE PURSUANT TO ARTICLE 10 OF THE NEW CASTLE COUNTY UNIFIED DEVELOPMENT CODE IS HEREBY PROTECTED BY A CONSERVATION EASEMENT THAT SHALL RUN IN PERPETUITY FOR THE BENEFIT OF NEW CASTLE COUNTY. ANY AREA ON THIS PLAN DELINEATED AS A CONSERVATION EASEMENT SHALL REMAIN IN ITS NATURAL STATE.
29. (RESERVED)
30. PROPORTIONAL COMPLIANCE

PER SECTION 40.08.130.B.1 OF THE UDC, THE EXISTING PAVED IMPERVIOUS AND PARKING AREA SETBACKS SHALL BE MADE PROPORTIONALLY COMPLIANT TO THE PROPOSED EXPANSION. THIS PLAN PROPOSES TO MEET 100% OF THE PAVING SETBACK REQUIREMENTS OF SECTION 40.04.110 OF THE UDC BY REMOVING PAVED AREAS THAT EXTEND INTO ESTABLISHED PAVING SETBACK LINES. THERE ARE NO OTHER EXISTING NONCOMFORMITIES ON THIS SITE SUBJECT TO PROPORTIONAL COMPLIANCE.
31. TOPOGRAPHY

THE BOUNDARY AND TOPOGRAPHIC INFORMATION DEPICTED ON THIS PLAN IS TAKEN FROM THE EXISTING CONDITIONS PLAN FOR PROPERTY KNOWN AS - aka PERKINS RUN CENTER, PREPARED BY TRANSITION ENGINEERING SURVEYING, DATED SEPTEMBER 2016. A PARTIAL TOPOGRAPHIC SURVEY WAS PERFORMED BY KARINS AND ASSOCIATES IN NOVEMBER 2019.
32. COMMUNITY POSTAL BOXES

N/A.
32. 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.
33. 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.
34. STORMWATER MANAGEMENT FACILITY MAINTENANCE

A STORMWATER MANAGEMENT ACCESS EASEMENT IN FAVOR OF NEW CASTLE COUNTY, ITS AGENTS AND ASSIGNS IS HEREBY CREATED ON, OVER AND ACROSS THE ENTIRE AREA OF ALL STORMWATER MANAGEMENT FACILITIES INCLUDING STORMWATER CONVEYANCE SYSTEMS, BASINS, AND ALL COMPONENTS THEREOF, IDENTIFIED ON THE PLAN AND ALL WATERCOURSES FOR THE PURPOSE OF INSPECTING, EVALUATING, AND MAINTAINING THE STORMWATER MANAGEMENT FACILITIES AND WATERCOURSES. THE EASEMENT SHALL EXTEND 15 FEET FROM THE OUTER EDGES OF EACH SUCH STORMWATER MANAGEMENT FACILITY. A GENERAL ACCESS EASEMENT IS HEREBY CREATED OVER AND ACROSS THE PROPERTY SHOWN ON THIS PLAN GRANTING NEW CASTLE COUNTY, ITS AGENTS AND ASSIGNS THE RIGHT, PRIVILEGE AND AUTHORITY TO ENTER UPON, TRAVEL ACROSS THE PROPERTY TO EACH STORMWATER MANAGEMENT FACILITY. THE EASEMENT HEREIN CREATED SHALL BE FOR PEDESTRIAN VEHICULAR AND EQUIPMENT USE. IF NEW CASTLE COUNTY, ITS AGENTS OR ASSIGNS DETERMINES THAT MAINTENANCE IS REQUIRED TO A STORMWATER MANAGEMENT FACILITY, NEW CASTLE COUNTY SHALL PROVIDE NOTICE OF THE REQUIRED MAINTENANCE AND A TIME FRAME IN WHICH SUCH MAINTENANCE SHALL BE COMPLETED TO THE PROPERTY OWNER OR RESPONSIBLE PARTY. NO NOTICE SHALL BE REQUIRED WHERE NEW CASTLE COUNTY PERFORMS MAINTENANCE WHERE THERE IS IMMINENT THREAT TO LIFE, HEALTH OR PROPERTY. IN THE EVENT NEW CASTLE COUNTY ELECTS TO MAINTAIN THE STORMWATER MANAGEMENT FACILITIES, ALL EXPENSES SHALL BE JOINTLY AND SEVERALLY AGAINST THE OWNERS OF THE PROPERTY SHOWN ON THIS PLAN. 15' FOOT MINIMUM WIDE ACCESS IS REQUIRED AROUND ALL PROPOSED STORMWATER MANAGEMENT FACILITIES.
35. TREE PRESERVATION

THE DEVELOPER SHALL PRESERVE ALL TREES ON THIS SITE EXCEPT WHERE NECESSARY TO CONSTRUCT BUILDINGS, ACCESS WAYS, AND UTILITIES, AND WHERE SELECTIVE THINNING OF EXISTING VEGETATION IS APPROVED. EXISTING PLANT MATERIALS DESIGNATED TO REMAIN ON THIS PLAN, OR THE LANDSCAPE PLAN SHALL BE PRESERVED AND PROPERLY PROTECTED DURING CONSTRUCTION. IN THE CASE OF UTILITY RIGHT-OF-WAY AND EASEMENTS, ANY DISTURBED AREAS SHALL BE REPLANTED SO AS TO ACHIEVE A RECURRENCE OF NATURAL VEGETATIVE COVER.
36. CROSS ACCESS EASEMENT AND AGREEMENT

FOR CROSS ACCESS, COST SHARING AND / OR SHARED PARKING SEE AGREEMENT DATED FEBRUARY 18, 2025 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR NEW CASTLE COUNTY, DELAWARE ON FEBRUARY 19, 2025, INSTRUMENT No. 20250219-0011271. EACH NEW LOT CREATED HEREBY, AND THE OWNER(S) AND USERS THEREOF, SHALL BE AND REMAIN SUBJECT TO AND BOUND BY THE CROSS EASEMENT AND COST SHARING AGREEMENT. SHOULD THE MAINTENANCE ASSOCIATION BE UNABLE OR UNWILLING TO COMPLETE THE REQUIRED MAINTENANCE OF THE COMMON FACILITIES, THE OWNERS OF THE LOTS SHALL JOINTLY AND SEVERALLY RETAIN THE OBLIGATION TO MAINTAIN THE COMMON FACILITIES.
37. VARIANCE APPROVAL

THE NEW CASTLE COUNTY BOARD OF ADJUSTMENT GRANTED THE FOLLOWING AREA VARIANCES ON MARCH 23, 2023 IN APPLICATION No. 2022-0796-A, BOARD OF DECISION FILED ON MAY 8, 2023, SUBJECT TO TWO CONDITIONS: 1) THE BUILDING ELEVATIONS SHALL BE CONSISTENT WITH THE RENDERINGS APPROVED BY THE CLAYMONT DRAC AS SUBMITTED INTO EVIDENCE; AND 2) THE LANDSCAPING SHALL BE CONSISTENT WITH THE RENDERINGS APPROVED BY THE CLAYMONT DRAC AS SUBMITTED INTO EVIDENCE AND INCLUDING FOUR SEASON INTEREST

1. TO PERMIT A 0.1 BUFFERYARD OPACITY ALONG THE NORTHERLY SIDE LOT LINE (0.6 BUFFERYARD OPACITY REQUIRED). SEE UDC TABLE 40.01.111.B.

2. TO PERMIT A MAXIMUM NET FLOOR AREA RATIO OF 0.90 (0.37 MAXIMUM GROSS FLOOR AREA REQUIRED). SEE UDC TABLE 40.04.110.A.

3. TO PERMIT A MAXIMUM GROSS FLOOR AREA RATIO OF 0.68 (0.28 MAXIMUM GROSS FLOOR AREA REQUIRED). SEE UDC TABLE 40.04.110.A.

4. TO PERMIT A 0.0 BUFFERYARD OPACITY ALONG THE SOUTHERLY SIDE LOT LINE (0.1 BUFFERYARD OPACITY REQUIRED). SEE UDC TABLE 40.01.111.B.

5. TO MAINTAIN A 2-STORY MINI-STORAGE BUILDING ON LOT 1, 14 FEET FROM THE NORTHERLY SIDE LOT LINE (20-FOOT SIDE YARD SETBACK). SEE UDC TABLE 40.04.110.B.

38. LIMIT OF DISTURBANCE (THIS PLAN)

THE LIMIT OF DISTURBANCE FOR THE SITE IS 2.50± ACRES.
39. LANDSCAPE PLAN

A LANDSCAPE PLAN, PREPARED BY DESIGNS ETC. INC. LAST DATED 6-14-2023 OR AS AMENDED AND APPROVED IN WRITING BY THE DEPARTMENT OF LAND USE, IS HEREBY CONSIDERED PART OF THE RECORD PLAN.
40. SIGHT DISTANCE

PROPOSED LANDSCAPING SHALL NOT INTERFERE WITH SIGHT DISTANCE LINES.
41. LDA

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 OCTOBER 30, 2023 AT INSTRUMENT NO. 20231030-0072661.
42. SEWER LATERALS

THE PROPOSED BUILDINGS ARE SERVICED BY PUBLIC SEWER. EXISTING SEWER LATERALS WILL BE USED.
43. (RESERVED)
44. POSTAL ADDRESSES:

PHILADELPHIA PIKE, CLAYMONT, DE 19703 AS ASSIGNED BY THE NEW CASTLE COUNTY GIS SERVICES.
45. THE OWNER/DEVELOPER SHALL PAY, TO NEW CASTLE COUNTY, FUNDS FOR LONG TERM STORMWATER MAINTENANCE AND INSPECTION FUND PURSUANT TO UDC 40.27.240 OF THE COUNTY CODE. THE FUNDS SHALL BE USED FOR THE COSTS ASSOCIATED WITH INSPECTIONS. AN AMOUNT OF \$4,800 SHALL BE FUNDED PRIOR TO RECEIVING THE FIRST CERTIFICATE OF OCCUPANCY. THE DEPARTMENT OF LAND USE SHALL WITHHOLD THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY UNTIL SATISFACTORY WRITTEN PROOF THAT THE FUNDS HAVE BEEN PAID TO NEW CASTLE COUNTY IS FURNISHED IN ACCORDANCE WITH THE REQUIREMENTS.
46. A GEOTECHNICAL EVALUATION HAS BEEN PERFORMED TO APPROXIMATE THE SEASONAL HIGH WATER TABLE (SHWT) ELEVATION AND AND NO FURTHER EVALUATION IS REQUIRED, AS IT PERTAINS TO PROPOSED FLOOR ELEVATIONS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
47. 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).

DELDOT NOTES (MARCH 21, 2019)

1. ALL ENTRANCES SHALL CONFORM TO THE DELAWARE DEPARTMENT OF TRANSPORTATION'S (DELDOT'S) CURRENT DEVELOPMENT COORDINATION MANUAL AND SHALL BE SUBJECT TO ITS APPROVAL.

2. NO LANDSCAPING SHALL BE ALLOWED WITHIN THE RIGHT-OF-WAY UNLESS THE PLANS ARE COMPLIANT WITH SECTION 3.7 OF THE DEVELOPMENT COORDINATION MANUAL.

3. SHRUBBERY, PLANTINGS, SIGNS AND/OR OTHER VISUAL BARRIERS THAT COULD OBSTRUCT THE SIGHT DISTANCE OF A DRIVER PREPARING TO ENTER THE ROADWAY ARE PROHIBITED WITHIN THE DEFINED DEPARTURE SIGHT TRIANGLE AREA ESTABLISHED ON THIS PLAN. IF THE ESTABLISHED DEPARTURE SIGHT TRIANGLE AREA IS OUTSIDE THE RIGHT-OF-WAY OR PROJECTS ONTO AN ADJACENT PROPERTY OWNER'S LAND, A SIGHT EASEMENT SHOULD BE ESTABLISHED AND RECORDED WITH ALL AFFECTED PROPERTY OWNERS TO MAINTAIN THE REQUIRED SIGHT DISTANCE.

4. UPON COMPLETION OF THE CONSTRUCTION OF THE SIDEWALK OR SHARED-USE PATH ACROSS THIS PROJECT'S FRONTAGE AND PHYSICAL CONNECTION TO ADJACENT EXISTING FACILITIES, THE DEVELOPER, THE PROPERTY OWNERS OR BOTH ASSOCIATED WITH THIS PROJECT, SHALL BE RESPONSIBLE TO REMOVE ANY EXISTING ROAD TIE-IN CONNECTIONS LOCATED ALONG ADJACENT PROPERTIES, AND RESTORE THE AREA TO GRASS. SUCH ACTIONS SHALL BE COMPLETED AT DELDOT'S DISCRETION, AND IN CONFORMANCE WITH DELDOT'S DEVELOPMENT COORDINATION MANUAL.

5. 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.

6. 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.

7. A PERPETUAL CROSS ACCESS INGRESS/EGRESS EASEMENT IS HEREBY ESTABLISHED AS SHOWN ON THIS PLAT.

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

NATURAL RESOURCE PROTECTION TABLE

NATURAL RESOURCE	TOTAL AREA	REQUIRED PROTECTED %	DISTURBED	PROVIDED PROTECTED %
FLOOD PLAIN	0.16± ACRES	100%	0± ACRES	100%
WETLAND AREA	0.07± ACRES	100%	0± ACRES	100%
RIPARIAN BUFFER	0.86± ACRES	100%	0± ACRES	100%

NOTE: ALL RESOURCES ARE LOCATED ON T.P. 06-095.00-587 (LOT 4 COMMON AREA)

EXISTING	LEGEND	PROPOSED
	MONUMENT	
	BOLLARD	
	LIGHT POLE	
	TELECOMMUNICATION MANHOLE	
	DELDOT VAULT	
	HANDICAP PARKING	
	PEDESTRIAN SIGNAL	
	SIGN	
	TRAFFIC SIGNAL SUPPORT POLE	
	UTILITY POLE	
	FIRE HYDRANT	
	FIRE DEPT. CONNECTION	
	TREE	
	TREELINE	
	BUILDING WALL	
	CONCRETE WALK/PAD/PAVEMENT	
	FENCE	
	RETAINING WALL	
	WETLANDS	
	100 YEAR FLOODPLAIN	
	RIPARIAN BUFFER AREA	
	PARCEL ADDRESS	
	PCC CURB	
	PAVEMENT	
	EASEMENT	
	LIMIT OF DISTURBANCE	
	LIMIT OF CONSTRUCTION	

RECORD

MAJOR LAND DEVELOPMENT PLAN

FOR

CLAYMONT SELF STORAGE

SITUATE IN: BRANDYWINE HUNDRED, NEW CASTLE COUNTY, DELAWARE

02-20-2025

12-10-2024

9-10-2024

8-14-2024

10-27-2023

PER NCC COMMENTS DATED 2-4-2025

PER NCC COMMENTS DATED 7-13-2024

PER DELDOT COMMENTS DATED 06-10-2024

PER NCC COMMENTS DATED 04-11-2024

PER NCC COMMENTS

URQ

URQ

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checked

checked

date

revisions



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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:

2105 PHILADELPHIA PIKE LLC

70 E LANCASTER AVE

MALVERN, PA 19355

PROPERTY ADDRESS:

2105 & 2107 PHILADELPHIA PIKE

CLAYMONT, DE 19703

SURVEY BY: KA

DESIGNED BY: DE

DRAWN BY: DE

CHECKED BY: DS

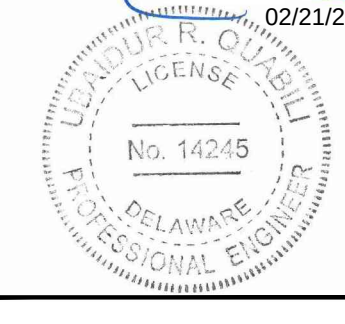
SCALE:



DATE: 06/14/2023

SHEET: 2 OF 3

DRAWING NO.: 2855.03-A02



02/21/25

MEMORANDUM

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

From: David Culver

Re: Application No. 2022-0475
Claymont Self Storage
Record Major Land Development Plan

Date: March 11, 2025

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: Marcus Henry, County Executive
Mona Parikh, Chief Administrative Officer

Plan of Claymont Self Storage; Brandywine Hundred; West side of Philadelphia Pike, 800' south of Maple Lane; Major Land Development Plan that propose to combine tax parcels 06-095.00-582 and 06-095.00-588 to construct a 100,862 SF self-storage building; CR zoning.

Synopsis: Same as title

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

Prime sponsor(s): Mr. Carter, Ms. Durham,
Mr. Toole, Mr. Cartier, Mr.
Caneco, Mr. Tackett

Date of introduction: July 23,2024

SUBSTITUTE 1 TO ORDINANCE NO. 24-130

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

1 **WHEREAS**, in 1997, New Castle County Council enacted a comprehensive overhaul
2 of New Castle County’s original 1954 zoning and subdivision regulations with the addition of
3 Chapter 40 to the *New Castle County Code* (the “Unified Development Code” or “UDC”);
4 and
5

6 **WHEREAS**, the Unified Development Code has since undergone considerable
7 evolution to better reflect growth trends in the County and to advance the UDC regulations
8 to include planning and land use ideas and values to meet today’s needs; and
9

10 **WHEREAS**, both the 2007 and 2012 Comprehensive Plans of New Castle County
11 called for the creation of a zoning category recognizing conserved lands, and
12

13 **WHEREAS**, Strategy 1.1.6 of the 2022 New Castle County Comprehensive Plan
14 reiterates that the County should consider the addition of a preservation zoning category,
15 and defines “Protected Open Space” as privately or publicly held land that has been
16 protected from future development; and
17

18 **WHEREAS**, the zoning of parks and open space protected in perpetuity in categories
19 which describe other uses is confusing to the public and leads to a practical
20 misunderstanding of the future growth patterns of the County, rather than clearly depicting
21 the real world current and future land use conditions; and
22

23 **WHEREAS**, it is important to establish a Publicly Conserved Lands & Parks Zoning
24 District (P) to readily show the extent of publicly protected lands and provide a clearer vision
25 of the size and extent of these important land uses; and
26

27 **WHEREAS**, the County established a goal in its 2022 Comprehensive Plan to
28 conserve a minimum of 7,100 additional acres of its land by 2050 and the current estimate
29 of government-owned protected open space is estimated at more than twenty percent, a
30 significant portion of the County’s overall acreage deserved of its own zoning category,
31 and
32

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

class; and

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

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

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

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

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

- A. This district shall only include publicly owned, governmental parkland and nature preserves, or any other land owned by Municipal, County, State, and Federal governments for the purpose of environmental protection, habitat protection, passive recreational uses, or active recreational uses.
- B. Except for County and Federal owned parcels, rezoning of parcels to the Publicly Conserved Lands & Parks (P) district is subject to the requirements and standards for a rezoning amendment application in Article 31, and shall only occur at the request of the property owner. County and Federal owned parcels may be rezoned to the Publicly Conserved Lands & Parks (P) district as County-initiated Rezoning or part of a comprehensive rezoning.
- C. On or before July 1 of each year, the Departments of Land Use and Public Works shall jointly advise County Council if within the past year any new parcels in the unincorporated County satisfy the above criteria, and which are therefore qualified to be rezoned to the P designation.

Section 2. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.100 (“Use regulations”), Section 40.03.110 (“Use table”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

Sec. 40.03.110. – Use table.

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

Table 40.03.110A. 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 <u>use</u> review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)									Additional Standards (all districts)	
Land Use	TN ^{[*]1}	ST	MM	ON	OR	CR	BP	I	CN	S ^{[**]3}	SE	NC ^{[**]2}	HI	EX	SR	<u>P</u>	Parking	Limited & Special Use Standards	
Agricultural									Agricultural									Agricultural	
Agriculture (includes uses pursuant to Delaware Law)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	<u>Y</u>	na.	—	
Clearing	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	na	Section 40.03.301	
Farmstead	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	<u>Y</u>	2.0/du.	—	
Farm market	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	8 spaces	Section 40.03.328	
Commercial stables	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	<u>L</u>	1 per 2 stalls	Section 40.03.302	
Residential									Residential									Residential	
Single-family, detached	Y	Y	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	<u>N</u>	2.0/du.	—	
Open space subdivision, Option 1	N	N	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	<u>N</u>	3.0/du.	—	

Open space subdivision, Option 2	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	2.0/du.	
Single-family, attached	Y	Y	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	2.25/du.	—
Open space planned	Y	Y	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	2.25/du.	
Apartments	Y	Y	N	N	N	N	N	N	N	N	N	N	L	N	N	N	Table 40.03.522	Section 40.03.303
Apartment conversions	L	L	N	N	N	N	N	N	N	N	L	N	L	N	N	N	2.25/du.	Section 40.03.304
Commercial apartments	L	N	N	N	N	L	N	N	N	L	N	N	N	N	N	N	2.0/du.	Section 40.03.305
Hamlet	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	Division 40.25.100	Division 40.25.100
Village	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	Division 40.25.100	Division 40.25.100
Pocket Neighborhood	Y	Y	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	Section 40.25.333	Section 40.25.333
Group home	Y	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	1.0/2 beds	—
Manufactured home park	N	N	L	N	N	N	N	N	N	N	N	N	L	N	N	N	2.25/du.	Section 40.03.306
Small single-family detached dwelling	L	L	N	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
Home Uses									Home Uses									Home Uses

Day care, family/large family	A	A	A	N	N	N	N	N	N	A	A	A	N	N	A	<u>N</u>	Section 40.03.420	Section 40.03.420
Home occupation	A	A	A	N	N	A	N	N	A	A	A	A	N	N	A	<u>N</u>	Table 40.03.522	Section 40.03.420
Home business	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Cottage industry	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Institutional									Institutional								Institutional	
Assembly and worship	L	L	N	N	L	Y	L	L	L	L	L	L	N	N	L	<u>N</u>	Table 40.03.522	Section 40.03.307, Division 40.25.200
Schools	L	L	N	N	L	Y	L	L	L	L	L	L	N	N	L	<u>N</u>	Table 40.03.522	Section 40.03.307
Colleges	Y	Y	N	L	Y	Y	Y	Y	L	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Section 40.03.307
Hospitals	N	N	N	N	Y	Y	Y	Y	N	N	N	L	N	N	N	<u>N</u>	1/bed	Table 40.02.210
Institutional, regional	N	L	N	N	L	L	L	L	N	L	L	L	N	N	L	<u>L</u>	Table 40.03.522	Section 40.03.308
Institutional, neighborhood	L	L	L	L	L	L	L	L	L	L	L	L	N	N	L	<u>L</u>	Table 40.03.522	Section 40.03.309
Institutional, residential (Type I)	L	L	N	N	N	Y	N	N	L	L	L	L	N	N	Y	<u>N</u>	Table 40.03.522	Table 40.03.210

Institutional, residential (Type II)	L	L	N	N	N	L	N	N		L	L	L	L	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210
Protective care	N	N	N	N	S	N	S	S		N	N	N	N	S	N	S	<u>N</u>	Table 40.03.522	Table 40.03.210, Section 40.03.310
Public service	L	L	L	Y	Y	Y	Y	Y		Y	L	L	L	Y	Y	L	<u>Y</u>	Table 40.03.522	Section 40.03.311
Commercial									Commercial									Commercial	
Adaptive reuse, historic building	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>L</u>	Table 40.03.522	Section 40.15.240
Adult uses	N	N	N	N	N	S	N	N		N	N	N	N	N	N	N	<u>N</u>	1/100 GFA	Section 40.03.313
Agricultural support and other rural services	N	N	N	N	Y	Y	Y	Y		Y	S	S	S	Y	Y	S	<u>L</u>	Table 40.03.522	Section 40.03.314 and Section 40.03.336
Bed and breakfast	L	L	N	N	N	N	N	N		L	L	L	L	N	N	L	<u>L</u>	1/room plus 2/du.	Section 40.03.315
Commercial lodging	N	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Table 40.03.210
Commercial retail and service	L	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Table 40.03.210, Division 40.25.200
Corporate guest house	N	L	N	N	Y	Y	Y	Y		N	L	L	L	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210

Craft alcohol production establishment	N	N	N	N	N	L	L	L	L	L	L	N	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210 Section 40.03.318 Section 40.03.338
Drive-in facility	L	N	N	L	L	L	L	L	L	N	N	N	L	N	N	<u>N</u>	Table 40.03.522	Table 40.03.210, Section 40.03.316
Heavy retail and service	N	N	N	N	N	L	N	L	N	N	N	N	S	N	N	<u>N</u>	Table 40.03.522	Section 40.03.339 Section 40.31.430
Light automobile service	L	N	N	N	L	Y	L	Y	Y	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Section 40.03.317
Mixed use	L	N	N	L	L	L	N	N	L	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Section 40.03.318, Division 40.25.200
Multifamily conversion	L	N	N	L	L	L	N	N	L	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Section 40.03.340
Restaurants	L	N	N	N	L	Y	L	L	Y	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Table 40.03.210, Division 40.25.200
Office	L	N	N	Y	Y	Y	Y	Y	Y	N	N	N	L	N	N	<u>N</u>	Table 40.03.522	Table 40.03.210, Section 40.03.321, Division 40.25.200
Shopping center	N	N	N	N	N	Y	N	N	Y	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	—
Vehicular sales, rental and service	N	N	N	N	N	L	N	N	N	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Section 40.03.339
Retail marijuana store	N	N	N	N	N	L	N	L*	S	N	N	N	N	N	N	<u>N</u>	Table 40.03.522	Section 40.03.341

																			*Site must have been established and operational as a medical marijuana dispensary before July 1, 2024
Recreation and Amusement									Recreation and Amusement									Recreation and Amusement	
Campground	N	N	N	N	N	N	N	N		N	L	N	N	N	N	L	<u>L</u>	1/space + 3/50 spaces at office	Table 40.03.210
Recreation, high intensity	N	N	N	N	S	Y	S	S		L	N	N	N	N	L	N	<u>L</u>	Table 40.03.522	Table 40.03.210 In EX, see also Section 40.03.324
Recreation, low intensity	L	L	L	L	L	Y	L	L		Y	L	L	L	L	N	L	<u>Y</u>	Table 40.03.522	Table 40.03.210
Resort	N	N	N	N	N	L	N	N		N	L	L	N	N	N	L	<u>N</u>	Table 40.03.522	Table 40.03.210, Section 40.03.322
Industrial Uses									Industrial Uses									Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L		N	N	N	N	L	L	S	<u>N</u>	Table 40.03.522	Section 40.03.336
Extraction	N	N	N	N	N	N	N	N		N	N	N	N	N	L	N	<u>N</u>	Table 40.03.522	Section 40.03.324 and Table 40.03.210

Heavy industry	N	N	N	N	N	N	N	N	N	N	N	N	N	S	N	N	<u>N</u>	Table 40.03.522	Section 40.03.323
Light industry	N	N	N	N	L	S	L	Y		N	N	N	N	Y	Y	N	<u>N</u>	Table 40.03.522	Section 40.03.333 for OR and CR Zoned Land Table 40.03.210 for BP Zoned Land
Recycling or storage	N	N	N	N	L	N	L	L		N	N	N	N	L	N	N	<u>N</u>	Table 40.03.522	Table 40.03.210
Utilities, maintenance facilities	N	N	N	N	Y	L	Y	Y		N	N	N	N	Y	N	N	<u>L</u>	Table 40.03.522	Section 40.03.312
Utility, minor	L	L	L	L	L	L	L	L		L	L	L	L	Y	Y	L	<u>L</u>	Table 40.03.522	Section 40.03.334
Utility, major	S	S	S	S	S	S	S	L		S	S	S	S	L	S	S	<u>S</u>	Table 40.03.522	Section 40.03.312
Solar energy system, large-scale	N	N	L	L	L	L	L	L		N	L	N	N	L	N	L	<u>N</u>	na.	Section 40.03.337
Other Uses									Other Uses									Other Uses	
Airports	N	N	N	N	L	N	L	L		N	S	N	N	L	N	S	<u>N</u>	Special study, Section 40.03.524	Table 40.03.210, Section 40.03.325 and 40.03.432
Commercial communications towers	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	<u>L</u>	2 per tower	Section 40.03.326
Community recycling bins	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	<u>A</u>	—	Section 40.03.430

Exterior lighting for outdoor recreational uses	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	<u>S</u>	Table 40.03.522	Table 40.03.210 and Division 40.22.700
Park and ride facility	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	—	Section 40.03.210
Parking structures	N	N	N	S	S	S	S	S	S	S	S	N	N	S	N	N	<u>L</u>	—	Sections 40.03.528, 40.04.320, and 40.25.137
Temporary Uses									Temporary Uses									Temporary Uses	
Temporary storage, office or classroom modulares or trailers	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	Table 40.03.522	Table 40.03.210
Concrete/asphalt batch plant	N	N	N	N	N	N	N	N	L	N	N	N	N	L	L	L	<u>N</u>	Table 40.03.522	Section 40.03.327
Contractor's office	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	1/200 sf.	—
Model homes/sale office	L	L	L	N	N	N	N	N	N	N	L	L	L	N	N	L	<u>N</u>	2/model	Section 40.03.335
Commercial temporary outdoor sales	L	N	N	N	N	L	N	N	N	L	N	N	N	N	N	N	<u>L</u>	none	Section 40.03.329
Public interest and special events	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	<u>L</u>	Table 40.03.522	Section 40.03.330
Temporary miscellaneous sales	L	N	N	N	N	L	N	N	N	L	N	N	N	N	N	N	<u>L</u>	Table 40.03.522	Table 40.03.210, Section 40.03.331

	Notes:
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	[*]¹¹ Refer to Article 25 for design standards for TN District.
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	[**]¹² Refer to Section 40.02.241 for identification of permitted residential uses by specific NC zoning districts.
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	[***]¹³ See Division 40.25.100 for Village and Hamlet Standards.
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Section 3. New Castle County Code Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.430 (“Accessory Uses, nonresidential”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

Sec. 40.03.430. Accessory uses, nonresidential.

Nonresidential uses (not including agricultural uses) may have a variety of accessory uses within the principal structure or in separate structures, provided they meet the following standards:

A. Uses. . . .

I. *On-site residence.* In the ON, OR, CR, CN, I, BP, Hi, P Districts a building may be used, erected or altered for residential purposes for an owner, caretaker, watchman, janitor or employee employed on the premises.

Section 4. New Castle County Code Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.500 (“Loading and parking standards”), Section 40.03.522 (“Off-street parking”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

Sec. 40.03.522. Off-street parking.

A. Minimum parking requirements....

B. Changes in use. ...

C. Parking requirements along designated byways....

Table 40.03.522. OFF-STREET PARKING FOR SPECIFIC USES

Uses	Parking Spaces Required	
	Per 1,000 sf. of Gross Floor Area	Other Standard
PARKING STANDARDS ¹		
Institutional: Community, Neighborhood, and Residential...		
...Recreation and Amusement Uses: Outdoor Recreational		
Camps, day or youth...	—	1 per 1500 sf. of area
Parks, playground	—	1 per 5000 sf. of area
Equestrian facilities	—	1 per 4 stalls, plus 1 per 2000 sf. of inside riding area
Swimming pool	—	1 per 400 sf. pool surface area
Tennis courts	—	3 per court
Athletic fields	—	15 per field plus 1 per 4 permanent seats
All other active	—	1 per 10,000 sf. of area

All other passive	—	5 space minimum plus [1 per acre for areas less than 50 acres or] 1 per 3 acres [for areas over 50 acres]
Recreation and Amusement Uses: Indoor Recreational		
Swimming pool	—	1 per 100 sf. pool surface area
Indoor court games	—	3 per court
Community center, auditorium, stadium, gymnasium and other similar uses	—	1 per 4 permanent seats or 10 per 1000 sf. of public assembly area, whichever is greater
All others	—	1 per 4 permanent seats or 10 per 1000 sf. of public assembly area, whichever is greater
Notes: ¹ Parking for institutional uses on governmental parkland is determined and certified by owner.		

Section 5. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 4 (“District Intensity and Bulk Standards”), Division 40.04.100 (“District performance standards”), Section 40.04.110 (“District and bulk standards”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

123
124

Sec. 40.04.110. - District and bulk standards.

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 (%)	Build- ing Height (feet)		Percent of Lot Area		
Publicly Conserved Lands & Parks District (P)								Publicly Conserved Lands & Parks District (P)								Publicly Conserved Lands & Parks District (P)			
Permitted uses*	0.70	na.	na.	0.12	0.45	P/OS	na.	na.	na.	50	40	50	50/30	na.	40		na.	*The standards are applicable unless explicitly established otherwise by a governmental agreement. ...	

125

Section 6. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 4 (“District Intensity and Bulk Standards”), Division 40.04.100 (“District performance standards”), Section 40.04.111 (“Landscape and illumination standards”), Table 40.04.111 (“Use and Lot Standards”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.

Sec. 40.04.111. - Landscape and illumination standards.

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

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

Section 7. *New Castle County Code Chapter 40 (“Unified Development Code”), Article 6 (“Sign Regulations”), Division 40.06.000 (“Applicability”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.*

Sec. 40.06.060. Schedule of sign restrictions.

Signs shall be permitted in accordance with the following regulations and in accordance with other applicable Sections of this Article:

1. *Residence districts. ...*

5. *Publicly Conserved Lands & Parks (P) district.*

a. Wall sign area: 2 square feet per lineal foot of building wall to which it is attached (maximum 200 sq. ft.)

b. Ground sign:

<u>Street Functional Classification</u>	<u>Minimum Distance from street lot line (feet)</u>	<u>Maximum Height (feet)</u>	<u>Maximum Area (square feet)</u>	<u>Maximum Aggregate</u>
<u>Local</u>	<u>15</u>	<u>25</u>	<u>40</u>	<u>80 square feet no more than 1 sign per street frontage</u>
	<u>25</u>	<u>30</u>	<u>50</u>	
<u>Collector</u>	<u>15</u>	<u>25</u>	<u>75</u>	<u>100 sf + 0.5 for each foot of street frontage not to exceed 150 sf</u>
	<u>25</u>	<u>30</u>	<u>100</u>	
	<u>40</u>	<u>45</u>	<u>125</u>	
<u>Arterial</u>	<u>15</u>	<u>25</u>	<u>150</u>	<u>100 sf + 0.5 for each foot of street frontage not to exceed 300 sf</u>
	<u>25</u>	<u>30</u>	<u>175</u>	
	<u>40</u>	<u>45</u>	<u>200</u>	

Section 8. *New Castle County Code Chapter 40 (“Unified Development Code”), Article 33 (“Definitions”), Division 40.33.300 (“General Definitions”) is hereby amended by adding the material that is underlined and deleting the material with strikethroughs, as set forth below.*

Division 40.33.300. – General definitions.

...Minor change. A change to the plan that does not increase density or floor area, does not decrease open space, bufferyards or parking, or alter the alignment or layout of streets by more than five (5) feet.

Minor land development. A plan that proposes one (1) or more of the following:

- A. A subdivision of land resulting in five (5) lots or less and not creating new street rights-of-way.
- B. Except for single-family dwellings and residential accessory structures on fee simple lots, land development proposing new buildings or additions one thousand (1,000) square feet GFA or greater, or five thousand (5,000) square feet GFA or greater in the P, OR, BP, I, and HI zoning districts and meeting one (1) or more of the following criteria: ...

Section 9. 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 10. 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 11. 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 12. 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:

Monique Williams-Johns
President of County Council
of New Castle County

Approved on:

Marcus A. Henry
County Executive of New Castle County

SYNOPSIS: This ordinance proposes the creation of a new zoning district known as the Publicly Conserved Lands & Parks District (P). The P Zoning District will become the new zoning designation of publicly owned parks and conservation lands that have been conserved as such or acquired for public use primarily for outdoor recreation or natural resource protection in perpetuity. The Ordinance sets forth the purposes of the P District. Moreover, the Ordinance establishes permitted and prohibited uses, as well as limited and accessory uses within the district.

Substitute No. 1. The following changes are included in Substitute No. 1:

Sec. 40.02.248. This amendment revises the Statement of purpose and intent for the Publicly Conserved Lands & Parks (P) District consistent with recommendations from the New Castle County Planning Board and Department of Land Use.

Sec. 40.03.110. This amendment revises the Use Table regarding Publicly Conserved Lands & Parks (P) District consistent with recommendations from the New Castle County Planning Board and Department of Land Use. This amendment also clarifies that composting operations are permissible as an accessory use to a permitted nonresidential use in specific zoning districts.

Sec. 40.03.430. This amendment revises Accessory Uses to allow parcels zoned as P to include residential purposes for park staff or interns.

Sec. 40.03.522. This amendment revises the parking requirements for governmental parkland.

Sec. 40.06.060. This amendment established sign regulations for permissible uses in the Publicly Conserved Lands & Parks (P) District.

Division 40.33.300. This amendment removes the proposed definition Protected Public Parks and Conservation Lands since it is duplicative of governmental parkland. This amendment also revises the definition of minor land development to include P zoned land and clarify that the exception for accessory structures is intended for residential accessory structures alone.

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

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

ORDINANCE NO. 24-130

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

77 A. Land designated under P zoning includes:
78

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

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

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

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

Sec. 40.03.110. – Use table.

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

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

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

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

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

107

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

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

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

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

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

122
123 Bufferyard, landscaping standards and lighting standards are provided in Table
124 40.04.111.

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

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

Division 40.06.000. - Applicability.

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

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

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

Division 40.33.300. – General definitions.

...

Property line. See Lot line.

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

...

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

Section 9. 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: This ordinance proposes the creation of a new zoning district known as the Publicly Conserved Lands & Parks District (P). The P Zoning District will become the new zoning designation of publicly owned parks and conservation lands that have been conserved as such or acquired for public use primarily for outdoor recreation in perpetuity. The Ordinance sets forth the purposes of the P District. Moreover, the Ordinance establishes permitted and prohibited uses, as well as limited and accessory uses within the district.

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



Department of Land Use

**DEPARTMENT OF LAND USE
RECOMMENDATION REPORT**

**Ordinance 24-130
Application 2024-0415-T
Zoning District for Publicly Owned Conserved Land and Public Parks**

October 15, 2024

Sponsor: Councilman David Carter (District 6), Councilwoman Dee Durham (District 2), Councilman Toole (District 1), Councilman Cartier (District 8)

Description: Amendment to amend New Castle County Code Chapter 40 (The "Unified Development Code") to establish a zoning district for publicly owned conserved land and public parks.

EXECUTIVE SUMMARY

Application 2024-0415-T (Ordinance 24-130), is a text amendment to the Unified Development Code (UDC) that proposes to establish a new zoning district, Publicly Conserved Lands & Parks District (P). The Publicly Conserved Lands & Parks District (P) zoning designation would be required for properties that are publicly protected and identified as protected in perpetuity for the public benefit. The district's intent is to provide a clearer picture of permanently protected, publicly conserved lands and parks in New Castle County. As written, the Publicly Conserved Lands & Parks District (P) would apply to public lands that are protected in perpetuity through protective covenants, deed restrictions, or conservation easements public parks, as well private land protected in perpetuity through a conservation easement if requested by the property owner. The overarching goal is to protect ecological habitats, or any other lands acquired for environmental protection or outdoor recreation. While the ordinance makes the zoning designation available to a variety of governmentally land, it explicitly does not apply to lands preserved through the State of Delaware Agricultural Lands Program.

Significant quantities of open space, natural, agricultural, cultural, and historic resources have been protected and preserved through various public and private means in the county. The Department believes that the establishment of a Publicly Conserved Lands & Parks District (P) will not likely have a material impact on open space preservation, it could serve to re-affirm the existing protections on publicly protected and designated publicly conserved lands in New Castle County, memorializing them on the Zoning Map. If adopted, Ord. 24-130 would set in motion an annual comprehensive rezoning of parcels eligible for, and with the permission of the property owners, to Publicly Conserved Lands & Parks District (P) .

The Department of Land Use has considered the Standards for Text Amendment in Section 40.31.420 of the New Castle County Code and comments received from other agencies and the public. Based on this analysis, the Department recommends **CONDITIONAL APPROVAL** of Ordinance 24-130 with the condition that County Council considers a substitute ordinance that:

1. That establishes Farm Markets as a Limited Use in Table 40.03.110 of the New Castle County Code.
2. That establishes specific Special Use standards for restaurants in the P zoning district that limits restaurants to governmentally owned open space.
3. That rezoning of parcels to Publicly Conserved Lands & Parks District (P), is initiated at the request of the of the property owner.
4. That the rezoning of open space within municipal boundaries, and within New Castle County's jurisdiction to Publicly Conserved Lands & Parks District (P), is initiated at the request of the municipality.

DESCRIPTION

App. 2024-0415-T (Ord. 24-130) proposes to amend Chapter 40 (UDC) of New Castle County Code to establish a Publicly Conserved Lands & Parks District (P) zoning designation. Lands eligible for the proposed P zoning designation include those that are protected in perpetuity through protective covenants that utilize public funds or that were donated to a public entity, as well as private land protected in perpetuity through a conservation easement at the request of the property owner.

BACKGROUND

New Castle County actively conserves and protects its valuable natural and agricultural resources as open space, while simultaneously providing high-quality recreational areas such as Glasgow Park. Through the implementation of public and private conservation easements and covenants, land has been actively preserved. However, some of the most significant preservation efforts have been achieved through the creation of community area open space, which is a requirement of residential development processes. This process ensures the preservation of environmentally sensitive land, provides ample space for recreational activities, and creates buffering zones.¹

There are many ways that County, municipal, state, and federal governments have preserved land as open space in New Castle County. The Department of Public Works manages and has expanded County-owned open space to approximately 7,000 acres. Collaboratively, the State Department of Agriculture and the County have preserved over 14,000 acres of farmland since 1996. Additionally, municipal, state, and federal governments have collectively preserved more than 33,000 acres of land through diverse programs. Furthermore, private voluntary preservation efforts, such as deed restrictions, protective covenants, and conservation easements, have separately preserved over 10,000 acres of land.

¹ Regulatory efforts have historically been most successful through Cluster Developments in the Former Code (Pre-UDC, before December 31,1997) and in Open Space Subdivisions (UDC cluster type developments).

Preservation and equitable access to open space and recreational areas are central components of the 2022 Comprehensive Plan Update (NCC2050).² The plan clearly identifies open space areas for County residents through a series of maps:

- Map D-1: Protected Lands (page 105);
- Map D-10: Agricultural Land (page 120);
- Map E-1: Parks and Open Space (page 136); and
- Map E-2 Parks and Trails (page 137).

New Castle County provides access to these maps and other important open space and preservation information through a publicly available map application.³

In February of 2023, the Planning Board had considered Ord. 22-112, which proposed the establishment of an Open Space district in the Unified Development Code. The ordinance received a negative recommendation from the Department of Land Use and the Planning Board due to significant concerns including the proposed language that focused on privately protected lands and the required rezoning of parcels on what would typically be minor land use applications. In following months, the sponsors worked with the Department of Land Use to address concerns and a new ordinance, Ord. 23-095, was introduced on July 11, 2023, by the sponsors. The Department and the Planning Board recommended in favor of the ordinance; however it was defeated at County Council.

Ord. 24-130 was introduced on July 23, 2024, changing the proposed district's name to Publicly Conserved Lands & Parks District (P) zoning designation, and making a number of other changes directed at concerns voiced at County Council.

PRELIMINARY LAND USE SERVICE (PLUS) REVIEW

The proposed text amendment was reviewed at a PLUS meeting held on August 28, 2024.

The PLUS Review Letter, dated September 23, 2024, includes comments from the Office of State Planning and Coordination, who commended New Castle County for their continued work on establishing the Publicly Conserved Lands & Parks District (P) and requested a collaboration with DNREC regarding concerns over State-Owned public lands. The Department of Natural Resources and Environmental Control (DNREC) additionally commended New Castle County's effort to preserve natural open space through the establishment of the proposed zoning district. DNREC listed concerns regarding potential restrictions in DNREC operations on state-owned lands and asked that state-owned lands are explicitly exempt from the changes outlined in Table 40.03.110 of the Unified Development Code. The State Historic Preservation Office (SHPO) recommended that the ordinance consider making the proposed zoning district apply to publicly owned land that includes areas of cultural or heritage preservation.

² NCC2050, Priority Policy: Land Preservation, pages 47-51; Element E: Open Space and Recreation Element, pages 133-146.

³ Public map application: <http://gis.nccde.org/>.

DelDOT, DEMA and DE State Fire Marshal noted that they did not have any comments or objection to approval of the proposed ordinance.

PLANNING BOARD PUBLIC HEARING – October 1, 2024

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

Councilwoman Dee Durham, the ordinance's cosponsor, spoke on behalf of the application. She provided a brief background of the proposed ordinance and how it differed to the previous Open Space ordinances that were considered by the Board. She noted the term "open space" is defined as the space used and held by homeowners' associations and therefore all references to "open space" or "OS" have been changed to the newly proposed "Publicly Conserved Lands & Parks" or "P". She clarified that the proposed zoning district is meant for publicly owned lands and does not apply to properties with private conservation easements. Councilwoman Durham recognized DNREC's concerns over the proposed ordinance and stated that she'll continue to work with DNREC to address their concerns. She stated that the existing types of uses within public parks will not be hindered by the new zoning district. She remarked that the establishment of the Publicly Conserved Lands & Parks District is consistent with the New Castle County Comprehensive Plan.

Charuni Patibanda, General Manager, and Matthew Rogers, Senior Planner for the Department of Land Use voiced several concerns regarding the proposed ordinance. Mr. Rogers inquired about the intent behind designating farm market uses as a permitted use within the proposed P zoning district while pointing out that in every other district, farm markets have limited use standards. He also asked if the intent to allow restaurant uses are to allow for small snack concessions or full-scale restaurants within the district and states his concern that while concessions are currently considered accessory to park uses, permitting restaurant uses may create a loophole for privately-owned restaurants to establish in residential districts. Ms. Patibanda asked if the proposed zoning district could be permissive in allowing the property owner to opt into the P zoning.

Councilman David Carter responded the first question stating that the purpose of allowing farm markets within the P zoning district is to not limit the viability of agricultural lands. Mr. Rogers clarified that the limited use standards do not prohibit the establishment of farm markets on farms, but establish standards. He additionally stated that the State of Delaware additionally has specific standards for farm markets.

Ms. Patibanda reiterated the Department of Land Use's concern with respect to restaurants pointing out that as written, the proposed ordinance would allow private property owners to rezone to P zoning and then be permitted to establish a commercial restaurant. Councilman Carter suggested that the restaurant use within P zoning could be a special use requiring the applicant to go to the Board of Adjustment. Ms. Patibanda stated that the Special Use requirement may conflict with concerns voiced by DNREC. Councilwoman Durham voiced a willingness to work with the Department of Land Use to address their concerns.

Public Comment:

Eighteen (18) residents spoke during the public comment period voicing support for Ord. 24-130, agreeing that the establishment of a zoning district for publicly conserved lands and parks would help inventory existing preserved lands and be a beneficial tool for future preservation. Some speakers expressed various concerns with past and present actions taken by DNREC regarding state-owned properties. The Department of Land Use additionally received thirteen (13) letters of support for Ord. 24-130. Written comment echoed many of the comments and concerns spoken at the public hearing.

ANALYSIS

Approximately 27% of the land area in New Castle County is protected as open space through public and private programs, as well as through land development regulations incorporated into the Unified Development Code (UDC). Specifically, areas that are impacted by environmental resources receive 100% protection under Article 10 (Environmental Resources) of the UDC. Ord. 24-130 proposes the establishment of a new zoning category in the Unified Development Code (UDC) that applies to lands that have been protected in perpetuity through public means, such as covenants or donations. The proposed district would reaffirm the protected status of designated areas through zoning regulations. As proposed, the Publicly Conserved Lands & Parks zoning district includes district and bulk standards, as well as use standards, that are akin to other existing, low-density zoning districts, such as Suburban, Suburban Reserve, and Suburban Estate. Consequently, permissible development would not be hindered, as there would be established permitted uses within the proposed Publicly Conserved Lands & Parks District.

As outlined in the sponsor's testimony to the Planning Board, the impetus behind the ordinance is to establish a comprehensive and trustworthy depiction of publicly conserved lands and parks within New Castle County, particularly through the County's Geographic Information System (GIS) mapping system. Mapping of existing, preserved open spaces has been and continues to be accessible through the County's GIS Division. The Department remains engaged in collaboration with the State and the ordinance's sponsors to ensure that the GIS maps accurately reflect lands that are safeguarded through open space programs. While there are lands protected through private programs, the establishment of a Publicly Conserved Lands & Parks District can be regarded as an enhancement in terms of clearly identifying publicly protected land.

The New Castle County Comprehensive Plan (Strategy 1.1.6) states that the County should consider the addition of a preservation zoning category. If adopted, Ord. 24-130 would require a comprehensive rezoning of all parcels eligible for Publicly Conserved Lands & Parks District pursuant to the parameters included in the ordinance, as well as a potential for a comprehensive rezoning of public land parcels every two years.

Standards for Text Amendment – Section 40.31.420 of the New Castle County Code

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

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

New Castle County Comprehensive Plan updates as early as 2007 contemplate the establishment of an Open Space zoning district. If adopted, Ord. 24-130 would uphold the recommendations of the 2007 Comprehensive Plan update, the 2012 Comprehensive Plan update, and the most recent 2022 Comprehensive Plan update.

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

The 2022 Comprehensive Plan recommends consideration of the establishment of an Open Space zoning district. Ord. 24-130 achieves this recommendation.

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.

If adopted, Ordinance 24-130 will have little to no functional impact in regards to the objectives included in Chapter 40 of the UDC, due to the fact that the new zoning regulations would apply to lands already largely protected under other articles of the UDC. In addition, the proposed district includes permitted uses that would be expected in designated open space.

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 **CONDITIONAL APPROVAL** of Ordinance 24-130 with the condition that County Council considers a substitute ordinance that:

1. That establishes Farm Markets as a Limited Use in Table 40.03.110 of the New Castle County Code.
2. That establishes specific Special Use standards for restaurants in the P zoning district that limits restaurants to governmentally owned open space.
3. That rezoning of parcels to Publicly Conserved Lands & Parks District (P), is initiated at the request of the of the property owner.
4. That the rezoning of open space within municipal boundaries, and within New Castle County's jurisdiction to Publicly Conserved Lands & Parks District (P), is initiated at the request of the municipality.

PLANNING BOARD RECOMMENDATION

At the business meeting held on October 15, 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 Leone Cahill-Krout and seconded by Leah Gray, the Board voted to recommend **CONDITIONAL APPROVAL** of Ordinance 24-130 pursuant to the rationale and conditions recommend by the Department of Land Use

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

Prior to the vote, the following discussion occurred:

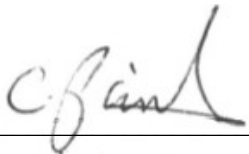
Matthew Rogers read the Department of Land Use recommendation into the record. Charuni Patibanda, General Manager informed the Board that the Department has been in communication with DNREC throughout the process.

Ms. Peterson asked if the ordinance was to be adopted, would anything change on the Zoning Map, unless the property owners approached the County. Ms. Patibanda confirmed that if the conditions were adopted this would be true. Ms. Peterson further inquired about the impetus for a property owner to pursue the rezoning. Ms. Patibanda explained that there are several County owned parks that, while the Comprehensive Rezoning (Take 2) are proposing that they be downzoned to residential districts, may be

later rezoned to Publicly Conserved Lands and Parks (P), and that the State may choose to do so as well. Ms. Peterson remarked that it may be expensive for Wilmington or other municipalities to pursue. Ms. Patibanda explained that these rezonings would typically be handled as County Initiated rezonings, and as such the neither the County nor the property owner would incur costs. Mr. Rogers confirmed that there are no fees associated with a County Initiated rezoning. Mr. Rogers further explained that the reporting requirement would serve as a motivation for the County and State to pursue the rezonings. Ms. Cahill-Krout inquired about the motivation for a private property owner to pursue a P zoning over just a conservation easement or deed restriction. Mr. Rogers explained that while not many private property owners will likely pursue a P zoning, some property owners would likely pursue the rezoning to memorialize the protections of the property on the zoning map, and protect the property from change with the restrictions of the district. Ms. Patibanda remarked that the zoning designation's largest likely impact would be to communicate the use and protections of the property. Ms. Gray asked if the P zoning district existed would the Comprehensive Rezonings (Take 2) have been rezoned to P as opposed to Residential designations. Ms. Patibanda confirmed that if the P district existed it would have been recommended for areas that meet the criteria. Ms. Visvardis inquired about the wording of the conditions recommended by the Department. Mr. Rogers explained that the condition is worded to support the ordinance, if County Council considers the changes recommended by the Department, if County Council. If County Council was unable to adopt all of the changes, or sought additional changes to the ordinance, the Department's recommendation would not change to a negative recommendation. Ms. Cahill-Krout asked if the ordinance would hinder the ability to have a resident caretaker at a park. Mr. Rogers state that it would not have an impact since the resident caretaker, as a use is considered as accessory to the park use. Ms. Patibanda explained that the unique circumstances, for each property is an important motivation for the rezoning to be at the request of the property owner.

STATUTORY GUIDELINES

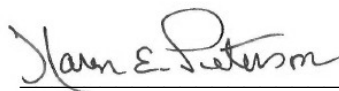
In the phraseology of 9 Delaware Code Section 2603(a), the Department finds that this finds that this text amendment would promote the convenience, order, and welfare of the present and future inhabitants of this state.



11/5/24

Charuni Patibanda
General Manager
Department of Land Use

Date



11/5/24

Karen Peterson
Chair
Planning Board

Date