



NEW CASTLE COUNTY COUNCIL LAND USE COMMITTEE MEETING

Co-Chair: David Tackett, Eleventh District

Co-Chair: Janet Kilpatrick, Third District

March 3, 2026

3:00 PM

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

UPDATED AGENDA*

A. Meeting Call to Order

B. Approval of Minutes

C. Review/Discussion of Resolution(s)

D. Review/Discussion of Ordinance(s)

°25-122: COUNTY INITIATED REZONING - TO REVISE THE NEW CASTLE COUNTY ZONING MAPS IN COUNTY COUNCIL DISTRICT 8 REGARDING THE FOLLOWING TAX PARCELS: BRANDYWINE HUNDRED: 06-024.00-249 (2507 Marsh Rd, County Parkland), 06-025.00-049 (3010 Fairhope Rd, Afton), 06-025.00-125 (3010 Fairhope Rd, The Timbers Sec 2), 06-025.00-140 (2667 Bittersweet Dr), 06-025.00-142 (2646 Cypress Rd), 06-025.00-221 (0 Valley Run Dr, Bechtel Subd), 06-025.00-234 (0 Valley Run Dr, Valley Run Sec 2), 06-025.00-235 (0 Valley Run Dr, Valley Run Sec 2), 06-026.00-004 (999 Woodstream Dr, Valley Run Sec 2), 06-035.00-236 (1201 Naamans Rd, Bechtel Subd), 06-035.00-240 (1301 Naamans Rd, Bechtel Subd), 06-036.00-012 (999 Woodstream Dr, Ramblewood), 06-046.00-074 (1106 Stonewood Ct, Darley Woods), 06-046.00-085 (898 Rockwell Rd, Longview Farms Sec 1), 06-047.00-044 (719 Plumtree Ln, Greentree Sec 3), 06-057.00-179 (300 Woodgreen Ct, Radnor Green Sec 3), 06-059.00-001 (100 Darley Rd), 06-059.00-002 (400 Lenape Way, Claymont Library), 06-059.00-018 (2 Denham Ave, Knollwood), 06-059.00-112 (31 Colby Ave, Knollwood), 06-059.00-119 (60 Balfour Ave, Knollwood), 06-070.00-043 (300 Woodgreen Ct, Radnor Green Sec 2), 06-070.00-044 (300 Woodgreen Ct, Radnor Green Sec 3), 06-081.00-053 (1625 Marsh Rd, Forwood), 06-081.00-085 (1615 Stoney Run Dr, Forwood), 06-082.00-253 (607 Smyrna Ave, Top Of The Hill Apts), 06-082.00-254 (927 Naudain Ave, Leshner Subd), 06-083.00-094 (1012 Parkside Blvd, Claymont Heights), 06-083.00-510 (927 Naudain Ave, Harvey Run), 06-091.00-199 (1716 Shadybrook Rd, Greenmeadow), 06-092.00-093 (20 Ridgeland Rd, Hawthorne Estates), 06-092.00-101 (20 Ridgeland Rd, Lynnfield), 06-092.00-174 (115 Marcella Rd, Webster Farm), 06-094.00-126 (2098 Prior Rd), 06-095.00-026 (607 Smyrna Ave, Hillendale), 06-095.00-354 (705 Naudain Ave, Claymont Heights 2), 06-095.00-484 (2220 Lincoln Ave, Greenmount), 06-104.00-001 (1218 Marsh Rd, Carrcroft Sec C), 06-104.00-231 (1239 Lakewood Dr, Carrcroft Crest), 06-105.00-161 (1805 Garfield Ave, Gwinhurst), 06-105.00-170 (1804 Garfield Ave, Gwinhurst), 06-106.00-062 (1805

Harrison Ave, Gwinhurst), 06-106.00-152 (20 N Park Dr, Gwinhurst), 06-106.00-153 (1806 Harrison Ave, Gwinhurst), 06-106.00-412 (13 Garrett Rd, Rolling Park), 06-106.00-424 (11 Devon Rd, Rolling Park), 06-106.00-481 (22 Winding Ln, Rolling Park), 06-113.00-239 (107 Timber Ln), 06-115.00-178 (9 Holly Hill Rd, Holly Hill), 06-115.00-206 (0 Holly Hill Rd, Holly Hill), 06-121.00-129 (1420 Talley Rd, Weldin Park Sec 2), 06-122.00-016 (4691 Washington St Ext, Rockwood Visitors Center), 06-122.00-080 (622 Shipley Rd, Hargraves Subd), 06-122.00-081 (301 Carr Rd, Rockwood Office Park), 06-130.00-004 (603 Rockwood Rd), 06-130.00-012 (4651 Washington St Ext, Rockwood Visitors Center), 06-146.00-596 (20 Clayton Ct, Edgemoor Gardens), 06-147.00-014 (610 River Rd, Camp Manito), 06-147.00-015 (610 River Rd, Jewish Federation Of Delaware), 06-147.00-020 (610 River Rd, Camp Manito), 06-059.00-045 (0 Denham Ave, Knollwood), 06-146.00-259 (720 Rysing Dr, Edgemoor Gardens), 06-146.00-619 (21 B S Cannon Dr, Edgemoor Gardens)

Prime Sponsor(s): Mr. Cartier

°25-101: (STATUS: TABLED) TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 ("UNIFIED DEVELOPMENT CODE"), ARTICLE 3 ("USE REGULATIONS") AND ARTICLE 33 ("DEFINITIONS") TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

Prime Sponsor(s): Mr. Carter

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

E. Presentations

F. Other

G. Public Comment

H. Adjournment

UPDATED AGENDA POSTED: FEBRUARY 25, 2026

AGENDA POSTED: FEBRUARY 24, 2026

***The time allotted to members of the public to speak on any item at this meeting will be (2) two minutes.**

****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.

ORDINANCE NO. 25-122

**COUNTY INITIATED REZONING - TO REVISE THE NEW CASTLE COUNTY
ZONING MAPS IN COUNTY COUNCIL DISTRICT 8 REGARDING THE FOLLOWING
TAX PARCELS:**

BRANDYWINE HUNDRED: 06-024.00-249 (2507 Marsh Rd, County Parkland), 06-025.00-049 (3010 Fairhope Rd, Afton), 06-025.00-125 (3010 Fairhope Rd, The Timbers Sec 2), 06-025.00-140 (2667 Bittersweet Dr), 06-025.00-142 (2646 Cypress Rd), 06-025.00-221 (0 Valley Run Dr, Bechtel Subd), 06-025.00-234 (0 Valley Run Dr, Valley Run Sec 2), 06-025.00-235 (0 Valley Run Dr, Valley Run Sec 2), 06-026.00-004 (999 Woodstream Dr, Valley Run Sec 2), 06-035.00-236 (1201 Naamans Rd, Bechtel Subd), 06-035.00-240 (1301 Naamans Rd, Bechtel Subd), 06-036.00-012 (999 Woodstream Dr, Ramblewood), 06-046.00-074 (1106 Stonewood Ct, Darley Woods), 06-046.00-085 (898 Rockwell Rd, Longview Farms Sec 1), 06-047.00-044 (719 Plumtree Ln, Greentree Sec 3), 06-057.00-179 (300 Woodgreen Ct, Radnor Green Sec 3), 06-059.00-001 (100 Darley Rd), 06-059.00-002 (400 Lenape Way, Claymont Library), 06-059.00-018 (2 Denham Ave, Knollwood), 06-059.00-112 (31 Colby Ave, Knollwood), 06-059.00-119 (60 Balfour Ave, Knollwood), 06-070.00-043 (300 Woodgreen Ct, Radnor Green Sec 2), 06-070.00-044 (300 Woodgreen Ct, Radnor Green Sec 3), 06-081.00-053 (1625 Marsh Rd, Forwood), 06-081.00-085 (1615 Stoney Run Dr, Forwood), 06-082.00-253 (607 Smyrna Ave, Top Of The Hill Apts), 06-082.00-254 (927 Naudain Ave, Leshner Subd), 06-083.00-094 (1012 Parkside Blvd, Claymont Heights), 06-083.00-510 (927 Naudain Ave, Harvey Run), 06-091.00-199 (1716 Shadybrook Rd, Greenmeadow), 06-092.00-093 (20 Ridgeland Rd, Hawthorne Estates), 06-092.00-101 (20 Ridgeland Rd, Lynnfield), 06-092.00-174 (115 Marcella Rd, Webster Farm), 06-094.00-126 (2098 Prior Rd), 06-095.00-026 (607 Smyrna Ave, Hillendale), 06-095.00-354 (705 Naudain Ave, Claymont Heights 2), 06-095.00-484 (2220 Lincoln Ave, Greenmount), 06-104.00-001 (1218 Marsh Rd, Carrcroft Sec C), 06-104.00-231 (1239 Lakewood Dr, Carrcroft Crest), 06-105.00-161 (1805 Garfield Ave, Gwinhurst), 06-105.00-170 (1804 Garfield Ave, Gwinhurst), 06-106.00-062 (1805 Harrison Ave, Gwinhurst), 06-106.00-152 (20 N Park Dr, Gwinhurst), 06-106.00-153 (1806 Harrison Ave, Gwinhurst), 06-106.00-412 (13 Garrett Rd, Rolling Park), 06-106.00-424 (11 Devon Rd, Rolling Park), 06-106.00-481 (22 Winding Ln, Rolling Park), 06-113.00-239 (107 Timber Ln), 06-115.00-178 (9 Holly Hill Rd, Holly Hill), 06-115.00-206 (0 Holly Hill Rd, Holly Hill), 06-121.00-129 (1420 Talley Rd, Weldin Park Sec 2), 06-122.00-016 (4691 Washington St Ext, Rockwood Visitors Center), 06-122.00-080 (622 Shipley Rd, Hargraves Subd), 06-122.00-081 (301 Carr Rd, Rockwood Office Park), 06-130.00-004 (603 Rockwood Rd), 06-130.00-012 (4651 Washington St Ext, Rockwood Visitors Center), 06-146.00-596 (20 Clayton Ct, Edgemoor Gardens), 06-147.00-014 (610 River Rd, Camp Manito), 06-147.00-015 (610 River Rd, Jewish Federation Of Delaware), 06-147.00-020 (610 River Rd, Camp Manito), 06-059.00-045 (0 Denham Ave, Knollwood), 06-146.00-259 (720 Rysing Dr, Edgemoor Gardens), 06-146.00-619 (21 B S Cannon Dr, Edgemoor Gardens)

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

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

10
11 **WHEREAS**, Strategy 1.1.6 of the 2022 New Castle County Comprehensive Plan
12 reiterates that the County should consider the addition of a preservation zoning category,
13 and defines “Protected Open Space” as privately or publicly held land that has been
14 protected from future development; and

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

18
19 **WHEREAS**, this County-initiated rezoning is intended to guide and control future
20 growth consistent with the spirit and intent of the Comprehensive Development Plan as
21 provided by State law; and

22
23 **WHEREAS**, County Council has determined that the amendments to the zoning
24 map substantially advance, and are reasonably and rationally related to, legitimate
25 government interests (i.e., promoting the health, safety, morals, convenience, order,
26 prosperity and/or welfare of the present and future inhabitants of this State).

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

29
30 Section 1. The Zoning Maps of Brandywine Hundred, Christiana Hundred, and Mill
31 Creek Hundred are hereby amended by changing the zoning classification of the land
32 shown on attached Exhibit “A”, Maps 1-10 dated August 25, 2025, as set forth therein.

33
34 Section 2. This Ordinance shall become effective immediately upon passage by
35 New Castle County Council and approval of the County Executive, or as otherwise
36 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 Henry
County Executive
New Castle County

SYNOPSIS: Same as title.

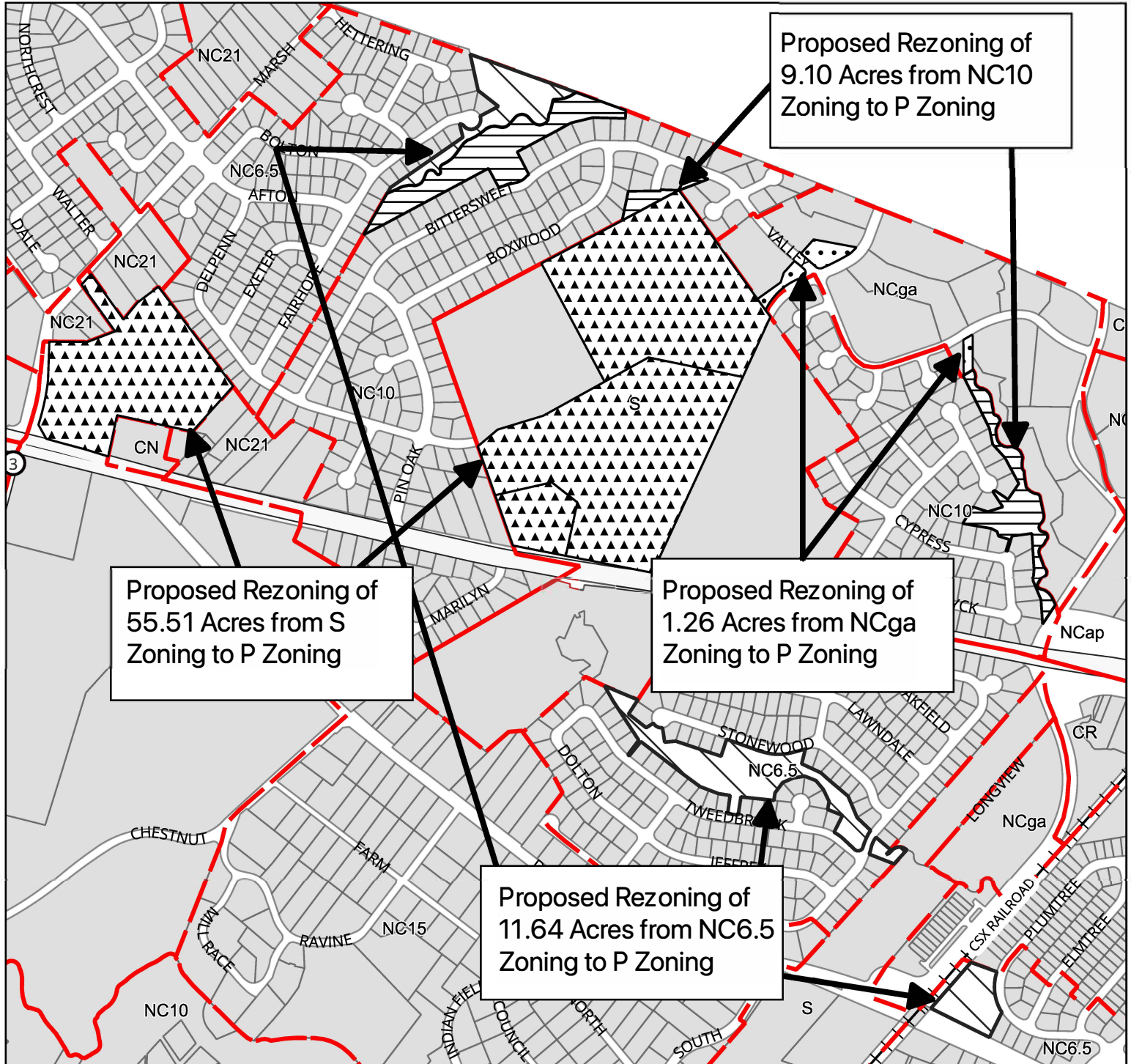
FISCAL IMPACT: There is no discernible fiscal impact with the adoption of this
legislation.

PROPERTY MAP

EXHIBIT A MAP 1 ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NCga, NC6.5, & NC10) AND
SUBURBAN (S) TO PUBLICLY CONSERVED LANDS
& PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-024.00-249,
06-025.00-125, 06-025.00-140, 06-025.00-142,
06-025.00-221, 06-025.00-234, 06-025.00-235,
06-026.00-004, 06-035.00-236, 06-035.00-240,
06-046.00-074, 06-046.00-085, 06-047.00-044



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:9254
Prepared by: Matthew Rogers

Date: 8/25/2025

PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: Date
Approved by County Executive:

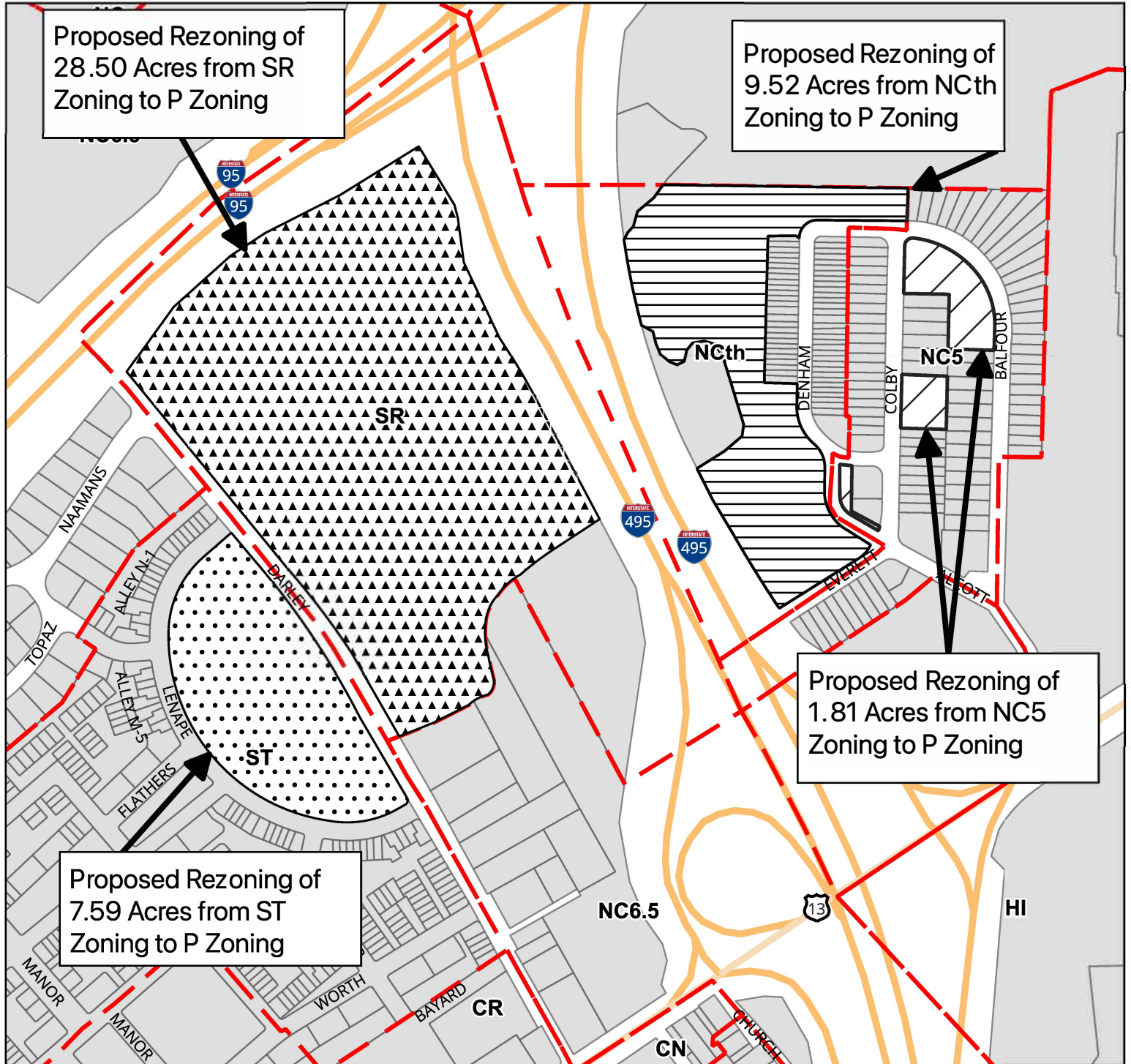
 NC10 to P
 S to P
 NC6.5 to P
 NCga to P

PROPERTY MAP

EXHIBIT A MAP 2 ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NCth & NC5), SUBURBAN
TRANSITION (ST), AND SUBURBAN RESERVE (SR)
TO PUBLICLY CONSERVED LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-059.00-001,
06-059.00-002, 06-059.00-018,
06-059.00-112, 06-059.00-119



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:4984
Prepared by: Matthew Rogers

Date: 8/25/2025



PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: _____
Approved by County Executive: _____

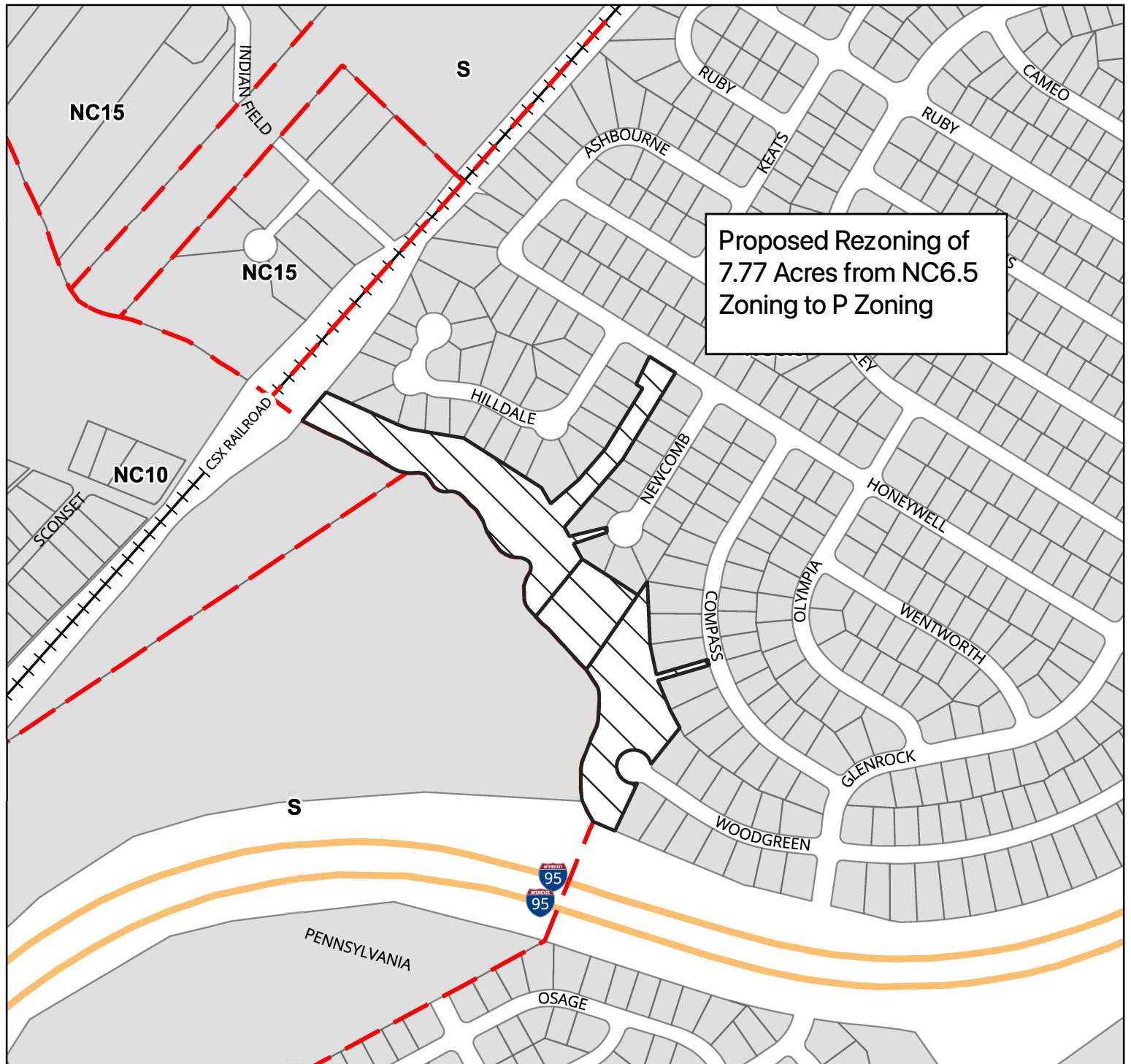
NC5 to P
 SR to P
 NCth to P
 ST to P

PROPERTY MAP

EXHIBIT A MAP 3
ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NC6.5) to PUBLICLY CONSERVED
LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-057.00-179,
06-070.00-043, 06-070.00-044



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:4996
Prepared by: Matthew Rogers

Date: 8/25/2025



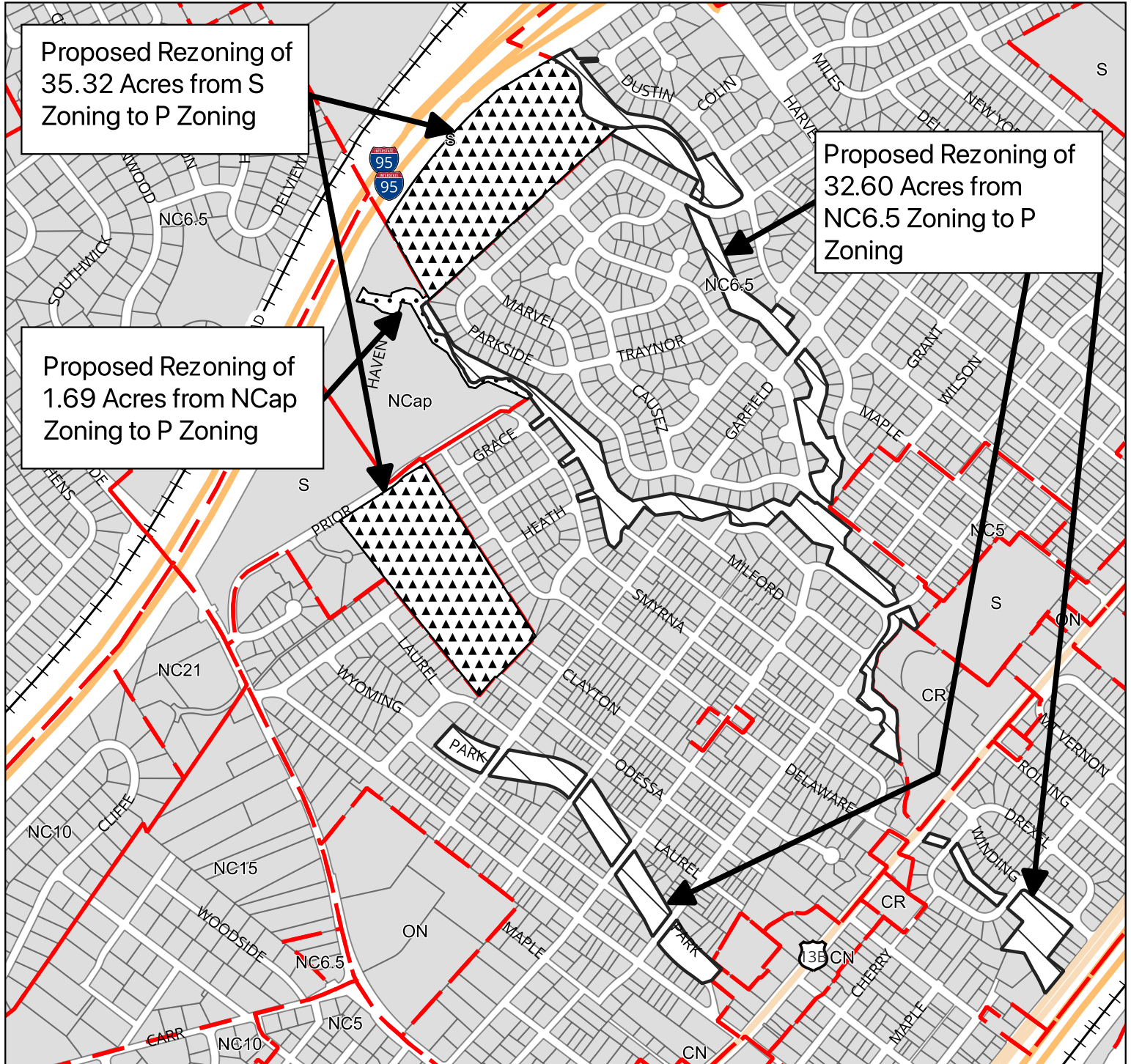
PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: Date
Approved by County Executive:

PROPERTY MAP

EXHIBIT A MAP 4 ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NC6.5 & NCap) AND SUBURBAN
(S) TO PUBLICLY CONSERVED LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-082.00-253, 06-082.00-254,
06-083.00-094, 06-083.00-510, 06-094.00-126,
06-095.00-354, 06-095.00-484, 06-105.00-161,
06-105.00-170, 06-106.00-062, 06-106.00-152,
06-106.00-153, 06-106.00-412, 06-106.00-424,
06-106.00-481



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:9992
Prepared by: Matthew Rogers
Date: 8/25/2025



PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council:
Date Approved by County Executive:

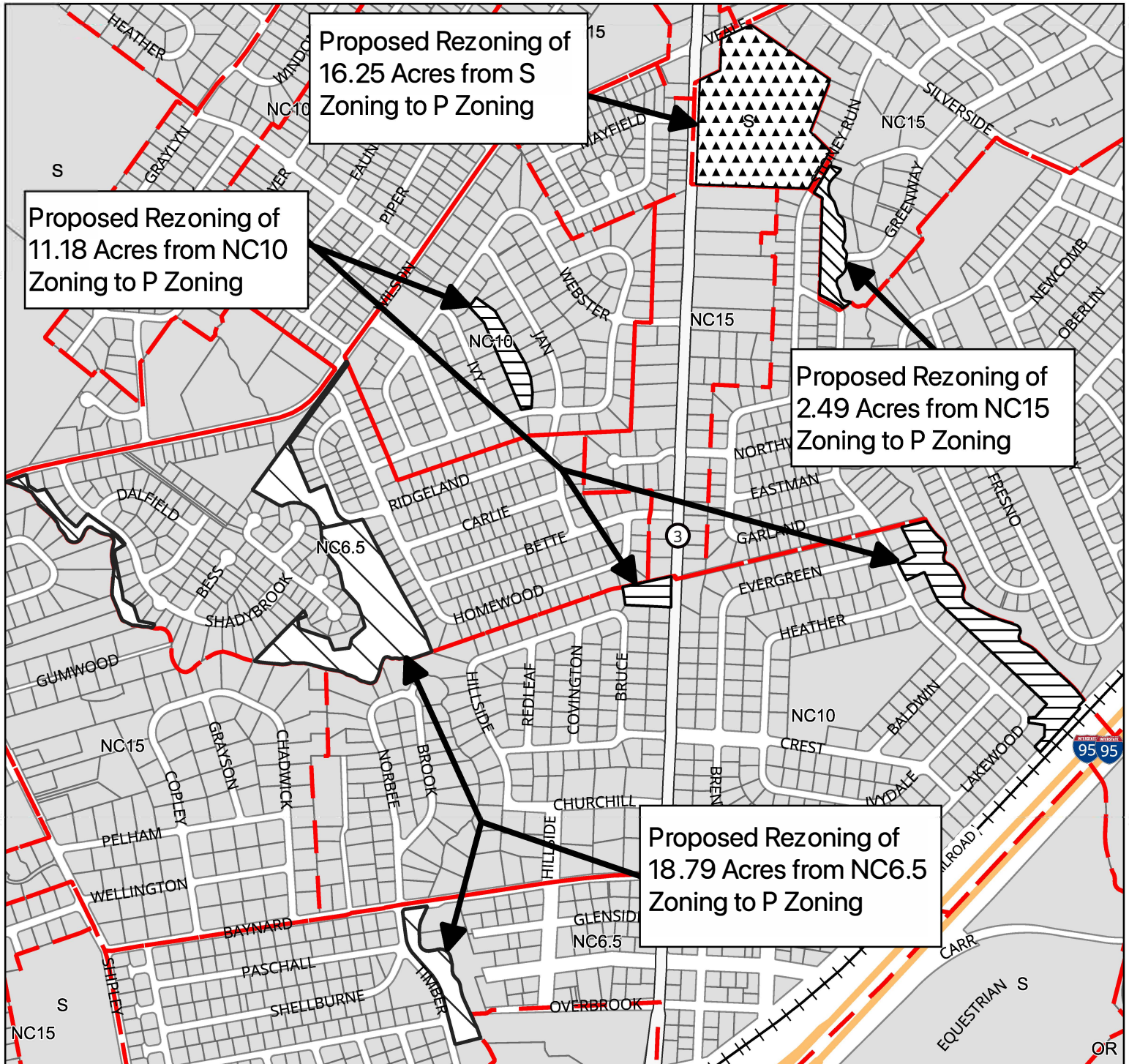
NC6.5 to P
 NCap to P
 S to P

PROPERTY MAP

EXHIBIT A MAP 5 ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NC6.5, NC10, & NC15) &
SUBURBAN (S) TO PUBLICLY CONSERVED LANDS
& PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-081.00-053,
06-081.00-085, 06-091.00-199,
06-092.00-093, 06-092.00-101,
06-092.00-174, 06-104.00-001,
06-104.00-231, 06-113.00-239



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:10992
Prepared by: Matthew Rogers

Date: 8/25/2025

PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: Date
Approved by County Executive:

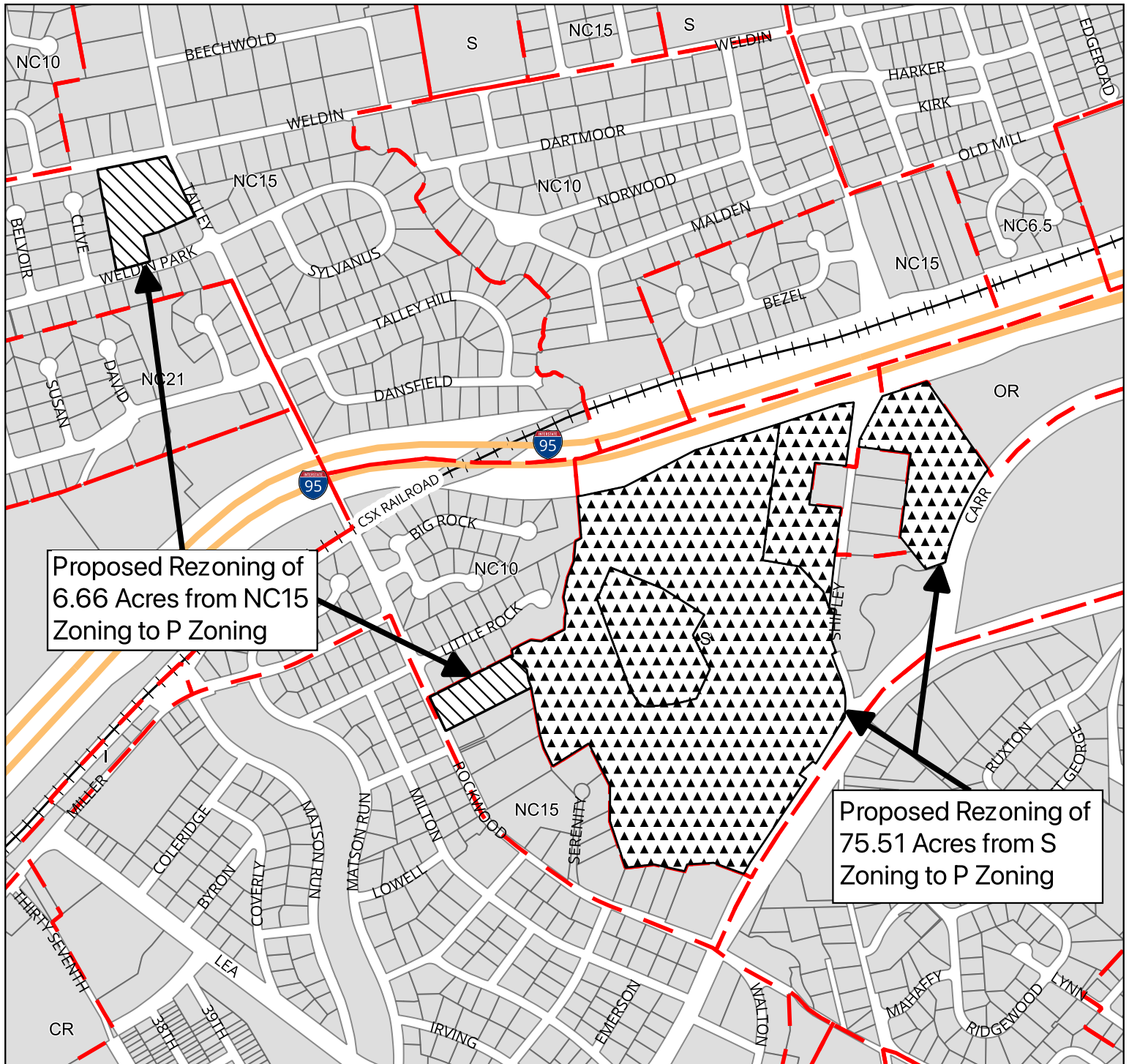
NC10 to P NC6.5 to P
NC15 to P S to P

PROPERTY MAP

EXHIBIT A MAP 6 ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NC15) AND SUBURBAN (S) TO
PUBLICLY CONSERVED LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-121.00-129,
06-122.00-016, 06-122.00-080, 06-122.00-081,
06-130.00-004, 06-130.00-012



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:8984
Prepared by: Matthew Rogers

Date: 8/25/2025



PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council:
Date Approved by County Executive:

- NC15 to P
- S to P

PROPERTY MAP

APPLICANT: NEW CASTLE COUNTY
 PROPOSED REZONING: NEIGHBORHOOD
 CONSERVATION (NC6.5 & NCth), SUBURBAN (S)
 AND COMMERCIAL REGIONAL (CR) TO PUBLICLY
 CONSERVED LANDS & PARKS (P)

EXHIBIT A MAP 7 ZONING ORDINANCE AS INTRODUCED

APPLICATION NO. 2025-_____-Z
 TAX PARCEL NO: 06-146.00-596,
 06-147.00-014, 06-147.00-015,
 06-147.00-020



HUNDRED: BRANDYWINE HUNDRED
 NEW CASTLE COUNTY, DELAWARE

Scale: 1:3992
 Prepared by: Matthew Rogers

Date: 8/25/2025



PERMANENT ORDINANCE NO. 25-122
 Date Adopted by County Council: Date
 Approved by County Executive:

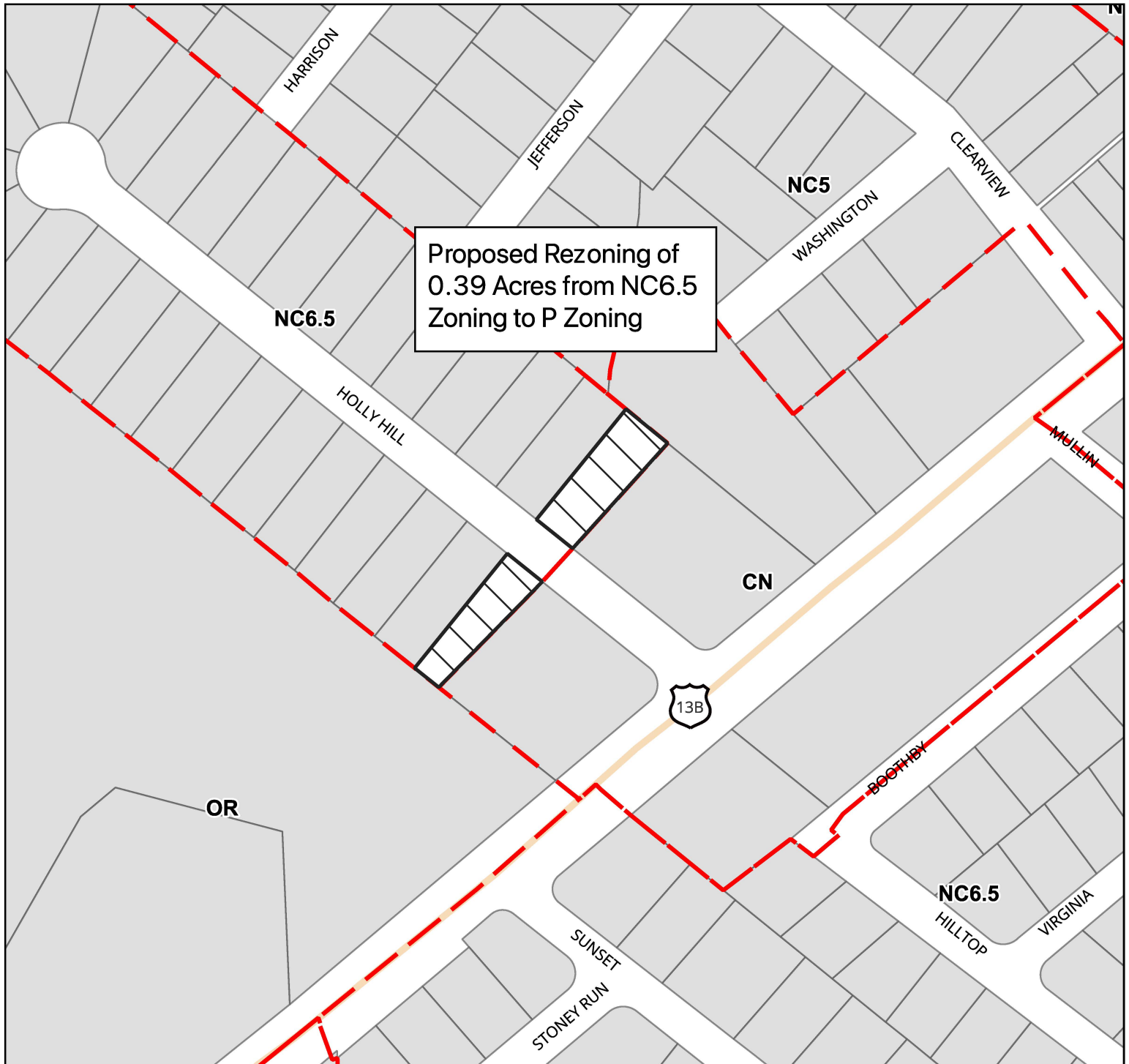
NC6.5 to P	NCth to P
S to P	CR to P

PROPERTY MAP

EXHIBIT A MAP 8
ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NC6.5) TO PUBLICLY
CONSERVED LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-115.00-178,
06-115.00-206



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:1936
Prepared by: Matthew Rogers

Date: 8/25/2025



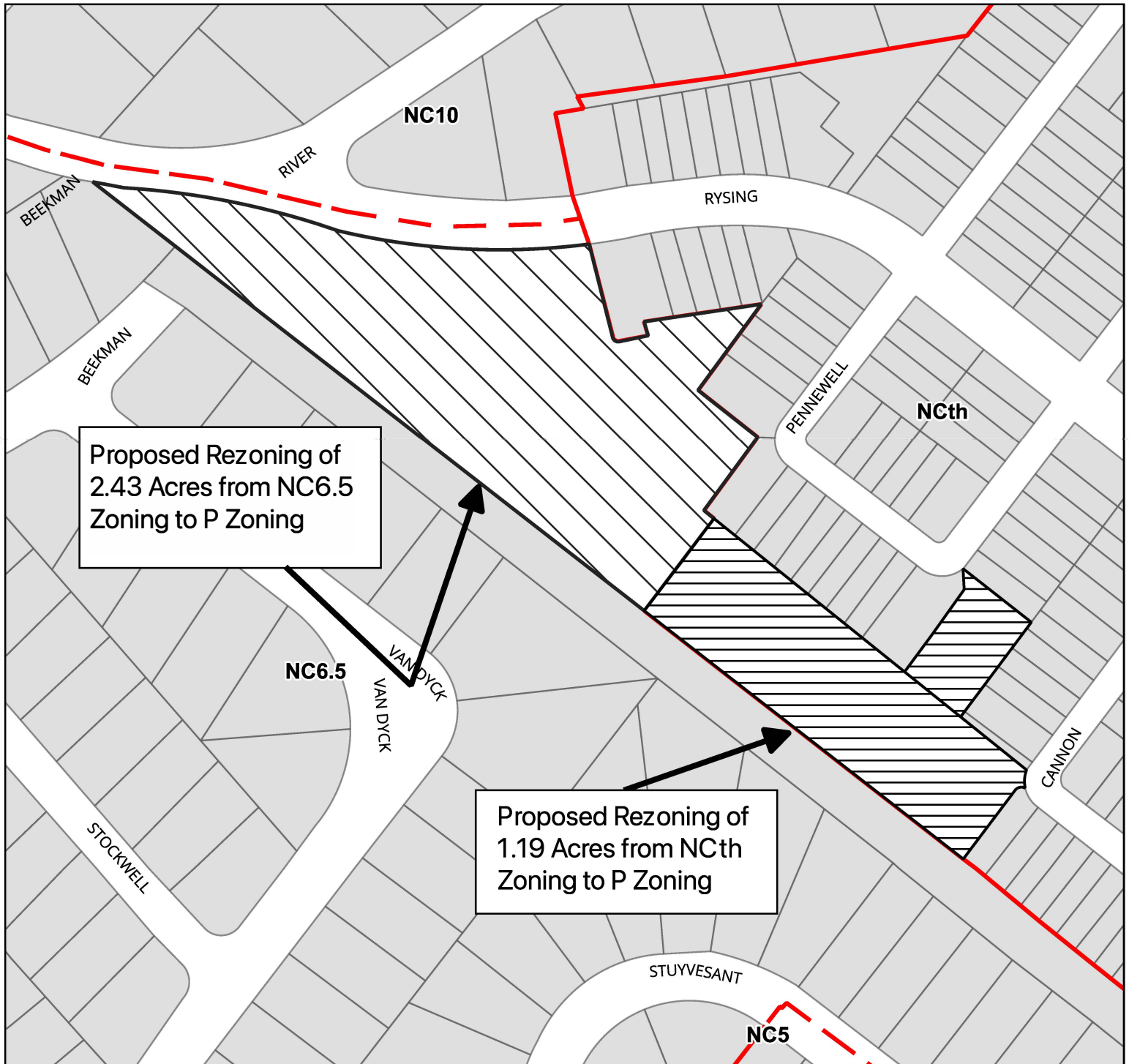
PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: Date
Approved by County Executive:

PROPERTY MAP

EXHIBIT A MAP 9
ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NC6.5 & NCth) to PUBLICLY
CONSERVED LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-146.00-259,
06-146.00-619



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:1650
Prepared by: Matthew Rogers

Date: 8/25/2025



PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: Date
Approved by County Executive:

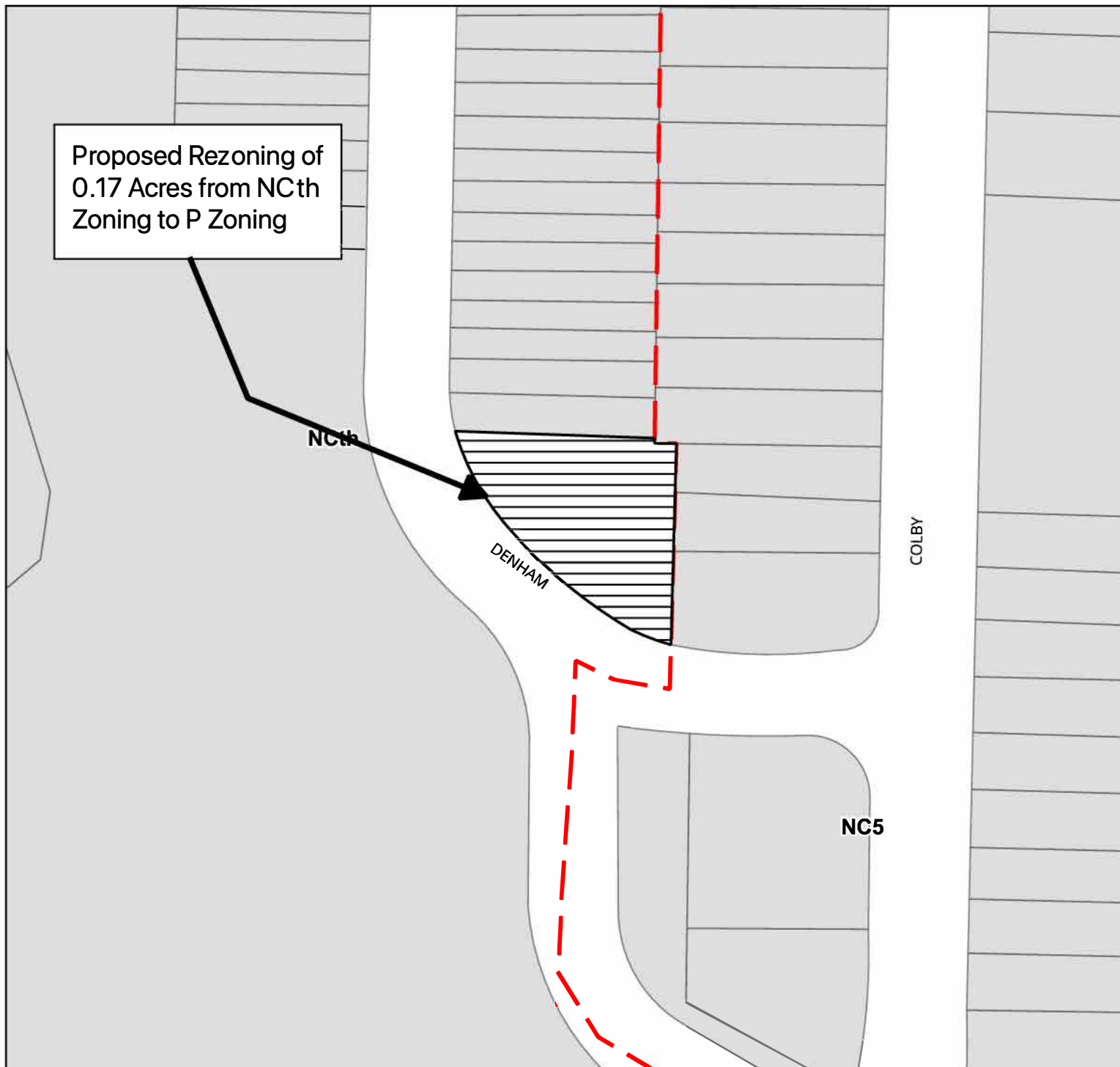
- NC6.5 to P
- NCth to P

PROPERTY MAP

EXHIBIT A MAP 10
ZONING ORDINANCE AS INTRODUCED

APPLICANT: NEW CASTLE COUNTY
PROPOSED REZONING: NEIGHBORHOOD
CONSERVATION (NCth) TO PUBLICLY CONSERVED
LANDS & PARKS (P)

APPLICATION NO. 2025-_____-Z
TAX PARCEL NO: 06-059.00-045



HUNDRED: BRANDYWINE HUNDRED
NEW CASTLE COUNTY, DELAWARE

Scale: 1:844
Prepared by: Matthew Rogers

Date: 8/25/2025



PERMANENT ORDINANCE NO. 25-122
Date Adopted by County Council: Date
Approved by County Executive:



New Castle County Department of Land Use

**JOINT DEPARTMENT OF LAND USE / PLANNING BOARD
RECOMMENDATION**

Ordinance No. 25-122

Application No. 2025-0584-Z

County Council District 8 – Rezoning of County-owned Land to P-Zoning

December 16, 2025

Sponsor: Councilman Cartier (District 8)

Description: Revise the New Castle County Zoning Maps in County Council District 8 regarding county-owned land

EXECUTIVE SUMMARY

Adopted in March of 2025, Ordinance 24-130 established a new zoning district, Publicly Conserved Lands & Parks District (P). This zoning district designation would be required for County Owned properties, and available for governmentally owned properties (at the request of the owner) 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.

Application 2025-0584-Z (Ordinance 25-122) proposes to amend the County's official zoning map to rezone County-owned parks and open space in County Council District 8 to the newly established P Zoning District. The subject 63 parcels are:

06-024.00-249 (2507 Marsh Rd, County Parkland),
06-025.00-049 (3010 Fairhope Rd, Afton),
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06-092.00-101 (20 Ridgeland Rd, Lynnfield),
06-092.00-174 (115 Marcella Rd, Webster Farm),
06-094.00-126 (2098 Prior Rd),
06-095.00-026 (607 Smyrna Ave, Hillendale),
06-095.00-354 (705 Naudain Ave, Claymont Heights 2),
06-095.00-484 (2220 Lincoln Ave, Greenmount),
06-104.00-001 (1218 Marsh Rd, Carrcroft Sec C),
06-104.00-231 (1239 Lakewood Dr, Carrcroft Crest),
06-105.00-161 (1805 Garfield Ave, Gwinhurst),
06-105.00-170 (1804 Garfield Ave, Gwinhurst),
06-106.00-062 (1805 Harrison Ave, Gwinhurst),
06-106.00-152 (20 N Park Dr, Gwinhurst),
06-106.00-153 (1806 Harrison Ave, Gwinhurst),
06-106.00-412 (13 Garrett Rd, Rolling Park),
06-106.00-424 (11 Devon Rd, Rolling Park),
06-106.00-481 (22 Winding Ln, Rolling Park),
06-113.00-239 (107 Timber Ln),
06-115.00-178 (9 Holly Hill Rd, Holly Hill),
06-115.00-206 (0 Holly Hill Rd, Holly Hill),
06-121.00-129 (1420 Talley Rd, Weldin Park Sec 2),
06-122.00-016 (4691 Washington St Ext, Rockwood Visitors Center),
06-122.00-080 (622 Shipley Rd, Hargraves Subd),
06-122.00-081 (301 Carr Rd, Rockwood Office Park),

06-130.00-004 (603 Rockwood Rd),
 06-130.00-012 (4651 Washington St Ext, Rockwood Visitors Center),
 06-146.00-596 (20 Clayton Ct, Edgemoor Gardens),
 06-147.00-014 (610 River Rd, Camp Manito),
 06-147.00-015 (610 River Rd, Jewish Federation Of Delaware),
 06-147.00-020 (610 River Rd, Camp Manito),
 06-059.00-045 (0 Denham Ave, Knollwood),
 06-146.00-259 (720 Rysing Dr, Edgemoor Gardens),
 06-146.00-619 (21 B S Cannon Dr, Edgemoor Gardens).

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

DESCRIPTION

Application 2025-0584-Z (Ordinance 25-122) proposes to amend the County's official zoning map to rezone County-owned parks and open space in County Council District 8 to the newly established P Zoning District. A list of subdivisions with parks and open space proposed to be rezoned to P Zoning in this rezoning are as follows (a full list of parcels can be found above):

Afton	Bechtel Subdivision	Camp Manito
Carrcroft Crest	Carrcroft Section C	Claymont Heights
Claymont Heights 2	Claymont Library	County Parkland
Darley Woods	Edgemoor Gardens	Forwood
Greenmeadow	Greenmount	Greentree Section 3
Gwinhurst	Hargraves Subdivision	Harvey Run
Hawthorne Estates	Hillendale	Holly Hill
Jewish Federation of	Knollwood	Leshar Subdivision
Longview Farms Section 1	Lynnfield	Radnor Green Section 2
Radnor Green Section 3	Ramblewood	Rockwood Office Park
Rockwood Visitors Center	Rolling Park	The Timbers Section 2
Top of the Hill Apartments	Valley Run Section 2	Webster Farm
Weldin Park Section 2		

BACKGROUND

The history of rezoning processes dates to the 1950s. Subsequent sections examine how State and County codes evolved over time.

Establishment of Zoning & the Rezoning Process

The process and set of standards established in Delaware State Code for rezonings has largely been unchanged since 1951. On June 5, 1951, the State of Delaware granted the Levy Court of New Castle County the authority to adopt zoning regulations and provided a process and legal notice requirements for the establishment and amendment of zoning maps. The process required that the Levy Court establish a Zoning Plan, have a public hearing with the Zoning Commission with notice at least 15 days prior to the hearing in the newspaper of general circulation in the County and adoption by the Levy Court. The process for amendments to the zoning map largely mirrored that of establishing zoning, except for reducing the notice requirement to seven days prior to the Zoning Commission hearing.¹ New Castle County adopted zoning regulations in September of 1954.

Rezoning in New Castle County

Since the adoption of zoning in 1954, all changes to New Castle County's zoning map have fundamentally followed the process that was originally established in 1951, whether for 1 or 100,000 parcels. The utility of these rezonings ranged from larger initiatives, such as the adoption of the UDC, Diversified Planned Unit Developments, Hometown and Historic Overlays to smaller initiatives such as to legalize existing uses or to support the subsequent recordation of a plan that provides for important residential and nonresidential development.

2022 Update to the New Castle County Comprehensive Plan

The 2022 Update to the New Castle County Comprehensive Plan (The Plan)² was the product of more than two years of extensive public outreach. During that process, the Department made extensive efforts to reach out and garner public feedback on not only the overall Goals/Objectives/Strategies expressed in the plan, but also the Future Land Use map and Element. As a result of these efforts, Strategy 1.1.6 was created to consider the establishment of a preservation zoning category.

¹ Zoning Enabling Legislation: <https://legis.delaware.gov/SessionLaws/Chapter?id=33182> Dillon's Rule additional reading: <https://www.planning.org/planning/2020/mar/tools-legal-lessons/>

² New Castle County Comprehensive Plan 2050: <https://ssl02.nccde.org/gisfiles/Images/NCC2050/Comp%20Plan%20Final%20Draft/Complete%20Plan%20Final%20Draft%20%2006272022.pdf>

Ordinance 24-130 Zoning District for Publicly Owned Conserved Land and Public Parks

Adopted in March of 2025, Ordinance 24-130 established a new zoning district, Publicly Conserved Lands & Parks District (P). This zoning district 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.

Ordinance 25-122 County Council District 8 – Rezoning of County-owned Land to P-Zoning

The proposed ordinance would rezone 63 parcels located within County Council District 8 consisting of County-owned parks and open space to the Publicly Conserved Lands & Parks District (P) established in Ordinance 24-130.

PLUS REVIEW (Preliminary Land Use Service)

The text amendment that established P Zoning (Ord. 24-130) 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.³ 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. 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 – November 4, 2025

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use and hyperlinked below.⁴

³ PLUS Report:

<https://www3.newcastlede.gov/PDFDocument/default.aspx?DocumentID=80:FC40FF5826FBF7107D10260598B6C0724428DD1196872F86C5E68CE881F951C2C65831502A6D587F61602538894DF47B&x=temp.pdf>

⁴ November 4, 2025, Planning Board Public Hearing: <https://www.newcastlede.gov/agendacenter>

Presentation

Alec Davis, Planner for the Department of Land Use, presented the *Ordinance 25-122*, discussing parcels located in County Council District 8 proposed for rezoning to the Publicly Conserved Lands & Parks District (P) designation. He mentioned that the Ordinance 24-130 first established the P Zoning District and was adopted on March 25th, 2025. He proceeded to show the exhibit maps for all of the affected properties and explained the neighborhoods and locations of each cluster of parcels.

Kiana Drake inquired about the use of the affected parcels. Matthew Rogers (Land Use) stated that the properties identified are all County-owned open space and park properties, a majority of which were created under former code (pre-1997) where it was more common in practice for New Castle County to maintain ownership, and are currently a part of the parks program.

Public Comment

Anita Adams inquired about the property address of 20 Clinton Court and whether any development is proposed as a part of the proposed ordinance. Matthew Rogers (Land Use) responded that the proposed rezoning does not include any changes to the properties and that any changes in the future would be a project through the Department of Public Works.

ANALYSIS

Application 2025-0584-Z (Ordinance 25-122) proposes to amend the County's official zoning map to rezone County-owned parks and open space in County Council District 8 to the newly established P Zoning District, consistent with Ordinance 24-130 (adopted in March of 2025) which established the Publicly Conserved Lands & Parks District (P), and require County owned properties that are publicly protected and identified as protected in perpetuity for the public benefit to be rezoned to P.

These parcels⁵ are all located within County Council District 8, which encompasses parts of North Wilmington communities including Arden, Claymont, Bellefonte and many others east of Rt 202 and Marsh Road abutting the Delaware River.⁶ North Wilmington is characterized by a number of older subdivisions (ca. 1940-1960s) where it was standard practice for planned open space areas and neighborhood parks to be owned by New Castle County; differing from the subdivision open space practices found in the Unified Development Code (UDC) today. To this day, New Castle

⁵ Draft Ordinance 25-122 (Including Exhibit Maps):

<https://www3.newcastlede.gov/PDFDocument/default.aspx?DocumentID=80:FC40FF5826FBF7107D10260598B6C0724428DD1196872F86C5E68CE881F951C292813E0C92628E375389598AC068D83E&x=temp.pdf>

⁶ Map of Council Districts: <https://www.newcastlede.gov/562/Council-Districts>

County owns and maintains a number of parks and open space areas within these neighborhoods, explaining the sheer number of parcels identified within this rezoning ordinance.

Standards of Review

Pursuant to Section 40.31.410 of the New Castle County Code, in determining whether an amendment to the zoning map shall be recommended or approved, the following factors shall be considered:

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

This ordinance implements Strategy 1.1.6 of the 2022 Comprehensive Development Plan by proposing the subject 63 parcels be rezoned to the Publicly Conserved Lands & Parks District (P). The establishment of P Zoning on these parcels will better identify and emphasize the protection and preservation of these existing open space and park parcels.

B. Consistency with the character of the neighborhood.

All 63 parcels identified in the rezoning are currently public parks and open space. The P Zoning designation will not change the use of these parcels.

C. Consistency with zoning and use of nearby properties.

These properties were initially designed to serve as parks and open space areas within the communities they are located. P Zoning designation will not change the residential open space or parkland nature of the areas.

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

These properties were initially designed to serve as parks and open space areas within the communities they are located. P Zoning designation will not change the residential open space or parkland nature of the areas.

E. Effect on nearby properties.

These properties were initially designed to serve as parks and open space areas within the communities they are located. P Zoning designation will not change the residential open space or parkland nature of the areas.

DEPARTMENT OF LAND USE RECOMMENDATION

The Department of Land Use has considered the Standards for Zoning Map Amendment in Section 40.31.410, A through E of the *Unified Development Code*, the Future Land Use Map, the comments

received from outside agencies, and the comments received by the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal. Therefore, the Department of Land Use recommends **APPROVAL** of Ordinance 25-122.

PLANNING BOARD RECOMMENDATION

At a business meeting held on December 16, 2025, 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 Robert Ott and seconded by Neal Cantrell, the Board voted to recommend **APPROVAL** of application 2025-0584-Z as recommended by the Department of Land Use. The motion was adopted by a vote of 5-0-0-3 (In Favor: Cantrell, Cochran, Ott, Snowden, Visvardis; In Opposition: None; Abstention None; Absent: Daigle, Drake, Gray).

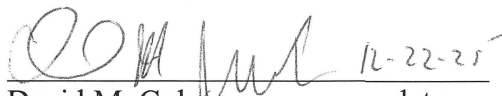
Prior to the vote, the following discussion occurred:

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

There were no questions from the Planning Board.

STATUTORY GUIDELINES

In the phraseology of 9 Delaware Code Section 2603(a), the Department finds that this rezoning will promote the convenience, order and welfare of the present and future inhabitants of this State.



David M. Culver date
General Manager
Department of Land Use



Robert B. Snowden date
Acting Chair
New Castle County Planning Board

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Tackett,
Ms. Durham, Mr. Cartier

Date of Introduction: August 5, 2025

SUBSTITUTE NO. [REDACTED] TO ORDINANCE NO. 25-101

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

1 **WHEREAS**, New Castle County currently lacks comprehensive, specific zoning
2 and development regulations tailored to the unique infrastructure demands,
3 environmental impacts, and operational characteristics of data centers; and
4

5 **WHEREAS**, data centers are distinct from other industrial and commercial uses
6 due to their high energy consumption, large-scale backup power systems, significant
7 water usage, and potential impacts on surrounding communities through noise, heat, and
8 traffic; and
9

10 **WHEREAS**, technological advancements have precipitated the growth of data
11 centers nationwide, expediting the need for provisions to guide responsible development
12 and mitigate impacts; and
13

14 **WHEREAS**, it is in the public interest to proactively regulate data center
15 development to ensure compatibility with surrounding land uses and to protect the health,
16 safety, and welfare of County residents; and
17

18 **WHEREAS**, data centers share many characteristics with heavy industry,
19 particularly in terms of energy consumption, building scale, and noise leading to zoning
20 and classification complexities best handled as a separate category of use; and
21

22 **WHEREAS**, the County seeks to encourage economic development while also
23 preserving community character, promoting sustainability, safeguarding public
24 infrastructure capacity, and minimizing land use conflicts; and
25

26 **WHEREAS**, data centers are unique land uses that involve large-scale electrical
27 infrastructure, water-intensive cooling systems, and extensive impervious coverage; and
28

29 **WHEREAS**, data centers typically utilize backup diesel generators, aboveground
30 and underground fuel storage tanks, cooling towers, and large volumes of electronic and
31 battery equipment that may pose environmental, public health, and safety risks if left
32 abandoned or unmaintained; and

33 **WHEREAS**, advances in information technology, server design, and power
34 delivery may cause individual data center facilities to become obsolete within a relatively
35 short operating lifespan, resulting in the risk of abandonment of specialized facilities that

are not easily adapted to other uses; and

WHEREAS, the County has a responsibility to protect the public health, safety, and welfare of its citizens by ensuring that abandoned or obsolete facilities are properly removed and that sites are restored to a safe and stable condition; and

WHEREAS, financial assurance requirements for decommissioning are a well-established land use tool in other industries with significant environmental or infrastructure impacts, including telecommunications towers, wind and solar energy projects, and mining operations; and

WHEREAS, requiring a decommissioning plan and associated financial assurance for data centers will ensure that the County and its taxpayers are not burdened with the cost of restoring sites and remediating environmental impacts in the event of abandonment; and

WHEREAS, County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to legitimate government interests.

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

Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, 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. Should a use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520 can be requested. Table 40.03.522 lists the specific parking requirements for several general uses listed in Table 40.03.110. Limited and special use standards are contained in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other standards.

Table 40.03.110A. General Use Table										Table 40.03.110B. General Use Table								Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory										Zoning District (Suburban and Special Character)								Additional Standards (all districts)	
Land Use	TN*	ST	MM	ON	OR	CR	BP	I		CN	S**	SE	NC**	HI	EX	SR	P	Parking	Limited & Special Use Standards
Agricultural										Agricultural								Agricultural ...	
Industrial Uses										Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L		N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>		<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210 Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N		N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

Section 2. New Castle County Code Chapter 40 ("Unified Development Code"), Article 3 ("Use Regulations"), Section 40.03.210 ("Buffering, location, bulk and scale standards") is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

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

Table 40.03.210 provides standards that increase the degree of buffering, govern the location, and reduce the bulk or scale of limited or special uses. The meaning of the different categories contained in the Table is established as follows:

A. *Location. ...*

K. *Other. ...*

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and established daycare center and schools</u>	<u>1,000 ft.*</u>							<u>See Section 40.03.343</u> <u>* See Section 40.03.343.B</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100 ft. for Recreation, High Intensity Uses ...

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

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ D are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~G~~ D.

Sec. 40.03.343. – Data Centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to every data center development or the cumulative expansion of an existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not generate noise levels that exceed the predevelopment noise level. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code*.
- B. No portion of the proposed data center building shall be located within 1,000 feet of a residential district. The Department may approve data center structures located less than 1,000 feet, but no closer than 500 feet from a residential district, provided that noise levels generated will not exceed the allowable noise levels permitted in this section. The Department will require submission of a site-specific noise study demonstrating that the combined effectiveness of the selected measures will ensure compliance with this section.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual calculations. Data centers shall not be converted to any use that exceeds the

139 approved Transportation Improvement Study (TIS) or equivalent study, for the
140 site unless another TIS or equivalent study is completed and approved in
141 accordance with all other applicable provisions of this Chapter.
142

143 E. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
144

145 F. All generators shall be Tier IV or other technologies that the applicant can
146 demonstrate as being more efficient and have less impact on the environment.
147

148 G. Any energy storage system proposed as part of the data center should be based
149 upon best practices for energy storage and efficiency and have less impact on
150 the environment. Energy storage systems must employ fire-safe technologies as
151 determined and approved by the State Fire Marshall's Office.
152

153 H. All new or expanded facilities shall submit documentation outlining the operation
154 of the building as a LEED certified building.
155

156 I. All data centers must reserve an area for future integration with onsite or
157 communal microgrid components that include various energy generation
158 sources, energy storage systems, a distribution network, a control system, and
159 metering/billing systems.
160

161 J. Abandonment.
162

163 1. The operator or property owner shall provide written notice to the Department
164 whenever the data center is out of active operation for more than 6 months.
165 Data centers that cease to operate for 1 year or longer will be considered
166 abandoned.

167 2. The operator or property owner shall either recommence operations and
168 schedule a site inspection with the Department to verify that all use
169 requirements are still satisfied or shall remove all equipment and systems
170 within 6 months of being considered abandoned.
171

172 3. Within 2 years of being considered abandoned, the data center site shall be
173 either restored to its predevelopment condition and inspected by the
174 Department, or the property owner shall submit a land use application
175 consistent with this Chapter to establish a new use for the site. Failure to
176 comply with the requirements of this section shall authorize, but not require,
177 the County to remove the data center and, when abandoned, restore the site
178 to its predevelopment condition and charge the property owner as set forth
179 in Subsection K.
180

181 K. Financial assurance. Prior to issuance of a building permit, the operator or
182 property owner shall provide a bond, surety, letter of credit, or other financial
183 assurance in a form and amount acceptable to the Department to secure
184 payment of 100% of the anticipated cost of removal of all associated site
185 improvements and restoration of the site to its predevelopment condition when
186 the data center has been abandoned. Financial assurances for data centers are
187 subject to the following:

188 1. The operator or property owner shall provide a decommissioning report that
189 includes the following:

- 190
191 a. An inventory of components installed on the site.
192
193 b. Expected lifetime of the facility.
194
195 c. Decommissioning sequence.
196
197 d. Decommissioning cost estimate based on RSMeans or other
198 software or methodology approved by the Department.
199

200 2. The financial assurance shall remain in full force and effect while the data
201 center remains in place and operating, and shall be renewed every 5 years
202 and revised as necessary to adjust for inflation and any change in the cost
203 for decommissioning.
204

205 L. Annual Report, Enforcement and Compliance. The operator or property owner of
206 the data center shall supply an annual report to the Department indicating
207 compliance with all applicable local, state and federal regulations.

208 **Section 4. New Castle County Code Chapter 40 (“Unified Development Code”),**
209 **Article 33 (“Definitions”), Section 40.33.270 (“Industrial Uses”) is hereby amended by**
210 **adding the material that is underscored and deleting the material that is stricken, as set**
211 **forth below.**

212
213 A. Compost operations (NAICS 325314). ...
214

215 B. Data center. A facility composed of networked computers, servers, storage systems,
216 and telecommunications equipment used for data processing, storage, and
217 distribution (NAICS 518210).
218

219 ~~C B.~~ *Extraction.* ...
220

221 ~~D G.~~ *Heavy industry.* ...
222

223 ~~E D.~~ *Light industry.* ...
224

225 ~~F E.~~ *Recycling or .* ...
226

227 ~~G F.~~ *Solar energy system, large scale.* ...
228

229 ~~H G.~~ *Utility, major.* ...
230

231 ~~I H.~~ *Utility, minor.* ...
232

233 ~~J I.~~ *Utilities, maintenance facilities.* ...
234

235 **Section 5. New Castle County Code Chapter 40** (“Unified Development Code”),
236 Article 33 (“Definitions”), Section 40.33.300 (“General Definitions”) is hereby amended
237 by adding the material that is underscored and deleting the material that is stricken, as
238 set forth below.

239
240 *Abandonment.* ...

241
242 *Closed-loop cooling system.* A closed-loop cooling system is one where the cooling
243 medium is contained within a piping circuit for reuse.

244
245 *Open-loop cooling system or once-through cooling system.* An open-loop cooling
246 system is one with a cooling method in which water is withdrawn from a surface,
247 groundwater, or public supply source, passed through heat-exchange equipment to
248 absorb heat, and the effluent is then discharged to a surface water body, re-injected into
249 the ground, or discharged into a wastewater treatment system. Open-loop systems
250 typically rely on continuous withdrawals and discharges, frequently resulting in greater
251 thermal or environmental impacts including higher consumptive use of water resources.

252
253 *Reclaimed water.* Water that has been treated to meet specific quality standards,
254 making it safe for a beneficial reuse. This can include treated effluent from wastewater
255 treatment facilities and remediation activities.

256
257 **Section 6. 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.

258
259 **Section 7. 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.

260
261 **Section 8. 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 and not as new enactments
regardless if severability is possible.

262
263 **Section 9. 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: The following is a summary of the revisions that were proposed in the Ordinance, broken down by *New Castle County Code* Division or Section number.

Sec. 40.03.110. The amendment updates the use table to establish which zoning districts permit the data center as a Special Use.

Sec. 40.03.210. The amendment updates the Limited and Special Use Standards Table to include data center uses.

Sec. 40.03.333. The amendment updates references to the definition of Light Industrial uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. The amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. The amendment includes Special Use standards for data center uses.

Section 40.33.270. The amendment defined data center uses.

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

Sec. 40.03.110. The amendment further updated the use table to establish which zoning districts permit the data center as a Special Use.

Sec. 40.03.343. The amendment clarified that data centers must comply with State and Federal regulations and allows the Department to permit applicants to substitute other technologies that the applicant has demonstrated as being more efficient and have less impact on the environment. The amendment also included decommissioning, abandonment, and financial assurance provisions for data centers.

Section 40.33.300. The amendment defines closed-loop cooling systems, open-loop cooling systems, and reclaimed water.

Substitute No. 2. The following changes were included in Substitute No. 2:

Sec. 40.03.210. The amendment referenced Section 40.03.343.B regarding the distancing requirements between data center structures and protected uses.

Sec. 40.03.343. The amendment clarified that noise level restrictions are for those generated by the data center. The amendment also allowed the Department to approve data center structures located less than 1,000 ft. from a residential zoning district, provided that noise levels generated do not exceed the allowable noise levels permitted in Chapter 22 of the *New Castle County Code*. However, no portion of the proposed data center building or accessory uses are permitted within 500 ft. of a residential district and no closer than 1,000 ft. from an existing residential dwelling unit.

The amendment changed the effective date of the ordinance to be the date that the ordinance is adopted by County Council and approved by the County Executive.

Substitute No. [REDACTED]. The following changes are included in Substitute No. [REDACTED]:

Section 40.03.343 has been amended as follows:

1. Clarifies the noise level standards
2. Removes the suggested noise attenuation techniques
3. Removes the Lighting standards since they are found in other Sections
4. Removes the natural gas system requirement for generators
5. Removes the Battery Energy Storage System requirement
6. Requires new or expanded buildings to be LEEDS certified
7. Clarifies areas for onsite or communal microgrid components must be reserved, not designed
8. Removes Sections for State coordination, compliance with State and Federal laws
9. Makes formatting changes to correct subsection citations
10. Modifies the Annual Report requirement



New Castle County Department of Land Use

DEPARTMENT OF LAND USE
RECOMMENDATION REPORT

Ordinance 25-101
Application 2025-0486-T
Data Centers

October 21, 2025

Sponsor: Councilman David Carter (District 6)

Description: Amending New Castle County Code Chapter 40 ("Unified Development Code"), Article 3 ("Use Regulations"), and Article 33 ("Definitions") to establish standards for the review, siting, and operations of data centers.

EXECUTIVE SUMMARY

The Unified Development Code has had standards for Information Services and data processing (NAICS 51 which include Data Centers) dating back to 1998. Originally Data Centers were considered an Office Use permitted by-right in all non-residential zoning districts. The definition was broadened to also consider Data Centers as a Light Industrial Use, maintaining them as a by-right use in industrial zoning districts (HI & I) after limitations were placed on Office Uses in industrial districts. At the time, based on the size, nature of their operation, and impact on nearby properties, the provisions made sense. Traditionally, Data Centers served as an accessory use to support a principal office use or as an individual industrial use typically within an industrial park. As the technology has changed over the past decade, these facilities began to increase in size and placed additional demands on the infrastructure. The electrical demand for data centers across the United States, alone, well surpasses the full electrical demand for data centers of a decade ago, let alone in 1998. Data Centers, as with many other uses, have evolved over time and as such, regulations for these centers need to be revisited.

Application 2025-0486-T (Ordinance 25-101), is a text amendment to amend New Castle County Code to further define data center uses and set Special Use standards to address the specific challenges identified in other municipalities that have considered and approved modern Data Center facilities. Proposed changes to the ordinance presented as a draft substitute to Ordinance 25-101 incorporate specific feedback from the Public Service Commission, DNREC, and other State Agencies at the PLUS hearing and in subsequent communications. The recommended changes also incorporate important protections identified as best practices in other jurisdictions.

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 25-101 with the condition that County Council considers the proposed changes in the draft substitute to Ordinance 25-101.

DESCRIPTION

Application 2025-0486-T (Ordinance 25-101), is a text amendment to amend New Castle County Code to further define data center uses and set Special Use standards.

BACKGROUND

Ordinance 97-172 Unified Development Code

On December 31, 1997, New Castle County adopted the Unified Development Code (UDC) (Ordinance 97-172) and categorizes Data Centers under Information Industries (NAICS 51) as a Light Industry use pursuant to Section 40.33.270.D of the UDC. Per Table 40.03.110 ("GENERAL USE TABLE"), Light Industry uses were permitted within the Office Regional (OR), Business Park (BP), Industrial (I), and Heavy Industry (HI) zoning districts.

Ordinance 98-080 Omnibus

On September 22, 1998, New Castle County adopted Ordinance 98-080 amended the definition of Office Uses to include Information services and data processing (NAICS 514), which in combination with the existing Light Industry use definition permitted Data Centers in every nonresidential zoning district.

Ordinance 99-075 Omnibus

On December 14, 1999, New Castle County adopted Ordinance 99-075 which created Limited Use standards (Section 40.03.333) for Light Industry uses limiting the types of Light Industry uses which are permitted within OR zoning districts.

Ordinance 08-096 Consolidation of Employment Related Uses within the OR, BP, and I Zoning Districts

On December 9, 2008, New Castle County adopted Ordinance 08-096 which redefined specific Light Industry uses as Special Uses within Section 40.03.333 of the UDC and establishing maximum height limitations on specific buildings within 100 feet of residential property lines (Section 40.04.110C).

Ordinance 21-065 Substitute No.1 to Ordinance No. 21-065

On September 9, 2021, New Castle County adopted Substitute No.1 to Ordinance 21-065 which limited Light Industry uses within CR zoning districts to warehousing and storage facilities (NAICS 493) as a Special Use and additional standards set pursuant to Section 40.03.333.B of the UDC.

Ordinance 23-104 Regarding Development, Redevelopment, Large Industrial Structures and Heavy Retail and Service Uses

On January 25, 2024, New Castle County adopted Substitute No. 1 to Ordinance 23-104 which set Limited Use standards for Light Industry uses within BP zoning including distance requirements and design elements when located adjacent to residential uses pursuant to Tables 40.03.110 and 40.03.210 of the UDC. Standards around large industrial structures (Section 40.26.260) changed to apply to a lower gross floor area (GFA) threshold of proposed large industrial structures. These design elements included but were not limited to: landscaping and berm requirements along non-industrial uses, lighting requirements along residential uses, reduction of noise impacts, building design, and other associated improvements.

Ordinance 25-101 Data Centers

Ord. 25-101 was introduced on August 5, 2025, and proposed data centers as a distinct classification of industrial use in Table 40.03.110 of the UDC. The ordinance sets data centers as a Special Use within Industrial (I) and Heavy Industry (HI) zoning districts as well as creates Limited Use standards such as buffering and screening requirements from residential, noise regulations, energy and water usage requirements, and other additional requirements.

PRELIMINARY LAND USE SERVICE (PLUS) REVIEW

The proposed text amendment was reviewed at the PLUS meeting held on September 3, 2025.

The PLUS Review Letter, dated September 5, 2025, includes comments from the Office of State Planning and Coordination, who had no objections. The Public Service Commission (PSC) expressed concerns over the impacts of large data centers and referenced a current petition to the PSC to apply a large load tariff on interconnections larger than 25MW. The PSC had no concerns with the proposed ordinance in terms of land use and environmental issues, however stated that any energy-related requirements should be regulated by the PSC. The Department of Natural Resources and Environmental Control (DNREC) cited concerns over water and energy use, air quality, and noise mitigation. DNREC stated that water usage should be coordinated with the New Castle County Subcommittee of the Water Supply Coordinating Council and that plans should detail any proposed discharging of waters. They mention that data centers could impact the energy adequacy, grid reliability and cost and recommend requirements for coordination with the local utility, emphasis on Battery Energy Storage Systems, and consistency with the State Energy Plan. In terms of air quality, DNREC suggested limitations for on-site generators, limitations on transportation emissions, preconstruction permits, and pre-application air quality modeling. DNREC agreed with the proposed noise limitations in Ord. 25-101. All other State agencies had no comment on the subject ordinance.

PLANNING BOARD PUBLIC HEARING – October 7, 2025

*Please note, the below is a summary. A recording and transcripts of the public hearing are available at the Department of Land Use.¹

Councilman David Carter presented the ordinance. He started by highlighting the key impacts of data centers on various aspects such as; land use, water use, noise pollution, air emissions, and energy use. He reviewed statistics on energy use and the goals of responsible data center siting, infrastructure and environmental standards. He presented to the Planning Board a proposed substitute ordinance which was drafted in response to PLUS comments received in September as well as additional research, and summarized the key provisions of the substitute ordinance including but not limited to: Special Use requirements, noise limitations, setback requirements from residential, standards for backup power, cooling, energy, microgrid requirements, and other associated standards. Councilman Carter proceeded to address the comments received by PLUS, outline a decommissioning process for all proposed data centers, and provide details on the application of the proposed ordinance on data center projects if adopted.

Questions from the Planning Board:

Robert Snowden inquired if data center projects would require Special Use permits or be considered by-right. Councilman Carter mentioned that each data center project would require a Special Use permit and have to follow the criteria and standards for a Special Use pursuant to the UDC. Mr. Snowden asked if the substitute ordinance proposed intergovernmental coordination to which Councilman Carter confirmed that the substitute would require approvals from the applicable regulating agencies. Robert Ott questioned the average lifespan of a data center. Councilman Carter detailed the energy issues of existing data centers throughout the country and noted the technology and equipment changes. Neal Cantrell asked about the low frequency noise and potential impacts on surrounding communities, and Councilman Carter stated that the standards for the proposed setbacks was based on existing requirements in other jurisdictions as well as established setbacks in the UDC. Ruth Visvardis inquired about the meaning of “residential zones” when discussing the 1,000-foot setback requirement to which Councilman Carter clarified it meant residential zoning districts found in the UDC. Air quality due to backup generator usage was a point of concern for Mr. Cantrell and Councilman Carter stated that air quality standards and monitoring are subject to DNREC’s regulations. Councilman Carter explained the PLUS process and coordination with the State of Delaware agencies on the details of the ordinance which resulted in some of the conditions presented in the substitute ordinance. Mr. Cantrell cited the supplemental report submitted by Councilman Carter which outlined the potential issues ongoing with data centers in Virginia which sources energy from PJM same as Delaware.²

A conversation occurs between Councilman Carter and Mr. Cantrell regarding energy generation

¹ October 7, 2025 Planning Board Public Hearing: <https://www.newcastlede.gov/agendacenter>

² Councilman David Carter’s Supplemental Report:
<https://www3.newcastlede.gov/PDFDocument/default.aspx?DocumentID=80:FC40FF5826FBF7107D10260598B6C0724428DD1196872F86C5E68CE881F951C292813E0C92628E37A7864BB0E463459C&x=temp.pdf>

concerns for existing data centers located in Virginia and New Jersey and the impacts on energy consumption and cost in Delaware. Mr. Ott asked about any issues with existing data centers in regard to internet data transfer capacity to which Councilman Carter had mentioned Delaware had invested in a very robust fiber optic internet infrastructure which exceeds the data transfer capacity needed for the needs of large-scale data center projects.

Public Comment:

Over 200 people attended the public hearing (online and in-person) 49 of which spoke on the ordinance. Of those who spoke, most of the speakers supported the ordinance stating that the proposed regulations would provide much needed guardrails for the community from any proposed data center projects. Many in attendance expressed concern over data centers and their impacts on the community, citing concerns over environmental and energy impacts. Those in opposition to the ordinance expressed doubts over the additional restrictions on noise, regulations on data centers, and the impact on Delaware's economy.

The Department of Land Use received email correspondence from 12 residents in support, 3 in opposition, and 2 general comments of Ordinance 25-101 during the written public comment period.³ Written public comment mostly paralleled the concerns of data center developments that were mentioned during the public hearing and expressed support of the additional standards proposed in the ordinance. Comments in opposition to the ordinance included concerns over; the effective date (Pending Ordinance Doctrine), additional regulations limiting the construction of data centers, water capacity, the proposed decommissioning and noise standards. The general comments included sentiment that including regulations pertaining to dB(C) is unnecessary, and that it is important for these projects to include agreements to use local union workers.

ANALYSIS

As identified in public comment, and discussed in the Background section of this report, Information Center and data processing (Data Centers) are defined and permitted within the Unified Development Code. Since 1998 Data Centers have been permittable as a by-right use (either Industrial or Office Use) in all nonresidential zoning districts, including those to transition from more intense uses to residential uses (Office Neighborhood and Commercial Neighborhood) limited only by the site capacity restrictions for each zoning district.⁴ The permissive nature in the UDC was intentional since data centers either served in an accessory capacity within a larger office or industrial building at sites like 3 Boulden Circle,⁵ or as individual industrial uses within an industrial park such as 501 Bear Christiana Rd & 4001 Governor Printz Blvd (Bank One Core Data Center 1 & 2)⁶.

³ Project #20250486: <https://www3.newcastlede.gov/project/details/default.aspx?ProjectKey=832887>

⁴ Application 2025-0473-V: <https://www3.newcastlede.gov/Project/details/default.aspx?ProjectKey=832143> , (Accessed 10/15/25)

⁵ 3 Boulden Circle: <https://www3.newcastlede.gov/parcel/details/default.aspx?ParcelKey=86869> , (Accessed 10/15/25)

⁶ Application 2003-0001-S: <https://www3.newcastlede.gov/Project/details/default.aspx?ProjectKey=122344> & Application 2004-0372-S: <https://www3.newcastlede.gov/Project/details/default.aspx?ProjectKey=155142> , (Accessed 10/15/25)

Over the past decade, much like the shift from general warehousing to the logistic/fulfilment facility led by the growth in ecommerce, Data Centers have grown exponentially to serve the growing needs for technology and artificial intelligence. Not only has the technology expanded past what was originally conceived as information services and data processing in the UDC, but with increased demands in processing so to have the impacts on our electrical grid, environment, and nearby communities, Ordinance 25-101 was drafted to continue to permit development of data centers, while providing needed protections for nearby communities and the environment as a whole. The ordinance, as introduced, provided:

1. Defines Data Centers as an Industrial Use limited to Industrial (I) and Heavy Industry (HI) zoning districts, as opposed to being both an Office and Industrial use permitted in the Office Neighborhood (ON), Commercial Neighborhood (CN), Office Regional (OR), Commercial Regional (CR) Business Park (BP), Industrial (I), Heavy Industry (HI), and Extractive Use (EX).

Under the existing provisions the primary limiting factor on siting, from a land use regulatory standpoint, are the permitted gross floor area (GFA) based on site capacity and availability of adequate utilities (electric and water). As discussed, earlier Data Centers have changed significantly in size and nature of their operation. When facilities are accessory or ancillary to permissible office uses (as opposed to the principal use), their size and impact on infrastructure and the surrounding community is low, however as a principal use, they are more industrial in nature.

2. Establishes Special Use standards specifically tailored to impacts of Data Centers.

Ordinance 25-101 includes specific standards to mitigate impacts Data Centers serving as the principal use including:

- Limitations noise level at the property line
- Distancing requirements from residential zoning district lines
- Increased buffering and landscaping
- Limitations on conversion to other uses based on traffic impact – Data Centers generate a low volume of traffic
- Prohibition of open-loop or once-through as a means of cooling – eliminates the warming of our natural waterways, thereby protecting vulnerable ecological habitats
- Requirements for backup power supplies to have minimal impact on the environment and adjacent communities, both generators and battery energy storage systems
- Requirement that the buildings to be built to meet LEED Gold standards or better

- Requirement that sites be designed to be long term viable with the potential to be modified to provide onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems
- Requirements for applicants to submit a statement of coordination with utility companies and an annual report for the operation.

As with Special Uses that include use specific standards, the requirements are largely objective and measurable, not unlike that of Limited Uses which is reviewed by the Department. Data Centers, as they have evolved, based on size and impact on the surrounding community and environment, present unique conditions with respect to their relationship to the community.⁷ As such, being a Special Use, Data Centers will not only gain a public hearing at the Board of Adjustments, but will need to be evaluated based on the following additional standards:

- The use meets the requirements of Division 40.03.300 (Limited and Special Use Standards).
- The use is consistent with the Comprehensive Development Plan.
- The use is compatible with the character of the land in the immediate vicinity.
- The design minimizes the adverse effects, including visual impact on adjacent lands.
- The use minimizes adverse impacts on the environment or government services.
- The intensity of the use shall not exceed that permitted by Article 5. A lower intensity may be mandated based upon the record.⁸

These standards are combined with the Board of Adjustment's ability to establish site specific conditions and restrictions to:

- Ensure the special use is developed as presented in drawings, exhibits, and assertions made at the public hearing.
- Ensure the general purposes, goals, and objectives of the Comprehensive Development Plan and this Chapter are met.
- Prevent or minimize the adverse effects from the proposed use and development on other properties in the neighborhood, and on the public health, safety, and general welfare.⁹

The additional standards and conditions afforded by the Special Use Permit process provides a powerful motivation for developers of Data Centers to work with neighboring communities and to

⁷ Section 40.31.430.A – Standards for a Special Use Permit

⁸ Section 40.31.430.B – Standards for a Special Use Permit

⁹ Section 40.31.431 – Conditions and Restrictions

minimize their impact, bolstered by conditions and restrictions tailored to specific sites to be sensitive and mindful of surrounding communities and environmental resources.

At the October 7 Planning Board Public Hearing, Councilman Carter discussed several changes to Ordinance 25-101 that could be included in a substitute ordinance. While the record was open, Mr. Carter submitted into the record a draft of a substitute ordinance for consideration, which included the following:

- Expands the zoning districts that allow Data Centers as a Special Use to include the Extractive Use (EX) district – Extractive uses are industrial in nature, and should a site meet the requirements set forth in Ordinance 25-101, the use would be appropriate
- Includes considerations for dB(C) as opposed to just dB(A) – This factors not just frequencies evaluated by dB(A) (representative of the sensitivity of the human ear), but also the impact of low frequency noises as evaluated by dB(C).
- Allows the Department to permit applicants to substitute alternative backup power supplies (battery and generators) if those supplies are demonstrated to be more efficient and have less of an impact on the environment.
- Requires submission of a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council and demonstrate the availability of sufficient water supply to meet or exceed projected water use
- Clarifies the requirement to comply with State and Federal requirements
- Sets standards for abandoning, decommissioning and financial assurances – This assures that if a facility ceases to operate for a year that either a new permitted use is established in the facility, or the restored to its predevelopment condition, assuring that as the technology and hard infrastructure needs evolve and become more efficient these sites are not left vacant.
- Sets the effective date to the date of introduction, thereby preventing applications made after its introduction from avoiding the standards specifically designed for Data Centers as a use, including in zoning districts that would not allow Data Centers as a use should the ordinance be adopted.

The Department has reviewed the Ordinance 25-101, the proposed changes in the draft substitute to the ordinance, as well as public comment (in support, opposition, and general comments). Concerns were brought in correspondence from Joseph Fitzgerald on behalf of the Delaware Contractors Association, Delaware State Chamber of Commerce, Associated Business and Contractors and New Castle County Chamber of Commerce, voiced concerns that designating Data Centers as a Special Use and including “unnecessary and unduly robust regulation” sends the wrong message. He additionally voiced opposition with the effective date being the date of Ordinance’s introduction, which was echoed and expanded on by Shawn Tucker, Esq. Mr. Tucker

argues that Data Centers have been around since 1945, which he asserted expanded substantially in the 2000's (25 years ago), and that they are already regulated today, albeit as a "by-right" use in the OR, CR, BP and I (his letter omits that it is also a by-right use in the ON and CN districts).

Uses are designated as Special Uses, not to discourage the use, but **when they "present unique conditions with respect to their relationship to the community."** There are thirteen uses designated in Table 40.03.110 as Special Uses including:

- Adult Uses
- Agricultural Support and Other Rural Services
- Airports
- Composting Operations
- Exterior Lighting for Outdoor Recreational Uses
- Heavy Industry
- Heavy Retail and Service
- High Intensity Recreation
- Light Industry
- Major Utilities
- Parking Structures
- Protective Care
- Retail Marijuana Stores

These uses typically include objective standards specific to the potential impact of each use, but more importantly provide the public an opportunity to evaluate the impact that the use would have adjacent communities and the consistency with the Comprehensive Plan. The Department agrees that information services and data processing (Data Centers) existed in the county, however, we would argue that the size and impact are dramatically different than early facilities or even at the early years of the internet revolution (early 2000s). While electrical consumption is not a perfect measure of total impacts (it doesn't account for environmental impacts outside of the generation and transmission of electricity) the change is proportionate. Between 2014 and 2016 the annual cumulative electrical demand from data centers was roughly 60 TWh. By 2018 the consumption had increased by more than 26% to 76TWh (1.9% of the total energy consumed in the United States). Between 2018 and 2023 cumulative electrical demand from Data Centers rose by 131.6% to 176 TWh (4.4% of all electricity consumed in the United States). This was all before the release of programs such as ChatGPT 4, Microsoft Copilot, and Google Gemini. Forecasts expect as high as 580 TWh to be needed per year to support Data Centers (about 12% of all

electric demand in the United States)¹⁰

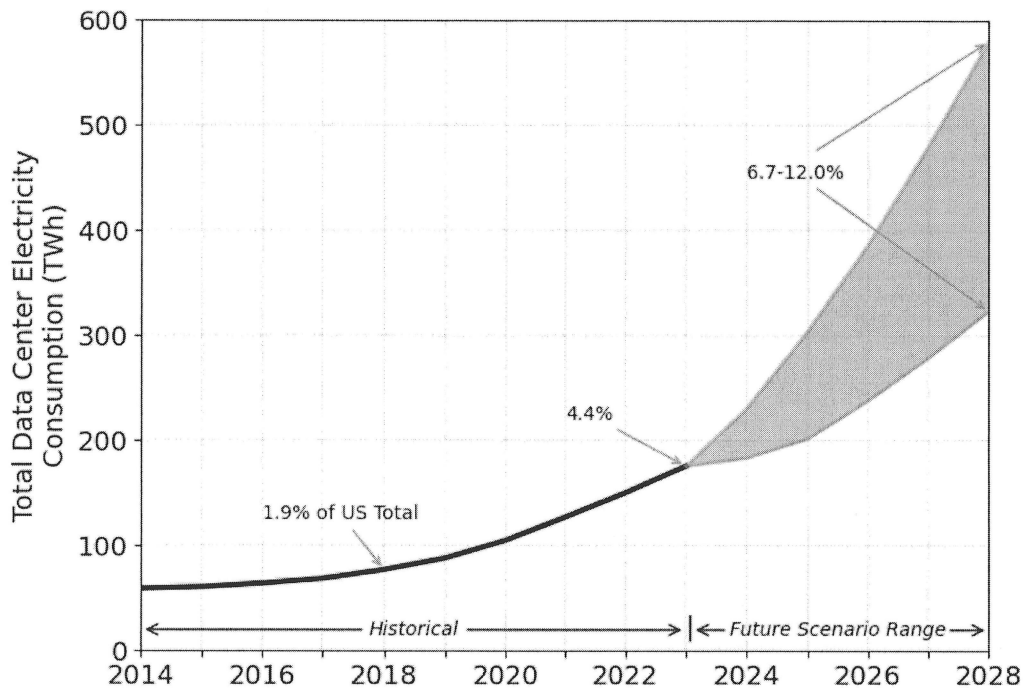


Figure ES-1. Total U.S. data center electricity use from 2014 through 2028.

These facilities typically consume roughly 50% of their electrical demand on equipment operation and 38%-40% on cooling systems.¹¹ Cooling systems not only consume electricity but also exchange heat to local waterbodies if not a closed loop system. It was recommended that any regulations be a product of coordination with DNREC, which the Department of Land Use concurs. Ordinance 25-101 was presented to PLUS on September 3, 2025. DNREC provided thoughtful comments and recommendations at the hearing. They also continued to work with Councilman Carter recommending additional standards which were incorporated into the Draft Substitute to Ordinance 25-101.

¹⁰ 2024 United States Data Center Energy Usage Report, Berkley Lab Energy Analysis & Environmental Impacts Division: <https://eta-publications.lbl.gov/sites/default/files/2024-12/lbnl-2024-united-states-data-center-energy-usage-report.pdf?stream=top>, Accessed (10/16/2025)

¹¹ Data Centers and Their Energy Consumption: Frequently Asked Questions, Congressional Research Service, August 26, 2025: <https://www.congress.gov/crs-product/R48646>, (Accessed 10/16/2025)

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.

N/A

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

The changes proposed by Ordinance 25-101 will help the County achieve several important goals and objectives in the Comprehensive Plan including:

Objective 3.1 of the Comprehensive Plan:

Continue to ensure water services and drinkable water supply is sufficient to meet demand.

Setting standards and defining “Closed-Loop Cooling Systems” to ensure the recycled use of water (or usage of reclaimed water) to ensure the protection, quality, and conservation of water supply to New Castle County residents. Continue to coordinate with the local water utilities to ensure minimal impact on the needs of the community.

Objective 13.2 of the Comprehensive Plan:

Strengthen/improve resiliency in the face of climate change threats through changes to the built environment (infrastructure, transportation, etc.) so to minimize risk and impacts to all people and communities.

Ordinance 25-101 proposes various protections from the impacts of data center operation including but not limited to: noise, setbacks from residential zoning, lighting, water and energy usage, and emissions.

Objective 16.1 of the Comprehensive Plan:

Increase diversity of engagement in community planning activities of all county residents regardless of age, race, income, native language, abilities, etc.

Ordinance 25-101 proposes to define data centers as a Special Use within industrial zoning districts requiring all proposed data center uses to seek a Special Use permit from the Board of Adjustment. This process not only ensures projects to demonstrate the standards for Special Use permits (Section

40.31.430 of the UDC), but in addition ensures an opportunity for public comment at the Board of Adjustment.

Objective 17.1 of the Comprehensive Plan:

Planning/investment decisions integrate across governments and jurisdictions

Ordinance 25-101 sets requirements that the applicant provide applicable jurisdictional approvals and permits from Local/State/Federal agencies. Applicants are to submit a statement of coordination with the local electric utility to demonstrate sufficient grid capacity, provide a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council to demonstrate sufficient water supply, and proof of compliance with all State and Federal requirements relating to data center impacts.

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

Large Industrial Structure Standards (Section 40.26.260 of the UDC)

Some design requirements proposed in Ordinance 25-101 are currently applied to large industrial structures such as berming, lighting standards, and noise impact. This ordinance proposes noise impacts along shared residential property lines, zero footcandle lighting requirement along residential property lines, and a minimum eight-foot berm to screen the site.

Large-scale Solar Energy System Standards (Section 40.03.337 of the UDC)

The needs and demands for data center real estate is difficult to predict with rapidly changing technology. To ensure that a developed data center site will be restored to its predevelopment condition, changes proposed in a draft substitute to Ordinance 25-101 outlines a decommissioning requirement to ensure data center developments do not create an undue impact on the surrounding community after ceasing operation unless the property owner submits a land use application to establish a new use for the site. A financial assurance is put in place prior to the issuance of a building permit to cover one hundred percent of the anticipated cost of removal in instances of site abandonment. This process is currently utilized for large-scale solar energy systems as these systems may be temporary in nature (about 10-25 years).

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

N/A

E. Flexibility in meeting the objectives of this Chapter.

N/A

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

N/A

G. Consideration of specific problems found in this Chapter.

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 25-101 with the condition that County Council considers the proposed changes in the draft substitute to Ordinance 25-101.

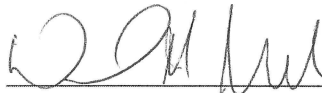
PLANNING BOARD RECOMMENDATION

At a business meeting held on October 21, 2025, the Planning Board considered the recommendation provided by the Department of Land Use as well as comments from outside agencies and the public. On a motion made by Mr. Cantrell and seconded by Ms. Visvardis, the Board voted to recommend **CONDITIONAL APPROVAL** of Ordinance 25-101 as subject to the condition recommended by the Department of Land Use. The motion was adopted by a vote of 6-1-0-1 (In Favor: Cantrell, Daigle, Drake, Ott, Snowden, Visvardis; In Opposition: Cochran; Abstention: None; Absent: Gray).

Prior to the vote, there were no comments or questions by Planning Board members.

STATUTORY GUIDELINES

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

 10/21/25

David M. Culver date
General Manager
Department of Land Use

 10/21/25

Robert Snowden date
Acting Chair
Planning Board

FLOOR AMENDMENT NO. 1 TO SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101

Substitute No. 2 to Ordinance No. 25-101 is amended at line numbers, 71, 87, and 111 through 263, by adding the material that is underlined and highlighted in yellow and by deleting the material with strikethroughs and highlighted in red, as follows.

Table 40.03.110. - Use table.

Table 40.03.110A. General Use Table										Table 40.03.110B. General Use Table										Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory										Zoning District (Suburban and Special Character)										Additional Standards (all districts)	
Land Use	TN *	ST	MM	ON	OR	CR	BP	I		C N	S ...	SE	NC ..	HI	EX	SR	P			Parking	Limited & Special Use Standards
Agricultural										Agricultural										Agricultural ...	
Industrial Uses										Industrial Uses										Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L		N	N	N	N	L	L	S	N			Table 40.03.522	Section 40.03.336
Data Centers	N	N	N	NL	NL	NL	NL	SL		NL	N	N	N	SL	SL	N	N			Table 40.03.522	Table 40.03.210 Section 40.03.343
Extraction	N	N	N	N	N	N	N	N		N	N	N	N	N	L	N	N			Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

Table 40.03.210A. Limited and Special Use Standards

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards			
Buffer Standards						Locational or Dimensional Standards						Additional Standards			
Bufferyards						Separation			Minimum			Maximum			
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other			
Agricultural ...						Agricultural						Agricultural ...			
Industrial Uses						Industrial Uses						Industrial Uses			
Compost operations												Section 40.03.336			
Data Centers	Within 4,000 500 feet of a residentially zoned parcel or parcel with an established daycare center or school	0.4	Minimum 8 ft. berm	Residential and established daycare center and schools	500 ft. *							See Section 40.03.343 * See Section 40.03.343.B			
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...			

13 **Sec. 40.03.343. – Data Centers.**

14
15 In addition to the requirements of Section 40.31.430~~26.430~~, the following
16 requirements shall apply to any proposed data center development or ~~the cumulative~~
17 ~~expansion of an existing data center in excess of two hundred 20,000 thousand square~~
18 ~~feet~~ additions larger than two hundred thousand (200,000) square feet of GFA:

19
20 ~~A. The site shall be designed to minimize noise impact on neighboring residential~~
21 ~~properties and shall not generate noise levels that exceed 55 db(A) or db(C) at the~~
22 ~~sending property line if the predevelopment noise level is below those levels. If the~~
23 ~~predevelopment noise exceeds those levels, no net increase in the existing noise level~~
24 ~~shall be permitted. A noise study shall be submitted to evaluate this impact and to verify~~
25 ~~consistency with Chapter 22 of the New Castle County Code and the study shall include~~
26 ~~all generators and any other equipment that will be utilized on the site as part of the~~
27 ~~calculation.~~

28
29 ~~B~~A. No portion of the proposed data center building or accessory uses shall be located
30 within 1,000 500 feet of a residential zoning district. However, the Department may
31 approve data center structures or accessory uses located less than 500 feet from a
32 residential zoning district, but no closer than required setbacks in the applicable zoning
33 district, upon review and determination that noise levels generated will not exceed the
34 allowable noise levels permitted in Chapter 22 of the New Castle County Code. In
35 granting any such approval distance of less than 500 feet, the Department may require
36 submission of a site-specific noise study demonstrating that the combined effectiveness
37 of the selected measures (noise attenuation and screening techniques, including, but not
38 limited to, a berm) will ensure compliance with the noise performance standards
39 contained in Chapter 22. ~~However, as a limited exception, the Department may approve~~
40 ~~data center structures or accessory uses located less than 1,000 feet, but no closer than~~
41 ~~500 feet, from a residential zoning district, upon review and determination that noise~~
42 ~~levels generated will not exceed the allowable noise levels permitted in this section. The~~
43 ~~Department may require submission of a site-specific noise study demonstrating that the~~
44 ~~combined effectiveness of the selected measures will ensure compliance with the noise~~
45 ~~performance standards set forth herein. Acceptable noise attenuation and screening~~
46 ~~techniques, including, but not limited to, the following measures, may be considered by~~
47 ~~the Department in evaluating compliance:~~

- 48
49 1. ~~Generator Acoustic Enclosures: fully enclosed or “super-silent” housings~~
50 ~~constructed of brick, masonry, or other acceptable materials with~~
51 ~~comparable sound transmission ratings.~~
52 2. ~~Acoustic Louvers and Duct Liners: designed to minimize tonal and airflow~~
53 ~~noise associated with ventilation or cooling systems.~~
54 3. ~~Sound Absorptive Panels: installed within cooling yards, generator~~
55 ~~buildings, or perimeter walls to reduce reflected noise.~~
56 4. ~~Porous Absorptive Cladding: such as mineral wool cores with perforated~~
57 ~~metal facings to dampen exterior surface reflections.~~
58 5. ~~Vibration Isolation Systems: including spring and neoprene isolators to~~
59 ~~prevent structure-borne noise transmission from generators, chillers, or~~
60 ~~HVAC units.~~
61 6. ~~Acoustic Fencing and Walls: solid or composite barriers with a minimum~~

sound Transmission Class (STC) rating of 35, extending fully above the line of sight between the noise source and the property line.

7. ~~Building Orientation and Shielding: siting of data center buildings or equipment yards so that structures themselves block direct noise paths towards residential or institutional uses.~~

8. ~~Enhanced Landscaping and Earth Berms: incorporation of vegetation, berms, and mounded terrain to provide additional passive sound attenuation and visual screening.~~

C. ~~Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.~~

D. ~~Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.~~

E.B. In addition to meeting all the requirements of Article 11...

F.C. Open-loop or once-through cooling is prohibited unless...

G. ~~All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems. The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment.~~

H. ~~Any energy storage system utilized for this use shall be Battery Energy Storage System ("BESS"). The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficiency and have less impact on the environment. Energy storage systems must employ fire-safe technologies as determined and approved by the State Fire Marshal's Office.~~

I. ~~All new expanded facilities shall submit documentation outlining the operation of the buildings as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 must be provided unless operational issues are documented and accepted to vary this minimum.~~

J.D. All data centers must be designed for future integration...

K.E. Applicant must submit a statement of coordination with local electric utility...

L.F. Applicants must submit a statement of coordination with DNREC Water Allocation Program...

M.G. Data Centers must comply with all State and Federal requirements...

N.H. Abandonment. ...

111	
112	 . Financial Assurance. ...
113	
114	 . Annual Report. ...

SYNOPSIS: *Floor Amendment No. 2 revises Table 40.03.110 to require that Data Centers in the “I”, “HI” and “EX” zoning districts be subject to Limited review rather than Special Use review, and changes Data Centers in the “ON”, “OR”, “CR”, “BP” and “CN” zoning districts from a prohibited use to a use subject to Limited review as such districts permit Data Centers in the current UDC.*

The amendment also updates Section 40.03.343 to require that proposed Data Center developments or additions greater than two hundred thousand (200,000) square feet of gross floor area comply with Section 40.26.430 (Large Industrial Structures). Additionally, it eliminates various requirements that are already addressed elsewhere in the UDC or are more appropriately addressed by the Building Code.

The amendment also revises Table 40.03.210A by reducing the distance between residential uses and Data Center developments from 1,000 feet contained in the originally introduced ordinance to 500 feet, or, in the alternative, grants the Department the discretion to approve a setback less than 500 feet when it is satisfied current noise standards contained in Chapter 22 will be satisfied through other methods such as berming.

Prime Sponsor(s): Mr. Toole
Date of Introduction: November 18, 2025

**FLOOR AMENDMENT NO. 2 TO
SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101**

Substitute No. 2 to Ordinance No. 25-101 is hereby amended in the **WHEREAS** portion of the ordinance by striking the **WHEREAS** provisions that appears at line numbers 41-44, and 46-49 in their entirety.

SYNOPSIS: This floor amendment proposes that the **WHEREAS** provisions currently appearing at line numbers 41-44, and 46-49 be deleted in their entirety.

**FLOOR AMENDMENT NO. 3 TO
SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101**

Substitute No. 2 to Ordinance No. 25-101 is hereby amended at **line number 71**, Table 40.03.110A. by striking the reference in the upper columns to the designations in the columns in the second, lower line.

<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>			<u>Table 40.03.522</u>	<u>Table 40.03.210 Section 40.03.343</u>
<u>Proposed Change</u>					<u>L</u>	<u>S</u>	<u>L</u>	<u>L</u>					<u>L</u>	<u>L</u>			<u>Table 40.03.522</u>	<u>Table 40.03.210 Section 40.03.343</u>

SYNOPSIS: This floor amendment proposes that the language currently appearing at line 71 be amended to reflect the language appearing in the lower row and highlighted as reflected in the **proposed change** row to reflect the language highlighted in **red and yellow**.

**FLOOR AMENDMENT NO. 4 TO
SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101**

Substitute No. 2 to Ordinance No. 25-101 is hereby amended at **line number 87**, Table 40.03.210A. by striking the reference in the third column to opacity of “0.4” and replacing it with **“0.3”**.

<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u> 0.3	<u>Minimum 8 ft. berm</u>	<u>Residential and established daycare center and schools</u>	<u>500 ft.*</u>						
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SYNOPSIS: This floor amendment proposes that the *Increase Opacity or Width* requirement be amended from 0.4 to **0.3**.

Prime Sponsor(s): Mr. Toole
Date of Introduction: November 18, 2025

**FLOOR AMENDMENT NO. 5 TO
SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101**

Substitute No. 2 to Ordinance No. 25-101 is hereby amended at line numbers 188-193 by deleting the material there appearing as identified with strikethroughs and red below.

~~and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 must be provided unless operational issues are documented and accepted to vary this minimum~~

SYNOPSIS: This floor amendment proposes that the language currently appearing at line numbers 188-193, as highlighted in red above, be stricken.

**FLOOR AMENDMENT NO. 6 TO
SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101**

Substitute No. 2 to Ordinance No. 25-101 is hereby amended at line numbers 212-263 (Section N. *Abandonment*, Section O. *Financial assurance*, and Section P. *Annual Report*.) by deleting the material there appearing in its entirety.

~~N.—Abandonment.~~

~~1. The operator or property owner shall provide written notice to the Department whenever the Data Center is out of active operation for more than six (6) months. Any Data Center that ceases to operate for one (1) year or longer is considered abandoned.~~

~~2. The operator or property owner shall either recommence operation and schedule a site inspection with the Department to verify that all use requirements are still intact or shall remove all equipment and systems within six (6) months of being considered abandoned.~~

~~3. Within two (2) years of being considered abandoned, the Data Center site shall be either restored to its predevelopment condition and inspected by the Department, or the property owner shall submit a land use application consistent with this Chapter to establish a new use for the site. Failure to comply with the requirements of this section shall authorize, but not require, the County to remove the Data Center and, when abandoned, restore the site to its predevelopment condition and charge the property owner as set forth in Subsection O. below.~~

~~O.—Financial assurance. Prior to issuance of a building permit, the operator or property owner shall provide a bond, surety, letter of credit, or other financial assurance in a form and amount acceptable to the Department to secure payment of one hundred (100) percent of the anticipated cost of removal of all associated site improvements and restoration of the site to its predevelopment condition when the Data Center has been abandoned. Financial assurances for Data Centers are subject to the following:~~

~~1. The applicant shall provide a decommissioning report that includes the following components:~~

~~a.—An inventory of components installed on the site.~~

~~b.—Expected lifetime of the facility.~~

~~c.—Decommissioning sequence.~~

d. ~~Decommissioning cost estimate based on RSMeans or other software or methodology approved by the Department.~~

2. ~~The financial assurance shall remain in full force and effect while the Data Center remains in place and operating, and shall be renewed every five (5) years and revised as necessary to adjust for inflation and any change in the cost for decommissioning.~~

P. ~~Annual Report, Enforcement and Compliance. The operator of the Data Center shall supply an annual report, as found in Appendix 9, to the Department indicating compliance with all applicable local, state and federal regulations. The Department shall reserve the right to request additional information and establish and update procedures for inspections, monitoring, and enforcement of compliance with this section. Non-compliant facilities will be subject to Division 40.31.900 or any other remedy available.~~

SYNOPSIS: This floor amendment proposes that the language currently appearing at line numbers 212-263 (Section N. *Abandonment*, Section O. *Financial assurance*, and Section P. *Annual Report*) be stricken in its entirety.

Prime Sponsor(s): Ms. Kilpatrick
Date of Introduction: November 18, 2025

FLOOR AMENDMENT NO. 7 TO SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101

1 Substitute No. 2 to Ordinance No. 25-101 is amended at line numbers 347 through 349
2 by adding the material that is underlined and highlighted in yellow and by deleting the
3 material with strikethroughs and highlighted in red, as follows
4

5 **Sec. 9. Effective Date.** This Ordinance shall become effective immediately upon its
6 adoption by County Council and approval by the County Executive, but shall only apply
7 to Minor and Major land development plan applications (including, but not limited to
8 preapplication sketch plans) submitted to the County after its adoption date, unless the
9 applicant, by written request, agrees to submit to the provisions of this Ordinance. All
10 resubdivision plan applications are exempted from this Ordinance regardless of the
11 submission date to the County. Any future Data Center use, buildings and/or structures
12 exempted from the applicability of this Ordinance shall be a lawful use in all respects and
13 in no case considered a non-conforming use, building(s), structure(s) or situation(s).

SYNOPSIS: *Floor Amendment No. 2 also clarifies that this Ordinance will take effect immediately upon adoption and will apply only to new Minor and Major land development plan applications (including preapplication sketch plans) submitted after adoption, unless an applicant requests otherwise in writing; all subdivision plan applications are exempt, regardless of submission date; and, any future data center projects that are exempted from this Ordinance will be considered fully legal and not treated as non-confirming uses.*

Prime Sponsor(s): Ms. Kilpatrick
Date of Introduction: December 9, 2025

FLOOR AMENDMENT NO. 8 TO SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101

Substitute No. 2 to Ordinance No. 25-101 is amended at line numbers 347 through 349 by adding the material that is underlined and highlighted in yellow and by deleting the material with strikethroughs and highlighted in red, as follows

Sec. 9. Effective Date. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 Del C 1156, and, shall only apply to Minor and Major land development plan applications that identify a data center as a potential use (including, but not limited to preapplication sketch plans) as submitted to the County ,after its adoption date. Resubdivision plan applications revising any grandfathered Minor or Major land development applications (resulting from the preceding sentence) shall remain exempt from this Ordinance regardless of its submission date, unless the applicant, by written request, agrees to submit to the provisions of this Ordinance. Any future data center uses, buildings, structures and/or situations grandfathered from the applicability of this Ordinance, shall remain lawful in all respects and in no case considered non-conforming uses, buildings, structures or situations.

SYNOPSIS: *Floor Amendment No. 2 also clarifies that this Ordinance will take effect immediately upon adoption, or as otherwise provided in 9 Del C 1156, and will apply only to new Minor and Major land development plan applications (including preapplication sketch plans) submitted after adoption, unless an applicant requests otherwise in writing; all subdivision plan applications are exempt, regardless of submission date; and, any future data center projects that are exempted from this Ordinance will be considered fully legal and not treated as non-confirming uses.*

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Tackett,
Ms. Durham, Mr. Cartier
Date of Introduction: August 5, 2025

SUBSTITUTE NO. 2 TO ORDINANCE NO. 25-101

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED
DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33
 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING,
AND OPERATIONS OF DATA CENTERS**

1 **WHEREAS**, New Castle County currently lacks comprehensive, specific zoning
2 and development regulations tailored to the unique infrastructure demands,
3 environmental impacts, and operational characteristics of data centers; and
4

5 **WHEREAS**, data centers are distinct from other industrial and commercial uses
6 due to their high energy consumption, large-scale backup power systems, significant
7 water usage, and potential impacts on surrounding communities through noise, heat, and
8 traffic; and
9

10 **WHEREAS**, technological advancements have precipitated the growth of data
11 centers nationwide, expediting the need for provisions to guide responsible development
12 and mitigate impacts; and
13

14 **WHEREAS**, it is in the public interest to proactively regulate data center
15 development to ensure compatibility with surrounding land uses and to protect the health,
16 safety, and welfare of New Castle County residents; and
17

18 **WHEREAS**, data centers share many characteristics with heavy industry,
19 particularly in terms of energy consumption, building scale, and noise leading to zoning
20 and classification complexities best handled as a separate category of use; and
21

22 **WHEREAS**, the County seeks to encourage economic development while also
23 preserving community character, promoting sustainability, safeguarding public
24 infrastructure capacity, and minimizing land use conflicts; and
25

26 **WHEREAS**, Data Centers are unique land uses that involve large-scale electrical
27 infrastructure, water-intensive cooling systems, and extensive impervious coverage; and
28

29 **WHEREAS**, Data Centers typically utilize backup diesel generators, aboveground
30 and underground fuel storage tanks, cooling towers, and large volumes of electronic and
31 battery equipment that may pose environmental, public health, and safety risks if left
32 abandoned or unmaintained; and

33 **WHEREAS**, advances in information technology, server design, and power
34 delivery may cause individual Data Center facilities to become obsolete within a relatively
35 short operating lifespan, resulting in the risk of abandonment of specialized facilities that
36 are not easily adapted to other uses; and

37 **WHEREAS**, the County has a responsibility to protect the public health, safety,
38 and welfare by ensuring that abandoned or obsolete facilities are properly removed and
39 that sites are restored to a safe and stable condition; and
40

41 **WHEREAS**, financial assurance requirements for decommissioning are a well-
42 established land use tool in other industries with significant environmental or
43 infrastructure impacts, including telecommunications towers, wind and solar energy
44 projects, and mining operations; and
45

46 **WHEREAS**, requiring a Decommissioning Plan and associated financial
47 assurance for Data Centers will ensure that the County and its taxpayers are not
48 burdened with the cost of restoring sites and remediating environmental impacts in the
49 event of abandonment; and
50

51 **WHEREAS**, County Council has determined that the provisions of this Ordinance
52 substantially advance, and are reasonably and rationally related to legitimate government
53 interests.
54

55 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
56

57 **Section 1.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
58 Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended
59 by adding the material that is underscored and deleting the material that is stricken, as
60 set forth below.
61

62 **Sec. 40.03.110. – Use table.**
63

64 Table 40.03.110 lists the type of uses permitted in each district. Refer to Division
65 40.33.200 for definitions of the various use categories and their components. Should a
66 use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520
67 can be requested. Table 40.03.522 lists the specific parking requirements for several
68 general uses listed in Table 40.03.110. Limited and special use standards are contained
69 in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other
70 standards.

71

Table 40.03.110A. General Use Table									Table 40.03.110B. General Use Table								Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)								Additional Standards (all districts)	
Land Use	TN *	ST	MM	ON	OR	CR	BP	I	C N	S ***	SE	NC **	HI	EX	SR	P	Parking	Limited & Special Use Standards
Agricultural									Agricultural								Agricultural ...	
Industrial Uses									Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210</u> <u>Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

72

73 **Section 2. New Castle County Code Chapter 40** (“Unified Development Code”),
74 Article 3 (“Use Regulations”), Section 40.03.210 (“Buffering, location, bulk and scale
75 standards”) is hereby amended by adding the material that is underscored and deleting
76 the material that is stricken, as set forth below.

77
78 **Sec. 40.03.210. - Buffering, location, bulk and scale standards.**
79

80 Table 40.03.210 provides standards that increase the degree of buffering, govern the
81 location, and reduce the bulk or scale of limited or special uses. The meaning of the
82 different categories contained in the Table is established as follows:

83
84 A. *Location. ...*

85
86 K. *Other. ...*

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and established daycare center and schools</u>	<u>500 ft.*</u>							<u>See Section 40.03.343</u> <u>* See Section 40.03.343.B</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...

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

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ D are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~G~~ D.

Sec. 40.03.343. – Data Centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to any data center development or the cumulative expansion of an existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not generate noise levels that exceed 55 dB(A) or dB(C) at the sending property line if the predevelopment noise level is below those levels. If the predevelopment noise exceeds those levels, no net increase in the existing noise level shall be permitted. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code* and the study shall include all generators and any other equipment that will be utilized on the site as part of the calculation.
- B. No portion of the proposed data center building or accessory uses shall be located within 1,000 feet of a residential zoning district. However, as a limited exception, the Department may approve data center structures or accessory uses located less than 1,000 feet, but no closer than 500 feet, from a residential zoning district, upon review and determination that noise levels generated will not exceed the allowable noise levels permitted in this section. The Department may require submission of a site-specific noise study demonstrating that the combined effectiveness of the selected measures will ensure compliance with the noise performance standards set forth herein. Acceptable noise attenuation and screening techniques, including, but not limited to, the following measures, may be considered by the Department in evaluating compliance:

1. Generator Acoustic Enclosures: fully enclosed or “super-silent” housings constructed of brick, masonry, or other acceptable materials with comparable sound transmission ratings.
 2. Acoustic Louvers and Duct Liners: designed to minimize tonal and airflow noise associated with ventilation or cooling systems.
 3. Sound-Absorptive Panels: installed within cooling yards, generator buildings, or perimeter walls to reduce reflected noise.
 4. Porous Absorptive Cladding: such as mineral-wool cores with perforated metal facings to dampen exterior surface reflections.
 5. Vibration Isolation Systems: including spring and neoprene isolators to prevent structure-borne noise transmission from generators, chillers, or HVAC units.
 6. Acoustic Fencing and Walls: solid or composite barriers with a minimum Sound Transmission Class (STC) rating of 35, extending fully above the line of sight between the noise source and the property line.
 7. Building Orientation and Shielding: siting of data center buildings or equipment yards so that structures themselves block direct noise paths toward residential or institutional uses.
 8. Enhanced Landscaping and Earth Berms: incorporation of vegetation, berms, and mounded terrain to provide additional passive sound attenuation and visual screening.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.
- E. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual calculations. Data Centers shall not be converted to any use that exceeds the approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other applicable provisions of this Chapter.
- F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems. The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment.
- H. Any energy storage system utilized for this use shall be a Battery Energy Storage System (“BESS”). The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment. Energy storage systems must employ fire-safe technologies as determined and approved by the State Fire Marshall’s Office.

- I. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 must be provided unless operational issues are documented and accepted to vary this minimum.
- J. All data centers must be designed for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- K. Applicants must submit a statement of coordination with the local electric utility and demonstrate the availability of sufficient grid capacity, or provide onsite generation that meets or exceeds projected load.
- L. Applicants must submit a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council and demonstrate the availability of sufficient water supply to meet or exceed projected water use.
- M. Data Centers must comply with all State and Federal requirements including but not limited to water supply coordination, cooling water discharges, emission standards, and air quality monitoring.
- N. Abandonment.
1. The operator or property owner shall provide written notice to the Department whenever the Data Center is out of active operation for more than six (6) months. Any Data Center that ceases to operate for one (1) year or longer is considered abandoned.
 2. The operator or property owner shall either recommence operation and schedule a site inspection with the Department to verify that all use requirements are still intact or shall remove all equipment and systems within six (6) months of being considered abandoned.
 3. Within two (2) years of being considered abandoned, the Data Center site shall be either restored to its predevelopment condition and inspected by the Department, or the property owner shall submit a land use application consistent with this Chapter to establish a new use for the site. Failure to comply with the requirements of this section shall authorize, but not require, the County to remove the Data Center and, when abandoned, restore the site to its predevelopment condition and charge the property owner as set forth in Subsection O. below.
- O. Financial assurance. Prior to issuance of a building permit, the operator or property owner shall provide a bond, surety, letter of credit, or other financial assurance in a form and amount acceptable to the Department to secure

235 payment of one hundred (100) percent of the anticipated cost of removal of all
236 associated site improvements and restoration of the site to its predevelopment
237 condition when the Data Center has been abandoned. Financial assurances for
238 Data Centers are subject to the following:

- 239
- 240 1. The applicant shall provide a decommissioning report that includes the
241 following components:
- 242
- 243 a. An inventory of components installed on the site.
- 244
- 245 b. Expected lifetime of the facility.
- 246
- 247 c. Decommissioning sequence.
- 248
- 249 d. Decommissioning cost estimate based on RSMeans or other software or
250 methodology approved by the Department.
- 251
- 252 2. The financial assurance shall remain in full force and effect while the Data
253 Center remains in place and operating, and shall be renewed every five (5)
254 years and revised as necessary to adjust for inflation and any change in the
255 cost for decommissioning.
- 256
- 257 P. Annual Report, Enforcement and Compliance. The operator of the Data Center
258 shall supply an annual report, as found in Appendix 9, to the Department
259 indicating compliance with all applicable local, state and federal regulations. The
260 Department shall reserve the right to request additional information and establish
261 and update procedures for inspections, monitoring, and enforcement of
262 compliance with this section. Non-compliant facilities will be subject to Division
263 40.31.900 or any other remedy available.

264 **Section 4. New Castle County Code Chapter 40 ("Unified Development Code"),**
265 **Article 33 ("Definitions"), Section 40.33.270 ("Industrial Uses") is hereby amended by**
266 **adding the material that is underscored and deleting the material that is stricken, as set**
267 **forth below.**

268

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

270

271 B. Data Center. A facility composed of networked computers, servers, storage systems,
272 and telecommunications equipment used for data processing, storage, and
273 distribution (NAICS 518210).

274

275 ~~C~~ B. *Extraction.* ...

276

277 ~~D~~ G. *Heavy industry.* ...

278

279 ~~E~~ D. *Light industry.* ...

280

281 ~~F~~ E. *Recycling or .* ...

282

283 G F . *Solar energy system, large scale.* ...

284
285 H G . *Utility, major.* ...

286
287 I H . *Utility, minor.* ...

288
289 J I . *Utilities, maintenance facilities.* ...

290
291 **Section 5. New Castle County Code Chapter 40** (“Unified Development Code”),
292 Article 33 (“Definitions”), Section 40.33.300 (“General Definitions”) is hereby amended by
293 adding the material that is underscored and deleting the material that is stricken, as set
294 forth below.

295
296 *Abandonment.* ...

297
298 *Closed channel.* A conveyance system not open to the atmosphere (usually, but
299 not always, pipe).

300
301 *Closed-Loop Cooling System.* A Closed-Loop Cooling System is one where the
302 cooling medium is contained within a piping circuit for reuse.

303
304 *Coastal high hazard area or special flood hazard area subject to high velocity wave*
305 *action.* ...

306
307 *Opacity.* The measurement of the screening effectiveness of a bufferyard or fence
308 expressed as the percent of vision that the screen blocks.

309
310 *Open-Loop Cooling System or Once-Through Cooling System.* An Open-Loop
311 Cooling System is one with a cooling method in which water is withdrawn from a surface,
312 groundwater, or public supply source, passed through heat-exchange equipment to
313 absorb heat, and the effluent is then discharged to a surface water body, re-injected into
314 the ground, or discharged into a wastewater treatment system. Open-loop systems
315 typically rely on continuous withdrawals and discharges, frequently resulting in greater
316 thermal or environmental impacts including higher consumptive use of water resources.

317
318 *Reclaimed Water.* Water that has been treated to meet specific quality standards,
319 making it safe for a beneficial reuse. This can include treated effluent from wastewater
320 treatment facilities and remediation activities.

321
322 *Open space.* ...

323 **Section 6. Consistent with Comprehensive Development Plan.** New Castle
324 County Council finds that the provisions of this Ordinance are consistent with the spirit
325 and intent of the New Castle County Comprehensive Development Plan.

326
327 **Section 7. Inconsistent Ordinances and Resolutions Repealed.** All ordinances
328 or parts of ordinances and all resolutions or parts of resolutions that may be in conflict
329 herewith are hereby repealed except to the extent they remain applicable to land use

330 matters reviewed under previous Code provisions as provided in Chapter 40 of the *New*
331 *Castle County Code*.
332

333 **Section 8. Severability.** The provisions of this Ordinance shall be severable. If
334 any provision of this Ordinance is found by any court of competent jurisdiction to be
335 unconstitutional or void, the remaining provisions of this Ordinance shall remain valid,
336 unless the court finds that that the valid provisions of this Ordinance are so essentially
337 and inseparably connected with, and so dependent upon, the unconstitutional or void
338 provision that it cannot be presumed that County Council would have enacted the
339 remaining valid provisions, without the unconstitutional or void one, or unless the court
340 finds that the remaining valid provisions, standing alone, are incomplete and incapable of
341 being executed in accordance with the County Council's intent. If any provision of this
342 Ordinance or any zoning map or portion thereof is found to be unconstitutional or void, all
343 applicable former ordinances, resolutions, zoning maps or portions thereof shall become
344 applicable and shall be considered as continuations thereof and not as new enactments
345 regardless if severability is possible.
346

347 **Section 9. Effective Date.** This Ordinance shall become effective immediately
348 upon its adoption by County Council and approval by the County Executive or as
349 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: The following is a summary of the revisions contained in this Ordinance
broken down by *New Castle County Code* Division or Section number.

Sec. 40.03.110. This amendment updates the use table to establish which zoning districts
permit the Data Center as a Special Use.

Sec. 40.03.210. This amendment updates the Limited and Special Use Standards Table
to include Data Center uses.

Sec. 40.03.333. This amendment updates references to the definition of Light Industrial
uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. This amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. This amendment includes Special Use standards for Data Center uses.

Section 40.33.270. This amendment defines Data Center uses.

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

Sec. 40.03.110. This amendment further updates the use table to establish which zoning districts permit the Data Center as a Special Use.

Sec. 40.03.343. This amendment clarifies that Data Centers must comply with State and Federal regulations and allows the Department to permit applicants to substitute other technologies that the applicant has demonstrated as being more efficient and have less impact on the environment. This amendment also includes decommissioning, abandonment, and financial assurance provisions for Data Centers.

Section 40.33.300. This amendment defines Closed-Loop Cooling Systems, Open-Loop Cooling Systems, and Reclaimed Water.

Substitute No. 2. The following changes are included in Substitute No. 2:

Sec. 40.03.210. This amendment references Section 40.03.343.B regarding the distancing requirements between Data Center Structures and protected uses.

Sec. 40.03.343. This amendment clarifies that the noise level restrictions are for noises generated by the Data Center and accessory uses. This amendment also allows the Department to approve Data Center structures and accessory uses located less than 1,000 ft. from a residential zoning district, provided that noise levels generated do not exceed the allowable noise levels permitted in Chapter 22 of the *New Castle County Code*, provided however, that no portion of the proposed data center building or accessory uses shall be within 500 ft. of a residential zoning district line.

This amendment changes the effective date of the ordinance to be the date that the ordinance is adopted by County Council and approved by the County Executive or as otherwise provided in 9 *Del. C.* § 1156.

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

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Tackett
Ms. Durham, Mr. Cartier

Date of Introduction: August 5, 2025

SUBSTITUTE NO. 1 TO ORDINANCE NO. 25-101

TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

1 **WHEREAS**, New Castle County has received an unprecedented proposal for a
2 large-scale data center campus, totaling approximately 6 million square feet; and
3

4 **WHEREAS**, the County currently lacks comprehensive, specific zoning and
5 development regulations tailored to the unique infrastructure demands, environmental
6 impacts, and operational characteristics of hyperscale data centers; and
7

8 **WHEREAS**, data centers are distinct from other industrial and commercial uses
9 due to their high energy consumption, large-scale backup power systems, significant
10 water usage, and potential impacts on surrounding communities through noise, heat, and
11 traffic; and
12

13 **WHEREAS**, technological advancements have precipitated the growth of data
14 centers nationwide, expediting the need for provisions to guide responsible development
15 and mitigate impacts; and
16

17 **WHEREAS**, it is in the public interest to proactively regulate data center
18 development to ensure compatibility with surrounding land uses and to protect the health,
19 safety, and welfare of New Castle County residents; and
20

21 **WHEREAS**, data centers share many characteristics with heavy industry,
22 particularly in terms of energy consumption, building scale, and noise leading to zoning
23 and classification complexities best handled as a separate category of use; and
24

25 **WHEREAS**, the County seeks to encourage economic development while also
26 preserving community character, promoting sustainability, safeguarding public
27 infrastructure capacity, and minimizing land use conflicts; and
28

29 **WHEREAS**, Data Centers are unique land uses that involve large-scale electrical
30 infrastructure, water-intensive cooling systems, and extensive impervious coverage; and
31

32 **WHEREAS**, Data Centers typically utilize backup diesel generators, aboveground
33 and underground fuel storage tanks, cooling towers, and large volumes of electronic and
34 battery equipment that may pose environmental, public health, and safety risks if left
35 abandoned or unmaintained; and

36 **WHEREAS**, advances in information technology, server design, and power
37 delivery may cause individual Data Center facilities to become obsolete within a relatively
38 short operating lifespan, resulting in the risk of abandonment of specialized facilities that
39 are not easily adapted to other uses; and
40

41 **WHEREAS**, the County has a responsibility to protect public health, safety, and
42 welfare by ensuring that abandoned or obsolete facilities are properly removed and that
43 sites are restored to a safe and stable condition; and
44

45 **WHEREAS**, financial assurance requirements for decommissioning are a well-
46 established land use tool in other industries with significant environmental or
47 infrastructure impacts, including telecommunications towers, wind and solar energy
48 projects, and mining operations; and
49

50 **WHEREAS**, requiring a Decommissioning Plan and associated financial
51 assurance for Data Centers will ensure that the County and its taxpayers are not
52 burdened with the cost of restoring sites and remediating environmental impacts in the
53 event of abandonment; and
54

55 **WHEREAS**, County Council intends that the pending ordinance doctrine apply to
56 restrict the acceptance of land development applications submitted after the introduction
57 of this Ordinance that would otherwise be prohibited by the provisions of this Ordinance;
58 and
59

60 **WHEREAS**, County Council has determined that the provisions of this Ordinance
61 substantially advance, and are reasonably and rationally related to legitimate government
62 interests.
63

64 **NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:**
65

66 **Section 1.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
67 Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended
68 by adding the material that is underscored and deleting the material that is stricken, as
69 set forth below.
70

71 **Sec. 40.03.110. – Use table.**
72

73 Table 40.03.110 lists the type of uses permitted in each district. Refer to Division
74 40.33.200 for definitions of the various use categories and their components. Should a
75 use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520
76 can be requested. Table 40.03.522 lists the specific parking requirements for several
77 general uses listed in Table 40.03.110. Limited and special use standards are contained
78 in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other
79 standards.

Table 40.03.110A. General Use Table									Table 40.03.110B. General Use Table								Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)								Additional Standards (all districts)	
Land Use	TN *	ST	MM	ON	OR	CR	BP	I	CN	S ***	SE	NC **	HI	EX	SR	P	Parking	Limited & Special Use Standards
Agricultural									Agricultural								Agricultural ...	
Industrial Uses									Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210</u> <u>Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

82 **Section 2.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
83 Article 3 (“Use Regulations”), Section 40.03.210 (“Buffering, location, bulk and scale
84 standards”), is hereby amended by adding the material that is underscored and deleting
85 the material that is stricken, as set forth below.

86
87 **Sec. 40.03.210. - Buffering, location, bulk and scale standards.**

88
89 Table 40.03.210 provides standards that increase the degree of buffering, govern the
90 location, and reduce the bulk or scale of limited or special uses. The meaning of the
91 different categories contained in the Table is established as follows:

92
93 A. *Location.* ...

94
95 K. *Other.* ...

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and established daycare center and schools</u>	<u>1,000 ft.*</u>							<u>See Section 40.03.343</u> <u>*At least 1,000 ft. as measured to any building or structure</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...

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

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ D are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~G~~ D.

Sec. 40.03.343. – Data Centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to any data center development or the cumulative expansions of existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not exceed 55 dB(A) or dB(C) at the sending property line. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code* and the study shall include all generators and any other equipment that will be utilized on the site as part of the calculation.
- B. No portion of the proposed data center building or accessory uses shall be within 1,000 ft. from any residential zoning district.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.
- E. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual calculations. Data Centers shall not be converted to any use that exceeds the

approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other applicable provisions of this Chapter.

- F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems. The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment.
- H. Any energy storage system utilized for this use shall be a Battery Energy Storage System ("BESS"). The Department may permit applicants to substitute other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment. Energy storage systems must employ fire-safe technologies as determined and approved by the State Fire Marshall's Office.
- I. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 must be provided unless operational issues are documented and accepted to vary this minimum.
- J. All data centers must be designed for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- K. Applicants must submit a statement of coordination with the local electric utility and demonstrate the availability of sufficient grid capacity, or provide onsite generation that meets or exceeds projected load.
- L. Applicants must submit a statement of coordination with DNREC Water Allocation Program and Water Supply Coordinating Council and demonstrate the availability of sufficient water supply to meet or exceed projected water use.
- M. Data Centers must comply with all State and Federal requirements including but not limited to; water supply coordination, cooling water discharges, emission standards, and air quality monitoring.
- N. Abandonment.
 - 1. The operator or property owner shall provide written notice to the Department whenever the Data Center is out of active operation for more than six (6) months. Any Data Center that ceases to operate for one (1) year or longer is considered abandoned.

- 195 2. The operator or property owner shall either recommence operation and
196 schedule a site inspection with the Department to verify that all use
197 requirements are still intact or shall remove all equipment and systems
198 within six (6) months of being considered abandoned.
199
200 3. Within two (2) years of being considered abandoned, the Data Center site
201 shall be either restored to its predevelopment condition and inspected by
202 the Department, or the property owner shall submit a land use application
203 consistent with this Chapter to establish a new use for the site. Failure to
204 comply with the requirements of this section shall authorize, but not require,
205 the County to remove the Data Center and, when abandoned, restore the
206 site to its predevelopment condition and charge the property owner as set
207 forth in Subsection O. below.
208

209 O. Financial assurance. Prior to issuance of a building permit, the operator or
210 property owner shall provide a bond, surety, letter of credit, or other financial
211 assurance in a form and amount acceptable to the Department to secure
212 payment of one hundred (100) percent of the anticipated cost of removal of all
213 associated site improvements and restoration of the site to its predevelopment
214 condition when the Data Center has been abandoned. Financial assurances for
215 Data Centers are subject to the following:
216

- 217 1. The applicant shall provide a decommissioning report that includes the
218 following components:
219
220 a. An inventory of components installed on the site.
221
222 b. Expected lifetime of the facility.
223
224 c. Decommissioning sequence.
225
226 d. Decommissioning cost estimate based on RSMeans or other software or
227 methodology approved by the Department.
228
229 2. The financial assurance shall remain in full force and effect while the Data
230 Center remains in place and operating, and shall be renewed every five (5)
231 years and revised as necessary to adjust for inflation and any change in the
232 cost for decommissioning.
233

234 P. Annual Report, Enforcement and Compliance. The operator of the Data Center
235 shall supply an annual report, as found in Appendix 9, to the Department
236 indicating compliance with all applicable local, state and federal regulations. The
237 Department shall reserve the right to request additional information and establish
238 and update procedures for inspections, monitoring, and enforcement of
239 compliance with this section. Non-compliant facilities will be subject to Division
240 40.31.900 or any other remedy available.

Section 4. New Castle County Code Chapter 40 (“Unified Development Code”), Article 33 (“Definitions”), Section 40.33.270 (“Industrial Uses”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

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

B. Data Center. A facility composed of networked computers, servers, storage systems, and telecommunications equipment used for data processing, storage, and distribution (NAICS 518210).

C B. Extraction. ...

D G. Heavy industry. ...

E D . Light industry. ...

F E . Recycling or

G F . Solar energy system, large scale. ...

H G . Utility, major. ...

I H . Utility, minor. ...

J I . Utilities, maintenance facilities. ...

Section 5. New Castle County Code Chapter 40 (“Unified Development Code”), Article 33 (“Definitions”), Section 40.33.300 (“General Definitions” is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Abandonment. ...

Closed channel. A conveyance system not open to the atmosphere (usually, but not always, pipe).

Closed-Loop Cooling System. A Closed-Loop Cooling System is one where the cooling medium is contained within a piping circuit for reuse.

Coastal high hazard area or special flood hazard area subject to high velocity wave action. ...

Opacity. The measurement of the screening effectiveness of a bufferyard or fence expressed as the percent of vision that the screen blocks.

Open-Loop Cooling System or Once-Through Cooling System. An Open-Loop Cooling System is one with a cooling method in which water is withdrawn from a surface, groundwater, or public supply source, passed through heat-exchange equipment to absorb heat, and the effluent is then discharged to a surface water body, re-injected into

the ground, or discharged into a wastewater treatment system. Open-loop systems typically rely on continuous withdrawals and discharges, frequently resulting in greater thermal or environmental impacts including higher consumptive use of water resources.

Reclaimed Water. Water that has been treated to meet specific quality standards, making it safe for a beneficial reuse. This can include treated effluent from wastewater treatment facilities and remediation activities.

Open space. ...

Section 6. 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 7. 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 8. 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 and not as new enactments regardless whether severability is possible.

Section 9. Effective Date. Upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C.* § 1156, this Ordinance is effective retroactive to introduction thereof on August 5, 2025, which is the date notice was provided that this Ordinance would be pending. Council Rule 2.2.6 notwithstanding, it is the express legislative intent that the provisions of this Ordinance apply to all land use applications submitted to New Castle County after August 5, 2025. Council expressly waives the provisions of Council Rule 2.2.6 for this Ordinance. Furthermore, it is the intent of County Council that this Ordinance is also subject to the *pending ordinance doctrine* as articulated in *Covington v. Bd. of Adjustment of Rehoboth Beach*, 2016 WL 7242581, at *5 (Del. Super. Dec. 14, 2016), *aff'd*, 170 A.3d 779 (Del. 2017), and other precedent.

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

Sec. 40.03.110. This amendment updates the use table to establish which zoning districts permit the Data Center as a Special Use.

Sec. 40.03.210. This amendment updates the Limited and Special Use Standards Table to include Data Center uses.

Sec. 40.03.333. This amendment updates references to the definition of Light Industrial uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. This amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. This amendment includes Special Use standards for Data Center uses.

Section 40.33.270. This amendment defines Data Center uses.

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

Sec. 40.03.110. This amendment further updates the use table to establish which zoning districts permit the Data Center as a Special Use.

Sec. 40.03.343. This amendment clarifies that Data Centers must comply with State and Federal regulations and allows the Department to permit applicants to substitute other technologies that the applicant has demonstrated as being more efficient and have less impact on the environment. This amendment also includes decommissioning, abandonment, and financial assurance provisions for Data Centers.

Section 40.33.300. This amendment defines Closed-Loop Cooling Systems, Open-Loop Cooling Systems, and Reclaimed Water.

This amendment clarifies the effective date in accordance with Delaware's *Pending Ordinance Doctrine*.

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

Prime Sponsor(s): Mr. Carter
Co-sponsor(s): Mr. Caneco, Mr. Toole,
Ms. Durham, Mr. Cartier
Mr. Hollins, Mr. Tackett
Date of introduction: August 5, 2025

ORDINANCE NO. 25-101

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) TO ESTABLISH STANDARDS FOR THE REVIEW, SITING, AND OPERATIONS OF DATA CENTERS

1 **WHEREAS**, New Castle County has received an unprecedented proposal for a large-
2 scale data center campus, totaling approximately 6 million square feet; and
3

4 **WHEREAS**, the County currently lacks comprehensive, specific zoning and
5 development regulations tailored to the unique infrastructure demands, environmental
6 impacts, and operational characteristics of hyperscale data centers; and
7

8 **WHEREAS**, data centers are distinct from other industrial and commercial uses due
9 to their high energy consumption, large-scale backup power systems, significant water
10 usage, and potential impacts on surrounding communities through noise, heat, and traffic;
11 and
12

13 **WHEREAS**, technological advancements have precipitated the growth of data
14 centers nationwide, expediting the need for provisions to guide responsible development
15 and mitigate impacts; and
16

17 **WHEREAS**, it is in the public interest to proactively regulate data center development
18 to ensure compatibility with surrounding land uses and to protect the health, safety, and
19 welfare of New Castle County residents; and
20

21 **WHEREAS**, data centers share many characteristics with heavy industry, particularly
22 in terms of energy consumption, building scale, and noise leading to zoning and
23 classification complexities best handled as a separate category of use; and
24

25 **WHEREAS**, the County seeks to encourage economic development while also
26 preserving community character, promoting sustainability, safeguarding public infrastructure
27 capacity, and minimizing land use conflicts; and
28

29 **WHEREAS**, County Council has determined that the provisions of this Ordinance
30 substantially advance, and are reasonably and rationally related to legitimate government
31 interests.
32

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

33
34
35 **Section 1.** *New Castle County Code* Chapter 40 (“Unified Development Code”),
36 Article 3 (“Use Regulations”), Division 40.03.110 (“Use Regulations”) is hereby amended by
37 adding the material that is underscored and deleting the material that is stricken, as set forth
38 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. Should a use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520 can be requested. Table 40.03.522 lists the specific parking requirements for several general uses listed in Table 40.03.110. Limited and special use standards are contained in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other standards.

Table 40.03.110A. General Use Table									Table 40.03.110B. General Use Table								Table 40.03.110C. General Use Table	
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory									Zoning District (Suburban and Special Character)								Additional Standards (all districts)	
Land Use	TN *	ST	MM	ON	OR	CR	BP	I	CN	S ***	SE	NC **	HI	EX	SR	P	Parking	Limited & Special Use Standards
Agricultural									Agricultural								Agricultural ...	
Industrial Uses									Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L	N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
<u>Data Centers</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Table 40.03.522</u>	<u>Table 40.03.210</u> <u>Section 40.03.343</u>
Extraction	N	N	N	N	N	N	N	N	N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210 ...

49 **Section 2. New Castle County Code Chapter 40** (“Unified Development Code”),
50 Article 3 (“Use Regulations”), Section 40.03.210 (“Buffering, location, bulk and scale
51 standards”), is hereby amended by adding the material that is underscored and deleting
52 the material that is stricken, as set forth below.

53
54 **Sec. 40.03.210. - Buffering, location, bulk and scale standards.**

55
56 Table 40.03.210 provides standards that increase the degree of buffering, govern the
57 location, and reduce the bulk or scale of limited or special uses. The meaning of the
58 different categories contained in the Table is established as follows:

59
60 A. *Location.* ...

61
62 K. *Other.* ...

Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural ...						Agricultural						Agricultural ...
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
<u>Data Centers</u>	<u>Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school</u>	<u>0.4</u>	<u>Minimum 8 ft. berm</u>	<u>Residential and schools</u>	<u>1,000 ft.</u>							<u>See Section 40.03.343 *1,000 as measured to any building or structure</u>
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses ...

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

Sec. 40.03.333. - Light Industry uses in OR and CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.~~E~~ ~~D~~ are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Sec. 40.03.340. - Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a heavy industry zoned parcel or a parcel with a heavy industry use as defined in Subsection 40.33.270.~~E~~ ~~D~~.

Sec. 40.03.343. – Data centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to any data center development and/or the cumulative expansions of existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not exceed 55 dB(A) at the sending property line. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the *New Castle County Code* and the study shall include all generators and any other equipment that will be utilized on the site as part of the calculation.
- B. No portion of the proposed data center building or accessory uses shall be within 1,000 ft. from any residential zoning district.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. Lighting shall be designed so that there is zero (0) footcandles at the property line of the neighboring residential area.
- E. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual

calculations. Data Centers shall not be converted to any use that exceeds the approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other provisions of the Chapter.

- F. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- G. All generators shall be Tier IV or utilize natural gas with Selective Catalytic Reduction (SCR) systems unless the applicant can demonstrate another technology that is more efficient with less impact on the environment.
- H. Any energy storage system utilized for this use shall be a Battery Energy Storage System ("BESS") unless the applicant can demonstrate another technology that is more efficient with less impact on the environment and must employ fire-safe technologies as determined and approved by the State Fire Marshall's Office.
- I. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED Gold or equivalent certification and providing the Total Usage Efficiency ("TUE"), the comprehensive metric for evaluating the overall energy efficiency of a system considering both the energy used by the IT equipment and the supporting infrastructure, with a minimum TUE of 1.15 should be provided unless operational issues are documented and accepted to vary this minimum.
- J. All data centers must be designed for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- K. Applicants must submit a statement of coordination with the local electric utility and demonstrate the availability of sufficient grid capacity, or provide onsite generation that meets or exceeds projected load.
- L. Annual Report, Enforcement and Compliance. The operator of the data center shall supply an annual report, as found in Appendix 9, to the Department of Land Use indicating compliance with all applicable local, state and federal regulations. Land Use shall retain the right to request additional information and establish procedures for inspections, monitoring, and enforcement of compliance with this section. Non-compliant facilities will be subject to Division 40.31.900 and/or any other remedy available.

Section 4. New Castle County Code Chapter 40 ("Unified Development Code"), Article 33 ("Definitions"), Section 40.33.270 is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

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

B. *Data Center.* A facility composed of networked computers, servers, storage systems, and telecommunications equipment used for data processing, storage, and distribution (NAICS 518210).

C. *B. Extraction.* ...

D. *C. Heavy industry.* ...

E. *D. Light industry.* ...

F. *E. Recycling or .* ...

G. *F. Solar energy system, large scale.* ...

H. *G. Utility, major.* ...

I. *H. Utility, minor.* ...

J. *I. Utilities, maintenance facilities.* ...

Section 5. 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 6. 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 7. 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 8. Effective Date. This Ordinance shall become effective immediately upon its adoption by County Council and approval by the County Executive, or as otherwise provided in 9 *Del. C. § 1156* and shall only apply to Land Use applications submitted after such date(s) unless the applicant, by written request, agrees to submit to the provisions of this Ordinance.

Adopted by County Council of
New Castle County on:

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

Approved on:

Marcus A. Henry
County Executive
of New Castle County

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

Sec. 40.03.110. This amendment updates the use table to establish which zoning districts permit the Data Center use as a Special Use.

Sec. 40.03.210. This amendment updates the Limited and Special Use Standards Table to include Data Center uses.

Sec. 40.03.333. This amendment updates references to the definition of Light Industrial uses based on changes proposed to Section 40.33.270.

Sec. 40.03.340. This amendment updates references to the definition of Heavy Industry uses based on changes proposed to Section 40.33.270.

Sec. 40.03.343. This amendment includes Special Use standards for Data Center uses.

Section 40.33.270. This amendment defines Data Center uses.

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