



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF STATE PLANNING COORDINATION**

October 20, 2015

Mr. Ken Bieri
New Castle County Land Use Department
87 Reads Way
New Castle, DE 19720

RE: PLUS review 2015-09-03; New Castle County Ordinance No. 15-084

Dear Ken,

Thank you for meeting with State agency planners on September 23, 2015 to discuss the proposed ordinance New Castle County. This ordinance relates to the establishment of an open lands zoning district.

Please note that changes to this ordinance, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

Office of State Planning Coordination – Contact Herb Inden 739-3090

The Office of State Planning Coordination has no objections to this ordinance as long as its use is consistent with the state certified comprehensive plan.

Department of Natural Resources and Environmental Control – Contact Michael Tholstrup 735-3352

DNREC is generally supportive of New Castle County in its efforts to establish a new Open Lands (O) zoning district through Ordinance 15-084. The NCC Unified Development Code (UDC) states that “open space” are “parcels of land within a residential subdivision, exclusive of streets and lots, generally preserved in a natural state or improved to provide common amenities for the residents of the subdivision. Open space shall be categorized as either natural resource area open space or community area open space. Open space is intended to preserve environmentally sensitive areas and protected resources, provide active and passive recreation facilities, establish greenways, provide wildlife habitats, facilitate stormwater management functions, and landscaped buffer yards. Both natural resource area open space and community area open space can be public or private and would be annotated as such on the development record plan and/or deed” (UDC, § 33.300, General Definitions, Open Space). From an air quality perspective, open spaces improve urban ventilation and help to mitigate heat islands,

which contribute to localized ozone formation. Trees, specifically, sequester carbon dioxide, trap dust particles, and replenish oxygen.

However, some of the land uses allowed within the proposed Open Lands zoning district appear to be inconsistent with the New Castle County Unified Development Code (NCC UDC) definition and spirit of “open space.” Examples include, but are not limited to: commercial communication towers, park and ride facilities, temporary storage, office or classroom modular or trailers, model homes/sale offices. Overall, we would like to see that uses allowed in open lands do not involve impervious surfaces.

The amended General Use Table 40.03.110 A allows for park and ride facilities after limited review. The NCC UDC defines park and ride facilities as “a public parking lot designed for drivers to leave their cars and use mass transit facilities beginning, terminating, or stopping at the park and ride facility” (UDC, §33.300, General Definitions, Park and Ride Facility). DNREC would prefer that park and ride facilities not be permitted in open lands because the infrastructure, impervious or pervious cover required for this land use, and the potential contamination generated from vehicles is inconsistent with the definition of open space. The potential for contamination is increased when pervious pavement is installed without an underlying filter system. An underlying filter system adds to infrastructure further disturbing and compacting soils. Park and ride facilities would be more appropriately zoned as institutional, government, or transportation.

The amended General Use Table 40.03.110 A allows for temporary storage, office or modular classrooms or trailers, contractor’s office, and model homes/sale office with limited review. DNREC would prefer that these types of land use not be permitted in open space. Even the temporary placement of these facilities would require infrastructure, impervious cover, introduce potential contamination, disturbing or compacting the soils. These actions may have a detrimental impact on lands that are to be preserved in their natural state.

If limited development is permitted to occur in the new Open Lands district, please note that developers shall comply with all applicable Delaware air quality regulations. For a complete listing of applicable regulations, please refer to our website: <http://www.awm.delaware.gov/AQM/Pages/AirRegulations.aspx>. Should New Castle County have any questions regarding air quality regulations, the Division of Air Quality (DAQ) point of contact is Rachel Yocum, and she may be reached at (302) 739-9402 or Rachel.Yocum@state.de.us.

State Historic Preservation Office – Contact Terrence Burns 736-7404

In establishing a new Open Lands Zoning District, the County may want to reference the Unmarked Human Burials and Human Skeletal Remains Law, which is in Title 7, of Chapter 54, of the Delaware Code. There may be unmarked or marked cemeteries within already existing or future open space areas, and we suggest that the County include some kind of protections or notice about the potential for such sites in the event that enhancements such as trails or parking

areas are allowed in the future. Maintenance, especially for marked cemeteries, is often an issue, and the County may want to be sure that the open space owner has a plan for maintenance. If you have any questions or concerns, please contact Alice Guerrant at (302) 736-7412.

Department of Agriculture – Contact Scott Blaier 698-4532

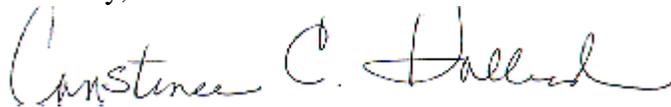
The Department of Agriculture appreciates and supports the County's efforts to support and protect public lands for their intended use. Presumably, this new Open Lands (O) zoning category would apply to state forestland (Blackbird State Forest) located in New Castle County.

The Department of Agriculture has no objections to this proposal as long as it does not limit or prohibit activities currently permitted on state forest lands. These activities include harvesting trees to reduce wildfire risk, to control insect and/or disease infestations, and to promote forest management and generate revenue to help fund state forest operations, as well as camping, hiking, hunting, and the construction of buildings or structures needed to maintain and operate the State Forest.

Once a decision has been reached on this proposed comprehensive plan amendment, please forward a copy of the plan amendment to the Office of State Planning Coordination for our records. The plan amendment must include a revised version of any maps that were updated as well as any text that was approved in amending the comprehensive plan.

Thank you for the opportunity to review this Comprehensive Plan amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in black ink and is positioned above the typed name and title.

Constance C. Holland, AICP
Director, Office of State Planning Coordination