



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

November 20, 2015

Mr. Kenneth Bieri  
New Castle County Land Use Department  
87 Reads Way  
New Castle, De 19720

RE: PLUS review – 2015-10-03; New Castle County Ordinances

Dear Mr. Bieri:

Thank you for meeting with State agency planners on October 28, 2015 to discuss the proposed Ordinances as follows:

- 15-096: Ordinance to add a new Appendix 7 to Chapter 40 of the New Castle County Code that will provide guiding principles for new development. (2015-0651-T)
- 15-097: Establishment of a new Neighborhood Preservation Overlay Zoning District (2015-0652-T)
- 15-098: Establishment of a new Economic Empowerment Zone (2015-0653-T)

Please note that changes to these ordinances, 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.

**Code Requirements/Agency Permitting Requirements:**

State agencies have no code requirements or Agency permitting requirements related to these three proposed ordinances.

## **Recommendations/Additional Information**

This section includes a list of site specific suggestions that are intended to enhance the project. These suggestions have been generated by the State Agencies based on their expertise and subject area knowledge. **These suggestions do not represent State code requirements.** They are offered here in order to provide proactive ideas to help the applicant enhance the site design, and it is hoped (**but in no way required**) that the applicant will open a dialogue with the relevant agencies to discuss how these suggestions can benefit the project.

### **15-096: Ordinance to add a new Appendix 7 to Chapter 40 of the New Castle County Code that will provide guiding principles for new development. (2015-0651-T)**

Department of Public Health – Contact: Laura Saperstein 744-1011

- DPH is pleased to see the inclusion of Pedestrian and Bicycle Circulation into the Summary of Design Principles for each Character area, more specifically in that it addresses providing access to multi-modal connections. However, DPH would recommend restating the verbiage to read, “...provide multi-modal connections to **surrounding uses...**” and further defining those uses **such as “residential, mixed-use, park, etc.”** into each of the unique Character Areas in order to strengthen the summary of the Guiding Principles.
- Consistently reference improvements in bicycle infrastructure alongside references to pedestrian and transit improvements:
  - a. The Guiding Principles and UDC amendments encourage compact, mixed use and efficient development patterns that promote walking **and biking**, reduce automobile dependence, green storm water management solutions, and access to healthy foods.
  - b. For traffic mitigation, applicants should prioritize connectivity, pedestrian, **bicycle** and transit improvements over widening streets.
  - c. Provide pedestrian **and bicycle** access to adjacent uses with pedestrian walkways or crossings **and bicycle infrastructure**.
- Consider the addition of **setting aside space for a farm stand** by adding is language within the Menu of Amenities (Table 3) for all character areas within General Concepts (page 7-41), as this will increase access to healthy foods.

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

DNREC supports and commends New Castle County on the proposed Guiding Principles for promoting walkability, multi-modal transportation choices, transit-oriented development, mixed-use development and complete communities. DNREC acknowledges the importance of the

Guiding Principles design standards for building design, site design and amenities in each character area that assure new development is appropriate to its context. However, we caution against efforts to “streamline” the approval process and to “eliminate” what may be perceived as “unnecessary regulatory barriers,” where such decisions may be in conflict with state and federal requirements to protect human health and the environment by preserving and improving air quality (p. 7-3 and 7-5).

DNREC is especially supportive of the addition of the *Main Component 10; Promote a Sustainable Environment* and would like to recommend the addition of the following four items under this section.

- **Protect Natural Habitat.** Preservation of natural resources is a prerequisite for a healthy community. Preserving forest, limiting forest fragmentation, and maintaining or expanding buffers along wetlands and streams protect County’s critical natural habitat. Furthermore, to assure protection and management of these critical resources, community awareness of and public access to surrounding natural habitats should be encouraged.
- **Safeguard Water Quality.** Patterns and siting of new developments have a direct impact on water quality. To safeguard this crucial resource, both site and building design should encourage increased infiltration and vegetated surfaces, and reduced impervious area. Appropriate siting of hazardous materials with potential for spills and toxic contamination are advised. In addition, attention must be paid to the requirements found in appropriate Total Maximum Daily Loads (TMDLs), Pollution Control Strategies (PCS), Watershed Implementation Plans (WIP) and in the County’s Municipal Separate Stormwater System (MS4) permit.
- **Reduce Greenhouse Gas (GHG) Emissions and Improve Air Quality.** Responsible infill and new development practices can help the county reduce its greenhouse gas emissions while improving air quality and human well-being. In order reduce GHG emissions associated with development, energy efficiency improvements in the built environment and infrastructure, along with renewable energy resources in buildings, infrastructure, and transportation should be encouraged. Compact infill development and multi-modal transportation play an important role in reducing emissions in part by reducing vehicle miles traveled. Preservation of rural and forested areas, reforestation, constructed wetlands, expansion of the urban tree canopy, along with other GHG emissions sink technologies can further assist the County in reducing its emissions footprint. GHG reduction consideration in future development
- **Enhance Community Resiliency and Preparedness.** Climate change is occurring now and having impacts today in the County. Increased sea levels, increased heavy precipitation events and increasing average temperatures have real implications for communities in the County, and steps should be taken to prepare and adapt to these changes. Communities are encouraged to assess their vulnerability to the impacts of climate change and develop preparedness plans.

Major investments, development and infrastructure should be located outside of floodplains and areas subject to future sea level rise. When avoidance of flood-prone areas is not feasible, buildings and infrastructure should be constructed to a flood standard consistent with the standards set forth by Executive Order 41, Preparing Delaware for Emerging Climate Impacts and Seizing Economic Opportunities from Reducing Emissions.

Incorporation of green infrastructure techniques at the site and landscape scales can also reduce the County's vulnerabilities to flooding.

Increasing temperatures can pose serious health concerns for at-risk populations.

Development practices can reduce the County's vulnerability to extreme heat events and urban heat island effect by encouraging mitigation measures such as expansion of the tree canopy, preservation of vegetated surfaces, green roofs, reflective roofs and limitations to impervious surface areas.

These recommendations support other components of the Guiding Principles including #2 Promote Healthy Communities; #6 Create a Sustainable Economy; and #7 Require Community Benefit.

- DNREC also recommends adding the following Low Impact Development (LID) best practices to the list of Amenities in Table 3:
  - Vegetated buffers (e.g., riparian and/or wetland),
  - Vegetated filter strips and/or swales,
  - Green roofs,
  - Pervious pavers
  - Eliminating curb and gutter in places with discharge to vegetated filter strips, and
  - Constructed wetlands.

Delaware State Housing Authority – Karen Horton: 302-739-4263

DSHA strongly supports the proposed amendments to New Castle County's Unified Development Code (UDC) to: incorporate Guiding Principles for Development in Appendix 7; create a new zoning overlay district (Neighborhood Preservation Overlay District); and, a new zoning district (Economic Empowerment Zone). The adoption and implementation of these amendments would expand the range of quality housing options available for the County's residents in a strategic manner that, not is not only responsive to a broad range of housing needs, but also provides county-wide benefits related to economic competitiveness, health, and community well-being. The following are a few examples.

- Provides attractive compact mixed-use development along available or planned transit, creating a multi-modal transportation system that incentivizes walking, biking and transit. This not only reduces the costs of housing and travel for many households, but also provides opportunities to walk and bike to meet daily needs.
- Expands housing choice by providing a mix of housing types and densities that is more responsive to a market shift that no longer supports large suburban homes that dominated development in Delaware for several years. The Delaware Population Consortium (DPC) projections for the next ten years indicate that not only will there be a large amount of suburban homes placed on the market by baby boomers, but that there will be a *decline* in households in age ranges that typically seek large homes. These same DPC projections show growth in the younger age ranges most likely at stages in their life and income to support entry-level homes.
- The combination of excess suburb housing supply currently on the market, additional supply being added by aging baby boomers, more stringent lending standards, along with a changing market indicate that it is *critical* that communities move away from large lot single family-detached housing and *proactively* provide a variety of housing options, such as those facilitated through these amendments, to meet market demand.
- Integrates housing in mixed-using development along commercial corridors that puts housing close to job centers, schools, open space, services, and markets. But supporting access to health and social services, employment, education, active recreation, and markets, extensive research indicates that the ability of individuals and families to achieve positive life outcomes will be enhanced.
- Integrating multi-family housing into existing communities through building design standards, along with requiring greater connectivity within and between communities, enhances social inclusion and cohesion.

### **15-097: Establishment of a new Neighborhood Preservation Overlay Zoning District (2015-0652-T)**

Department of Transportation - Contact: Bill Brockenbrough 760-2109

- Regarding Ordinance 15-097, establishing the Neighborhood Preservation Overlay District (NPOD), Section 40.16.101, Part C., temporarily limits applications for NPOD districts to six initial study areas identified in the County's 2014/2015 Action Plan and Work Program and places where an NPOD designation is supported by a Wilmington Area Planning Council (WILMAPCO) study. For ease of reference, DelDOT recommends that a map or maps of the six initial study areas be included in the UDC.

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

- DNREC supports and commends the County’s effort to make necessary an NPOD Conservation Plan which stipulates ground level open space requirements for each applicant seeking an NPOD designation. Open spaces add recreational opportunities, aesthetic value, and environmental services to communities. Open spaces also 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. With such air quality benefits to be gained, the DNREC’s Department of Air Quality (DAQ) is concerned that NPOD zoning ordinances may allow changes in open space ratios and permissible uses of said space (p. 9). The DAQ encourages the County to consider uses that maintain the environmental integrity of open space.

Department of Public Health – Contact: Laura Saperstein 744-1011

- Re-evaluate the required vs. optional design standards for the Neighborhood Preservation Overlay District (NPOD) to include **Signage, Driveways and sidewalks, Street trees, and Street furniture** as minimum elements governing the physical characteristics and features of all property within the district, as was done in the Economic Empowerment District (EED), and not list them as Optional standards.

Delaware State Housing Authority – Karen Horton: 302-739-4263

- DSHA strongly supports the proposed amendments to New Castle County’s Unified Development Code (UDC) to: incorporate Guiding Principles for Development in Appendix 7; create a new zoning overlay district (Neighborhood Preservation Overlay District); and, a new zoning district (Economic Empowerment Zone). The adoption and implementation of these amendments would expand the range of quality housing options available for the County’s residents in a strategic manner that, not is not only responsive to a broad range of housing needs, but also provides county-wide benefits related to economic competitiveness, health, and community well-being. The following are a few examples.
- Provides attractive compact mixed-use development along available or planned transit, creating a multi-modal transportation system that incentivizes walking, biking and transit. This not only reduces the costs of housing and travel for many households, but also provides opportunities to walk and bike to meet daily needs.
- Expands housing choice by providing a mix of housing types and densities that is more responsive to a market shift that no longer supports large suburban homes that dominated development in Delaware for several years. The Delaware Population Consortium (DPC) projections for the next ten years indicate that not only will there be a large amount of

suburban homes placed on the market by baby boomers, but that there will be a *decline* in households in age ranges that typically seek large homes. These same DPC projections show growth in the younger age ranges most likely at stages in their life and income to support entry-level homes.

- The combination of excess suburb housing supply currently on the market, additional supply being added by aging baby boomers, more stringent lending standards, along with a changing market indicate that it is *critical* that communities move away from large lot single family-detached housing and *proactively* provide a variety of housing options, such as those facilitated through these amendments, to meet market demand.
- Integrates housing in mixed-using development along commercial corridors that puts housing close to job centers, schools, open space, services, and markets. But supporting access to health and social services, employment, education, active recreation, and markets, extensive research indicates that the ability of individuals and families to achieve positive life outcomes will be enhanced.
- Integrating multi-family housing into existing communities through building design standards, along with requiring greater connectivity within and between communities, enhances social inclusion and cohesion.

### **15-098: Establishment of a new Economic Empowerment Zone (2015-0653-T)**

Department of Transportation - Contact: Bill Brockenbrough 760-2109

- Regarding Ordinance 15-098, establishing the Economic Empowerment District (EED) we see from the text of the ordinance that the purpose of the District is to facilitate certain employment sectors “while protecting surrounding neighborhoods.” Therefore DelDOT understands the statement in Section 40.17.101 that “The EED does not affect the following standards...Transportation impact requirements (Article 11)...” However, they also recognize that there are areas in the county where existing traffic congestion problems could mean that Level of Service (LOS) waivers might be needed to make an EED viable. DelDOT suggests that the County consider amending Section 40.11.230 in some manner to make LOS waivers easier to obtain in an established EED. For example, the County could say that only a simple majority vote of the County Council would be required, regardless of the Land Use Department’s recommendation.

Department of Public Health – Contact: Laura Saperstein 744-1011

- The Department of Public Health recommends adding **Lighting standards for safety and security** as an important minimum element, as was reflected in the EED.

- DPH is pleased to see that Transportation demand management (TDM) has been incorporated into the Design Standards of the EED; however, feels it could be strengthened with additional verbiage as further detail would make it necessary for walkable and bikeable options to be considered and would therefore recommend adding:

**Examples of TDM measures include:**

- **Staggered work hours, allowing commutes during off-peak hours**
- **Public transit**
- **Car/van pooling**
- **Telecommuting**
- **Mixed uses that capture trips on site, such as residential for employees and limited commercial uses (“amenity retail”)**
- **Bike and pedestrian facilities, such as connections to neighborhoods and existing nearby trails and paths, bike racks, and shower/changing facilities**
- **Crosswalks and pedestrian connectivity**
- **Better connectivity but redirecting traffic from secondary**

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

- DNREC supports and commends the County’s effort to require EEDs to be located within one-quarter mile of a bus stop or one-half mile of commuter rail (p. 3). For every vehicle trip that is replaced by the use of a sidewalk, bike path, or mass transit, 7 pounds of VOC and 11.5 pounds of NOx are reduced each year. However, DNREC is concerned about the potential outcomes of “policy tradeoffs” like “alternative parking or landscaping calculations and customized standards” (p. 2). If such tradeoffs result in more parking (and therefore more vehicle-dependent activity) and/or fewer pedestrian provisions, then the DAQ finds that the EED would appear to be in conflict with the Guiding Principles and recommends that the County consider measures to maintain the Guiding Principles’ intent for walkable communities.

Delaware State Housing Authority – Karen Horton: 302-739-4263

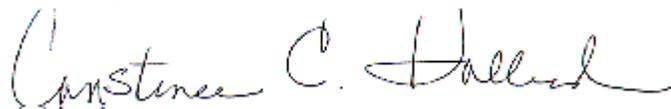
DSHA strongly supports the proposed amendments to New Castle County’s Unified Development Code (UDC) to: incorporate Guiding Principles for Development in Appendix 7; create a new zoning overlay district (Neighborhood Preservation Overlay District); and, a new zoning district (Economic Empowerment Zone). The adoption and implementation of these amendments would expand the range of quality housing options available for the County’s residents in a strategic manner that, not is not only responsive to a broad range of housing needs, but also provides county-wide benefits related to economic competitiveness, health, and community well-being. The following are a few examples.

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**Please contact this office once a decision has been reached regarding these proposed ordinances, and, if approved, please forward a copy of the adopted ordinance for our records.**

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

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP

Director, Office of State Planning Coordination