STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF STATE PLANNING COORDINATION

November 22, 2024

Councilman David Cartier & Mrs. Charuni Patibanda
C/o Alec Davis
New Castle County
Department Of Land Use
87 Reads Way
New Castle, DE 19720

RE: PLUS review – 2024-10-02; Claymont Steel Rezoning

Dear Mr. Cartier and Mrs. Patibanda:

Thank you for meeting with State agency planners on October 23rd, 2024 to discuss New Castle County's Claymont Steel Rezoning. According to the information received, you are seeking review of a proposed County Initiated Comprehensive Rezoning from HI (Heavy Industry) to CR (Commercial Regional).

Please note that changes to the rezoning proposal, 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. **The future development of this property will also need to comply with any Federal, State, and local regulations. We also note that as New Castle County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.**

Office of State Planning Coordination – Contact: Samantha Bulkilvish 302-739-3090

This project is located in Level 1 & 2 investment areas, which is consistent with the 2020 Strategies for State Policies and Spending. This is also located in the Claymont Master Plan Area in New Castle County. There are portions of this parcel that are also in the Out of Play area because of the presence of 100-year floodplain.

Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy. Investment Level 2 reflects areas where

growth is anticipated by local, county, and State plans in the near-term future. Because development in Level 1 & Level 2 is consistent with the 2020 Strategies for State Policies and Spending, the Office of State Planning Coordination supports Comprehensive Plan as long as development proposed in the future remains out of the Out of Play areas.

Department of Transportation – Contact Stephen Bayer 302-760-4834

- DelDOT has no comments on the proposed rezoning. DelDOT notes that if the property is developed in the future all applicable reviews and permits will still be required.

Department of Natural Resources and Environmental Control – Contact Beth Krumrine 302-735-3480

Disclaimer Clause: Staff from the Delaware Department of Natural Resources and Environmental Control (DNREC) reviewed the project submitted for PLUS review. The absence of comments does not indicate that there are not additional constraints, nor does it indicate DNREC support of a project, code or ordinance.

DNREC reviewers appreciate the intent of the proposed rezoning, which will improve green spaces on the former Claymont Steel site. Restoration and connectivity of green spaces would be a commendable resource for the envisioned mixed-use neighborhood and would benefit both people and wildlife. The intent to support transit-oriented development at this location has the potential to introduce accessible, low-carbon transportation options into the overall design.

REQUIREMENTS

Coastal Zone Act

This site is one of 14 sites designated a heavy industry location per the Coastal Zone Act (7 Del Code, Chapter 70). The Act requires a permit for manufacturing uses in the Coastal Zone and a 'conversion permit' for new or additional heavy industry uses on the specified 14 sites. The Act does not specify restrictions on rezoning or downzoning. This site lies adjacent to other existing heavy industrial uses, which should be a consideration for any future redevelopment regarding potential noise and/or air quality concerns.

Contact: DNREC Coastal Zone Act Program at (302) 739-9283.
Website: https://dnrec.delaware.gov/coastal-zone-act/

Previous Contamination

Due to previous contamination at this location, certain use restrictions apply to this site. Such restrictions are specific to what are known as "Operable Units", associated with the former Citisteel site. Restrictions exist for groundwater withdrawal, which cannot proceed without DNREC approval. Some of the Operable Units are restricted to non-residential use, so additional investigation and remedial action may be required prior to pursuing a residential use. The full list of use restrictions for this site is summarized below, for Operable Units (OU) 2, part of 3, 4, 5, 6, and 7 of the CitiSteel site (DE-0046). Please reach out to the Division of Waste and Hazardous Substances Remediation Section for additional information or if further clarification is needed.

- Certifications of Completion of Remedy have been issued for OU-3, OU-4, OU-5, OU-6 and OU-7.

- For OU-2, OU-3, OU-4, OU-5, and OU-7, there is an environmental covenant recorded with the property deeds restricting or requiring the following:

    - Use is restricted to non-residential. (The PLUS application indicates the intent to allow future residential uses, so additional investigation/remedial action may be required prior to proceeding with such use.)

    - Groundwater withdrawal is restricted without prior DNREC approval.

    - Compliance with the DNREC-approved Contaminated Materials Management Plan is required.

- OU-2 and OU-4 also require compliance with the DNREC-approved Long-Term Stewardship Plan.

- OU-6 has only the restriction that groundwater withdrawal is restricted without prior DNREC approval.

Contact: Division of Waste and Hazardous Substances Remediation Section at (302) 395-2600. Website: https://dnrec.delaware.gov/waste-hazardous/remediation/

Considerations For Future Development

The comments above specifically pertain to the rezoning proposal. Should this site be developed in the future, the following environmental features should be considered during the planning process. The information provided below is not an exhaustive list of environmental

features or requirements if the site should be developed in the future.

Special Flood Hazard Areas

According to the newest Flood Insurance Rate Maps (FIRM), a portion of this site is situated within a Special Flood Hazard Area, specifically within the mapped 100-year floodplain (1% annual chance of flooding). The Special Flood Hazard Area identified on the site lies within zone AE. A portion of this site is also situated within the moderate risk floodplain, or 500-year floodplain (0.2% annual chance of flooding), identified as a shaded zone-X.

- In lands contained within the 100-year floodplain, the National Flood Insurance Program's floodplain management regulations must be enforced through the local floodplain ordinance, which can have higher standards.

- Although the residential uses that are being considered appear to be outside of the Special Flood Hazard Area (SFHA), some houses may still be required by lenders to purchase flood insurance, based on the proximity to the SFHA.

SFHA Contact: DNREC Shoreline and Waterway Management Section at (302) 608-5500.
Website: https://dnrec.delaware.gov/watershed-stewardship/waterways/floodplains/

Sea Level Rise

A portion of this site is also vulnerable to permanent inundation from sea level rise. By 2050, mean sea levels are projected to rise by 0.7 – 1.9 feet; by end of century sea levels are projected to increase by 1.7 – 5.0 feet. In addition to permanent inundation, as mean sea levels rise, the frequency and severity of tidal flooding events and associated coastal erosion is expected to increase. Generally, areas most vulnerable to flooding and future sea level rise are currently designated as green space.

- As the planning process progresses, it is recommended to locate all structures outside of the floodplain. If not possible, the developer should consider designing structures to a higher standard to avoid potential future flood damage and loss.

- As the planning process progresses, it is recommended to avoid construction of permanent structures and infrastructure in areas that are mapped within 5-foot sea level rise. All infrastructure and structures on the site should incorporate the effects of sea level rise through the expected lifespan of the structures. This may include increasing freeboard of structures, ensuring that critical infrastructure is elevated to

withstand future sea level rise, construction of flood control measures, and incorporating green infrastructure for flood control.

SFHA Contact: DNREC Shoreline and Waterway Management Section at (302) 608-5500.
Website: https://dnrec.delaware.gov/watershed-stewardship/waterways/floodplains/

Sea Level Rise Contact: DNREC Climate and Sustainability Section at (302) 735-3480.
Website: https://dnrec.delaware.gov/coastal-programs/planning-training/adapting-to-sea-level-rise/

Wetlands and Waterways

Maps from the Statewide Wetlands Mapping Project indicate the potential presence of several wetland areas on-site. Some are in locations that are designated as green space; however, freshwater emergent wetlands and freshwater ponds exist in the center of the site. These areas are earmarked for future residential use.

- As the planning process progresses, if there is any connectivity to the freshwater wetlands and emergent wetlands or ponds, please work with the US Army Corps of Engineers to determine the appropriate federal permitting requirements.

State Contact: DNREC Wetlands and Waterways Section at (302) 739-9943.
Website: https://dnrec.delaware.gov/water/wetlands/

Federal Contact: U.S. Army Corps of Engineers (Dover Office) at (267) 240-5278.
Website: https://www.nap.usace.army.mil/Missions/Regulatory/Contacts/

Coastal Zone Federal Consistency Certification (state contact): DNREC Coastal Management Program at (302) 739-9283.
Website: https://dnrec.delaware.gov/coastal-programs/coastal-management/

Key Wildlife Habitat

The impoundments and intertidal mudflats at this site are mapped as Key Wildlife Habitat in the Delaware Wildlife Action Plan because they are part of a large wetland complex that can support an array of plant and animal species across the landscape.

- As the planning process progresses, it is recommended that Key Wildlife Habitat areas are conserved to the maximum extent practicable and negative impacts minimized.

Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600. Website: https://dnrec.delaware.gov/fish-wildlife/conservation/

Bald Eagle

An active Bald Eagle (*Haliaeetus leucocephalus*) nest exists on this site. Bald eagles and their nests are protected under the federal Bald and Golden Eagle Protection Act. Additionally, the nest itself is protected by State of Delaware law.

- The U.S. Fish and Wildlife Service has jurisdiction over protection of Bald Eagles via the Bald and Golden Eagle Protection Act, working with landowners on all eagle disturbance issues. For future development on the site, certain requirements may apply. Please consult the U.S. Fish and Wildlife Service for more information on requirements.

- Until further agency guidance is provided, limit disturbance (including noise) to forest areas, wetlands, meadows, and river corridors on this site.

- DNREC Division of Fish and Wildlife staff recommend the use of the new Northeast Bald Eagle Project Screening Form as a starting point. To determine the potential effect future redevelopment may have on Bald Eagles and to ensure compliance with the Bald and Golden Eagle Protection Act, the form can be found at https://www.fws.gov/media/northeast-bald-eagle-project-screening-form.
- As a resource, the U.S. Fish and Wildlife Service also developed National Bald Eagle Management Guidelines to help landowners and others minimize impacts to eagles, including disturbance, which is prohibited by the Bald and Golden Eagle Protection Act. The guidelines focus on minimizing disturbance through the use of buffer zones (330 feet to 660 feet from a nest) and time-of-year restrictions for certain activities in several categories.

State Contact: DNREC Division of Fish and Wildlife, Species Conservation and Research Program at (302) 735-3600. Website: https://dnrec.delaware.gov/fish-wildlife/conservation/

Federal Contact: U.S. Fish and Wildlife Service, Chesapeake Bay Ecological Services Field Office at (410) 573-4599. Website: https://www.fws.gov/office/chesapeake-bay-ecological-services

Delaware Emergency Management Agency – Contact Phillip Cane 302-659-2325

- DEMA has no comments or objections to the rezoning.

State Historic Preservation Office – Contact Carlton Hall 302-736-7400

- Our office has no comments on the proposed rezoning. However, there is an archaeological site and historic buildings such as the Thomas Robinson House (N00450) in the vicinity. Our office requests to have an opportunity to review the future proposed redevelopment.

Delaware State Housing Authority - Contact Alex Modeas 302-574-3656

- DSHA supports the proposal to revise seven tax parcels on the South East Side of Philadelphia Pike, 400 feet North of the intersection of Interstate 495 and Philadelphia Pike from "HI" (Heavy Industry) to "CR" (Commercial Regional).

- The need for communities with diverse housing types is high throughout New Castle County. Diverse housing types can promote affordability and reduce the cost burden. The redevelopment of this area includes higher-density, more compact residential development that is near the new train station. This higher-density housing development will allow households across a wide range of incomes to capitalize on opportunities that reduce their housing and transportation cost burden.

- DSHA does take this opportunity to note that these parcels are located in "Distressed and Saturated Areas" according to DSHA's Balanced Housing Opportunities map. These areas currently have a disproportionate share of affordable housing and care should be taken when adding additional affordable rental housing. Instead, investment should focus on stabilizing neighborhoods and sustainable homeownership.

- The proposal encompasses a transition to a vibrant mixed-use land pattern. This includes both office and residential uses above ground-floor retail. This type of mixed-use development where businesses are in close proximity to residents will promote environmental sustainability by encouraging non-vehicular forms of transportation. It will also promote local economic development, convenience, and an increased sense of community. DSHA supports this type of mix-use development.

- The "Heavy Industry" zoning is no longer consistent with the Comprehensive Plan and Claymont Area Master Plan. A Commercial Regional Zoning with a TOD/Mixed Use component is more in alignment with plans for future development.

Delaware State Fire Marshall's Office – Contact Duane Fox 302-739-4394

- This Agency has no objection and submits no comments for the projects that involve only zoning or rezoning issues.

Once the rezoning is voted on by Planning and Zoning and/or County Council, please forward a copy of the decision regarding the zoning change to this office for our files. Should any future development occur on this site please submit another PLUS application for the review of the site plan. Thank you for the opportunity to review this rezoning. If you have any questions, please contact me at 302-739-3090.

Sincerely,



David L. Edgell, AICP
Director, Office of State Planning Coordination