

County Comments

Newsletter of

THE CIVIC LEAGUE FOR NEW CASTLE COUNTY

Informed Citizens for Sound County Growth

CLNCC Monthly Meeting

October 17, 2017

7:00 PM

Christiana Presbyterian Church

15 Old Baltimore Pike, Newark, DE 19703

News and Notes

***NCC Land Use Department will be holding a panel discussion on Traffic Impact Requirements for Land Development in New Castle County.**

Representatives from New Castle County's Department of Land Use and the transportation, economic, civic, and engineering communities will provide an overview of the LOS issue and feature a question-and-answer session regarding the LOS regulations in New Castle County and other local governments. **The meeting will take place on Wednesday, October 18, 2017 from 4:00 to 6:00 p.m. at:**

Route 9 Library and Innovation Center

3022 New Castle Avenue
New Castle, Delaware 19720

***Boxwood Road GM Plant Update**

Representatives from Harvey, Hanna & Associates will be unveiling their plan for the former GM facility on **Monday, October 23, 2017 from 6:00 to 7:00 pm at:**

Minquas Fire Hall

21 N. James Street
Newport, DE 19804

We strongly encourage members to attend these events and provide input.

October 2017



Founded in 1962.

P.O. Box 5562
Wilmington, DE 19808

The Civic League is a non-profit, non-partisan, volunteer organization.

The opinions expressed herein are those of the authors of the individual articles and not a position of the Civic League unless so stated.

Authors are responsible for the accuracy of their statements. The Editor will accept corrections and comments, as well as articles from any member including residents of member civic associations.

The Civic League For New Castle County meets the third Tuesday of each month except July, August, and December.

We believe that informed citizens are the strongest defense against thoughtless and imprudent public policy. We value transparent, ethical government, and properly planned growth strategies that benefit all of New Castle County's Residents.

For further information, please visit our website.

www.civicleagueforncc.org

DNREC has announced the initiation of process to develop regulations for Coastal Zone Conversion Permits

The Act authorizes DNREC to issue permits for construction and operation of new heavy industry uses at 14 existing heavy industry use sites within the states Coastal Zone. Permits for conversions will require an assessment of the environmental and economic impacts of the proposed conversion. The Act directs DNREC to develop and promulgate regulations for the issuance of conversion permits by October 1, 2019. This process focuses strictly on the conversion permit.

On Sept. 28, DNREC Secretary Shawn M. Garvin signed an internal Start Action Notice for these regulations, officially starting the regulatory development process to implement Coastal Zone Conversion Permits. DNREC is committed to developing the regulations governing Delaware's Coastal Zone Act Conversion Permit in a transparent manner that facilitates and encourages public input and involvement, Secretary Garvin said.

To meet this goal, DNREC has contracted with the Consensus Building Institute to conduct initial stakeholder interviews and to develop a framework for a collaborative regulatory development process. At the conclusion of this initial phase, DNREC will establish a Regulatory Advisory Committee (RAC) who will be tasked with helping to draft proposed conversion permit regulations. In order to ensure a wide representation, the RAC will be composed of stakeholders including regulated parties, large and small businesses, organized labor, communities, conservation and environmental organizations, regional and local government, and other affected persons.

RAC meetings will be open to the public and posted on the Statewide Meeting Calendar. DNREC also has created [a webpage](#) where interested parties can find information on the conversion permit regulation activities. The [webpage](#) includes a link to the Remediation Status Baseline Report on Existing Heavy Industry Use Sites that was completed and delivered to the Governor and the General Assembly, as well as links to the Coastal Zone Conversion Permit Act and Regulations Governing Delaware's Coastal Zone. The public can also sign up for a listserv (by sending a blank email to dnrec_coastal_zone@lists.state.de.us) to receive periodic updates on the Coastal Zone Conversion Permit regulatory process.

Serious concerns raised over TIS for Delaware National

The Land Use Department has significantly reduced the scope of the traffic impact study for this plan now submitted by Pettinaro, a point which has been under fierce contention since the December 5, 2016 NCC Scoping Meeting. The following testimony from member Tom Dewson is troubling and we need to make sure that ignoring legal requirements for development are not going to become a pattern from this administration. Please read below for Tom's comments to the Planning Board.

I am writing to alert you to serious deficiencies in the recently issued Traffic Impact Study (TIS) for Delaware National, the 262-unit residential development proposed for the former Hercules Golf Course. As designed, **the traffic study fails to account for over 10,000 vehicles per day.**

The TIS is deeply flawed in 2 respects: 1) traffic from over 1 million square feet of existing but vacant space at AstraZeneca, Experimental Station, Barley Mill Plaza (Odyssey School), 4250 Lancaster Pike and Chestnut Run Plaza is unaccounted for; and 2) traffic from committed developments (previously approved but unbuilt space) included in the TIS appears to be seriously underestimated.

On Item 1 -- **vacant space** -- the issue is that existing vacant space has traffic rights that precede new development. Recent Supreme Court decisions have reaffirmed that available traffic capacity is allocated on a first come/first serve basis. County Code Sec 40.11.130 requires that "Future traffic shall be projected by the inclusion of trip generation from projects with recorded plans...". All existing space has a recorded plan. Also, consideration of vacant space is recognized as an engineering best practice as evidenced by the testimony of Mr. Brian Keaveney of Pennoni Associates, a leading traffic engineering firm (<http://www.umtowsnhip.org/ArchiveCenter/ViewFile/Item/3105>). Vacant space is also regularly included in traffic studies nationwide.

The intent of State and County law, and engineering best practice, seems indisputable -- projections of future traffic need to include vacant space when material, unless it can be demonstrated that the vacant space has been permanently abandoned. Proceeding with a traffic study that fails to address a known material deficiency is irrational, arbitrary and capricious. Yet over 1 million square feet of vacant office space is currently unaccounted for in this TIS -- the equivalent of some 8,000 vehicles per day that are missing from the analysis.

As for the argument that "traffic studies haven't considered vacant space in the past", this is a unique situation that can't be ignored -- vacant space is huge, it's nearby and it has prior traffic rights.

On item 2 -- **committed developments** -- the issue is that traffic from previously approved but unbuilt space needs to be accurately estimated. DuPont Chestnut Run and Little Falls Lots 9,11,10 -- several of the committed projects in the TIS -- comprise 778,000 square feet of approved but unbuilt space that will house some 3,000 occupants. Yet the TIS estimates that only about 40% of these office workers will arrive/depart during the peak AM and PM hours. Based on real-world experience along area roads, this appears low by several 1,000 vehicles per day.

We believe these deficiencies need to be addressed before proceeding with this project and respectfully request your leadership and assistance in resolving these critical gaps.

Changes to Traditional Neighborhood Housing Proposed 17-094

SYNOPSIS: This Ordinance amends the Traditional Neighborhood Housing Program. This Ordinance will allow the reduction of the number of moderately priced dwelling units ("MPDUs") required on certain subdivision plans that provide at least five (5) housing types. Accordingly, in situations where a twenty (20) percent MPDU set-aside is required, if five (5) housing types are offered, the MPDU set-aside requirement will be reduced to fifteen (15) percent. However, the contribution to the housing trust fund for the market rate dwelling units shown on these plans will increase from \$12.00 to \$24.00 per \$1,000 of permit construction valuation. The Ordinance also eliminates the eligibility window for homeownership and rental MPDUs, thus raising the allowable maximum sales price and rental price by ten (10) percent. The Ordinance also eliminates the prohibition of rental MPDUs in non-rental communities and allows up to fifty (50) percent of the MPDU set-aside requirement to be rental MPDUs.