

November 28, 2022 City of New Castle Planning Commission Hearing/Meeting
AECOM's recommendation on Ordinance 536

AECOM recommends that the Planning Commission recommend disapproval of Ordinance 536 to the City Council for the following reasons:

1. A mixed-use community on the subject parcels is incompatible with surrounding land uses
2. A mixed-use community on the subject parcels would be served by a singular point of access, Lukens Drive, which also provides the sole access to the Riveredge Industrial Park
3. A mixed-use community on the subject parcels lacks connectivity with Downtown New Castle or other nearby communities or retail and service establishments

Incompatibility with adjacent and nearby land uses. The development of a mixed-use community comprised of approximately 450 residential units and 18,000 sf of commercial space on the subject parcels would be incompatible with the long-established surrounding land uses of offices, light industries and heavy industries. The subject parcels are located **within** an existing industrial office park served by Lukens Drive. The industrial office park has been planned and developed from its inception as just that, an industrial office park. In fact, when annexed into the City in 1993, the Industrial Office Park (IOP) zoning district was created and applied to the lands being annexed which now comprise that portion of the Riveredge Industrial Park located within the City. As discussed at the 10/17/22 Workshop, while the IOP zoning district does permit some uses compatible with residential development such as banks, day care centers and restaurants, it also permits *manufacturing, assembling, converting, altering, finishing, cleaning or any other processing, handling or storage of products or materials; packaging, storage, warehousing and distribution*. The portions of the Riveredge Industrial Park located outside of the City limits but still served by Lukens Drive are zoned Industrial (I) and Heavy Industrial (HI) under the County's Unified Development Code Regulations (UDC). Under the UDC, *Light Industry* is a permitted use in both the I and HI Districts. Light Industry is defined in the UDC as follows: **Light industry.** *This category is designed to accommodate limited intensity levels of manufacturing and assembly activities, storage, warehousing, services, associated offices and similar uses. This includes the following uses:*

Construction of buildings (NAICS 236)

Heavy and civil engineering construction (NAICS 237)

Special trade contractors (NAICS 238)

Food manufacturing (NAICS 311, except 3111, 3116, 3117)

Beverage and tobacco product manufacturing (NAICS 312, except 31212, 31213, 31214, 3122)

Textile mills, textile product mills and apparel manufacturing (NAICS 313, 314, 315)

Leather and allied product manufacturing (NAICS 316)

Wood product manufacturing (NAICS 321, except 3211, 321991)

Paper manufacturing (NAICS 322, except 3221)

Printing and related support services (NAICS 323)

Carbon black manufacturing (NAICS 325182)

Pharmaceutical and medicine manufacturing (NAICS 3254)

Soap cleaning compound and toilet preparation manufacturing (NAICS 3256)

Printing ink manufacturing (NAICS 32591)

Plastics and rubber product manufacturing (NAICS 326)

Nonmetallic mineral product manufacturing (NAICS 327, except 32731, 32732, and 3279)

Fabricated metal product manufacturing (NAICS 332, except 332993)

Machinery manufacturing (NAICS 333)

Computer and electronic product manufacturing (NAICS 334)

Electrical equipment, appliance and component manufacturing (NAICS 335)

Motor vehicle parts manufacturing (NAICS 3363)

Motorcycle, bicycle and parts manufacturing (NAICS 336991)

Furniture and related product manufacturing (NAICS 337)

Miscellaneous manufacturing (NAICS 339)

Wholesale trade (NAICS 42)

Nonstore retailers (NAICS 454, except 45431)

Trucking transportation (NAICS 484)

Transit and ground passenger transportation maintenance, service, storage facilities (NAICS 485, 487)

Support activities for transportation (NAICS 488)

Postal service, regional (NAICS 491)

Couriers and messengers, regional (NAICS 492)

Warehousing storage facilities (NAICS 493)

Information industries (NAICS 51)

Miniwarehousing and self-storage units (NAICS 53113)

Rental and leasing services (NAICS 532)

Architectural, engineering, and related services (NAICS 5413)

Scientific research and development services (NAICS 5417)

Services to buildings and dwellings (NAICS 5617)

Medical and diagnostic laboratories (NAICS 6215)

Marina and associated uses (NAICS 71393)

Special food services (NAICS 7223)

Automotive paint, body, interior repair and maintenance (NAICS 811121)

Commercial and industrial machinery and equipment repair (NAICS 8113)

Crematories (NAICS 812220)

Heavy industry, where the business is less than twenty thousand (20,000) square feet

Research and development facility, where the facility generally resembles an industrial or manufacturing facility or where such facility manufactures a finished product

As described in the UDC, the nature and purpose of the HI district is as follows:

The Heavy Industry District is to be used principally for larger heavy industrial developments not suited to other industrial districts and the uses that support those types of developments.

Location of such districts typically has access to rail lines or navigable marine waterways in addition to roadway access.

Districts shall be located to minimize adverse effects from neighboring districts such as noise, air pollution, and unsightly structures.

The range of uses permitted by the UDC in HI District are consistent with said purpose and intent.

It is the very nature of industrial office parks and of the IOP Zoning District and IOP Suggested Future Land Use District in the 2020 Comprehensive Plan to allow for the orderly development of business and industrial uses while minimizing potential negative impacts on nearby residential development. In this case, the residential development would occur within the industrial office park causing unnecessary conflicts between the business and industrial uses and the residential development.

It should also be noted that the subject parcels are located approximately 2500 feet from the Croda Atlas Point Plant located outside of City limits and which is zoned Heavy Industry in the County. According to a Settlement Agreement between Croda and DNREC dated February 26, 2021:

Croda owns and operates a facility located at 315 Cherry Lane in New Castle, Delaware, where it manufactures surfactants that promote the mixing of oil and water-based ingredients in consumer products such as shaving cream and pharmaceuticals. The manufacture of these surfactants requires the use of ethylene oxide ("EO"), a colorless and highly flammable gas:

A leak at the EO Plant on November 25, 2018, resulted in a shutdown of the EO Plant and operation of the EO Plant did not resume until January 13, 2020.

According the DNREC website describing the incident, the U.S Environmental Protection Agency has determined that EO poses a cancer risk to humans when inhaled at specified levels.

The leak at the Croda EO Plant necessitated the shutdown of the Delaware Memorial Bridge for 6 hours. In addition, out of an abundance of caution, residents living near the facility were also advised to shelter in place. Communities subject to the advisory included Buttonwood and Collins Park.

DNREC concluded that incident was an exceedance of the permitted emission level, but not a public safety issue. While AECOM makes no judgement as to the likelihood of future air emission violations and potential threats to public health from the Atlas Croda Plant, it is precisely this type of occurrence that warrants the UDC to state that Heavy Industrial Zoning Districts, and by definition the uses permitted therein, *shall be located to minimize adverse effects from neighboring*

districts such as noise, air pollution, and unsightly structures. It should be noted that the Collins Park community which received the shelter in place advisory is approximately the same distance from the Croda Plant as would be the proposed development on the subject parcels. It is AECOM's opinion that it is ill-advised to locate a high-density residential community on lands currently zoned as industrial office use in relatively close proximity to such heavy industrial uses as the Croda Atlas Point Plant. For this reason and the reasons stated previously, AECOM finds that the development of a mixed used community on the subject parcels is incompatible with adjacent and nearby land uses and the zoning districts that permit such uses.

Singular point of access – Lukens Drive

The development of a mixed-use community as previously described on the subject parcels would rely solely on Lukens Drive as its only point of access to Cherry Lane and the surrounding roadway network. Lukens Drive, which is a dead-end street, was designed for and currently functions as an internal road serving the Riveredge Industrial Park. The addition of approximately 4000 (mostly residential) trips per day (as estimated by DelDOT) from the subject development would lessen Lukens Drive ability to functions as an industrial office park road which provides service to employees, delivery trucks and tractor trailers from uses permitted by the City Zoning and the County Zoning for that portion of Lukens Drive outside of the City limits. Access to the proposed development as indicated on concept plans submitted by the applicant being is approximately 4,900 feet from Cherry Lane. Lukens Drive also provides direct access to all of the uses between the subject parcels and Cherry Lane (approximately 16 businesses and industries). That is, every trip from the subject development must travel past these 16 business and industrial uses. There are approximately 25 points of access onto Lukens Drive between the subject parcels and Cherry Lane. Lukens Drive also provides ingress and egress to 6 business and industrial uses beyond the subject parcels. That is, every trip to and from said 6 business and industrial uses must travel past the proposed development. The nature of the access to the subject parcels compounds the potential conflicts between the various land uses as described above. Use of Lukens Drive by a 450 unit residential development would cause unnecessary conflicts between the residential traffic and the employee traffic and incoming and outgoing truck traffic for which Lukens Drive was intended. AECOM acknowledges that other uses permitted in the IOP District on the subject parcels may generate similar traffic volumes as the proposed mixed-use development. To be clear, our concern is not with traffic volumes but with conflicts in driver behavior and expectations between residents of the mixed-use community and everyday users of the office industrial park such as employees, truck drivers, etc.

In addition, it is good planning practice to provide for multiple access points to large developments to facilitate emergency access. This allows access by emergency responders from multiple access points and also allows for access in the event one access point is blocked. By way of example, Section 40-21.130 of the County UDC states: *To ensure that adequate access for emergency vehicles is provided at all times, subdivisions or developments that contain three hundred (300) or more dwelling units shall be served by at least two (2) entrance streets located as remotely as possible from each other. Where site constraints prohibit the establishment of two (2) entrance streets, the Department, with the advice of the Office of the State Fire Marshal, may permit the subdivision or development to contain a single entrance street.* While potential relief of a secondary access point is built into the requirement, it is ill-advised to allow for a large residential development on lands currently designated as industrial office use and that is unable to meet said requirement. AECOM recognizes that the UDC does not apply to

development in the City but wishes to bring it to the Planning Commission's attention as an example of the recognition for multiple access points for large residential developments. The singular point of access to a proposed development on the subject parcels is exacerbated by the at grade railroad crossing of Lukens Drive. A train derailment would isolate the residential community from emergency responders. AECOM acknowledges that potential use of Buttonwood Avenue as a secondary means of access during an emergency, but does not agree that the special arrangements that would need to be made with the emergency responders adequately addresses the significant change in land use.

It should be noted that the City Subdivision Regulations, Section 213-11 states, *Streets shall be arranged to conform with the arrangement of both existing and planned streets, so as to form a harmonious and systematic development of the city.* AECOM does not feel that the development of the subject parcels as proposed by the applicant on Lukens Drive provides for a harmonious and systematic development of the City.

Lack of Connectivity with Downtown New Castle or Nearby Communities or other retail and service establishments

As mentioned above, the development of a mixed-use community comprised of approximately 450 residential units and 18,000 sf of commercial space on the subject parcels would create an isolated community with no vehicular, pedestrian or bicycle connectivity with downtown New Castle or other nearby communities or retail and service establishments. Other areas within the City that permit mixed use development of the intensity as proposed by the applicant is the DG Zone. Areas zoned for DG are located at the gateways of the downtown. The City Zoning Ordinance states:

Downtown Gateway District is intended to:

(1) Create a pedestrian-oriented neighborhood commercial district providing primarily local goods and services and presenting a gateway worthy of the City of New Castle.

(2) Extend the built-form, character and scale of the historic district.

(3) Encourage lively, human-scaled gathering places for the community through building design and orientation and by encouraging a mix of uses.

In addition, the DG zone was created as a result of being identified and located as a specific suggested land use district in the 2009 Comprehensive and further implemented via the creation of extensive zoning regulations to meet the intent of the Comprehensive Plan. AECOM does not feel that the creation of a large isolated community within a small urban environment such as the City of New Castle is good planning or in the best interests of the City.

Conclusion

In conclusion, the subject Ordinance proposes the rezoning of the parcels identified in the Ordinance from Industrial Office Park (IOP) to R-3 Multi-family and GC (General Commercial) for the development of approximately 450 residential units and 18,000 sf of space. The Ordinance contemplates the rezoning of the subject parcels in accordance with a site plan *determined by the Planning Commission as being in full compliance with the City Code.* The Ordinance also states the Comprehensive Plan would be amended as necessary to make the approved Site Plan consistent therewith. As we have discussed in previous meetings Delaware Code (22 Del. C. §702) states that the comprehensive plan shall be the basis

for the development of zoning regulations. Accordingly, our previous discussions regarding Ordinance 536 have been focused on the merits of amending the City's 2020 Comprehensive Plan to permit a mixed-use development such as the one proposed by the applicant. Map 3 Suggested Land Use and its companion section, Suggested Land Use (Future Land Use) in the City of New Castle 2020 Comprehensive Plan designate the subject parcels, and the entire Riveredge Industrial Park as Light, Industrial Office Park. For all of the reasons stated above, AECOM does not feel that an amendment to the 2020 Comprehensive Plan to change the Light Industrial Office Park Suggested Future Land Use to permit a mixed-use development on the subject parcels is warranted. As such, the requested zoning in Ordinance 536 would be inconsistent with the Comprehensive Plan and AECOM therefore recommends that the Planning Commission recommend disapproval of Ordinance 536 to City Council.