

CITY OF NEW CASTLE PLANNING COMMISSION
New Castle Senior Center
400 South Street
New Castle, DE 19720
Monday, April 28, 2025
7:00 p.m.

Agenda

1. Roll Call
2. Approval of Minutes
3. Annual Report to City Council
4. Discussion and possible vote to authorize an extension of the conditionally approved site plan at 427 W 7th St. known as The Battery.
5. Discussion of Short-term rentals and tourist homes and potential ordinance recommendations
6. Public Comments as related to agenda items. Three minutes per person with a maximum of one hour of public comment.
7. HAC Report

If you are unable to attend questions and comments will be taken via email up to 3:00 p.m. on Monday April 28, 2025 at info@newcastlecivilcity.delaware.gov.

New Castle City Planning Commission Meeting
Minutes
1 Municipal Boulevard, New Castle, DE
March 10, 2025 – 7:00 p.m.

Members Present: Margo Reign, Chair
Brie Rivera
Kristin Zumar
Stephen Franklin
Tamara Stoner
Cynthia Batty
Marc-Anthony Williams

Absent: David Majewski

Also Present: Antonina Tantillo, City Administrator
Christopher J. Rogers, City Planner
Max Walton, City Solicitor

Ms. Reign called the March 10, 2025 Planning Commission meeting to order at 7:00 p.m. Roll call followed and a quorum to conduct business was declared.

Ms. Reign welcomed Mr. Williams as a new member of the Commission.

Minutes

A motion to approve the minutes of the January 27, 2025, Planning Commission meeting as presented was made by Ms. Zumar, seconded by Ms. Stoner, and unanimously passed. Mr. Williams abstained.

Ms. Reign explained that the Planning Commission was tasked to investigate short-term rentals. She noted that Ms. Batty and Mr. Franklin each prepared a short presentation; stating that the Planning Commission did not request anyone to prepare a presentation, and the two presentations were done without prior knowledge or at the request of the Planning Commission. Ms. Batty's presentation was sent to the Commission in January and was provided to the Commissioners and to the public for informational purposes. In February a second presentation was sent by Mr. Franklin. Both presentations were edited down to 15 minutes each.

Presentation by Planning Commission member Cynthia Batty

Ms. Batty walked the Commissioners through her presentation, noting that:

- The first AirBnB rental was in 2007, and the phenomenon brought with it unexpected changes to how neighborhoods and cities work.
- New Castle is unique, and regulations for short-term rentals are based on zoning at the city level.
- There are 7 AirBnB's being advertised in our city: 4 in the Historic District and 3 in the Greater New Castle area. The average nightly rent for a short-term rental in the Historic

area of the City of New Castle is \$149/night; the average nightly rent for a short-term rental in the Greater New Castle area is \$54/night. She opined that having short-term rentals outside the Historic area could be a benefit.

- There is no tourism problem in the City of New Castle. Almost $\frac{3}{4}$ of the patrons of businesses in the City come from outside New Castle. Last year, Spirit of Christmas attracted 5,000 visitors.
- There are 3 questions that need to be addressed:
 - Should the commercial zone have different regulations from the residential zones?
 - What regulations would make everyone the happiest?
 - Should we allow the rest of the City to have short-term rentals as well?
- Ms. Batty opined that (1) short-term rentals should be allowed in the Historic Commercial District subject to certain restrictions; (2) short-term rentals should be allowed outside the City under certain circumstances.
- Ms. Batty reviewed certain restrictions in the current City Code.
- Ms. Batty outlined her recommendation for short-term rentals the Historic Commercial District:
 - A permit.
 - A fire inspection.
 - A local caretaker.
 - A ban on corporate ownership with the exception of individual proprietor LLCs.
 - A fine structure.
 - Apartment or home only; no temporary structures.
 - Occupancy restrictions.
 - Restrictions on the number of rooms.
 - The requirement to have one off-street parking space per bedroom.
 - Insurance indemnification of the City and taxpayers.
 - The same permit and license for the residential zone and greater New Castle.
 - No more than 31 days.
 - The rental unit must be owner-occupied.
- The Terry House has 7 rooms and no off-street parking. It is currently licensed as a Tourist Home. The Terry House must be cared for in this process, as it is a very important structure in the City of New Castle.
- The Code should be updated. Clarify definitions; update short-term rental to include conditions and clarify the zones; remove antiquated term of “tourist home”; remove “rooming house” and “boarding house”; define “hotel” or “inn”; clean up the Code.
- City staff will have to monitor and manage all of this, including: process the license, maintain the license, insure fire inspections are done, collect fines, etc. Fee structures must be developed that support the cost of these administrative tasks. Ms. Batty stated it

is not feasible for the City to monitor short-term rentals for the purpose of taxes. Finally, the effect on the City Police and Fire Departments is unknown.

Presentation by Planning Commission member Stephen Franklin

Mr. Franklin walked the Commissioners through his presentation, noting that:

- New Castle is a historical tourist community, and its draw is cultural tourists who want to immerse themselves in the uniqueness New Castle and to experience the art and history of a colonial city.
- Ideas expressed at previous City Council meetings:
 - Loss of community feel.
 - Mr. Franklin stated that his research of short-term rentals in the US and European large and small cities does not support the claim of a loss of community feel. New Castle's tourism is largely event-based, and comparison to beach communities is not relevant. The literature points out that the people who come here want to interact with locals and educate themselves on the culture, historical heritage and traditions of the City; and the literature actually points to short-term rentals enhancing the community feel as tourists get to interact with locals.
 - Loss of affordable housing.
 - Mr. Franklin stated that concerns with the loss of affordable housing or long-term rentals are misplaced. The literature points to a tipping point of when short-term rentals exceed more than 5% of the total rental housing stock. As it stands now, short-term rentals in New Castle is slightly more than 1% of the rental housing stock. The industry trends toward occupancy for short-term rentals at about 63%; the current rate of occupancy in New Castle is between 30% and 50% (based on conversations with short-term rental owners in New Castle).
 - Decrease in property values.
 - Mr. Franklin stated that the literature points to the fact that short-term rentals provide homeowners a way to share the cost of ownership while increasing the state in which homes are maintained. Instead of deferring maintenance, short-term rental tends to promote positive home upkeep and enhancing property values. Statistics from the Association of Lodging Professionals show that approximately 79% of short-term rentals are owner-occupied, with 77% being owned by couples. What makes short-term rentals unique is the personal services owner-operators supply.
 - Parking concerns.
 - Mr. Franklin stated although few homes in New Castle have off-street parking, but there is more-than-sufficient existing parking in the city for short-term rentals: On 2nd street off of Bull Hill Park; on 3rd Street near Battery Park; on Delaware street; and off Chestnut Street. A short-term renter must tell his guests where parking is available.

- Revising the Zoning Code to provide a clear definition of “short-term rental”.
 - Removing “tourist home” terminology as “a matter of right”.
- Literature points that there are three common approaches found in US and European large and small cities:
 - A total bans, which lead to legal issues.
 - Laissez-faire, which is more common in European cities.
 - Having quantitative limitations with conditions.

The literature points to short-term rentals actually being a boon to government revenue and providing income for the hosts.

- Studies show that cultural tourists tend to spend more, stay longer and visit more often.
- Mr. Franklin stated that according to the New Castle Visitors Center and the New Castle Historical Society:
 - 2019 was a high-point for tourism, with approximately 4,000 visitors.
 - Since that time tourism numbers have not rebounded to more than 50%.
 - Tourism is seasonal, with the highest number of tourists from May through December.
- For New Castle to remain culturally and regionally important, it must embrace short-term rentals. Mr. Franklin added that if New Castle remains tourist-ambivalent rather than actively promoting tourism, the museums and shops will struggle and eventually close.
- The concern about the proliferation of short-term rentals in either the commercial or residential districts is unfounded, simply because short-term rentals are not as lucrative as one might think, and are, in fact, labor intensive; and these factors will self-police in contributing to density controls and will prevent the hotelization of neighborhoods.
- Possible solutions:
 - Limit the number of licenses.
 - Establish clear guidelines and requirements.
 - Develop a common-sense and enforceable Ordinance.
 - Enforcement being done online.
- Mr. Franklin suggested that policies avoid infringing on the 4th and 5th Amendments.

Discussion of short-term rentals and tourist homes and potential recommendations

Mr. Walton led a discussion of the parameters of a Draft ordinance.

1. Do you desire to recommend changing any of the current laws regarding short-term rentals or tourist homes?
 - a. Yes.
2. Do you recommend banning short-term rentals in all districts?
 - a. No.

3. Do desire to recommend defining tourist homes / traditional bed and breakfasts (B&B's) / and sort-term rentals differently?
 - a. Yes.
4. Is there a particular jurisdiction's short-term rental ordinance that you like and would want to use as a model for New Castle's ordinance? If so, what jurisdiction?
 - a. Mr. Franklin suggested the City of Denver. Mr. Walton opined that it was more of a Mission Statement than an ordinance.
5. What is the recommended definition of a short-term rental?
 - a. Mr. Walton presented two suggested definitions of a short-term rental for consideration. Ms. Batty suggested that definitions of short-term rental should be based on zone: owner-occupied in the Residential District or non-owner-occupied in the Commercial District. Mr. Walton suggested that if a simple definition of short-term rental could be agreed upon, the requirements within each zone could be different. In response to a question from Mr. Walton it was the consensus of the Commission that they do not want an owner-occupied limitation in the Commercial District. A discussion of corporations purchasing houses the Residential District ensued. Mr. Walton stated that he would have to research the question of limiting corporations purchasing houses in a Residential District. Mr. Rogers added that the administrative capabilities of the jurisdiction come into play when writing an Ordinance. A discussion of Ms. Zumar's recommendation that either the property be owned by a resident of the city, or that the property is managed by a resident of the city ensued during which Ms. Rivera noted that the City of Lewes rental licensing agreement requires that:

“The owner does not have to be present for the duration of their guest's stay; however, a local contact must be available. A local contact means the individual designated by the license holder to perform obligations under this Ordinance and serve as the contact person for issues relating to the short-term rental. The designated contact must be available 24 hours a day to accept phone calls and respond physically to the short-term rental within a reasonable time period not to exceed two hours when a short-term rental and occupied.”
6. What is the recommended definition of a traditional B&B?
 - a. Mr. Walton asked if there was any objection to establishments like The Terry House being treated as a B&B instead of a tourist home, and Mr. Walton will revise his definition based on his current understanding of The Terry House. Mr. Walton explained that Special Exception or Conditional Use is a permitted use that has certain conditions that are attached to it that are usually included in the Code.
7. Mr. Walton recommended eliminating “tourist home” from the City Code. The Commissioners concurred.
8. Rental Limitations
 - a. A discussion of rental limitations for short-term rentals and B&B's ensued. Mr. Walton opined that the intent is not to restrict one's right to rent their property for

an extended period of time. During discussion Ms. Stoner opined that a limitation could be set for short-term stays, while allowing an option to extend the length of stay. It was noted that there is currently no limitation for The Terry House.

9. Should short-term rentals be precluded from any zoning district?
 - a. No.
10. Do you want to preclude short-term rentals in multi-family housing units, condos, or apartments?
 - a. During discussion, Ms. Zumar opined that apartments could be subject to rules of the complex owner. Ms. Reign opined that apartments can only be sub-let with permission from the complex owner.
11. Do you want to limit the number of short-term rentals to a percentage of a district? If so, what is the percentage? And in which districts?
 - a. There was a split among the Commissioners, and that will be discussed further when the draft ordinance is reviewed.
12. Should there be a requirement for off-street parking.
 - a. During discussion it was noted that the Terry House does not have off-street parking. The consensus of Commissioners was to have no requirement for a dedicated parking space.
13. Mr. Walton recommended that Business and Rental licenses should be required for short-term rentals and B&B's.
 - a. Two Business Licenses (State and City) and a City Rental License will be required.
14. Mr. Walton will work with City Staff regarding the approval process.
15. Do you want to limit the number of days per year a short-term rental can rent?
 - a. It was agreed that by the nature of a B&B, a limitation is implied. Mr. Walton opined that there seems to be a desire for some limitation, and it will be discussed further when the draft ordinance is reviewed.
16. Mr. Walton recommended that short-term rentals and Bed and Breakfasts be inspected prior to a license being issued and yearly upon renewal of the license.
 - a. Yes.
17. Mr. Walton stated that any fees the City may charge must be reasonably proportionate to the cost of providing the services.
 - a. Mr. Walton will estimate fees for the draft ordinance.

There being no further discussion, Ms. Reign opened to floor to Public Comment, noting that comments should be on the Agenda and will be limited to 3 minutes per person, with a maximum time for Public Comment of one hour.

Public Comment

Carol Vukelich – 33 The Strand

- Ms. Vukelich noted that it would be helpful if the audience had copies of what is reviewed by the Commissioners; particularly for the next meeting.

- Ms. Vukelich stated that in all literature she has researched, the terms “Tourist Homes” or “Whole Homes” and “Bed and Breakfasts” are used, and she is confused by the definitions proposed by Mr. Walton.
- Ms. Vukelich noted that in her research, most of the operators were required to have a \$1M liability insurance policy, and opined that people should know that the City is not responsible for injuries that may be sustained by renters.

Bill Emory – Baldton

Mr. Emory stated that B&B’s are like a hotel, that are rented out by the night; and if a renter wants someplace for months, it is not a B&B. Mr. Emory added that most residents in New Castle do not want more tourists, and opined that the Planning Commission wants tourists in New Castle. Mr. Emory stated that there is no off-street parking in New Castle, and that on-street for B&Bs should be allowed in the Code.

Ken Egerton – Terry House

Mr. Egerton spoke in opposition to taxing B&Bs.

John Reeves – East 2nd Street

Mr. Reeves thanked Ms. Batty and Mr. Franklin for their presentations, noting that many of the points he had were discussed by the Commission. He recommended that the Commission conduct local research, and does not rely heavily on how other communities handle short-term rentals, B&Bs, etc. Mr. Reeves opined that there will not be a tidal wave of short-term rentals/B&Bs, and suggested that if the City wants to encourage an economic environment that fosters stores, arts and culture, etc., more tourism is needed consistently throughout the year.

Ron Stach – 104 East 3rd Street

Mr. Stach stated that residential areas should be residential; noting that short-term rentals are businesses. Mr. Stach stated that he is not opposed to short-term rentals in the commercial district; but that he is opposed to short-term rentals in the residential districts. Mr. Stach stated that he takes comfort in knowing that his neighbors would be there if anything suspicious happened to his house in his absence; and asked the Commissioners to consider this and think about their own homes and neighborhoods and how a less regulated approach to short-term rentals might affect them. Mr. Stach reiterated that residential areas should remain residential, and stated that the City should protect New Castle’s most precious asset: its neighborhoods and the people who live in them.

David Brundage – 25 The Strand

Mr. Brundage questioned how much regulation should be made for independent businesses in both the Historic Commercial and Residential Districts, such as a short-term rental or B&B. He stated that currently the Historic Residential District is a potential free-for-all. He added that the issue is to create regulations that protect residents against potential abuse or exploitation. Mr. Brundage added that just because nothing of consequence has happened, it does not predict the future; and to ensure that the Historic Residential area remains residential, proper regulations must be established that protect our neighbors and allow limited, or even no, commercial use.

Mr. Brundage noted that his back fence abuts a house that is currently being rented for transient visitors, with a narrow alley as the only access, and limited parking there or on the street. He opined that the best option is to keep all commercial establishments in the commercial area on Delaware Street.

Mr. Brundage asked the Commissioners and those in attendance if they desire a short-term rental over their fence; do you want to constantly supervise your children and their exposure to strangers; do you want potential vandalism allowed, or late parties next door. Mr. Brundage reiterated that good regulations must be determined that are appropriate for the Historic Residential District.

Phil Gross – 1301 13th Street

Mr. Gross stated that:

- Tourist terms should be 90-days or less.
- Insurance policies for rentals have specific levels according to how many days a house is rented.
- Rental licenses for short-term rentals should be the same as the City charges for regular licenses it already issues.
- The percentage or number of short-term rentals allowed should be limited regardless of whether it is commercial or residential.
- Parking should be limited to one vehicle.
- A rental tax has to be charged.
- A noise ordinance is extremely important.
- No RVs or boats should be allowed.
- Residential should be residential and commercial should be commercial.
- Any existing B&B's, tourist homes, short-term rentals, must abide by whatever new ordinances are adopted.

James Egerton – Terry House

Mr. Egerton noted that the Terry House is a family-run business. He noticed that some of the Commissioners have tried to separate the Terry House from other Airbnb's; adding that the Terry House is a 10-bed, 10-bath commercial property that is zoned Historical Commerce and is in the Commercial District. The Terry House can only be a B&B or hotel.

Sally Denton – 2nd Street

Ms. Denton opined that Airbnb's should be in the commercial district, and not in a residential district. People who purchase a house in a residential area are not buying a home where there are transient visitors on the weekends or days during the week. She added that there is no parking in the Bull Hill area, and visitors would need to park by the old recycle area which is quite a walk from downtown. Ms. Denton urged the Commission to limit Airbnb's to the commercial district.

Dwayne Foster – 206 Delaware Street

Mr. Foster stated that he is the owner of the B&B on Packet Alley and a B&B on Delaware Street. Mr. Foster noted his hope that this process will bring about an agreed-upon solution; adding that there is a lot of contention between neighbors. Mr. Foster stated that he is distressed that his opening a B&B on Packet Alley was the catalyst for the dissention and the reason the Planning Commission is reviewing short-term rentals. His intention was to bring people to town to show them how special New Castle is and to provide new jobs in the City; not to divide people or to degrade New Castle.

Patty Isaacs-Hansen – 49 The Strand

Ms. Hansen stated that she does not want any commercial business in a residential area. She wants to know her neighbors and she does not want transient people around.

Dennis Young

Ms. Reign read a statement submitted via email from Dennis Young registering his protest to the advancement of a city tax imposed on any short-term rental or rented rooms within the immediate city boundaries; stating that a rental tax sends a warning to a small business as well as to parties interested in relocating to New Castle. He added that the idea that downtown businesses are “in it for the money and make out well” is a biased opinion. Mr. Young noted there is a preference for a portion of the community to preserve New Castle as a bedroom community, such as the intentional lack of facilities for personal watercraft at the City Dock; comparing New Castle’s dock facilities to those of Chestertown, Maryland, noting that their docks renders the town enjoyable, attractive, and successful. Mr. Young opined that the direction the City could take is to creatively promote more businesses and attractions to enhance the experiences of living in our Town and not to institute punitive financial burdens on businesses of any sort.

Barbara Winard

Ms. Reign read a statement submitted by Ms. Winard stating that short-term rentals could certainly add value to the town and benefit businesses.

Eleanor Kenton

Ms. Reign read a statement submitted by Ms. Kenton regarding how an over-abundance of short-term rentals have destroyed a number of small, historic towns in Europe, because there are not enough residents living in the towns in the off-season to support local retail business or restaurants; and expressing her hope that this does not happen to New Castle. She added that urban planners of today are recommending exactly what New Castle already has.

Mr. Walton stated for the record that there is nothing in the Ordinance relating to taxes.

Next Meeting

The next Planning Commission meeting will be held on April 28th, at the Senior Center, conditioned on the availability of the space.

Planning Commission Meeting
March 10, 2025

Miscellaneous

Ms. Batty asked Mr. Walton if Board and Commission members could be included in a future class on FOIA.

There being no further business to discuss, Ms. Reign called for a motion to adjourn.

A motion to adjourn was made by Ms. Stoner and seconded by Ms. Zumar. The motion was unanimously passed and the meeting adjourned at 9:03 p.m.

Respectfully submitted,

Kathleen R. Weirich
City Stenographer

Date: April 21, 2025

To: City of New Castle City Council

From: Margo Reign, Chair Planning Commission

Re: Annual Report for the period 5/24 to 3/25

1. Please provide highlights of the Board/ Commission's 2024 activity and efforts.

- Buttonwood – Two lots approved by City Council in February.
- • Gray Street – One lot approved by City Council in June.
- • Crozier Fine Arts – Site Plan for 16,000 square feet of additional space approved by City Council in June.
- • 12 Arbutus Drive I- Three lots approved by City Council in April.
- • Markell Trail – Site Plan approved by City Council in August
- 428, 430, 432, 434, 438,440 and 442 West 7th Street – approved special exception for religious institution.
- Reviewed proposed ordinances from the City Council regarding lot frontage and wetlands and a proposed moratorium on building large apartment buildings.
- We are currently in the process of discussing possible changes to the City Code regarding short term rental units.
- We adopted Rules and Procedures for the Planning Commission

2. Would you like to request additional education for your Board/ Commission? Have all of your members taken the FOIA class through University of Delaware? If so when and if not please provide the names of individuals who need training. FOIA training for all the commissioners is needed. There are some commissioners who have not taken any of the classes for the Certificate for Planning Education. We should make them aware of the classes and encourage them to take them next spring when they are again offered.

3. Do you feel you need more training or guidance on how to better deliberate and or be more effective? If so please elaborate. Not at this time.

4. What additional logistical support and guidance can the City's Administration provide you to better support your Board/ Commission? At this point I am unaware of any additional logistical support, the staff at the city has been great in providing admirative support.

5. Does your Commission or Board interact with a professional advisor? If so, who is the advisor and how does s/he work with (or guide or help) the board/committee. Chris Rogers is our professional advisor. He is the primarily contact with attorneys and engineers for projects that need to come before the planning commission. We work closely with Max Walton, the City Solicitor regarding ordinances and ensuring we are in compliance with any local, state and federal laws. We also work closely with Antonina Tantillo, the City Manager and her staff.

6. Do you have any current openings on your Committee/Commission or Board? Yes, we currently have one opening.

7. Does the board/ commission receive complaints directly? If so, how do you respond to them? If you receive complaints directly, please share them with the City Administrator. We rarely receive any direct complaints or comments and if we do, they are sent directly to the City Administrator.

8. What are the plans and goals of the Board/ Commission for 2025?

- For this year we need to complete the 5-year review of the Compressive Plan. We hope to use this as a way to prepare for and plan for the 10-year review.

9. Do you have any grant funding requests for outside grants and/or budget needs? If so please opine.

10. Please share your Fiscal Year 2026 Budget request.

Funds to cover the cost of classes to be taken by commissioners for education. Money will be needed for the 2030 Comprehensive Plan – do we begin to put money aside for that now?

11. Is there anything that you would like to share not captured in the above? No.



1007 N. Orange St. 4th Floor
Wilmington, DE 19801

4.11.2025

Dear Commission Chair Reign and Honorable Members of the Planning Commission,

I am writing to respectfully request a 12-month extension of the conditionally approved site plan for the project known as “**The Battery**,” located at 427 W. Seventh Street in New Castle. According to our records, conditional site plan approval was granted on **March 25, 2024**, and based on a recent review of the New Castle City Code (Section 230-46L), we are required to request an extension prior to the 12-month expiration.

Project Progress and Commitment

While progress has taken longer than initially anticipated, we want to emphasize that this project remains active and fully underway. We have been diligently working through numerous review and approval processes at the local, state, and federal levels in order to satisfy all conditions tied to our approval. We have recently achieved key milestones and now see a clear path to obtaining the remaining approvals necessary to move the project forward.

Summary of Key Activities to Date

Below are updates on several of the conditions we have been actively engaged in satisfying, reflecting the level of diligence and commitment we’ve maintained throughout this period:

- **DelDOT Approvals**

On **April 7, 2025**, we received full project approval from DelDOT. This includes both the **Entrance Plan Approval Letter** and the **Letter of No Objection to Recordation** (attached).

- **Sewer Agreement Progress**

A draft Sewer Agreement was provided to us on **August 15, 2024**, by Ms. Linda Levy of New Castle County Public Works (attached). Due to site access limitations and a concurrent capacity project both involving the on-site pump station, further coordination was required. On **March 14, 2025**, a productive in-person meeting was held with all stakeholders—including three representatives from the City of New Castle (Ms. Tantillo, Mr. Rogers, and Mr. Bergstrom). New Castle County is now researching its blanket access agreements with the City and working with our legal counsel to finalize the sewer agreement with the changes discussed. We anticipate final approval within the next month.

- **DNREC General Permit & Sediment & Stormwater Plan**

On **March 26, 2025**, we received approval from DNREC for the **Construction General Permit** (see attached confirmation). A separate DNREC group handles **Sediment and Stormwater**

Plan approvals, and they require this General Permit first. The week of April 7th, the Stormwater group confirmed their approval would happen at the same time as approval of our Remedial Action Work Plan (RAWP). As previously shared with Planning Commission, we received Final Plan of Remedial Action (FPRA) approval from DNREC in November 2022, which requires a RAWP to be submitted closer to construction. Now that construction is near, we've submitted the RAWP to DNREC and expect approval by the end of May 2025.

- **FEMA and Army Corps of Engineers**

The most complex regulatory approvals have involved FEMA and the U.S. Army Corps of Engineers, particularly related to the Gambacorta Dike project, completed in 2015. Although the dike was publicly funded and developed in coordination with multiple federal, state, and local agencies (including FEMA and USACOE), the required post-construction impact mapping was never completed. Recognizing this gap and needing this to be completed for our project, we proactively funded and conducted the necessary mapping work ourselves and have been engaged with FEMA since 2023.

Due to the overlap between FEMA's floodplain review and permitting by the Army Corps, approvals from both agencies are interdependent. FEMA confirmed in a letter dated November 7, 2024 (also sent to Mr. Bergstrom), that we are now within their formal review process. This process typically takes 6 to 9 months, and we are approximately 90 days away from receiving a **Conditional Letter of Map Revision (CLOMR)** or a **Letter of Map Revision (LOMR)**, based on existing site conditions.

Request for Extension

Given the considerable progress we've made and the complexity of coordinating with multiple agencies, we respectfully ask that the Planning Commission grant us a **12-month extension** of our conditional site plan approval. Our architect has completed 90% of construction drawings, and we will be ready to submit for plan review as soon as the remaining conditions are fulfilled.

With these next steps and timelines in mind—along with our anticipated building permit review and closing process with our HUD financing partner—we remain confident in our ability to **break ground before the end of the year**.

Thank you for your continued support and consideration. Please don't hesitate to reach out with any questions or if additional information is needed.

Very respectfully,



Rob Snowberger
Principal, 9SDC
rsnowberger@9SDC.com



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

SHANTÉ A. HASTINGS
SECRETARY

April 07, 2025

Mr. Tyler Wicker
MidAtlantic Engineering Partners, LLC
321 W. State St.
Media, Pennsylvania 19063

SUBJECT: Entrance Plan Approval Letter
The Battery - 427 W. 7th Street
Tax Parcel # 2101400400
W 7TH STREET (NCR 378)
New Castle, New Castle Hundred, New Castle County

Dear Mr. Wicker:

The Department of Transportation has reviewed the Commercial Entrance Plans dated January 3, 2023 (last revised February 26, 2025) for the referenced project and determined that they are in general conformance with the Department's current regulations, specifications and standard details. By signing and sealing the plan set, the developer's engineer is responsible for accuracy of content. Any errors, omissions or required field changes will be the responsibility of the developer. This plan approval shall be valid for a period of **three (3) years**. If an entrance permit has not been obtained within three years, then the plans must be updated to meet current requirements and resubmitted for review and approval.

This letter does not authorize the commencement of entrance construction. The following items will be required prior to the permit being issued. A pre-construction meeting may be required as determined by the Canal District Public Works office.

1. A copy of the recorded Plan which is consistent with the DelDOT "No Objection to Recordation" stamped plan and all appropriate signatures, seals, plot book and page number.
2. Three (3) copies of the approved entrance plans.
3. Completed permit application.
4. Executed agreements (i.e. construction, signal, letter).
5. An itemized construction cost estimate.

The Battery - 427 W. 7th Street
Mr. Wicker
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6. A 150% security based upon an approved itemized construction cost estimate and W-9 form (if providing escrow).
7. A letter of source of materials, work schedule, list of subcontractors, emergency telephone numbers and names of contact persons.

Please contact the Canal District Public Works office (302) 326-4679 concerning any questions you may have relative to the aforementioned required items.

Sincerely,



Randhir Sharma
New Castle County Review Coordinator
Development Coordination

cc: Robert Herrera, Ninth Street Development Co.
Brad Shockley, New Castle County Department of Land Use
Nathan Draper, Canal District Public Works Engineer
Jerry Nagyiski, Safety Officer Supervisor
Jennifer Pinkerton, Chief Materials & Research Engineer
Linda Osiecki, Pedestrian Coordinator
Robert Greybill, Canal District Permits Engineer
John Fiori, Bicycle Coordinator
Sean Humphrey, Traffic Development Coordination Engineer
Curtis Davis, Safety Officer North District
Darlene Bennett, Administrative Specialist
Amy-Joy Andrews, Administrative Specialist
David Dooley, DTC Planner
Amy Fitzgerald, JMT
Wendy L. Polasko, P.E., Subdivision Engineer
Michael D. White New Castle County Reviewer



STATE OF DELAWARE
DEPARTMENT OF TRANSPORTATION
800 BAY ROAD
P.O. BOX 778
DOVER, DELAWARE 19903

SHANTÉ A. HASTINGS
SECRETARY

April 07, 2025

Mr. Brad Shockley, Planner Supervisor
New Castle County Department of Land Use
87 Reads Way
New Castle, Delaware 19720

SUBJECT: Letter of No Objection to Recordation
The Battery - 427 W. 7th Street
Tax Parcel # 2101400400
NCR 378 - WEST 7TH STREET
New Castle, New Castle Hundred, New Castle County

Dear Mr. Shockley:

The Department of Transportation has reviewed the Site Plan, dated February 15, 2022 (last revised March 5, 2025), for the above referenced site, and has no objection to its recordation as shown on the enclosed drawings. This "No Objection to Recordation" approval shall be valid for a period of **five (5) years**. If the Site Plan is not recorded prior to the expiration of the "No Objection to Recordation", then the plan must be updated to meet current requirements and resubmitted for review and approval.

This letter does not authorize the commencement of entrance construction. Entrance plans shall be developed in accordance with DelDOT's [Development Coordination Manual](#) and submitted to the Development Coordination Section for review and approval.

This "No Objection to Recordation" letter is not a DelDOT endorsement of the project discussed above. Rather, it is a recitation of the transportation improvements, which the applicant may be required to make as a pre-condition to recordation steps and deed restrictions as required by the respective county/municipality in which the project is located. If transportation investments are necessary, they are based on an analysis of the proposed project, its location, and its estimated impact on traffic movements and densities. The required improvements conform to DelDOT's published rules, regulations and standards. Ultimate responsibility for the approval of any project rests with the local government in which the land use decisions are authorized. There may be other reasons (environmental, historic, neighborhood composition, etc.) which compel

The Battery - 427 W. 7th Street
Mr. Brad Shockley
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that jurisdiction to modify or reject this proposed plan even though DelDOT has established that these enumerated transportation improvements are acceptable.

If I can be of any further assistance, please call me at (302) 760-2266.

Sincerely,



Randhir Sharma
New Castle County Review Coordinator
Development Coordination

cc: Robert Herrera, Ninth Street Development Co.
Tyler Wicker, MidAtlantic Engineering Partners, LLC
Nathan Draper, Canal District Public Works Engineer
Jennifer Pinkerton, Chief Materials & Research Engineer
Linda Osiecki, Pedestrian Coordinator
Robert Greybill, Canal District Permits Engineer
John Fiori, Bicycle Coordinator
Sean Humphrey, Traffic Development Coordination Engineer
Curtis Davis, Safety Officer North District
Darlene Bennett, Administrative Specialist
Amy-Joy Andrews, Administrative Specialist
David Dooley, DTC Planner
Amy Fitzgerald, JMT
Wendy L. Polasko, P.E., Subdivision Engineer
Michael D White, New Castle County Reviewer

Prepared by and Return to:
Linda Levy
New Castle County
Department of Public Works
187-A Old Churchman's Road
New Castle, DE 19720

Tax Parcel No. 21-014.00-400

**SEWER AGREEMENT FOR: New Castle City 2022-09-10: The Battery
LAND DEVELOPMENT KNOWN AS: 427 West Seventh Street, New Castle, Delaware
LOCATION: City of New Castle, New Castle County, Delaware**

THIS AGREEMENT ("Agreement") made this _____ day of _____, 2024 by and between Jaksn, LLC ("DEVELOPER") and NEW CASTLE COUNTY ("COUNTY"), a political subdivision of the State of Delaware.

WHEREAS, DEVELOPER desires to construct a development known as 427 W. 7th Street ("DEVELOPMENT"), situate the City of New Castle, New Castle County, State of Delaware, as shown on the proposed Record Plan ("PLAN"), and related construction plans.

NOW, THEREFORE, IT IS AGREED, by and between the parties, in consideration of the mutual promises and benefits outlined herein, that:

A. In connection with the sanitary sewer system for DEVELOPMENT, including laterals, gravity sanitary sewers, pump stations, force mains, and associated components and appurtenances (the "System"), DEVELOPER, at his or her expense, shall:

1. Construct the System according to the PLAN and related construction plans. Such construction shall: (1) conform to the PLAN and the construction plans in all respects; (2) be designed in accordance with all state and COUNTY design specifications including the "New Castle County Standard Specifications for Construction" and the standards of the Delaware Department of Natural Resources and Environmental Control ("DNREC"); and (3) comply with any and all applicable laws, rules, and regulations.

2. Prior to introducing sewer flows from any structure in DEVELOPMENT, complete construction of the section of the System downstream from any such structure, including installation of a sanitary sewer cleanout according to Department standards, provide stabilized roadway access as required by COUNTY in order to allow access for COUNTY maintenance vehicles and personnel along completed sections of the System serving structures where certificates of occupancy are requested.

3. Protect the COUNTY's sanitary sewer system ("County System") from discharges of stormwater or ground water from any portion of DEVELOPER's system that is connected or designed to be connected to the COUNTY System.

4. Not connect roof down spouts, foundation drains, sump pumps, area drains, storm sewers, combined sewers or appurtenances thereto, or any sewer or device carrying or discharging storm water, surface water, ground water or cooling water to the COUNTY System.

5. Submit to COUNTY, for approval, all necessary System plans and profiles as well as easements and rights-of-way drawings needed for the construction and maintenance of the System. County shall determine the format of submittals.

6. Provide the required number of drawings to COUNTY to enable COUNTY to apply to the appropriate state agency for necessary permits. County may apply to the DelDOT if a franchise or permit is required and to DNREC for any necessary permits and authorizations. COUNTY may also direct DEVELOPER to forward plans to DNREC or DelDOT for issuance of the necessary permits. DEVELOPER shall be responsible for all permit fees. No construction shall commence until DNREC issues the Authorization to Construct under the Laws of the State of Delaware, with a WPCC State Permit Number to COUNTY, and until DelDOT issues any required permits. COUNTY assumes no responsibility for any cost incurred by DEVELOPER in the event DNREC or DelDOT does not grant final approval.

7. Comply with all rules and regulations regarding sanitary sewer prescribed by the COUNTY as amended.

8. Within thirty days after completion of the System, supply to COUNTY one set of drawings on reproducible sheets acceptable to COUNTY and three sets of paper prints showing the System as-built. COUNTY may also require submittal in a specified electronic format.

9. Pay, when due, all fees specified in this Agreement and pay all applicable sewer service charges as hereafter required by *New Castle County Code*.

B. The COUNTY shall:

1. Permit connection of the System as depicted on the PLAN and related construction plans to the County System in accordance with the terms and conditions of this Agreement.

C. Wastewater Discharge Permits. DEVELOPER's failure to obtain a wastewater discharge permit (if applicable) pursuant to the Code, shall render Part II of this Agreement null and void.

D. Release. As required by State law, DEVELOPER hereby agrees to release the County, its officers, employees and agents from all liability or damage which may in any manner result to the premises by reason of a sewer connection. This paragraph shall survive the termination or expiration of this Agreement.

E. Lateral Fees. In addition to payment of CRFs and inspection fees, DEVELOPER shall reimburse the COUNTY \$101.00 (One Hundred One Dollars) per connection for the cost of inspecting and otherwise facilitating the tie-in of on-site sewer stubs. DEVELOPER shall pay the lateral fee in full prior to the issuance of the building permit.

F. Sewer Connection Charges. In connecting to the COUNTY System, DEVELOPER shall pay connection charges (lateral fees and capital recovery fees) for the DEVELOPMENT as provided herein, based on an average daily flow of thirty thousand three hundred thirty (30,330) gallons per day ("gpd"). DEVELOPER understands and agrees that the COUNTY is utilizing this value for average daily flow of 30,330 gpd solely to calculate reasonable connection charges. If actual flows from the DEVELOPMENT are less than 30,330 gpd, DEVELOPER shall not be entitled to a refund, nor shall it be entitled to rely on such flow rate to provide capacity for any improvements not depicted on the PLAN or related construction plans. **Payment must be made by paying lateral connection fee and capital recovery fee with execution of this Agreement.**

| | | |
|----|------------------------------------------------------------------------|---------------------------|
| 1. | <u>Total Lateral Fees (LF):</u> | <u>Fee</u> |
| | 1 connections @ \$101.00/connection | \$101.00 |
| 2. | <u>Total Capital Recovery Fees (CRF):</u> | |
| | <u>Code</u> | <u>Calculation</u> |
| | Capital Recovery Fee | 30,330 gpd @ \$12.00/gpd |
| | <u>Fee</u> | |
| | | \$363,960.00 |
| | Total Capital Recovery Fee (CRF): \$363,960.00 | |
| 3. | <u>Total Sewer Connection Charge</u> = LF + CRF = | |
| | $\$ \frac{101.00}{(\text{LF})} + \$ \frac{363,960.00}{(\text{CRF})} =$ | |
| | | \$364,061.00 |

G. Inspection Fee. DEVELOPER shall reimburse COUNTY for the cost incurred by COUNTY for inspecting the System. The inspection fee shall be based on \$2.50 per linear foot of pipe to be inspected, as shown on the DEVELOPMENT's sewer construction plans. The total cost of this inspection fee will be determined at the time of final approval of the DEVELOPMENT's sewer construction plans. This inspection fee is a one-time charge, and payment in full must be made prior to sewer construction plan approval.

H. Notice. All notices and approvals to be given by one party to the other under this Agreement shall be in writing, mailed or delivered as follows:

1. To DEVELOPER: Address as noted on DEVELOPER's signature page or to such other person at such other address designated by written notice sent to COUNTY. If a current address for DEVELOPER is not on file with the Department of Land Use, COUNTY agrees to use reasonable efforts to locate DEVELOPER's business address. If DEVELOPER's address cannot be located, COUNTY shall have no duty to notify DEVELOPER of violations of this Agreement.

2. To COUNTY: General Manager
Department of Public Works
187-A Old Churchmans Road
New Castle, Delaware 19720

or to such other person at such address designated by notice sent to Developer. Publication of a change of address for the Department in any newspaper of general circulation shall also serve as notice by the Department of a change of address.

Mailed notices shall be sent by United States certified or registered mail, postage prepaid, return receipt requested. Such notice shall be deemed to have been given upon receipt of written notice unless said receipt is refused or otherwise not accepted. In such event notice shall be deemed to have been given upon posting in the United States mail or delivery by reputable overnight courier such as Federal Express.

I. Enforcement. In addition to any rights stated in this Agreement, if DEVELOPER fails to complete said improvements in conformance with this Agreement or violates or fails to perform any term or provision of this Agreement, COUNTY has the right to suspend the issuance of building permits and certificates of occupancy or use for DEVELOPMENT until DEVELOPER is no longer in violation of this Agreement. In addition to the remedies herein stated, COUNTY may seek any relief available at law or equity including declaratory relief, equitable relief, specific performance and monetary damages, including attorney's fees associated with the enforcement of this Agreement incurred by COUNTY. Any

failure to pay the required fees as required herein shall be construed as a material breach of this Agreement.

If COUNTY violates or fails to perform any term or provision of this Agreement, DEVELOPER shall be limited to a cause of action for mandamus. DEVELOPER agrees that in no event shall COUNTY be liable for damages under any basis whatsoever, including but not limited to any State or Federal constitutional or statutory basis.

J. Right of Entry. DEVELOPER shall allow COUNTY representatives access to all parts of DEVELOPMENT during construction.

K. Insurance Coverage. DEVELOPER and any site contractor(s) shall obtain and keep in force until the successful completion of this Agreement Contractors Comprehensive General Liability Insurance including Contractual Liability Insurance with the following minimum coverages. The named insured shall be DEVELOPER, the site contractor, and COUNTY. The name of the DEVELOPMENT must be included on the certificate of insurance. Building permits shall not be issued until insurance certificates are provided to the County. If insurance lapses for any reason, building permits and certificates of occupancy shall not be issued until insurance is in force.

1. Bodily Injury Liability - \$500,000 for a person with an aggregate limit of 1,000,000 per occurrence;
2. Property Damage Liability - \$500,000;
3. "x", "c", & "u" hazards coverage (site contractor(s) only) (explosion, collapse and underground).

L. Binding Effect and Obligations Upon Sale and Transfer.

1. Successors in Interest. This Agreement is for the benefit of COUNTY and DEVELOPER. It shall be binding upon the respective parties to it and upon their successors in interest in the property. DEVELOPER has the duty to inform any such successors of the obligations under this Agreement. Successors in interest shall include any person, firm, corporation or other entity that owns, legally or equitably, any land within the DEVELOPMENT. DEVELOPER must notify COUNTY upon the sale or transfer of any interest in the DEVELOPMENT to any other party or parties. DEVELOPER must inform COUNTY of the identity of the new party or parties obligated by the terms of this Agreement. COUNTY must receive such written notice within thirty (30) days of any sale or transfer. This Agreement shall not be otherwise assignable.

2. Homebuilders and General Contractors. Any registered homebuilder or general contractor who engages in construction activity in DEVELOPMENT is subject to the enforcement provisions set forth in this Agreement. DEVELOPER has the duty to provide notice to any such registered homebuilder or general contractor performing construction activity in this DEVELOPMENT of the contents of this Agreement by providing any such registered home builder or general contractor with a copy of the Agreement prior to any construction activity.

M. Third party rights. Nothing herein creates any rights in third parties to enforce the provisions of this Agreement.

N. Cooperation: Challenges to Validity of Agreement. In the event of any legal or equitable action or other proceeding instituted by any person or entity challenging the validity of any provision of this Agreement, DEVELOPER shall indemnify and save COUNTY and its officers, agents, and

employees harmless against all claims for damages to persons or property including any and all costs, expenses, attorney's fees, and liability incurred by COUNTY for any reason including negligence arising out of this Agreement, challenge to the validity of this Agreement, whether the same proceeds to judgement or not. COUNTY may, at its sole discretion, participate in the defense of any such action but in no way shall such participation relieve DEVELOPER of its obligation under this Section.

O. Hold Harmless and Indemnification. COUNTY, its officers, agents, employees, and representatives are to be held harmless from liability for damage or claims for personal injury including death and property damage which may arise from the direct or indirect operations of DEVELOPER or those of its contractors, subcontractors, agents, employees, or other persons acting on his or her behalf which relate to DEVELOPMENT. Upon COUNTY's request, DEVELOPER agrees to and shall defend COUNTY, its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of DEVELOPER's activities in connection with DEVELOPMENT. DEVELOPER hereby agrees to indemnify COUNTY against all claims, expenses, and liability as a result of loss or injury arising out of or in connection with construction of DEVELOPMENT or any required improvement thereon.

P. Waiver. COUNTY shall not be deemed to waive any rights unless such waiver is in writing and signed by the General Manager of the Department that has jurisdiction to exercise such right.

Q. Vested Rights. Execution of this Agreement shall not be deemed to create any vested rights of DEVELOPER. Delaware common law doctrine of vested rights shall determine vested rights of DEVELOPER.

R. Modification. This Agreement can be only amended or modified in writing, signed by DEVELOPER and the General Manager of the Department of Public Works.

S. Effective Date/Duration. This Agreement shall become effective upon execution and recordation of the Agreement. The Agreement shall be in effect for the life of the PLAN and shall automatically expire, with the exception of Paragraph D, upon 1) completion of construction of units in the DEVELOPMENT as show on the PLAN, including approval and acceptance by the COUNTY of all related sanitary sewer infrastructure (including any necessary Developer improvements); or 2) sunseting or any other expiration or invalidation of the PLAN.

T. Entire Agreement. This Agreement, in addition to any referenced plans, estimates, performance guarantees, and attachments, represents the entire agreement between the parties.

U. Severability. Any illegal or unenforceable provision of this Agreement shall be severed and shall not render invalid the remaining portions of this Agreement.

V. Immunity. This Agreement shall not be deemed to waive COUNTY's statutory or common law immunity.

W. Supremacy. In the event of a direct conflict between the language of this Agreement and any plan or other document, this Agreement shall be controlling.

X. Signature. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

[Signature Pages Follow]

DEVELOPER/OWNER:

By: _____ (SEAL)

Print Name and Title

Attest: _____

Developer's Mailing Address: _____

If Developer is not the legal owner of DEVELOPMENT at time of execution of this Agreement, all legal and equitable owners must 1) be made a party to this Agreement by being named in the first paragraph of this Agreement and 2) execute this Agreement. Alternatively, a Power of Attorney must be attached to the signature page of this Agreement granting Developer the authority to execute this Agreement on behalf of the legal owners.

STATE OF DELAWARE)
) ss.
COUNTY OF NEW CASTLE)

BE IT REMEMBERED, that on this _____ day of _____, _____, did personally come before me, the Subscriber, a Notary Public in and for the State and County aforesaid, _____, on behalf of _____, known to me personally to be such, and acknowledge this Indenture to be his act and deed of _____.

GIVEN under my Hand and Seal of Office, the day and year aforesaid:

Notary Public

(Print Name)

My commission expires: _____

NEW CASTLE COUNTY

DEPARTMENT APPROVAL:

Yvonne Gordon
Acting General Manager
Department of Public Works

FOR NEW CASTLE COUNTY:

By _____(SEAL)
Matthew S. Meyer
County Executive

STATE OF DELAWARE)
) ss.
COUNTY OF NEW CASTLE)

BE IT REMEMBERED, that on this _____ day of _____, _____, did personally come before me, the Subscriber, a Notary Public in and for the State and County aforesaid, Matthew S. Meyer, New Castle County Executive, known to me personally to be such, and acknowledge this Indenture to be his act and deed of New Castle County, Delaware.

GIVEN under my Hand and Seal of Office, the day and year aforesaid:

Notary Public

(Print Name)

My commission expires:_____

NOI Approval Letter - The Battery - 427 W. 7th Street

From DNREC - Watershed Stewardship <dnrecemail@state.de.us>

Date Wed 3/26/2025 8:43 AM

To Stephen Weathers <sweathers@9SDC.com>

Cc DNREC_eNOIadmin@delaware.gov <DNREC_eNOIadmin@delaware.gov>

 1 attachment (39 KB)

Notice of Intent Ref.No. 3832.pdf;

NOTICE OF INTENT CONFIRMATION - RETAIN FOR YOUR RECORDS

NOI# 7648.

The "Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity under a NPDES General Permit" for the above-mentioned project has been processed.

By signing the NOI, the signatory agrees to fully comply with the requirements of the current [Delaware NPDES Construction General Permit](#). Outlined below are several responsibilities that should be noted:

- During construction the approved Sediment and Stormwater Plan shall remain at the site at all times (Part 1.E.1). A copy of the NOI shall be kept at the site as well.
- A sign or other notice of permit coverage must be posted at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way (Part 1.C.10). The sign must include:
 1. The NOI number;
 2. Contact name and phone number to obtain additional construction site information;
 3. Contact name and phone number to obtain a copy of the approved Plan; and
 4. The following statement "If you observe indicators of stormwater pollutants in the discharge or in the receiving waterbody, call the DNREC's Spill Notification 24 HR Hotline at 1-800-662-8802."
- Maintenance inspections of erosion and sediment (E & S) controls and stormwater management facilities must be conducted at least weekly (Part 1.E.2). The person(s) inspecting the site must be a responsible person or a CCR. The responsible person and CCR must have successfully completed a Department-sponsored certification course.
- Maintenance inspections must be documented in a weekly log that must be maintained on-site (Part 1.E.3). The documentation must contain:

- a. The date and time of inspection;
 - b. The name(s) of the individual(s) who performed the inspection;
 - c. An assessment of the condition of erosion and sediment controls, and constructed stormwater management measures;
 - d. A description of any erosion and sediment control and stormwater management measure's construction or implementation, and maintenance performed on those measures; and
 - e. A description of the site's present phase of construction.
- If the site employs a Certified Construction Reviewer (CCR), the weekly CCR reports may suffice as the weekly inspection for the log. CCR reports must be maintained on site.
- To terminate permit coverage and closeout the "Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity under a NPDES General Permit" an electronic Notice of Termination (NOT) must be submitted to the Department(Part 1.F.2) and is determined by the Department or appropriate plan approval agency that:
 - 1. All items and conditions of the Plan have been satisfied in accordance with 7 DE Admin. Code 5101 Sediment and Stormwater Regulations,
 - 2. Post construction verification documents (PCVD) demonstrate that the permanent stormwater management measures have been constructed in accordance with the approved Plan and the 7 DE Admin. Code 5101 Sediment and Stormwater Regulations, and
 - 3. Final stabilization has been achieved in accordance with the definition in Part 1.G. of this CGP.
- The electronic NOT, or eNOT, is submitted through the online [Electronic Notice of Intent](#) application.
- The Project permitted under this Notice of Intent is also subject to an annual fee of \$195.00 until such time as a NOT has been submitted and accepted by the Department as described above. The applicant/owner will receive an invoice from DNREC Fiscal Management.



FEMA

November 7, 2024

Tyler Wicker
Project Engineer
MidAtlantic Engineering Partners, LLC
321 West State Street
Media, PA 19063
twicker@midatlanticeng.com

Dear Mr. Wicker,

This letter is being provided to the applicants of the Conditional Letter of Map Revision (CLOMR), Case No. 24-03-0551R, located at 427 W. 7th Street in New Castle, Delaware, for their use in updating potential project participants regarding the FEMA review process and their project known as "the Battery." FEMA is aware that the applicant is seeking financing from the U.S. Department of Housing and Urban Development (HUD) and therefore wishes to provide this letter as clarity on the applicant's current progress. In addition, it is our hope that this letter provides support to the applicant in their goal to resume the HUD process they are involved with while simultaneously completing what is necessary for the FEMA approval they are seeking.

The Battery began the application process for a CLOMR with FEMA in March of 2023, and has been working with various review teams since this time. Like other federal agencies, FEMA must balance implementation of new policy changes while also reviewing open cases in our various process streams. Regarding the Battery's application, one of the design features of the project being used to elevate the site caused the project to require additional review across various FEMA teams. In response to an inquiry from the applicant to FEMA HQ regarding the length of time the review process had taken, a senior team from FEMA held a very positive conversation with the applicant on September 26, 2024. All involved parties have agreed upon the review path moving forward.

The items needed to proceed with processing were discussed in the phone conversation, and the applicant has stated that they plan to have all required reports to FEMA by the week of November 11, 2024. Once FEMA has received all requested data, the application will continue processing. The average review time is 6 to 9 months. Assuming the applicant has provided all data needed for processing, it is possible that the applicant could have an approved CLOMR letter from FEMA within 90 days of the data submittal. While FEMA cannot assume the outcome and will only review all data when submitted by the applicant, it is important to note that the applicant has stated that it is their intent to remove the property completely from the limit of moderate wave action-impacted zone, as discussed during the conversation on September 26.

Tyler Wicker
November 7, 2024
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FEMA believes this applicant has been pursuing all necessary approvals for their project in good faith and will work toward completion with the path FEMA has provided. To the extent that the FEMA process has affected the applicant's timeline with HUD, we hope that HUD will consider accommodating the applicant so that the overlapping process timelines do not become compounding factors leading to the project's failure.

Sincerely

A handwritten signature in black ink, appearing to read 'Rick F. Sacbibit', written in a cursive style.

Patrick "Rick" F. Sacbibit, P.E., Branch Chief
Engineering Services Branch
Risk Management Directorate | Resilience

cc:

Robert Snowberger
Principal
9th Street Development Company
1007 North Orange Street, 4th Floor
Wilmington, DE 19801
rsnowberger@9sdc.com

Mindy Klugmann
Chief Credit Officer
Greystone
152 West 57th Street, 4th Floor
New York, NY 10019
mindy.klugmann@greyco.com

Jeffery A. Bergstrom
Building Official/Fire Marshall
City of New Castle
220 Delaware Street
New Castle, DE 19720
jbergstrom@newcastlecivil.delaware.gov

Tyler Wicker
November 7, 2024
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Katharyn Potter
Delaware Department of Natural
Resources & Environmental Control
285 Beiser Boulevard, Suite 102
Dover, DE 19904
katharyn.potter@delaware.gov

Frank Shockey, Ph.D., CFM
Branch Chief, Risk Analysis Branch
Federal Emergency Management Agency, Region 3
1 Independence Mall, 6th Floor
615 Chestnut Street
Philadelphia, PA 19106-4404
frank.shockey@fema.dhs.gov

William F. Wendling, P.E.
Engineer, Mid Atlantic Engineering Partners, LLC
321 West State Street
Media, PA 19063
wwendling@midatlanticeng.com

ORDINANCE No. ____

**AN ORDINANCE TO REMOVE THE DEFINITION OF TOURIST HOME,
ADD DEFINITIONS FOR SHORT TERM RENTAL, BED AND
BREAKFAST, AND HOTEL, MOTEL AND INN, TO MAKE
CORRESPONDING CODE REVISIONS, AND TO ADD A NEW SECTION
230-27.1 REGARDING SHORT TERM RENTALS.**

WHEREAS, the Council of The City of New Castle ("City Council") possess the authority to adopt, amend, modify, or repeal The City of New Castle Municipal Code ("Code");

WHEREAS, residential dwellings have long been used for short-term and long-term rental purposes and are an important part of the local tourism economy; however, short-term rental uses may have adverse impacts that can best be addressed through appropriate regulations;

WHEREAS, the regulation of short-term rentals will provide standards and procedures for residential rentals, educate prospective short-term renters on City regulations and expected behaviors, and support the City's core values established by the City Code;

WHEREAS, to effectuate these goals, the City Council desires to modify Chapter 230, to remove the definition of Tourist Home, add definitions for Short Term Rental, Bed and Breakfast, and Hotel Motel and Inn, make corresponding code revisions, and add a new Section 230.27.1 regarding Short Term Rentals ("Proposed Changes"); and

WHEREAS, the City Council finds that the Proposed Changes are consistent with the City of New Castle's Comprehensive Development Plan and are in the best interests of the City.

NOW, THEREFORE, making the express finding that the Proposed Changes outlined below enhance the health, safety, and welfare of the City of New Castle, the City Council of The City of New Castle hereby ordains and adopt the following Code changes and revisions:

Section 1. Amend Chapter 230, Section 230-1, to remove the definition of Tourist Home:

TOURIST HOME

~~A dwelling in which overnight accommodations in no more than five guest rooms are provided or offered for transient guests for compensation.~~

Section 2. Amend Chapter 230, Section 230-1, to add, in alphabetical placement, a new definition of Short Term Rental as follows:

SHORT TERM RENTAL

A house, duplex, apartment, condominium, or other residential dwelling unit where a tourist or transient guest rents sleeping or living accommodations of less than 31 days, such as an Air B&B, Virbo, or other similar rental.

Section 3. Amend Chapter 230, Section 230-1, to add, in alphabetical placement, a new definition of Bed and Breakfast as follows:

BED AND BREKFAST

An owner occupied and operated establishment, that provides sleeping accommodations in less than eight designated guest rooms, with no more than two adults in the same guest room, where no family or guest normally stays more than 7 nights, and where no separate cooking facilities are provided.

Section 4. Amend Chapter 230, Section 230-1, to add, in alphabetical placement, a new definition of Hotel, Motel or Inn as follows:

HOTEL, MOTEL or INN

A building or structure operated for profit, accommodating more than ten persons, providing lodging, food and/or service to the transient traveling public, and may include restaurants, club rooms, public banquet halls, ballrooms or meeting rooms, but the individual living units shall not contain kitchen or cooking facilities.

Section 5. Amend Chapter 230, Section 230-19 (Historic Residence District) subsection A. (3) by deleting the strike through language and adding the underlined language as follows:

- (3) ~~Tourist Homes~~ Bed and Breakfast

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Section 6. Amend Chapter 230, Section 230-20 (Historic Commerce District) subsection A. (10) by deleting the strike through language and adding the underlined language as follows:

(10) ~~Tourist Homes~~ Bed and Breakfast

Section 7. Amend Chapter 230, Section 230-28 (off street parking and loading requirements), subsection A. (12) by deleting the strike through language and adding the underlined language as follows:

(12) ~~Tourist Home~~ Bed and Breakfast: one parking space, off street for each guest room or suite.

Section 8. Amend Chapter 230, Section 230-28 (off street parking and loading requirements), subsection A. (15)(a)[6] by deleting the strike through language and adding the underlined language as follows:

[6] Bed-and-breakfast ~~inn and house~~: on two parking space, off street s, plus one per guest or rental room.

Section 9. Amend Chapter 230 by adding a new Section 230-27.1, entitled “Short Term Rentals,” which shall read as follows:

230.27.1 Short Term Rentals.

Short term rentals in residential dwellings shall be permitted only in the R-1, R-2, R-3, HR, HC, RC, DG, SC and GC districts and shall be subject to the following requirements:

- A. Licensing. Prior to any residential dwelling being used as a short term rental, the owner of the property shall register the property as a short term rental, and shall obtain a City of New Castle Business License (§156-3 et. seq.) and a Rental Housing Business License (§140-38). The City Building Inspector (or his or her designee) shall perform a life safety inspection prior to any property being rented or used or offered as a short term rental. The fee for a life safety inspection shall be One Hundred and Fifty Dollars (\$150) per inspection. Following a passing life safety inspection, the City shall issue a short term rental license to the owner, provided that all other requirements of this section and the New Castle City Code are satisfied. A short term rental license shall be for two years, and shall indicate the

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maximum occupancy of the dwelling, which shall be no more than two persons per bedroom. For renewal of a short term rental license, a new life safety inspection shall be required. The form of short term rental application, and the components of life safety inspection shall be established by the Building Inspector, in conjunction with the City Administrator. No rental license shall issue if the applicant owes outstanding fines, fees or taxes to the City

- B. Local Contact. Each short term rental license application shall provide the e-mail and phone number of a local contact that is the owner or authorized agent for the short term rental. Contact information for the authorized owner or authorized agent must be on file with the City during the entire term of the short term rental license and failure to keep such information current shall be grounds for revocation of the license. For purposes of this section, a “local contact” is a real person that resides within ten (10) miles of the City of New Castle and is responsible for the short term rental. The local contact shall be available 24 hours a day to accept telephone calls from the City, and if requested, respond physically to the short term rental within a reasonable period of time, not to exceed two hours when the short term rental is occupied by guests. It shall be the responsibility of the local contact to ensure that the short term rental guests comply with all City and State laws and ordinances. The local contact shall also be required to maintain records of all short term rental booking dates and rental income and shall provide such information to the City upon request.
- C. Interior Placard. The following information shall be made conspicuously visible inside the short term rental: the property's rental identification number and information on maximum occupancy, location of the required off-street parking on the property, contact information for the local contact, emergency numbers, and waste and recycling pickup schedule.
- D. Building Requirements. Short-term rental dwellings shall meet all applicable building, health, fire, and related safety codes at all times, including:

- (1) That each short-term rental has working smoke detectors in every bedroom, outside of all sleeping areas, and on all habitable floors;
- (2) That each short-term rental has working carbon monoxide detectors in every dwelling unit with fuel appliances;
- (3) That each short-term rental has a properly maintained and charged fire extinguisher in each short-term rental unit;
- (4) That each short-term rental has GFCI receptacles within six feet of the outside edge of any sink; and
- (5) Each short term rental shall have a minimum of two parking spaces, off street.

E. Prohibitions. The following prohibitions apply to short term rentals:

- (1) The use of short term rentals to host commercial activities is prohibited;
- (2) Short term rentals shall not be operated outdoors, in a recreational vehicle, or in any non-residential structure;
- (3) No short term rental shall be occupied with guests for more than two hundred seventy (270) calendar days in any given year; and
- (4) No more than fifteen percent (15%) of the total residential units in any zoning district shall be issued short term rental licenses under this Section 203-27.1.

F. Violations and Penalties. Any violation of this Chapter 230 or any other provisions in the City Code may subject a violator to any remedy, legal or equitable, available to the City.

1. Rental License violations include:

- a. Operating a short-term rental without a valid short-term rental license;
- b. Advertisement or rental of a short-term rental without proper licensing; and
- c. Advertising a short-term rental outside the permitted scope of a short-term rental license.

2. Operation violations include:

- a. Use of the short-term rental for commercial/fundraising activities;
- b. Failure to maintain required records;
- c. Failure to ensure short-term rental guests comply with the requirements of the City Code;
- d. Failure to make conspicuously visible the information required in § C above;
- e. Failure of local contact to satisfactorily respond to or resolve complaints;
- f. Failure to comply with any disaster or emergency orders;
- g. Disorderly dwelling; and
- h. Failure to comply with the building requirements in § D above.

3. The following fines and penalties may be assessed for short term rental violations.

- a. The short-term rental fines shall be assessed at an amount not less than \$100 dollars and not more than \$500 per violation. For the first violation, the City may elect to issue a written warning in lieu of a fine. If there are three or more subsequent violations of the same offense or the sum of six violations of more than one type of offense during the term of the rental license, the City may immediately revoke the short term rental license.
- b. Each day a violation continues unresolved will constitute a separate violation.
- c. Nothing contained herein shall be construed to limit the legal remedies available to any other person for the correction of violations of this Chapter and the correlating provisions in the City Code. All violations shall be cumulative.

Section 10. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in direct conflict herewith are hereby repealed.

Section 11. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 12. Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

First Reading

Second Reading

Signed this _____ day of _____, 2025

_____, President of City Council

