

Ordinance No. 567

An Ordinance to extend the deadline to obtain approvals under Ordinance No. 536 concerning the rezoning of portions of property located at 130 Lukens Drive and 150 Lukens Drive, New Castle, Delaware (Tax Parcels 21-023.00-001 and 21-022.00-002, totaling 168.76 acres) from the IOP zoning classification (Industrial Office Park) to the R-3 zoning classification (Multi-Family Residential) as to 149.08 acres, and to the GC zoning classification (General Commercial) as to 13.96 acres, and further concerning an amendment to the City's 2020 Comprehensive Plan in a manner consistent therewith.

WHEREAS, Tax Parcels 21-023.00-001 (130 Lukens Drive) and 21-022.00-002 (150 Lukens Drive) (collectively, the "Property") comprise 168.76 acres, more or less, of undeveloped land; and

WHEREAS, Parkway Gravel, Inc., the owner of the Property (the "Owner"), petitioned the City Council to alter the Property's zoning classification from IOP (Industrial Office Park) to R-3 Multi-Family Residential) as to 149.08 acres, and to GC (General Commercial) as to 13.96 acres, with the remainder of the Property (5.72 acres) retaining its current IOP zoning; and

WHEREAS, Owner pursued this rezoning intending to re-subdivide the Property into 2 parcels of land for the purpose of developing the R-3 zoned parcel as a 451-unit mixed-use project including 46 single family homes, 26 twin units, 107 townhomes and 272 apartment units. The GC zoned parcel is proposed to be developed as 12,000 sq. ft. of retail space with second floor apartment units, a community clubhouse and a public restaurant; and

WHEREAS, the Council approved this rezoning of the Property on May 9, 2023 with the adoption of Ordinance No. 536; and

WHEREAS, Ordinance 536, *inter alia*, contained a requirement that, "within eighteen (18) months of the date hereof, the owner of the Property shall successfully complete the site plan and subdivision approval process as set forth in Chapters 213 and 230 of the City Code, detailing the proposed subdivision and site plan, and must obtain all required special exceptions and variances for the development contemplated on the concept plan attached hereto as Exhibit A. The final recorded site plan shall generally conform to the concept plan set forth in Exhibit A. If the owner of the Property does not obtain all approvals within eighteen (18) months of the date hereof, and record a subdivision and site plan that generally conforms with the concept plan attached hereto as Exhibit A, this Ordinance shall expire and shall automatically be null and void"; and

WHEREAS, Owner asserts that it has been unable to obtain these required approvals within eighteen (18) months of the May 9, 2023 approval of Ordinance No. 536 due to Owner's entering into a voluntary cleanup program with the Department of Natural Resources and Environmental Control ("DNREC"), under which it was required to obtain DNREC's approval for managing contaminated soils and to remediate approximately 5 truckloads of contaminated soil, thereby requiring an extension to the eighteen month approvals period under Ordinance No. 536; and

WHEREAS, Owner obtained a Special Exception and variance approval, on April 30, 2024, that was expressly tied to the above-described rezoning, which approval therefore also expires were the above-described rezoning to expire under the terms of Ordinance No. 536, but which approval remains active so long as Ordinance No. 536 does not expire.

NOW, THEREFORE, be it ordained by the Council of the City of New Castle, as follows:

SECTION 1: Ordinance No. 536, Section 3 is amended to replace “eighteen (18) months” therein with “fifty-four (54) months.” The effect of this change is to extend the deadline by which Owner must obtain site plan and subdivision approval for the project from November 9, 2024 to November 9, 2027. If Owner does not obtain all approvals by November 9, 2027, and record a subdivision and site plan that generally conforms with the concept plan attached to Ordinance No. 536 as Exhibit A, then the rezoning shall expire and shall automatically be null and void as required under Ordinance No. 536.

SECTION 2. All other provisions of Ordinance No. 536 remain in full force and effect as approved by Council on May 9, 2023.

SECTION 3: If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. In the event any existing Ordinances or parts of Ordinances are in conflict herewith, the provisions of this Ordinance shall control.

SECTION 5. Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided that any such repeal shall not abate a right of action already accrued under any repealed Ordinance.

SECTION 6. Notwithstanding the date of its approval, this Ordinance extending the deadline under Ordinance No. 536 shall become effective retroactive to November 8, 2024.

First Reading _____

Second Reading _____

Signed this _____ day of _____, 2026

Suzanne Souder, President of Council

Attest: _____
Courtaney Taylor, City Clerk

Approved: _____
Valarie Leary, Mayor