

Vest, Lisa A. (DNREC)

From: Almond, Aundrea <Aundrea.Almond@newcastlede.gov>
Sent: Thursday, June 27, 2019 2:20 PM
To: Vest, Lisa A. (DNREC)
Cc: Meyer, Matthew
Subject: DRPI Landfill Permit Hearing - Public Comment submission (Docket #2019-P-WH-0011)
Attachments: DNREC Public Hearing Comment_New Castle County June 2019.pdf; Ordinance 19-046.pdf

Hello Ms. Vest,

Please include the attached letter from New Castle County Executive Matt Meyer and the County's Public Safety Chiefs in the public comments regarding DRPI's May 29, 2019 hearing.

Additionally, the letter references a County draft ordinance that was introduced in County Council on April 30, 2019 (Ordinance 19-046). A copy of that draft ordinance is also attached.

Should you have any questions, I can be reached at the numbers below or you can contact the County Executive at 302-395-5118.

Thank you very much.

Best Regards,
Aundrea Almond

Aundrea Almond
Chief of Staff
New Castle County | County Executive Matthew Meyer
302-395-5205 (office) | 302-530-0041 (cell)

Please note my new email address: aundrea.almond@newcastlede.gov



MATTHEW MEYER
COUNTY EXECUTIVE
@NCCDE



87 READS WAY
NEW CASTLE, DE 19720
(302) 395-5118
Matthew.Meyer@newcastlede.gov

Lisa A. Vest, Hearing Officer
Office of the Secretary
Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, Delaware 19901

June 27, 2019

Dear Ms. Vest,

We write to express our strong opposition to the Waste Management DRPI Industrial Waste Landfill application to extend its permitted height by nearly 50%, from 130 to 190 feet. The feedback we would like to share as part of the public hearing process ranges from specific concerns about the impact on local County facilities to broader concerns about the impact to the surrounding communities.

New Castle County's Public Safety headquarters sits immediately adjacent to this landfill at 3601 N. DuPont Highway, New Castle. Our 24-hour facility houses 741 public safety officers from our County Police, Emergency Medical Services, Emergency Communications Divisions and Office of Emergency Management. We are deeply concerned about the impact an increased landfill height would have on the health and safety of these men and women who are charged with keeping our communities safe every day.

Of particular concern is the effect of the prevailing westerly wind that routinely blows dust, debris and foul odors from the landfill towards the east and onto the grounds and structure of our Public Safety headquarters and the surrounding area. We have attached photos (see Exhibit 1) taken by Public Safety staff that show this dust and debris on-site. Recognizing that wind speed increases with height, should this mound of waste and debris be permitted to tower over its neighbors like a 20-story building the stronger winds at this higher elevation would likely carry greater volumes of material from the landfill onto our Public Safety headquarters and a wider area of nearby homes and businesses.

We are also concerned about the impact of a landfill expansion on the broader community. Our concerns about dust and waste blowing from the landfill apply also to the surrounding communities, and to the pedestrians and cyclists on the Jack A. Markell Trail, located just west of the DRPI site. The County has received numerous complaints from trail users about the operation of the landfill, and debris left uncovered for long periods of time, possibly in conflict with current permit requirements. In fact, I have witnessed this myself and it truly detracts from one's enjoyment of the Markell Trail.

In an area of the county where we are actively working toward community revitalization through investments like the Markell Trail and the Route 9 Library and Innovation Center, we believe that a landfill expansion works against that effort. It would be counterproductive to expose local residents to

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expanded landfill operations as we work to sustain progress in promoting healthier lifestyles and activities.

Additionally, during the public hearing on the landfill we also became aware of concerns because the landfill is above an aquifer that is used for public drinking water for residents across New Castle County. It is *imperative* that an analysis be completed to understand the potential for toxic contamination to leach from the landfill into the aquifer before any permit decision is reached. The regulations for approving new industrial waste cells require environmental and hydrogeological assessments, but DRPI has only provided 15-year old studies with its application. DRPI should be required to determine current site conditions, the potential impacts if its proposed modification of the landfill is approved, and whether any environmental threat exists. The DNREC Division of Water should analyze the application's potential impact on local ground water and assist in reviewing the new hydrogeological and environmental assessments.

Finally, A New Castle County draft ordinance has been introduced by Councilman Jea Street to add requirements regarding solid waste landfills to *New Castle County Code* chapter 40. Ordinance [19-046](#) includes a height restriction of 140 feet and is scheduled to be discussed at a PLUS meeting in Dover on July 24th.

In summary, we are opposed to any expansion of the DRPI landfill, due to the above concerns about dust, debris and drinking water quality. We do not believe that the limited benefits of expanding the landfill to continue to importing trash from out-of-state sources outweigh the serious risks and quality of life concerns to our Delaware citizens and public safety personnel.

Please contact us with any questions.

Yours in service,



Matthew Meyer
New Castle County Executive



Vaughn Bond
New Castle County Police Chief



Lawrence Tan
New Castle County Emergency Medical Services Chief



Jeff Miller
New Castle County Emergency Communications Chief

Exhibit: Photos from New Castle County Public Safety Building Property

Photo 1: Dust blowing from west to east across Marsh Lane, toward the Public Safety Building



Photos 2 & 3: Debris blown into fences near Public Safety Building



Photos 4 & 5: Debris blown into the Public Safety Building parking lot



Introduced by: Mr. Street
Date of introduction: April 30, 2019

ORDINANCE NO. 19-046

TO AMEND NEW CASTLE COUNTY CODE CHAPTER 40 (“UNIFIED DEVELOPMENT CODE”), ARTICLE 3 (“USE REGULATIONS”) AND ARTICLE 33 (“DEFINITIONS”) REGARDING LANDFILLS

WHEREAS, the zoning regulation established by this Ordinance has been made in accordance with the Comprehensive Development Plan for New Castle County and is designed to avoid transportation congestion, to avoid threats to health and the general welfare, to ensure adequate light and air, to avoid overcrowding of the land, and to safeguard water and sewerage, among other potential concerns; and

WHEREAS, the regulation also has been made with reasonable consideration of the character of the relevant zoning district and the suitability for particular uses, with a view to protecting and promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, conserving the property value of homes and buildings, and encouraging the most appropriate use of land and structures in New Castle County; and

WHEREAS, New Castle County Council has determined that the provisions of this Ordinance substantially advance, and are reasonably and rationally related to, legitimate government interests.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Section 40.03.323. is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.03.323. – ~~Reserved~~Solid Waste Landfills.

In addition to satisfying all other legal requirements and standards, landfills shall conform with the following standards:

- A. Landfills shall not exceed 140 feet in height, as determined pursuant to industry standards, and all requests to increase the landfill height up to and including this maximum shall be subject, first, to an assessment of:
1. The benefits of and need for any proposed height increase;
 2. The impact of such height increase and associated landfill operations on the health of nearby residents;
 3. The impact of such height increase and associated landfill operations on the values of real property in proximity thereto;
 4. The impact on traffic in the surrounding area;

5. The impact on noise and visual blight to the surrounding area;
6. The impact on stormwater, wastewater discharge, and flooding in proximity thereto;
7. All other impacts on the health, safety, and general welfare of nearby residents;
8. The compatibility with the policies and objectives of the Comprehensive Development Plan of New Castle County;
9. The impact of the proposed height increase on immediate residents and neighborhoods and the compatibility therewith, and a comparison of the impact on and compatibility with surrounding residents and neighborhoods; and
10. Whether the benefits of a height increase outweigh the negative impacts.

B. The height limitation shall not apply to existing non-conforming landfills.

Section 2. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 3 (“Use Regulations”), Section 40.03.110. (“Use Table”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.03.110. - Use table.

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Table 40.03.110A. General Use Table										Table 40.03.110B. General Use Table						Table 40.03.110C. General Use Table		
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory										Zoning District (Suburban and Special Character)						Additional Standards (all districts)		
Land Use	TN	ST	MM	ON	OR	CR	BP	I		CN	S	SE	NC	HI	EX	SR	Parking	Limited & Special Use Standards
	.										***		**					
...																		
Industrial Uses										Industrial Uses						Industrial Uses		
Heavy industry	N	N	N	N	N	N	N	N	N	N	N	N	N	¥	N	N	Table 40.03.522	<u>Section 40.03.323.</u>
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Section 3. *New Castle County Code* Chapter 40 (“Unified Development Code”), Article 33 (“Definitions”), Section 40.33.270. (“Industrial Uses”) is hereby amended by adding the material that is underscored and deleting the material that is stricken, as set forth below.

Sec. 40.33.270. - Industrial uses.

...

C. *Heavy industry*. This category includes construction, mining, manufacturing, transportation, and public utilities due to the land use intensity impacts typically associated with large industrial uses, their accessory outdoor storage uses, and large building areas. The following uses are permitted:

Animal food, meat product, seafood product manufacturing (NAICS 3111, 3116, 3117)

Tobacco manufacturing (NAICS 3122)

Breweries, wineries, distilleries other than brewery-pubs and craft alcohol production establishments (NAICS 31212, 31213, 31214)

Sawmills (NAICS 3211)

Manufactured home manufacturing (NAICS 321991)

Pulp, paper and paperboard mills (NAICS 3221)

Petroleum refining and related industries (NAICS 324)

Chemical manufacturing, including compost operations (NAICS 325)

Cement manufacturing (NAICS 32731)

Ready-mix concrete manufacturing (NAICS 32732)

Other nonmetallic mineral product manufacturing (NAICS 3279)

Primary metal manufacturing (NAICS 331)

Ammunition (except small arms) manufacturing (NAICS 332993)

Transportation equipment manufacturing (NAICS 336, except 3363, 336991)

Rail and water freight facilities (NAICS 482, 483)

Solid Waste Landfills (NAICS 562212)

Section 4. This Ordinance shall become effective immediately upon its adoption by New Castle County Council and approval of the County Executive, or as otherwise provided in 9 Del. C. Section 1156.

Adopted by County Council of
New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: This Ordinance establishes that *Solid Waste Landfills* (NAICS 562212) shall not exceed 140 feet in height, as determined pursuant to industry standards, and all requests to increase the landfill height up to and including this maximum shall be subject, first, to an assessment of:

- The benefits of and need for any proposed height increase; the impact of such height increase and associated landfill operations on the health of nearby residents; the impact of such height increase and associated landfill operations on the values of real property in proximity thereto; the impact on traffic in the surrounding area; the impact on noise and visual blight to the surrounding area; the impact on stormwater, wastewater discharge, and flooding in proximity thereto; all other impacts on the health, safety, and general welfare of nearby residents and neighborhoods; the compatibility with the policies and objectives of the Comprehensive Development Plan of New Castle County; the impact of the proposed height increase on immediate residents and neighborhoods and the compatibility therewith, and a comparison of the impact on and compatibility with surrounding neighborhoods; and whether the benefits of a height increase outweigh the negative impacts.

In addition, this Ordinance clarifies that a *Solid Waste Landfill* (NAICS 562212) is a permissible use in a Heavy Industry zoning district.

Furthermore, the zoning regulation established by this Ordinance has been made in accordance with the Comprehensive Development Plan for New Castle County and is designed to avoid transportation congestion, to avoid threats to health and the general welfare, to ensure adequate light and air, to avoid overcrowding of the land, and to safeguard water and sewerage, among other important concerns.

The regulation also has been made with reasonable consideration of the character of the relevant zoning district and the suitability for particular uses, with a view to protecting and promoting desirable living conditions, sustaining the stability of neighborhoods, protecting property against blight and depreciation, conserving the property value of homes and buildings, and encouraging the most appropriate use of land and structures in New Castle County

FISCAL NOTE: There is no discernible fiscal note.