



SPONSOR: Sen. Pinkney & Rep. Bentz

DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE JOINT RESOLUTION NO. 7

VACATING THE PARKLAND DEDICATION OF APPROXIMATELY .204 ACRES OF NEW CASTLE COUNTY TAX PARCEL NO. 10-023.00-001.

1 WHEREAS, New Castle County maintains the parcel of land identified on New Castle County tax maps as Tax  
2 Parcel No. 10-023.00-001, located at 41 Dunsinane Drive, New Castle, Delaware, also known as the James T. Corcoran Jr.  
3 Park (Parkland Property); and

4 WHEREAS, the current Parkland Property was 2 separate parcels before it was consolidated as Tax Parcel No. 10-  
5 023.00-001 and the deeds transferring ownership of those parcels to New Castle County were recorded in the Office of the  
6 Recorder of Deeds in and for New Castle County on June 29, 1966, and February 28, 1963, respectively, in Deed Book K-  
7 77, Page 489 and Deed Book V-70, Page 204; and

8 WHEREAS, New Castle County has determined the Parkland Property is impliedly dedicated parkland under the  
9 public trust doctrine for parkland, which was adopted by Delaware courts in *Anderson v. Wilmington*, 137 A.2d 521 (Del.  
10 Ch. 1958) (Anderson); and

11 WHEREAS, the Court of Chancery, in *Anderson and Lord v. City of Wilmington*, 332 A.2d 414 (Del. Ch. 1975),  
12 held, consistent with common law, that dedicated parkland cannot be used for any non-parkland purpose without legislative  
13 authorization; and

14 WHEREAS, the Parkland Property is 52.2 acres of undeveloped land with natural resources and wooded areas  
15 adjacent to the Christina River; and

16 WHEREAS, Dash In Food Stores, Inc. (Dash In), owns and operates a gas station/convenience store located at the  
17 corner of Airport Road and Christiana Road identified on New Castle County tax maps as Tax Parcel No. 10-029.00-003  
18 (Dash In Property), which is immediately adjacent to the Parkland Property; and

19 WHEREAS, on or about January 12, 2018, the Department of Transportation (DelDOT) filed an action in Superior  
20 Court seeking to condemn and take possession of a portion of the Dash In Property for purposes of improving sections of  
21 Airport and Christiana Road contiguous to the Dash In Property; and

22 WHEREAS, on or about April 26, 2019, Dash In and DelDOT entered into a mutually acceptable agreement  
23 (Settlement Agreement) to settle DelDOT's condemnation action and to provide compensation to Dash In for the taking;  
24 and

25 WHEREAS, the Settlement Agreement, inter alia, also requires DelDOT to transfer the approximately .204 acres  
26 of property that is immediately adjacent to the Parkland Property and the Dash In Property and owned by DelDOT to New  
27 Castle County and for New Castle County to transfer an approximately .204 acre portion of the Parkland Property to Dash  
28 In; and

29 WHEREAS, the DelDOT property to be transferred to New Castle County is also undeveloped land with natural  
30 resources and wooded areas and is the approximate same size, .204 acres, as the portion of the Parkland Property to be  
31 transferred; and

32 WHEREAS, New Castle County supports the Settlement Agreement, this resolution and the property transfers  
33 contemplated therein; and

34 WHEREAS, to consummate the transfers required under the Settlement Agreement, New Castle County is  
35 requesting that the parkland dedication for approximately .204 acres of the Parkland Property be vacated; and

36 WHEREAS, vacating the parkland dedication will permit New Castle County to discontinue use of that portion of  
37 the Parkland Property as parkland, with the ability to transfer it as set forth in Settlement Agreement and under § 1521(e) of  
38 Title 9; and

39 WHEREAS, vacating the parkland dedication will advance, and is reasonably and rationally related to legitimate  
40 government interests, including promoting the health, safety, morals, convenience, order, prosperity, or welfare of the  
41 present and future inhabitants of this State.

42 NOW, THEREFORE:

43 BE IT RESOLVED by the Senate and House of Representatives of the 151st General Assembly of the State of  
44 Delaware, and the with the approval of the Governor, that the parkland dedication for the approximately .204 acres of Tax  
45 Parcel No. 10-023.00-001 as set forth in the Settlement Agreement between Dash In Food Stores, Inc. and the Department  
46 of Transportation, which is hereby incorporated by reference and made a part hereof, is hereby vacated.

#### SYNOPSIS

This Act vacates the parkland dedication for approximately .204 acres of Tax Parcel No. 10-023.00-001 (Parkland Property). The removal of the parkland dedication allows for New Castle County to transfer that portion of the Parkland Property under § 1521(e) of Title 9 and as set forth in the Settlement Agreement between the Department of Transportation (DelDOT) and a private property owner, Dash In, to resolve a condemnation action filed by DelDOT. Due to the Property's unique location, there are no known current or future public needs or benefits in continuing to restrict the use of the .204 acre portion of the Parkland Property as parkland and under the Settlement Agreement, New Castle County will receive approximately .204 acres of land in close proximity to the Parkland Property.

Author: Senator Pinkney