



SPONSOR: Rep. Mitchell & Sen. Delcollo

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE JOINT RESOLUTION NO. 9

VACATING DEDICATED PARKLAND IDENTIFIED AS TAX PARCEL NO. 19-009.00-011.

1 WHEREAS, New Castle County maintains the parcel of land identified on New Castle County tax maps as Tax
2 Parcel No. 19-009.00-011, located at 503 S. DuPont Road, Wilmington, Delaware ("the Property"); and

3 WHEREAS, the December 8, 1967, deed, transferring ownership to the State of Delaware for the use of New
4 Castle County is recorded in the Office of the Recorder of Deeds in and for New Castle County in Volume B Book 80,
5 Page 628; and

6 WHEREAS, the Property is approximately $\pm .30$ acres of undeveloped land with natural resources, including a
7 portion of Little Mill Creek, and zoned General Industrial and Highway Development; and

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

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

14 WHEREAS, due to the Property's unique location in an established industrial park, as depicted on the attached
15 Exhibit, its utility for the public good as parkland is limited, and the neighboring businesses are using the western portion of
16 the Property for parking; and

17 WHEREAS, New Castle County has determined there are no current or future benefits in continuing to maintain
18 the Property as dedicated parkland; and

19 WHEREAS, New Castle County is requesting that the parkland dedication be vacated for the Property; and

20 WHEREAS, vacating the parkland dedication will permit New Castle County to discontinue use of the Property as
21 parkland, with the ability to transfer the Property in accordance with § 1521(e) of Title 9; and

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

25 NOW, THEREFORE:

26 BE IT RESOLVED by the House of Representatives and the Senate of the 150th General Assembly of the State of
27 Delaware, with the approval of the Governor, that the parkland dedication for Tax Parcel No. 19-009.00-011 is hereby
28 vacated.

SYNOPSIS

This Joint Resolution vacates the parkland dedication for Tax Parcel No. 19-009.00-011 ("the Property"), removing the restrictions on permitted uses for public parks, held in public trust as provided in the common law, including the restrictions under *Anderson v. Mayor and Council of Wilmington*, 137 A.2d 521 (Del. Ch. 1958) and *Lord v. City of Wilmington*, 332 A.2d 414 (Del. Ch. 1975), *aff'd*, 378 A.3d 635 (Del. 1977). The removal of the parkland dedication allows for New Castle County to transfer the Property in accordance with § 1521(e) of Title 9. 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 Property as parkland. Currently, the neighboring businesses are using a portion of the Property for parking.