"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street – P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

ORDINANCE No. 16-0516-01

ORDINANCE ANNEXING PROPERTY COLLECTIVELY KNOWN AS THE FORT DUPONT COMPLEX INTO THE CITY OF DELAWARE CITY, ASSIGNING HISTORICAL PRESERVATION AND REDEVELOPMENT ZONING DESIGNATION TO SUCH ANNEXED AREA AND ORDERING UPDATE OF OFFICIAL ZONING MAP

WHEREAS, on August 4, 2014, the Planning Commission of the City of Delaware City ("Planning Commission") was presented with two proposed ordinances (Ordinance 14-0915-01 and Ordinance 14-0915-02, collectively the "2014 Ordinances") seeking to amend the Delaware City Comprehensive Plan (as adopted and certified in December, 2008 and as updated in December, 2014, the "Comprehensive Plan") to identify the entirety of the Fort DuPont Complex (as such term is defined herein) as an area for possible future annexation into the City of Delaware City ("City") (Ordinance 14-0915-01) and to create a new HPR zoning classification under the City's Code which would be assigned to the Fort DuPont Complex if and when such area was annexed into the City (Ordinance 14-0915-01).

WHEREAS, on December 14, 2014, the Planning Commission of the City of Delaware City held a public hearing with respect to the 2014 Ordinances and, by unanimous vote, directed that the 2014 Ordinances be submitted to the Office of State Planning Coordination ("OSPC") for PLUS review.

WHEREAS, following PLUS review, the Mayor and Council adopted the 2014 Ordinances (as amended) on March 4, 2015.

WHEREAS, a Notice of Final Adoption was published in the News Journal on March 8, 2015.

WHEREAS, the Charter ("Charter") of the City, Section 1-03, provides that the City shall have the power to annex, by ordinance, any territory contiguous to the City whenever, pursuant to a special election, the property owners with in the territory to be annexed and the qualified voters of the City determine, by majority vote, that such annexation is appropriate and thereby approved.

WHEREAS, on March 16, 2016, the Board of Directors of the Fort DuPont Redevelopment and Preservation Corporation ("FDRPC") passed a resolution seeking annexation of the Fort DuPont Complex (as more particularly described herein) into the City and requesting that the City commence the requisite annexation process.

WHEREAS, the proposed territory to be annexed consists of the area commonly known as the "Fort DuPont Complex" which consists of three (3) parcels more particularly described as New Castle County Parcel Nos. 12-023.00-021, 12-030.00-001 and 12-030.00-002.

WHEREAS, the City has determined that the Fort DuPont Complex is contiguous with the existing municipal boundaries of the City and the proposed annexation is consistent with and permissible thereunder the Comprehensive Plan as such area is depicted as an area for future annexation and, as a result, no amendment or other modification to the Comprehensive Plan is necessary to effectuate the proposed annexation.

WHEREAS, pursuant to the Charter, Section 1-03, before the Fort DuPont Complex may be annexed into the City, Mayor and Council must undertake certain actions including (1) pass a resolution describing and defining accurately the area to be annexed; (2) provide for the zoning of the annexed territory; and (3) conduct a special election on not less than twenty (20) days notice with respect to the proposed annexation.

WHEREAS, on March 21, 2016, Mayor and Council passed that certain Resolution with Respect to the Annexation of Property Collectively Known as the Fort DuPont Complex into the City of Delaware City and Ordering a Special Election ("Annexation Resolution") which described and defined the Fort DuPont Complex as the area to be annexed and scheduled a special election to be held on May 5, 2016 with respect to the proposed annexation ("Special Election").

WHEREAS, on March 22, 2016, a Notice of Special Election and a copy of the Annexation Resolution was posted on the City's website and in the following five (5) public places: (1) Town Hall; (2) Library; (3) Post Office; (4) Sunset Market; and (5) Valero Gas Station.

WHEREAS, the Notice of Special Election was published in a newspaper of general circulation in the City one time a week for two consecutive weeks not less than twenty (20) days prior to the Special Election.

WHEREAS, on May 5, 2016, the City's Election Board conducted the Special Election at the Paul H. Morrell, Jr. Community Center, 250 Fifth Street, Delaware City, Delaware 19706 with the polls opening at 12:00 p.m. and closing at 8:00 p.m.

WHEREAS, on May 9, 2016, the Election Board of the City of Delaware City certified the final vote count of the Special Election as a majority vote in favor of the annexation.

WHEREAS, the present Ordinance seeking annexation of the Fort DuPont Complex and assigning a zoning classification thereto was first introduced and read by Mayor and Council at a regular meeting held on May 16, 2016, at which time Mayor and Council established a thirty (30) day comment period, and also scheduled a public hearing for June 20, 2016 to entertain public comment on the ordinance ("Public Hearing"), and determined that immediately following the Public Hearing, Mayor and Council would discuss, vote and potentially adopt the Ordinance.

WHEREAS, a Notice of Public Hearing, which set forth the date, time and location of the public hearing, advised of the thirty (30) day comment and the second reading and final consideration of the ordinance by Mayor and Council ("Notice of Public Hearing") was posted on the City's website and in the following five (5) public places on May 17, 2016: (1) Town Hall; (2) Library; (3) Post Office; (4) Sunset Market; and (5) Valero Gas Station.

WHEREAS, the Notice of Public Hearing was also served by mail to affected jurisdiction New Castle County and by certified mail, return receipt requested to any abutting property owners of the Fort DuPont Complex and any adjacent property owners across any public or private right of way from the Fort DuPont Complex.

WHEREAS, the Notice of Public Hearing was published in a newspaper of general circulation in the City one time a week for two consecutive weeks not less than fifteen (15) days prior to the Public Hearing and posted (together with a copy of this proposed Ordinance) on or in front of the Fort DuPont Complex property.

WHEREAS, the thirty (30) day comment period expired on June 16, 2016 and comments received, if any, were sent to the Office of State Planning Coordination.

WHEREAS, such public hearing as held as property scheduled and noticed on June 20, 2016 at which time Mayor and Council solicited public comment and opinion on the annexation proposal.

WHEREAS, the Plan of Services was submitted to and approved by the Office of State Planning Coordination as prescribed by Delaware State Law.

WHEREAS, upon final adoption and approval of this Ordinance, the Mayor and Council shall cause the City's Official Zoning Map to be revised to reflect addition of the Fort DuPont Complex into the municipal boundaries of the City and the assignment of the HPR zoning classification to the Fort DuPont Complex.

NOW, THEREFORE, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions as follows:

Section 1. The area commonly known as the "Fort DuPont Complex" which consists of three (3) parcels more particularly described as New Castle County Parcel Nos. 12-023.00-021, 12-030.00-001 and 12-030.00-002 is hereby annexed into the municipal boundaries of the City of Delaware City.

Section 2. The Council finds that the annexation and zoning classification assigned to the Fort DuPont Complex is consistent with the Comprehensive Plan.

Section 3. The zoning classification of Historic Preservation and Redevelopment is assigned to the Fort DuPont Complex immediately upon annexation.

Section 4. The City Manager shall insure that the City's Official Zoning Map of the City is promptly updated to reflect the annexation and attendant zoning assignment of the Fort DuPont Complex.

Section 5. The City Manager shall take any and all such further actions as may be required or deemed necessary to effectuate and/or reflect the annexation of the Fort DuPont Complex into the City.

Section 6. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Section 7. 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 8. Effective Date. This Ordinance shall become effective immediately upon its adoption by Council.

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 201_.

ATTEST:

_____
City Secretary

_____
Mayor

APPROVED AS TO FORM:

_____
Council Member

_____
City Solicitor

_____
Council Member

_____
Council Member

_____
Council Member

_____
Council Member

First Reading on _____,

Second Reading, Public Hearing, and Final Passage on _____.