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CITY OF DUPONT

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DuPont Municipal Code Code Interpretation Determination

Date: December 6, 2017

File No. PLNG2017-037

To: Interpretations File No. 2017-01

From: Jeffrey S. Wilson, AICP 
Director

Subject: For implementation of the DuPont Municipal Code (DMC), since “fulfillment centers” or “parcel hubs” are not defined terms, what land use definition are they regulated by pursuant to the DMC

Date Issued/Posted: December 7, 2017

Effective Date: December 22, 2017 (unless appealed in a timely manner)

Issue Outline:

On May 31, 2017, the City Hearing Examiner issued a decision on a land use application for a “site plan review” under File No. PLNG2017-006 that created new land uses terms that are used in, or defined in the DuPont Municipal Code. Specifically, following statement was contained in the conditions of approval “...the Site Plan approved by this Decision is expressly limited to a use/user or combination of users considered to be transload, short-term, or cold storage types of high cube warehouse facilities, and not a fulfillment center or parcel hub, which have different trip generating characteristics.” The land uses described in the above condition are not terms used in, or defined in the DMC.

Specifically, the question has been asked regarding what land use classification/definition the city would apply to terms “fulfillment center” or “parcel hub” for purposes of administering the DMC? Currently the DMC does not define the terms “fulfillment center” or “parcel hub,” nor are these terms used in the DMC as part of any land use regulation. The terms “fulfillment center” or “parcel hub” are not defined terms, nor were they defined by the Hearing Examiner in his decision on File No. PLNG2017-006. Additionally, there terms are not defined in the Meriam-Webster Dictionary as terms of common usage.

Therefore, an interpretation is necessary to determine how the terms “fulfillment center” and “parcel hub” will be defined for the purposes of determining land use designation they are and which land use regulations will apply.

Relevant Code Sections:

- A. DMC 25.05.040(9) which states: "The community development director or his/her designee are hereby authorized to make code interpretations. Where these rules do not clarify a boundary, definition, use standard, or procedure, the director shall make the determination. The director's determination in these instances may be appealed pursuant to DMC 25.175, Administration of Development Regulations.

Analysis:

Without specific guidance from the DMC, it is appropriate to refer to common definitions to implement terms, which are not defined in the DMC. However, when terms are not defined in common use dictionaries, then an analysis and conclusion must be reached by reviewing similar terms or activities already codified in the DMC.

In this instance, the Merriam-Webster dictionary does not define either "fulfillment center" or "parcel hub." Therefore, my analysis will be based on the definition of similar activities regulated and defined in the DMC. In this instance, for purposes of defining "fulfillment center" or "parcel hub," I will defer to the defined term of "warehouse/distribution" which is defined in DMC Section 25.10.230 as "Warehouse/distribution" means a building or land use in which goods, merchandise or equipment are stored for eventual distribution.

The general activities carried on within a "parcel hub" or "fulfillment center" which include but are not limited to the receiving and distribution of products or other similar materials based on common understanding of these facilities is directly consistent with the DMC adopted definition for a "warehouse/distribution" type facility.

THEREFORE, THE FOLLOWING INTERPRETATION IS HEREBY ISSUED:

A "FULFILLMENT CENTER" OR "PARCEL HUB," IS SIMILAR IN NATURE AND ACTIVITY TO "WAREHOUSE/DISTRIBUTION" AS DEFINED IN DMC SECTION 25.10.230 AND THEREFORE WILL BE CONSIDERED ONE AND THE SAME AS "WAREHOUSE/DISTRIBUTION" FOR ALL APPLICATIONS OF LAND USE REGULATIONS PURSUANT TO DMC CHAPTER 25.

Appeal Procedures:

Pursuant to DuPont Municipal Code (DMC) Section 25.175.010(3), the director of community development, or designee, may issue written interpretation for any section of DMC Titles 23, Environment, 24, Subdivisions. Or 25, Land Use Code, at any such time as the code is silent regarding an issue, duplicative or conflicts within itself. Such interpretation shall be processed as a Type I action and may be appealed to the hearing examiner pursuant to DMC Section 25.175.060.(4).

Should anyone wish to appeal this interpretation, a written appeal, accompanied by the required appeal fee (see City of DuPont fee handout) must be submitted within 14 after the date of the final decision (days of the date of issuance/posting of this interpretation).

The deadline for filing an appeal of this interpretation is: DECEMBER 21, 2017.

A written appeal must contain the following:

1. The appellant's name, address and phone number;
2. A statement describing the appellant's standing to appeal;
3. Identification of the application that is the subject of the appeal;

4. The appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
 5. The specific relief sought;
 6. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.
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Notice: 1) Posted on the City of DuPont Website