

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITLED “SUBDIVISION OF LAND”, TO ALLOW FOR THE STAFF APPROVAL OF MAJOR SUBDIVISIONS CONTAINING 3 OR FEWER LOTS TO BE LOCATED ALONG A NEW STREET

WHEREAS, each year a significant number of subdivision applications received by Sussex County contain 3 or fewer lots; and

WHEREAS, 4 lots is a threshold number used in the Subdivision Ordinance to allow for the annual creation of frontage lots along existing streets without a public hearing before the Planning and Zoning Commission; and

WHEREAS, many subdivisions with less than 4 lots utilize easements in lieu of dedicated rights-of-way, and

WHEREAS, Sussex County has determined that public hearings are not automatically necessary for all subdivisions, particularly when there already is the opportunity to subdivide 4 lots per year fronting on a street without a hearing; and

WHEREAS, a public hearing option remains for citizens concerned about the impact of subdivisions of more than 3 lots; and

WHEREAS, additions to the existing Ordinance shall be delineated with underlines “_” and deletions shall be delineated with brackets “[]”.

NOW, THEREFORE THE COUNTY OF SUSSEX ORDAINS:

The Code of Sussex County is hereby revised to make the following amendments that would permit the staff approval of major subdivisions containing 3 or fewer lots and to revise the fee schedule accordingly in Chapter 99.

§ 99-5 Definitions:

For the purpose of this chapter, certain terms and words are hereby defined:

MAJOR SUBDIVISION -- A subdivision of land involving a proposed new street or the extension of an existing street.

MAJOR SUBDIVISION (STAFF APPROVED) - - A subdivision of land involving 3 lots or less having direct frontage on a new 50 foot easement and/or new street or the extension of an existing 50 foot easement and/or street. The Director on the behalf of the Planning Commission shall have the authority to approve a Major Subdivision (staff

approved). Cluster developments cannot be staff approved. Subdivisions containing more than 3 lots cannot utilize easements in lieu of streets.

§ 99-6 General Requirements and Restrictions:

- A. Any person, partnership or corporation intending to subdivide and develop land, as defined herein, shall prepare a plan of said proposed subdivision or land development in accordance with this chapter. Said plan shall be prepared and submitted to the Commission for review and approval and shall be recorded in the office of the Recorder of Deeds.
- B. In Agricultural Districts, as designated on the Official Zoning Map of Sussex County, any division of a parcel of land into lesser parcels of five acres or more and being a minimum width of at least 200 feet shall be permitted, provided that it does not involve a proposed new street or an extension to an existing street and DelDOT has issued a driveway entrance permit or the access is from a recorded easement providing perpetual access and maintenance.
- C. The Recorder of Deeds shall not receive, file or record any deed or a plat or any copy thereof of any new lot unless accompanied by a [the] plat that has been approved by the Commission or the Director.

§ 99-7 Preliminary Conference:

- A. Before the submission of a subdivision plat, the subdivider shall consult with the Commission's staff and other public agencies to ascertain the location of proposed major streets, highways, parks, playgrounds, school sites and other planned public improvements, and to determine the zoning regulations and other requirements relating to or affecting the proposed subdivision. The subdivider shall also consult with the County Engineer and, where applicable, the State Department of Transportation and the Department of Natural Resources and Environmental Control on matters relating to access and to proposed facilities for sanitary sewage disposal, storm drainage and water supply intended to serve the proposed subdivision. The purpose of these consultations is to assist the subdivider by furnishing information and advice, in order to expedite matters for the subdivider, save him unnecessary expense and promote the best coordination between the plans of the subdivider and those of the county and other public agencies.
- B. The Commission's staff may require a sketch of the property in question showing the proposed scheme for development of the property and other significant information.
- C. If the Director determines that the proposed subdivision represents a minor subdivision of a parcel, existing as of the effective date of this amended

provision, on a street other than a major arterial roadway, and if the Director determines that review by the Commission is not necessary or desirable, he may waive the requirement of preparing a preliminary plat and may authorize the preparation of a record plat for purposes of recordation. He may, however, request review assistance from other concerned agencies prior to authorizing preparation of the plat. Lots in any minor subdivision plat approved by the Director, without review by the Commission, shall have a minimum area of 3/4 of an acre and a minimum width of 150 feet and shall utilize entrances as approved by the Delaware Department of Transportation. Such a minor subdivision shall be limited to four lots per parcel, as well as one additional lot for each 10 acres of parcel size, with a maximum of four subdivided lots approved for recordation per calendar year.

D. If the Director determines that the proposed subdivision is eligible for treatment as a Major Subdivision (staff approved) and if the Director determines that review by the Commission is not necessary or desirable, he may authorize the preparation of the preliminary and record plat by the applicant for purposes of recordation. In addition he may request review assistance from the TAC or other concerned agencies prior to authorizing preparation of the plat(s). Upon the Director's determination that the subdivision is in compliance with the provisions of this Section and which cannot be construed as an extension of or a part of a parcel previously subdivided under the terms of this Section, he shall approve the record plat for recordation. However, following delivery of notice in accordance with Section 99-8,

- (1) By a majority vote prior to the Director's approval of a record plat, the Commission may require that the Commission conduct a public hearing.
- (2) Any person may request a public hearing in accordance with §99-9A concerning the proposed staff approval of a subdivision provided that the Director receives the written request, stating the reasons why a public hearing is necessary, within 30 days of his approval of a preliminary plat. By a majority vote, the Planning Commission shall determine whether or not a public hearing shall be conducted.

§ 99-8 Submission of a Preliminary Plat.

C. Upon filing an application for a preliminary subdivision plat approval, the [applicant] staff shall [provide] prepare a [notarized] list of property owners and addresses for all property owners within 200 feet of the proposed site for the subdivision. A notice shall be sent by the Commission staff to the Planning and Zoning Commission and to adjoining owners that plans are available for public review in the Planning and Zoning Office. [, and] For Major Subdivisions the date of the scheduled public hearings shall be noted.

For any Major Subdivision (Staff Approved) as defined in Section 99-5, the notice shall include the method, authorized by § 99-7D(2), by which a person may request a public hearing. Property owners [will] shall be determined by the County Assessment Office property maps.

§ 99-40. Sunsetting of major subdivision approval

- A. Any major subdivision approval granted by the Commission or by the Director on behalf of the Planning Commission subsequent to the effective date of this section shall be rendered null and void if substantial construction is not commenced thereon within five years of the date of recordation of the final plat pursuant to § 99-11.

Synopsis

This ordinance amendment would allow, under certain limited conditions, the Planning and Zoning Director for Sussex County to approve for recordation subdivisions of 3 or fewer lots. The ordinance amendment further defines those conditions while still allowing minor subdivisions and the division of agricultural land.