

MINUTES OF THE REGULAR MEETING OF FEBRUARY 9, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, February 9, 2017 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Doug Hudson, Mr. Keller Hopkins, and Mr. Martin Ross, with Mr. Vince Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls – Planning Manager, and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to approve the Agenda as revised by removal of Conditional Use #2066 Albert J. Bierman. Motion carried 4 – 0.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to approve the Minutes from January 12, 2017 and January 26, 2017, as revised. Motion carried – 4-0.

OLD BUSINESS

C/U #2064 R&K Partners

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for medical offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.54 acres, more or less. The property is located on the northwest side of Savannah Rd (Rt. 18), approximately 450 ft. northeast of Wescoats Rd. (Rt. 12). 911 Address: 1537 Savannah Rd., Lewes. Tax Map I.D. 335-12.05-4.00

The Commission discussed this application which has been deferred since January 26, 2017.

Mr. Hudson stated that he would move that the Commission recommend approval of Conditional Use No. 2064 for R&K PARTNERS for the use as medical offices based upon the record made during the public hearing and for the following reasons:

1. The proposed Conditional Use is similar in character to many other medical offices in this area of Savannah Road. It is in character with the long history of development of medical and professional office space along Savannah Road.
2. The use serves a community need by creating medical offices near Beebe Hospital.
3. The use as a medical office will benefit the health, safety and welfare of Sussex County residents.
4. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
5. DelDOT has reviewed the proposed use and a Letter of No Objection has been issued. DelDOT has stated that while no traffic study is required, the developer is financially obligated to construct road and traffic improvements that may be required.
6. This recommendation is subject to the following conditions:

- A. As stated by the applicant, there shall be no more than 9,900 square feet of medical and professional office space.
- B. As stated by the applicant, the hours of operation shall be between 7:00 am and 7:00 pm Monday through Friday, and between 8:00 am and 2:00 pm on Saturdays. There shall not be any Sunday hours.
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- D. Any dumpsters shall be screened from view of neighboring properties and roadways.
- E. There shall be a buffer along the boundary of this property and adjacent residential properties using the existing vegetation, or if that does not provide sufficient screening, using Leyland Cypress or similar vegetation. The existing vegetation or any plantings must be at least 5 feet tall at the time of construction. The design of the buffer and the vegetation used in the buffer area shall be included in the Final Site Plan.
- F. The applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to recommend the approval of Conditional Use No. 2064 R&K Partners for the reasons and with the conditions stated. Motion carried 4 – 0.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

C/U #2065 Keith Properties, Inc.

An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) and a B-1 (Neighborhood Business District) for a craft distillery to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.22 acres, more or less. The property is lying at the southwest corner of Lighthouse Rd. (Rt. 54) and Fenwick Shoals Blvd. 911 Address: 38016 Fenwick Shoals Blvd., Selbyville. Tax Map I.D. 533-19.00-753.00

Ms. Cornwell advised the Commission that there was a staff analysis submitted into the record as part of the application; that comments were received from the Department of Agriculture; that a site plan was submitted into the record as part of the application; and that there is a letter from an adjacent property owner stating an objection to the application that was read into the record.

The Commission found Richard Keith was present on behalf of Keith Properties, Inc. and that he states in his presentation and in response to questions raised by the Commission that this is an existing winery; that the applicant will be adding distillery equipment; that the existing buildings will be used; that the sign will be changed; that there will be no change to the existing use; that a blind factory and two restaurants are located in the building and will remain; that the proposed distillery will replace the existing winery; that the same delivery trucks will be used to load and

unload material; that the same number of six employees will exist at the proposed distillery as they did at the existing winery; that the same method of shipping product out will be used; that there will be some onsite sales; that there will be an increased amount of wholesale shipping out of the proposed distillery; that the applicant is still going through the ABCC process and a Conditional Use approval was the first step; that the proposed distillery is a small operation; and that the proposed distillery is specialized, not a major distilling business.

The Commission found there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

C/Z #1812 Oxford Chase Development Corp. – c/o Howard Crossan
An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 2.98 acres, more or less. The property is located at the southeast corner of Lewes-Georgetown Hwy. (Rt. 9) and Fisher Rd. (Rd. 262). 911 Address: None Available. Tax Map I.D. 235-30.00-50.00 (Part of)

Mr. Wheatley did not participate in this hearing.

Ms. Cornwell advised the Commission that there was a staff analysis submitted into the record as part of the application; that an exhibit booklet was submitted into the record; that a site plan was submitted into the record; that comments were received from the Sussex County Engineering Department Utility Planning Division and comments from the Department of Agriculture.

The Commission found Dennis Schrader, Esquire of Morris, James, Wilson, Halbrook & Bayard LLP, was present on behalf of Oxford Chase Development Corp. along with Howard Cross, owner, and Ken Christenbury, of Axiom Engineers, and that they stated in their presentation and in response to questions raised by the commission that the proposed rezoning is intended for a Dollar General; that the parcel is entirely wooded with some wetlands; that Route 9 currently has the presence of commercial activity; that DelDOT has recently finished intersection upgrades with new traffic lights; that there is a shopping center in the area including a handful of other business operations; that there will be a significant wooded buffer between residential properties; that security lighting will not intrude on nearby residential properties; and that sewer will be Artesian sewer.

The Commission found there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Wheatley recused.

C/Z #1813 Delaware Animal Products, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a LI-1 (Limited Industrial District) to a LI-2 (Light Industrial District) for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County containing 13.604 acres, more or less. The property is located on the south side of Redden Rd. (Rt. 40), approximately 1,192 ft. east of Sussex Hwy. (U.S. Rt. 13). 911 Address: 9174 Redden Rd., Bridgeville. Tax Map I.D. 131-11.00-6.00

Ms. Cornwell advised the Commission that there was a staff analysis submitted into the record as part of the application; that comments were received from the USDA National Resources Conservation Service; that there is a letter in opposition that was read into the record.

The Commission found that David Hutt, Esquire, was present on behalf of Delaware Animal Products, LLC along with Scott Peterman and that they state in their presentation, exhibit booklet, and in response to questions raised by the Commission that the applicant proposes a change of zone from LI – 1 to LI – 2; that a wood chipping operation existed on the lot; that a violation letter was issued because of the wood chipping operation; that the applicant began looking into applying for a Conditional Use, however, no Conditional Use was permitted with the current zoning district; that mulching is not addressed in the County Code; that mulching is typically seen in AR – 1 zoning districts as a Conditional Use; that LI – 2 has a similar provision to allow a Conditional Use for mulching; that a letter was sent to Mr. Lank for determination of an application being needed and a consensus was received; that no Traffic Impact Study is required; that the Town Center is helping with bedding for the poultry industry; and that the proposed Conditional Use meets State Strategies and the Comprehensive Plan.

Mr. Hutt also stated in the presentation that the reason for the application is uses within LI-1 Zoning are indoors; that the complaint seems somewhat justified but there is still concern with the compatibility of the proposed rezoning with the surrounding area; that DNREC regulates noise; that some concerns are Soil Preservation issues; that it is difficult to contain outside materials; and that he believes there is ways to mitigate the issues.

Mr. Ross noted that the Commission cannot assign conditions to a change of zone application.

Mr. Robertson noted that the Commission can place conditions on a site plan, however the change of use application, if approved would allow any of the uses in the requested zone.

Mr. Peterman stated that there was no intent to operate the wood chipper at night; that their product is made to order, therefore there is no way to pre-grind the wood; that the typical hours of operation are 8:00 A.M. to 4:00 P.M. with 8:00 A.M. being maintenance hours on machines; that the grinding of wood continues between 8:00 A.M. and 4:00 P.M.; that an order is always started the next day after it is ordered; and that there is a large noise difference between the building and the back towards the residential areas.

The Commission found that Bonnie Smith, Tom Smith, Jeff Smith, Matt Smith and Charlie Smith are in opposition of this application; that they stated in their presentations that they live in the surrounding properties; that they are concerned with the noise the most; impacts to their adjacent orchard and agritourism operations; that fuel trucks and maintenance vehicles going in and out are a concern; that there are no normal hours of operation; that the wood chipper is being used as late as 9:30 P.M.; that the operation takes away from the values of their property; and that they cannot enjoy their home with the operation continuing.

The Commission found that Jeff Tull is in opposition of this application; that he stated in his presentation that he lives a mile away from the operation; that both “Smith” families are good people and good neighbors; that he is concerned with truck traffic; and that the “minimum noise” and dust would be best.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

AN ORDINANCE TO AMEND CHAPTER 90, §§90-4 AND 90-5; CHAPTER 99, ARTICLES I, III, V, VI AND VIII, §§99-5, 99-6, 99-18, 99-26, 99-30, 99-31, 99-32, 99-36 AND 99-40; CHAPTER 110, ARTICLE XI AND XXI, §§110-84 AND 110-136; AND CHAPTER 115, ARTICLES I, XVI, XXIV AND XXVII, §§115-4, 115-128, 115-129, 115-172, 115-174, 115-218, 115-221 AND 115-224 OF THE CODE OF SUSSEX COUNTY REGARDING DRAINAGE AND GRADING REQUIREMENTS, ROAD, DRIVE AND PARKING CONSTRUCTION AND RELATED REQUIREMENTS, BONDING REQUIREMENTS, PROJECT CONSTRUCTION INCLUDING NOTICES TO PROCEED, INSPECTIONS AND CLOSEOUT, AND CLARIFICATION OF THE MANNER IN WHICH CERTAIN FEES ARE ESTABLISHED.

Mr. Hans Medlarz, Sussex County Engineer, stated that the square brackets indicate deleted language; that the Ordinance does not apply to minor subdivisions or commercial; that the proposed Ordinance Amendment primarily applies to Major Residential Subdivisions, Residential Planned Community Plans, Residential Multifamily or Townhouse Plans; that the goal is to clarify and simplify areas of the code; that this ordinance is the product of numerous working group meetings and that members of the working group had to endure lengthy meetings without compensation; that right now current code does not talk about how a site is graded however we want all customers to walk away happy; that today a building permit can be obtained without lines and grades, in the future a lot grading plan would be required and prior to issuance of a Certificate of Occupancy, a Grading Certificate would be submitted; The staff recommendations are as follows:

- Section 2 (§99-5) should be amended to delete the reference to “Certificate of Occupancy” in Line 91
- Section 2 (§99-5) should be amended to delete “Lot Grading Certification” and replace it

with “Individual Grading Plan” in Line 96.

- Section 2 (§99-5) should be amended to add the following new sentence at the end of Line 97: “No Certificate of Occupancy shall be issued without the submission of a Lot Grading Certificate meeting all requirements of the Sussex County Drainage and Grading Requirements.”
- Section 5 (§99-18.C) should be amended to rephrase the last sentence at Line 233 as follows: “A Letter of No Objection or other appropriate entrance approval from the Delaware Department of Transportation...”
- Section 5 (§99-18.E.7.a) should be amended at Line 400 to add a phrase “in addition to a solid yellow edge-of-pavement striping designation.”
- Section 5 (§99-18.E.7.b) should be amended at Line 403 to insert the word “unobstructed” between the words “the” and “travel lane”.
- Section 5 (§99-18.E.7.) should be amended at Line 404 to add a new section “c.” as follows (re-lettering the items that follow):

“c. On-street parking is permitted at 90 degrees (perpendicular) where the unobstructed travel lane width is not less than 24 feet.”
- Section 9 (§99-32D) at Line 963- “by” should be corrected to “be”.
- Section 19 (§115-221(17)D at Line 1231- “Commission” should be replaced with “County”.

Mr. Medlarz presented a power point presentation that is attached to this record.

Mr. Wheatley stated that everybody including County Council agrees this is needed; that HOA are concerned with drainage design and inspections because standards like this are not in place; that it will protect the site contractor, the County, and the homeowner; that many people are already following these procedures.

Mr. Hudson stated that his concern is where do the responsibilities lie as far as subdivisions go; and that anything on the books now is not going to be faced with this new requirement.

The Commission found that Ring Lardner is in support of this Ordinance and read a letter stating that he is representing the Working Group; that the Working Group is comprised of the local homeowners; that they have met numerous times to develop the Ordinance draft; that the proposed Ordinance is in the best interest of the County and its citizens; that all projects going forward will meet the same standards and address the various issues and concerns that all citizens and workers deal with; and that the Working Group fully endorses the proposed Ordinance as presented.

The Commission found that Kevin Burdette is in support of this Ordinance and read a letter stating that the proposed Ordinance has come a long way; that he has concerns about certain wording within the proposed Ordinance; that a certification be prepared by a licensed professional in Delaware; that certain sections of the proposed Ordinance should be amended to best fit the personnel and processes being amended; and that an appeal process is a viable thing to have.

The Commission found that Tom Natelli is in support of this Ordinance; that he states in his presentation that the proposed Ordinance will be a great enhancement; and that it captures all the best interests of Sussex County.

The Commission found that James Cannon is concerned with drainage and lives in Keenwick Sound.

At the conclusion of the public hearings, the Commission discussed this Ordinance.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to recommend adoption of the ordinance with staff recommendations. Motion carried 4 – 0.

OTHER BUSINESS

DRC Properties

Revised Site Plan

Mr. Brandewie advised the Commission that this is a revised site plan for the construction of 86 multi-family townhouse units to be located off of Lighthouse Road. The Planning Commission granted preliminary approval on February 20, 2008 and the final site plan was approved on October 29, 2013. The original site plan consisted of 100 townhouses. The revised site plan reduces the number of townhouses with changes to the road layout and stormwater management location. The property consists of 12.99 acres and is zoned HR-1. The Tax Parcel is 533-12.00-76.05. Staff is awaiting updated agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the revised site plan with final site plan approval upon subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

Seagrove (fka Harlton) 2005-95

Revised Preliminary Subdivision Plan

Ms. Cornwell advised the Commission that this is a revised preliminary subdivision plan to allow for the redesign of some lots and roads. The redesign removes a road to the north and relocates the parcels that were proposed to be along the road. The new design creates a larger buffer to the property to the north. The number of lots did not change. The Planning

Commission granted final subdivision approval on December 16, 2015. The property is zoned AR-1. The tax parcel is 134-11.00-169.00. Staff is awaiting updated agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the revised preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

Rehoboth Shores – Campground

Preliminary Site Plan

Ms. Cornwell advised the Commission that is a preliminary site plan for the establishment of a campground. The property has two conditional uses on the property for the campground and mobile home park (CU 1862 and CU 1926). The Planning Commission approved a revised site plan for Area 2 on May 21, 2015. The plan complies with the conditions of approval and Zoning Code. The property is zoned AR-1. The tax parcel is 234-24.00-35.00. Staff is in receipt of all agency approvals for the campground.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

Fulmer Farm Market

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan for the construction of a mixed used 2-story building for retail and residential use with site improvements. The first floor will consist of approximately 4,500 SF to be used as a Farmer's Market. The second floor will consist of two apartments. The plan proposed parking to be located within the front yard setback that requires approval by the Planning Commission. The property is zoned C-1. The Tax Parcel is 234-23.00-311.13. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

Cool Spring Mini-Storage Facility

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan to construct two office buildings for 6,000 SF and approximately 137,300 SF of storage buildings located on a 9.5-acre site zoned CR-1. The property is located off of Lewes Georgetown Highway, (Route 9) east of Georgetown. The site will contain on-site parking and stormwater management facilities. The Planning Commission must approve parking in the front yard setback. The Tax Parcel in 235-30.00-53.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Ross and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

911 Paintball Sports (CU 1993)

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan to support a commercial paint ball operation approved by CU 1993. The site contains buildings and obstacles in addition to perimeter fencing with parking facilities. The property consists of 5.13-acre site and is zoned AR-1. The property is located off of Saint Johnstown Rd. The Tax Parcel is 430-8.00-9.02. Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Hudson and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

Lands of Folke on Sand Hill Rd.

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of two (2) parcels of land with the creation of a 50-ft. easement. The two new parcels will contain 0.8 ac. +/- and 1.48 ac. +/- . The residual will contain 5.55 ac. +/- . The residual will have frontage and access off of Sand Hill Rd. the new easement will go over and exiting driveway that connects to an existing 50 ft. easement. There is an existing lot off the existing easement that the new easement will connect. Any further subdivision shall require a major subdivision. Staff is in receipt of DelDOT approval.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve minor subdivision with 50-foot easement with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4 – 0.

Lands of O'Neill on Seashore Hwy.

Minor Subdivision with 50 ft. easement.

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of three (3) parcels off a 50-ft. easement. The parcels will contain 4.15 ac. +/-, 2.65 ac. +/- and 6.75 a. +/- . The residual will have access off of Seashore Hwy. the new 50 ft. easement will go over an existing driveway. Any further subdivision shall require a major subdivision. Staff is in receipt of DelDOT approval.

Motion by Mr. Ross, seconded by Mr. Hudson and carried unanimously to approve minor subdivision with 50-foot easement with final approval subject to staff upon receipt of all agency approvals and no further subdivision. Motion carried 4-0.

Lands of Myer on Seashore Hwy.

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of one (1) parcel of land off an existing 50 ft. easement. The new parcel will contain 2.174 ac. +/- . The residual will contain 16.646 ac. +/- . The existing 50 ft. easement allows for access to the residual and another parcel of land. Any further subdivision shall require a major subdivision. Staff is awaiting approval from DeIDOT.

Motion by Mr. Ross, seconded by Mr. Hudson and carried unanimously to approve minor subdivision with 50-foot easement with final approval subject to staff upon receipt of all agency approvals and no further subdivision. Motion carried 4 – 0.

Additional Business

Approval of Authorized County Plan Signers

The Commission approved Jennifer Walls, Planning and Zoning Manager and Jennifer Norwood, Planning Technician as authorized County Plan Signers in addition to Janelle Cornwell, Planning Director, Dan Brandewie, Planner II, and Jeff Shockley, Environmental Services Manager.

Discussion regarding the Comprehensive Plan

Ms. Cornwell advised the Commission that a joint workshop would be planned between the County Council, Planning Commission, and DeIDOT; that the workshop would be potential time to discuss the draft chapter; and that land use processes and descriptions would be included.

Opportunity for public comment regarding Comprehensive Plan

Dorothy Cannon spoke regarding the Comprehensive Plan. She stated that she attended the meeting Tuesday and believes the Commission is more in accord with the chapters and potential Ordinance drafts than they believe. She is thankful for the workshop.

James Cannon spoke regarding the Comprehensive Plan. He stated his concern for impact fees within the Indian River School District. He stated that the school district is growing exponentially each year. He asks the Commission to include in the plan more information about impact fees for roads and schools.

Meeting adjourned at 10:00 p.m.

Chapter 99, 110 & 115 ORDINANCE Amendment Introduction

Sussex County Council Meeting
January 10, 2017

Summary

The proposed Ordinance Amendment primarily applies to Major Residential Subdivisions, Residential Planned Community Plans, Residential Multifamily or Townhouse Plans.

The proposed Ordinance Amendment is to address, clarify, and in many instances simplify, areas of the County Code that deal with drainage, road design, bonding, project starts and closeouts, and fees.

This ordinance amendment is the product of a several working group meetings that included participants from the public, developers, engineers, site work contractors, home builders and representatives from Sussex County and the Sussex Conservation District.

This short presentation is to highlight, section by section, the proposed amendments.

The sections listed here correspond to the sections of the proposed Ordinance.

Working Group

Site Design Engineers	
Tim Crouch	Davis-Bowen & Friedel, Inc.
Ring Lardner	Davis-Bowen & Friedel, Inc.
Steve Marsh	George Miles & Buhr
Frank Iba	Solutions IPEM
Ken Usab	Morris & Ritchie Associates, Inc.
John Murray	Kercher Engineering Inc.
Homebuilders	
Kevin Brazyna	Inlight Homes
Preston Schell	Schell Brothers
Greg James	Ryan Homes
Ted Ruberti	NV Homes
Jake Booth	Capstone Homes
Tom Nabell Jr.	Nabell Communities
Site Contractors	
Bobby Harshey	David Harshey and Sons
Jay Murray & Doug Brown	Bunting and Murray
Gus Croll	A.P. Croll
Homeowners	
Sal Ziva	The Ridings of Rehoboth
Paul Brager	Bay Crossing
Sussex County Government	
Mike Brady	Director of Public Works
Janelle Cornwell	Planning & Zoning Director
Andy Wright	Chief of Building Code
Hans Medlarz	County Engineer
Sussex Conservation District	
David Beard	Sussex Conservation District
Jessica Watson	Sussex Conservation District
James Elliott	Sussex Conservation District

Staff Recommendations

- Section 2 (§99-5) should be amended to delete the reference to “Certificate of Occupancy” in Line 91.
- Section 2 (§99-5) should be amended to delete “Lot Grading Certification” and replace it with “Individual Grading Plan” in Line 96.
- Section 2 (§99-5) should be amended to add the following new sentence at the end of Line 97: “No Certificate of Occupancy shall be issued without the submission of a Lot Grading Certificate meeting all requirements of the Sussex County Drainage and Grading Requirements.”
- Section 5 (§99-18.C) should be amended to rephrase the last sentence at Line 233 as follows: “A Letter of No Objection or other appropriate entrance approval from the Delaware Department of Transportation...”.
- Section 5 (§99-18.E.7.a) should be amended at Line 400 to add a phrase “in addition to a solid yellow edge-of-pavement striping designation.”

Staff Recommendations (continued)

- Section 5 (§99-18.E.7.b) should be amended at Line 403 to insert the word “unobstructed” between the words “the” and “travel lane”.
- Section 5 (§99-18.E.7.) should be amended at Line 404 to add a new section “c.” as follows (re-lettering the items that follow):
“c. On-street parking is permitted at 90 degrees (perpendicular) where the unobstructed travel lane width is not less than 24 feet.”
- Section 9 (§99-32D) at Line 963- “by” should be corrected to “be”.
- Section 19 (§115-221(17)D) at Line 1231- “Commission” should be replaced with “County”.

Section 1.

- This section amends Chapter 90 of the Code dealing with sediment control and stormwater management in Sussex County.
- This is an amendment to clarify the appropriate standards that apply, and deletes references to standards that no longer exist.

Section 2.

- This Section amends Chapter 90, and ties into new requirements in Chapters 99 and 115. Like Section 1., it deletes references to standards that no longer exist.
- It also confirms that no building permit shall be issued until a Lot Grading Certificate is provided to Sussex County. Lot Grading Certificates are addressed later in the Ordinance.
- It also deletes about 15 lines of Code that are now unnecessary.

Section 3.

- This Section adds some new definitions within the Subdivision Code.
- It establishes and defines a “Bulk Grading Plan”, which is the initial grading plan for a residential project that establishes grades and locations of drainage features, road culverts, driveway pipe sizes, stormwater conveyance features, etc.
- It also establishes and defines “Detailed Grading Plans”, on a phase by phase basis depicting final grades, including house and lot perimeter spot elevations, showing that all lots are designed to properly drain.
- It establishes and defines “Individual Lot Grading Plans” which show the grade on each individual lot, again showing that the lot is properly graded for drainage.
- Finally, it establishes and defines a “Lot Grading Certificate” that must show that a home constructed on lot conforms with the Individual Lot Grading Plan.

Section 4.

- This Section simply clarifies that no grading, excavation or construction under the County's jurisdiction can occur without a Notice to Proceed from the County Engineer.
- This codifies the current practice.

Section 5.

- This Section deals with Street Design Standards. In summary, it **deletes** the current strict, inflexible and outdated standards which County Engineering has not applied for years. In fact, there was a proposal to delete or revise these items several years ago when the associated cross-sectional drawings were deleted. These drawings were deleted, but for some reason the standards were not.
- These new set of standards give more specific standards that must be applied in street construction, swale design, sidewalk location and design, installation of driveway culverts, on-street parking design and location, etc.
- This Section meets the DSFP Regulations, has been reviewed by the Fire Marshall and comments have been solicited from the Sussex County Fire Chiefs Association.

Section 6.

- This Section deletes an unnecessary and duplicative reference to fees.
- It ties into later changes that require all fees to be established by County Council as part of the annual budget process and not at the discretion of the County Engineer.

Section 7.

- This Section codifies the “Notice to Proceed” process that is currently employed by County Engineering on residential projects.
- Currently, the Code does not specifically reference the approval that must be issued by County Engineering before work can commence on a project.
- This is implied in several areas of the Code, which require the department to approve the plans, etc.
- This simply inserts the actual issuance of a “Notice to Proceed” after all of the existing requirements have been satisfied so that the Code matches the long-standing process that has existed.

Section 8.

- This section establishes a clear and detailed set of “Closeout Procedures” for projects. Currently there are no clearly defined standards that a developer, property owner, resident, contractor, etc. could look to for guidance in determining whether a final approval could be issued by the County. These amendments establish those guidelines.
- It also sets forth a timeline for installation of a paving top coat- this has become a real issue with residents who must live indefinitely with just a basecoat on their roads.
- This also provides clear guidelines to County Inspectors for any repairs or “punch list” items that must be addressed prior to project closeout.
- Finally, like the codification of the “Notice to Proceed”, it also codifies the issuance of “Substantial Completion” which has been the final step in development construction for years.
- All of this will improve the County’s ability to call bonds or letters of credit in the event a project is not completed in a timely way.

Section 9.

- This section re-codifies the “no-bond” process that allows development construction to proceed without a bond as long as no lots are transferred or sold.
- It also confirms for the first time that all amenities must be bonded as a separate phase of the subdivision.
- Finally, it states that bonded phases cannot be altered or amended without a new bond being supplied- which has been an ongoing problem lately.

Section 10.

- This Section relates to the Lot Grading Certificates.
- It states that no Building Permit can be issued until a Lot Grading Certificate is submitted to the Building Code Department.
- This only applies to Building Permits in Developments that were required to have Bulk Grading Plans as part of their approvals- in other words new developments approved after the date of this amendment.

Section 11.

- This Section changes the sun-setting of subdivisions. It now states that substantial construction must be actively maintained and/or underway within 5 years of the date of recordation of a final site plan.
- It also deletes a lot of language that related back to the early 1980s which is no longer necessary in the Code.
- Note that this change also caused several following subsections of 99-40 to be re-lettered, which did not change any actual text but added almost 50 lines to this document.

Section 12.

- This change simply restates the new definitions of “Bulk Grading Plan”, “Detailed Grading Plans”, “Individual Site Grading Plans” and “Grading Certificate” that are in Chapter 99 of the Code (as referenced in Section 3 above) into the Zoning Code.
- It adds a new definition of “Parking Lot Drive”, which is necessary for the design of multi-family or commercial drive and parking areas.
- It also deletes inconsistent dimensions and design standards that were contained in the definition of “Parking Space, Off Street” and “Street”.

Section 13-17.

- **Section 13.** This merely confirms the distinction between streets with lot frontage (which are governed by the Subdivision Code) with parking and drive requirements for multi-family or commercial developments.
- **Section 14.** This confirms that Residential Planned Communities must comply with the bonding requirements established by §99-32 of the Subdivision Code.
- **Section 15.** This adds a statement to clarify the design standards for roadways within manufactured home parks and campgrounds.
- **Section 16.** This section only revises a cross reference to §99-40C.
- **Section 17.** This section also only revises a cross reference to §99-40C.

Section 18.

- This Section relates to the new Bulk Grading Plan requirement, and provides that a Bulk Grading Plan must be submitted at the same time as the Final Site Plan.
- The Bulk Grading Plan requirement applies to all site plans including commercial ones. It clarifies what topographic information is already required. It does not increase these requirements.
- It also confirms that all Final Site Plans under the Zoning Code are valid for 5 years. Previously, there was no sun-setting of Final Site Plans approved under the zoning code.

Section 19.

- This section relates to the new Individual Site Grading Plan requirements and states that no building permit shall be issued without them- unless the original plan approval predated the Bulk Grading Plan requirement.

Section 20.

- This section refers to fees in Chapter 110 of the Zoning Code regarding water and sewer.
- **It does not establish any new fees.**
- It does state that the fees that the county collects for this work (here, construction, administration and inspection fees for the construction of county sewer infrastructure) must be established by County Council as part of the annual budget process.

Section 21.

- This section is another area regarding existing fees (regarding the extension or revision of a sewer district boundary). It states that these fees must be established by County Council as part of the annual budget process.

Section 22.

- This section establishes the effective date of the ordinance.
- Sections 1, 4, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 20 and 21 will take effect immediately.
- Others should take effect sometime in the future- mainly those dealing with grading plans- to give property owners, developers, engineers some lead time to comply with the new design requirements.
- The remaining Sections, 2, 3, 5, 10, 18 and 19 shall not apply to any application formally accepted by the Planning Department; otherwise they shall take effect thirty (30) days from the date of adoption by County Council.

Comments and Questions?