



32 WHEREAS, it has been determined that this Ordinance promotes and  
33 protects the health, safety, convenience, orderly growth and welfare of the  
34 inhabitants of Sussex County.

35 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**  
36 **ORDAINS:**

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38 **Section 1. The Code of Sussex County, Chapter 99, Article II, §99-9**  
39 **“Public hearing on preliminary plat approval or disapproval” is**  
40 **hereby amended by deleting the language in brackets and by**  
41 **inserting the italicized and underlined language in Subsection 99-9.C**  
42 **thereof as follows:**

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44 **§ 99-9 Public hearing on preliminary plat approval or**  
45 **disapproval.**

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49 C. In addition to the other provisions contained within this article, an  
50 Applicant for approval of a preliminary plat shall *demonstrate how the*  
51 *preliminary plan is consistent with the Code of Sussex County and the*  
52 *Comprehensive Land Use Plan and that the following criteria are*  
53 *satisfied and the manner in which each one is satisfied* [provide that the  
54 following criteria are incorporated and addressed in the plat and the  
55 manner in which each one is incorporated and addressed] through the  
56 design of the preliminary plat:

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58 (1) That the proposed subdivision is integrated into existing terrain and  
59 surrounding landscape.

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61 (2) That all resources and resource buffers are protected in accordance  
62 with Chapters 99 and 115 herein [and that floodplains are minimally  
63 used].

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65 (3) [That natural and historic features are preserved and forest  
66 fragmentation and vegetation and soil removal is minimized. In addition,  
67 a forest assessment shall be conducted with a forest assessment report  
68 provided with the preliminary plat. If woodlands or mature forests that  
69 contain high habitat value are found, these areas shall be conserved to the  
70 maximum extent possible.] That the cultural landscape, including scenic  
71 views and cultural and historic features, are identified and protected as  
72 appropriate on the preliminary plat.

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74 [(4) That open space and scenic views are preserved.]

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76 ([5]4) That the supply of potable water to future residents of the proposed  
77 subdivision is safe and adequate for their use.

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79 ([6]5) That the means and method of sewage disposal are adequately  
80 addressed for the proposed subdivision.

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82 (6) That all lots shall be configured to be contained completely outside  
83 of all wetlands and that [That] the proposed subdivision will not pollute  
84 surface water or groundwater.

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86 ([8]7) That the anticipated method of minimization of erosion and  
87 sedimentation are adequately identified and that the proposed subdivision  
88 complies with the requirements of Chapter 90 of the Code of Sussex  
89 County.

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91 ([9]8) That changes to the groundwater levels will be minimized and  
92 that groundwater recharge is maximized as a result of the proposed  
93 subdivision and that the methods of both are adequately identified. In  
94 addition, that there will not be increased rates of runoff or increased risk  
95 of flooding onto adjoining properties from the design and construction of  
96 the proposed subdivision, and the anticipated methods used to achieve  
97 these criteria are adequately identified.

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99 ([10]9) That area property values will not be adversely affected.

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[(11) That any active farmland and tree farming adjacent to the proposed subdivision is adequately preserved through the design and construction of the proposed subdivision.]

(10) That objectionable features, including but not limited to, utility infrastructure, parking areas, loading zones and outdoor storage areas are screened from view of neighboring properties and roadways.

[[12]11) That the Applicant has notified the local school district where the proposed subdivision will be located.

[[13]12) That public buildings and community facilities will not be adversely affected by the proposed subdivision.

[[14]13) That the subdivision is either within an established Transportation Improvement District or the subdivision endeavors to maintain the current Delaware Department of Transportation Level of Service on all adjacent roads and intersections after the subdivision is completed and in no event will allow the Level of Service to degrade below a Level of Service D. A segment analysis of the adjacent roads and intersections may be submitted in cases where the subdivision does not warrant a Traffic Impact Study.

[[15]14) That the proposed subdivision will be compatible with other area land uses.

[[16]15) That there will be safe and efficient vehicular and pedestrian movement within the site and to and from adjacent developed properties with interconnectivity where appropriate in compliance with Section 99-17D. Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.

(16) No lots shall have direct access to any state-maintained roads.

135 (17) That lots are located on the environmentally suitable portions of the  
136 tract, specifically those portions of the tract least encumbered by sensitive  
137 environmental features, including but not limited to wetlands, mature  
138 woodlands, waterways and other water bodies.

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140 (18) That the following sequence and process was followed in the site  
141 design of the preliminary plan:

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143 (a) Lands that should be preserved are identified first. First, areas  
144 worthy of preservation should be mapped, including wetlands,  
145 wooded areas, waterways, other water bodies, and natural drainage  
146 areas. Then, other features that are important should be mapped,  
147 such as tree lines, scenic views, historic buildings, and prime  
148 farmland. The areas with the fewest important natural, scenic and  
149 historic features should be considered the "potential development  
150 area."

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152 (b) Developable lands should be identified second. The most  
153 appropriate locations for development should be chosen to minimize  
154 the impact to the most important features mapped in (18)(a).

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156 (c) Roads and trails should be identified third. After the  
157 developable areas are determined, a road system should be  
158 designed to serve those homes. A trail system that links homes to  
159 destinations outside of the tract should be designed.

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161 (d) Lot lines should be located fourth. The last step is to configure  
162 lot lines and make necessary adjustments to satisfy the various  
163 reviewing agencies' comments.

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165 **Section 2. The Code of Sussex County, Chapter 99, Article III, §99-**  
166 **17 "Street Layout" is hereby amended by deleting the language in**  
167 **brackets and by inserting the italicized and underlined language in**  
168 **as follows:**

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§ 99-17 Street layout.

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D. Proposed collector streets in the subdivision shall provide for the interconnectivity with [and continuation of existing, planned, or platted streets on] adjacent tracts unless such continuation shall be prevented by preservation easement, topography or other physical condition or unless such extension is found by the Commission to be unnecessary for the coordination of development between the subdivision and such adjacent tracts. When deemed advisable, the Commission may restrict access to proposed collector streets from abutting properties.

E. Where [the Commission deems it desirable or necessary to provide access] interconnectivity is required to adjacent tracts that are not presently subdivided, proposed collector streets in the subdivision shall be extended to the boundary lines with such adjacent tracts, and temporary turnarounds shall be provided within the subdivision at the ends of such streets, by means of temporary easements or otherwise. Such interconnectivity shall be fully engineered to be compatible with the topography of the adjacent tract and shall be shown to the property boundary or boundaries on the Final Site Plan. Whenever possible, such interconnectivity shall be designed at a perpendicular alignment to the property boundary. No buildings, structures or stormwater management features shall be located within the areas of interconnectivity. The Final Site Plan shall also include a Temporary Construction Easement for the benefit of the adjacent tract to be used to facilitate the completion of the fully constructed interconnectivity.

198 **Section 3. The Code of Sussex County, Chapter 115, Article IV, §115-**  
199 **25 “Height, Area and Bulk Requirements” is hereby amended by**  
200 **deleting the language in brackets as follows:**

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202 § 115-25 Height, area and bulk requirements.

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204 [E. Design requirements for cluster development.

205 (1) All development shall be in accordance with the latest  
206 amendment to the community design standards.

207 (2) Housing types in the low-density area, as shown on the Sussex  
208 County Comprehensive Plan, are limited to single-family detached  
209 dwellings and manufactured homes where permitted by ordinance.

210 (3) The perimeter buffer and perimeter buffer protection area as  
211 required by § 99-21.A.

212 (4) No lots shall have direct access to any state-maintained roads.

213 (5) All lots shall be configured to be contained completely outside  
214 of all wetlands.

215 (6) Any development using the option in Subsection B(2) shall  
216 have central water and wastewater systems operated and maintained  
217 by companies authorized by the State of Delaware to perform such  
218 services. Wastewater collection and treatment systems must be  
219 designed in accordance with the requirements of Sussex County  
220 ordinances and conform to the requirements for a central sewer  
221 system as defined in § 115-194A of the Sussex County Zoning  
222 Ordinance.

223 F. Review procedures for cluster development.

224 (1) The developer shall submit an application for a cluster  
225 development in accordance with Chapter 99, Subdivision of Land,

226 of the Sussex County Code and which shall include, at a minimum,  
227 a sketch plan showing the location and uses of all open spaces, the  
228 extent of existing wooded areas and wetlands and the location of any  
229 historical or cultural resources. The Director of Planning and Zoning  
230 may waive this requirement when the proposed development does  
231 not contain significant natural features or resources.

232 (2) The information submitted shall include a plan for the  
233 management of all open space.

234 (3) The Planning and Zoning Commission shall determine that the  
235 following requirements are met before approving any preliminary  
236 plan and such application shall be reviewed on an expedited basis.

237 (a) The cluster development sketch plan and the preliminary  
238 plan of the cluster subdivision provides for a total environment  
239 and design which are superior, in the reasonable judgment of  
240 the Planning Commission, to that which would be allowed  
241 under the regulations for the standard option. For the purposes  
242 of this subsection a proposed cluster subdivision which  
243 provides for a total environment and design which are superior  
244 to that allowed under the standard option subdivision is one  
245 which, in the reasonable judgment of the Planning  
246 Commission meets all of the following criteria:

247 [1] Homes shall be clustered on the environmentally  
248 suitable portions of the tract, specifically those portions  
249 of the tract least encumbered by sensitive environmental  
250 features, including but not limited to wetlands, mature  
251 woodlands, waterways and other water bodies. This does  
252 not inhibit the development of wooded parcels.

253 [2] (Reserved)

254 [3] Required open space shall comply with the  
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[a] All required open space must meet the official definition of acceptable open space contained in § 115-4.

[b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.

[c] If one of the following physical conditions exists adjacent to the proposed cluster development tract, at least 30% of all required open space must be adjacent to:

[i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.

[ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.

[iii] Existing farmland and/or woodlands.

[iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.

[v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners'

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association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.

[vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.

[4] The preliminary plan shall comply with the requirements of § 115-193.

[5] Stormwater management shall be designed to promote groundwater recharge and protect groundwater quality. Natural drainage flows shall be maintained to the greatest extent possible. Drainage from rooftops shall be directed to vegetated areas or allow green technology. Stormwater detention and retention facilities should be designed to resemble natural ponds as referenced by DNREC in the National Resource Conservation Service's (NRCS) Pond Code 378, Visual Resource Design.

[6] Removal of healthy mature trees shall be limited.

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[7] Scenic views that can be seen from within the tract should be preserved to the greatest extent possible.

[8] The applicant for a cluster development shall illustrate that the following sequence and process was followed in the site design of the cluster project:

[a] Identify lands that should be preserved. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."

[b] Identify developable areas. Next, the most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in the first step.

[c] Locate roads and trails. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.

[d] Locate lot lines. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.

[9] Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.

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(b) The cluster development plan will preserve the natural environment and any historic or archeological resources.

(c) All of the items in Ordinance Number 1152 (see § 99-9C) have been addressed and approval of the cluster option for the proposed development will not have an adverse effect on any of the items to be considered.

**Section 4. Effective Date.**

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This ordinance shall become effective upon adoption. Provided however, that it shall not apply to subdivision or residential planned community district applications that have had a Preliminary Conference pursuant to §99-7 of the Code of Sussex County and that have submitted a PLUS application to the Office of State Planning Coordination and received a PLUS comment letter from the Office of State Planning Coordination following the PLUS meeting on the application.