

ORDINANCE NO. 1645

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING AN ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE

WHEREAS, the Sussex County Council adopted the Sussex County Comprehensive Plan Update on December 10, 2002, and

WHEREAS, the Environmentally Sensitive Developing Area is defined in the Comprehensive Plan Update as a Developing District with “special environmental design and protection requirement;” and

WHEREAS, the Comprehensive Plan Update states, “Any proposed intensive use should be required to provide rigorous environmental study;” and

WHEREAS, the Sussex County Council desires to protect and enhance the water quality of the County’s “Inland Bays”, and

WHEREAS, the Sussex County Council desires to provide for orderly development of the area surrounding the Inland Bays;

NOW, THEREFORE THE COUNTY OF SUSSEX ORDAINS:

The Code of Sussex County is hereby amended to add a new section to be known as Section 115-194.3, as follows: ES-1 Environmentally Sensitive Development District Overlay Zone (ESDDOZ)

A. Delineation of the Zoning District

- 1. The Environmentally Sensitive Development District shall include all lands designated as the “Environmentally Sensitive Developing Area” in the adopted Sussex County Comprehensive Plan dated January 1, 2003, or as subsequently amended.**
- 2. Where the boundary of the ESDDOZ is formed by a roadway, the overlay zone shall be deemed to include the contiguous property on the far side of the roadway, provided that depth of the ESDDOZ on contiguous property shall not exceed six hundred feet.**

B. Application Process

- 1. All rezoning, subdivision, business and industrial site plans, and conditional use applications involving one or a combination of the following shall be subject to the process and performance requirements as described hereinafter:**
 - a. Any Residential Planned Community application.**
 - b. Any development containing fifty or more dwelling units.**
 - c. Any development containing seventy five thousand square feet (75,000) or more of floor area used for commercial or industrial uses.**
 - d. Any use or activity that requires a permit in the Coastal Zone.**

- 2. The applicant shall submit an Environmental Assessment and Public Facility Evaluation Report and Sketch Plan (Report) to the Director of Planning and Zoning, a copy of which will be forwarded to the Office of State Planning Coordination and members of the Technical Advisory Committee for review and comment. The Sketch Plan shall address the following issues for the property to be developed and, where appropriate to the context, for the contiguous property. Information submitted by the applicant shall at a minimum contain the following:**
 - a. Proposed drainage design and the effect on stormwater quality and quantity leaving the site, including methods for reducing the amount of phosphorous and nitrogen in the stormwater runoff and the control of any other pollutants such as petroleum hydrocarbons or metals.**
 - b. Proposed method of providing potable and, where appropriate, irrigation water and the effect on public or private water systems and groundwater, including an estimate of average and peak demands.**
 - c. Proposed means of wastewater treatment and disposal with an analysis of the effect on the quality of groundwater and surface waters, including alternative locations for on-site septic systems.**
 - d. Analysis of the increase in traffic and the effect on the surrounding roadway system.**
 - e. The presence of any endangered or threatened species listed on Federal or State Registers and proposed habitat protection areas.**
 - f. The preservation and protection from loss of any tidal or non-tidal wetlands on the site.**
 - g. Provisions for open space.**
 - h. A description of provisions for public and private infrastructure.**
 - i. Economic, recreational, or other benefits.**
 - j. The presence of any historic or cultural resources that are listed on the National Register of Historic Places.**
 - k. An affirmation that the proposed application and proposed mitigation measures are in conformance with the current Sussex County Comprehensive Plan.**
 - l. Actions to be taken by the applicant to mitigate the detrimental impacts identified relevant to “a” – “k” above and the manner by which they are consistent with the Comprehensive Plan.**
- 3. The Director of Planning and Zoning shall prepare (with input from the County Administrator) guidelines describing the application process and the form and content of information to be submitted by the applicant and shall review all applications, plans, assessments and other information submitted and prepare a written report summarizing his findings and the comments of State agencies and other County offices. The Planning and Zoning Commission shall make a determination as to whether adequate information has been presented for the project to proceed. A completed report shall be required prior to any preliminary plan approval for a development subject to this ordinance. Approval of the report does not constitute final approval of the commenting agencies.**

C. Permitted Uses and Densities

1. Uses permitted in the Environmentally Sensitive Development District Overlay Zone will be those uses permitted in the underlying zoning category as established by the Sussex County Zoning Ordinance.
2. Uses prohibited in the underlying zone are also prohibited in the overlay zone.
3. The maximum density shall be the allowable density of the underlying zoning district for developments using a central water and wastewater collection and treatment system. Central Sewer System means centralized treatment and disposal facilities as defined in Section 115-194A. Within this Overlay District, clustering of single-family detached lots to a minimum lot size of 7,500 square feet is permitted in all residential zoning districts using a central water and sewer system. For dwelling units using on-site individual wastewater disposal systems, the allowable density shall be based on a minimum lot size of three-quarters of an acre. The applicant has the option of clustering the lots to a minimum lot size of one-half acre where soil conditions are suitable as determined by DNREC, provided however, that the number of lots or dwelling units permitted shall not exceed the number permitted in the underlying district.
4. For areas within the Conservation Zone, as currently defined in the Sussex County Zoning Ordinance, the minimum lot size and dimension requirements in the Conservation Zone shall apply.

D. Exemptions from the Environmentally Sensitive Development District.

The following are exempted from the requirement of this Ordinance:

1. Single Family Residential Lots of record as of the date of this ordinance.
2. Existing developments and developments which have filed for approval as of the date of this ordinance.

- E. Design consideration should be given by the applicant toward the establishment of a greenways system which utilizes schools, parks, wildlife habitat areas, river and stream corridors, wetlands, floodplains, historic sites, business parks, urban sidewalks, abandoned rail lines, roads, beach areas, and vacant land. Greenways should provide benefits like safe pedestrian, bicycling and equestrian routes for recreationists and commuters; and natural wildlife corridors and biological reserves.**

In addition to the above, move from Section 115-4C to Section 115-4B the following definition:

Development -- Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1645 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 9TH DAY OF DECEMBER 2003.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL