

ORDINANCE NO. 2658

AS AMENDED

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, SECTION 115-25 OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS

WHEREAS, the original Cluster Ordinance adopted by Sussex County Council required a showing of “Superior Design”, but never clearly explained or defined what that term meant; and

WHEREAS, Sussex County Council and the Sussex County Planning & Zoning Commission directed the introduction of Ordinance #2024 which was intended to set specific design criteria that had to be satisfied in order to achieve a “Superior Design” for approval of a Cluster Subdivision; and

WHEREAS, upon the adoption of Ordinance #2024, it was amended to create two separate paths to be chosen by a Cluster Subdivision Applicant: one path that contained the existing undefined and unspecified “Superior Design” criteria; and a second path that made the new, specific design criteria optional and incentivized by providing that an Applicant seeking to use these criteria would receive expedited treatment and processing by the County over the land use application; and

WHEREAS, no applications have utilized the second incentivized pathway containing the specific “Superior Design” criteria; and

WHEREAS, Sussex County Council now desires to eliminate the two pathways for a Cluster Subdivision and require all Applicants to utilize the specific design criteria currently contained in Section 115-25F(3) of the Sussex County Zoning Code.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article IV, §115-25 “Height, Area and Bulk Requirements” is hereby amended at subsection F.(3) thereof by deleting the language in brackets and adding the italicized and underlined language:

§115-25 Height, Area and Bulk Requirements.

F. Review procedures for cluster developments.

...

(3) [In respect to any preliminary cluster subdivision application that is submitted after the effective date of this amendment, if the applicant voluntarily elects to comply with the superior design criteria contained in this amendment,] T[t]he Planning and Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be [approved] *reviewed* on an expedited [review] basis. [The superior design criteria contained this amendment shall not apply to applications submitted under the terms of the cluster development ordinance, as it existed prior to the date of this amendment, or to any application hereafter submitted where the applicant does not voluntarily elect to comply with the requirements contained in this amendment.]

...

Section 2. The Code of Sussex County, Chapter 115, Article IV, §115-25 “Height, Area and Bulk Requirements” is hereby amended at subsection F.(3)(a) thereof by deleting subsection F.(3)(a)[2] in its entirety, as set forth in brackets as follows:

F. Review procedures for cluster developments.

(3) . . .

(a) . . .

[[2] The applicant must submit a “yield plan” that accurately depicts the maximum number of dwelling units possible on the same tract under the current applicable conventional (noncluster) development regulations.

[a] The yield plan shall be completed to scale, and accurately depict potential lots, streets, and storm drainage facilities. However, the yield plan is not required to contain the same level of engineering detail required for a subdivision plan.

[b] The yield plan shall depict all wetlands, wooded areas, waterways or other water bodies.

[c] The applicant shall comply with §115-25A(2) or §115-25B(3), as applicable. In addition, the maximum number of dwelling units allowed on a cluster development tract shall not be greater than the maximum number of dwelling units determined to be possible under the yield plan prepared for that same tract, plus the number of additional units allowed if the applicant proffers the required per unit fee provided for under § 115-25B(3) and F (3)(d) as provided for in Ordinance 1842.

[i] The yield plan shall not have any legal standing except for the purposes of determining maximum density allowed under a cluster development.]

Section 3. Effective Date.

This Ordinance shall take effect upon six (6) months from the date of adoption by Sussex County Council. Provided however, that it shall not apply to any completed applications on file with the Sussex County Office of Planning & Zoning.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2658 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF JUNE 2019.

ROBIN A. GRIFFITH
CLERK OF THE COUNCIL