

ORDINANCE NO. 3061

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE II, SECTIONS 99-9, "PUBLIC HEARING ON PRELIMINARY PLAT APPROVAL OR DISAPPROVAL" OF THE CODE OF SUSSEX COUNTY REGARDING DESIGN CRITERIA FOR ALL SUBDIVISIONS.

WHEREAS, Pursuant to the provisions of Title 9, Chapters 68 and 69 of the Delaware Code, the Sussex County Government has the power and authority to regulate the use of land; and

WHEREAS, Pursuant to Chapters 99 and 115 of the Code of Sussex County, the Sussex County Government has undertaken to regulate the use of land; and

WHEREAS, the existing Section 99-9C of the Code of Sussex County currently identifies 17 items that must be "considered" as part of the approval of any subdivision preliminary plat; and

WHEREAS, the requirement that the 17 items in Section 99-9C of the Code of Sussex County must be "considered" is too vague to be enforceable or to give clear direction to Sussex County, developers, landowners or the public; and

WHEREAS, Sussex County desires to clarify that the items in Section 99-9C are requirements and not merely "considerations"; and

WHEREAS, Sussex County desires to improve and revise the 17 items set forth in Section 99-9C that must be addressed as part of any Preliminary Site Plan; and

WHEREAS, the 2019 Sussex County Comprehensive Plan contemplates the revision of the Subdivision Code through amendments such as this to improve the design of all subdivisions and their integration into the surrounding area as referenced in Objective 4.1.2 therein ("Discourage incompatible land uses through the enforcement of existing land use controls, or through the development of new controls, where appropriate"), Goal 4.4 ("Minimize the adverse impacts of future development on existing development"), Objective 4.4.1 ("Ensure that new development compliments the character of the existing surrounding communities") and others; and

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

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

...

C. In addition to the other provisions contained within this article, **[the approval of a subdivision shall include consideration of the following]** an Applicant for approval of a preliminary plat shall provide that the following criteria are incorporated and addressed in the plat and the manner in which each one is incorporated and addressed through the design of the preliminary plat:

(1) **[Integration of the proposed subdivision into existing terrain and surrounding landscape]** That the proposed subdivision is integrated into existing terrain and surrounding landscape.

(2) **[Minimal use of wetlands and floodplains.]** That all resources and resource buffers are protected in accordance with Chapters 99 and 115 herein and that floodplains are minimally used.

(3) **[Preservation of natural and historical features.]** That natural and historic features are preserved and forest fragmentation and vegetation and soil removal is minimized. In addition, a forest assessment shall be conducted with a forest assessment report provided with the preliminary plat. If woodlands or mature forests that contain high habitat value are found, these areas shall be conserved to the maximum extent possible.

(4) **[Preservation of open space and scenic views.]** That open space and scenic views are preserved.

([7]5) **[Provision for water supply.]** That the supply of potable water to future residents of the proposed subdivision is safe and adequate for their use.

([8]6) **[Provision for sewage disposal.]** That the means and method of sewage disposal are adequately addressed for the proposed subdivision.

([9]7) **[Prevention of pollution of surface and groundwater.]** That the proposed subdivision will not pollute surface water or groundwater.

([10]8) **[Minimization of erosion and sedimentation, minimization of changes in groundwater levels, minimization of increased rates of runoff, minimization of potential for flooding and design of drainage so that groundwater recharge is maximized.]** That the anticipated method of minimization of erosion and sedimentation are adequately identified.

(9) That changes to the groundwater levels will be minimized and that groundwater recharge is maximized as a result of the proposed subdivision and that the methods of both are adequately identified. In addition, that there will not be increased rates of runoff or increased

risk of flooding onto adjoining properties from the design and construction of the proposed subdivision, and the anticipated methods used to achieve these criteria are adequately identified.

[(11)Provision for safe vehicular and pedestrian movement within the site and to adjacent ways.]

(1[2]0) [Effect on area property values.] That area property values will not be adversely affected.

(1[3]1)[Preservation and conservation of farmland.] That any active farmland and tree farming adjacent to the proposed subdivision is adequately preserved through the design and construction of the proposed subdivision.

(1[4]2)[Effect on schools, public buildings and community facilities.] That the Applicant has notified the local school district where the proposed subdivision will be located.

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

(1[5]4) [Effect on area roadways and public transportation.] 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.

(1[6]5)[Compatibility with other area land uses.] That the proposed subdivision will be compatible with other area land uses.

(16) 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.

Section 2. Effective Date.

This ordinance shall become effective upon its adoption by Sussex County Council.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 3061 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF DECEMBER 2024.



Tracy N. Torbert
Clerk of the Council