

Sussex Preservation Coalition Recommendations on Proposed Amendments to § 99-9 C. & Open Space



SUSSEX PRESERVATION COALITION
Educate ~ Advocate ~ Impact

12-11-24

“Subdivision Ordinance of Sussex”

Chapter § 99

§99-3Purpose

A.

This chapter is established to promote and protect the health, safety, convenience, orderly growth and welfare of the citizens of the county; to assist in the proper development, conservation of property values and use of land in the county; to encourage the preservation and conservation of farmland; and to assure that future schools and other public buildings, community facilities, residential developments and commercial and industrial areas will be conveniently and properly located.

Sussex Preservation Coalition Recommendations on Proposed Amendments to § 99-9 C.

- A key outcome from a County workshop held in 2023 was that a review and potential amendments were needed Section § 99-9 C.
- What is § 99-9 C. ?
 - First step in the subdivision approval process is for an applicant to submit a preliminary plat plan to the Planning and Zoning commission at a public hearing
 - § 99-9 C requires an applicant to consider 17 provisions in seeking approval for their plat plan
 - Wetlands
 - Open space
 - Erosion, sediment , runoff
 - Property values
 - Effect on schools and other public buildings
 - Roadways
 - and others

Purpose of Proposed Amendments

- Section 99-9C language that “must be considered” is too vague to be enforceable or to give clear direction to Sussex County, developers, landowners or the public.
- The County proposed to *raise the bar* and amend “for consideration” of the criteria to “satisfy” the criteria.
- To improve and revise the 17 items set forth in Section 99-9C that must be addressed as part of any Preliminary Site Plan
- After two public hearings, hours of testimony from stakeholders.....

Proposed amendments pass 5-0

Pros and Cons of Decision

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Language change:

From

“In addition to the other provisions contained within this article, the approval of a subdivision shall include consideration of the following”

To

In addition to the other provisions contained within this article, an Applicant for approval of a preliminary plat shall provide that the following criteria are satisfied and the manner in which each one is satisfied through the design of the preliminary plat:

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- Little or no attention to the need to amend the wording in any of the 17 provisions in the subdivision requirements
- Admission that the proposed amendments do not go far enough to avoid the vague and non-specific wording.
- Some debate over making additional amendments to improve objectivity and enforceability but legal advice indicated there would not be enough time in the 2024 calendar to make changes and allow for public review and comment.
- Admission to the fact it was not perfect but better than nothing
- Risks remain for all stakeholders with future application

Progress with Open Space Amendments

- We attempted to expand the definition of open space to clearly recognize the value and need to protect and maintain existing natural resources within the parcel, including forests.
- We attempted to improve the natural resource benefits that can be achieved by the design and maintenance of stormwater ponds, if they are going to be included in open space.
- We attempted to increase the amount of open space required by density levels, as developers frequently exceed those percentages already.
- We were successful in including the word 'undisturbed' when describing open space to recognize that leaving areas as is will maintain overall ecosystem functions.
- We were successful in encouraging tree planting by allowing green belts planted with trees on a thirty foot spacing to be allowed under open space.
- We were successful in including 'pocket parks', greater than 1/2 acre to be included in open space if they have recreational or natural resource values.

Thank you Steve Sinclair

What's next?

- Council comments indicate the door is open for future Council to consider future amending
- The new Council would be able to get it back on the agenda
- SPC will continue to work on needed modification to land use chapters to protect the environment, improve public safety and overall quality of life concerns

- Link to audio tape of 12-10-24 Council Public Hearing on Proposed Amendments to 99-9 C.
 - <https://sussexcountyde.gov/sites/default/files/audio/12%2010%2024%20CC%281%29.mp3> (starts at 1:48 minute)
 - <https://sussexcountyde.gov/sites/default/files/audio/12%2010%2024%20CC%282%29.mp3> (o- :158 minute)
- Sussex Preservation Coalition Recommendations on Proposed Amendments to § 99-9 C. & Open Space can be found on <https://www.sussexpreservationcoalition.org/>

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