

Planning Commission  
229 Rehoboth Avenue  
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City of Rehoboth Beach  
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PLANNING COMMISSION  
Regular Meeting  
City Hall Commissioners Room, 2nd Floor  
Friday, May 22, 2026; 1:30 p.m.

## **AMENDED AGENDA**

|                                                                                                                                                                                            | Page   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| 1. Call to Order                                                                                                                                                                           |        |
| 2. Roll Call                                                                                                                                                                               |        |
| 3. Verification of Meeting Notice - A. Womack                                                                                                                                              |        |
| 4. Approval of Minutes                                                                                                                                                                     |        |
| 5. Correspondence                                                                                                                                                                          |        |
| <a href="#">Comments received from Michael Strange on Chapter 236 draft rewrite - 14 May 2026 **</a>                                                                                       | 3 - 7  |
| 6. Old Business                                                                                                                                                                            |        |
| A. Continued discussion of Chapter 236 revisions and updates.                                                                                                                              | 8 - 74 |
| <a href="#">Presentation of Chapter 236 Update - 22 May 2026 **</a>                                                                                                                        |        |
| <a href="#">Draft Chapter 236 (Clean) - 15 May 2026 **</a>                                                                                                                                 |        |
| <a href="#">Chapter 236 Definition Section 236-5 (Clean) - 15 May 2026 **</a>                                                                                                              |        |
| <a href="#">Attachment 1 - Table of Plan Content Requirements - 22 May 2026 **</a>                                                                                                         |        |
| 7. New Business                                                                                                                                                                            |        |
| A. Discuss and possible consideration of request for additional year extension of the approvals for the construction of the Belhaven Hotel at 2 Rehoboth Avenue.                           | 75     |
| <a href="#">Letter received May 11, 2026 from Harold Dukes, Esq. of the law firm Tunnell &amp; Raysor P.A. requesting additional year extension of the approvals of the Belhaven Hotel</a> |        |
| 8. Other Business                                                                                                                                                                          |        |
| A. Building Inspector's Report                                                                                                                                                             |        |
| B. Report of any new applications that may have been timely submitted.                                                                                                                     |        |
| 9. Citizen Comment                                                                                                                                                                         |        |
| 10. Adjournment                                                                                                                                                                            |        |

AGENDA ITEMS MAY BE CONSIDERED OUT OF SEQUENCE  
[Time may not allow for the consideration of all agenda items.]

\*For additional information or special accommodations, please call (302) 227-6181 (TDD Accessible) 24-hours prior to the meeting.

**The public will be provided the opportunity to make comments regarding Old Business, New Business and Other Business. Comments are limited to three (3) minutes or at the discretion of the chair, one time per topic. Speakers are to state their name and address or relationship to the city.**

**Comments on non-agenda topics will be heard under "Citizen Comment" with the same speaker requirements and time limits.**

\*\*This correspondence/support document was embedded in the Agenda when it became available for posting on May 20, 2026.

amw: 05/14/26; posted 05/14/26; amended 05/20/26; reposted 05/20/26

## **COMMENTS BY MICHAEL STRANGE ON CHAPTER 236 DRAFT CITY REWRITE**

**5-14-2026**

There may be variations and differences on particular themes in individual citizen evaluations of the details in the proposed rewrite. However, the essence and intent of everyone's comments will most likely converge to create a more cohesive and rational code than the current version which has become outdated as to certain specific elements.

I believe this convergence coupled with comments from the public on the various perspectives will yield a singular and more coherent Chapter 236. That said, I believe there still is an Elephant in the room that the current proposal, even with agreed to future rewrites, fails to address. That is the role of the Board of Adjustment (BOA) in the decision making process for those projects explicitly requiring Planning Commission (PC) approval. The current process for evaluating plans that meet the criteria requiring PC approval are materially degraded when applicants seek BOA approval in advance of PC evaluation. Nothing in the current code restricts or limits an applicant from pursuing a BOA approval in advance of a PC approval.

Complex concatenated designs, may meet explicit local building codes and IBC criteria for "individual" elements; as viewed by the BOA on an item by item basis and BOA relief is granted. However, when viewed from a more analytic and holistic basis as required by the PC for such plans; these prior approved BOA plans will have a much higher statistical probability of failure, then if a more holistic analysis were to be performed, as required by PC evaluation per current Chapter 236-30 et.al.

History has explicitly shown that larger commercial projects that have first gone to BOA prior to coming to the PC have, in certain circumstances, resulted in absurd constructs and legal determinations which hamstringing the PC, waste everyone's time, and results in unnecessary extra expenditures of time and money of all concerned. Upon detailed critical evaluation of these particular decisions by the BOA; the published facts indicate that particular BOA decisions, 1) exceeded their authority under 270-74 and 270-75, and did not comply with explicit

applicable State and/or Federal laws, and/or 2) violated mathematical and/or scientific principles which rendered the particular decision meaningless for a particular proposal construct and would not be able to meet or comply with the very elements the PC is required to evaluate. (Note: I will not address the issue of “279-70 membership qualifications” as to “knowledge of problems of urban and rural development” as to current or past members of the BOA and/or their past or current representing attorney.)

The BOA has the authority under DE State law and Rehoboth Beach Zoning Code 270 Article VIII- 270-74 Powers. HOWEVER, under DE Title 22, CH3 II, 327; it also requires that those decisions ..... " provided such relief may be granted **without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation or map;.....**"

The BOA violated this DE law and Federal law in 3 cases for hotels that requested variances to height restrictions, FAR and other physical parameters, as well as ADA requirements that violated individually and/or collectively Federal Law. Additionally the BOA in those decrees also violated certain physical laws of Newtonian Physics and Euclidean geometry which were mathematically impossible as proposed in the 3 specific applications. Those 3 decisions clearly represented a "substantial detriment to the public good," and were in violation of both Delaware State Law and Local Rehoboth Beach Code requirements as previously noted.

In all three cases mentioned the attorneys representing the applicants did in fact make material misstatements of fact; the only question is did they do it "knowingly," or just parroted bad info given to them by their engineers and architects representing the client?

Ignorance by anybody; engineers, lawyers, or architects can't be allowed to incrementally destroy the city via bad administrative and/or legal decisions. Both the BOA and PC requires as a matter of law that applicants not deliberately withhold information which may be damaging to their application; full disclosure is required. Both the BOA and the PC are quasi-judicial bodies and must be in a position to give decisions based on “informed consent.” To do otherwise by the applicant and withhold information which later may be damaging to the city or

individuals limits the ability of the BOA or PC to make a legally valid decision. That situation is fraud. Lawyers, architects and engineers are considered as subject matter experts in their respective fields and as such can't knowingly withhold information that may be detrimental to their case. Explicitly under Rule 4.1 (a) of the Delaware Lawyers' Rules of Professional Conduct, an attorney has an ethical obligation "to not knowingly make a false statement of material fact or law to a third person in the course of representing a client." For professional Architects and Engineers the Delaware wording is not as explicit, but the same intent for protecting the public.

If you accept the premise that there is a problem as stated above; what then is a possible long term solution that is in the best interests of all citizens?

There are over 36,000 municipalities in the United States. They range in physical size from 1 square mile to 2,870 square miles, with populations from 1 to 8.3 million. That said, their statements in their objectives of their planning perspectives are very similar to the same articulations in our CDP. However, Delaware is the only State where the CDP has the force and effect of law. In the other 49 States it is a "reference" document which may or may not be incorporated wholly or piecemeal in their building and/or zoning codes; and /or legally totally disregarded!

Additionally across those 36,000 municipalities, the structure and composition of PC's and BOA's are all over the map structurally. In some municipalities the PC is also the BOA! Credentials required to serve on either a BOA or PC board can range from virtually none; except for being of "upstanding character," to high level engineering and legal degrees, or several years of service/experience in related fields, and/or various professional certifications. In smaller municipalities the BOA and PC members are volunteers. In larger municipalities the members are compensated for their time and research.

I believe based on my urban planning and engineering research over the last 55 years that there is no singular or fixed optimal solution to this problem as stated. Rather, there can be an approach that considers the various current and future possible outcomes that takes into account that we can't know the future exactly, but we can make decisions now that can better shape the future for all citizens. In that context, the Rehoboth Beach Comprehensive Plan in Chapter One: Executive

Summary and Vision, Paragraph 3 provides the guidance needed to create an effective policy framework; particularly the elements noted below indicated in bold type:

“Rehoboth Beach is now and will remain a multi-function city—or a town within a town. It is a stable and inclusive residential community as well as an active seaside resort with a vibrant commercial district. Its challenge is to maintain a balance among these local and regional identities, which requires managing its water resources, protecting its environment, promoting local business opportunities and viability, addressing its traffic and parking problems, providing municipal services, and **ensuring that future development is consistent with a small-town structural scale and architectural design that reflects its fundamental residential and pedestrian character.** The CDP is designed to help Rehoboth Beach continue to achieve this balance. Maintaining this balance will require a commitment that future development and redevelopment, both residential and commercial, reflect and be compatible with the City’s existing neighborhoods as well as its commercial districts, **particularly regarding building height, architectural character, and pedestrian orientation.**”

Therefore based on the CDP vision and the structure of similarly situated communities as Rehoboth Beach (ie they have an Ocean on one or more sides, and are considered a “successful” community based on various socio-economic metrics), I propose the following:

- 1) For plans as defined in the future that require PC approval I recommend that the original **270-5 Construal of provisions; higher standards to govern** be replicated and updated in its entirety and NOT reduced in scale or scope as shown in the “new” 236-4 proposal.
- 2) For plans as ultimately defined under the new 236-6 B which states the boundary conditions for such plans requiring PC approval; a new section should be added that states in appropriate legal terms that “BOA actions or requests must be deferred until AFTER the PC has issued a legal ruling on such submitted plan.” From a technical and scientific perspective a plan that requires a BOA determination that the PC cannot

support by an affirmative public vote should be rejected. The only recourse in that situation should be resubmittal of a modified approvable plan to the PC, or a legal challenge via normal judicial means. Sequencing is of critical importance in this explicit urban planning process.

Going to the BOA in advance prior to a more critical analysis by the PC has demonstrated repeatedly from an historical perspective, that this is a dangerous weakness in our current process and unfortunately all citizens will bare the brunt of this historical defect in our governance structure.

Facts do not cease to exist just because they have been ignored! Many of the parameters required to be evaluated by the PC are ephemeral by nature and incommensurable. Yet the PC is required by law to make those elements commensurable for measurement purposes as to sense of place, vitality, livability, economic vibrancy, and the public welfare and safety as explicated in 236-30 et.al. The PC does this with proven quantitative and qualitative methodologies as opposed to unfounded “beliefs” proffered by individual applicant’s desires to achieve certain personal pecuniary gains. The PC has a much higher bar for evaluation of submitted plans than that of the BOA for legal approval.

As a side note, the most successful communities in the United States similar to Rehoboth Beach in scale all have very restrictive limits on building heights, FAR and architectural embellishments (far more restrictive than our parameters). They also make extensive use of “overlay zones,” which are not currently permitted under Delaware zoning law.

A low-angle photograph of a white water tower against a bright blue sky with scattered white clouds. The tower has the words "Rehoboth Beach" painted on its side in a dark blue, serif font. The top of the tower is equipped with various antennas and a satellite dish. In the foreground, out of focus, are green leaves and clusters of small white flowers.

**Rehoboth  
Beach**

## Chapter 236 Update

Planning Commission Meeting  
May 22, 2026

# Objectives

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Modernize  
Existing Codes



Close  
Regulatory  
Gaps



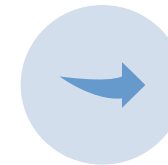
Clarity and  
Efficiency



Streamline  
Review  
Processes



Consistency  
with CDP



Placemaking  
and  
Revitalization



# Proposed Chapter 236 Outline

## **Article 1 – General Provisions**

- § 236-1 Title
- § 236-2 Purpose and Applicability
- § 236-3 Word Usage
- § 236-4 Construal of Provisions; Higher Standards to Govern.
- § 236-5 Definitions
- § 236-6 General Requirements and Restrictions

## **Article 2 – Application Process, Plan Content, Fee Schedule**

- § 236-7 Purpose and Applicability
- § 236-8 Project Types and Plan Phases
- § 236-9 Application Content and Submittal Process
- § 236-10 Plan Content
- § 236-11 Plan Content Requirements for Major Subdivisions, Minor Subdivisions, and Site Plans
- § 236-12 Application Requirements for Change of Zoning Requests
- § 236-13 Lot Consolidation Applicability
- § 236-14 Lot Partitioning Applicability
- § 236-15 Fee Schedule

## **Article 3 – Standards and Considerations**

- § 236-16 Purpose and Applicability
- § 236-17 Lot Design Standards
- § 236-18 Street Design Standards
- § 236-19 Easement Considerations
- § 236-20 Parking Requirements
- § 236-21 Natural Features to be Retained
- § 236-22 Suitability of Land, Preservation of Resources, Public Sites, Open Spaces



# Proposed Chapter 236 Outline

## **Article 4 – Plan Review Process**

- § 236-23 Purpose and Applicability
- § 236-24 Planning Commission Actions and Duties
- § 236-25 Concept Plan Review Process
- § 236-26 Preliminary Plan Review Process
- § 236-27 Final Plan Review Process
- § 236-28 Review Process for Change of Zoning Requests
- § 236-29 Plan Review Process for Lot Consolidation and Partitioning
- § 236-30 Actions Following Final Approval

## **Article 5 – Required Improvements**

- § 236-31 Purpose and Applicability
- § 236-32 Required Improvements
- § 236-33 Improvement Plans
- § 236-34 Bonds and Guaranties
- § 236-35 Inspection of Improvements
- § 236-36 Closeout Procedures

## **Article 6 – Application Amendments, Administrative Exceptions, and Expiration of Approvals**

- § 236-37 Purpose and Applicability
- § 236-38 Application Amendments
- § 236-39 Administrative Exceptions
- § 236-40 Expiration of Approvals

## **Article 7 – Code Amendments**

- § 236-41 Purpose and Applicability
- § 236-42 Code Amendments

## **Article 8 – Reconsideration and Appeals; Violations and Penalties; Injunctive Relief; Liens**

- § 236-43 Purpose and Applicability
- § 236-44 Reconsideration and Appeals
- § 236-45 Violations and Penalties; Injunctive Relief; Liens



# Major Updates

Thresholds to trigger PC review defined clearly

Plan content requirements matrix (by phase and application type)

Formalization of application phases: Concept -> Preliminary -> Final

Introduced Signature Plan

Included Change of Zoning application process



# Other Updates

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Incorporated word usage and construal of provisions

Revised and increased definitions

Fee schedule included as budgetary element



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# Thank you

# Chapter 236: Subdivision of Land and Plan Review

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## Article 1 – General Provisions

- **§236-1 Title**

- A. This chapter shall be known and may be cited as the "City of Rehoboth Beach Subdivision of Land and Plan Review Ordinance."

- **§236-2 Purpose and Applicability**

- A. The purpose of this chapter shall be to provide regulations and standards to guide land use and development in the City in order to promote the public health, safety and convenience and the financial and general welfare of the City. It shall be administered by the City to ensure orderly growth and development, the conservation, protection and proper use of land, and adequate provision for vehicular and pedestrian traffic, utilities and services of and in the City. All approvals of proposed plans shall be issued by the Planning Commission as provided for in Chapter 51 of this Code.
  - B. These regulations shall be considered the minimum requirements for the protection of the public health, safety and welfare of the City. Any action taken by the City under the terms of this chapter shall give primary consideration to the above-mentioned matters and to the welfare of the entire community.

- **§236-3 Word Usage**

The following general rules of word meaning and usage shall apply to this chapter

- A. A singular number includes the plural scenario, and plural numbers include the singular scenario, unless the context clearly indicates the contrary.
  - B. Words used in the present tense include the past and future tenses, and words in the future tense include the present.
  - C. The word "shall" is always mandatory. The word "may" is permissive.
  - D. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

- **§236-4 Construal of Provisions; Higher Standards to Govern.**

- A. Whenever the provisions of this chapter require or impose other higher standards than are required in any other statute, local ordinance, regulation, or another chapter of this Code, the provisions of this chapter (236) shall govern.
  - B. Whenever the provisions of any other statute or local ordinance or regulation require or impose higher standards than are required by the regulations of this chapter (236), the provisions of the more restrictive statute, ordinance, or Code Chapter shall govern.

- **§236-5 Definitions**

(see separate file for draft review)

- **§236-6 General Requirements and Restrictions**

- A. Any person, partnership or corporation intending to subdivide and/or consolidate land as defined herein, shall prepare a plan of said proposed subdivision in accordance with this chapter. Said plan shall be prepared and submitted to the City for review and approval. If the plan is approved, a Signature Plan (§236-23.C.4) shall be recorded with the Sussex County Office of the Recorder of Deeds. No permit shall be issued, or development activity initiated, until the Signature Plan is recorded with Sussex County.
- B. Any person, partnership or corporation intending to develop or redevelop land as defined herein, shall prepare a site plan of said proposed development or redevelopment in accordance with this chapter. The site plan shall be submitted to the City for review. Approval of the site plan by the Planning Commission is required prior to issuance of any permit for those projects that meet the criteria defined below:
  - 1. A new development of:
    - a. four or more dwelling units, four or more stories, and/or four or more sleeping units in a hotel, motel or other place of lodging (as referred in Chapter 270).
    - b. a mixed-use structure.
    - c. an oceanfront parcel of land or building thereon for commercial use.
  - 2. Redevelopment and/or substantial improvement of:
    - a. four or more dwelling units, four or more stories, and/or four or more sleeping units in a hotel, motel or other place of lodging (as referred in Chapter 270).
    - b. A mixed-use structure.
    - c. an oceanfront parcel of land or building thereon for commercial use
    - d. a parcel of land that has a total area of more than 20,000 square feet where the proposed work would require an amendment to an approved plan (see 236-38). When such an approved plan does not exist on record, the existing conditions shall be treated as the operating approved plan, where there are no conflicts in permitted uses.
  - 3. A commercial or other non-residential project over 15,000 square feet of gross floor area, or which requires substantial improvement or increase in intensity of usage.
  - 4. Development requiring a change in zoning.
  - 5. Any other site plan referred to the Planning Commission by the Director.
- C. Any person, partnership or corporation intending to change zoning district designation of any subdivision or other developments are proposed within the flood-prone districts, a permit shall be issued only after the following items are submitted and approved:
  - 1. A plan which accurately depicts the development proposal and the hydrology of the site. Included shall be all plans for proposed subdivision and/or land development to ensure that:
    - a. All such proposals are consistent with the need to minimize flood damage.
    - b. All public and private utilities, such as sewer, water, on-site waste disposal, gas, and electrical systems are located and constructed to minimize or eliminate flood damage and designed to minimize or eliminate infiltration of

- floodwaters into the systems and conversely discharges from the systems into floodwaters.
      - c. Adequate drainage is provided so as to reduce exposure to flood hazards.
      - d. Such a plan shall also include existing and proposed contours and elevations of the ground, storage elevations, structure size, locations and elevations of streets, water supply, sanitary facilities, soil types and floodproofing measures.
    - 2. A document certified by a registered professional engineer or architect that adequate precautions against flood damage have been taken with respect to the design of any building or structure and that the plans for the development of the site comply with the requirements and provisions of Chapter 159 “Flood Damage Reduction.”
  - D. Nothing in this chapter shall be interpreted to permit the granting of a variance or exception to the regulations of the City or to abridge or modify the procedures or requirements of this chapter, Chapter 270, or other laws and ordinances governing zoning within the City Code or similar applicable regulations.

## Article 2 – Application Process, Plan Content, Fee Schedule

### • §236-7 Purpose and Applicability

- A. This article establishes the processes an Applicant shall follow to create a complete development application and to submit the application package for review by the City.
- B. This article establishes the phased approach to the review and approval of proposed projects and defines the content of each plan phase and type.
- C. This article specifies the content that is required to be included on applications, plan sets, or accompanying documents. These content requirements provide the necessary context and details for the City to determine regulatory compliance and establish consistent expectations that Applicants can address.
- D. This article establishes the process by which the City will set application fees through the yearly budgeting process.

### • §236-8 Project Types and Plan Phases

- A. The owner of any lands within the City shall apply for and obtain the approval of the Planning Commission together with any other appropriate agency of the City, or other regulatory agency, in accordance with this article before subdividing, re-subdividing, consolidating, or performing site development on any land within the City.
- B. Plan applications may be filed by the property owner’s agent, option holder, lessee, or the property owner’s authorized attorney, licensed contractor or architect, but the application must include the Planning Commission Affidavit available from the City that includes the property owner’s signature and the agent’s signature. Plan applications requiring Planning Commission approval shall be cosigned by the property owner and, if represented by an

attorney, the attorney. The application shall be cosigned by the property owner and their representative if an Affidavit is also being used.

- C. Applicants shall submit applications to the City for plan review for various project types.
1. Project types include major subdivisions, minor subdivisions, site development, change of zoning requests, lot consolidation, lot partitioning, and certain construction of structures and improvements to lots.
  2. Plan applications may be required to proceed through successive phases of review; the phases include concept, preliminary, and final plan phases. These applications are reviewed for compliance with zoning regulations and all pertinent City Codes. Each phase builds upon the previous one and addresses regulatory requirements identified by the City. The specific requirements and review procedures for each project type and planning phase are described in Article 4.

## • §236-9 Application Content and Submittal Process

- A. For each project type and plan phase the Applicant shall:
1. Compile the Application which includes:
    - a. Completed and signed Application Forms which are applicable to the project.
    - b. Applicable fee corresponding to the project type as determined by the City Schedule of Fees and Penalties.
    - c. Project Plan which shall address all requirements of this Chapter as well as the requirements of the City Code and policies established by the City.
  2. The Applicant, or their legally authorized representative, shall submit the completed application package to the City Secretary at City Hall.

## • §236-10 Plan Content

- A. Applicability.
1. This section is applicable to Major Subdivisions, Minor Subdivisions, Site Plans, Lot Consolidation, and Lot Partitioning.
- B. Plan Content and Standards.
- All plans shall comply with the provisions included in all Articles of this Chapter, particularly those specified in Article 3 of this Chapter, all requirements detailed in Chapter 270, and throughout the City Code, and additionally shall comply with the following:
1. Be clearly and legibly drawn with easily readable labels and text,, and capable of reproduction.
  2. The printed sheet size for Major Subdivisions, Minor Subdivisions, Site Plans and Change of Zoning Requests shall be 30 inches by 42 inches or 24 inches by 36 inches. The printed sheet size for lot partitioning and lot consolidation shall be the size needed to ensure all required plan content for the entirety of the subject site, and at the scale used, provides for a clear and accurate depiction of the site with no distortions in the submitted plans. In no event shall the printed size of lot partitioning or consolidation plans be less than 8.5 inches by 11 inches.
  3. Major Subdivisions, Minor Subdivisions, Site Plans and Change of Zoning Requests plan sets shall be drawn at a scale of not more than 50 feet to one inch. Lot

consolidation and partitioning plan sets shall use a scale that is sufficient to show the entirety of the subject property in sufficient detail to permit City staff to accurately review the plan for Code compliance.

- a. A graphic scale bar shall be shown on every sheet and shall be consistent between plan sheets unless it is used in an inset drawing or map.
  - b. If the scale requirements above, combined with the size of the site, require the design plans to be drawn across more than one sheet, the cover page shall contain a map depicting the boundaries of each plan sheet and how they connect using matchlines to show the entirety of the subject site.
  - c. Inset drawings or details may be drawn at a scale appropriate to clearly communicate necessary plan elements.
4. The name, license number and seal of the licensed land surveyor or engineer, licensed by the State of Delaware. The elements shown on all plan sets shall be located by a registered land surveyor licensed by the State of Delaware or other qualified professional authorized to practice land surveying by the State of Delaware. The survey used for development of any plan shall be an accurate representation of current conditions of the subject site at the time of application.
  5. All identified objects, conditions, and features noted on the plans shall have their symbols, line styles, and representations included in a legend to allow reviewers to clearly differentiate between all elements.
  6. Proposed project title that is associated with the application.
  7. The name of the municipality, political subdivision within which it is situated, and county name.
  8. The name and address of the owner of record.
  9. The coordinate system used to define plan and element locations.
  10. A site location map at a scale of not less than 800 feet to the inch showing the relation of the property to adjoining property and to all streets, roads, watercourses, natural and artificial, streams, shorelines or other water boundaries and all municipal boundary lines crossing or adjacent to the property and existing within 1,000 feet of any part of the property proposed for subdivision.
  11. Each plan shall also include a copy of such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition of sale, together with a statement of any restrictions previously imposed, which may affect the title to the land under consideration. Such restrictions shall be satisfactory to the Planning Commission and shall provide against further changes thereof by the grantee without obtaining approval by the Planning Commission.
- C. The City and Planning Commission shall independently review the submitted plans and determine whether the plan complies with the City Code, is applicable to city laws and regulations and any other City, County, State and Federal laws, and is consistent with the Comprehensive Development Plan (CDP). Additionally, the Applicant shall address the following list of considerations the Planning Commission may consider in their review of plans. These factors describe the expectations of projects, and the Applicant shall ensure the plans address concerns pertaining to these factors. The Planning Commission may require changes to plans or attach conditions or restrictions when such changes,

conditions, or restrictions are consistent with the general purpose of plan review described in the City Code as follows:

1. Motorized or nonmotorized vehicular traffic flow, both on-site and in the immediate vicinity.
  2. Access to structures.
  3. Access to public or private streets, easements or other rights-of-way.
  4. Pedestrian movement.
  5. Fire equipment and other emergency access.
  6. Refuse removal.
  7. Landscaping and maintenance of natural features.
  8. Drainage flow and structures.
  9. Stormwater management.
  10. Signage.
  11. Lighting and illumination, consistent with dark skies.
  12. Screening for certain uses.
  13. Recreational and open space areas.
  14. Utilities and community facilities.
  15. Height of buildings.
  16. Existing scale and character of nearby properties.
  17. Streetscape.
  18. Impact on nearby properties or the neighborhood.
  19. Air flow, natural light, the effects of sea-level rise, use of solar and other renewable energy resources, and other relevant environmental considerations.
  20. Other public health, safety and welfare concerns.
  21. Comments and recommendations received from the City Planner, City Engineer, City Departments, federal and state agencies, and the public.
- D. Special Conditions. If conditions exist on the subject site that warrant additional scrutiny by the Planning Commission, the Applicant may be required to provide additional materials for review, that may include, but not be limited to, the following:
1. Statements concerning any proposed deed restrictions to be imposed by the owner for the purpose of mitigating the impacts to the special condition.
  2. Special technical data, studies or investigations pertinent to the identified special condition that examine the technical feasibility and regulatory compliance required. This information must be prepared by individuals technically qualified to perform such work. Additional information may include, but is not limited to, the following elements: public water and sewer elements, water supply surveys (such as test well drilling, stormwater runoff computations, and hydrant tests for water pressure), identification of areas subject to periodic flooding, and construction related details that support the Applicant's Registered Design Professional's demonstration of compliance with the requirements of the special conditions constraining the site.
    - a. When it is determined that such additional investigations and reports are necessary, they shall be submitted to the City Secretary who will forward them to the Director and the relevant City Staff, whose expertise covers the special condition.

- b. City Staff will review the provided materials and create a summarization of the materials along with their opinion on whether the Applicant's proposal sufficiently protects the public good and does not increase any risk of hazard. This document will be provided to the Planning Commission for consideration.
  - c. Specific elements of the provided special technical data may reflect construction techniques or materials that are typically not submitted for review during the plan review process as they are generally developed following final approvals. Where special technical conditions exist and require the submission of technical materials, those proposed construction elements in the technical materials are not binding on future construction plans, provided that the construction phase plans adequately address the special conditions and applicable construction standards that may be required to address the specific special conditions as determined by the Director.
- 3. If special conditions are found to exist, the Planning Commission may then require the Applicant to incorporate specific improvements to the design of the plan as a condition to its approval.
- 4. When special studies or investigations pertain to a regulatory program of another public agency, the Applicant shall submit the results of these studies or investigations to said public agencies for technical review and comment. Written comments from these agencies shall be supplied to the Planning Commission by the Applicant.
- 5. Infrastructure Feasibility and Condition Assessments: Where a proposed development interfaces with or relies upon existing public utility or drainage infrastructure of uncertain condition or capacity, the Planning Commission and/or the Director, in consultation with the City Engineer, may require submission of appropriate technical studies and documentation to evaluate potential impacts and risks. Such requirements are intended to demonstrate general compliance at the plan approval stage only; detailed construction means, methods, sequencing, and monitoring shall be subject to separate review and approval during the construction permitting phase.

- **§236-11 Plan Content Requirements for Major Subdivisions, Minor Subdivisions, and Site Plans**

- A. Applicability

- 1. Major Subdivisions are all those subdivisions not classified as partitionings or minor subdivisions.
    - 2. Minor Subdivisions are those projects that would create three or more lots but do not require new roads, the extension of City or County infrastructure, or result in modifications to existing drainage quantities and/or characteristics.
    - 3. Site Plans apply to projects that meet the criteria listed in 236-B.6.1-5

- B. [Attachment 1: Table of Plan Content Requirements](#) specifies the minimum plan content requirements for each application type reviewed under this Code. These requirements identify the materials and information necessary for the review and approval of major subdivisions, minor subdivisions, and site plans. The provisions listed in [Attachment 1: Table of Plan Content Requirements](#) shall apply to the corresponding category of development identified in each column by an “R”. Standards marked as “R” under Major Subdivision shall apply to major subdivision applications; standards marked as “R” under Minor Subdivision shall apply to minor subdivision applications; and standards marked as “R” under Site Plan shall apply to site plan review applications. Elements marked as an “O” in the table are optional at that stage.
1. The Application package for Major and Minor Subdivisions and Site Plans shall include all the content marked “required” in [Attachment 1: Table of Plan Content Requirements](#) according to the relevant project type and phase.
- C. If a proposed use or development requires site plan approval, subdivision of land, and/or lot consolidation, all applications may be reviewed concurrently by the Planning Commission.

## • §236-12 Application Requirements for Change of Zoning Requests

- A. Applicability – A change of zoning request is an application submitted by a property owner, contract purchaser, or authorized developer seeking to change the zoning classification of a specific parcel or parcels of land from one zoning district to another as established in Chapter 270, Zoning.
- B. Pre-Application Meeting: Prior to submitting a formal change of zoning application, the Applicant shall schedule a meeting with the City by coordinating with the City Secretary to discuss the requested zoning change, applicable zoning regulations, relevant provisions of the Comprehensive Development Plan, and anticipated review requirements including the potential need for State review under the Preliminary Land Use Service (PLUS) process coordinated by the Delaware Office of State Planning Coordination (OSPC). The purpose of this meeting would be advisory and non-binding, intended to identify potential issues, required application materials, and processes for consideration of the request.
- C. Application Requirements. The Application for Change of Zoning Requests shall include the following:
1. A survey of the existing conditions of the property including precise boundary lines with dimensions and markers, all visible structures and improvements such as buildings, driveways, fences, and patios, recorded easements and rights-of-way, observable utility features, and any encroachments across property lines; it may also show topographic information such as elevations and contours, natural features such as trees or drainage areas, and is complete with legal references, orientation details, and a surveyor’s certification.
  2. A narrative document that describes the purpose and justification for the requested change, and addresses the following:
    - a. Consistency of the requested zoning change with the Comprehensive Development Plan;
    - b. Compatibility of the proposed zoning district with adjacent land uses and zoning;

- c. Availability and adequacy of public facilities and services; and
  - d. Reasons why the proposed zoning is more appropriate than the existing classification.
- 3. Any additional information or studies deemed necessary by the Planning, Zoning, and Development Department (i.e. traffic, environmental, or infrastructure assessments).
- 4. Following the Pre-Application Meeting, a Change of Zoning Request Application shall be submitted to the City Secretary using the forms provided by the City, accompanied by the required fee established in the fee schedule as detailed in §236-15.

- **§236-13 Lot Consolidation Applicability**

- A. Applicability

- 1. Where more than one immediately adjacent lots are under common ownership, the property owner may merge the lots and dissolve the property boundaries to form one new lot.
    - 2. Where development or redevelopment is proposed that would cross existing lot boundaries or as may be required to comply with Chapter 270, the properties must be held under common ownership and shall be merged prior to any permits being issued.
    - 3. No lots may be consolidated unless the lots are under common ownership (as demonstrated by common legal title).
    - 4. When two or more lots must be consolidated to comply with the provisions of Chapter 270, the application will be deemed to be incomplete until the lots are shown by the Sussex County office of the Recorder of Deeds as being under common ownership, as depicted in the official Sussex County parcel data. The Sussex County Recorder of Deeds process and requirements for recording the ownership lots shall be followed.
    - 5. Lots consolidated pursuant to this chapter, or previously consolidated lots consistent with the provisions of this chapter, may subsequently be re-subdivided to their originally plotted lot configuration upon approval by the Planning Commission, provided the proposed re-subdivided lots comply with all current applicable code requirements.
      - a. Notwithstanding any provision of this chapter or Chapter 270 to the contrary, no lots in a residential district may be consolidated unless all lots being combined shall have contiguous and continuous frontage on the same street. This provision shall not apply to lots that are immediately adjacent to intersecting streets (corner lots).
      - b. This provision shall not apply to situations where the lot consolidation process is immediately followed by a subdivision or lot partitioning plan that would create new lots that are fully compliant with City Code.
      - c. No permits shall be issued for the consolidated lot until it is subdivided.

- B. Application Submittal Process for Lot Consolidation. The plan application process for Lot Consolidation shall follow the requirements detailed in §236-9 & -10.

- **§236-14 Lot Partitioning Applicability**

- A. Applicability

- 1. Lot partitionings are those projects that would create no more than 2 new parcels, do not include any expansion of City infrastructure beyond new connections to existing water or sewer lines, and do not adversely affect the development of the remainder of the parcel or adjoining properties.

- B. Application Submittal Process for Lot Consolidation. The plan application process for Lot Consolidation shall follow the requirements detailed in §236-9 & -10.

- **§236-15 Fee Schedule**

- A. Applicability

- 1. All applications for major subdivisions, minor subdivisions, lot consolidations, lot partitionings, site plans, change of zoning and other applications shall be subject to payment of the applicable fee established in the City Schedule of Fees and Penalties.

- B. Process of Fee Determination

- 1. The Mayor and Board of Commissioners shall establish and amend the City Schedule of Fees and Penalties for all applications, reviews, permits, appeals, and other services under this Chapter and Chapter 270 by resolution, which may be considered and adopted as part of the City's annual budget process for the upcoming fiscal year.
    - 2. Adoption or amendment of the City Schedule of Fees and Penalties by resolution does not constitute a text amendment to this Code.
    - 3. Fees shall recover the City's reasonable costs of providing the service, including staff time, public notice and publication, legal review, and third-party professional or consultant costs; the City may require deposits/escrows for pass-through costs.
    - 4. Required fees must be paid at filing. Applications are not complete and will not be processed or scheduled until all applicable fees/deposits are paid.
    - 5. The current City Schedule of Fees and Penalties shall be maintained by the Planning, Zoning, and Development Department and published on the City's website. If a fee in the Schedule conflicts with the fee amount stated elsewhere in this Code, the Schedule of Fees controls.
    - 6. Applications submitted prior to approval of the City's Annual Budget will adhere to the fees of the previous fiscal year (April to March). Once the City's Annual Budget is updated and approved by the Board of Commissioners, the new City Schedule of Fees and Penalties will apply to all subsequent applications.

## **Article 3 – Standards and Considerations**

- **§236-16 Purpose and Applicability**

- A. The provisions of this article shall apply to applications for major and minor subdivisions, site development, change of zoning, lot consolidation, and lot partitioning. A submitted

plan set shall conform to design standards that will encourage good development patterns within the City. The City's requirements for streets, drainage rights-of-way, storm sewers, school sites, public parks, and playgrounds shall be satisfied before approval of the submitted plan. The streets, drainage rights-of-way, storm sewer or sanitary sewer plans shall lend themselves to the harmonious development of the City and enhance the public welfare in accordance with the design standards set forth in this article.

- B. The Planning Commission may require additional standards for site plans and major subdivisions. Such standards may include equivalent or alternative design approaches that differ from established standards when appropriate to address changing conditions or circumstances. The Planning Commission and Director have the authority to reference and apply appropriate standards, best management practices, and technical assistance from qualified sources as tools for evaluation, verification, and consideration.

- **§236-17 Lot Design Standards**

A. These lot standards apply to all project types:

1. Lot dimensions and area shall not be less than the requirements of Chapter 270, Zoning.
2. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
  - a. Except for lots fronting on an approved short dead-end street, each lot must front upon a public street that is at least 50 feet wide. However, a lot may front on an existing public street that is at least 40 feet wide where such frontage is part or all of the frontage of an area that was previously subdivided into lots of no more than 100 feet of frontage on said street. [Amended 8-7-2009 by Ord. No. 0809-02; 2-19-2010 by Ord. No. 0210-01]
  - b. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
  - c. Where there is a question as to the suitability of a lot for its intended use due to factors such as rock formations, flood conditions or similar circumstances, the Planning Commission may, after adequate investigation, withhold approval of such areas.
  - d. Double frontage and reverse frontage lots shall not be approved unless, in the judgment of the Planning Commission, such frontage lots shall be required to establish a buffer zone and/or screen planting.
  - e. Lot lines shall follow municipal boundary lines rather than cross them.

- **§236-18 Street Design Standards**

A. These street design standards apply to all project types.

1. Streets shall be arranged to provide for the appropriate extension of existing streets. Minor streets shall be designed to discourage through traffic. Subdivisions abutting arterial streets shall provide a marginal service road, or reverse frontage with a buffer strip for planting, or some other means of separation between through and local traffic as the Planning Commission may determine appropriate.

2. The minimum right-of-way width shall be measured from lot line to lot line and shall be in accordance with the following schedule:
  - a. Arterial streets: 80 feet to 120 feet.
  - b. Collector streets: 60 feet.
  - c. Minor streets: 50 feet.
  - d. Marginal access streets: 40 feet.
  - e. Internal roads, alleys, driveways, aisles and parking areas in their respective districts shall be designed and built to satisfy the requirements of the Planning Commission.
3. No subdivision showing reserve strips controlling access to streets shall be approved.
4. Subdivisions that adjoin or include existing streets that do not conform to the street width requirements of this section shall dedicate additional width along either or both sides of the road.
5. Grades of arterial and collector streets shall not exceed 4%. Grades on other streets shall not exceed 10%. No street shall have a minimum grade of less than 0.3%.
6. Street intersections shall be as nearly at right angles as possible, and in no case shall intersect at an angle of less than 60°. The block corners at intersections shall be rounded at the curblines with a curve having a radius of no less than 20 feet.
7. Street jogs with center-line offsets of less than 125 feet shall be prohibited.
8. A tangent, at least 100 feet long, shall be introduced between reverse curves on arterial and collector streets.
9. When connecting street lines deflect from each other at any one point by more than 10° they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
10. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
11. Dead-end streets (cul-de-sacs) shall conform to the following: [Amended 8-7-2009 by Ord. No. 0809-02]
  - a. Dead-end streets (cul-de-sacs) of a permanent nature shall not be longer than 400 feet and shall provide a turnaround at the end with a radius of 40 feet. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
  - b. A dead-end street (cul-de-sac) may be considered a short dead-end-street when, at a minimum:
    - 1) The dead-end street is either not more than 250 feet in length (as measured along the street line) or not more than 10 lots abutting the dead-end street.
    - 2) All lots that abut the dead-end street are solely within an R-1 Single-Family Residence District or an R-2 General Residence District.
    - 3) An Applicant demonstrates that natural features such as trees, brooks, hilltops and views will be preserved by lessening the dimensional requirements of this article.

- 4) An Applicant demonstrates that the street design is consistent with the purposes set forth in § 236-2, is in accord with good engineering principles and practices, and will adequately accommodate the vehicles and persons who will use the street.
  - c. If the Planning Commission determines that a dead-end street meets, at a minimum, the requirements contained above, the Planning Commission may, notwithstanding anything to the contrary in this article, accept and approve the following reduced standards for a short dead-end street:
    - 1) A turnaround of less than a forty-foot radius or an alternative means of turnaround.
    - 2) A reduced street width, but not less than 37 feet.
    - 3) A reduced paved width, but not less than 16 feet.
  - d. As a condition of its approval of a short dead-end street, the Planning Commission may require that parking be restricted or prohibited on the short dead-end street and, if so required, final subdivision approval shall not occur until after the Board of Commissioners has adopted an ordinance incorporating such restriction or prohibition in the appropriate section of this Code.
12. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name. The Applicant shall coordinate with City addressing staff/system to prevent duplicate naming.
13. All minor roadways shall be 34 feet between curbs and paved for the entire width.
- B. Street Block Design Standards
1. Block length and width or acreage within bounding roads shall accommodate the size of lot required in the area by Chapter 270, Zoning, and to provide for convenient access, circulation control and safety of street traffic.
  2. In blocks over 1,000 feet long, pedestrian crosswalks may be required in locations deemed necessary by the Planning Commission. Such Crosswalks shall be 10 feet in width and be perpendicular street to street. There shall be installed a four-foot sidewalk paved in accordance with City specifications. Lots abutting such a walk shall be treated as a corner lot.

## - §236-19 Easement Considerations

- A. Easements may be required within a subject site for installation and protection of utility infrastructure, to provide for drainage of surface water, access to on-site resources, or similar needs. Such easements shall be at least 15 feet wide and located in consultation with the companies or municipal departments concerned.
- B. Where a subdivision is traversed by a watercourse, drainageway channel, or stream there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.
- C. A drainageway channel, which lies along a road and in front of lots, or where it is felt that such would be a hazard to health and life by the Planning Commission, shall be adequately

replaced by storm sewer pipe of a size as established by the City Engineer. Setback line requirements as established by Chapter 270, Zoning, along watercourses shall be satisfied.

- **§236-20 Parking Requirements**

- A. Sufficient parking areas shall be provided by the proposed project as required by Chapter 270, Zoning.

- **§236-21 Natural Features to be Retained.**

- A. Natural features such as trees, brooks, hilltops and views shall be preserved in accordance with the goals of the Comprehensive Development Plan and Chapter 253 Trees.

- **§236-22 Suitability of Land, Preservation of Resources, Public Sites, Open Spaces**

- A. Land deemed by the Director to be uninhabitable shall not be planned for residential occupancy, nor for such other uses as may aggravate the flood hazard or increase danger to health, life or property.. Such land within the parcel shall be set aside for such uses as shall not be endangered by periodic or occasional inundation, shall not produce unsatisfactory living conditions, or shall be adequately drained and filled in accordance with regulations to the satisfaction of the Planning Commission.

## **Article 4 – Plan Review Process**

- **§236-23 Purpose and Applicability**

- A. Purpose and Applicability  
The purpose of this section is to establish a clear, consistent, and efficient process for the review and approval of all project types within the City of Rehoboth Beach. This section outlines the procedural requirements and approval steps applicable to the various types of land development and subdivision activities regulated by this code. The intent is to ensure that all proposals are reviewed in a coordinated manner that promotes orderly growth, protects public health and safety, and upholds the goals and policies of the Comprehensive Development Plan.
- B. Major and minor subdivisions, as well as site development plans, shall follow the phased review process established herein. Other applications, including change of zoning requests, lot consolidations, and lot partitions shall be reviewed in accordance with the specific procedures provided for those actions, which may vary in scope and sequence from the phased process. The phased review process includes a concept plan, preliminary plan, and a final plan.
- C. The general purposes of plan review include:
  - 1. Protection of the architectural massing, composition, scale, and character of the neighborhood;

2. Compatibility of new construction and structural alterations with the existing scale and character of nearby properties;
3. Preservation of streetscapes;
4. Protection of natural resources; and
5. Protection of the public's health, safety, and general welfare.
6. Guide the growth and development of the City in accordance with the Comprehensive Development Plan, the City Code including this chapter, and Chapter 270.

D. Purpose of each development plan phase:

1. Concept Plan Purpose

The purpose of the concept plan review is to provide an early opportunity for the Planning Commission and city staff to evaluate the general design, layout, and feasibility of a proposed plan before significant resources are invested in detailed engineering. This review is intended to identify potential issues related to zoning, infrastructure, access, environmental constraints, and consistency with City's most recent Comprehensive Development Plan and future land use map. It also allows the Applicant to receive preliminary guidance on how to refine the plan to better comply with applicable regulations and community expectations.

2. Preliminary Plan Purpose

The purpose of the preliminary plan review is to evaluate the proposed plan in sufficient technical detail to determine its compliance with the City Code, the City's Zoning, the City's Subdivision Development Regulations, the most recent Comprehensive Development Plan and other regulations the Planning Commission deems necessary and appropriate. It serves as the formal basis for interdepartmental review, coordination, and identification of conditions necessary for final approval. The preliminary plan demonstrates the feasibility of the proposed layout, infrastructure, grading, utilities, access, and stormwater management, and ensures that the development can be constructed in a manner that protects public health, safety, and welfare.

3. Final Plan Purpose

The purpose of the final plan is to ensure that the conditions of preliminary approval have been satisfied. The final plan must reflect all required changes and comments provided previously by the Planning Commission, comply with all applicable City, County, State and Federal codes and regulations, and demonstrate that necessary improvements, easements, and dedications have been secured or guaranteed. Final plan approval serves as the City's confirmation that the proposed project is legally and technically appropriate and that development may proceed. The Planning Commission may include additional conditions or requirements in their final approval that the Applicant must address prior to receiving site level permits.

4. Signature Plan Purpose

The purpose of the signature plan is to provide a clean plan that integrates all conditions of approval the Planning Commission may have included in their final approval; provides references to all external agency permits and approvals that may be required; contains all legal encumbrances and covenant restrictions that are

applicable; demonstrates any lot consolidations that are required have been performed including updated parcel boundaries; and requirements that stem from conditions of approval, and that apply to subsequent construction phase activities and plans, shall be explicitly detailed in the signature plan notes. The signature plan, once verified complete and accurate by the Planning Commission Secretary, will be signed by all necessary parties. The signed plan shall then be the authoritative document filed with the City, filed with the County Recorder of Deeds (if required) and allow the City to review construction phase plans and issue building permits.

- **§236-24 Planning Commission Actions and Duties**

**[NOTE: This article to be completed following the input of Planning Commission Members, Attorneys, and relevant staff. This section can incorporate the By-Laws of the Planning Commission, amended as desired, or can be kept consistent with the existing code sections. Also note the minor modifications of the plan review process and the role of the Planning Commission; the roles and responsibilities have not fundamentally changed, rather the process names have been updated and the process clarified, simplified or similar.]**

- **§236-25 Concept Plan Review Process**

- A. A proposed Concept Plan will be required for all major subdivision and site development applications.
- B. Concept Plan Review Process
  - 1. Following receipt of the Concept Plan Application Packet, the City Secretary will distribute copies of the application to all relevant departments and staff.
  - 2. The Planning, Zoning, and Development Department will coordinate all internal plan review efforts during the initial stage and will review the application for completeness insofar as the plans contain all the required content as specified in Article 2. This completeness review will be performed within 15 business days following receipt of the application.
    - a. Plans found to be missing required information will be returned to the Applicant for completion. The application will be marked as rejected and no rights will be vested.
    - b. Plans found to be complete will be accepted and a complete review of zoning compliance will be performed. At the Concept Plan phase, the standard for review of zoning compliance is general consistency; this indicates there is no proposed element on the Plan that is wholly non-compliant with zoning requirements but may identify some inconsistencies that can be addressed through the iterative plan phase process.
    - c. The Planning, Zoning and Development Department will develop a Concept Report on the proposed plan. This will include a checklist indicating the presence of all required elements, a summary of the relevant zoning regulations and the plan's compliance with these regulations, measurements of content to generate calculations such as lot coverage and

- Floor-Area Ratio (FAR) and will identify any modifications that need to be addressed as the proposal moves into subsequent phases.
- d. The Planning, Zoning and Development Department will provide this report to the Planning Commission for their review and utilization in their proceedings at least 15 business days prior to the Planning Commission's scheduled meeting that includes the subject application.
  3. Planning Commission: The Planning Commission will schedule the plan to be heard on a regular Planning Commission meeting date. During the Planning Commission Meeting, the Planning Commission shall review and discuss any issues or concerns related to the proposed project. Any member of the public shall have the opportunity to be heard and may appear in person, by agent, or by attorney at the hearing. Following the project concept review and discussion, the Planning Commission will provide nonbinding written comments and suggestions based on its experience, knowledge, technical assistance, and public comments. The Planning Commission shall take no action to approve or deny the concept or any details of a proposed development at the project concept review and discussion.

- **§236-26 Preliminary Plan Review Process**

- A. A proposed Preliminary Plan will be required for projects as per the standards in 236-10.
- B. Review of Preliminary Plan Documents
  1. Following receipt of the Preliminary Plan Application Packet, the City Secretary will distribute copies of the application to all relevant departments and staff.
  2. The Planning, Zoning, and Development Department will coordinate all internal plan review efforts during the initial stage and will review the application for completeness insofar as the plans contain all the required content as specified in Article 2. This completeness review will be performed within 15 business days following receipt of the application.
    - a. Plans found to be missing required information will be returned to the Applicant for completion. The application will be marked as rejected and no rights will be vested.
    - b. Plans found to be complete will be accepted and a complete review of zoning compliance will be performed.
    - c. Complete plans will be forwarded to other City agencies for their review and comment.
  3. The Planning, Zoning and Development Department will develop a Preliminary Report on the proposed plan. This will include a checklist indicating the presence of all required elements, a summary of the relevant zoning regulations and the plan's compliance with these regulations, measurements of content to generate calculations such as lot coverage and Floor-Area Ratio (FAR) and will identify any modifications that need to be addressed as the proposal moves into subsequent phases. The Planning, Zoning and Development Department will provide this report to the Planning Commission for their review and utilization in their proceedings at least 15 business days in advance.

4. At the discretion of the Planning Commission Chair, the Planning Commission will schedule the plan to be heard on a regular Planning Commission meeting date. The Planning Commission shall schedule a reasonable time for a hearing on all Preliminary Plan review applications. Any member of the public shall have an opportunity to be heard and may appear in person, by agent, or by attorney at the hearing. If a member of the public is being represented by an agent or attorney, they must acknowledge their affiliation to that member of the public.
5. The City Secretary will provide public notice of the Planning Commission meeting on any Preliminary Plan review application. This shall be done by publishing an announcement in a newspaper of general circulation in the City at least 15 days before the date of the Preliminary Review. Additionally, notice of the meeting shall be sent by first-class United States mail to all City property owners whose property boundaries are located within 200 feet of the boundaries of the property subject to the preliminary plan review application at least 15 days prior to the Planning Commission meeting. Notice shall also be sent by certified mail and regular mail to the property owner and by regular mail to the property owner's representative.
6. The City Secretary will coordinate with the Planning Commission to post relevant documents on the City's public data portal and linked within the Agenda.
7. Furthermore, the Director shall post signage for the Preliminary Review at one or more prominent and easily visible places on the property that is the subject of the project review application. The signage shall be posted on yellow background at least 18 inches by 24 inches in size and provide the date and time of the Planning Commission meeting on the Preliminary Review of the application; the name of the Applicant and/or property owner; a description and size of the property involved; and a statement, in plain language, of the matter involved. The signage shall also state the address and telephone number of the City's Planning, Zoning, and Development Department for interested parties seeking further information on the application. One such signage shall be posted for each street and/or boardwalk on which the Applicant's property fronts. It shall be the responsibility of the Applicant to maintain the signage in good condition during the posting period. The signage shall be posted at least 15 days before the Preliminary Review and shall remain posted until the date of the final public hearing on the application.

C. Planning Commission Review

1. Prior to the Planning Commission Meeting, the Planning Commission members shall review the proposed project, the Planning, Zoning and Development Department's report, and similar materials. At least two weeks prior to the Planning Commission Meeting, any member who may have identified any questions or concerns with the plan, Planning, Zoning and Development Department's review, applicability of any regulation(s), or other questions, shall communicate through the Planning Commission's attorney those specific concerns and questions. The Planning, Zoning and Development Department will review the concerns and address the needs as appropriate. If the Planning, Zoning and Development Department cannot answer the questions, the Applicant may be requested to provide additional information prior to, or during, the Planning Commission Meeting.

This request for additional information may conflict with the anticipated agenda for the regular Planning Commission meeting that the application was planned to be discussed at, in which case the Planning Commission shall have the authority to remove a project from the agenda if such materials are not provided in a timely manner. This communication will help create efficient and effective Planning Commission Meetings that reduce delays in consideration of proposed projects. It should be noted, however, that any issues identified by the Planning Commission prior to a meeting are preliminary and do not preclude any member of the Planning Commission from raising additional concerns later.

2. During the Planning Commission Meeting, the Planning Commission shall discuss the plan, the associated Planning, Zoning and Development Department Report, and any issues or concerns related to the proposed project. The Planning Commission shall review the Preliminary Plan Application for all required projects, confirming compliance with all the requirements and conditions set forth in the Concept Approval, the City Code including this Chapter and Chapter 270, Comprehensive Development Plan, and other applicable regulations as the Planning Commission determines is necessary.
3. Following the Planning Commission's inspection of the documents, conversation with the Applicant, and review of the Planning, Zoning and Development Department Report, the Planning Commission shall determine whether a vote on the Preliminary Plan will be conducted. The following actions can be taken by the Planning Commission:
  - a. Vote to Approve the Preliminary Plan - The Plan is found to be compliant with the Comprehensive Development Plan, the City Code, Chapter 270, and all other applicable City, County, State, and Federal laws and regulations the Planning Commission may have considered during the course of this application review. This approval provides the Applicant with authorization to proceed to Final Plan phase.
  - b. Vote to Approve the Preliminary Plan with Conditions – The Planning Commission members are satisfied that all major zoning considerations have been addressed along with concerns raised during the Concept review. This approval provides the Applicant with authorization to proceed to Final Plan phase.
  - c. Vote to Deny the Preliminary Plan – Planning Commission members have identified one or more elements that are not compliant with zoning regulations or other applicable standards. The Applicant must revise and resubmit the Preliminary Plan.
  - d. Continuation of Preliminary Plan Review – The Planning Commission may decide to continue the Preliminary Plan review at a subsequent Planning Commission Meeting if the review cannot be completed in one meeting. This subsequent meeting will be posted publicly, advertised, and a portion of time will be set aside for continuation of the examination of the project. At the Planning Commission's discretion, they may vote on moving the plan to

the Final Phase. The same voting options presented above are available to the Planning Commission.

4. If the Planning Commission votes to approve the Preliminary Plan, with or without conditions, the Applicant may move to the Final Plan Phase.

- **§236-27 Final Plan Review Process**

A. A proposed Final Plan will be required for projects as per the standards in 236-8.

B. Review of Final Plan Documents

1. Following receipt of the Final Plan Application Packet, the City Secretary will distribute copies of the application to all relevant departments and staff.
2. The Planning, Zoning, and Development Department will coordinate all internal plan review efforts during the initial stage and will review the application for completeness confirming the plans contain all the required content as specified in Article 2. This completeness review will be performed within 15 business days following receipt of the application.
  - a. Plans found to be missing required information will be returned to the Applicant for completion. The application will be marked as rejected and no rights will be vested.
  - b. Plans found to be complete will be accepted and a complete review of zoning compliance will be performed. At the Final Plan phase, the standard for review of zoning compliance is absolute compliance; this indicates that all elements of the proposal are compliant with all pertinent zoning requirements, the Comprehensive Development Plan, and other regulations as the Planning Commission may determine are relevant. All conditions identified during previous phases have been addressed to the satisfaction of Planning Commission Members.
  - c. Complete plans will be forwarded to other City agencies for their review and comment.
3. The Planning, Zoning and Development Department will develop a Final Report on the proposed plan. This will include a checklist indicating the presence of all required elements, a summary of the relevant zoning regulations and the plan's compliance with these regulations, measurements of content to generate calculations such as lot coverage and Floor-Area Ratio (FAR) and will identify any outstanding modifications that need to be addressed prior to Final Plan Approval. The Planning, Zoning and Development Department will provide this report to the Planning Commission for their review and utilization in their proceedings at least 15 business days in advance.
4. At the discretion of the Planning Commission Chair, the Planning Commission will schedule a Public Hearing on a regular Planning Commission meeting date. The Planning Commission shall fix a reasonable time for a hearing on all Final Plan review applications and give public notice of the Public Hearing. Any member of the public shall have an opportunity to be heard and may appear in person, by agent, or by attorney at the hearing.

5. The City Secretary shall provide public notice of the hearing on any Final Plan review application by publishing notice in a newspaper of general circulation within the City at least 15 business days prior to the hearing date. Additionally, notice of the hearing shall be sent by first-class United States mail to all City property owners whose property boundaries are located within 200 feet of the boundaries of the property subject to the application at least 15 days prior to the hearing date. Notice shall also be sent by certified mail and regular mail to the property owner and by regular mail to the property owner's representative. The City Secretary will coordinate with the Planning Commission to post relevant documents on the City's public data portal and linked within the Agenda.
6. Furthermore, the Director shall post signage for the public hearing at one or more prominent and easily visible places on the property that is the subject of the site plan review application. The signage shall be posted on yellow background at least 18 inches by 24 inches in size and set forth the date and time of the public hearing on the project review application; the name of the Applicant and/or owner; a description and size of the property involved; and a statement, in plain language, of the matter involved. The signage shall also state the address and telephone number of the City's Planning, Zoning, and Development Department for interested parties seeking further information on the application. One such signage shall be posted for each street and/or boardwalk on which the Applicant's property fronts. It shall be the responsibility of the Applicant to maintain the signage in good condition during the posting period. The signage shall be posted at least 15 days before the public hearing and shall be removed after the public hearing.

C. Planning Commission Review

1. Prior to the Planning Commission Meeting, the Planning Commission members shall review the proposed project, Planning, Zoning and Development Department's report, and similar materials. At least two weeks prior to the Planning Commission Meeting, any member who may have identified any questions or concerns with the plan, the Planning, Zoning and Development Department's review, the applicability of any regulation(s), or other questions shall communicate through the Planning Commission's attorney those specific concerns and questions. The Planning, Zoning and Development Department will review the concerns and address the needs as appropriate. If the Planning, Zoning and Development Department cannot answer the questions, the Applicant may be requested to provide additional information prior to, or during, the Planning Commission Meeting. This request for additional information may conflict with the anticipated agenda for the regular Planning Commission meeting that the application was planned to be discussed at, in which case the Planning Commission shall have the authority to remove a project from the agenda if such materials are not provided in a timely manner. This communication will help create efficient and effective Planning Commission Meetings that reduce delays in consideration of proposed projects. It should be noted, however, that any issues identified by the Planning Commission prior to a meeting are preliminary and do not preclude any member of the Planning Commission from raising additional concerns later.

2. During the Planning Commission Meeting, the Planning Commission shall discuss the Final Plan, the associated Planning, Zoning and Development Department's Report, and any issues or concerns related to the proposed project. The Planning Commission shall review the Final Plan Application for all required projects, making certain that all the requirements and conditions set forth in the Concept Approval, Chapter 270, and other applicable regulations as the Planning Commission determines is necessary. If the owner or his agent has failed to satisfy all requirements, the Planning Commission shall so advise in writing, and return all material required, except the application and one copy of the plan, for correction or addition thereto and resubmission.
3. Following the Planning Commission's inspection of the documents, conversation with the Applicant, and review of the Planning, Zoning and Development Department's Report, the Planning Commission shall open the meeting to public comment on the proposed project. In all cases, the recommendations of those attending a public hearing shall be given careful consideration in the final decision of the Planning Commission.
4. Once all public comments have been heard, the public portion of the hearing will be closed to allow discussion amongst the Planning Commission members. The Planning Commission shall determine whether a vote on the Final Plan will be conducted. The following actions can be taken by the Planning Commission:
  - a. Vote to Approve the Final Plan - The Plan is found to be compliant with the Comprehensive Development Plan, the City Code, Chapter 270, and all other applicable City, County, State, and Federal laws and regulations Planning Commission may have considered during the course of this application review. This approval provides the Applicant with authorization to proceed to the Signature Plan phase.
  - b. Vote to Approve the Final Plan with Conditions – The Planning Commission members are satisfied that all zoning considerations have been addressed along with concerns raised during the Preliminary Plan review. However, the Planning Commission has identified additional modifications that are required to be integrated into the project design prior to the Signature Plan being signed. This approval authorizes the Applicant to proceed to the Signature Plan phase, with the condition that all applicable conditions of approval must be satisfied prior to obtaining the required signatures on the Signature Plan, aside from any conditions that are intended to be completed at a later stage of the project or during the construction phase. The Applicant may then move to recordation or construction phase activities.
  - c. Vote to Deny the Final Plan – Planning Commission members have identified one or more significant elements that are not compliant with zoning regulations or other applicable standards. The Applicant must revise and resubmit the Final Plan. If the Planning Commission shall disapprove a plan, the Planning Commission shall advise the Applicant, in writing, of the reasons for disapproval and shall return, together with the letter, all material

received, except the application and one copy of the plan. The reasons for disapproval shall be remedied prior to resubmission.

- d. Continuation of Final Plan Review – The Planning Commission may decide to continue the Final Plan review at a subsequent Planning Commission Meeting if the review cannot be completed in one meeting. This subsequent meeting will be posted publicly, advertised, and a portion of time will be set aside for continuation of the examination of the project. At the Planning Commission’s discretion, they may vote on moving the plan to the Signature Plan Phase. The same voting options presented above are available to the Planning Commission.
5. At the time of the vote on the Final Plan, each member of the Planning Commission shall state the reasons for his or her vote.
6. The decision of the Planning Commission shall become final upon the adoption of a written and signed Notice of Decision or resolution.

## • §236-28 Review Process for Change of Zoning Requests

- A. Applicability and Purpose: The application procedure detailed in this section applies to applications seeking to change the zoning classification of an individual parcel or tract of land from one zoning district to another. The procedure ensures that such requests are reviewed for consistency with the City’s Comprehensive Development Plan, compatibility with surrounding uses, and conformance with the purposes and intent of the City Code and other applicable regulations. The Board of Commissioners is the deciding authority within the City for change of zoning requests.
- B. Review of Change of Zoning Request:
  1. Subsequent to the Pre-Application Meeting and receipt of a complete Change of Zoning Request Application (see §236-12), the Director will review the application and determine consistency with the Comprehensive Development Plan and determine the need for Preliminary Land Use Service (PLUS) review. A memorandum shall be generated detailing the need for consideration under PLUS.
    - a. If a PLUS review is not required, the application and Director’s report shall be transmitted to the Planning Commission for review and action.
      - 1) The Planning Commission shall schedule consideration of the request at a regular meeting following receipt of a complete submission, allowing sufficient time for review.
        - a) City Secretary shall add the request to the agenda and make the relevant documentation available for public review.
      - 2) The Planning Commission shall evaluate the change of zoning request based on:
        - a) Review of the Director’s Report
        - b) Consistency with the Comprehensive Development Plan and adopted City policies;
        - c) Conformity with the purposes and standards of the Zoning Code;
        - d) Compatibility with adjacent land uses and zoning;

- e) Adequacy of public infrastructure and services to support the proposed change of zoning; and
  - f) Public input.
- 3) Following review and public input, the Planning Commission shall develop and transmit a written recommendation to the Board of Commissioners to approve, approve with conditions, or deny the change of zoning request. The recommendation shall include the rationale for their recommendation and shall reference the specific code, policy or documents that inform their decision.
- 4) The Applicant shall then proceed to coordinate with the appropriate staff to have their request placed on the Board of Commissioners agenda.
  - a) Following the decision on the change of zoning request by the Board of Commissioners, the Applicant will have the following options according to the decision:
    - i. If the change of zoning request is approved, the Applicant may proceed to the preliminary planning phase.
    - ii. If the change of zoning request is approved with conditions, the Applicant shall proceed to the preliminary planning phase making sure to modify the plan as per the comments and conditions of approval.
    - iii. If the change of zoning request is denied, the Applicant may appeal the decision as per the existing appeals process provided in the City Code.
  - b. If a PLUS review is required, the Applicant shall be informed of the decision and shall submit the request to the Office of State Planning Coordination (OSPC). The application shall be subject to the standard PLUS review process as detailed by the OSPC.
    - 1) The City shall take no action on the change of zoning request until the PLUS process has completed and the PLUS Review Letter has been issued.
    - 2) Once the PLUS process is completed, the Applicant shall amend their previous Change of Zoning Request Application packet to include the State's PLUS Review Letter with all state agency comments.
      - a) The Applicant shall modify their plan set and documentation to address the various comments received from the PLUS process.
      - b) The Applicant shall include a narrative document in the amended Change of Zoning Request Application that describes the revisions integrated that address the PLUS comments.

- 3) The Change of Zoning Request is reviewed by the Director and a report is issued that provides any recommendations for Planning Commission or Board of Commissioners consideration.
- 4) The Director's Report is forwarded to the Applicant and Planning Commission.
- 5) The Planning Commission shall schedule consideration of the request at a regular meeting following receipt of a complete submission, allowing sufficient time for review.
  - a) The City Secretary shall add the request to the agenda and make the relevant documentation available for public review.
- 6) The Planning Commission shall evaluate the change of zoning request based on:
  - a) Review of the Director's Report;
  - b) Consistency with the Comprehensive Development Plan and adopted City policies;
  - c) Conformity with the purposes and standards of the Zoning Code;
  - d) Compatibility with adjacent land uses and zoning;
  - e) Adequacy of public infrastructure and services to support the proposed change of zoning; and
  - f) Public input.
- 7) Following review and public input, the Planning Commission shall develop and transmit a written recommendation to the Board of Commissioners to approve, approve with conditions, or deny the change of zoning request. The recommendation shall include the rationale for their recommendation and shall reference the specific code, policy or documents that inform their decision.
- 8) The Applicant shall then proceed to coordinate with the appropriate staff to have their request placed on the Board of Commissioners agenda.
  - a) Following the decision on the change of zoning request by the Board of Commissioners, the Applicant will have the following options according to the decision:
    - i) If the change of zoning request is approved, the Applicant shall proceed to the preliminary planning phase.
    - ii) If the change of zoning request is approved with conditions, the Applicant shall proceed to the preliminary planning phase making sure to modify the plan as per the comments and conditions of approval.
    - iii) If the change of zoning request is denied, the Applicant may appeal the decision as per the existing appeals process provided in the City Code.

- **§236-29 Plan Review Process for Lot Consolidation and Partitioning**

- A. The application for partitioning or consolidation of land shall not be considered by the Planning Commission if within the twelve-month period immediately preceding the application the subject parcel was the subject of a subdivision application that was denied by the Planning Commission. However, this limitation shall not be applicable if the majority of the Planning Commission members, find the facts and circumstances existing at the time of their prior decision have undergone a substantial change justifying their reconsideration, or if the prior application was returned for refiling as a major subdivision.
- B. After the City Secretary receives a Lot Consolidation or Partitioning Application Package, it will be distributed to the Planning, Zoning and Development Department and the Planning Commission.
- C. The Planning, Zoning and Development Department will review the application and prepare a report indicating that all required elements are or are not present; that the project does or does not comply with zoning regulations; and offer the opinion of the Planning, Zoning and Development Department as to whether the proposal should be approved, approved with conditions, or denied.
- D. Upon determining that an application proposes the partitioning or consolidation of lots to their original platted configuration, as shown on a legally created plan recorded in the Sussex County Office of the Recorder of Deeds and recognized by the City, the Director shall provide a memorandum attesting to such determination to the Chair of the Planning Commission. The Chair may then determine that preliminary review is not required and may schedule the public hearing. The Planning Commission shall review the application, associated material, and any reports or findings that the City may have issued pertaining to the application, making certain that all requirements set forth by this chapter and Chapter 270: Zoning, have been satisfied. Following this review, the Planning Commission shall make a determination through a vote (see 236-24) on the compliance of the project with all relevant regulations.
  1. If the Planning Commission disapproves an application, two copies of the reasons for denial shall be provided to the Applicant. Reasons for disapproval shall be remedied prior to resubmission.
  2. The Planning Commission may approve the consolidation or partitioning of the subject site or may apply conditions to the approval. Any conditions must be addressed before the Signature Plan is signed.
  3. The decision of the Planning Commission shall become final upon the adoption of a written and signed resolution.

- **§236-30 Actions Following Final Approval**

- A. Upon publication of the final approval by the Planning Commission of any application, the Applicant shall create a Signature Plan that replicates the approved plan and addresses any conditions of approval issued by the Planning Commission. The Applicant shall submit the Signature Plan to the City.
- B. The submitted Signature Plan will be transmitted to the Chair of the Planning Commission who will verify the plan addresses any conditions attached to the approval and is otherwise

a replica of the approved Final Plan. Once verified, the members of the Planning Commission approving such application shall sign the Signature Plan.

- C. Once signed, four physical copies and a digital copy of the signed Signature Plan will be sent to the City Secretary. The original signed Signature Plan shall be retained by the City and stored in accordance with all relevant document retention regulations. The physical copies shall be provided to the Planning Commission, Planning, Zoning and Development Department and Applicant.
- D. Prior to issuance of any permits for the improvement of the property, including demolition, clearing, building, or grading permits, the Applicant shall complete the Signature Plan (see §236-23.D.4) and demonstrate compliance with required improvements detailed in Article 5 below. The execution of the Final Plan, including compliance with any conditions, will be reported in the Director's monthly report to the Planning Commission, and may be provided upon request.
- E. Recordation of Plan
  - 1. A copy of the final plan approved by a final action of the Planning Commission, prepared in accordance with the provisions of § 236-8, containing such conditions as may be required by the Planning Commission shall be filed by the Applicant whose application has been approved with the office of the Recorder of Deeds in and for Sussex County within 180 days from the date of such approval. The 180-day period shall begin after a notice of approval or a resolution has been published. A copy of the recorded final plan shall be provided to the Planning Commission, the Director and the City Manager, and shall be kept on file by them. If any final plan is not filed within this period, the approval shall expire. The Planning Commission for good cause shown may extend the time for final plan filing for a period not to exceed 180 days. [Amended 6-18-2007 by Ord. No. 0607-02]
  - 2. The recordation of a plan is required when the approved proposal meets the following criteria:
    - a. Is a Major or Minor Subdivision
    - b. Involves lot consolidations and/or partitionings
    - c. Creates a new lot or deletes existing lots
    - d. Otherwise modifies the boundaries, zoning district, and/or ownership of an existing parcel.
    - e. Where new easements are included in the proposed project, or where existing easements are modified.
  - 3. Applicant submits copy of signed Signature Plan to Recorder of Deeds in and for Sussex County. The Applicant shall follow the procedures established by the County for plan recordation.
- F. No plan shall be filed for the development of a subdivision in the office of the Recorder of Deeds for Sussex County unless it has been duly approved by the City. [Added 6-18-2007 by Ord. No. 0607-02]

## Article 5 – Required Improvements

- **§236-31 Purpose and Applicability**

- A. This Article applies to all applications for major subdivisions, and applications for site development plans that involve erosion, land disturbance, altering or extending city property and/or services.
- B. The purpose of requiring the improvements detailed herein is to ensure the future purchasers of the new lots are provided with safe and appropriate access to the civil infrastructure provided by the City to its residents; that the owners have appropriate access to and from these lots to other locations; and that the legal rights and uses of the lots by these future owners are not inappropriately constrained by the lack of the required improvements.

- **§236-32 Required Improvements**

- A. After recording of the plan, but prior to the transfer or sale of any lot or part of the subdivision, the subdivider shall be required to provide and install certain minimum improvements in the subdivision or within the vicinity that is impacted by the subdivision. All such required improvements shall be constructed in accordance with the minimum requirements of these regulations and the construction standards and specifications adopted by the appropriate City, County, or State agency or such other governmental agency as may have jurisdiction over a particular improvement. Nothing contained herein, however, shall be construed as prohibiting the subdivider from installing improvements meeting higher standards than the minimum requirements.
- B. Lots or parts of the subdivision may be sold or transferred prior to completion of improvements, provided that the subdivider has made adequate guaranties that all improvements will be made. These guaranties shall comply with the provisions of § 236-32.C. of this chapter.
- C. The Applicant shall furnish a performance guaranty prior to making any improvements sufficient to cover 150% of the estimated cost of the improvements. The performance guaranty shall be in a form acceptable to the Planning Commission (including but not limited to a surety bond or letter of credit), and shall cover the following:
  - 1. Streets. Streets shall be designed to conform to the design standards set forth in § 236-21 and shall be paved in accordance with specifications for paving of streets established by the City. Internal roads, alleys, driveways, aisles, and parking areas, when required, shall be constructed with a well-drained base and of a hard surface finish.
  - 2. Traffic. As detailed in Chapter 270, any proposed subdivision or site plan that is determined to impair the capacity, loading, safety, level of service, and similar, of existing transportation networks, including pedestrian and non-vehicular infrastructure, in the immediate vicinity of the site shall be required to improve those networks to the degree necessary to maintain the existing characteristics of travel and, where appropriate, improve such infrastructure to the extent that development of the site does not substantially degrade service levels.

3. Street name signs. A street name sign identical to those already established in the area or of a design and of material specified by the City shall be installed in a base at each street intersection in accordance with the specifications of the City.
4. Sidewalks. Sidewalks, where required, shall be placed between the curblin and the property line as determined by the Planning Commission and the City Engineer and in accordance with the City specifications for design and material.
5. Curbs. Curbs, where required, shall be placed on both sides of a street at a maximum distance of eight feet from the property line and in accordance with City specifications for design and material.
6. Streetlighting. Streetlights shall be installed at internal street intersections, on curves, and at the end of dead-end streets and shall be spaced approximately 300 feet apart along a straight street in accordance with the City Engineer's design.
7. Trees. Newly installed trees are to be located so as not to interfere with utilities, sidewalks or driveways and shall comply with the provisions of Chapter 253.
8. Grading, fill, topsoil and protection thereof.
  - a. Grading, excavation, and fill material shall meet the requirements of the ordinances of the City of Rehoboth Beach and the Sussex County Soil Conservation District.
  - b. All material to be used as fill shall meet the requirements established by City Code or Sussex County Soil Conservation District, be verified to be appropriate for the proposed use by the Applicant's engineer and be approved by City Staff prior to placement.
  - c. Disposal of excavated materials, including the disposal of any spoils accumulated during development, construction, and clearing of the land shall meet City Code Chapters 102, 159, all relevant outside agencies, and shall be approved by City Staff prior to placement.
9. Buffer zone planting. Where buffer zones are required or proposed, they shall be planted with growth of such type and quality to produce from time of planting a screening hedge of sufficient density and height to effectively perform its purpose year-round. Such proposed plantings shall be reviewed by the Planning Commission prior to approval of the subdivision.
10. Culverts and storm sewers. Culverts and storm sewers shall be properly installed and connected with the City system or as determined by the City Engineer or other authorized City authority.
11. Sanitary sewers. Sanitary sewers shall be properly installed and connected to the sanitary sewer system of the City in accordance with the requirements of the City.
12. Water. Connections to the City water system shall be properly installed and connected to the City water system in accordance with the requirements of the City.
- D. Incorporated within the performance guaranty shall be a provision requiring that the performance guaranty shall not be released and shall remain in full force and effect until all required improvements it guarantees are inspected and approved, in writing, by the City Engineer and the Planning Commission.
- E. All improvements shall be completed in accordance with this Code and any additional requirements attached as a condition of approval.

- F. The City shall be entitled to collect reasonable legal fees and costs incurred in an action to enforce the performance guaranty required by this section.
- G. The Planning Commission may require additional improvements with equivalent or alternative design approaches that differ from established standards when appropriate to address changing conditions or circumstances. The Planning Commission and Director have the authority to reference and apply appropriate standards, best management practices, and technical assistance from qualified sources as tools for evaluation, verification, and consideration.

- **§236-33 Improvement Plans**

- A. Plans, profiles and specifications for the required improvements shall be prepared by the Applicant and submitted for approval by the appropriate public authorities prior to construction. No construction shall commence prior to the issuance of the appropriate permits by the Planning, Zoning, and Development Department for the required improvements. All plans, profiles and specifications approved by the Building Inspector or his or her designee with the issuance of the appropriate permit shall remain valid or, if substantial construction is not actively and continuously underway, they shall expire upon the expiration of the final site plan. Prior to the issuance of a permit, the Building Inspector may require the owner and/or his designee to execute an agreement addressing the required improvements. The plans and profiles submitted for all new construction shall include the following:
  - 1. Plans and profiles of each street showing proposed grades and street intersection elevations.
  - 2. A typical cross section of proposed streets showing the width of roadways. Such cross section shall extend laterally to the point where the proposed grade intersects the existing grade, except that in no case shall less than the full width of the street right-of-way be shown.
  - 3. Construction and specification plans of proposed sanitary sewers and storm drains shall be approved by the City Department of Public Works and the State Division of Highways where it has jurisdiction.
  - 4. Construction and specification plans of the proposed water distribution system, showing pipe sizes and the locations of all valves and fire hydrants, shall be in accordance with applicable City regulations.
  - 5. Plans and specifications for open space and allowable improvements in open space areas.
  - 6. A bulk grading plan as may be required.
  - 7. All construction and specification plans shall include an owner's statement acknowledging ownership of the property and agreeing to the requirements and information shown on the plan signed by the owner or owners and an engineer's statement certifying the information shown on the plan. In addition, a three-by-five-inch block shall be included at the bottom right corner of the plan title sheet containing the appropriate project reference for the project, the ordinance or subdivision number of the project and a signature line for the Building Inspector.

8. DelDOT standard construction details may be provided by schedule or by inclusion of the details within the construction and specification plans.
9. Proposed access easement layout with a note that such access easements are public access easements for maintenance purposes. For purposes of this requirement, "public" shall mean, and be limited to, those parties requiring access for maintenance purposes.

- **§236-34 Bonds and Guaranties**

- A. As a condition of approval of improvement plans, the Planning Commission shall require the Applicant to post a performance bond, letter of credit, or certified check for an amount as established in the City Schedule of Fees and Penalties, and in such form as shall be approved by the City Solicitor and Finance Director, in lieu thereof, by a cash deposit, the amount of which shall be determined by the City Manager, or other guaranty, for any improvements required by the application of this chapter in an amount sufficient to construct the improvements. The amount of such bond shall be 150% of the cost of improvements or \$50,000, whichever is greater. Bonding and guaranties may be required for street and road improvements, water supply facilities, sanitary sewer facilities, buffers, amenities, recreational facilities and other improvements deemed necessary by the Planning Commission or required by the City Code. All amenities and/or recreational facilities required by the Planning Commission or shown on the final plan shall be bonded as a separate phase or phase of the subdivision.
- B. Where a public agency other than the City has the authority to require performance guaranties, but in the determination of the Board of Commissioners those guaranties are not adequate to ensure completion of improvements, the Board of Commissioners may require additional bonds or guaranties in accordance with the provisions of Subsection A of this section.
- C. Notwithstanding the preceding subsections of this section, no performance bond or other guaranty shall be required for improvements required by the application of this chapter upon lands owned by the party seeking to construct the improvements; provided, however, that no lots shall be sold or transferred and no residential building permits or zoning permits shall be issued until: 1) all required improvements are constructed and receive substantial completion; or 2) a bond or guaranty is posted in accordance with Subsections A and B of this section; provided, however, that a party seeking to transfer a lot or obtain a residential building permit or zoning permit prior to substantial completion may notify the City in writing of the intention to do so and provide an estimate for the work that remains to construct the improvements using unit prices published by Sussex County. The performance bond or guaranty shall either be 150% of the value of the estimate or \$50,000, whichever is greater. The party seeking to transfer lots or obtain a residential building permit or zoning permit shall allow 20 days from the date of written notice to review the estimate, complete the necessary inspections and determine the amount of the performance bond or guaranty required for the remaining improvements.
- D. After a performance bond or other guaranty is provided as required herein, a party may not alter the area of an approved phase of the development unless a new performance bond or

other guaranty is provided for the new or altered phase. Any such alteration shall be subject to the approval of the Director or their designee.

- **§236-35 Inspection of Improvements**

- A. Following the issuance of appropriate permits, all construction work on improvements required herein shall be subject to inspection and approval by the Building Inspector and/or other authorized individuals during and upon completion of such construction work to confirm that all work has been performed in accordance with the requirements of this chapter.
- B. Upon the issuance of a notice to proceed as required by this article, the required improvements shall proceed in a timely fashion.
- C. Pavement topcoats on all streets and roadways shall be completed in accordance with the following percentages for the project or approved phase:

| Certificate of Occupancy Percentage | Top Coat Must be Installed Within<br>(number of years) |
|-------------------------------------|--------------------------------------------------------|
| 40%                                 | 5                                                      |
| 50%                                 | 3                                                      |
| 70%                                 | 2                                                      |
| 90%                                 | 1                                                      |

- D. A two-year extension from the requirements of Subsection C above may be granted at the discretion of the Building Inspector if the following factors can be demonstrated:
  - 1. There is active construction occurring in the approved phase. For purposes of this article, "active construction" is defined as a minimum of 5% (rounded up to the next whole number) of the total lots in the approved phase have had a certificate of occupancy issued during the two years prior to the date of the extension request.
  - 2. A maximum of two, two-year time extensions may be granted per approved phase.
  - 3. Any two-year extension granted by the Building Inspector shall supersede the deadlines set forth in Subsection C above, and the topcoat must be installed by the expiration of the time extension.
  - 4. Entrance areas that provide the only point of vehicular access for a development are eligible for an extension without satisfying the percentages outlined in Subsection C of this section at the discretion of the Building Inspector.

- **§236-36 Closeout Procedures**

- A. Prior to topcoat surface application, the road must pass a pre-pave inspection and all punch list items required by the Building Inspector or his or her designee must be completed. All final topcoat surfaces must pass topcoat inspections and approval by the Building Inspector or his or her designee and have completed all items listed on the punch list issued by the Building Inspector or his or her designee.
- B. If concrete curb damage is evident as determined by the Building Inspector or his or her designee the following repairs are required:
  - 1. If a vertical crack is less than 1/32 of an inch wide, then the curb is acceptable.

2. If a vertical crack is more than 1/32 of an inch wide, then the crack must be sawcut and filled with a backer rod and sealant.
  3. If the curb is chipped with a width and/or height two inches or less and less than 1/4 inch deep, then the chip must be patched with a sealant.
  4. If there are more than six chips and/or three vertical cracks or a total of six chips and vertical cracks within a four-foot section of curb, then the curb must be replaced. The four-foot section shall be measured from each chip.
  5. If replacement is required, the curb shall be saw cut and replaced in a minimum of four-foot section and not within four feet of a joint.
  6. As new technology emerges, it may be considered as a method to repair or replace curb. One such example includes milling a section of curb adjacent to the roadway.
  7. The Building Inspector or his or her designee may require concrete core samples.
- C. If sidewalk or driveway apron damage is evident as determined by the Building Inspector or his or her designee the following repairs are required:
1. If there is a vertical difference greater than 1/4 inch at a joint, then the sidewalk must be replaced from joint to joint.
  2. If replacement is required, the concrete shall be saw cut and replaced in a minimum of four-foot sections beginning at a joint.
  3. As new technology emerges it may be considered as a method to repair or replace sidewalk. One such example includes grinding a section of sidewalk adjacent to a vertical separation.
  4. The Building Inspector or his or her designee may require concrete core samples.
- D. If pavement damage is evident as determined by the Building Inspector and/or other authorized individuals, the damaged area shall be repaired by traditional mill and overlay practices. New technologies may also be considered following consultation with a registered professional engineer and approval of the Building Inspector.
- E. The following tolerances shall apply to the following items at the time of project closeout:
1. Open cross road pipes: an invert elevation of plus or minus 0.05 foot.
  2. Swales within the right-of-way: an invert elevation of plus or minus 0.10 foot.
- F. All driveway pipes for unfinished lots shown on the approved detailed grading plan shall be installed prior to the topcoat inspection.
- G. For any closed drainage system project closeout inspection, the Building Inspector or their designee may require that storm drain pipes be flushed. The Building Inspector may also require as-built documentation and visual inspections including, but not limited to, camera scoping tests performed in water, sewer, and stormwater pipes and culverts.
- H. Pavement cores:
1. Curb and gutter: The Building Inspector or his or her designee may require pavement cores to be taken at the base course with a minimum of one core per road and/or one core per 500 linear feet.
  2. Open drainage: The Building Inspector or his or her designee individual may require pavement cores to be taken at the base course and/or wearing course with a minimum of one core per road and/or one core per 500 linear feet.

3. Should the cores show the road pavement section to be less than what is required, a geotechnical engineer shall determine if the structural numbers are sufficient or additional pavement is necessary.
4. The Building Inspector or his or her designee may require sidewalk cores to be taken at one core per 500 linear feet.
- I. Upon the satisfaction of all requirements, the owner or his or her designee may apply for a determination of "substantial completion" by the Building Inspector. Substantial completion shall confirm that all work has been performed to the extent that it is in a condition to be utilized in the manner required, designed and intended, and any included conditions have been addressed.

## Article 6 – Application Amendments, Administrative Exceptions, and Expiration of Approvals

### • §236-37 Purpose and Applicability

- A. This article is intended to ensure that the City, Planning Commission, and all other relevant departments, are given sufficient time to thoroughly review all applications and amendments.
- B. This article applies to all project types and phases.

### • §236-38 Application Amendments

- A. An Applicant requesting a determination as to whether the proposed alteration is or is not a minor amendment shall submit a complete Final Plan Amendment Application Package consistent with the previous Final Approval, with the proposed amendments clearly highlighted on the plan set and described in detail in an accompanying narrative document.
  1. The narrative document shall provide sufficient justification for the requested revision's necessity or purpose (See 236-38.C.1).
- B. The Director shall determine if the requested revision is minor in nature and if it may proceed to the Planning Commission for their review as an amendment to the approved plan. If the Director determines that it is not a minor amendment, the Applicant shall proceed with the process of a new application.
- C. For those plans that have received an approval for any phase, the following conditions will apply regarding the amendments of those approved plans.
  1. With the exception of those deemed to be minor amendments, the procedure for amendments and additions to plans shall be the same as for a new application. Minor amendments of an approved plan, or conditions attached to a site plan which are clearly highlighted on a revised site plan with an itemized list of all revisions, may be approved by the Planning Commission if the amendment or addition, in the reasonable judgment of the Planning Commission:
    - a. Does not alter a recorded plan.
    - b. Does not conflict with requirements set forth in this chapter.

- c. Does not change the general character or content of an approved plan or increase the intensity of use.
  - d. Applies to an approved condition originating with the Planning Commission but does not remove such condition or alter it in more than a minimal way.
  - e. Has no appreciable adverse impact on adjoining or nearby properties.
  - f. Does not result in any change of major external access points in more than a minimal way, nor does it require any significant modifications to street widths, lengths, or the number of streets.
  - g. Does not increase the approved number of lots, dwelling units, sleeping units, or height of buildings (as referred in Chapter 270).
  - h. Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.
- D. Neither the Planning, Zoning, and Development Department nor any other relevant City departments or agencies are prohibited from subsequently offering their comments that may be contrary or different from their initial written comments if in their view subsequent information or analysis justify further comments. They shall explain why any of their further comments are contrary or different from their initial comments or any other prior comments. To assist the Planning Commission in its understanding of any comments from the Planning, Zoning, and Development Department or any other relevant City departments or agencies, the City may provide, upon request, additional clarifying materials to the Planning Commission. The Planning Commission, however, is not required to concur with any initial or subsequent comments in determining whether the proposed plan should receive final approval.
- E. Timing of Amendments
  - 1. No plan amendments shall be considered once the proposed project, in any phase, is scheduled for Planning Commission consideration as indicated on the published agenda of a regular Planning Commission meeting.
    - a. If the Applicant desires to make an amendment to a plan that has been submitted for consideration to the City and is scheduled for Planning Commission review, the application shall be withdrawn and rescheduled. In no case shall the amended application be included on the Planning Commission's agenda within a 30-day period following the date of the submittal of the amendment.
    - b. Any comments issued by the City on the original application shall be subject to revision based on the amended application.
  - 2. Exception: Some amendments may be permitted, based on good cause or other sufficient reason, after the proposed project has been scheduled at the sole discretion of the Planning Commission Chair in consultation with the Director.

## - §236-39 Administrative Exceptions

- A. The Director may provide an exception from plan reviews for minor structures, which are not a part of a conditional use, special exception, or otherwise subject to this Chapter, provided such structure:
  - 1. Is accessory to a legally existing structure; and

2. Is less than 200 square feet in gross floor area; and
  3. Is no larger than the existing structure.
- B. For multi-unit condominium parcel consolidation and/or separation, where the owner is the same, no Planning Commission involvement or approval is required. The Director will determine what application requirements must be submitted to support the condominium parcel consolidation/separation request.
- C. Additional Easements or Rights-of-Way may be added, deleted, modified, or relocated based on evolving site conditions. These modifications may be of minimal impact and not necessitate involvement of the Planning Commission. The Director will determine if these modifications are minor and do not require Planning Commission review and approval. The Director will identify what application requirements must be submitted to support the modification of easements or rights-of-way.
- D. The development of a single lot fully contained within the R-1(S) Special Single-Family Residence District shall be exempt from this Chapter.

## - §236-40 Expiration of Approvals

- A. The following shall apply to all approvals granted by the Planning Commission:
1. The approval for all plans shall expire one calendar year from the date of publication of the decision or approval by the Planning Commission, unless the Applicant has fulfilled all of the conditions mandated by the Planning Commission as a contingency of its approval. The Planning Commission may grant one extension of this time period for up to six months based on good cause.
    - a. If the Applicant requires an extension of this approval, they shall submit a letter to the Chair of the Planning Commission requesting this extension. The letter request shall include descriptions of the need for the extension.
    - b. The Chair of the Planning Commission shall consider the request and, in consultation with the Planning Commission's attorney, Director, and others as appropriate, will issue a decision on whether the request shall be granted or denied. This decision shall be made in writing, added to the public record, and delivered to the Applicant.
  2. If construction has not commenced within one year from the date publication of the decision or approval by the Planning Commission, such approval shall become void. The Planning Commission may, at the time of final approval, grant a longer period of time for commencing construction if in its judgment the subdivider has shown good cause. For purposes of this section, commenced construction shall mean the subdivider has begun a continuous program of construction.
  3. The improvements identified in Article V, Improvements, and any other improvements required by the Planning Commission, shall be completed within two years of Planning Commission approval, unless, because of the size and/or complexity of the improvements, a longer period of time for completion is granted by the Planning Commission at the time of final approval. If the improvements are not completed within the time period set out in this section, the City may exercise any legal remedy to complete the improvements.

## Article 7 – Code Amendments

- **§236-41 Purpose and Applicability**

- A. This article establishes the requirements and regulations an application must address in the event that this Chapter, and all other Chapters pertinent to land development and construction, are modified.
- B. This article shall apply to all project types and phases.

- **§236-42 Code Amendments**

- A. Process to Amend Chapter 236: Any revisions to Chapter 236 are governed by City Code Chapter 1, Section 4.
- B. Applications that were received and accepted as complete prior to changes in Chapter 236 shall comply with the procedures of Chapter 236 in effect at the time of the acceptance of the Application Packet.
- C. Applications received following modifications to Chapter 236 shall comply with the current, legislatively adopted regulations at that time.

## Article 8 – Reconsideration and Appeals; Violations and Penalties; Injunctive Relief; Liens

- **§236-43 Purpose and Applicability**

- A. This article is intended to provide for a process by which an Applicant may request reconsideration and appeal a decision issued by the Planning Commission.
- B. This article establishes the ability of the City to enforce the contents and procedures of this chapter and to issue penalties to the parties determined to have violated the terms of this Chapter.
- C. This article shall apply to all project types and phases. Additionally, this article shall be applicable to any property owner who may violate these regulations, regardless of whether an application has been made to the City.

- **§236-44 Reconsideration and Appeals**

- A. Reconsideration by the Planning Commission.
  - 1. Within twenty (20) days after the date of publication of the final action of the Planning Commission, an Applicant may request in writing that the Planning Commission reconsider a condition imposed as part of its final approval, based solely on newly-discovered evidence or new legal arguments which could not have been discovered or presented earlier.
    - a. No appeal from reconsideration decision. There shall be no appeal from the Planning Commission's decision on a request for reconsideration.

- b. Appeal deadline not stayed. A request for reconsideration shall not stay the time to appeal the final action.
  - c. Concurrent appeal and reconsideration. An appeal may be filed concurrently with a reconsideration request, but the Board of Commissioners shall not hold the appeal hearing until after the Planning Commission has acted on the reconsideration. The Planning Commission's reconsideration and action shall become part of the record.
  - d. Reconsideration is not required. An Applicant is not required to seek reconsideration prior to filing an appeal.
  - e. Amendment of Notice of Appeal Following Reconsideration. If the Planning Commission modifies its final action as a result of reconsideration, any appellant who previously filed a notice of appeal may amend that notice to address the modified decision. Any such amendment shall be filed within ten (10) days after publication of the Planning Commission's decision on reconsideration.
- B. Right to Appeal; Standing; Filing Requirements. Any person aggrieved, meaning any person who can demonstrate a direct, substantial, and immediate interest affected by the final action of the Planning Commission, may appeal such action by filing a written notice of appeal with the Board of Commissioners within twenty (20) days after the date of approval of published notice of decision of the final action. The notice of appeal shall contain a general statement of the grounds for appeal and the basis upon which the appellant claims to be aggrieved. For purposes of this section, a "final action" means the vote of the Planning Commission to approve an application (with or without conditions) or to deny an application. The following procedures apply:
  - 1. Scheduling and Notice of Appeal Hearing. Upon receipt of a timely notice of appeal, the Board of Commissioners shall schedule an appeal hearing within sixty (60) days, or as soon thereafter as practicable. Public notice shall be provided. The Planning Commission, the appellant, and the Applicant (if different from the appellant) shall be afforded an opportunity to be heard.
  - 2. Persons Entitled to Participate. Unless otherwise required by State law or the City Charter, only persons who submitted written or oral testimony during the Planning Commission's public hearing on the application may restate their positions as previously stated on the record. No new materials or arguments shall be introduced at this stage.
  - 3. Appeal on the Record; Contents of the Record; No New Evidence.
    - a. The appeal shall be strictly on the record created before the Planning Commission.
    - b. The record shall consist of all plans, submissions, written and oral testimony, staff reports, memoranda, exhibits, legal arguments, the Planning Commission's deliberations, its written decision, and its decision on any reconsideration request under Subsection A.
    - c. No party shall submit, and the Board of Commissioners shall not consider, any new written or oral evidence. No party shall submit new legal arguments that could reasonably have been raised before the Planning Commission

based on the record before it. Legal arguments not required to be presented at the Planning Commission level—including, but not limited to, constitutional claims, takings claims, Religious Land Use and Institutionalized Persons Act (RLUIPA) claims, First Amendment claims, equal protection arguments, or exaction/nexus/proportionality claims—may be raised only to the extent permitted by State law and only if they are based exclusively on the existing record.

4. Written Submissions.
  - a. The Planning Commission, the Appellant, and the Applicant (if different) may each file a written submission of not more than ten (10) pages no later than twenty-one (21) days before the hearing, and a rebuttal of not more than ten (10) pages no later than seven (7) days before the hearing.
  - b. All submissions must rely exclusively on the established record.
5. Actions Available to the Board of Commissioners. Following the appeal hearing, the Board of Commissioners may, by majority vote:
  - a. Affirm the Planning Commission's final action, in whole or in part;
  - b. Reverse the final action, in whole or in part;
  - c. Remand the matter to the Planning Commission for further proceedings consistent with instructions, including the direction to conduct a new hearing and issue written findings and conclusions. Only one (1) remand is permitted. Any appeal from the Planning Commission's final action on remand shall be filed within twenty (20) days; or
  - d. Modify the final action, provided such modification is supported by the record and within the Board of Commissioners' authority.
6. Standard of Review.
  - a. The Board of Commissioners' review shall not be de novo. The Board of Commissioners shall not reweigh evidence or substitute their judgment for that of the Planning Commission as fact-finder. The Board of Commissioners shall determine whether the Planning Commission's decision:
    - 1) is supported by substantial evidence in the record;
    - 2) is not arbitrary, capricious, or an abuse of discretion; and
    - 3) reflects a correct interpretation and application of the applicable provisions of the City Code and other controlling law.
- C. Appeal Fee. The fee for filing an appeal shall be as set forth in the City Schedule of Fees and Penalties detailed under §236-15 and shall be paid upon filing the notice of appeal.
- D. Exhaustion of Remedies; Judicial Review. Any person aggrieved by the decision of the Board of Commissioners may appeal to the appropriate court only after all remedies under this chapter have been exhausted.

## ● §236-45 Violations and Penalties; Injunctive Relief; Liens

- A. Compliance Required; Violations.
  1. All standards, procedures, and requirements of this chapter shall be complied with by all persons with title to, or control over, real property subject to these regulations.

2. Any act or omission that fails to comply with the requirements of this chapter shall constitute a violation.
  3. Penalties, fines, and administrative charges applicable to violations of this chapter shall be as set forth in the City Schedule of Fees and Penalties, as adopted and amended annually.
  4. All penalties under this chapter are civil and administrative in nature.
- B. Prohibited Conveyances Prior to Final Approval.
1. No person shall transfer, convey, sell, or agree to sell any lot, parcel, or portion of land that forms part of a subdivision for which Planning Commission approval is required under this chapter prior to receiving final approval. Notwithstanding, a person may transfer, convey, sell, or agree to sell the entire portion of land that constitutes the requested subdivision for which Planning Commission approval is required under this chapter prior to receiving final approval.
  2. Each lot, parcel, or portion of land so transferred or agreed to be transferred without approval shall constitute a separate violation.
  3. Penalties and fines applicable to violations of this subsection shall be as set forth in the City Schedule of Fees and Penalties.
- C. Injunctive Relief and Enforcement.
1. In addition to any penalties authorized under the City Schedule of Fees and Penalties, where any subdivision or development activity occurs without required approvals, or where required improvements – including but not limited to streets, utilities, drainage, emergency access, or other infrastructure – have not been installed as required by this chapter, the City may institute and maintain a civil action in any court of competent jurisdiction for injunctive relief, abatement, or other appropriate equitable remedies.
  2. Such action may include restraining further conveyance, construction, development, or occupancy until compliance with this chapter has been achieved.
- D. Purchaser's Liens and Restitution.
1. In any action arising from an unlawful conveyance under Subsection B, the transferee, purchaser, or grantee of land conveyed or agreed to be conveyed without required subdivision approval shall be entitled to a lien on any portion of the land from which the subdivision was created and that remains in the possession of the subdivider, their successors, or assigns.
  2. The lien shall secure the return of any deposit or purchase price paid by the purchaser, together with reasonable search fees, survey expenses, reasonable attorney fees, and title-closing costs, if any.
  3. Any action brought under this subsection to enforce the lien and obtain restitution under this chapter must commence within three (3) years after the recording of the instrument of conveyance, or within six (6) years if the instrument remains unrecorded.
  4. This subsection shall be construed to provide restitution and not punitive damages and shall not be interpreted to create a compensable taking under state or federal law.

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|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                         | <b>CHAPTER 236: Definitions (§236-5)</b>                                                                                                                                                                                                                                                                                                                                                                   |
| <b>A</b>                                |                                                                                                                                                                                                                                                                                                                                                                                                            |
| ACRE                                    | A measurement of land area equivalent to approximately 43,560 square feet                                                                                                                                                                                                                                                                                                                                  |
| ADJACENT/ADJOINING                      | Property that touches or is directly across a street, private street or access easement, or right-of-way (other than a freeway or principal arterial) from the subject property.                                                                                                                                                                                                                           |
| AGGREGATE AREA or WIDTH                 | The sum of two or more designated areas or widths to be measured, limited or determined under the provisions of this chapter.                                                                                                                                                                                                                                                                              |
| AMENDMENT (CODE)                        | A code amendment refers to a formal change or addition made to an existing legal document, contract, or regulation. It allows for modifications to be made while preserving the original structure and intent of the document. Amendments can address ambiguities, correct errors, or introduce new provisions to adapt to changing circumstances or improve clarity                                       |
| AMENDMENT (PLAN OR APPLICATION) - MINOR | An amendment to a plan is the act of adjusting the characteristics of elements previously shown on a site plan and which were considered during City reviews to determine zoning compliance and any impacts stemming from the proposed project. An amendment is determined to be minor if it meets all the criteria established in Chapter 236, as determined by the reasonable judgement of the Director. |
| AMENDMENT (PLAN OR APPLICATION) - MAJOR | Major plan amendments are defined as those that do not meet the criteria of a Minor Amendment.                                                                                                                                                                                                                                                                                                             |
| APPLICANT                               | A property owner or any person or entity acting as an agent for the property owner in an application for a development proposal, permit, or approval.                                                                                                                                                                                                                                                      |
| AVERAGE DAILY TRAFFIC (ADT)             | Traffic, average daily: The average number of vehicles using a traveled way for a 24-hour period determined by dividing the total number of vehicles for a stated period by the number of days in that time period.                                                                                                                                                                                        |
| <b>B</b>                                |                                                                                                                                                                                                                                                                                                                                                                                                            |
| BLOCK                                   | Any given portion of lands in private ownership lying within the corporate limits of the City but in no way intersected by the adjacent lines of any given number of the public roads, avenues, streets, lanes, alleys, ways, parks, beaches, strands, waterways, zoning districts or corporate limits of the City.                                                                                        |
| BOARD OF COMMISSIONERS                  | The Commissioners of Rehoboth Beach set forth in the Charter of the City of Rehoboth Beach.                                                                                                                                                                                                                                                                                                                |

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| BUFFER                    | An undisturbed area of land typically left in a natural state, but which may include landscaping, berms, walls, and building setbacks, that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use on a residential or vacant parcel. Buffers are also used to refer to areas of no-impact where the buffers are established as part of a natural resource protection strategy or regulation. |
| BUILDABLE AREA            | The space remaining on a lot after the minimum open space, offset, and setback requirements have been complied with; excepting any floodplain, wetland, or similarly designated unbuildable lands.                                                                                                                                                                                                                                                              |
| BUILDABLE WIDTH           | The width of that part of a lot not included within the open spaces herein required.                                                                                                                                                                                                                                                                                                                                                                            |
| BUILDING                  | A structure, usually roofed, walled and built for permanent use, designed to serve as a dwelling, for commercial purposes, agricultural needs, or similar needs across other zoning districts.                                                                                                                                                                                                                                                                  |
| BUILDING FOOTPRINT        | A building footprint is defined as the area of land that a building occupies, represented as a polygon or outline of the building when viewed from above. It typically includes the total area of coverage of the building, excluding non-building facilities like parking lots and streets. The footprint provides a visual representation of the building's location, shape, dimensions, and area.                                                            |
| BUILDING LINE             | The building line is the inner edge of any required yard or required setback, and the corresponding outer edge of the buildable area. Except as specifically provided by these regulations, no portion of any building or structure may be extended to occupy any portion of a lot outside its building lines.                                                                                                                                                  |
| <b>C</b>                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| CONCEPT PLAN              | A generalized plan indicating the boundaries of a tract or tracts under common ownership, and identifying proposed land use, land-use intensity, thoroughfare alignment, and demonstrates general zoning consistency.                                                                                                                                                                                                                                           |
| CONDITIONAL APPROVAL      | An affirmative action by a commission indicating that approval will be contingent upon satisfaction of certain specified stipulations.                                                                                                                                                                                                                                                                                                                          |
| CONDITIONS OF APPROVAL    | Conditions, placed on the final approval of an applicant's plan, that are both consistent with the guidelines for development review and do not allow for the denial of a plan that is consistent with the objectives of the guidelines for development review and appropriate uses and intensities of use set forth in this Code.                                                                                                                              |
| CONSTRUCTION, STARTING OF | The point in time commemorating the breaking of ground for the construction of a development or structure.                                                                                                                                                                                                                                                                                                                                                      |
| COUNTY                    | Sussex County, Delaware.                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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| CUL-DE-SAC (DEAD END STREET) | A minor street having but one end open for vehicular traffic and the other end permanently terminated by a turnaround or background for vehicles.                                                                                                                                                                                                                                                                                       |
| <b>D</b>                     |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 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.                                                                                                                                                                                            |
| DIRECTOR                     | The Director of Planning Zoning and Development Department for the City of Rehoboth Beach.                                                                                                                                                                                                                                                                                                                                              |
| DISTRICT                     | A section of the city in which zoning regulations and standards are uniform.                                                                                                                                                                                                                                                                                                                                                            |
| DRAINAGE RIGHT-OF-WAY        | The lands required for the installation for stormwater sewers or drainage ditches or required along a natural watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.                                                                                                                                                                                          |
| <b>E</b>                     |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| EASEMENT                     | That portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on, or above said lot or lots. The land against which the easement or privilege exists is called the “servient” tenement and the estate to which it is annexed the “dominant” tenement.                                                                    |
| <b>F</b>                     |                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| FLOORPLAN                    | A technical drawing to scale, showing a view from above of the floor, of the relationships between rooms, spaces, traffic patterns, and other physical features at one level of a structure.                                                                                                                                                                                                                                            |
| FRONT                        | That side of a building which faces the street without regard for the principal place of entry. In the case where a building faces intersecting streets (a corner), the side of the building facing the street on which the shorter lot dimension abuts is the front. If the lot dimensions abutting the streets are equal, either side of the building facing a street may be considered the front.                                    |
| FRONTAGE                     | (1) STREET FRONTAGE<br>All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.<br>(2) LOT FRONTAGE<br>The distance for which the front boundary line of the lot and the street line are coincident. |

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|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>G</b>                     |                                                                                                                                                                                                                                                                                                                                                                          |
| GREEN SPACE                  | A civic space for passive recreation, spatially defined by landscaping rather than buildings.                                                                                                                                                                                                                                                                            |
| GREENWAY                     | An open-space corridor in largely natural conditions which may include trails for bicycles and pedestrians.                                                                                                                                                                                                                                                              |
| <b>I</b>                     |                                                                                                                                                                                                                                                                                                                                                                          |
| INCREASE IN INTENSITY OF USE | A project in a commercial district that involves a change from a use permitted in a lower Tier to a use permitted in a higher Tier, regardless of whether it also involves a change in the footprint, gross floor area, height, or lot coverage of the existing development (as those terms are used in Chapter 270 of the City Code).                                   |
| <b>L</b>                     |                                                                                                                                                                                                                                                                                                                                                                          |
| LOT CONSOLIDATION            | The elimination of a property line or lines of unplatted land to create a single unit of land where more than one unit previously existed.                                                                                                                                                                                                                               |
| <b>M</b>                     |                                                                                                                                                                                                                                                                                                                                                                          |
| MAIN BUILDING                | The principal building on a lot, the building in which is conducted the principal use of the lot on which it is located and which, in a residential district, is the residential structure on the lot with the largest gross floor area.                                                                                                                                 |
| MAJOR SUBDIVISION            | All subdivisions not classified as partitionings or minor subdivisions.                                                                                                                                                                                                                                                                                                  |
| MINOR SUBDIVISION            | Includes any subdivision containing three or more lots fronting on an existing state, county or municipal street, not involving any new street or road or the extension of any City or county facilities, or which does not directly affect drainage on a county road, and not adversely affecting the development of the remainder of the parcel or adjoining property. |
| MIXED USE                    | A tract of land or building or structure developed for two or more different uses such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment.                                                                                                                                                                                     |
| <b>N</b>                     |                                                                                                                                                                                                                                                                                                                                                                          |

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| NONTIDAL WETLANDS             | Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are areas that are covered by water or have waterlogged soils for long periods during the growing season. Plants growing in wetlands are capable of living in saturated soil conditions for at least part of the growing season. Non-tidal wetlands are not influenced by tidal cycles. |
| <b>O</b>                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| OCEANFRONT PARCEL OF LAND     | Any parcel of land within the City Limits (as defined in Section 1—11 of the City Code) that abuts the beach or the Boardwalk (as defined in Section 98-2 of the City Code).                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| OFFICIAL MAP                  | A map adopted pursuant to Chapter 7, Title 22, Delaware Code of 1953. Such a map shall be deemed to be conclusive with respect to the location and width of the streets, public parks and playgrounds and drainage rights-of-way shown thereon.                                                                                                                                                                                                                                                                                                                                                                                     |
| OPEN AREA                     | That portion of a lot excluding area set aside or used for buildings, parking, loading and streets.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| OPEN SPACE                    | Any land or area, the preservation of which in its present use would: (1) conserve and enhance natural or scenic resources; or (2) protect streams or water supply; or (3) promote conservation of soils, wetlands, beaches, or tidal marshes; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreation opportunities.                                                                                                                                                                                                  |
| <b>P</b>                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PARTITIONING/LOT PARTITIONING | Lot partitioning are those projects that would create no more than 2 new parcels, do not include any expansion of City infrastructure beyond new connections to existing water or sewer lines, and do not adversely affect the development of the remainder of the parcel or adjoining properties.                                                                                                                                                                                                                                                                                                                                  |
| PATH                          | A pedestrian way traversing open space or rural area, with landscape consistent with the preservation of ecological functions of the open space, ideally connecting directly with the sidewalk network.                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PERFORMANCE GUARANTY          | A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|                               |                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PLAN, or PLAN SET             | The Plan, or Plan Set, that accompanies the project application is the visual description of the existing and proposed conditions of the subject site. The Plans must contain a range of surveyed elements that are detailed in Article 2. The Plan, or Plan Set, can be referred to as a site plan interchangeably with no difference between the names.                   |
| PLAT                          | A plat, including supporting data, indicating a proposed subdivision design, prepared by a civil engineer, land surveyor, landscape architect, architect, or land planner in accordance with these regulations and the statutes of the state, that has received Final Approval by the Planning Commission and that is then recorded in the Sussex County Recorder of Deeds. |
| PREMISES                      | A lot, together with all buildings and structures thereon.                                                                                                                                                                                                                                                                                                                  |
| PROPERTY OWNER                | Any owner of a parcel of real estate identified on the assessment rolls of the Sussex County Assessment Office.                                                                                                                                                                                                                                                             |
| PROJECT PHASE                 | A project's phase refers to where along the development process the Applicant's proposal is situation. The Phases are Concept, Preliminary, and Final. They will always occur in that order and each iteration builds upon the last, includes more details with higher confidence in the proposed elements matching final locations.                                        |
| PUBLIC                        | Open to common use-, whether or not public ownership is involved.                                                                                                                                                                                                                                                                                                           |
| PUBLIC BUILDING               | A building, owned or leased, occupied, and used by an agency or political subdivision of the federal, state, county, or municipal government.                                                                                                                                                                                                                               |
| PUBLIC HEARING                | A meeting announced and advertised in advance and open the general public wherein the public has an opportunity to comment and participate.                                                                                                                                                                                                                                 |
| PUBLIC NOTICE                 | The publication in a newspaper of general circulation in the City of Rehoboth Beach, at least 15 days prior to the hearing, advising the public of the time and place of the hearing.                                                                                                                                                                                       |
| PUBLIC WATER AND SEWER SYSTEM | Any system, other than an individual septic tank, tile field, or individual well, that is operated by a governmental agency, a public utility, or a private individual or corporation licensed by the appropriate state agency, for the collection, treatment, and disposal of wastes and the furnishing of potable water.                                                  |
| <b>R</b>                      |                                                                                                                                                                                                                                                                                                                                                                             |
| RECORDER OF DEEDS             | The Recorder of Deeds of Sussex County, Delaware.                                                                                                                                                                                                                                                                                                                           |
| REDEVELOPMENT                 | Any proposed expansion or addition to an existing building, structure, parking facility or that modifies the intensity of use.                                                                                                                                                                                                                                              |

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| REGISTERED DESIGN PROFESSIONAL | An individual who is registered or licensed to practice their respective design profession, as defined by the statutory requirements of the professional registration laws of the Delaware.                                                                                                                                                                                                                                                                                                                                                                                    |
| ROADWAY                        | The portion of a street or highway available for and intended for use by motor vehicle traffic.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>S</b>                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| SETBACK                        | An area extending from the lot lines to the building setback lines within which no buildings or other structures may be erected.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| SIGNATURE PLAN                 | The final version of the site plan that has addressed all requirements or conditions of approval.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| SITE PLAN                      | A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations. Includes lot lines, streets, building sites, reserved open space, buildings, major landscape features—both natural and manmade, and other elements as required in this Code. The term "site plan" shall be used interchangeably to refer to a commercial project, residential subdivision, or other drawing that details proposed conditions.                                                                                                                      |
| SITE PLAN REVIEW               | The examination of the specific development plans for a parcel, including all pertinent information required in this chapter. Wherever the term "site plan approval" is used in this chapter, it shall be understood to mean a requirement that the site plan be reviewed and approved by the Planning Commission.                                                                                                                                                                                                                                                             |
| SPECIAL FLOOD HAZARD AREA      | The land in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, A1-30, and A99, and Zones VE and V1-30. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in §159-5.                                                                                                                                      |
| SPLIT ZONED                    | A single lot or parcel containing two or more different zoning classifications.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| STREAMS, EPHEMERAL             | A feature, excluding laterals draining agricultural fields, that carries only runoff in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, its aquatic bed is always above the water table during a year of normal rainfall, and runoff is its primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water. |

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| STREAMS,<br>INTERMITTENT | A well-defined channel, excluding laterals draining agricultural fields, that contains flowing water for only part of the year, typically during winter and spring when the aquatic bed is below the water table, connecting otherwise isolated nontidal wetlands to downstream tidal/perennial waters/streams. The flow may be heavily supplemented by runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| STREAMS, PERRENIAL       | A well-defined channel that contains flowing water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year and which is not subject to tidal influence. Groundwater is the primary source of water for a perennial stream, but it also carries runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| STREET                   | <p>Any street, avenue, boulevard, road, land, parkway, viaduct, alley or other way which is an existing state, county or City roadway, or a street or way shown upon a plat. For the purpose of this chapter streets shall be classified as follows:</p> <p>A. ALLEYS, DRIVEWAYS or AISLES<br/>Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.</p> <p>B. ARTERIAL STREETS<br/>Those which are used primarily for fast or heavy traffic.</p> <p>C. COLLECTOR STREETS<br/>Those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.</p> <p>D. MARGINAL ACCESS STREETS<br/>Minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.</p> <p>E. MINOR STREETS<br/>Those which are used primarily for access to the abutting properties.</p> |
| SUBDIVIDER               | Any person, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SUBDIVISION                         | The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development. The following divisions shall not be considered subdivisions, provided, however, that no new streets or roads are involved: divisions of land for agricultural purposes where the resulting parcels are three acres or larger in size, divisions of property by testamentary or intestate provisions or divisions of property upon court order. "Subdivision" also includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the lands or territory divided. |
| SUBSTANTIAL IMPROVEMENT             | A project that either (a) involves more than a 25 percent increase in the footprint, gross floor area, height, or lot coverage of an existing building, or (b) requires the demolition or reconstruction of more than 25 percent of the gross floor area of an existing building (as those terms are used in Chapter 270 of the City Code); provided, however, that an interior and/or exterior renovation that involve(s) only ordinary and necessary maintenance, repair, and/or minor modifications or updating of non-structural elements of an existing building shall not be deemed a substantial renovation.                                                                                 |
| <b>T</b>                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| TAX DITCH                           | A drainage channel or conveyance and the corresponding right-of-way established and/or formed in accordance with Title 7, Chapter 41, of the Delaware Code, and approved by a ditch order entered by the Superior Court of the State of Delaware and County of Sussex.                                                                                                                                                                                                                                                                                                                                                                                                                              |
| TIDAL WATERS (MEAN HIGH-WATER LINE) | Those waters occurring below the mean high-water line of any tidal water body, tidal stream, or tidal marsh, which is defined as the average height of all the high-tide water recorded over a nineteen-year period as defined by the National Oceanic and Atmospheric Administration.                                                                                                                                                                                                                                                                                                                                                                                                              |
| TIDAL WETLANDS                      | Areas under the jurisdiction of Title 7, Chapter 66, of the Delaware Code, as regulated and mapped by the Department of Natural resources and Environmental Control.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>W</b>                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WATERWAY                            | Any body of water, including any creek, canal, river, lake or bay or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| WETLANDS | <p>Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Agricultural land consisting of prior converted croplands, as defined by the National Food Security Act Manual (August 1988), are not wetlands. The procedure for delineating the boundary of all wetlands, except for tidal wetlands as defined by this chapter, shall be the methodology provided in the Corps of Engineers Wetland Delineation Manual (January 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (November 2010).</p> |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Site plan |             |       | Major Subdivision |             |       | Minor Subdivision |             |       |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-------------|-------|-------------------|-------------|-------|-------------------|-------------|-------|
|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Concept   | Preliminary | Final | Concept           | Preliminary | Final | Concept           | Preliminary | Final |
| Plan Notes and Text Elements |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |           |             |       |                   |             |       |                   |             |       |
| 1                            | A title block, including the name of the project or development and the names of the property owner, developer, engineer, and architect.                                                                                                                                                                                                                                                                                                         | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 2                            | The name of the subdivision and the lot(s) and block(s) numbers.                                                                                                                                                                                                                                                                                                                                                                                 | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 3                            | Date of the drawing and submitted revisions.                                                                                                                                                                                                                                                                                                                                                                                                     | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 4                            | Survey Date                                                                                                                                                                                                                                                                                                                                                                                                                                      | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 5                            | Reference to any variance, special exceptions, rezoning, enforcement case, lawsuits, decisions regarding legal non-conformance, legislation, or any other relevant authorization, determination, analysis, ??? that is applicable to the subject site.                                                                                                                                                                                           | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 6                            | External agency approvals or permits.                                                                                                                                                                                                                                                                                                                                                                                                            | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 7                            | Reference to the submitted Tree Plan (required under §253-24) and approval information.                                                                                                                                                                                                                                                                                                                                                          | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |
| 8                            | Floodplain: Site data notes shall include details of flood susceptibility and provide related information if the property or its adjoining areas have been designated as special flood hazard areas based on §159-5. These areas shall be clearly marked on the plan survey. The process of application review, plan contents, and permitted construction and improvements shall be in accordance with Chapter 159 of the City of Rehoboth Code. | R         | R           | R     | R                 | R           | R     | R                 | R           | R     |

| Cartographic Elements        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |   |   |   |   |   |   |   |   |   |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 9                            | A north arrow on all plan sheets                                                                                                                                                                                                                                                                                                                                                                                                                                                      | R | R | R | R | R | R | R | R | R |
| 10                           | Graphic and text scale of drawing on all plan sheets                                                                                                                                                                                                                                                                                                                                                                                                                                  | R | R | R | R | R | R | R | R | R |
| 11                           | A vicinity map of the immediate and nearby areas within the City with the site noted.                                                                                                                                                                                                                                                                                                                                                                                                 | R | R | R | R | R | R | R | R | R |
| Surveyed Existing Conditions |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |   |   |   |   |   |   |   |   |   |
| 12                           | The boundaries or property lines of the property involved, including bearings and distances, and county or municipal boundaries.                                                                                                                                                                                                                                                                                                                                                      | R | R | R | R | R | R | R | R | R |
| 13                           | All existing structures and uses in or adjoining the property involved, including (a) location of all existing buildings, accessory and main, including dimensions of buildings and setbacks from property lines and between structures; (b) existing use of all structures, accessory, and main; and (c) existing use and approximate location of existing structures on adjacent properties, and such information about nearby properties as the reviewing official(s) may require. | R | R | R | R | R | R | R | R | R |
| 14                           | The names of all subdivisions immediately adjacent and names of all owners of all immediately adjacent lands, the block and lot numbers of each.                                                                                                                                                                                                                                                                                                                                      | R | R | R | R | R | R | R | R | R |
| 15                           | The existing zoning of the site, adjacent properties and nearby areas, and any proposed zoning changes.                                                                                                                                                                                                                                                                                                                                                                               | R | R | R | R | R | R | R | R | R |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                 |   |   |   |   |   |   |   |   |   |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 16 | Existing utility infrastructure in or adjoining the property involved, including: water lines and all related water features; sewer lines and related features; power lines, poles, transformers, and related features; broadband/communication lines and related features; and any other relevant utility infrastructure identified on site and immediately adjacent.                                                                          | R | R | R | R | R | R | R | R | R |
| 17 | All existing storm sewers, stormwater structures, retention ponds, culverts, catch basins, and other underground structures in or near the property.                                                                                                                                                                                                                                                                                            | R | R | R | R | R | R | R | R | R |
| 18 | All natural features in or adjoining the property involved, including forest stands and vegetation identified in Chapter 253; delineated or mapped wetlands; hydrologic features (including ephemeral, intermittent, and perennial streams, ponds, drainage paths and ditches, and similar); known rare, threatened, and endangered species and their habitats; dune lines, floodplain boundaries labeled with their flood zone classification. | R | R | R | R | R | R | R | R | R |
| 19 | Monuments and Survey Pins: Existing geodetic controls, monuments, pins, and similar elements used for the purpose of denoting boundary features shall be shown on plans, differentiated by type/purpose, and labeled appropriately.                                                                                                                                                                                                             | R | R | R | R | R | R | R | R | R |
| 20 | Existing contours at vertical intervals of not more than two feet.                                                                                                                                                                                                                                                                                                                                                                              | R | R | R | R | R | R | R | R | R |

|    |                                                                                                                                                                                                                                                                                              |   |   |   |   |   |   |   |   |   |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 21 | Soil boundaries labeled with the Map Unit Symbol (MUSYM); highly erodible soils shall be noted as such.                                                                                                                                                                                      | R | R | R | R | R | R | R | R | R |
| 22 | Groundwater table elevations, soil characteristics, and the results of such percolation tests (FHA procedure) as may be required by the City Engineer, certified by a licensed engineer.                                                                                                     | R | R | R | R | R | R | R | R | R |
| 23 | Location, size, and screening details of all existing dumpster pads.                                                                                                                                                                                                                         | R | R | R | O | O | O | O | O | O |
| 24 | All existing streets or roads abutting the property to be subdivided.                                                                                                                                                                                                                        | R | R | R | R | R | R | R | R | R |
| 25 | All easements (along with a copy of said easement).                                                                                                                                                                                                                                          | R | R | R | R | R | R | R | R | R |
| 26 | The approximate location and size of existing recreational and open space areas, if any. All parks, playgrounds and other public areas, indicating which are to be dedicated to public use and which are being reserved by the owner and the conditions of such dedications or reservations. | R | R | R | R | R | R | R | R | R |
| 27 | Location of existing traffic signals and signs on or near the site.                                                                                                                                                                                                                          | R | R | R | R | R | R | R | R | R |
| 28 | Location of all existing fire hydrants.                                                                                                                                                                                                                                                      | R | R | R | R | R | R | R | R | R |
| 29 | Location, size, height, and orientation of all existing signs.                                                                                                                                                                                                                               | R | R | R | R | R | R | R | R | R |

| Proposed Conditions |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |   |   |   |   |   |   |   |   |   |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 30                  | Proposed new Lots/Parcels with sufficient data acceptable to the City Engineer to determine readily the location, bearing and length of every boundary line, total proposed area of each new Lot, proposed use for each new Lot, and a summarized length of frontage (include all arcs and chords). All dimensions shall be shown in feet and hundredths of a foot. The new parcels shall be labeled with new lot and block numbers established in accordance with the prevailing City practice. The 4000 square feet rectangle (detailed in §270-22.A.(3)) shall be shown for all proposed lots. | R | R | R | R | R | R | R | R | R |
| 31                  | All lot corner markers which are required to be permanently located in the ground to the existing grade and to the satisfaction of the City Engineer shown thus: "O," on the plat.                                                                                                                                                                                                                                                                                                                                                                                                                | O | R | R | O | R | R | O | R | R |
| 32                  | Proposed grade elevations for new lots.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | O | R | R | O | R | R | O | R | R |
| 33                  | Proposed structures including building footprints, driveways, parking areas, accessory structures, and any other structure pertinent to the proposed project. All structures shall be labeled with their proposed use, area in square feet, dimensions, and distance from nearest property line shown.                                                                                                                                                                                                                                                                                            | R | R | R | R | R | R | R | R | R |
| 34                  | Utilities: new water lines, connections, meters, and related features; new sewer lines and related features; new broadband/communication lines and related features; new power lines, poles, transformers, and related features.                                                                                                                                                                                                                                                                                                                                                                  | O | R | R | O | R | R | O | R | R |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |   |   |   |   |   |   |   |   |   |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 35 | Transportation elements including new streets, parking areas or alleys or driveways, vehicular charging stations, sidewalks, bicycle or shared use paths, and similar features pertaining to vehicular or pedestrian movements. Where applicable, the proposed names of streets and similar shall be included. Sufficient data acceptable to the City Engineer to determine readily the location, bearing and length of every street line, the length of all straight lines, the deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings for each street and path. All dimensions shall be shown in feet and hundredths of a foot. | R | R | R | R | R | R | R | R | R |
| 36 | The designs of any bridges or culverts which may be required and as approved by the City Engineer.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | O | R | R | O | R | R | O | R | R |
| 37 | A plan for surface drainage of the development including any proposed drainage ditches.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | O | R | R | O | R | R | O | R | R |
| 38 | Calculations of required and provided off-street loading spaces and their locations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | R | R | R | O | R | R | O | R | R |
| 39 | Parking, specifically: (a) calculations of required and provided off-street parking spaces and their locations; (b) dimensions of all off-street parking spaces; (c) provisions, as required, for handicapped parking areas; (d) specifications as to construction of parking areas; (e) location, height, type, and direction of lighting required to illuminate off-street parking areas; (f) location of curbing and/or wheel stops in parking areas.                                                                                                                                                                                                                                        | R | R | R | O | R | R | O | R | R |

|    |                                                                                                                                                                                                                                                                                                                                                                                   |   |   |   |   |   |   |   |   |   |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 40 | Location, size, and screening details of all proposed dumpster pads.                                                                                                                                                                                                                                                                                                              | R | R | R | O | R | R | O | O | R |
| 41 | Specifications as to construction of entrances and drives.                                                                                                                                                                                                                                                                                                                        | R | R | R | R | R | R | R | R | R |
| 42 | Indications of proposed traffic flows within interior drives and for ingress/egress to the project.                                                                                                                                                                                                                                                                               | O | R | R | O | R | R | R | R | R |
| 43 | Location of proposed traffic signals near the site (if any).                                                                                                                                                                                                                                                                                                                      | O | R | R | O | R | R | R | R | R |
| 44 | The approximate location and size of proposed recreational and open space areas, if any.                                                                                                                                                                                                                                                                                          | O | R | R | O | R | R | O | R | R |
| 45 | Location of all proposed fire hydrants.                                                                                                                                                                                                                                                                                                                                           | O | R | R | O | R | R | O | R | R |
| 46 | Location, size, height, and orientation of all proposed signs.                                                                                                                                                                                                                                                                                                                    | O | R | R | O | R | R | O | R | R |
| 47 | Location and size of HVAC condensers and compressors.                                                                                                                                                                                                                                                                                                                             | O | R | R | O | R | R | O | R | R |
| 48 | Occupancy and use density calculations: (a) Residential Use: the proposed maximum occupancy and, within each building or structure, the number of units, and within each unit, the number of bedrooms; or (b) Nonresidential Use: the proposed maximum occupancy and, within each building or structure, the number of units/suites and designation of proposed use of each room. | R | R | R | R | R | R | R | R | R |
| 49 | Scaled and dimensioned floor plans of each unit. Typical floor plans may be used for identical units.                                                                                                                                                                                                                                                                             | O | R | R | O | R | R | O | R | R |

|    |                                                                                                                                                                                                                                                            |   |   |   |   |   |   |   |   |   |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|---|---|---|
| 50 | Elevations and dimensions of each side of structure, including locations and sizes of doors and windows.                                                                                                                                                   | O | R | R | O | R | R | O | R | R |
| 51 | Landscaping and vegetation management requirements including locations and types of materials, vegetation to be preserved or installed (common name, scientific name, size) and any protective measures taken during construction for retained vegetation. | O | R | R | O | R | R | O | R | R |

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May 11, 2026

Chairman Mike Bryan  
Planning Commission  
City of Rehoboth  
229 Rehoboth Avenue  
Rehoboth Beach, DE 19971

RE: Belhaven Hotel

RECEIVED  
MAY 11 2026

Office of City Secretary

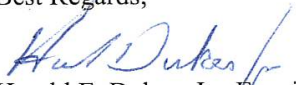
Dear Chairman Bryan:

The purpose of this letter is to request an additional year extension of the approvals for the construction of the Belhaven Hotel. The final approvals were given to by The Planning Commission on August 22, 2025. Under the code there is a provision, with Board approval, for an additional year before construction must begin.

The lot consolidation was approved in January 2026. This is a complicated project and final working drawings and mobilization planning are taking more time than the one (1) year provided in Planning Commission approval.

Thank you for your time and consideration.

Best Regards,

  
Harold E. Dukes, Jr., Esquire  
TUNNELL & RAYSOR, P.A.

HED/sms  
cc: file  
Belhaven Group