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HOUSE BILL NO. 495

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on February 26, 2002)

(Patron Prior to Substitute—Delegate Orrock)

A BILL to amend and reenact § 15.2-2260 of the Code of Virginia, relating to preliminary subdivision plats.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2260 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats.

A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its ordinance for the submission of preliminary subdivision plats for tentative approval. The local planning commission, or an agent designated by the commission or by the governing body to review preliminary subdivision plats shall complete action on the preliminary plats within sixty days of submission. However, if approval of a feature or features of the preliminary plat by a state agency is necessary, the commission or agent shall forward the preliminary plat to the appropriate state agency or agencies for review.

B. Any state agency making a review of a plat forwarded to it under this section, including, without limitation, the Virginia Department of Transportation, shall complete its review within forty-five days of receipt of the preliminary plat. The Virginia Department of Transportation shall allow use of its public rights-of-way for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in § 15.2-2259 A with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies, the local agent shall act upon a preliminary plat within thirty-five days.

C. If a commission has the responsibility of review of preliminary plats and conducts a public hearing, it shall act on the plat within forty-five days after receiving approval from all state agencies. If the local agent or commission does not approve the preliminary plat, the local agent or commission shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by such agent or commission. However, no commission or agent shall be required to approve a preliminary subdivision plat in less than sixty days from the date of its original submission to the commission or agent, and all actions on preliminary subdivision plats shall be completed by the agent or commission and, if necessary, state agencies, within a total of ninety days of submission to the local agent or commission.

D. If the commission or other agent fails to approve or disapprove the preliminary plat within ninety days after it has been officially submitted for approval, the subdivider after ten days' written notice to the commission, or agent, may petition the circuit court for the locality in which the land involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

E. If a commission or other agent disapproves a preliminary plat and the subdivider contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the case as soon as may be, provided that his appeal is filed with the circuit court within sixty days of the written disapproval by the commission or other agent.

F. *Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. Diligent pursuit of approval means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon ninety days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.*