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HOUSE BILL NO. 2544

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns
on February 2, 2007)

(Patron Prior to Substitute—Delegate Lingamfelter)

A BILL to amend and reenact §§ 15.2-2259, 15.2-2260, and 15.2-2269 of the Code of Virginia, relating to authority to review subdivision plats.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2259, 15.2-2260, and 15.2-2269 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2259. Local planning commission to act on proposed plat.

A. The local planning commission or other agent shall act on any proposed plat within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing, and giving with the latter specific reasons therefor. The Commission or agent shall thoroughly review the plat and shall make a good faith effort to identify all deficiencies, if any, with the initial submission. *However, if approval of a feature or features of the plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the plat to the appropriate state agency or agencies for review within 10 business days of receipt of such plat. The state agency shall respond in accord with the requirements set forth in § 15.2-2222.1, which shall extend the time for action by the local planning commission or other agent, as set forth in subsection B.* Specific reasons for disapproval shall be contained either in a separate document or on the plat itself. The reasons for disapproval shall identify deficiencies in the plat that cause the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections as will permit approval of the plat. The local planning commission or other agent shall act on any proposed plat that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval.

B. Any state agency or public authority authorized by state law making a review of a plat forwarded to it under this article, including, without limitation, the Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review within 45 days of receipt of the plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time periods set forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public rights-of-way dedicated for public street purposes for placement of utilities by permit when practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized by state law does not approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in subsection A, with the exception of the time period therein specified. Upon receipt of the approvals from all state agencies and other agencies, the local agent shall act upon a plat within 35 days.

C. If the commission or other agent fails to approve or disapprove the plat within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted after a previous disapproval or within 35 days of receipt of any agency response pursuant to subsection B, the subdivider, after 10-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 decide whether the plat should or should not be approved. The court shall give the petition priority on the civil docket, hear the matter expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and make and enter an order with respect thereto as it deems proper, which may include directing approval of the plat.

D. If a commission or other agent disapproves a 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 60 days of the written disapproval by the commission or other agent.

§ 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.

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~~60 days of submission. However, if approval of a feature or features of the preliminary plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the preliminary

60 plat to the appropriate state agency or agencies for review within 10 business days of receipt of such
61 preliminary plat.

62 B. Any state agency or public authority authorized by state law making a review of a preliminary
63 plat forwarded to it under this section, including, without limitation, the Virginia Department of
64 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review
65 within ~~forty-five~~ 45 days of receipt of the preliminary plat *upon first submission and within 45 days for*
66 *any proposed plat that has previously been disapproved, provided, however, that the time period set*
67 *forth in § 15.2-2222.1 shall apply to plats triggering the applicability of said section.* The Virginia
68 Department of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow
69 use of its public rights-of-way for public street purposes for placement of utilities by permit when
70 practical and shall not unreasonably deny plat approval. If a state agency or public authority authorized
71 by state law does not approve the plat, it shall comply with the requirements, and be subject to the
72 restrictions, set forth in § 15.2-2259 A with the exception of the time period therein specified. Upon
73 receipt of the approvals from all state agencies, the local agent shall act upon a preliminary plat within
74 ~~thirty-five~~ 35 days.

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

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

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

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

103 § 15.2-2269. Plans and specifications for utility fixtures and systems to be submitted for approval.

104 A. If the owners of any such subdivision desire to construct in, on, ~~or~~ under, or adjacent to any
105 streets or alleys located in such subdivision any gas, water, sewer or electric light or power works,
106 pipes, wires, fixtures or systems, they shall present plans or specifications therefor to the governing body
107 of the locality in which the subdivision is located or its authorized agent, for approval. If the subdivision
108 is located beyond the corporate limits of a municipality but within the limits set forth in § 15.2-2248,
109 such plans and specifications shall be presented for approval to the governing body of such municipality,
110 or its authorized agent, if the county has not adopted a subdivision ordinance. The governing body, or
111 agent, shall have ~~thirty~~ 45 days in which to approve or disapprove the same. In event of the failure of
112 any governing body, or its agent, to act within such period, such plans and specifications may be
113 submitted, after ten days' notice to the locality, to the circuit court for such locality for its approval or
114 disapproval, and its approval thereof shall, for all purposes of this article be treated and considered as
115 approval by the locality or its authorized agent.

116 B. Any state agency or public authority authorized by state law making a review of any plat
117 forwarded to it under this article, including, without limitation, the Virginia Department of
118 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review
119 within 45 days of receipt of the plans, provided, however, that the time periods set forth in
120 § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department
121 of Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of

122 public rights-of-way dedicated for public street purposes for placement of utilities by permit when
123 practical and shall not unreasonably deny plan approval. If a state agency or public authority by state
124 law does not approve the plan, it shall comply with the requirements, and be subject to the restrictions,
125 set forth in subsection A of § 15.2-2259, with respect to the exception of the time period therein
126 specified. Upon receipt of the approvals from all state agencies, the local agent shall act upon a
127 preliminary plat within 35 days.