

2008 SESSION

HOUSE SUBSTITUTE

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HOUSE BILL NO. 721

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns
on February 1, 2008)

(Patron Prior to Substitute—Delegate Oder)

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

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2259 and 15.2-2260 of the Code of Virginia are amended and reenacted as follows:
§ 15.2-2259. Local planning commission to act on proposed plat.

A. The 1. Except as otherwise provided in subdivisions A 2 and A 3, 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.

2. In localities with a population greater than 90,000 based on the 2000 United States Census, the approval of plats, site plans, and plans of development solely involving parcels of commercial real estate by a local planning commission or other agent shall be governed by subdivision A 3 and subsections B, C, and D. For the purposes of this section, the term "commercial" means all real property used for commercial or industrial uses.

3. The local planning commission or other agent shall act on any proposed plat, site plan or plan of development 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 or plan and shall in good faith identify, to the greatest extent practicable, all deficiencies, if any, with the initial submission. However, if approval of a feature or features of the plat or plan by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the plat or plan to the appropriate state agency or agencies for review within 10 business days of receipt of such plat or plan. 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 or plan itself. The reasons for disapproval shall identify deficiencies in the plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations, or policies and shall identify, to the greatest extent practicable, modifications or corrections that will permit approval of the plat or plan.

In the review of a resubmitted proposed plat, site plan or plan of development that has been previously disapproved, the local planning commission or other agent shall consider only deficiencies it had identified in its review of the initial submission of the plat or plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. In the review of the resubmission of a plat or plan, the local planning commission or other agent shall identify all deficiencies with the proposed plat or plan that caused the disapproval by reference to specific duly adopted ordinances, regulations or policies and shall identify modifications or corrections that will permit approval of the plat or plan. Upon the second resubmission of such disapproved plat or plan, the local planning commission or other agent's review shall be limited solely to the previously identified deficiencies that caused its disapproval.

The local planning commission or other agent shall act on any proposed plat, site plan or plan of development that it has previously disapproved within 45 days after the plat or plan has been modified, corrected and resubmitted for approval. The failure of a local planning commission or other agent to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or plan to be deemed approved.

Notwithstanding the approval or deemed approval of any proposed plat, site plan or plan of

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60 *development, any deficiency in any proposed plat or plan, that if left uncorrected, would violate local,*
61 *state or federal law, regulations and mandatory engineering and safety requirements, shall not be*
62 *considered, treated or deemed as having been approved by the local planning commission or other*
63 *agent.*

64 *The provisions of this subsection shall not apply to deficiencies caused by changes, errors or*
65 *omissions occurring in the applicant's plat, site plan or plan of development filings after the initial*
66 *submission of such plat, site plan or plan of development. The provision of this subsection shall not*
67 *apply to the review and approval of construction plans.*

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

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

89 D. If a commission or other agent disapproves a plat and the subdivider contends that the disapproval
90 was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may
91 appeal to the circuit court having jurisdiction of such land and the court shall hear and determine the
92 case as soon as may be, provided that his appeal is filed with the circuit court within 60 days of the
93 written disapproval by the commission or other agent.

94 § 15.2-2260. Localities may provide for submission of preliminary subdivision plats; how long valid.

95 A. Nothing in this article shall be deemed to prohibit the local governing body from providing in its
96 ordinance for the submission of preliminary subdivision plats for tentative approval. The local planning
97 commission, or an agent designated by the commission or by the governing body to review preliminary
98 subdivision plats shall complete action on the preliminary plats within 60 days of submission. However,
99 if approval of a feature or features of the preliminary plat by a state agency or public authority
100 authorized by state law is necessary, the commission or agent shall forward the preliminary plat to the
101 appropriate state agency or agencies for review within 10 business days of receipt of such preliminary
102 plat.

103 B. Any state agency or public authority authorized by state law making a review of a preliminary
104 plat forwarded to it under this section, including, without limitation, the Virginia Department of
105 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.), shall complete its review
106 within 45 days of receipt of the preliminary plat upon first submission and within 45 days for any
107 proposed plat that has previously been disapproved, provided, however, that the time period set forth in
108 § 15.2-2222.1 shall apply to plats triggering the applicability of said section. The Virginia Department of
109 Transportation and authorities authorized by Chapter 51 (§ 15.2-5100 et seq.) shall allow use of public
110 rights-of-way for public street purposes for placement of utilities by permit when practical and shall not
111 unreasonably deny plat approval. If a state agency or public authority authorized by state law does not
112 approve the plat, it shall comply with the requirements, and be subject to the restrictions, set forth in
113 § 15.2-2259 A with the exception of the time period therein specified. Upon receipt of the approvals
114 from all state agencies, the local agent shall act upon a preliminary plat within 35 days.

115 C. If a commission has the responsibility of review of preliminary plats and conducts a public
116 hearing, it shall act on the plat within forty-five 45 days after receiving approval from all state agencies.
117 If the local agent or commission does not approve the preliminary plat, the local agent or commission
118 shall set forth in writing the reasons for such denial and shall state what corrections or modifications
119 will permit approval by such agent or commission. *With regard to plats, site plans or plans of*
120 *development involving commercial property, as that term is defined in subdivision A 2 of § 15.2-2259,*
121 *the review process for such plats or plans shall be the same as provided in subdivisions A 2 and A 3 of*

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122 § 15.2-2259. However, no commission or agent shall be required to approve a preliminary subdivision
123 plat in less than ~~sixty~~ 60 days from the date of its original submission to the commission or agent, and
124 all actions on preliminary subdivision plats shall be completed by the agent or commission and, if
125 necessary, state agencies, within a total of ~~ninety~~ 90 days of submission to the local agent or
126 commission.

127 D. If the commission or other agent fails to approve or disapprove the preliminary plat within ~~ninety~~
128 90 days after it has been officially submitted for approval, the subdivider after ~~ten~~ 10 days' written
129 notice to the commission, or agent, may petition the circuit court for the locality in which the land
130 involved, or the major part thereof, is located to enter an order with respect thereto as it deems proper,
131 which may include directing approval of the plat.

132 E. If a commission or other agent disapproves a preliminary plat and the subdivider contends that the
133 disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious,
134 he may appeal to the circuit court having jurisdiction of such land and the court shall hear and
135 determine the case as soon as may be, provided that his appeal is filed with the circuit court within
136 ~~sixty~~ 60 days of the written disapproval by the commission or other agent.

137 F. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years,
138 provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within
139 one year of such approval or such longer period as may be prescribed by local ordinance, and (ii)
140 thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means
141 that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted
142 final subdivision plat or modifications thereto. However, no sooner than three years following such
143 preliminary subdivision plat approval, and upon ~~ninety~~ 90 days' written notice by certified mail to the
144 subdivider, the commission or other agent may revoke such approval upon a specific finding of facts
145 that the subdivider has not diligently pursued approval of the final subdivision plat.