

## MEMORANDUM

TO: Michael Johnson, County Administrator  
FROM: Beth Lewis, Community Development Director  
DATE: May 13, 2011  
RE: Subdivision Ordinance Amendment

Attached please find an amendment to the Subdivision Ordinance to bring the County's ordinance into compliance with the General Statutes regarding the time for filing of final plats. Please find the Planning Commission minutes at which the Commission held the required public hearing. The Planning Commission made a unanimous recommendation of approval.

SCC. 14-76. TIME FOR FILING

**BE IT ORDAINED** by the Board of Supervisors of Southampton County, Virginia, that the Southampton County Code be, and hereby is, amended as follows:

SCC. 14-76. TIME FOR FILING

Once a preliminary subdivision plat is approved, it shall be valid for a period of five (5) years provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one (1) year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat.

However, no sooner than three (3) years following such preliminary subdivision plat approval, and upon ninety (90) days written notice by certified mail to the subdivider, the planning commission may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

"Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the final subdivision plat or modifications thereto.

The effective date of this ordinance shall be June 1, 2011.

For state law authority please see § 15.2-2260 (F) of the 1950 Code of Virginia as amended.

April 14, 2011

Chairman Edwards announced that the first public hearing was to consider the following:

An amendment to Section 14-76 of the Southampton County Municipal Code, "Final Plat, Time for Filing." The proposed ordinance amends the Southampton County municipal Code to bring it into conformance with the 1950 *Code of Virginia* as amended.

Chairman Edwards read aloud the following ordinance:

#### SCC. 14-76. TIME FOR FILING

**BE IT ORDAINED** by the Board of Supervisors of Southampton County, Virginia that the Southampton County Code be, and hereby is, amended as follows:

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However, no sooner than three (3) years following such preliminary subdivision plat approval, and upon ninety (90) days written notice by certified mail to the subdivider, the planning commission may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

"Diligent pursuit of approval" means that the subdivider has incurred extensive obligation or substantial expenses related to the final subdivision plat or modifications thereto.

The effective date of this ordinance shall be June 1, 2011.

For state law authority please see § 15.2-2260 (F) of the 1950 *Code of Virginia* as amended.

Mr. Richard E. Railey, Jr., County Attorney, advised that the ordinance needed to be approved to bring us in compliance with state law.

Chairman Edwards opened the public hearing. No members of the public wished to speak. Chairman Edwards closed the public hearing.

**Chairman Edwards moved, seconded by Vice-Chairman Barham, to adopt the ordinance. All were in favor.**

§ 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 subdivision plats within 60 days of submission. However, if approval of a feature or features of the preliminary subdivision plat by a state agency or public authority authorized by state law is necessary, the commission or agent shall forward the preliminary subdivision plat to the appropriate state agency or agencies for review within 10 business days of receipt of such preliminary subdivision plat.

B. Any state agency or public authority authorized by state law making a review of a preliminary subdivision plat forwarded to it under this section, 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 preliminary subdivision plat upon first submission and within 45 days for any proposed plat that has previously been disapproved, provided, however, that the time period 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 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 § 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 subdivision plat within 35 days.

C. If a commission has the responsibility of review of preliminary subdivision plats and conducts a public hearing, it shall act on the plat within 45 days after receiving approval from all state agencies. If the local agent or commission does not approve the preliminary subdivision 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. With regard to plats involving commercial property, as that term is defined in subdivision A 2 of § 15.2-2259, the review process for such plats shall be the same as provided in subdivisions A 2 and A 3 of § 15.2-2259. However, no commission or agent shall be required to approve a preliminary subdivision plat in less than 60 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 90 days of submission to the local agent or commission.

D. If the commission or other agent fails to approve or disapprove the preliminary subdivision plat within 90 days after it has been officially submitted for approval, 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 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 subdivision 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.

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 90 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.

G. Once an approved final subdivision plat for all or a portion of the property is recorded pursuant to § 15.2-2261,

the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.

(Code 1950, §§ 15-789, 15-967.10; 1952, c. 333; 1962, c. 407, § 15.1-475; 1964, c. 498; 1975, c. 641; 1977, c. 10; 1978, c. 283; 1979, c. 111; 1980, c. 73; 1986, c. 483; 1989, cc. 471, 495; 1990, c. 171; 1992, c. 843; 1993, c. 846; 1996, c. 353; 1997, c. 587; 2002, c. 530; 2006, c. 461; 2007, c. 202; 2008, cc. 426, 718, 855; 2009, c. 194.)

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