

COUNTY OF YORK

MEMORANDUM

DATE: August 4, 2015 (PC Mtg. 8/12/15)

TO: York County Planning Commission

FROM: Timothy C. Cross, AICP, Principal Planner

SUBJECT: Application No. ST-22-15, York County Board of Supervisors: Proposed Subdivision Ordinance Text Amendments to Reflect State Code Changes

ISSUE

At its June 16 meeting, the Board of Supervisors sponsored this application to amend the York County Subdivision Ordinance to incorporate various changes to Section 24.1-2259 of the *Code of Virginia* that have been approved by the 2015 General Assembly and signed by the Governor.

CONSIDERATIONS/CONCLUSIONS

Section 15.2-2259 of the *Code of Virginia* sets forth time limits – 60 days for initial review and 45 days for subsequent reviews – for local governments to complete their review of site plans and subdivision plans and plats. In 2008 the Virginia General Assembly amended this section by establishing additional provisions applicable only to localities with more than 90,000 residents. These provisions, which apply only to commercial and industrial plans and plats, specify that after the initial review, localities can comment only on those items that were identified as deficient in the initial review and on changes to the plan made by the applicant to address review comments on the initial plan. In addition, a provision was added stating that a commercial plan or plat is deemed to be approved if the locality fails to approve or disapprove it within the prescribed time limits. There is also a provision negating the approval (or *deemed* approval) of any commercial plan or plat when a deficiency, if left uncorrected, would violate local, state, or federal law, regulations, or mandatory VDOT or other engineering and safety requirements. Senate Bill 1355, approved in the 2015 session of the Virginia General Assembly and signed by the Governor, removed the 90,000-resident population threshold from the special provisions for commercial plans and plats, thereby expanding their applicability to all localities in the Commonwealth, including York County. This makes it necessary to revise the Preliminary Plan, Development Plan, and Final Plat review procedures in the Subdivision Ordinance to reflect these requirements. Proposed text amendment language to accomplish this is set forth in proposed Resolution No. PC15-16. (A corresponding amendment to the Zoning Ordinance site plan review procedures will be considered under a separate application.)

RECOMMENDATION

As a practical matter, these new provisions will likely have little or no effect in York County. Nevertheless, it is necessary to amend the Subdivision Ordinance for consistency with the *Code of Virginia*. Therefore, staff recommends that the Commission forward the proposed Subdivision Ordinance text amendments set forth in proposed Resolution No. PC15-16 to the Board of Supervisors with a recommendation of adoption.

TCC

Attachments:

- Proposed Resolution No. PC15-16

PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2015:

Present

Vote

Todd H. Mathes, Chair
Glenn A. Brazelton, Vice Chair
Montgoussaint E. Jons
Timothy D. McCulloch
Richard M. Myer, Jr.
Melissa S. Magowan
Robert W. Peterman

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO AMEND VARIOUS SECTIONS OF CHAPTER 20.5, SUBDIVISIONS, OF THE YORK COUNTY CODE TO BRING THEM INTO CONFORMANCE WITH THE CODE OF VIRGINIA AS AMENDED BY THE 2015 VIRGINIA GENERAL ASSEMBLY

WHEREAS, the York County Board of Supervisors has sponsored Application No. ST-22-15 to amend the York County Subdivision Ordinance by incorporating changes made to the Code of Virginia by the Virginia General Assembly in the 2015 session and signed by the Governor; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2015 that Application No. ST-22-15 be, and it is

hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amendments to the listed sections of Chapter 20.5 of the York County Code to read and provide as follows:

Sec. 20.5-28. Preliminary plan.

(b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposal with all applicable requirements of this chapter and other applicable ordinances, requirements, and regulations.

- (1) The agent may transmit copies of the preliminary plan to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.
- (2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the preliminary plan by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a preliminary plan which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the ~~comments or approvals of such state agency or agencies~~ agent shall act upon the plan no later than ~~shall be provided within~~ thirty-five (35) days ~~of~~ after their receipt ~~by the agent~~ of all comments or approvals of such state agency or agencies.

- (3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information that is required to secure final approval of the preliminary plan and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy and identifying such modifications or corrections as will permit approval of the plan.
- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the preliminary plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) copies (12 folded, 1 rolled) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by

the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original. In the review of a resubmitted preliminary plan solely involving a parcel or parcels of commercial real estate, the agent shall consider only the deficiencies identified in the review of the initial 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. Failure to approve or disapprove a resubmitted plan for commercial real estate within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plan for commercial real estate, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

Sec. 20.5-29. Development plan.

- (b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposed design elements and physical improvements with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.
- (1) The agent shall transmit copies of the development plan to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.
 - (2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the development plan by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of

a resubmission of a development plan which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the ~~comments or approvals of such state agency or agencies shall be provided within~~ agent shall act upon the plan no later than thirty-five (35) days ~~of after their receipt by the agent of all comments or approvals of such state agency or agencies.~~

- (3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information which shall be required to secure final approval of the development plan and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy, and an identification of such modifications or corrections as will permit approval of the plan.
- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the development plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) copies (12 folded, 1 rolled) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original. In the review of a resubmitted development plan solely involving a parcel or parcels of commercial real estate, the agent shall consider only the deficiencies identified in the review of the initial 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. Failure to approve or disapprove a resubmitted plan for commercial real estate within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plan for commercial real estate, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited

to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

Sec. 20.5-30. Final plat.

(b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the plat with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.

- (1) The agent shall transmit copies of the final plat to those county departments and state and/or federal agencies deemed appropriate for their review and comment and shall establish a date for which written comments shall be returned to the agent.
- (2) After receiving the comments of all reviewing departments or agencies, or within sixty (60) days of submission of the final plat by a subdivider, whichever shall occur first, the agent shall consolidate all of the comments and provide a written response to the subdivider. In the event of a resubmission of a final plat which has been previously disapproved, the response shall be provided within forty-five (45) days.

Where review by one (1) or more state agencies, including, but not limited to, the health department and/or department of transportation, is necessary, the agent shall act upon the plan no later than thirty-five (35) days after the receipt of all comments or approvals of such state agency or agencies.

- (3) The agent's written response to the subdivider shall include notification of approval or disapproval or approval with conditions. Such notice shall state any actions, changes, conditions, or additional information which shall be required to secure final approval of the plat and, if disapproved, the reasons for such action with specific reference to an adopted ordinance, regulation or policy, and identifying such modifications or corrections as will permit approval of the plat.
- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the final plat prior to approval, the subdivider shall within sixty (60) days resubmit, without additional fee, eight (8) copies of the revised plat together with the original or a copy of any marked plats returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each

of the actions, changes, conditions, or additional information required has been addressed on the revised plat. The revised plat shall then be reviewed in the same manner and within the same time elements as was the original. The agent, for good cause shown, may grant an extension of the sixty (60) day time limitation, provided a written request is received from the subdivider no fewer than ten (10) working days prior to expiration of the term established herein. In the review of a resubmitted plat solely involving a parcel or parcels of commercial real estate, the agent shall consider only the deficiencies identified in the review of the initial plat 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. Failure to approve or disapprove a resubmitted plat for commercial real estate within the specified time periods shall cause the plat to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plat for commercial real estate, any deficiency in any proposed plat, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.
