

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-20-02**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 10<sup>th</sup> day of June 2002:

Present:	Vote:
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye

---

Motion was made by Mr. Lipscomb, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE TO ADOPT SEVERAL AMENDMENTS TO  
CHAPTER 90, SUBDIVISIONS AND CHAPTER 98,  
ZONING, NEW KENT COUNTY CODE TO COMPLY WITH  
CHANGES IN THE CODE OF VIRGINIA**

WHEREAS, the Virginia General Assembly passed and the Governor signed several amendments to the planning and zoning enabling sections of the Code of Virginia; and

WHEREAS, some of these changes necessitate corresponding changes to Chapters 90 and 98 of the New Kent County Code; and

WHEREAS, these changes become law on 1 July 2002; and

WHEREAS, this application was referred to and considered by the New Kent County Planning Commission; and

WHEREAS, after conducting a duly advertised public hearing, the Planning Commission voted unanimously to recommend approval of the application; and

WHEREAS, this application has been advertised for public hearing before the Board in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, approval of this application would address, protect, and promote public convenience, necessity, general welfare and good zoning practices in the County,

NOW THEREFORE BE IT ORDAINED this, the 10<sup>th</sup> day of June 2002, by the New Kent County Board of Supervisors that the following amendments to Chapter 90, Subdivisions and Chapter 98, Zoning be, and they are hereby, adopted:

Sec. 90-77. Performance guarantees.

\* \* \*

h) Any performance agreements shall contain release provisions providing for and governing the periodic partial and final complete release of any bond, escrow, letter of credit, or other performance guarantee required by the board of supervisors under Code of Virginia, § 15.2-2240 et seq. within 30 days after receipt of written notice by the subdivider or developer of completion of part or all of any *public* facilities required to be constructed under this chapter unless the board of supervisors or its designated administrative agency notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period. *Any inspection of such public facilities shall be based solely upon conformance with the terms and conditions of the performance agreement and the approved design plan and specifications for the facilities for which the performance guarantee is applicable, and shall not include the approval of any person other than an employee of the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision or a person who has contracted with the governing body, its administrative agency, the Virginia Department of Transportation or other political subdivision.*

\* \* \*

Sec. 90-123. Time limitation for final approval after notification concerning preliminary approval.

(a) *Preliminary approval shall be valid for a period of five (5) years provided that the* The subdivider shall *submit within* ~~have no more than three months~~ *one (1) year* after the date of official approval of the preliminary plat to ~~file with the agent~~ the construction plans in accordance with this chapter *and shall thereafter diligently pursue approval of such plans.* Such construction plans shall cover the entire area to which preliminary approval has been granted.

(b) The subdivider shall ~~have no more than six months~~ *one (1) year* after the date of official approval of the construction plans to file with the agent a final subdivision plat in accordance with this chapter. Such final subdivision plat may cover the entire area to which preliminary and construction approval has been granted or any portion of such area. If the subdivider elects to file a final plat on a portion of the area to which preliminary and construction approval has been given, then he shall have a total of ~~18 months~~ *three (3) years* from the date of preliminary approval to submit final subdivision plats to the agent for all areas covered by the preliminary approval.

~~(c) If the subdivider elects to file construction plans with the preliminary plat, then he shall have a total of six months from the date of preliminary approval to submit final subdivision plats to the agent. If the subdivider elects to file a final plat on a portion of the area to which approval has been given, then he shall have a total of 18 months from the date of preliminary approval to submit final subdivision plats to the agent for all areas covered by the preliminary approval.~~

(d) Failure to meet these time lines shall, *upon ninety- (90) days notice by certified mail*, revoke any preliminary approval given. If application is made for an extension 30 days prior to expiration, the planning commission may grant an extension if it deems that an extension is in keeping with the intent of this chapter, and if all requirements of this chapter as it exists at the time of the granting of the extension are complied with.

\* \* \*

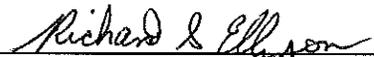
Sec. 98-1022. Powers and duties.

The board of zoning appeals shall have the following powers and duties:

\* \* \*

- (7) To revoke a special exception *previously granted by the board of zoning appeals* if the board of zoning appeals determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board of zoning appeals may give such notice by first-class mail rather than by registered or certified mail.

\* \* \*

  
Richard S. Ellyson  
Interim County Administrator

  
W. R. "Ray" Davis, Jr.  
Chairman