

Chapter 23

Site Plans

23-100 Introduction

A *site plan* is a proposal for a development, including all covenants, grants or easements and other conditions relating to use, location and the bulk of buildings, density of development, common open space, public facilities and other information as required by the locality's ordinance. *Virginia Code* § 15.2-2201. In plain language, a site plan is a schematic drawing showing how one or more parcels will be developed, *i.e.*, where the buildings, parking lots, roads and other improvements will be located.

Although site plans typically are required to be submitted and approved in accordance with a locality's zoning regulations, site plan regulations are a hybrid of both zoning and subdivision regulations. For example, a locality's site plan regulations must include the mandatory provisions of a subdivision ordinance found in *Virginia Code* § 15.2-2241 and may include the optional provisions in *Virginia Code* §§ 15.2-2242 through 15.2-2245. *Virginia Code* § 15.2-2246 (note that these sections include *Virginia Code* §§ 15.2-2244 and 15.2-2244.1, pertaining to family subdivisions, which do not translate to being applied to site plans). Likewise, site plans are subject to the submittal and approval requirements applicable to subdivision plats found in *Virginia Code* §§ 15.2-2258 through 15.2-2261. *Virginia Code* § 15.2-2258.

Subdivision Statutes Applicable to Site Plans
<i>Virginia Code</i> § 15.2-2241: Mandatory provisions of a subdivision ordinance
<i>Virginia Code</i> § 15.2-2242: Optional provisions of a subdivision ordinance
<i>Virginia Code</i> § 15.2-2243: Payment by subdivider of the pro rata share of the cost of certain facilities
<i>Virginia Code</i> § 15.2-2245: Provisions for periodic partial and final release of certain performance guarantees
<i>Virginia Code</i> § 15.2-2258: Plat of proposed subdivision and site plans to be submitted for approval
<i>Virginia Code</i> § 15.2-2259: Local planning commission to act on proposed plat
<i>Virginia Code</i> § 15.2-2260: Localities may provide for submission of preliminary subdivision plats; how long valid
<i>Virginia Code</i> § 15.2-2261: Recorded plats or final site plans to be valid for not less than five years

This chapter reviews the general substantive and procedural requirements for submitting, reviewing, acting on site plans, as well as other general issues pertaining to site plans.

23-200 The scope of the authority to regulate the development of land under a site plan

The substantive requirements of a locality's site plan regulations are based on the enabling authority found in *Virginia Code* §§ 15.2-2241 through 15.2-2245, applicable to subdivisions, but which also are made applicable to site plans by *Virginia Code* § 15.2-2246. These requirements are set out in sections 22-310, 22-320 and 22-330.

The reader should note that because much of the state law applicable to subdivision plats also applies to site plans, the following sections are similar to sections 22-400 through 22-640, with adjustments made to include site plan-specific regulations and requirements.

23-300 The procedures to review and act on a site plan

Localities variously assign site plan review and approval to a locality's designated agent or other officer, to the planning commission or to the governing body itself. *See 1991 Va. Op. Atty. Gen. 68*. In Albemarle County, this function is primarily delegated to the site plan agent within the department of community development.

Once a developer has complied with all existing ordinances, the function of approving a site plan becomes ministerial, and the plan must be approved. *Board of County Supervisors of Prince William County v. Hylton Enterprises, Inc.*, 216 Va. 582, 221 S.E.2d 534 (1976) (pertaining to a subdivision plat); *Planning Commission of City of Falls Church v. Berman*, 211 Va. 774, 180 S.E.2d 670 (1971); *see section 8-300 for a discussion of the ministerial nature of site plans*.

One circuit court has said that, although the state enabling legislation provides some criteria which must be satisfied before a site plan can be approved, it does not provide an exhaustive list of what is to be considered before approval or disapproval. *See Dorn v. Fairfax County Board of Supervisors*, 28 Va. Cir. 133 (1992). Another circuit court has said that a zoning ordinance may give the agent or the commission the authority to make its approval of a final site plan subject to reasonable conditions. *Schalk v. Planning Commission of City of Winchester*, 1987 Va. Cir. LEXIS 319, 1987 WL 488696 (1987) (holding that a condition was not arbitrary and capricious even though the applicant opposed the condition and the public works director was of the opinion that it was not necessary; the members of the commission could properly consider their own personal knowledge they may have gained concerning a particular site and its environs and could give consideration to matters within the personal knowledge of its members in arriving at a decision). However, given the ministerial nature of site plans, *Schalk* is likely an anomaly because those conditions cannot extend beyond requiring the developer to comply with some applicable requirement in the site plan regulations.

23-310 The preliminary site plan

Localities may require that a developer submit a preliminary site plan for approval. *Virginia Code § 15.2-2260(A)*. A preliminary site plan is a schematic representation of the land proposed to be developed. A preliminary site plan allows the locality to review the proposed development for compliance with the applicable regulations before the developer has all of the necessary engineering work performed.

Following is a table summarizing the key steps and events in having a preliminary site plan approved by Albemarle County (Albemarle County refers to preliminary site plans as “initial site plans”; they are referred to as preliminary site plans in this chapter).

Albemarle County: Nine Key Steps to Action on a Preliminary Site Plan	
1.	Preliminary conference.
2.	Submittal of preliminary site plan and determination of completeness.
3.	Notice by the agent to abutting landowners and members of the board of supervisors and the planning commission.
4.	Review of preliminary site plan by site review committee.
5.	Site review committee forwards requirements and recommendations to the agent.
6.	Developer makes revisions to the preliminary site plan, if necessary.
7.	Consideration of preliminary site plan by the agent.
8.	Action on the preliminary site plan by the agent.
9.	If the preliminary site plan disapproved, developer may appeal decision to the circuit court or the planning commission.

The key steps in the preliminary site plan review process, and the requirements to assure compliance with state law, are discussed below.

- Determination of completeness:* When the preliminary site plan is submitted, the clock begins to run to ensure a timely action. The locality is best served by requiring that the plat submittal is complete before it is deemed to be submitted. The determination as to whether a site plan submittal is complete may require the exercise of discretion and not be purely ministerial. *Umstattd v. Centex Homes*, 274 Va. 541, 650 S.E.2d 527 (2007) (mandamus is not a proper remedy to compel a locality to accept a preliminary plat as complete because the determination as to whether the submittal was complete required the official to investigate the submitted plat, the conditions existing on the subject land and the surrounding area, and the exercise of discretion and judgment in applying the applicable statutes, ordinances and regulations to the conditions found to exist (such as whether any variations or exceptions would be required)).
- Time for action:* A preliminary site plan must be acted on by the agent within 60 days after it was submitted, provided that if state agency approval is required of a feature (such as the street design), the site plan must be acted upon within not more than 35 days after receipt of all state-agency approvals (who must act within 45 days after receiving the preliminary site plan) and within 90 days after the site plan was officially submitted. *Virginia Code § 15.2-2260(C)*. If the agent fails to timely act on the site plan, the developer may, after giving ten days’ notice to the locality, petition the circuit court “to enter an order with respect thereto as it deems proper, which

may include directing approval of the [site plan].” *Virginia Code § 15.2-2260(D)*. Localities with a population greater than 90,000 based on the 2000 United States Census must act on a preliminary site plan for the development of commercial or industrial uses according to an alternative timeline (not applicable to Albemarle County, whose 2000 population was about 84,000). *Virginia Code § 15.2-2260(C)*.

- *Requirements if the preliminary site plan is disapproved:* If the agent does not approve the preliminary site plan, he must state in writing the reasons for the disapproval and state what corrections or modifications to the site plan will permit its approval. *Virginia Code § 15.2-2260(C)*. The agent should ensure that this writing is prepared with care, and that it only identifies the express *requirements* of the applicable regulations as grounds for disapproval. The failure of a preliminary site plan to incorporate mere *recommendations*, whether stated in the regulations or suggested by the agent, staff or anyone else, may never be the basis for disapproving a preliminary site plan. In lieu of disapproving the preliminary site plan, the agent should always consider approving it with conditions requiring that the required corrections be addressed with the final site plan. Whether this alternative can be used in a particular situation will depend on the type and extent of the corrections required. *For additional discussion regarding the disapproval of a site plan, see section 23-400.*
- *Options available to the developer if the preliminary site plan is disapproved:* If the agent disapproves a preliminary site plan and the developer contends that the disapproval was not properly based on the applicable regulations, or was arbitrary or capricious, it may appeal the disapproval to the circuit court. *Virginia Code § 15.2-2260(E)*. The appeal must be filed within 60 days after the written disapproval by the agent. *Virginia Code § 15.2-2260(E)*. Albemarle County provides the developer the option to first appeal the disapproval to the planning commission and, thereafter, the board of supervisors. *Albemarle County Code § 18-32.4.2.6*. *For additional discussion regarding judicial challenges to a decision pertaining to a site plan, see section 23-500.*

An approved preliminary site plan is valid for a period of five years, provided the developer: (1) submits a final site plan for all or a portion of the property within one year after the approval (or a longer period provided in the site plan regulations); and (2) thereafter diligently pursues approval of the final site plan. *Virginia Code § 15.2-2260(F)*. After three years have passed since the preliminary site plan was approved, and upon 90 days’ written notice to the developer, the agent or the commission may revoke the approval of the preliminary site plan upon a finding that the developer has not diligently pursued approval of the final site plan. *Virginia Code § 15.2-2260(F)*.

As a result of the economic downturn that began in 2008, the General Assembly has extended the validity of qualifying preliminary site plans by statute. *Virginia Code § 15.2-2209.1(A)* provides that any valid preliminary site plan that was outstanding as of January 1, 2011 shall remain valid under July 1, 2017, or a later date approved or agreed to by the locality. This extension also applies to any other plan or permit associated with the preliminary site plan for the same time period.

Vested rights may arise from an approved preliminary site plan. *See chapter 19.*

23-320 The final site plan

A final site plan is a schematic representation of the land proposed to be developed that is in a final form. Following is a table summarizing the key steps and events in having a final site plan approved by Albemarle County.

Albemarle County: Six Key Steps to Action on a Final Site Plan	
1.	Final site plan submitted within one year of approval of preliminary site plan and determination of completeness.
2.	Review of final site plan by the site review committee.
3.	Site review committee recommends action on the final site plan.
4.	Consideration of final site plan by the agent.
5.	Action on final site plan by the agent.
6.	If final site plan disapproved, the developer may appeal the decision to the circuit court or the planning commission.

The key steps in the process, and the requirements to assure compliance with state law, are discussed below. The reader will note that although these five key steps are similar to those pertaining to preliminary site plans,

Virginia Code § 15.2-2259 (applicable to final subdivision plats and site plans) and Virginia Code § 15.2-2260 (applicable to preliminary subdivision plats and site plans) do not use identical language.

- *Determination of completeness:* As with preliminary site plans, when a final site plan is submitted, the clock begins to run to ensure a timely action. The locality is best served by requiring that the site plan submittal is complete before it is deemed to be submitted. One difference between preliminary and final site plans is that Virginia Code § 15.2-2259(A)(1) expressly refers to a final site plan being *officially submitted*. A site plan is *officially submitted* within the meaning of Virginia Code § 15.2-2259 when the developer files an application in the appropriate form in the proper office, accompanied by the fee, and submits a site plan for the purpose of review which contains all of the data reasonably required by the site plan regulations. *Fairview Co. v. Board of Supervisors of Spotsylvania County*, 21 Va. Cir. 193 (1990) (subdivision plat; once the basic requirements are met, the agent must review the plat and approve or disapprove it; the agent may not refuse to act on a plat, otherwise properly submitted, on the ground that the proposed plat violates certain applicable regulations).
- *Time for action:* A final site plan must be acted on by the agent within 60 days after it was officially submitted, provided that if state agency approval is required of a feature (such as the street design), the site plan must be acted upon within not more than 35 days after receipt of all state-agency approvals (who must act within 45 days after receiving the final site plan). *Virginia Code § 15.2-2259(A)(1)*. The agent is required to “thoroughly review the [site plan] and [] make a good faith effort to identify all deficiencies, if any, with the initial submission.” *Virginia Code § 15.2-2259(A)(1)*. If the final site plan was previously disapproved, the agent must act on the modified, corrected and resubmitted site plan within 45 days. *Virginia Code § 15.2-2259(A)(1)*. If the agent fails to timely act on the site plan, the developer may, after giving ten days’ notice to the locality, petition the circuit court “to decide whether the [site plan] should or should not be approved.” *Virginia Code § 15.2-2259(C)*. Localities with a population greater than 90,000 based on the 2000 United States Census must act on a final site plan for the development of commercial or industrial uses according to an alternative timeline (not applicable to Albemarle County, whose 2000 population was about 84,000). *Virginia Code § 15.2-2259(A)(2) and (3)*. The period within which an action must be taken does not begin with filing a site plan that is in an inappropriate form. *Fairview Co., supra*.
- *Requirements if the final site plan is disapproved:* If the agent does not approve the final site plan, “specific reasons for disapproval shall be contained either in a separate document or on the [site plan]. The reasons for disapproval shall identify deficiencies in the [site plan] that cause the disapproval by reference to specific duly adopted ordinances, regulations or policies and [] identify modifications or corrections as will permit approval of the [site plan].” *Virginia Code § 15.2-2259(A)(1)*. The failure of a final site plan to satisfy the lawful conditions of the preliminary site plan approval is, of course, a legitimate basis to disapprove a final site plan. *See Roberts v. Board of Zoning Appeals of Madison County*, 64 Va. Cir. 397 (2004) (county properly disapproved subdivision plat because subdivider failed to comply with condition of plat approval that a pre-existing entrance be abandoned as required under the subdivision ordinance because it was less than 600 feet from the proposed subdivision entrance). *For additional discussion regarding the disapproval of a plat, see section 23-400.*
- *Options available to the developer if the final site plan is disapproved:* If the agent disapproves a final site plan and the developer “contends that the disapproval was not properly based on the ordinance applicable thereto, or was arbitrary or capricious,” it may appeal the disapproval to the circuit court. *Virginia Code § 15.2-2259(D)*. The appeal must be filed within 60 days after the written disapproval by the agent. *Virginia Code § 15.2-2259(D)*. Albemarle County provides the developer the option to first appeal the disapproval to the planning commission and, thereafter, to the board of supervisors. *Albemarle County Code § 18-32.4.3.7*. *For additional discussion regarding judicial challenges to a decision pertaining to a site plan, see section 23-500.*

An approved final site plan is valid for a period of not less than five years from the date of approval or for a longer period as the agent or the planning commission may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. *Virginia Code § 15.2-2261(A)*.

An approved final site plan *that may be a section of a development on the approved preliminary site plan* entitles the developer to seek approval of the remaining sections shown on the preliminary site plan for a period of five years

after the approval of any section or for a longer period as the agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. *Virginia Code* § 15.2-2241(5). This rule applies only if the developer furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within the section for public use and maintained by the locality, the Commonwealth, or other public agency. A developer proceeding under this rule is also subject to all of the requirements of *Virginia Code* § 15.2-2241(5) and the engineering and constructions standards and zoning requirements in effect at the time the site plan for each remaining section is approved. *Virginia Code* § 15.2-2241(5).

As with preliminary site plans, the General Assembly has extended the validity of qualifying final site plans by statute. *Virginia Code* § 15.2-2209.1(A) provides that any approved final site plan that was outstanding as of January 1, 2011 shall remain valid under July 1, 2017, or a later date approved or agreed to by the locality. This extension also applies to any other plan or permit associated with the final site plan for the same time period.

Vested rights may arise from an approved final site plan. *See chapter 19.*

23-400 Disapproval of a site plan

If a preliminary or final site plan is disapproved, the specific reasons for disapproval must be provided to the developer, either in a separate document or on the site plan itself. *Virginia Code* §§ 15.2-2259(A) (*final*), 15.2-2260(C) (*preliminary*).

The decision-maker must identify the deficiencies in the site plan that caused the disapproval by reference to specific ordinances, regulations or policies, and also must generally identify modifications or corrections that will permit approval of the site plan. *Virginia Code* §§ 15.2-2259(A) (*final*), 15.2-2260(C) (*preliminary*). The decision-maker is required to make a good faith effort to identify all deficiencies, if any, in a final site plan. *Virginia Code* § 15.2-2259(A).

One trial court has said that, in order for the requirement that the reasons for disapproval be stated in writing to have any legitimate meaning and effect, the reasons must: (1) be the reasons expressed by the agent or the collective action of the members of the planning commission; (2) be clearly communicated to the applicant so that he knows exactly why the plat was not approved; and (3) be in writing. *Mountain Venture Partnership Lovettsville II v. Planning Commission of Lovettsville*, 26 Va. Cir. 50 (1991). Neither approval by default nor a declaration that the disapproval is null and void is the judicial remedy if the locality fails to provide the required explanation. *Mountain Venture, supra*.

With respect to preliminary site plans, the Virginia Supreme Court has said that when a local governing body's disapproval of a preliminary site plan is appealed, the "trial court must sustain the decision unless the local governing body failed to comply with the applicable [regulations] or acted arbitrarily and capriciously in denying the application. *Board of Supervisors of Culpeper County v. Greengael, LLC*, 271 Va. 266, 277, 626 S.E.2d 357, 363 (2006) (subdivision plat).

Because *Virginia Code* §§ 15.2-2259 and 15.2-2260 apply to both subdivision plats and site plans, cases pertaining to site plans are included below.

23-410 Disapproval because the site plan fails to comply with an ordinance requirement

The disapproval of a site plan because the developer failed to show compliance with the law outside of the state and local planning, subdivision and zoning laws (*Virginia Code* § 15.2-2200 *et seq.*) is not arbitrary and capricious. *Dorn v. Board of Supervisors of Fairfax County*, 28 Va. Cir. 133 (1992) (but also holding that a decision based on the determination that the applicant failed to properly withdraw the subject property from a condominium regime – a decision of law rather than a decision of fact – was arbitrary and capricious).

Failure to comply with an ordinance requirement will support the disapproval of a site plan. In *VACOM, Inc. v. Fairfax County Board of Supervisors*, 33 Va. Cir. 39 (1993), one of the issues before the court was whether the county's

disapproval of VACOM's sixth revision of a site plan for a proposed development near the Route 28/Route 29 intersection in Fairfax County was improperly based on minor deficiencies that served as a mere pretext for the county's real concern – the redesign of the intersection. The court identified a number of minor deficiencies in the site plan related to frontage, drainage, berms, and correct acreage totals. Although noting that these deficiencies were minor and could be corrected in seven to ten days, the court found that these were legitimate grounds to disapprove the site plan. The court rejected VACOM's argument that the disapproval of the site plan based on the above deficiencies served as a mere pretext, finding that "any proper basis for rejecting the sixth site plan is sufficient. The failure of the sixth site plan to meet the frontage requirements was clearly a proper basis for objection. Whether the county had ulterior motives for rejecting the sixth site plan is inconsequential if one of the bases of its rejection was proper." *VACOM*, 33 Va. Cir. at 48.

23-420 Neither the comprehensive plan nor other policy considerations may be a basis for disapproval

A site plan may be approved only on the basis of whether it complies with all applicable regulations. The comprehensive plan may not be the basis for denying a site plan that is otherwise in conformity with duly adopted standards, ordinances and statutes. *Rackham v. Vanguard Limited Partnership*, 34 Va. Cir. 478, 479 (1994).

A locality's site plan regulations may not include provisions that effectively allow a locality to make a land use policy decision when considering a site plan. In *Board of Supervisors of Augusta County v. Countryside Investment Co.*, 258 Va. 497, 522 S.E.2d 610 (1999), the county denied a subdivision master plan, relying on a provision of its subdivision ordinance that allowed the board to deny a plat if, in its opinion, the land was unsuitable for subdivision. The ordinance also provided that land was deemed unsuitable for subdivision if it would not preserve a "rural environment." In finding that the challenged provisions of the subdivision ordinance went beyond that enabled by Virginia Code §§ 15.2-2241 and 15.2-2242, the Virginia Supreme Court said that a locality may not "under the guise of a subdivision ordinance, enact standards which would effectively permit it to rezone property in a manner inconsistent with the uses permitted by the property's zoning classification." *Countryside Investment*, 258 Va. at 504-505, 522 S.E.2d at 613-614.

23-500 Judicial challenges to the approval or disapproval of a preliminary or final site plan

There are at least four possible scenarios when a decision to approve or disapprove a preliminary or final site plan may be challenged in court. Because Virginia Code §§ 15.2-2259 and 15.2-2260 apply to both subdivision plats and site plans, cases pertaining to subdivision plats are included below.

23-510 Challenge by the developer to the disapproval of a site plan

A developer may appeal the locality's disapproval of a site plan to the circuit court within 60 days after the decision. *Virginia Code* §§ 15.2-2259(C) (*final*), 15.2-2260(E) (*preliminary*). The circuit court's review is limited to a determination of whether the locality's disapproval was "not properly based on the ordinance applicable thereto, or was arbitrary or capricious." *Virginia Code* §§ 15.2-2259(C) (*final*), 15.2-2260(E) (*preliminary*); *Sansom v. Board of Supervisors of Madison County*, 257 Va. 589, 514 S.E.2d 345 (1999); *West v. Mills*, 238 Va. 162, 380 S.E.2d 917 (1989). Likewise, the court must sustain the locality's decision unless the locality failed to comply with the applicable ordinances or acted arbitrarily or capriciously. *Board of Supervisors of Culpeper County v. Greengael, LLC*, 271 Va. 266, 626 S.E.2d 357 (2006) (applied to final plat).

The courts have said that their authority under Virginia Code §§ 15.2-2259(C) and 15.2-2260(E) is sufficiently broad to permit a trial court to approve a plat, if the evidence supports the subdivider's allegations. *Hylton Enterprises, Inc. v. Board of Supervisors of Prince William County*, 220 Va. 435, 258 S.E.2d 577 (1979) (under state enabling authority, the trial court had the authority to approve a plat that met all applicable requirements; limiting the court's role to determining whether the county's disapproval was not properly based upon the applicable ordinance, or was arbitrary or capricious, would be an overly restrictive interpretation of the statute); *Sterling Land Corp. v. Planning Commission of Town of Hamilton*, 51 Va. Cir. 307 (2000). The courts presumably have the same authority regarding site plans.

If an appeal is filed regarding the disapproval of a site plan, the locality is not required to consider an alternative site plan pending the appeal. *West, supra*.

23-520 Third party challenge against the locality under Virginia Code §§ 15.2-2259 or 15.2-2260

A third party may not judicially challenge the approval of a site plan in an action against the locality under Virginia Code §§ 15.2-2259 or 15.2-2260. *See Barton v. Town of Middleburg*, 27 Va. Cir. 20 (1991). Virginia Code § 15.2-2259 confers the right to appeal only upon the applicant. There is no language giving such a right of appeal to a third party or even an aggrieved party as provided in Virginia Code § 15.2-2314 (certiorari to review a decision of a board of zoning appeals) or Virginia Code § 15.2-2311 (appeal to board of zoning appeals of a decision by a zoning administrator or other officer). *Barton*, 27 Va. Cir. at 21-22.

23-530 Third party challenge against the locality in a declaratory judgment action

A third party may not judicially challenge the approval of a site plan in a declaratory judgment action brought under Virginia Code § 8.01-184. *Logan v. City Council of the City of Roanoke*, 275 Va. 483, 499, 659 S.E.2d 296, 304-305 (2008). In *Logan*, neighboring landowners brought a declaratory relief action under Virginia Code § 8.01-184, challenging the city's approval of a subdivision plat, including the approval of various exceptions authorized under the subdivision ordinance. In dismissing the neighboring landowners' right to declaratory judgment, the Virginia Supreme Court said:

. . . Logan has attempted to use the declaratory judgment statutes to create a right of appeal to the circuit courts that does not otherwise exist. Because the declaratory judgment statutes do not create such rights, and in the absence of statutory authority granting her a right of appeal to actions taken under the Subdivision Ordinance, Logan remained a stranger to the subdivision approval process and was not authorized to challenge [the director of planning's] actions under that Ordinance.

See also Miller v. Highland County, 274 Va. 355, 369, 650 S.E.2d 532, 538 (2007), in which the Virginia Supreme Court rejected a third party challenge under Virginia Code § 8.01-184 to the board of supervisors' finding of substantial accord under Virginia Code § 15.2-2232. The court said that "the declaratory judgment statutes may not be used to attempt a third-party challenge to a governmental action when such challenge is not otherwise authorized by statute."

23-540 Third party challenge against the developer

A third party may not judicially challenge the approval of a site plan in an action against the developer. *See Shilling v. Jimenez*, 268 Va. 202, 597 S.E.2d 206 (2004) (third parties have no right to challenge the approval of a subdivision plat in an action against the developer). The landowners in *Shilling* claimed that Loudoun County's subdivision ordinance had extended to them the right to enforce the requirements of the subdivision ordinance. The Virginia Supreme Court disagreed, noting that the enabling acts reaffirmed the authority of localities to regulate the subdivision and development of land, and that there was a clear legislative intent to vest in the governing body and its agents the sole power to enforce its subdivision ordinances. After noting the applicable 5-year statute of limitations under Virginia Code § 8.01-243(B), the court said that "[t]hird-party suits challenging subdivisions long after their approval and recordation could have a profound effect on the vested property rights of innocent purchasers and lenders. We will not impute to the General Assembly an intent to create such an effect in the absence of express statutory language." *Shilling*, 268 Va. at 208, 597 S.E.2d at 210.