WEST VIRGINIA CODE: §17-4-50

§17-4-50. Same -- Commissioner's authority as to subdivisions abutting state highway; notice of proposal to subdivide; filing, approval or disapproval of subdivision plans.

(A) In addition to other authority granted the commissioner to control access to state highways, the commissioner shall have authority in regard to the subdividing of land, any part of which abuts upon a state highway, as provided in this section.

(B) For purposes of this section, the following terms have the following meanings:

(1) "Lot" means an identified area of land one acre or less in size.

(2) "Subdividing" means the dividing, laying out or separating of five or more lots from or within a parcel of land or a successive dividing, laying out or separating of lots resulting in the creation of five or more lots within a parcel of land within five years.

(3) "Subdivision plan" means a graphic representation of a parcel of land showing the lots therein and any other relevant natural or man-made topographical feature.

(4) "Parcel" means an identified area of land owned by a person or owned by a combination of persons jointly or in common; or more than one identified area of land where such areas are contiguous and the owners act in concert in relation to such land.

(C) Subdividing occurs and a subdivision results within the meaning of this section whenever:

(1) A person subdivides five or more lots from a parcel at one time; or

(2) A successive division of lots out of a parcel results in the separation of the fifth or subsequent lot within a five- year period; or

(3) A person divides a parcel into tracts of land larger than a lot knowing, or having reason to know, that such parcels will in turn be divided or separated into a total of five or more lots.

(D) The remedies provided by this section shall not apply to lots which became such prior to the effective date of this section, but such lots may be considered in determining when an act of subdividing occurs after the effective date of this section, and in reviewing subdivision plans and applying remedies to lots which became such after the effective date of this section.

(E) The subdivision plans of the subdividing of any land, a part of which abuts on a state highway, shall be submitted to the state road commissioner directly, and the following rules

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shall apply:

(1) Notice of the proposal to subdivide shall be filed with the commissioner, along with a plan of the proposed subdivision.

(2) The commissioner shall review the plan to insure compliance with the policies stated in section forty-seven of this article and with any regulations issued by the commissioner under section forty-eight of this article.

(3) The commissioner shall reduce his objections to the proposed point of access to and from the state highway from and to the real property that is to be subdivided into lots, if any, to writing and promptly furnish notice of such objections to the person proposing such subdivision and of his right to demand a hearing thereon. A subdivision plan not so objected to within six weeks from the time it is filed with the commissioner shall be deemed to have been approved by the commissioner.

(4) In any case where the commissioner so objects to the proposed access to and from a new subdivision plan, the person submitting such plan shall have reasonable opportunity for a hearing on such objections.

(F) A subdivision is deemed disapproved if it was not submitted to the commissioner for review under the provisions of this section or if the commissioner has made timely objection to such plan and such objections have not been withdrawn. Disapproval shall have the following effect:

(1) The commissioner may post signs upon the adjacent highway right-of-way stating that the subdivision is disapproved, that access to and from lots in such subdivision from and to the state highway is not allowed, and any other relevant information deemed by the commissioner necessary to warn the public of such disapproval and its effect; and

(2) The commissioner shall have authority to limit access to and from such subdivision as a whole from and to the state highway to such access as would have been reasonable before the land was subdivided and to prevent and prohibit any other access to and from the state highway from and to such subdivision.

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