

Defining Subdivisions in Tennessee

Annual Planning
Commissioner Training
October 2017

What is a Subdivision?

- **Tennessee Code Annotated 13-3-401 & 13-4-301**
- **(B) (i)** "Subdivision" means, in all counties except those in subdivision (4)(A), the division of a tract or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division of less than five (5) acres for the purpose, whether immediate or future, of sale or building development, and includes resubdivision and, when appropriate to the context, relates to the process of resubdividing or to the land or area subdivided.
 - (ii)** As used in subdivision (4)(B)(i), "utility construction" does not include the mere extension of individual service pipes or lines for the purpose of directly connecting a single lot, site or other division to existing utility mains.

What is a Subdivision?

- **Simply Put**

- Any Division with New Lots Being Less than 5 Acres (*Regardless of Infrastructure*)
- Any Division Requiring New Roads or Easements for Access (*Regardless of Lot Size*)
- Any Division Requiring New Utilities to Multiple Lots
- Resubdivision of Lots Where Planning Commission has Granted Approval Previously

Approval of a Subdivision Plat

- **Tennessee Code Annotated 13-3-402 & 13-4-302**
 - No plat of a “**SUBDIVISION**” shall be filed for record or recorded until it has been approved & endorsed by in writing by a regional planning commission
- **Staff Approved Subdivisions – Not Sent to PC**
 - No More than 2 lots
 - No new utilities or roads
 - No variances required
- **Plat Must be Submitted by Owner**

Recording a Subdivision Plat

- **Tennessee Code Annotated 13-3-402 & 13-4-302**

- **(b) No county register shall receive, file or record a plat of a subdivision, or an amendment, modification, or correction to a recorded plat of a subdivision, [within the municipality] without the approval of the [regional] planning commission when and as required by this part.** Each such plat so filed shall include the most recent recorded deed book number and page number for each deed constituting part of the property being platted. Notwithstanding this subsection (b), an easement or survey attached to an easement granted to the state, a county, municipality, metropolitan government, or entity of the state, county, municipality or metropolitan government, shall not constitute an amendment, modification, or correction of a recorded plat of a subdivision.

Penalties for Selling Unapproved Lots

- **Tennessee Code Annotated 13-3-410 & 13-4-306**

- (a) (1) The owner or the agent of the owner of any land shall not:

- (A) Transfer, sell, agree to sell, or negotiate to sell the land by reference to, exhibition of, or by other use of a subdivision plat without first submitting a final subdivision plat to the planning commission and receiving the commission's approval and before the final plat is recorded in the appropriate register's office; or

- (B) Falsely represent to a prospective purchaser of the land that roads or streets will be constructed by a county or other political subdivision.

- (2) The description by metes and bounds in the instrument of transfer or other document used in the sale or transfer does not exempt the transaction from a violation of this subsection (a). The local government through their attorney or other official designated by the legislative body, may pursue an injunction or other appropriate remedy for a violation of this subsection (a).

- (b) The owner or agent of the owner of any land may sell, transfer, or agree to sell any lot or lots shown on a plat only after that plat has been given final plat approval by the planning commission, and after the approved final plat is recorded in the office of the appropriate county register.

What About Court Ordered Divisions?

- **Tennessee Code Annotated 13-3-408**

- This part shall not apply to division and plats of land partitioned by a court of competent jurisdiction. However, plats filed under 13-3-402 shall contain the information required by 13-3-402 even though the land has been partitioned by a court of competent jurisdiction.

- **Not mentioned in municipal Section of TCA**

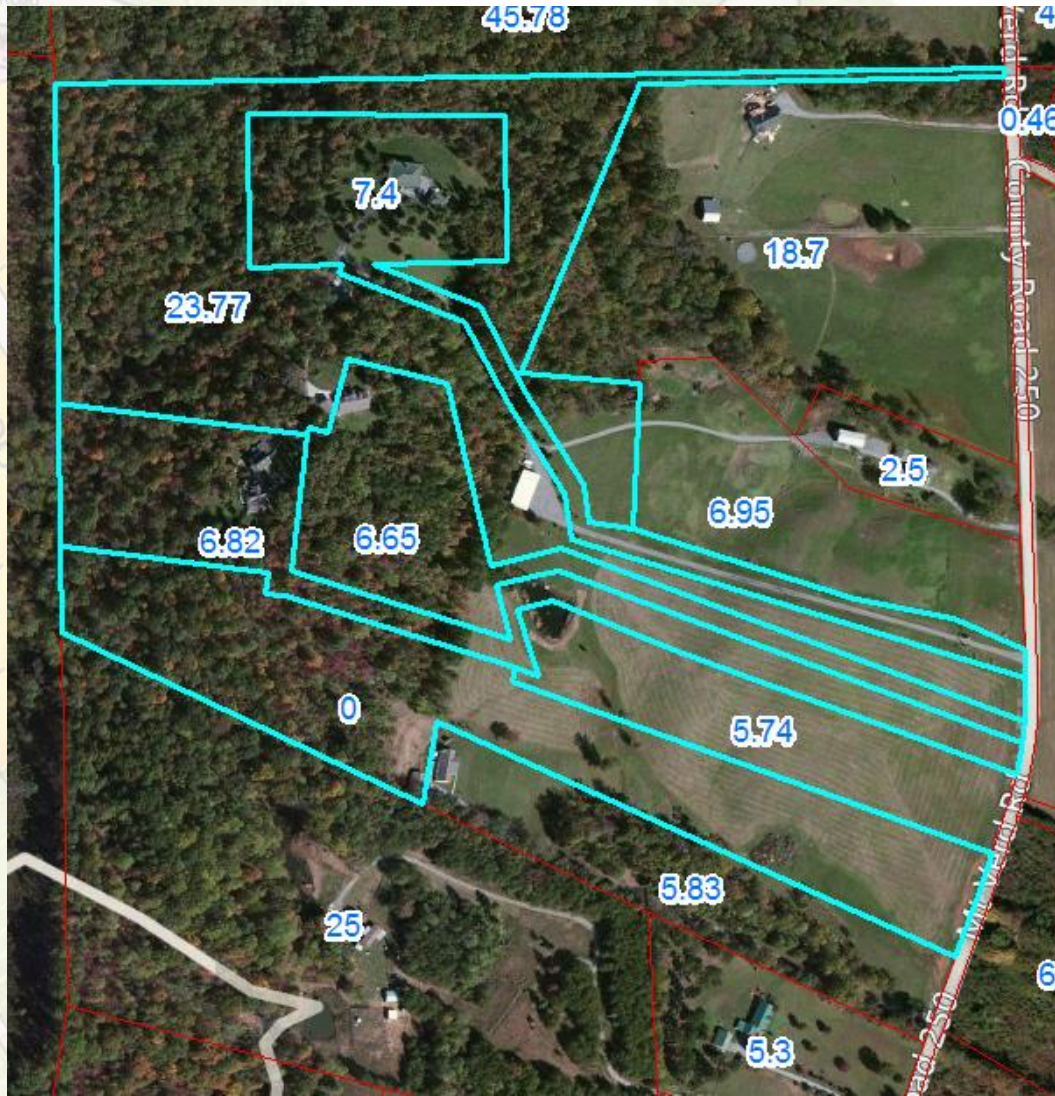
What Can A Planning Commission Regulate

- **Tennessee Code Annotated 13-3-403 & 13-4-303**
 - Harmonious Development
 - Coordination of Roads
 - Adequate Open Spaces for Traffic, Light, Air, & Recreation
 - Adequate Transportation & Grading of Roads
 - Water Supply & Connections
 - Drainage
 - Sanitary Sewer Facilities
 - Avoidance of Population Congestion
 - Avoidance of Scattered or Premature Subdivisions that Involve Danger or Injury to Health, Safety, or Prosperity Due to Lack of Water Supply, Drainage, Transportation or Other Public Services or Would Necessitate an Excessive Expenditure of Public Funds to Supply Such Services

Conditions for Building Permits

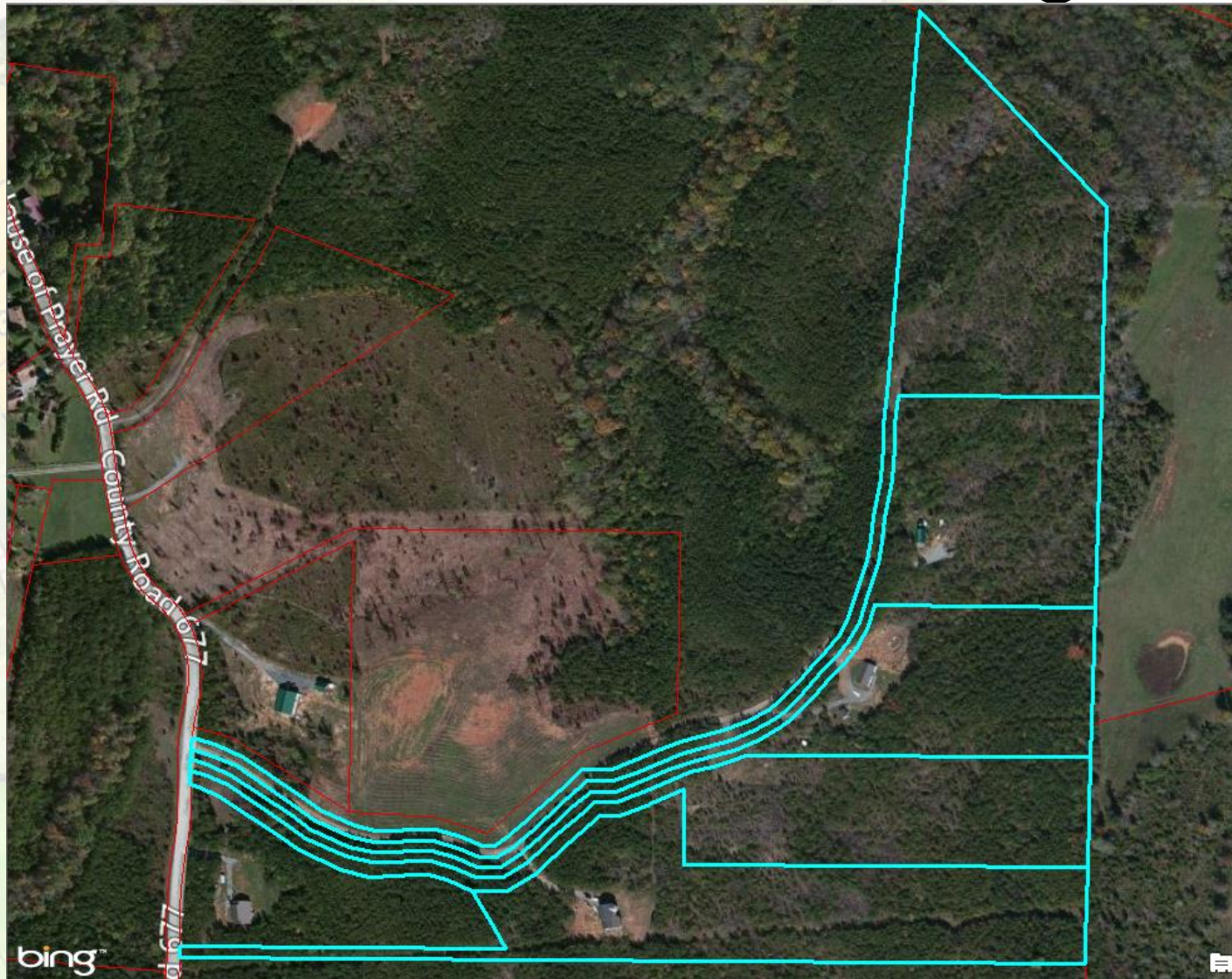
- **Tennessee Code Annotated 13-3-411 & 13-4-308**
- Building Permits Shall Not Be Issued or Buildings Constructed Unless One of the Following Conditions are Met:
 - (1) The street giving access to the lot upon which the building is proposed to be placed has been accepted or opened as, or shall have otherwise, received the legal status of, a public street prior to that time;
 - (2) The street corresponds in its location and lines with a street shown on a subdivision plat approved by the planning commission and recorded with Register of Deeds
 - (3) The lot fronts upon a permanent easement which conforms to all rules, regulations and specifications set by the local government's legislative body
 - (4) The street corresponds in its location and lines with a street shown on a street plat made and adopted by the planning commission
- **In municipalities, permits may be issued for lots on private easements that were recorded prior to April 21, 1987**

What About the 5+ Acre Flag Lots



Is this allowed without PC Approval?

What About the 5+ Acre Flag Lots



Seriously?

What About the 5+ Acre Flag Lots



2 Flag Lots Contain Trailer Parks

What About These Flag Lots



How about this one?

Issues with 5+ Acre Flag Lots

- Being Used to Circumvent Constructing Public Road or Private Road/Easement Standards
- Safety Issues – 911 Addressing
- No Specified Minimum Road Frontage Requirements in State Law
- Affects Property Values & Subsequently Taxes
- Conflicts Among Owners Sharing Easement
- No School Bus, Mail, or Public Utility Service on Private Roads

What Can Be Done – 5+ Acre Flag Lots

- Relax Easement Standards for Lots Over 5 Acres
 - Reduce Road Paving Requirements
 - Require 911 Approved Road Name & Addressing
- Use Building Permits to Deny Applications for Unapproved Roads
- Last Resort – Encourage State Legislators to Address this Issue

What Can Be Done – < 5 Acre Flag Lots

- Reduce flag stem length
- Only allow one intervening lot or partial lot between flag lot and road providing access
- Set distance requirements between flag stems and proximity to road intersections
- Prevent flag stems from changing directions multiple times, at more than 90 degrees, or only follow exterior boundaries

What Can Be Done – < 5 Acre Flag Lots

- Limit the crossing of flowing or intermittent streams, ravines, or other topographic features without culverts or bridges
- Require topographic grade of flag stem to be less than that of your maximum street grade
- Ensure the flag stem provides “sufficient, safe, and reasonable access” to the lot

Questions?



The logo for Southeast Tennessee Development (setd) is a dark grey circle containing the lowercase text 'setd' in a white, sans-serif font. The letter 'd' is highlighted in a light blue color.

setd

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