

By: Oliverson, Bell of Montgomery, et al.

H.B. No. 866

Substitute the following for H.B. No. 866:

By: Burns

C.S.H.B. No. 866

A BILL TO BE ENTITLED

AN ACT

relating to approval of certain land development applications by a municipality or county.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 212.001(2) and (3), Local Government Code, are amended to read as follows:

(2) ~~["Plan" means a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan.~~

~~(3)~~ "Plat" includes a preliminary plat, ~~[general plan,~~] final plat, and replat.

SECTION 2. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0015 to read as follows:

Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to restrict a municipality from establishing a submittal calendar to be used by an applicant to facilitate compliance with the approval process described by Sections 212.009, 212.0091, 212.0093, and 212.0095.

SECTION 3. Section 212.004, Local Government Code, is amended by adding Subsection (f) to read as follows:

(f) A plat is considered filed on the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by or under this subchapter, to:

- 1 (1) the governing body of the municipality; or
2 (2) the municipal authority responsible for approving
3 plats.

4 SECTION 4. Sections 212.0065(a) and (c), Local Government
5 Code, are amended to read as follows:

6 (a) The governing body of a municipality or the municipal
7 planning commission may delegate to one or more officers or
8 employees of the municipality or of a utility owned or operated by
9 the municipality the ability to approve, approve with conditions,
10 or disapprove a plat [+

11 ~~[(1) amending plats described by Section 212.016,~~

12 ~~[(2) minor plats or replats involving four or fewer~~
13 ~~lots fronting on an existing street and not requiring the creation~~
14 ~~of any new street or the extension of municipal facilities; or~~

15 ~~[(3) a replat under Section 212.0145 that does not~~
16 ~~require the creation of any new street or the extension of municipal~~
17 ~~facilities].~~

18 (c) An applicant has the right to appeal to the governing
19 body of the municipality or the municipal planning commission if
20 the designated [The] person disapproves a [~~or persons shall not~~
21 ~~disapprove the]~~ plat [~~and shall be required to refer any plat which~~
22 ~~the person or persons refuse to approve to the municipal authority~~
23 ~~responsible for approving plats within the time period specified in~~
24 ~~Section 212.009].~~

25 SECTION 5. Sections 212.009(a), (b), (b-2), (c), and (d),
26 Local Government Code, are amended to read as follows:

27 (a) The municipal authority responsible for approving plats

1 shall approve, approve with conditions, or disapprove a [~~plan or~~]
2 plat within 30 days after the date the [~~plan or~~] plat is filed. A
3 [~~plan or~~] plat is approved by the municipal authority unless it is
4 disapproved within that period and in accordance with Section
5 212.0091.

6 (b) If an ordinance requires that a [~~plan or~~] plat be
7 approved by the governing body of the municipality in addition to
8 the planning commission, the governing body shall approve, approve
9 with conditions, or disapprove the [~~plan or~~] plat within 30 days
10 after the date the [~~plan or~~] plat is approved by the planning
11 commission or is approved by the inaction of the commission. A
12 [~~plan or~~] plat is approved by the governing body unless it is
13 disapproved within that period and in accordance with Section
14 212.0091.

15 (b-2) Notwithstanding Subsection (a) or (b), the parties
16 may extend the 30-day period described by those subsections for one
17 or more periods, each [~~a period~~] not to exceed 30 days if:

18 (1) the applicant requests the extension in writing to
19 the municipal authority responsible for approving plats or the
20 governing body of the municipality, as applicable; and

21 (2) the municipal authority or governing body, as
22 applicable, approves the extension request.

23 (c) If a [~~plan or~~] plat is approved, the municipal authority
24 giving the approval shall endorse the [~~plan or~~] plat with a
25 certificate indicating the approval. The certificate must be signed
26 by:

27 (1) the authority's presiding officer and attested by

1 the authority's secretary; or

2 (2) a majority of the members of the authority.

3 (d) If the municipal authority responsible for approving
4 plats fails to approve, approve with conditions, or disapprove a
5 ~~[plan or]~~ plat within the prescribed period, the authority on the
6 applicant's request shall issue a certificate stating the date the
7 ~~[plan or]~~ plat was filed and that the authority failed to act on the
8 ~~[plan or]~~ plat within the period. The certificate is effective in
9 place of the endorsement required by Subsection (c).

10 SECTION 6. Section [212.0091](#)(a), Local Government Code, is
11 amended to read as follows:

12 (a) A municipal authority or governing body that
13 conditionally approves or disapproves a ~~[plan or]~~ plat under this
14 subchapter shall provide the applicant a written statement of the
15 conditions for the conditional approval or reasons for disapproval
16 that clearly articulates each specific condition for the
17 conditional approval or reason for disapproval.

18 SECTION 7. Sections [212.0093](#), [212.0095](#), and [212.0096](#), Local
19 Government Code, are amended to read as follows:

20 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
21 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
22 approval or disapproval of a ~~[plan or]~~ plat under Section [212.0091](#),
23 the applicant may submit to the municipal authority or governing
24 body that conditionally approved or disapproved the ~~[plan or]~~ plat
25 a written response that satisfies each condition for the
26 conditional approval or remedies each reason for disapproval
27 provided. The municipal authority or governing body may not

1 establish a deadline for an applicant to submit the response.

2 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
3 OF RESPONSE. (a) A municipal authority or governing body that
4 receives a response under Section 212.0093 shall determine whether
5 to approve or disapprove the applicant's previously conditionally
6 approved or disapproved [~~plan or~~] plat not later than the 15th day
7 after the date the response was submitted.

8 (b) A municipal authority or governing body that
9 conditionally approves or disapproves a [~~plan or~~] plat following
10 the submission of a response under Section 212.0093:

11 (1) must comply with Section 212.0091; and

12 (2) may disapprove the [~~plan or~~] plat only for a
13 specific condition or reason provided to the applicant under
14 Section 212.0091.

15 (c) A municipal authority or governing body that receives a
16 response under Section 212.0093 shall approve a previously
17 conditionally approved or disapproved [~~plan or~~] plat if the
18 response adequately addresses each condition of the conditional
19 approval or each reason for the disapproval.

20 (d) A previously conditionally approved or disapproved
21 [~~plan or~~] plat is approved if:

22 (1) the applicant filed a response that meets the
23 requirements of Subsection (c); and

24 (2) the municipal authority or governing body that
25 received the response does not disapprove the [~~plan or~~] plat on or
26 before the date required by Subsection (a) and in accordance with
27 Section 212.0091.

1 Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL
2 PROCESS. (a) Notwithstanding Sections 212.009, 212.0091,
3 212.0093, and 212.0095, an applicant may elect at any time to seek
4 approval for a [~~plan or~~] plat under an alternative approval process
5 adopted by a municipality if the process allows for a shorter
6 approval period than the approval process described by Sections
7 212.009, 212.0091, 212.0093, and 212.0095.

8 (b) An applicant that elects to seek approval under the
9 alternative approval process described by Subsection (a) is not:

10 (1) required to satisfy the requirements of Sections
11 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action
12 challenging a disapproval of a [~~plan or~~] plat under this
13 subchapter; and

14 (2) prejudiced in any manner in bringing the action
15 described by Subdivision (1), including satisfying a requirement to
16 exhaust any and all remedies.

17 SECTION 8. Subchapter A, Chapter 212, Local Government
18 Code, is amended by adding Section 212.00965 to read as follows:

19 Sec. 212.00965. APPROVAL PROCEDURE: ALTERNATIVE REVIEW
20 PROCESS FOR UNREVIEWED APPLICATIONS. (a) If a municipality fails
21 to approve, approve with conditions, or disapprove an applicant's
22 plat earlier than the 15th day after the date prescribed by Section
23 212.009 or 212.0095, as applicable, the applicant may have the plat
24 reviewed by:

25 (1) a person with the authority to review plats for:
26 (A) the municipality; or
27 (B) a political subdivision other than the

1 municipality if the municipality approves the reviewer; or
2 (2) an engineer licensed under Chapter 1001,
3 Occupations Code.

4 (b) A person may not review a plat under Subsection (a) if
5 the person:

6 (1) is the applicant; or
7 (2) prepared the plat that is the subject of the
8 application.

9 (c) A person who performs a review under this section:

10 (1) has the authority to approve, approve with
11 conditions, or disapprove a plat as if the person were delegated
12 authority under Section 212.0065;

13 (2) must ensure the plat satisfies all applicable
14 regulations; and

15 (3) must provide notice of the review to the
16 municipality not later than the 15th day after the date of the
17 review.

18 (d) The municipality may prescribe a reasonable format for
19 the notice provided under Subsection (c)(3).

20 (e) The municipality may not collect an additional fee
21 related to the review performed under Subsection (a).

22 SECTION 9. Section 212.0099, Local Government Code, is
23 amended to read as follows:

24 Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
25 action challenging a disapproval of a [~~plan or~~] plat under this
26 subchapter, the municipality has the burden of proving by clear and
27 convincing evidence that the disapproval meets the requirements of

1 this subchapter or any applicable case law. The court may not use a
2 deferential standard.

3 SECTION 10. Section [232.001](#), Local Government Code, is
4 amended by adding Subsection (g) to read as follows:

5 (g) A plat is considered filed on the date the applicant
6 submits the plat, along with a completed plat application and the
7 application fees and other requirements prescribed by or under this
8 subchapter, to:

9 (1) the commissioners court; or

10 (2) the county authority responsible for approving
11 plats.

12 SECTION 11. Subchapter [A](#), Chapter [232](#), Local Government
13 Code, is amended by adding Sections [232.0012](#) and [232.0022](#) to read as
14 follows:

15 Sec. 232.0012. CONSTRUCTION OF SUBCHAPTER. This subchapter
16 may not be construed to restrict a county from establishing a
17 submittal calendar to be used by an applicant to facilitate
18 compliance with the approval process described by Sections
19 [232.0025](#), [232.0026](#), [232.0027](#), and [232.0028](#).

20 Sec. 232.0022. DELEGATION OF APPROVAL RESPONSIBILITY. (a)
21 The commissioners court of a county or the court's designee may
22 designate to one or more officers or employees of the county the
23 authority to approve, approve with conditions, or disapprove a
24 plat.

25 (b) An applicant has the right to appeal to the
26 commissioners court or the court's designee if the designated
27 person or persons disapprove a plat.

1 SECTION 12. The heading to Section 232.0025, Local
2 Government Code, is amended to read as follows:

3 Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS
4 [~~AND PLANS~~].

5 SECTION 13. Section 232.0025, Local Government Code, is
6 amended by amending Subsections (b), (c), (d), (f), (g), (h), and
7 (i) and adding Subsection (f-1) to read as follows:

8 (b) If a person submits a plat application to the
9 commissioners court that does not include all of the documentation
10 or other information required by Subsection (a), the commissioners
11 court or the county authority responsible for approving plats
12 [~~court's designee~~] shall, not later than the 10th business day
13 after the date the commissioners court receives the application,
14 notify the applicant of the missing documents or other information.
15 The commissioners court shall allow an applicant to timely submit
16 the missing documents or other information.

17 (c) An application is considered complete when all
18 documentation or other information required by Subsection (a) is
19 received. Acceptance by the commissioners court or the county
20 authority responsible for approving plats [~~court's designee~~] of a
21 completed plat application with the documentation or other
22 information required by Subsection (a) shall not be construed as
23 approval of the documentation or other information.

24 (d) Except as provided by Subsection (f), the commissioners
25 court or the county authority responsible for approving plats
26 [~~court's designee~~] shall approve, approve with conditions, or
27 disapprove a plat application not later than the 30th day after the

1 date the completed application is received by the commissioners
2 court or the county authority [~~court's designee~~]. An application is
3 approved by the commissioners court or the county authority
4 [~~court's designee~~] unless the application is disapproved within
5 that period and in accordance with Section 232.0026.

6 (f) The 30-day period under Subsection (d):

7 (1) for a purpose related to Chapter 2007, Government
8 Code, may be extended for a period not to exceed 30 days, if:

9 (A) requested and agreed to in writing by the
10 applicant and approved by the commissioners court or the county
11 authority responsible for approving plats [~~court's designee~~]; or

12 (B) Chapter 2007, Government Code, requires the
13 county to perform a takings impact assessment in connection with
14 the plat application; or [~~and~~]

15 (2) for a purpose unrelated to Chapter 2007,
16 Government Code, may be extended for one or more periods, not to
17 exceed 30 days, if requested and agreed to in writing by the
18 applicant and approved by the commissioners court or the county
19 authority.

20 (f-1) The 30-day period under Subsection (d) applies only to
21 a decision wholly within the control of the commissioners court or
22 the county authority responsible for approving plats [~~court's~~
23 ~~designee~~].

24 (g) The commissioners court or the county authority
25 responsible for approving plats [~~court's designee~~] shall make the
26 determination under Subsection (f)(1) of whether the 30-day period
27 will be extended not later than the 20th day after the date a

1 completed plat application is received by the commissioners court
2 or the county authority [~~court's designee~~].

3 (h) The commissioners court or the county authority
4 responsible for approving plats [~~court's designee~~] may not require
5 an applicant to waive the time limits or approval procedure
6 contained in this subchapter.

7 (i) If the commissioners court or the county authority
8 responsible for approving plats [~~court's designee~~] fails to
9 approve, approve with conditions, or disapprove a plat application
10 as required by this subchapter:

11 (1) the commissioners court shall refund the greater
12 of the unexpended portion of any application fee or deposit or 50
13 percent of an application fee or deposit that has been paid;

14 (2) the application is granted by operation of law;
15 and

16 (3) the applicant may apply to a district court in the
17 county where the tract of land is located for a writ of mandamus to
18 compel the commissioners court to issue documents recognizing the
19 plat application's approval.

20 SECTION 14. Section [232.0026](#)(a), Local Government Code, is
21 amended to read as follows:

22 (a) A commissioners court or county authority responsible
23 for approving plats [~~designee~~] that conditionally approves or
24 disapproves of a plat application under this subchapter shall
25 provide the applicant a written statement of the conditions for the
26 conditional approval or the reasons for disapproval that clearly
27 articulates each specific condition for the conditional approval or

1 reason for disapproval.

2 SECTION 15. Sections 232.0027 and 232.0028, Local
3 Government Code, are amended to read as follows:

4 Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
5 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
6 approval or disapproval of a plat application under Section
7 232.0026, the applicant may submit to the commissioners court or
8 county authority responsible for approving plats [~~designee~~] that
9 conditionally approved or disapproved the application a written
10 response that satisfies each condition for the conditional approval
11 or remedies each reason for disapproval provided. The
12 commissioners court or county authority [~~designee~~] may not
13 establish a deadline for an applicant to submit the response.

14 Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
15 OF RESPONSE. (a) A commissioners court or county authority
16 responsible for approving plats [~~designee~~] that receives a response
17 under Section 232.0027 shall determine whether to approve or
18 disapprove the applicant's previously conditionally approved or
19 disapproved plat application not later than the 15th day after the
20 date the response was submitted under Section 232.0027.

21 (b) A commissioners court or county authority responsible
22 for approving plats [~~designee~~] that conditionally approves or
23 disapproves a plat application following the submission of a
24 response under Section 232.0027:

25 (1) must comply with Section 232.0026; and

26 (2) may disapprove the application only for a specific
27 condition or reason provided to the applicant for the original

1 application under Section 232.0026.

2 (c) A commissioners court or county authority responsible
3 for approving plats [~~designee~~] that receives a response under
4 Section 232.0027 shall approve a previously conditionally approved
5 or disapproved plat application if the applicant's response
6 adequately addresses each condition for the conditional approval or
7 each reason for the disapproval.

8 (d) A previously conditionally approved or disapproved plat
9 application is approved if:

10 (1) the applicant filed a response that meets the
11 requirements of Subsection (c); and

12 (2) the commissioners court or county authority
13 responsible for approving plats [~~designee~~] that received the
14 response does not disapprove the application on or before the date
15 required by Subsection (a) and in accordance with Section 232.0026.

16 SECTION 16. Subchapter A, Chapter 232, Local Government
17 Code, is amended by adding Section 232.00287 to read as follows:

18 Sec. 232.00287. ALTERNATIVE REVIEW PROCESS. (a) If a
19 county fails to approve, approve with conditions, or disapprove a
20 plat or an applicant's written response earlier than the 15th day
21 after the date prescribed by Section 232.0025 or 232.0028, as
22 applicable, an applicant may have the plat reviewed by:

23 (1) a person with authority to review plats for:

24 (A) the county; or

25 (B) a political subdivision other than the county

26 if the county approves the reviewer; or

27 (2) an engineer licensed under Chapter 1001,

1 Occupations Code.

2 (b) A person may not review a plat under Subsection (a) if
3 the person:

4 (1) is the applicant; or

5 (2) prepared the plat that is the subject of the
6 application.

7 (c) A person who performs a review under this section:

8 (1) has the authority to approve, approve with
9 conditions, or disapprove a plat as if the person were delegated
10 authority under Section 232.0022;

11 (2) must ensure the plat satisfies all applicable
12 regulations; and

13 (3) must provide notice of the review to the county not
14 later than the 15th day after the date of the review.

15 (d) The county may prescribe a reasonable format for the
16 notice provided under Subsection (c)(3).

17 (e) The county may not collect an additional fee related to
18 the review performed under Subsection (a).

19 SECTION 17. The following provisions of the Local
20 Government Code are repealed:

21 (1) Section 212.009(b-1); and

22 (2) Section 232.0025(d-1).

23 SECTION 18. The changes in law made by this Act apply only
24 to a plat application filed on or after the effective date of this
25 Act.

26 SECTION 19. This Act takes effect September 1, 2023.