

By: Oliverson

H.B. No. 3167

Substitute the following for H.B. No. 3167:

By: Craddick

C.S.H.B. No. 3167

A BILL TO BE ENTITLED

1 AN ACT

2 relating to county and municipal approval procedure for land
3 development applications.

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

5 SECTION 1. Section 212.001, Local Government Code, is
6 amended by amending Subdivision (2) and adding Subdivision (3) to
7 read as follows:

8 (2) "Plan" means a subdivision development plan,
9 including a preliminary plat, preliminary subdivision plan,
10 subdivision construction plan, site development plan, and final
11 plat.

12 (3) "Plat" includes a replat.

13 SECTION 2. Subchapter A, Chapter 212, Local Government
14 Code, is amended by adding Section 212.0085 to read as follows:

15 Sec. 212.0085. APPROVAL PROCEDURE: APPLICABILITY. The
16 approval procedures under this subchapter apply to a municipality
17 regardless of whether the municipality has entered into an
18 interlocal agreement, including an interlocal agreement between a
19 municipality and county under Section 242.001(d).

20 SECTION 3. The heading to Section 212.009, Local Government
21 Code, is amended to read as follows:

22 Sec. 212.009. APPROVAL PROCEDURE: INITIAL APPROVAL.

23 SECTION 4. Sections 212.009(a), (b), (c), and (d), Local
24 Government Code, are amended to read as follows:

1 (a) The municipal authority responsible for approving plats
2 shall approve or disapprove [~~act on~~] a plan [~~plat~~] within 30 days
3 after the date the plan [~~plat~~] is filed. A plan [~~plat~~] is considered
4 approved by the municipal authority unless it is disapproved within
5 that period and in accordance with Section 212.0091.

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

14 (c) If a plan [~~plat~~] is approved, the municipal authority
15 giving the approval shall endorse the plan [~~plat~~] with a
16 certificate indicating the approval. The certificate must be signed
17 by:

18 (1) the authority's presiding officer and attested by
19 the authority's secretary; or

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

21 (d) If the municipal authority responsible for approving
22 plats fails to approve or disapprove [~~act on~~] a plan [~~plat~~] within
23 the prescribed period, the authority on request shall issue a
24 certificate stating the date the plan [~~plat~~] was filed and that the
25 authority failed to act on the plan [~~plat~~] within the period. The
26 certificate is effective in place of the endorsement required by
27 Subsection (c).

1 SECTION 5. Subchapter A, Chapter 212, Local Government
2 Code, is amended by adding Sections 212.0091, 212.0093, 212.0095,
3 212.0097, and 212.0099 to read as follows:

4 Sec. 212.0091. APPROVAL PROCEDURE: DISAPPROVAL
5 REQUIREMENTS. (a) A municipal authority or governing body that
6 disapproves a plan under this subchapter shall provide the
7 applicant a written statement of the reasons for disapproval that
8 clearly articulates each specific reason for disapproval.

9 (b) Each reason specified in the written statement:

10 (1) must:

11 (A) be directly related to the requirements under
12 this subchapter; and

13 (B) include a citation to the law, including a
14 statute or municipal ordinance, that is the basis for the
15 disapproval, if applicable; and

16 (2) may not be arbitrary or intended to delay
17 approval.

18 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
19 DISAPPROVAL. After the disapproval of a plan under Section
20 212.0091, the applicant may submit to the municipal authority or
21 governing body that disapproved the plan a written response that
22 remedies each reason for disapproval provided. The municipal
23 authority or governing body may not establish a deadline for an
24 applicant to submit the response.

25 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
26 OF RESPONSE. (a) A municipal authority or governing body that
27 receives a response under Section 212.0093 shall determine whether

1 to approve or disapprove the applicant's previously disapproved
2 plan not later than the 15th day after the date the response was
3 submitted.

4 (b) A municipal authority or governing body that
5 disapproves a plan following the submission of a response under
6 Section 212.0093:

7 (1) must comply with Section 212.0091; and

8 (2) may disapprove the plan only for a specific reason
9 provided to the applicant for the original plan under Section
10 212.0091.

11 (c) A municipal authority or governing body that receives a
12 response under Section 212.0093 shall approve a previously
13 disapproved plan if the response adequately addresses each reason
14 for the disapproval.

15 (d) A previously disapproved plan is considered approved
16 if:

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

19 (2) the municipal authority or governing body that
20 received the response does not disapprove the plan on or before the
21 date required by Subsection (a) and in accordance with Section
22 212.0091.

23 Sec. 212.0097. APPROVAL PROCEDURE: WAIVER PROHIBITED. A
24 municipal authority responsible for approving plans or the
25 governing body of a municipality may not request or require an
26 applicant to waive a deadline or other approval procedure under
27 this subchapter.

1 Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
2 action challenging a disapproval of a plan under this subchapter,
3 the municipality has the burden of proving by clear and convincing
4 evidence that the disapproval meets the requirements of this
5 subchapter or any applicable case law. The court may not use a
6 deferential standard.

7 SECTION 6. Chapter 212, Local Government Code, is amended
8 by adding Subchapter H to read as follows:

9 SUBCHAPTER H. APPROVAL PROCEDURES FOR LAND DEVELOPMENT

10 APPLICATIONS

11 Sec. 212.201. DEFINITION. In this subchapter, "development
12 application" means an application for approval of proposed land
13 development required by a municipality. The term does not include
14 an application for the approval of a plat or other plan governed by
15 Subchapter A.

16 Sec. 212.202. APPLICABILITY OF SUBCHAPTER. This subchapter
17 applies to a municipality regardless of whether the municipality
18 has entered into an interlocal agreement, including an interlocal
19 agreement between a municipality and county under Section
20 242.001(d).

21 Sec. 212.203. INITIAL APPROVAL OR DISAPPROVAL. (a) A
22 municipality that adopts a regulation requiring municipal approval
23 for proposed land development shall determine whether to approve or
24 disapprove a development application not later than the 30th day
25 after the date the application is filed with the municipality.

26 (b) A development application is considered approved by the
27 municipality unless the municipality disapproves of the

1 application in the period described by Subsection (a) and in
2 accordance with Section 212.204.

3 Sec. 212.204. DISAPPROVAL REQUIREMENTS. (a) A
4 municipality that disapproves of a development application under
5 this subchapter shall provide the applicant a written statement of
6 the reasons for disapproval that clearly articulates each specific
7 reason for disapproval.

8 (b) Each reason specified in the written statement:

9 (1) must:

10 (A) be directly related to the requirements of
11 the regulation requiring the approval; and

12 (B) include a citation to the law, including a
13 statute or municipal ordinance, that is the basis for the
14 disapproval, if applicable; and

15 (2) may not be arbitrary or intended to delay
16 approval.

17 Sec. 212.205. APPLICANT RESPONSE TO DISAPPROVAL. After the
18 disapproval of a development application under Section 212.204, the
19 applicant may submit to the municipality a written response that
20 remedies each reason for disapproval provided. The municipality
21 may not establish a deadline for an applicant to submit the
22 response.

23 Sec. 212.206. APPROVAL OR DISAPPROVAL OF RESPONSE. (a) A
24 municipality that receives a response under Section 212.205 shall
25 determine whether to approve or disapprove the applicant's
26 previously disapproved development application not later than the
27 15th day after the date the response was submitted.

1 (b) A municipality that disapproves a development
2 application following the submission of a response under Section
3 212.205:

4 (1) must comply with Section 212.204; and

5 (2) may disapprove the application only for a specific
6 reason provided to the applicant for the original application under
7 Section 212.204.

8 (c) A municipality that receives a response under Section
9 212.205 shall approve a previously disapproved development
10 application if the response adequately addresses each reason for
11 the disapproval.

12 (d) A previously disapproved development application is
13 considered approved if:

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

16 (2) the municipality does not disapprove the
17 application on or before the date required by Subsection (a) and in
18 accordance with Section 212.204.

19 Sec. 212.207. WAIVER PROHIBITED. A municipality may not
20 request or require an applicant to waive a deadline or other
21 approval procedure under this subchapter.

22 Sec. 212.208. JUDICIAL REVIEW OF DISAPPROVAL. In a legal
23 action challenging a disapproval of a development application under
24 this subchapter, the municipality has the burden of proving by
25 clear and convincing evidence that the disapproval meets the
26 requirements of this subchapter or any applicable case law. The
27 court may not use a deferential standard.

1 SECTION 7. Subchapter A, Chapter 232, Local Government
2 Code, is amended by adding Sections 232.0005 and 232.0023 to read as
3 follows:

4 Sec. 232.0005. DEFINITION. In this subchapter, "plan"
5 means a subdivision development plan, including a preliminary plat,
6 preliminary subdivision plan, subdivision construction plan, site
7 development plan, and final plat.

8 Sec. 232.0023. APPROVAL PROCEDURE: APPLICABILITY. The plan
9 application approval procedures under this subchapter apply to a
10 county regardless of whether the county has entered into an
11 interlocal agreement, including an interlocal agreement between a
12 municipality and county under Section 242.001(d).

13 SECTION 8. Section 232.0025, Local Government Code, is
14 amended to read as follows:

15 Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS
16 AND OTHER PLANS. (a) The commissioners court of a county or a
17 person designated by the commissioners court shall issue a written
18 list of the documentation and other information that must be
19 submitted with a plan [~~plat~~] application. The documentation or
20 other information must relate to a requirement authorized under
21 this section or other applicable law. An application submitted to
22 the commissioners court or the person designated by the
23 commissioners court that contains the documents and other
24 information on the list is considered complete.

25 (b) If a person submits a plan [~~plat~~] application to the
26 commissioners court that does not include all of the documentation
27 or other information required by Subsection (a), the commissioners

1 court or the court's designee shall, not later than the 10th
2 business day after the date the commissioners court receives the
3 application, notify the applicant of the missing documents or other
4 information. The commissioners court shall allow an applicant to
5 timely submit the missing documents or other information.

6 (c) An application is considered complete when all
7 documentation or other information required by Subsection (a) is
8 received. Acceptance by the commissioners court or the court's
9 designee of a completed plan [~~plat~~] application with the
10 documentation or other information required by Subsection (a) shall
11 not be construed as approval of the documentation or other
12 information.

13 (d) Except as provided by Subsection (f), the commissioners
14 court or the court's designee shall approve or disapprove [~~take~~
15 ~~final action on~~] a plan [~~plat~~] application[, ~~including the~~
16 ~~resolution of all appeals,~~] not later than the 30th [~~60th~~] day after
17 the date the [~~a~~] completed [~~plat~~] application is received by the
18 commissioners court or the court's designee. An application is
19 considered approved by the commissioners court or the court's
20 designee unless the application is disapproved within that period
21 and in accordance with Section 232.0026.

22 [~~(e) If the commissioners court or the court's designee~~
23 ~~disapproves a plat application, the applicant shall be given a~~
24 ~~complete list of the reasons for the disapproval.~~]

25 (f) The 30-day [~~60-day~~] period under Subsection (d):

26 (1) may be extended for a [~~reasonable~~] period not to
27 exceed 30 days, if:

1 (A) requested and agreed to in writing by the
2 applicant and approved by the commissioners court or the court's
3 designee; or

4 (B) [~~(2) may be extended 60 additional days if~~
5 Chapter 2007, Government Code, requires the county to perform a
6 takings impact assessment in connection with the plan [~~a plat~~]
7 application; and

8 (2) [~~(3)~~] applies only to a decision wholly within the
9 control of the commissioners court or the court's designee.

10 (g) The commissioners court or the court's designee shall
11 make the determination under Subsection (f)(2) of whether the
12 30-day [~~60-day~~] period will be extended not later than the 20th day
13 after the date a completed plan [~~plat~~] application is received by
14 the commissioners court or the court's designee.

15 (h) The commissioners court or the court's designee may not
16 request or compel an applicant to waive the time limits or any other
17 approval procedure contained in this subchapter [~~section~~].

18 (i) If the commissioners court or the court's designee fails
19 to approve or disapprove a plan application [~~take final action on~~
20 ~~the plat~~] as required by this subchapter [~~Subsection (d)~~]:

21 (1) the commissioners court shall refund the greater
22 of the unexpended portion of any [~~plat~~] application fee or deposit
23 or 50 percent of an [~~a plat~~] application fee or deposit that has
24 been paid;

25 (2) the [~~plat~~] application is granted by operation of
26 law; and

27 (3) the applicant may apply to a district court in the

1 county where the tract of land is located for a writ of mandamus to
2 compel the commissioners court to issue documents recognizing the
3 plan application's [plat's] approval.

4 SECTION 9. Subchapter A, Chapter 232, Local Government
5 Code, is amended by adding Sections 232.0026, 232.0027, 232.0028,
6 and 232.0029 to read as follows:

7 Sec. 232.0026. APPROVAL PROCEDURE: DISAPPROVAL
8 REQUIREMENTS. (a) A commissioners court or designee that
9 disapproves of a plan application under this subchapter shall
10 provide the applicant a written statement of the specific reasons
11 for disapproval that clearly articulates each specific reason for
12 disapproval.

13 (b) Each reason specified in the written statement:

14 (1) must:

15 (A) be directly related to the requirements of
16 this subchapter; and

17 (B) include a citation to the law, including a
18 statute or order, that is the basis for the disapproval, if
19 applicable; and

20 (2) may not be arbitrary or intended to delay
21 approval.

22 Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
23 DISAPPROVAL. After the disapproval of a plan application under
24 Section 232.0026, the applicant may submit to the commissioners
25 court or designee that disapproved the application a written
26 response that remedies each reason for disapproval provided. The
27 commissioners court or designee may not establish a deadline for an

1 applicant to submit the response.

2 Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
3 OF RESPONSE. (a) A commissioners court or designee that receives a
4 response under Section 232.0027 shall determine whether to approve
5 or disapprove the applicant's previously disapproved plan
6 application not later than the 15th day after the date the response
7 was submitted under Section 232.0027.

8 (b) A commissioners court or designee that disapproves a
9 plan application following the submission of a response under
10 Section 232.0027:

11 (1) must comply with Section 232.0026; and

12 (2) may disapprove the application only for a specific
13 reason provided to the applicant for the original application under
14 Section 232.0026.

15 (c) A commissioners court or designee that receives a
16 response under Section 232.0027 shall approve a previously
17 disapproved plan application if the applicant's response
18 adequately addresses each reason for the disapproval.

19 (d) A previously disapproved plan application is considered
20 approved if:

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

23 (2) the commissioners court or designee that received
24 the response does not disapprove the application on or before the
25 date required by Subsection (a) and in accordance with Section
26 232.0026.

27 Sec. 232.0029. JUDICIAL REVIEW OF DISAPPROVAL. In a legal

1 action challenging a disapproval of a plan application under this
2 subchapter, the county has the burden of proving by clear and
3 convincing evidence that the disapproval meets the requirements of
4 this subchapter or any applicable case law. The court may not use a
5 deferential standard.

6 SECTION 10. The change in law made by this Act applies only
7 to a development or plan application filed on or after the effective
8 date of this Act. A development or plan application filed before
9 the effective date of this Act is governed by the law in effect
10 immediately before the effective date of this Act, and that law is
11 continued in effect for that purpose.

12 SECTION 11. This Act takes effect September 1, 2019.