

1-1 By: Oliverson, et al. (Senate Sponsor - Hughes) H.B. No. 866
 1-2 (In the Senate - Received from the House April 13, 2023;
 1-3 April 18, 2023, read first time and referred to Committee on Local
 1-4 Government; May 22, 2023, reported favorably by the following
 1-5 vote: Yeas 6, Nays 1; May 22, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Springer	X			
1-9 Eckhardt		X		
1-10 Gutierrez			X	
1-11 Hall	X			
1-12 Nichols	X			
1-13 Parker	X			
1-14 Paxton	X			
1-15 West			X	

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to approval of certain land development applications by a
 1-20 municipality or county.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Sections 212.001(2) and (3), Local Government
 1-23 Code, are amended to read as follows:

1-24 (2) ~~["Plan" means a subdivision development plan,~~
 1-25 ~~including a subdivision plan, subdivision construction plan, site~~
 1-26 ~~plan, land development application, and site development plan.~~

1-27 ~~[(3)] "Plat" includes a preliminary plat, [general~~
 1-28 ~~plan,] final plat, and replat.~~

1-29 SECTION 2. Subchapter A, Chapter 212, Local Government
 1-30 Code, is amended by adding Section 212.0015 to read as follows:

1-31 Sec. 212.0015. CONSTRUCTION OF SUBCHAPTER. This subchapter
 1-32 may not be construed to restrict a municipality from establishing a
 1-33 submittal calendar to be used by an applicant to facilitate
 1-34 compliance with the approval process described by Sections 212.009,
 1-35 212.0091, 212.0093, and 212.0095.

1-36 SECTION 3. Section 212.004, Local Government Code, is
 1-37 amended by adding Subsection (f) to read as follows:

1-38 (f) A plat is considered filed on the date the applicant
 1-39 submits the plat, along with a completed plat application and the
 1-40 application fees and other requirements prescribed by or under this
 1-41 subchapter, to:

1-42 (1) the governing body of the municipality; or

1-43 (2) the municipal authority responsible for approving
 1-44 plats.

1-45 SECTION 4. Sections 212.0065(a) and (c), Local Government
 1-46 Code, are amended to read as follows:

1-47 (a) The governing body of a municipality or the municipal
 1-48 planning commission may delegate to one or more officers or
 1-49 employees of the municipality or of a utility owned or operated by
 1-50 the municipality the ability to approve, approve with conditions,
 1-51 or disapprove a plat [+

1-52 (1) amending plats described by Section 212.016,

1-53 (2) minor plats or replats involving four or fewer
 1-54 lots fronting on an existing street and not requiring the creation
 1-55 of any new street or the extension of municipal facilities; or

1-56 (3) a replat under Section 212.0145 that does not
 1-57 require the creation of any new street or the extension of municipal
 1-58 facilities].

1-59 (c) An applicant has the right to appeal to the governing
 1-60 body of the municipality or the municipal planning commission if
 1-61 the designated [The] person disapproves a [or persons shall not

2-1 ~~disapprove the] plat [and shall be required to refer any plat which~~
2-2 ~~the person or persons refuse to approve to the municipal authority~~
2-3 ~~responsible for approving plats within the time period specified in~~
2-4 ~~Section 212.009].~~

2-5 SECTION 5. Sections 212.009(a), (b), (b-2), (c), and (d),
2-6 Local Government Code, are amended to read as follows:

2-7 (a) The municipal authority responsible for approving plats
2-8 shall approve, approve with conditions, or disapprove a [plan-or]
2-9 plat within 30 days after the date the [plan-or] plat is filed. A
2-10 [plan-or] plat is approved by the municipal authority unless it is
2-11 disapproved within that period and in accordance with Section
2-12 212.0091.

2-13 (b) If an ordinance requires that a [plan-or] plat be
2-14 approved by the governing body of the municipality in addition to
2-15 the planning commission, the governing body shall approve, approve
2-16 with conditions, or disapprove the [plan-or] plat within 30 days
2-17 after the date the [plan-or] plat is approved by the planning
2-18 commission or is approved by the inaction of the commission. A
2-19 [plan-or] plat is approved by the governing body unless it is
2-20 disapproved within that period and in accordance with Section
2-21 212.0091.

2-22 (b-2) Notwithstanding Subsection (a) or (b), the parties
2-23 may extend the 30-day period described by those subsections for one
2-24 or more periods, each [a period] not to exceed 30 days if:

2-25 (1) the applicant requests the extension in writing to
2-26 the municipal authority responsible for approving plats or the
2-27 governing body of the municipality, as applicable; and

2-28 (2) the municipal authority or governing body, as
2-29 applicable, approves the extension request.

2-30 (c) If a [plan-or] plat is approved, the municipal authority
2-31 giving the approval shall endorse the [plan-or] plat with a
2-32 certificate indicating the approval. The certificate must be signed
2-33 by:

2-34 (1) the authority's presiding officer and attested by
2-35 the authority's secretary; or

2-36 (2) a majority of the members of the authority.

2-37 (d) If the municipal authority responsible for approving
2-38 plats fails to approve, approve with conditions, or disapprove a
2-39 [plan-or] plat within the prescribed period, the authority on the
2-40 applicant's request shall issue a certificate stating the date the
2-41 [plan-or] plat was filed and that the authority failed to act on the
2-42 [plan-or] plat within the period. The certificate is effective in
2-43 place of the endorsement required by Subsection (c).

2-44 SECTION 6. Section 212.0091(a), Local Government Code, is
2-45 amended to read as follows:

2-46 (a) A municipal authority or governing body that
2-47 conditionally approves or disapproves a [plan-or] plat under this
2-48 subchapter shall provide the applicant a written statement of the
2-49 conditions for the conditional approval or reasons for disapproval
2-50 that clearly articulates each specific condition for the
2-51 conditional approval or reason for disapproval.

2-52 SECTION 7. Sections 212.0093, 212.0095, and 212.0096, Local
2-53 Government Code, are amended to read as follows:

2-54 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
2-55 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
2-56 approval or disapproval of a [plan-or] plat under Section 212.0091,
2-57 the applicant may submit to the municipal authority or governing
2-58 body that conditionally approved or disapproved the [plan-or] plat
2-59 a written response that satisfies each condition for the
2-60 conditional approval or remedies each reason for disapproval
2-61 provided. The municipal authority or governing body may not
2-62 establish a deadline for an applicant to submit the response.

2-63 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
2-64 OF RESPONSE. (a) A municipal authority or governing body that
2-65 receives a response under Section 212.0093 shall determine whether
2-66 to approve or disapprove the applicant's previously conditionally
2-67 approved or disapproved [plan-or] plat not later than the 15th day
2-68 after the date the response was submitted.

2-69 (b) A municipal authority or governing body that

3-1 conditionally approves or disapproves a [~~plan or~~] plat following
 3-2 the submission of a response under Section 212.0093:

- 3-3 (1) must comply with Section 212.0091; and
- 3-4 (2) may disapprove the [~~plan or~~] plat only for a
 3-5 specific condition or reason provided to the applicant under
 3-6 Section 212.0091.

3-7 (c) A municipal authority or governing body that receives a
 3-8 response under Section 212.0093 shall approve a previously
 3-9 conditionally approved or disapproved [~~plan or~~] plat if the
 3-10 response adequately addresses each condition of the conditional
 3-11 approval or each reason for the disapproval.

3-12 (d) A previously conditionally approved or disapproved
 3-13 [~~plan or~~] plat is approved if:

- 3-14 (1) the applicant filed a response that meets the
 3-15 requirements of Subsection (c); and
- 3-16 (2) the municipal authority or governing body that
 3-17 received the response does not disapprove the [~~plan or~~] plat on or
 3-18 before the date required by Subsection (a) and in accordance with
 3-19 Section 212.0091.

3-20 Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL
 3-21 PROCESS. (a) Notwithstanding Sections 212.009, 212.0091,
 3-22 212.0093, and 212.0095, an applicant may elect at any time to seek
 3-23 approval for a [~~plan or~~] plat under an alternative approval process
 3-24 adopted by a municipality if the process allows for a shorter
 3-25 approval period than the approval process described by Sections
 3-26 212.009, 212.0091, 212.0093, and 212.0095.

3-27 (b) An applicant that elects to seek approval under the
 3-28 alternative approval process described by Subsection (a) is not:

- 3-29 (1) required to satisfy the requirements of Sections
 3-30 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action
 3-31 challenging a disapproval of a [~~plan or~~] plat under this
 3-32 subchapter; and
- 3-33 (2) prejudiced in any manner in bringing the action
 3-34 described by Subdivision (1), including satisfying a requirement to
 3-35 exhaust any and all remedies.

3-36 SECTION 8. Subchapter A, Chapter 212, Local Government
 3-37 Code, is amended by adding Section 212.00965 to read as follows:

3-38 Sec. 212.00965. APPROVAL PROCEDURE: ALTERNATIVE REVIEW
 3-39 PROCESS FOR UNREVIEWED APPLICATIONS. (a) If a municipality fails
 3-40 to approve, approve with conditions, or disapprove an applicant's
 3-41 plat earlier than the 15th day after the date prescribed by Section
 3-42 212.009 or 212.0095, as applicable, the applicant may have the plat
 3-43 reviewed by:

- 3-44 (1) a person with the authority to review plats for:
 3-45 (A) the municipality; or
 3-46 (B) a political subdivision other than the
 3-47 municipality if the municipality approves the reviewer; or
 3-48 (2) an engineer licensed under Chapter 1001,
 3-49 Occupations Code.

3-50 (b) A person may not review a plat under Subsection (a) if
 3-51 the person:

- 3-52 (1) is the applicant; or
 3-53 (2) prepared the plat that is the subject of the
 3-54 application.

3-55 (c) A person who performs a review under this section:

- 3-56 (1) has the authority to approve, approve with
 3-57 conditions, or disapprove a plat as if the person were delegated
 3-58 authority under Section 212.0065;
 3-59 (2) must ensure the plat satisfies all applicable
 3-60 regulations; and
 3-61 (3) must provide notice of the review to the
 3-62 municipality not later than the 15th day after the date of the
 3-63 review.

3-64 (d) The municipality may prescribe a reasonable format for
 3-65 the notice provided under Subsection (c)(3).

3-66 (e) The municipality may not collect an additional fee
 3-67 related to the review performed under Subsection (a).

3-68 SECTION 9. Section 212.0099, Local Government Code, is
 3-69 amended to read as follows:

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

4-7 SECTION 10. Section 232.001, Local Government Code, is
 4-8 amended by adding Subsection (g) to read as follows:

4-9 (g) A plat is considered filed on the date the applicant
 4-10 submits the plat, along with a completed plat application and the
 4-11 application fees and other requirements prescribed by or under this
 4-12 subchapter, to:

4-13 (1) the commissioners court; or

4-14 (2) the county authority responsible for approving
 4-15 plats.

4-16 SECTION 11. Subchapter A, Chapter 232, Local Government
 4-17 Code, is amended by adding Sections 232.0012 and 232.0022 to read as
 4-18 follows:

4-19 Sec. 232.0012. CONSTRUCTION OF SUBCHAPTER. This subchapter
 4-20 may not be construed to restrict a county from establishing a
 4-21 submittal calendar to be used by an applicant to facilitate
 4-22 compliance with the approval process described by Sections
 4-23 232.0025, 232.0026, 232.0027, and 232.0028.

4-24 Sec. 232.0022. DELEGATION OF APPROVAL RESPONSIBILITY. (a)
 4-25 The commissioners court of a county or the court's designee may
 4-26 designate to one or more officers or employees of the county the
 4-27 authority to approve, approve with conditions, or disapprove a
 4-28 plat.

4-29 (b) An applicant has the right to appeal to the
 4-30 commissioners court or the court's designee if the designated
 4-31 person or persons disapprove a plat.

4-32 SECTION 12. The heading to Section 232.0025, Local
 4-33 Government Code, is amended to read as follows:

4-34 Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS
 4-35 [~~AND PLANS~~].

4-36 SECTION 13. Section 232.0025, Local Government Code, is
 4-37 amended by amending Subsections (b), (c), (d), (f), (g), (h), and
 4-38 (i) and adding Subsection (f-1) to read as follows:

4-39 (b) If a person submits a plat application to the
 4-40 commissioners court that does not include all of the documentation
 4-41 or other information required by Subsection (a), the commissioners
 4-42 court or the county authority responsible for approving plats
 4-43 [~~court's designee~~] shall, not later than the 10th business day
 4-44 after the date the commissioners court receives the application,
 4-45 notify the applicant of the missing documents or other information.
 4-46 The commissioners court shall allow an applicant to timely submit
 4-47 the missing documents or other information.

4-48 (c) An application is considered complete when all
 4-49 documentation or other information required by Subsection (a) is
 4-50 received. Acceptance by the commissioners court or the county
 4-51 authority responsible for approving plats [~~court's designee~~] of a
 4-52 completed plat application with the documentation or other
 4-53 information required by Subsection (a) shall not be construed as
 4-54 approval of the documentation or other information.

4-55 (d) Except as provided by Subsection (f), the commissioners
 4-56 court or the county authority responsible for approving plats
 4-57 [~~court's designee~~] shall approve, approve with conditions, or
 4-58 disapprove a plat application not later than the 30th day after the
 4-59 date the completed application is received by the commissioners
 4-60 court or the county authority [~~court's designee~~]. An application is
 4-61 approved by the commissioners court or the county authority
 4-62 [~~court's designee~~] unless the application is disapproved within
 4-63 that period and in accordance with Section 232.0026.

4-64 (f) The 30-day period under Subsection (d):

4-65 (1) for a purpose related to Chapter 2007, Government
 4-66 Code, may be extended for a period not to exceed 30 days, if:

4-67 (A) requested and agreed to in writing by the
 4-68 applicant and approved by the commissioners court or the county
 4-69 authority responsible for approving plats [~~court's designee~~]; or

5-1 (B) Chapter 2007, Government Code, requires the
 5-2 county to perform a takings impact assessment in connection with
 5-3 the plat application; or [and]

5-4 (2) for a purpose unrelated to Chapter 2007,
 5-5 Government Code, may be extended for one or more periods, not to
 5-6 exceed 30 days, if requested and agreed to in writing by the
 5-7 applicant and approved by the commissioners court or the county
 5-8 authority.

5-9 (f-1) The 30-day period under Subsection (d) applies only to
 5-10 a decision wholly within the control of the commissioners court or
 5-11 the county authority responsible for approving plats [court's
 5-12 designee].

5-13 (g) The commissioners court or the county authority
 5-14 responsible for approving plats [court's designee] shall make the
 5-15 determination under Subsection (f)(1) of whether the 30-day period
 5-16 will be extended not later than the 20th day after the date a
 5-17 completed plat application is received by the commissioners court
 5-18 or the county authority [court's designee].

5-19 (h) The commissioners court or the county authority
 5-20 responsible for approving plats [court's designee] may not require
 5-21 an applicant to waive the time limits or approval procedure
 5-22 contained in this subchapter.

5-23 (i) If the commissioners court or the county authority
 5-24 responsible for approving plats [court's designee] fails to
 5-25 approve, approve with conditions, or disapprove a plat application
 5-26 as required by this subchapter:

5-27 (1) the commissioners court shall refund the greater
 5-28 of the unexpended portion of any application fee or deposit or 50
 5-29 percent of an application fee or deposit that has been paid;

5-30 (2) the application is granted by operation of law;
 5-31 and

5-32 (3) the applicant may apply to a district court in the
 5-33 county where the tract of land is located for a writ of mandamus to
 5-34 compel the commissioners court to issue documents recognizing the
 5-35 plat application's approval.

5-36 SECTION 14. Section 232.0026(a), Local Government Code, is
 5-37 amended to read as follows:

5-38 (a) A commissioners court or county authority responsible
 5-39 for approving plats [designee] that conditionally approves or
 5-40 disapproves of a plat application under this subchapter shall
 5-41 provide the applicant a written statement of the conditions for the
 5-42 conditional approval or the reasons for disapproval that clearly
 5-43 articulates each specific condition for the conditional approval or
 5-44 reason for disapproval.

5-45 SECTION 15. Sections 232.0027 and 232.0028, Local
 5-46 Government Code, are amended to read as follows:

5-47 Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO
 5-48 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional
 5-49 approval or disapproval of a plat application under Section
 5-50 232.0026, the applicant may submit to the commissioners court or
 5-51 county authority responsible for approving plats [designee] that
 5-52 conditionally approved or disapproved the application a written
 5-53 response that satisfies each condition for the conditional approval
 5-54 or remedies each reason for disapproval provided. The
 5-55 commissioners court or county authority [designee] may not
 5-56 establish a deadline for an applicant to submit the response.

5-57 Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL
 5-58 OF RESPONSE. (a) A commissioners court or county authority
 5-59 responsible for approving plats [designee] that receives a response
 5-60 under Section 232.0027 shall determine whether to approve or
 5-61 disapprove the applicant's previously conditionally approved or
 5-62 disapproved plat application not later than the 15th day after the
 5-63 date the response was submitted under Section 232.0027.

5-64 (b) A commissioners court or county authority responsible
 5-65 for approving plats [designee] that conditionally approves or
 5-66 disapproves a plat application following the submission of a
 5-67 response under Section 232.0027:

5-68 (1) must comply with Section 232.0026; and

5-69 (2) may disapprove the application only for a specific

6-1 condition or reason provided to the applicant for the original
6-2 application under Section 232.0026.

6-3 (c) A commissioners court or county authority responsible
6-4 for approving plats [designee] that receives a response under
6-5 Section 232.0027 shall approve a previously conditionally approved
6-6 or disapproved plat application if the applicant's response
6-7 adequately addresses each condition for the conditional approval or
6-8 each reason for the disapproval.

6-9 (d) A previously conditionally approved or disapproved plat
6-10 application is approved if:

6-11 (1) the applicant filed a response that meets the
6-12 requirements of Subsection (c); and

6-13 (2) the commissioners court or county authority
6-14 responsible for approving plats [designee] that received the
6-15 response does not disapprove the application on or before the date
6-16 required by Subsection (a) and in accordance with Section 232.0026.

6-17 SECTION 16. Subchapter A, Chapter 232, Local Government
6-18 Code, is amended by adding Section 232.00287 to read as follows:

6-19 Sec. 232.00287. ALTERNATIVE REVIEW PROCESS. (a) If a
6-20 county fails to approve, approve with conditions, or disapprove a
6-21 plat or an applicant's written response earlier than the 15th day
6-22 after the date prescribed by Section 232.0025 or 232.0028, as
6-23 applicable, an applicant may have the plat reviewed by:

6-24 (1) a person with authority to review plats for:

6-25 (A) the county; or

6-26 (B) a political subdivision other than the county
6-27 if the county approves the reviewer; or

6-28 (2) an engineer licensed under Chapter 1001,
6-29 Occupations Code.

6-30 (b) A person may not review a plat under Subsection (a) if
6-31 the person:

6-32 (1) is the applicant; or

6-33 (2) prepared the plat that is the subject of the
6-34 application.

6-35 (c) A person who performs a review under this section:

6-36 (1) has the authority to approve, approve with
6-37 conditions, or disapprove a plat as if the person were delegated
6-38 authority under Section 232.0022;

6-39 (2) must ensure the plat satisfies all applicable
6-40 regulations; and

6-41 (3) must provide notice of the review to the county not
6-42 later than the 15th day after the date of the review.

6-43 (d) The county may prescribe a reasonable format for the
6-44 notice provided under Subsection (c)(3).

6-45 (e) The county may not collect an additional fee related to
6-46 the review performed under Subsection (a).

6-47 SECTION 17. The following provisions of the Local
6-48 Government Code are repealed:

6-49 (1) Section 212.009(b-1); and

6-50 (2) Section 232.0025(d-1).

6-51 SECTION 18. The changes in law made by this Act apply only
6-52 to a plat application filed on or after the effective date of this
6-53 Act.

6-54 SECTION 19. This Act takes effect September 1, 2023.

6-55 * * * * *