

SUBJECT: Amending approval procedures for certain land development applications

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 5 ayes — Deshotel, Leman, Biedermann, Burrows, Spiller

3 nays — Craddick, Romero, Rosenthal

1 absent — Thierry

WITNESSES: For — David Buttross, Buttross Group; Paul Linehan, Land Strategies Inc; Mira Boyda, Pohl Partners Real Estate; Frank Murphy, Texas Association of Builders; Richard Maier; Kyndel Bennett; (*Registered, but did not testify*: David Glenn, Home Builders Association of Greater Austin; Alina Carnahan, Real Estate Council of Austin; Kyle Jackson, Texas Apartment Association; Chuck Rice, Texas Land Developers Association)

Against — D.J. Harrell, City of Fort Worth; Sally Bakko, City of Galveston; Jim Allison, County Judges and Commissioners Association of Texas; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Brie Franco, City of Austin; Mario A. Martinez, City of Brownsville; Tammy Embrey, City of Corpus Christi; Clifford Sparks, City of Dallas; Guadalupe Cuellar, City of El Paso; Jon Weist, City of Irving; Julie Acevedo, City of Round Rock; Jeff Coyle, City of San Antonio; Rick Armendariz, City of Socorro; Lisa Kocich-Meyer, City of Sugar Land; Daniel Collins, El Paso County; Tammy Narvaez, Harris County Commissioners Court; Bill Kelly, Mayor's Office, City of Houston; Russell Schaffner, Tarrant County; Monty Wynn, Texas Municipal League; Julie Wheeler, Travis County Commissioners Court)

On — (*Registered, but did not testify*: Josh Schroeder, City of Georgetown)

BACKGROUND: Concerns have been raised that despite recent legislation intended to provide certainty and clarity on timelines for approving certain land development applications, numerous municipalities and counties have issued new policies and criteria for such applications that do not adhere to the legislation's intent. Calls have been made for further legislative clarification to address the issue.

DIGEST: CSHB 4447 would amend the procedures and requirements for the approval of certain land development applications by a municipality or county.

Definitions. The bill would define "land development application" to mean an application or other document relating to land development that was required to be approved by a municipal body or county commissioners court or the court's designee before the land development could commence. The term would include a title or description used by cities and counties to refer to those applications or other documents, including, among other terms, "plat" and "plan." The term would not include:

- an application or other document for which approval by a municipal body or commissioners' court or designee did not authorize the land development to commence; or
- a subdivision construction plan, subdivision engineering plan, or similar or related plan.

"Municipal body" would mean the applicable municipal authority for approving a land development application. The term would include a municipal planning commission, a municipality authority for approving land development applications, the governing body of the municipality, or a designee of one of these entities.

The bill also would define for purposes of applicable municipal and county provisions the terms "land development," "required document," and "submit," and would make conforming changes to relevant statute as needed.

Required documents and procedures. Document requirements for a land development application would have to be adopted by municipal ordinance or county order, and the municipal body or commissioners court or designee, as applicable, would be required to make available to applicants a written list or publication of required documents. The municipal body or commissioners court or its designee could not require the submission of new or additional required documents for which these requirements had not been met.

With the exception of certain documents related to groundwater use, a municipal body or commissioners court or designee could not require a person to submit a required document or fulfill any other prerequisites or conditions before the person submitted a copy of the land development application.

The bill also would prohibit an applicant from waiving any deadline, time limits, approval procedures, or other provisions or requirements related to land development applications.

Conditional approval procedures. The bill would allow a person seeking approval of a land development application to submit required documents with the application or after submitting it. If the person chose to submit the documents afterwards, a municipal body or county commissioners court or its designee, as applicable, could conditionally approve the application. A municipal body or commissioners court or its designee that conditionally approved an application would have to:

- make an approval determination on each individual required document under the same approval procedures and timelines as those prescribed for a land development application;
- approve or disapprove, but not conditionally approve, each individual required document;
- provide to the applicant comments on a required document no later than 30 days after submission; and
- make an approval determination on a required document no later

than 60 days after submission.

On disapproval of a required document, an applicant could submit to the relevant entity a written response that remedied each reason for disapproval. Establishing a deadline for such a response would be prohibited. On receipt of the response, the municipal body or commissioners court or its designee would have to determine whether to approve or disapprove the previously disapproved required document no later than 15 days after the response was submitted.

Prohibited actions on certain grounds. A municipal body or county commissioners court or designee could not, on the grounds that a person failed to submit a document for which the notice and publication requirements had not been met, or on the grounds that a person elected to submit required documents after submitting a land development application:

- refuse to accept, acknowledge, receive, or process the application or documents;
- disapprove the application or documents;
- consider the application or documents incomplete; or
- refuse to comply with prescribed procedures and timelines for land development applications and required documents.

Bifurcated approval. After receiving a request from at least five applicants and conducting a public hearing on the matter at which interested parties would have to be heard, a municipality or county would be required to establish a bifurcated approval procedure, including a phased approach to the approval of a land development application. Each phase of a bifurcated approval procedure adopted would be subject to the applicable prescribed approval procedures. An applicant could, but would not be required to, opt in to the bifurcated approval procedure.

The bill would take effect September 1, 2021, and would apply only to a land development application submitted on or after that date.