

SUBJECT: Revising certain land development approval procedures

COMMITTEE: Land & Resource Management — committee substitute recommended

VOTE: 9 ayes — Burns, Rogers, C. Bell, K. Bell, Buckley, Ortega, Reynolds, Schofield, Sherman
0 nays

WITNESSES: For — Charlie Coleman, Lennar Corporation; Ned Muñoz, Texas Association of Builders; Bill Longley, Texas Municipal League; Mira Boyda; Judge Glock; Russell Spillers (*Registered, but did not testify*: Samuel Sheetz, Americans for Prosperity; Jim Short, Houston Real Estate Council; Jami Sims, Real Estate Council of Austin; Nicole Nosek, Texans for Reasonable Solutions; Emily Dove, Texas 2036; David Mintz, Texas Apartment Association; Scott Norman, Texas Association of Builders; Kyndel Bennett, Scot Campbell, and Deborah Ingersoll, Texas Land Developers Association; Becky Walker, Texas Society of Architects; Ryan Busse; Scott Turner)

Against — Julie Wheeler, Travis County Commissioners Court (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Rebekah Chenelle, Dallas County Commissioners Court)

On — Andrew Espinoza and Vernon Young, City of Dallas; D J Harrell, City of Fort Worth; Sally Bakko, City of Galveston; Jennifer Ostlind, City of Houston, Planning and Development Department

DIGEST: CSHB 866 would revise Local Government statutes governing municipal and county approval procedures for land development applications.

Municipalities. For municipalities, the bill would remove references to a “plan” and make conforming changes.

The bill would extend to municipal planning commissions the current

statutory authorization for a municipal governing body to delegate plat approval to certain employees.

The bill would replace current limitations on delegated plat approval with authorization for a delegated person to approve, conditionally approve, or disapprove a plat. If the person disapproved a plat, the applicant would have the right to appeal to the municipal governing body or planning commission.

Counties. CSHB 866 would allow a county commissioners court or court designee to authorize one or more county employees to approve, conditionally approve, or disapprove plats, and make conforming changes. An applicant would have the right to appeal to the commissioners court or court designee if the authorized person or persons disapproved the plat.

Alternative review procedure. If a municipality or county failed to approve, conditionally approve, or disapprove an applicant's plat before the 15th day after the applicable statutory deadline, the applicant could have the plat reviewed by:

- a person with the authority to review plats for the municipality, county, or another political subdivision if the municipality or county approved the reviewer; or
- an engineer licensed under the Texas Board of Professional Engineers and Land Surveyors.

The plat could not be reviewed by the applicant or a person who prepared the plat.

An alternative reviewer would have the authority to approve, conditionally approve, or disapprove a plat as if the reviewer had been delegated authority by the municipality or county. The reviewer would be required to:

- ensure that the plat satisfied all applicable regulations; and
- provide notice of the review to the municipality or county no later

than 15 days after the review.

The municipality or county could not collect an additional fee related to the alternative review.

Other provisions. CSHB 866 would allow a plat applicant and the applicable municipal or county entity to extend by agreement the 30-day deadline for plat approval or disapproval by multiple 30-day periods, rather than the single extension currently allowed. For counties, an extension would be limited to a single 30-day period for a purpose related to certain provisions of the Government Code.

A plat would be considered filed on the date it was submitted by the applicant with a completed application, fees, and other requirements:

- for municipalities, to the governing body or the authority responsible for approving plats; and
- for counties, to the commissioners court or the authority responsible for approving plats.

The bill would repeal provisions specifying that, for plat applications required by a municipality or county to include groundwater availability certification, the 30-day plat approval period begins on the date the applicant submits the certification to the applicable municipal or county entity.

The bill would take effect on September 1, 2023, and would apply only to a plat application filed on or after that date.

**SUPPORTERS
SAY:**

CSHB 866 would streamline the local government approval process for land development. Delayed development approvals can increase costs and play a significant role in constraining housing supply, which ultimately makes housing less affordable. In 2019, the Legislature passed a law aimed at making approval procedures more efficient by limiting the time local governments could take to approve or disapprove an application. Unfortunately, the law's references to 'plans' as well as 'plats' had the

unintended consequence of some cities frontloading application processes with various document requirements, including various permits and reports, that typically had come later in the development process, after an initial plat approval. Requiring these documents up front can indefinitely delay approval of an application. CSHB 866 would prevent such frontloading by removing reference to ‘plans’ in the relevant statute and clarifying when a plat is considered filed, while retaining and improving beneficial aspects of the 2019 law, such as specific review timelines.

CSHB 866 would increase efficiency and relieve the backlog in development approvals by granting local governments more latitude to delegate authority to review development applications. The bill also would provide an alternative process allowing qualified third parties to review and approve or disapprove plat applications if cities or counties failed to make a decision on time.

Allowing engineers to serve as third-party reviewers would not lower the quality of the review process; because the applicant would be paying for the third-party reviewer’s services, they would be incentivized to seek out a highly-qualified engineer capable of performing a robust review. Engineers would be unlikely to risk losing their licenses by performing an inadequate or ethically questionable review. Concerns local governments may have about third-party reviewers could be avoided under the bill by making a determination on a plat application in a timely fashion.

**CRITICS
SAY:**

CSHB 866 could limit local governments’ ability to ensure that developments were compatible with the public interest. The bill would not allow local governments final review or appeal of decisions made by third party reviewers. Engineers are not elected officials responsible to the public. Despite the qualifications of engineers, they may not have the appropriate expertise to assess the suitability of a particular development application.