
By: **Prince George's County Delegation and Montgomery County Delegation**

Introduced and read first time: February 9, 2006
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 29, 2006

CHAPTER _____

1 AN ACT concerning

2 **Prince George's County - Maryland-National Capital Park and Planning**
3 **Commission - Subdivision Appeals**
4 **PG/MC 112-06**

5 FOR the purpose of providing for judicial review of subdivision appeals from certain
6 final actions taken by the Maryland-National Capital Park and Planning
7 Commission in Prince George's County in a certain manner; ~~providing for the~~
8 ~~approval of a final subdivision plat within a certain period~~; altering certain
9 procedures concerning the approval of preliminary subdivision plans in Prince
10 George's County and final subdivision plats; providing for the review by the
11 Court of Special Appeals of certain judgments in a certain manner in Prince
12 George's County; authorizing a member of the district council in Prince George's
13 County to vote on a certain matter under certain conditions; making stylistic
14 changes; providing for the application of this Act; and generally relating to the
15 Maryland-National Capital Park and Planning Commission and subdivision
16 appeals in Prince George's County.

17 BY repealing and reenacting, with amendments,
18 Article 28 - Maryland-National Capital Park and Planning Commission
19 Section 7-116(g) and 7-117
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2005 Supplement)

22 BY adding to
23 Article 28 - Maryland-National Capital Park and Planning Commission

1 Section 7-117.3
2 Annotated Code of Maryland
3 (2003 Replacement Volume and 2005 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article 28 - Maryland-National Capital Park and Planning Commission**

7 7-116.

8 (g) (1) (I) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
9 SUBSECTION, A final action by the Commission on any application for the subdivision
10 of land within 30 days after the action is taken by the Commission[,] may be
11 appealed by any person aggrieved by the action, or by any person, municipality,
12 corporation or association, whether or not incorporated, which has appeared at the
13 hearing in person, by attorney, or in writing to the circuit court for the [county
14 which] COUNTY.

15 (II) THE CIRCUIT COURT may affirm or reverse the action appealed
16 from, or remand it to the Commission for further consideration.

17 (III) When an appeal is filed the procedures described in § 8-105(b)
18 of this article shall be applicable to the Commission and other parties as is
19 appropriate.

20 (2) IN PRINCE GEORGE'S COUNTY, IF THE SUBDIVISION REGULATIONS
21 PROVIDE FOR AN APPEAL TO THE DISTRICT COUNCIL FROM A FINAL COMMISSION
22 ACTION ON A PRELIMINARY SUBDIVISION PLAN ~~OR FINAL SUBDIVISION PLAT,~~
23 JUDICIAL REVIEW OF THE ACTION MAY BE OBTAINED IN ACCORDANCE WITH §
24 7-117(F) OF THIS SUBTITLE.

25 ~~7-117.~~

26 ~~(A) The Commission shall approve or disapprove a FINAL subdivision plat~~
27 ~~within 30 days after its submission. Otherwise the plat shall be deemed to have been~~
28 ~~approved, and a certificate to that effect shall be issued by the Commission [upon]~~
29 ~~ON demand.~~

30 ~~(B) In Prince George's County, each office to which a preliminary subdivision~~
31 ~~plan is referred shall return one copy of the plan to the planning board within 30 days~~
32 ~~with comments noted on it. If the reply is not made within 30 days by any office to~~
33 ~~whom referred, the plan shall be deemed to be approved by it.~~

34 ~~(C) In Prince George's County, the Commission shall approve or disapprove a~~
35 ~~preliminary subdivision plan within 70 days after its submission, excluding the~~
36 ~~month of August and the period between December 20 and January 3 when~~
37 ~~calculating this 70 day period. Otherwise, the preliminary subdivision plan shall be~~
38 ~~deemed to have been approved, and a certificate to that effect shall be issued by the~~

1 Commission [upon] ON demand. The applicant [for the Commission's approval] may
 2 waive [either or both of these] THE TIME requirements and consent to the extension
 3 of the periods[. However, in Prince George's County], BUT no such waiver may be for
 4 a period greater than the original period allowed for approval of the FINAL
 5 SUBDIVISION plat or preliminary SUBDIVISION plan.

6 (D) The ground of APPROVAL OR disapproval of any PRELIMINARY
 7 SUBDIVISION PLAN OR FINAL SUBDIVISION plat shall be stated [upon] IN the records
 8 of the Commission. [Any plat submitted to the Commission shall contain the name
 9 and address of a person to whom notice of hearing may be sent. No plat may be sent
 10 by mail to the address not less than five days before the date fixed therefor. In his
 11 application, however, the applicant may waive the hearing and notice, and the
 12 approval of any plat exactly as submitted by the applicant is a waiver of the hearing
 13 and notice.]

14 (E) The subdivision regulations may include provisions for:

15 (1) [notice] NOTICE to owners of properties that would be substantially
 16 affected by approval of any PRELIMINARY SUBDIVISION PLAN OR FINAL subdivision
 17 plat;

18 (2) [and for public] PUBLIC hearings on the applications; and

19 (3) [may include provisions for an] AN appeal to the district council from
 20 a decision approving or disapproving a PRELIMINARY SUBDIVISION PLAN OR FINAL
 21 subdivision plat.

22 (F) (1) IN PRINCE GEORGE'S COUNTY, IF THE SUBDIVISION REGULATIONS
 23 PROVIDE FOR AN APPEAL TO THE DISTRICT COUNCIL, ANY FINAL ACTION OF THE
 24 DISTRICT COUNCIL MAY BE REVIEWED IN THE CIRCUIT COURT FOR THE COUNTY ON
 25 PETITION OF ANY PERSON, ASSOCIATION, ORGANIZATION, OR MUNICIPAL
 26 CORPORATION THAT APPEARED IN THE DISTRICT COUNCIL'S HEARING OR
 27 SUBMITTED WRITTEN COMMENTS TO THE DISTRICT COUNCIL IN THE APPEAL.

28 (2) (1) THE DISTRICT COUNCIL OR ANY OTHER PARTY TO THE REVIEW
 29 BY THE CIRCUIT COURT MAY OBTAIN A REVIEW OF ANY FINAL JUDGMENT OF THE
 30 CIRCUIT COURT BY APPEAL TO THE COURT OF SPECIAL APPEALS.

31 (II) THE APPEAL SHALL BE TAKEN IN THE SAME MANNER AS IN
 32 OTHER CIVIL CASES.

33 (III) A DISTRICT COUNCIL MEMBER MAY VOTE ON WHETHER THE
 34 DISTRICT COUNCIL SHOULD APPEAL EVEN IF THE MEMBER DID NOT PARTICIPATE IN
 35 THE DISTRICT COUNCIL'S FINAL ACTION.

36 7-117.

37 (A) THE PROVISIONS OF THIS SECTION APPLY ONLY IN MONTGOMERY
 38 COUNTY.

1 (B) (1) The Commission shall approve or disapprove a subdivision plat
2 within 30 days after its submission. Otherwise the plat shall be deemed to have been
3 approved, and a certificate to that effect shall be issued by the Commission upon
4 demand. [In Prince George's County, each office to which a preliminary subdivision
5 plan is referred shall return one copy of the plan to the planning board within 30 days
6 with comments noted on it. If the reply is not made within 30 days by any office to
7 whom referred, the plan shall be deemed to be approved by it. In Prince George's
8 County, the Commission shall approve or disapprove a preliminary subdivision plan
9 within 70 days after its submission, excluding the month of August and the period
10 between December 20 and January 3 when calculating this 70-day period. Otherwise,
11 the preliminary subdivision plan shall be deemed to have been approved, and a
12 certificate to that effect shall be issued by the Commission upon demand.]

13 (2) The applicant for the Commission's approval may waive [either or
14 both of these requirements] THE REQUIREMENT IN THIS SUBSECTION and consent to
15 the extension of the [periods] PERIOD. [However, in Prince George's County, no such
16 waiver may be for a period greater than the original period allowed for approval of the
17 plat or preliminary plan.]

18 (C) The ground of disapproval of any plat shall be stated upon the records of
19 the Commission. Any plat submitted to the Commission shall contain the name and
20 address of a person to whom notice of hearing may be sent. No plat may be sent by
21 mail to the address not less than five days before the date fixed therefor. In his
22 application, however, the applicant may waive the hearing and notice, and the
23 approval of any plat exactly as submitted by the applicant is a waiver of the hearing
24 and notice.

25 (D) The subdivision regulations may include provisions for notice to owners of
26 properties that would be substantially affected by approval of any subdivision plat
27 and for public hearings on the applications and may include provisions for an appeal
28 to the district council from a decision approving or disapproving a subdivision plat.

29 7-117.3.

30 (A) THE PROVISIONS OF THIS SECTION APPLY ONLY IN PRINCE GEORGE'S
31 COUNTY.

32 (B) THE COMMISSION SHALL APPROVE OR DISAPPROVE A SUBDIVISION PLAT
33 WITHIN 30 DAYS AFTER ITS SUBMISSION. OTHERWISE THE PLAT SHALL BE DEEMED
34 TO HAVE BEEN APPROVED, AND A CERTIFICATE TO THAT EFFECT SHALL BE ISSUED
35 BY THE COMMISSION ON DEMAND.

36 (C) EACH OFFICE TO WHICH A PRELIMINARY SUBDIVISION PLAN IS
37 REFERRED SHALL RETURN ONE COPY OF THE PLAN TO THE PLANNING BOARD
38 WITHIN 30 DAYS WITH COMMENTS NOTED ON IT. IF THE REPLY IS NOT MADE WITHIN
39 30 DAYS BY ANY OFFICE TO WHOM REFERRED, THE PLAN SHALL BE DEEMED TO BE
40 APPROVED BY IT.

41 (D) THE COMMISSION SHALL APPROVE OR DISAPPROVE A PRELIMINARY
42 SUBDIVISION PLAN WITHIN 70 DAYS AFTER ITS SUBMISSION, EXCLUDING THE

1 MONTH OF AUGUST AND THE PERIOD BETWEEN DECEMBER 20 AND JANUARY 3
2 WHEN CALCULATING THIS 70-DAY PERIOD. OTHERWISE, THE PRELIMINARY
3 SUBDIVISION PLAN SHALL BE DEEMED TO HAVE BEEN APPROVED. AND A
4 CERTIFICATE TO THAT EFFECT SHALL BE ISSUED BY THE COMMISSION ON DEMAND.
5 THE APPLICANT MAY WAIVE THE TIME REQUIREMENTS AND CONSENT TO THE
6 EXTENSION OF THE PERIODS, BUT NO SUCH WAIVER MAY BE FOR A PERIOD GREATER
7 THAN THE ORIGINAL PERIOD ALLOWED FOR APPROVAL OF THE PLAT OR
8 PRELIMINARY SUBDIVISION PLAN.

9 (E) THE GROUND OF APPROVAL OR DISAPPROVAL OF ANY PRELIMINARY
10 SUBDIVISION PLAN OR PLAT SHALL BE STATED IN THE RECORDS OF THE
11 COMMISSION.

12 (F) THE SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR:

13 (1) NOTICE TO OWNERS OF PROPERTIES THAT WOULD BE
14 SUBSTANTIALLY AFFECTED BY APPROVAL OF ANY PRELIMINARY SUBDIVISION PLAN
15 OR SUBDIVISION PLAT;

16 (2) PUBLIC HEARINGS ON THE APPLICATIONS; AND

17 (3) AN APPEAL TO THE DISTRICT COUNCIL FROM A DECISION
18 APPROVING OR DISAPPROVING A PRELIMINARY SUBDIVISION PLAN OR SUBDIVISION
19 PLAT IF THE APPEAL IS FILED WITHIN 30 DAYS OF THE COMMISSION'S DECISION AND
20 IS HEARD AND DECIDED WITHIN 90 DAYS OF THE COMMISSION'S DECISION.

21 (G) (1) IF THE SUBDIVISION REGULATIONS PROVIDE FOR AN APPEAL TO
22 THE DISTRICT COUNCIL, ANY FINAL ACTION OF THE DISTRICT COUNCIL MAY BE
23 REVIEWED IN THE CIRCUIT COURT FOR THE COUNTY ON PETITION OF ANY PERSON,
24 ASSOCIATION, ORGANIZATION, OR MUNICIPAL CORPORATION THAT APPEARED IN
25 THE DISTRICT COUNCIL'S HEARING OR SUBMITTED WRITTEN COMMENTS TO THE
26 DISTRICT COUNCIL IN THE APPEAL.

27 (2) (I) THE DISTRICT COUNCIL OR ANY OTHER PARTY TO THE REVIEW
28 BY THE CIRCUIT COURT MAY OBTAIN A REVIEW OF ANY FINAL JUDGMENT OF THE
29 CIRCUIT COURT BY APPEAL TO THE COURT OF SPECIAL APPEALS.

30 (II) THE APPEAL SHALL BE TAKEN IN THE SAME MANNER AS IN
31 OTHER CIVIL CASES.

32 (III) A DISTRICT COUNCIL MEMBER MAY VOTE ON WHETHER THE
33 DISTRICT COUNCIL SHOULD APPEAL EVEN IF THE MEMBER DID NOT PARTICIPATE IN
34 THE DISTRICT COUNCIL'S FINAL ACTION.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
36 construed to apply only prospectively and may not be applied or be interpreted to
37 have any effect on or application to any appeal filed before the effective date of this
38 Act.

1 SECTION ~~2~~ 3, AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2006.