

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

Introduced and read first time: February 7, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Maryland-National Capital Park and Planning**
3 **Commission - Subdivision Appeals**
4 **MC/PG 126-05**

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 and final
10 subdivision plats; providing for the review by the Court of Special Appeals of
11 certain judgments in a certain manner; authorizing a member of the district
12 council in Prince George's County to vote on a certain matter under certain
13 conditions; making stylistic changes; and generally relating to the
14 Maryland-National Capital Park and Planning Commission and subdivision
15 appeals in Prince George's County.

16 BY repealing and reenacting, with amendments,
17 Article 28 - Maryland-National Capital Park and Planning Commission
18 Section 7-116(g) and 7-117
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2004 Supplement)

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

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

24 7-116.

25 (g) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
26 A final action by the Commission on any application for the subdivision of land within
27 30 days after the action is taken by the Commission, may be appealed by any person
28 aggrieved by the action, or by any person, municipality, corporation or association,

1 whether or not incorporated, which has appeared at the hearing in person, by
2 attorney or in writing to the circuit court for the county which may affirm or reverse
3 the action appealed from, or remand it to the Commission for further consideration.
4 When an appeal is filed the procedures described in § 8-105(b) of this article shall be
5 applicable to the Commission and other parties as is appropriate.

6 (2) IN PRINCE GEORGE'S COUNTY, IF THE SUBDIVISION REGULATIONS
7 PROVIDE FOR AN APPEAL TO THE DISTRICT COUNCIL FROM A FINAL COMMISSION
8 ACTION ON A PRELIMINARY SUBDIVISION PLAN OR FINAL SUBDIVISION PLAT,
9 JUDICIAL REVIEW OF THE ACTION MAY BE OBTAINED IN ACCORDANCE WITH §
10 7-117(F) OF THIS TITLE.

11 7-117.

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

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

20 (C) In Prince George's County, the Commission shall approve or disapprove a
21 preliminary subdivision plan within 70 days after its submission, excluding the
22 month of August and the period between December 20 and January 3 when
23 calculating this 70-day period. Otherwise, the preliminary subdivision plan shall be
24 deemed to have been approved, and a certificate to that effect shall be issued by the
25 Commission upon demand. The applicant [for the Commission's approval] may waive
26 [either or both of these] THE TIME requirements and consent to the extension of the
27 periods[. However, in Prince George's County], BUT no such waiver may be for a
28 period greater than the original period allowed for approval of the FINAL
29 SUBDIVISION plat or preliminary SUBDIVISION plan.

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

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

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

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

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

5 (F) (1) IN PRINCE GEORGE'S COUNTY, IF THE SUBDIVISION REGULATIONS
6 PROVIDE FOR AN APPEAL TO THE DISTRICT COUNCIL, ANY FINAL ACTION OF THE
7 DISTRICT COUNCIL MAY BE REVIEWED IN THE CIRCUIT COURT FOR THE COUNTY ON
8 PETITION OF ANY PERSON, ASSOCIATION, ORGANIZATION, OR MUNICIPAL
9 CORPORATION THAT APPEARED AT THE DISTRICT COUNCIL'S HEARING OR
10 SUBMITTED WRITTEN COMMENTS TO THE DISTRICT COUNCIL IN THE APPEAL.

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

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

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2005.