

HOUSE BILL 665

L5

71r0548

By: **Montgomery County Delegation and Prince George's County Delegation**
Introduced and read first time: February 8, 2007
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 114–07**

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; altering certain
8 procedures concerning the approval of preliminary subdivision plans in Prince
9 George's County; providing for the review by the Court of Special Appeals of
10 certain judgments in a certain manner in Prince George's County; authorizing a
11 member of the district council in Prince George's County to vote on a certain
12 matter under certain conditions; making stylistic changes; providing for the
13 application of this Act; and generally relating to the Maryland–National Capital
14 Park and Planning Commission and subdivision appeals in Prince George's
15 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 2006 Supplement)

21 BY adding to
22 Article 28 – Maryland–National Capital Park and Planning Commission
23 Section 7–117.3

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2003 Replacement Volume and 2006 Supplement)

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

5 **Article 28 – Maryland–National Capital Park and Planning Commission**

6 7–116.

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

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

15 (III) When an appeal is filed the procedures described in §
16 8–105(b) of this article shall be applicable to the Commission and other parties as is
17 appropriate.

18 (2) **IN PRINCE GEORGE’S COUNTY, IF THE SUBDIVISION**
19 **REGULATIONS PROVIDE FOR AN APPEAL TO THE DISTRICT COUNCIL FROM A**
20 **FINAL COMMISSION ACTION ON A PRELIMINARY SUBDIVISION PLAN, JUDICIAL**
21 **REVIEW OF THE ACTION MAY BE OBTAINED IN ACCORDANCE WITH § 7–117.3 OF**
22 **THIS TITLE.**

23 7–117.

24 (A) **THE PROVISIONS OF THIS SECTION APPLY ONLY IN MONTGOMERY**
25 **COUNTY.**

26 (B) (1) The Commission shall approve or disapprove a 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 demand. [In Prince George’s County, each office to which a preliminary subdivision
30 plan is referred shall return one copy of the plan to the planning board within 30 days

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

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

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

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

24 **7-117.3.**

25 **(A) THE PROVISIONS OF THIS SECTION APPLY ONLY IN PRINCE**
26 **GEORGE'S COUNTY.**

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

31 **(C) EACH OFFICE TO WHICH A PRELIMINARY SUBDIVISION PLAN IS**
32 **REFERRED SHALL RETURN ONE COPY OF THE PLAN TO THE PLANNING BOARD**
33 **WITHIN 30 DAYS WITH COMMENTS NOTED ON IT. IF THE REPLY IS NOT MADE**

1 **WITHIN 30 DAYS BY ANY OFFICE TO WHOM REFERRED, THE PLAN SHALL BE**
2 **DEEMED TO BE APPROVED BY IT.**

3 **(D) THE COMMISSION SHALL APPROVE OR DISAPPROVE A**
4 **PRELIMINARY SUBDIVISION PLAN WITHIN 70 DAYS AFTER ITS SUBMISSION,**
5 **EXCLUDING THE MONTH OF AUGUST AND THE PERIOD BETWEEN DECEMBER 20**
6 **AND JANUARY 3 WHEN CALCULATING THIS 70-DAY PERIOD. OTHERWISE, THE**
7 **PRELIMINARY SUBDIVISION PLAN SHALL BE DEEMED TO HAVE BEEN APPROVED,**
8 **AND A CERTIFICATE TO THAT EFFECT SHALL BE ISSUED BY THE COMMISSION**
9 **ON DEMAND. THE APPLICANT MAY WAIVE THE TIME REQUIREMENTS AND**
10 **CONSENT TO THE EXTENSION OF THE PERIODS, BUT NO SUCH WAIVER MAY BE**
11 **FOR A PERIOD GREATER THAN THE ORIGINAL PERIOD ALLOWED FOR APPROVAL**
12 **OF THE PLAT OR PRELIMINARY SUBDIVISION PLAN.**

13 **(E) THE GROUND OF APPROVAL OR DISAPPROVAL OF ANY**
14 **PRELIMINARY SUBDIVISION PLAN OR PLAT SHALL BE STATED IN THE RECORDS**
15 **OF THE COMMISSION.**

16 **(F) THE SUBDIVISION REGULATIONS MAY INCLUDE PROVISIONS FOR:**

17 **(1) NOTICE TO OWNERS OF PROPERTIES THAT WOULD BE**
18 **SUBSTANTIALLY AFFECTED BY APPROVAL OF ANY PRELIMINARY SUBDIVISION**
19 **PLAN OR SUBDIVISION PLAT;**

20 **(2) PUBLIC HEARINGS ON THE APPLICATIONS; AND**

21 **(3) AN APPEAL TO THE DISTRICT COUNCIL FROM A DECISION**
22 **APPROVING OR DISAPPROVING A PRELIMINARY SUBDIVISION PLAN IF THE**
23 **APPEAL IS FILED WITHIN 30 DAYS OF THE COMMISSION'S DECISION AND IS**
24 **HEARD AND DECIDED WITHIN 90 DAYS OF THE COMMISSION'S DECISION.**

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

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

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

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

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

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2007.