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BILL ANALYSIS

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Senate Bill 1416 (as enrolled)

PUBLIC ACT 525 of 2005

Sponsor: Senator Patricia L. Birkholz

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Land Use and Environment

Date Completed: 1-19-05

RATIONALE

When a developer wishes to subdivide land in Michigan, he or she must comply with the procedures of the Land Division Act regarding approval of a plat (a chart or map for the subdivision). This process involves obtaining the approval of various local and State governmental entities or officials, including the local unit of government where the land is located, the county plat board and, if applicable, the county road commission, the county drain commissioner, the local health department, and the Michigan Departments of Transportation and Environmental Quality. The particular authorities must approve both a preliminary plat and a final plat, which ultimately is recorded with the register of deeds if the Department of Labor and Economic Growth finds that the plat conforms to the Act. The current process is considered cumbersome and unnecessarily time-consuming. This is in large part because the authorities involved review the preliminary plat consecutively and must approve the final plat in a particular sequence. During the final approval stage, the developer essentially is required to circulate multiple copies of the plat among the officials, and obtain their certification on the copies.

It was suggested that the plat approval process would be expedited if the governmental entities reviewed and approved the plats simultaneously. Also, since the process can be halted or delayed at multiple stages if a particular authority has concerns about a plat, it was suggested that the officials should have an opportunity to meet and review a proposed development before the approval process is formally under way.

CONTENT

The bill amends the Land Division Act to do the following:

- **Allow a proprietor to request a preapplication review meeting with representatives of the different authorities, for review of a concept plan submitted by the proprietor.**
- **Shorten the time for a municipality to give a preliminary plat tentative approval, if a preapplication meeting is held.**
- **Provide for the various authorities to review a preliminary plat simultaneously.**
- **Allow an authority to approve a preliminary plat subject to conditions.**
- **Require the proprietor to give particular officials one true copy of a final plat for their simultaneous review and action; require the officials to notify the proprietor of their approval; and require the proprietor to obtain their certificate on the final plat.**

The bill will take effect on July 1, 2005.

Concept Plan; Tentative Approval

Under the bill, a proprietor may request that a preapplication review meeting take place, by submitting a written request to the chairperson of the county plat board and submitting copies of a concept plan for a preliminary plat to the municipality and each officer or agency entitled to review the preliminary plat (described below). The purpose of the meeting will be to conduct an informal review of the concept plan.

The meeting must take place within 30 days after the county plat board receives the request and concept plan. The meeting must be attended by the proprietor; representatives of the county road commission, the county drain commissioner, and the health department having jurisdiction, if applicable; and a representative of the municipality (the city, village, or township). Representatives of the Michigan Department of Transportation (MDOT) and the Department of Environmental Quality (DEQ) must be informed of the meeting and may attend.

The Act requires a proprietor to submit copies of a preliminary plat and other data to the clerk of the municipality. The governing body must tentatively approve the preliminary plat and note its approval on the copy to be returned to the proprietor, or describe in writing its reasons for rejection and requirements for tentative approval. Under the bill, the governing body will have the option of tentatively approving a preliminary plat subject to conditions. The governing body must note its approval and conditions on the copy of the preliminary plat to be returned to the proprietor.

Presently, a governing body must tentatively approve or reject a preliminary plat within 90 days after copies are filed. The bill requires the governing board to act within 60 days if a preapplication review meeting was held. Otherwise, the 90-day deadline will apply.

Under the bill, after the governing body gives its tentative approval, the proprietor must submit copies of a preliminary plat to each officer and agency entitled to receive them, for simultaneous review and action within the 30-day period prescribed in the Act.

Presently, tentative approval confers upon the proprietor, for one year, approval of lot sizes, lot orientation, and street layout. Under the bill, tentative approval also will confer one-year approval of the application of then-current subdivision regulations.

Preliminary Plat Approval

The Act requires a proprietor to submit copies of a preliminary plat to the following:

- The county road commission, if the proposed subdivision includes or abuts roads under the commission's jurisdiction.
- The county drain commissioner or, if there is none, the governing body of the municipality.
- The Michigan Department of Transportation, if the proposed subdivision includes or abuts a State trunkline highway or includes streets or roads that connect with or lie within the right-of-way of State trunkline highways.
- The DEQ, if any of the subdivision lies within the floodplain of a river, stream, creek, or lake.
- The health department having jurisdiction, if public water and public sewers are not available and accessible to the land proposed for subdivision.

Each of those authorities, within 30 days after receiving the preliminary plat, must approve or reject it. If the plat is rejected, the reasons for rejection and requirements for approval must be given to the proprietor in writing. Under the bill, an authority will have the option of approving a preliminary plat with conditions. If the plat is approved subject to conditions or rejected, the reasons and requirements for approval must be given both to the proprietor and to each of the other officers and agencies described above.

The Act also requires a proprietor to give copies of a preliminary plat to the Department of Natural Resources (DNR) for informational purposes, if the land proposed for subdivision abuts a lake or stream or an existing or proposed channel or lagoon affording access to a lake or stream where public rights might be affected. Within 30 days, the DNR must give written notice to the proprietor, the governing body of the municipality, and the county plat board if the Department approves or has any objections, or may give them information the DNR believes would help plan the development and secure approval of the final plat. The bill refers to the DEQ, rather than the DNR, and deletes reference to giving notice of approval.

Currently, after all necessary approvals have been secured, the proprietor must submit all approved copies to the clerk of the governing body. Under the bill, the proprietor must submit all written approvals

(rather than approved copies) to the clerk, after the preliminary plat is approved or approved subject to conditions. As currently required, the governing body then must meet and give final approval to the preliminary plat if the proprietor has met all of the conditions laid down for approval. (The bill refers to conditions laid down by the municipality.)

Final Plat Certificates

The Act requires a proprietor, following final approval of a preliminary plat, to have a surveyor make a survey and five true plats. The bill requires only one true plat.

The bill requires the proprietor to give a true copy of the final plat to the drain commissioner, the county road commission, the governing body, and the county plat board.

Currently, in order for a final plat to be recorded, the following certificates must appear on it:

- A surveyor's certificate of compliance.
- A certificate of the proprietor.
- A certificate of taxes by the county treasurer.
- A certificate of taxes signed by the treasurer of the municipality (in a municipality that does not return delinquent taxes to the State Treasurer).
- A certificate of approval of the county drain commissioner, if any.
- A certificate of approval of the governing body of the municipality.
- A certificate of approval of the board of county road commissioners, if applicable.
- A certificate of approval of the county plat board.
- A certificate of approval of MDOT, if the subdivision includes or abuts State trunkline highways.
- A certificate of approval of the Department of Labor and Economic Growth (DLEG).

The bill retains this requirement. (Although the Act refers to the State Treasurer, rather than DLEG, the State administrator under the Act is DLEG.)

Final Approval Process

Current Process. The Act requires a proprietor to submit five true copies of a

final plat to the drain commissioner, if his or approval was required on the preliminary plat. The drain commissioner has 10 days to certify his or her approval on all copies of the plat and return it to the proprietor, or reject the plat, return it to the proprietor, and send a letter of rejection to the clerk of the governing body. Following the drain commissioner's approval, the proprietor must submit all copies of the plat to the board of county road commissioners, if the board's approval was required on the preliminary plat. The board has 15 days to certify its approval, or reject the plat, return it to the proprietor, and send a letter of rejection to the clerk of the governing body.

After the drain commissioner and the county road commissioners have approved the plat, the proprietor must submit all copies of it to the clerk of the governing body of the municipality, together with the required filing fee. At its next regular meeting, or at a meeting called within 20 days after it received the plat, the governing board must approve the plat if it conforms to the Act and instruct the clerk to certify its approval on the plat.

If the governing body approves the plat, the clerk must forward all copies to the clerk of the county plat board, with the required filing and recording fee. Within 15 days, a majority of the county plat board members must review the plat and certify their approval on all copies, or reject the plat, notify the proprietor, and send a letter to the clerk of the governing body. After approving the plat, the plat board must send all copies to DLEG.

Within 15 days after receiving the plat from the county plat board, DLEG must forward it to MDOT, if the plat includes or abuts a State trunkline highway. Within 10 days, MDOT must certify its approval on the plat and return it to DLEG; or reject the plat, notify the proprietor, and return the plat to DLEG with a copy of the rejection letter.

Within 15 days after receiving the plat, or within 25 days if MDOT's approval is required, DLEG must review the plat, approve the plat if it conforms to the Act, and send one copy to the register of deeds for recording; or reject the plat and notify the proprietor.

Revised Process. The bill requires a proprietor to submit one true copy of a final plat to each of the following, as applicable, for their simultaneous review and action:

- The drain commissioner, if his or her approval was required on the preliminary plat.
- The board of county road commissioners, if the board's approval was required on the preliminary plat.
- The clerk of the governing body of the municipality, together with the filing and recording fee required by the Act.
- The Michigan Department of Transportation, if MDOT's approval was required on the preliminary plat.

The sworn certificate of the surveyor who made the plat must appear on each true copy of the final plat, and contain a statement that the copy is a true copy of the final plat; a statement that the plat is subject to the approval of each of the officers and agencies whose approval of the final plat is required, with a list of those officers and agencies; and the date of the certificate.

The drain commissioner must approve the plat and notify the proprietor of his or her approval; or reject the plat, return it to the proprietor, and send a copy of the letter of rejection to the clerk of the governing body and the chairperson of the county plat board.

A majority of the board of county road commissioners must approve the plat, instruct the chairperson to certify their approval on the final plat, and notify the proprietor of the board's approval; or reject the plat, return it to the proprietor, and send a copy of the rejection letter to the clerk of the governing body and the chairperson of the county plat board.

The governing body of the municipality must approve the plat, notify the proprietor of the approval, and certify the approval; or reject the plat, return it to the proprietor, and send a copy of the minutes of the meeting to the county plat board.

The current time frames for approval or rejection will continue to apply.

The bill requires MDOT, within 10 days of receiving a true copy of the plat, to approve

the plat and notify the proprietor; or reject the plat, notify the proprietor, and send a copy of the rejection letter to the chairperson of the county plat board.

Upon notice of each approval, and in any order, the proprietor must obtain the certificate on the final plat of each of the officers and agencies whose certificate is required. The proprietor then must forward the final plat to the secretary of the county plat board, together with the filing and recording fee.

Within 15 days of receiving the plat, a majority of the county plat board must review the plat for conformance to the Act and either certify their approval on the plat, or reject the plat, notify the proprietor, and send a copy of the letter to the clerk of the governing body. Upon approval of the plat, the chairperson of the county plat board must forward it with all copies of the plat to DLEG.

Within 15 days after receiving the plat, DLEG must review it and, if the plat conforms to the Act, procure at least four exact copies at the surveyor's expense, approve the plat, and send the original final plat to the register of deeds for recording. Otherwise, DLEG must reject the plat and notify the proprietor.

MCL 560.111 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill streamlines Michigan's plat approval process by creating a early forum for review of a developer's proposal, and by providing for simultaneous review and approval of preliminary and final plats. Evidently, some communities already hold meetings between developers and local officials before the approval process gets under way. This creates an opportunity for the parties to communicate their expectations and concerns before the developer formally begins to seek the required approvals. Under the bill, a developer may officially request such a meeting, which will include county as well as municipal officials. The developer may bring to the

table a "concept plan" containing what he or she considers appropriate. If preapplication review meeting is held, the time for a local unit to approve or reject a preliminary plat then will be shortened. Although the bill does not otherwise change the deadlines for the local and State authorities to approve or reject preliminary and final plats, the authorities will be acting simultaneously, rather than waiting for others to act in a prescribed sequence.

In addition to simplifying the process for developers, the bill may lead to better land use decisions. According to the Michigan Townships Association, some developers have opted to use the process for condominium site approval instead of the plat approval process, merely to save time. The bill retains the important review process for plat approval while expediting the decision-making.

Response: Under the bill, if a plat is significantly changed after some approvals already have been obtained, the developer will have to obtain new approvals. According to DLEG, the current sequence requirement minimizes the need for reapprovals caused by plat revisions.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.