

No. 1982-130

AN ACT

HB 1856

Amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, "An act to empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second class A through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts," adding a definition and further providing for approval of plats.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 107, act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code," is amended by adding a clause to read:

Section 107. Definitions.—As used in this act, except where the context clearly indicates otherwise, the following words or phrases have the meaning indicated below:

* * *

(22) "*Substantially completed*" where, in the judgment of the engineer, at least ninety percent (based on the cost of the required improvements for which financial security was posted pursuant to section 509) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

Section 2. Clause (4) of section 508 of the act is amended to read:

Section 508. Approval of Plats.—All applications for approval of a plat (other than those governed by Article VII), whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in the subdivision and land development ordinance but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than ninety days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, provided that should the said next regular meeting occur more than thirty days following the filing of the application, the said ninety-day period shall be measured from the thirtieth day following the day the application has been filed.

* * *

(4) From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. In addition, when a preliminary application has been duly approved, the applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations. When an application for approval of a plat, whether preliminary or final, has been approved or approved subject to conditions acceptable to the applicant, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied to affect adversely the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within ~~[three]~~ *five* years from such approval. Where final approval is preceded by preliminary approval, the ~~[three-year]~~ *five-year* period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed. *Where the landowner has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the governing body, no change of municipal ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location. In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the governing body in its discretion. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of twenty-five percent of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's*

aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section. Failure of landowner to adhere to the aforesaid schedule of submission of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the municipality subsequent to the date of the initial preliminary plan submission.

* * *

Section 3. Section 603 of the act, amended October 5, 1978 (P.L.1067, No.249), is amended to read:

Section 603. Ordinance Provisions.—(a) Zoning ordinances may permit, prohibit, regulate, restrict and determine:

- (1) Uses of land, watercourses and other bodies of water;
- (2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures;
- (3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures;

(4) Density of population and intensity of use.

(b) In addition, zoning ordinances may contain:

(1) Provisions for special exceptions and variances administered by the zoning hearing board, which provisions shall be in accordance with this act;

(2) Provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency, pursuant to express standards and criteria set forth in the ordinances;

(2.1) When an application for either a special exception or a conditional use has been filed with either the zoning hearing board or governing body, as relevant, and the subject matter of such application would ultimately constitute either a "land development" as defined in section 107(11) or a "subdivision" as defined in section 107(21), no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the zoning hearing board or governing body, as relevant, applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or longer or as may be approved by either the zoning hearing board or the governing body following the date of such approval in accordance with the provisions of the governing ordi-

nances or plans as they stood at the time the application was duly filed before either the zoning hearing board or governing body, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of section 508(1) through (4), and specifically to the time limitations of section 508(4) which shall commence as of the date of filing such land development or subdivision plan;

(3) Provisions for the administration and enforcement of such ordinances;

(4) Such other provisions as may be necessary to implement the purposes of this act; and

(5) Provisions for the protection and preservation of natural resources and agricultural land and activities.

Section 4. (a) The provisions of this amendatory act relating to sections 107(22) and 508 shall apply to any land development or subdivision presently pending before a municipality. Any subdivision or land development for which preliminary plans were approved by a municipality within the five-year period immediately preceding the effective date of this amendment shall not be adversely affected by any intervening or subsequent change in municipal ordinances or plans pertaining to zoning classification or density, building, lot, street or utility location enacted subsequent to submission of the preliminary plat provided landowner has commenced or does commence, installation of the improvements depicted upon the approved final plat within three years of approval of same.

(b) The provisions of this amendatory act relating to section 603 shall apply to any presently pending special exception or conditional use.

(c) The provisions of this amendatory act relating to section 603 shall apply to previously approved conditional uses or special exceptions as follows:

(1) If no preliminary plan has been filed, applicant shall have six months from the effective date of this act in which to do so and, in that event, all provisions of this amendatory act pertaining to section 603 shall apply.

(2) If preliminary plans for the entire development or any section thereof have been filed prior to the effective date of this act, such conditional use or special exception shall not be affected by any change in municipal ordinances or plans pertaining to zoning classification or density, or lot, building, street or utility location, enacted subsequent to the filing of the special exception or conditional use application provided the conditional use approval or special exception approval did not contain a specific and express provision to the contrary.

Section 5. This act shall take effect in 60 days.

APPROVED—The 9th day of June, A. D. 1982.

DICK THORNBURGH