

ORDINANCE NO. 39-10
Pertaining to the Amendment of the Calvert County Zoning Ordinance
(Section 4-2.04)

RE: EXPIRATION AND VESTING OF SITE PLANS

(Text Amendment Case No. 09-4b)

WHEREAS, pursuant to the authority contained in Article 66B of the Annotated Code of Maryland, the Board of County Commissioners of Calvert County, Maryland has general powers to promulgate and amend zoning ordinances and has heretofore adopted the Calvert County Zoning Ordinance pursuant thereto, and

WHEREAS, after study and evaluation, the Department of Planning and Zoning of Calvert County recommended to the Planning Commission and the Board of County Commissioners text amendments to the Calvert County Zoning Ordinance (Section 4-2.04) to address expiration and vesting of site plan approvals; and

WHEREAS, after due notice was published, the Planning Commission and Board of County Commissioners of Calvert County conducted a joint public hearing on June 29, 2010, at which time the proposed amendments were discussed, staff's recommendations were considered, and public comment was solicited, and

WHEREAS, at the conclusion of said public hearing the Planning Commission voted to hold the record open for two weeks; and

WHEREAS, at its regular meeting on August 18, 2010, after considering the evidence which had been presented at the public hearing and additional public comment submitted prior to the record closing, the Planning Commission voted to recommend approval of the amendments as proposed with minor changes recommended by staff, and

WHEREAS, the Planning Commission conveyed its recommendation to the Board of County Commissioners by letter dated September 28, 2010, and

WHEREAS, at its regular meeting on October 5, 2010, after considering the evidence which had been presented at the public hearing and the recommendation of the Planning Commission, the Board of County Commissioners determined to accept the Planning Commission's recommendation and to enact the text amendments as indicated in Exhibits A and B, attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED, by the Board of County Commissioners of Calvert County, Maryland, that Section 4-2.04 of the Calvert County Zoning Ordinance **BE**, and hereby **IS**, amended as shown in attached Exhibit A (Exhibit B depicts the amendments as they will actually appear in the Zoning Ordinance), and

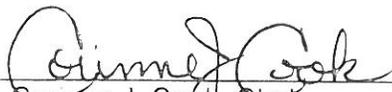
BE IT FURTHER RESOLVED AND ORDAINED, that the provisions of these text amendments shall apply to all site plan applications, including those subject to the grandfathering provisions of any other Ordinance or Resolution enacted prior to this amendatory Ordinance, and

BE IT FURTHER RESOLVED AND ORDAINED, that this amendatory Ordinance shall take effect on the date set forth below.

DONE, this 13th day of October, 2010 by the Board of County Commissioners of Calvert County, Maryland

ATTEST

BOARD OF COUNTY COMMISSIONERS OF CALVERT COUNTY, MARYLAND

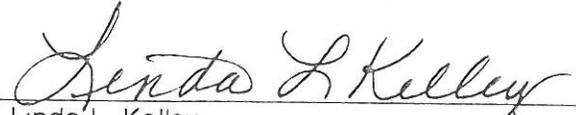

Serinne J. Cook, Clerk

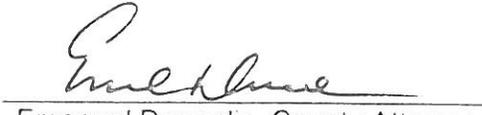

Wilson H. Parran, President

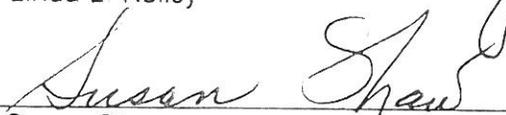
Approved for legal sufficiency on 10/14/10

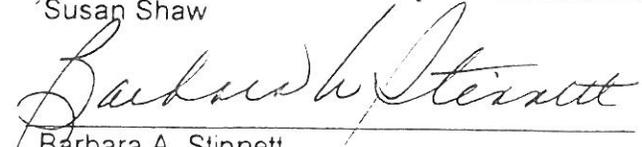

Gerald W. Clark, Vice-President

by


Linda L. Kelley


Emanuel Demedis, County Attorney


Susan Shaw


Barbara A. Stinnett

Received for Record 10/13 2010
at 3:45 o'clock 2 M. Same day
received in Liber KPS No. 241
FILE 241 COUNTY COMMISSIONERS
OF ORDINANCES AND RESOLUTION.



Deletions shown in ~~strikethrough~~. Additions shown in **bold underline**.

(/ / 10) 4-2.04 Expiration of Site Plan Approvals and Vesting

- ~~A. Conditional approvals of site plans shall expire after 24 months.~~
- ~~B. Final site plan approvals shall expire after 36 months unless a valid building permit is in effect, or an extension is granted by the Planning Commission prior to the expiration of the 36-month term.~~

A. **Expiration of Site Plan Approvals**

The following expiration provisions shall apply to all site plan applications, including site plan applications submitted prior to the effective date of this section of the Ordinance (/ /).

1. **Category I**

- a. **An application for a Category I site plan shall expire 24 months after it has been accepted for review unless conditional approval has been granted by the Planning Commission.**
- b. **Conditional approval of a Category I site plan shall expire 24 months after it has been granted unless final approval is granted.**
- c. **If conditional approval of a Category I site plan has been received, but final approval is delayed because of the inadequacy of public schools or roads, the running of the 24-month period between conditional approval and final approval shall be tolled for the periods during which the inadequacy of the public schools or roads has delayed final approval. See Section 7-1.05 and Section 6-10 for specific Adequate Public Facilities requirements.**
- d. **Final approval of a Category I site plan shall expire when the site plan is no longer vested pursuant to Sub-paragraphs B.2 and B.3 of this Section.**
- e. **Extensions**
 - i. **One 12-month extension to only one of the time periods listed in subparagraphs 'a', 'b', and 'd', above, may be granted by the Planning Commission, or its designee, for circumstances beyond the control of the applicant.**
 - ii. **A request for extension shall be submitted, in writing, prior to the expiration date of the applicable time period.**
 - iii. **If an extension of the time period described in subparagraph 'a' above is granted, the vesting period provided in subsection B. 2. a. i. below shall be extended for a like period.**

2. **Category II**

- a. **An application for a Category II site plan shall expire 24 months after it has been accepted for review unless final approval is granted.**
- b. **Final approval of a Category II site plan shall expire when the site plan is no longer vested pursuant to Sub-paragraphs B.2 and B.3 of this Section.**

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Deletions shown in ~~strikethrough~~ Additions shown in **bold underline**

c. Extensions

- i. Only one 12-month extension may be granted by the Planning Commission Administrator for circumstances beyond the control of the applicant, during the time period listed in subparagraph 'a' or 'b', above.
- ii. A request for extension shall be submitted, in writing, prior to the expiration date of the applicable time period.
- iii. If an extension of the time period described in subparagraph 'b' above is granted, the vesting period provided in subsection B. 2.a.ii, below, shall be extended for a like period.

D. Vesting

1. Definitions. In this section the following definitions shall apply:

- a. "Vested right" shall mean a right that is protected from legislative interference to the extent that an applicant may develop a site plan without the plan having to conform to changes to zoning and development regulations enacted after either conditional or final approval as the case may be.
- b. "Grandfathered site plan" shall mean a site plan application that has been permitted by prior legislation to proceed under regulations that have been superseded.

2. Initial Vesting.

a. Category I and Category II Site Plans

- i. Applicants that have received conditional approval of a Category I site plan shall have a vested right in the conditionally approved plan for 36 months from the date of conditional approval.
 - ii. Applicants that have received final approval of a Category II site plan shall have a vested right in the approved plan for 36 months from the date of final approval.
- b. If conditional approval of a Category I site plan has been received, but final approval is delayed because of the inadequacy of public schools or roads, the running of the 36-month vesting period shall be tolled for the periods during which the inadequacy of the public schools or roads has delayed final approval.
- c. Applicants that have vested rights as provided in subparagraph 'a' above shall have a vested right in the approval of architectural plans, if required, associated with the vested site plan for as long as the approval of the site plan is vested.

Deletions shown in ~~strikethrough~~. Additions shown in **bold underline**

- d. The vested right granted by this subsection applies only to the zoning regulations applied to and incorporated in the site plan and architectural plans, if required. Vesting does not apply to any zoning regulations that were in effect but not applied to and incorporated in a site plan at the time of its approval.
3. Vesting Through Construction. At the end of the 36-month period described in sub-paragraph '2.a' above, the applicant shall be vested in the site plan if:
- a. There is actual physical commencement of some significant and visible construction;
- b. The commencement must be undertaken in good faith with the intention to continue the construction and to carry it through to completion in a commercially reasonable manner; and
- c. The commencement of construction must be pursuant to all necessary permits that have been validly issued.
4. Grandfathered Site Plans
- a. A grandfathered Category I site plan that has received conditional approval or a grandfathered Category II site plan that has received final approval shall be vested in that approved site plan until two years after the effective date of this Section (/ /). After that time, such site plans shall continue to be vested only if the three conditions in sub-paragraph '3' of this Section are met.
- b. The vested right granted by this subsection applies only to the regulations applied to and incorporated in the site plan and not to any regulations that may have been superseded after the grant of conditional approval.
- c. A grandfathered Category I site plan that has not received conditional approval or a grandfathered Category II site plan that has not received final approval shall lose the vested rights granted by this subsection immediately upon the enactment of this provision (/ /).
- d. No vesting extensions shall be granted to grandfathered site plans.

(_/_/10) 4-2.04 Expiration of Site Plan Approvals and Vesting

A. Expiration of Site Plan Approvals

The following expiration provisions shall apply to all site plan applications, including site plan applications submitted prior to the effective date of this section of the Ordinance (___/___/___).

1. Category I

- a. An application for a Category I site plan shall expire 24 months after it has been accepted for review unless conditional approval has been granted by the Planning Commission.
- b. Conditional approval of a Category I site plan shall expire 24 months after it has been granted unless final approval is granted.
- c. If conditional approval of a Category I site plan has been received, but final approval is delayed because of the inadequacy of public schools or roads, the running of the 24-month period between conditional approval and final approval shall be tolled for the periods during which the inadequacy of the public schools or roads has delayed final approval. See Section 7-1.05 and Section 6-10 for specific Adequate Public Facilities requirements.
- d. Final approval of a Category I site plan shall expire when the site plan is no longer vested pursuant to Sub-paragraphs B.2 and B.3 of this Section
- e. Extensions
 - i. One 12-month extension to only one of the time periods listed in subparagraphs 'a', 'b', and 'd', above, may be granted by the Planning Commission, or its designee, for circumstances beyond the control of the applicant.
 - ii. A request for extension shall be submitted, in writing, prior to the expiration date of the applicable time period.
 - iii. If an extension of the time period described in subparagraph 'b' above is granted, the vesting period provided in subsection B. 2. a. i. below shall be extended for a like period.

2. Category II

- a. An application for a Category II site plan shall expire 24 months after it has been accepted for review unless final approval is granted.
- b. Final approval of a Category II site plan shall expire when the site plan is no longer vested pursuant to Sub-paragraphs B 2 and B.3 of this Section.
- c. Extensions
 - i. Only one 12-month extension may be granted by the Planning Commission Administrator for circumstances beyond the control of the applicant, during the time period listed in subparagraph 'a' or 'b', above.
 - ii. A request for extension shall be submitted, in writing, prior to the expiration date of the applicable time period.

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- iii. If an extension of the time period described in subparagraph 'b' above is granted, the vesting period provided in subsection B 2 a ii, below, shall be extended for a like period

B. Vesting

1. Definitions. In this section the following definitions shall apply:
 - a. "Vested right" shall mean a right that is protected from legislative interference to the extent that an applicant may develop a site plan without the plan having to conform to changes to zoning and development regulations enacted after either conditional or final approval as the case may be.
 - b. "Grandfathered site plan" shall mean a site plan application that has been permitted by prior legislation to proceed under regulations that have been superseded.
2. Initial Vesting
 - a. Category I and Category II Site Plans
 - i. Applicants that have received conditional approval of a Category I site plan shall have a vested right in the conditionally approved plan for 36 months from the date of conditional approval.
 - ii. Applicants that have received final approval of a Category II site plan shall have a vested right in the approved plan for 36 months from the date of final approval.
 - b. If conditional approval of a Category I site plan has been received, but final approval is delayed because of the inadequacy of public schools or roads, the running of the 36-month vesting period shall be tolled for the periods during which the inadequacy of the public schools or roads has delayed final approval.
 - c. Applicants that have vested rights as provided in subparagraph 'a' above shall have a vested right in the approval of architectural plans, if required, associated with the vested site plan for as long as the approval of the site plan is vested.
 - d. The vested right granted by this subsection applies only to the zoning regulations applied to and incorporated in the site plan and architectural plans, if required. Vesting does not apply to any zoning regulations that were in effect but not applied to and incorporated in a site plan at the time of its approval.
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 - a. There is actual physical commencement of some significant and visible construction;
 - b. The commencement must be undertaken in good faith with the intention to continue the construction and to carry it through to completion in a commercially reasonable manner, and

- c. The commencement of construction must be pursuant to all necessary permits that have been validly issued.

4. Grandfathered Site Plans

- a. A grandfathered Category I site plan that has received conditional approval or a grandfathered Category II site plan that has received final approval shall be vested in that approved site plan until two years after the effective date of this Section (__/__/__). After that time, such site plans shall continue to be vested only if the three conditions in sub-paragraph '3' of this Section are met.
- b. The vested right granted by this subsection applies only to the regulations applied to and incorporated in the site plan and not to any regulations that may have been superseded after the grant of conditional approval.
- c. A grandfathered Category I site plan that has not received conditional approval or a grandfathered Category II site plan that has not received final approval shall lose the vested rights granted by this subsection immediately upon the enactment of this provision (__/__/__).
- d. No vesting extensions shall be granted to grandfathered site plans.