

MEMORANDUM TO: Planning Commission

VIA: Lauren Pruss, Planning Director

FROM: Trudy M. W. Schwarz, Community Planning Director

DATE: May 7, 2009

SUBJECT: Proposed Text Amendment for Site Plan Approval Time Period

In an effort to improve the City of Gaithersburg's Site Development Approval process and in response to the increased complexity in obtaining financing for development, staff is proposing that the Planning Commission sponsor a text amendment which extends the period of time for which a site plan is valid. Staff has also received comments about the restrictive time period that exists from the development community. Given the current economic circumstances, the increased complexity of site plan conditions and the number of different agencies (besides the City) that are required to approve the official site and building drawings, staff is of the opinion that this text amendment will improve the workings of the City's development process. This will accommodate both large and small scale projects as financing have become more difficult to attain for both types of development.

Rockville's Zoning Ordinance provides that construction must begin within two years of approval, with the potential for two six-month extensions granted by the Approving Authority, for a total of three years. The City of Frederick's Land Management Code (LMC) stipulates that a final site plan is valid for 2 years from either the date the plan was approved or the date that the site received sufficient water to construct through the water allocation program (the later of the two). Frederick is also looking at adopting legislation that would extend the "lifeline" of projects including site plans, preliminary plats, etc. According to their staff, "The impetus for the proposed legislation is the slow down in the economy and the goal would be to extend those time projects approved as of a certain date . . ." Also, the State of Maryland is extending the longevity of their permit approvals.

According to Robert Kronenberg of Maryland-National Capital Park and Planning Commission for Montgomery County (M-NCPPC), site plans do not have a standard time limit for approvals. Site Plans are valid as long as a preliminary plan of subdivision is active; meaning, if the Adequate Public Facilities (APF) for the site is approved for five years, then the site plan is valid for that time frame. If the preliminary plan expires due to conditions not being met, platting or inaction, so does the site plan. In older site plan cases, APF was not reviewed but can be established during a site plan review. During that review for those specific cases, we would establish a validity period similar to a new preliminary plan. Typically, following approval of a preliminary plan, an applicant has three years to obtain approval for a record plat (a certified site plan must be approved prior to issuance of a record plat and building permits cannot be pulled until a record plat is approved). APF approval is typically for a period of five years but can be extended for up to 10-12 years.

Staff would request that the Planning Commission consider sponsoring the attached text amendment in accordance with § 24-195. This section requires that the Planning Commission or the City Council be the applicant for a text amendment.

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Ordinance No. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE, ENTITLED, "ZONING," ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," §24-173, ENTITLED, "DEVELOPMENT OF PROPERTY SUBJECT TO PLAN," TO AMEND §§ 24-173(a) AND 24-173(b) SO AS TO ALLOW A TIMELY DEVELOPMENT SCHEDULE

**Text Amendment T-390**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article IV, § 173(a) and 24-173(b) are amended as follows:

**Sec. 24-173. Development of property subject to plan.**

(a) One or more of the uses proposed for land which is the subject of the site development plan shall be established on such land within ~~three hundred sixty-five (365) days~~ two (2) years after the date of approval of the plan or the plan shall become void; provided, that the planning commission may extend such time upon request filed within ~~the two year period such three hundred sixty-five (365) days~~ and may grant further one (1) year extensions upon request filed within the period of any extension; provided, that the total length of such the original approval and extensions shall not exceed ~~two (2)~~ five (5) years. Such extension requests may be processed as consent items as described in § 24-172A(a). The additional extensions allowed by this subsection (a) shall apply to all site development plans approved three years prior to the date of the effective date of this ordinance (insert date).

(b) Where an approved site development plan is the subject of an administrative appeal pursuant to § 24-242, or where a site development plan is approved pursuant to a schematic development plan and that schematic development plan is the subject of an administrative appeal pursuant to §24-242, the planning commission may grant further extensions of the site development plan upon request filed during the pendency of such administrative appeal and within the period of any extension; provided, that the total length of all such additional extensions shall not exceed two (2) years. ~~The additional extensions allowed by this subsection (b) shall apply to all timely filed requests for extensions filed by May 1, 2004.~~

(c) Where the site development plan contemplates the construction of one or more new buildings or structures, the use shall be established within the meaning of this section when construction of one or more of such buildings has been commenced.

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Double underlining

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*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by Amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

ADOPTED, this \_\_\_ day of \_\_\_\_\_, 2009, by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
, Mayor and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_ day of \_\_\_\_\_, 2009. Approved by the Mayor of the City of Gaithersburg this \_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
SIDNEY A. KATZ, Mayor

THIS IS TO CERTIFY that the foregoing ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_ day of \_\_\_\_\_, 2008, and that the same was approved by the Mayor of the City of Gaithersburg on the \_\_\_ day of \_\_\_\_\_, 2009. This Ordinance will become effective on the \_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
ANGEL L. JONES, City Manager

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>Single strikethrough</del>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
<del>Double boldface strikethrough</del>	<i>Deleted from existing law or the bill by amendment.</i>
***	<i>Existing law unaffected by bill.</i>