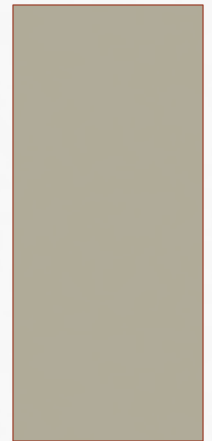


**VESTED RIGHTS
CODE TEXT AMENDMENT**

ORDINANCE 2021-03



VESTED RIGHTS

Proposal would make two changes:

- Clarifies and defines when approval is not possible for a land use application because the City has formally initiated proceedings to amend its ordinance
- Clarifies and defines that an applicant of a land use application must, with reasonable diligence, pursue approval or the application will lapse

VESTED RIGHTS

- Proposed code defines “formally initiated proceedings”
- Current Code:
 - An applicant is entitled to approval of a land use application...unless.
 - In the manner provided by local ordinance and before the application is submitted, the City has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

VESTED RIGHTS

- Proposed additional language:
- The City has “formally initiated proceedings” when:
 - A proposed ordinance is pending on the City Council’s agenda that would prohibit approval of the application as submitted and was placed on the agenda prior to the applicant’s submission; or
 - A proposed code provision is on the City Planning Commission’s agenda that would prohibit approval of the application as submitted and was placed on the agenda prior to the applicant’s submission.

VALIDITY OF AN APPLICATION

- Currently an application may be submitted and vested under the code when it was submitted but never progresses through the approval process
 - Applications may be on hold for years and even if the City changes code requirements, the application will be vested under the old requirements
 - Staff feels that a stalled application should lapse if requirements are not met

VALIDITY OF AN APPLICATION

- Applicants submit applications they never progress for the following reasons:
 1. To vest under current code and avoid new requirements
 2. They want to apply before a moratorium takes effect
 3. Issues arise and the application fails to progress
 4. There are not enough funds to complete the process

VALIDITY OF AN APPLICATION

- Current Code:

The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

VALIDITY OF AN APPLICATION

- Proposed Code Amendments:

A. The continuing validity of a land use application that has been deemed complete is conditioned upon the applicant proceeding substantively forward to seek approval of the completed application with reasonable diligence.

1. “Reasonable diligence” shall mean placing the completed application and/or project on the City Council agenda or Planning Commission agenda every 180 days to move the application substantively forward towards final approval.

2. Failure to appear on the City Council or Planning Commission agenda as outlined in (D)(1)(a) and/or failure to show specific evidence that the project is moving substantively forward will result in a lapsed application.

3. After an application lapses, the applicant must restart the application process under the applicable land use ordinances in effect at the time of reapplication including paying all fees applicable to a new application.

POSSIBLE FINDINGS

- The proposed amendment will assure that applications that fail to progress will lapse
- The City does not want applications to sit idle for months or years and vested on outdated codes
- The proposal will help assure that developments are developed under the most current codes and requirements