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ORDINANCE NO. 1370

ORIGINAL

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON,
RELATING TO THE PROCESSING OF LAND USE APPLICATIONS,
PRESCRIBING REGULATIONS IMPLEMENTING THE VESTED RIGHTS
DOCTRINE.

WHEREAS, from time to time confusion and uncertainty has arisen over the question of whether amendments to land use regulations govern the processing of land use applications pending at the time of the change of such regulations, and

WHEREAS, the Technical Committee recommended revisions to the Development Guide for the purpose of reducing uncertainty and the Planning Commission conducted a public hearing upon said regulations and forwarded its recommendation to the City Council, and

WHEREAS, the City Council has considered the proposed regulations and has determined that they should be adopted in the form set forth hereinafter, now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 20F.10.050(05) of the Redmond Municipal Code and Community Development Guide is hereby amended to read as follows:

10.050(05) Development Guide Compliance Required. All land use, construction and structural alterations and improvements shall comply with the Development Guide. Compliance shall be accomplished by the issuance of permits in compliance with the Guide as required in Chapter 20F.20.000, "Permits and Procedures."

Section 2. Sections 20F.10.050(10) and (15) of the Redmond Municipal Code and Community Development Guide are hereby repealed.

Section 3. A new Section 20F.10.055 is hereby added to the Redmond Municipal Code and Community Development Guide to read as follows:

20F.10.055 Vested Rights

10.055(05) Changes to Land Use Regulations -
Application to Pending Projects

(a) Purpose. The purpose of this subsection is to identify certain points in the land use approval process at which an applicant's rights become "vested." Vested rights is defined as the guarantee that an application will be reviewed and a project can be developed (if a permit is issued) under regulations and procedures existing at one moment in time and regardless of changes that may have been made later and prior to final completion of a project or use.

(b) Scope. This subsection governs the effect of any amendment to the Community Development Guide or Redmond Municipal Code which affects land development, land use or the land development approval process. The Community Development Guide and Redmond Municipal Code are hereinafter referred to as the "Municipal Code".

(c) Land Use Actions Requiring a Building Permit

(1) Subject to the exceptions stated in Subsection (h) below and part (2) of this paragraph, the proponent of a land use action requiring a building permit shall be vested against enforcement of an ordinance implementing a change in the Municipal Code if a complete building permit application is submitted to the City prior to the effective date of the ordinance. A vested right shall not arise by virtue of an application for a clearing and grading permit, Special Development Permit, General Development Permit, Site Plan Review, Variance, Development Guide Amendment, Right-of-Way Vacation, Annexation, Temporary Use Permit or Zoning Map Amendment submitted prior to application for a building permit. (Site plan review and approval is encouraged but not required prior to submission of a building permit application, however, it must be completed prior to issuance of the building permit.)

(2) An applicant must specifically identify a proposed land use or uses in the building permit application as the intended use of the proposed structure in order to vest the right to engage in a specific land use against an ordinance implementing a change in permitted land uses. Building permit applications which do not specifically identify the proposed use of the proposed structure shall not vest a right to engage in a specific land use against an ordinance prohibiting the use. Applications which depict a structure clearly appropriate for only a single land use shall be deemed to satisfy the requirement of identifying the proposed use.

(d) Land Use Actions Requiring a Subdivision

(1) An applicant for approval of a subdivision shall be vested against enforcement of an ordinance implementing a change in the Municipal Code and other regulations affecting land development, which would change subdivision regulations, upon expiration of the statutory time limit for action on the proposed subdivision established by RCW 58.17.140.

(2) When an application for a subdivision is returned to the applicant for modification or correction, the applicable statutory time period shall be tolled and shall begin running again upon resubmission of the corrected or modified application. When an environmental impact statement is required, the time required for preparation of the EIS shall not be included in the statutory period.

(e) Land Use Actions Requiring a Shoreline Permit. An applicant for approval of a land use action requiring a shoreline permit, but not a building permit, shall be vested against enforcement of an ordinance implementing a change in shoreline regulations set forth in the Redmond Shoreline Master Program if a complete substantial development permit application is submitted prior to the effective date of the ordinance. Land use actions requiring a building permit and a shoreline permit are governed by Subsection 20F.10.055(05)(c).

(f) Land Use Actions - Change in Administration and Procedures. An applicant for approval of a land use action requiring a Subdivision, Special Development Permit, General Development Permit, Right-of-Way Vacation, Annexation, Temporary Use Permit, Site Plan Review, Variance, Development Guide Amendment or Zoning Map Amendment shall be vested against enforcement of an ordinance implementing a change in Section 20F.00 Administration and Procedures as to any of such approval processes if a complete application for such approval is submitted to the City prior to the effective date of the ordinance, provided that the applicant may consent to the application being processed in accordance with the change.

(g) Land Use Actions Not Requiring a Building Permit. The application of changes in land use regulations to land uses not requiring a building permit shall be governed by Community Development Guide Section 20F.10.060 Legal Nonconformances. Proposed land uses requiring a shoreline permit are governed by Section 20F.10.055(05)(e).

(h) Certain Regulatory Authority Not Affected. An application for a land use approval may be denied or approved with conditions under the authority of the City to protect and enhance the public safety, health and welfare, and under the State Environmental Policy Act, notwithstanding the fact that the applicant has attained a vested right against enforcement of an ordinance implementing changes in regulations, codes or procedures affecting that land use action.

(i) Complete Application. Means an application which contains all required information and signatures, and which is accompanied by payment of all fees required to be submitted by the Redmond Municipal Code, or any formal written rule or procedure adopted by, and in force in the City.

(j) Termination of Vested Rights

(1) The vesting of rights with respect to a land use action which requires a building permit against the enforcement of a change in regulations and codes of the Redmond Municipal Code shall terminate upon the expiration of 180 days following the date of application for a building permit, unless the application is extended in writing by the Building Official pursuant to authority granted by the Uniform Building Code, or the permit is issued. The duration of vested rights acquired after issuance of a building permit shall be governed by the Uniform Building Code provision regulating validity of an issued building permit. An extension of a permit or expiration of the permit shall have like effect upon vested rights.

(2) The applicant may request the Building Official to extend the time for action by the applicant for a period not exceeding 180 days upon a showing that circumstances

yond the control of the applicant have prevented action from being taken. No application shall be extended more than once. Preparation of environmental documents required by the City under the authority of the State Environmental Policy Act (SEPA) and the processing of related applications required by Section 20F.00 Administration and Procedures may constitute circumstances warranting extension of a building permit application if the applicant is found to be acting in a timely manner to achieve approval of a proposed land use action.

(3) The vesting of rights with respect to a land use action requiring a shoreline permit, but not a building permit, shall terminate 90 days following application for a Shoreline permit, unless the shoreline permit is issued, provided that the Planning Director may, upon receipt of an application for extension, extend time for expiration of vesting due to circumstances beyond the control of the applicant as set forth in the preceding subsection for a period not to exceed an additional 180 days.

10.055(10) Moratoriums. Nothing in this section shall prevent the City Council from establishing development moratoriums or other interim land use regulations upon a finding by the City Council that, due to unforeseen circumstances or other emergency, such a moratorium or temporary regulation is necessary in order to protect the purpose and effectiveness of the City's land use plan and regulations pending completion of the procedures necessary to adopt permanent land use controls. Any such moratorium or interim land use regulation shall be effective only for a period of time necessary to complete adoption of the permanent land use control, which time shall be specified by the City Council in the ordinance adopting the moratorium or other temporary regulation. No moratorium or temporary regulation shall remain in effect for a period longer than 45 days unless the City Council conducts a public hearing and, after hearing public testimony concerning the duration of the moratorium, finds that continuation of the moratorium in excess of 45 days is necessary and warranted under the circumstances, in which case the City Council may specify that the moratorium shall continue for a period of not in excess of 180 days, including the initial 45 day period. Upon a subsequent finding that an extension beyond 180 days is required, the City Council may extend the moratorium for one additional period not to exceed 90 days.

Section 4. A new Section 20E.120.025 is hereby added to the Redmond Municipal Code and Community Development Guide to read as follows:

20E.120.025 Application for Permit. The Building Official may establish requirements for information and plans to be included with building permit applications as a clarification or supplement to the requirements of the Uniform Building Code. The building permit application requirements shall be attached to the Development Guide as an appendix after approval by the City Council. Determinations as to whether a building permit application is complete for purposes of administering Section 20F.10.055(05) shall be made by the Building Official, and shall be based upon the Uniform Building Code and such requirements, if adopted.

Section 5. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 6. This ordinance, being an administrative action, is not subject to referendum and shall take effect five (5) days after publication of the ordinance summary which the City Council hereby approves.

APPROVED:

Doreen Marchione
MAYOR, DOREEN MARCHIONE

ATTEST/AUTHENTICATED:

Doris A. Schauble
CITY CLERK, DORIS SCHAUBLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY James C. Martin

FILED WITH THE CITY CLERK: April 13, 1987
PASSED BY THE CITY COUNCIL: April 21, 1987
PUBLISHED: April 26, 1987
EFFECTIVE DATE: May 1, 1987
ORDINANCE NO. 1370