

Article VIII Vested Rights

Section 1. Purpose

The purpose of this section is to implement the provisions of G.S. 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

Section 2. Definitions

As used in this section, the following terms shall have the meaning indicated:

Approval authority: The Board of Town Commissioners or other board or official designated by ordinance or this section as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

Landowner - Any owner of a legal or equitable interest in real property, including heirs, devisees, successors, assigns, and personal representatives of such owner.

Property - All real property subject to the zoning regulations, restrictions and zone boundaries of the Town of Ramseur zoning ordinance.

Site specific development plan - A plan which has been submitted to the town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property and which is in the form of one of the following plans or approvals:

- i. Group Development, Multi-Family Development or Shopping Center (Article VII, Special Uses)
- ii. Manufactured Housing Parks (Article VII, Special Uses)
- iii. Planned Unit Development (PUD) (Article VII, Special Uses)
- iv. Zoning Permit (i.e. Certificate of Zoning Occupancy) (Article XIV, Sec.3)

Zoning vested right - A right pursuant to U.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

Section 3. Site Specific Development Plan Requirements

- a) The landowner of a property may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site specific development plan in the manner allowed by ordinance.

- b) In addition to other features required on a plan by other applicable land development ordinances of the town, a site specific development plan shall include the exact boundary lines of the site; significant topographical or other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of the all existing and proposed infrastructure on the site, including water, sewer, streets, and pedestrian walkways.
- c) Notwithstanding the foregoing, height a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.
- d) At the time of application for approval of a site specific development plan, the landowner shall submit three copies of the such plan and shall pay any and all applicable fees required to offset the cost of notice and other administrative expenses involved in the review of such plan.

Section 4. Establishment of a Zoning Vested Right

- a) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Board of Town Commissioners of a site specific development plan, following notice and public hearing.
- b) The approval authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.
- c) Notwithstanding subsections a and b, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
- d) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- e) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property that is subject to a site specific development plan upon expiration or termination of the vested right in accordance with this section.
- f) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

Section 5. Approval Procedures and Approval Authority

- a) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority

for the specific type of zoning or land use permit or approval for which application is made.

- b) Notwithstanding the provisions of subsection a, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Board of Town Commissioners, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Town Commissioners, following notice and a public hearing as provided in G.S. 160A-364.
- c) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the town, that a zoning vested right is being sought.
- d) Each map, plat, site plan, or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested rights shall be valid until _____."
- e) Following approval or conditional approval of a site specific development plan, the applicant shall retain one approved copy for his records, one approved copy shall be kept on file in the office of the Planning Department, and one approved copy shall be recorded in the office of the Randolph County Register of Deeds.
- f) Following approval or conditional approval of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- g) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with the applicable terms and conditions of the approval or the zoning ordinance.

Section 6. Duration

- a) A zoning right that has been vested as provided in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan.
- b) Upon issuance of a building permit, the expiration provisions of U.S. 160A-418 and the revocation provisions of U.S. 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

Section 7. Termination

A zoning vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property set forth in the approved site specific development plan until such right is terminated. A zoning right that has been vested shall terminate:

- a) at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- b) with the written consent of the affected landowner;
- c) upon findings by the Board of Town Commissioners, by ordinance and after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
- d) upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning~ marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property, which is caused by such action;
- e) upon findings by the Board of Town Commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or
- f) upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has fundamental effect on the plan, by ordinance after notice and a hearing.

Section 8. Voluntary Annexation

A petition for annexation filed with the town under G.S. 16A0-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. 160A-385.1 or G.S. 153A-344.1. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall not be binding on the landowner and any such zoning vested right shall be terminated.

Section 9. Limitations

Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to U.S. 160-385.1.

Section 10. Repealer

In the event that U.S. 1 60A-385. 1 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.