

1 RESOLUTION NO. 2013-02-17

2 A zoning resolution relating to land use; amending CCC 40.500.010 to further
3 extend certain land use approvals for up to twenty-four months.

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5 WHEREAS, the Board finds that Clark County and its citizens are experiencing severe
6 economic hardship due to the local and national economy; and

7 WHEREAS, the Board recognizes the substantial amount of administrative effort that has
8 been invested by the public and private sector in obtaining preliminary land use approvals; and

9 WHEREAS, the short term extension of some soon to expire preliminary land use
10 approvals is justified to avoid substantial hardship to persons possessing these approvals and to
11 avoid substantial waste of County administrative resources; and,

12 WHEREAS, many development proposals are in jeopardy of expiring not due to neglect
13 but absence of financing and other factors outside the control of the developers; and

14 WHEREAS, the economy continues to suffer and an extension is necessary to provide
15 job opportunities for workers who will be hired to build these developments; and

16 Whereas, the Board has enacted and later extended an interim resolution to provide
17 vesting to a date certain; and

18 WHEREAS, following a duly advertised public hearing finds that adoption of this
19 resolution will further the public health, safety, and welfare now, therefore,

20 BE IT ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY
21 COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

22 Section 1. Amendatory. Section 1 of Ordinance 1983-03-46, as most
23 recently amended by Ordinance 2006-04-18, and codified as CCC 40.500.010(B), are
24 hereby amended to read as follows:
25 40.500.010 Summary of Procedures and Processes.

26 A. Purpose and Applicability.



- 27 1. This chapter describes how the county will process applications for development
 28 subject to review under the UDC and Title 14 of this code, and is intended to identify
 29 the procedure for determining whether development proposals are, or can be
 30 conditioned or mitigated to be, consistent with applicable policies and standards.
 31 Consistency is determined by consideration of substantial evidence in the record that is
 32 relevant to these policies and standards.
- 33 2. Interpretations and Authority. Upon request, the responsible official shall issue a formal
 34 written interpretation of a development regulation. A formal written interpretation shall
 35 be a Type I action and shall be subject to the appeal provisions of Section
 36 40.510.010(E). If an application for an interpretation is associated with another
 37 application(s) subject to this title, then the application for the interpretation shall be
 38 combined with the associated application(s) and is subject to the same procedure type
 39 as the applications with which it is combined.
- 40 3. Authorization for Similar Uses. The responsible official may determine that a use, not
 41 specifically named in the allowed uses of a district, may be included among the
 42 allowed uses; provided, however, that a use already allowed in any other zoning
 43 district, except the industrial zoning districts, may not be permitted. The responsible
 44 official must find that the proposed use is similar in nature and has impacts on adjacent
 45 land uses and property similar to uses already allowed in the district. When this
 46 determination is made in conjunction with another application it shall be considered as
 47 the same type and subject to the same appeals process, pursuant to Chapter 40.500, as
 48 the associated application. When this determination is made without any associated
 49 application, but for a specific lot, it shall be considered a Type II process. If this
 50 determination is made without any associated application, and without a specific lot
 51 identified, it shall be considered as a Type I process. This determination may be
 52 appealed at this stage or when the determination is used in a subsequent application for
 53 development.

54 B. Development Approvals Timeline – General.

- 55 1. Basic Rule. Preliminary approval of land divisions (Chapter 40.540), site plan approval
 56 (Section 40.520.040), uses subject to review and approval (R/A) (Section 40.520.020),
 57 approval of conditional use permits (Section 40.520.030), approval of planned unit
 58 developments (Section 40.520.080), approval of mixed use developments (Section
 59 40.230.020), approval of master plans (Section 40.520.070), and approval of variances
 60 (Section 40.550.020), shall be valid for a period of seven (7) years after approval. The
 61 right to develop an approved land division, site plan, use permitted subject to review
 62 and approval (R/A), conditional use permit, planned unit development or variance or
 63 part thereof expires seven (7) years after the effective date of the decision approving
 64 such development, unless:

 - 65 a. For land divisions – A fully complete application for a final plat has been submitted.
 - 66 b. For use approvals that do not require a building permit – The permitted use has
 67 legally commenced on the premises.
 - 68 c. For all other approvals – A building permit for the approved development has been
 69 issued and remains in effect, or a final occupancy permit has been issued.

- 70 2. Extensions – Phased Developments.

- 71 a. Those applications specifically approved for phased development may receive an
72 unlimited number of subsequent two (2) year extensions in accordance with the
73 following:
74 (1) At least one (1) phase has met the general development approvals timeline
75 basic rule described in Section 40.500.010(B)(1), within the five (5) year time
76 limit;
77 (2) The request for the extension has been submitted in writing to the responsible
78 official at least thirty (30) days prior to the five (5) year deadline, or in the case
79 of a subsequent extension request, at least thirty (30) days prior to the
80 expiration of the approval period;
81 (3) The applicant has demonstrated an active effort in pursuing the next phase of
82 the application; and
83 (4) The applicant has demonstrated that there are no significant changes in
84 conditions which would render approval of the application contrary to the
85 public health, safety or general welfare.
- 86 b. The responsible official shall take one (1) of the following actions upon receipt of a
87 timely extension request:
88 (1) Approve the extension request if no significant issues are presented under the
89 criteria set forth in this section,
90 (2) Conditionally approve the application if any significant issues presented are
91 substantially mitigated by minor revisions to the original approval,
92 (3) Deny the extension request if any significant issues presented cannot be
93 substantially mitigated by minor revisions to the approved plan;
- 94 c. A request for extension approval shall be processed as a Type I action. Appeal and
95 post-decision review of a Type I action is permitted as provided in this subtitle.
- 96 3. Developer Agreements. Notwithstanding the foregoing, the board may approve a
97 developer agreement under RCW 36.70B.170 through 36.70B.240 providing for a
98 longer approval duration. The hearing examiner is delegated authority to conduct
99 hearings and make recommendations for developer agreements, but final approval
100 thereof is reserved to the board.
- 101 4. Economic Relief Extension.
102 a. Preliminary approvals of land divisions, (Chapter 40.540), site plan approval
103 (Section 40.520.040), uses subject to review and approval (R/A) (Section
104 40.520.020), approval of conditional use permits (Section 40.520.030),
105 approval of planned unit developments (Section 40.520.080), approval of
106 mixed use developments (Section 40.230.020), approval of master plans
107 (Section 40.520.070), and approval of variances (Section 40.550.020), that
108 were preliminarily approved on or between June 1, 2004 and December 30th,
109 2011, are hereby granted an additional extension until December 31st, 2016 as
110 described in Section 40.500.010(B)(1)-(3), above.
111 b. An extension granted under Section 40.500.010(B)(4)(a) shall not modify or
112 excuse compliance with any of the conditions of approval provided for in
113 those approvals. This resolution will not extend vesting for stormwater
114 regulations; all projects will be subject to current stormwater regulations.

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116 C. Reapplication.

117 No person, including the original applicant, shall reapply for a similar use on the same land,
118 building, or structure within a period of one (1) year from the date of the final decision on
119 such previous application, unless such decision is a denial without prejudice, or unless in the
120 opinion of the review authority, conditions have substantially changed.

121 D. Application Types and Classification.

- 122 1. Applications for review pursuant to Section 40.500.010(A) shall be subject to a Type
123 I, Type II, Type III or Type IV process as summarized in Table 40.500.010-1.
- 124 2. Unless otherwise required, where the county must approve more than one (1)
125 application for a given development, all applications required for the development
126 may be submitted for review at one (1) time. Where more than one (1) application is
127 submitted for a given development, and those applications are subject to different
128 types of procedure, then all the applications are subject to the highest-number
129 procedure that applies to any of the applications.
- 130 3. If this code expressly provides that an application is subject to one (1) of the four (4)
131 types of procedures or another procedure, then the application shall be processed
132 accordingly. If this code does not expressly provide for review using one (1) of the
133 four (4) types of procedures, and another specific procedure is not required by law,
134 the responsible official for the application in question shall classify the application as
135 one (1) of the four (4) types of procedures.
 - 136 a. The act of classifying an application shall be a Type I action. Classification of an
137 application shall be subject to reconsideration and appeal at the same time and in
138 the same way as the merits of the application in question.
 - 139 b. Questions about what procedure is appropriate shall be resolved in favor of the
140 type providing the greatest notice and opportunity to participate.
 - 141 c. The responsible official shall consider the following guidelines when classifying
142 the procedure type for an application:
 - 143 (1) A Type I process involves an application that is subject to clear, objective
144 and nondiscretionary standards or standards that require the exercise of
145 professional judgment about technical issues, and that is exempt from SEPA
146 review. The responsible official is the review authority for Type I decisions.
 - 147 (2) A Type II process involves an application that is subject to objective and
148 subjective standards that require the exercise of limited discretion about non-
149 technical issues and about which there may be a limited public interest. The
150 responsible official is the review authority for Type II decisions.
 - 151 (3) A Type III process involves an application for relatively few parcels and
152 ownerships. It is subject to standards that require the exercise of substantial
153 discretion and about which there may be a broad public interest. The hearing
154 examiner is the review authority for Type III decisions.
 - 155 (4) A Type IV process involves the creation, implementation or amendment of
156 policy or law by ordinance. In contrast to the other three (3) procedure types,
157 the subject of a Type IV process generally applies to a relatively large
158 geographic area containing many property owners, and except for annual
159 reviews, an application subject to a Type IV process can be filed only by the
160 county. The board is the review authority for Type IV decisions.

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Table 40.500.010-1. Summary of Development Approvals by Review Type

	Type I	Type II	Type III	Type IV	Code Reference
Interpretations					
Code Interpretation – Written	X				40.500.010 (A)(2)
Classification of an Application	X				40.500.010 (D)(3)(a)
Similar Use Determination	X	X			40.500.010 (A)(3)
Pre-Application Waiver	X				40.510.020(A)(2) 40.510.030 (A)(2)
Counter Complete	X				40.510.010(A) 40.510.020(B) 40.510.030 (B)
Fully Complete	X				40.510.010(B) 40.510.020(C) 40.510.030(C)
Submittal Requirements Waiver	X				40.510.010(B) 40.510.020(C) 40.510.030(C)
Permits and Reviews					
Legal Lot Determination	X				40.520.010
Review and Approval (R/A)	X	X			40.520.020
Conditional Use Permit (CUP)			X		40.520.030
Site Plan Review	X	X	X		40.520.040
Final Site Plan Review	X				40.520.040(F)
Sign Permit	X				40.520.050
Post-Decision Review	X	X	X		40.520.060
Master Plans			X		40.520.070
Planned Unit Developments		X	X		40.520.080
Nonconforming Uses					
Nonconforming Use Determination	X				40.530
Expansion of a Nonconforming Use		X	X		40.530
Boundary Line Adjustments and Land Divisions					
Boundary Line Adjustment	X				40.540.010
Short Plat		X			40.540.030
Subdivision			X		40.540.040
Final Plat	X				40.540.070
Lot Reconfiguration		X			40.540.120
Plat Alteration		X	X		40.540.120

Plat Vacation			X		40.540.120
Modifications and Variances					
Road Modification	X	X	X		40.550.010
Variance	X	X	X		40.550.020
Sewer Waiver	X				40.370.010
Plan and Code Amendments					
Annual Reviews				X	40.560.010
Zone Change within CP designation			X		40.560.020
Zone Change Text Amendments				X	
Special Area-Related Reviews					
Columbia River Gorge Permit		X	X		40.240.050
Shoreline (special review process)			X		40.460
Historic Preservation (special review process)		X			40.250.030
Open Space				X	Chapter 3.08 40.560.010(P)(2)
Critical Areas					
Critical Aquifer Recharge Areas (CARAs) Permit	X	X	X		40.410
Floodplain Review	X	X	X		40.420
Geo-Hazard	X	X	X		40.430
Habitat Permit		X			40.440
Preliminary Wetland Permit		X	X		40.450.040(H)
Wetland Variance			X		40.450.040
Final Wetland Permit	X				40.450.040(I)
Emergency Wetland Permit	X				40.450.040(L)

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Section 3. Effective Date.

A. This resolution shall be effective upon adoption and shall expire upon adoption of a new resolution following consideration of this matter by the Clark County Board of County Commissioners or on December 31st, 2016 whichever is earlier.

Section 4. Instructions to Clerk. The Clerk to the Board shall:

1. Record a copy of this resolution with the Clark County Auditor.

170 2. Transmit a copy of this resolution to the state within ten days of its adoption
171 pursuant to RCW 36.70A.106.

172 3. This resolution is temporary in nature and is not to be codified.

173 ADOPTED this 26th day of February, 2013.

Attest

Rebecca J. Jantor
Clerk to the Board

BOARD OF COMMISSIONERS
FOR CLARK COUNTY

By: [Signature]
Steven J. Stuart, Chair

By: _____
Tom Mielke, Commissioner

By: _____
David Madore, Commissioner

Approved as to form only:

Christopher Horne
Christopher Horne
Deputy Prosecuting Attorney