

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

ORDINANCE NO.05-009

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF VESTED RIGHTS TO DEVELOP PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF GREENWOOD, PURSUANT TO SOUTH CAROLINA CODE OF LAWS, TITLE 6, CHAPTER 29, ARTICLE 11

WHEREAS, the South Carolina Code of Laws, Title 6, Chapter 29, Article 11, Vested Rights, provides that local governments may establish a procedure for a vesting of rights in site specific development plans; and,

WHEREAS, the South Carolina Code of Laws, Section 6-29-1530, (A), (2), calls for local governments to adopt land development ordinances and regulations pursuant to Title 6, Article 11, Vested Rights, on or before July 1, 2005; and,

WHEREAS, local governments that fail to adopt an ordinance establishing a procedure for a vesting of rights in a site specific development plans as required (July 1, 2005) will be subject to the requirements of the South Carolina Code of Laws, Title 6, Article 11, Section 6-29-1560. Section 6-29-1560 stipulates statutory conditions and limitations for vesting, thereby reducing local control and flexibility; and,

WHEREAS, the Greenwood County Joint Planning Commission held a public hearing in Greenwood County Courthouse, Room 201, on March 22, 2005 and has certified to the City Council of the City of Greenwood that the Greenwood County Joint Planning Commission voted to recommend that an "Ordinance Providing for the Establishment of a Vested Right to Develop Property within the City of Greenwood" be adopted; and,

WHEREAS, the City Council of the City of Greenwood desires to establish a procedure for a vesting of rights in site specific development plans within the City of Greenwood.

THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Greenwood in meeting duly assembled that the following Ordinance be adopted:

- I. TITLE: Vested Rights Ordinance
- II. DEFINITIONS:
 - A. "City" shall mean the incorporated area of the City of Greenwood, South Carolina.
 - B. "Approved" or "approval" means a final action by the local governing body or an exhaustion of all administrative remedies that result in the authorization of a site specific development plan or a phased development plan.

- C. **"Building Permit"** means a written warrant or license issued by a local building official that authorizes the construction or renovation of a building or structure at a specified location.
- D. **"Conditionally approved" or "conditional approval"** means an interim action taken by the local governing body that provides authorization for a site specific development plan or a phased development plan but is subject to approval.
- E. **"Landowner"** means an owner of a legal or equitable interest in real property including heirs, devisees, successors and assigns and personal representatives of the owner. **"Landowner"** may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submitting a proposed site development plan or a phased development plan pursuant to this ordinance.
- F. **"Local governing body"** means the City Council of the City of Greenwood.
- G. **"Person"** means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any legal entity as defined by South Carolina laws.
- H. **"Land Development Ordinances"** are those ordinances which address the development of land and may include but are not limited to zoning ordinances, subdivision ordinances, road construction and dedication, flood, storm drainage ordinances and any other ordinances regulating real property as defined in this ordinance.
- I. **"Phased Development Plan means"** a development plan submitted to the local governing body by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in phases, but which do not satisfy the requirements for a site specific development plan.
- J. **"Real Property" or "property"** means all real property that is subject to the land use and development ordinances or regulations of the local governing body and includes the earth, water, and air, above, below, or on the surface, and includes improvements or structures customarily regarded as a part of real property.
- K. **"Site Specific Development Plan"** means a plan submitted to the local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for specific property or properties. The plan may be in the form of, but is not limited to, the following plans or approvals: planned unit development; subdivision plat; preliminary or general development plan; variance; conditional use or special use permit plan; conditional or special use district zoning plan; or other land-use approval designations as are used by the local governing body.
- L. **"Vested Right"** means the right to undertake and complete the development of property under the terms and conditions of a site specific development plan or a phased development plan as provided in this ordinance and in the City of Greenwood's Land Development Ordinances or regulations adopted pursuant to South Carolina laws.

III. **Vested Rights:**

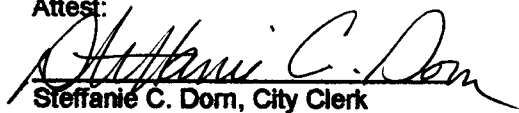
- A. A vested right to develop property in accord with a site specific development plan is established upon final approval of the site specific development plan by the local governing body or the official authorized to approve a site specific development plan and the payment to the City and County of Greenwood of all applicable fees.
- B. Except as hereinafter set forth, a vested right established by this Ordinance is subject to conditions and limitations in Sections 6-29-1540 and 6-29-1550 of the Code of Laws of South Carolina, as enacted by Act 287 of 2004.

- C. A vested right for an approved site specific development plan expires two (2) years after the date of final approval by the local governing body or official authorized to approve a site specific development plan.
- D. No vested rights are established for phased development plans, including approved or conditionally approved phased development plans and including phased development plans applicable to property proposed for annexation. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.
- E. A vested site specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of the City of Greenwood's zoning, planning, and land development ordinances, municipal code sections or regulations. Approval or conditional approval of an amendment does not re-set or restart the expiration period of vested right.
- F. No sooner than three (3) months, and no later than forty-five (45) days prior to the expiration of the two-year vested right period for an approved site specific development plan, the landowner of property with a vested right in a site specific development plan may apply to the authorized official for an annual extension of the vested right. The local governing body or authorized official must approve an application for an annual extension of the vested right unless an amendment to the land development ordinances or a regulation has been adopted that prohibits approval. No more than five (5) annual extensions of the vested right may be approved.
- G. The Greenwood County Joint Board of Zoning Appeals does not have the authority and is hereby prohibited from granting a Vested Right, and no Vested Right shall accrue as a result of the Greenwood County Joint Board of Zoning Appeals' decisions
- H. Variances or special exceptions do not create a Vested Right.

Done this 16TH day of May 2005.


Floyd Nicholson, Mayor

Attest:


Steffanie C. Dorn, City Clerk

First Reading: 4/18/05

Second Reading: 5/16/05

CERTIFICATE

THE GREENWOOD COUNTY JOINT PLANNING COMMISSION, pursuant to the provisions of Act No. 140 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for 1971, held a public hearing in Greenwood County Court Room 201 of the Greenwood County Courthouse on March 22, 2005, notice thereof having been given as required by statute.

THIS IS TO CERTIFY TO THE GREENWOOD CITY COUNCIL that following such hearing, the Greenwood County Joint Planning Commission voted to recommend approval of rezoning request number R-05-03-03 by the Greenwood City/County Planning Commission. This is a request to make adopt a vested rights ordinance for the City of Greenwood.

GREENWOOD COUNTY JOINT PLANNING COMMISSION

By: Eddie Bartless^{KCA}
Eddie Bartless, Chairperson

March 23, 2005
Greenwood, South Carolina

**Request – Text Amendment to the City of Greenwood,
Greenwood County, Town of Ninety Six, and Town of
Ware Shoals Code of Ordinances (Vested Rights)**

Application Number: R-05-03-03 – by Planning Department Staff

Municipal Jurisdiction: Greenwood County, City of Greenwood,
Town of Ninety Six, and Town of Ware
Shoals

County Council: N/A

Location Address: N/A

Present Land Use: N/A

Lot Size: N/A

Current Zoning Dist: N/A

Requested Zoning Dist: N/A

Surrounding Land Uses / Zoning Districts:

North – N/A
East – N/A
South– N/A
West – N/A

Existing Site

Analysis:

The SC State Legislature passed Act 287 last year that required local governments that had land development regulations and zoning ordinances to develop a vested rights ordinance that outlined when a development's right is vested. A vested right is the right to undertake and complete the development of property under the terms and conditions of a site specific development plan in conformance with county ordinances and final approvals.

This proposal allows for an approved development to continue based on the approved plans for a 2 year period with 5 one year extensions if approved by the Planning Commission if the ordinances change within that 7 year period that would impact the development.

Once the seven years was concluded, the development would either have to complete the work or resubmit the plans for Planning Commission approval. The Planning Commission may reserve the right to allow continuances of the development for as long as the Commission deems.

Recommendations

Staff: Approval of the ordinance.

Zoning Committee: Approval of the ordinance with the recommendation to allow 2 years with 5 year renewals, a resubmittal without fees for an additional 2 years with 5 year renewals.

Planning Commission: Approval of the ordinance with the Zoning Committee recommendation.

City Council: