



WHAT IS A ZONING VESTED RIGHT?

In 1991, the North Carolina General Assembly created a procedure by which a property owner can “vest” or guarantee certain aspects of an approved development plan for two years. By definition a Zoning Vested Right is *“a right pursuant to North Carolina General Statute 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan.”* By vesting a development plan a property owner can be protected against zoning changes that affect the allowable **type** and **intensity of use** of the property.

Type of use refers to the approved use of the land as shown on the development plan at the time the plan is vested.

Intensity of use refers to the number of dwelling units or building square footage shown on the development plan at the time it is vested.

HOW DO I GET A ZONING VESTED RIGHT?

A Site Specific Development Plan (SSDP) must be submitted to the Planning and Development Department, in order to vest the use and intensity. By definition a Site Specific Development Plan is *“a plan of land development submitted to the appropriate approval authority for the purpose of obtaining one of the following zoning or land use permits or approvals pursuant to NCGS 153A-334.1.”*

Below is a list of SSDP’s and who may approve them. Approved by the Enforcement Officer:

- 1) a Preliminary Plat for a Minor Subdivision;
- 2) a Plot Plan;
- 3) a Minor Site Plan;
- 4) a Master or Common Sign Plan;

- 5) a Watershed Control Plan; and
- 6) a Landscaping Plan.

Approved by the Technical Review Committee:

- 1) a Preliminary Plat for a Major Subdivision; and
- 2) a major Site Plan.

Approved by the Planning Board:

- 1) a Special Use Permit; or
- 2) a Planned Development – Residential or Planned Development – Mixed Unified Development Plan.

The SSDP must be prepared in accordance with the standards of Appendix 2 of the Guilford County Development Ordinance. The SSDP must be reviewed and approved by the appropriate authority. Once a SSDP has been approved, it is eligible for vesting.

Approval of the SSDP does not constitute a vested right. A public hearing by the Guilford County Planning Board is required for a plan to receive a zoning vested right.

This may be confusing. The Guilford County Development Ordinance honors any approved SSDP for two years. State law, however, requires that a public hearing be held to grant a “vested right.” Since approvals granted by the Enforcement Officer or the Technical Review Committee are not subject to public hearings, a separate step must be taken to grant the state law “vested right.”

Upon written request, the Planning Board will conduct a public hearing at the next available meeting for which notice can be given. There is no fee for this hearing.

The following plans are not site specific and cannot be vested:

- 1) a Planned Development – Residential or Planned Development – Mixed Sketch Plan;
- 2) a Subdivision Master Plan or Sketch Plan;
- 3) a Soil Erosion and Sedimentation Control Plan;
- 4) a Utility and Street Construction Plan; and
- 5) a building and/or other construction plan.

WHAT HAPPENS WHEN THE ZONING VESTED RIGHT TAKES EFFECT?

The vested right is valid for two years, from the date the SSDP is vested, and attaches to and runs with the land. The property owner has a right to build the type and intensity of use as specified on the vested SSDP. Any subsequent rezoning cannot affect the vested plan so, a building permit may be issued or renewed, under the terms of the vested plan, any time during the two year vesting period.

CAN A ZONING VESTED RIGHT BE TERMINATED?

Zoning Vested Right can be terminated under any of the following conditions:

- 1) with written consent of the property owner.
- 2) if natural or man-made hazards which pose a serious threat to public health, safety and welfare arise;
- 3) if the property owner is compensated for all costs, expenses and other losses incurred after the rezoning or plan approval;
- 4) if the property owner or their representative intentionally supplied inaccurate information or made material misrepresentations during the rezoning hearing or plan approval process; or

- 5) if subsequently enacted State or Federal laws or Regulations prohibit the development as planned.

NEED MORE INFORMATION?

If you need more information contact the Guilford County Planning and Development Department (641-3334) or refer to Section 3-16 of the Guilford County Development Ordinance.

This bulletin is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official Development Ordinance interpretation in any legal proceedings. MEK