COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2013 Legislative Session

Time Extensions of Preliminary Plans of Subdivision

BILL NO. 2013-16

Introduced by: Charles County Planning Division

Date Introduced: 10/08/ 2013

Public Hearing: 11/05/ 2013

Commissioners Action: 12/03/13 - Enact

Commissioner Votes: CQK: Y , RC: Y , KR: Y , DD: Y BR: Y

Pass/Fail: Pass

Effective Date: 12 / 13 / 2013 12:01 a.m.

Remarks: _____

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

Subdivision Regulations

2013 Legislative Session

Bill No. 2013-16

Chapter. No. 278

Introduced by Charles County Planning Division

Date of Introduction 7/29 /13

BILL

AN ACT concerning:

Preliminary plan time extensions

FOR the purpose of:

Revising time extension requirements

BY repealing and enacting with amendments:

Chapter 278- Subdivision Regulations

Article IV, Section 25(i): Planning Commission action.

Code of Charles County, Maryland

May 11, 2007 Edition

SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as follows:

(i) *Planning Commission action.* No preliminary subdivision plan shall be

considered for action until it has been reviewed, and recommendations have been made, by the TRC. The Commission will review the application, public testimony, the report from the Planning Director, as well as any review agency comments, and then act for approval, approval with conditions, deferral or disapproval. Reasons for action of deferral or disapproval and any requirements associated with a conditional approval shall be incorporated in the Commission's minutes and shall be available to the applicant and the public. The following actions by the Commission shall have the meanings so stated:

i. *Approval* means the applicant is now authorized to proceed with **APPLICATION FOR** the construction of physical improvements and to proceed with preparation of the final plat, and the approved preliminary subdivision plan is valid for a period of [two (2)] **FOUR (4)** years from the date of Planning Commission approval. A developer's agreement or the posting of a performance bond is now required per Section 29.

A. *Extensions.* Before expiration, the Commission may, at the request of the applicant, extend the approval period in increments of not more than [one (1)] **FOUR (4)** years at a time**, TWICE** for a maximum extension period of **EIGHT (8) ADDITIONAL** years, **EXCEPT AS OTHERWISE NOTED.**

(1) **PREVIOUSLY APPROVED PRELIMINARY PLANS WHICH HAVE BEEN APPROVED FOR AT LEAST EIGHT (8) YEARS AS OF (insert date here) SHALL BE ELIGIBLE FOR ONE ADDITIONAL FOUR YEAR EXTENSION PROVIDED THEY APPLY FOR SUCH PRIOR TO THEIR PRELIMINARY PLAN EXPIRATION DATE.**

(2) **PREVIOUSLY APPROVED PRELIMINARY PLANS WHICH HAVE BEEN APPROVED FOR LESS THAN EIGHT (8)**

YEARS AS OF (insert date here) SHALL BE ELIGIBLE FOR UP TO THREE ADDITIONAL EXTENSIONS PROVIDED ALL EXTENSIONS DO NOT EXCEED TWELVE (12) YEARS FROM THE PRELIMINARY PLAN'S APPROVAL DATE.

(3) **PRELIMINARY PLANS THAT HAVE BEEN EXTENDED FOR THE MAXIMUM PERIOD OF TIME SPECIFIED IN SECTION 25(i)i.A. MAY BE EXTENDED FURTHER IF A MORITORIUM ON ISSUANCE OF DEVELOPMENT APPROVALS OCCURS, SUCH THAT A PRELIMINARY PLAN IS UNABLE TO SATISFY SECTION 25(i)i.B.2. EXTENSIONS WILL BE EQUAL TO THE TIME OF SUCH MORATORIUM.**

(4) In conjunction with such approval extensions, the Commission shall have the right to require changes in the development when it finds that time has necessitated such changes for health, safety, and welfare of the residents of the community or when applicable ordinances and regulations have been changed. The Planning Commission may act on specific phases of a preliminary plan individually, where such phases were defined at the time of initial approval. **AN APPLICATION AND ASSOCIATED FEE WILL BE PROVIDED TO THE DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT (PGM) WITH ALL REQUESTS FOR APPROVAL EXTENSIONS.**

(5) **PRELIMINARY PLANS WHICH EXCEED THE EXPIRATION DATE AND HAVE NOT COMPLIED WITH EXTENSION REQUIREMENTS OR SECTION B(2), BELOW, SHALL BE NULL AND VOID.**

B. *Adequate Public Facilities* [*Update*] *required.*

[Any request for an extension beyond the two (2) year initial approval period shall

include a revised and updated Adequate Public Facilities Analysis.] **APPROVED PRELIMINARY PLANS ARE REQUIRED TO PROVIDE FOR ADEQUATE PUBLIC FACILITIES TO MITIGATE THE IMPACTS OF DEVELOPMENT AND TO COMMENCE CONSTRUCTION IN ACCORDANCE WITH THE TIME SET FORTH IN SECTIONS 25(I)(I) AND 25(I)(I)A.**

1. ANY REQUEST FOR AN EXTENSION BEYOND EIGHT (8) YEARS FROM THE INITIAL APPROVAL DATE SHALL INCLUDE A REVISED AND UPDATED ADEQUATE PUBLIC FACILITIES ANALYSIS AND SCHEDULE FOR COMPLETION OF REQUIRED PUBLIC FACILITIES ALONG WITH AN ASSESSMENT OF COMPLIANCE WITH CONDITIONS. A PHASING PLAN MAY BE CONSIDERED AS A PART OF THE EXTENSION REQUEST.

2. PRELIMINARY PLANS WHICH HAVE COMMENCED CONSTRUCTION AND HAVE COMPLETED SUBSTANTIAL PHYSICAL IMPROVEMENTS FOR THE PROJECT, AND HAVE ALSO RECORDED AT LEAST 25% OF THE LOTS ASSOCIATED WITH THE PROJECT, ARE NOT REQUIRED TO APPLY AND OBTAIN EXTENSIONS OF PRELIMINARY PLANS AND CAN CONTINUE TO COMPLETION WITHOUT EXTENSION APPROVALS, PROVIDED THE PROJECTS ARE ALSO IN COMPLIANCE WITH ANY OTHER CONDITIONS OF APPROVAL.

SUBSTANTIAL PHYSICAL IMPROVEMENTS ARE THOSE BEYOND EXCAVATION, GRADING AND FILLING AND MAY INCLUDE:

a) CONSTRUCTION OF ROADS, OR A PORTION OF ROADS FOR THE ENTIRE PROJECT (AT LEAST 25%) OR FOR AN ENTIRE PHASE OF THE PROJECT AS PREVIOUSLY DEFINED ON A PRELIMINARY PLAN; OR

b) CONSTRUCTION AND INSTALLATION OF STORMWATER MANAGEMENT FACILITIES FOR THE PROJECT (AT LEAST 25%) OR FOR AN ENTIRE PHASE OF THE PROJECT; OR

c) FOR THOSE PROJECTS ON SHARED OR PUBLIC SEWER AND WATER SYSTEMS, CONSTRUCTION OF A PORTION OF THE SEWER AND WATER FACILITIES (AT LEAST 25%) FOR THE PROJECT OR FOR AN ENTIRE PHASE OF THE PROJECT AS PREVIOUSLY DEFINED.

A LETTER OF VERIFICATION OF SUBSTANTIAL PHYSICAL IMPROVEMENT MAY BE REQUESTED FROM THE COUNTY BY THE APPLICANT OR OWNER. A FEE MAY BE REQUIRED WITH SUCH VERIFICATION.

C. *Expiration.* Upon the expiration of any approval period specified under this section, the plan shall be deemed as disapproved by the Commission, and shall be automatically null and void without any further action by the Planning Commission being required.

[D. *Administrative Extensions.* The Planning Director may grant an extension of a preliminary subdivision plan, subject to the

following requirements:

1. A request for an extension must be included with an Improvement Plan submitted for review per Section 26. That extension shall be for the period that the Improvement Plan is under review.

2. Upon approval or conditional approval of an Improvement Plan for any section of the subdivision shown on the preliminary plan, and the request for an extension described above, the preliminary plan can be administratively extended and considered valid for the period of time which performance bonds or a developer's agreement are posted with the County per Section 29, plus one (1) year from the release of bonds or developer's agreement.

3. A preliminary subdivision plan remains valid as long as a performance bond or developers agreement remains in effect for any portion of the subject property as described in Section 29, or the expiration of the preliminary subdivision plan per this subsection.

4. If the Planning Director determines that there are no substantive changes to the approved preliminary plan or the applicable conditions of approval, and if no new or further adequate public facilities mitigation is required over and above the mitigations previously approved by the Planning Commission, the Planning Director may grant one-year extensions to a preliminary plan. The Planning Director may not deny an extension request without the approval by the Planning Commission.]

[E]D. *Conformity Review.* A review is required for additional extensions of time beyond [the six (6)] **EIGHT YEARS (8) FROM THE INITIAL** [maximum] date described in this subsection; **UNLESS OTHERWISE IN COMPLIANCE WITH SECTION B2,** such extensions may be granted by the Planning Commission, subject to the following requirements:

1. A request for an extensions must be submitted by the [developer owner] **APPLICANT [**at least sixty (60) days**]** prior to the expiration date. This request is to provide a reason for the extension request, and the amount of time that is anticipated to be needed to complete the project through recordation of all final plats.

2. A time table providing dates of submittals, approval, [developer] **APPLICANT** or administrative actions for preliminary plans and revisions, all Improvement Plans and final plats to be submitted as an attachment to the request.

3. Upon receipt of the request, the Planning Director is to prepare a conformity review in the form of a staff report to the Planning Commission. This review is to compare the original or revised preliminary subdivision plan to the existing or approved physical improvements as shown on Improvement Plans, final plats, Adequate Public Facility mitigation requirements, public water or sewer allocations, pace of development including build out rate, and the Planning Commission conditions of approval. The process for this review is to be consistent with that of a new preliminary subdivision plan, as described in Section 23 and Section 25 above.

4. As part of the Conformity Review, the Planning Director shall include recommendations to the Planning Commission for preliminary subdivision plan extension approval or denial, or recommend any revisions to the conditions of approval, including, but not limited to, an update of the Adequate Public Facilities or traffic impact studies, additional infrastructure improvements based upon State or County capital improvement projects, revised or new federal , State or County regulatory requirements, or approved developments in the area.

5. The Planning Commission shall act on the request for extension consistent with the procedures of subsection 25(i)i.A., and may include new or revised conditions of approval, based upon the status of the development, County or State plans or regulatory requirements, surrounding development, and any other factors considered relevant by the Commission.

ii. *Conditional approval* means the applicant may proceed to the preparation of the Improvement Plan, but only as approved according to all revisions or conditions placed on the plan by the action of the Commission.

A. *Planning Commission revisions.* The Planning Director shall provide a letter within three (3) days of the Planning Commission action to the applicant and project engineer detailing those corrections and will specify the number of copies to be submitted for signature. Signature sets are to be submitted within ten (10) days of the Conditional Approval by the Planning Commission. The Planning Director shall verify the accuracy of the corrected signature sets prior to final approval. Upon verification of the accuracy of the corrections, the preliminary plan shall be considered approved. The [two (2)] **FOUR (4)** year validity period and

extension procedures described in subsection 25(i)i. above shall become effective on the date of Planning Commission approval. The plan shall be deemed as disapproved by the Planning Commission if this requirement is not met.

B. *Failure to comply with approved conditions.* If at any time during the development process the Planning Director determines that the applicant has failed to adequately comply with the conditions imposed as a part of the preliminary plan approval, the Planning Director shall advise the applicant of the error. If the applicant does not take appropriate measures to correct the discrepancy between the preliminary plan and the development to date, the Planning Director shall notify the Chairman of the Planning Commission to schedule a review of the original preliminary plan and the current status of the project.

C. *Required Planning Commission revisions.* If the Planning Commission requires a major revision to the preliminary subdivision plan as described in Section 47, the applicant shall have six (6) months to in subsection 25(f). The preliminary subdivision plan may be administratively voided if the revision application is not submitted consistent with the requirements of that section, or within the six (6) month time period.

iii. *Deferral* means Commission action is delayed for definite reasons, which shall be noted by the Commission. Certain specified changes may have to be made in the plans, but a re-submittal of the plan for formal review per these regulations is not required to be made by the applicant.

iv. *Denial* means disapproval of the plan. For further action, the applicant must file a new application along with a filing fee and preliminary plan copies as

required under Section 24. The new application can only be accepted by the Planning Office if:

A. One (1) full year has elapsed since the Planning Commission denial; or,

B. The new application demonstrates to the Planning director that it substantially addresses all Planning commission objections to the preceding application, which were describe by the Commission in accordance with this Section; or,

C. The new application is substantially different in concept, design, density, or intensity from the preceding application. The Planning Director will determine the suitability of the revised application within ten (10) days.

SECTION 2. BE IT FURTHER ENACTED, that this Act shall take effect TEN (10) calendar days after it becomes law.

COUNTY COMMISSIONERS OF
CHARLES COUNTY, MARYLAND

Candice Quinn Kelly, President

Reuben B. Collins, II, Esq., Vice President

Ken Robinson

Debra M. Davis, Esq.

Bobby Rucci

ATTEST:

Denise Ferguson, Clerk