

ADMINISTRATIVE MEMORANDUM NO. 18-390

TO: Planning and Zoning Board
VIA: David L. Recor, ICMA-CM, Director of Development Services
VIA: Jennifer Gomez, AICP, Assistant Director of Development Services
FROM: Daniel T. Keester-O'Mills, AICP, Principal Planner
SUBJECT: Text Amendments to Chapter 155, Zoning Code
Article 2 – Zoning in Progress
DATE: October 12, 2018

Staff is recommending a text amendment in order to add language to the Zoning Code outlining the rules and procedures for establishing "Zoning in Progress." When a significant change in zoning district or an amendment to the zoning code is being considered by the City, staff is proposing that no development order, site plan approval, permit, or license of any kind shall be issued, and no change of occupancy shall occur if such development order, site plan approval, permit, license, or occupancy would result in the nonconforming or unlawful use of the subject property should the proposed change be adopted. The new code would only apply, when it is declared by the Planning & Zoning Board or City Commission.

Chapter 155, Article 2, Part 3

§ 155.2304. STAFF REVIEW AND ACTION

TABLE 155.2304.D: APPLICATIONS SUBJECT TO STAFF DECISION

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Minor Site Plan
Minor Building Design
Minor Certificate of Appropriateness
Tree Permit
Minor Temporary Use Permit
Zoning Compliance Permit
Zoning Use Certificate

Minor Administrative Adjustment
Interpretation
<u>Takings Or Vested Rights Determination</u>

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§ 155.2309. REVIEW OF APPLICATIONS FOR PERMITS AND DEVELOPMENT ORDERS WITH REGARD TO ZONING IN PROGRESS

During the period of time that the City Commission is considering either a text amendment to the city Zoning Code or a change of zoning district, no development order(s), Zoning Compliance Permit(s) or Zoning Use Certificate(s) of any kind shall be issued if issuance would result in the nonconforming or unlawful development or use of the subject property should the text amendment or zoning district change be finally enacted by the City Commission.

A. The period of time of such hold on accepting applications and issuing building applications, zoning compliance permits, zoning use certificates or development orders shall begin on the earlier of:

1. Publication of a notice of a public hearing before the City Commission to consider a resolution declaring zoning in progress; or
2. The Planning and Zoning Board has held its initial public hearing on the text amendment or zoning district change, during which time Zoning in Progress is declared.

B. This section shall not apply if:

1. The Development Services Director has determined that approval of the application for a permit or development order would not result in the nonconforming or unlawful use of property if such proposed change is to be adopted and in effect; and
2. Four months have passed since the Zoning In Progress was enacted. The four month zoning in progress period may be extended for up to an additional three months by resolution of the City Commission where the public interest requires.

C. Nothing in this chapter shall be construed or applied to abrogate the vested right of a property owner to complete development (See Section 155.2429.).

D. An affected person may appeal the application of this provision to the Zoning Board of Appeals for review by filing an Appeal with the Development Services Director, in accordance with the procedures outlined in 155.2424 Appeals.

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§ 155.2429. TAKINGS OR VESTED RIGHTS DETERMINATION

A. Purpose

The purpose of this section is to establish a procedure and standards for the Development Services Director, or his/her designee, when the Code is amended and the property owner expresses a desire to retain certain rights.

B. Applicability

1. Nothing in this chapter shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

- a. A governmental act of development approval was obtained prior to the effective date of this chapter or prior to the effective date of an amendment to this chapter; and
- b. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
- c. That it would be highly inequitable to deny the property owner the right to complete the development.
- d. Except as provided by paragraph (e) below, any property owner claiming to have vested rights under this Section must file an application with the Development Services Department for a vested rights determination within thirty (30) days after Zoning In Progress is declared.
- e. Any property owner establishing vested rights under this Section shall not be subject to the application under consideration as Zoning In Progress and shall be authorized to apply for Orders, and Permits in accordance with a Vested Rights Determination Agreement to be executed by the City and the property owner. A copy of the Vested Rights Determination Agreement shall be filed with the City Clerk, accompanied by a letter which references this paragraph (e) within forty-five (45) days after Zoning In Progress was established.

C. Procedure & Determination

1. Step 1: Pre-Application Conference

Not Applicable.

2. Step 2: Neighborhood Meeting

Not Applicable.

3. Step 3: Application Submittal and Acceptance

The application shall be accompanied by a fee and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the Director of Development Services, or his/her designee, or other documentary evidence supporting the claim.

4. Step 4: Staff Review and Action
Applicable to a final decision by the Development Services Director (See Section 155.2304.).
 5. Step 5: Public Hearing Scheduling and Notice
Not Applicable.
 6. Step 6: Advisory Body Review and Recommendation
Not Applicable.
 7. Step 7: Decision-Making Body Review and Decision
Not applicable.
- iii. Appeal
An affected person may appeal the application of this provision to the Zoning Board of Appeals for review by filing an Appeal with the Development Services Director, in accordance with the procedures outlined in 155.2424 Appeals.

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APPENDIX C: FEE SCHEDULE

TYPE OF APPLICATION	FEE
...	...
II. OTHER DEVELOPMENT SERVICES APPLICATIONS	
...	...
<u>Q. TAKINGS OR VESTED RIGHTS DETERMINATION</u>	<u>\$600</u>