

ORDINANCE NO. 2011-10-08

A zoning ordinance relating to land use; amending CCC 40.500.010 to further extend certain land use approvals for up to twelve months.

1 WHEREAS, the Board finds that Clark County and its citizens continue to experience
2 economic hardship due to the local and national economy; and

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

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

8 WHEREAS, many development proposals are in jeopardy of expiring due to financing
9 and other factors outside the control of the developers; and

10 WHEREAS, the economy appears to be in a fragile state of recovery and an extension is
11 necessary to provide job opportunities for workers who will be hired to build these
12 developments; and

13 WHEREAS, the Board has enacted and later extended an interim resolution; and

14 WHEREAS, following a duly advertised public hearing finds that adoption of this
15 ordinance will further the public health, safety, and welfare now, therefore,

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

18 **Section 1. Amendatory.** Section 1 of Ordinance 1983-03-46, as most recently amended
19 by Ordinance 2015-11-24, and codified as CCC 40.500.010, is each hereby amended to read as
20 follows:

21 40.500.010 Summary of Procedures and Processes.

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23 A. Purpose and Applicability.

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25 1. This chapter describes how the county will process applications for development
26 subject to review under the UDC and Title 14 of this code, and is intended to identify
27 the procedure for determining whether development proposals are, or can be
28 conditioned or mitigated to be, consistent with applicable policies and standards.
29 Consistency is determined by consideration of substantial evidence in the record that is
30 relevant to these policies and standards.

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32 2. Interpretations and Authority. Upon request, the responsible official shall issue a formal
33 written interpretation of a development regulation. A formal written interpretation shall
34 be a Type I action and shall be subject to the appeal provisions of Section
35 40.510.010(E). If an application for an interpretation is associated with another
36 application(s) subject to this title, then the application for the interpretation shall be
37 combined with the associated application(s) and is subject to the same procedure type
38 as the applications with which it is combined.

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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.

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55 B. Development Approvals Timeline – General.

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- 57 1. Basic Rule. Preliminary approval of land divisions (Chapter 40.540), site plan approval
58 (Section 40.520.040), uses subject to review and approval (R/A) (Section 40.520.020),
59 approval of conditional use permits (Section 40.520.030), approval of planned unit
60 developments (Section 40.520.080), approval of mixed use developments (Section
61 40.230.020), approval of master plans (Section 40.520.070), and approval of variances
62 (Section 40.550.020), shall be valid for a period of seven (7) years after approval. The
63 right to develop an approved land division, site plan, use permitted subject to review
64 and approval (R/A), conditional use permit, planned unit development or variance or
65 part thereof expires seven (7) years after the effective date of the decision approving
66 such development, unless:
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- 68 a. For land divisions – A fully complete application for a final plat has been submitted.
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 - 70 b. For use approvals that do not require a building permit – The permitted use has
71 legally commenced on the premises.
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 - 73 c. For all other approvals – A building permit for the approved development has been
74 issued and remains in effect, or a final occupancy permit has been issued.
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- 76 2. Extensions – Phased Developments.
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- 78 a. Those applications specifically approved for phased development may receive an
79 unlimited number of subsequent two (2) year extensions in accordance with the
80 following:
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 - 82 (1) At least one (1) phase has met the general development approvals timeline
83 basic rule described in Section 40.500.010(B)(1), within the seven (7) year time
84 limit;
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 - 86 (2) The request for the extension has been submitted in writing to the responsible
87 official at least thirty (30) days prior to the seven (7) year deadline, or in the
88 case of a subsequent extension request, at least thirty (30) days prior to the
89 expiration of the approval period;
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 - 91 (3) The applicant has demonstrated an active effort in pursuing the next phase of
92 the application; and
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 - 94 (4) The applicant has demonstrated that there are no significant changes in
95 conditions which would render approval of the application contrary to the
96 public health, safety or general welfare.
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 - 98 b. The responsible official shall take one (1) of the following actions upon receipt of a
99 timely extension request:

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- (1) Approve the extension request if no significant issues are presented under the criteria set forth in this section,
 - (2) Conditionally approve the application if any significant issues presented are substantially mitigated by minor revisions to the original approval,
 - (3) Deny the extension request if any significant issues presented cannot be substantially mitigated by minor revisions to the approved plan;
- c. A request for extension approval shall be processed as a Type I action. Appeal and post-decision review of a Type I action is permitted as provided in this subtitle.
3. Developer Agreements. Notwithstanding the foregoing, the Board may approve a developer agreement under RCW 36.70B.170 through 36.70B.240 providing for a longer approval duration. The hearing examiner is delegated authority to conduct hearings and make recommendations for developer agreements, but final approval thereof is reserved to the Board.
- ~~((4. Six Month Extension.*~~
- ~~a. Preliminary approvals of land divisions (Chapter 40.540), site plan approval (Section 40.520.040), uses subject to review and approval (R/A) (Section 40.520.020), approval of conditional use permits (Section 40.520.030), approval of planned unit developments (Section 40.520.080), approval of mixed use developments (Section 40.230.020), approval of master plans (Section 40.520.070), and approval of variances (Section 40.550.020), that were approved on or between June 1, 2004, and June 1, 2005, are hereby granted a six (6) month extension of the expiration of their five (5) year periods of validity under Section 40.500.010(B)(1).~~
 - ~~b. An extension granted under Section 40.500.010(B)(4)(a) shall not modify or excuse compliance with any of the conditions of approval provided for in those approvals.))~~

4. Extension.¹

- a. Preliminary approvals of land divisions, (Chapter 40.540), site plan approval (Section 40.520.040), uses subject to review and approval (R/A) (Section 40.520.020), approval of conditional use permits (Section 40.520.030), approval of planned unit developments (Section 40.520.080), approval of mixed use developments (Section 40.230.020), approval of master plans (Section 40.520.070), and approval of variances (Section 40.550.020), that were preliminarily approved on or between June 1, 2004 and December 31st, 2011, are hereby granted an extension as follows:
- (1) Developments approved preliminarily where no application for final engineering, final site plan or final plat approval has been filed will be

¹ This subsection 4 shall expire on December 31st 2017.

142 given an extension until June 30TH 2017 to submit a complete final
143 engineering application; otherwise the approval will expire; or

144 (2) Developments approved preliminarily where a complete application for
145 final engineering or final site plan approval has been filed prior to June
146 30th 2017 will be given an extension until December 31st 2017 to comply
147 with the standards of CCC 40.500.010B.1.; otherwise the approval will
148 expire.

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150 b An extension granted under Section 40.500.010(B)(4)(a) shall not modify or
151 excuse compliance with any of the conditions of approval provided for in
152 those approvals.

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154 5. Special Stormwater Rules. All permits issued pursuant to the regulations contained in
155 Chapter 40.385 or earlier stormwater code and the 2009 or earlier version of
156 the Clark County Stormwater Manual will expire on January 8, 2021, unless
157 approved construction has begun on site before January 8, 2021.
158 "Construction has begun" means, at a minimum, that site work associated
159 with and directly related to the approved project has begun, for example,
160 grading the project site to final grade, or the installation of utilities. Simply
161 clearing the project site does not constitute the beginning of construction.

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164 C. Reapplication.

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

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171 D. Application Types and Classification.

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173 1. Applications for review pursuant to Section 40.500.010(A) shall be subject to a Type
174 I, Type II, Type III or Type IV process as summarized in Table 40.500.010-1.
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176 2. Unless otherwise required, where the county must approve more than one (1)
177 application for a given development, all applications required for the development
178 may be submitted for review at one (1) time. Where more than one (1) application is
179 submitted for a given development, and those applications are subject to different
180 types of procedure, then all the applications are subject to the highest-number
181 procedure that applies to any of the applications.
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183 3. If this code expressly provides that an application is subject to one (1) of the four (4)
184 types of procedures or another procedure, then the application shall be processed

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accordingly. If this code does not expressly provide for review using one (1) of the four (4) types of procedures, and another specific procedure is not required by law, the responsible official for the application in question shall classify the application as one (1) of the four (4) types of procedures.

- a. The act of classifying an application shall be a Type I action. Classification of an application shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question.
- b. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest notice and opportunity to participate.
- c. The responsible official shall consider the following guidelines when classifying the procedure type for an application:
 - (1) A Type I process involves an application that is subject to clear, objective and nondiscretionary standards or standards that require the exercise of professional judgment about technical issues, and that is exempt from SEPA review. The responsible official is the review authority for Type I decisions.
 - (2) A Type II process involves an application that is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be a limited public interest. The responsible official is the review authority for Type II decisions.
 - (3) A Type III process involves an application for relatively few parcels and ownerships. It is subject to standards that require the exercise of substantial discretion and about which there may be a broad public interest. The hearing examiner is the review authority for Type III decisions.
 - (4) A Type IV process involves the creation, implementation or amendment of policy or law by ordinance. In contrast to the other three (3) procedure types, the subject of a Type IV process generally applies to a relatively large geographic area containing many property owners, and except for annual reviews, an application subject to a Type IV process can be filed only by the county. The board is the review authority for Type IV decisions.

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. This ordinance shall be effective 60 days following adoption

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and shall expire upon adoption of a new ordinance following consideration of this matter by the

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Clark County Board of County Commissioners or on December 31st, 2017 whichever is earlier.

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

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

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2. Transmit a copy of this ordinance to the state Dept. of Commerce within ten days of

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its adoption pursuant to RCW 36.70A.106.

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ADOPTED this 18 day of October 2016.

BOARD OF COUNTY COUNCILORS
CLARK COUNTY, WASHINGTON

Attest:

Rebecca Jitor
Clerk of the Board

Marc Boldt
Marc Boldt, Chair

Approved as to Form Only:
ANTHONY GOLIK
Prosecuting Attorney

Jeanne E. Stewart, Councilor

By: Christopher Horne
Christopher Horne,
Sr. Deputy Prosecuting Attorney

Julie Olson, Councilor

David Madore, Councilor

Tom Mielke, Councilor

