

Ordinance 2016-005

Vested Property Rights

Joint Conceptual Workshop
April 28, 2016

Topics

- Introduce proposed Text Amendment – Vested Property Rights
- Provide brief overview of Vested Property Rights Act (VPRA) of 2014
 - Background
 - Types of Plans
 - Summary of Vesting Process
- Update on where we are now and what we need to do
- Schedule

Background

Vested Property Rights Act (VPRA) of 2014

- Effective January 1, 2015
- Adopted statewide standards
 - Established requirements and time limits for vesting periods
 - Identified the types of plans and approvals that initiate a vesting period
- **What gets vested?**
 - The development standards in effect on the date of approval remain the development standards applicable to a project throughout its vesting period
- **VPRA enabled local governments to adopt Ordinances to:**
 - Specify the types of plans in a community that will cause property rights to vest
 - Identify what constitutes approval of those plans

Types of Plans

- VPRA – Classifies two types of “Development Plans” that start a vesting period

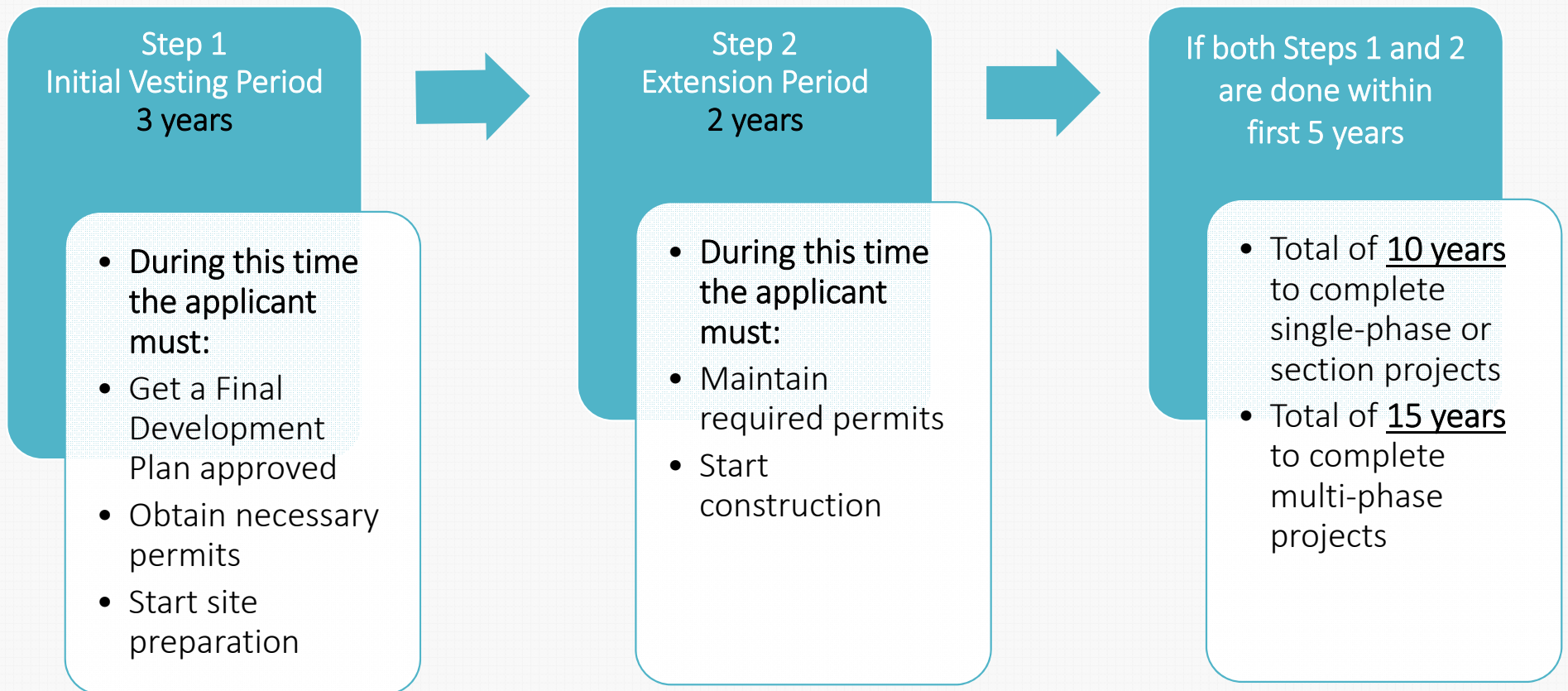
Preliminary Development Plans

- Used to get initial public feedback and secure preliminary approvals
- Serves as a guide for all future improvements
- Single-phased or multi-phased development

Final Development Plans

- Where No Preliminary Development Plan is required
- Plans that describe with reasonable certainty the type and intensity of use for a specific property.
- Examples of types of plans listed in VPRA:
 - Planned unit development plan
 - Subdivision plat
 - General development plan
 - Subdivision infrastructure construction plan
 - Final engineered site plan
 - Any other land-use approval designation utilized by a local government

Summary of Vesting Process



Where we are now

Ordinance 2014-37

- Adopted March 2015
- First step in addressing VPRA
- VPRA referenced only for amendments
 - Revised Amendment Process for PUD's
 - Added Section for Amendments to Development Plans, Site Plans, and Preliminary Plats approved after January 1, 2015

What we need to do

- Amend Zoning Ordinance to address all of the VPRA requirements
- Add a new Section 1.8.5, Vested Property Rights
 - Identify the types of plans in Franklin that cause a vested property right to be established
 - Specify what action constitutes approval
- Update Sections 2.4.2 (PUD's) and 2.4.3 (Site Plans)
 - Clarify the process for amendments
 - Incorporate VPRA requirements
- Add VPRA definitions to Chapter 8

Add New Section 1.8.5, Vested Property Rights

Why Add this Section?

- VPRA requires us to:
 - Specifically identify the types of plans in Franklin that cause a vested property right to be established
 - Identify what constitutes approval for each type of plan
- Mirrors language used in VPRA
- Helps to identify the requirements for plans approved before and after 01/01/15

1.8.5 Vested Property Rights

In accordance with T.C.A. § 13-4-310, the following is the list of the specific types of plans approved, on or after January 1, 2015, that will cause a vested property right to be established, and such action shall constitute final approval of the listed plans:

(1) Preliminary Development Plans

- (a) Approval by the BOMA of PUD Development Plan as required by Subsection 2.4.2;
- (b) Approval by the FMPC of a Preliminary Plat, when not part of a PUD Development Plan, as required by the Franklin Subdivision Regulations; or
- (c) Approval by the BOMA of a Special Permit as required by Subsection 4.4.

(2) Final Development Plans

- (a) Approval by the FMPC, or administratively by staff, of a Site Plan as required by Subsection 2.4.3, when not part of a Preliminary Development Plan as specified in Subsection 1.8.5(1), or
- (b) Approval by the FMPC, or Administratively by Staff, of a Final Plat as required by the Franklin Subdivision Regulations, when not part of a Preliminary Development Plan as specified in Subsection 1.8.5(1).

Amend Section 2.4.2 – PUD's

- **Update Amendment Section**
 - Fixes numbering and removes dates in title - No substantive changes to existing process/requirements
 - Applies to all amendments whether or not they are subject to vesting requirements
- **Add Section for Vesting Period and Time Limits for Development Plans**
 - Adds vesting time periods and specifies the approvals and requirements to remain vested
- **Add Section for Amendments to Development Plans approved on, or after 01/01/15**
 - Incorporates VPRA requirements for amendments
 - Uses the updated amendment process listed above
 - Exception – FMPC and BOMA required to review and approve amendments that:
 - Alter the proposed use or uses
 - Increase the overall area of the development
 - Alter the size of any nonresidential structures included in the Development Plan
 - Increase the density of the development so as to affect traffic, noise, or other environmental impacts
 - Increase any local government expenditure necessary to implement or sustain the proposed use.
 - Amendments may be denied if:
 - They do not meet any of the development standards in effect at time of approval, or
 - By BOMA for any of the 5 reasons listed above.
- **Add Sections for Expiration, Extension, Termination and Enforcement of Vested Property Rights**

Amend Section 2.4.2 – Site Plan Review

- **Amend Time Limit Section**
 - Clarifies that the existing time limit applies to:
 - Site Plans approved **before 12/31/14, or after 01/01/15** when they are associated with a Concept/Development Plan or Preliminary Plat approved **before 12/31/14**
 - VPRA does not apply to these types of Site Plans
- **Add Section for Vesting Period and Time Limit for Site Plans approved on, or after 01/01/15**
 - Site Plans not associated with a Preliminary Development Plan – Adds VPRA time periods and approval requirements
 - Site Plans associated with a Preliminary Development Plan – Valid for 2 years and remain valid during vesting period
- **Revise Amendments Section**
 - Amendments not subject to the VPRA – follow the same process we use now
 - Amendments subject to the VPRA – follow same process with exception – FMPC must review/approve amendments that:
 - Alter the proposed use or uses
 - Increase the overall area of the development
 - Alter the size of any nonresidential structures included in the Development Plan
 - Increase the density of the development so as to affect traffic, noise, or other environmental impacts
 - Increase any local government expenditure necessary to implement or sustain the proposed use.
 - Amendment may be denied if:
 - They do not meet any of the development standards in effect at time of approval, or
 - By FMPC for any of the 5 reasons listed above.
- **Add Sections for Expiration, Extension, Termination and Enforcement of Vested Property Rights**

Add VPRA Definitions in Chapter 8

- Definitions are based on language in VPRA and updated for Franklin
- Add definitions for:
 - Construction
 - Development Standards
 - Final Development Plan
 - Preliminary Development Plan
 - Site Preparation

Schedule

- Introduce Ordinance at Joint Conceptual Workshop – 04/28/16
- Review Ordinance at Joint Conceptual Workshop – 05/26/16
- FMPC – 05/26/16
- BOMA Worksession and 1st Reading – 06/14/16
- BOMA Public Hearing and 2nd Reading – 07/12/16
- BOMA 3rd Reading – 08/09/16