Introduced 3/2/09
Public hearing 3/16/09
Council action 4/06/09
Executive action 4/08/09
Effective date 6/09/09

County Council of Howard County, Maryland

2009 Legislative Session

Legislative day # 3

BILL NO. 12 – 2009 (ZRA – 109)

Introduced by: The Chair
at the request of SK King George, LLC

AN ACT amending the Howard County Zoning Regulations to establish a new provision whereby approved Conditional Uses would be completely exempt from the potential to become void and would not have to obtain extensions for projects for which plans are being processed with Howard County; and generally relating to Conditional Uses.

Introduced and read first time March 2, 2009. Ordered posted and hearing scheduled.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

Having been posted & notice of time & place of hearing and title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on March 16, 2009 and concluded on March 16, 2009.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

This Bill was read the third time April 6, 2009 and Passed___, Passed with amendments ✓, Failed___.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

Sealed with the County Seal and presented to the County Executive for approval this 7th day of April, 2009 at 11 (a.m.)/p.m.

By order Stephen M. LeGendre
Stephen M. LeGendre, Administrator to the County Council

(Approved)/vetoed by the County Executive on April 8, 2009.

Ken Ulman, County Executive

NOTE; [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law.
~~Strikeout~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

Section 1. Be it enacted *by the County Council of Howard County, Maryland, that Number 3 "Lapse of Decision Approving a Conditional Use", of Subsection I "Establishment of Conditional Use", of Section 131 "Conditional Uses" of the Howard County Zoning Regulations is hereby amended to read as follows:*

Howard County Zoning Regulations

SECTION 131: Conditional Uses

I. Establishment of Conditional Use

3. Lapse of Decision Approving a Conditional Use

a. Except as provided in Subsections b, c, [[and]] d, AND E below, a Decision and Order approving a conditional use shall become void unless a building permit conforming to the plans for which the approval was granted is obtained within two years, and substantial construction in accordance therewith is completed within three years from the date of the decision. A Decision and Order approving a conditional use for which a building permit is not necessary shall become void unless the use commences within two years from the date of the decision. If a decision is appealed, the time period for the use being appealed shall be measured from the date of the last decision.

b. The Hearing Authority may approve a phasing plan, in which only the first phase of a conditional use plan is subject to the time limits given above. The approval for future phases shall become void unless such phases are completed within a time period specified in the Hearing Authority's Decision and Order.

c. The Hearing Authority may grant as many as two extensions of the time limits given above. The extensions shall be for a period of time not to exceed three years each, and may be granted in accordance with the following procedures:

(1) A request for an extension shall be submitted by the property owner prior to the expiration of the conditional use approval, explaining in detail the steps that have been taken to establish the use.

(2) The property owner shall certify that a copy of the request for an extension has been sent by certified mail to adjoining property owners and to the addresses given in the official record of the conditional use case for all persons who testified at the public hearing on the petition.

(3) The Hearing Authority shall provide opportunity for oral argument on the request at a work session if requested by any person receiving notice of the request. If no response is received within 15 days of the date of the written notification, a decision on the request may be made by the Hearing Authority without hearing oral argument.

(4) The Hearing Authority may grant the request if it finds that establishment of the use in accordance with the approved conditional use plan has been diligently pursued. If oral argument is presented on the request, the Hearing Authority may deny the request if any of the oral arguments allege that changes have taken place in the circumstances which led to the original decision to approve the conditional use.

d. Notwithstanding that approval for a conditional use may have become void under Subsection c above, the Hearing Authority may grant a third extension of not more than two years from the date of lapse provided that:

(1) The property owner submits a request for an extension that explains he steps taken to obtain a building permit and cause of delay;

(2) Procedures in Subsections 131.I.3.c(2) and (3) are followed; and

(3) The Hearing Authority finds that obtaining the building permit in accordance with the approved conditional use has been diligently pursued and has been delayed by a change in Federal, State, or local law or policy or by the delay of any State or Federal agencies in issuance of any permits or approvals required for the conditional use.

~~E. SUBSECTIONS A. AND C. ABOVE SHALL NOT APPLY TO ANY PROJECT FOR WHICH PLANS ARE BEING ACTIVELY PROCESSED IN COMPLIANCE WITH THOSE SECTIONS WHEN THE APPLICABLE TIME PERIOD ESTABLISHED BY SECTION A ABOVE EXPIRED.~~

E SUBSECTIONS A. AND C. ABOVE SHALL NOT APPLY TO ANY PROJECT FOR WHICH PLANS ARE BEING ACTIVELY PROCESSED IN COMPLIANCE WITH THE

PROCEDURES IN TITLE 16, SUBTITLES 1 AND 11 OF THE HOWARD COUNTY CODE OR WERE BEING ACTIVELY PROCESSED IN COMPLIANCE WITH THOSE SUBTITLES WHEN THE APPLICABLE TIME PERIOD ESTABLISHED BY SECTION A ABOVE EXPIRED.

F[[e]]. If a condition of a previously granted special exception or conditional use is or has been previously modified, a petitioner may request and be granted one extension of time to obtain a building permit and complete substantial construction in addition to the two extensions that may be requested and granted pursuant to Section 131.I.3.c. above. Any extension of time granted pursuant to this subsection shall extend the deadline for obtaining a building permit by an additional two years and for completing substantial construction by an additional three years, and shall be measured from the date of the existing deadline. The Hearing Authority's consideration of a condition modification–related extension request pursuant to this subsection shall be governed by the procedures in Section 131.I.3.c.(1) through (4) above.

Section 2. And be it further enacted *by the County Council of Howard County, Maryland, that the provisions of this act shall become effective 61 days after enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on April 8, 2009.

Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2009.

_____
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2009.

_____
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2009.

_____
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2009.

_____
Stephen M. LeGendre, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2009.

_____
Stephen M. LeGendre, Administrator to the County Council