

TC-6-09 Sunset Provisions for Site Plans

Proposes to revise the sunset provisions for approved preliminary site plans to provide a process for extending the sunset date(s) provided certain standards are met.

Current process:

- **1st sunset provision** - Requires the submittal of a final site plan and a building permit application within 2 years of preliminary site plan approval.
- **2nd sunset provision** - Requires completion of entire project within 5 years of preliminary site plan approval. Developer may request a 3-year time extension for this provision.

Proposed Changes (Staff):

- **1st sunset provision** - Increase the required time period for submitting a final site plan and building permit application from 2 years to 3 years. Also allow the developer to request his 3-year time extension for this provision, extending the full life of the project to 6 years.
- **2nd sunset provision** – No change proposed. Project must be completed in 5 years (6 years if 3-year sunset extension was approved for 1st sunset provision). If the developer met the 1st sunset provision without a time extension, they may request their one-time 3-year time extension, extending the full life of the project to 8 years.

Proposed Changes (Citizen Petition):

- **1st sunset provision** - Increase the required time period for submitting a final site plan and building permit application from 2 years to 3 years. Allow the developer to request a 2-year time extension for this provision.
- **2nd sunset provision** – Increase the required time period for completion of entire project from either 5 years of preliminary site plan approval, or, 5 years from previous extension request (up to 8 years from preliminary site plan approval). Allow the developer to request a 3-year time extension, potentially extending the full life of the project to 11 years.

**ORDINANCE NO. (2009) 578 TC 323
TC-6-09**

AN ORDINANCE TO AMEND THE SUNSET PROVISIONS FOR APPROVED PRELIMINARY SITE PLANS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA that:

Section 1. Amend Section 10-2132.2 by deleting subsection **(j) Sunset Clause** in its entirety and substituting in lieu thereof the following:

“(j) Sunset Clause.

Unless the landowner has been granted vested rights or a *townhouse development* has been approved in accordance with Part 10, chapter 3, the provisions of subsections (1) and (2) below *shall* apply.

- (1) Within three (3) *years* after the approval of any preliminary *site plan* (not a *Master Plan*), a final *site plan* and a valid building permit application of the total area of any section or phase of the approved preliminary *site plan shall* be submitted to the Department of Inspections. Failure to complete the requirements herein *shall* automatically void the approved preliminary *site plan* unless the Planning Director finds that all of the *following* are met:
 - a. A *written* request for an extension has been made to the Planning Director prior to the expiration period.
 - b. Unconstructed portions of the preliminary plat conform to all ordinances, laws, *City* policies, and provisions of the Comprehensive Plan and other *City Council* plans in effect at the time of the requested extension.
 - c. Adjacent *streets* have not been reclassified by either the Comprehensive Plan or the adopted Thoroughfare Plan.
 - d. The plan considers and respects the practical limits of public facilities and services such as stormwater, water and sewer lines, *streets*, fire, public safety, and trash collection.
 - e. The applicant has provided a recent City of Raleigh inspection report demonstrating that any previously graded and/or cleared portion of the site which is not currently under construction is currently and appropriately stabilized to prevent erosion and sediment control problems during the requested extension period.

- f. There *shall* only be one (1) extension permitted, not to exceed a time period of two (2) *years*, from the date of receipt by the Planning Director of the original *written* request for extension.

In the case that requirements b. through f. above are not met, the *City Council*, following a recommendation by the Planning Commission, or by the Planning Commission if the Commission approved the development, *shall* determine whether the unconstructed portion of any development is allowed to continue.

Code obligations acquired prior to sunset expiration *shall* not be terminated by this provision.

- (2) Within five (5) years after the later of (i) approval of the preliminary *site plan*, or (ii) the date the written request for extension was made for any extended preliminary *site plan*, the construction of the entire *site plan shall* be completed. Failure to complete construction required herein *shall* automatically void the unconstructed portions of the approved preliminary *site plan* unless the Planning Director finds that all of the *following* are met:

- a. A *written* request for an extension has been made to the Planning Director prior to the expiration period.
- b. Unconstructed portions of the preliminary plat conform to all ordinances, laws, *City* policies, and provisions of the Comprehensive Plan and other *City Council* plans in effect at the time of the requested extension.
- c. Adjacent *streets* have not been reclassified by either the Comprehensive Plan or the adopted Thoroughfare Plan.
- d. The plan considers and respects the practical limits of public facilities and services such as stormwater, water and sewer lines, *streets*, fire, public safety, and trash collection.
- e. The applicant has provided a recent City of Raleigh inspection report demonstrating that any previously graded and/or cleared portion of the site which is not currently under construction is currently and appropriately stabilized to prevent erosion and sediment control problems during the requested extension period.
- f. There *shall* only be one (1) extension permitted, not to exceed a time period of three (3) *years*, from the date of receipt by the Planning Director of the original *written* request for extension.

In the case that requirements b. through f. above are not met, the *City Council*, following a recommendation by the Planning Commission, or by the Planning Commission if the Commission approved the development, *shall* determine whether the unconstructed portion of any development is allowed to continue.

Code obligations acquired prior to sunset expiration *shall* not be terminated by this provision.

Section 2. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 3. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

Section 4. This ordinance has been adopted following a duly advertised joint public hearing of the Raleigh City Council and the City Planning Commission following a recommendation of the Planning Commission.

Section 5. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 6. This ordinance shall be enforced by law as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in G.S. 14-4(a) or similar limitations.

Section 7. This ordinance shall become effective five (5) days following its adoption and shall, in addition to all future preliminary site plan approvals, be applicable to all preliminary site plans approved within the 2-year period prior to its adoption.

ADOPTED: May 5, 2009
EFFECTIVE: May 10, 2009
DISTRIBUTION: Department Heads