

Introduced _____
Public hearing _____
Council action _____
Executive action _____
Effective date _____

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 _____, 2009. Ordered posted and hearing scheduled.

By order _____
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 _____, 2009 and concluded on _____, 2009.

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

This Bill was read the third time _____, 2009 and Passed ___, Passed with amendments ___, Failed ___.

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

Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2009 at _____ a.m./p.m.

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

Approved/vetoed by the County Executive on _____, 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.

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

5
6
7 **Howard County Zoning Regulations**

8
9 **SECTION 131: Conditional Uses**

10
11 **I. Establishment of Conditional Use**

12 **3. Lapse of Decision Approving a Conditional Use**

- 13 a. Except as provided in Subsections b, c, [[and]] d, AND E below, a Decision and
14 Order approving a conditional use shall become void unless a building permit
15 conforming to the plans for which the approval was granted is obtained within
16 two years, and substantial construction in accordance therewith is completed
17 within three years from the date of the decision. A Decision and Order approving
18 a conditional use for which a building permit is not necessary shall become void
19 unless the use commences within two years from the date of the decision. If a
20 decision is appealed, the time period for the use being appealed shall be
21 measured from the date of the last decision.
22
- 23 b. The Hearing Authority may approve a phasing plan, in which only the first phase
24 of a conditional use plan is subject to the time limits given above. The approval
25 for future phases shall become void unless such phases are completed within a
26 time period specified in the Hearing Authority's Decision and Order.
27
- 28 c. The Hearing Authority may grant as many as two extensions of the time limits
29 given above. The extensions shall be for a period of time not to exceed three
30 years each, and may be granted in accordance with the following procedures:
31 (1) A request for an extension shall be submitted by the property owner
32 prior to the expiration of the conditional use approval, explaining in
33 detail the steps that have been taken to establish the use.

- 1 (2) The property owner shall certify that a copy of the request for an
2 extension has been sent by certified mail to adjoining property owners
3 and to the addresses given in the official record of the conditional use
4 case for all persons who testified at the public hearing on the petition.
5 (3) The Hearing Authority shall provide opportunity for oral argument on
6 the request at a work session if requested by any person receiving notice
7 of the request. If no response is received within 15 days of the date of the
8 written notification, a decision on the request may be made by the
9 Hearing Authority without hearing oral argument.
10 (4) The Hearing Authority may grant the request if it finds that
11 establishment of the use in accordance with the approved conditional use
12 plan has been diligently pursued. If oral argument is presented on the
13 request, the Hearing Authority may deny the request if any of the oral
14 arguments allege that changes have taken place in the circumstances
15 which led to the original decision to approve the conditional use.
16

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

- 20 (1) The property owner submits a request for an extension that
21 explains the steps taken to obtain a building permit and cause of delay;
22 (2) Procedures in Subsections 131.I.3.c(2) and (3) are followed; and
23 (3) The Hearing Authority finds that obtaining the building permit in
24 accordance with the approved conditional use has been diligently
25 pursued and has been delayed by a change in Federal, State, or
26 local law or policy or by the delay of any State or Federal agencies
27 in issuance of any permits or approvals required for the conditional use.
28

29 E. SUBSECTIONS A. AND C. ABOVE SHALL NOT APPLY TO ANY PROJECT FOR WHICH
30 PLANS ARE BEING ACTIVELY PROCESSED IN COMPLIANCE WITH THOSE SECTIONS
31 WHEN THE APPLICABLE TIME PERIOD ESTABLISHED BY SECTION A ABOVE
32 EXPIRED.
33

1 F[[e]]. If a condition of a previously granted special exception or conditional use is or
2 has been previously modified, a petitioner may request and be granted one
3 extension of time to obtain a building permit and complete substantial
4 construction in addition to the two extensions that may be requested and granted
5 pursuant to Section 131.I.3.c. above. Any extension of time granted pursuant to
6 this subsection shall extend the deadline for obtaining a building permit by an
7 additional two years and for completing substantial construction by an additional
8 three years, and shall be measured from the date of the existing deadline. The
9 Hearing Authority's consideration of a condition modification-related extension
10 request pursuant to this subsection shall be governed by the procedures in Section
11 131.I.3.c.(1) through (4) above.
12

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