

MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director
Gene Poveromo, Development Manager
Phil Mason, Principal Planner

SUBJECT: Information Report: Development Approval Time Extensions Enacted by the General Assembly

DATE: September 14, 2009

PURPOSE

The purpose of this memorandum is to inform the Council of a General Assembly Bill (passed July 30, 2009), known as the "Permit Extension Act of 2009," that extends the time period of certain development approvals. As stated, the intent of the Act is to minimize the costs associated with extending development approvals during the current economic downturn. The legislation is related to a petition the Council considered April 15, 2009 for extending development approvals. Included in this memorandum are explanations of current Town regulations as well as the recently passed legislation.

CURRENT TOWN REGULATIONS

The Land Use Management Ordinance (Sections 4.5.5, 4.6.5 and 4.7.6) regulates how the Town Manager and the Council may grant time extensions to the start and completion dates for Special Use Permits, Major Subdivisions, and Site Plan Review approvals, as follows:

- The Town Manager may grant single extensions to construction start and completion deadlines for Special Use Permits and Site Plan Review approvals and the Council may grant additional extensions, if the required findings are made;
- With respect to Major Subdivisions, the Town Manager may grant unlimited time extension to the one year deadline associated with the recordation of a final plat, if the required findings are made.

DISCUSSION

The Permit Extension Act (PEA) of 2009 (Session Law 2009-406, Senate Bill 831) extends the period for certain types of development approvals¹ active during the January 1, 2008 to December 31, 2010 time frame (Attachment 1). The act extends any development approval that is active during this time frame by freezing the period that the permit is active and reactivating it after the Permit Extension Act expires on January 1, 2011. A development approval would then be extended for the time period between the permit expiration date and the end of the Act.

For example, the construction completion Special Use Permit deadline for the Campus at Vilcom development was scheduled to expire November 8, 2009². The Permit Extension Act of 2009 impacts the Vilcom approval expiration date because that date falls between the January 1, 2008 to December 31, 2010 time frame of the act, as follows:

- The approximately 22-month period (January 1, 2008 to November 8, 2009) that the Vilcom permit falls within the Permit Extension Act of 2009 time frame is frozen, to be held in reserve for later reactivation;
- After the Permit Extension Act time frame expires, the 22-month Vilcom approval period, held in reserve, is reactivated, and once again begins to diminish. In this example, when the 22-month and 14-month periods are added together, the result is that the development approval has been extended by 36 months (3 years).

The extent to which the Permit Extension Act of 2009 will extend each development approval that qualifies will need to be determined on a case by case basis. In general terms, the net impact of the legislation is a three-year extension for any permit that is active during the specified time period. We will continue to work with developers to help aid understanding of this automatic extension.

SUMMARY

The purpose of this memorandum is to inform the Council of the impact of the legislation. No Council action is required.

ATTACHMENTS

1. [NC General Assembly Session Law 2009-406 Senate Bill 831](#).

¹ The Permit Extension Act of 2009 pertains to Special Use Permits, Site Plan approvals, Major & Minor Subdivision, Development Agreements, Zoning Compliance Permits, Certificates of Appropriateness, Engineering Construction Permits, and Building Permits (Attachment 1).

² The original construction completion deadline for the Campus at Vilcom was November 8, 2004. On October 11, 2004 the Council approved a 5-year extension of the Special Use Permit to November 8, 2009.