

SECTION 34 VESTED PROPERTY RIGHTS

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### 3401 Intent

To provide procedures and standards for review and approval of a site-specific development plan for the purpose of vesting property rights in property other than single-family residential property. The Site Improvement Plan is designated as the site specific development plan.

### 3402 Criteria

For other than single-family residential property, property rights may be vested by the Board upon the approval of a site specific development plan. The Site Improvement Plan is designated as the Site Specific Development Plan.

- 3402.01 The Board may designate site plans, approved by the County Site Plan Referral Group prior to January 1, 1988, as Site Specific Development Plans for the purpose of vesting property rights.
- 3402.02 A minor change to a site plan, as determined by the Director, which has been designated as a site specific development plan shall not affect the terms and conditions of vesting as specified on the plan, and shall not extend the vesting period unless expressly authorized by the Board.
- 3402.03 A major change to a site plan, as determined by the Director, which has been designated as site specific development plans shall render the terms and conditions of the original plan null and void, and vested property rights shall be forfeited.

### 3403 Procedure

- 3403.01 For site plans approved after January 1, 1988, an application for vested property rights must be made within 90 days of site plan approval or a vested property right shall not exist.
- 3403.02 Only the landowner or designated representative is permitted to apply for designation of a Site Specific Development Plan for the purpose of vesting property rights.
- 3403.03 Concurrent processing of the site plan and the Site Specific Development Plan shall be permitted only with the approval of the Director or designee.
- 3403.04 The applicant shall submit the required information to the Planning Division. Once the submittal is determined complete, staff will notify the applicant of the hearing date.
- 3403.05 The applicant is responsible for publishing a notice in the newspaper, prior to the Board hearing in compliance with the public notice requirements herein.

**3404 Public Notice Requirements (Amended 03/28/01)**

In calculating the time period for public notification the day of posting or mailing shall be counted toward the total number of days required. The day of the hearing shall not be counted toward this total.

At least 30 days prior to the hearing before the Board, the applicant shall:

- publish a notice in at least one publication of a daily or weekly legal newspaper of general circulation, printed or published in whole or in part in Douglas County; and
- provide a publisher's affidavit of said notice to the Planning Division at least 10 days prior to the hearing. The notice shall read:

**NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF COUNTY COMMISSIONERS**

A public hearing will be held on (date) at (time), in the Commissioners' Hearing Room at 100 Third Street, Castle Rock, CO, for a vesting of property rights. (Describe type and intensity of use.) The property is located approximately (distance and direction from nearest major intersection). For more information call Douglas County Planning at 303-660-7460.

File No./Name: \_\_\_\_\_

The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of this section. Substantial compliance for these public notices shall be determined by the Board of County Commissioners.

**3405 Board of County Commissioner's Actions**

3405.01 The Board may approve, conditionally approve or deny the Site Specific Development Plan.

3405.02 The Board may approve the Site Specific Development Plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare. Such conditions shall include:

3405.02.1 The applicant agrees to comply with area-wide regulations that may be promulgated following approval of the Site Specific Development Plan based upon reasons of public health, safety, and welfare.

3405.02.2 The applicant agrees that:

- (1) The information submitted at site plan was sufficient and reasonable to conclude that the subject property and its immediate vicinity are free of all natural or manmade hazards, or that the applicant has identified any such hazard and has taken such necessary measures to ensure that such hazard will not pose a serious threat to the public health, safety, or welfare;

- (2) Subsequent discovery of any hazard which is not corrected by the applicant to the satisfaction of the Board, and is determined by the Board to pose a serious threat to the public health, safety, or welfare, shall render the Site Specific Development Plan void resulting in a forfeiture of vested property rights.

3405.03 Following approval or conditional approval of the site specific development plan such plan may be subject to subsequent review and approval by the local government to ensure compliance with the terms and conditions of the original approval. Failure to abide by such terms and conditions shall result in a forfeiture of vested property rights.

3406 Post Approval Action (Amended 03/28/01)

Any approval shall be subject to judicial review. The period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a legal newspaper of general circulation within Douglas County, of a notice advising the general public of the site specific Development plan approval and creation of a vested property right. Such publication shall be the responsibility of the applicant and shall occur no later than 14 days following approval. The applicant shall present to the Planning Division an affidavit of publishing, within 15 days of publishing. Such notice shall read:

**NOTICE**

Notice is hereby given that on (date) the Douglas County Board of County Commissioners approved a site specific development plan for the property located approximately (distance and direction from nearest major intersection), which approval may have created a vested property right pursuant to Colorado law. (Describe type and intensity of use). Such approval is subject to all rights of judicial review.

3407 Approval Rights

3407.01 Upon approval of a Site Specific Development Plan, the vested property rights shall attach to and run with the property and shall confer upon the landowner the right to undertake and complete the development and the use of said property under the terms and conditions of the Site Specific Development Plan including any amendments and modifications thereto which have been approved by the Board or designee.

3407.02 A vested right, once established as provided for herein, precludes any zoning or land-use action concerning the subject property by the County or pursuant to an initiated measure which would alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in a site specific development plan, except:

3407.02.1 With the consent of the affected landowner.

- 3407.02.2 Upon the discovery of a natural or man-made hazard on or in the immediate vicinity of the subject property, which could not reasonably have been discovered at the time of site specific development plan approval, and which if uncorrected, would pose a serious threat to the public health, safety and welfare, or as provided in 3405.02.2 herein.
- 3407.02.3 To the extent that the affected landowner receives just compensation for all costs, expenses, and liabilities, incurred by the landowner, including financing and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the County, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution on the value of the property, which is caused by such action.
- 3407.02.4 The establishment of a vested property right shall not preclude the application of ordinances or regulations subject to land-use regulation by a local government, including building, fire, plumbing, electrical, and mechanical codes.

#### 3408 Vesting Period

The Board may extend vested property rights for a period not to exceed 3 years based on relevant circumstances, including, but not limited to the size and phasing of the development, economic cycles and market conditions as a condition of the Site Specific Development Plan.

#### 3409 Jurisdiction

A vested property right approved while one local government has jurisdiction over all or part of the property included within a site specific development plan shall be effective against any other local government which may subsequently obtain or assert jurisdiction over such property.

#### 3410 Judicial Determination

Nothing in this section shall preclude judicial determination, based on common law principles, that a vested property right exists in a particular case or that a compensable taking has occurred.

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