

3. **Consideration by Planning Commission:** The Planning Commission shall conduct a public hearing and receive public input on the proposed use and shall provide a written recommendation to the County Council regarding whether to approve or deny the proposed use within 35 days of its first consideration on the matter. The recommendation shall address consistency with Chapter 5 and the surrounding neighborhood and other matters deemed appropriate by the Commission. A recommendation for denial of the petition shall not preclude consideration or approval of the proposed use by the County Council.

#### C. CONSIDERATION BY COUNTY COUNCIL

1. **Public Notification (Prior to Planning Commission):** Level 1 and 2 are required for all conditional uses to the UDO. Level 3 is required for all amendments to the UDO that involve a specific parcel of land. Such actions include, but are not limited to Conditional Use.
2. **Consideration by the County Council:** Following receipt of a recommendation of a proposed amendment, the County Council may:
  - a. Approve the proposed use.
  - b. Approve the proposed use with restrictions.
  - c. Reject the proposed use.
  - d. Refer the proposed use back to the Planning Commission for further consideration.

(Ord. No. 2018-1521, 7.16.18)

#### D. WAITING PERIOD FOR SUBSEQUENT APPLICATIONS

When an application for a use has been approved or denied by the County Council, no application shall be considered on the same issue within the next 12 months after approval or denial.

### 9.2.17 VESTED RIGHTS

#### A. ESTABLISHMENT OF VESTED RIGHTS

1. A vested right is established for two years upon the approval of a Site Specific Development Plan.
2. The landowner of real property with a vested right may apply in writing before the end of the vesting period or within 30 days after the expiration of the vesting period or any extension thereof but not thereafter to the Lancaster County Planning Commission for an annual one-year extension of the vested right. The Planning Commission must approve applications for at least five annual extensions of the vested right if a timely and proper application has been filed with the Planning Commission unless an amendment to the UDO has been adopted that prohibits approval. If no timely and proper written application is made by the landowner to the Planning Commission for an annual extension, the vesting period or annual extension applicable to such real property shall expire at the end of the vesting period or the annual extension thereof.
3. The Planning Commission shall not provide for or approve the establishment of a two-year vested right in a conditionally approved site specific development plan. No two-year vested right is established in a conditionally approved site specific development plan until such vested right is specifically and expressly approved by the Planning Commission in writing when a site specific development plan is approved without conditions.
4. The Planning Commission shall not approve the establishment of a vested right in an approved phased development plan but may approve and establish a vested right in any

phase of a phased development plan which conforms to, complies with, and satisfies all state statutes and county codes and ordinances including, but not limited to, planning, zoning, subdivisions, stormwater management and control, building, fire, water and sewer, road, and other state and county codes applicable to such development.

5. No vested right in a site specific development plan shall attach or be established until plan applications and required documents have been received, all required approvals have been given or granted, and all fees have been paid in accordance with the procedures outlined in this code. No vested right attaches or is established until a final decision has been rendered favorable to the applicant on all administrative appeals.
6. The Lancaster County Board of Zoning Appeals is not authorized to grant or approve a vested right and no vested right shall be established, created, or accrue as a result of any decision of the Board of Zoning Appeals.

## **B. CONDITIONS AND LIMITATIONS**

1. A vested right established in Chapter 9-and in accordance with the UDO is subject to the following conditions and limitations:
  - a. The form and content of a site specific development plan submitted by a landowner must conform and comply with county planning, zoning, subdivision, stormwater management and sediment control, building, electrical, mechanical, life safety, fire, water and sewer, road, and other codes, ordinances, and regulations applicable to such development or development plan;
  - b. No vested right in a site specific development plan shall be established except in conformity with county planning, zoning, subdivision, stormwater management and sediment control, building, electrical, mechanical, life safety, fire, water and sewer, road, and other land use codes, ordinances, and regulations;
  - c. If the Planning Commission approves a vested right for one or more phases of a phased development plan, a site specific development plan shall be required for approval with respect to each phase in accordance with regulations in effect at the time of vesting;
  - d. No vested right is established under a conditionally approved site specific development plan or conditionally approved phased development plan. Any approved site specific development plan or approved phased development plan or phase thereof may be terminated by the Planning Commission upon its determination, following notice and a public hearing, that the landowner has failed to meet the terms of the approval; and
  - e. A vested right established in accordance with the provisions of Chapter 9 shall be vested upon approval by the Planning Commission of the site specific development plan or specific phase of a phased development plan that authorizes the developer or landowner to proceed with investment in grading, installation of utilities, streets, and other infrastructure and to undertake other specific expenditures necessary to prepare for application for a building permit. No developer or landowner shall proceed with investment in grading, installation of utilities, streets or other infrastructure, or shall undertake other significant expenditures necessary to prepare for application for a building permit before a site specific development plan or phased development plan or phase thereof authorizing such improvements and expenditures has been approved by the Planning Commission. No investment in grading, installation of utilities, streets or other infrastructure, or other significant expenditures shall give rise to or establish a vested right until the Planning Commission has approved the site specific development plan or phased development plan or phase thereof that authorizes the developer or landowner to proceed with

improvements or undertake other significant expenditures on the real property which is proposed for development.

2. A site specific development plan for which a variance, regulation, or special exception is necessary, does not qualify and may not claim or receive vested right status unless and until the variance, regulation, or special exception is obtained and the site specific development plan has been approved without conditions or exceptions. A phased development plan for which a variance, regulation, or special exception is necessary does not qualify and may not obtain a vested right until the variance, regulation, or special exception is obtained and the phase of the phased development plan has been approved without condition or exception.
3. A vested right for a site specific development plan expires two years after vesting; provided, however, that the landowner of real property with a vested right may apply to the Planning Commission before the end of the vesting period or within 30 days after the expiration of the vesting period or any extension thereof, but not thereafter, for an annual extension of the vested right for a period of one year. If a timely and proper written application is made, the Planning Commission must approve applications for no more than five successive annual extensions unless an amendment to the UDO has been adopted that prohibits approval of such annual extension applications. The Planning Commission shall designate the vesting point for a phased development plan as the date of approval of each phase of the phased development plan. The Planning Commission may extend the time for a vested site specific development plan to a total of five years upon a determination that there is just cause for the extension and that the public interest is not adversely affected. Upon expiration of a vested right, a building permit may be issued for development only in accordance with the applicable UDO regulations.
4. A vested site specific development plan or a vested phased development plan which has been approved by the Planning Commission may be amended if the amendments are approved by the Planning Commission pursuant to the provisions of the applicable UDO.
5. A validly issued building permit does not expire or is not revoked upon expiration or termination of a vested right, except for public safety reasons or as prescribed by the applicable building code. Vested right to a site specific development plan or a phase of a phased development plan may be revoked by the Planning Commission upon its determination, after notice and a public hearing, that there was a material misrepresentation by the landowner or substantial non-compliance with the terms and conditions of the original or amended approval.
6. A vested site specific development plan or a vested phase of a phased development plan is subject to later enacted Federal, State, or local laws or ordinances adopted to protect public health, safety, and welfare, including, but not limited to, building, fire, plumbing, electrical and mechanical codes, and non-conforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical and mechanical codes in force at the time of the issuance of the building permit.
7. A vested site specific development plan or vested phased development plan or phase thereof is subject to later local governmental overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses.
8. A change in the zoning district designation or land use regulations made subsequent to vesting that affects real property does not operate to affect, prevent, or delay development of the real property under a vested site specific development plan or

vested phase of a phased development plan without the consent of the landowner.

9. The Lancaster County Council; the Planning Commission; and local zoning, planning, and codes officials must not require a landowner to waive his or her vested rights as a condition of approval or conditional approval of a site specific development plan or phased development plan or phase thereof.

### C. NATURE OF VESTED RIGHT

A vested right pursuant to this subchapter or the Vested Rights Act, being S.C. Code § 6-29-1520 *et seq.*, is not a personal right but attaches to and runs with the applicable real property. The landowner and all successors to the landowner who secure a vested right pursuant to the Vested Rights Act or this subchapter may rely upon and exercise the vested right for its duration, subject, however, to applicable Federal, State, and local laws adopted to protect public health, safety, and welfare, including, but not limited to, building, fire, plumbing, electrical and mechanical codes, and non-conforming structure and use regulations which do not provide for grandfathering of the vested right. Nothing contained herein shall preclude judicial determination that a vested right exists or does not exist pursuant to other statutory provisions.

### D. LANDOWNER RIGHTS DEEMED VESTED

1. The landowner's rights are considered vested in the types of land use and density or intensity of uses defined in the development plan, and the vesting is not affected by later amendments to the UDO if the landowner:
  - a. Obtains or is the beneficiary of a significant affirmative government act that remains in effect allowing development of a specific project;
  - b. Relies in good faith on the significant affirmative government act; and
  - c. Incurs significant obligations and expenses in the diligent pursuit of the specific project in reliance on the significant affirmative government act.
2. For purposes of this section, the following are significant affirmative governmental acts allowing development of a specific project:
  - a. The Lancaster County Council has accepted exactions or issued conditions that specify a use related to a zoning amendment;
  - b. The Lancaster County Council has approved an application for a rezoning for a specific use;
  - c. The Lancaster County Council or Planning Commission has approved an application for a density or intensity of use;
  - d. The Lancaster County Council or Planning Commission has granted a use permit with conditions;
  - e. The Lancaster County Council or Planning Commission has approved a variance;
  - f. The Planning Commission has approved a preliminary subdivision plat, site plan, or plan of phased development for the landowner's property and the applicant diligently pursued approval of the final plat or plan within a reasonable period of time under the circumstances; or
  - g. The Planning Commission has approved a final subdivision plat, site plan, or plan of phased development or phase thereof for the landowner's property.