



City of Annapolis
Planning Commission
Department of Planning and Zoning
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October 1, 2024

Ordinance O-33-23: Expiration of Special Exceptions to City Zoning Districts

Findings & Recommendation

Factual Background

This legislation will amend Section 21.26.070 of the City's Code of Ordinances to both clarify and expand the expiration provisions for approved special exceptions.

The *clarification* of the special exception provisions is achieved by creating a new sub-section (A) to define when a special exception is established -- "upon the issuance of a grading or building permit for improvements to implement the special exception use"; and creating a new sub-section (D), "Destruction or damage of special exception use", to highlight the existing provision which dictates protocol when a special exception use is damaged or destroyed.

The *expansion* of the special exception provisions is achieved by extending the expiration deadline for approved, but not established, special exceptions, from one year to two years; expanding the two currently allowed extensions of the special exception approval from six months to one year each (although these extensions will still require approval by the Board of Appeals); and expanding the terms which dictate cessation of a Special Exception approval to include two new clauses:

- If the special exception "ceases for more than six months after issuance of a use permit for the special exception use"; or
- If "prior to the issuance of a use permit for the special exception use, grading or building work pursuant to a grading or building permit to implement the special exception ceases for six months or after three years".

Planning Commission Public Hearings

The Planning Commission held a public hearing on Thursday, September 5, 2024.

Director Jakubiak addressed the Commission and explained the amendment to this legislation, its intent and implications, which are detailed in his memo to the Commission dated April 30, 2024 and serves as a revised Staff Report. Discussion of the details of the legislation and Director's Memo, particularly the four situations outlined in Section B.

Live testimony was delivered by Ward 5 Alderman Brooks Schandelmeier who also answered questions regarding the proposed legislation.

Alderman Schandelmeier was present to answer questions. The Commissioners asked about how a special exception would be affected by changes in the code after it was initially granted, and when vesting occurs.

Phil Dales spoke about the issues of vesting and the standards for such must be met.

The public hearing opened to discuss changes to deadlines for builders utilizing special exceptions granted by the Board of Appeals.

The purpose was to clarify the life and extension of special exceptions, particularly in light of delays caused by unforeseen circumstances like supply chain issues.

The Planning Commissioners held a detailed discussion focusing on how changes in the law might affect projects. The conversation between the Commissioners focused specifically on when projects should be required to comply with new regulations, particularly in cases where construction has already started.

Exhibits:

1. O-33-23 First Reader
2. O-33-23 Amendment 1 – Schandelmeier
3. O-33-23 Staff to Planning Commission with Amendments

Planning Commission Findings

The findings include the following key points:

1. **Need for Extension Flexibility:** The legislation emphasized the need for more flexible deadlines for builders and developers when utilizing special exceptions due to unforeseen

delays (e.g., supply chain issues, labor shortages). This would extend the time limit for completing construction or obtaining permits.

2. **Clarification of Vesting Rights:** A clear distinction was made between vested and unvested projects. Once a special exception is vested—meaning substantial construction has begun or permits are issued—it is generally protected from changes in the zoning laws. Unvested projects, however, must comply with any new regulations.
3. **Special Exception Use Validity:** A special exception is considered a presumed valid use within a zoning district. The legislation reaffirmed that, once granted, the use is considered appropriate for the neighborhood, provided it continues to meet its obligations under its approval.
4. **Impact on Neighborhoods:** The findings considered the impact of special exceptions on neighborhoods throughout the City of Annapolis. The proposed legislation allows the City of Annapolis to assess whether there were significant changes in the neighborhood after a special exception was granted but before construction began, which could affect whether the exception should still be valid.
5. **Avoiding Project Delays:** The goal of the legislation is to prevent unnecessary project delays due to rigid deadlines while at the same time encourage developers to remain timely on their approved projects. By allowing extensions and clarifying conditions under which exceptions remain valid, the ordinance aimed to support development while still protecting the interests of the community.

The findings of the proposed legislation on the expiration of special exceptions highlight the city's commitment to fostering responsible development while protecting neighborhood interests. By addressing both the practical challenges faced by developers and the concerns of communities, the legislation aims to create a balanced, fair process that accommodates smart and responsible growth without sacrificing the integrity of the zoning system. This approach allows for a more flexible, transparent, and adaptable planning framework, better suited to modern planning challenges for the City of Annapolis.

Decision and Conditions or Recommendation

Mr. Waldman moved to recommend approval, with the following changes: In Section D2, change from two years to one, with the addition to B2 the following sentence be added: "Pauses in construction of more than two years must comply with changes in the existing laws." Ms. Butler seconded the motion. By a vote of 2-2 (Mr. Pline and Mr. Cummings dissented), the motion did not pass.

Mr. Waldman moved to add to D2 the sentence, "A use which has ceased for more than two years must apply for a second extension, subject to the standards." Mr. Cummings seconded the motion. The motion passed 4-0.

Mr. Waldman moved to recommend approval of the ordinance. Mr. Pline seconded the motion. The motion passed 4-0.

Approved on this 31st day of October, 2024:

Robert H. Waldman

Robert H. Waldman, Chairman

by Diane Butler

Diane Butler

Quentin Cummings

Quentin Cummings

Alex Pline

Alex Pline

Stephen Reilly

Stephen Reilly

by Thomas Sfakiyunadis

Thomas Sfakiyunadis