

The Families for the Responsible Development of Beacon Island has reviewed, including review by our outside legal counsel, the proposed draft changes to the City's Vested rights ordinance that is before the City Council for approval. We propose changes to that draft ordinance that we believe are in the City's and its resident's best interest.

Our focus was primarily in the new language added by staff in Sec: 125-8.D that, among other things, gives the City staff and/or the Planning and Zoning Commission the exclusive right to approve any changes of any form or magnitude for any of the 5 Planned Unit Developments that were in place before Aug 10, 1999 including Beacon Island (see comments on (f)(3) on page 4). This proposed change would eliminate any City Council involvement or public hearings that are currently included in Section 125.80: PUD Development for these 5 PUDs. We believe this violates the spirit and intent of the ordinance and is not in the City's or our resident's best interest.

We have however; included comments on the entire draft ordinance that we believe will help clarify the proposed changes.

For each of our proposed changes, we have presented below the original language, our proposed replacement language and our reason for the change.

Sec. 125-8.A. Purpose

Original Language:

(b) Define a methodology that establishes and protects the rights of owners of real property

Proposed new language:

(b) Define a methodology that establishes and protects such vested rights of owners of real property

Reason: *To make clear that this chapter relates to vesting under Chapter 245 and not all other rights of property owners.*

Sec. 125-8.C. Definitions

Under "Permit", in line four, it should read "Law, rule, regulation, order or ordinance

To correct what appears to be a typo by changing "of" to "or".

Sec. 125-8.D. Recognizing Vested Rights

Original Language:

(b) An existing project shall be considered vested if it has not been allowed to expire in accordance with the requirements of this chapter.

Proposed new language:

(b) An existing project shall be considered vested until it has become dormant or been allowed to expire in accordance with the requirements of this chapter or Chapter 245 of the Local Government Code.

Reason: *Both expiration and dormancy appear to be used as exceptions to vesting. Too, vesting exists first; expiration and dormancy exist second. Thus, a project cannot be vested with a contingency of not previously expiring or being dormant.*

Original Language:

(d) A project that is vested shall remain vested until completion of the project or until the project expires in accordance with the requirements of this chapter.

Proposed new language:

(d) A project that is vested shall remain vested until completion of the project or until the project becomes dormant or allowed to expire in accordance with the requirements of this chapter or Chapter 245 of the Local Government Code.

Reason: *See comment to (b) above.*

Original language:

(e)(2) If a project requires an amendment that impacts items for which the project has been vested or amendment requires a zoning change that will impact items for which the project has been vested, the project shall be considered a new project and shall become vested to the requirements in existence at the time of application for the most recent amendment. This requirement may be waived by action of the Planning and Zoning Commission if proven to be in the best interest of the City to allow such variance.

Proposed new language:

(e)(2) If a project requires an amendment or zoning change that impacts items for which the project has been vested, those aspects of the project requiring said amendment or zoning change and those items impacted by said amendment or zoning change shall be considered a new project and shall become vested only as to the requirements in existence at the time of application for said amendment or zoning change.

Reason: *Vesting is limited to matters that are not changed or impacted. Also, only the City Council should have the authority to change vesting requirements.*

Original Language:

(f) Vested rights are conferred upon projects approved and/or in progress prior to August 10, 1999 adoption of zoning in League City as follows

Proposed new language:

(f) Vested rights exist in projects approved and/or in progress prior to the August 10, 1999 adoption of zoning in League City as follows:

Reason: *Vesting is a right; it is not a benefit that is conferred.*

Existing language:

(f)(1) Vesting rights shall be conferred for all elements provided for under Chapter 245 of the Local Government Code for which documentation is available to the City

Proposed new language:

(f)(1) Vested rights exist in those items provided for under Chapter 245 of the Local Government Code only to the extent that they are expressly and specifically set forth in documentation submitted to the City of League City prior to August 10, 1999;

Reason: *See comment to (f) above. Too, the issue of “documentation available” is vague. In any event, the question really is what specifically was submitted to the City and thereafter approved by the City and not what documentation might be in a file folder.*

Existing Language:

(f)(2) Elements for which documentation is unavailable shall be governed by requirements established in the zoning ordinance as adopted August 10, 1999 with the exception that requirements specifically related to Planned Unit Development designations shall be in accordance with the zoning ordinance as amended January 9, 2001

Proposed new language:

(f)(2) Vested rights exist in those items provided for under Chapter 245 of the Local Government Code that were previously approved by the City of League City only to the extent specifically and expressly set forth in such approvals and such approvals were lawfully made by the City of League City in accordance with ordinance or applicable law in existence at such time.

Reason: *See comment to subsection (1) above. Too, where the City lawfully approved a plan, then it is the specifics of that approval that are relevant.*

Existing Language:

(f)(3) For active projects designated Planned Unit Development on the zoning map associated with the zoning ordinance adopted August 10, 1999 the concept plan utilized by the City in subsequent development related proceedings shall be considered the concept plan for the project in place prior to August 10, 1999.

Proposed new language:

Subsection (f)(3) is not really a part of (f); it has thus been designated as subsection (g)(1).

(g) (1) For projects designated Planned Unit Development on the zoning map associated with the zoning ordinance adopted on August 10, 1999 and that are not dormant as of the effective date hereof, the Concept Plan therefor as provided for in this Chapter shall be the documentation submitted to the City of League City prior to August 10, 1999 as may have thereafter been amended by lawful act of the City of League City in accordance with ordinance or applicable law in existence at such time.

Reason: *As drafted, (f)(3) provides that the Concept Plan for any pre-August 1999 PUD is the concept plan being utilized in subsequent development related proceedings. In short, the concept plan changes every time there is a development plan change. That is contrary to the intent, spirit and terms of Sec. 125-80 that prohibits a Master Plan change (under specified circumstances) without a corresponding change in the Concept Plan. The significance of this proposed amendment is to allow the Planning and Zoning Commission and/or staff to authorize changes to pre-1999 PUDs without having City Council approval following public hearing and debate. **Such procedure is not in the City's or community's best interests.** Instead, for undocumented PUDs, the Concept Plan should be the document approved before the zoning ordinance was adopted and then as thereafter amended in accordance with city ordinance.*

Proposed new language – add the following:

(g)(2) Notwithstanding subsection (1) above, no Master Plan shall be approved for any part of any Planned Unit Development existing before adoption of the zoning ordinance on August 10, 1999 until a Concept Plan for said portion, satisfying all requirements of this Chapter, has been approved by lawful act of the City of League City in accordance with ordinance or applicable law in existence at the time of application but consistent with vested rights allowed under Chapter 245 of the Local Government Code.

Reason: *So that there is no question, any future changes to an undocumented PUD should be required to satisfy City Ordinance except (and only except) to the extent of vested rights under Chapter 245.*

Sec. 125-8.H. Expiration of a permit

Proposed new language – add the following after Sec 125-8.H.
125-8.I. No Termination of Existing Rights.

Notwithstanding anything to the contrary in this Ordinance, this Ordinance shall not (1) re-new or grant anew any rights, though once vested, that have since expired or become dormant under any provision of this Ordinance, Chapter 245 of the Local Government Code or any other applicable law or ordinance, or (2) approve or ratify any prior acts or omissions of any person or the City of League City.

Reason: *Any change in existing ordinances should not be used to correct prior actions of the city that did not comply with its own ordinances and processes. Such actions are not good public policy.*