

ORDINANCE NO. 1190

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AMENDING THE CITY'S UNIFIED DEVELOPMENT CODE TO PROVIDE FOR THE EXPIRATION AND EXTENSION OF APPROVED AND RECORDED FINAL SITE PLANS AND PLATS; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO SITE PLANS AND PLATS IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-204 and § 2.2.3 of the Unified Development Code (the "UDC"), the Commissioners of Cambridge are authorized and empowered to amend, supplement, change, modify, and repeal the City of Cambridge's (the "City") zoning regulations and boundaries and change the City's zoning classifications; and

WHEREAS, pursuant to Md. Code Ann., Local Gov't § 5-202 and § 3-27(1) of the Charter of the City of Cambridge, the Commissioners of Cambridge are authorized and empowered to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as they may deem necessary for the good government of the City; for the protection and preservation of the City's property, rights, and privileges; for the preservation of peace and good order; to secure persons and property from danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the City and visitors thereto and sojourners therein; and

WHEREAS, following a public hearing held on September 7, 2021, the City of Cambridge Planning Commission (the "Planning Commission") recommended that the Commissioners of Cambridge approve a text amendment amending the UDC to provide for the expiration and extension of approved and recorded final site plans and plats; and

WHEREAS, on _____, 2021, the Commissioners of Cambridge held a public hearing regarding the foregoing text amendment recommended by the Planning Commission, notice of which was published on _____, 2021 and _____, 2021 in the Star Democrat, a newspaper of general circulation in the City, in accordance with Md. Code Ann., Land Use § 4-203(b) and § 2.2.3.C of the UDC; and

WHEREAS, having considered the recommendations of the Planning Commission and the Department of Planning and Zoning Staff, as well as the comments made during the _____, 2021 public hearing, the Commissioners of Cambridge find that it is in the best interest of the City to amend the UDC to provide for the expiration and extension of approved and recorded final site plans and plats; and

WHEREAS, the Commissioners of Cambridge find that the text amendment set forth herein is necessary to promote and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that the City's Unified Development Code is hereby amended as follows:

SECTION 1. Article 3 (Development Plan Approvals) of the UDC is hereby amended to include a new § 3.2.5 entitled “Expiration and Extension of Approved and Recorded Final Site Plans and Plats” as follows:

§ 3.2.4 Expiration and Extension of Approved and Recorded Final Site Plans and Plats

A. Expiration

1. **An approved and recorded final site plan and associated plats approved pursuant to the provisions of Article 3 of this Ordinance shall expire and become null and void as to any uncommenced construction and any uncompleted construction, unless substantial construction of the project approved in such plan is commenced within five (5) years after final site plan approval, whether by the Planning Commission or by the Board of Appeals on appeal, and such construction is thereafter pursued with due diligence.**
2. **Notwithstanding subsection (1) above, any approved and recorded final site plan and associated plats having received approval prior to **October XX, 2021** and remaining in valid force and effect on such date shall expire and become null and void as to uncommenced or uncompleted construction unless substantial construction is commenced on or before **October XX, 2026**, and thereafter pursued with due diligence.**
3. **When the Director of Planning and Zoning makes a finding that a final site plan and associated plats have become null and void by operation of the provisions set forth in subsections (1) and (2) above, the Director shall notify the applicant by mail at the applicant’s last known address and likewise notify any known successors/assigns and the owner of the property as determined from the real estate assessment records of the State of Maryland Department of Assessments and Taxation (SDAT). Any such person(s) aggrieved by the Director’s finding may contest the same by filing a petition with the Director specifying the grounds of such contest within thirty (30) days after the mailing of such notice. Thereafter, the Board of Appeals shall proceed to decide, after notice and public hearing, whether the approved final site plan and associated plats has become null and void under the provisions. In any such proceeding, the petitioner shall have the burden of proving that substantial construction of the approved project has commenced. In the event no such petition is timely filed, the Director’s finding shall become final and shall not be subject to further review or appeal.**

B. Extension

1. **The applicant, property owner, or any successors/assigns can file a request for an extension of a final site plan and associated plats with the Director of Planning and Zoning for the Planning Commission’s consideration thirty (30) days prior to the expiration thereof. Such request shall include the basis for the delay in substantial construction activity on a building of more than twelve (12) consecutive months and,**

in case of a multi-building project, any interruption in substantial construction activity of more than twenty-four (24) consecutive months between the substantial completion of one building and the commencement of substantial construction of another building.

2. Before expiration of the approval, the Planning Commission may grant an extension for just cause, with extension periods no greater than two (2) years at a time.
3. In connection with a request for extension, the Planning Commission shall consider the following:
 - a. Whether a lawful change in the neighborhood of the property has made the subdivision, as originally approved, incompatible with neighboring properties or presented impacts to neighboring properties and infrastructure not foreseen before such change occurred;
 - b. Whether a change in the street and highway plan or the plan for any public facilities and/or services, trails or pathways, or the projected impact of area development on streets, highways, water and sewer and other facilities has made the subdivision, as originally proposed, problematic;
 - c. Any change in the City's zoning and/or subdivision laws and regulations; and
 - d. Any changes in the City's Comprehensive Plan.
 - e. The Planning Commission may require that an impact study as provided in § 3.3 of this Ordinance be completed in connection with a request for an extension.

C. Changes May Be Required

In conjunction with an approved extension, the Planning Commission may require that changes in the final site plan and associated plats be made upon finding that time has necessitated changes for the benefit of the public health, safety, and welfare.

D. Expiration of Extension Period

Upon expiration of any extension period approved herein, the final site plan and associated plats shall be deemed disapproved by the Planning Commission, expired, and of no further force and effect.

E. Approved Subdivision Plats Exempted from Regulatory Changes

Any approved preliminary subdivision plat or any subdivision plat continued for further study by the Planning Commission shall be exempted from changes in the regulations governing subdivisions for a period of two (2) years from the date of approval of the preliminary subdivision plat. Exemptions from changes in the subdivision regulations

shall not be extended, even if the preliminary subdivision plat is extended as provided above.

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the UDC is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. With respect to the substantive provisions of this Ordinance set forth in Sections 1 and 2, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners of Cambridge that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of passage.

ATTEST: THE COMMISSIONERS OF CAMBRIDGE

Patrick C. Comiskey, City Manager

By: _____
Andrew Bradshaw, Mayor

Introduced the ___ day of _____, 2021
Passed the ___ day of _____, 2021
Effective the ___ day of _____, 2021