



SECTION 30. ECONOMIC AND COMMUNITY DEVELOPMENT SERVICES

30.34 NET BUILDABLE ACRES VESTED RIGHTS PROCESS

A. PURPOSE AND SCOPE. On April 26, 2022, the Board of County Commissioners of Seminole County (BCC) adopted an Ordinance amending the Comprehensive Plan of Seminole County, Florida, which amended the definitions of Net Buildable Acres in the Introductory Element and an Ordinance amending Section 2.3, Definitions, of the Land Development Code to provide a revised definition of Net Buildable Acres. The BCC hereby adapts a policy that any unexpired development application submitted prior to June 15, 2022 or any applicant with an executed contract to purchase a property signed prior to June 15, 2022 which application or contract utilizes or relies upon the prior definition of Net Buildable Acres when calculating project density, the County may enter into a written vested rights agreement with the owner of property in the unincorporated area of the County to provide that the owner's property shall be subject to the prior definition of Net Buildable Acres when calculating project density. The vested rights certificate shall allow a twelve (12) month period for the project to obtain Final Development Order or Preliminary Subdivision Plan utilizing the prior definition of Net Buildable Acres. The process and considerations for determination of those circumstances under which County will enter into such vested rights agreement are set forth in this Administrative Code Section.

B. APPLICATION.

(1) The fee simple owner of property or its designated agent may submit an application to the Development Services Department Director for a Vesting Certificate. The application fee is FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) and must accompany the submittal of an application.

(2) The Net Buildable Acres Comprehensive Plan Amendment Ordinance, the Land Development Code Amendment Ordinance, and this Administrative Code Section are not intended to impair the obligation of any contract in existence as of June 14, 2022. Should the new definition of Net Buildable Acres create such an impairment, the new definition shall not be imposed on the property that is the subject of the contract in existence as of June 14, 2022, but instead such property shall be subject to the definition of Net Buildable Acres in effect as of June 14, 2022. An application claiming vesting as a contract in existence as of June 14, 2022 shall include the following information:

(a) The applicant must provide a copy of the executed contract for the sale or development of the subject property, which may be redacted for trade secrets and proprietary confidential business information;

(b) Said contract was executed on or prior to June 14, 2022 and is accompanied by evidence indicating such execution. Notarization of signatures with a specified date of on or prior to June 14, 2022 shall be considered sufficient evidence;

(c) Evidence that said contract was entered into in good faith, and was not merely entered into as a means of grandfathering against the new definition of Net Buildable Acres;

(d) The applicant must submit signed and notarized statements from all parties to the contract that said contract remains valid for the subject property;

(e) The applicant must submit a signed and notarized statement that earnest money for the transaction has been paid for said contract; and

(f) Evidence that the applicant can demonstrate that the new definition of Net Buildable Acres will result in an immediate diminishment in the value of the subject contract.

(3) In those situations where on a property an unexpired development application has been submitted and the governmental permitting process has commenced prior to June 15, 2022, but the issuance of a building permit for the Final Development Order or Preliminary Subdivision Plan will not occur until on or after June 15, 2022, an application for a Vesting Certificate may be submitted and shall include the following information:

(a) The name of the owner of the fee interest in the property and, if applicable, the name of the designated agent;

(b) Proof of ownership of the property. If the applicant is not the owner of the fee title to the property, then the applicant shall present an affidavit of authority providing for the applicant's authorization to seek approval of the Vesting Certificate on behalf of the fee owner. The affidavit of authority shall be signed by the property owner and said signature shall be properly attested by a notary public;

(c) A site plan or survey/sketch of description of the subject property to be subject to the Vesting Certificate showing:

- (i) The overall parcel; and
- (ii) The number and types of units;

(d) A typed copy of the legal description of the subject property;

(e) A statement outlining the background of the project permitting history and explaining the development process that applicant claims warrants a Vesting Certificate which shall, at a minimum, establish that:

(i) A development order has been issued or the County has otherwise taken official action specifically with respect to development of the project subject to the definition of Net Buildable Acres prior to June 15, 2022; and

(ii) Extensive obligations or expenses (other than land purchase costs and payment of taxes) including, but not limited to, legal and professional expenses related directly to the development of the project have been incurred or there has otherwise been a substantial change in position by the applicant; and

(iii) Such obligations, expenses and change in position were undertaken by the applicant in good faith reliance on the actions taken by the County; and

(iv) It would be unfair to deny the applicant the opportunity to complete the project based on the definition of Net Buildable Acres rates in effect prior to June 15, 2022.

C. REVIEW OF APPLICATION. The Development Services Department Director shall be responsible for reviewing all applications for a Vesting Certificate. The Development Services Department shall, with assistance from the County Attorney’s Office, first investigate the application to determine whether it meets the requirements of Section B(2) or B(3). The BCC hereby delegates to the Development Services Department Director the authority to approve or deny Vesting Certificates. Each approval or denial shall state the facts and reasoning upon which the decision was made. Within thirty (30) days of the receipt of a denial of a Vesting Certificate from the Development Services Department Director, the applicant may file an appeal to the BCC, including supporting reasoning and documents, and the appeal shall be brought before the BCC for consideration at a public hearing in accordance with LDC Section 20.12.

D. IMPORTANT DATES.

Date	Significance
(1) April 26, 2022	Adoption date of Net Buildable Acres Comprehensive Plan Amendments Ordinance
(2) June 15, 2022	New definition of Net Buildable Acres goes into effect.
(3) June 24, 2022	Suggested date to have Vesting Certificate Application filed. Reason: 59 days from adoption date; 9 days from effective date; 21 days to deadline to issue a Vesting Certificate
(4) July 8, 2022	Deadline to file Vesting Certificate Application. Reason: Provides the Development Services Department Director with 5 business days to render a decision to approve or deny a Vesting Certificate Application.
(5) July 15, 2022	A Vesting Certificate must be effective on or before 30 days from the effective date new definition of the Net Buildable Acres pursuant to the Comprehensive Plan Amendment Ordinance and the Land Development Code Amendment Ordinance, the Vesting Certificate Agreement must be signed by the County and the applicant

(6) August 15, 2022	<p>Last day to file an appeal to the BCC of denial of Vesting Certificate if denial was issued by the Development Services Department Director on July 15, 2022.</p> <p>NOTE: Per LDC Section 20.12 an appeal must be filed within 30 days of date of denial.</p>
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E. RULES OF CONSTRUCTION FOR AN APPEAL OF DENIAL OF A VESTING CERTIFICATE BY THE DEVELOPMENT SERVICES DEPARTMENT DIRECTOR. The Appeal process shall comply with LDC Section 20.12. An appeal of a denial by the Development Services Department Director shall be filed no later than thirty (30) days from the date of the denial letter. For denial of a Vesting Certificate issued on or before July 15, 2022, an applicant shall have thirty (30) days to file a written appeal of such denial consistent with requirements and process contained in LDC Section 20.12, and pay the appeal fee as established in Administrative Code Section 20.24. The BCC shall consider the appeal and either affirm or overturn the Development Services Department Director’s denial of the Vesting Certificate. In the event the Development Services Department Director’s denial is overturned by the BCC, a new Vesting Certificate shall be issued and executed by the County and the applicant.

The County will not accept or consider any Vesting Certificate Application filed after July 8, 2022.

F. AUTHORITY. Resolution 2022-R-61 adopted April 26, 2022