

ORDINANCE NO. 607

AN ORDINANCE OF THE TOWN OF DENTON EXTENDING THE CURRENT MORATORIUM ON THE PROCESSING AND APPROVAL OF ANY RESIDENTIAL FLOATING ZONE, MAJOR SUBDIVISION, AND ANY SITE PLAN WHICH WOULD PERMIT DEVELOPMENT OF MORE THAN THREE (3) RESIDENTIAL DWELLING UNITS UNTIL SEPTEMBER 30, 2010, PENDING CONSIDERATION AND ADOPTION OF A REVISED COMPREHENSIVE PLAN AND SUCH OTHER LEGISLATION AS THE TOWN COUNCIL MAY CONSIDER ADVISABLE TO PROMOTE PUBLIC HEALTH, SAFETY AND WELFARE

INTRODUCED BY: _____

WHEREAS, Md. Code Ann. Article 23A, § 2(a) authorizes municipalities to enact such ordinances as they deem necessary in order to assure the good government of the municipality, and to protect the health, comfort and convenience of the citizens of the municipality, and

WHEREAS, Md. Code Ann. Article 23A § 2(b)(5) confers upon municipalities the power to make reasonable regulations concerning buildings, including the adoption of a building code, and the requirement for building permits; and

WHEREAS, Md. Code Ann. Article 66B, § 4.01 provides that it is the policy of the State of Maryland that the orderly development and use of land and structures requires comprehensive regulation through the implementation of planning and zoning controls; and

WHEREAS, Md. Code Ann. Article 66B, § 4.01(b) permits a local legislative body to develop and adopt zoning restrictions to promote the health, safety, morals or general welfare of the community, including the regulation of height, number of stories, and size of buildings or other structures, the percentage of a lot that may be occupied, off-street parking, the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, signs, structures and land; and

WHEREAS, as set forth in Md. Code Ann. Article 66B, § 3.05, the Town of Denton has the authority to adopt a comprehensive plan, which serves as a guide to public and private actions and decisions to ensure the development of private and public property inappropriate relationships; and

WHEREAS, Md. Code Ann. Article 66B, § 3.05(b)(2) requires that the Planning Commission review, and if necessary, revise the Comprehensive Plan at least once every six (6) years, and

WHEREAS, by acts of the General Assembly, Chapter 289, Acts 2006, the Maryland legislature revised Article 66B, § 3.05 to require that a local jurisdiction's comprehensive plan include a water resources plan element and a municipal growth element, which is required to be adopted within the local jurisdiction's comprehensive plan on or before October 1, 2009; and

WHEREAS, the Town of Denton adopted the current Denton Comprehensive Plan in December, 1997; and

WHEREAS, the Denton Planning Commission has been working on an updated comprehensive plan; and

WHEREAS, the updated comprehensive plan and process, including the new requirements under state law for the municipal growth element and the water resources element, has not been completed; and

WHEREAS, pursuant to Ordinance No. 571, adopted by the Town Council on February 2, 2009, and effective as of February 9, 2009, the Town of Denton imposed a ten (10) month moratorium to allow the Planning Commission and the Town staff to finalize the updated comprehensive plan, and their recommendations with respect to any proposed zoning ordinance amendments or other regulatory revisions before additional residential development continues that maybe contrary or inimical to the goals of the updated comprehensive plan, which moratorium will expire on December 8, 2009; and

WHEREAS, pursuant to Ordinance No. 592, adopted by the Town Council on November 2, 2009, and effective as of November 9, 2009, the Town of Denton extended the moratorium until June 30, 2010, to allow the Planning Commission and the Town additional time to finalize the updated comprehensive plan, and their recommendations with respect to any proposed zoning ordinance amendments or other regulatory revisions before additional residential development continues that maybe contrary or inimical to the goals of the updated comprehensive plan, which moratorium will expire on June 30, 2010; and

WHEREAS, the Town Council and Planning Commission held a public hearing on the proposed comprehensive plan on May 25, 2010; and

WHEREAS, the Town will not have finally approved the new comprehensive plan and the attendant comprehensive rezoning prior to June 30, 2010; and

WHEREAS, the Town Council believes that any development that is inconsistent with the new comprehensive plan is not in the best interests of the citizens, residents and property owners of the Town of Denton; and

WHEREAS, completion of this comprehensive planning and rezoning process, including the adoption of a new comprehensive plan and passage of a comprehensive rezoning consistent

with the new comprehensive plan, is anticipated to occur by September 30, 2010; and

WHEREAS, an additional three months after June 30, 2010, will be necessary to allow sufficient time for public hearings, public comment and any necessary and attendant revisions to the updated comprehensive plan and any ancillary changes to the Zoning Ordinance and to allow the recommendations of the Denton Planning Commission and the town staff to be considered by the Denton Town Council in connection with the adoption of the updated comprehensive plan, including the water resources element and municipal. growth element, and any revisions to the zoning ordinance, land use regulations, and official zoning map necessary to implement the updated comprehensive plan; and

WHEREAS, the Denton Town Council believes extending the current moratorium until September 30, 2010, provides a reasonable length of time to allow for the completion and adoption of the updated comprehensive plan, and any revisions to the Zoning Ordinance necessary to implement the updated comprehensive plan; and

WHEREAS, the Denton Town Council believes that extending the current moratorium until September 30, 2010, on the processing and approvals of major subdivisions, and floating zones and site plans that would permit more than three (3) new residential dwelling units or lots is necessary to promote the public health, safety and welfare, and to ensure that future development is consistent with the updated comprehensive plan and any ordinances or regulations adopted to implement the comprehensive plan.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE DENTON TOWN COUNCIL, AS FOLLOWS:

1. The current moratorium imposed by Ordinance No. 571 and extended by Ordinance 592, which applies to any approvals related to the following (a) any major subdivision (b) any site plan which permits the development of more than three (3) residential dwelling units, (c) the application of any floating zone or rezoning which permits residential development of more than three (3) residential units or lots within the Town of Denton be, and is hereby, extended until September 30, 2010.

2. During the moratorium, the Town (including the Planning Commission, Town staff, and Town Council) shall not process or approve (as either a concept, preliminary, or final) any major subdivision plat, site plan, or floating zone that permits development of more than three (3) residential lots or units. Major Subdivision shall have the same definition as set forth in the Denton Subdivision Regulations (Denton Town Code, § 734), which is any subdivision that creates more than three (3) lots

3. This moratorium is adopted to allow sufficient time for the Town accomplish the following:

- a. Completion by the Planning Commission and the Town staff of the updated Comprehensive Plan, including the water resources element and the municipal growth element;
- b. Adoption of the updated Comprehensive Plan by the Town Council,
- c. Consideration of any revisions to the Zoning Ordinance as necessary to implement the updated Comprehensive Plan,
- d. To obtain expert advice and assistance as necessary;
- e. Obtain such other studies and reports as necessary to identify and address impacts of new development on town facilities and infrastructure; and
- f. To consider all such other matters as the Planning Commission or the Town staff deem appropriate.

4. This Ordinance is only intended to residential development approvals as described herein, and shall not affect the processing or approval of any non-residential site plan, subdivision or development review process or approval.

5. Notwithstanding anything to the contrary herein, this moratorium shall not apply to any residential development that has received a preliminary, final subdivision plat or final site plan approval by the Denton Planning Commission, nor shall it apply to any properties that are located within a floating zone that has been approved by the Denton Town Council.

6. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Denton Town Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

7. This ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption.

ADOPTED this _____ day of _____, 2010.

DENTON TOWN COUNCIL:

Conway Gregory, Mayor

Robert Clendaniel, Vice Mayor

Dennis Porter, Councilperson

Agnes Case, Councilperson

Dean Danielson, Councilperson

ATTEST:

Karen L. Monteith, Clerk Treasurer

Approved for legal sufficiency this _____ day of _____.

Stephen H. Kehoe

Date Introduced _____
Date Amendments Introduced _____
Date Passed _____
Effective Date _____