

Otak

From: Otak
Sent: Wednesday, December 11, 2013 5:09 PM
To: 'Jenny Ngo'
Subject: RE: Vinterra subdivision

From: Greg A. Rubstello [mailto:grubstello@omwlaw.com]
Sent: Wednesday, December 11, 2013 3:28 PM
To: Dave Kuhl
Subject: RE: Vinterra subdivision

Dave,

The vesting doctrine assures developers that their application for a land use approval (such as a subdivision) will be considered only under the land use statutes and ordinances in effect at the time a complete application for the particular land use is submitted. Vesting statutes exist for building permits and for subdivisions. RCW 58.17.170 applies to subdivisions. In subsection (1) it is stated that when a subdivision proposed for final plat approval conforms to the all the terms of the preliminary plat approval, Ch. 58.17 RCW, and other applicable state and local ordinances in effect at the time of preliminary plat approval, the application is to be approved. In subsection (3)(b) it is further stated that a subdivision shall be governed by the terms of approval of the final plat and the statutes, ordinances, and regulations in effect at the time of preliminary plat approval.

There is no statute or case law stating that a subdivision applicant has the right to have all subsequent permit applications related to the development of their subdivision, such as a building permit application, considered under the development regulations in effect at the time the preliminary plat application was submitted.

After final subdivision approval, the owner of the property has the right to development of the subdivision under the terms of final subdivision approval, and the the statutes and ordinances actually considered for final approval of the subdivision, for the next ten years. Any lots in a final plat shall be a valid land use notwithstanding any change in zoning laws for a period of ten years. RCW 58.17.170 (2)(b) and (3)(b). Woodinville land use regulations for density and dimensions are considered when approving proposed subdivision lot sizes. They are not considered for approval of designated set back lines, the location of driveway entrances, or the location of building pads because such determinations are not necessary for subdivision approval. At the time a building permit application for a subdivision lot is submitted, it will be considered according to the land use regulations in effect at the time of submittal, except to the extent any changes in such land use regulation from the time of preliminary plat approval would make an approved subdivision lot unbuildable. The subdivision owner has the assurance that he can develop the approved subdivision lots, but at the same time he is subject to then existing land use regulations considered in the building permit approval process except to the extent the application of a change in a land use regulation would prevent development on an approved subdivision lot.

If the applicant's attorney wishes to call me to discuss any vesting issues, they may do so.

EXHIBIT 29
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Greg

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