



COMMERCIAL REAL ESTATE INSIGHT & NEWS

The Bowditch & Dewey Real Estate Blog

Recently Proposed Legislation Aims to Provide Protection and Clarity for Previously Approved Projects

BY JOSEPH R. DUQUETTE • MARCH 1, 2023

On January 19, 2023, Representative Kevin Honan filed new legislation entitled “[An Act to Safeguard Municipal Permitting](#)” targeted at addressing special permit protections and timelines for previously approved projects. This legislation, HD2884, provides for certain additional protections for projects that have already undergone review under local zoning laws and have received a special permit or site plan approval.

In particular, the legislation proposes that a zoning ordinance or by-law shall provide that construction or operations made pursuant to local approval shall conform to any subsequent changes to ordinances/by-laws and regulations subject to the following protections and timelines:

- For work performed under a **building permit**, unless the use or construction is commenced *within one (1) year* of the issuance of the permit;
- For work performed under a **special permit(s) or site plan approval**, unless the use or construction is commenced *within three (3) years* of the issuance of the permit; and
- In cases involving **construction**, unless such construction is continued through to completion as “continuously and expeditiously as is reasonable.”

The legislation also clarifies that the word “commenced,” for purposes of construction involving the redevelopment of previously disturbed land, includes any substantial investment in site preparation and/or infrastructure construction and that phased construction shall proceed expeditiously, but not continuously, among phases.

It remains to be seen how the Legislature will act, but the legislation as proposed is indicative of the desire to provide more certainty and protections to developers and investors alike in light of the uncertainties created by the COVID-19 pandemic.

