



MEMORANDUM

July 10, 2012

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Vernon Gerth, Assistant City Administrator for Community and Economic Development
Catherine Powers, Planning and Sustainability Director
Kelly Dannenfelser, PT-Principal Planner

SUBJECT: Ordinance 2012-35, Zoning Ordinance Text Amendment to amend Chapter 3, Section 3.4.5 of the Franklin Zoning Ordinance

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information regarding a Zoning Ordinance Text Amendment to provide property owners in the FFO Zoning District with limited additional rights to use existing nonresidential buildings while deferring potential for redevelopment until further study.

Background

This Zoning Ordinance Text Amendment was favorably recommended to the BOMA by a unanimous vote (7-0) at the June 28, 2012, FMPC Meeting. There have been numerous public meetings addressing floodplain and permitted uses in the Floodway (FWO) and Floodway Fringe Overlay (FFO) Zoning Districts. A separate Zoning Ordinance Text Amendment is tracking through the public process addressing use of historic structures.

Again, the intent of this Zoning Ordinance Text Amendment is to provide property owners with limited additional rights to use existing nonresidential buildings while deferring potential for redevelopment until further study. Approximately 67 nonresidential parcels have some portion of a building footprint in the FFO. Approximately two thirds of those are located at the confluence of the Harpeth River and Sharps Branch (5th Avenue North area).

This amendment, as written, provides property owners with a choice: Option A maintains all existing legally nonconforming rights for the property (continue the same use and maintain, repair, expand, tear down and reconstruct) and Option B allows use of the existing building for more nonresidential uses in the base zoning district. If Option B is selected, residential use and any use where people would have 24-hour occupancy would be prohibited, as well as expansion of the existing building footprint or demolition/reconstruction.

This amendment does not include the Floodway (FWO) Zoning Overlay District, which impacts approximately six parcels that have structures in the FWO. It is not included because the floodway is where water is flowing during a 100-year flood, which has the highest hazard and risk to public safety, health and welfare.

Financial Impact

Not applicable to this item.

Recommendation

Approval of Ordinance 2012-35 is recommended.

ORDINANCE 2012-35

TO BE ENTITLED: "AN ORDINANCE TO AMEND CHAPTER 3, SECTION 3.4.5 OF THE CITY OF FRANKLIN ZONING ORDINANCE REGULATING USE OF NONRESIDENTIAL STRUCTURES WITHIN THE FLOODWAY FRINGE OVERLAY DISTRICT."

WHEREAS, the City of Franklin is a participant in the National Flood Insurance Program (NFIP); and

WHEREAS, The NFIP encourages states and communities to implement floodplain management programs that go beyond NFIP minimum requirements; and

WHEREAS, the City of Franklin Zoning Ordinance goes beyond the NFIP minimum requirements to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas; and

WHEREAS, the Zoning Ordinance Section 3.4.5 governs new permitted uses and encroachments in the Floodway Fringe Overlay (FFO) Zoning District, making existing uses legally nonconforming thereby limiting existing structures to their use as of July 1, 2008; and

WHEREAS, this ordinance amends the FFO District to broaden the allowed nonresidential uses for existing nonresidential structures, within their existing building footprints, that were established prior to the adoption of the 2008 Zoning Ordinance; and

WHEREAS, the intent of this ordinance is to provide property owners with limited additional rights to use existing buildings while deferring potential for redevelopment until further study; and

WHEREAS, the Board of Mayor and Aldermen believe this ordinance is in the best interest of the public safety, health and general welfare of the City of Franklin.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I. That Chapter 3, Section 3.4.5 of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~; to add the following text noted in **bold**; numbering shown in *bold gray italic* will be based on approval of Ordinance 2012-12; and is approved to read as follows:

3.4.5 FFO—Floodway Fringe Overlay District

...

(2) Permitted Uses

...

(b) The following uses, lawfully established prior to July 1, 2008, shall be allowed to continue under the following provisions:

...

(v) **For existing nonresidential structures other than those addressed in Section 3.4.5(2)(b)(iv), the property owner may elect one of the following options:**

A.) Continue with the same use and undertake minor repairs, perform routine maintenance, add additional facilities, expand existing building footprints, or destroy and reconstruct all or a portion of the nonconformity in accordance with Section 4.3, Nonconformities; or

B.) Utilize the permitted uses in the base zoning district in accordance with Table 3-2, Permitted Uses, except as prohibited in Section 3.4.5(3). If this option is chosen, the use shall be permitted only in the existing building and the existing building footprint shall not be increased. This option shall not be permitted if the building footprint has been expanded or the building has been destroyed and reconstructed pursuant to Section 3.4.5(2)(b)(v)(A.).

(3) Prohibited Uses

The development of uses, except those permitted in Section 3.4.5(2) above, shall be prohibited. **If a property owner elects to utilize permitted base district uses in accordance with Section 3.4.5(2)(b)(v)(B), the following uses shall be prohibited: attached dwellings, detached dwellings, group homes, assisted living facility, correctional facilities, hospitals, nursing/convalescent home, bed and breakfast establishments, extended stay or all-suite hotels, or full service hotels or motels.**

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
ERIC S. STUCKEY
City Administrator

By: _____
DR. KEN MOORE
Mayor

PLANNING COMMISSION RECOMMENDED APPROVAL:	<u>6/28/12</u>
PASSED FIRST READING:	_____
PASSED SECOND READING:	_____
PUBLIC HEARING HELD:	_____
PASSED THIRD READING:	_____