



HISTORIC  
FRANKLIN  
TENNESSEE


ITEM #9  
WRKS 05/24/2011

## MEMORANDUM

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May 10, 2011

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

SUBJECT: Ordinance 2011-09 Zoning Text Amendment to Chapter 1, Sections 1.7 and 1.8 of the *City of Franklin Zoning Ordinance*

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information regarding amendments to Chapter 1, Sections 1.7 and 1.8 of the *Franklin Zoning Ordinance* to clarify requirements.

### **Background**

This Zoning Ordinance Text Amendment is proposed by the Planning Department in effort to clarify the transitional rules, Section 1.7, and relationship with other city, state, or federal regulations, Section 1.8, within the *Franklin Zoning Ordinance* (FZO). The current language in these two sections is problematic, especially as it relates to amendments or revisions to Planned Unit Developments (PUDs) approved prior to the effective date of the FZO, July 1, 2008. Staff has rewritten portions of these two sections in an attempt to make them clear, consistent, and comprehensive.

This text amendment was deferred at the February FMPC Meeting and heard as an item at the March FMPC/BOMA Joint Conceptual Workshop.

### **Changes included in Ordinance 2011-09**

- Subsection 1.7.3 Nonconformities has been deleted, as it duplicates information already contained in Chapter 4, Section 4.3 Nonconformities.
- Subsection 1.7.4(2) has been revised to clarify the language and process for amendments or revisions to any site plans, conservation design plans, grading permits, building permits, PUD Concept Plans, or PUD Site Plans approved prior to 7-1-08.
- Subsection 1.8.1 has been revised to clarify the language as to the controlling regulation in the event of a conflict between a standard in the FZO and any other City, State, or Federal regulation.
- Subsection 1.8.4 has been revised to clarify the language as to the controlling standard in the event of a conflict between standards within the FZO.

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This text amendment was recommended unanimously (8-0) by the Planning Commission at the April 28, 2011 FMPC meeting.

### **Financial Impact**

Not applicable to this item.



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### **Options**

Not applicable to this item.

### **Recommendation**

Approval of the text amendment is recommended.

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ORDINANCE 2011-09

TO BE ENTITLED: "AN ORDINANCE TO AMEND CHAPTER 1 SECTIONS 1.7 AND 1.8 OF THE CITY OF FRANKLIN ZONING ORDINANCE TO CLARIFY REQUIREMENTS."

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

**SECTION I.** That Chapter 1, Section 1.7.3 of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strikethrough~~ and is approved to read as follows:

1.7.3 ~~Nonconformities~~

- (1) ~~A legally recorded nonconforming lot not in a subdivision may be used for any use permitted in the zoning district in which it is located, provided that the lot conforms to all other requirements of this ordinance, except as provided for in paragraph (2) below.~~
- (2) ~~A legally recorded nonconforming lot not in a subdivision shall be permitted to retain its approved minimum lot area, minimum lot width, and minimum required yards.~~
- (3) ~~Final plats of subdivisions approved prior to July 1, 2008 shall be permitted to retain their approved minimum lot area, minimum lot width, and minimum required yards.~~

**SECTION II.** That Chapter 1, Section 1.7.4 of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strikethrough~~; to add the following text noted in **bold**; and is approved to read as follows:

1.7.4 ~~3 Processing of Applications Commenced or Revisions to Projects Approved Under Previous Ordinances~~

...

(2) **Approved Projects and Amendments or Revisions to Approved Projects**

- (a) Approved Planned Unit Developments, ~~Zoning Map Amendments~~, Site Plans, Conservation Design Plans, Variances, Grading Permits, Tree Removal Permits, or Building Permits that are valid on the effective date of this ordinance shall remain valid until their expiration date, where applicable.
- (b) **Amendments to Site Plans, Conservation Design Plans, Grading Permits, or Building Permits** ~~projects with valid approvals or approved prior to July 1, 2008,~~ shall comply with the **development standards and review processes** of this ordinance ~~where the standards will not materially affect the project. In the case that these standards would materially affect the project, it shall be carried out with the development standards in effect at the time of approval, provided that~~

~~the permit or approval is valid and has not lapsed.~~ **Amendments to PUD Concept Plans or PUD Site Plans approved prior to July 1, 2008, shall follow the process described in Subsection 1.7.3(c) or 1.7.3(d), as applicable, below.**

- ~~(c) Any building or development for which a Building Permit was granted prior to the effective date of this ordinance shall be permitted to proceed to construction, even if such building or development does not conform to the provisions of this ordinance, as long as the Building Permit remains valid.~~
- ~~(d) If the development for which the Building Permit is issued prior to the effective date of this ordinance fails to comply with the time frames for development established for the building permit, the Building Permit shall expire, and future development shall be subject to the requirements of this ordinance.~~
- (e) (c) Amendments and revisions to a Planned Unit Development Concept Plan approved prior to July 1, 2008, shall:**

...

- (iii) Comply with the development standards of this ordinance where the standards will not materially affect **impact** the **approved project in the strictly limited terms of loss of entitlements, access points, street network, or open space**. In the case that these standards would materially affect **impact** the **approved project in the strictly limited terms of loss of entitlements, access points, street network, or open space**, ~~it~~ **the amendment or revision to the Planning Unit Development shall be carried out with the development standards Zoning Ordinance requirements** in effect at the time of the approval of the original Planned Unit Development.**
- (d) Amendments and Revisions to PUD Site Plans approved prior to July 1, 2008, shall:**
  - (i) Not be considered under review processes in place under prior ordinances;**
  - (ii) Be considered under the processes and requirements of this ordinance and the Administrative Manual; and**
  - (iii) Comply with the development standards of this ordinance unless there is a standard(s) approved with the PUD, prior to 7-1-08, that conflicts with a standard(s) within this ordinance. If there is a conflict between the PUD requirement and a standard(s) within this ordinance, the PUD requirement shall govern for that requirement only and all other standards within this ordinance shall apply. If the application of the standards of this ordinance results in the loss of entitlements, the amendment or revision to the PUD Site Plan shall**

**be carried out with the Zoning Requirements in effect at the time of the approval of the original PUD Site Plan.**

**SECTION III.** That Chapter 1, Section 1.8.1 of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strikethrough~~ and is approved to read as follows:

1.8.1 Conflict with Other Public Laws, Ordinances, Regulations, or Permits

~~This ordinance is intended to complement other municipal, state, and federal regulations that affect land use. This ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, Where conditions, standards, or requirements provisions imposed by any provision of this ordinance impose greater restrictions are more restrictive than those of any other City, State, or Federal regulation, statute, or ordinance comparable standards imposed by any other public law, ordinance, or regulation, the provisions of this ordinance shall govern be controlling. Where the provisions of any City, State, or Federal Regulation, statue, or ordinance imposes greater restrictions than this ordinance, the provisions of such City, State, or Federal Regulation, statute, or ordinance shall be controlling.~~

**SECTION IV.** That Chapter 1, Section 1.8.4 of the City of Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strikethrough~~; to add the following text noted in **bold**; and is approved to read as follows:

1.8.4 Conflict Between Standards **within** this Ordinance

(1) Controlling Standards

In the event of conflict between one or more of the standards in this ordinance, precedence shall be established based on the following hierarchy (e.g., if an overlay district standard conflicts with a base district standard, the overlay district standard shall control and take precedence):

- (a) Section 3.4, Overlay Districts;
- (b) Section 3.5, Character Area Overlay Districts;
- (c) Section 3.2, Base Districts;
- (d) Section 3.3, Site Development Standards; and
- (e) Chapter 5: Development Standards.

~~(2) Conflicts Between Other Standards~~

Except for conflicts between the categories of standards enumerated in Subsection 1.8.4(1) **(a) – (e) above**, in cases where two or more standards **within** this ordinance conflict with one another, the more restrictive standard shall ~~not necessarily~~ **be controlling.** (e.g., if two overlay district

~~standards conflict, this subsection shall apply). Rather, the determination as to which standard controls by the Department of Planning and Sustainability shall be based on the degree to which the application of a particular standard results in:~~

- ~~(a) Greater consistency with the goals and objectives contained within the adopted land use plan;~~
- ~~(b) A development that is more supportive of the purposes of this ordinance as described in Section 1.2, Purpose;~~
- ~~(c) Increased compatibility with adjacent development and surrounding community character;~~
- ~~(d) Enhanced environmental quality and natural resource protection;~~
- ~~(e) Greater protection and preservation of historic and cultural resources; and~~
- ~~(f) A superior level of building form, design, or architecture.~~

**SECTION V.** BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on third and final reading, the health, safety, and welfare of the citizens requiring it.

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE:**

By: \_\_\_\_\_  
**ERIC S. STUCKEY**  
City Administrator

By: \_\_\_\_\_  
**DR. KEN MOORE**  
Mayor

PLANNING COMMISSION DEFERRED: 2/24/11

PLANNING COMMISSION RECOMMEDED APPROVAL: 4/28/11

PASSED FIRST READING: \_\_\_\_\_

PASSED SECOND READING: \_\_\_\_\_

PUBLIC HEARING HELD: \_\_\_\_\_

PASSED THIRD READING: \_\_\_\_\_