

ORDINANCE 2014-37

AN AMENDMENT TO THE ZONING ORDINANCE TO REMOVE SECTION 2.4.2 (11) ENTITLED "AMENDMENTS OR REVISIONS TO AN APPROVED PLANNED UNIT DEVELOPMENT (PUD), CONCEPT PLAN OR PUD REGULATING PLAN" AND SECTION 2.4.2 (12) ENTITLED "PUDs APPROVED BETWEEN JULY 1, 2008 AND JANUARY 10, 2012" AND TO REPLACE WITH A NEW SECTION 2.4.2 (11) TO BE ENTITLED, "AMENDMENTS OR REVISIONS TO AN APPROVED PUD DEVELOPMENT PLAN, CONCEPT PLAN OR REGULATING PLAN," AND TO RENUMBER SUCCESSIVE SECTIONS ACCORDINGLY

WHEREAS, the City of Franklin, Tennessee encourages unique, innovative, and sustainable development through the PUD process; and

WHEREAS, the City of Franklin, Tennessee approves development plans associated with PUD to assure quality development; and

WHEREAS, the City of Franklin, Tennessee has a specific process prescribed by the Zoning Ordinance for approval of development plans; and

WHEREAS, circumstances can require certain sections, provisions, or conditions of approved development plans be revised after approval; and

WHEREAS, Zoning Ordinance Section 2.4.2 (11) and Section 2.4.2 (12) has provided the regulations for such amendments but needs more detail; and

WHEREAS, greater clarification will make the process more predicable for the FMPC, BOMA, the applicant and staff; and

WHEREAS, staff sought input from the development community at a Design Professional meeting and FMPC/BOMA at a Joint Conceptual meeting; and

WHEREAS, the proposed Zoning Ordinance Amendment for approving revisions to development plans provides the BOMA, FMPC, staff and the applicant more specific guidance related to the process and entity responsible for review and approval.

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

SECTION I. That Chapter 2, Section 2.4.2 (11) and (12), of the Franklin Zoning Ordinance is hereby amended to delete the following text noted with a ~~strike through~~; and to add the following text noted in **bold**, with all successive sections being renumbered accordingly.

(11) Amendments or Revisions to an Approved PUD Development Plan, Concept Plan or PUD Regulating Plan

~~The following subsections provide the framework for revisions or amendments to Concept Plans, Regulating Plans, or Development Plans. For those Concept Plans approved prior to July 1, 2008, Subsection 2.4.2(11) (a) shall be the governing review process, as they were originally approved by BOMA, with review from the FMPC. For Concept Plans or Regulating Plans approved between July 1, 2008 and January 10, 2012, either subsection 2.4.2(11)(a) or 2.4.2(11)(b) shall apply, depending on the elements of the development proposed for revision (for example, Subsection 2.4.2(11)(a) would be the governing review process for an increase to the overall entitlements, while Subsection 2.4.2(11)(b) would be the governing review process for a change in the overall block structure of a development).~~

~~(a) Franklin Municipal Planning Commission and BOMA Review~~

~~The items below, in each case, are considered deviations from a Development Plan or Concept Plan of record and require approval of a revised Development Plan by the FMPC and the BOMA, according the procedure described in Subsection 2.4.2(6), above. These items relate to the overall entitlements for a development. These items are:~~

- ~~(i) The total gross amount of open space is decreased by more than 10%. However, all plans shall provide, at a minimum, the amount of open space required by the Franklin Zoning Ordinance.~~
- ~~(ii) The number of external access points, the street network, or streets identified in the Major Thoroughfare Plan are substantially changed and impacts the project, as approved.~~
- ~~(iii) The revised plan must be submitted if there is a change to a BOMA condition that impacts the physical character of the development. For example, a change to a specific condition regarding placement/materials of an aspect of the construction. If the condition does not address a construction related condition for example a condition for monetary set-aside, only the request need be considered.~~
- ~~(iv) Any revision that requires a Modification of Standards or that requires a change to a Modification of Standards previously approved for the development. However, Design Modifications, as described in Section 5.3.11 of the Franklin Zoning Ordinance, may be granted by the FMPC as part of the Development Plan or Site Plan review process.~~

~~(b) Franklin Municipal Planning Commission Review~~

~~The items below, in each case, are considered deviations from a Development Plan, Concept Plan, or Regulating Plan of record and require approval of a revised Development Plan by the FMPC. These items relate to the conceptual layout of a development. A Development Plan shall not be submitted in conjunction with a site plan. These items are:~~

- (i) ~~Any increase in density or intensity of more than 10%, or the number of stories is changed within a particular phase of the development and such revision impacts a particular aspect of the project established by the Development Plan.~~
- (ii) ~~Any removal of specimen trees shown as preserved on the Concept Plan/Regulating Plan; the removal of trees that establish a desired buffer for particular resources, such as historic resources, water bodies or adjacent properties. Removal of trees shall in any event require replacement trees according to Section 5.2.5(7) of the Franklin Zoning Ordinance.~~
- (iii) ~~A reduction of more than 10% in open space within a section of development that alters the character of the development in that section. For example, a reduction in the overall number of pocket parks in one of the residential sections of a development.~~
- (iv) ~~Any impact to existing historic structures or sites.~~
- (v) ~~Any revisions to drainage, streets, or other engineering design changes that alter items approved in the Concept Plan, including significant changes in traffic circulation.~~
- (vi) ~~Any change that could potentially create adverse impacts on stormwater quality or quantity management.~~
- (vii) ~~Changes to the internal street network or block layout, such as the elimination of streets or connection points.~~

~~Any revision or amendment that meets any of the items in Subsection 2.4.2(11) (b) (I-viii), above, shall follow the following review and approval procedure:~~

~~Step 1— Department of Planning and Sustainability Review and Recommendation on the Development Plan~~

~~(1) — The applicant shall meet with the Department of Planning and Sustainability and other departments, as appropriate, for a preapplication conference unless waived in accordance with Subsection 2.3.6, Waiver of Required Meetings. —~~

~~(2) — The Department of Planning and Sustainability shall organize and conduct a meeting of the DRT to review the Development Plan pursuant to the deadlines described in the Administrative Manual.~~

~~(3) — The applicant shall submit an application in accordance with Section 2.3, Common Development Review Requirements.~~

~~(4) — If the applicant fails to submit an application within 120 days of the preapplication conference, the applicant shall be required to begin the review procedure again from the Step 1 (1), above.~~

~~(5) — The Department of Planning and Sustainability shall make available, in writing via checklist, checkprint or memo, all comments and recommendations from the DRT to the applicant.~~

~~(6) — From the date of receipt of the DRT comments, the applicant shall have until the deadline established in the Administrative Manual to address the comments and submit a revised Development Plan.~~

~~(7) — Upon submittal of a revised Development Plan, the Department of Planning and Sustainability shall prepare a final review of the Development Plan by the deadline established in the Administrative Manual, and recommend to the FMPC the approval, approval with modifications, or disapproval of the Development Plan application. The Department of Planning and Sustainability may also recommend the continuance of the matter to allow for further review.~~

~~Step 2 — FMPC Review and Decision on the Development Plan~~

~~(1) — The FMPC shall hold a public meeting by the date established in the FMPC Bylaws and the Administrative Manual.~~

~~(2) — The FMPC shall review, hear, and make the final decision on all applications for a Development Plan application in accordance with this ordinance, state law, and the FMPC Bylaws.~~

~~(3) — The FMPC shall make a decision on the Development Plan in accordance with this ordinance and state law.~~

~~(4) — Upon approval of the Development Plan by the FMPC, site plan review shall be required, in accordance with Subsection 2.4.3, Site Plan Review.~~

~~(c) — Staff Review~~

~~The items below, in each case, are considered deviations from a Development Plan, Concept Plan, or Regulating Plan of record and may be approved by the Director of Planning and Sustainability. The Director of Planning and Sustainability or his/her designee may at his/her discretion choose to forward any change to the DRT and/or FMPC for review.~~

- ~~(i) There are changes in open space, which do not reduce the amount by more than 10% and do not alter the character of the development.~~
- ~~(ii) There are changes in density or intensity that are less than 10%, which do not alter the character of the development.~~
- ~~(iii) There are parking changes or other minor engineering revisions that do not impact the character of the project.~~
- ~~(iv) There are minor changes to the street network, which do not impact the character of the development.~~

~~A revision or amendment that meets any of the items in Subsection 2.4.2(11) (c) (I-iv), above, shall submit the revision or amendment to staff and the approval of the revision or amendment shall be listed on the Administrative Agenda.~~

- (12) ~~PUDs Approved Between July 1, 2008 and January 10, 2012~~
~~For any PUD Concept Plan or Regulating Plan approved between July 1, 2008 and January 10, 2012, the following review procedure shall apply:~~
- ~~(a) Concept Plans that are to be amended or revised shall follow the process and procedure, as described in Subsection 2.4.2(11) (a), above.~~
 - ~~(b) Concept Plans which do not have approved Regulating Plans for all Sections or Phases within the PUD which have Sectioned or Phased Regulating Plans shall follow the process and procedure as described in Subsection 2.4.2(11)(b), above for approval of those unapproved sections or phases.~~
 - ~~(c) Concept Plans that have not submitted any Regulating Plans for a PUD shall follow the process and procedure as described in Subsection 2.4.2(11)(b), above.~~

2.4.2 (11) Amendments for Revisions to an Approved PUD, Concept Plan or Regulating Plan – January 1, 2000 to December 31, 2014

The following subsections provide the framework for revisions or amendments to Concept Plans, Regulating Plans, or Development Plan. The review process, which applies to the proposed revision, depends upon the elements of the plan proposed for revision. The below sections define the process and the reviewing entity for different types of revisions.

(A) Board of Mayor and Aldermen (BOMA) and Franklin Municipal Planning Commission (FMPC) Review

The items below are considered deviations from the Development Plan, Concept Plan or Regulating Plan and require approval of a revised Development Plan by the FMPC and the BOMA, according to the procedure described in 2.4.2(6). The Development Plan shall be approved before the Site Plan is accepted for review.

- I. Any Increase in entitlements, including the number of dwelling units for residential projects and square footage for non-residential or either for mixed use projects.**
- II. Changes or increase from detached to attached dwelling unit(s).**
- III. Changes in non-residential square footage related to the institutional and/or industrial use.**
- IV. A change in the number and/or location of external access points, or streets classified as collector or arterial roadways.**
- V. Revisions to the widths or lengths of provided buffers (historic, incompatible use, incompatible lot size, stormwater, etc.).**

- VI. Any revision to a condition required by the BOMA.
- VII. Any revision that requires a Modification of Standards (MOS) or that requires a change to an MOS previously approved.

(B) FMPC Review

The items below are considered deviations from the Development Plan, Concept Plan or Regulating Plan and require approval of a revised Development Plan by the FMPC. The Development Plan shall be approved before the Site Plan is accepted for review.

- I. Changes to setbacks approved as part of the Development Plan, which change the character of the project.
- II. Major changes to typical lots in either dimension and/or number of lots revised in a section or throughout the development.
- III. Reduction in approved open space within a section of the plan, which impacts the plan.
- IV. Changes in building heights, or number of stories, which impact the visual character or transitional features of the section or plan.
- V. Significant changes to the internal street network, block layout, and/or intersection configuration, such as the elimination of streets or connection points, or any reduction to the connectivity index.
- VI. Any impact to existing historic sites or structures, other than impacts previously approved.
- VII. Major changes to parking layout, which adversely alters parking convenience or changes the character of the plan.
- VIII. Substantial revision to drainage, streets, stormwater quality or quantity or other engineering design changes that alter those items as approved in the Development Plan, including significant changes in traffic circulation.

(C) Staff Review

Items not meeting the criteria of Subsections 2.4.2 (11) (a) and (b) may be addressed according to the provisions of this subsection related to staff review. These items are

considered minor in nature and have minimal impact upon the project. For staff review, the revised Development Plan shall be submitted simultaneously with a revised Site Plan for staff approval.

The Planning Director or his/her designee may at his/her discretion choose to forward any revised Development Plan to the BOMA, the FMPC or the Department Review Team (DRT) for review, comment and approval.

Should the Planning Director or his/her designee require the revised Development Plan be considered by FMPC and/or the BOMA, the submittal requirements for those entities shall apply.

2.4.2 (12) Amendments for Revisions to Development Plans, Site Plans, Preliminary Plats approved after January 1, 2015,

Amendments to Development Plans, Site Plans and Preliminary Plats approved after January 1, 2015, will meet the criteria set forth in the State of Tennessee Vesting Property Rights Act of 2014, Section 1, (h) (l), addressing amendments.

An amendment to an approved development plan by the developer must be approved by the Board of Mayor and Aldermen to retain the protections of the vested property right.

An amendment may be denied based upon a written finding by the local government that the amendment:

- (A) Alters the proposed use;**
- (B) Increases the overall area of the development;**
- (C) Alters the size of any nonresidential structures included in the development plan;**
- (D) Increases the density of the development so as to affect traffic, noise or other environmental impacts, or**
- (E) Increases any local government expenditure necessary to implement or sustain the proposed use.**

(2) If an amendment is denied by the Board of Mayor and Aldermen based upon such a written finding, then the applicant may either proceed under the prior approved plan with the associated vested property right or, alternatively, allow the vested property right to terminate and submit a new application under this section. Notwithstanding this subsection (h), a vested property right shall not terminate if the Board of Mayor and Aldermen determines, in writing, that it is in the best interest of the community to allow the development to proceed under the amended plan without terminating the vested property rights.

(3) Staff will review all amendments requested by developer(s) and approve those with minor changes not impacting the development and meeting the criteria of the Vesting Property Rights Act of 2014. Staff will forward to the Board

of Mayor and Aldermen all requests for amendments to project approved after January 1, 2015, that contain changes related to 2.4.2 (12) (1) (A) through E.

SECTION II. 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: _____

By: _____

Eric Stuckey

Dr. Ken Moore

City Administrator/Recorder

Mayor

PLANNING COMMISSION RECOMMENDED:

PASSED FIRST READING:

DEFERRED SECOND READING:

PASSED SECOND READING:

PUBLIC HEARING HELD:

PASSED THIRD READING: