

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **Tuesday, March 7, 2006**

- BILL INVOLVING AMENDMENTS TO THE ZONING ORDINANCE -

ORDINANCE NO. BL2005-910 (WALLACE) – This zoning text change would require the zoning administrator to notify district councilmembers upon the filing of special exception and variance applications. The code currently requires the board of zoning appeals to hold a public hearing on variance and special exception applications within 60 days from the date of filing. This ordinance would require written notice to be given to the district councilmember within three days from the filing of a variance or special exception application. This notice is to include (1) the substance of the request; (2) whether construction on the property necessitating the special exception or variance has commenced; and (3) whether the property owner has been cited for a violation of the zoning code which led to the filing of the application for a special exception or variance.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-936 (MURRAY) – This ordinance amends the building code to place additional requirements in order to obtain a demolition permit for a historic structure. State law provides that no residential structure may be demolished without approval by the local legislative body if the structure was (1) constructed before 1865; (2) is repairable at a reasonable cost; and (3) the structure has a historical significance besides age itself. This ordinance would add a procedure to the code for determining whether a structure falls within the state law provisions requiring council approval prior to demolition, and would require that the demolition of all historic structures first be approved by the executive director of the historic commission. Before a demolition permit for a residential structure constructed prior to 1865 could be issued, the applicant would be required to present a report to the director of codes (continued on next page)

ORDINANCE NO. BL2006-936 (continued)

administration and the executive director of the historical commission prepared by a qualified historic restoration consultant that states the following:

1. The qualifications of the person making the report. (The consultant must be a professionally licensed architect or general contractor with a specialty in historic buildings.)
2. The structural condition of the building to be demolished.
3. An estimated cost to repair the structure.
4. A valuation from a qualified historic properties real estate appraiser of the structure to be demolished.

Upon receipt of the report, the historic zoning commission will make a determination at a public meeting as to whether the structure meets the criteria set out in the state law described above. If the structure does meet the criteria, the commission will initiate legislation for consideration by the council.

Although this ordinance is technically an amendment to the building code, a recent Tennessee Supreme Court decision requires that this ordinance be treated as an amendment to the zoning code.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-937 (BRILEY) – This zoning text change amends the definition of “two-family structure” to allow two-family dwelling units to be separate structures. The zoning code currently defines a two-family structure as two attached dwelling units forming a single structure connected by not less than eight feet of continuous floor, roof and walls. A common practice in recent years has been for developers to build two separate single-family structures, but construct a connecting wall between the two to allow both structures to be on a single lot. This ordinance would essentially remove the requirement that a connector wall be constructed between the units.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-971 (NEIGHBORS, COLE & COLEMAN) – This zoning text change would allow a waiver in the minimum lot size for single-family cottage developments and would reduce the minimum lot sizes for attached townhouses to allow for the fee-simple ownership of such homes. Cottage developments and townhouses are allowed under the existing zoning code. However, fee-simple ownership of these units is not allowed because the minimum lot sizes in the code are too large. Instead, such units must be sold as condominiums where the homeowner owns the structure, but not the land underneath. Pursuant to this ordinance, cottage developments are defined as single-family residential developments of four to ten dwelling units arranged on small lots toward a common open space on at least two sides. These cottage developments would only be permitted in multi-family districts, not the R and RS districts. The cottages would have to be developed at the same density as the base zoning district, but there would be no minimum lot size. Instead, there would have to be at least 250
(continued on next page)

ORDINANCE NO. BL2006-971 (continued)

square feet of open space per cottage. The rear of the units would not be allowed to face a street. The maximum building square footage would be 1,000 square feet, with a maximum height of two stories. Thus, a two-story cottage could have a maximum of 2,000 square feet. The front, rear and side setbacks would be a minimum of three feet. The cottage development must provide two parking spaces per cottage on-site, but such parking cannot be visible from the public street and must be screened from adjacent residential properties. The rear and side setbacks for these cottages would be a minimum of three (3) feet from the right-of-way.

This ordinance also reduces the minimum lot size for attached townhouses as follows:

- In the RM20, OR20, MUN, MUL, MUG, OR40, ORI, RM40 and RM60 districts, the minimum lot area would be 1,500 square feet.
- In the RM15 district, minimum lot area would be 1,800 square feet.
- In the RM2, RM4, RM6 and RM9 districts, minimum lot area would be 2,800 square feet.

The minimum street setbacks for townhouses would generally be three feet from the right-of-way line.

ORDINANCE NO. BL2006-972 (MCCLENDON) – This zoning text change would require various automotive uses in commercial areas to be approved individually by the Council as part of a specific plan (SP) district. The zoning code currently permits automobile repair, service, and sales, as well as wrecker services, within the CS, CA, CF, and industrial zoning districts. This ordinance would still permit such uses in the industrial districts, but not allow these uses in the commercial zoning districts. Rather, such uses would only be allowed in commercial areas if they were part of a SP district.

The SP district was created by the council in September 2006 to give the council more control over how the property is developed than a straight zone change to another zoning district. The SP district is designed to be an alternative zoning process to address the unique characteristics of an individual property through a site specific plan. A detailed plan is to be created for each property, which must be followed by the developer.

This ordinance also makes modifications to the definitions of various automotive uses. The changes to the definitions expressly provide that the storage of abandoned vehicles would be prohibited on the premises of these automotive uses. The most significant change in the definitions is to distinguish between used and new car lots. The zoning code currently considers vehicular sales to be a single use. Under this ordinance, new car lots would still be permitted by right in the commercial districts. However, used car lots would be required to be part of an SP district. Furthermore, new car dealerships would still be allowed to repair vehicles on the premises, but automobile repair would be strictly prohibited at used car lots.

The council office would point out that this ordinance would create hundreds of nonconforming uses in Davidson County. There are more than 300 used car lots and more than 240 automotive repair shops advertised in the Yellow Pages that would become nonconforming uses upon the adoption of this ordinance. When the current zoning code was adopted in 1997, a conscientious effort was made to avoid creating a large number of nonconforming uses due to
(continued on next page)

ORDINANCE NO. BL2006-972 (continued)

the serious economic hardship imposed on the property owner. Further, the Council Office would caution against distinguishing between new and used car lots. Uses should be classified under the zoning code based on the activity that is taking place at the facility, not the age of the merchandise.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-973 (BRILEY) – This ordinance amends the zoning code to create a new land use called “donation center, drop-off.” The zoning code currently does not contain a specific use regarding a place where clothing and household items can be dropped off, but not resold on site. This ordinance is for the benefit of Goodwill Industries, which intends to replace its existing parking lot donation trailers with permanent storefront locations. This ordinance would make such facilities permitted with conditions (PC) in the mixed-use, commercial, and industrial zoning districts. The conditions that must be satisfied are as follows:

1. The donation center will generally operate between 9:00 a.m. and 6:00 p.m.
2. No retail sales will be allowed at the donation center.
3. No sorting of collected items may occur on-site.
4. No hazardous materials, large appliances, mattresses, or office equipment may be accepted for donation.
5. All collected materials must be picked up from the site at least once a week.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-974 (DOZIER & WALLACE) - This zoning text change would allow signs with graphics or electronic displays to be located on property within the urban services district (USD) that is oriented to a four-lane or controlled access state highway with a speed limit of forty miles per hour or less. The Zoning Code currently requires that signs with changeable text and graphics remain static for at least two seconds. In 2004, the Council created an exception to this provision to allow graphic and video display signs within the commercial attraction (CA) zoning district, which essentially is limited to the Opryland/Music Valley Drive area.

This ordinance would expand the exception, currently limited to commercial attraction areas, to include all state maintained four-lane roads and controlled access highways located within the USD with a speed limit of forty miles per hour or less. According to the planning staff analysis, this would allow video signs on approximately 69 miles of state highways in Davidson County. This includes a 4.7 mile section of West End Avenue, a 4.7 mile section of Dickerson Pike, a 7.1 mile section of Nolensville Road, a 4 mile section of Charlotte Pike, and a 2.6 mile section of Franklin Road.

The Council Office would point out that the prohibition on video signs was included in the Code for public safety reasons to limit driver distractions.

Two proposed amendments may be offered for this ordinance making the provisions of the ordinance inapplicable to property along Dickerson Pike, Highway 100, Harding Place, and Hillsboro Road.

This ordinance has been disapproved by the planning commission.

ORDINANCE NO. BL2006-975 (LORING) – This zoning text change would amend the provisions allowing for a density bonus for affordable housing units by reducing the time the affordable housing units must be designated as such from twenty years to seven years. The zoning code currently allows developers of property located within the MUI, ORI, CF and CC districts to achieve a density bonus if at least twenty-five percent of the floor area is constructed for affordable housing units and restricted for affordable housing for a twenty year period. The density bonus is achieved by not counting the floor area used for affordable housing in determining the floor area ratio of the building. This code section was added in 1998, but has never been used, largely because of the twenty year restriction. This twenty year restriction is contrary to federal funding requirements and Metro's payment in lieu of taxes (PILOT) program for affordable housing, which have seven year periods. This ordinance would make the zoning code conform to federal law affordable housing provisions.

This ordinance has been approved by the planning commission.

p:PUBHEA45