

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: May 4, 2010

RE: Analysis for Ordinances Amending
the Zoning Code Text

ORDINANCE NO. BL2010-636 (LALONDE, JAMESON & WILHOITE) – This zoning text change would eliminate the historic bed and breakfast overlay district and would make such use a special exception (SE) and permitted (P) use in certain zoning districts. Prior to August 2005, historic bed and breakfast establishments were permitted by special exception. In response to a particular establishment, the council enacted Ordinance No. BL2005-701 to remove historic bed and breakfast establishments from the jurisdiction of the board of zoning appeals and place it solely with the council through the creation of a new historic bed and breakfast homestay zoning overlay district. According to the planning department staff analysis, there were eight historic bed and breakfast establishments approved prior to the enactment of the 2005 ordinance, but there has only been one approved since.

This ordinance essentially reinstates bed and breakfast homestays as a special exception use in the residential and less dense office districts, and as a use permitted by right in the mixed-use, office/multi-family, and commercial districts. The districts where the use would be permitted by right basically mirror those where hotels/motels are permitted by right. The conditions for those districts in which the use would be a special exception are similar to the conditions for the current overlay. The historic zoning commission must approve the existing structure, as well as any future exterior improvements. The property must be owner-occupied, and meal service would be restricted to overnight guests only. The fire marshal must also certify that the structure is safe for operation as a bed and breakfast.

All bed and breakfast special exception uses would first have to be approved by the council by resolution before being considered by the board of zoning appeals. The council would have 60 days to act on a request for a historic bed and breakfast upon being notified by the zoning administrator that an application has been filed. Failure by the council to act on the request within the 60 day period results in the request being deemed approved by the council. If the council disapproves the location, the board of zoning appeals will not consider the application.

There are a few notable differences in the conditions under the new special exception provisions as opposed to the overlay district. As a special exception use, a historic bed and breakfast homestay would only need to be designated by the Metropolitan historic zoning commission as a “historically significant structure.” On the other hand, the overlay district requires that the structure be eligible for listing on the National Register of Historic Places, have played a role in history, or demonstrate a mastery of craftsmanship. In addition, this ordinance would increase the number of permitted bedrooms from three to four. The ordinance would also allow the establishment to be transferred to another owner without obtaining approval from the board of zoning appeals, and would allow a larger, externally-illuminated sign. Finally, no historic home event would be allowed on the property without separate approval from the board of zoning appeals.

There is a substitute for this ordinance that would add a spacing limitation on historic bed and breakfast homestays. No more than two such establishments could be located on the same block or every 500 feet, whichever would result in the fewest number. The substitute would also reduce the size of permitted signage and add a provision clarifying that the sign cannot obscure any architectural details of the structure. Finally, the substitute makes a number of housekeeping changes to the bill, including a reduction in the maximum number of permitted bedrooms from four to three to comply with state law and the Metro fire code.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2010-647 (JERNIGAN) – This zoning text change would designate “manufacturing, medium” as a use permitted with conditions in the industrial zoning districts, as opposed to permitted by right. The zoning code currently makes a distinction among three types of manufacturing activity: light, medium, and heavy. Medium manufacturing is defined in the zoning code as “the processing and manufacturing of materials or products predominately from extracted or raw materials.” Medium manufacturing uses allow for the outdoor assembly and storage of products. This use is only permitted in the IR (industrial restrictive) and IG (industrial general) zoning districts.

This ordinance would make medium manufacturing a use permitted with conditions in the IR and IG districts, with the only condition being that an opaque fence be installed if any materials stored outdoors would be visible from any residentially-occupied property. This ordinance would also prohibit the stacking of materials higher than the opaque fence.

This ordinance has been approved by the planning commission with a recommended amendment.

ORDINANCE NO. BL2010-648 (JERNIGAN) – This zoning text change would allow inflatable “stick people” for advertising purposes in the commercial zoning districts. The zoning code essentially defines a sign as any writing, picture, flag, banner, or inflatable structure used to direct attention to something. The code expressly prohibits signs that are subjected to pressure by wind. Thus, the happy inflatable stick people seen flying at commercial businesses are technically not allowed by the zoning code.

This ordinance would allow these inflatable advertising figures as long as they are attached to a fixed base, do not exceed twenty feet in height, are not located within 1,000 feet of a residential structure, and are only displayed during daylight hours. Further, all such inflatable figures would have to be kept in a good state of repair with a properly-functioning blower motor and arms that aren't tattered.

There is a proposed amendment that would restrict the number of inflatable advertising figures to one per parcel.

This ordinance has been approved by the planning commission.