Town of Frederick
Board of Trustees

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AM 2009-112

To Consider Adopting an Ordinance Amending the Frederick Land Use Code by Reference

Agenda Date: December 8, 2009

Attachments:

a. Red-line version of Article 1
b. Red-line version of amended sections of Article 2
c. Red-line version of amended sections of Article 3
d. Red-line version of amended sections of Article 4
e. Red-line version of Article 6
f. Red-line version of amended sections of Article 7
g. Ordinance

Fiscal Note: None noted or provided Fiscal note

Interim / Finance Director

Submitted by: Jennifer Simmons
Planning Director

Approved for Presentation:
Town Administrator

AV Use Anticipated Projector n/a Laptop n/a

Certification of Board Approval:

Town Clerk Date

Summary Statement:

At the Board of Trustees meeting October 27, 2009, the Trustees set a public hearing to consider the 2009 Land Use Code updates.

Detail of Issue/Request:

Amendments to the Land Use Code began in December 2006 with Article 7, Sign Regulations. Immediately following, revisions to Article 3, Zoning, were drafted. These amendments affected Articles 3 and Article 4, Subdivision Regulations. Following adoption of amendments to Article 3, revisions to Article 4 were processed and adopted. Amendments to Article 5, Vesting, and Article 8, Floodplain Areas, have also been completed. Finally, Article 2, Community Design Principles and Development Standards had amendments processed and adopted this year.

The amendments are proposed to be adopted by reference because of the substantial cost that would be incurred if the ordinance containing all the amendments would have to be published. Adopting by reference requires notice to be published two times: (1) once at least fifteen (15) days prior to the public hearing; and (2) once at least eight (8) days prior to the public hearing. Because of the proposed schedule of Board of Trustees meetings to be considered during the consent agenda, the next available date of a Board of Trustees meeting that we can meet the notification requirements is December 8th, 2009. This is the date recommended as the public hearing date in the attached resolution.

The following is a general discussion of updates that have been completed to each of the affected articles.

Article 1, General Provisions: This article has been updated in its entirety to reflect changes made throughout the Code including cross-referencing definitions of terms found throughout the code and removing any terms that are no longer used. Additionally, the article was revised to recognize that the process for amending the Comprehensive Plan is now addressed in Article 4. References to other sections of the Code have been cross checked and updated as necessary.

Article 2, Community Design Principles and Development Standards: Although this Article was recently adopted, a few provisions needed improvement. In Section 2.7, the former version concerning streets included a provision requiring specific setbacks for homes from an arterial roadway. While this was inadvertently removed in the initial amendments, the standard has been included in the updates to Section 3.5 regarding density and dimensional standards. Section 2.8 had information pertaining to drive aisles in parking lots updated to bring the Land Use Code into compliance with the adopted Fire Code. Provisions of Section 2.11, Parks and Open Space have been updated to clarify information on detention areas being counted toward open space. Finally, Section 2.16, Fences and walls was updated to include state licensed child care center as an acceptable use for chain link fencing.

Updates to Article 3, Zoning: Both Sections 3.4, Matrix of Permitted, Conditional, and Special Uses by Zoning District and Section 3.5 Density and Dimensional Standards have been updated. The uses found in the use matrix were cross referenced with the definitions found in Article 1 requiring some uses to be added, deleted, or amended to use consistent terminology. Additional clarification was added to the Specific Use Standards for a number of uses. Updates to the Density and Dimension Standards include adding a minimum lot size for Agricultural lots, updating references to figures, and adding the setback from arterial roadways to residences.

Article 4, Subdivision Regulations: General updates were made to Section 4.5 regarding General Procedures. Clarification was added to Sections 4.6, 4.8, and 4.10 (review procedures for major, minor, and administrative applications) regarding the review period. Section 4.7 includes general clarifications on notification and review bodies.

Section 4.9 has been amended to update information related to the Memorandum of Agreement for Public Improvements (MOAPI) and the related improvements guarantee and warranty. These updates were initiated by the Engineering staff following discussion with the Board of Trustees. Recently, other jurisdictions have received feedback from developers that the required letters of credit are becoming a burden that prevents them from developing in the municipality because it essentially requires the developer to have twice the cost of the improvements available ($x to pay the bills and $x to maintain the letter of credit). The Town of Frederick allows the developer to use a draw down letter of credit which eliminates the need of have two-times the cost of the project available. This tool has been used by the Town successfully in the past.

Article 6, Enforcement: This Article has been updated in its entirety to recognize the correct title for Community Service Officers and to remove references to the Town Clerk. Further clarification was also provided in Section 6.1.3.b. to better reference the Municipal Code.

Article 7, Sign Regulations: Minor changes have been made to the sign code including adding sandwich boards as an allowed sign type. Additional information has also been added regarding the size of banners.

Review Criteria:
Section 4.7.9.b. For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Code shall not be amended except:

(1) To correct a manifest error in the text of this Code;

(2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff;

(3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or

(4) To further the implementation of the goals and objectives of the Comprehensive Plan.

The proposed amendments correct manifest errors in the text of this Code, provide for changes in administrative practices, and further the implementation of the goals and objectives of the Comprehensive Plan relating to quality growth.

Public Notice: This project was properly noticed according to the requirements of Section 4.5 of the Frederick Land Use Code as well as the requirements for adopting an ordinance by reference.

Planning Commission: The Planning Commission considered this item at a public meeting held October 6, 2009. The Commission voted unanimously to recommend approval of PCR-2009-25C as is attached to this communication. The conditions in the PCR have been satisfied by modifying the attached red-line documents to reflect the changes recommended by the Planning Commission.

Additionally, a motion was made to recommend amending Section 4.6.10.e regarding the Board of Trustees sitting as the Board of Adjustments. A Commissioner recommended having an independent Board of Adjustments made up of qualified citizens. The motion failed as a result of a 2-2 vote.

Legal/Political Considerations:

The proposed amendments have been reviewed by Legal staff.

Alternatives/Options:

The Board of Trustees may choose to adopt the amendments as drafted, deny the amendments as drafted, or adopt the amendments with changes.

Financial Considerations:

Not Applicable.

Staff Recommendation:

Staff recommends approving the amendments as drafted with the ordinance that has been prepared.