

MEMORANDUM TO: All Members of the Metropolitan Council  
FROM: Jon Cooper, Assistant Director  
Metropolitan Council Office  
DATE: **Tuesday, July 1, 2008**

**- BILLS INVOLVING AMENDMENTS TO THE ZONING ORDINANCE -**

**ORDINANCE NO. BL2008-202** (COLEMAN) – This zoning text change would designate “religious institution” as a permitted use in the shopping center regional (SCR) district. The zoning code currently allows religious institutions by right in all agricultural, mixed-use, office, commercial, and industrial zoning districts, however the use is not permitted in the SCR district. The SCR district is intended for high intensity retail, office and consumer service uses, and includes areas around the major malls and shopping centers in Davidson County, such as Rivergate, Hickory Hollow, Green Hills, and Nashville West.

Although religious institutions would be permitted in the SCR district under this ordinance, any SCR property subject to a planned unit development (PUD) overlay that does not allow this type of use may require the individual PUD to be amended by the council before the facility could obtain a use and occupancy permit.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2008-243** (GOTTO, COLE & OTHERS) – This zoning text change would add “rehabilitation services” as a permitted use in the agricultural (AG and AR2a) zoning districts. The zoning code defines rehabilitation services as the treatment for addictive, mental or physical disabilities on either a twenty-four hours a day or an outpatient basis. In February 2007, the council approved Ordinance No. BL2006-1260 to remove rehabilitation services as a permitted use in the AG and AR2a districts. The use has always been prohibited in the other residentially zoned districts. There are only a few rehabilitation services facilities located in the agricultural zoning districts, including Cumberland Heights on River Road. All other medical uses remain permitted in the AG and AR2a districts.

After enactment of Ordinance No. BL2006-1260, a lawsuit was filed against the Metropolitan Government by an organization that had been seeking to locate a rehabilitation services establishment on AR2a property alleging that the ordinance violates the federal fair housing act. Subsequent to the filing of the lawsuit, the U.S. department of justice initiated an investigation of the Metropolitan Government and its land use policies to determine whether Metro is in violation of the fair housing act. In light of the lawsuit and pending investigation, the department of law recommends that the council restore “rehabilitation services” as a permitted use in the AG and AR2a districts.

The council office is of the opinion that this ordinance should be enacted to show the department of justice that the Metropolitan Government is not deliberately and willfully discriminating against persons with disabilities. Failure to enact this ordinance could be deemed by the Department of Justice as evidence of discriminatory intent and could subject the Metropolitan Government to penalties and sanctions that include injunctive relief, civil penalties, attorneys' fees, and a loss of or restriction on federal grant funding.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2008-244** (PAGE) – This zoning text change would require “automobile service” establishments to be part of an adopted Specific Plan (SP) district except in the industrial districts. In March 2006, the council enacted Ordinance No. BL2006-972 making most automotive uses no longer permitted in the commercial zoning districts. Rather, such uses have to be approved individually by the council as part of an SP district. The SP district was created by the council in September 2005 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.

Although Ordinance No. BL2006-972 addressed most automotive uses, it did not apply to automobile service establishments. The zoning code defines “automobile service” as property used for “the replacement of any part, or repair of any part, to an automobile that does not require removal of the engine head or pan, engine transmission or differential, including, but not limited to oil change and lubrication, cooling, electrical, fuel and exhaust systems, wheel alignment and balancing, brake adjustment, relining and repairs, mufflers, batteries, tire services and sales, shock absorbers, installation of stereo equipment, car alarms or cellular phones.” The dismantling, rebuilding, reconditioning, or salvage of automobiles is considered “automobile repair”, which is required to be within an adopted SP district.

This ordinance would require specific plan zoning for automobile service uses, except in the IWD, IG and IG zoning districts. This would make all existing automobile service uses in commercial areas nonconforming uses, which can impact the ability of such businesses to sell their property or obtain financing for improvements. 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 the serious economic hardship imposed on the property owner.

This ordinance has been disapproved by the planning commission.

**ORDINANCE NO. BL2008-245** (RYMAN) – This zoning text change would require all amendments to the official zoning map or zoning regulations to be submitted to the department of law for approval as to form and legality. The Metro Charter provides that it is the duty of the department of law to assist in preparing legislation upon request of the mayor or any member of council. Currently, most legislation proposed by the administration and the various Metro departments or agencies is submitted to the department of law for review and approval as to form and legality. However, the planning department does not submit zoning bills to the department of law. Rather, such bills are prepared by the planning department staff and sent directly to the council office for filing.

The council rules require the director of finance to approve legislation as to availability of funds if the legislation would require the appropriation or expenditure of money. Further, the rules require the department of law to recommend the settlement of all claims before the legislation can be considered by the council. However, there are no requirements in the Charter or council rules that specifically require zoning bills to be submitted to the department of law.

This ordinance would require all amendments to the official zoning map or zoning text changes to be approved by the department of law as to form and legality, whether prepared by the planning department or the council office. Requiring the legal department to review all amendments to the official zoning map would add another step in an already lengthy process, which could delay the filing of such legislation with the council.

This ordinance has been referred to the planning commission.