

ORDINANCE NO. 2009- 1971

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TEXT AT §15-3.0501C. AND §15-7.0201 TO PROVIDE CERTAIN EXCEPTIONS FROM THE REQUIREMENT THAT A CERTIFIED SURVEY MAP (CSM) APPLICATION INCLUDE A NATURAL RESOURCE PROTECTION PLAN (NRPP) APPLICATION AND AT §15-4.0102 TO PROVIDE THAT CERTAIN NATURAL RESOURCE INFORMATION, FROM THE "BEST AVAILABLE" SOURCE WITHOUT COMPLETION OF AN NRPP, BE INCLUDED ON THE CSM IN LIEU OF PREPARATION OF AN NRPP

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WHEREAS, the Common Council having considered the requirement in the Unified Development Ordinance that an applicant provide a Natural Resource Protection Plan (NRPP) as part of the application process in all cases where there are natural resources, whether or not the certified survey map will result in any development of the lands so mapped, except those as recently provided for by Ordinance No. 2008-1962; and

WHEREAS, the Common Council having further determined that it is appropriate to review for consideration those Certified Survey Map (CSM) applications which will not result in any development which might impact natural resources for exemption from the requirement to submit an NRPP as part of the map review process; and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 20th day of November, 2008, upon a proposed ordinance to amend the Unified Development Ordinance text at §§15-3.0501C. to provide certain exceptions from the requirement to submit an NRPP as part of the certified survey map application process and the Plan Commission thereafter having determined that the proposed ordinance would promote the more efficient administration of the Ordinance, while assuring that natural resources will be delineated and protected when actual development occurs and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the proposed ordinance, having concurred with the recommendation of the Plan Commission in concept, having then previously adopted an exception from the requirement that a CSM application include an NRPP application while postponing determination on another certain exception pending further review, and now having determined that the proposed ordinance would promote the health, safety and welfare of the Community provided certain natural resource information, from the "best available" source without completion of an NRPP, be included onto such CSM.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1:           §15-3.0501C. of the Unified Development Ordinance of the City of Franklin, Wisconsin, be and the same is hereby amended to add the following to the existing text: "A Natural Resource Protection Plan shall also not be required with an application for certified survey map approval where lots are being created from a larger surrounding parcel, with the larger in area in relation to the lots created remnant parcel being vacant, or already having being developed by the existence of a principal structure and not being the subject of current further development application, and with the only natural resources within the map area being upon the remnant parcel and being more than 500 feet away from the lots being created. The foregoing exclusion from Natural Resource Protection Plan submission requirement for certified survey map applications shall only be available upon the conditions that i) in lieu of the Natural Resource Protection Plan submission requirement, the Certified Survey Map application shall show upon its face the existence of any natural resource features, as identified in §15-4.0102, located on the parcels of the Certified Survey Map based upon the "best available" information; ii) that a Natural Resource Protection Plan must be submitted upon any further development of the "remnant" parcel; and iii) the following note shall be placed upon the face of such Certified Survey Map: "The Natural Resource Features identified herein are not based upon field surveys. In the event of further land division or development of a parcel herein with any such Natural Resource Feature, a complete NRPP with field surveys is required for said parcel." For the purposes of this section, the Zoning Administrator shall not require that the "best available" information be a "first source" of information, as identified in §15-4.0102A., B., C., D., and G."

SECTION 2:           §15-4.0102G. of the Unified Development Ordinance of the City of Franklin, Wisconsin, be repealed and the same is hereby recreated to read as follows: "G. **Wetlands and Shoreland Wetlands.** Wetlands and shoreland wetlands are defined in Division 15-11.0100 of this Ordinance. Wetland areas shall be determined by reference to the following sources in the order shown below. If the first source is considered inaccurate or inappropriate, as determined by the Zoning Administrator, the succeeding source shall be used. All wetland boundary determinations shall be consistent with the procedures identified in the publication titled *U.S. Army Corps of Engineers Wetland Delineation Manual – Final Report* dated January 1987, as amended from time to time. No wetland delineation shall be valid for any purpose required under this Ordinance after the expiration of five years from the date the delineation was performed. While wetland delineations performed within the five years preceding the submission of use thereof where required under this

Ordinance are generally acceptable to meet the purposes for which such delineation is required, a current re-delineation may be required where there exists extrinsic evidence of or cause to reasonably believe that such original delineation is incorrect or that the wetland boundary has changed substantially, considering the size and quality of the wetland and the circumstances of any proposed development impact upon the wetland, since the original delineation. The area of wetlands and shoreland wetlands (in square feet and acres) shall be measured and graphically delineated on the "Natural Resource Protection Plan."

1. Field survey of plant material by a botanist with a professional degree in either botany or biology.
2. 1"=400' aerial photographs prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and available from SEWRPC (most recent date only).
3. Wetland inventory maps prepared for the City of Franklin as part of the "Wisconsin Wetland Inventory" prepared by the Wisconsin Department of Natural Resources as amended."

SECTION 3:

§15-4.0102B. of the Unified Development Ordinance of the City of Franklin, Wisconsin, be repealed and the same is hereby recreated to read as follows: "**B. Woodlands and Forests.** Woodlands and forests (mature and young) are defined in Division 15-11.0100 of this Ordinance. Woodlands and forests shall be measured and graphically indicated on the "Natural Resource Protection Plan." Such woodland and forest area drawing shall indicate all woodland and forest areas of the property. The determination of woodland and forest boundaries shall be based on the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Zoning Administrator, the succeeding source shall be used:

1. A field survey of trees compiled by a registered land surveyor and identified by a landscape architect, forester, arborist, or botanist with a professional degree in one of those fields of endeavor. The location, size, and species of all healthy trees having a diameter of eight (8) inches or greater Diameter at Breast Height (DBH) that are located in woodland and forest areas within twenty-five (25) feet of any proposed improvement and/or in woodland and forest areas to be demolished due to the placement of improvements or grading are to be graphically shown on the "Natural Resource Protection Plan" or submitted as a separate drawing. For the remaining undisturbed areas of the development, Certified Survey Map, Subdivision Plat, or Condominium only the outline of woodland and forest areas indicating whether they are mature or young woodlands is required.

2. 1" = 400' aerial photographs prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and available from SEWRPC (most recent date only).

SECTION 4: §15-4.0102I. of the Unified Development Ordinance of the City of Franklin, Wisconsin, be and the same is hereby amended to add the following to the existing text: "The area of wetland setbacks (in square feet and acres) shall be measured and graphically delineated on the "Natural Resource Protection Plan."

SECTION 5: §15-7.0201 of the Unified Development Ordinance of the City of Franklin, Wisconsin, be and the same is hereby amended to add the following to the existing text after both uses of the phrase "Certified Survey Map": "(except as otherwise provided for by the exclusions as identified in §15-3.0501C.)".

SECTION 6: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

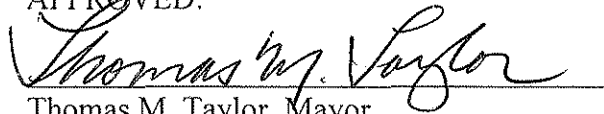
SECTION 7: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 8: This ordinance shall take effect and be in force from and after its passage and publication.


Introduced at a regular meeting of the Common Council of the City of Franklin this 7th day of April, 2009, by Alderman Skowronski.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 7th day of April, 2009.

APPROVED:

  
Thomas M. Taylor, Mayor

ATTEST:

  
Sandra L. Wesolowski, City Clerk

AYES 5 NOES 1 ABSENT 0  
(Ald. Solomon)