

City of Friend

*gave to Mark Stutzman
for Planning Commission's*

From: Michael G. Mullally [mike@mullallylaw.com]
Sent: Wednesday, September 01, 2010 10:48 AM
To: City of Friend
Subject: business district zoning issues

consideration

Attachments: SDOC0423.pdf



SDOC0423.pdf
(324 KB)

Debbie- I've attached two draft ordinances for circulation regarding the zoning issues in our business districts. These were prepared in response to discussions at the last council meeting.

The first one amends sections 11-107 and 108 of the muni. code (sections dealing with the B-1 and B-2 districts). the added language is underlined. We've added banks and financial services as a permitted use in the B-1 district (it wasn't there previously). Most importantly it creates a procedure to consider residences in both the B-1 and B-2 districts, under a new procedure allowing for a conditional use permit (CUP). The CUP is a way for a city to keep control of uses that are more questionable, but still might fit a particular area. I like the CUP process as it allows for much public input, and allows the city to set the standards that must be met to allow the particular use both initially and in the future.

In this amendment, a residential use may be allowable in either district if certain conditions are satisfied. These are outlined in part A.1. of both 107 and 108.

The second ordinance is suggested to lay out the procedure under which a CUP is granted. This are entirely new sections, as we don't currently have provisions for CUP's in our zoning. The draft provides that the applicant must submit a written application to the city. It is first routed to the Planning Commission, which considers it, holds a public hearing, and then makes a recommendation to the council.

At the council level, another public hearing is held, and after consideration the council can grant or deny the CUP. It is important to note that the new Sec. 11-125 lays out 11 findings that the council is required to make in considering any CUP. The council also has the ability to set additional conditions on any CUP that it deems necessary.

My suggestion for routing these two ordinances is that they first go to the planning commission for their consideration. A public hearing with 10 days advanced published notice is required at that level.

After the PC has finished their review (after their public hearing), and passed along their recommendation to the council, the council will hold its own public hearing with the 10 day published notice requirement, and can then act on these if they so choose.

This is a process that will take some time and discussion, as it should require adequate deliberation by both bodies involved.

If this is an agenda item, please keep in mind that it can't be adopted by the council. It can only be OK'd to pass along to the PC to start the discussions.

Mike

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----- Original Message -----
From: <mike@mullallylaw.com>
To: "Mike" <mike@mullallylaw.com>
Sent: Wednesday, September 01, 2010 9:22 AM

> This E-mail includes attached file(s) sent from "RNP7D3A76" (4045/4145g).
>
> Scan Date: 09.01.2010 09:22:53 (-0500)
> Queries to: mike@mullallylaw.com
>

ORDINANCE NO. 10-713

AN ORDINANCE amending Sections 11-107 and 11-108 of the Municipal Code of the City of Friend, Nebraska, allowing for additional permitted uses and certain conditional uses within the B-1 and B-2 zoning districts of the City of Friend; to specify the conditions that must be met for residences within these districts; to repeal conflicting ordinances and sections; and to provide an effective date.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF FRIEND, NEBRASKA:

Section 1. That Section 11-107 of the Municipal Code of the City of Friend, Nebraska is hereby amended to read as follows:

§11-107 ZONING REGULATIONS; B-1 HIGHWAY BUSINESS DISTRICT.

A. PERMITTED USES. The following uses are permitted in the B-1 Highway Business District:

- a) Agriculture or truck gardening, provided that any building for the enclosure for the shelter of animals shall be at least fifty (50) feet from any street and lot lines.
- b) Billboard, when at least fifty (50) feet from any "R" District Boundary.
- c) Filling station.
- d) Motels or hotels.
- e) Laundries or dry cleaning establishments.
- f) Commercial green house.
- g) Farm implement display or sales room.
- h) Barber shops and beauty parlors.
- i) Professional offices.
- j) Business offices.
- k) Antique sales.
- l) Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100) feet from any "R" District Boundary.
- m) When located at least one hundred (100) feet away from any "R" District Boundary: bowling alley, drive-in restaurant or similar establishment, drive-in theater, other similar places of entertainment or amusement.
- n) Banks and financial services.

A.1. CONDITIONAL USES. A building or premises within this District may be used, in part, as a residential unit provided that the following conditions are satisfied, and if a conditional use permit for such use has been obtained in accordance with Sections 11-121 through 11-125 of the Municipal Code:

1. The structure shall at all times be occupied only by the owner of record of the structure, and members of his or her immediate family. No structure shall be leased for residential purposes to any other person or entity.
2. The owner of record shall provide for at least two (2) off-street parking spaces to be continually available for use by the owner of record, members of the owner's immediate family, and their guests.
3. The residential area shall be entered and exited by means of a separate, ground level ingress and egress system that does not face or abut a public street within the District. No entrance to or exit from the residence from an entryway facing a public street is allowed. No part or portion of the residential unit shall be visible to the public from the street store front, either by window, door, or other opening.
4. A separate and distinct fire separation wall shall be constructed to separate the residential living quarters from the front, street-side of the real estate. The construction specifications of the firewall shall be determined by and at the sole discretion of the Municipal Building Inspector.
5. Minimum height, area regulations, light and ventilation requirements, and egress requirements set forth in the prevailing building codes are met.
6. Individuals seeking to maintain a residence within the District shall submit an application to the Zoning Administrator prior to establishing a residence. The application shall provide a detailed plan showing the steps that have been or will be taken to satisfy the above conditions.

§11-108 ZONING REGULATIONS; B-2 BUSINESS DISTRICT.

A. PERMITTED USES. The following uses are permitted in the B-2 Business District:

- a) Any use permitted in the B-1 Highway Business District.
- b) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, beauty parlor, electrical repair or similar retail sales, services, or repair shops.
- c) Public garage, when located at least fifty (50) feet from any "R" District Boundary.
- d) Business or commercial school or dancing or music academy.
- e) Clinic.
- f) Printing shop.
- g) Automobile or trailer display or sales room or when located at least fifty (50) feet from any "R" District, an automobile or trailer sales or storage lot.
- h) Lumber yard.
- i) Frozen food locker.
- j) Milk distributing station.
- k) Undertaking establishment or mortuary.
- l) Painting, plumbing, tinsmithing, upholstering or similar general service shop.
- m) Off-street parking as required in section 11-112.
- n) Accessory building or use customarily incidental to a permitted use, including an advertising sign or bulletin board.

A.1. CONDITIONAL USES. A building or premises within this District may be used, in part, as a residential unit provided that the following conditions are satisfied, and if a conditional use permit for such use has been obtained in accordance with Sections 11-121 through 11-125 of the municipal Code:

1. The structure shall at all times be occupied only by the owner of record of the structure, and members of his or her immediate family. No structure shall be leased for residential purposes to any other person or entity.

2. The owner of record shall provide for at least two (2) off-street parking spaces to be continually available for use by the owner of record, members of the owner's immediate family, and their guests.

3. The residential area shall be entered and exited by means of a separate, ground level ingress and egress system that does not face or abut a public street within the District. No entrance to or exit from the residence from an entryway facing a public street is allowed. No part or portion of the residential unit shall be visible to the public from the street store front, either by window, door, or other opening.

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Section 1. That Section 11-107 of the Municipal Code of the City of Friend, Nebraska is hereby amended to read as follows:

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A. PERMITTED USES. The following uses are permitted in the B-1 Highway Business District:

- a) Agriculture or truck gardening, provided that any building for the enclosure for the shelter of animals shall be at least fifty (50) feet from any street and lot lines.
- b) Billboard, when at least fifty (50) feet from any "R" District Boundary.
- c) Filling station.
- d) Motels or hotels.
- e) Laundries or dry cleaning establishments.
- f) Commercial green house.
- g) Farm implement display or sales room.
- h) Barber shops and beauty parlors.
- i) Professional offices.
- j) Business offices.
- k) Antique sales.
- l) Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100) feet from any "R" District Boundary.
- m) When located at least one hundred (100) feet away from any "R" District Boundary: bowling alley, drive-in restaurant or similar establishment, drive-in theater, other similar places of entertainment or amusement.
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§11-108 ZONING REGULATIONS; B-2 BUSINESS DISTRICT.

A. PERMITTED USES. The following uses are permitted in the B-2 Business District:

- a) Any use permitted in the B-1 Highway Business District.
- b) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, beauty parlor, electrical repair or similar retail sales, services, or repair shops.
- c) Public garage, when located at least fifty (50) feet from any "R" District Boundary.
- d) Business or commercial school or dancing or music academy.
- e) Clinic.
- f) Printing shop.
- g) Automobile or trailer display or sales room or when located at least fifty (50) feet from any "R" District, an automobile or trailer sales or storage lot.
- h) Lumber yard.
- i) Frozen food locker.
- j) Milk distributing station.
- k) Undertaking establishment or mortuary.
- l) Painting, plumbing, tinsmithing, upholstering or similar general service shop.
- m) Off-street parking as required in section 11-112.
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