

# BOARD OF ALDERMEN

ITEM NO.: D(3)

## AGENDA ITEM ABSTRACT

MEETING DATE: APRIL 8, 2002

TITLE: MINOR MODIFICATION TO THE LAKE HOGAN FARMS CONDITIONAL USE PERMIT

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES __ No <u>X</u>
ATTACHMENTS: A. LAND USE PERMIT APPLICATION B. LETTER FROM APPLICANT REGARDING BUFFER C. SITE PLAN ILLUSTRATING BUFFER D. LETTER FROM APPLICANT REGARDING ACTIVITIES WITHIN BUFFER E. LETTER FROM CHRIS MURPHY F. STAFF RESPONSE LETTER TO ACTIVITIES IN BUFFER G. LETTERS FROM NEIGHBORING PROPERTY OWNERS AND HOMEOWNER'S ASSOCIATION H. LETTER FROM APPLICANT REF. MS. MANDEL I. RESOLUTION REGARDING REQUEST	FOR INFORMATION CONTACT: MARTY ROUPE 918-7333

### PURPOSE

Mr. Michael Dean Chadwick of 1<sup>st</sup> American Builders, LLC, has submitted an application (**Attachment A**) requesting a minor modification of the Conditional Use Permit (CUP) issued on September 27, 1994 for the Lake Hogan Farms subdivision. Specifically, the applicant is requesting the establishment of a 25-foot (25') 'natural, vegetative, undisturbed buffer' on one specific lot (Lot 151) where a 75-foot (75') buffer was established when the CUP was granted.

### INFORMATION

Please find attached a letter from the applicant explaining reasons why they feel the establishment of a reduced buffer is necessary (**Attachment B**). As background, please note that the 75' 'natural, vegetative, undisturbed buffer' was established during the negotiated CUP for the project. In short, the buffer seems to have been established as a way to mitigate the potential impacts of the development from existing homes south of the Lake Hogan Farms property, as illustrated on the attached site plan (**Attachment C**). However, a clear definition was not provided in the approved plans, nor was any discussion found in the project files regarding the parameters of what could be done within the buffer area.

Prior to receiving the minor modification request, the applicant contacted staff to discuss generally what could and could not be done within the established buffer, as described in the attached letter (**Attachment D**). Staff researched the matter and found that former Development Review Administrator, Chris Murphy, had written a letter in April 2001 to a resident of Drew Lane (south of Lake Hogan Farms)

regarding this matter (**Attachment E**). In turn, staff wrote a response letter reiterating statements made in the April 2001 letter and expounding on that information to answer the specific questions put forth in the applicant's letter (**Attachment F**). In summary, staff chose to conservatively interpret the meaning and intent of the 'natural, vegetative, undisturbed buffer.' In essence, staff has concluded that the language chosen for this buffer (i.e.- the words: "natural," "vegetative," and "undisturbed") means that little to nothing should happen within this buffer. Staff did state, as evidenced in the attached letter (**Attachment F**), that certain well-defined activities could take place within the buffer for health and safety reasons. In example, please note that the letter states that noxious weeds (i.e.- poison ivy) could be cleared from the area. To do so, staff requested that the applicant (or any future property owner) contact the Zoning Division beforehand to discuss the specifics of what would be done.

In receiving the minor modification request, staff suggested that the applicant contact the adjacent property owners to get a letter of consent regarding the request. Three (3) such letters have been received from neighboring property owners within Lake Hogan Farms subdivision as well as a letter of support from the Lake Hogan Farms Homeowner's Association (**Attachment G**). To date, however, no such information has been forthcoming from the adjacent property owner outside of Lake Hogan Farms subdivision (i.e.- Muriel Mandel, of 408 Stony Hill Drive). The applicant has indicated to staff that he has attempted to contact Ms. Mandel in a variety of ways (by telephone, by mail, by leaving information at the door), but he has received no response (**Attachment H**). As due diligence, staff also attempted to contact Ms. Mandel. Staff attempted multiple telephone calls. Each time, the phone did ring, but no one answered, nor did an answering machine take the call. Staff sent a 'certified mail' letter to Ms. Mandel. To date, the certified mail receipt has not been returned to the Town. On Friday, April 04, 2003, as a last effort, staff visited the site and left information at the door. Lastly, a package was given to the Police Department on Friday, April 04, 2003 for attempted hand-delivery over the weekend. If contact is made, an update will be provided at the meeting.

### **RECOMMENDATION**

The Administration recommends that the Board of Aldermen review, deliberate, and make a decision regarding the requested change. A resolution has been offered, which may be completed as the Board desires (**Attachment I**).