

# BOARD OF ALDERMEN

ITEM NO. D(4)

## AGENDA ITEM ABSTRACT

**MEETING DATE: Tuesday, April 6, 2004**

**TITLE: Request-to-Set a Public Hearing to consider a LUO Text Amendment related to permit modifications where nonconforming situations may be allowed to remain**

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES _ NO <u>X</u></b>
<b>ATTACHMENTS:</b> <b>A. Resolution</b> <b>B. Draft Ordinance</b> <b>C. Excerpt of Articles VI and VIII</b>	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – <b>918-7327</b> Mike Brough – <b>929-3905</b>

### PURPOSE

Over time, changes to town regulations may create nonconforming situations in existing development. Staff has determined the need for ordinance provisions associated with such situations in order to clearly administer the review and approval process when new permits or permit modifications have been requested. A resolution setting a public hearing for May 25, 2004 has been prepared for the Board's use.

### INFORMATION

Since the adoption of the Land Use Ordinance and on a fairly regular basis, the Town has adjusted its development requirements. Some of these changes have been narrow and some broad in their applicability, but many have had some effect on existing activities. For the most part, the nonconforming provisions of the ordinance allow the continuation of these activities without specific review or approval. It is only when a property owner seeks to make a change that questions regarding the expansion, continuation, or replacement arise.

Staff has identified the need for additional clarification regarding the extent to which an entire project must be brought into compliance with new regulations when a request for a new permit or a request for a modification to an existing permit is submitted. Such requests are principally examined in relation to Section 15-64 of the Land Use Ordinance. Should a project clearly include any nonconforming situations, Section 15-124 provides some guidance on how to proceed. The existing language does not provide specific direction on the extent to which nonconformities may be allowed to remain or must be required to be removed. A draft ordinance has been prepared that seeks to provide some additional guidance in making these determinations. Copies of the draft ordinance and the applicable ordinance provisions are attached (*Attachments B and C*).

### FISCAL IMPACT

Amending the Land Use Ordinance involves staff analysis and administration of the proposed amendment, advisory board review, and advertising costs associated with ordinance preparation and public notice.

### ADMINISTRATION'S RECOMMENDATION

The Administration recommends that the Board of Aldermen adopt the attached resolution setting a public hearing on text amendments relating to clarifying which nonconforming situations may be permitted to continue in association with the modification of a permit and referring the draft ordinance to the Planning Board and Orange County staff. (*Attachment A*).