

BOARD OF ALDERMEN

ITEM NO. (2)

AGENDA ITEM ABSTRACT

MEETING DATE: April 25, 2006

TITLE: Public Hearing, Continued: Rezoning Proposal for R-2 District/Establishment and Placement of OR-MU Zoning District

DEPARTMENT: Planning	PUBLIC HEARING: YES or NO <input checked="" type="checkbox"/>
ATTACHMENTS: A. Draft Ordinance and Map B. Excerpt of minutes, March 28 public hearing C. David Rooks' proposed definition for low-volume retail D. Memoranda regarding Carr Court sewer availability E. Staff Memo on sidewalk in Carr Court neighborhood F. Staff Memo for March 28th G. Map of Adjacent Land Uses H. Excerpt of the Table of Permissible Uses I. Excerpt of Article IX Zoning Districts J. Letter from David Rooks re: Hunt Property K. Section 15-124 (g) Expansion of Nonconforming Uses L. Planning Board Recommendation M. Approval template for plan/policy consistency findings N. Denial template for plan/policy consistency findings O. Description of access to Gattis properties P. Economic Sustainability Commission Recommendation	FOR INFORMATION CONTACT: Patricia McGuire -- 918-7327 Mike Brough – 929-3905

PURPOSE

The Board of Aldermen held a public hearing on March 28th and continued it to the April hearing to allow additional time for the Board to receive public comments before taking action on the draft ordinance.

INFORMATION

The Board of Aldermen voted to continue the public hearing to allow time for neighbors to discuss the proposal and to meet with members of the Board of Aldermen and for the Economic Sustainability Commission to complete its review. Staff would like to note updates to two of the documents that were included in the public hearing packet. First, the staff recommendation included two revisions to the draft

ordinance provisions that would apply to new Office Residential Mixed Use developments, modifying the draft ordinance to specify a 20 percent open space requirement for OR-MU developments and relieving such developments of the playfield requirements that applies to residential developments of more than 25 units. Clarification of the language describing the permissible uses allowed in the OR-MU has also been included. All changes are shown in bold text. The draft ordinance that is provided to the Board for this continued review incorporates those staff-recommended changes (*Attachment A*).

Overview of hearing and follow-up actions

Six individuals offered comments during the public hearing on March 28th. An excerpt of the minutes summarizing these comments is attached (*Attachment B*). The Board of Aldermen also requested information on a variety of issues that were raised during the hearing. The requests are noted below, accompanied by a staff response (in italic text).

1. Planning Board to take another look at comments and suggestions about thresholds. *The Planning Board reconsidered their recommendations on April 20th and has provided a response (part of Attachment L). Staff has also reviewed the Planning Board's five recommendations. The revised draft ordinance includes several alternative provisions modeled on the Planning Board recommendations. Please note that the revised ordinance does include the Planning Board recommendation to expand the residential component of a development in conjunction with the provision of affordable housing. However, staff does not support this component of the recommendation; the increase to 75 percent residential seems to leave a non-residential component that is too small to be viable. The staff does support the addition of hotel and motel uses and bed and breakfasts as permissible uses and has amended the permissible use provision to include these. Staff has modified the list of permissible uses in the OR-MU and supports and has included the Planning Board recommendation to include limited restaurant uses. Staff is generally supportive of the recommendations for changes associated with the provision of affordable housing with regard to density and building height and has provided both the original text and the Planning Board recommendation. Staff has not included an alternative for the Planning Board recommendation that would allow new on-street parking to be allocated to a new development. Staff notes that this is a response to a concern that seems broader than OR-MU developments only. Staff suggests that, if the Board of Aldermen is supportive of such a change, staff be directed to prepare a separate amendment to the Land Use Ordinance that would amend Section 15-292(b) to incorporate language such as the following: "Where parking is available on adjacent or nearby public street, the permit issuing authority may attribute some of the parking towards the parking requirement".*
2. Staff to respond to the proposal made by David Rooks regarding definition of low-volume retail (*Attachment C*). *Staff recognizes the desire for existing uses to be conforming, rather than nonconforming. As was noted in the staff report and during the public hearing, a number of uses will remain or be made nonconforming in conjunction with the proposed rezoning. Existing land use ordinance provisions allow for continuation and/or expansion of those uses, so long as they are not abandoned for more than a period of twelve consecutive months. In relation to Mr. Rooks' initial memo, staff also noted that the Board of Aldermen could consider amending the draft ordinance to allow that the permitted 2,000 uses within the OR-MU includes 2,110 (high-volume traffic generating retail with no outdoor storage or display of goods). One of the clarifications included in the revised draft ordinance is to specify that three types of high-volume retail operations and two types of low-volume uses are permissible in the OR-MU. Upon review*

of the definitions, uses, and intent of this district, staff determined that this change was more appropriate than a change to the definition of low-volume retail operations.

3. Staff to obtain Mr. Gattis' perspective on the proposed rezoning. *Staff has spoken with Mr. Gattis. Mr. Gattis has concerns about access to his property as the concrete plant site redevelopment continues and that his residence becomes a nonconforming use under the ORMU rezoning. Mr. Gattis expressed his intention of attending the continued public hearing on April 25th. In response to a question raised during a neighborhood meeting, staff has prepared an overview of the access to the Gattis properties (Attachment O).*
4. Aldermen Coleman is to communicate with the Carr Court neighborhood representative and let the Board of Aldermen know so that the open meetings law is not violated. *A resident of the neighborhood informed staff that a meeting was held with the Mayor and two aldermen on Saturday, April 15, 2006.*
5. Staff to contact OWASA regarding sewer availability in the Carr Court neighborhood. *Staff has contacted OWASA and has received a reply. Copies of correspondence are attached. Information on the Town's sewer extension subsidy policy is also attached (Attachment D).*
6. Staff to evaluate causes of loss of soil, drainage concerns, and amount of impervious surface in Carr Court vicinity. *Staff has contacted one neighbor and is working to contact one other.*
7. Staff to report on status of sidewalks in Carr Court neighborhood. *Staff memo is attached (Attachment E).*
8. Economic sustainability commission to complete its review. *The ESC completed its review on April 13 and a recommendation is attached (Attachment P).*

Background from March 28th Public Hearing

On June 21, 2005, the Board of Aldermen discussed rezoning options in the Brewer Lane area and identified several strategies that would benefit from further consideration. The Board of Aldermen also indicated their interest in establishing a moratorium for the R-2 zoning district to provide time to consider alternatives and enacted a six-month moratorium on August 23, 2005. The moratorium expired on February 23, 2006. On September 20th, the Board of Aldermen considered zoning alternatives for the R-2 district. As included in the minutes of the meeting:

It was the consensus of the Board to request that town staff prepare an R-2 rezoning proposal based on the RHDC overlay zone with some modifications, specifically requiring mixed use by establishing a minimum amount of nonresidential development, especially office/service type uses not retail/restaurants/bars/nightclubs.

A draft ordinance that responded to the request was prepared and presented on January 10, 2006. The draft ordinance was reviewed by staff and referred to the Planning Board and Orange County staff, per the requirements of the Land Use Ordinance and the Joint Planning Agreement respectively.

Please see the attached staff memo (*Attachment F*), maps and relevant Land Use Ordinance provisions, Planning Board recommendation and other materials (*Attachments A - N*) for a description of the draft ordinance and additional information on the proposed rezoning.

Additional Considerations

In addition to the discussion and analysis provided in the attachments, staff would also note for the Board that a possible outcome of the new district, as it is currently drafted, could be an office-only development. This could occur if an owner wished to make legal use of their property without invoking the mixed-use requirements associated with including a residential component. Such an outcome would seem to be consistent with adopted policy to increase the commercial tax base and the Board's stated interest that much of the property zoned R-2 currently be precluded from residential-only development. Furthermore, in light of the location of the R-2 district adjacent to residential areas, it is noted that any impacts of office-only developments are often considered neutral or good in relation to neighboring residential development. Though somewhat unlikely, this outcome would fall short of the interest in mixed use development expressed by Board members during review of the R-2 district.

One other issue has been raised by advisory board members and others in informal discussions of the ordinance. This issue is the possible need for placement of the DNP overlay zone over those portions of the B-1(g) zoning district located near the cemetery. The cemetery is currently zoned R-2, a zoning district that is exempted from the "across the street from or adjacent to" condition to place the DNP overlay. The rezoning proposal would change this to R-7.5, one of the residential districts that do in other locations call for the location of the overlay. Staff notes that the placement of the DNP overlay can be accomplished through a properly advertised public hearing on a zoning map amendment and this change has not been included in the current rezoning proposal. Due to the current town/public uses and separation provided by the railroad r/w, staff has not considered this necessary for the town lots (cemetery and Head Start center) or for those portions of the R-2 that lie south of the railroad tracks. Staff feels that adding clarification would be beneficial and intends to add such locations to the area exempted in the R-2 district description as part of the comprehensive review.

Finally, the single plan/policy consistency finding that was provided to the Board of Aldermen at the public hearing has been separated into two templates. Rather than filling in the blanks on the one template (that could have been used for either approval or denial of a proposed amendment), it is recommended that the Board of Aldermen select either the approval or the denial templates, in accordance with their decision, and provide the necessary statement regarding consistency of adopted plans or policies with the action (*Attachments M - N*). These documents replace *Attachment J* that was included in the March 24th staff memo.

FISCAL IMPACT

The draft ordinance, if adopted, establishes a foundation for mixed use development that is considered desirable in this area. The opportunity should result in an increase in the underlying property values, contributing to increased tax revenue. Development of affected properties that seek to utilize the mixed use provisions should result in further increases in property values from both residential and non-residential sectors and would be expected to have a positive impact on the town's tax base. As with any development, there will be the need to provide appropriate town services in proportion to the development.

STAFF RECOMMENDATION

The staff recommends that the Board of Aldermen consider adoption of the revised draft ordinance (*Attachment A*), selecting the Planning Board options if desired, and that the Board of Aldermen also

consider adoption of the *Attachment M*, the plan/policy consistency finding for a zoning amendment that is adopted.