

# BOARD OF ALDERMEN

ITEM NO. (4)

## AGENDA ITEM ABSTRACT

MEETING DATE: August 22, 2006

**TITLE: Public Hearing to Consider a Land Use Ordinance Text Amendment to Allow Residential Use on the Ground Floor of Buildings in Certain Locations in the Downtown**

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES <u>X</u> NO</b>
<b>ATTACHMENTS:</b> A. Approval template for plan/policy consistency findings B. Denial template for plan/policy consistency findings C. Draft ordinance D. LUO text amendment request E. LUO Section 15-160.1 F. Map of B-1(c) district G. Comments and recommendations	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – 918-7327

### PURPOSE

The Town has received a request from Jack Haggerty, on behalf of NR Milian and Associates, to amend the text of the Land Use Ordinance to allow residential uses on the ground floor of buildings in the B-1(c) district that share a common boundary with a lot where the zoning classification allows that use. A draft ordinance that responds to this request has been prepared. It is necessary to receive public comment before taking action on this requested amendment.

### INFORMATION

Mr. Haggerty submitted a text amendment request on April 21, 2006 (*Attachment D*). Currently, Section 15-160.1 of the Land Use Ordinance does not allow residential uses on the ground floor of property within the B-1(c) zoning district (*Attachment E*). The requested amendment to the Land Use Ordinance would amend Section 15-160.1 to allow residential uses on the ground floor of buildings in the B-1(c) so long as the residential area totals no more than 66 percent of the heated ground floor area. The text amendment request states that ground floor residential is appropriate in portions of the B-1(c) that share a common boundary with districts where residential uses are permitted on the ground floor. A map illustrating the location of the properties with B-1(c) zoning that share a common boundary with properties where ground floor residential uses are allowed is attached (*Attachment F*).

#### Description of the Draft Ordinance

The existing prohibition against ground-floor residential uses is included within Article X Permissible Uses of the Land Use Ordinance. The draft ordinance proposes to amend Section 15-160.1 to allow ground-floor residential uses in the B-1(c) under specified circumstances, so long as:

- (1) The property shares a common boundary with a lot whose zoning classification allows residential uses on the ground floor, and
- (2) The property is developed pursuant to a permit that covers the entire property, and in such a manner that residential uses do not comprise more than fifty percent of the ground floor of any building within such development, and
- (3) To the maximum extent practicable, the ground floor residential component of the development is located on the portion of the property that is closest to, and is oriented toward, the lot or lots referenced in subsection (b)(1) above.

The draft ordinance also includes the the following text that has been struck through, “or lies directly across the street from such a lot.” Staff recommends removing this phrase to limit the number of lots in the B-1(c) district that would be able to take advantage of this provision. Staff has noted that too wide an expansion of residential uses in the downtown seems to run in opposition to adopted policy to increase commercial development there. The draft ordinance also specifies that “a lot within the B-1(c) district that is developed with residential uses on the ground floor pursuant to this subsection shall not be regarded as “a lot whose zoning classification allows residential uses on the ground floor.” Staff notes that, if adopted, a maximum of 50 percent ground floor residential uses would be permissible on lots that meet several criteria specified in the draft ordinance, rather than 66 percent as has been requested. As currently drafted, the ordinance would make ground floor residential uses permissible on approximately one-half of the lots in the B-1(c) district.

The draft ordinance was submitted to the Planning Board, Appearance Commission, Economic Sustainability Commission, and Orange County staff for review. Comments and recommendations are attached (*Attachment G*).

### **FISCAL IMPACT**

Under evaluation.

### **RECOMMENDATION**

The staff recommends that the Board of Aldermen consider adoption of (*Attachment A*) of the resolution endorsing the consistency of this draft ordinance with established policy should the Board wish to allow residential uses on the ground floor of buildings in the B-1(c) district under certain conditions (*Attachment C*). Adoption of the resolution finding otherwise should be adopted if the Board of Aldermen wishes to leave the existing regulations as they are.