

# BOARD OF ALDERMEN

ITEM NO. B(2)

## AGENDA ITEM ABSTRACT MEETING DATE: October 24, 2006

**TITLE: Continuation of 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 Section 15-160.1 E. LUO text amendment request F. Map of B-1(c) district G. Comments and recommendations H. Revised map of B-1(c) district I. Comments from Jack Haggerty	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – 918-7327

### PURPOSE

On August 22, the Board of Alderman opened a public hearing on a draft ordinance that had been prepared in response to 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. The Board continued the hearing and requested additional information.

### INFORMATION

#### **Background from August 22, 2006 Agenda Abstract**

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 D*). Mr. Haggerty submitted a text amendment request on April 21, 2006 (*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.

Staff has evaluated the draft ordinance in relation to adopted policies and has identified two changes. First, the draft ordinance also includes 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. Second, staff has added in bold text the following, “properties separated by a railroad right of way do not share a common boundary” to clarify that railroad rights of way do not constitute a common property boundary for purposes of this LUO provisions.

Staff has noted that adopted policies envision mixed use development in the downtown. However, too wide an expansion of residential uses seems to run in opposition to the Town’s policy to significantly increase commercial development. The draft ordinance 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. The ordinance in its entirety would make ground floor residential uses permissible on approximately one-half of the lots in the B-1(c) district. With the modifications noted above, the opportunity to include up to 50 percent ground floor residential in the B-1(c) district would be available to approximately 10 existing lots.

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*).

### **Follow-up to August 22, 2006 Public Hearing**

Revised materials. The map showing the properties in the B-1(c) has been revised to highlight the properties where ground floor residential uses are allowed on adjacent lots only, (*Attachment H*).

Additional notification. The Board's consideration of this text amendment has been included in the published public hearing notice for October 24. A public hearing notice has been posted on the Town's message board, an action that results in notification to all members of the Town's listserve. In addition, notification letters were mailed on Thursday, October 19 to 1,101 property owners and residents within 1,000 feet of the B-1(c) zoning district boundary.

### **FISCAL IMPACT**

In general, residential uses are not considered the highest and best use in commercial areas. Tax revenues from these uses, particularly the building component, tend to be lower than properties used for commercial purposes. The specific impact of increasing the amount of residential use by permitting some ground floor residential use in the town's core commercial district has not been estimated. Residential uses on the upper floors of commercial buildings in the area are increasing. The fairly high value of those units may indicate that in the current market upper floor residential is becoming the highest and best use.

### **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.