

# BOARD OF ALDERMEN

ITEM NO.: D(10)

## AGENDA ITEM ABSTRACT

MEETING DATE: JUNE 19, 2007

**TITLE: A REQUEST FOR A MINOR MODIFICATION TO THE CONDITIONAL USE PERMIT FOR THE WINMORE VILLAGE MIXED USE PROJECT AT 1400 HOMESTEAD ROAD FOR THE ADDITION OF A SWIM CLUB AND FRUIT ORCHARDS**

<b>DEPARTMENT: PLANNING DEPARTMENT</b>	<b>PUBLIC HEARING: YES __ No <u>X</u></b>
<b>ATTACHMENTS:</b> A. RESOLUTION APPROVING MINOR MODIFICATION REQUEST B. COPY OF CONDITIONAL USE PERMIT GRANTED ON JUNE 10, 2003 C. PROJECT SITE PLAN IN VICINITY OF PROPOSED SWIM CLUB & RENDERING D. COMMENTS FROM APPLICANT EXPLAINING REQUEST E. LETTER FROM ORIGINAL DEVELOPER REGARDING DISPOSITION OF OPEN SPACE F. TREE REMOVAL JUSTIFICATION INFORMATION	<b>FOR INFORMATION CONTACT:</b> MARTY ROUPE, 918-7333

### PURPOSE

The Board is asked to review a request for a Minor Modification to the Conditional Use Permit for the Winmore Village Mixed Use project at 1400 Homestead Road for the addition of a swim club and fruit orchards. The request involves adding a swimming pool, patio / decking, and a clubhouse / changing facility as well as the addition of fruit orchards within the open space. Town Staff recommends that the Board of Aldermen deliberate and make a decision regarding the CUP Minor Modification request.

### INFORMATION

#### **Background & Additional Information**

The Board of Aldermen approved a Conditional Use Permit (CUP) on June 10, 2003 for construction of a Village Mixed Use project (VMU) at 1400 Homestead Road (**Attachment B**). The CUP allows construction of 98 Single-Family Lots, 66 Multi-Family Townhome Lots, 68 Multi-Family Apartments, and 20 Commercial Lots. Forty-eight (48) of the units will meet the Town's affordable housing criteria, which are set forth in Section 15-182.4 of the Town's Land Use Ordinance (LUO).

The originally-approved project includes sufficient and appropriate recreation facilities including playfields, children's playground facilities, trails, etc. After approval, the original developer sold the right to build the project to Kovens Construction Company. Subsequently, Kovens approached staff regarding the possibility of adding fruit orchards and a pool and swim club within an open space area near

the existing house that is being converted to a clubhouse (**Attachment C**). Essentially, Kovens is of the opinion that a swim club is an appropriate recreation facility to accompany a village mixed use development (**Attachment D**). The proposed size of the pool is 2,227 square feet, with 4,342 square feet of patio surrounding it. Note that the fruit orchards and swim club are proposed as private facilities for the benefit of Winmore VMU residents and guests only. The applicant does not desire to open the facilities to citizens outside the development.

Staff reviewed the project for compliance with the Land Use Ordinance (LUO) generally and specifically for compliance or potential conflicts with the approved CUP. Staff has determined that the proposal complies with the LUO and with the CUP, subject to the Board foregoing a portion of publicly-dedicated open space (further described below – see 2<sup>nd</sup> bullet point). Additional details are provided below:

- **Amount of Open Space.** The addition of the pool involves a slight reduction to the overall amount of open space provided (a reduction of approximately 13,078 square feet). However, the project is still well within compliance with LUO requirements in that it still provides in excess of 40% open space when the applicant potentially could ask for a reduction below 40% because of the inclusion of a 48 affordable units (the LUO allows a reduction of the open space otherwise required for a project when affordable units are included, subject to a 10% maximum reduction in the amount of open space otherwise required). The open space calculations for the project have been adjusted accordingly on the cover sheet of the project plans.
- **Disposition of Open Space.** The original developer offered and the current developer has included on the filed final plat an offer of public dedication for approximately 27 acres of open space along Bolin Creek and other locations within the development (**Attachment E**). This request involves a slight reduction in this offer of public open space (approximate reduction of 52,078 square feet), as the developer desires to maintain the fruit orchards and swim club as private facilities. Staff discussed the matter and determined that no specific plan is in place for the long-term use of the open space and that the proposed facilities will benefit the residents of the development. Still, the Board may wish to consider whether it is appropriate to forego the offer of public dedication for this portion of open space. If the Board finds the request acceptable, then the following condition should be included on the resolution:
  - *That the applicant is authorized to file a correction plat or other suitable legal device to remove the offer of public dedication limited to the area encompassing the fruit orchards and swim club (approximate reduction of 52,078 square feet).*
- **Stream Buffer.** Even though the Winmore CUP allows certain recreation facilities to be located in the stream buffer for Bolin Creek, the applicant proposes a location that sites the swim club primarily outside of the stream buffer (**Attachment C**). Only small portions of the periphery encroach slightly into the edges of the stream buffer including portions of a retaining wall and new landscaping. Small amounts of grading associated with construction of the pool will take place within the buffer as well, but such areas will be stabilized and re-vegetated after construction is complete. The indirect impact resulting from placement of the pool involves moving the children's playground into the stream buffer. The original developer placed the playground in an area close to the clubhouse, yet outside of the stream buffer. Since the pool will be located in the spot previously reserved for the playground, it must move and no options exist outside of the stream buffer, at least near the swim club and clubhouse. The applicant states that they want to locate the playground *between* the swim club and clubhouse to create a commons-type area where families can enjoy multiple facilities while staying relatively close to one another. The applicant

further states that the playground surface will be sand or mulch and will replace an existing gravel parking area behind the existing house nearby. Therefore, the additional amount of impervious surface is minimal. Lastly, orchard #3 is proposed within the stream buffer along an embankment of the constructed wetland (the wetland was originally approved within the stream buffer). While complete reconstruction of the wetland is not anticipated, it will be necessary to remove these plantings if it were ever required. Staff did not identify any significant issues associated with these aspects of the proposal considering the Board originally approved the project with other recreation facilities in the buffer.

- **Parking.** Five (5) parking spaces are proposed for the facility. While the LUO presumptive requirement clearly would require more, it should be noted that village mixed use type development is specifically geared toward reducing the overall number of vehicle trips, especially within the development itself, in part by providing facilities such as the swim club within walking distance. The type of development coupled with the pool not being open to people outside of the development suggests that a significant number of visitors should walk or bike to the swim club rather than drive. Additionally, on-street parking is allowed on most nearby public streets. This in mind, the staff did not identify any significant issues related to the proposed number of parking spaces. The parking space information for the project has been adjusted accordingly on the cover sheet of the project plans.
- **Concern over chemically-treated water potentially entering Bolin Creek.** Staff discussed extensively the removal of pool water since the water will have been treated with necessary chemicals (primarily chlorine). Since OWASA does not accept pool water into their system and it is not advisable to introduce large amounts of such water into the stormwater treatment devices for the project (may affect the health of plants, especially in the constructed wetland), staff finds and the applicant agrees that it is necessary for significant portions of water (such as when it is necessary to empty the pool) to be removed from the site by an appropriate and reputable company. The water then is treated appropriately, off-site, by such company. Because of this, staff recommends the following condition if the Board approves the request:
  - *That, for the pool, any removals of significant portions of water for cleaning purposes or otherwise shall be handled by an appropriate and reputable company and that all water shall be removed from the site and processed in an appropriate manner off-site.*
- **Removal of specimen trees.** Six specimen trees originally identified during the original review must be removed to construct the pool. The applicant closely checked these particular trees during this review process and determined that four should be removed anyway due to ill-health, bad structure, etc (**Attachment F**). One additional tree originally identified cannot be located at this time and appears to represent a tree surveying error.

### **Conclusion**

In summary, the addition of fruit orchards and a pool may provide benefit to the residents and foster a sense of community within the village; however the request does involve a reduction in the publicly-dedicated open space. Staff has determined that the project complies with the LUO and with the approved CUP, subject to the Board foregoing a portion of publicly-dedicated open space. At this time, the Board is asked to deliberate the requested change and make a decision regarding the Minor Modification request.

## **Public Hearing**

It is within the purview of the Board of Aldermen to call a public hearing before rendering a decision on the requested changes. Specifically, with regard to Minor Modification requests, Section 15-64(b) of the LUO states the following: “Unless it is requested by the permit-issuing authority, no public hearing shall be required for such minor modification.”

### **FISCAL IMPACT**

N/A

### **RECOMMENDATION**

The Town Staff recommends that the Board of Aldermen deliberate and make a decision regarding the CUP Minor Modification request. If the Board chooses to approve the request, then the attached resolution (**Attachment A**) should be adopted, along with the included recommendations stated in the resolution.