

BOARD OF ALDERMEN

ITEM NO. B(1)

AGENDA ITEM ABSTRACT

MEETING DATE: August 26, 2008

TITLE: Continuation of a Public Hearing on a Land Use Ordinance text amendment to modify impervious surface limitations for day care uses in village mixed use developments

DEPARTMENT: PLANNING	PUBLIC HEARING YES <u>X</u> NO <u> </u>
ATTACHMENTS: A. Resolutions of consistency and draft ordinance B. Request to amend the text of LUO C. Excerpt of minutes, April 22, 2008 and June 24 meetings of the Board of Aldermen D. Comments and Recommendations E. Table describing 2002 VMU and O/A LUO amendments and timeline F. Advisory board recommendations on 2002 amendments to VMU provisions	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327

PURPOSE

A draft ordinance which would, if adopted, amend the text of the Land Use Ordinance to modify impervious surface limitations for day care uses in village mixed use developments has been prepared and revised, per directions from the Board of Aldermen. The Board of Aldermen has received public comment on the draft ordinance and must adopt a resolution of consistency in conjunction with any action on the draft ordinance.

INFORMATION

A request to amend the Land Use Ordinance was submitted on December 19, 2007 (*Attachment B*) and modified on January 2, 2008. Eric Chupp, on behalf of Capkov Ventures, Inc, developers of the Winmore Village Mixed Use (VMU) development, has requested that subsection 15-176.2(f)(5)(d) be revised to exempt child day care uses from the impervious surface limitations that apply to the single-family residential portion of a village mixed use development. The Board of Aldermen opened a public hearing on this matter on April 22 and referred the draft ordinance to the Environmental Advisory Board (EAB) for a recommendation, continuing presentations and the receipt of public comment to June 24th (*Attachment C*). On June 24th, the Board of Aldermen received staff and applicant presentations and public comment, and reviewed comments and advisory board recommendations (*Attachments D and E*). The Board directed staff to work with the applicant and EAB to revise the draft ordinance to incorporate EAB comments. The Board also requested that staff provide information on the revisions that had been proposed and adopted in

2003 (staff has determined that amendments were adopted in 2002). A response to these directions is provided below:

Revisions to draft ordinance. The EAB offered five comments related to approval of the draft ordinance and, subsequently, development of the site that Winmore has identified as desirable for a daycare facility: The draft ordinance has been revised per these comments and direction from the Board of Aldermen (*Attachment A-3*). The provision regarding the inclusion of enhanced environmental features in a daycare developed without being subject to impervious surface has been revised from one that may be complied with voluntarily to one needing mandatory compliance. Five performance-type measures were added by which a project may demonstrate compliance with this provision and presented for EAB review on August 21st. The EAB accepted three of the provisions as written, revised two others, and added a sixth measure. The EAB comments from June and August (also included with Attachment D) and the manner in which each has been addressed in the draft ordinance are noted below.

1. As per the applicant's offer at the EAB meeting June 19th, dedicate 2.45 acres of open space in perpetuity on the proposed site. *A measure requiring dedication of open space, wherever practicable, is included.*
2. As per the applicant's offer on stormwater mitigation, that all stormwater best management practices (BMPs) and their associated grading be placed outside of primary conservation areas and that water discharged from these practices be discharged in a diffuse flow before it reaches these conservation areas. *A measure specifying these requirements was provided for the EAB's consideration. The EAB modified the measure slightly during its 8/21 meeting.*
3. That the post-development hydrograph match the pre-development conditions. *A measure requiring capture and reuse of roof drainage, to the extent needed to provide for a daycare's landscaping needs, is include as an alternative to this provision. The EAB reviewed on 8/21, proposed additional specificity for this measure and proposed an additional measure related to the storm water hydrograph.*
4. Consideration of the Jordan Lake rules in regards to nitrogen and phosphorus reductions in the development of this site. *A measure requiring that nutrient loads contributed by the development of the daycare not exceed the limits included in the draft rules for Jordan Lake is included.*
5. This is the opportunity to create an educational demonstration site on stormwater mitigation practices. Such a site would serve to help meet the Town's NPDES Phase 2 permit requirements, collaborate with the Bolin Creek Watershed Restoration Team, and give the town credit towards the Jordan Lake rules. *A measure requiring that on-site signage, brochures, or other educational materials on storm water management practices be prepared and displayed in association with the development is included.*

2002 amendment to impervious surface provisions. In 1999, the ordinance provisions implementing the NSA Plan were adopted. Included among these were the provisions establishing the Village Mixed Use (VMU) conditional use district and its associated development standards. The primary models for the detailed standards included a model ordinance prepared by Randall Arendt during the facilitated meeting process in 1997 and an actual rural village ordinance enacted in 1998 in Loudon County Virginia. Both models specified that the village would include several different "use areas" and within those areas, use and dimensional standards were spelled out. With requirements that single family residential use area lots meet a minimum width (40 feet), include minimum street setbacks or side building separation requirements, and could include accessory dwellings meeting certain architectural and siting requirements was a provision limiting "impervious coverage" to 50

percent of the lot area. There is no similar provision for the other use areas required within a VMU, though there is a requirement for a master plan to illustrate all impervious surfaces associated with non-residential development.

Staff has reviewed the resources used by the Ordinance Drafting committee in 1998 and 1999 and the meeting notes of the committee, and has communicated with staff in Loudon County and successors to Randall Arendt's work at the Natural Lands Trust on the particulars of this requirement. Impervious coverage and lot coverage requirements are found in these examples, and in other ordinances for traditional neighborhood development. In all the examples found, such a requirement, though it could allow different amounts of imperviousness, would be uniform throughout all use areas.

In late 2000, Phil Szostak and Bob Chapman began to meet with Town staff to discuss their interest in the VMU and their vision for the development of Winmore. A walkabout of the site was held in early 2001 and within a few months, the Winmore team had identified a number of VMU provisions that presented problems as they sought to develop a site plan that met the Town's standards. A request to amend the ordinance was submitted in November 2001 and among the changes was an increase in the single family residential impervious cover limit to 65 percent. The Board of Aldermen reviewed the request in early 2002 and a draft ordinance was prepared. The request did face some controversy as a number of individuals felt that amendments should wait until the ordinance had been "tested." A table summarizing the request, the manner in which the request was addressed in the draft ordinance, and a staff comment/recommendation, as well as a timeline of the request that were provided for the public hearing in the spring of 2002 are attached (*Attachment E*). Advisory board comments on the requested change to the impervious surface limit are summarized below from each board's adopted recommendations (*Attachment F*):

Planning Board	Supported staff recommendation for impervious coverage maximum of __ percent, with retention of storm water volume above 50 percent on site and opportunity to transfer IS between lots until the final plat was recorded. (Check PB files).
Northern Transition Area Advisory Committee	No action (tie vote)
Appearance Commission	Did not support this change
Environmental Advisory Board	Maintain limit at 50 percent, with provision for increase if linked to demonstrable, commensurate reduction in storm water runoff volume through on-site infiltration or other approved controls.

The Board of Aldermen adopted the draft ordinance on May 28, 2002. The IS coverage was maintained at 50 percent, with the opportunity to transfer IS between lots in the residential use area up until a final plat was recorded.

FISCAL IMPACT

None noted at present.

STAFF RECOMMENDATION

In relation to the Board's interest in creating incentives for the inclusion of day care uses in developments, staff recommends that the Board of Aldermen adopt the resolution finding consistency of the draft ordinance with adopted policy and attached draft ordinance itself (*Attachments A*) selecting measures (a), (b1), (c), (d), and (e).