

BOARD OF ALDERMEN

ITEM NO.: (2)

AGENDA ITEM ABSTRACT

MEETING DATE: NOVEMBER 25, 2008

TITLE: Public Hearing: Draft Ordinance to Revise Water Quality Buffer Provisions in Carrboro Land Use Ordinance

DEPARTMENT: PLANNING	PUBLIC HEARING: YES <input checked="" type="checkbox"/> No <input type="checkbox"/>
ATTACHMENTS: A. Resolutions finding consistency B. Draft ordinance C. Current ordinance D. Staff memo E. Recommendations and comments	FOR INFORMATION CONTACT: RANDY DODD, 918-7326 PATRICIA MCGUIRE, 918-7327

PURPOSE

Comprehensive revisions of the Town's stream buffer provisions have been prepared by staff to enhance water quality protection, establish consistency across the different areas of the Town's planning jurisdiction, clarify the purpose and requirements to all affected and interested parties, and prepare the Town for implementation of new rules for Jordan Lake. The Board of Aldermen must receive public comment before taking action on changes to the Land Use Ordinance.

INFORMATION

Staff previously reported (October 14, 2008) to the Board of Aldermen the following key conclusions from a review of current buffer provisions. Staff has recommended that:

- a. an opportunity exists to more clearly separate and define provisions specific to water quality and non-water quality goals. Pursuing this course should aid in the ability to articulate the provisions to all interested parties. Current provisions have been motivated to achieve water quality protection and other environmental and land use goals, such as flood and open space protection.
- b. the widths and stream definitions for the different hydro-jurisdictional areas be reconsidered to provide improved consistency and clarity;
- c. "the state of the art" in water quality buffer be incorporated to better address considerations such as diffuse flow, zonation, comprehensive consideration of allowable activities in the buffer, and mitigation provisions;
- d. technical implementation challenges such as mapping and measuring the slope based buffer width distances be considered;
- e. the update anticipate new rules for Jordan Lake.
- f. the update acknowledge the Town's commitment to removing Bolin Creek from the State's impaired streams list.

Given these findings and motivations, staff has been: updating the Town’s geographic (GIS) representation of surface waters; reviewing buffer provisions in draft Jordan Lake rules; and developing staff consensus on recommended changes to the ordinance through a series of meetings.

In response to review comments, s staff memo detailing the ordinance, presenting the results of an analysis of changes to land area regulated as water quality buffers, and describing the affect of the proposed changes on existing development has been prepared for the Board’s consideration (*Attachment D*). The draft and current ordinances are also attached (*Attachments B and C*). The current ordinance is structured for three hydrojurisdictional areas: Sections 15-265 (watershed), 15-268 (area outside of watershed), and 15-269 (Northern Transition Area).

The draft ordinance was referred to a number of advisory boards and agencies for review and/or recommendations. The status of these reviews is noted below. Staff presented draft land use ordinance changes to the Board of Aldermen on October 14th, and to advisory boards on November 6th as part of a comprehensive review of the existing buffer requirements. Staff has also presented the changes to the Recreation and Parks Commission and the Greenways Commission, and sought review from others as presented below.

Board/Agency	Status of review/comment
<i>Required by LUO/JPA/GS</i>	
Planning Board	(Being considered 11/20)
Orange County	(Comments received)
North Carolina Environmental Management Commission	(Staff review underway- formal review/approval following adoption by Board of Aldermen)
<i>Town board or local agency to which the ordinance was also referred</i>	
Transportation Advisory Board	(Being considered 11/20)
Environmental Advisory Board	(Being considered 11/20)
Economic Sustainability Commission	(Presented 11/6)
Recreation and Parks Commission	(Presented 11/3)
Northern Transition Area Advisory Committee	(Presented 11/17)
Greenways Commission	(Presented 11/17)
OWASA	(Staff review underway)

The draft ordinance involves changes to the buffers within the University Lake water supply watershed; therefore approval by the North Carolina Environmental Management Commission (EMC) is required before the changes can become effective. Staff has conveyed a draft copy of the ordinance to the staff of the EMC for initial review. Following action by the Board of Aldermen, a copy of the adopted ordinance will also be forwarded for formal review and approval. The effective date of the ordinance’s adoption will coincide with the EMC approval. Copies of comments and recommendations are attached (*Attachment E*).

In response to external review and as part of continued staff review, staff has modified the draft ordinance subsequent to presentation to the Board of Aldermen on 10/14/2008 as summarized below.

1. 15-270.1 Definitions: deleted entries for forest plantation and full pond elevation
2. 15-270.5(c) table of exempt and allowable activities
 - a. Clarified the applicability to public utilities for expansions and extensions.
 - b. New and altered drainage ditches: mitigation required for all new drainage ditches; editorial change clarifying use provisions.
 - c. Stream bank stabilization edited to clarify requirements for different types of stabilization.
 - d. Grading (in Zone 2): changed from exempt to allowable.
 - e. Forest harvesting: added a reference to Section 15-319.1, where limited regulatory authority of the Town in relation to forestry is specified
 - f. Deleted recreational and accessory structures reference.
 - g. Reduced width of aerial electric utility perpendicular buffer crossing threshold from 150 feet to 100 feet.
 - h. Revised requirements for other than perpendicular utility line buffer crossings to clarify distances from surface waters and required BMPs.
3. Provision added exempting detached single family residences not currently located in buffers, but located in proposed ephemeral buffers from ordinance provisions
4. Clarified mitigation options for public utilities in Section 15-270.7
5. Deleted Section 15-270.8 relating to forestry management.

FISCAL AND STAFF IMPACT

There is no anticipated fiscal impact. Staff anticipate dedication of the Environmental Planner position (with supplementary support from other staff) in supporting the public review process and Public Hearing, and subsequently (assuming adoption) in education, outreach and implementation.

RECOMMENDATION

The staff recommends that the Board of Aldermen adopt the resolution (*Attachment A-1*) finding consistency and the draft ordinance revising water quality provisions (*Attachment B*).