

BOARD OF ALDERMEN

ITEM NO. C(7)

AGENDA ITEM ABSTRACT MEETING DATE: October 20, 2009

TITLE: Request to Set a Public Hearing to Consider Land Use Ordinance Text Amendments to Article XX (“Amendments”), Section 15-323 (“Hearing Required; Notice) in Order to Comply With Recent Amendments to N.C.G.S. Section 160A-384 Requiring Non-owner Applicants for Zoning Map Amendments to Provide Actual Notice to the Owners of the Affected Parcels

DEPARTMENT: PLANNING	PUBLIC HEARING: YES or NO X
ATTACHMENTS: A. Resolution B. LUO Section 15-323 C. S.L. 2009-178 D. Draft Ordinance	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327 Mike Brough – 929-3905

PURPOSE

The purpose of this item is to request that the Board set a public hearing for November 24, 2009 on an amendment to the Land Use Ordinance that brings the ordinance into compliance with a recent amendment to the statute that deals with notification requirements for zoning amendments.

INFORMATION

NCGS 160A-384 (Method of Procedure) requires the Board of Aldermen to provide for how zoning regulations, restrictions, and boundaries are to be determined, established, enforced and amended, supplemented, or changed. The Statutes have long required a public hearing prior to consideration of zoning amendments and that the notice of the hearing be published in a newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not more than 25 days nor less than 10 days prior to the date fixed for the hearing. The statutes also require mailed notice of the hearing to the most directly affected landowners when a zoning map amendment is proposed and physical posting of the affected property. During the 2009 Session, the General Assembly enacted legislation (S.L. 2009-178) addressing the situation wherein the applicant for a zoning map amendment is someone other than the owner of the affected property or the municipality. The new statute places the burden on the applicant to certify to the governing board that the owner of the parcel of land, as shown on the county tax listing, has received actual notice of the proposed amendment and a copy of the notice of hearing. In addition, the amendment requires that actual notice under these circumstances be provided by any of the methods provided for service of process under Rule 4(j) of the North Carolina Rules of Civil Procedure, which govern the service of process in civil actions filed in the District and Superior Courts. These methods include personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to Title 26 U.S.C. Section 7502(f)(2). Alternatively, where notice cannot with due diligence be achieved by one of these methods, notice may be given by publication consistent with Rule 4(j1) of the North Carolina Rules of Civil Procedure.

The attached ordinance amends the Land Use Ordinance to comply with the new statute.

FISCAL AND STAFF IMPACT

Amending the Land Use Ordinance involves staff analysis and administration of the proposed amendment, advisory board review, and advertising costs associated with publishing notice of the public hearing required prior to amending the text of the ordinance.

RECOMMENDATION

The staff recommends that the Board of Aldermen adopt the attached resolution setting a public hearing for November 24, 2009 on the text amendment relating to the notice requirements for zoning map amendments initiated by someone other than the Town or the owner of the affected parcel(s).