

BOARD OF ALDERMEN

ITEM NO. (3)

AGENDA ITEM ABSTRACT

MEETING DATE: January 26, 2010

TITLE: **Public Hearing on an Ordinance Amending the Carrboro Land use Ordinance Provisions Dealing with Stream Buffers in Accordance with Jordan Buffer Rule 15A NCAC 02B .0267**

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _ NO X _
ATTACHMENTS: A. Resolution continuing public hearing B. Draft Ordinance C. Comments and recommendations	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327 Michael Brough – 929-3905

PURPOSE

A draft ordinance amending the Land Use Ordinance to revise stream buffer and associated provisions in relation to the Jordan Water Supply Nutrient Strategy has been prepared, consistent with the adopted rules for Jordan Lake. The Board of Aldermen must receive public comment before taking action.

INFORMATION

In March 2008, the Board of Aldermen established new water quality buffer requirements, expanding, clarifying, and refining standards that had been in use for some time. The drafting of those provisions had spanned several years, with careful attention paid to evaluating the intent and purpose of the buffers, a comprehensively classifying existing streams in different hydro-jurisdictional areas, towards “state of the art” protection of water quality, including a response to the draft rules for Jordan Lake. Division of Water Quality staff completed a preliminary review of the ordinance for compliance with the draft rules. A few changes that would be needed in order for the rules to comply with applicable water supply watershed regulations and the pending Jordan Lake requirements were identified at that time. As the rules were still undergoing some review, staff elected to hold off on the revisions until the status of the rules and associated revisions became clear.

A Model Buffer Ordinance was released in September. A draft ordinance that amends Carrboro’s buffer provisions has been prepared. This draft ordinance (*Attachment B*) includes the following changes:

- 1) Specifies the Jordan watershed in the Purpose section of Article XVI.
- 2) Increases the Zone 1 width of buffers on intermittent streams and ponds outside of the University Lake watershed to 50 feet.
- 3) Revises the table of exempt and allowable activities related to stream relocation, stream restoration, and stream bank stabilization activities.

- 4) Clarifies that, in relation to the streams subject to the Jordan rules, written authorization is needed from the Division of Water Quality for any uses that are noted as 'allowable' or 'allowable with mitigation.'

The draft ordinance has been submitted to DWQ. Carrboro staff has recently learned that DWQ staff will not begin reviewing local ordinances for compliance until February with compliance required by September. Continuation of the public hearing to March should allow sufficient time for DWQ staff to review and comment. If additional time is needed, a second continuation date will be identified.

Pending the completion of DWQ review, the draft ordinance will be revised, if needed, rescheduled for action by the Board of Aldermen and submitted for State approval. The ordinance would become effective after adoption by the Board of Aldermen and approval by the Environmental Management Commission/Division of Water Quality staff.

The Board of Aldermen has referred the draft ordinance to the Planning Board, the Environmental Advisory Board, and Orange County. The Planning Board has continued its discussion, pending comments from DWQ staff. The EAB did not feel it was necessary to comment. Comments Orange County staff are attached (*Attachment C*).

FISCAL AND STAFF IMPACT

Staff will be confirming that DWQ staff approval of certain uses is required. If so, this procedural requirement may affect the timing of reviews, increasing the complexity and staff costs associated with the task. Due to the efficiency gains achieved through updating and simplifying the buffer provisions, any increase in time/costs may be negligible.

STAFF RECOMMENDATION

The staff recommends that the Board of Aldermen continue the public hearing to March 23, 2010.