

BOARD OF ALDERMEN

ITEM NO. C(4)

AGENDA ITEM ABSTRACT

MEETING DATE: May 18, 2010

TITLE: Request-to-Set a Public Hearing to Consider Miscellaneous LUO Text Amendments

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _ NO <u>X</u>
ATTACHMENTS: A. Resolution B. EAB recommendation C. Draft Ordinance D. Land Use Ordinance; applicable sections	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327 Randy Dodd – 918-7326

PURPOSE

Staff and advisory board members have identified several amendments to the Land Use Ordinance. A draft ordinance making these changes has been prepared. A resolution setting a public hearing for June 22, 2010 and referring the changes to advisory boards and Orange County has been prepared for the Board's use.

INFORMATION

The Environmental Advisory Board began review of the invasive plant species provisions of the Land Use Ordinance in the winter of 2009 and recommended a series of changes in early 2010. Zoning staff have identified several ordinance provisions that are also in need of revisions. Per Section 15-321 of the LUO, staff has responded to these recommendations by preparing a draft ordinance making the proposed changes. The draft ordinance (*Attachment C*) includes the following recommended changes:

- 1) Updating the list of invasive plants in Appendix E-17 that may not be used to meet the screening and shading requirements of the Land Use Ordinance. Provisions that prohibit the inclusion of these plants on any plans submitted as part of an application for a land use permit and recommend that applicants also consider the information of the North Carolina Native Plant Society regarding other plants that may be avoided are included in the ordinance; and
- 2) Establishing a new use, electronic gaming operations, and associated dimensional and locational requirements. This use, also known as an Internet sweepstakes cafe, has been proliferating throughout the state since court rulings determined that it was not subject to a state law that otherwise prohibits internet gambling. These businesses sell browsing time on the internet, a side benefit of which is free credits to play internet sweepstakes. The businesses are especially common in low-income neighborhoods and towns. Local governments have responded in a variety of ways, from enacting moratoria to setting high privilege license fees for each machine used in a business. Carrboro staff have reviewed two applications for these uses and determined that the use does not fit well with existing land

use classifications. The proposed amendment establishes a new use, identifies the appropriate location for this use and specifies other dimensional and locational requirements. If the Board of Aldermen proceeds with consideration of this amendment, an amendment to the fees and charges will be provided at the June 22nd hearing; and

- 3) Clarifying the definition of minor subdivisions. The current provisions include two things that have elevated a minor subdivision, from being reviewed and approved by staff, to one needing a special use permit. These provisions are the extension of OWASA lines and drainage improvements from one lot to another. Staff have found these requirements to be unnecessarily complicating and propose that they be removed; and
- 4) Modifying provisions associated with performance guarantees. The LUO provides a variety of mechanisms by which projects can advance without completion of all necessary infrastructure through the use of performance guarantees. Staff has found that the existing language neither fully addresses the Town's practice nor provides sufficient clarity and flexibility. The amendments respond to these findings and attempt to make the section much simpler and more realistic; and
- 5) Clarifying the thresholds for storm water management requirements. In 2006, new "disturbed area"- based storm water management requirements were established as a revision to a land use permit threshold that had been used since 1999. After a couple of years of experience with the new language, staff has identified the need to modify the definitions and thresholds a bit, while maintaining the structure and substance of the changes made in 2006. The amendments offer "impervious area" as the trigger for determining the need for water quality and quantity measures, and also clarify when storm water-related improvements must be made in subdivisions of land that do not also involve approval for development; and
- 6) Adding a provision that makes lots with widths that do not meet the presumptive standard usable for only single-family, one dwelling unit per lot, uses. The existing language was developed to allow flexibility for the subdivision of small lots that otherwise exceeded the dimensional requirements in residential zoning districts (i.e. allowing single lots to be divided into two or three lots). Staff has found, however, that with the exempt subdivision definition, this provision has allowed the subdivision or development of property on a much larger scale (e.g. lots or developments supporting a total of 6 and 16 or more dwellings have been created using this provision) without any public input or public hearing process involved. Staff has considered recommending an absolute, rather than a presumptive standard, but feels that some flexibility should be retained. The proposed change would prevent larger properties from being recombined and/or subdivided or developed with multiple exempt lots without going through the subdivision review and approval; new lots that do not meet the minimum lot width could still be created, but would be limited to one single-family home per lot.

Existing, applicable land use ordinance provisions are included (*Attachment D*).

It will be necessary to submit the draft ordinance to the Planning Board and to Orange County for review and comment. The Board of Aldermen often refers ordinances to other advisory boards as well. The attached resolution includes a section which refers the draft ordinance to the Appearance Commission, Environmental Advisory Board, and the Economic Sustainability Commission (*Attachment A*).

FISCAL IMPACT

Amending the Land Use Ordinance involves staff analysis and administration of the proposed amendment, advisory board review, and advertising costs associated with ordinance preparation and public notice.

STAFF RECOMMENDATION

The staff recommends that the Board of Aldermen adopt the attached resolution setting a public hearing on text amendments and referring the draft ordinance to the Planning Board and other advisory boards, as well as Orange County staff. (*Attachment A*).