

Board of Aldermen

ITEM NO. B(1)

AGENDA ITEM ABSTRACT

MEETING DATE: Tuesday, September 27, 2011

**TITLE: Continuation of a Public Hearing on a Land Use Ordinance Text Amendment
Related to Modification of the B-1(g) CZ Conditional Zoning**

DEPARTMENT: PLANNING	PUBLIC HEARING: YES <u>X</u> NO <u> </u>
ATTACHMENTS: A. Consistency Resolutions B. Draft ordinance C. LUO Text Amendment Request D. Conditional use permit for Veridia E. Memo from Ken Reiter F. Section 15-141.4 G. Applicant's alternative draft ordinance	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327

PURPOSE

The Board of Aldermen held a public hearing on Tuesday, June 14, 2011 to consider a draft ordinance prepared in response to a request to amend the Land Use Ordinance in relation to the B-1(g)-CZ zoning district. The public hearing was continued to allow for consideration of additional information requested by the Board of Aldermen.

INFORMATION

Summary of background and request

The mechanism to place B-1(g)-CZ districts, upon the request of property owners, was established in the spring of 2010 via an amendment to the Land Use Ordinance. Only the B-2-CZ district had been established prior to that point, as the Board had expressed a clear desire to make very limited use of conditional zoning.

The 2010 change was made in response to a request from an owner of property within the CT zoning district who had found that some of the development expectations, as expressed in the definition of the district included in the LUO, of the CT district had not materialized and that development standards (including minimum lot size and separation requirements from existing residential development) of that district effectively precluded most uses of the property. The text amendment establishing the district was approved in April 2010. One lot, the property singly known as '500 N. Greensboro Street' was rezoned to B-1(g)-CZ subject to a site plan and associated conditions. The rezoning had been advanced due to the interest and proposed redevelopment plan of an existing Carrboro business. At the public hearing, the Board of Aldermen learned that the business had obtained an option to remain in its existing location.

The present request seeks to build on those changes. Ken Reiter of Belmont Sayre, contract purchaser of the lot noted above and three adjoining properties (currently zoned Corporate Town or CT), developed a concept plan the dimensional standards and residential density of which exceeded that permitted in either the B-1(g-CZ) or the CT zones. For the reasons stated in the text amendment request, Mr. Reiter chose to pursue the amendment under consideration. Further information on decision to pursue the current approach and related policy considerations is available in the agenda materials from June 14 at http://www.townofcarrboro.org/BoA/Agendas/2011/06_14_2011.htm (see Item 1). Mr. Reiter has provided additional information related to the text amendment request in a memo (*Attachment D*).

Information requested

The Board of Aldermen discussed the draft ordinance and continued the public hearing to allow time for further consideration. Additional information was requested in the following areas:

- 1) *Review PB suggestions and range of possible improvements and provide feedback on thresholds that might yield a meaningful mix (use Veridia's voluntary green features as a guide). Specific changes to be considered include: better definition of number of building elements in relation to amount of density bonus and requirement of elements in conditional rezoning that will reduce energy costs.*

Response: A copy of the conditional use permit conditions included in approval of the Veridia project and a list of the green features the applicant offered to provide in accordance with approval of the conditional use rezoning/conditional use permit is attached (*Attachment D*). Condition # 20 refers to the timing of installation of green infrastructure. Veridia is a 39-unit project on 4.66 acres (approximately 8 dwelling units per acre, four times the density of the previously existing and that found on surrounding properties R-20 zoning. The staff memo on the conditional use permit noted which of the green features were oriented to the community of Veridia and which were planned within the homes. This information may be found on page 39 of the documents at http://www.townofcarrboro.org/BoA/Agendas/2011/04_26_2011_A1A.pdf and is included with Attachment D.

When preparing the draft ordinance, staff considered a more prescriptive approach, like that discussed during the public hearing on June 14th, that linked a density bonus to the provision of green features. Such an approach is used in the Land Use Ordinance to incentivize the inclusion of affordable housing and housing diversity. The number of variables in these existing provisions is much more limited than the kinds of features that have been included in the draft ordinance; the density increases are, for the most part, similarly modest.

Since the provision was being included as part of a conditional zoning mechanism, however, a more open-ended approach was used. Conditional zoning is based on the expectation that the two parties, requester and approver, will work through a proposal and find the mutually agreeable aspects of a project, or not. The strictly legislative nature of the approval is such that the approver, the Board of Aldermen in this case, is not obligated in any fashion to approve the requested change. Though not explicitly stated, the degree, extent, or number of site and building elements that would be included in order for a rezoning of this type to be approved is expected to be proportional to the additional density requested/granted.

The Planning Board suggested seven changes to the draft ordinance prepared in response to the Land Use Ordinance text amendment request from Belmont Sayre, categorized as follows:

- a) modification to introductory statement; addition of a requirement that site and building elements be selected from at least three of the categories.
- b) Removal of two items (references to the 2004 Energy Code and the Energy Star program);
- c) Change to the wording of the element regarding rainwater for toilet flushing;
- d) Addition of two items (heat reflective roofing material, and 30 percent shading of south-facing and west-facing building facades. The Planning Board's suggested changes have been included in the draft ordinance (*Attachment B*).

Staff finds the Planning Board's recommended changes acceptable with a slight modification to the first item. Staff believes that the Town can recommend that a certain number of elements be included, but should not express this as a requirement. A recommendation that a minimum of three elements be addressed as conditions does not appear problematic, and the draft ordinance has been modified to reflect this.

2) *Examine which elements could be incorporated into the Land Use Ordinance.*

Response: Items 3-12 in the draft ordinance provided for the June 14 public hearing are non-building code related. Staff finds that these elements could likely be incorporated as Land Use Ordinance provisions, particularly if done in a manner that clearly linked the benefits of any measure or element to conditions in the community and likely benefits.

3) *Update on status of Town's local bill regarding energy.*

Response: The local bill was assigned to committee forwarding the Town's request for authority to enact and enforce the 2012 Energy Conservation Code and the 2011 Residential Code was introduced on March 29th and referred to the Rules, Calendar, and Operations of the House Committee on March 30, 2011. A link to the status of the bill on the website for the North Carolina General Assembly is provided here <http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?BillID=H504&Session=2011#history>.

4) *Explore possibility of a points system for earning density through suggested measures, similar to recreation points system. Consider PB/EAB/TAB work on this topic.*

Response: Staff is aware of the ongoing efforts of the advisory boards to develop a checklist or review criteria that could be used to shorten the review process for projects. The possibility of developing a points or matrix-type system in association with Mr. Reiter's concept was discussed early this year. Staff did not pursue it at the time for several reasons: complexity of the task in relation to workload; difficulty of arriving at a meaningful mix of incentives in relation to benefits, coupled with the knowledge that the calculation of cost benefits would be best assessed at a project-specific level (i.e. in conjunction with a complete project, its costs, liabilities, market demand, et cetera); concern that the creation of a right to obtain additional density in conjunction with such features might yield unintended consequences. A possible scenario is a project that seeks to concentrate too much of the possible activity in one location, rather than spreading it over a broader area. Though the granting of limited additional density may be appropriate in some instances, staff continues to have reservations about use of such a mechanism (especially when a non-site-specific strategy is contemplated) on a greater scale.

Staff will continue to monitor the advisory board work in this area and will provide support for the inclusion of green or sustainable building features as it is possible to do so.

Description of the draft ordinance

Section 15-141.4 is the LUO section describing conditional zoning districts and Section 15-182 describes residential density requirements (*Attachment E*). The draft ordinance proposes changes to both sections.

- 1) A new subsection is proposed for Section 15-182 that states residential density in the B-1(g)-CZ is determined in accordance with Section 15-141.4 (f)
- 2) A new subsection is proposed for Section 15-141.4 that states the Board of Aldermen may approve a condition allowing additional residential density in these districts subject to the inclusion of conditions that provide for site and building elements that will create a more vibrant and successful community. A list of possible site and building elements is included. Elements from seven general areas have been included – stormwater management, water conservation, energy conservation, on-site energy production, alternative transportation, minimum requirements for non-residential space as part of a project, and the provision of public art and/or provision of outdoor amenities for public use. The last two of these, a minimum mix of residential and non-residential uses, and the provision of public art and/or outdoor amenities for public use, were added to the draft ordinance after the item was reviewed by advisory boards on June 2nd so were not referenced in any board recommendations. The list can only be illustrative in the context of conditional zoning; the detailed examples were included to make it clear that density bonuses would be expected to be linked to specific and demonstrable differences in the quality, environmental efficiency, and overall benefit of a project on the receiving end.

Mr. Reiter does not wish, at this time, to commit to more specificity and has offered a version of the draft ordinance that lists more generally the types of site and building elements that might be included in relation to the approval of conditions allowing additional density in a B-1(g)-CZ district (*Attachment G*). Should the Board of Aldermen be in favor of an approach that grants additional density in conjunction with a conditional rezoning, recognizing that the decision and extent to which additional density is granted would result from the approver and requester reaching an agreement on a project's scope, then staff recommends *Attachment B*. Otherwise, staff recommends that the Board of Aldermen provide further feedback on this or an alternative approach and will respond accordingly.

FISCAL AND STAFF IMPACT.

In and of itself, the requested amendment does not appear to present significant fiscal or staff impacts. Development opportunities in the B-1(g)-CZ district will be shaped by dimensional and other development standards (e.g. parking) that are not affected.

RECOMMENDATIONS

Staff recommends that the Board of Aldermen consider adoption of this amendment. Resolutions of consistency, which are to be acted upon prior to acting on the amendment itself, and the draft ordinance, are attached (*Attachments A and B*).

