

JOINT ADVISORY BOARDS REVIEW

ITEM NO. D(1)

AGENDA ITEM ABSTRACT

MEETING DATE: November 13, 2012

TITLE: Request to Set a Public Hearing for 901 West Main Street: Rezoning Request from R-10 to B-1(G)-CZ

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _ NO _X_
ATTACHMENTS: A. Resolution B. Draft Ordinance Amending Zoning Map C. Vicinity Map D. Petition for Change of Zoning	FOR INFORMATION CONTACT: Christina Moon -- 919-918-7325 Patricia McGuire – 919-918-7327

PURPOSE

Jan Halle, of Gusanos and Worms, has submitted a petition for change of zoning for property at 901 West Main Street, known as Johnny's Gone Fishing. Prior to reaching a decision on this request, the Board of Aldermen must receive public input. A resolution setting a public hearing has been provided for the Board's use.

INFORMATION

On November 5, 2012, the Town received a revised petition to amend the zoning map for property at 901 West Main Street, and known as Johnny's Gone Fishing, from R-10 to B-1(G)-CZ. (*Attachment D*). The 0.48-acre tract is further identified as Orange County parcel identification number 9778-48-1023. The Board of Aldermen must hold a public hearing on the rezoning request. Prior to the hearing, the Planning Board must review the rezoning petition, and the Board may wish to refer the petition to other advisory boards as well.

The petitioner is interested in moving forward as soon as possible and in previous conversations with staff, a November 27th public hearing has been noted as a possibility. Due to the winter holidays, the Town will not hold a public hearing in December. The next regularly scheduled public hearing would be in late January of 2013. In order for the public hearing to occur on November 27th, the Planning Board will have to review the petition at its mid-month meeting on November 15th and conclude its comments at that same meeting. The Planning Board's review of rezonings is afforded, by the Land Use Ordinance, thirty days from the date of referral.

According to Orange County records the current owner, Jan Halle, purchased the subject property in 2007 from John Wallace Howard. The Howards, according to the same records, had owned the property since 1978. Many long-time residents remember Johnny's Bait Shop, a low-volume retail store, which operated in the existing frame building for several years. The building also retains an apartment in the upper level. Subsequent to its purchase in 2007, uses at the property expanded to include food trucks, events and events with outdoor music. Surrounding property owners contacted

town zoning staff and the police department on numerous occasions reporting, in particular, loud noise and off-site vehicle parking along Westview Drive.

Town staff conveyed to the business manager and property owner that uses beyond those grandfathered as part of the retail store could not occur in the existing R-10 (Residential 10,000 square feet per dwelling unit) zoning classification. The property would have to be rezoned to a business zoning classification to allow land uses associated with restaurants and other events to occur. In February 2012, Jan Halle submitted an application for a conditional use rezoning to rezone the subject property from R-10 to B-1(G)-CU (General Business, Conditional Use).

Conditional and conditional use zoning provide a mechanism to allow rezonings to occur under very specific conditions, where they may otherwise not be appropriate. With the conditional use rezoning approach, a rezoning petition and a conditional use permit are considered together. The Board of Aldermen decides on the rezoning component of the project first, but information from the CUP is used to determine the appropriateness of the new use(s). Conditions, however, may only be attached to the CUP, not the rezoning.

Throughout the review process it was clear to staff that surrounding property owners remained concerned with possible uses at the subject property. In addition, the property managers had changed and the vision for what was now called Johnny's 3.0 had shifted. In October of 2012, while the new managers for Johnny's 3.0, Kevin Morgan, Duncan Morgan and Meghan Truesdell, were refining the application materials, staff explained the difference between conditional use rezoning and conditional zoning, and indicated that the conditional zoning approach would offer a way to link conditions to the rezoning rather than the permit. Staff further offered that conditional zoning might offer a way to lessen some of the future unknowns that were concerning to some members of the community. When the applicants--the owner and new managers--submitted updated application materials on November 5th, they requested a conditional rezoning, rather than the originally proposed conditional use rezoning.

On a parallel tract, the Board asked staff to explore the possible use of mediation for this and other future land use matters involving dissenting opinions. At the Board's October 2nd meeting, staff provided a report on the possible use of mediation to guide the petitioner and surrounding landowners toward common ground, and a mutually acceptable way for the project to proceed. (Please see attached link: http://www.townofcarrboro.org/BoA/Agendas/2012/10_02_2012.htm .) Subsequent research from staff on the scope of work required for the mediation process revealed higher than anticipated costs.

On November 6th, Tina Saldana and others representing the surrounding neighbors invited the petitioners to meet on November 9th to discuss their concerns and possible conditions for the rezoning. The results of that meeting were not available prior to the completion of the agenda item. As part of the conditional zoning process, the applicant and the Town identify mutually acceptable conditions to be adopted as part of the rezoning. The petitioners have identified four such conditions in their materials (*Attachment D*), which are attached to the draft ordinance (*Attachment B*). Staff anticipates that these conditions will likely be modified during Planning Board review process and staff analysis, and could be further refined at the Public Hearing.

FISCAL AND STAFF IMPACT

The petitioner and applicant has submitted fees and materials for review and processing of these requests, which include public hearing notice and advisory evaluation.

STAFF RECOMMENDATION

Town staff recommends that the Board select a desired hearing date, adopt a resolution setting the public hearing date and refer the zoning petition for advisory board review. (*Attachment A*).