



TOWN OF CARRBORO

NORTH CAROLINA

TRANSMITTAL PLANNING DEPARTMENT

DELIVERED VIA: **HAND** **MAIL** **FAX** **EMAIL**

To: **David Andrews, Town Manager**
Mayor & Town Council

From: **Tina Moon, Planning Administrator**

Date: **February 19, 2021**

Subject: **Consideration of Text Amendment Relating to Stormwater Management**

The town has received an application from Dan Jewell, of Coulter, Jewell, Thames, PA, acting on behalf of the ArtsCenter for an amendment to the text of the Land Use Ordinance (LUO) in association with the application for a conditional use permit to develop a new ArtsCenter at 315 Jones Ferry Road. The request is to amend the stormwater management requirements relating to volume control under Section 15-263(g) by adding a new provision that would allow for a project to meet a different standard in certain specific situations (Attachment F).

In response to the request, two draft ordinances (options A and B) were prepared and included in the January 26, 2021 Town Council agenda packet as part of a request to set a public hearing for formal consideration ([Town of Carrboro - Meeting of Town Council on 1/26/2021 at 7:00 PM \(legistar.com\)](#)). An edited version of Option B was also presented to the Council at the meeting, at the request of the applicant.

After discussion, the Council set a public hearing date of February 23, 2021, and referred all three draft ordinances (A, B, and modified B) to the Planning Board, Environmental Advisory Board and Stormwater Advisory Commission for review and recommendation. Staff was directed to provide the advisory boards with the Council's discussion points from the January meeting and the applicant's stormwater runoff analysis so that the boards could understand the degree to which a deviation from the current stormwater runoff standard in Section 15-263(g) would be needed to advance the project. In addition, the advisory boards were asked to consider the language in each draft ordinance, to identify a recommended option and to suggest possible edits as appropriate. A memorandum from Randy Dodd, the Stormwater Utility Manager, was also provided to the boards to assist in their review of the amendment request and draft ordinances; the memo included an overview of the development of the volume control provisions and information relating to how the proposed deviation would differ from current stormwater management requirements (Attachment B).

The three draft ordinances can be described as follows:

Option A – Adds a new provision such that the permit issuing authority may approve projects meeting certain parameters related to existing conditions, community benefit and other factors, and slow release of stormwater rather than meet the annual stormwater volume reduction requirements. This would depart from the method used by other developments since the volume control provision was established, in that it does not include a measurement of volume in a comparable fashion to ordinance requirement.

Option B – Adds a new provision that establishes property size and performance criteria to allow up to a specific increase in the post-development volume. Measurement of stormwater volume remains the same and the extent to which the regulation was being reduced or relaxed under the provision would be known.

Modified Option B – Adds a new provision that establishes property size and performance criteria whereby an increase in the post-development volume would be allowed, however, it does not identify a maximum volume increase. Use of the provision would require the applicant to provide the calculations to demonstrate that all practicable stormwater measures have been included in the project design but that the project cannot meet the standard in provision (3). The measurement of stormwater volume remains the same and the extent to which the regulation was being reduced or relaxed would be known.

The application for the text amendment was presented at the joint advisory board meeting on February 4, 2021. The Planning Board, EAB and SWAC met again individually on February 11th to finalize their recommendations (Attachment H). The importance of the Town's stormwater management provisions and a reluctance to lowering an existing standard was noted from all three boards. Possible alternatives to a text amendment that were discussed included the applicant seeking a variance or requesting that the Town Council grant relief for this particular project. Possible modifications to the draft ordinance Modified Option B such as adding community benefit as an additional qualifier are mentioned in the Planning Board comments. Other possible qualifiers could include limiting the amendment to the M-1 zoning district, adding additional limitations based on property size or topography, or other criteria that may be identified and discussed at the hearing.

In evaluating possible paths to advance the conditional use permit application described in the advisory board comments, it does not appear that the project would be a strong candidate for a variance under Section 15-92 and the applicant has indicated that a variance would not be their preferred option. With regard to a one-time waiver, the Land Use Ordinance only provides for the permit issuing authority to grant deviations from the standards in specific situations and only subject to meeting criteria. If there is interest in pursuing this approach, a new draft ordinance could be prepared for consideration.

Staff is continuing to work with the applicant team to get a better understanding of how much of a deviation from the existing volume control standards is needed for the project, and to consider possible adjustments to Modified Option B. As noted above, additional language to may be needed so that the amendment can be more narrowly construed. There may also be benefit of adding language to part (iii) of Modified Option B, to better define the term "practicable" so that the standard is clear.