



Legislation Details (With Text)

File #: 21-71 **Version:** 1 **Name:**

Type: Agendas **Status:** Agenda Ready

File created: 3/3/2021 **In control:** Board of Aldermen

On agenda: 3/9/2021 **Final action:**

Title: Decision Regarding Proposed Text Amendments to the Land Use Ordinance Relating to Stormwater Management
PURPOSE: The purpose of this item is for the Town Council to come to a decision on a request for a proposed text amendment to the stormwater management provisions of the Land Use Ordinance submitted in association with the ArtsCenter conditional use permit application.

Indexes:

Code sections:

Attachments: 1. Attachment A - Consistency Resolution ArtsCenter_03-09-2021, 2. Attachment B - Option A, 3. Attachment C - Option B, 4. Attachment D - Option B (modified), 5. Attachment E - Staff Memo (02-19-2021), 6. Attachment F - Stormwater Utility Manager Memo (01-29-2021), 7. Attachment G - Application for Text Amendment, 8. Attachment H - LUO Article XVI, Part II Stormwater Management, 9. Attachment I - Comments

Date	Ver.	Action By	Action	Result
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TITLE:

Decision Regarding Proposed Text Amendments to the Land Use Ordinance Relating to Stormwater Management

PURPOSE: The purpose of this item is for the Town Council to come to a decision on a request for a proposed text amendment to the stormwater management provisions of the Land Use Ordinance submitted in association with the ArtsCenter conditional use permit application.

DEPARTMENT: Planning Department

CONTACT INFORMATION: Christina Moon - 919-918-7325, cmoon@townofcarrboro.org <<mailto:cmoon@townofcarrboro.org>>; Marty Roupe - 919-918-7333, mroupe@townofcarrboro.org <<mailto:mroupe@townofcarrboro.org>>; Randy Dodd - 919-918-7341, rdodd@townofcarrboro.org <<mailto:rdodd@townofcarrboro.org>>; Nick Herman - 919-929-3905, herman@broughlawfirm.com <<mailto:herman@broughlawfirm.com>>; Patricia McGuire - 919-918-7327, pmcguire@townofcarrboro.org <<mailto:pmcguire@townofcarrboro.org>>

INFORMATION: On February 23, 2021, the Town Council held a public hearing on a request for a text amendment to the Land Use Ordinance relating to the volume control provisions in Section 15-263(g) ([Town of Carrboro - Meeting of Town Council on 2/23/2021 at 7:00 PM \(legistar.com\)](https://carrboro.legistar.com/MeetingDetail.aspx?ID=823940&GUID=B9923C46-B024-450B-91DB-A9276CF2A6BC&Options=&Search=>) <<https://carrboro.legistar.com/MeetingDetail.aspx?ID=823940&GUID=B9923C46-B024-450B-91DB-A9276CF2A6BC&Options=&Search=>>>). The request was submitted by Dan Jewell of Coulter, Jewell, Thames, PA, on behalf of the ArtsCenter and in association with an application for a conditional use permit for the ArtsCenter to develop a new facility on Jones Ferry Road. (See separate agenda item for the conditional use permit.)

Information submitted as part of the conditional use permit application did not appear to comply with the standards in 15-263(g)(3), in that the post development annual runoff volume exceeded the allowable increase per the ordinance. The deviation was not insignificant and the applicant's submittal did not appear to meet the standard of having incorporated all stormwater measures to the maximum extent practicable for the site in comparison to how the standard had been applied to previous projects. The suggested remedy was for the applicant to submit a request for a text amendment to modify the applicable standard and they did so.

Three draft ordinances were prepared, referred to the advisory boards and presented at the public hearing. The public hearing was closed and per the current regulations for legislative decisions, members of the public were given an additional twenty-four hours to submit comments. One comment relating to the project, but not specific to the text amendment, was received and shared with the applicant.

A decision on the text amendment must be made prior to consideration of the conditional use permit in order to determine what ordinance will apply to the permit application.

Possible options for proceeding:

- 1) Deny the request for a text amendment. A possible consequence of this choice is the question of whether the project meets the maximum extent practicable, or "doable" standard. The largest deviation allowed to date has been for the approval of the special use permit for Inara Court, where the increase was 13% greater than the standard (increased from 100% to 113%). Allowing a project to advance where the increase is substantially greater than the standard may affect the enforcement of this provision for future projects.
- 2) Adopt one of the three draft ordinances provided (Options A, B or Modified B). This would provide a relaxation of the standard as requested by the applicant. Option A allows the greatest deviation from the standard; Option B or Modified B would keep the existing volume control provisions intact and require the submittal of calculations showing the extent of deviation needed as part of the permit application.
- 3) Identify one of the draft ordinances for consideration and modify it further to make it more narrowly constructed. For example, add language to require the public benefit, or limit the application to certain zoning districts, or require a note on the permit as to the extent of the deviation and reason for allowing or requiring the deviation. (A model for this language is provided in 15-309, in reference to flexibility in administering the tree screening requirements.)
- 4) Consider drafting a new draft ordinance that would allow the Council an option of not requiring the volume control provisions to apply in certain situations and provide criteria. This may set up a situation where it is difficult to apply the standard for future projects based on cost rather than whether it can be feasibility accomplished on the site.

Draft ordinances related to items 1-3 have been provided for the Council's consideration. A draft resolution of consistency has been also been provided.

FISCAL & STAFF IMPACT: The applicant has submitted the application fee for this amendment and notice has been published. No extraordinary costs noted in conducting the public hearing.

RECOMMENDATION: Staff recommends that the Town Council continue its deliberation and consideration of one of the draft amendments (Attachments B-C. A resolution of consistency has been provided for the Council's use (Attachment A).