

## **MEMORANDUM**

TO: Roger L. Stancil, Town Manager

FROM: Lance Norris, Public Works Director  
J. B. Culpepper, Planning Director  
Sue Burke, P.E., Stormwater Management Engineer

SUBJECT: Enactment of the Jordan Watershed Riparian Buffer Protection Ordinance

DATE: December 6, 2010

### **PURPOSE**

The purpose of this item is to enact a text amendment to the Town's Land Use Management Ordinance (LUMO) by adding a new section that would incorporate the minimum requirements of the Jordan Nutrient Strategy Rule (15A North Carolina Administrative Code 02B.0267, as amended by Session Law 2009-484) for riparian buffer protection.

### **BACKGROUND**

The North Carolina Jordan Lake Nutrient Management Strategy is a set of rules developed to reduce the nutrient over-enrichment in Jordan Lake. These rules target sources of nutrients such as agriculture, stormwater from new and existing development, fertilizer applicators, and wastewater treatment plants, as well as provide increased protection of riparian buffers along intermittent and perennial streams.

All of Chapel Hill and its planning jurisdiction areas are tributary to the Upper New Hope Arm of the Jordan Lake. The Town is required to develop and implement ordinances and procedures to provide increased riparian buffer protection.

### **DISCUSSION**

The attached text amendment to the LUMO, based on the model ordinance approved by the State, is the minimum necessary to demonstrate compliance with the Jordan Rule for Existing Riparian Buffer Protection. We submitted our local riparian buffer program to the North Carolina Division of Water Quality (DWQ) in March 2010 for review, with subsequent approval by the North Carolina Environmental Management Commission (EMC) at its September 9, 2010 meeting. The Town must now enact its ordinance and begin implementing its riparian buffer protection program.

Procedures to implement the Jordan Buffer Ordinance have been finalized and approved by the Town Manager. Staff has scheduled information sessions with engineers, surveyors, and developers to review the requirements of these rules. Information has been posted to the Town's website also.

## PROPOSED LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENT

The proposed text amendment would add a new section, 5.18, to the Land Use Management Ordinance.

### ZONING AMENDMENT

Article 4.4 of the Land Use Management Ordinance establishes the intent of Zoning Amendments (including both atlas and text amendments to the Ordinance) by stating that, “In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that this chapter shall not be amended except:

- a) to correct a manifest error in the chapter; or
- b) because of changed or changing conditions in a particular area or in the jurisdiction generally; or
- c) to achieve the purposes of the Comprehensive Plan.”

Article 4.4 further indicates:

It is further intended that, if amended, this chapter be amended only as reasonably necessary to the promotion of the public health, safety, or general welfare, and in conformance with the Comprehensive Plan.

**A) An amendment to the Land Use Management Ordinance (text amendment) is necessary to correct a manifest error in the chapter.**

*Staff Comment:* We believe the information in the record to date can be summarized as follows:

- Argument in Support: we believe that the correction of a manifest error in the chapter is necessary because the Town’s regulations no longer meet the requirements of State law.
- Argument in Opposition: To date no arguments in opposition have been submitted.

**B) An amendment to the Land Use Management Ordinance (text amendment) is necessary because of changed or changing conditions in a particular area or in the jurisdiction generally.**

*Staff Comment:* We believe the information in the record thus far can be summarized as follows:

- Argument in Support: We believe the amendment is necessary due to changed conditions caused by the adoption of regulations by the State of North Carolina.
- Argument in Opposition: To date no arguments in opposition have been submitted.

**C) An amendment to the Land Use Management Ordinance (text amendment) is justified to achieve the purposes of the Comprehensive Plan.**

*Staff Comment:* We believe the information in the record thus far can be summarized as follows:

- Argument in Support: We believe the enactment of this proposed change will help implement multiple aspects of the Comprehensive Plan, including “to protect the natural setting of Chapel Hill.”
- Argument in Opposition: To date no arguments in opposition have been submitted.

### **ISSUES RAISED**

No citizen comments were received at the February 15, 2010 or November 15, 2010 Public Hearings.

### **RECOMMENDATION**

We recommend that the Council enact the attached amendment to the Land Use Management Ordinance.

### **ATTACHMENTS**

1. Jordan Watershed Riparian Buffer Protection Ordinance