A RESOLUTION DIRECTING STAFF ON FOLLOW-UP TO CLARIFY LAND USE REGULATIONS RELATED TO TALLER BUILDINGS IN DOWNTOWN ZONING DISTRICTS

Resolution No. 116/2003-04

WHEREAS, the Carrboro Board of Aldermen seeks to ensure that its existing and proposed policies and regulations are responsive to community needs; and

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen accepts this report and selects one of the following alternative actions, as specified:

- 1. Expresses its intention to allow the adopted building height provisions and development approval process to stand and to revisit this matter following the receipt of a concept plan or application or after a year has elapsed, whichever comes first, or
- 2. Expresses its intention to budget funds for an update of the Carrboro Downtown Business District Guidelines for Design, or
- 3. Directs staff to proceed with the actions necessary to
 - a. Devise a new 'fringe' zoning district in locations where taller buildings would appear to create too great an impact on adjacent residential neighborhoods, identify areas to be included in the new district and bring back an ordinance to implement these steps; or
 - b. Devise an overlay zone that captures all lots in the commercial areas that have frontage on street rights-of-way where the lots on the opposite side of the right-of-way are located in residential zoning districts. Prepare ordinance amendments that make the setback and building height requirements in these locations mirror the residential requirements and investigate the costs and time frame associated with updating the Downtown Design Guidelines to include visual representations of where, when, and how taller buildings should be incorporated into downtown Carrboro, or
 - c. Draft a land use ordinance text amendment that modifies Section 15-184(c) so that the residential setback provisions apply along street rights-of-way as well as lot boundary lines.

This is the 17th day of February in the year 2004.



TOWN OF CARRBORO

NORTH CAROLINA

STAFF REPORT

PLANNING DEPARTMENT

| DELIVERED ' | VIA: | \bowtie HAND | MAIL | $\bigcap FAX$ | ☐ EMAIL |
|-------------|------|----------------|------|---------------|---------|
|-------------|------|----------------|------|---------------|---------|

To:

Steve Stewart, Town Manager

Mayor and Board of Aldermen

From:

Patricia J. McGuire, Planning Administrator

Date:

February 12, 2004

Subject:

Overlay Zoning Districts and Other Mechanisms to Clarify Building

Height Provisions

The Board of Aldermen accepted a report on October 28, 2003 that had been prepared in follow-up to the downtown building heights amendment and asked that the Town staff bring back to the Board information on what an overlay zone would entail and areas would be included in an overlay zone. This report responds to that request and includes three components, a brief summary of the adoption of the building height amendment in April 2003, a summary of the information provided in follow-up in October 2003, and a review of alternatives for further action related to building heights at the interface of the commercial and residential zoning districts in downtown Carrboro.

Background Information

On April 8, 2003, the Board of Aldermen adopted an ordinance that amended the land use ordinance provisions related to building heights, sidewalk widths, and active recreational facilities. At the conclusion of the hearing on adoption of the ordinance changes, the Board of Aldermen had requested staff follow-up in three areas:

- That staff review the B-1(c) and B-1(g) zoning districts and provide a recommendation as to whether some properties located in these districts should be rezoned to B-2. An evaluation of this matter was presented on October 28, 2003.
- That staff considers the EAB's parking recommendation. Staff recommended that the EAB proposal be incorporated into the downtown parking amendments and this is being done.

That staff report on the possible establishment of a historic district in the downtown. In light of the emphasis on possible rezoning proposals, staff noted in the October 28th report that follow-up on this question had not yet been scheduled. A chronology of the historic districting that has been proposed and considered will be provided for the Board's review.

Summary of October 28 Review of Follow-up to Building Heights Amendment

The consideration of an alternative zoning strategy appears to stem from concerns that were articulated during the ordinance amendment process to increase building height potential in two downtown zoning districts. These concerns include the visual impacts of taller buildings adjacent to one-story residential buildings, the impact of additional intensity (e.g. parking, traffic, and building massing) of use, the limited right-of-way along downtown streets, how four- and five-story buildings would integrate with the character of the downtown and whether or not the Downtown Visioning character resulted in a clear mandate for four to five story buildings.

The October 28th report evaluated the possibility of rezoning some areas of the B-1(c) and B-1(g) to B-2 and found that the regulations controlling the additional height are extensive and seem to represent a balance that will support both the goals of expanding the commercial tax base and protecting residential neighborhoods. The mechanisms by which this is accomplished, are, admittedly, somewhat complex. A clear description or illustration of what types of taller buildings are really desired and what might be approved has not been developed for residents, property owners, Town officials and prospective developers.

The staff comments included in the October 28 agenda abstract are attached (Attachment C). An excerpt of the minutes of that meeting is also attached (Attachment D). The report included four findings associated with the adopted provisions related to building heights and the proposal to rezone portions of the B-1(c) and B-1(g) districts to B-2.

Staff also included a proposal for the Board's consideration if it was concluded that further protection was needed. The proposal entailed development of an overlay zoning district for portions of the B-1(c) and B-1(g) zoning districts that face residential zoning districts across street rights-of-way. Street right-of-way setbacks consistent with those found in the residential districts would be established for the commercial zones and these would take precedence over the setback provisions contained within the building height provisions adopted in April 2003.

The staff findings noted above were based on an evaluation of new and existing ordinance provisions. Those provisions require that construction in the non-residential zones (where the setbacks are typically '0') meet the residential zoning setbacks for buildings up to 35 feet in height (the maximum height in most downtown residential zoning districts). These setbacks must be doubled for any portion of a new building in the B-1(c) and B-1(g) zones where the height exceeds 35 feet. There are no provisions requiring commercial and residential setbacks to match each other across street rights-of-way, although there is a similar disparity in setbacks between the residential and commercial zones. An overlay zone that would clearly identify

these situations and that would put in place the residential right-of-way setback for the commercial zones was proposed.

Review of Mechanisms to Address Concerns Related to Changes in Downtown Building

Height

Staff has evaluated the resolution and has met with Mayor Nelson to ensure that this follow-up responds to the Board's direction. In reviewing with Mayor Nelson the Board's discussion and action on October 28th, it became apparent that the present report should elaborate on overlay zoning, as requested, but also examine a bit further the question of whether a zoning amendment, be it a change to the map or the text, or some other mechanism would clarify the Town's desires and expectations related to taller buildings. Three options have been identified and are described in greater detail below.

Option 1. This approach would be to take no action related to rezoning downtown districts, leaving the ordinance provisions to stand as they were adopted on April 8, 2003. This option would involve no additional regulation or change in process, although new procedural or informational materials (e.g. illustrations, Development Guide sections on the process and checklists of required information) will likely be developed by staff for use in communicating the details of the ordinance provisions.

Option 2. It has been noted in previous reports that the Board of Aldermen may wish to initiate a project to update the Carrboro Downtown Business District Guidelines for Design so that the height maximums noted are consistent with the Land Use Ordinance provisions. This approach would involve budgeting funds and securing a qualified design professional to work with staff, officials, and citizens to update the guidelines so that they do reflect the most current expectations associated with downtown development. This process may also result in a modified development review process for downtown projects and/or ordinance amendments that clarify the role of the guidelines in reviewing proposals for development.

The issues noted in relation to the new building height provisions primarily focus on the increase in the potential intensity of development, both in terms of building height and in terms of overall buildout. If the primary concern is the new maximum building height, changes to these maximums can be considered. If the primary concern is the increased building mass that can be built at the street right-of-way, changes to building setbacks can be considered. If the primary concern is the total effect of tall buildings built at the right-of-way on street rights-of-way, changes to both maximum building height and to building setbacks can be considered. The remaining options focus on these areas.

Option 3. This alternative utilizes either a map or text amendment, or some combination of both, and would involve pursuing map and text amendments for those portions of the downtown where the concern about the building height differential between the commercial and residential zones seems just too great. Cobb Street has been noted as one of these locations, and Carr Street another. Three possible

approaches have been developed, the first of which, a possible rezoning, is described below:

Map Amendment (Rezoning)

Creation of a new zone (or resurrection of an old one, such as the B-1(f)) that is defined based on its location at the fringe of the commercial area where street rights-of-way are less than 60 feet in width. This district would be designed to buffer the more intensive impacts of development in the B-1(c) and perhaps, the B-1(g). The zone would be identical to the B-1(g) in its permitted uses and in most other dimensional regulations, except that the maximum building height would mirror that of the adjacent residential zone; typically 35 feet. A map showing the locations that meet these criteria is included as *Attachment E*.

It should be noted that the possible B-1(f) areas are shown as dark khaki green areas on the map and include lots on Cobb Street, Lloyd Street, Sunset Drive, Bim Street, Laurel Avenue, and Carr Street. One of these areas, the east side of Sunset Drive, north of the municipal parking lot that is shared by Chapel Hill and Carrboro, is located in Chapel Hill, is zoned R-3 and is subject to the following regulations:

| Primary height - 29 feet | Street setback – 24 feet |
|--|---------------------------|
| Secondary height- 60 feet | Interior setback – 8 feet |
| Lot size: density - 5,500 square feet/dwelling | Solar setback – 11 feet |
| unit: approximately 7 units per acre | |

It should be noted that the northern portion of this area, the Northside neighborhood, is under consideration as a Neighborhood Conservation District, and changes to the dimensional regulations are possible.

Map Amendment (Overlay Zone)

In this instance, the Town would pursue creation of an overlay zone. The overlay zone mechanism and a possible application in downtown Carrboro is described in the text that follows.

As authorized in the North Carolina General Statutes 160A-382, overlay zoning districts are zoning districts "in which additional requirements are imposed on certain properties within one or more underlying general or special use districts." Overlay districts are generally used when there is a special public interest that doesn't coincide with the traditional zoning. The additional requirements may be more restrictive or less so than the underlying zone. In addition, rather than creating a new zoning district or attempting to modify the boundaries of an existing district, an overlay zone is added. Carrboro's land use regulations currently include four overlay zoning districts, each of which has particular design and/or use requirements:

| Neighborhood Preservation District | Residential High Density and Commercial District |
|------------------------------------|--|
| EAT Restaurant District | Jordan Lake Watershed District |

What is the overlay zoning process?

Overlay zones are created in the same manner as all other districts, with the exception of conditional use (village mixed-use and office/assembly) and planned unit and planned industrial districts. The process to create or place such a zone may be initiated by any citizen, advisory board member, the town administration, or a member of the Board of Aldermen. Internal requests may proceed directly to the Town Attorney for preparation of an ordinance and subsequent presentation to the Board of Aldermen for initiation of the public hearing process. Other requests are reviewed by staff and presented to the Board of Aldermen. The Board of Aldermen decides to either advance the request to the Town Attorney and to begin the public hearing process, or to deny the request and take no further action.

Possible areas to include in a downtown overlay zone.

Staff has evaluated the downtown zoning districts, including those affected by the most recent changes to building height requirements and those otherwise in place. Map 2 below illustrates those locations where commercial zoning districts, the B-1(c) and B-1(g) face residential zones across a street right-of-way. These locations have been selected because, with the additional building height potential, the placement of building facades at the right-of-way line might have a significant visual impact on the residential uses on the other side of the street. While the issue is not as severe in the M-1, and CT – residential interface locations, these lots have been included as well, so that the character of the street might principally reflect the residential scale of development, rather than the commercial.

Attachment F illustrates that commercial and residential zones interface in the following locations:

- 1. West Main Street: B-1(g) to R-10
- 2. West Poplar Avenue, Bim Street, Laurel Avenue, Carr Street (north section): B-1(g) to R-7.5
- 3. Fidelity Street: B-1(g) to R-3
- 4. Lloyd Street, Cobb Street: B-1(c) to R-7.5
- 5. Lloyd Street, North Greensboro Street: CT to R-7.5
- 6. Center Street, Oak Avenue, East Poplar Avenue: M-1 to R-7.5

The table that follows summarizes the use and dimensional regulations affecting these zones. Those commercial zones with the greatest intensity of use, measured here principally by the lack of right-of-way and lot boundary setbacks, are highlighted.

| | B-1(c) | B-1(g) | B-2 | CT | M-1 | R-3 | R-7.5 | R-10 |
|--------------------------------------|----------------|----------------|-----------|-----------|--------------|------------|---------|---------|
| R/W Setback (feet) | 0 | 0 | 15 | 0 | 0 | 15 | 25 | 25 |
| Lot Boundary Setback (feet) | 0 | 0 | 10 | 0 | 0 | 8 | 10 | 12 |
| Maximum Height | 3-5 stories | 3-5 stories | 2 stories | 3 stories | 2 stories | 35 feet | 35 feet | 35 feet |
| Density (sq feet/ dwelling) | None | 3,000* | 7,500* | 7,500* | - N/A | 3,000 | 7,500 | 10,000 |

- *Single-room occupancy units permitted at one unit per 500 square feet
- Note specific provisions for required setbacks at lot boundary lines where commercial and residential zones interface Section 15-184 (c).
- Note conditions for additional height and roof treatment Sections 15-184 (c) and 15-185 (a) (3) (d).

Attachment G illustrates those zoning districts where there is the greatest difference between the setback requirements in the commercial and residential districts. It is these locations that could be included a new downtown overlay zone, the CORE – Commercial-Residential Overlay District. The purpose of this overlay would be to maintain a uniform streetscape, mitigate some of the difference in massing and bulk that could otherwise occur in the commercial zones where greater building intensity is permitted, and provide a forum for discussing how the setback areas on the affected properties might be used. Some additional requirements that could be drafted and would control development within this overlay zone in addition to the underlying zoning requirements, include:

- 1. The street right-of-way setbacks from the residential zones would apply to the development of lots in the commercial zones.
- 2. These setbacks would be applied as a build-to line with minimum and maximum building setbacks. There would need to be some flexibility in implementing a build-to line from lot to lot to facilitate creation of a public-private setback, as described in the Downtown Design Guidelines.
- 3. Parking would not be permitted within the front setback of any lots developed in the commercial zones.
- 4. Residential zone right-of-way setbacks would not apply where commercial lots front on street rights-of-way greater than 60 feet in width. Please note that a few of the lots shown on Map 3 are located where street rights-of-way are wider than

- 60 feet. These lots are shown so that all the commercial-residential interfaces can be considered.
- 5. Exception for tiny lots or revised minimum lot size in the CORE (see lots on Cobb Street).
- 6. The need to update the downtown design guidelines has been noted and completion of this task would provide clarity for citizens and developers regarding desirable streetscapes and building types. The associated ordinance amendment would reference these standards and require a demonstration of conformity.

An alternative to the overlay zone might be the text amendment described below.

Text Amendment

Modify Section 15-184 (c) so that it is applicable to the right-of-way setbacks as well as the lot boundary line setbacks in situations where residential and commercial zones adjoin one another. Could also consider using the same locational requirements to apply a 35-foot height maximum to the commercial properties in these locations, although this change would double the impact in terms of the reduction in building area.

Summary of Options

- Option 1. This option would involve no additional regulation or change in process.
- Option 2. This option involves allocating funds and prioritization to completing an update of the Downtown Design Guidelines.

Option 3. This option involves changes in land use regulations and would result in a reduction in the build-out potential of commercial zones. The creation and placement of new zoning district presents some special challenges, since selection of parcels for inclusion in the new zoning district would need to follow from a careful assessment of the problems that the new zoning category sought to ameliorate. The standard rezoning approach, as described here, would remove the designated lots from the reach of the height increases adopted last April.

The overlay zoning approach was initially conceived following an evaluation of the new building height provisions. That evaluation showed that the process, by which additional height could be granted, would be complex and rigorous. However, the evaluation did find that, if there was uncertainty about how buildings might change the look and feel of downtown areas, an additional control of the setbacks along streets with commercial-residential interfaces could be instituted. This approach would not affect the maximum building height, but would result in a uniform streetscape, allowing the horizontal distance between buildings to buffer the different scale and activity found in the two

areas, and would also facilitate the inclusion of street elements (e.g. trees, on-street, parking, and wider sidewalks).

The criteria described for defining the overlay zone would result in a zone much like the area covered by 15-184(c). Hence, a text amendment approach that establishes setback and potentially height limitations for commercial zones based on their location across a street right-of-way from residential zones has also been described.

Each of the zoning amendment approaches result in areas that can be clearly delineated and within which the dimensional regulations have been adjusted to recognize the location of properties at the commercial-residential interface.

A possible schedule.

Option 1. Immediate

Option 2. If funds were made available in the next fiscal year, it is expected that the guidelines could be modified and accepted by the end of 2005.

Option 3. A map amendment for either a standard rezoning or an overlay zone, and associated text amendments could be completed by late April 2004. A text amendment alone could also be completed by late April. This schedule assumes that there is no significant modification to the proposals described in this report.

"VLKCJ C

ATTACHMENT 'C'

Staff Comments and Attachments Excerpted from October 28, 2003 Agenda Abstract – Follow-up to Adoption of the Building Heights Ordinance

PURPOSE

Land Use Ordinance text amendments related to building heights, active recreational facilities and sidewalk widths in the downtown were adopted on April 8, 2003. Follow-up action on related issues was specified, The Administration recommends that the Board of Aldermen adopt the attached resolution receiving this report.

INFORMATION

On April 8, 2003, the Board of Aldermen adopted an ordinance that amended the land use ordinance provisions related to building heights, sidewalk widths, and active recreational facilities (Attachment B). The ordinance provides the following:

- 1. Establishes maximum building heights, removing the B-1(c) and B-1(g) zoning districts from the table, and setting a maximum height for these zones that can be achieved in relation to right-of-way width and dimensional or design considerations.
- 2. Where lots abut more than one street, height will be determined based on the narrowest right-of-way.
- 3. Limits the height of buildings to two stories on any lots within the town's National Register Commercial District upon which there existed at the time of adoption of this provision a building that was considered contributing or upon which there existed a contributing building if, after the effective date of the ordinance subsection, the building was demolished or altered so as to diminish its integrity.
- 4. Requires conditional use permits for all buildings that exceed two stories within the B-1 (c) or three stories within the B-1(g) zoning districts.
- 5. Establishes an additional burden of proof for the applicant in requesting a conditional use permit for additional height and establishes parameters for the findings.
- 6. Allows enclosed or variable roof styles to be incorporated into a building without counting them towards the total number of stories, so long as the total number does not exceed five stories.
- 7. Allows parking structures to be incorporated into a building without counting them towards the total number of stories, so long as the parking structure is substantially concealed from adjacent rights-of-way and the total number does not exceed five stories, and therefore not requiring additional setbacks.
- 8. Removes the references to the "floor" of a parking garage from the definition in Section 15-15.
- 9. Adds a statement to the definition of a "story" so that floor levels that are substantially enclosed below the finished grade at the front of the building are not counted, so long as the finished grade does not substantially differ from the preconstruction, natural grade.
- 10. Repeals the provision that required setbacks from residential dwelling units that existed on July 1, 1985.

- 11. Removes the roof height/fire apparatus access provision for non-residential and multi-family (four or more) buildings.
- 12. Establishes a "to-the-extent-practicable" 10-foot wide standard for sidewalk widths in the B-1(c), B-1(g), B-2, and CT districts.
- 13. Establishes the opportunity for active recreational requirements for developments in the B-1(c), B-1(g), B-2, and CT districts to be satisfied by alternative amenities such as sculpture, fountains, benches, and mini-parks.
- 14. Establishes an opportunity for property owners to dedicate additional right-of-way along an existing street to achieve additional building height, with some limitations.

It should be noted that the Town staff continues to recommend that applicants for special use or conditional use permits review the Carrboro Downtown Business District Guidelines for Design (1993). At the conclusion of the development approval process staff requests that applicants provide information on the manner in which they have complied with the guidelines. The subcommittee of the Downtown Development Commission that reviewed the building height ordinance provisions during the summer of 2002 supported the continued use of the guidelines, and noted that some revisions to the document would likely be needed to reflect the additional building height.

Board of Aldermen Action – Requested Follow-up

At the conclusion of the hearing on adoption of the ordinance changes, the Board of Aldermen had requested staff follow-up in three areas:

- ❖ That staff review the B-1(c) and B-1(g) zoning districts and provide a recommendation as to whether some properties located in these districts should be rezoned to B-2;
- ❖ That staff consider the EAB's parking recommendation, which are:
 - 1. The building heights should not be amended without first addressing the related issue of parking. The Board of Alderman should direct Town Staff to analyze the traffic flow and parking situation and include changes to the ordinance relating to the regulation of parking in the downtown area simultaneously with their analysis and drafting of the Building Heights ordinance changes to ensure coherence, workability, and consistency in implementing these proposed changes. Of special significance are the following recommendations that were part of the Parking Task Force Report with which the EAB concurs:
 - a. Change the calculation of parking load from use-based to gross floor area.
 - b. Develop a parking fund that could receive payment in lieu of parking development and other sources, with funds used to address future parking needs.
 - c. Switch to standard sized spaces.

- d. Remove requirement to pave lots.
- 2. That the permit issuing authority give preference to proposed building projects that can demonstrate low parking requirements; that propose structured, multi-level, or under-building parking; or that include design features to mitigate the storm-water and heat island impacts of parking spaces in excess of what a three story building in the same space would require by using reflective and/or pervious pavement, additional parking lot shading, and other designs.
- 3. That the permit issuing authority give preference to proposed building projects that include design features to mitigate the heat island effect and increased emissions from additional building mass by using heat island abatement designs (including green roofs); by using green building materials and techniques: and by using energy efficient and solar energy designs.
- 4. That pervious pavement surfaces be used to construct widened sidewalks and parking lots
- That staff report on the possible establishment of a historic district in the downtown

The Board provided some clarifying comments when these items were described and noted that it would be helpful to review some preliminary criteria for selection of areas that might be considered for rezoning to B-2. On August 26th, the Board of Aldermen requested that staff provide a schedule on the follow-up to the question of rezoning of some properties to B2 in order to buffer residential areas from height increases that could be permitted nearby.

A discussion of the B-2 zoning question is provided here. Recommendations of the Environmental Advisory Board will be incorporated into ordinance drafting that is to occur in follow-up to the parking task force report. A report on the establishment of local historic district in the downtown has not yet been scheduled.

What does rezoning to B-2 entail?

The B-2 zoning district was created with the adoption of Carrboro's first independent zoning ordinance in 1973. The district was defined as a "specialized" commercial district that was expected to generate limited traffic and that would retain its residential character. In the earliest iteration of the application of this district, all of the area between West Main Street and West Weaver Streets were included. The name of the district was modified from specialized commercial to fringe commercial and the definition was altered somewhat to focus on the renovation of existing residences and to

discuss the "transition aspects of the B-2 district in 1986 during the Downtown Commercial rezoning. The total area of the B-2 was reduced by shifting properties on both sides of West Main Street to B-1(g), removing a number of second tier properties on the north side of West Weaver Street. During the course of the public hearing on the rezoning, the southern end of the Old Farmers' Market parking lot was rezoned from B-1 to B-2.

It is of note that the B-1 district formerly included three sub-categories, the (h) for historical, the (f) for fringe, and the (g) for general and there were use parameters associated with each. With the commercial rezoning in 1986 the (h) was replaced by the (c), and the (f) was combined with the (g). Despite the name change that added "fringe" to the B-2's title, the areas that were removed from the B-2 along West Main Street were included in the combined B-1(g) and (f). As defined in Section 15-136 (3), the B-2

"is a transitional district which is designed to accommodate commercial uses in areas that formerly were residential but that now may be more desirable for commercial activities due to high traffic volumes and proximity to other nonresidential districts. At the same time, continued residential use of existing and nearby structures, and preservation of the existing character and appearance of this area is encouraged."

The definition of the B-2 district continues with criteria that state that existing buildings should be converted and adapted to commercial use rather than new buildings constructed. To encourage this, the regulations for the B-2 district were devised to allow development at a lower density than is permitted in the B-1 districts and permit uses that generate minimal traffic. In this way, the B-2 district should provide a smoother transition from the more intensively developed B-1 areas to residential areas. Developments in the B-2 are to comply with the following:

- To the extent practicable, convert residential buildings
- To the extent practicable, parking is to be located at the rear of buildings so it is not visible from the street.
- New buildings are to be constructed with exterior materials, roof pitch, and windows that are commonly used on single-family residences, with an exception for lots on a street where, as of fall 1988, 75 percent of the existing buildings did not have roof pitches that met the standard.

A copy of the district definition described above is attached (Attachment C). A map showing the boundaries of the downtown commercial zoning districts with the areas where the B-1(c) and the B-1(g) face residential zones across a street right-of-way outlined is attached. (Attachment D). This map also depicts the locations where two other commercial zoning districts, the CT and the M-1 face residential zones across a street right-of-way. As in the B-1 districts, there are no street right-of-way setback requirements in the CT and M-1.

Planning Board Review

The Planning Board has given particular consideration to downtown development in recent years. Staff consulted with the Planning Board regarding the requested follow-up to the adoption of the downtown amendments. At its meetings on October 2 and October 16, the Planning Board discussed the changes to height and other regulations in downtown zoning districts and the possible effects of rezoning some properties to B-2. The Planning Board has recommended that the B-1(c) and B-1(g) districts remain as they are with measures added to mitigate the height differential that may occur where residential and non-residential areas face one another across a street right-of-way. A discussion of of possible approaches to mitigating the height differential were noted by the Planning Board on October 2nd. The recommendation and the minutes of the Planning Board's October 2nd meeting are attached (Attachment E).

Findings for rezoning to B-2

- 1. A reduction in the potential intensity of commercially developed areas does not appear to be in keeping with goals of Vision 2020 or the Downtown Vision: New Carrboro, excerpted here (three of the five bulleted items within Vision2020, Section 3.21 are included):
 - 3.21 The town should develop a plan to govern the continuing development of downtown. Toward this end, the town should adopt the following goals:
 - To double commercial square footage in the downtown from that existing in the year 2000.
 - To accommodate additional square footage by building up, not out.
 - To increase the density of commercial property in the downtown area
- 2. The B-2 zoning district is defined to allow the conversion of residential properties to commercial uses, with design standards that would minimize the impact of the changes in use to adjacent residential areas. This could suggest that portions of the R-7.5 districts be rezoned to B-2, rather than the reverse of this action.
- 3. The ordinance provisions that were adopted are complicated and extensive in their scope. In particular, the requirements for a conditional use permit for any buildings over two stories in height in the B-1(c) and over three stories in height in the B-1(g) override the use-based permit provisions found in the permissible use table and will result in the highest level of review for projects involving any

- increases in height over that permitted prior to April of this year. The new requirement that the applicant be responsible for the burden of proof in support of the additional height provides a greater level of assurance that permit requests for taller buildings will be intensely scrutinized.
- 4. The adopted provisions appear to provide sufficient protection and have been devised to balance the competing interests that have marked the Town's action in relation to downtown development for many years maximizing the opportunities for commercial activity within a defined geographical area without negatively impacting nearby residential neighborhoods.
- 5. If the Board of Aldermen were to conclude that further protection is needed, the Administration would recommend that the Board direct the staff to develop an overlay zoning district for portions of the B-1(c) and B-1(g) zoning districts that face residential zoning districts across street rights-of-way. Street right-of-way setbacks consistent with those found in the residential districts would be established for the commercial zones and these would take precedence over the setback provisions contained within the building height provisions adopted in April 2003.

ADMINISTRATION'S RECOMMENDATION

The Administration recommends that the Board of Aldermen adopt the attached resolution accepting this report (Attachment A).

ATTACHMENT A

A RESOLUTION ACCEPTING THE STAFF REPORT ON FOLLOW-UP TO ADOPTION OF THE BUILDING HEIGHTS ORDINANCE PROVISIONS

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for consideration of existing and proposed policies and regulations; and

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen receive and accept the staff reports on this matter.

This is the 28th day of October in the year 2003.

ATTACHMENT B

The following ordinance was introduced by Alderman Alex Zaffron and duly seconded by Alderman John Herrera.

AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE RELATING TO BULDING HEIGHTS, ACTIVE RECREATIONAL FACILITIES REQUIREMENTS AND SIDEWALK WIDTH REQUIREMENTS IN DOWNTOWN COMMERCIAL ZONING DISTRICTS

Ordinance No. 28/2002-03

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-185(a) of the Land Use Ordinance is rewritten by making the existing subsection (a) (3) the new subsection (a) (7) and rewriting and adding subsections (a) (2) through (a) (6):

(a) Subject to the remaining provisions of this chapter:

(1) No building in any of the following zoning districts may exceed a height of thirty-five feet: R-3, R-7.5, R-10, R-15, R-20, RR, C, B-5, M-2, WM-3, O, and O/A.

(2) No building in any of the zoning districts listed in the following table may exceed the height indicated.

| ZONE | MAXIMUM HEIGHT | | |
|-----------|----------------|--|--|
| R-S.I.R. | 100' | | |
| R-S.I.RII | 100' | | |
| CT | Three Stories | | |
| B-2 | Two Stories | | |
| B-3 | 28' | | |
| B-3-T | 28' | | |
| B-4 | 50' | | |
| R-2 | 50' | | |
| M-1 | Three Stories | | |
| WR | 40' | | |

- (3) Buildings in the B-1(c) and the B-1(g) districts may be constructed to a maximum height of three stories where the lot on which the building is located abuts a street right-of-way of fifty feet or less and four stories where the lot on which the building is located abuts a street right-of-way of more than fifty feet or where the lot is located at least fifty feet from the nearest public street right-of-way, except that:
 - a. If a property owner whose property in a B-1(c) or B-1(g) district abuts a street right-of-way of fifty feet or less dedicates additional right-of-way to increase the right-of-way to more than fifty feet, then the developer of a building on such property may take advantage of the additional height authorized under this subsection for buildings on lots that abut street rights-of-way of more than fifty feet, so long as such dedication occurs before a building permit is issued for a building that takes advantage of such additional height.

- b. If a building in a B-1(c) or B-1(g) district is located on a lot that abuts more than one street, then for purposes of determining the height limit under this subsection, the lot shall be treated as if it abutted only the street having the narrowest right-of-way.
- c. The maximum building height authorized in the first sentence of Subsection (a)(3) of this section may be increased by one story, up to a maximum height of five stories, for every ten feet that the additional story is set back from the street right-of way beyond the setback specified in Section 15-184.
- d. Any portion of a building (located on lots within a B-1(c) or B-1(g) district) that exceeds thirty-five feet in height must be set back from the property line of any adjoining residentially zoned lot at least a distance equal to twice the lot boundary line setback requirement applicable to such adjoining lot.
- e. Notwithstanding the other provisions of this section, no building in excess of two stories shall be permitted on (i) any lot within the Town's National Register Commercial District upon which there exists on the effective date of this subsection a contributing building, or (ii) any lot upon which there exists on the effective date of this subsection a building listed on the National Register of Historic Places, if, after the effective date of this subsection, such contributing building or building listed on the National Register of Historic Places This limitation shall not apply to the is demolished. relocation of such building to another lot. For purposes of this subsection, a "contributing building" is a building or structure within the boundaries of the district that adds to the historic associations, historic architectural qualities, or archaeological values for which the historic district is significant. A contributing building must also retain its "integrity." In other words, the property must retain enough of its historic physical features to convey its significance as part of the district. Alterations can damage a property's historic appearance and its integrity
- f. Notwithstanding the permit requirements established in Sections 15-146 and 15-147, if a developer proposes to construct within the B-1(c) zoning district a building that exceeds two stories or within the B-1(g) zoning district a building that exceeds three stories, a conditional use permit must be obtained.
- g. If a conditional use permit for a development is required under Subsection (a)(3) f of this section, then, notwithstanding

the provisions of Subsection 15-54 (c) and Section 15-55 of this chapter, the applicant for such conditional use permit shall have the burden of demonstrating that, if completed as proposed, the development:

- 1. Will not substantially injure the value of adjoining or abutting property; and
- 2. Will be in harmony with the area in which it is to be located. The manner in which a project is designed to accommodate additional building height including, but not limited to, scale, architectural detailing, compatibility with the existing built environment and with adopted policy statements in support of vibrant and economically successful and sustainable, mixed-use, core commercial districts shall be among the issues that may be considered to make a finding that a project is or is not in harmony with the area in which it is to be located. The applicant may use a variety of graphic and descriptive means to illustrate these findings.
- 3. Will be in general conformity with the Land Use Plan, Thoroughfare Plan, and other plans officially adopted by the Board.
- (4) Regardless of whether a building in a B-1(c), or B-1 (g) district is set back from the street beyond the setback specified in Section 15-184, if a mansard, gable, or gambrel roof substantially conceals the existence of a story (i.e. the height of the space that constitutes the story is provided primarily by the roof of the building rather than vertical exterior walls), that story shall not be counted toward the maximum number of stories otherwise allowed under this section, except that in no case shall the maximum building height (including the story contained within the mansard, gable, or gambrel roof) exceed five stories in the B-1(c) or B-1(g) district.
- (6) If a parking structure is incorporated into a building, the parking level(s) shall not be counted towards the maximum number of stories otherwise allowed under this section, so long as the parking activities are substantially concealed from view from adjacent rights-of-way, except that in no case shall the maximum building height (including the story used for the parking structure) exceed five stories in the B-1(c) or B-1(g) district.

Section 2. Subsections 15-15 (40) and 15-15 (113) are rewritten to read as follows:

- (40) **FLOOR.** The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in a frame construction. See the definition of "Floor" in Subsection 15-251 (5) for all matters pertaining to floodplain and floodway regulations.
- (113) STORY. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it, a distance typically measuring between nine and fourteen feet. The term story does not include any building level(s) that are substantially enclosed below the finished grade at the front of the building, so long as the finished grade does not substantially differ from the preconstruction, natural grade.
- Section 3. Subsection 15-185(g)(3) is rewritten to read as follows: "The terms "story" and "floor" are defined in Section 15-15.
 - Section 4. Subsections 15-184(k) and 15-185(f) are hereby repealed.
- Section 5. The opening paragraph of Subsection 15-221 (f) is amended to read as follows:
 - (f) The sidewalks required by this section shall be at least five feet wide, except that, where practicable, the sidewalks in the B-1I, B-1(g), B-2, and C-T zoning districts shall be at least ten feet wide. Sidewalks are to be constructed according to the specifications set forth in Appendix C, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:
- Section 6. Section 15-196 (Active Recreational Areas and Facilities Required) is amended by adding a new subsection (i) that reads as follows:
 - (i) The active recreational facilities requirement for developments located in the B-1(c), B-1(g), B-2, and CT zoning districts may be satisfied by alternative amenities, such as, but not limited to, sculpture, fountains, benches, and mini-parks. The point value of any alternative amenities shall be determined using the methodology set forth in Appendix G.
- Section 7. The title of Section 15-182.2 is amended to read "Effect of Public Acquisition of Property on Density, Setback, and Height Requirements," and a new subsection (f) is added to that section to read as follows:
 - (f) Notwithstanding any other provisions of this chapter, if a property owner dedicates or the town or the State otherwise

acquires from a property owner additional right-of-way along an existing street, then to the extent that the height of a building is dependent on the distance a building is set back from a street right-of-way, the maximum building height permitted under Section 15-185 shall be calculated as if such dedication or acquisition had not been made, provided that this provision shall not be applicable if right-of-way is dedicated pursuant to subsection 15-185(a)(3)(a).

Section 8. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 9. This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 8th day of April, 2003:

Ayes: Joal Hall Broun, Mark Dorosin, Diana McDuffee, Michael Nelson, John Herrera, Alex Zaffron

Noes: Jacquelyn Gist

Absent or Excused: None

ATTACHMENT C

EXCERPT OF ARTICLE IX, SECTION 15-136 OF THE CARRBORO LAND USE ORDINANCE.

- B-2 FRINGE COMMERCIAL. This district is a transitional district which is (3) designed to accommodate commercial uses in areas that formerly were residential but that now may be more desirable for commercial activities due to high traffic volumes and proximity to other nonresidential districts. At the same time, continued residential use of existing and nearby structures, and preservation of the existing character and appearance of this area is encouraged. Accordingly, however, whenever the use of the land in this district is changed to commercial, it is intended and desired that existing residential structures be converted and adapted to commercial use rather than new buildings constructed, and to encourage this, the regulations for this district allow development at a lower density than is permitted in the B-1 districts and permit uses that tend to generate minimal traffic. In this way, the B-2 district should provide a smoother transition from the more intensively developed B-1 areas to residential areas. Any development within the B-2 district shall comply with the following requirements:
 - a. To the extent practicable, development shall otherwise retain, preserve and be compatible with the residential character of the older homes within and immediately adjacent to this district;
 - b. To the extent practicable, vehicle accommodation areas associated with uses on lots in this district shall be located in the rear of buildings so that parking areas are not readily visible from the streets; and
 - c. Whenever a new building is erected in this district, (i) the exterior walls shall be constructed of materials commonly used on the exterior walls of single-family residences (such as brick, stone, wood, or fabricated residential lap siding made of hardboard or aluminum); (ii) the pitch of the roof shall have a minimum vertical rise of one foot for every five feet of horizontal run; provided that this requirement shall not apply to lots that have frontage on any street where, within the same block as the property in question, at least 75% of the buildings (in place on September 6, 1988) within the B-2 district that front along the same side of the street do not have roofs that comply with this pitched roof standard; and (iii) windows shall be of a type commonly used in single-family residences. (AMENDED 09/06/88)

(Insert color map – provided separately)





PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

RECOMMENDATION

OCTOBER 16, 2003

REVIEW OF BUILDING HEIGHT ISSUES AT THE INTERFACE OF COMMERCIAL AND RESIDENTIAL ZONING DISTRICTS IN THE DOWNTOWN

MOTION MADE BY JAMES CARNAHAN AND SECONDED BY BRITT LUDWIG TO INDICATE TO THE BOARD OF ALDERMEN THAT THE PLANNING BOARD IS NOT IN FAVOR OF THE PROPOSAL TO REZONE CERTAIN AREAS TO THE B-2 ZONING DISTRICT BUT DOES SUGGEST THAT THE BOARD OF ALDERMEN LOOK INTO ALTERNATIVE WAYS TO MITIGATE SITUATIONS WHERE DIFFERENTIAL HEIGHT MAXIMUMS FACE EACH OTHER ACROSS THE STREET OR AT PROPERTY LINES.

VOTE: AYES (8) (Marshall, Hammill, Carnahan, Hogan, Poulton, West Ludwig, Babiss); NOES (0); ABSENT/EXCUSED (2) (Haven-O'Donnell, Paulsen).

Planning Board members also discussed whether there were limitations on how far buildings could be setback from the right-of-way and whether parking at the fronts of buildings was regulated. Following a brief discussion, the following motion was entertained:

MOTION WAS MADE BY JOHN MARSHALL AND SECONDED BY ROB HOGAN TO RECOMMEND TO THE BOARD OF ALDERMEN THAT THE VEHICLE AREA ACCOMODATION LIMITATION PROVISION FOR THE B-2 ZONING DISTRICT THAT IS SPECIFIED IN SECTION 15-136(3)(B) ALSO APPLY TO THE B-1(C) AND B-1(G) ZONING DISTRICTS.

VOTE: AYES (8) (Marshall, Hammill, Carnahan, Hogan, Poulton, West Ludwig, Babiss); NOES (0); ABSENT/EXCUSED (2) (Haven-O'Donnell, Paulsen).

John Marshall, Chair

(date)



TOWN OF CARRBORO

PLANNING BOARD

301 West Main Street, Carrboro, North Carolina 27510

MINUTES

THURSDAY, OCTOBER 2, 2003

PLANNING BOARD MEMBERS

STAFF

JOHN MARSHALL

STAN BABISS

RANDEE HAVEN-O'DONNELL

TRISH MCGUIRE

FRANK HAMMILL

Heidi Paulsen

JAMES CARNAHAN

ANDE WEST

BRITT LUDWIG

SUSAN POULTON

NOTE: Absent/Excused: ROB HOGAN,

I. WORKSESSION ITEM: REVIEW OF BUILDING HEIGHT ISSUES AT THE INTERFACE OF COMMERCIAL AND RESIDENTIAL ZONING DISTRICTS IN THE DOWNTOWN

Trish McGuire made a presentation on the building height changes that were adopted for the B-1(c) and B-1(g) zoning districts in April 2003 and noted that the board of aldermen had required staff follow-up in three areas:

- THAT STAFF REVIEW THE B-1(C) AND B-1(G) ZONING DISTRICTS AND PROVIDE A RECOMMENDATION AS TO WHETHER SOME PROPERTIES LOCATED IN THESE DISTRICTS SHOULD BE REZONED TO B-2;
- THAT STAFF CONSIDER THE EAB'S PARKING RECOMMENDATION;
- THAT STAFF REPORT ON THE POSSIBLE ESTABLISHMENT OF A HISTORIC DISTRICT IN THE DOWNTOWN

MS. McGuire noted that the Board had prioritized the first requested item and that a report on this matter was scheduled to go before the Board of Aldermen in late October. Ms. McGuire summarized the building height changes and provided illustrations of each situation, and also illustrations of potential building massing on Carr Street. Planning Board members discussed the changes and the possible effects of rezoning some properties to B-2, including:

- 1. THAT SETBACKS FOR NEW NON-RESIDENTIAL BUILDINGS FACING RESIDENTIAL BUILDINGS MAY BE INCLUDED.
- 2. That solar/shading impacts need to be considered.

- 3. That the rezoning would significantly reduce development potential unless the maximum height in the B-2 was increased.
- 4. That, though not limited by a measured maximum, the two-story limit likely would result in less mass than could be built in R-7.5 zoning districts that are located across the street from the areas under consideration for rezoning to B-2.
- 5. That setbacks might be more variable and linked to r/w width, as is done for the number of stories.
- 6. That some adjustments along the fringe (principally where unlike uses will face each other across the street) would be appropriate.

MOTION MADE BY BRITT LUDWIG AND SECONDED BY FRANK HAMMILL TO INDICATE TO THE BOARD OF ALDERMEN THAT THE PLANNING BOARD IS NOT IN FAVOR OF THE PROPOSAL TO REZONE CERTAIN AREAS TO THE B-2 ZONING DISTRICT BUT DOES SUGGEST THAT THE BOARD OF ALDERMEN LOOK INTO ALTERNATE WAYS TO MITIGATE SITUATIONS WHERE DIFFERENTIAL HEIGHT MAXIMUMS FACE EACH OTHER ACROSS THE STREET.

VOTE: AYES (9) (Marshall, Hammill, Carnahan, Haven-O'Donnell, Poulton, West Ludwig, Paulsen, Babiss); NOES (0); ABSENT/EXCUSED (1) (Hogan).

THE PLANNING BOARD WILL CONTINUE ITS DISCUSSION OF THE STRATEGIES THAT MIGHT BE USED TO MITIGATE THE HEIGHT DIFFERENTIAL AT ITS MEETING ON OCTOBER 16TH. STAFF IS TO PROVIDE ILLUSTRATIONS OF THE POSSIBLE MASSING OF BUILDINGS ON LAUREL AVENUE, COBB STREET/LLOYD STREET, AND CARR STREET FOR THAT MEETING.

II. RESEARCH ITEMS: HOUSING DIVERSITY

JOHN MARSHALL SUMMARIZED A NUMBER OF GOALS THAT HAD BEEN DISCUSSED DURING THE PLANNING BOARD MEETING IN JUNE 2002. THESE GOALS INCLUDE:

- 1) MIX OF HOUSING TYPES;
- 2) A MIX OF COMMERCIAL USES WITHIN RESIDENTIAL AREAS (E.G. CORNER STORES);
- 3) DESIGN STANDARDS FOR BUILDINGS AND STREETS AND THE RELATIONSHIP OF EACH TO THE OTHER;
- 4) RESTRICTIONS ON THE SCOPE OF RENTAL PROJECTS/LIMIT ON NUMBER OF RENTAL UNITS IN MULTI-FAMILY DEVELOPMENTS;

THERE WAS SOME DISCUSSION OF THESE GOALS AND THE REASONING BEHIND INCLUDING THEM, SUCH AS CONCERN THAT, DUE TO THE LARGE PERCENTAGE OF MULT-FAMILY, RENTAL HOUSING TYPES AND THE EMPASIS THAT IS PLACED ON MULTI-FAMILY AS A POTENTIAL SOURCE OF AFFORDABLE HOUSING, THAT THE END RESULT WOULD NOT BE A DIVERSE HOUSING STOCK. IT IS THE GOAL OF THE PLANNING BOARD TO DEDICATE A MEETING TO THIS TOPIC AT SOME TIME IN THE NEAR FUTURE AND COMPLETE THE DISCUSSION.

III. MINUTES APPROVAL

MOTION WAS MADE BY JAMES CARNAHAN AND SECONDED BY STAN BABISS TO APPROVE THE MINUTES OF THE AUGUST 21, AND SEPTEMBER 4 MEETINGS

VOTE: AYES (8) (Marshall, Hammill, Camahan, Haven-O'Donnell, West, Ludwig, Paulsen, Babiss); NOES (0); ABSENT/EXCUSED/ABSTAINED (2) (Hogan, Poulton)

IV. OTHER BUSINESS

The Planning Board took no action on these items.

V. ADJOURN!!

There being no further business, the chair adjourned the meeting at approximately 9:35 p.m.

FOLLOW-UP ON BUILDING HEIGHTS AMENDMENTS IN COMMERCIAL ZONING DISTRICTS

Land Use Ordinance text amendments related to building heights, active recreational facilities and sidewalk widths in the downtown were adopted on April 8, 2003. Follow-up action on related issues was specified, The Administration recommended that the Board of Aldermen adopt a resolution receiving this report.

The following resolution was introduced by Alderman Alex Zaffron and seconded by Alderman Joal Hall Broun.

A RESOLUTION ACCEPTING THE STAFF REPORT ON FOLLOW-UP TO ADOPTION OF THE BUILDING HEIGHTS ORDINANCE PROVISIONS Resolution No. 51/2003-04

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for consideration of existing and proposed policies and regulations; and

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen receive and accept the staff reports on this matter and ask that the Town staff bring back to the Board information on what an overlay zone would entail and areas to be included in an overlay zone.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 28th day of October, 2003:

Ayes: Joal Hall Broun, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: Mark Dorosin





