

# BOARD OF ALDERMEN

ITEM NO. (1)

## AGENDA ITEM ABSTRACT

**MEETING DATE: August 23, 2005**

**TITLE: Continuation of the Public Hearing on Downtown Neighborhood Protection Overlay Zoning District**

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES X NO __</b>
<b>ATTACHMENTS:</b> <b>A. Draft ordinance and map of overlay zone</b> <b>B. Relevant Land Use Ordinance Sections</b> <b>C. Minutes of June 28, 2005 Public Hearing and written comments submitted</b> <b>D. Illustrations of architectural elements proposed in DNP ordinance</b> <b>E. Staff Memo from June 28, 2005 Public Hearing</b> <b>F. Draft ordinance establishing CUP requirement for buildings over 2 stories</b> <b>G. Resolution</b>	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – <b>918-7327</b> Mike Brough – <b>929-3905</b>

### PURPOSE

A public hearing was held on June 28, 2005 to consider a modification to the zoning of approximately 32 acres of land, located in the B-1(c), B-1(g), M-1, and CT districts to include the Downtown Neighborhood Protection Overlay designation. The hearing was continued to allow further time to consider the proposal.

### INFORMATION

Copies of the draft ordinance, noting properties and owners affected by the text and map amendments, and a referenced map are provided (*Attachment A*). Applicable existing Land Use Ordinance provisions related to the draft ordinance are also attached (*Attachment B*).

Thirteen citizens provided verbal comments at the public hearing on June 28<sup>th</sup>. Two written comments were also submitted. Draft minutes from the hearing are attached (*Attachment C*), as are written comments that were submitted.

Members of the Board of Aldermen requested additional information on design considerations associated with roof pitch included in the draft ordinance. Illustrations of the building design elements that are associated with the proposed overlay zone are attached (*Attachment D*).

A staff memo describing the area affected by the proposed rezoning was provided in the June 28, 2005 public hearing agenda packet and is also copied here (*Attachment E*). Staff has modified the

list of action options provided for the Board of Aldermen in the public hearing staff report to include the following:

### Action Options

1. Adopt the draft ordinance amending the text and map of the Land Use Ordinance.
2. Modify the draft ordinance or select an alternative approach. Examples of alternatives include the following, both of which could be selected to work in unison:
  - Amend the permit requirements so that buildings over two stories or 35 feet in height proposed within the districts described in the DNP overlay zone must obtain a conditional use permit from the Board of Aldermen.
  - Accept the architectural provisions proposed in the DNP ordinance as a supplement to the existing Downtown Carrboro Business District Guidelines for Design (DDG) for use in the downtown districts noted in this report when they are located across the street from or adjacent to residential property. It may be noted that the guidelines have been effectively updated and are superseded by changes in downtown regulations and policies, including increased building heights in the Land Use Ordinance.
3. Leave existing provisions as they are. Take no action related to the draft ordinance.

A draft ordinance that accomplishes this has been prepared (*Attachment F*). Please note that the draft ordinance includes two other amendments: first, it repeals the provision in the building height requirements that requires conditional use permits for buildings over two stories in the B-1(c) district and three stories in the B-1(g) district and, second, it expands the conditional use permit requirements that place the burden of proof on the applicant to the CT and the M-1 districts. Thus, the proposed change utilizes an existing approach to the review of conditional use permits, but modifies the threshold for its application and expands its reach. This will likely result in a greater number of projects needing to obtain a conditional use permit. A resolution that sets a public hearing for consideration of the draft ordinance and accepts the DNP architectural provisions as a supplement to the existing DDG is provided (*Attachment G*). This alternative approach, the combination of a more rigorous permit requirement and the DNP architectural provisions as a supplement to the DDG, is considered a reasonable course of action to both protect residential neighborhoods and support the expanded possibilities for development and/or redevelopment of commercial properties within the downtown. The establishment of the DNP overlay district and its associated regulatory provisions appears less user-friendly and more administratively difficult than may be appropriate to achieve a balance of community policies.

### **FISCAL IMPACT**

The DNP overlay zone proposal may increase the cost of design and staff review of applications for downtown development. Expanding the number of projects that must obtain conditional use permits would result in increased permit application fees and, perhaps, the wider applicability of storm water quality requirements.

**STAFF RECOMMENDATION**

The staff recommends that the Board of Aldermen select the alternative action option described above by adopting the resolution setting a public hearing to receive comments on the text amendment establishing a conditional use permit requirement for certain buildings over two stories or 35 feet in height and directing staff to prepare an addendum to the Downtown Carrboro Business District Guidelines for Design.