

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO CREATE A
DOWNTOWN NEIGHBORHOOD PROTECTION OVERLAY DISTRICT AND TO
AMEND THE OFFICIAL ZONING MAP TO INCLUDE DESIGNATED PROPERTIES
REVISED **6-16-05****

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Article IX, Part 1, of the Carrboro Land Use Ordinance is amended by adding a new Section 15-143.4 to read as follows:

Section 15-143.4 Downtown Neighborhood Protection Overlay District

(a) There is hereby created a Downtown Neighborhood Protection (DNP) Overlay District. The purpose of this district is to establish special height, setback, and design requirements applicable to lots in certain commercially zoned downtown areas where such lots abut or are directly across the street from residentially zoned properties.

(b) Because the DNP district is an overlay district, properties within this district are subject to the regulations applicable to the underlying district except as those regulations are modified or superseded by the requirements of the DNP district. The requirements of the DNP district are set forth in Section 15-185.1 of this chapter.

Section 2. Article XII of the Carrboro Land Use Ordinance is amended by adding thereto a new Section 15-185.1 to read as follows:

Section 15-185.1 Downtown Neighborhood Protection Overlay District Requirements

(a) Lots that are within the Downtown Neighborhood Protection (DNP) Overlay District shall be subject to the requirements of this section.

(b) Within the DNP district, the portion of any lot so zoned that lies within 50 feet of a boundary line that abuts or is located directly across the street from residentially zoned property, other than property that is zoned R-2, shall constitute an area referred to in this section as the DNP Buffer Area.

(c) Within the DNP Buffer Area:

- (1) A building or buildings constructed within such buffer area may not extend laterally along the affected boundary for more than 80% of the lot width at its narrowest point within the buffer area; and
- (2) The maximum horizontal run of a single building shall be 80 feet; and
- (3) If more than one building is constructed, there shall be a separation of at least 30 feet between one building and another.

(d) With respect to lots where the underlying zoning is CT or M-1, the portion of such lots within the DNP Buffer Area shall be subject to a maximum height limitation of two stories,

except as set forth below. (The portion of such lots outside the DNP Buffer Area shall be subject to the height limitation established by Section 15-185, i.e. three stories).

- (1) A third story not exceeding a building height of 42 feet shall be permissible if a mansard, gable, or gambrel roof with a roof pitch no greater than 70 degrees and a continuous eave line substantially contains the third 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). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed.

- (2) A third story shall be permissible if:

- a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property; and
- b. The third story has a corresponding setback ("stepback") from the second story on the opposite side of the building.

- (3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet.

(e) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the provisions of Subsection 15-185(a)(3) shall not apply and the provisions of subsections (f), (g) and (h) of this section shall apply in lieu thereof.

(f) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots within the DNP Buffer Area shall be subject to a maximum height limitation of two stories, except as set forth below:

- (1) A third story not exceeding a building height of 42 feet shall be permissible if a mansard, gable, or gambrel roof with a roof pitch no greater than 70 degrees and a continuous eave line substantially contains the third 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). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed.

- (2) A third story shall be permissible if:

- a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property; and

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- b. The third story has a corresponding setback ("stepback") from the second story on the opposite side of the building.

(3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet.

(g) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots that lie outside the DNP Buffer Area shall be subject to a maximum height limitation of ~~four~~ three stories, ~~subject to the following~~ except as set forth below:

- (1) ~~If A~~ A fourth story ~~is may be constructed- if~~ such fourth story ~~must is~~ must be either ~~be~~ set back at least ten feet from the edge of the DNP Buffer Area or ~~must be is~~ substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (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).
- (2) If a fifth story is constructed, either all portions of such fifth story must be set back at least ten feet from the fourth story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (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).
- (3) In addition, if a fifth story is constructed, either all portions of such fifth story must be set back from ~~the any~~ any street right-of way line other than that associated with establishing the DNP buffer area ~~an additional~~ a distance of ten feet beyond the setback specified in Section 15-184, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (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).

(h) Notwithstanding the permit requirements established in Sections 15-146 and 15-147, if a developer proposes to construct within those areas of the DNP district where the underlying zoning is B-1(c) a building that exceed two stories in height, or where the underlying zoning is B-1(g) a building that exceeds three stories, a conditional use permit must be obtained.

Section 3. Subsection 15-185(a)(6) of the Carrboro Land Use Ordinance is repealed.

Section 4. The DNP Overlay District is hereby applicable to the following lots (as shown on the attached map), and the Official Zoning Map shall be modified accordingly:

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	PIN	TMBL	OWNER(S)	
1.	9778972456	7.93.E.1	ORANGE CHATHAM COMPREHENS	
2.	9778879725	7.93.A.2	FITCH LUMBER CO	
3.	9778876749	7.93.A.1	GROCE JAMES G	& WANDA M
4.	9778876689	7.93.A.3A	FITCH MILES M JR	
5.	9778877556	7.93.A.4	WILLIAMS FAUCETTE ELIZ	
6.	9778877448	7.93.A.6	WHISNANT THOMAS S	
7.	9778876328	7.93.A.7	WILLIAMS JEAN J	
8.	9778673394	7.103.E.7A	S H BASNIGHT & SONS INC	
9.	9778876249	7.93.A.10	SOUTHERN STATES	CARRBORO SERVICE
10.	9778876211	7.93.A.11	SOUTHERN STATES	CARRBORO SERVICE
11.	9778674173	7.98.A.7	NEVILLE DEAN KELLY	& WANDA JO
12.	9778664904	7.98.A.6	NICK WATTS	PROPERTIES INC
13.	9778872082	7.98.G.8	FITCH LUMBER CO	
14.	9778972072	7.93.E.1A	ONTJES PROPERTIES LLC	
15.	9778673083	7.98.A.6A	NICK WATTS	PROPERTIES INC
16.	9778666947	7.98.A.9	WATTS NICK	
17.	9778963837	7.93.D.1	ONTJES PROPERTIES LLC	
18.	9778668579	7.98.L.2	CARRBORO TOWN OF	
19.	9778876606	7.93.A.3	HAMILL LISA F	
20.	9778963841	7.93.D.2	ONTJES PROPERTIES LLC	
21.	9778963755	7.93.D.2A	RICE LEROYCE A	& SYLVIA I
22.	9778863704	7.98.H.5	SEATON DEBRA L	
23.	9778863699	7.98.H.6	SEATON DEBRA L	
24.	9778963740	7.93.D.3A	RICE LEROYCE A	& SYLVIA
25.	9788062672	7.93.H.21A	FOUTZ LONA MAE ATWATER	c/o ROY & ISABEL ATWATER
26.	9788062518	7.93.H.25	BARNETT EVA VIOLA	
27.	9788061558	7.93.H.24	BARNETT EVA VIOLA	
28.	9788061507	7.93.H.26	DIMOS ENTERPRISES INC	c/o BILL DIMOS APT N-11
29.	9788060621	7.93.H.28	FARRELL HAZEL R	
30.	9778969633	7.93.H.29	BROWNING & FARRELL FURNIT	
31.	9778967546	7.93.H.1	FENNELL BESSIE C HRS	& MARJORIE ASQUE
32.	9778967518	7.93.H.1A	FENNELL BESSIE C HRS	& MARJORIE ASQUE
33.	9778966568	7.93.H.2	FENNELL BESSIE CROKER	
34.	9778963670	7.93.D.3	RICE LEROYCE A	& SYLVIA I
35.	9778965589	7.93.H.4	ROBERT GEORGE ENTERPRISES	LLC
36.	9778965519	7.93.H.4A	FURNITURE DOCTOR INC	
37.	9778863587	7.98.H.7	CARRBORO COMMUNITY LLC	
38.	9788063572	7.93.L.19	CARRBORO TOWN OF	
39.	9778761138	7.98.M.10D	MOODY GREY B	
40.	9778764640	7.98.M.10A	PONS FAMILY LLC	c/o JENNIFER BELLAMY
41.	9778761089	7.98.M.2	WARDSWORTH MATTIE WALKER	
42.	9778860041	7.99.B.6	HOLTON RENTALS LLC	
43.	9778850829	7.99.B.5	HOLTON RENTALS LLC	
44.	9778759933	7.99.B.4	HOLTONS INC	
45.	9778758993	7.99.B.3	BLACKWOOD LOUISE P	
46.	9778758933	7.99.B.2	WILSON STEPHEN E	& ANNA L
47.	9778952758	7.99.D.19D	YAGGY CORPORATION THE	% BAGWELL & HOLT
48.	9778757982	7.99.B.1	PTA THRIFT SHOP INC	
49.	9778751989	7.98.M.10B	LLOYD BARTON JR	& GARY ZADJEIKA
50.	9778757818	7.99.A.13	PTA THRIFT SHOP INC	
51.	9778756819	7.99.A.12	PTA THRIFT SHOP INC	
52.	9778858887	7.99.D.5	RUMFELT JAMES M	
53.	9778858826	7.99.D.4	RUMFELT JAMES M	& STEPHEN D MILLS
54.	9778857932	7.99.D.1	FAKHOURY ALAN ETAL	& MAHMOUD FAKHOURY
55.	9778854943	7.99.B.8B	D & R OF CARRBORO LLC	
56.	9778853774	7.99.B.11A	ONTJES PROPERTIES LLC	
57.	9778763005	7.98.M.10	BUCK GARY	& TONI
58.	9778763005	7.98.M.10E	BUCK GARY	& TONI
59.	9778763005	7.98.M.10F	ATWATER RAYMOND W	& CHERYLE C
60.	9778763005	7.98.M.10G	ATWATER RAYMOND W	& CHERYLE C
61.	9778763005	7.98.M.10H	BUCK GARY W	& TONI C
62.	9778763005	7.98.M.10J	YOUNG JIMMIE L	& GERALDINE K

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	PIN	TMBL	OWNER(S)	
63.	9778763005	7.98.M.10K	ALFORD DALLAS L III	& PAULA U
64.	9778763005	7.98.M.10L	REINTJES SUSAN	STE H
65.	9778763005	7.98.M.10M	ATWATER RAYMOND W	& CHERYLE C
66.	9778862027	7.99.B.7	OPC FOUNDATION FOR MENTAL	HEALTH INC ETAL
67.	9778862027	7.99.B.7D	OPC FOUNDATION FOR MENTAL	HEALTH INC ETAL
68.	9778862027	7.99.B.7E	CLUB NOVA APARTMENTS LLC	C/O MHA-NC
69.	9778672475	7.103.E.7	BOULEVARD AT 605	WEST MAIN LLC
70.	9778672475	7.103.E.7B	BOULEVARD AT 605	WEST MAIN LLC
71.	9778672475	7.103.E.7C	BOULEVARD AT 605	WEST MAIN LLC
72.	9778672475	7.103.E.7D	BOULEVARD AT 605	WEST MAIN LLC
73.	9778672475	7.103.E.7E	BOULEVARD AT 605	WEST MAIN LLC
74.	9778672475	7.103.E.7F	BOULEVARD AT 605	WEST MAIN LLC
75.	9778672475	7.103.E.7G	BOULEVARD AT 605	WEST MAIN LLC
76.	9778672475	7.103.E.7H	BOULEVARD AT 605	WEST MAIN LLC
77.	9778672475	7.10E.3.7J	BOULEVARD AT 605	WEST MAIN LLC
78.	9778672475	7.103.E.7K	BOULEVARD AT 605	WEST MAIN LLC
79.	9778672475	7.103.E.7L	BOULEVARD AT 605	WEST MAIN LLC
80.	9778672475	7.103.E.7M	BOULEVARD AT 605	WEST MAIN LLC
81.	9778672475	7.103.E.7N	BOULEVARD AT 605	WEST MAIN LLC
82.	9778672475	7.103.E.7P	BOULEVARD AT 605	WEST MAIN LLC
83.	9778672475	7.103.E.7Q	BOULEVARD AT 605	WEST MAIN LLC
84.	9778672475	7.103.E.7R	BOULEVARD AT 605	WEST MAIN LLC
85.	9778672475	7.103.E.7S	BOULEVARD AT 605	WEST MAIN LLC
86.	9778672475	7.103.E.7T	BOULEVARD AT 605	WEST MAIN LLC
87.	9778672475	7.103.E.7U	BOULEVARD AT 605	WEST MAIN LLC
88.	9778672475	7.103.E.7V	BOULEVARD AT 605	WEST MAIN LLC
89.	9778672475	7.103.E.7W	BOULEVARD AT 605	WEST MAIN LLC
90.	9778672475	7.103.E.7X	BOULEVARD AT 605	WEST MAIN LLC
91.	9778672475	7.103.E.7Y	BOULEVARD AT 605	WEST MAIN LLC

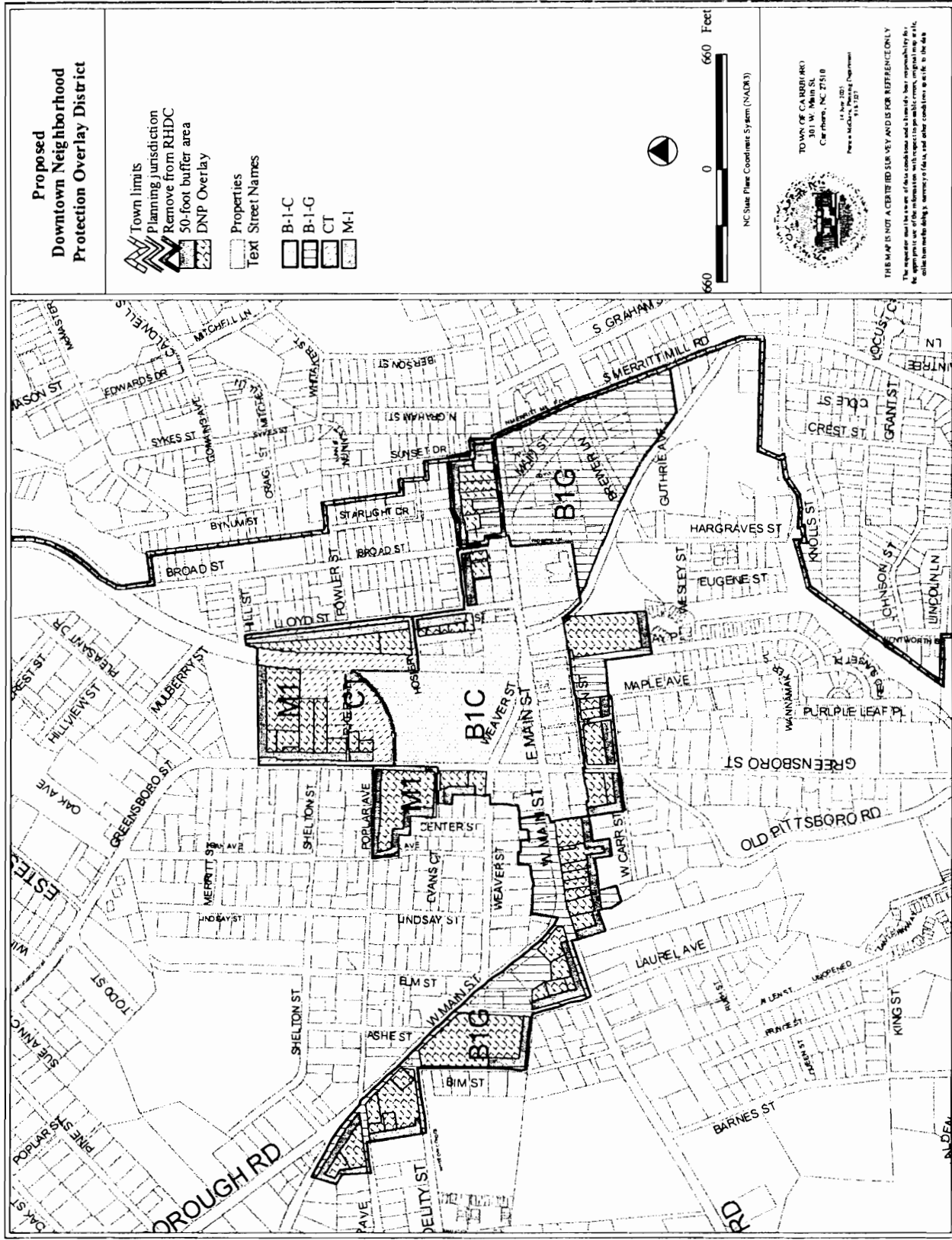
Section 5. The following lots are removed from the Residential High Density and Commercial Overlay (RHDC) District, and the Official Zoning Map shall be modified accordingly:

	Pin	Tmbl	Owner	Owner2
1.	9788062672	7.93.H.21A	FOUTZ LONA MAE ATWATER	% ROY & ISABEL ATWATER
2.	9788062518	7.93.H.25	BARNETT EVA VIOLA	
3.	9788061558	7.93.H.24	BARNETT EVA VIOLA	
4.	9788061507	7.93.H.26	DIMOS ENTERPRISES INC	C/O BILL DIMOS APT N-11
5.	9788060621	7.93.H.28	FARRELL HAZEL R	
6.	9778969633	7.93.H.29	BROWNING & FARRELL FURNIT	
7.	9778968578	7.93.H.11	FARRAR ERNEST L JR	& BERNICE
8.	9788063572	7.93.L.19	CARRBORO TOWN OF	
9.	9788060551	7.93.H.27	RORRER JULIA KAY	
10.	9788062571	7.93.H.21	MT OLIVE MASONIC LODGE	#36 P H A
11.	9778968489	7.93.H.10	BROWNING CHARLES D	
12.	9778969468	7.93.H.30	COLUMBIA STREET ASSOCIATE	LLC
13.	9788063416	7.93.H.22	MASONIC LODGE	

Section 6. Subsection 15-185 (a) (5) is hereby repealed.

Section 7. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 8. This ordinance shall become effective upon adoption.



Section 15-136 Commercial Districts Established. (AMENDED 2/4/86;5/28/02)

The districts described below are hereby created to accomplish the purposes and serve the objectives indicated:

- (1) **B-1(C) TOWN CENTER BUSINESS.** This district is designed to encourage and accommodate a unified, compact, contiguous shopping and entertainment area focused around restaurants, specialty shops, arts and crafts. This area is intended for development around a theme or themes consistent with the Carr Mill, The Station, and historic or old Carrboro. The area is intended to accommodate the pedestrian user. (AMENDED 06/09/98)
- (2) **B-1(G) GENERAL BUSINESS.** This district is designed to accommodate a broad range of business uses. This district, because of its close proximity to established residential single family neighborhoods, is limited in the types of night uses permitted. Uses may be restricted in the hours of operation where the permit-issuing authority finds that such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area.. In addition, no metal buildings shall be allowed in this district. (AMENDED 12/08/92; 06/09/98)
- (2.1) **(EAT) RESTAURANT DISTRICT OVERLAY.** This overlay district is designed to accommodate on-premises (inside and outside) dining 8.100 and 8.200 restaurant uses in the B-1(g) General Business district. Because of the B-1(g) district's close proximity to established residential single-family neighborhoods, the EAT overlay is restricted to properties a minimum distance of one property width from abutting residential zones and is limited in the types of night uses permitted. In addition, emphasis is given to the existing restrictions in the B-1(g) district and the ability of the permit-issuing authority to limit hours of operation where such restrictions are necessary to prevent unreasonable disruptions to the peace and quiet of a nearby residential area. Use of property within the overlay district for 8.100 and 8.200 purposes shall require the issuance of a conditional use permit. (AMENDED 03/21/95)
- (3) **B-2 FRINGE COMMERCIAL.** This district 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. 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)

- (4) **B-3 NEIGHBORHOOD BUSINESS.** This district is designed to accommodate commercial needs arising at the neighborhood level and which are more appropriately dealt with at that level than at the community level. Neighborhood businesses include grocery stores, branch banks, gas sales, and the like. To insure compatibility between B- 3 areas and the neighborhoods, no B-3 district shall be greater than five acres, and no areas shall be zoned B-3 if any portion of a pre-existing business district lies within one-half mile in any direction.
- (5) **B-4 OUTLYING CONCENTRATED BUSINESS.** This zone is designed to accommodate a variety of commercial enterprises that provide goods and services to a larger market area than those businesses permitted in the neighborhood business district. Development regulations also permit higher buildings and increased density over that allowed in the B-3 zone. This zone is intended to create an attractive, concentrated business district in areas that are outside the town's central business district but that are served by the town's major thoroughfares. Examples of permitted uses include shopping

centers, professional offices and motels. Uses that are not permitted include outside storage and drive-in theaters.

- (6) **B-5 WATERSHED COMMERCIAL.** This district is designed to accommodate commercial uses within the University Lake Watershed area without adversely affecting the community water supply.
- (7) **CT CORPORATE TOWN.** This district is designed to create a visually attractive, commercial use district with flexible space. The district is intended to provide space for assemblage and research and development type enterprises. Any structure in this district which is proposed for non-residential use shall be located a minimum distance of 50 feet from any residential dwelling unit in the district that was in existence on July 1, 1985. In order to encourage the creation of flexible space, an average minimum building height of 18 feet for any principal structure is required. In order to preserve the character of North Greensboro Street, the exterior walls of any structure built after July 1, 1985 shall be constructed of brick, stone, or wood. The continued use of existing residential dwelling units along North Greensboro Street is encouraged.
- (8) **B-3-T TRANSITION AREA BUSINESS.** This district is designed to accommodate commercial needs arising in the town's more rural neighborhoods, especially in the joint planning transition areas, and which are more appropriately dealt with at the neighborhood level than at a community or regional level. To insure compatibility between B-3-T areas and their associated rural neighborhoods, no B-3-T district shall be greater than five acres, and no areas shall be zoned B-3-T if any portion of a pre-existing business district lies within one-half mile in any direction.
(AMENDED 11/14/88)
- (9) **O OFFICE.** This district is intended to provide locations for low intensity office and institutional uses. This district is designed for parcels three (3) acres or less in size. Rather than have new buildings constructed, it is intended and desired that any existing residential structures within the district be converted and adapted to office or institutional use. In order to assure compatibility of residential conversions or new office construction with existing and future residential development, specific performance measures to mitigate negative impacts of office development will be required. Any development within the Office (O) district shall comply with the following requirements:
 - a. Type A screening will be required between any non- residential use and adjacent properties, except for openings necessary to allow pedestrian movement between the office or institutional use and adjacent properties;

- 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, unless doing so would adversely affect adjoining residential properties;
- 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, vinyl, 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 April 16, 1991) 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;
- d. Manufacturer's specifications for proposed outdoor lighting fixtures (including candlepower distribution) must be included in the submitted plans and maximum illumination areas must be delineated on the site plan. Light sources (light bulbs or tubes) shall be shielded to reflect down onto the ground and not out onto neighboring properties. **(AMENDED 04/16/91)**

(10) **O/A OFFICE/ASSEMBLY.** This district is intended to provide for office, administrative, professional, research, and specialized manufacturing (such as light assembly and processing) activities in close proximity to an arterial street. This district is intended to provide employment near residential areas; therefore, the required development standards are intended to be compatible to adjacent residential uses and provide a park-like setting for employment. It is strongly encouraged that development in the Office/Assembly zoning district be designed so that employees may easily utilize alternative forms of transportation (such riding buses, cycling or walking) to commute to their place of employment. Any development within the Office/Assembly (O/A) district shall comply with the following requirements: **(AMENDED 05/25/99;5/28/02)**

- a. No area less than five contiguous acres may be zoned as an Office/Assembly district;
- b. The performance standards (Article XI, Part I) applicable to 4.000 classification uses in business zones shall govern uses in an Office/Assembly zone;

- c. As shown in Section 15-308, Table of Screening Requirements, screening will be required between non-residential uses in the Office/Assembly district and adjacent residential properties;
- d. Manufacturer's specifications for proposed outdoor lighting fixtures (including candlepower distribution) must be included in the submitted plans and maximum illumination areas must be delineated on the site plan. Light sources (light bulbs or tubes) shall be shielded to reflect down onto the ground and not out onto neighboring properties.
(AMENDED 04/16/91)
- e. Not more than 25 percent of the total building gross floor constructed within the proposed district may be used for uses permissible within this district that fall within the 2.000 classification.

(11) **O/A CU OFFICE/ASSEMBLY CONDITIONAL USE.** This district is identical to the O/A district and shall be subject to all regulations applicable to the O/A district (including but not limited to the performance standards set forth in Part 1 of Article XI) except as follows: **(AMENDED 05/25/99;5/28/02)**

- a. This district shall be a conditional use district authorized under N.C.G.S. 160A-382. As such, property may be placed within this district only in response to a petition by the owners of all the property to be included.
- b. No area less than four contiguous acres and no more than a total of twenty-five (25) acres may be rezoned to the O/A CU.
- c. As indicated in the Table of Permissible Uses, the only permissible use within an O/A CU district is an office/assembly planned development, and an office/assembly planned development is permissible only in an O/A CU district.
 - 1. The applicant for an office/assembly planned development conditional use permit shall specify which of the use classifications generally permissible with an O/A district the applicant wants to make permissible within the proposed O/A CU district.
 - 2. Once a conditional use permit authorizing an office/assembly planned development has been issued, then individual tenants or occupants of the spaces or properties covered by the permit may occupy or use such individual spaces or properties without need for additional zoning, special use, or conditional use permits, so long as such use or occupancy is consistent with the approved conditional use permit including

limitations on permissible use classifications approved pursuant to subsection 1 above or other conditions or limitations imposed as conditions pursuant to Section 15-59.

3. Uses within the O/A CU district shall be limited to those where loading and unloading occurs during daylight hours only.
- c.1. Not more than 25 percent of the total building gross floor constructed within the proposed district may be used for uses permissible within this district that fall within the 2.000 classification.
- d. When an O/A CU rezoning petition is submitted (in accordance with Article XX of this chapter), the applicant shall simultaneously submit a conditional use permit application for an office/assembly planned development.
 1. The rezoning and conditional use permit applications shall be processed and reviewed concurrently.
 2. The Board of Aldermen shall simultaneously conduct a public hearing on the rezoning and conditional use permit applications, in accordance with the procedures applicable to other conditional use permit applications.
 3. If the Board concludes in the exercise of its legislative discretion that the proposed rezoning would not be consistent with the public health, safety, or welfare, it may deny the application in accordance with the same procedures applicable to any ordinance amendment request.
 4. The Board may not approve the rezoning application unless it simultaneously approves a conditional use permit for an office/assembly planned development, which permit may be issued subject to reasonable conditions and requirements set forth in Section 15-59.
- e. Buildings within the O/A CU district shall comply with the following standards:
 1. 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 vinyl).

2. The pitch of the roof shall have a minimum vertical rise of one foot for every two feet of horizontal run.
3. Windows shall be of a scale and proportion typical of single-family residences.

(AMENDED 05/25/99)

Section 15-137 Manufacturing Districts Established. (AMENDED 6/22/82; 2/4/86)

(a) The M-1 and M-2 districts are hereby created to accomplish the purposes and serve the objectives set forth in this subsection. Part of Article XI contains performance standards that place limitations on the characteristics of uses located in the districts created by this section.

- (1) **M-1 LIGHT MANUFACTURING.** This zone is designed to accommodate a limited range of industrial activities and a wide range of commercial uses including wholesaling, storage, mail-order, auto related, and office and retail in conjunction with industrial or wholesaling uses. Permitted industrial uses include enterprises engaged in manufacturing, processing, creating, repairing, renovating, painting, cleaning and assembly where all operations are contained inside a fully enclosed building. The performance standards for the M-1 zone located in Part I of Article XI are more restrictive than those in the M-2 district.
- (2) **M-2 GENERAL MANUFACTURING.** This district is designed to accommodate the widest range of industrial uses. Business operations may be conducted within and outside a fully enclosed building. The performance standards for this zone are less restrictive than those in the M-1 district.

(b) There is also established a watershed light industrial (WM-3) zoning district. The purpose of this district is to allow areas within the University Lake Watershed that have been zoned M-1 prior to the effective date of this subdivision to continue to be used and developed for light industrial and related purposes, subject to certain restrictions designed to protect the watershed. Consistent with the purpose of this zone, this district shall be confined to that area zoned M-1 on the effective date of this subsection; this area shall not be expanded and no new WM-3 areas shall be designated. (AMENDED 12/7/83)

(c) There is also established a Planned Industrial Development (PID) zoning district. The purpose of this district is to provide for the possibility of well planned and tightly controlled industrial development in areas that are suitable for such development but that are not deemed appropriate for M-1 or M-2 zoning because of the less restricted types of development that may occur in such zones. (AMENDED 6/22/82; 12/7/83)

- (1) No area less than twenty contiguous acres may be zoned as a Planned Industrial Development district, and then only upon a request submitted by or on behalf of the owner or owners of all the property intended to be covered by such zone.
- (2) As indicated in the Table of Permissible Uses (Section 15-146) a planned industrial development (use classification 30.000) is the only permissible use in a PID zone.
- (3) Subject to subdivision (2) of this subsection, and consistent with the restrictions contained in the definition of a planned industrial development [see Subdivision 15-15(60)], land within a PID zone may be used in a manner that would be permissible if the land were zoned M-1, except that (i) the only permissible uses are those described in the 2.130 and 4.100 classifications and (ii) the performance standards (Article XI, Part I) applicable to 4.100 uses in business zones shall govern uses in a planned industrial development.

Section 15-138 Public Facilities District Established.

There is hereby created a Public Facilities (P-F) zoning district. Within this district, those uses indicated as permissible in the Table of Permissible Uses may be developed, but only if such developments are owned and operated by the United States, the State of North Carolina, Orange County, the Town of Carrboro, or any agency, department, or subdivision of the foregoing governments.

Section 15-140 Residential High Density and Commercial Overlay District.
(AMENDED 2/4/86)

There is hereby created a Residential High Density and Commercial Overlay (RHDC) zoning district. The purpose of this district is to provide for the redevelopment of deteriorating commercial and manufacturing areas in a manner that is consistent with commercial development goals of the town, namely, for compact, compressed town center growth, for a substantial increase in residential opportunities near the town center, and for mixed use development in the downtown. Property that lies within this overlay district may be developed in accordance with either the regulations applicable to the underlying district or the following regulations:

- (1) To take advantage of provisions applicable to the RHDC overlay district, lots must contain at least one and one half acres of contiguous land under single ownership.
- (2) Uses permissible shall be those permissible within either the R-2 district or the B-1(c) district, or both, except that subdivisions other than architecturally integrated subdivisions shall not be allowed.
- (3) Residential density shall be determined as if the property were zoned R-2.
- (4) Twenty percent of the lot area shall remain as usable open space (see Section 15-198), except that where the development seeks to provide interior open space or indoor hard court, pool, or other active recreation facilities in excess of the basic requirement set forth in Article XIII, the permit-issuing authority may reduce the open space requirement to reflect the quality and amount of such facilities. The developer may substitute grassed areas, lawn, gardens, and shrubbed space for wooded space in meeting the requirements of 15-198(b)(3).
- (5) Subject to subdivision (6), the amount of floor area set aside or used for purposes not permissible within the R-2 district (i.e, commercial uses) may not exceed ten percent of the floor area used for residential purposes.
- (6) Where at least one-third of the total number of parking spaces for the development are provided on a tier or level other than ground level (as with underground parking or a two tier parking garage) and where the open space is increased to 40% of the development tract, the development may either (i) increase the commercial floor area over that allowed in subdivision (5) to 25% of the floor area in residential use, or (ii) increase the density for residential use to 1,500 square feet per dwelling unit.
- (7) The maximum building height for the district shall be 50 feet. A building that is over 35 feet shall be set-in and setback 2 additional feet for every additional foot above 35 feet in height.

- (8) Commercial space shall be located at ground level or on the top level of a building.
- (9) Except as otherwise provided herein, the regulations applicable to land within an R-2 district shall apply to property within a RHDC district.

Section 15-184 Building Setback Requirements.

- (a) Subject to Section 15-187 (Architecturally Integrated Subdivisions) and the other provisions of this section, no portion of any building or any freestanding sign may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table set forth below: **(AMENDED 1/22/85)**
- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set irons, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street centerline.
 - (2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
 - (3) As used in this section, the term "building" includes any substantial structure, which, by nature of its size, scale, dimensions, bulk, or use tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the foregoing, the following structures shall be deemed to fall within this description:
 - a. Gas pumps and overhead canopies or roofs.
 - b. Fences, walls or berms running along lot boundaries adjacent to public street rights-of-way if such fences, walls or berms exceed three feet in height and are substantially opaque except that fences, walls or berms shall not be regarded as "buildings" within the meaning of this subsection if they are located along the rear lot line of lots that have street frontage along both the front and rear of such lots. **(AMENDED 05/19/98)**
 - (4) Notwithstanding any other provision of this chapter, signs that do not meet the definition of freestanding signs may be erected on or affixed to structures (e.g., some fences) that are not subject to the setback requirements applicable to buildings only if such signs are located such that they satisfy the setback requirements applicable to freestanding signs in the district where located. **(AMENDED 5/26/81; 12/7/83; 2/4/86; 11/14/88; 05/15/90; 04/16/91; 01/16/01)**

ZONE	Minimum Distance from Street Right of Way line		Minimum Distance from Street Centerline		Minimum Distance from Lot Boundary Line
	Building	Freestanding Sign	Building	Freestanding Sign	Building and Freestanding Sign
C	25	12.5	55	42.5	20
WR	35	17.5	65	47.5	20
RR	40	20	70	50	20
R-20	40	20	70	50	20
R-15	35	17.5	55	47.5	20
R-10	25	12.5	55	42.5	12
R-S.I.R.	25	12.5	55	42.5	10
R-7.5	25	12.5	55	42.5	10
R-3	15	7.5	45	37.5	8
B-1(c)	--	--	30	--	--
B-1(g)	--	--	30		
B-2	15	7.5	45	37.5	10
B-3	15	7.5	45	37.5	15
B-3-T	15	7.5	45	37.5	15
B-4	30	15	60	45	10
CT	--	--	30	--	--
B-5	40	20	70	50	20
M-1	--	--	30	--	--
M-2	--	--	30	--	--
WM-3	30	15	60	45	20
O	15	7.5	45	37.5	15
O/A	15	7.5	45	37.5	15
R-2	15	7.5	45	37.5	8, plus 2 feet for every additional foot above 35 feet in height

- (b) With respect to lots within the R-20 district that were in existence or had received preliminary plat approval by Orange County prior to November 14, 1988 and were outside the town's extraterritorial planning jurisdiction but that on or after that date became zoned R-20 as a result of the implementation of the Joint Planning Agreement:

- (1) The minimum set back distance from the lot boundary line shall be 15 feet rather than the 20 feet indicated in the table set forth in subsection (a);
- (2) On lots having frontage on more than one street, the building setback applicable to the street which the front of the principal building located on that lot faces shall be as set forth in subsection (a). The building

setback from the other streets shall be 15 feet from the right-of-way line.
(AMENDED 04/25/89)

- (c) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, then the lot in the nonresidential district shall be required to observe the property line setback requirements applicable to the adjoining residential lot.
- (d) Setback distances shall be measured from the property line or street centerline to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.). Setbacks for berms shall be measured from the property line or street centerline to the point on the berm where it exceeds three feet in height. **(AMENDED 05/19/98)**
- (e) Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a lot boundary, then:
 - (1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.
 - (2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the column labeled "Minimum Distance from Lot Boundary Line") shall be measured from the inside boundary of the traveled portion of the private road.
- (f) Notwithstanding any other provision of this section, on lots in residential zones used for residential purposes, a maximum of one accessory building may be located in the rear yard of such lot without regard to the setback requirements otherwise applicable to the rear lot boundary line if such accessory building does not exceed fifteen feet in height or contain more than 150 square feet of gross floor area. **(AMENDED 5/26/81)**
- (g) In addition to the foregoing requirements, no impervious surface within any C, WR, B-5, or WM-3 zoning district may be located in or closer than twenty feet to the nearest edge of a designated buffer area, as described in Section 15-265, except that the permit-issuing authority may authorize the crossing of a designated buffer area and the presence of impervious surface there and in the setback area from the buffer area by or for: **(AMENDED 12/7/83; 11/11/86; 05/15/90)**

- (1) a subcollector, local or minor street where the permit-issuing authority finds that the crossing is justified
 - (a) in that without such a crossing over 50% of a tract would be without access and therefore undevelopable; or
 - (b) in that the crossing is necessary to comply with overriding Town policies relating to safety, as in provisions for dual access for police and fire protection; or
 - (c) in that it allows a design that would clearly result in less damage to the watershed environment than would result if the property were developed without such a crossing;
- (2) a bike or pedestrian path;
- (3) water and/or sewer lines and pump stations where the permit-issuing authority finds that
 - (a) it is practicably unavoidable if the subject property is to be served under the provisions of Section 15-238(c) and an alternate design would result in greater damage to the watershed environment; **(AMENDED 05/15/90)** and
 - (b) the system, taken as a whole, emphasizes placement outside of the buffer area; and
 - (c) to the extent practical, and consistent with (a) and (b) above, the direction of the line crossing is perpendicular to the stream; and
 - (d) in the case of sewer lines, the lines are constructed of ductile iron pipe, or of comparable material which will not require significant clearing of vegetation, and
 - (e) in the case of a pump station, the station will be capable of pumping peak water flow with the main pump out of service, have an emergency power supply and a telemetering system (that will provide the Orange Water and Sewer Authority with information concerning the status of the pumps, electricity, and the wet well level).
- (4) Water dependent structures. **(AMENDED 12/14/93)**
- (h) Notwithstanding the provision of subsection (g), **(AMENDED 1/22/85)**
 - (1) No crossing shall be allowed except where full measures are employed to minimize, to the maximum extent practicable, potential adverse effects. In meeting this standard, the permit issuing authority shall consider factors such as the use of bridges as opposed to culverts, the length of bridge spans, the redirecting of storm water

- run-off through a buffer or filtering mechanism, safeguards to line breakages, and other similar factors.
- (2) The provisions of subsection (g) may not be utilized to allow the crossing of a designated buffer if the situation otherwise justifying the crossing has been created by or results from the subdivision of a tract after the effective date of this section.
- (i) Notwithstanding any other provision of this section, no setback requirement shall apply to bus shelters erected by or at the direction of the town. **(AMENDED 1/22/85)**
- (j) Notwithstanding any provision in (a), no minimum distance from a lot boundary line for buildings or freestanding signs shall be required from any railroad right-of-way or other railroad property being used principally as a track bed or corridor. **(AMENDED 2/4/86)**
- (k) ~~Any building in a B-1(c) or B-1(g) district shall be located away from any residential dwelling unit existing on July 1, 1985 a minimum distance of fifteen feet plus two feet for each additional foot that the building exceeds thirty feet in height. (REPEALED 4/8/03)~~
- (l) In addition to the overall density restrictions of the underlying zone, each mobile home unit in any mobile home community (use classification 1.122 or 1.123) must be placed such that it is at least 10 feet in any direction from any other mobile home unit within the community, in order to reduce the likelihood of the spread of fire. **(AMENDED 10/20/87)**
- (m) Notwithstanding the provisions of subsections (a) or (b), properties located in Carrboro's Transition Area II, and zoned R-R shall be required to maintain a 100-foot undisturbed, naturally vegetated setback along any common boundary line with Properties in Orange County's planning jurisdiction that are designated both Rural Buffer and Public/Private Open Space on the Joint Planning Area Land Use Plan. No structures or associated clearing shall be permitted within this setback. Utilities and associated clearing shall be permitted within this setback only to the extent that no reasonable alternative exists. **(AMENDED 06/05/89)**
- (n) When the neighborhood preservation district commission determines that an application for a permit under this ordinance involves a proposed authentic restoration, new construction or reconstruction in the same location and in the original conformation of a structure within a neighborhood preservation district that has architectural or historic significance, but that such proposed restoration, construction or reconstruction cannot reasonably be accomplished in conformity with the setback requirements set forth in this section, the neighborhood preservation district commission may recommend,

and the permit issuing authority may allow, a deviation from these requirements to the extent reasonably necessary to accommodate such restoration, construction or reconstruction. **(AMENDED 09/26/89)**

- (o) Signs erected in connection with elections or political campaigns, as described in subsection 15-273(a)(5), shall not be subject to the setback requirements of this section. However, as provided in subsection 15-273(a)(5), such signs may not be attached to any natural or man-made permanent structure located within a public right-of-way, including without limitation trees, utility poles, or traffic control signs. **(AMENDED 08/25/92)**
- (p) When the appearance commission determines that (i) any new construction or any repair, renovation, or reconstruction of a pre-existing building is proposed within any commercial zoning district; and (ii) the appearance of the building would be substantially improved by the addition of or extension of an architectural feature; and (iii) the feature proposed by the appearance commission would violate the setback provisions of this section, then, subject to the following requirements, the commission may recommend, and upon such recommendation the applicant may amend his plans to propose and the permit issuing authority may authorize, an encroachment of such architectural feature into the required setback area.
 - (1) For purposes of this subsection, the term “architectural feature” includes any part of a building other than a building wall or mechanical appurtenance.
 - (2) The maximum encroachment that can be authorized under this subsection is two feet.
 - (3) The encroachment may be allowed when the appearance commission and permit issuing authority both conclude that authorization of the encroachment would result in a building that is more compatible with the surrounding neighborhood than would be the case if the encroachment were not allowed. **(AMENDED 11/09/93)**
- (q) Notwithstanding the other provisions of this section, in the historic district, no portion of any new dwelling unit on a flag lot may be located any closer than fifteen (15) feet from any property line or any closer than thirty (30) feet from any existing dwelling unit located on the lot from which the flag lot was created (see Section 15-175.10). **(AMENDED 11/21/95)**
- (r) Notwithstanding the other provisions of this section, the base of a use classification 18.200 tower shall be set back from a street right-of-way line and a lot boundary lane a distance that is not less than the height of the tower. **(AMENDED 02/18/97)**

- (s) Notwithstanding any provision in this section with respect to use classification 1.340, single-room occupancy buildings may be set back from a street right-of-way line a distance that is consistent with the setbacks of other nearby buildings that front the same street. (AMENDED 01/11/00)

Section 15-185 Building Height Limitations. (AMENDED 9/13/83; 2/4/86; 11/14/88; 4/8/03; 6/22/04)

- (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.R.-II	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 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 as 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 s 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 is demolished. This limitation shall not apply to the 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 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.
- (5) 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.

(6) It shall be presumed that any building that satisfies the following criteria complies with the standards set forth in subsection (2) for allowing a building height of up to 49 feet in the B-1(c) district and that any building that does not comply with all of the criteria does not satisfy this standard. However, this presumption is rebuttable.

- a. No plane comprising a portion of the building's exterior wall or roof surface that is oriented toward and visible from any point within a street, parking area or pedestrian way and that lies within 200 feet of such point has a surface whose horizontal run exceeds forty feet or a vertical rise that exceeds twenty-eight feet. For purposes of this subdivision:
(i) a plane is a flat surface of such a nature that a straight line joining any two of its points lies wholly in the surface; (ii) when a plane continues along the same orientation as another plane, the two shall be regarded as one unless the nearest edges of the two planes are at least two feet apart and the protrusion or indentation that divides them extends outward or is recessed at least a distance of two feet from the surface of the planes; (iii) when a plane continues along an orientation that is parallel to another plane, the two planes shall be regarded as one unless a distance of at least two feet separates one plane from the imaginary extension of the other parallel plane; (iv) the horizontal run of a plane is determined by measuring the distance along the longest horizontal line that intersects at right angles two parallel vertical lines each one of which touches opposite edges of the plane; (v) the vertical rise of a plane is determined by measuring the distance along the longest vertical line that intersects at right angles two parallel horizontal lines each one of which touches opposite edges of the plane.
- b. The building includes a covered pedestrian area equal in square feet to the length of the longest side of the building. For purposes of this determination, a side includes all planes with the same basic orientation--north, south, east, or west. Space under awnings shall be considered covered space.
- c. The building includes an outside plaza or courtyard equal in square feet to six times the length of the longest side of the building, which area is attractively landscaped for pedestrian park type uses and integrated with pedestrian ways planned or existing in the immediate area.
- d. In lieu of design criteria 'b' and 'c', the building contains substantial atrium space.

- e. A reasonable amount of exterior decoration is incorporated in the building design. Exterior decoration may include detailed cornices, unique windows and window treatment, brick detailing, glazing, fountains, statues, vegetation and landscaping other than that required to meet other standards in this ordinance.
- (b) Subject to subsections (c) and (d) the features listed in this subsection, when attached to a principal building, may be constructed to a height that does not exceed the lesser of (i) 120% of the district height limitation set forth in subsection (a), or (ii) the district height limitation set forth in subsection (a) plus fifteen feet. By way of illustration, in a zoning district with a height limitation of thirty-five feet, the following features may be constructed to a height of forty-two feet, but such features may not exceed the forty-two feet height limit even if a height variance has also been granted for the principal building (unless a variance has also been granted regarding the height limitation affecting such features.)
 - (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage;
 - (2) Flagpoles and similar devices;
 - (3) Heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices.
- (c) The exceptions set forth in subsection (b) to the height limitations set forth in subsection (a) shall not be allowed if and to the extent that the permit issuing authority, or the board of adjustment if the permit-issuing authority is the zoning administrator, concludes that such exception(s) would materially interfere with the legitimate use and enjoyment of neighboring properties (including public properties or rights-of-way) or would otherwise pose a danger to the public health and safety.
- (d) The features listed in subsection (b) may exceed the height limitation set forth in subsection (a) only in accordance with the following requirements:
 - (1) Not more than one-third of the total roof area may be consumed by such features.
 - (2) The features described in subdivision (b)(3) above must be set back from the edge of the roof a minimum distance of one foot for every foot by which such features extend above the roof surface of the principal building to which they are attached.
 - (3) Enclosures for any of the features set forth in subsection (b) may not

surround a greater area than is reasonably necessary to enclose such features.

- (4) The permit issuing authority may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in subdivisions (b)(1) and (3) from view.
- (e) Towers and antennas shall not be subject to the maximum height limitations set forth in this section but shall be governed by the restrictions inherent on the definitions of such uses as well as the other provisions of this chapter applicable to use classification 18.000. The height of a tower or antenna attached to a structure other than an antenna shall be the vertical distance measured from the main elevation of the finished grade at the front of the building or structure to which the tower is attached to the top of the tower (or antenna, if the antenna extends above the tower). **(AMENDED 02/18/97)**
- (f) ~~Notwithstanding subsection (a), in any zoning district the vertical distance from the ground to a point of access to a roof surface of any non-residential building or any multi-family residential building containing four or more dwelling units may not exceed thirty-five feet unless the fire chief certifies to the permit-issuing authority that such building is designed to provide adequate access to fire fighting personnel or the building is otherwise designed or equipped to provide adequate protection against the dangers of fire. **(REPEALED 04/08/03)**~~
- (f) Notwithstanding the remaining provisions of this section, the maximum building height for structures utilized for 5.100 use classifications, elementary and secondary schools, may be increased to not more than 50 feet when the permit issuing authority concludes that the additional height is necessary to accommodate specific building elements (e.g. auditorium and support facilities) or to accommodate building designs that seek to minimize building footprints and/or maximize natural lighting. **(AMENDED 6/22/04)**
- (g) For purposes of this section: **(AMENDED 06/28/94; 04/08/03)**
- 1) Subject to subsection (g) (2), the height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.
 - 2) With respect to single-family detached residences, the height of a building shall be the vertical distance measured from the floor of the main story of the residence at the front elevation to the top of the roof above the floor.
 - 3) The terms "story" and "floor" are defined in Section 15-15. **(AMENDED 04/08/03)**

PUBLIC HEARING ON THE DOWNTOWN NEIGHBORHOOD PROTECTION OVERLAY ZONING DISTRICT

It is necessary for the Board of Aldermen to review and receive public comment on a proposal for a for a major map amendment that would change the zoning of approximately 32 acres of property located in the B-1(c), B-1(g), M-1, and CT districts to include the Downtown Neighborhood Protection Overlay designation.

Trish McGuire, the town's Planning Administrator, made the presentation.

Charles Browning, with Riggsbee-Hinson Furniture, asked that the Board consider not dropping them out of the overlay, and asked that the Board consider an alternative to the residential overlay because it will affect them financially.

David Craine asked for a clarification of what the buffer meant.

Pearlie Jones, a resident of Eugene Street, asked where tall buildings could be built.

Debra Seaton, owner of 203 N. Greensboro Street, asked for more time to digest this information.

Alderman Broun asked if the Power Point presentation could be put on the town's website.

Michael Roberts, owner of 106 Poplar Avenue, asked for reduced building heights. He stated that he would support requiring conditional use permits for any buildings over 2 stories, would be against reduced buffers.

David Ripperton, architect for the Andrews Riggsbee Hardware, presented photos of Weaver Street, presented a sketch of the redevelopment proposal for the hardware site, suggested a vertical DNP by setting the building back. 50 feet, and asked that future committee selections include minority and long-time residents.

Ellen Virchick, a resident of 214 Maple Avenue, expressed concern about the appearance of the buildings, putting buildings on the road would not feel or look right, and stated that she does not feel five story buildings belong in Carrboro.

Clementine Self a resident of Broad Street stated that she feels the building at Merritt Mill/Rosemary is an eyesore. Carrboro does not need that type building.

Michelle Rivest, a member of the DNP committee, stated that she had problems understanding the proposed ordinance. She also stated that she does not support tall buildings next to neighborhoods, would like more setbacks from property lines, and the breaking up of the horizontal lines will present relief for neighborhoods. The stated that any project over 2 stories should require a conditional use permit, and stated that she would not want a reduced buffer.

Robert Dowling with Orange Community Housing and Land Trust stated that he feels it is important to build more office space.

Jack Haggerty suggested that the overlay zone be a supplement to the Architectural Guidelines.

Lyle Lansdale, a resident of E. Poplar, stated that she would have liked a definition of zoning areas, and stated that tall buildings will rob us of our air and light and asked for 2 and 3 story buildings next to the street

Hazel Ferrell, owns Riggsbee Hinson Warehouse, does not agree with the proposal.

James Carnahan, Chair of the Planning Board, explained the Planning Board's recommendation.

Letters were received from David Ripperton and Barton Lloyd. In summary, Mr. Ripperton's letter stated that he felt the committee's recommendations are too complex, burdensome and restrictive; the inclusion of an option for the exchange of setback distance for increased development rights would be beneficial in planning for both the commercial-residential interface, as well as open space. Mr. Lloyd's letter requested that the proposed ordinance be returned back to the planning department for thoughtful reconsideration because he feels the draft ordinance would lead to a greater prevalence of buildings constructed at least in part with materials other than brick because of the stepped back requirement. In addition, the 50-foot buffer required by the draft ordinance would require either a severely limited footprint, a two-story height limitation or cumbersome and aesthetically questionable architectural features such as the mandated "stepbacks", mansard or gambrel roofs.

Alderman Chilton asked that the 70-degree roof provision be removed.

Alderman Broun asked for more design information and materials.

Alderman Gist stated that she wished that the Board had dealt with neighborhood preservation and neighborhood protection at the same time as the rest of the land use ordinance was changed.

Alderman Zaffron feels that adjustment can be made to the proposal to make it work.

Alderman McDuffee expressed her desire to see projects with two stories or more come to the Board of Aldermen for review.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY MARK CHILTON TO CONTINUE THE PUBLIC HEARING TO AUGUST 23, 2005. VOTE: AFFIRMATIVE FIVE, ABSENT TWO (NELSON, HERRERA)



David N. Ripperton Architect Inc.

200 N. Greensboro St., Suite B-13b Carrboro, NC 27510 919-942-9999 Fax 919-942-8989

April 8, 2005

Mayor Michael Nelson
Board of Aldermen Members
c/o Marty Roupe
Town of Carrboro
Planning Department
301 W. Main Street
Carrboro, NC 27510

Re: Downtown Neighborhood Protection Overlay District Recommendations

Dear Honorable Mayor and Aldermen,

I am grateful to the B-1(f) Sub-Committee for the time they have spent drafting the Downtown Neighborhood Protection Overlay District recommendations. I think it is important to maintain a common sense scale and character among the buildings and spaces within the downtown area. The committee's recommendations will help shape the physical appearance of Carrboro for years to come.

I believe that the intent of these recommendations has merit; however, I disagree with many of the specifics. As mentioned in the last subcommittee meeting, the town is providing an opportunity to "create wealth" for those who are developing downtown properties. Therefore, it should not be unreasonable to ask for something in return. Likewise, the owners of these properties will be creating wealth and prestige for the town by investing considerable money and effort into properties that they – not the town – own. Thus, it is not unreasonable for them, or their representatives, to ask for something in return also.

As hard as the Subcommittee members have worked, I believe their recommendations will set a dangerous precedent by prescribing architectural shapes and features on private property. As a representative of the Andrews-Riggsbee property owners, I am asking that a simple alternative should be added to what has already been decided, and that is, the exchange of setback distance for increased development rights. Below is a list of examples of how this exchange might work, as well as a few recommendations:

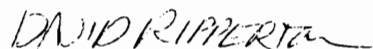
1. Provide an option to the 50' setback within the 4 and 5 levels. Instead of creating the DNP Overlay District 50' from boundary lines that abut or are directly across from residentially zoned property, allow the option of exchanging an increased setback at the 1, 2 & 3 levels for less setback at the 4 & 5 levels.
 - a. For example, a building could be set back 20' from the property line (instead of on the property line), with two additional step backs of 10' each at the 4th & 5th levels. The green space at the street level would be very appealing to residents living across the street in the residentially zoned lots.
 - b. More residents will be living in the developed apartments, as in the case of the Andrews-Riggsbee site, than in the neighboring residentially zoned areas. The prospect of looking out onto 50' of roofed area is not appealing. A decrease in the 50' roof area expanse would result in porches and patios that are more in scale with the apartment spaces.
 - c. The decrease in the 50' setback on the upper levels would allow the possibility of interior courtyards within the commercially zoned lots.
2. Provide options to the 30' separation requirement. This requirement creates separate buildings on small lots and separate sets of code requirements for each building. It duplicates building elements, increases building costs, and complicates the possibility of underground parking.
 - a. For example, the 30' separations could be required at levels 1, 2 and 3, while levels 4 and 5 could extend over the space below. Additional setbacks could be required in exchange for this.
 - b. Another option would be to delete the 30' separation in exchange for an increased setback at the 1, 2 and 3 levels.
3. Eliminate the 3rd story requirement for mansard, gambrel, gabled roofs, and dormers.
 - a. This recommendation reduces available options for the use of roof space on the 4th level. Most of the lots that are to be included within the DNP district are too small or too narrow for many of the proposed recommendations to have a positive effect on them, except that the 3rd story will be diminished by the requirement for dormers, mansard roof, etc. In effect, this will reduce the square footage that was allowed under the existing zoning. If the intent of the Town is to increase the density within the downtown district, this will have the opposite effect.
 - b. The 3rd level should be allowed to rise continuously to a parapet, so the roof space at the 4th level can be utilized more effectively.
 - c. Most pedestrians are unaware of a building's exterior wall shape and texture much above eye level. It is more important to concentrate on alternatives to the design of the ground level area, rather than features and shapes 35 feet in the air.

DNP Overlay District, page 3

4. Provide diagrams showing how the recommendations will affect all properties within the DNP.
 - a. The current recommendations are too complex for the average person to comprehend or visualize.
 - b. Diagrams showing how each of the properties within the DNP Overlay District should be provided at the Public Hearing so that everyone can see the effect the recommendations will have on all the affected properties, not on just one or two.
5. Create guidelines for large recombined lots.
 - a. I realize that there is concern for what might happen if properties were recombined into larger lots. This could produce very negative results for existing residential neighborhoods.
 - b. The ordinance should be amended to include a special set of guideline that would pertain to large recombined lots over a certain size, rather than trying to force smaller commercial properties to adhere to the current recommendations.

In my opinion, the committee's recommendations are too complex, burdensome, and restrictive. The recommendations should act as an incentive to provide good design, not as a perceived deterrent to bad design. The issue of open space was not addressed in this letter because the committee had not yet reached a consensus on what they were going to recommend. The inclusion of an option for the exchange of setback distance for increased development rights would be beneficial in planning for both the commercial-residential interface, as well as for open space.

Sincerely,



David Ripperton

Barton Lloyd, Jr.
106 Jones Ferry Rd.
Carrboro, North Carolina
27510

June 23, 2005

Ms. Sarah Williamson,
Town Clerk
Town Hall
Town of Carrboro,
NC, 27510

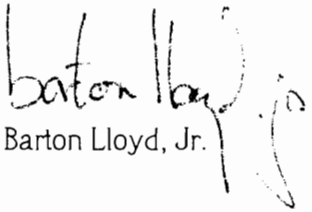
Dear Ms. Williamson:

I am enclosing a copy of a letter to the aldermen with regard to the proposed Downtown
Neighborhood Protection Overlay District.

As I will be out of town, I would appreciate it if you would make certain it is read and see that it is
entered into the record of next Tuesday's hearing.

Thank you.

Sincerely,


Barton Lloyd, Jr.

Barton Lloyd, Jr.
 106 Jones Ferry Rd.
 Carrboro, North Carolina
 27510

June 23, 2005

Board of Aldermen
 Town of Carrboro
 North Carolina, 27510

Gentlepeople:

I write as the co-owner since 1980 of a quarter acre lot at the northeast corner of Jones Ferry Rd. and Laurel Ave. which is approximately one block south of town hall. I have met with Ms. McGuire and reviewed the proposed Downtown Neighborhood Protection Overlay District ordinance and I offer the following thoughts:

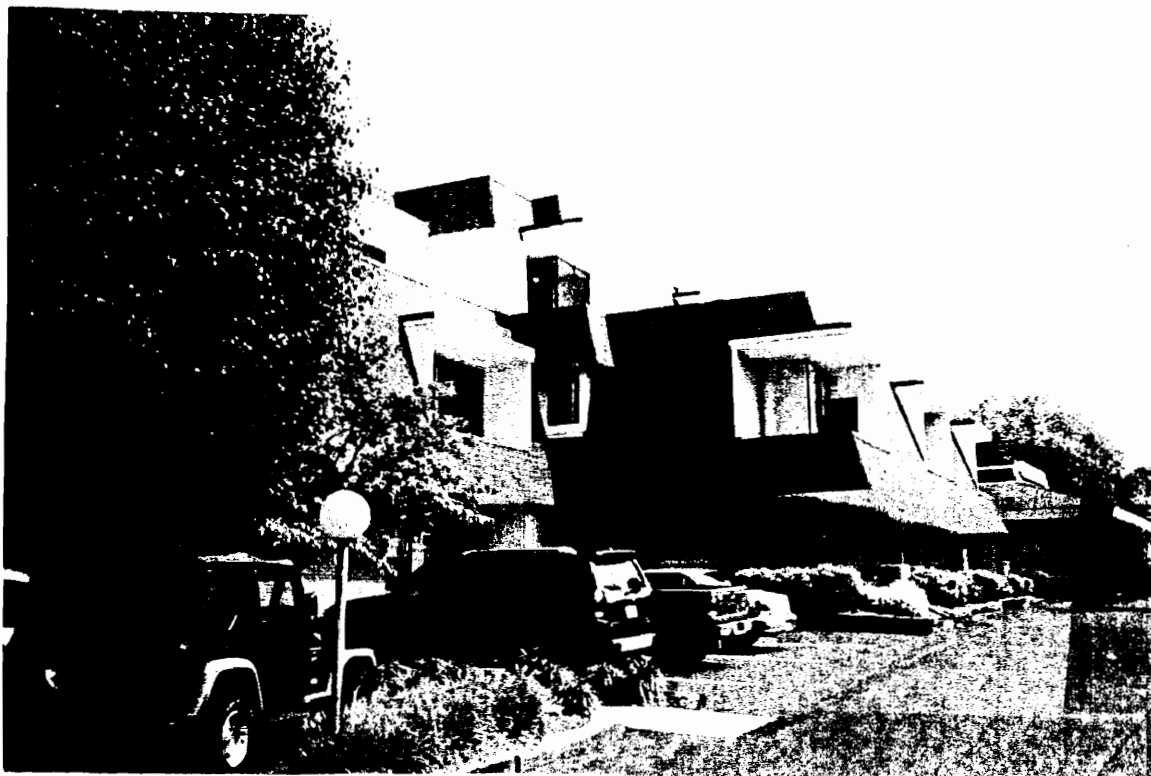
1. Most of the surviving historic and older buildings in downtown Carrboro such as the mills, the stores on Main St., some warehouses, Town Hall and old Baptist church which is now the Century Center were constructed with brick exteriors.
2. Many of the newer buildings in Carrboro's downtown are fairly attractive in large part because they have brick exteriors consistent with the look or at least feel of the historic buildings mentioned above.
3. Because of their weight, "stepped back" brick facades require unusual structural support making them costly and structurally challenging, whether the "stepped back" wall extends continuously to grade or bears on something other than the building's foundation.
4. Thus, due to their weight, brick walls are generally constructed in continuous vertical planes bearing directly on the foundation. "Stepped back" walls are more often faced with non-masonry construction materials.
5. The DNPOD requirement that walls over two stories within the 50' buffer be "stepped back" would lead to a greater prevalence of buildings constructed at least in part with materials other than brick.
6. These buildings may be inharmonious with the existing look, feel and charm of Carrboro. Many will include the use of non-masonry exterior materials such as one newly constructed building on West Main St which is considered by many to be visually unattractive and substantially incongruous with the character of the town center. And that is without stepbacks or a mansard or gambrel roof!
7. Aside from the matter of exterior construction materials, for lots the size of most in the subject area, the 50' buffer stipulated by the DNPOD would require either a severely limited footprint, a two story height limitation or cumbersome and esthetically questionable architectural features such as the mandated "stepbacks", mansard or gambrel roofs, etc. An abundance of such features would not be in keeping with the character of the older buildings that make Carrboro as charming as so many of us believe it is.

I enclose a photograph of a building which could have been built to satisfy some of the stipulations set forth in the proposed DNPOD ordinance. It features both a mansard "roof" and third story stepback. Is this what we want to see being built in Carrboro's town center? It is challenging enough to construct attractive, functional, economically feasible buildings without the town imposing a new layer of whimsical architectural requirements. If height needs to be limited, limit it either by measurement or by number of stories. The town needs to give substantial further consideration to the matter of preserving what so many of us like about Carrboro before heading further down a path towards a hash of town center development of dubious architectural character.

I respectfully suggest that the proposed DNPOD ordinance be returned to the planning department for thoughtful reconsideration.

Sincerely,

Barton Lloyd, Jr.
Barton Lloyd, Jr.



Sarah Williamson

From: James Carnahan [jcarnahan@mindspring.com]
Sent: Friday, August 19, 2005 11:19 AM
To: zzDept. Mail - Town Clerk
Subject: comments RE Downtown Neighborhood Preservation District Overlay

Sarah - could you please convey this to the Mayor and Aldermen?

Thanks!
 James

Mayor Nelson, Aldermen:

I am writing to support adoption of the "Downtown Neighborhood Preservation District Overlay."

The committee that wrote the ordinance represented the diverse and competing views around the challenge of how to create a satisfactory transition between residential and commercial zones in the downtown. I believe the solution the committee arrived at fairly balances the interests of all parties: residents living next to the downtown and owners of commercial property, as well as the interests of the larger community that wants to increase Carrboro's commercial tax base, bring to the downtown more of the kind of jobs that many of our citizens now have to commute to, and create a thriving, multi-use social & cultural center for the town.

The original proposal the committee considered is the proposal that gave the committee its name: B1f. The B1f or "business fringe" zone would have been applied to the entirety of any property that was adjacent to a residential zone. In a downtown as narrow and limited in size as Carrboro's, the effect of this zoning would have been a huge reduction in the town's capacity to efficiently utilize its small commercial core.

The "B1f" committee devised instead the overlay which has the effect of requiring commercial projects to have a residential character within a 50' wide buffer when they face or abut residential zones. This requirement is achieved through two features of the DNP Overlay ordinance:

1) The Maximum building height in the 50' buffer is 2 floors; an additional floor is permitted when stepped back or contained within a roof structure, such as a gable, gambrel, or mansard roof.

2) Building *length* is limited to 80% of the property line length along the 50' buffer, or, in the case of longer properties, the building facade must be broken into increments no greater than 80 feet, with a 30' open space separating them.

The combined effect of these two provisions is to create, in this transitional area, small to moderately sized structures that resemble their residential neighbors. By diminishing the size

of the structures than can be build in the buffer, the overlay will also reduce the intensity of use at the commercial edge.

There is a requirement in the proposed ordinance that states that the maximum roof pitch allowed is 70%. This is an important feature, in that it prescribes a roof with a *noticeable* pitch and will not allow the kind of phoney "mansard" treatment that we see in some residential projects in town, of shingled, nearly vertical surfaces. This provision helps to insure residential character wherein we find mostly roofs with an obvious pitch.

Rather than removing this provision, as Alderman Chilton asked, I urge you to keep it in the ordinance, add a similar requirement for *2-story* buildings in the DNP.

I think it is important to approve this ordinance and lay to rest a good deal of uncertainty that has confronted owners of downtown property that is adjacent to residential zones. This lingering uncertainty is preventing us from moving ahead with our goals for the downtown. The DNP Overlay is a good solution; no solution is going to be perfect, but I think we can depend on our approvals process to get good outcomes, and can adjust the ordinance as needed.

James Carnahan
122 Oak St
Carrboro

DOWNTOWN NEIGHBORHOOD PROTECTION OVERLAY DISTRICT EXAMPLES OF DIMENSIONAL AND ARCHITECTURAL PROVISIONS

The following presents excerpts of the portions of the DNP ordinance that specify dimensional and architectural requirements. Please note that the graphics are meant to be illustrative of the scope of the dimensions that could result from the application of the proposed ordinance requirements. The illustrations are not exhaustive, nor do they attempt to provide information on architectural style or scale.

Section 15-185.1 Downtown Neighborhood Protection Overlay District Requirements

- (1) A building or buildings constructed within such buffer area may not extend laterally along the affected boundary for more than 80% (**Figure 1**) of the lot width at its narrowest point within the buffer area; and

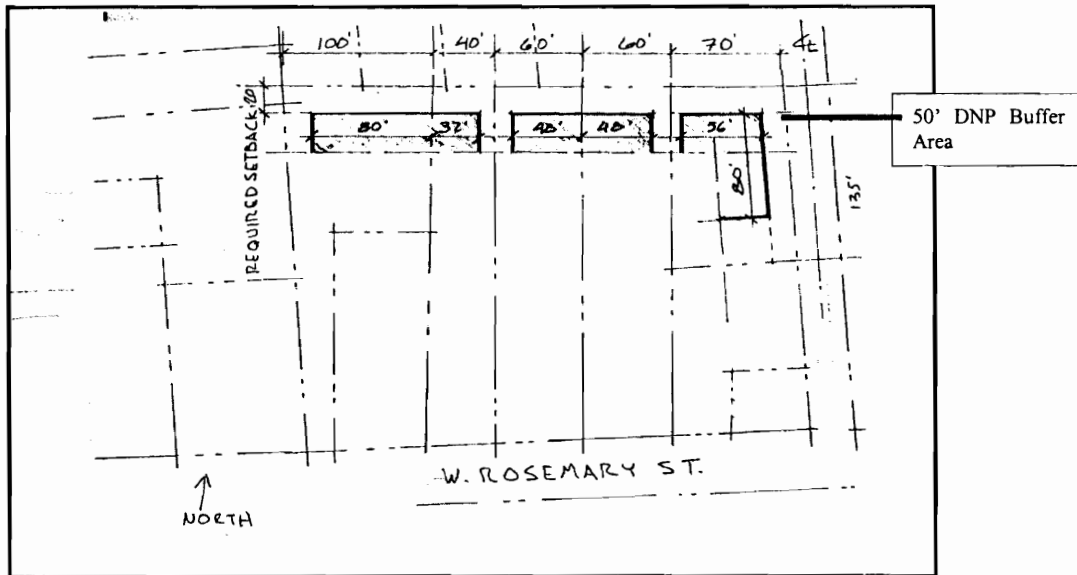


Figure 1.

- (2) The maximum horizontal run of a single building shall be 80 feet (**Figure 2**); and

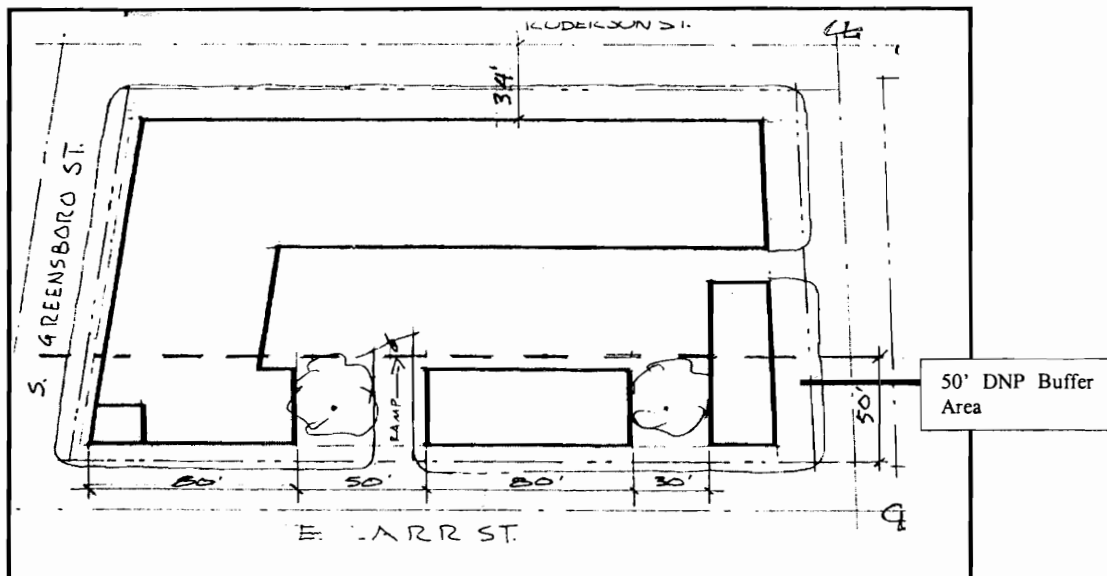


Figure 2.

- (3) If more than one building is constructed, there shall be a separation of at least 30 feet between one building and another.

(d) With respect to lots where the underlying zoning is CT or M-1, the portion of such lots within the DNP Buffer Area shall be subject to a maximum height limitation of two stories, except as set forth below. (The portion of such lots outside the DNP Buffer Area shall be subject to the height limitation established by Section 15-185, i.e. three stories).

- (1) A third story not exceeding a building height of 42 feet shall be permissible if a mansard, gable, or gambrel roof (**Figure 3**) with a roof pitch no greater than 70 degrees (**Figures 4a and b**) and a continuous eave line substantially contains the third 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). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed (**Figure 5**).

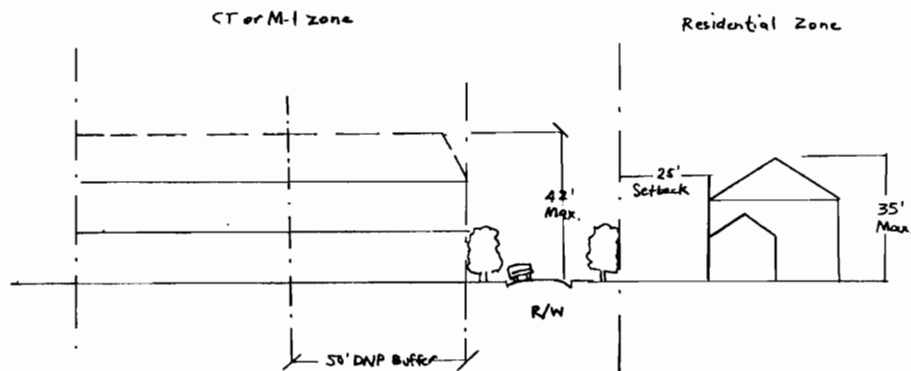


Figure 3.

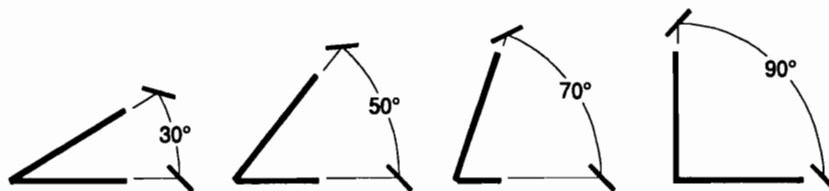


Figure 4a.

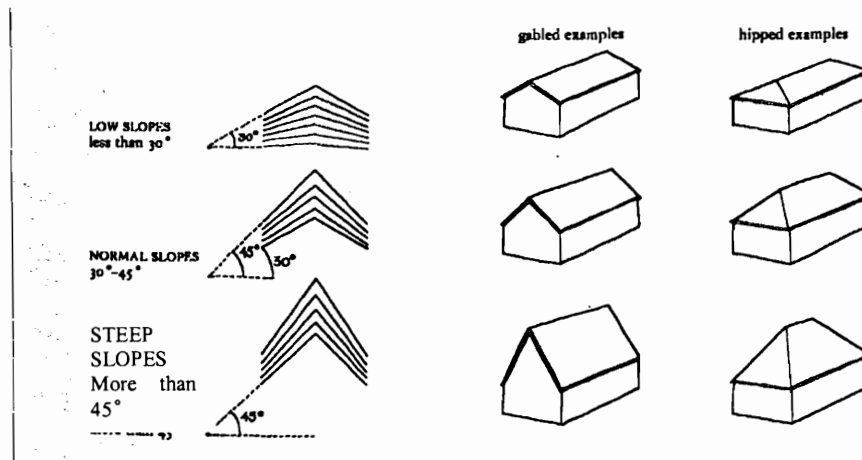


Figure 4b.

Roof Dormers

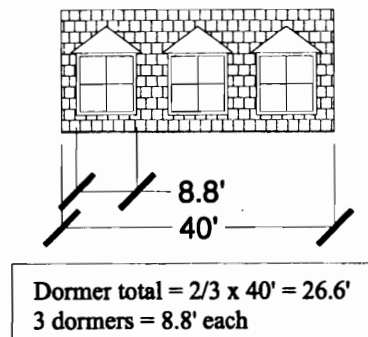


Figure 5.

(2) A third story shall be permissible if:

- a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property; and
- b. The third story has a corresponding setback ("stepback") from the second story on the opposite side of the building (**Figure 6**).

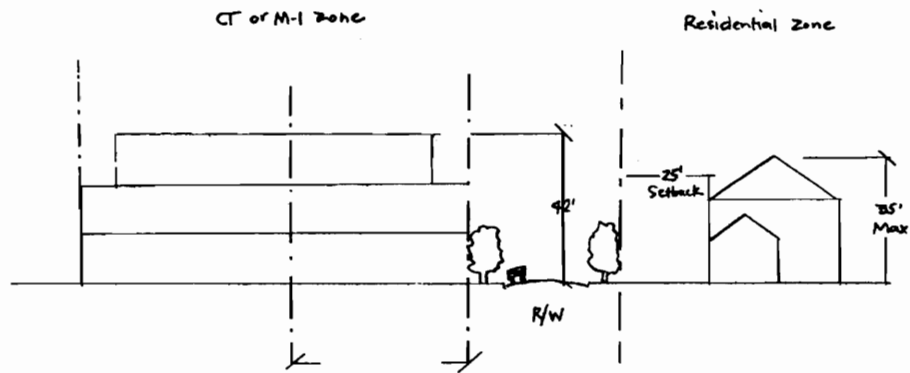


Figure 6.

- (3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet (**Figure 7**).

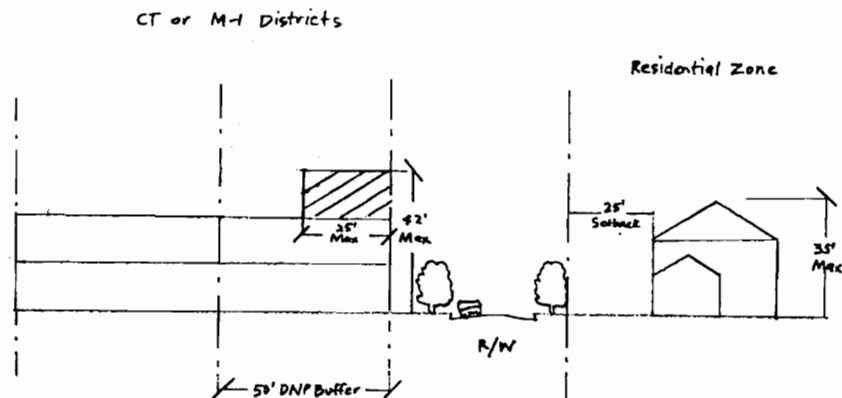


Figure 7.

(e) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the provisions of Subsection 15-185(a)(3) shall not apply and the provisions of subsections (f), (g) and (h) of this section shall apply in lieu thereof.

(f) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots within the DNP Buffer Area shall be subject to a maximum height limitation of two stories, except as set forth below:

- (1) A third story not exceeding a building height of 42 feet shall be permissible if a mansard, gable, or gambrel roof (**Figure 8**) with a roof pitch no greater than 70 degrees (see **Figure 4**) and a continuous eave line substantially contains the third 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). When dormers are constructed on such roofs, the total width of all such dormers shall not exceed two-thirds of the width of the roof on which such dormers are constructed (see **Figure 5**).

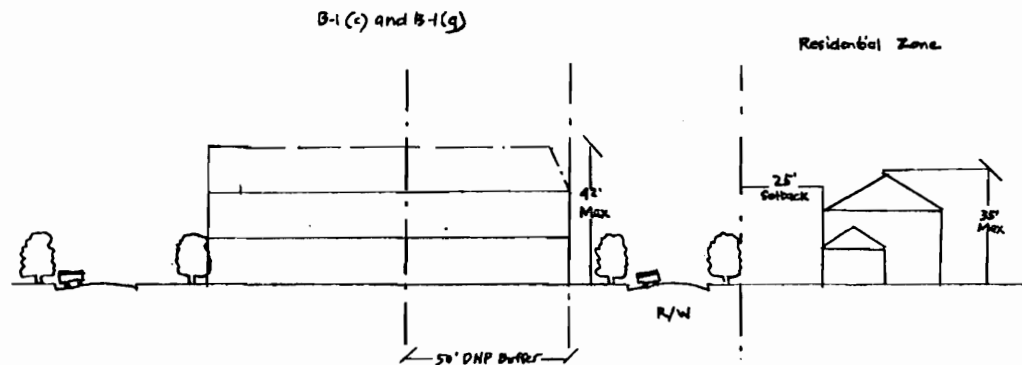


Figure 8.

(2) A third story shall be permissible if:

- a. All portions of such third story are set back at least ten feet from the second story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property; and
- b. The third story has a corresponding setback ("stepback") from the second story on the opposite side of the building.

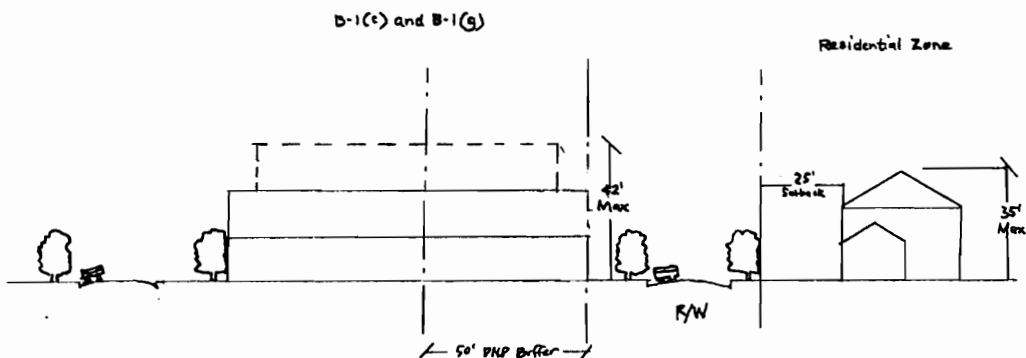


Figure 9.

- (3) Towers, cupolas, and similar architectural features intended to complement the building design may extend to a height of not more than 42 feet, so long as such features do not contain more than 400 square feet and no elevational width of such features exceeds 25 feet (**Figure 10**).

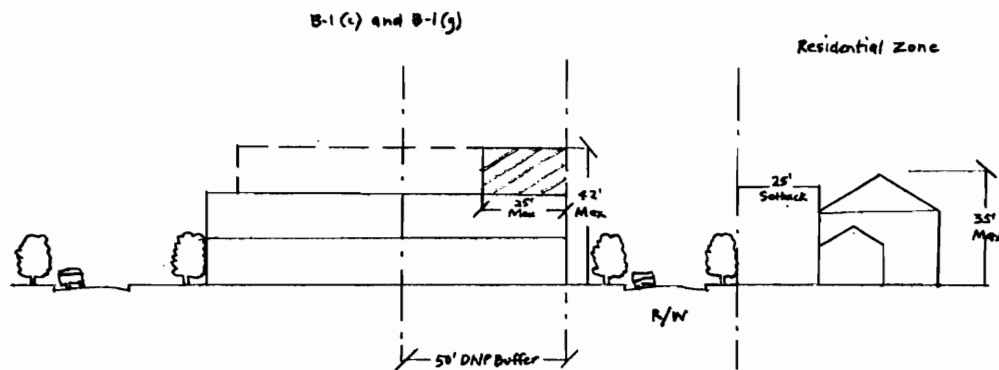


Figure 10.

(g) With respect to lots where the underlying zoning is B-1(c) or B-1(g), the portion of such lots that lie outside the DNP Buffer Area shall be subject to a maximum height limitation of ~~four~~ three stories, subject to the following:

- (1) If a fourth story is constructed, such fourth story must either be set back at least ten feet from the edge of the DNP Buffer Area or must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (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) (Figures 11 and 12).

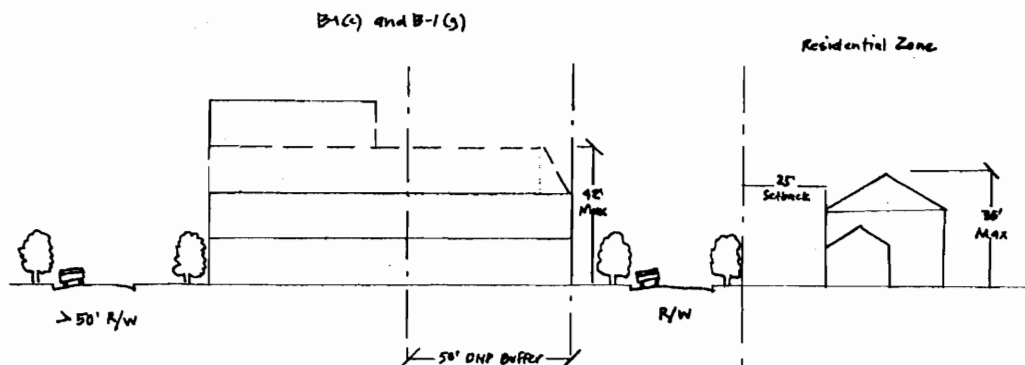


Figure 11.

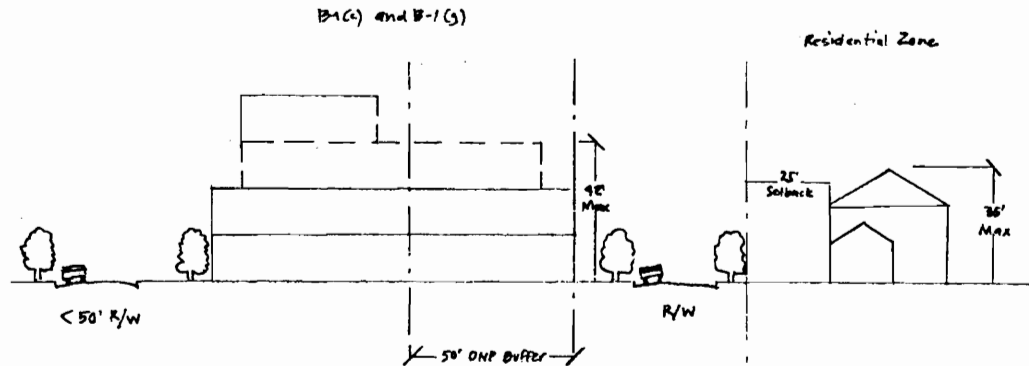


Figure 12.

- (2) If a fifth story is constructed, either all portions of such fifth story must be set back at least ten feet from the fourth story façade of the building wall that faces a boundary line that abuts or is located directly across the street from residentially zoned property, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (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).
- (3) In addition, if a fifth story is constructed, either all portions of such fifth story must be set back from ~~the any~~ any street right-of way line other than that associated with establishing the DNP buffer area ~~an additional~~ a distance of ten feet beyond the setback specified in Section 15-184, or the fifth story must be substantially contained within a mansard, gable, or gambrel roof with a roof pitch no greater than seventy degrees and a continuous eave line (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).

(See Figures 13 and 14 for examples of buildings in B-1(c) and B-1(g) districts with five stories.)

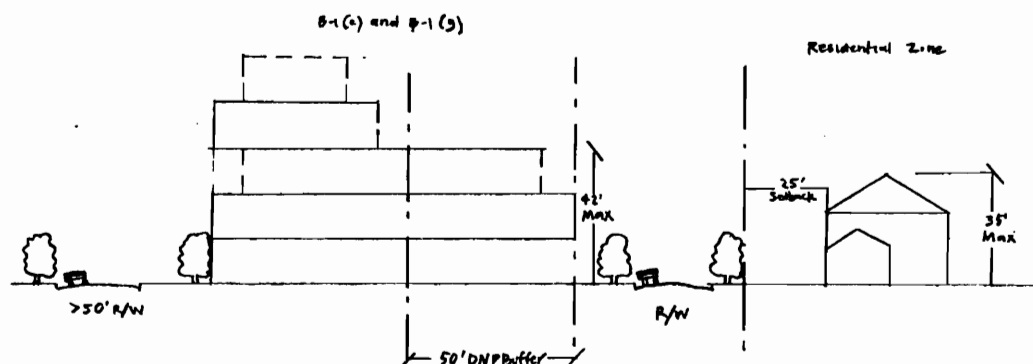


Figure 13.

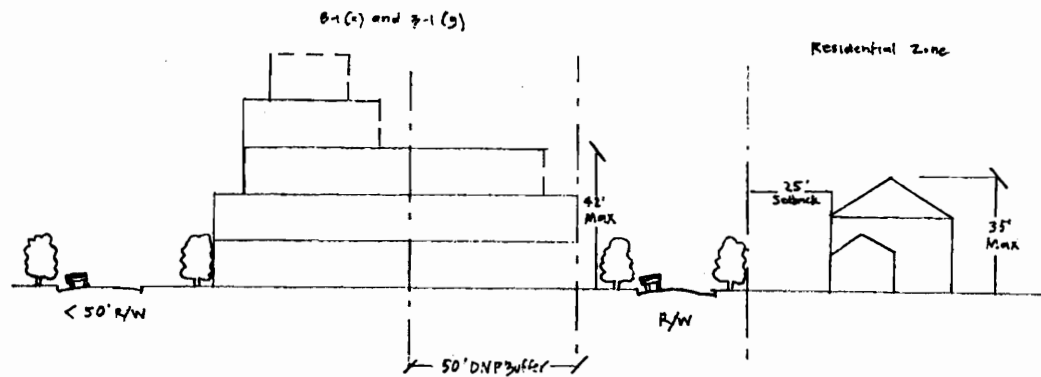


Figure 14.



TOWN OF CARRBORO

NORTH CAROLINA

TRANSMITTAL

PLANNING DEPARTMENT

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

To: Steve Stewart, Town Manager
Mayor and Board of Aldermen

From: Patricia J. McGuire, Planning Administrator

Date: June 22, 2005

Subject: Rezoning Proposal – Downtown Neighborhood Protection Overlay District

PROPOSAL

In late December 2004, the B-1(f) Review subcommittee decided on an approach that would result in the creation of an overlay zone in order to minimize the impact of building height changes in fringe commercial areas on adjacent residential districts. The overlay zone would include properties that are within commercial zoning districts where such properties are across the street from or adjacent to properties in residential zoning districts. Establishing the new overlay district involves amending the text of the Land Use Ordinance. The draft ordinance would establish the new district on approximately 59 separate properties (three of which are condominiums), affecting 91 owners and approximately 32 acres in land area. Since more than five properties are involved, the change constitutes a major map amendment.

PETITIONERS

The B-1(f) Review Subcommittee developed the proposal for the DNP overlay district and the draft ordinance was prepared per its recommendations. The Board of Aldermen set a public hearing to receive public comment on the proposed changes.

OWNERS

See list included in draft ordinance (*Attachment A*). A letter certifying the mailed notice to owners and renters is attached (*Attachment E*).

DESCRIPTION OF THE AREA

See the map attached to the draft ordinance (*Attachment A*). The affected properties are found within portions of four downtown zoning districts, the B-1(c), B-1(g), CT, and M-1 that are adjacent to or across the street from residential properties. The 56 properties total approximately 32 acres in area. The breakdown of uses on these properties is as follows:

	# of Properties	Building SQFT	Area (acres)	Value (US\$)
Business	38	148133	21.15	17,112,946
Residential, Multi-family	6	7475	2.90	3,230,092
Residential, Single-family	10	12297	3.41	2,230,545
Public	1	n/a	3.82	n/a
Other	1	n/a	.4	15,675
Vacant	1	n/a	.33	176,928
TOTAL	58	167,905	32.32	22,669,092

LAND USES AND ZONING ADJACENT TO PROPOSED DNP OVERLAY DISTRICT

The land uses and zoning adjacent to the subject properties are shown on the attached map (*Attachment F*).

ZONING HISTORY OF LOTS IN PROPOSED DNP OVERLAY DISTRICT

The shape and extent of Carrboro's downtown commercial areas has remained virtually unchanged for many years. There have been some adjustments. Due to the large number of properties involved in the proposed DNP overlay district, a summary of the zoning history is provided here. This description will not track any changes that occurred to permissible uses, nor does this report provide a history of the text amendments that have sought to expand or limit commercial opportunities in the downtown.

1976- 1986. The downtown zones in existence during this time period included:

Zoning District	Description
B-1	General Business- designed for wholesale and retail sales related to central business areas.
B-2	Specialized Commercial – specialized retail, wholesale, and office uses.
O & I	Office – Institutional – designed for uses having limited contact with the public.
M-1	Light Industrial – designed for offices, warehousing, and light

Zoning District	Description
	industrial.
M-2	Heavy Industrial – designed for all industries, but those objectionable because of negative odors, smoke, senses, et cetera.
R-7.5	Residential – designed for comparative high density development.

During this time frame, the B-1 district was located at Laurel Avenue and Jones Ferry Road, along North Greensboro Street north of Southern States, along the 200 block of Lloyd Street and included the old Post Office building at the intersection of Carr Street and S. Greensboro Street. The B-2 zone was located on the Basnight property and on the south side of the 100 block of W. Main Street. The Town Hall property was zoned O&I, as was a portion of the north side of W. Carr Street. The northern portion of Lloyd Street, in the vicinity of the Piedmont Health property, was zoned M-2. A few lots along Carr Street and West Rosemary near Sunset Drive were zoned R-7.5.

1986 – 1998. The Downtown Commercial Rezoning was adopted during this time. The B-1 district was split to create the B-1(c) and B-1(g) and the B-2 was re-created as a fringe Commercial zone and placed over the formerly residential West Weaver Street area. The CT and RHDC overlay were created and established at this time.

1998 – present. The property located at 103 Short Street was rezoned from R-7.5 to B-1(g) at the request of the owners.

COMPARISON OF ZONES

The DNP overlay zone provisions have been devised to allow extra protection for residential lots that are in proximity to zoning districts where building height maximums and setback requirements have been modified in recent years to encourage additional commercial development. Four base zoning districts, CT, M-1, B-1(c), and B-1(g), and one overlay zone, Residential High Density Commercial (RHDC), are affected by the ordinance. See *Attachment B* for the zoning district definitions for these zones. The overlay does not include any proposed changes to the permitted uses or permit requirements for the base zones affected by the change. Specific changes and any possible negative effects to neighboring residential property, that the ordinance seeks to address include:

- 1) Elimination of building and lot line setbacks in the four base zoning districts other than those which must be met along shared lot lines with residential property.
- 2) Changes to building height limitations from ones expressed as a measurement to ones expressed as a number of stories. The most recent changes in height are noted in the table below

	B-1(c)	B-1(g)/RHDC	CT/M-1
Pre-2001 Height	28'/49'	28'/50'	40'/35'
2001 Height	2 stories	3 stories	3 stories
2003 Height	Up to 5 stories	Up to five stories	No change

- 3) The exception from setback/roof enclosure/permitting threshold for enclosed parking.
- 4) The size/length and massing of new buildings.
- 5) The design/flexibility criteria that were developed in late 1980 are to allow buildings in B-1(c) up to 49 feet in height due to their complexity.

The draft ordinance creates a new overlay district and designates 56 lots for inclusion. The principal operational aspects of this draft ordinance are as follows:

1. Establish a 50-foot wide buffer area from the boundary line abutting or lying across the street from residentially zoned property.
2. Specify lateral and vertical building dimensional regulations for the buffer area and for the remaining portions of the overlay zone.

A summary of the existing and proposed regulations pertaining to building height is provided here.

		<u>CT</u>	<u>M-1</u>	<u>B-1(c)</u>	<u>B-1(g)</u>
Current Regulations	2 stories	Allowed in all zones			
	3 stories	Allowed	Allowed where right of way is 50 feet or less. Aside from other permit requirements, conditional use permit must be obtained if exceeding 2 stories in B-1(c) or 3 stories in B-1(g).		
	4 stories	Not permitted	Allowed where right of way is greater than 50 feet OR where the story is set back an additional 10 feet from that required setback OR where the story is substantially concealed within a mansard, gable, or gambrel roof.		
	5 stories	Not permitted	Allowed where the story is either setback an additional 10 feet from the required setback and the 4 th story setback OR where the story is substantially concealed within a mansard, gable, or gambrel roof.		
Within DNP Buffer Area	2 Stories	Permissible in all zones			

		<u>CT</u>	<u>M-1</u>	<u>B-1(c)</u>	<u>B-1(g)</u>
	3 Stories <i>Facing Residential</i>	42 foot maximum; 10 foot setback from 2nd story façade OR story contained within mansard, gable, or gambrel roof with less than 70 degree roof pitch and continuous eave line			
	<i>Opposite Side of Building from Residential</i>	10 foot setback (or “stepback”) from second story			
	Tower or cupola	42 foot maximum; 400 square foot maximum; elevational width less than/equal to 25 feet			
Outside Buffer Area on Same Lot	3 Stories	Permissible in all zones			
	4 Stories	Not allowed		10 setback from edge of DNP Buffer Area OR story contained within roof as above	
	5 Stories	Not allowed		10 foot setback from 4th story façade at edge of buffer area OR contained within roof as above AND 10 foot setback from non-DNP Buffer Area r/w	

Notes regarding current provisions:

- 1) National Register – Contributing Properties. No buildings over 2 stories if pre-existing contributing structure is demolished.
- 2) Any portion of buildings in B-1(c) and B-1(g) that exceed 35 feet in height must be setback from an adjoining residentially zoned property twice the residential setback.

ANALYSIS

Policy

On February 4, 1986, the Board of Aldermen adopted an ordinance to amend the official Carrboro zoning map. By this action, the Board incorporated map and text changes that reconfigured the mix and location of commercial and residential uses in the center, and the oldest areas of the town. Many of these changes had been identified as part of the Hammer, Siler, George study in 1983. Others were presented in the “Downtown and Commercial Rezoning Plan” in July, 1985, or selected as guiding principles for growth in Carrboro by the Year 2000 Task Force that was convened in March of 1985. The Board of Aldermen adopted the result of that group’s effort, “Year 2000 Task Force Policies” in 1989. The Year 2000 Task Force report was adopted in 1989 as non binding policy towards growth and development and was updated and adopted as “Carrboro Vision2020: Policies through the year 2020” on December 5, 2000. References found in Vision 2020, the most recent of these documents that are of specific relevance to this rezoning request are noted below. It should be mentioned that policies and plans have consistently

highlighted the need for downtown revitalization and expansion to occur with as little impact as possible on existing neighborhoods

"Carrboro Vision2020" (2000)

2.11 Infill development should take place in a manner that fulfills the town's goals and enhances neighboring areas. The town should develop policies that mitigate the adverse impact of infill development, with particular consideration given to roads, sidewalks, and aesthetic compatibility. The town should develop a process to mediate disagreements between developers and residents of existing neighborhoods.

2.41 The town should support the evolution of a downtown district that embodies Carrboro's character. The downtown district should have medium-rise buildings appropriately sited with adequate public access, and it should provide shopping opportunities that meet our citizens' everyday needs. The downtown should remain a center for the community where people work, gather, shop, socialize and recreate. The Century Center should serve as a focal point for the downtown

3.1 Nature of Development

In the interest of environmental preservation, new commercial development must minimize negative environmental impact, it must emphasize appropriate buffers, and it must not compromise the integrity of established neighborhoods.

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.
- To improve the downtown infrastructure (e.g. parking facilities, sidewalks, lighting, shading) to meet the needs of the community.
- To develop transit and traffic initiatives which enhance the viability of downtown.

Estimate of change in development potential

A summary evaluation of the reduction in square footage that might be constructed within the buffer area only under the new ordinance provisions is provided here. The methodology on which this information is based assumes a few conditions:

- The total perimeter of downtown zoning districts affected by the proposed overlay zone is approximately 9,656 feet, 80 percent of which (per the building length maximum proposed in the DNP ordinance) is 7,724 feet.
- Approximately half of the area fronts on street rights of way and half have a boundary abutting residential property.
- The perimeter of the CT and M-1 zones totals approximately 3,200 feet.
- Three-story buildings measure 35 feet in height. Buildings with more stories must meet setback/stepback requirements.
- All buildings utilize the 10-foot setback option and not the roof containment option

	CT and M-1 districts (square feet)	B-1(c) and B-1(g) (square feet)
Existing provisions	480,000	710,160
- New 3 story (5-story in B-1(c) and B-1(g))		
Proposed DNP Facing r/w - New 3 story	179,200	360,640
Proposed DNP Facing lot line – New 3 story	140,800	283,360
Total under proposed DNP	320,000	643,700

While the changes do not represent orders of magnitude in and of themselves, the reductions would be noticeable in terms of the creation of additional opportunities for commercial enterprises, residences, and expansion of the square footage that comprises the commercial tax base.

Ordinance Provisions Regarding Changes to Zoning Map

Section 15-321, “Initiation of Amendments” describes the process by which the Board is to consider text and map amendments to the Carrboro Land Use Ordinance. Subsection (d) specifies that, in the case of petitioners who are other than members of the town staff, administration, or advisory boards, the Board of Aldermen may either deny the petition or set a date for a public hearing on the requested amendment. Should the Board decide to set a date for a public hearing, the Board would direct staff to prepare an appropriate ordinance.

Section 15-322 requires that any proposed amendments shall be referred to the Planning Board. If applicable, the proposed amendment shall also be referred to the Appearance Commission and/or the Transportation Advisory Board. Per the Board of Aldermen’s instructions, this draft ordinance was reviewed by the Planning Board on June 2, 2005 and a recommendation is attached (*Attachment G*).

The Land Use Ordinance specifies that the principle issue before the Board in making this decision is “whether the proposed amendment advances the public health, safety or welfare.”

Discussion – Benefits and Limitations of the Proposed Ordinance

Due to the breadth of issues covered in policy documents, it is not uncommon for there to be inconsistencies or conflicts. This is the case on the issue of the new overlay zone, proposing as it does, to limit activity in commercial zones as a means of protecting adjoining residential neighborhoods. The Town has in place adopted policies that support expansion of commercial activity and others that support protection of existing neighborhoods.

The existing ordinance provisions, which have been the focus of discussion related to the creation of an overlay district and other mechanisms, were adopted in support of the commercial expansion policy and consequently allow a greater building height potential in the downtown commercial districts than was previously allowed. These provisions require conditional use permits for heights over two stories in the B-1(c) and three stories in the B-1(g) modify the conditional use permit approval process to shift the burden of proof to an applicant, and pay special attention to properties that are listed on the National Register. At the present time, all of these provisions have not been made applicable to the overlay zone. Permit requirements for the CT and M-1 are established in the Table of Permissible uses. Clearly then, it is possible for some buildings to be constructed on lots that are adjacent to residential properties of some substantial size without review by the Board of Aldermen. In many cases, such buildings may require only a zoning permit. The Board of Aldermen has had a recent discussion concerning its desire to make changes to the permitting thresholds for downtown development. The Board may wish to pursue a general modification to permit requirements so that any project over two stories or 35 feet in height that is located in proximity to residential property would require a conditional use permit. The architectural provisions included in the DNP ordinance these could be adopted as policy, perhaps as an amendment to the Downtown Design Guidelines.

The Board of Aldermen held a worksession on architectural guidelines and has requested that staff prepare ordinance amendments for consideration prior to December 2005. Staff has also noted the need/opportunity to update the Guidelines for Downtown Development, principally to reflect the increased height potential. The possibility of using form-based code in downtown areas has been noted as well. These projects would both require time and effort.

And there are other initiatives underway at the present time. The current work plan includes a project to “review zoning in central business district” and discussion of possible rezoning of the R-2 district has been recently initiated. The Board of Aldermen has included in the budget for the upcoming year funds to hire a consultant to assist with determining Carrboro’s strengths in the regional economy. The prescriptive architectural elements that have been included in the draft ordinance appear to be inconsistent with past practices to

encourage creativity and maintain flexibility, and may also run counter to the interests that have inspired some of these other actions. Modifications to the DNP ordinance may be appropriate.

The proposed overlay reduces development potential within the zoning districts that are adjacent to or across the street from residential property. This change may make it more difficult to achieve the community goal of increasing commercial development and value. The proposed ordinance increases the complexity of development review for downtown development. The specific controls are similar to, but sufficiently different from, those that will continue to apply in the remainder of the B-1(c) and B-1(g) districts as to have the potential to create confusion and uncertainty. Due to the configuration of the downtown commercial area, the draft ordinance affects a large percentage of the owners of smaller properties. The 50-foot buffer has a large effect on these lots. The Board may wish to consider reducing the width of the buffer area.

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, more than one 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 DDG for use in the downtown districts noted in this report when they are located across the street from or adjacent to residential property.
 - Amend Section 15-185 (a) (3) (g)(3) so that it also references adopted policies and guidelines so that conformity with DDG can be considered.
 - Reduce the width of the DNP buffer area to 30 feet as a way of reducing the impact on buildable commercial area.
3. Leave existing provisions as they are. Take no action related to the draft ordinance.

RECOMMENDATION

The staff recommends that the Board of Aldermen consider one or a combination of the alternative actions noted above.

****DRAFT 8-18-05****

**AN ORDINANCE AMENDING THE LAND USE ORDINANCE PROVISIONS MAKING
CERTAIN BUILDINGS IN DOWNTOWN ZONING DISTRICTS PERMISSIBLE WITH A
CONDITIONAL USE PERMIT**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-147 of the Carrboro Land Use Ordinance is amended by adding thereto a new subsection (j) to read as follows:

- (j) Notwithstanding the other provisions of this section, whenever a building of more than two stories or 35 feet in height is proposed within the B-1(g), B-1(c), B-2, CT or M-1 zoning districts, a conditional use permit must be obtained from the Board of Aldermen.

Section 2. Subsections 15-185 (a)(3) (f) and (g) are repealed.

Section 3. Article IV of the Carrboro Land Use Ordinance is amended by adding a new Section 15-55.1 to read as follows:

Section 15-55.1 Findings and Burden of Proof for Conditional Use Permits Required for Taller Buildings in Commercial Districts.

If a conditional use permit for a development is required under Section 15-147 (j), 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.

Section 4. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 5. This ordinance shall become effective upon adoption.

ATTACHMENT G

A RESOLUTION CALLING A PUBLIC HEARING ON A LAND USE ORDINANCE TEXT AMENDMENT MODIFYING THE PERMIT REQUIREMENTS FOR DEVELOPMENTS OVER TWO STORIES OR 35 FEET IN HEIGHT IN CERTAIN DOWNTOWN ZONING DISTRICTS

Resolution No. 09/2005-06

WHEREAS, the Carrboro Board of Aldermen seeks to ensure that policies and regulations are in keeping with community interests and desires;

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on October 25, 2005 to receive public comment on "AN ORDINANCE AMENDING THE LAND USE ORDINANCE PROVISIONS MAKING CERTAIN BUILDINGS IN DOWNTOWN ZONING DISTRICTS PERMISSIBLE WITH A CONDITIONAL USE PERMIT"

BE IT FURTHER RESOLVED that the draft ordinance be referred to the Planning Board and Orange County for recommendations and that the rezoning proposal also be referred to the Planning Board; and

BE IT FURTHER RESOLVED that the Board of Aldermen directs staff to prepare an addendum to the Carrboro Downtown Business District Guidelines for Design to include the architectural features and requirements included in the Downtown Neighborhood Protection overlay zoning district proposal and to recommend that these features be utilized in developments that are proposed across the street from or adjacent to residential property.