

BOARD OF ALDERMEN

ITEM NO. D(1)

AGENDA ITEM ABSTRACT

MEETING DATE: October 25, 2005

TITLE: Public Hearing to consider LUO Text Amendments permit requirements for certain buildings in downtown zoning districts

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _X_ NO _
ATTACHMENTS: A. Draft Ordinance B. Relevant Land Use Ordinance provisions C. Orange County comment/Planning Board recommendation	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327 Mike Brough – 929-3905

PURPOSE

As part of its consideration of the Downtown Neighborhood Protection overlay zoning district that was approved on August 23, 2005, the Board of Aldermen set a public hearing for a Land Use Ordinance text amendment to modify the permit requirements for certain buildings in downtown zoning districts. It is necessary for the Board of Aldermen to receive public comment before taking any action in relation to text amendments.

INFORMATION

During a worksession on architectural guidelines on March 8, 2005, the Board of Aldermen requested that staff provide a report on new thresholds for determining the permitting authority for commercial, multifamily residential and mixed-use developments in downtown zoning districts.

A report on this topic was provided on June 7, 2005. The Board of Aldermen requested that staff prepare a draft ordinance that would establish a conditional use permit requirement for either buildings over a certain square feet, or buildings proposed at downtown gateway entrance locations, or buildings that were abutting an existing neighborhood.

The Board of Aldermen considered the proposal for the Downtown Neighborhood Protection (DNP) overlay zoning district on February 8, 2005 and held a public hearing on June 28th and continued the hearing to its next public hearing date in August. In preparing follow-up information, staff considered the Board of Aldermen's request made in June and comments provided during the DNP hearing. A draft ordinance that established conditional use permit requirements for buildings over 2 stories or 35 feet in height was recommended to the Board of Aldermen, in conjunction with a recommendation to adopt the DNP architectural provisions as non-binding policy. On August 23rd the Board of Aldermen adopted the DNP overlay zoning district provisions and boundaries, discussed the possible changes to the conditional use permit requirements and set a public hearing on the draft ordinance related to buildings over two stories or 35 feet in height.

Description of Draft Ordinance

The draft ordinance (*Attachment A*) includes three substantive sections. A summary of the changes is provided here. Copies of relevant Land Use Ordinance sections are attached (*Attachment B*).

1. Conditional use permits will be required for buildings 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. The B-2 has been included in the draft ordinance. Though building heights are limited to two stories in the B-2 zoning district, a measured height limitation does not currently exist.
2. The two provisions in Article XII that establish the findings and burden of proof requirements for buildings over two stories in the B-1(c) and three stories in the B-1(g) are repealed. This change is made because it limits the findings and burden of proof language to the B-1(c) and B-1(g) under the noted conditions and the draft ordinance seeks to expand the applicability of these provisions.
3. The provisions dealing with findings and burden of proof for buildings in the downtown are moved from Article XII, Density and Dimensional Regulations (the part of the ordinance where all the building height information is included) to Article IV (the part of the ordinance where the information on permits and plat approval is included). This change expands the applicability of these provisions to any projects required to obtain a conditional use permit based on height in the downtown zoning districts.

A copy of the ordinance was submitted to Orange County staff on September 23, 2005. The Planning Board reviewed the draft ordinance on October 20, 2005. Review comments are attached (*Attachment C*).

FISCAL IMPACT

Land Use Ordinance requirements are the same for projects seeking all types of land use permits. Projects that must obtain conditional use permits, however, must also be prepared to provide evidence in support of positive findings of fact with regard to lack of danger to the public health or safety, lack of impacts on value of neighboring property, harmony with the area in which it is located and conformity with adopted plans. These findings can be made in relation to a plan as submitted or through a combination of the submittal and any conditions that can be agreed to by the applicant and the Board of Aldermen. The opportunity to consider such evidence in addition to the ordinance requirements necessitates that a public hearing be held, with appropriate notice. It is the preparation of materials in support of these findings, and the review of these materials by staff, in public meetings and a hearing that result in a fiscal impact of the proposed change to the applicants for projects and to the Town.

RECOMMENDATION

Staff offered the draft ordinance as an alternative to establishment of the Downtown Neighborhood Protection (DNP) overlay zoning district. Staff recommends that the Board of Aldermen leave the existing ordinance provisions as they are due to the establishment of the DNP overlay zoning district on August 23, 2005.