

BOARD OF ALDERMEN

ITEM NO. D(4)

AGENDA ITEM ABSTRACT MEETING DATE: December 5, 2006

TITLE: Discussion of a Request from the Planning Board Regarding a Stepback Provision of the Downtown Neighborhood Protection Overlay District

DEPARTMENT: PLANNING	PUBLIC HEARING: YES _ NO <u>X</u>
ATTACHMENTS: A. Resolution B. Excerpt of minutes from October 3, 2006 C. Definition of mansard roof D. Excerpt of Land use Ordinance, Section 15-185.1 E. Planning Board recommendation from June 2005 F. Excerpt of Minutes from June 28 and August 23, 2005 meetings of Board of Aldermen G. Planning Board Recommendation from June 2006 H. Illustration of provisions of DNP overlay zone, with requested sections deleted I. Draft ordinance	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327

PURPOSE

The Planning Board has adopted a recommendation requesting the Board of Aldermen to remove one of stepback requirements associated with the Downtown Neighborhood Protection overlay district. A resolution that directs staff to prepare a draft ordinance per the Planning Board recommendation sets a public hearing on the draft ordinance and refers the ordinance for advisory board review is provided.

INFORMATION

The Board of Aldermen reviewed this request on October 3, 2006 and requested that the item be rescheduled to November 14th (*Attachment B*). The limited number of meetings in the interim and the need to schedule other items during those meetings necessitated scheduling this item to return for further consideration in early December. Board members made two comments during the discussion. The comment and a staff response are provided below:

- 1) Notice of public hearing to be sent to property owners within 1,000 feet of the Downtown Neighborhood Protection overlay district. This method of notice was recently employed for a text amendment request related to ground-floor residential uses in the B-1(c) district. The DNP overlay rezoning notification that was carried out in 2005 when the district was established involved direct mailing to 1050 property owners and 973 properties where

address matching revealed the likelihood of non-owner occupants/users. The cost of mailing the notices (postage only) was approximately \$750.

- 2) Request that the Board of Aldermen consider disallowing mansard roofs. A definition of mansard roof is attached (*Attachment C*). Local examples of buildings with mansard roofs include Abbey Court apartments and Chateau apartments.

Background

While reviewing the draft ordinance for the Downtown Neighborhood Protection (DNP) Overlay District in May 2005, the Planning Board recommended removal of two setback provisions. The changes were not incorporated into the final ordinance. A public hearing on the DNP Overlay zoning district was held on June 28, 2005. The hearing was continued to August 22, 2005. The Planning Board had recommended two modifications to the draft ordinance, one of which dealt with the opposite side setback (*Attachment B*), the other dealt with the maximum height for towers. James Carnahan, Chair of the Planning Board, explained the recommendation. The opposite side setback provision is included in two locations of the adopted ordinance (*Attachment D* – excerpt of Section 15-185.1).

Members of the Board of Aldermen provided some comments and requested additional information on the draft ordinance, though the Board made no specific directions to modify the draft ordinance per the comments of the Planning Board or others who spoke at the hearing on June 28th (*Attachment E*). Staff provided an illustrated version of the ordinance for the August 23rd continuation of the public hearing. James Carnahan made a brief presentation elaborating on components of the draft ordinance, specifically the vertical and horizontal controls and the reason the 70-degree roof pitch maximum was selected; the opposite side setback was not mentioned. Carnahan also expressed support for some type of setback to support the transition from residential on one side of the street to the other and to provide room for a planting strip. On August 23 the DNP ordinance was adopted with the opposite side setback requirement intact (*Attachment F* – minutes from 8/23/05).

Several months later during a courtesy review of the Andrews-Riggsbee redevelopment proposal, the Planning Board discussed the implications of this and considered requesting that the Board of Aldermen amend the adopted DNP provisions to remove this requirement. A recommendation requesting the change was adopted by the Planning Board on June 1, 2006 (*Attachment G*), echoing the request that was made in May of 2005. An illustration of the opposite side setback requirement that was provided at the June public hearing is attached (*Attachment H*), though the deletions requested by the Planning Board have been added.

A draft ordinance making the requested change has been prepared (*Attachment I*). Should the Board of Aldermen wish to proceed with the Planning Board recommendation, it will be necessary to set a public hearing and refer the draft ordinance to the Planning Board and Orange County. Recently, the staff has included in resolutions that set a public hearing a list of other advisory boards to which a draft ordinance might be referred for review. In order to facilitate efficient consideration of this request and the setting of a public hearing, if desired, staff has identified two advisory boards which may have a particular interest in the proposed change to the Land Use Ordinance and has “selected” these boards on the resolution (*Attachment A*).

FISCAL IMPACT

In general, amending town regulations require staff analysis and administration of the proposed amendment, advisory board review, and associated advertising costs. The particular costs vary based on the complexity of the possible change. The mailed notice associated with the DNP overlay rezoning in 2005, which is requested to be duplicated if the requested text amendment is forwarded to public hearing, is estimated to quadruple the notice costs typically associated with amending the text of the Land Use Ordinance.

RECOMMENDATION

The staff recommends that the Board of Aldermen decide whether it wishes to proceed with the action requested by the Planning Board. A resolution that directs staff to set a public hearing for January 23, 2007 and refers the draft ordinance to the Planning Board and Orange County, and the Appearance Commission and Economic Sustainability Commission is provided for the Board's use. (*Attachment A*).