

## BOARD OF ALDERMEN

ITEM NO. C(2)

### AGENDA ITEM ABSTRACT

MEETING DATE: January 23, 2007

TITLE: Public Hearing on Land Use Ordinance Text Amendment to revise the Downtown Neighborhood Protection Overlay District Opposite Side Setback Provision

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES <u>X</u> NO</b>
<b>ATTACHMENTS:</b> <b>A. Resolution finding consistency</b> <b>B. Resolution finding inconsistency</b> <b>C. Draft Ordinance</b> <b>D. Planning Board recommendation 5/2005</b> <b>E. Excerpt of Minutes from June 28, 2005</b> <b>F. Excerpt of minutes from August 22, 2005</b> <b>G. Planning Board Recommendation 6/2006</b> <b>H. Excerpt of minutes from October 3, 2006</b> <b>I. Comments and Recommendations.</b>	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – 918-7327 Mike Brough – 929-3905

### PURPOSE

In response to a request from the Planning Board, the Board of Aldermen scheduled a public hearing to receive comments on one of the setback requirements associated with the Downtown Neighborhood Protection overlay district.

### INFORMATION

While reviewing the draft ordinance for the Downtown Neighborhood Protection (DNP) Overlay District in May 2005, the Planning Board recommended removal of opposite side setback provisions found in two locations in the ordinance provisions. The changes were discussed, but not incorporated into the final ordinance. A public hearing on the DNP Overlay zoning district was held on June 28, 2005. The Planning Board had made two recommendations, one dealing with the opposite side setback (*Attachment D*), the other with the maximum height for towers. James Carnahan, Chair of the Planning Board, explained the recommendation.

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 28<sup>th</sup> (*Attachment E*). The hearing was continued to August 22, 2005. Staff provided an illustrated version of the ordinance for the August 23<sup>rd</sup> 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*).

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*); the deletions requested by the Planning Board have been added.

A draft ordinance making the requested change has been prepared (*Attachment C*). The ordinance has been referred to the Planning Board, Appearance Commission, and Economic Sustainability Commission, and to Orange County staff for review. A written notice of the public hearing was also sent to 1,794 residents and property owners within 1,000 feet of the DNP Overlay. Comments are attached (*Attachment I*).

### **FISCAL IMPACT**

The opposite side setback requirement is confusing and awkward and appears to present a barrier to full use of downtown areas outside the DNP buffer area. A slight reduction in administrative costs associated with plan development and review is expected. Negligible increases in property value may also occur.

### **RECOMMENDATION**

The staff recommends the Board of Aldermen adopt the attached resolution (*Attachment A*) that finds the draft ordinance consistent with adopted policy, and *Attachment C*, the ordinance that would remove the opposite side setback requirement associated with the DNP Buffer Overlay district.