

## **\*PRE-HEARING STAFF ANALYSIS\***

### **Rezoning Petition No. 2007-119**

**Petitioner:** Charlotte-Mecklenburg Planning Department

**Request:** Text amendment to clarify that the Historic District Overlay regulations regarding compatibility, context, and appropriateness of exterior design shall supersede other underlying or overlay zoning district regulations.

### **Background**

The Dilworth Community Development Association (DCDA) requested a response from the City Attorney's office describing "what trumps what", in terms of the Historic District Commission's guidelines, other overlay districts and the Dilworth Land Use and Streetscape Plan, when these overlap. As a result, this text amendment seeks to clarify which regulations supersede other overlay districts.

This text amendment does not affect the underlying base zoning district regulations. Overlay districts are zoning districts that are applied in conjunction to the underlying base zoning district. An overlay district may grant additional use or development requirements upon the underlying zoning district. The effect is to have both the overlay district and the underlying zoning control the use and development of a lot.

At the public hearing on September 17, 2007, DCDA stated they had submitted a letter in support of the text amendment dated July 2, 2007, and had since found out recently that newer revisions were posted on the website, and that the link to the latest one was not working. They, therefore withdrew their support and asked to be given time to review the latest revision. As a result, City Council asked that the public hearing be left open to allow DCDA to comment on the latest revision.

The draft language for this text amendment (dated 7-2-07) was distributed at the July meeting of the Historic District Commission to convey to them the purpose and intent of the proposed changes. The draft was also sent to the City Attorney's Office for review and comment. The consensus of the Attorney's Office was that the regulations were too broad, and should be narrowed because the zoning authority granted to the City Council could not be reassigned to the Historic District Commission, an advisory board. Because of this advice, staff amended the text on July 10, 2007 by adding **two words** to describe that only the "**exterior design**" regulations of the Historic Overlay District would take precedence over, or supersede, the underlying base zoning district. This revision was made on July 10, 2007 and posted on the website, and was the same version included in the Council's Rezoning Notebook. The same document revision (dated July 10, 2007) was reposted two additional times on the website, which resulted in DCDA's concern that additional changes were made at the last minute, when in fact, none were made. Staff has since implemented a tracking process to ensure that duplicate documents are not reposted. Staff regrets this oversight, and has set into place procedures that would prevent this in the future.

After the City Council meeting, staff met with the City Attorneys on September 26, 2007 and made a subsequent revision to the term “exterior design regulations”. In order to clarify the scope of what was considered “exterior design regulations” it was agreed that the text should instead refer to the type of exterior features listed in Section 10.204 of the Historic Overlay District. This revision was made on September 26, 2007, and e-mailed to the Land Use Committee of DCDA for review. At the time of printing of this document, the Land Use Committee has tentatively approved the latest revision, but wishes to obtain the opinion of the full DCDA Board and obtain the opinion of Myrick Howard of Preservation North Carolina, prior to lending their support.

## **Summary**

This text amendment clarifies that the Historic District Overlay regulations regarding compatibility, context, and appropriateness of exterior features, as described in Section 10.204 shall supersede other underlying or overlay zoning district regulations. Section 10.204 defines exterior features as: the architectural style, general design, and general arrangement of the buildings or structures; the kind and texture of the buildings materials; the size and scale of the building; the type and style of the windows, doors, light fixtures, signs, and other appurtenant fixtures; color of the buildings or structures; and important landscape and natural features on the site).

Text changes to this effect are proposed in three districts: the Historic District Overlay, the Transit Supportive, and the Pedestrian Overlay District regulations.

In addition, this text amendment also adds a new definition for “zoning districts”:

“The term “zoning districts” refers to base or underlying zoning districts, overlay districts, and conditional districts.

## **Consistency and Conclusion**

This text amendment is reasonable and in the public interest, and considered consistent with local plans and policies.