



PLAN AMENDMENT REPORT

Meeting Date: September 4, 2012

|   |   |   |      |
|---|---|---|------|
| <b>Reference Name</b>                                   | North Street Residential (A1200004)   | <b>Jurisdiction</b>   | City |
| <b>Applicant</b>  | West Corp Holdings, Denny Clark   |   |      |
| <b>Request Change in Comprehensive Plan Designation</b> | <b>From:</b>  | Design District/Downtown Tier   |      |
|   | <b>To:</b>  | Medium Density Residential (6-12 DU/Ac.)/Urban Tier   |      |
| <b>Site Characteristics</b>                             | <b>Tier:</b>  | Downtown (adopted), Urban (proposed)  |      |
|   | <b>Present Use:</b>   | Vacant, Single-family residential   |      |
|   | <b>Present Zoning:</b>  | Downtown Design – Support 2 (DD-S2)   |      |
|   | <b>Overlays:</b>  | N/A   |      |
|   | <b>Size:</b>  | 1.63 acres  |      |
| <b>Location</b>   | Northwest, southwest, and southeast corners at the intersection of West Corporation Street and North Street |   |      |
| <b>PIN(s)</b>   | 0831-05-09-1520, -1525, -1529, -1619, -1714, -1719, -1814, -3419, -3515, -3610                              |   |      |
| <b>Recommendations</b>                                  | <b>Staff</b>  | Denial, based on inadequate justification to warrant amending the Future Land Use Map and not meeting the four criteria for plan amendments.            |      |
|   | <b>Planning Commission</b>  | Approval, July 10, 2012, 12-1, based on information provided in the staff report, the justification, and meeting the four criteria for plan amendments. |      |

A. Summary

The applicant, West Corp Holdings, proposes to amend the Future Land Use Map at the northwest, southwest, and southeast corners of the intersection of West Corporation Street and North Street. The proposal would change the future land use designation for ten parcels totaling 1.63 acres from Design District to Medium Density Residential (6-12 DU/acre). In addition, the development tier would be changed from Downtown to Urban. The applicant is seeking a plan amendment and a zoning map

change (Z1200012) because the proposed use for the site, single-family housing, is not a permitted use in the Downtown Tier.

## **B. Site History**

In February 2010, the Durham City Council adopted a suite of policies and regulations establishing Downtown as a Design District. These included:

1. Amending the boundaries of the Downtown Tier and initiating a Future Land Use Map amendment to place the Design District designation (A0900007). All properties in the Downtown Tier are designated on the Future Land Use Map as Design District, regardless of their specific use or location within the Tier;
2. Adopting a text amendment to the Unified Development Ordinance that created the Downtown Design Core (DD-C), Downtown Design–Support 1 (DD-S1), and the Downtown Design–Support 2 (DD-S2) zoning sub-districts (TC07-01). These regulations focus on design rather than use, and are intended to encourage mixed-use, pedestrian-friendly development; and
3. Adopting a Zoning Map Change that established boundaries for each of the Downtown Design sub-districts listed above (Z0900016). The sub-districts were laid out in such way to ensure a sensitive transition from more intense development to development adjacent to the district, often residential in nature.

Shortly after these policies and regulations were put into place, the City-County Planning Department, at the behest of property owners, initiated amendments to the Future Land Use Map (A1000003) and the Zoning Map (Z1000003) to include a two block area west of North Street and south of Geer Street into the Downtown Tier. In August 2010, the City Council approved the request to be included into the Downtown Tier and rezoned the property to Downtown Design-Support 2 (DD-S2). At that time, the rationale to include the area in Downtown was twofold. The first was that the site, which included vacant duplex structures in poor repair, was “not typical of the established urban residential character that surrounds most of Downtown” and that “the proposed re-designation would facilitate revitalization of the site in a manner that is consistent with the pedestrian-oriented regulations contained in the Downtown ordinance.”

The current request would remove four of those parcels from the Downtown Tier. Please refer to the Attachment 2 to see case boundaries.

## **C. Existing Site Characteristics**

The site of the proposed plan amendment includes ten parcels, six of which are currently vacant (residential structures on these lots have been demolished over time,

the most recent of which occurred in 2010). The remaining four parcels house residential structures, three of which were built between 1925 and 1940; one is a more recent infill project built in 2004. North Street is an urban residential street with standard lots measuring approximately 50 feet in width by 150 feet in depth. The site is outside of a watershed protection overlay district and there are no known surface water features or steep slopes. Bus stops for DATA Route 4 are within a short walking distance of the site; however, the sidewalk network is incomplete. Please refer to Attachment 3 for aerial imagery of the site.

#### **D. Applicant's Plan Amendment Justification**

The applicant provided a statement arguing why the 700 and 800 blocks of North Street should be located in the Urban Tier and why the future land use category for the properties should be Medium Density Residential (6-12 DU/Ac.). In that statement, the applicant explains that the proposed use is "more compatible with surrounding uses ... [which] consists mainly of single-family detached housing with a traditional neighborhood feel," than uses allowed in Design Districts. Additionally, the applicant contends the proposed use would act as a good transition between less compatible uses because "MDR [Medium Density Residential] exists to the east of this site across North Street. Adopting the MDR [Medium Density Residential] designation for this site simply expands on the existing adjacent uses..." The development would "complet[e] the existing neighborhood pattern with the construction of single-family homes on existing vacant lots." Please refer to Attachment 4 for the complete justification statement provided by the applicant.

**Staff Response:** Contrary to the applicant's justification statement, staff maintains that existing policy and existing regulations provide ample flexibility in terms of uses allowed (townhouses are permitted in DD-S2, e.g.) and adequate measures to ensure a compatible transition is achieved between Downtown and surrounding neighborhoods. The designation of this area as Downtown Tier recognizes the importance of utilizing land proximate to the Downtown and regional transit service for higher intensity uses than single family residential. Staff believes that the applicant has not provided adequate justification for changing the tier or Future Land Use designation.

#### **E. Criteria for Plan Amendments**

The Unified Development Ordinance (UDO) contains criteria for the Planning Commission to use in considering proposals to amend the *Durham Comprehensive Plan*. (See Section 3.4.7, Criteria for Planning Commission Recommendations). The proposed plan amendment has been evaluated against these criteria.

- A. Whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and program of any adopted plans;

- B. Whether the proposed change would be compatible with the existing land use pattern and designated future land uses;
- C. Whether the proposed change would create substantial adverse impact in the adjacent area or in the City or County in general; and
- D. Whether the subject parcel is of adequate shape and size to accommodate the proposed change.

## 1. Plan Consistency

The *Durham Comprehensive Plan* is a policy document intended to guide growth and development in an organized and efficient manner. The Plan addresses a range of topics related to land use, housing, community character, environment and conservation, transportation, and more. Evaluating the proposed plan amendment for consistency with these relevant policies is crucial in determining if changing the Future Land Use Map is appropriate.

### a) Downtown and Urban Tier Boundary

*Durham Comprehensive Plan Policy 2.2.5a. Downtown Tier Development Focus*, indicates that development in the Downtown Tier ought to enhance the street level experience and provide a mix of goods and services near transit stations. Intense development and pedestrian activity is encouraged while auto-oriented and low intensity uses are discouraged.

*Durham Comprehensive Plan Policy 2.2.5c. Downtown Development Areas*, indicates that zoning sub-districts should provide for areas of high intensity development and a transition between Downtown and nearby neighborhoods.

*Durham Comprehensive Plan Policy 2.2.3a. Urban Tier Development Focus*, indicates that development in the Urban Tier ought to enhance the street level experience by encouraging small lot sizes and proximity of uses.

Analysis: Enhancing the street level experience is a principal objective in both the Downtown and Urban Tiers; however, regulations in the Downtown Tier are better equipped to ensure that a high-quality pedestrian realm is created. These regulations include elements that address architectural standards, streetscape amenities, and the scale and massing of buildings as they relate to the street. Although not specifically regulated, increased intensity of development is an important component of creating the kind of vibrant street level experience that is desired in Downtown. Shops, restaurants and other attractions are drawn to areas with a supportive population base of residents and employees. Single-family residential uses, in general, are antithetical to that goal.

Changing conditions in the area, including an introduction of additional commercial uses within two blocks of the subject site within the past few years, means that the area is becoming more aligned with Downtown. This was a major component of the justification for the plan amendment (A1000003) and zoning map change (Z1000003) to the Downtown Tier and DD-S2 districts, respectively.

**b) Design District and Medium Density Residential Future Land Use Designations**

*Durham Comprehensive Plan Policy 2.2.5d, Downtown Density*, states that development regulations ought to focus on form and appropriate interactions with the street, and therefore, residential density is not regulated.

Analysis: Although density, in itself, is not regulated in the Downtown Tier, requirements regarding form and massing of the building as it relates to its surrounding context limit the amount of development that can occur on the site. In the DD-S2 sub-district, a building can reach a maximum height of 50 feet (equivalent to approximately 4 floors) and can be a mix of different uses (commercial, office, residential). Conditions have not changed since a large portion of the site was assigned to the Downtown Tier and the DD-S2 zoning sub-district. Development regulations of the DD-S2 sub-district are appropriate for this area since it is becoming more aligned with the character of Downtown.

*Durham Comprehensive Plan Policy 2.1.3d, Residential Defined*, indicates that residential development in the Urban Tier should achieve the range of densities specified in Table 2-1 of the *Durham Comprehensive Plan*.

Analysis: According to Table 2-1, Medium Density Residential (6-12 DU/Ac.) and Medium-High Density Residential (8-20 DU/Ac.) are appropriate ranges in the Urban Tier. The proposed Medium Density Residential land use fits within the parameters of this policy.

*Durham Comprehensive Plan Policy 2.5.2e., Demand for Land Uses*, states that in evaluating Plan Amendments, the Governing Boards and the City-County Planning Department shall consider the projected need for the requested land use in the future.

Analysis: The intent of this policy is to ensure that sufficient land is available to meet the future demand for a variety of activities (living, working, shopping, and playing). Approval of this plan amendment would remove 1.63 acres from the Design District designation. Currently, approximately 907 acres are designated on the Future Land Use Map as Design District. This compares to 9,780 acres of land designated for Medium Density Residential purposes. Because Design Districts are in many regards like mixed use districts, a quantitative analysis has not been completed by the Planning Department to project demand for this particular land

use designation in the future. However, according to Planning Department projections, there is a surplus of land designated on the Future Land Use Map to accommodate residential-only purposes.

*Durham Comprehensive Plan Policy 8.1.2a., Transportation Level of Service Standards (LOS)*, states that the LOS for roads in the Urban Tier shall achieve a minimum of LOS D and roads in the Downtown Tier shall achieve a minimum of LOS E.

Analysis: The major road impacted by the proposed change in future land use is North Mangum Street to the east. North Mangum Street is currently a two lane one-way arterial that travels south through Downtown. It is designed to accommodate 15,000 average daily trips (ADT), and according to the most recent traffic volume count (2009) there were 7,500 annual average daily trips (AADT) (50% of capacity). Development under the proposed Medium Density Residential designation would likely result in less traffic than the existing Design District designation; however, the roads studied appear to have sufficient capacity to accommodate the existing designation without violating this policy for Level of Service. A detailed assessment of traffic impacts and commitments is included in the zoning map change staff report.

*Durham Comprehensive Plan Policy 7.1.7a., Water Demand Generation Rates*, states the City-County Planning Department shall consider the impact of proposed zoning and plan amendment changes on water demand.

Analysis: Development allowed under the proposed plan amendment change is estimated to generate a maximum demand for water of 930 gallons per day (GPD). This represents a decrease of water demanded by approximately 29,600 GPD from what development with the adopted Design District designation would allow; however, a development scenario under which this projection is made is unlikely. While development under the proposed land use is likely to generate less demand for water, Durham has sufficient capacity in water supply to accommodate the existing Design District designation.

| <b>Water Supply Impacts</b>   |                            |
|---|----------------------------|
| Current Water Supply Capacity   | 37.00 MGD                  |
| Present Usage   | 28.06 MGD                  |
| Committed to Date (July 2009 – December 2011)   | 0.70 MGD                   |
| Available Capacity  | 8.24 MGD                   |
| Maximum Water Demand Under Adopted Design District <sup>1</sup>   | 30,530 gallons/day         |
| Maximum Water Demand Under Proposed Medium Density Residential use <sup>2</sup>   | 930 gallons/day            |
| Impact of Proposed Plan Amendment   | <b>-29,600 gallons/day</b> |
| Notes: MGD = Million gallons per day<br><sup>1</sup> Maximum water demand of the adopted Future Land Use (DD: 71,002 SF retail, 71,002 SF office and 142 apartments)<br><sup>2</sup> Maximum water demand of the proposed Future Land Use (MDR: 6 single-family lots) |                            |

**Staff Conclusion:** While the requested Medium Density Residential land use would be consistent with goals related to development within the Urban Tier, Staff finds that the existing Design District and Downtown Tier designation for these parcels is consistent with goals for development of a vibrant and thriving Downtown and urban core. Single-family housing does not contribute to the overall future goal for a more vibrant Downtown. Moreover, staff maintains that existing policy and existing regulations provide ample flexibility in terms of uses allowed (townhouses are permitted in DD-S2) and adequate measures to ensure a compatible transition is achieved between Downtown and surrounding neighborhoods. Staff finds the existing land use designation of Design District within the Downtown Tier is more consistent with the intent, goals, objectives, policies, guiding principles and programs of adopted plans than the proposed use and, therefore, the request does not meet criterion 3.4.7.A.

## 2. Compatibility

The site is located in the northeast corner of the Downtown Tier in an area that has experienced significant revitalization in recent years. Public projects such as Durham Central Park and Farmer’s Market, the restored Durham Athletic Park, the Durham Center for Senior Life, the Skate Park, and a police substation have spurred private sector interest. The area now features a number of entertainment venues, as well as new retail and service destinations.

| Area Land Uses and Designations |   |   |
|---------------------------------|---|---|
|                                 | Existing Uses   | Future Land Use Designations                  |
| <b>North</b>                    | Single-family residential<br>Multi-family residential | Design District<br>Medium Density Residential |
| <b>East</b>                     | Vacant, Office,<br>Single-family residential          | Design District<br>Medium Density Residential |
| <b>South</b>                    | Industrial, Vacant,<br>Multi-family residential       | Design District                               |
| <b>West</b>                     | Multi-family residential,<br>Industrial, Commercial   | Design District                               |

*Existing Uses:* The site of the proposed plan amendment is bordered to the north by single-family homes and duplexes currently undergoing rehabilitation; to the east by single-family homes, a vacant lot, and an office building; to the south by industrial uses and multi-family housing; and to the west by duplexes undergoing rehabilitation, industrial uses, and entertainment venues.

*Future Land Use Designations:* According to the adopted Future Land Use Map the site is on the edge of the Downtown Tier, with areas designated as Design District on all sides of the site. Areas north of West Corporation Street and east of North Street are in the Urban Tier and are expected to remain as Medium Density Residential (6-12 DU/Ac.) in the future.

*Analysis:* North Street is a residential street, predominantly urban in nature. Many of the homes were built before attached garages were common; therefore, most parking is accommodated on the street. Sidewalks, in need of repair, exist for a period on both sides of the street. North Street extends for only three blocks between West Geer Street to the north and Broadway Street to the south, so it is likely North Street will remain residential in nature regardless of the future land use category (townhouses and apartments are allowed in the DD-S2 district). Nonresidential development would most likely occur either at Old Five Points to the east or along established nonresidential corridors such as West Geer Street or Rigsbee Avenue.

**Staff Conclusion:** While the proposed plan amendment, which would allow for single or multi-family development, is compatible with existing land uses along North Street, existing policy and regulations could also result in development that would not be out of character with the area. In fact, Downtown Design-Support 2 sub-district is designed to provide adequate transitions from more intense development to urban neighborhoods. Recent nearby revitalization efforts indicate that this area could be ripe for redevelopment consistent with the policy intent for Downtown. Therefore, the proposed amendment is not compatible with

the existing land use trends or with the policy vision for the future and does not meet criterion 3.4.7.B.

### 3. Adverse Impacts

The site is outside of a watershed protection overlay district and there are no known surface water features or steep slopes; therefore, there is nothing on the site that would preclude it from developing according to standards for environmental protection found in the Unified Development Ordinance.

The proposed change in development tier and future land use category for this site would impose additional buffer and setback requirements for adjacent properties, should they redevelop. These requirements, however, do not impair the ability of adjacent properties to develop according to Design District potential.

**Staff Conclusion:** The proposed plan amendment would not create substantial adverse impact in the adjacent area or in the City or County in general and, therefore, meets criterion 3.4.7.C.

### 4. Adequate Shape and Size

The area requested for amendment is approximately 1.63 acres and is of sufficient shape and size for residential development in the Urban Tier.

**Staff Conclusion:** The site is of adequate shape and size to accommodate the use pursuant to the proposed change and, therefore, meets criterion 3.4.7.D.

## F. Notification

Staff certifies that notification, including newspaper advertisements and letters to property owners within 1,000 feet of the site, has been carried out in accordance with Section 3.2.5 of the UDO. The following neighborhood organizations were mailed notices:

- Friends of South Ellerbee Creek
- Partners Against Crime – District 1
- Partners Against Crime – District 2
- Partners Against Crime – District 5
- Arts and Business Coalition of Downtown
- Downtown Neighborhood Association
- Friends of Durham
- Inter-Neighborhood Council
- Ellerbe Creek Watershed Association
- Downtown Durham, Inc.
- TTA Station Sites
- Durham Athletic Park Area Planning Organization
- Old North Durham Neighborhood Association
- Unity in the Community for Progress
- Fayetteville Street Planning Group
- Old Five Points Neighborhood

## **G. Recommendations**

Staff finds that the existing development tier (Downtown) and future land use designation (Design District) continue to meet the goals, intent, and policies of the Durham Comprehensive Plan to support Downtown development. Conditions in the area have not changed significantly since 2010 when the City initiated a plan amendment, at property owner request, to include much of this site into the Downtown Tier. Staff finds there is inadequate justification to warrant amending the Future Land Use Map, and that the request does not meet the four criteria for plan amendments, and therefore recommends denial of the request.

Planning Commission recommended approval at its July 10, 2012 meeting, 12-1, based on information provided in the staff report, the applicant's justification, and meeting the four criteria for plan amendments. See Attachment 5 for further details.

## **H. Staff Contact**

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## **I. Attachments**

Attachment 1, Proposed Change  
Attachment 2, Context Map  
Attachment 3, Aerial Photograph  
Attachment 4, Applicant's Plan Amendment Justification  
Attachment 5, Planning Commission Written Comments  
Attachment 6, Resolution