



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



ZONING MAP CHANGE REPORT

Meeting Date: March 19, 2012

Table A. Summary			
<b>Application Summary</b>			
<b>Case Number</b>	Z1100027	<b>Jurisdiction</b>	City
<b>Applicant</b>	Durham City-County Planning Department	<b>Submittal Date</b>	October 12, 2011
<b>Reference Name</b>	Fayetteville Street-University Land Use Update	<b>Site Acreage</b>	21.904
<b>Location</b>	The area generally on the east and west side of Fayetteville Street between East Umstead Street to the north and Dunbar street to the south.		
<b>PIN(s)</b>	See Attachment 5, Application		
<b>Request</b>			
<b>Proposed Zoning</b>	Commercial Infill (CI), Office Institutional (OI), Residential Urban – 5 (RU-5), Residential Urban – 5(2) (RU-5(2)), and Transitional Office Overlay (-TO) (see map Attachment 2, 6 – 14)		
<b>Site Characteristics</b>			
<b>Development Tier</b>	Urban		
<b>Land Use Designation</b>	Commercial, Office, Medium-High Density Residential (8-20 DU/Ac.), Medium Density Residential (6-12 DU/Ac.)		
<b>Existing Zoning</b>	Commercial Neighborhood (CN), Office Institutional (OI), Residential Urban – Multifamily (RU-M), Residential Urban -5(2) (RU-5(2))		
<b>Zoning Overlay</b>	n/a	<b>Drainage Basin</b>	Jordan Lake
<b>River Basin</b>	Cape Fear	<b>Stream Basin</b>	Third Fork Creek
<b>Determination/Recommendation/Comments</b>			
<b>Staff</b>	Staff determines that, should the plan amendment be approved, this request would be consistent with the <i>Comprehensive Plan</i> and other adopted policies and ordinances.		
<b>Planning Commission</b>	Approval, 10-2 with the exception of the area designated as “#9” per the map provided by staff at the hearing (see Attachment 15, Planning Commission Handout). The Planning Commission finds that the ordinance request is not consistent with the adopted <i>Comprehensive Plan</i> . However, should the plan amendment be approved, the request would be consistent with the <i>Comprehensive Plan</i> . The Commission believes the request is reasonable and in the public interest and recommends approval (with modifications as noted in the above-referenced motion) and the information in the staff report.		
<b>DOST</b>	None provided		
<b>BPAC</b>	None provided		

## A. Summary

Pursuant to direction in the Fayetteville Street – University Land Use Update (adopted September 19, 2011) this request is to implement the nine recommended zoning map changes summarized in the table below (see map Attachments 1 and 6 - 14). The total of 21.904 acres is comprised of 93 total parcels; 89 full parcels and four partial parcels being requested for change and generally located on the east and west side of Fayetteville Street between East Umstead Street to the north and Dunbar Street to the south.

Zoning Change	Referenced Map Attachment	Number Of Parcels	Attachment 6, Figure #	Existing Zone	Proposed Zone	Total Area (acres)
Change #1	6	1	16	OI	RU-5(2)	0.954
Change #2	7	6	17, 25	CN	RU-5; TO	1.319
Change #3a	8	1 (partial)	18	CN and RU-5	OI	3.112
Change #3b	8	1	18	RU-5	OI	0.143
<b>Change #3 total</b>	8	2	18	---	---	3.255
Change #4a	9	24	19	OI	RU-5	3.060
Change #4b	9	11	19, 25	OI	RU-5; TO	1.883
<b>Change #4 total</b>	9	---	19, 25	---	---	4.943
Change #5	10	4 (3 partial parcels)	20	RU-M	OI	3.456
Change #6	11	3	21	OI	RU-5	0.527
Change #7	12	40	22	RU-M	RU-5	7.241
Change #8	13	1	23	RU-M	OI	0.062
Change #9	14	1	24	RU-M	CI	0.148

The majority of the zoning map change recommendations (see above) are not consistent with the Future Land Use Map (FLUM) of the *Comprehensive Plan*. The table below summarizes the current FLUM designation and the requested designation. The companion plan amendment Case #A1100009 should be considered in conjunction with this request. Staff is recommending approval of the plan amendment. Should the plan amendment be approved, this request would be consistent with the *Comprehensive Plan* as well as applicable ordinance and policies including the adopted Fayetteville Street – University Land Use Update.

Zoning Change	Proposed Zone	Future Land Use Map (FLUM)	Requested FLUM
Change #1	RU-5(2)	Office	Medium Density Residential (6-12 DU/Ac.)
Change #2	RU-5; TO	Commercial	Medium Density Residential (6-12 DU/Ac.)
Change #3a	OI	Commercial, Medium Density Residential (6-12 DU/Ac.)	Office

Zoning Change	Proposed Zone	Future Land Use Map (FLUM)	Requested FLUM
Change #3b	OI	Medium Density Residential (6-12 DU/Ac.)	Office
Change #4a	RU-5	Office	Medium Density Residential (6-12 DU/Ac.)
Change #4b	RU-5; TO	Office	Medium Density Residential (6-12 DU/Ac.)
Change #5	OI	Medium-High Density Residential (8-20 DU/Ac.)	Office
Change #6	RU-5	Office	Medium Density Residential (6-12 DU/Ac.)
Change #7	RU-5	Medium Density Residential (6-12 DU/Ac.), Medium-High Density Residential (8-20 DU/Ac.)	n/a
Change #8	OI	Office	n/a
Change #9	CI	Medium Density Residential (6-12 DU/Ac.)	Commercial

Appendix A provides additional supporting information.

## B. Project Background

The zoning changes recommended as part of the Fayetteville Street – University Land Use Update (the Plan) are the result of several years of research and public outreach, beginning in 2007. The area’s detailed history of land use planning is outlined in the Fayetteville Street – University Land Use Update available at <http://durhamnc.gov/ich/cb/ccpd/Pages/FSt-U-LandUseUpdate.aspx>.

The project team’s research revealed that the existing policy guidance for proposed land use patterns, the Future Land Use Map of the *Comprehensive Plan*, depicts a pattern that differs from the historic and existing land use patterns. The community expressed interest for greater consideration of the latter. As a result the Plan suggests seven Future Land Use Map changes (see plan amendment report A1100009) and the nine Zoning Map Changes included in this report.

## C. Unified Development Ordinance

This request is consistent with the requirements of the Unified Development Ordinance. There is no development plan associated with this request. The following are the district intent statements for the requested zoning districts:

**CI (Commercial Infill)** – the CI district is established to provide for small commercial and mixed use nodes within the Compact Neighborhood and Urban Tiers. These nodes are intended to provide for pedestrian-oriented development that supports the surrounding residential neighborhoods, and have limited vehicular accommodation.

**OI (Office and Institutional)** – the OI district is established for employment and community service activities of moderate to high intensity. While OI is an office district, other uses such as residential and limited commercial, veterinary clinic, studio or gallery, or hotels may also be allowed.

**RU-5 (Residential Urban)** – the RU-5 district is established to provide for orderly urban residential development and redevelopment with a minimum lot size of 5,000 square feet. A variety of single-family housing types and townhouses are permitted. While RU-5 is a residential district, certain nonresidential uses such as day care facilities and places of worship may be sought through a special use permit or other limited provisions of the ordinance.

**RU-5(2) (Residential Urban)** – the RU-5(2) district is established to provide for orderly urban residential development and redevelopment with a minimum lot size of 5,000 square feet. A variety of single-family housing types, duplexes, and townhouses are permitted. While RU-5(2) is a residential district, certain nonresidential uses such as day care facilities and places of worship may be sought through a special use permit or other limited provisions of the ordinance.

**-TO (Transitional Office Overlay)** – The Transitional Office Overlay (-TO) is established to allow an orderly transition of land use from residential use to relatively small-scale office use of lots and parcels fronting major roadways, while maintaining a predominantly residential property appearance and building scale.

**Determination.** The assignment of these districts as shown on the Proposed Zoning Map (Attachment 2), and more closely identified in map Attachments 6 - 14, implements the zoning map change recommendations approved with the Fayetteville Street – University Land Use Update.

**D. Staff Analysis**

Staff determines that, should the plan amendment be approved, this request would be consistent with the Comprehensive Plan and other adopted policies and ordinances.

Approval of this request will codify the zoning recommendations made in the Fayetteville Street – University Land Use Update and provide the community the regulatory controls expressed through this planning process.

**E. Contacts**

Table I. Contacts		
<b>Staff Contact</b>		
Amy Wolff, Senior Planner	Ph: 919-560-4137, ext. 28235	Amy.Wolff@DurhamNC.gov
<b>Applicant Contact</b>		
<b>Agent:</b> Aaron Cain, Planning Supervisor	Ph: 919-560-4137, ext. 28226	Aaron.Cain@DurhamNC.gov

## F. Notification

Staff certifies that newspaper advertisements, letters to property owners within 600 feet of the site and the posting of a zoning sign on the property has been carried out in accordance with Section 3.2.5 of the UDO. In addition, the following neighborhood organizations were mailed notices:

- Inter-Neighborhood Council
- Partners Against Crime – District 4
- Fayetteville Street Planning Group
- Friends of Durham
- Unity in the Community for Progress

## G. Summary of Planning Commission Meeting January 10, 2011 (Case Z1100027)

**Zoning Map Change Request:** OI, CN, RU-5, RU-M to OI, RU-5, CI, TO, RU-5(2)

**Staff Report:** Mr. Cain presented the staff report for both the Zoning Case.

**Public Hearing:** Chair Brown opened the public hearing. Five persons signed-up to speak on the case, one in favor, four against. Chair Brown closed the public hearing.

**Commission Discussion:** Mr. Jones acknowledged his service as a non-paid trustee on a church within the required notification area for this case, but stated that no conflict existed (staff concurred with no conflict existing based on represented facts). Commission discussion centered around concerns about whether the proposed zoning designations would result in the highest-and-best use of property along Fayetteville Street (i.e.: commercial or multi-family versus single-family in the area labeled “Area 9” on the attached graphic), diminution in value for properties currently zoned and/or used as commercial and proposed for residential use (i.e.: “downzoning”), the policy guidance set by the adopted Fayetteville Street – University Land Use Plan, and the value of preserving the single-family and historic character of the neighborhood.

**Motion:** Approval of the Zoning Map Change be approved with the exception of the area designated “#9” per the map provided by staff at the hearing (see Attachment 15, Planning Commission Handout). (Mr. Martin, Mr. Smudski 2<sup>nd</sup>)

**Action:** Motion carried 10-2 (Winders and Brown opposed).

**Substitute Motion:** Approval of the Zoning Map Change. (Ms. Board, Ms. Winders 2<sup>nd</sup>)

**Action:** Motion failed 3-9 (Winders, Brown and Board in favor).

**Findings:** The Planning Commission finds that the ordinance request is not consistent with the adopted *Comprehensive Plan*. However, should the plan amendment be approved, the request would be consistent with the *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval (with modifications as noted in the above-referenced motion) and the information in the staff report.

## H. Supporting Information

Table K. Supporting Information		
Applicability of Supporting Information		
Appendix A	Application	Attachments: <ol style="list-style-type: none"> <li>1. Context Map – Existing Zoning</li> <li>2. Context Map - Proposed Zoning</li> <li>3. Future Land Use Map</li> <li>4. Aerial Photography</li> <li>5. Application</li> <li>6. Zoning Map Change #1</li> <li>7. Zoning Map Change #2</li> <li>8. Zoning Map Change #3</li> <li>9. Zoning Map Change #4</li> <li>10. Zoning Map Change #5</li> <li>11. Zoning Map Change #6</li> <li>12. Zoning Map Change #7</li> <li>13. Zoning Map Change #8</li> <li>14. Zoning Map Change #9</li> </ol>
Appendix B	Project Background	No additional supporting information.
Appendix C	Unified Development Ordinance	No additional supporting information.
Appendix D	Staff Analysis	No additional supporting information.
Appendix E	Contacts	No additional supporting information.
Appendix F	Notification	No additional supporting information.
Appendix G	Summary of Planning Commission Meeting	Attachments: <ol style="list-style-type: none"> <li>15. Planning Commission Handout</li> <li>16. Planning Commissioner’s Written Comments</li> <li>17. Ordinance Form</li> </ol>

### Appendix A: Application Supporting Information

Attachments:

1. Context Map – Existing Zoning
2. Context Map - Proposed Zoning
3. Future Land Use Map
4. Aerial Photography
5. Application
6. Zoning Map Change #1
7. Zoning Map Change #2
8. Zoning Map Change #3
9. Zoning Map Change #4

10. Zoning Map Change #5
11. Zoning Map Change #6
12. Zoning Map Change #7
13. Zoning Map Change #8
14. Zoning Map Change #9

## **Appendix G: Summary of Planning Commission Meeting**

### Attachments:

15. Planning Commission Handout
16. Planning Commissioner's Written Comments
17. Ordinance Form