



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



PLAN AMENDMENT REPORT

Meeting Date: November 19, 2012

Reference Name	Swift Avenue Apartment Homes (A1200006)	Jurisdiction	City
Applicant	Madison Washburn Court, LLC Jason McArthur		
Request Change in Comprehensive Plan Designation	From:	Institutional/Urban Tier	
	To:	Design District/Compact Neighborhood Tier	
Site Characteristics	Tier:	Urban (adopted), Compact Neighborhood (proposed)	
	Present Use:	Multi-family residential	
	Present Zoning:	RU-M (Residential Urban-Multifamily)	
	Overlays:	N/A	
	Size:	3.34 acres	
Location	300 Swift Avenue, on the southwest corner of Swift Avenue and NC Highway 147 southbound ramps		
PIN	0821-06-39-0901		
Recommendations	Staff	Approval, based on conditions warranting an amendment to the Future Land Use Map and the proposed land use pattern meeting the four criteria for plan amendments and tier boundary modifications.	
	Planning Commission	Approval, September 11, 2012, 12-1, based on information provided in the staff report, the justification, and meeting the four criteria for plan amendments and tier boundary modifications.	

A. Summary

The applicant, Madison Washburn Court, LLC, proposes to amend the Future Land Use Map at 300 Swift Avenue in two related ways. The first proposed change would include this parcel in the Compact Neighborhood Tier currently in place surrounding the proposed Ninth Street regional rail station. The second proposed change would amend the future land use designation of the parcel from Institutional to Design District. There is currently a

multi-family development at this location which is privately owned and not affiliated with Duke University. The zoning map change associated with this plan amendment is case Z1200015.

B. Site History

Originally the location of the first West Durham Graded School, built in 1898 and demolished in the mid-1920s, the subject site has been an apartment complex since 1953. Despite the construction of the Durham Freeway (NC Highway 147) immediately to the north of the site in the 1970s, the apartment complex remains relatively unchanged. Areas around the site have been the subject of several planning initiatives in the past fifteen years. Though this site has been excluded from these planning efforts, it is indirectly impacted by them:

- In 2000, Duke University prepared a campus wide master plan that envisioned Central Campus to become a densely developed mixed use node that would connect East and West campuses. Immediate plans for Central Campus redevelopment have been scaled back. Nonetheless, the subject site has not been a part of Duke University campus master planning;
- The City-County Planning Department's 2002 small area plan for Northwest/West Durham designated the site for high density residential development which, at the time, was defined as eight units per acre or more;
- In 2007, properties owned by Duke University surrounding the site that comprised the main campuses were rezoned to University College (UC) with a development plan;
- In 2008, the City Council adopted the *Ninth Street Plan* which advised the boundaries of the Compact Neighborhood Tier be redrawn. Originally, the Ninth Street Compact Neighborhood Tier extended south of the Durham Freeway; however, the rezoning of Duke University to UC(D) reduced the need to extend the Tier to the south; and
- In 2012, the City Council and County Commissioners adopted the Compact Design zoning district and rezoned the Ninth Street Compact Neighborhood.

C. Existing Site Characteristics

The site is developed as one- and two-story attached villas arranged around a central parking lot. There is a slight downward slope from the Swift Avenue edge of the site toward the Case Street edge; the downward slope continues offsite to Erwin Field and an area historically known as "Monkey Bottom." The site is within walking distance of transit opportunities including the fare-free Bull City Connector, Duke Transit and the proposed Ninth Street Station of the Durham-Orange Light Rail Transit line. Despite being located adjacent to the on/off ramp for the Durham Freeway, there is infrastructure available to

walk to work, school, retail and entertainment opportunities, though pedestrian connections could be improved. Please refer to Attachment 3 for aerial imagery.

D. Applicant's Plan Amendment Justification

The applicant contends that the parcel under consideration ought to be amended from the current Institutional future land use designation because, while the parcel is "surrounded by Duke University, which is zoned UC(D) [University Campus with a Development Plan] ... this parcel has not been included in any current or future master planning of the campus." Furthermore, including the site in the Compact Neighborhood Tier and designating it as a Design District would support goals of the Comprehensive Plan and the recent efforts to rezone the Ninth Street area. The applicant writes, "The site serves a valuable opportunity for increased residential density to support transit-oriented development, as it is within ¼ mile of the proposed transit stop." Prior to zoning the Ninth Street Compact Neighborhood as a Design District, the applicant points out that "several projects were approved that significantly reduced the potential density within the core [sub-district] that would help support transit. This project provides the opportunity to recapture that lost density." Please refer to Attachment 4 for the complete justification statement provided by the applicant.

Staff Response: Staff agrees with the applicant that certain circumstances unique to this site warrant a change in Future Land Use Policy. Those circumstances include:

- Exclusion of this site from Duke University's Campus Master Planning diminishes the likelihood that an Institutional use will exist at this site in the future; and
- Approval of development projects that are contrary to the goals of the Compact Neighborhood Tier give cause to rethink the boundary, particularly for areas less than a ¼ mile from the proposed rail station.

A further examination of the applicant's request that this site be included in the Compact Neighborhood Tier and be designated as a Design District follows.

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*. The proposal to change the Future Land Use designation has been evaluated using criteria found in UDO Section 3.4.7:

- 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. Consistency with Adopted Plans and Policies

The *Durham Comprehensive Plan* is a policy document intended to guide growth and development in an organized and efficient manner. An overarching theme found throughout the Plan is support for compact development near proposed regional rail transit stations. Goals, objectives, and policy statements in support of this overall theme are listed in Table 1 below. In general, supporting compact development in connection with transit can be beneficial in a number of ways. It can:

- Relieve traffic congestion;
- Reduce air pollution;
- Improve public health by increasing opportunities to walk;
- Reduce household transportation expenses;
- Connect people who do not have access to cars with jobs;
- Create ‘complete’ neighborhoods for people to live, work, play, which attracts talent and spurs economic growth and entrepreneurship; and
- Create a fiscally responsible pattern of growth because it is less consumptive of land and resources.

Table 1: Goals, Objectives, Policies in support of Compact Development near Regional Transit Stations
<i>Goal 2.4, Align Land Use and Transportation.</i> Promote the integration of land use, transportation and infrastructure planning to efficiently conserve resources and support economic growth.
<i>Objective 2.4.1. Transit Oriented Development.</i> Create land use policies that encourage development that is compatible with transit, pedestrian, and bicycle transportation, and decreases dependence on automobiles. Promote and support future transit opportunities.
<i>Objective 2.2.4. Compact Neighborhood Tier.</i> Provide sufficient land in the Compact Neighborhood Tier appropriately zoned for mixed use, transit-oriented development. The Compact Neighborhood Tier shall include land surrounding the designated regional transit stations.
<i>Policy 2.1.2e. Compact Neighborhood Tier Defined.</i> The Compact Neighborhood Tier consists of areas surrounding the proposed fixed guideway transit stations. These are areas identified for higher density and intensity infill, redevelopment, and new development that integrate a mix of uses through an urban fabric that includes enhanced bicycle and pedestrian facilities. The Compact Neighborhood Tier is expected to have an improved street level experience and discourage auto-oriented and low intensity land uses.
<i>Policy 2.2.4a. Compact Neighborhood Development Focus.</i> Ensure that the Station Area Plans enhance the street level experience and provide a mixture of goods and services near transit stations by requiring that development within the Compact Neighborhood Tier be transit-, bicycle-, and pedestrian-oriented. Auto-oriented and low intensity uses shall be discouraged.

Policy 2.4.1a. Downtown and Compact Neighborhood Tiers for Transit Support. Plan for and reinforce the Downtown and Compact Neighborhood Tiers as supportive of multi-modal transportation through increased density, reduced parking requirements, high quality pedestrian and bicycle facilities, and supportive infrastructure and design requirements.

Policy 2.1.3j. Design District Defined. Design Districts are intended to encourage intense development that supports transit and pedestrian oriented activity. Regulations focus on form of the private and public realm rather than use and intensity. Design Districts are intended to encompass the Downtown and Compact Neighborhood Tiers, and are accommodated by the Downtown Design (DD-) and Compact Design (CD-) zoning districts.

Policy 2.2.4b. Compact Neighborhood Tier Land Uses. Utilize a Design District for all Compact Neighborhoods through the Compact Neighborhood Plan process in order to make use of form-based code principles, create alternatives to automobile use, and create more “24-hour” places.

Policy 2.2.4c. Core Area. The Core Area, the land immediately surrounding the transit station, may extend approximately one-quarter mile from the station as indicated on the Future Land Use Map, unless otherwise indicated on an adopted Compact Neighborhood or Station Area plan.

As many of the goal, objective and policy statements listed in Table 1 indicate, Durham’s strategy for achieving these goals is to provide opportunities for higher density development in the Compact Neighborhood Tier and Design Districts. The proposal to include this site into the Compact Neighborhood Tier and Design District is consistent with these policies because:

- The site is within a ¼ mile from the proposed rail station (Policy 2.2.4c.);
- Increased density allowed on the site will support multi-modal transit ridership and reduce dependence on automobiles (Objective 2.4.1, Policy 2.4.1a.); and
- An emphasis on the form and design of the buildings will enhance the street-level experience and create a more pedestrian friendly environment (Policy 2.1.2e., Policy 2.2.4a., Policy 2.1.3j.). Design Districts allow more flexibility in terms of allowable uses in exchange for more specificity regarding architectural standards, streetscape amenities, and the scale and massing of buildings as they relate to the street.

Staff Conclusion: The proposal to include this site as part of the Ninth Street Compact Neighborhood Tier and designate it as Design District on the Future Land Use Map is consistent with goals, objectives, and policies of the *Durham Comprehensive Plan*. Therefore, the request meets criterion 3.4.7.A.

2. Compatibility with Existing Development and Future Land Use Patterns

Located at 300 Swift Avenue, the site is located at the intersection of Swift Avenue and the Durham Freeway southbound ramps. A majority of the property in the vicinity of the site is owned by Duke University and is considered part of Central Campus. As previously mentioned, this area has been the subject of a number of planning initiatives and could undergo significant change in coming years with the possible introduction of a regional rail transit station and Duke University’s plans to redevelop Central Campus.

Table 2: Area Land Uses and Designations		
	Existing Uses	Future Land Use Designations
North	Durham Freeway, Railroad, Office, Residential	Design District, Institutional
East	Multi-family residential	Institutional
South	Single-family residential, Institutional	Institutional
West	Institutional, Open Space	Institutional

Existing Uses: The site of the proposed plan amendment is bordered to the north by the Durham Freeway. Property west of the site is owned by Duke University and used for facility operations and maintenance. Further west is Erwin Field, currently a recreation facility also owned by Duke University. South of the site along Hull Avenue are two single-family homes and a parking lot, all of which are properties owned by Duke University. East of the site, across Swift Avenue, are two multi-family apartment complexes.

Future Land Use Designations: According to the adopted Future Land Use Map, the centerline of the Durham Freeway forms the boundary separating the Compact Neighborhood Tier from the Urban Tier. Areas north of that line are designated as Design Districts. The site is surrounded on the east, west, and south sides by land designated for Institutional purposes on the Future Land Use Map.

Analysis: Institutional uses, as defined by Comprehensive Plan Policy 2.1.3g., are reserved for educational facilities, government facilities, and other civic uses. In general, properties owned by Duke University are designated as Institutional on the Future Land Use Map, even though the particular uses could include student housing, athletic fields, academic buildings and operations facilities. The proposal to extend the Design District and Compact Neighborhood Tier boundary across the Durham Freeway to an area largely surrounded by Duke University and used for a variety of activities is compatible with the existing character of the area and compatible with the future policy vision, which is to allow higher density and intensity infill, redevelopment, and new development that integrate a mix of uses through an urban

fabric that includes enhanced bicycle and pedestrian facilities around regional transit stations.

Staff Conclusion: The proposal to include this site as part of the Ninth Street Compact Neighborhood and designate it as Design District on the Future Land Use Map is compatible with existing land uses and future land use designations in the area and, therefore, meets criterion 3.4.7.B.

3. Adverse Impacts

Infrastructure:

A theme found throughout the *Durham Comprehensive Plan* is ensuring that the pace of urbanized growth does not exceed the ability to provide essential services (Objective 2.3.2, Infrastructure Capacity). Toward that end, Policy 2.3.2a., Infrastructure Capacity, directs the City-County Planning Department to consider impacts to the capacity of existing infrastructure when evaluating changes to the Future Land Use Map and Zoning Atlas. More detailed information follows; however, it is important to note that the impacts are measured based on the maximum potential impact, and not specifically what is proposed to be built.

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 Compact Neighborhood Tier shall achieve a minimum of LOS E.

Analysis: The major roads impacted by the proposed change in future land use are Swift Avenue and NC Highway 147. Swift Avenue is currently a 5-lane roadway with left-turn lanes. The segment adjacent to the site is designed to accommodate 30,000 average daily trips (ADT), and according to the most recent traffic volume count (2009) there were 17,000 annual average daily trips (AADT) (57% of capacity). NC Highway 147 is a 4-lane freeway designed to accommodate 79,400 average daily trips, and according to the most recent traffic volume counts there were 59,000 annual average daily trips (74% of capacity). Development under the proposed Design District designation would likely result in more traffic than the existing Institutional designation; however, the roads studied appear to have sufficient capacity to accommodate the proposed 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; however, what is not taken into account is the likelihood that many trips will be made walking, biking, or using transit.

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 28,743 gallons per day (GPD). This represents an increase of water demanded by approximately 26,670 GPD from

what development with the adopted Institutional designation could allow. While development under the proposed land use is likely to generate more demand for water, Durham has sufficient capacity in water supply to accommodate the proposed designation.

Table 3: Water Supply Impacts	
Current Water Supply Capacity	37.00 MGD
Present Usage	28.06 MGD
Committed to Date (July 2009 through June 2012)	0.70 MGD
Available Capacity	8.24 MGD
Maximum Water Demand Under Adopted Institutional Use ¹	2,073 gallons/day
Maximum Water Demand Under Proposed Design District Use ²	28,743 gallons/day
Impact of Proposed Plan Amendment	26,670 gallons/day
Notes: MGD = Million gallons per day ¹ Maximum water demand of the adopted Future Land Use (INS: 27,643 SF office) ² Maximum water demand of the proposed Future Land Use (DD: 72,414 SF retail, 72,414 SF office, 124 apartments)	

Future Demand for Land Uses

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 uses. Approval of this plan amendment would remove 3.34 acres from the Institutional future land use designation. Currently, approximately 10,025 acres are designated on the Future Land Use Map as either Institutional or Office. By 2035, the Planning Department estimates there will be demand for 4,585 acres for these land uses, indicating there is a surplus of land designated on the Future Land Use Map for Office and Institutional uses. Comparatively, there are 907 acres of land designated as part of a Design District. The impact of the proposed plan amendment on the availability of either future land use designation is negligible.

Environment

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

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 3.34 acres and is of sufficient shape and size for development consistent with Design District standards in the Compact Neighborhood 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. Criteria for Modifications of Tier Boundaries

Additional considerations for the proposal to modify the Development Tier boundary are found in UDO Section 3.4.8:

1. The site is contiguous to the proposed Tier.

Analysis: Consistent with common practice, the boundaries of future land use designations extend to the center line of adjacent roads. Even though the subject site is across the Durham Freeway, it can be regarded as contiguous. Therefore, this criterion is met.

2. The site is not in the drainage basin for Lake Michie or Little River or in the one-mile critical area around Jordan or Falls Reservoirs;

Analysis: The subject site is not within a watershed overlay district; this criterion is met.

3. The extension does not violate any agreements with neighboring jurisdictions; and

Analysis: The subject site is completely within the City of Durham and does not violate any agreements. Therefore, this criterion is met.

4. If the proposal is to expand the Suburban Tier, extending utilities to serve the site is determined to be technically feasible by the Public Works Director or designee and will not result in inordinate cost to the City.

Analysis: The proposal is not to expand the Suburban Tier, thus, this criterion does not apply.

Therefore, the proposal to modify the tier boundary and change the development tier designation of this site from Urban to Compact Neighborhood is consistent with the requirements of UDO Section 3.4.8.

G. 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:

- Old West Durham
- Ellerbe Creek Watershed Association
- Burch Avenue Neighborhood Association
- TTA Station Sites
- Partners Against Crime - District 5
- Unity in the Community for Progress
- Friends of Durham
- Fayetteville Street Planning Group
- Inter-Neighborhood Council

H. Recommendations

Staff finds there are circumstances to warrant amending the Future Land Use Map, and that the request meets criteria for plan amendments and modifications of development tier boundaries, and therefore recommends approval of the request.

The Planning Commission recommended approval on September 11, 2012, 12-1, based on information provided in the staff report, the justification, and meeting the four criteria for plan amendments and tier boundary modifications.

I. Staff Contact

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J. Attachments

Attachment 1, Proposed Change
Attachment 2, Area Context
Attachment 3, Aerial Image
Attachment 4, Applicant's Justification
Attachment 5, Planning Commissioner Comments
Attachment 6, Resolution