



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



ZONING MAP CHANGE REPORT

Meeting Date: December 16, 2013

Table A. Summary			
<b>Application Summary</b>			
<b>Case Number</b>	Z1200026	<b>Jurisdiction</b>	City
<b>Applicant</b>	Horvath Associates	<b>Submittal Date</b>	December 6, 2012
<b>Reference Name</b>	Muirfield Commercial	<b>Site Acreage</b>	2.95
<b>Location</b>	1439 Victory Boulevard, north of Horton Road and south of Prison Camp Road		
<b>PIN(s)</b>	0824-03-11-1088		
<b>Request</b>			
<b>Proposed Zoning</b>	Commercial Neighborhood with a development plan (CN(D))	<b>Proposal</b>	8,000 square feet of nonresidential development
<b>Site Characteristics</b>			
<b>Development Tier</b>	Suburban Tier		
<b>Land Use Designation</b>	Low-Medium Density Residential (4-8 DU/Ac.), Recreation and Open Space		
<b>Existing Zoning</b>	Commercial Neighborhood with a development plan (CN(D))		
<b>Existing Use</b>	Vacant		
<b>Overlay</b>	E-B	<b>Drainage Basin</b>	Falls Lake
<b>River Basin</b>	Neuse	<b>Stream Basin</b>	Eno River
<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 applicable policies and ordinances.		
<b>Planning Commission</b>	Approval, 11-0 on October 8, 2013. 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 based on comments received at the public hearing and the information in the staff report.		
<b>DOST</b>	No comments		
<b>BPAC</b>	No comments		

**A. Summary**

This is a request to change the zoning designation of a 2.95-acre site for a proposed maximum development of 8,000 square feet of nonresidential uses. The site is located at

1439 Victory Boulevard, with frontage on Guess Road between Prison Camp Road and Horton Road (see Attachment 1, Context Map). This request is not consistent with the Future Land Use Map of the *Comprehensive Plan* which designates a portion of the site as Low-Medium Density Residential. A plan amendment, case A1200015 to designate this area as Commercial has been requested and is being supported by staff. Should the plan amendment be approved, this request would be consistent with the Comprehensive Plan and other applicable policies and ordinances.

Appendix A provides supporting information.

## **B. Site History**

The present designation of CN(D) was approved as a portion of zoning map change case P03-27 which also included 36.8 acres of RS-M(D), on September 15, 2003.

The present CN(D) request (case Z1200026) differs from the existing CN(D) in that the proposed development plan increases the development intensity by 3,000 square feet (from 5,000 square feet to 8,000 square feet) and changes the site access from two cross access easements across the stream buffer to the east onto Nicklaus Drive to a single point of access from Victory Boulevard. The committed uses of Z1200026 are office *and/or* retail *and/or* restaurant without a drive-thru whereas the P03-27 would be limited to office *or* retail stores and shops *or* restaurant without a drive-thru.

## **C. Review Requirements**

Planning staff has performed a sufficiency review for this Zoning Map Change request (reference UDO Sec. 3.2.4, Application Requirements [general] and 3.5.5, Application Requirements [for a Zoning Map Change]). This staff report presents the staff findings per Sec. 3.5.8, Action by the Planning Director, on the request's consistency with the Unified Development Ordinance and applicable adopted plans.

This review is based primarily on compliance with any applicable laws, plans, or adopted policies of the City Council. Any issues or concerns raised in this report are based on best professional planning practice unless they have a basis in adopted plans, policies, and/or laws.

## **D. Unified Development Ordinance (UDO) Compliance**

This request is consistent with the requirements of the Unified Development Ordinance. The associated development plan (see Appendix A, Attachment 4, Development Plan reduction) provides the required elements for zoning map change requests in the CN(D) district (Sec. 3.5.6.D, Sec. 6.10.1.B). In addition, commitments in excess of UDO requirements have been made (see Appendix D for supporting information):

**Text Commitments.** Text commitments have been proffered to commit to requirements in excess of ordinance standards regarding orientation of building and dumpsters, prohibited uses (daycare, bars, nightclubs, gas pumps or restaurants with

drive thru windows), loading docks, air ventilation, finished floor elevation, and stream buffer disturbance.

**Graphic Commitments.** Graphic commitments include the general location of the site access point, location of the tree preservation area, offsite greenway trail easement, committed uses, and on- and offsite project boundary buffers.

**Design Commitments.** Design commitments are required of zoning requests that include a development plan for nonresidential projects. This proposal includes commitments for commercial buildings that specify architecture style and features, rooflines, and building materials.

**Determination.** If the requested CN(D) zoning district is approved, this request would allow for a maximum of 8,000 square feet of total floor area of office, retail, and/or restaurant uses excluding daycare, bars, nightclubs, gas pumps, or drive up windows associated with a restaurant. The proposed uses are compatible with and consistent with the current and planned development pattern and the Future Land Use Map, should the plan amendment be approved.

## E. Adopted Plans

A zoning map change request must be consistent with the *Comprehensive Plan*. As such, other adopted plans have been included by reference in this document. Table E, Adopted Plans, in Appendix E identifies the applicable policies of the *Comprehensive Plan* and other adopted plans included by reference.

**Determination.** The requested CN(D) zoning district is not consistent with the Future Land Use Map of the *Comprehensive Plan* which designates this site as Low-Medium Density Residential (4-8 DU/Ac.) and Recreation and Open Space. However, a plan amendment (case A1200015) to designate the site as Commercial has been requested and is being supported by staff.

Conditions in other adopted plans have been identified (see Appendix E, Table E):

**Long Range Bicycle Plan Map 4.4.** A proposed bicycle lane is shown along Guess Road and a proposed greenway is shown along Warren Creek (adjacent to the site). If approved, this project is not required to construct road improvements along Guess Road and therefore does not warrant improvements associated with the bicycle lane. The Durham Parks and Recreation Department reviewed this zoning request and did not request a greenway easement through the subject site. However, a 100-foot greenway easement is shown offsite along the north side of Warren Creek which is considered an off-site graphic commitment of this plan.

## F. Site Conditions and Context

**Site Conditions.** This request includes a single, 2.95-acre parcel at 1439 Victory Boulevard with frontage on Guess Road north of Horton Road and south of Prison Camp Road. The northern portion of the site has been cleared and the southern portion of the site left

undisturbed along the stream (Warren Creek tributary), floodway, and floodway fringe. A 100-foot Duke Power Easement runs through the southern portion of the site.

**Area Characteristics.** This site is in the Suburban Tier in an area that is primarily developed with automobile oriented patterns and uses near the junction of two waterways (Warren Creek and Eno River). Although not located on site, the Eno River Natural Heritage Area is associated with Warren Creek's convergence with the Eno River. The proposed development does not directly impact this Natural Heritage Area and does not propose any more disturbance than is permitted with the existing zoning district.

This area is within the E-B Watershed Protection Overlay district limits impervious surface allowances of proposed development to 70% provided that stormwater runoff is appropriately treated.

Appendix F provides a summary of the uses and zoning in the more immediate vicinity of the subject site.

**Determination.** The proposed CN(D) district meets the ordinance requirements in relation to development on the subject site.

## G. Infrastructure

The impact of the requested change has been evaluated to suggest its potential impact on the transportation system, water and sewer systems, and schools. In each case, the impact of the change is evaluated based upon a change from the most intense development using the existing land use and zoning to the most intense use allowed under the request.

See Appendix G for additional information.

**Determination.** The proposed CN(D) district is consistent with *Comprehensive Plan* policies regarding the infrastructure impacts of transit, utility, drainage/stormwater, schools and water supply. The proposal is not estimated to change student generation since no residential exists nor is proposed. However, the proposal is estimated to increase water demand by 375 gallons per day and traffic generation by 133 trips per day. The existing infrastructure has available capacity to meet these needs.

## H. Staff Analysis

Staff determines that, should the plan amendment be approved, this request would be consistent with the *Comprehensive Plan* and applicable polices and ordinances.

If the requested CN(D) zoning designation were approved a committed maximum of 8,000 square feet of office and/or retail and/or restaurant without drive up window would be the committed use restrictions of the site. The following retail uses would not be permitted: daycare, bars, nightclubs, gas pumps, and drive-up windows associated with a restaurant.

**I. 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>		
Agent: Michael Leigh, Horvath Associates	Ph: 919-490-4990	Michael.Leigh@horvathassociates.com

**J. 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 2
- Friends of Durham
- Unity in the Community for Progress
- Friends of West Point Park

**K. Summary of Planning Commission Meeting October 8, 2013 (Case Z1200026)**

**Zoning Map Request:** Request CN (D) to CN (D).

**Staff Report:** Ms. Wolff presented the staff report.

**Public Hearing:** Chair Jones opened the public hearing. Two people signed up to speak and two people spoke in support and no one spoke in opposition. Chair Jones closed the public hearing.

**Commission Discussion:** It was stated the original plans had two driveways instead of one. It was clarified it was two driveways at the beginning because of the current plans of the retirement home that two driveways were needed. A single driveway is consistent with the UDO. The 100 feet buffer will remain. Homeowners have met with developers. The stream will not be affected as well. The ordinances allowed 90 units, townhouses were limited, but commercial area is adequate for retail.

**Motion:** Approval of the Zoning Case Z1200026. (Mr. Whitley, Mr. Harris 2<sup>nd</sup>).

**Action:** Motion carried, 11-0.

**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 based on comments received at the public hearing and the information in the staff report.

**L. Supporting Information**

<b>Table K. Supporting Information</b>		
<b>Applicability of Supporting Information</b>		
Appendix A	Application	Attachments: 1. Context Map 2. Future Land Use Map 3. Aerial Photography 4. Development Plan Reduction 5. Submittal and Review History
Appendix B	Site History	N/A
Appendix C	Review Requirements	N/A
Appendix D	Unified Development Ordinance	Table D1: Designation Intent Table D2: District Requirements Table D3: Environmental Protection Table D4: Project Boundary Buffers Table D5: Summary of Development Plan
Appendix E	Adopted Plans	Table E: Adopted Plans
Appendix F	Site Conditions and Context	Table F: Site Context
Appendix G	Infrastructure	Table G1: Road Impacts Table G2: Transit Impacts Table G3: Utility Impacts Table G4: Drainage/Stormwater Impacts Table G5: School Impacts Table G6: Water Impacts
Appendix H	Staff Analysis	N/A
Appendix I	Contacts	N/A
Appendix J	Notification	N/A
Appendix K	Summary of Planning Commission Meeting	Attachments: 6. Planning Commissioner’s Written Comments 7. Ordinance Form

## Appendix A: Application Supporting Information

Attachments:

1. Context Map
2. Future Land Use Map
3. Aerial Photography
4. Development Plan Reduction
5. Submittal and Review History

## Appendix D: Unified Development Plan Supporting Information

<b>Table D1. UDO Designation Intent</b>	
<b>CN</b>	<b>Commercial Neighborhood:</b> the CN district is established to provide for modest-scale commercial centers in close proximity to residential areas that offer limited commercial uses to satisfy the needs of the surrounding neighborhood; each lot is limited to 20,000 square feet of project floor area. While CN is a commercial district, other uses such as residential and office may also be allowed.
<b>D</b>	<b>Development Plan</b> – the letter “D” following a zoning district indicates that a development plan has been included with a zoning map change request. This designation may be added to any zoning map change request to signify that a conceptual representation of the proposed site has been submitted that indicates how the proposed development could meet ordinance standards. Any significant change to the development plan would require a new zoning petition.
<b>E-B</b>	<b>Eno District B Watershed Protection Overlay:</b> The purpose this overlay district is to preserve the quality of the region's drinking water supplies through application of the development standards intended to protect the environment. In general, water supply protection will be accomplished by establishing and maintaining low intensity land use and development on land near the region's water supply rivers and reservoirs. Where high density development is desired, water supply protection will be accomplished through the use of engineered stormwater controls. The overall objective is to:

<b>Table D2. District Requirements – CN</b>			
	<b>Code Provision</b>	<b>Required</b>	<b>Development</b>
<b>Minimum Site Area (square feet)</b>	6.10.1.B	5,000	128,502
<b>Minimum Lot Width (feet)</b>	6.10.1.B	50	200
<b>Minimum Street Yard (feet)</b>	6.10.1.B	25	60
<b>Minimum Side Yard (feet)</b>	6.10.1.B	15	60
<b>Minimum Rear Yard (feet)</b>	6.10.1.B	25	90
<b>Maximum Height (feet)</b>	6.10.1.B	35	35

<b>Table D3. Environmental Protection</b>			
<b>Resource Feature</b>	<b>UDO Provision</b>	<b>Required</b>	<b>Committed</b>
<b>Tree Coverage</b>	8.3.1C	10% (0.30 acres)	13.07% (0.39 acres)
<b>Riparian Buffer</b>	8.5.4.B.1	100	100

<b>Table D4. Project Boundary Buffers</b>			
<b>Cardinal Direction</b>	<b>Adjacent Zone</b>	<b>Required Opacity</b>	<b>Proposed Opacity</b>
<b>North</b>	RS-M(D)	N/A (right-of-way greater than 60 feet)	N/A
	RS-20	N/A (right-of-way greater than 60 feet)	N/A
<b>East</b>	RS-M(D)	0.4/0.6	0.6 (30 feet)*
<b>South</b>	CC(D)	0.2/0.6	0.6 (30 feet)
<b>West</b>	CN(D)	0/0	0/0
	PDR 2.000	N/A (right-of-way greater than 60 feet)	N/A
	RS-M(D)	N/A (right-of-way greater than 60 feet)	N/A

\*to be met with on- and off-site buffer as depicted on development plan

<b>Table D5. Summary of Development Plan</b>		
<b>Components</b>	<b>Description</b>	<b>Plan Sheet</b>
<b>Required Information</b>	<b>Intensity/Density.</b> 8,000 square feet of commercial building area.	D100
	<b>Building/Parking Envelope</b> has been appropriately identified.	D100
	<b>Project Boundary Buffers</b> are appropriately shown.	D100

<b>Table D5. Summary of Development Plan</b>		
	<b>Stream Crossing.</b> None shown.	N/A
	<b>Access Points.</b> One (1) site access point has been identified.	D100
	<b>Dedications and Reservations.</b> None.	N/A
	<b>Impervious Area.</b> 19.44% (25,000 square feet)	D100
	<b>Environmental Features.</b> Streams, floodway, and floodway fringe have been identified.	D001, D100
	<b>Areas for Preservation.</b> See Tree Coverage (below).	D100
	<b>Tree Coverage.</b> 16,802 square feet (13.07%) of tree preservation area as shown.	D100
<b>Graphic Commitments</b>	<ol style="list-style-type: none"> <li>1. Location of one site access point.</li> <li>2. Location of tree preservation area as shown.</li> <li>3. Warren Creek greenway trail easement (offsite).</li> <li>4. Committed uses: office and/or retail and/or restaurant without drive up window.</li> <li>5. Eastern project boundary buffer shown on- and off-site.</li> </ol>	D100
<b>Text Commitments</b>	<ol style="list-style-type: none"> <li>1. The proposed building shall front on Guess Road with the rear of the building adjacent to the stream buffer. Parking shall be provided between the building and the right-of-way of both Victory Boulevard and Guess Road.</li> <li>2. A maximum of 8,000 square feet of commercial building area may consist of one (1) and/or two (2) stories (maximum building height 35 feet).</li> <li>3. The following operations and uses shall not be permitted: daycare, bars, nightclubs, gas pumps or restaurants with drive thru windows.</li> <li>4. All stream buffers outside of private easements shall not be disturbed.</li> <li>5. All dumpsters shall face either Guess Road or Victory Boulevard.</li> <li>6. Loading docks shall not be permitted within the commercial development.</li> <li>7. Air ventilation associated with food preparation shall not vent out the rear of the building.</li> <li>8. The finished floor elevation shall not exceed one (1) foot above the elevation of the road intersection of Victory Boulevard and Nicklaus Drive.</li> </ol>	Cover
<b>SIA Commitments</b>	None Provided.	N/A
<b>Design Commitments</b>	<p><u>Architecture Style:</u> The proposed commercial building will use brick and/or stone veneer at the building foundation base, half-moon windows and/or eyebrow design elements, and dormers.</p> <p><u>Rooflines:</u> a hip roof will be used for all buildings. Gable and/or eyebrow dormers will be included on street facing facades.</p> <p><u>Materials:</u> The exterior of the commercial building will be a</p>	Cover

Table D5. Summary of Development Plan		
	<p>minimum of two listed materials: brick, horizontal siding (fiber cement and/or vinyl), glass store fronts or stone. The architectural materials will be the same for all sides of each building. No CMU or split face CMUs will be used.</p> <p><u>Distinctive Features:</u> Storefront windows along Guess Road will be taller than wide in proportion. Accent materials of stone and/or brick will be used as columns, corner details and accent elements of the site (i.e. signage, posts, light bases).</p>	

**Appendix E: Adopted Plans Supporting Information**

Table E. Adopted Plans	
<i>Comprehensive Plan</i>	
Policy	Requirement
<b>Future Land Use Map</b>	<p><b>Low-Medium Density Residential:</b> Land used primarily for residential uses.</p> <p><b>Recreation and Open Space:</b> Identify and protect identified areas. [Note: the property within this request has not been specifically identified]</p> <p><b>Suburban Tier:</b> Land uses that shall be allowed include Recreation and Open Space, Agricultural, Residential, Institutional, Commercial, Office, Research/Research Application, and Industrial.</p>
<b>2.2.2b</b>	<b>Suburban Tier Land Uses.</b> Land uses that shall be allowed include Recreation and Open Space, Agricultural, Residential, Institutional, Commercial, Office, Research/Research Application, and Industrial.
<b>2.3.1a</b>	<b>Contiguous Development:</b> Support orderly development patterns that take advantage of the existing urban services, and avoid, insofar as possible, patterns of leapfrog, noncontiguous, scattered development.
<b>2.3.2a</b>	<b>Infrastructure Capacity.</b> Consider the impacts to the existing capacities of the transportation, water, and sewer systems, and other public facilities and services. Measure from the potential maximum impact of current policy or regulation to the potential maximum impact of the proposed change in policy or regulation.
<b>8.1.2j</b>	<b>Transportation Level of Service Maintenance:</b> Not recommend approval for any zoning map change which would result in the average daily trips exceeding 110% of the adopted level of service standards for any adjacent road, unless the impact on the adjacent roads is mitigated.
<b>8.1.4c and d</b>	<b>Development Review and the Adopted Bicycle Plans:</b> Review development proposals in relation to the 2006 Comprehensive Durham Bicycle Transportation Plan and the Bicycle Component of the most recent adopted Long Range Transportation Plan, and seek dedication or reservation of right-of-way or easements and construction of facilities in conformance with that Plan and Complete Street design standards.
<b>11.1.1a</b>	<b>School Level of Service Standard:</b> The level of service for public school facilities shall be established as a maximum enrollment of 110 percent of the system’s maximum permanent building capacity, measured on a system-wide basis for each type of facility.

Table E. Adopted Plans	
11.1.1b	<b>Adequate Schools Facilities:</b> Recommend denial of all Zoning Map amendments that proposed to allow an increase in projected student generation over that of the existing zoning that would cause schools of any type to exceed the level of service.
<b>Long Range Bicycle Plan</b>	
Map 4-4 shows a proposed bicycle lane along Guess Road and proposed greenway along Warren Creek.	

## Appendix F: Site Conditions and Context Supporting Information

Table F. Site Context			
	Existing Uses	Zoning Districts	Overlays
North	Single-family residential, place of worship, bank	RS-M(D), RS-20, OI(D)	E-B
East	Multi-family residential	RS-M(D)	E-B
South	Retail	CN(D), CC(D)	E-B
West	Multi-family residential, vacant	RS-M(D), PDR 2.000	E-B

## Appendix G: Infrastructure Supporting Information

Table G1. Road Impacts	
Guess Road is the major road impacted by the proposed development. There are no scheduled NCDOT roadway improvement projects in the area.	
Affected Segments	Guess Road
Current Roadway Capacity(LOS D) (AADT)	31,500
Latest Traffic Volume (AADT)	20,000
Traffic Generated by Present Designation (average 24 hour)*	222
Traffic Generated by Proposed Designation (average 24 hour)**	355
Impact of Proposed Designation	+133

Source of LOS Capacity: FDOT Generalized Level of Service Volume Table 4-1 (2010)

Guess Road: Five-lane undivided class II arterial

Source of Latest Traffic Volume: 2011 NCDOT Traffic Count Map

\*Assumption- (Max Use of Existing Zone): 5,000 square-foot specialty retail

\*\* Assumption- (Max Use of Proposed Zoning): 8,000 square-foot specialty retail

Table G2. Transit Impacts
Transit service is provided within one-quarter mile of this site along Horton Road (west of Guess Road) and Guess Road (south of Horton Road) via DATA route #1.

<b>Table G3. Utility Impacts</b>
This site is served by City water and sewer.

<b>Table G4. Drainage/Stormwater Impacts</b>
The impacts of any change will be assessed at the time of site plan review. The subject site is of sufficient size and shape to accommodate appropriate stormwater facilities that may be required at this time.

<b>Table G5. School Impacts</b>			
The proposed zoning is not estimated to generate any students; the plan commits to nonresidential uses. This does not represent a change from the existing zoning. Durham Public Schools serving the site are Easley Elementary School, Carrington Middle School, and Riverside High School.			
Students	Elementary School	Middle School	High School
<b>Current Building Capacity</b>	16,832	7,717	9,980
<b>Maximum Building Capacity (110% of Building Capacity)</b>	18,515	8,489	10,978
<b>20<sup>th</sup> Day Attendance (2012-13 School Year)</b>	16,150	7,212	9,476
<b>Committed to Date (April 2010 – March 2013)</b>	432	151	88
<b>Available Capacity</b>	1,933	1,126	1,414
<b>Potential Students Generated – Current Zoning*</b>	0	0	0
<b>Potential Students Generated – Proposed Zoning**</b>	0	0	0
<b>Impact of Proposed Zoning</b>	0	0	0

\*Assumption- (Max Use of Existing Zoning) – no residential identified on existing development plan

\*\* Assumption- (Max Use of Proposed Zoning) – no residential identified on proposed plan

<b>Table G6. Water Supply Impacts</b>	
This site is estimated to generate a total of 1,000 GPD if developed to its maximum potential with the proposed zoning district. This does not represent a change from the existing zoning district.	
<b>Current Water Supply Capacity</b>	37.00 MGD
<b>Present Usage</b>	23.33 MGD
<b>Approved Zoning Map Changes (April 2010 – March 2013)</b>	0.70 MGD
<b>Available Capacity</b>	12.97 MGD
<b>Estimated Water Demand Under Present Zoning*</b>	625 GPD
<b>Potential Water Demand Under Proposed Zoning**</b>	1000 GPD
<b>Potential Impact of Zoning Map Change</b>	+375

*Notes: MGD = Million gallons per day*

**\*Assumption- (Max Use of Existing Zone):** 5,000 square-foot specialty retail

**\*\* Assumption- (Max Use of Proposed Zoning):** 8,000 square-foot specialty retail

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

Attachments:

6. Planning Commissioner’s Written Comments
7. Ordinance Form