



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



PLAN AMENDMENT REPORT

Meeting Date: September 16, 2013

Reference Name	Hendrick Southpoint (A1200014)		Jurisdiction	City (pending annexation)
Applicant	Durham Investments LLC			
Request Change in Comprehensive Plan Designation	From:	Low Medium Density Residential (4-8 Units/Acre)		
	To:	Commercial		
Site Characteristics	Tier:	Suburban		
	Present Use:	Single-family residential; Vacant		
	Present Zoning:	RR (Rural Residential)		
	Overlays:	F/J-B (Jordan Lake Protected Area)		
	Size:	12.87 acres		
Location	West side of Fayetteville Road, north of Massey Chapel Road and south of Renaissance Parkway			
PIN(s)	0718-04-61-8679; -71-2556			
Recommendations	Staff	Approval, based on conditions warranting an amendment to the Future Land Use Map and the proposed plan amendment meeting the four criteria for plan amendments.		
	Planning Commission	Approval, August 13, 2013, 10-2, based on the justification, the request meeting the four criteria for plan amendments, and information heard at the public hearing.		

A. Summary

The applicant, Durham Investments LLC, proposes to amend the Future Land Use Map on the west side of Fayetteville Road, north of Massey Chapel Road and south of Renaissance Parkway. The proposal would change the future land use designation from Low-Medium Density Residential (4-8 dwelling units/acre) to Commercial for approximately 12.87 acres. The site is currently under Durham County jurisdiction; however, a request to annex the site into the City of Durham is pending, as well as an associated request to amend the zoning map (Z1200025).

B. Site History

Triangle Township Plan. Prior to the current *Durham Comprehensive Plan*, Durham County was divided into planning districts, each with its own small area plan. The *Triangle Township Plan*, adopted in 1993, would have provided planning and policy guidance for areas of southern Durham where the subject site is located. By that time, the Kentington Heights neighborhood had been established, and issues with water quantity and quality had been identified. The Plan recommended the future land use remain low density residential and suggested special provisions for water service that have not materialized.

NC 54/I-40 Corridor Study. In 2002, additional study along the NC Highway 54 and Interstate 40 Corridor was completed. The construction of the Streets of Southpoint at Fayetteville Road and Interstate 40 had significantly altered infrastructure and development patterns south of the interstate. The Plan's study area included Kentington Heights and the subject parcels, and resulted in a change in future land use policy to Commercial for the Kentington Heights neighborhood and to Medium Density Residential for the subject parcels. At the time, Medium Density Residential was defined as 4-8 dwelling units per acre. The Plan offered this policy guidance with regards to Kentington Heights:

“Commercial development is shown on the FLUM for Kentington Heights. This would support a wide variety of commercial zoning and uses, such as general commercial zoning. It would also support hotel, office and related uses. The most intense development on this site should be abutting the intense Commercial use to the north. The commercial development on this site must be buffered by the least intensive uses next to existing neighborhoods. It is essential that the development described above occurs through single ownership or as a single project with ownership divided between major participants. Unifying design elements, a new roadway design and buffering of surrounding neighborhoods are necessary to ensure the desirability of any project.”

2005 Durham Comprehensive Plan. The 2005 Comprehensive Plan consolidated the City's and County's many small area plans. Kentington Heights and the subject parcels retained the future land use designations from the NC 54/I-40 Corridor Study. The following policy was included to capture the intent of the NC 54/I-40 Corridor Study:

Policy 2.3.2I, Neighborhoods in Transition. Identified neighborhoods, such as Kentington Heights, seeking an area-wide change in land use shall develop through single ownership or as a single project employing unifying design elements, roadways, and buffers.

2009 Evaluation and Assessment Report Policy Update. The Comprehensive Plan is updated on an annual basis, providing opportunity to assess implementation and refine policy language. In 2009, an amendment to the above policy for *Neighborhoods in Transition* was requested by the Joint City-County Planning Committee. The new policy, *Special Redevelopment Areas*, removed the clause about single-ownership, and instead

emphasized that phased development ought to occur in a manner that would not preclude future phases from developing to similar uses and standards:

Policy 2.3.2I, Special Redevelopment Areas. When multiple existing lots are proposed for new development or redevelopment as part of an area-wide change in land use, and where significant development has changed the character of the surrounding area, the development should be configured in such a way so as to:

- i. Ensure that the tracts which are not included in the development are of sufficient size, shape, and location to be subsequently developed to compatible standards and use;
- ii. Employ unifying design elements, roadways, and buffers; and
- iii. Incorporate vehicular, pedestrian, and bicycle access as required by the UDO in a way to serve the development as well as other adjacent parcels not proposed for development.

Commercial Development at Fayetteville Road (A1000008). In September 2010, an application to amend the Future Land Use Map to Commercial for three parcels (two of which are the subject parcels of the current request) was submitted. This case was administratively withdrawn in August 2010 prior to public hearings.

C. Existing Site Characteristics

The site of the proposed plan amendment includes two parcels with access onto Fayetteville Road; it represents only a portion of the project area of zoning map change, case Z1200025. On the 2-acre parcel is a single-family dwelling and a farm pond. The larger parcel (10.72 acres) is vacant, with a stream bisecting the site from northeast to southwest. Land on both parcels slopes toward the stream, though the change in grade does not exceed 15 percent anywhere in the subject area.

There is a gap in sidewalk and bicycle infrastructure along the west side of Fayetteville Road between Massey Chapel Road and Renaissance Parkway. The site is not immediately served by bus transit; however, routes serving the Streets at Southpoint (DATA routes 5, 14, and Route 141, as well as Triangle Transit Route 800) are within a half-mile.

D. Applicant's Plan Amendment Justification

The applicant contends the parcels under consideration ought to be amended from the adopted land use designation (Low-Medium Density Residential) for a number of reasons. The applicant writes, "the requirements for stream buffering, stormwater management, road widening and the oddly shaped building areas ... make this parcel nearly infeasible to develop as a low/medium density parcel." According to the applicant's estimates, given the site development requirements noted previously, "It appears the property would accommodate only about 7 or 8 typical 4-unit townhouse buildings, for a total of 28-32 units." This is a density of approximately 2.18 to 2.5 units per acre, below the threshold for Low-Medium Density Residential (4-8 units per acre). The implementation of the Jordan Lake Rules, the applicant notes, removes the possibility of piping the on-site

streams and results in less developable land; however, the streams and the “50 ft. wide natural [vegetated project boundary] buffer ... provides a superior buffer between the commercial and residential uses.”

The applicant continues, describing how a Commercial land use designation would be consistent with adopted goals and policies of the Comprehensive Plan and how it “retains the integrity of the overall FLU map for the area.” The applicant explains the proposal, “expands an existing commercial node which is located at the intersection of major transportation corridors.” In addition, “The stream buffer (and cemetery) along most of the southern boundary effectively terminate expansion of the commercial node to the south.”

Staff Response: Staff agrees with the applicant that circumstances surrounding this site have changed since 2002 to such a degree that changing the Future Land Use Map may be warranted. The Jordan Lake Rules, which went into effect in 2011, restricts the piping of streams and calls into question the amount of developable land on the site. This presents a challenge to the use of the site as a residential project of 4-8 dwelling units per acre. A further examination of the applicant’s request that this site be designated as Commercial based on the criteria for plan amendments 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*. (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. 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. 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.

Table 1: Relevant <i>Comprehensive Plan</i> Policies
<i>Policy 2.2.2e. Suburban Tier Commercial Development.</i> Discourage auto-oriented commercial “strip” development and instead encourage commercial “nodes” with appropriately designed internal connections at key locations along major transportation corridors.
<i>Policy 2.2.2f. Suburban Tier Spacing of Commercial Nodes.</i> The City-County Planning Department shall use the following standards when evaluating requests for new commercial development in the Suburban Tier: <ul style="list-style-type: none"> i. Separate distinct nodes of commercial development by a distance of at least one-half mile, measured from the outermost edge of the node; ii. Cluster commercial uses at intersections of thoroughfares; and iii. Restrict new, isolated, mid-block commercial uses.
<i>Policy 2.3.1e. Expansion of Commercial Nodes.</i> Through the Unified Development Ordinance, and in evaluating requests for expansions to existing commercial nodes, require that the proposed development be designed to be integrated with the rest of the existing node to promote pedestrian and vehicular circulation.
<i>Policy 2.2.2g. Special Redevelopment Areas.</i> When multiple existing lots are proposed for new development or redevelopment as part of an area-wide change in land use, and where significant development has changed the character of the surrounding area, the development should be configured in such a way so as to: <ul style="list-style-type: none"> i. Ensure that the tracts which are not included in the development are of sufficient size, shape, and location to be subsequently developed to compatible standards and use; ii. Employ unifying design elements, roadways, and buffers; and iii. Incorporate vehicular, pedestrian, and bicycle access as required by the UDO in a way to serve the development as well as other adjacent parcels not proposed for development.
<i>Policy 2.3.1b. Contiguous Development.</i> Support orderly development patterns that take advantage of existing urban services, and avoid, insofar as possible, patters of leapfrog, noncontiguous, scattered development.

As many of the policy statements listed in Table 1 indicate, “nodes” are the preferred pattern for commercial growth. Contrary to “strip” commercial development, nodes are characterized by clustered and integrated design allowing access (vehicular and pedestrian) between individual uses. As noted previously, the Kentington Heights neighborhood has been indicated as a future commercial node in Durham’s future land use plans since 2002. The inclusion of the two subject parcels into the node would not represent a southern expansion, but it would create additional commercial frontage on the west side of Fayetteville Road. While some issues mentioned in *Policy 2.2.2g. Special Redevelopment Areas* such as site design and pedestrian/vehicular

access are addressed on the associated development plan, they are flushed out in even greater detail at the site plan level. Staff believes that the residential tracts that remain in Kentington Heights are adequately configured to become a future phase of a similar development.

Staff Conclusion: This proposed plan amendment is consistent with adopted plans and policies, and therefore, does meets criterion 3.4.7A.

2. Compatibility with Existing Development and Future Land Use Patterns

This site is in southern Durham County on the west side of Fayetteville Road, south of Renaissance Parkway and north of Massey Chapel Road. It is located in the Suburban Tier and is within the Jordan Lake Protected Watershed (F/J-B). The character of the area has experienced a substantial transformation in recent decades, from agricultural and very low density residential uses to suburban scale subdivisions surrounding a regional mall. Despite the rapid transition, some areas have remained relatively unchanged, such as the Kentington Heights neighborhood, Herndon Farm, and the historic Massey’s Chapel. Many of the main arterials are still two-lane farm-to-market roads that expand into multiple lanes leading up to major intersections.

Table 2: Area Land Uses and Designations		
	Existing Uses	Future Land Use Designations
North	Low density residential	Commercial
East	Low density residential	Low-Medium Density Residential
South	Place of Worship Low density residential	Low Density Residential
West	Low density residential	Commercial

Existing Uses: The site of the proposed plan amendment is bordered to the north and west by the Kentington Heights neighborhood. Many of the platted lots, which average approximately a ½ acre, are vacant along Kentington Drive. East and south of the site is large lot residential development supported by well and septic systems. Immediately south of the site is the Massey’s Chapel United Methodist Church, a local historic landmark.

Future Land Use Designations: Adjacent areas north and east of the site are designated for Commercial on the Future Land Use Map, established through the 2002 NC 54-I-40 Corridor Study. East, across Fayetteville Road, is envisioned to be Low-Medium Density Residential, which allows between 4-8 dwelling units per acre. South of the site is expected to remain Low Density Residential, allowing 4 units per acre or fewer.

Analysis: In examining the Future Land Use Map, it appears the policy intention was to use a Low-Medium Density designation for the subject parcels to help buffer lower

density residential areas and the historic chapel from the commercial node. The applicant argues that the required stream buffer, which will total 200 feet, will provide the same effect of buffering and insulating properties to the south. Buffering standards are addressed more in the zoning map change report. While the proposed land use is different from what exists in the immediate area today, it is not out of character with the adopted future land use pattern which shows this area developing into a commercial node.

Staff Conclusion: The proposed plan amendment is compatible with the existing land use pattern and designated future land uses 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.

The site is currently located within the jurisdiction of Durham County; however, a petition to annex into the City of Durham has been filed jointly with a request for City utilities (“Extension Agreement”). Through that review process, it will be determined if there is adequate infrastructure and service capacity to annex the site.

Durham Comprehensive Plan Policy 8.1.2a, Traffic Level of Service (LOS) Standards, states that the LOS for roads in the Suburban Tier shall achieve a minimum of LOS D.

Analysis: A Traffic Impact Analysis was completed to evaluate the entirety of the area shown on the development plan for impacts to the transportation system. A number of roadway improvements will be required in order to maintain a sufficient Level of Service on surrounding roadways. Commitments for those roadway improvements are detailed in the Zoning Map Change staff report.

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 housing. The Planning Department estimates that by 2035 there will be demand for 189,000 dwelling units county-wide. On the Future Land Use Map, enough land is designated to accommodate 225,000 dwelling units, meaning there is a surplus of land already designated for residential uses. Therefore, the effect of converting 12.87 acres of residential land to commercial is negligible.

Environment: The site is located in the Jordan Lake Protected Area and there are water features on site including a farm pond and a perennial/intermittent stream. Standards in the Unified Development Ordinance will require protection of the stream by 100-foot buffers on either side.¹ There are no required protections for the farm pond. Staff has determined there are no site specific conditions that would preclude it from developing according to standards for environmental protection found in the Unified Development Ordinance.

Historic Resources: This site is in proximity to Massey's Chapel, built in 1900 and registered as Durham County's first Local Historic Landmark. It was designated in 1989 as significant to the community's history for its architecture, cultural design, setting and workmanship. The chapel itself will be buffered from the commercial development by the stream buffer and vacant property owned by the Massey Chapel United Methodist Church. While it is not a commitment of the development plan to widen Fayetteville Road along the frontage of the chapel property, Staff does have concerns that overall changes to the area will negatively impact the setting of the historic structure.

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 12.87 acres in total, and is of sufficient shape and size for commercial development in the Suburban 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:

- Inter-neighborhood Council
- People's Alliance
- Fairfield Community Awareness Committee
- Northeast Streamwatch
- Durham Justice and Fairness Inter-Neighborhood Association
- Partners Against Crime District 3
- Partners Against Crime District 4

¹ Pending legislation in the North Carolina General Assembly could mandate a reduction of stream buffers in the City of Durham to 50 feet on either side of a stream. However, the 200-foot total buffer is a committed element of the development plan (see zoning map change report).

G. Recommendations

Staff recommends approval, based on conditions warranting an amendment to the Future Land Use Map and the proposed plan amendment meeting the four criteria for plan amendments.

The Planning Commission recommended approval, 10-2, at its August 13, 2013 meeting based on the justification, the request meeting the four criteria for plan amendments, and information heard at the public hearing.

H. Staff Contact

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