



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



ZONING MAP CHANGE REPORT

Meeting Date: May 5, 2014

Table A. Summary			
<b>Application Summary</b>			
<b>Case Number</b>	Z1400001	<b>Jurisdiction</b>	City
<b>Applicant</b>	UDI Community Development Corporation	<b>Submittal Date</b>	January 13, 2014
<b>Reference Name</b>	UDI Farm	<b>Site Acreage</b>	5.897 acres
<b>Location</b>	4601 Industry Lane, with frontage on Industry Lane and East Cornwallis Road, west of Fayetteville Road.		
<b>PIN(s)</b>	0729-02-97-7530		
<b>Request</b>			
<b>Proposed Zoning</b>	Residential Suburban - 20 (RS-20)	<b>Proposal</b>	Agriculture
<b>Site Characteristics</b>			
<b>Development Tier</b>	Suburban Tier		
<b>Land Use Designation</b>	Office, Recreation and Open Space		
<b>Existing Zoning</b>	Office Institutional (OI)		
<b>Existing Use</b>	Vacant		
<b>Overlay</b>	None	<b>Drainage Basin</b>	Jordan Lake
<b>River Basin</b>	Cape Fear	<b>Stream Basin</b>	Northeast 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, 12-1 on March 11, 2014. 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 5.897-acre parcel for a proposed agricultural use. The site is located at 4601 Industry Lane, with frontage on Industry Lane

and East Cornwallis Road, west of Fayetteville Road (see Attachment 1, Context Map). This zoning request is not consistent with the future land use map of the *Comprehensive Plan* which designates the site as Office and Recreation and Open Space. A Plan Amendment, case A1400001, requests to change the proposed Office land use designation to Low Density Residential (4 DU/Ac. or less); staff is supporting this change. Should the plan amendment be approved, this zoning map change request would be consistent with the Comprehensive Plan and applicable policies and ordinances.

Appendix A provides supporting information.

## **B. Site History**

There have been no recent development applications on this site.

## **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. There is no development plan associated with this request. As such, there are no voluntary limitations imposed to the requested RS-20 zoning district.

Appendix D provides supporting information.

**Determination.** If the requested RS-20 zoning district is approved, this request would allow for a range of uses that includes single-family residential, agriculture, place of worship, community service, and certain other uses that require additional approvals with a minor special use permit. The intensity of the development would be determined by the site's constraints and meeting all ordinance standards.

**Agricultural Development.** Although not committed, the applicant indicates their intent to develop the site for agricultural uses; which are only permitted in the Residential Rural (RR) and RS-20 zoning designations.

**Agricultural Uses Defined.** Land used as pasture or in the commercial production of crops, forestry, horticultural products, fish hatcheries or aquaculture, and the keeping of livestock for commercial or noncommercial purposes. Also included in the

definition of agricultural uses are agricultural accessory buildings and sales of farm products grown or produced on the premises.

**Development in Special Flood Hazard Areas.** Agricultural uses are expressly permitted in Special Flood Hazard Areas with no special approvals required (UDO 8.4.4A). Any accessory use or structure, such as a barn or green house, requiring land disturbing activity is subject to all typical required approvals.

## 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 RS-20 zoning district is not consistent with Future Land Use Map of the *Comprehensive Plan*. However, Plan Amendment case A1400001 proposes to change the existing Office land use designation to Low Density Residential (4 DU/Ac. or less); staff is supporting the request. If approved, the requested RS-20 zoning designation would be consistent with the *Comprehensive Plan*.

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

**Long Range Bicycle Plan Map 4.6.** There is an existing bicycle lane shown along East Cornwallis Road shown on Map 4.6 of the Long Range Bicycle Plan. Since this attribute is already built no further consideration is required.

## F. Site Conditions and Context

**Site Conditions.** This 5.897-acre vacant site is impacted by floodway, floodway fringe, and a 30-foot sewer easement that generally follows an intermittent stream that runs north-south through the site. Using approximate measurements, one acre of the site appears to be out of any special flood hazard area; the area fronting on East Cornwallis Road. The entirety of the site is tree covered.

**Area Characteristics.** The site is in the Suburban Tier in an area where a mixture of uses comprise a nonresidential node; generally around the intersection of Martin Luther King, Jr. Parkway and Fayetteville Road. Uses in the area include large-scale retail (Lowe's), industrial, and office. On the perimeter of this node is a range of residential housing options, including single-family and apartments.

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

**Determination.** The proposed RS-20 district meets the ordinance and policy requirements in relation to development on the subject site. Any of the uses permitted in the RS-20 district (see Section D of this report) does not appear to compromise the existing character of the area as a wide range of uses already exists.

## 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 RS-20 district is consistent with *Comprehensive Plan* policies regarding the infrastructure impacts of traffic, transit, utility, drainage/stormwater, schools and water supply. The proposal is estimated to decrease traffic by 464 vehicles per day, increase students generated by two, and increase water demand by 245 gallons per day. The existing infrastructure has available capacity to meet these needs.

## H. Staff Analysis

This request, should the plan amendment be approved, would be consistent with the *Comprehensive Plan* and other policies and ordinances. If the requested RS-20 zoning designation were approved, a range of uses would be permissible. The applicant indicated the intent to develop the site for agricultural purposes to include aquaponics and agricultural structures.

## 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>		
Kevin Hamak, Farmer K, LLC	Ph: 919-452-1523	farmerk.llc@gmail.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
- Fayetteville Street Planning Group
- Friends of Durham
- Unity in the Community for Progress
- Partners Against Crime – District 4
- Northeast Creek StreamWatch

## K. Summary of Planning Commission Meeting March 11, 2014 (Case Z1400001)

**Zoning Map Change Request** from OI to Residential Suburban 20 (RS-20).

**Staff Report:** Ms. Rosenberg & Ms. Wolff presented the staff reports.

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

**Commission Discussion:** Commissioner Harris was concerned that they did not have a site plan and that any type of agriculture could be permitted. It was stated that UDI has made their mark in Durham and have been doing wonderful things.

**Motion:** Approval of the Plan Amendment Case A1300009. (Mr. Davis, Mr. Whitley 2<sup>nd</sup>).

**Action:** Motion carried, 12-1 (Mr. Harris voting No)

**Motion:** Approval of the Zoning Map Change Request Z1400001. (Mr. Davis, Mr. Whitley 2<sup>nd</sup>).

**Action:** Motion carried, 12-1 (Mr. Harris voting No)

**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

Table K. Supporting Information		
Applicability of Supporting Information		
Appendix A	Application	Attachments: 1. Context Map 2. Future Land Use Map 3. Aerial Photography 4. Application 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
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 K. Supporting Information		
		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. Application
5. Submittal and Review History

### Appendix D: Unified Development Plan Supporting Information

Table D1. UDO Designation Intent	
<b>RS-20</b>	<b>Residential Suburban (RS-20):</b> the RS-20 district is established to provide for suburban residential development and redevelopment with a minimum lot size of 20,000 square feet. Only single-family detached dwellings are permitted. While RS-20 is a residential district, agricultural activities are allowed and 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.

Table D2. District Requirements – RS-20		
	Code Provision	Required
Minimum Lot Area (square feet)	6.3.1.A	20,000
Maximum Height (feet)	6.3.1.A	35

## Appendix E: Adopted Plans Supporting Information

<b>Table E. Adopted Plans</b>	
<b>Comprehensive Plan</b>	
Policy	Requirement
<b>Future Land Use Map</b>	<p><b>Office:</b> Land used primarily for office 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>2.2.2a</b>	<b>Suburban Tier Development Focus:</b> Ensure that the Suburban Tier has sufficient land to accommodate anticipated population growth and its attendant demands for housing, employment, and goods and services, including opportunities for affordable housing and recreation.
<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 within the Urban Growth Area.
<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>8.1.2i</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.
<b>11.1.1b</b>	<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 4-6 shows an existing bicycle lane along East Cornwallis Road.	

## Appendix F: Site Conditions and Context Supporting Information

Table F. Site Context			
	Existing Uses	Zoning Districts	Overlays
North	Vacant	OI, RS-20	None
East	Single-family residential, vacant	RS-20, CN(D), RS-M(D)	None
South	Industrial	IL	None
West	Industrial, multi-family residential	IL, OI	None

## Appendix G: Infrastructure Supporting Information

Table G1. Road Impacts	
East Cornwallis Road is the major road impacted by the proposed zoning change. There are no scheduled NCDOT roadway improvement projects in the area.	
Affected Segments	East Cornwallis Road
Current Roadway Capacity (LOS D) (AADT)	14,200
Latest Traffic Volume (AADT)	8,100
Traffic Generated by Present Designation (average 24 hour)*	549
Traffic Generated by Proposed Designation (average 24 hour)**	85
Impact of Proposed Designation	-464

Source of LOS Capacity: FDOT Generalized Level of Service Volume Table 4-1 (2012)

E. Cornwallis Road: 2-lane undivided class I arterial roadway without left-turn lanes

Source of Latest Traffic Volume: 2011 NCDOT Traffic Count Map

\*Assumption- (Max Use of Existing Zoning) – OI: 49,900 SF general office (0.19 FAR)

\*\*Assumption- (Max Use of Existing Zoning) – RS-20: 9 single-family units

Table G2. Transit Impacts
Transit service is provided adjacent to this site along East Cornwallis Road via DATA route #12. The closest stop is located at East Cornwallis Road and Industry Lane.

Table G3. Utility Impacts
This site is served by City water and sewer.

Table G4. Drainage/Stormwater Impacts
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 estimated to generate three students if developed at the maximum residential capacity. This represents an increase of two students over the existing zoning. Durham Public Schools serving the site are Parkwood Elementary School, Lowes Grove Middle School, and Hillside High School.			
<b>Students</b>	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
<b>Current Building Capacity</b>	16,695	7,824	10,080
<b>Maximum Building Capacity (110% of Building Capacity)</b>	18,365	8,606	11,088
<b>20<sup>th</sup> Day Attendance (2013-14 School Year)</b>	16,579	7,465	9,737
<b>Committed to Date (January 2011 – December 2013)</b>	190	62	3
<b>Available Capacity</b>	1,596	1,079	1,348
<b>Potential Students Generated – Current Zoning*</b>	1	0	0
<b>Potential Students Generated – Proposed Zoning**</b>	1	1	1
<b>Impact of Proposed Zoning</b>	0	+1	+1

\*Assumption- (Max Use of Existing Zoning) – OI: 10 apartments

\*\*Assumption- (Max Use of Existing Zoning) – RS-20: 9 single-family units

<b>Table G6. Water Supply Impacts</b>	
This site is estimated to generate a total of 1,395 GPD if developed to its maximum potential with the proposed zoning district. This represents an increase of 245 GPD over the existing zoning district.	
<b>Current Water Supply Capacity</b>	37.00 MGD
<b>Present Usage</b>	21.65 MGD
<b>Approved Zoning Map Changes (January 2011 – December 2013)</b>	0.27 MGD
<b>Available Capacity</b>	15.08 MGD
<b>Estimated Water Demand Under Present Zoning*</b>	1,150 GPD
<b>Potential Water Demand Under Proposed Zoning**</b>	1,395 GPD
<b>Potential Impact of Zoning Map Change</b>	+245

Notes: MGD = Million gallons per day

\*Assumption- (Max Use of Existing Zoning) – OI: 10 apartments

\*\*Assumption- (Max Use of Existing Zoning) – RS-20: 9 single-family units

## Appendix K: Summary of Planning Commission Meeting

Attachments:

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