



CITY OF DURHAM | DURHAM COUNTY  
NORTH CAROLINA



PLAN AMENDMENT REPORT

Meeting Date: April 6, 2015

<b>Reference Name</b>	Magnolia Grill (A1400008)	<b>Jurisdiction</b>	City
<b>Applicant</b>	Richard Veno, Horvath Associates, PA		
<b>Request Change in Comprehensive Plan Designation</b>	<b>From:</b>	Medium Density Residential (6–12 DU/acre)	
	<b>To:</b>	Commercial	
<b>Site Characteristics</b>	<b>Tier:</b>	Urban	
	<b>Present Use:</b>	Vacant	
	<b>Present Zoning:</b>	Residential Urban-5 (RU-5)	
	<b>Overlays:</b>	N/A	
	<b>Size:</b>	0.165 acres	
<b>Location</b>	East side of Ninth Street, between Englewood Avenue and West Knox Street		
<b>PINs</b>	0822-14-34-2042		
<b>Recommendations</b>	<b>Staff</b>	Approval, based on the proposal being justified and meeting the four criteria for plan amendments.	
	<b>Planning Commission</b>	Approval, 12-0, February 10, 2015, based on based on the justification, the request meeting the four criteria for plan amendments, and information heard at the public hearing.	

**A. Summary**

The applicant, Horvath Associates, P.A., is proposing changes to the Future Land Use Map (FLUM) and the Zoning Map that would allow for the creation of a place of emergency egress, outdoor seating, and parking for an existing commercial property immediately south of the site. The applicant is proposing to amend the future land use designation for one 0.165-acre parcel, currently designated as Medium Density Residential (6–12 DU/Ac.), to Commercial. The applicant is also requesting a Zoning Map Change from Residential Urban-5 (RU-5) to Commercial Neighborhood with a development plan (CN(D)). The site is located within the City of Durham; therefore, annexation and utility extension are not under consideration.

**B. Site History**

The site is part of a large single-family residential area that began to develop around the turn of the century and continued through the 1920s and 1930s. Although the subject parcel is not located within a local historic district or a National Register historic district,

many structures from this era are still standing, including the commercial structure adjacent to the subject site, once a neighborhood grocery.

Prior to the current *Durham Comprehensive Plan*, Durham County was divided into planning districts, each with its own small area plan. The *Northwest Central Durham Plan*, as amended in 1992, recommended that the designated future land use be High Density Residential (8 DU/Ac. or more).

### **C. Existing Site Characteristics**

The site of the proposed plan amendment consists of a single vacant parcel totaling 0.165 acres. This parcel is located between a single-family home and a former corner grocery-turned-restaurant. Both structures adjacent to the vacant parcel appear to be built with less than 10 feet between their side façades and respective lot lines. The parcel is flat, with no environmental features to note. It is planted with a lawn facing the street and a dense mixture of shrubs and trees in its rear half.

### **D. Applicant's Plan Amendment Justification**

The applicant states that the parcel under consideration ought to be amended from its adopted land use designation (Medium Density Residential) to Commercial to complement existing commercial use to the south. The applicant contends that the proposal supports the *Durham Comprehensive Plan* policy of placing commercial uses at intersections.

**Staff Response:** Staff agrees with the applicant that the proposal to change the land use designation to Commercial advances the policy of the *Durham Comprehensive Plan* to locate commercial uses at intersections. The subject site faces a T-shaped intersection, at which a school and a fire station are currently located. While the subject site is adjacent to a single-family residence with no existing buffer, any new development will be subject to zoning regulations that ensure an appropriate buffer is put in place.

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. Evaluating the proposed plan amendment for consistency with relevant policies is crucial in determining if changing the Future Land Use Map is appropriate. The following policies were deemed relevant to the current plan amendment request.

<b>Table 1: Policies in Support of Commercial Use</b>
<i>Policy 2.2.3d. Urban Tier Commercial Development.</i> Discourage auto-oriented commercial “strip” development and instead encourage pedestrian-oriented “nodes” and, where appropriate, pedestrian friendly “linear” corridors (see inset on page 2-8) of commercial development and infill. (See Policy 4.2.3a, Commercial Development Design).
<i>Policy 2.2.3e. Urban 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 Urban Tier: <ul style="list-style-type: none"><li>i. Separate distinct nodes of commercial development by a distance of at least one-half (1/2) mile;</li><li>ii. Cluster commercial uses at intersections of thoroughfares; and</li><li>iii. Restrict new, isolated, mid-block commercial uses, unless compatible with surrounding uses.</li></ul>
<i>Policy 2.2.3f. Urban Tier Commercial Infill.</i> Through the Unified Development Ordinance, provide opportunities for neighborhood-scale commercial node and linear development, intended to be directly accessible from surrounding residential neighborhoods.
<i>Policy 4.3.2a. Infill Development Standards.</i> Through the Unified Development Ordinance, encourage and promote compatible residential and non-residential infill on vacant or under-utilized property within developed portions of the community to reinforce the existing character. Include provisions for contextual design of both residential and nonresidential infill projects in the Urban and Compact Neighborhood Tiers. Encourage adaptive reuse of existing buildings. (See Policy 2.3.4d, Infill Development Standards).

Amending the Future Land Use Map to Commercial is consistent with the abovementioned policy statements. The Plan seeks to promote the expansion of a commercial node at an intersection in the Urban Tier; in this case, the expansion is small enough to integrate well into the surrounding neighborhood.

The present node is located 0.5 miles northeast of University Center Shopping Center and 0.5 miles southwest of Northgate Mall. One block south of the site, along Ninth Street, a small commercial node leads into a Compact Neighborhood and Design District containing the Ninth Street commercial corridor. Two blocks northeast of the site (less than one tenth of a mile), at the intersection of Broad Street and West Club Boulevard, a small commercial node contains a mixture of neighborhood retail. While the proximity of this latter node falls within one half a mile of the subject parcel, the size and spacing of the node is not out of scale with the surrounding neighborhood.

The one block south and two blocks north of the subject parcel are designated Medium Density Residential. The current proposal, if replicated on adjacent residential properties along this corridor, would present the risk of expanding strip commercial development northward into a residential neighborhood. The Plan seeks to promote commercial infill that is in scale with the surrounding neighborhood, but deter strip commercial development and encroachment into residential neighborhoods. The commercial node to which the parcel proposes to attach totals 0.32 acres at present, and would expand to 0.49 acres; commercial street frontage would expand from 100 to 150 feet. While a single business would occupy the entire node, the size of the resultant node is equivalent in size to the fire station across the street, and is thus in scale with the neighborhood.

Finally, the Plan seeks to promote residential and nonresidential infill that is directly accessible to the surrounding neighborhood. The subject parcel, which is currently vacant, is proposed to be developed along a well-trafficked corridor, offering full access to the vicinity.

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

**2. Compatibility with Existing Development and Future Land Use Patterns**

This site is located 1.5 miles northwest of Durham city center, 0.7 miles south of Interstate 85, and 0.6 miles north of NC Highway 147. The residential neighborhood in which the site is located has maintained a consistent grid development pattern of one- to two-story single-family homes with compact commercial and civic structures interspersed. Most of the land around it is designated Medium Density Residential.

<b>Table 2: Area Land Uses and Designations</b>		
	<b>Existing Uses</b>	<b>Future Land Use Designations</b>
<b>North</b>	Single-family Residential	Medium Density Residential
<b>East</b>	Single-family Residential	Medium Density Residential
<b>South</b>	Commercial (Restaurant)	Commercial
<b>West</b>	Civic (School, Fire Station)	Medium Density Residential

*Existing Uses:* The site of the proposed plan amendment is bordered to the north and east by single-family homes, and to the west by a school and fire station. To the south is a restaurant pertaining to the applicant.

*Future Land Use Designations:* Parcels immediately to the north, east, and west of the site are designated Medium Density Residential. A small node directly south of the site is designated Commercial.

*Analysis:* Despite its location in a small, historic, urban neighborhood in Durham, the Ninth Street corridor, along which this parcel is sited, is currently in transition, seeing a higher intensity of development. Several commercial projects have been completed nearby in the last couple of years, and a large multifamily residential and commercial mixed-use development is underway one block away. This proposal supports City and County policy that promotes compatible land usage and future development patterns.

**Staff Conclusion:** The proposed plan amendment is consistent with 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.

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

*Analysis:* A Traffic Impact Analysis was required as part of the zoning map change process. Broad Street is the closest major road affected by the proposed development with traffic counts available from the North Carolina Department of Transportation (NCDOT). Currently, no NCDOT roadway improvement projects are scheduled for the area. The affected segment is designed to accommodate annual average daily traffic (AADT) of 13,300 vehicle trips, and according to the most recent traffic volume count there were 13,000 trips (98% of capacity). Development under the proposed Commercial designation could potentially result in an estimated 1,706 additional trips over the existing Medium Density Residential designation; however, restrictions contained in the development plan would make the actual number of trips much less. Transit service does not currently exist within one quarter mile of this site.

A detailed assessment of traffic impacts and commitments is included 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 future demand. 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. The conversion of this site to Commercial will not substantially affect the need for a sufficient amount of residential land in the future.

**Environment:** The site is not located within a watershed protection overlay and has no Significant Natural Heritage Area. No significant environmental features exist on this site, and there is no reason this parcel could not be developed consistent with UDO standards.

**Staff Conclusion:** The proposed plan amendment does not create any 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 0.165 acres in total, and is of sufficient shape and size for commercial development in the Urban 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
- Old West Durham
- Friends of South Ellerbe Creek
- Keep Durham Beautiful
- Triangle Transit Authority
- Watts-Hillandale Neighborhood
- Walltown Community Association
- People's Alliance
- Durham Justice and Fairness Inter-Neighborhood Association
- Partners Against Crime – District 2

**G. Recommendations**

Staff recommends approval, based on the proposal being justified and meeting the four criteria for plan amendments. Planning Commission recommended approval, 12-0, at its February 10, 2015 meeting, based on the justification, the request's meeting the four criteria for plan amendments, and information heard at the public hearing.

**H. Staff Contact**

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**I. Attachments**

Attachment 1, Proposed Change Map

Attachment 2, Area Context Map

Attachment 3, Aerial Image

Attachment 4, Applicant's Justification Statement

Attachment 5, Planning Commission Written Comments

Attachment 6, Resolution