



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



ZONING CHANGE REPORT

Meeting Date: June 1, 2015

Table A. Summary			
Application Summary			
Case Number	Z1400035	Jurisdiction	City
Applicant	TND Partners	Submittal Date	October 27, 2014
Reference Name	Circle K at Duke Street	Site Acreage	3.82 acres
Location	Northeast quadrant of North Duke Street at Frasier Street.		
PIN(s)	0823-16-84-0729, -0016		
Request			
Proposed Zoning	Mixed Use with a development plan (MU(D))	Proposal	9 - 29 residential units; 22,400-25,000 square feet of commercial space.
Site Characteristics			
Development Tier	Suburban		
Land Use Designation	Office		
Existing Zoning	Office and Institutional (OI), Office and Institutional with a development Plan (OI(D))/ Suburban Tier		
Existing Use	Vacant		
Overlay	F/J-B	Drainage Basin	Falls Lake
River Basin	Neuse	Stream Basin	Ellerbe Creek
Determination/Recommendation/Comments			
Staff	Staff determines that this request is consistent with the <i>Comprehensive Plan</i> and other adopted policies and ordinances.		
Planning Commission	Approval, 9-2 on April 14, 2015. The Planning Commission finds that the ordinance request is consistent with the adopted <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.		
DOST	No comments		
BPAC	See Attachment 9		

A. Summary

This is a request to change the zoning designation of a 3.82 acre parcel from OI and OI(D) to MU(D) for a project with two proposed uses to include a range of 9 to 29 residential units and 22,400 to 25,000 square feet of commercial space. The site is located at the northeast quadrant of North Duke Street at Frasier Street (Attachment 1, Context Map).

As per UDO Section 6.11.7B.1., a minimum of four contiguous acres shall be required for the MU district. However, UDO permits the governing body to permit a site of less than four acres in limited circumstances due to conditions such as location, topography, or compatibility with adjacent uses. The applicant has provided a justification as to why they believe the subject site fits with in the parameters of the MU district (Attachment 7).

Appendix A provides supporting information.

B. Site History

The existing OI(D) zoning designation for this site (case P99-58) was approved by Council on February 21, 2000 and allows for a 10,000 square foot, two story office building.

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 MU district (Sec. 3.5.6.D and 6.11.7). 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. A summary of these commitments includes phasing, provision of a bus shelter, pedestrian access improvements, dedication of right-of-way, and a cross-access connection.

Graphic Commitments. Graphic commitments include the general location of site access points and the development zone for each proposed use.

Design Commitments. A summary of the design commitments includes general architectural styles for the convenience store and associated canopy and car wash, roofline style, building materials and landscape design requirements.

Determination. The requested MU(D) zoning district and associated development plan meets or exceeds the applicable requirements of the UDO. If this zoning map change request is approved, the attached development plan (Appendix A, Attachment 4) establishes the level of development allowed on the property. This includes a maximum of 29 residential units and maximum of 25,000 square feet of nonresidential uses. This represents a maximum decrease of 13 residential units and an increase of 10,000 square feet of nonresidential development.

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. Two Comprehensive Plan policies provide guidance for mixed use developments – policies 2.2.2d. and 2.3.1g.

Policy 2.2.2d. pertains to ‘Suburban Tier Mixed Use’ and states that the MU district should be one ‘...*that encourages elements of traditional neighborhood design, including a pedestrian-oriented focal node of activity, an appropriate mix of land uses that are physically and functionally integrated, and development patterns are intensities that are supportive of a wide range of housing options, employment opportunities, community cautions and transportation choices.*’

Policy 2.3.1g. pertains to ‘Mixed Use Project Location’ and states that the MU district should ‘...*support the use of zoning tools that encourage mixed use in locations that avoid environmentally sensitive or hazardous environments, are well-connected by multiple modes of transportation, and are efficiently served by community infrastructure and services.*’

Staff determines that the applicant’s request provides elements from both of these policies. Specifically, the applicant has provided a mix of two land uses at the site and the site is connected by multiple modes of transportation.

F. Site Conditions and Context

Site Conditions. This is a 3.82 acre site located at 3208 North Duke Street. The site is in the northeastern quadrant of North Duke Street at Frasier Street. A vacant parcel lies directly to the north of the subject site and a Duke Hospice location is located to the east. South, across Frasier Street is a Duke Medical Plaza and west, across North Duke Street are single family residences.

Area Characteristics. This site is presently in the Suburban Tier, so designated with the 2005 Comprehensive Plan. Directly north of the site is vacant land. To the east is community service use and south, across Frasier Street, is a medical office building. West, across North Duke Street, are single family residences. Appendix F provides a summary of the uses and zoning in the more immediate vicinity of the subject site.

Determination. The proposed MU(D) and associated development plan meets the ordinance and policy 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 MU(D) district and associated development plan is consistent with *Comprehensive Plan* policies regarding the infrastructure impacts of road, transit, utility, drainage/stormwater, schools and water supply. The proposal is estimated to increase the traffic generation of the subject site by 2,787 daily trips, is expected to decrease the numbers of students generated by the use by three, and is expected to increase the estimated water demand of the site by 1,630 gallons per day. The existing infrastructure has available capacity to meet these increases.

H. Staff Analysis

This request is consistent with the *Comprehensive Plan* and other polices and ordinances. If the requested MU(D) zoning designation is approved, the development plan would further establish the development potential of the site considering the text and graphic commitments proffered.

I. Contacts

Table I. Contacts		
Staff Contact		
Jacob Wiggins	Ph: 919-560-4137, ext. 28257	Jacob.Wiggins@DurhamNC.gov
Applicant Contact		
Agent: Jeremy Anderson, Coulter, Jewell Thames, PA	Ph: 919-682-0368	janderson@cjtpa.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

K. 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. Development Plan Reduction 5. Application 6. 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: Project Boundary Buffers Table D4: 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 K. Supporting Information		
		Attachments: 7. DDOT TIA Memorandum 8. NCDOT TIA Memorandum 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: 10: Planning Commissioner’s Written Comments 11. Ordinance Form 12 Consistency Statement

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
6. Application
7. Parcel Size Justification – Exhibit A, provided by applicant
8. Attachment 8 – NCDOT TIA Memo
9. BPAC Comments

Appendix D: Unified Development Plan Supporting Information

Table D1. UDO Designation Intent	
MU	Mixed Use: the MU district is established to provide innovative opportunities for an integration of diverse but compatible uses into a single development that is unified by design features. A development plan is required with a request for this district; which shows a conceptual representation of the proposed site that indicates how the ordinance standards could be met. Any significant change to the development plan would require a new zoning petition.
D	Development Plan – 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.

Table D2. District Requirements – MU			
	Code Provision	Required	Committed
Uses	6.11.7.A	Residential and at least one of the following: public and civic, commercial, or office	Residential: 8-45 units Commercial: 4,000-15,000 square feet
Minimum Site Area (acres)	6.11.7.B.1	4 (unless smaller site is permitted by governing body)	3.82 (See Attachment 7 for applicant’s justification)
Use Area	6.11.7.B.2	No single use to occupy more than 60% of gross acreage	No single use to occupy more than 60% of gross acreage
Transitional Use Area (TUA)	6.11.7.C	Use and building scale to match adjacent property and no more than one story (15 foot) height differential within the 50-foot buffer	Use and building scale to match adjacent property and no more than a one story (15 foot) height differential within 50-foot buffer
Maximum Residential Density (DU/Ac.)	6.11.7.D	14	14
Nonresidential Intensity	6.11.7.E	Minimum floor area = 30% of parcel	Minimum floor area = 33% of parcel
Maximum Height (feet)	6.11.7.F	145 if shown	60
Maximum Street Yard (feet)	6.11.7.G.3	25	25
Open Space	6.11.7.H	10% (0.38 acres)	10% (0.38 acres)

Table D1. UDO Designation Intent			
Bus Shelter	6.11.7.N.1	Construct bus shelter if adjacent to transit line	Construction a bus shelter per text commitment
Table D3. Project Boundary Buffers			
Cardinal Direction	Adjacent Zone	Required Opacity	Proposed Opacity
North	OI	0 feet (50 foot Transitional Use Buffer Required)	N/A
East	OI	0 feet (50 foot Transitional Use Buffer Required)	N/A
South	OI(D)	N/A	N/A
West	RS-10	0 feet (ROW Greater than 60 feet)	N/A

Table D4. Summary of Development Plan		
Components	Description	Development Plan Sheet
Required Information	Intensity/Density. Residential: 8-45 (2.1-11.6 DU/Acre) Commercial: 4,000 – 15,000 square feet	DP-2
	Building/Parking Envelope has been appropriately identified.	DP-2
	Project Boundary Buffers have been appropriately identified against properties in the Urban Tier (not applicable internal to the Compact Neighborhood Tier).	DP-2
	Stream Crossing. No additional stream crossings identified.	DP-2
	Access Points. Two external access points have been identified	DP-2
	Dedications and Reservations. Right-of-way will be dedicated along North Duke Street and Frasier Street	N/A
	Impervious Area. 70% Maximum – 2.67 acres	DP-2
	Environmental Features. None identified	N/A
	Areas for Preservation. None.	N/A
	Tree Coverage. 10% of site – 0.38 acres	N/A
Graphic Commitments	Location of access points. Building and Parking envelope.	DP-2

<p>Text Commitments</p>	<ol style="list-style-type: none"> 1. Phasing: All commercial buildings and a minimum of nine (9) residential units. Future phase may consist of an additional twenty (20) residential units 2. Provide wheelchair ramps and striped crosswalks on all four leg of the intersection of Duke Street and Frasier Street, with approval from the City of Durham and NCDOT. 3. Provide pedestrian signals on all four corners of the intersection of Duke and Frasier Street, with approval from the City of Durham and NCDOT. 4. Maintain and provide a cross-access connection between this site and the adjacent property with PIN# 0823-12-85-0115. 5. Prior to the Issuance of Any Building Permit: Dedicate an additional 5 feet of right-of-way for the frontage of the site along North Duke Street and Frasier Street. 6. Pursuant to UDO 6.11.7.N, prior to the first certificate of occupancy, a bus shelter shall be provide, as determined by DATA or Go Triangle. 	<p>Cover</p>
<p>SIA Commitments</p>	<p>None provided</p>	<p>N/A</p>
<p>Design Commitments (summary)</p>	<p>Architecture style: The gas canopy and the car wash structure are utilitarian and lend themselves to a modern/contemporary style of clean lines and simple plans with minimal non-functional detail. Similarly the convenience store will adopt this vernacular well as maintain the basic prototype of the brand. The mixed-use multi-story building will follow a similar modern/contemporary styling. Within these rules if this vernacular, we will sculpt an appealing and attractive collection buildings.</p> <p>Rooflines: All buildings will have a flat roof sloping to drain to the non-street side. The buildings will have a parapet wall tall enough to screen roof-top mechanical elements from view at adjacent street levels. Secondary building elements may have pitched roofs but will not comprise the majority of the roof areas.</p> <p>Building Materials: Primary exterior building cladding will be masonry, metal panel, glass and/or stucco.</p>	

<p>Design Commitments (Summary, continued)</p>	<p>Architectural features: A tall vertical element will be a component of the convenience store that brings glass and store lighting up to improve the visibility of the business.</p> <p>Transition to Context: The context as defined by adjacent architecture is sparse. There are ranch style single family homes to the west across the 5 lane Duke Street. The most relevant building in the context area would be the Duke Medical Place to the south across Frasier Street. This building is a two story modern office building and is set off of the street. It is predominately red brick, stucco and glass. Our proposed buildings will compliment this building.</p> <p>Landscape: The project landscape architect will ensure a common theme of using plant types throughout the development that are drought tolerant, native or naturalized, and evocative of maintained landscapes in the vicinity of the project. The project will use plant materials specifically suited to site-specific factors such as soils, solar exposure, root area, micro-climate, moisture availability, form and color as determined by the project landscape architect and as defined by the UDO and the Landscape Manual for Durham, NC. The use of invasive plant species will be prohibited.</p>	<p>Cover</p>
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Appendix E: Adopted Plans Supporting Information

<p>Table E. Adopted Plans</p>	
<p><i>Comprehensive Plan</i></p>	
<p>Policy</p>	<p>Requirement</p>
<p>Future Land Use Map</p>	<p>Office Defined: Land used primarily for office uses. This land use category may be accommodated by the Office and Institutional (OI) zoning district and the Mixed Use (MU) district.</p> <p>Suburban Tier Mixed Use: Through the Unified Development Ordinance, establish and utilize a planned zoning district that encourages elements of traditional neighborhood design, including a pedestrian-oriented focal node of activity, an appropriate mix of land uses that are physically and functionally integrated, and development patterns and intensities that are supportive of a wide range of housing options, employment opportunities, community functions, and transportation choices.</p>
<p>2.1.2e</p>	<p>Suburban Tier Defined: The Suburban Tier is established to provide land for low to medium density residential development, employment centers, and commercial and industrial activity. Land located in the Suburban Tier is expected to accommodate a large proportion of Durham’s growth through greenfield development, infill, and redevelopment. The Suburban Tier is expected to develop at traditional suburban densities and patterns</p>
<p>2.2.4b</p>	<p>Suburban Tier Land Uses. Land uses that shall be allowed in the Suburban Tier include: Recreation and Open Space, Agricultural, Residential, Institutional, Commercial, Office, Research/Research Application, and Industrial.</p>

Table E. Adopted Plans	
2.3.1g	Mixed Use Project Location. Direct and support the use of zoning tools that encourage mixed use in locations that avoid environmentally sensitive or hazardous environments, are well-connected by multiple modes of transportation, and are efficiently served by community infrastructure and services.
2.3.1b	Contiguous Development: 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.
8.1.2j	Transportation Level of Service Maintenance: 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.
8.1.4c and d	Development Review and the Adopted Bicycle Plans: 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.
11.1.1a	School Level of Service Standard: 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.
11.1.1b	Adequate Schools Facilities: 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.
Long Range Bicycle Plan	
Map 4-5 shows a proposed bicycle lane along both Erwin Road and LaSalle Street.	

Appendix F: Site Conditions and Context Supporting Information

Table F. Site Context			
	Existing Uses	Zoning Districts	Overlays
North	Vacant	OI	F/J-B
East	Residential, Community Service	OI(D), OI	F/J-B
South	Office	OI	F/J-B
West	Residential	RS-10	F/J-B

Appendix G: Infrastructure Supporting Information

Table G1. Road Impacts
N. Duke Street is the major road impacted by the proposed zoning change. There are no scheduled NCDOT roadway improvement projects in the area.

Affected Segments	North Duke Street
Current Roadway Capacity (LOS D) (AADT)	37,800
Latest Traffic Volume (AADT)	28,000
Traffic Generated by Present Designation (average 24 hour)*	*1,534
Traffic Generated by Proposed Designation (average 24 hour)**	**4,321 (103% of TIA)
Impact of Proposed Designation	

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

N. Duke Street: 4-lane undivided class I arterial roadway with left-turn lanes

Source of Latest Traffic Volume: 2013 NCDOT Traffic Count Map

*Assumption- (Max Use of Existing Zoning) – 32,257 square-feet of medical/dental office

**Assumption- (Max Use of Proposed Zoning) – convenience store with 20 fueling positions, 3,000 square-foot high turnover (sit-down) restaurant, 12,000 square-feet office, and 50 apartments.

Attachments

- 10. NCDOT TIA Memorandum

Table G2. Transit Impacts
Transit service is provided adjacent to the site along N. Duke Street via DATA Routes 4, 9, and 9A.

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.

Table G5. School Impacts			
The proposed zoning is estimated to reduce school capacity by three. Durham Public Schools serving the site are Holt and Glenn Elementary Schools, Carrington Middle School, and Riverside High School.			
Students	Elementary School	Middle School	High School
Current Building Capacity	16,794	7,760	10,259
Maximum Building Capacity (110% of Building Capacity)	18,473	8,536	11,285

20th Day Attendance (2013-14 School Year)	16,545	7,465	10,074
Committed to Date (January 2011 – December 2013)	68	19	-35
Available Capacity	1,860	1,052	1,246
Potential Students Generated – Current Zoning*	5	2	2
Potential Students Generated – Proposed Zoning**	4	1	1
Impact of Proposed Zoning	-1	-1	-1

*Assumption- (Max Use of Existing Zoning) – 42 apartments

**Assumption- (Max Use of Proposed Zoning) – 29 apartments

Table G6. Water Supply Impacts	
This site is estimated to generate a total of 81,8955 GPD if developed to its maximum potential with the proposed zoning district. This represents an increase of 52,880 GPD over the existing zoning district.	
Current Water Supply Capacity	37.00 MGD
Present Usage	27.17 MGD
Approved Zoning Map Changes (April 2011 – March 2014)	0.13 MGD
Available Capacity	9.70 MGD
Estimated Water Demand Under Present Zoning*	4,830 GPD
Potential Water Demand Under Proposed Zoning**	6,460 GPD
Potential Impact of Zoning Map Change	1,630 GPD

Notes: MGD = Million gallons per day

*Assumption- (Max Use of Existing Zoning) – 42 apartments

**Assumption- (Max Use of Proposed Zoning) – 29 apartments, 25,000 square feet of commercial space