

**Planning Commissioner Summary and Written Comments  
February 9, 2016**

**Cornwallis Road Property II (A1500012)**

**Agenda Item Summary:**

**Plan Amendment Change Request:** Commercial (6.10 ac.), Low Density Residential (4DU/Ac. Or less) (4.20 ac.), and Medium Density Residential (6.12 DU/Ac.) (16.24 ac.) to Low-Medium Density Residential (4-8 DU/Ac.) (26.54 ac.); PINs: 0811-03-02-9594 (partial), -12-2899 (partial), -7598 (partial), -8597 (partial), -5373 (partial), -8744 (partial), -22-0548 (partial), -13-13-5490, -6205, -6106, -5083, -8234, -12-5883, -5683, -8975, -22-0799 (partial), -23-1001, -0101.

**Staff Reports:** Ms. Wolff presented cases A1500012.

**Public Hearing:** Chair Harris opened the public hearing. Three citizens spoke in support. Nine citizens spoke in opposition. Chair Harris closed the public hearing.

**Commission Discussion:** The discussion centered on residential densities, environmentally sensitive areas, open space, traffic congestion, stormwater impacts and the potential loss of trees.

**MOTION:** Recommend approval of A1500012 (Miller, Brine 2<sup>nd</sup>)

**ACTION:** Motion failed, 3-10 with Ghosh, Winders and Kenchen voting yes.

**FINDINGS:** The Planning Commission finds that the ordinance request is not consistent with the adopted *Comprehensive Plan*. The Planning Commission believes the request is not reasonable nor in the public interest and recommends denial based on comments received at the public hearing, information in the staff report, problems with traffic congestion, inadequate transportation infrastructure, impacts on the environment, inconsistency with neighboring land uses, inadequate facilities provided in the development plan, and opposition from the community.

**Written Comments:**

**BRINE** - I had difficulty with this case because, in my opinion, determining a suitable land use for the site in question is difficult. The site is between an established residential neighborhood developed at low density and a 4-lane freeway. It is also environmentally sensitive. Single family residential development is likely the best fit, and the requested amendment does support that use. Removal of the commercial designation reduces the potential for future vehicular traffic. Staff has also determined that the request meets the criteria for a plan amendment. Nevertheless, I voted against this request because I disagreed with the low-medium density residential designation (4-8 DU/acre) for this site.

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My belief is that the low density residential designation (4 DU/acre or less) is more appropriate for this site.

**BUZBY** – While this proposal is greatly improved since we last reviewed it in July, there are still too many concerns and uncertainties. Therefore, I vote against approval. The improvements were appreciated and are worth nothing. They include a significant reduction in units, which is appropriate for this site. It also includes pedestrian and greenway easements, a voluntary 30 foot buffer, a commitment to single family homes and a proffer of five affordable housing units. However, my concerns and the concerns of the various surrounding neighborhoods outweigh the positives. The lack of a committed site plan with any significant details leaves too many questions on the final specific plan. This would have eased many concerns. In addition, I believe the proposal would not be compatible with existing patterns of development. This is particularly true in places where there would be five new housing units per are existing unit in neighboring communities. Again, this is a much improved proposal but still falls short of the mark.

**FREEMAN** – This case speaks volumes to why we need to for comprehensive planning rather than piecemeal. This has created this contention between neighbors. \* Deed restrictions. \* 60% area median level qualifying. Without an ordinance requirement? \* Traffic \*Water/Stormwater \* Fire/Rescue \* Air quality. 8000 unit shortage in affordable housing. This is not compatible with the existing neighborhoods and does not support neighborhood stability. What maximum plan amendments? \* Curb and gutter could increase floating likes photos shown. \* Especially in the 2 + 10 yr. There isn't a drive access to Tanglewood. The unintended consequences of developing along a floodplain. UDO section 12.3.1. 10 Meetings w/neighbors. (5) affordable housing units. The applicant needs to add "detached" single family 1930's book exchange. Need improved stormwater plan that. Not a mishmash of development favoring developers. Forest buffer have not been address as a gradual or transition. \* Duke spent \$5 million to clean up Sandy Creek to improve the Jordan Lake. \* Tree clearing of 90% of the property. \*No impervious surface maximum. \*Need a vegative convenience. \*Non curb + gutter variencence to use vegetative convenience. \*How much has the city spent on retrofitting on-site stormwater management?

**GHOSH** – I voted in favor of this plan amendment because it makes sense. As far as developer initiated plan amendments go, this one is surprising as the developer is actually asking for a net reduction in both density and intensity over the course of the entire area. The following table illustrates this:

	Current FLUM	Proposed FLUM	Result
6.1 acres	Commercial	Low-Medium Density Residential	Less Intense
4.2 acres	Low Density Residential	Low-Medium Density Residential	17 additional units
16.24 acres	Medium Density Residential	Low-Medium Density Residential	65 fewer units

**Total 26.54 acres**

**48 fewer units, and less intense**

There has been much debate over the appropriate transition between the proposed amendment area and the surrounding properties. The current FLUM designations provide for poor transitions between the proposed amendment area and the neighboring land uses. Instead of going from Low Density Residential to Medium Density Residential as currently indicated on the FLUM, the proposed amendment provides for a transition to Low-Medium Density from the Low Density area. Instead of Medium Density Residential and Commercial, you get a transition from Low-Medium Density Residential to the areas designated for Recreation/ Open Space. The proposed plan amendment will result in a much more practical and harmonious pattern of land use than is currently provided for under the FLUM.

**HARRIS** – Voted no.

**HUFF** - There are numerous problems arising from the proposed development of this property. Although the developer has made extensive changes to his plan since he appeared before us in July, the most serious issues remain virtually the same.

First there is the matter of flooding and water quality which was discussed at the meeting by Dr. Kathi Beratan, an environmental scientist from NC State. I suggest her remarks be given special attention. She points out that the amount of impervious surface in the new development is the same as the one presented in July; the amount of mass grading and destruction of trees is the same. Under this type of development the same potentially devastating run-off is guaranteed. This piece of property is going to require some unconventional thinking to protect the homeowners in Colony Park from being flooded as well as to protect the water quality of Sandy Creek as it flows toward Jordan Lake. Pulte Homes so far has not been up to this challenge. I don't know if it's their business model or someone's lack of vision but I have no doubt Pulte Homes could come up with an agreeable plan if they were to step out of their box. I wonder why they don't want to be at the

vanguard of low-impact development instead of existing behind the curve. As it is, the issues of flooding and water quality have not been properly addressed and that alone is reason to reject the plan. Then there is the matter of traffic on Cornwallis Rd. The developer has proposed some worthy improvements to Cornwallis but again it isn't sufficient. Interestingly the new development has only 29 fewer trips generated than the previous development proposal. They have almost halved the number of units yet the number of trips remains almost the same. This means that the considerations and misgivings pertaining to the traffic impacts of the previous proposal are essentially still the same. Since traffic wasn't discussed much at the meeting, I will repeat the issues I brought up last time. Quoting from my previous comments: "Then there is the matter of increased traffic on a road that already contains a dangerous intersection. Normally when I assess a prospective zoning I look at the traffic impacts of the new zoning versus the traffic impacts of the existing zoning.

According to the numbers the rezoning would result in a negative differential of 1,642 (*now 1671*) trips. That would seem to be a good thing, however, that number is predicated on the assumption a fast-food establishment would be built on the 1.8 acre of the parcel zoned Commercial General now. The problem with this assumption is that the location of the fast-food establishment would not be visible or easily accessible as the CG zoning is tucked away below grade on the easternmost edge of the property. The site is fully contained within the floodway fringe and the flood plain. The predictably periodic flooding would make developing this spot an expensive challenge. Access to the CG section using the existing public right of way presents enough complexity at the Cornwallis/501 ramp intersection so that measures would have to be taken to upgrade the intersection and perhaps the entire interchange. Given the estimated high number of trips for fast-food a Traffic Impact Analysis would be triggered and whatever improvements were found to be necessary would become the financial responsibility of the fast-food developer making the project yet more expensive. Given these drawbacks the location for fast-food or some other high traffic commercial at this spot is exceedingly unlikely. There are much better locations on the boulevard and around South Square. Since it does not seem probable that a fast-food restaurant would locate here, the proposed development with its 1,328 (*now 1299*) additional trips represents no improvement as regards traffic over the present zoning. In fact it is worse because at least the fast-food option would generate improvements to the seriously defective interchange at 501 and Cornwallis where traffic at certain times of the day backs up into the southbound lane. There are other problems created by putting this much vehicular pressure on Cornwallis. A woman who lives on Woodburn told us that traffic headed for Duke going east on Cornwallis turns left on Woodburn in order to avoid the stoplight at 751. There are no sidewalks on Woodburn, children must make their ways to bus stops during peak traffic periods and they must do this by walking in the street and negotiating these stoplight-avoiding commuters. We were told by the developers that their target consumers were Duke employees or people otherwise affiliated with the university. If even some of the purchasers of these units are Duke affiliates, the Woodburn traffic would necessitate expensive improvements: speed bumps, sidewalks, maybe another stoplight.

This expense would be borne by the city, as would any improvements found to be necessary at the interchange at 501.” Again we heard from the sellers of this land. Again they spoke in favor of the project not because it is worthy but because they want to divest themselves of their property in a timely manner. I hope they listened to the concerns of the surrounding community, the environmental experts, and the members of the commission. Maybe they can sit down with Pulte Homes and figure out a solution. Since they still seem to be appealing to their legacy in the community, I have this to say to them from my July comments: “One thing is certain: the legacy of the landowners who are longtime Durham residents will not be served by a project that threatens their neighbors’ properties and destroys their relationship to the surrounding community. What else is certain is that other deals can be struck.”

**HYMAN** – Not recommended; too many unanswered questions with regards to stormwater.

**KENCHEN** – I vote yes. The developer made a number of commitments, in response to neighborhood concerns. This includes provision of affordable housing units. There is also a buffer between the proposed development and the existing neighborhood. I believe this also allows for an appropriate transition, going from 2 to 4. This is consistent with future land use and I support it.

**MILLER** – The city council should deny this application to change the Future Land Use Map. The map as it is currently drawn calls a strip of very low density residential development on the subject property nearest the Colony Park neighborhood. That strip should be preserved. I would vote to approve a FLUM change for this property to eliminate the commercial area near 15-501 and to promote low to medium density on the property everywhere except the low density strip.

**WHITLEY** – I voted not to approve. We need a stronger run off plan.

**WINDERS** – Amendment to the Plan is needed because the existing land use designation of Commercial for a portion of the site is not appropriate because environmental features would severely limit development options for commercial uses. Changing the FLUM to low medium residential density for 27 acres of the site and retaining the recreation/Open Space designation for the remaining 14 acres seems reasonable.

**VANN** – Text commitments included here. Affordable housing included in the project. Appears to be below 15% aspiration. 60% median income buyer at reduced rate. 120 homeowners. Compatibility is desired from neighborhood. Significant comments from audience and commissioners. In perpetuity in deeds regarding affordable housing.