

August 31, 2023

## Durham Comprehensive Plan (2023) Elected Officials' Frequently Asked Questions

- 1) Affordable Housing: I am requesting inclusion of specific target goals around affordable housing in the plan. Similar to what was adopted around station areas for proposed Durham Orange Light Rail, there should be a specific goal of at least 15% affordable housing within half mile radius of all transit (BRT, Rail, Bus) Stations. There should also be an explicit goal of at least 10-15% affordable housing with a minimum of 30-year affordability for all new residential developments.

Staff Response: We know affordable housing is one of the highest priorities for our community and can include an explicit percentage goal for housing affordability. We have policy that prioritizes placement of affordable housing along high-frequency transit corridors and think that the percentage of affordable units in these corridors should be higher than elsewhere, while recognizing that we need affordable housing in all areas across Durham. Two potential choices to address this concern include:

**A new policy that reads:** At least 20% of housing in the Transit Oriented Place Type should be affordable to households making 30-80% of Area Median Income (AMI.) At least 15% of housing in all other residential and mixed-use place types should be affordable to households making 30-80% of AMI. Or;

**Add a new action item that reads:** The city and county shall work to set reasonable affordable housing goals based on Place Type.

Here are plan policies and actions related to housing affordability commitments and affordable housing/transit connection:

**(D) Policy 39:** Affordable housing should be included in new development proposals. Encourage and incentivize housing that meets the needs of Durham residents in terms of cost, unit size, housing type, ADA accessibility, and location. **Tenures for housing affordability should run, where feasible, with the land in perpetuity. When this is not possible, affordability tenures should last for a minimum of 30 years and have an associated deed restriction.**

**Policy 43:** Equitably distribute housing throughout Durham that is accessible to those with low incomes. Identify and ensure appropriate locations for affordable housing, public housing, and supportive housing near jobs, services, and existing or planned transit services.

**Policy 69:** Plan transportation connections between affordable housing, public housing, and shelters for low-income and houseless residents to offer safe access to nearby jobs, education facilities, services, and transit.

**Housing Action 26:** Review and revise the Unified Development Ordinance (UDO) to incentivize affordable housing, and develop mixed-income housing, along accessible and high-frequency transit corridors.

**Housing Action 30:** The Planning, Community Development, Economic and Workforce Development, and Transportation departments should work together to coordinate effective placement of affordable housing, jobs, and transit services.

**Housing Action 56:** Explore revisions to the Affordable Housing Density Bonus in the Unified Development Ordinance (UDO) to increase utilization, such as **allowing affordable rental units with an average affordability level of 60% Area Median Income (AMI) or lower.**

- 2) Future Place Type Map Urban Growth Boundary: I would like follow up information about the following:
- a. Has the current proposed UGB been reviewed by Durham County Open Space and Real Estate Staff for consistency with Durham County investments in farmland, open space and environmental protections?

Staff Response: Discussions with the Durham County Open Space and Real Estate Division informed how Planning staff developed the Place Type Map, which includes the Urban Growth Boundary. Open Space provided planning staff with the locations of all conservation and agricultural easements that the county holds to ensure these areas were appropriately designated on the Place Type Map.

- b. Has the current UGB been assessed on a parcel by parcel basis to ensure Army Corp land, land designated for open space, recreation, water quality or farmland protection is NOT included in the UGB? Is the UGB currently dissecting some of these areas?

Staff Response: Yes. Staff performed a careful review, particularly on the edges of Urban Growth Boundary, to ensure that lands not appropriate for development were not included in the staff-recommended UGB. Some examples of parcels that were removed from the current Suburban Tier in the staff-recommended UGB after analysis include land owned by the US Army Corp of Engineers, local conservation non-profits, and the State of North Carolina as part of the Eno River State Park. However, a number of the areas proposed for inclusion in the UGB by property owners since the staff-recommended version was released in January 2023 do overlap with things like Army Corp of Engineer land or the Critical Watershed Protection Overlay. For example, the Stagville/Old Oxford Area proposed to be included in the UGB by property owners encroaches into the Critical Watershed Protection Overlay. It is for this reason, among others, that staff has maintained its recommendation of the UGB, consistent with the January 2023 draft plan.

3) Six Areas Under Future Growth Area Consideration:

- a. How were landowners impacted by proposed changes notified about the proposed Future Place Type Map? How much time were they provided for input and by what means before the Future Place Type Map was released by planning staff? How have these residents been able to provide ongoing input into this process?

Staff Response: Yes, property owners were notified, and residents have had multiple opportunities to provide input over the last two years. The first draft Place Type Map (which included the Urban Growth Boundary and Future Growth Areas) was shared for public engagement in October 2021. After a three month engagement period, staff incorporated public feedback in the revised October 2022 draft. In advance of the final engagement period in January 2023, which lasted two months before the first Planning Commission public hearing, staff mailed public notification letters to residents who had properties that would no longer be within the Suburban Tier (now called the Urban Growth Boundary). Staff shared the background on engagement and property owner identification in the [March 28, 2023 Planning Commission Memo](#):

“Shortly after the release of the full draft plan in January, staff sent out 559 letters to the property owners that were within the previous Comprehensive Plan’s Suburban Tier designation, and which are now proposed to be removed from the new Comprehensive Plan’s Urban Growth Boundary. Staff sent a follow-up letter to property owners in response to questions (Attachment 6). A map of the properties currently in the Suburban Tier and proposed for removal from the UGB was included and can be seen in Attachment 6. Property owners have now had almost nine months to provide feedback on the proposed UGB changes.

Staff received emails and phone calls in response to this letter that generally fell into one of two categories: 1) Requests from property owners to be added back into the Urban Growth Boundary because of their stated intention to develop their property with city services, or 2) Requests for clarification from property owners who are being removed from the Urban Growth Boundary, but who currently have water or sewer service. Staff clarified that these latter property owners with existing water and/or sewer service would not be affected (or removed from those services) due to the change in the Urban Growth Boundary.

At the February 28, 2028 Planning Commission public hearing, residents spoke in both opposition and support of the proposal. Since the February 28 public hearing, staff received numerous emails from residents generally asking to keep the Urban Growth Boundary as proposed, in response to multiple requests from property owners to add properties back into the Urban Growth Boundary at the public hearing. Staff was asked to prepare a presentation detailing the general areas where the Urban Growth Boundary is different than the Suburban Tier Boundary, present information about infrastructure constraints, and present alternatives for the Planning Commission to consider. As this discussion has gained attention and concern from residents about encroaching development, staff will prepare to clarify requests to not “expand” the Urban Growth Boundary here and in the presentation. Staff is not recommending

expansion of the proposed Urban Growth Boundary. Some property owners, whose properties are within 2005 Comprehensive Plan's Suburban Tier, are asking to be added into this new Comprehensive Plan's Urban Growth Boundary."

- b. I would like documentation of the following information regarding all 6 areas under consideration: Water and sewer infrastructure required and who is willing to provide this. Any projects currently under development to the knowledge of planning staff. Current land use of all parcels and adjacent parcels surrounding each of the 6 sites. Topographic and environmental features including steep slopes, farmland areas, soil types, tree cover, watershed areas, etc. Current levels of Fire and EMS response times/recommended level of service.

Staff Response: Staff has detailed the specific infrastructure issues for the remaining six areas in the August 10, 2023 work session attachment [here](#). Some areas have critical infrastructure needs such as sewer or fire service to support new development, some have environmental considerations, and some have multiple concerns. We have uploaded a Place Type Map file that includes layers for the Urban Growth Boundary and Future Growth Areas to Durham Maps at <https://maps.durhamnc.gov/>. Here, you can add other data like topography and watershed information to the map for more information.

For all these areas, no public infrastructure projects or dedicated funding have been identified. Many of these areas need critical infrastructure projects to be planned for and funded through future private or public participation. The Future Growth Area designation flags these issues for decision-makers.

- 4) Assumptions regarding future population growth and infill development within UGB:
  - a. Please provide data informing assumptions about population growth for 2050 in proposed Comprehensive Plan
  - b. Please provide detailed data informing assumptions about where future housing units will be located to meet future population growth. Exactly where is it assumed these units be located and what type of units will be required to be developed to meet these targets?

Staff Response: The population estimates used for the Comprehensive Plan are the same estimates prepared by the Triangle J Council of Governments for the Metropolitan Transportation Plan (MTP). These projections include anticipated natural population changes through births and death as well as in- and out- migration. The number of housing units needed is based on the projected population increase divided by the average household size in Durham.

The assumptions for where future units would be located was based on determining the acreage of the residential and mixed-use place types and calculating new units based on reasonable

build-out and density assumptions. For example, we assumed that Transit Opportunity Areas would build-out at a rate of 20% at 50 units per acre.

To achieve our needed 60,000 new units, Durham will need about 2,000 units per year on average. The comprehensive plan does not recommend a certain mix of unit types, but the Place Type policies are written to encourage a mix of housing types throughout the community.

5) Street Trees: Where in the Comp Plan/Future Place Types is there language specifically requiring and prioritizing street trees? This is vital for addressing the urban heat island effect, promoting walking, and helping with stormwater runoff.

Staff Response: Street trees are already required by the UDO so a specific policy regarding street trees in the Comprehensive Plan would be redundant. The Urban Forestry Division of General Services is also leading a proactive initiative to equitably plant street trees in public right-of-way.

In addition to these measures, the plan explicitly mentions the importance of street trees in multiple contexts including the Goals and Objectives, Policies, Actions, and Place Types. A non-exhausted list of examples is below:

The ***Equitable Access to Green Space Objective*** references trees and street explicitly in the context of the urban heat island effect, with multiple quotes from residents talking about the benefits and need for trees, including street trees.

***Policy 92:*** “Increase Durham’s urban tree canopy, prioritizing neighborhoods and communities with comparably less canopy. Prioritize native trees in replanting efforts. Achieve 55% tree canopy coverage in the city by 2040.”

***Environmental Action 5:*** “Review and revise the Unified Development Ordinance (UDO) to increase open space and tree canopy coverage requirements for development to align with conservation and mobility goals, including the goal of 55% overall tree canopy coverage in the city by 2040.”

***Environmental Action 49:*** “Continue the City of Durham’s program to equitably plant 1,500 new street trees per year through 2025. Expand this program as needed to achieve 55% tree canopy coverage city-wide”

Each Place Type description includes a “Green Space” section that consistently describes the need for plentiful street trees, particularly for areas that will see the most pedestrian movement within them, like the Transit Opportunity Area. These Place Type description will help inform how to create or amend new zoning districts, which will have tree street requirements as a legal requirement.

6) UDO proposed Mass Grading and Tree Save Text Amendment:

- a. How will this address the following issues I observed happening in developments in Olive Branch/Doc Nichols Road area?

Staff Response: There are many goals in the Comprehensive Plan that address the impact of site development, notable **environmental policies 82 and 83**. Some of these policies will be implemented in the upcoming Mass Grading and Tree Save Text Amendment as discussed below. Other concerns will need to be addressed through the development of the new UDO.

- Mass grading up to property lines?

The proposed text amendment would prohibit grading within 10 feet of any property line for projects meeting the UDO definition of mass grading (grading more than 4 acres at once). For any project not meeting that definition, grading would be prohibited within five feet from all property lines.

- Massive retaining walls that create artificial trenching, artificial cliffs and safety hazards with no provision for fencing to protect adjacent property owners.

This issue is not addressed by this text amendment. The Building Code includes requirements for safety features atop of retaining walls in certain circumstances. To ensure that all retaining walls over a certain height have adequate safety features, staff will be including a new requirement as part of the next set of Omnibus text amendments.

- Due diligence of land surveys and notification of adjacent property owners regarding possible impacts to existing water and sewer infrastructure.

This issue is not addressed by this text amendment. Surveys of all existing site features, including infrastructure is currently required. However, there is no way to verify the actual locations of private residential infrastructure (such as a septic systems or wells). The county maintains record of well and septic approvals, but they are not always located consistent with those approvals (particularly for older properties).

- Proper documentation of wells and foundation conditions of adjacent property owners before and after blasting.

This issue is not addressed by this text amendment. Notification and documentation requirements pursuant to a blasting permit are regulated by the Fire Marshal in each jurisdiction.

- b. In addition I would like to understand what is happening with proposed developments in terms of assessing on the ground environmental conditions that could be addressed at the rezoning and also site plan stage. I am very concerned about text only site plans with large scale projects. How are the topography and environmental features of steep slopes, intermittent and perennial streams, wetlands, etc. assessed at each of these points? How are conditions that will result from mass grading and changes to the existing topography be adequately addressed at rezoning and site plan stage?

Staff Response: 160D of the North Carolina General Statutes explicitly states what Cities and Counties can regulate through zoning (and the rezoning process). A zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. Regulations that meet the intent of 160D are codified into the Unified Development Ordinance (UDO) and used to ensure compliance in projects.

A development plan (graphic or textual) is a written or graphic display of conditions made in excess of the ordinance. These must be “proffered” by the applicant, as in, they must be commitments made by the applicant without coercion. Development plans are unique to Durham and offer an additional mechanism to convey zoning commitments made by an applicant. It is important to note that if an existing condition is present (for example steep slopes) on a site, the condition will have to be managed or protected per the UDO whether shown at the rezoning stage or site plan stage.

Environmental features are analyzed through both the legislative process (rezonings and annexations), and through the administrative process (site plans). Streams are required to be buffered if they are intermittent or perennial. If the stream is ephemeral, no buffering is required. Steep slopes, wetlands, unique bio-diversities, floodplains, and floodways are analyzed at the zoning stage. Textual development plans and graphic development plans have a requirement that this information is also shown in a summary table. Whether or not the information is shown graphically, Planning staff use various online map resources to evaluate whether these features exist on a site. This information is mostly available on the Natural Heritage Data Explorer (Inventory), GoMaps, and through Durham Maps. Density calculations require a thorough analysis of the environmental features on the site to ensure the dwelling units per acre is accurate.

In addition, projects in the rezoning and annexation stage are analyzed against the policies in the Comprehensive Plan (as required per 160D-605). Staff issue advisory comments on consistency with or lack of consistency with the Comprehensive Plan and encourage applicants to consider ways to make their proposal consistent with the policy. This includes consistency with environmental policies as referenced in your question. Staff cannot require applicants to make changes to a project to ensure consistency with the Comprehensive Plan. It is incumbent upon the governing body voting on the case to consider consistency with the Comprehensive Plan.

It is important to note that projects typically have not been fully designed and engineered at the rezoning stage. Developers generally do not undertake the risk and expense of having the site designed and engineered until after they have their zoning approval. Site design specifics are addressed through the site plan review process and the subsequent construction drawing process. It is in these two review processes that the extents of grading are known and can be evaluated. Environmental protection standards, such as riparian buffers, floodplain regulations, steep slope regulations, and tree coverage are applied through the site plan review process.



These regulations are intended to protect a site's most sensitive environmental features.

7) Evaluation of Impacts of Proposed Development: How does the proposed Comprehensive Plan ensure there will be adequate assessment of impacts of proposed development-Does it include the local county funding of cost per pupil for school impacts? Does it include current road infrastructure such as a 2-lane road with no shoulder and whether there is adequate capacity including development that has been approved for construction? How is the goal of the 15-minute community going to be included as criteria for future development and rezonings? How will EMS, Fire and other first responder data be used?

Staff Response: There are a several policies and actions in the [new Comprehensive Plan](#) that help address adequate assessment and impacts of proposed development. The policies –including the growth management strategy of a 15-Minute Community-- are used to evaluate development proposals that require a legislative process (like a rezoning or annexation).

- **(D)Policy 115** Adequately assess the costs and benefits of new development before rezoning or annexation approval. Provide best estimates for the true impact of new development on city and county revenues as well as services, including water, sewer, transportation, safety, greenhouse gas emissions, school capacity, and potential long-term maintenance needs.
- **(D)Policy 117** Ensure new developments within the Urban Growth Boundary are within the established level of service for emergency services (such as fire, emergency medical services, police, and community safety).
- **Policy 125** Ensure adequate water pressure to extinguish fires based on each Place Type on the Place Type Map.
- **(D)Policy 126** Ensure upgrades to the existing sewer system that are required to serve development are provided by the associated developer.
- **Growth Management and Infrastructure action #7** Assess and revise level of service standards for public safety (including police, fire, and EMS). Improve the process of establishing level of service for public safety services.
- **Growth Management and Infrastructure action #10** Develop a fiscal and service delivery analysis tool to be used for rezoning cases to determine the true cost and benefit of proposed development to the public.
- **Growth Management and Infrastructure action #18** Develop a methodology for city and county staff to estimate the long-term maintenance cost of public infrastructure that primarily supports private development. Use this assessment when considering discretionary approvals such as rezonings.
- **(D)Policy 55** Encourage new developments to fill in gaps or upgrade transportation infrastructure by building or dedicating rights-of-way within and adjacent to the project site.
- **Transportation action #3** Explore options for updating the Transportation Impact Assessment (TIA) process to prioritize pedestrians, transit riders, paratransit riders, bicyclists, and persons using other non-vehicular modes of travel when reviewing new development applications.



- **(D)Policy 150** Coordinate school planning and land use planning to proactively prepare for increased student growth from new development. When a proposed residential development causes any school level (ex: elementary, middle, and high school) within a region to be over-capacity (as defined during a joint, annual review of Durham Public Schools capacity and utilization) Durham Public Schools, the Durham City-County Planning Department, and the development team should consider mitigation measures for the school system (ex: land dedication, payments in-lieu-of improvements, or other proffers). Coordinate with Durham Public Schools to calculate what mitigation is necessary based on the best available estimates.
- **(D)Policy 152** When a new school is needed in a region it should be placed in a central location to nearby existing or proposed neighborhoods. Work with applicants and Durham Public Schools to locate school sites and provide connections for students and staff to walk, bike, roll, or take transit from nearby housing.
- **(D)Policy 153** When a proffer of land dedication for school sites is made, review of acreage and feasibility should be assessed in coordination with Durham Public Schools and Durham City-County Planning Department.
- **Education action #7** Reassess and revise school impact assessments completed for proposed annexations and zoning map changes to better plan for and reflect growing school population and educational needs.

There are several current practices in place that meet the scope of this question. The Planning Department utilizes a method called a Student Generation Ratio (SGR). The SGR projects how many students would potentially be generated by the residential development type. This SGR number is then used to calculate the cost per pupil for student impacts. This information may be found in the zoning map change staff report, which has been informed from community input, governing body input, staff input, evidence-based assessments, and other criterion after comparisons to peer jurisdictions.

The report also assesses housing impacts, environmental impacts, transportation impacts, social and built infrastructure impacts, impacts to adjacent and surrounding neighborhoods, historic resources, and equity and engagement impacts. Police and Fire do not review rezonings as there is no general impact to their service provision from a rezoning change. At the site plan stage, Fire reviews the plans for ingress and egress.

Transportation impacts are assessed on every project. Stub outs, connectivity, existing roadway capacity, pedestrian connections, and site access are analyzed by Transportation, the Bicycle and Pedestrian Advisory Commission, and Planning. In addition, Transportation does an analysis on the trip generation of every project. However, a full Transportation Impact Analysis (TIA) is only required by the Transportation Department and NCDOT if the proposed use will generate 150 peak hour trips.

Annexations are assessed per the City Code of Ordinances section 70-129(9) and per the North Carolina General Statutes in 160A and 160D. Assessment of annexations is done through two mechanisms: the first is a Fiscal Impact Analysis and the second is an operational impact analysis. Departments that participate in this assessment include: City Solid Waste, City Transportation, City-County Planning, City Public Works, Durham Fire, Durham Police, and City Budget and Management

Services. Public safety response times are not currently included in the assessment, however, this is something we would hope to be able to include in the future. EMS and the County Fire Marshal offices were previously reviewers on annexations but have not participated regularly since 2020, due to administrative bandwidth. The county is evaluating future capacity for these departments to be able to participate in reviews.

Lastly, it is important to note that impacts are always assessed at the most intense use. This rewards applicants who have committed to a specific use and helps us plan for what could possibly occur on the site in the future.

8) Access to City Sewer and Water by Adjacent property owners: How can property owners who are directly adjacent to city approved development activity that results in negative public health impacts due to lack of adequate sewer and water services be offered the ability to connect to city utilities? How can this be addressed in new Comprehensive Land Use Plan?

Staff Response: Current city policy allows any property owner in the Urban Growth Boundary to request city water and sewer service in conjunction with a voluntary annexation petition. There are also exceptions to the annexation requirement for water and sewer extensions in cases with failed wells or septic systems.

9) Assessment of Publicly Owned and Controlled Land to meet Goals of proposed Comprehensive Land Use Plan: I would like to see explicit reference to completing a study of city, county, DHA, DPS, etc owned land, inclusive of a public input process, regarding use of publicly controlled/owned land to address our affordable housing and other Comp plan goals.

Staff Response: There are three different actions that relate to assessing and utilizing property in order to meet different goals in the plan's vision that are excerpted below:

**Neighborhoods Action 3:** Evaluate vacant lots inside the Urban Growth Boundary to determine whether they are best suited for use for housing or green space and work with property owners to develop a plan for the best use of these lots to meet the Community Goals and Objectives.

**Housing action 27:** Allow and develop innovative, affordable housing on public and institutional properties (including schools, libraries, places of worship, and colleges) and particularly providing affordable, quality housing for schoolteachers and staff.

**Environment action 24:** Inventory city and county-owned surplus properties. Identify, prioritize, and implement innovative and beneficial uses of surplus land, which may include access to green space, recreational opportunities, cultural and historical sites, incorporation of stormwater management systems, sustainable energy production, community gardens, and urban agriculture. Conduct robust community engagement around this effort.