

Comments on the Proposed Ninth Street Plan

(March 27, 2007 Ninth Street Plan Draft)

These comments represent the shared concerns and questions of the Old West Durham Neighborhood Association, the Watts Hospital-Hillandale Neighborhood Association, and the business owners and other persons whose signatures appear hereon.

1) Fitting the Form-based Idea Into the UDO

The plan does not explain or map out what relationship the new form-based regulations contemplated in “V. Implementation Strategies, A. Zoning map and Text Amendments” will have to the existing the existing provisions of the UDO. Concerning this we ask:

- a) Will a wholly new zoning district or districts be created for the Ninth Street area containing the form-based regulations? If so, what use and performance regulations will apply to the new districts? For example, how will parking requirements, planting requirements, open space and buffer requirements be incorporated into the new district or districts? Will these be the same as those currently required in the UDO for similar districts? Again, if this is so, what regulations will be applied to what new districts or forms? If new use and performance regulations are to be created for a new district or districts, what principles will guide the creation of these regulations? Or does the absence of any explanation about how the new regulations will be married to the larger UDO suggest that except for the form-based regulations contemplated in the plan there will be no other regulations and the UDO and the Ninth Street will have no intersection?
- b) If a new district or districts will not be created, will the form-based regulations be grafted onto existing use districts to create special Ninth Street hybrid versions of existing districts? If this will be the model, will the use districts now in place in the Ninth Street planning area remain the same or will some or all of the area be rezoned? If rezoning within the current UDO table of uses is contemplated, what zone changes will be recommended as a part of plan implementation?
- c) If neither wholly new nor hybrid districts are to be created, will the form-based regulations function as a special overlay zone designed for the various sections of the Ninth Street planning area as shown on figure 9 of the draft plan? If the new regulations are to function as an overlay zone or zones, will the underlying zoning districts remain the same or will they be changed?

These questions suggest three or four possible models for reconciling the UDO to the proposed form-based regulations described in the draft Ninth Street Plan.

These three or four are not an exclusive list. Whatever the model is to be, we feel that it should be described in the plan before it is adopted.

2) Use-based Regulations Necessary for the Stability of the Ninth Street Area and its Neighbors

We strongly feel that the continued stability and prosperity of the Ninth Street area and the surrounding neighborhoods cannot be secured by form-based regulations alone. Without use regulations that encourage the concentration of commercial uses in the existing Ninth Street business district, the resulting diffusion of commercial uses would threaten the prosperity of the district and would tend to destabilize the existing supportive relationship between commercial and residential uses. The plan should include clear policy objectives and implementation measures which would require comprehensive plan and zoning regulation changes to accommodate the following use-based limitations in addition to the form-based regulations now contemplated in the draft plan:

- a) Retail, restaurant, hotel, banking and other services which invite regular customer traffic, automotive sales and repair, and other commercial uses should be limited (by appropriate regulations according to whatever model is adopted, see (1) above) to:
 - i) properties adjoining Ninth Street between NC-147 and Green Street;
 - ii) properties adjoining Broad Street between Main Street and Perry Street;
 - iii) properties at or near the intersection of Broad Street and Markham Avenue currently zoned for commercial uses;
 - iv) properties on the east side of Iredell Street between the alleyway and Green streets;
 - v) properties on the west side of Iredell Street between the alleyway and Green Street;
 - vi) properties on the north side of Hillsborough Road from Broad Street to the surface parking lot just west of 2002 Hillsborough Road and from Hale Street to Oakland Avenue;
 - vii) properties on the south side of Hillsborough Road from Broad Street to the drive west of the building occupied by George's Garage;
 - viii) properties comprising Erwin Square except that no more than 40% of the surface area of the undeveloped portion east of the axial drive may be commercial and none of that should front on or face Hillsborough Road;
 - ix) the southwest quadrant of the Erwin Square property now occupied by the tower; and
 - x) the wedge of property between Main Street and NC-147 west of the properties now occupied by the car wash and the Blue Light.

- b) Office and institutional uses should be allowed everywhere commercial uses are allowed as described in (a) above and to:
 - i) all property in the planning area adjoining Broad Street;
 - ii) properties on Main Street from Rutherford to 15th Street;
 - iii) the one-story office building occupied by Duke; and
 - iv) the properties between the railroad right-of-way and NC-147 west of Powe Street and east of the alleyway behind the car wash on Erwin Road.
- c) Residential uses should be allowed everywhere in the Ninth Street planning area.
- d) Industrial and heavy commercial uses should be excluded from the planning area.
- e) Development plans now regulating any property in the planning area should remain in force. These include the development plans governing the properties at Station 9, Ninth Street North, Sirens Lounge, and the old Women's Clinic on Iredell near Markham Avenue.

Of course this listing does not include all of the uses contemplated or defined in the UDO, but it establishes a fairly clear policy with regard to the types of uses which would be considered welcome in the planning area and where they should be permitted.

3. The Form-based Regulations in the Plan Should Respect the Historical Form-based Pattern of Uses in the Ninth Street Planning Area.

With the exception of the Erwin Square property west of the historic mill fragment, the remarkable thing about the Ninth Street area is that despite its zoning, its historic use patterns follow a clear set of building forms and a reasonably successful transection of both forms and uses as commercial uses in the south give way to residential uses in the north.

The dominant commercial form is the two-story commercial building common to early 20th century business districts developed before the dominance of the private automobile. These buildings are usually brick, half-a-block deep (or nearly so), and located close to the street. They have pedestrian friendly front entries with the principal door on the sidewalk. They have little or no provision for dedicated parking. They are usually located immediately next to a similar neighboring structure.

There is a one story version of the form and examples are located here and there throughout the planning area. Primarily, however, they are located to the north of the main business area and serve to lessen the intensity of commercial uses

as the business parts of the Ninth Street are get closer to the residential areas to the north, east and west.

The historical residential form in the Ninth Street area is the one story or one-and-one-half story single family or two family house. These are located primarily to the north. Once not long ago, this form also characterized residential development to the east and west of the commercial district.

The historical institutional forms in the area are represented by churches and schools. These are consistent with their residential and commercial counterparts and are for the most part arranged to serve the transaction.

The existing office form is a one story small office building. The major exception is the 1950's era Crum and Forster building on Broad. Although it is two-and-one-half stories tall, its placement with the other office building still tends to reinforce the transection of forms and uses from commercial to residential.

The existing pattern of uses and forms has contributed to the continuing vitality and stability of the northwest central Durham area. We view the principal purpose of the Ninth Street Plan to be the preservation of this happy relationship between existing uses and forms.

The exception to the pattern of historical forms in the Ninth Street Planning area is the unfinished Erwin Square Project. Although this project does not conform to the historical pattern of development, its location does not interfere with the operation of the complementary arrangements of historical forms in the rest of area. The key to developing the unbuilt portion of the project will be to identify form and use regulations which will allow a more intense use of the property for residential, office, or hotel purposes that will contribute to the stability and vitality of the surrounding commercial and residential uses.

- a) In order to make the forms suggested in the Ninth Street Plan conform more closely to the historical forms in the area and to arrange them on the ground in a way that more effectively complements the existing successful pattern of development, we suggest that the plan be changed to provide that:
 - i) the area reserved for the commercial block west of 15th Street between Hillsborough and Main Streets as shown on Figure 9 in the plan be designated for the townhouse form instead;
 - ii) the area west of 15th Street north of Main Street which is shown as commercial block on Figure 9 should be designated for the townhouse form with a two story height limit instead;

- iii) the lots facing Main Street between 15th and Rutherford Streets shown as commercial block in Figure 9 should be designated for the shop front form instead (if this is done, then commercial use of these lots would be appropriate);
 - iv) the three lots immediately behind and adjacent to the lots described in (c) above should be changed from commercial block to three story townhouse instead;
 - v) the lot now occupied by the office building on the east side of Rutherford Street should be designated for the commercial block form, but with a two story height limit;
 - vi) the townhouse form generally should be limited to a maximum of three stories;
 - vii) the lots facing both sides of Ninth Street (as shown on figure 9) from Main Street to Green Street should be designated shop front, however those lots designated “special places” on Ninth Street may require special regulatory treatment if some indication of what that treatment is included in the plan);
 - viii) all properties located north of Hillsborough Road in the planning area shown as commercial block in Figure 9 should be shown as townhouse instead;
 - ix) all use regulations contained in the descriptions of the various forms in Appendix 1 which conflict with the suggested use limitations described in section 2 of these comments should be changed to conform to said limitations;
 - x) the triangular portion of the irregularly shaped lot located in the northeast corner of the intersection of Hillsborough Road and Hale Streets (the point of which appears to reach to Hale Street) should be zoned RU-5 and removed from the Ninth Street Planning area;
 - xi) the triangular collection of properties bounded by the Durham Freeway, Main Street, and Powe Street should be designated townhouse; and
 - xii) wherever residential uses are allowed under the use regulations which are developed for the greater Ninth Street planning area, the townhouse form should be permitted for such residential uses in addition to any other form allowed in the same use district or area.
- b) The Draft Regulating Plan (Figure 9) designates certain areas as “Special Sites” and other areas as “Special Areas.” It is unclear from the text of the plan what measures are to be taken with regard to these sites and areas. See page 13 of the draft plan concerning “guidance” on special places. What policy is to guide the development of the approval process for special building types? While we agree that each of these sites is of special importance for a

variety of reasons, we feel the plan is incomplete unless a program of special treatment is described in the plan.

- c) The stacked flats form as described in the draft plan permits architectural massing which is wholly out of character with the largest portion of the Ninth Street planning area. As long as the stacked flats form is limited to the Erwin Square development the proposed form might be acceptable, but even at Erwin Square, some form based regulation to prevent long, unbroken multi-story facades would improve compatibility with the existing pattern of development and would reduce the likelihood of a breach in the desirable transection from Erwin Square with the less intense development surrounding it.
- d) Contained in section V.A. of the draft plan are lists of suggestions provided by persons who attended the charettes, subsequent meetings, and neighborhood meetings. Some of these suggestions are characterized as “guidelines” and “guidance,” but the suggestions are not in every case incorporated into the plan in the figures, implementation strategies, or in the texts of the sketches of the several building forms in Appendix I. The role of these suggestions should be clarified in the plan and where they are inconsistent with other parts of the plan, the inconsistencies should be eliminated.

We appreciate the opportunity to share these comments with you. We believe that if the questions raised in these comments are answered at the essential policy level and if the changes that we have asked for are incorporated into the plan, the plan will be a more effective planning instrument for the Ninth Street area and the neighborhoods which surround it.

(Comments draft 7/16/2007)