

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RECOMMENDING )  
THE CITY OF DURHAM'S REQUEST )  
FOR ACKNOWLEDGMENT OF COMPLIANCE )  
WITH THE LCDC GOALS )

RESOLUTION NO. 79-99  
Introduced by  
The Planning and  
Development Committee

WHEREAS, Metro is the designated planning coordination body under ORS 197.765; and

WHEREAS, Under ORS 197.255 the Council is required to advise LCDC and local jurisdictions preparing comprehensive plans whether or not such plans are in conformity with the statewide planning goals; and

WHEREAS, LCDC Goal #2 requires that local land use plans be consistent with regional plans; and

WHEREAS, Durham's comprehensive plan and the proposed amendments to it entitled "Draft Durham Plan and Code Amendments, October 1, 1979" attached as Exhibit "B" have been evaluated using the criteria and procedures contained in the "Metro Plan Review Manual" and as summarized in the staff report attached as Exhibit "A," is found to comply with LCDC goals and to be consistent with regional plans adopted by CRAG or Metro prior to August 1979, if and only if the proposed amendments are adopted; and

WHEREAS, The city of Durham is now requesting that LCDC acknowledge its comprehensive plan as complying with the statewide planning goals; now, therefore,

BE IT RESOLVED:

1. That the Durham comprehensive plan is recommended for compliance acknowledgment by the LCDC if the proposed amendments are adopted.

2. That the Executive Officer forward copies of this Resolution and the staff report attached hereto as Exhibit "A," and the proposed amendments attached hereto as Exhibit "B," to LCDC, the city of Durham and appropriate agencies.

3. That subsequent to the adoption by the Council of any goals and objectives or functional plans after August, 1979, the Council will again review Durham's plan for consistency with regional plans and notify the city of Durham of any changes that may be needed at that time.

ADOPTED by the Council of the Metropolitan Service District this 11th day of October, 1979.

  
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Presiding Officer

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## DURHAM ACKNOWLEDGMENT REVIEW

(Numbers refer to items on the Checklist in the Metro Plan Review Manual)

### Introduction

Located in rapidly growing Washington County between Tigard and Tualatin, Durham is a small city likely to more than double its population by the year 2000. In 1975, its population was 250; by 1979, it was 440. About 70 acres, one quarter of its land area, is currently buildable vacant land.

For a city its size, with its limited resources, it has done a thorough and competent job of planning for its future. It has cooperated with the Metro plan review process to insure that its plan addresses regional as well as local needs.

At the time the City submitted its plan to LCDC for compliance acknowledgment, however, some problems with the plan still remained which Metro staff felt jeopardized compliance acknowledgment. Metro staff met with City officials to discuss these problems, and the City agreed to undertake the changes needed to remedy them. The City's planning consultant, Chris Nelson, has drafted proposed plan and code amendments for this purpose. These amendments were reviewed as part of Metro's acknowledgment review and found to be adequate to achieve compliance.

### CONCLUSIONS AND RECOMMENDATIONS:

Metro finds that Durham's Comprehensive Plan, as currently adopted, complies with most LCDC goals and is consistent with regional plans, with the following exceptions:

1. Application of the Greenway Zone in South Durham is needed for consistency between the plan and zoning maps (Goal #2) and to provide adequate protection from hazards (Goal #7).
2. Revision to the plan and to the land development code are needed to remove vague and discretionary conditions for the approval of needed housing types, in order to insure the availability of an adequate supply of housing at appropriate price ranges or rent levels (Goal #10).

Metro further finds that proposed plan and code amendments adequately remedy these and other significant, if not critical, deficiencies.

Metro recommends, therefore, that Durham's plan be acknowledged by LCDC if these amendments are adopted as proposed. It is hoped that these amendments can be adopted and reviewed prior to Durham's acknowledgement hearing before LCDC in December, and that the City's plan can be acknowledged at that time.

If the amendments adopted differ from those currently proposed, Metro will review the changes and forward its recommendation on them for consideration by LCDC at that time.

### General Requirements

All items on the completeness check have been included. The list of documents (0.1.5) composing the package submitted for acknowledgment is included--though no description of contents (0.1.5.1) is included, the documents are so few that the plan is easily comprehended without the benefit of such a summary. There are no other major supporting documents.

The plan references the CRAG "208" population projections (0.2) and suggests that they are low for the Durham area. Because the City has no major responsibilities for facilities planning and has not planned for any increase in City size, the plan does not include and does not need, a precise population "projection." The plan does provide for a population capacity in excess of the entire year 2000 population projected in "208" for the surrounding traffic zone, but it is unlikely that full capacity will be reached by the year 2000.

The difference between the population the City could accommodate if built to capacity (about 1,500 people if estimated using the assumptions in Metro's UGB Findings) and an estimate of future growth within a range consistent with "208" (between 700 and 1400, based on the "208" projection for the surrounding census tract and the proportions of vacant land in that area which is located in the City) is, in any case, so insignificant that the availability of local and regional plans is not threatened by the "inconsistency."

Conclusion: The City satisfies general requirements.

### Goal #1 Citizen Involvement

All required documentation of the citizen involvement process is included. The evaluation of the process by the CCI is positive (attachment 6). No complaints about the process have been raised to Metro or the LCDC Field Representative.

Conclusion: The City complies.

### Goal #2 Land Use Planning

An Urban Planning Area Agreement (2.2.2.1) has been signed by the governing bodies of Durham and Washington County and fulfills all requirements for such agreements. The City has not documented the opportunity for agency review (2.2.2.2), but we assume that the City has followed its agency involvement program and corresponded as appropriate with the agencies on the mailing list included as an attachment to the plan (#4).

There is, however, an inconsistency between the plan and zoning maps (2.1.2.2) which jeopardizes compliance with both Goal #2 and

Goal #7. This problem is discussed under Goal #7. The City is in the process of amending its plan to eliminate this inconsistency.

Conclusion: Amendment to eliminate the inconsistency between the plan map and zoning map will be adequate for compliance.

Goal #3 Agricultural Lands -- Does not apply.

Goal #4 Forest Lands

Most of this goal is not applicable in urbanized areas. Durham has identified forested areas (4.1.4) as important to the character of the City and has adopted policies (4.2.2) to preserve them. In addition, the Development Code requires all planned development proposals to include an inventory of all trees over five inches in diameter.

Conclusion: The City complies.

Goal #5 Natural Resources

The plan addresses each of the 13 inventory items on the checklist (except for energy sources and wilderness, which are not applicable). In addition to several policies for preserving forested lands, about 70 acres (approximately 25 percent of the land within the city limits) is designated for parks and greenway. The Development Code contains a chapter on permitted and prescribed uses in the Greenway adequate to protect the City's natural resources.

Conclusion: The City complies.

Goal #6 Air, Water and Land Quality

In our preliminary reviews of the Durham Plan (letter to Gery Shirado, February 2, 1979), we indicated that the air quality data contained in the plan was outdated and that the problem could be rectified by referencing Metro data and indicating an intent to participate in the State Implementation Plan for Air Quality. Sample language was provided to the City. The Durham Plan has not been changed to comply with our requests.

This problem is not, in itself, sufficient to preclude acknowledgment. The City finished its analysis of air quality before the more current data were available; no plan can be expected to be continually current with all data updates. Moreover, though the plan does not specifically reference the SIP and the Metro role in air quality planning, it does contain a general policy expressing Durham's intent to cooperate with Metro and DEQ in maintaining and enhancing air quality (page 29). Metro believes that Durham should amend its plan to reflect current air quality data, but that the failure to have done so in the current time frame and circumstances is not a substantial goal violation. However, since Durham is now undertaking a series of plan amendments to address other compliance problems, this process provides an appropriate occasion to amend the

air quality section of the plan as well. Since the adoption of Metro's "sample language" on air quality does not require any additional staff work on the City's part, the failure to do so when adopting other plan amendments would indicate more than a pardonable oversight, but an active reluctance to recognize the problem and the process for its solution.

At Metro's request, therefore, the "sample language" has been included in the proposed amendments and Metro believes its adoption important for compliance.

The only potential threats to water quality are residential septic tanks and drainage. The plan states that neither currently present problems. Future problems are avoided by sewerage and drainage requirements for all future subdivisions and planned development (Development Code pages 9, 17).

The plan does not present information on solid waste production or methods of disposal. However, Durham has come a long way in recognizing the Metro authority for landfill siting, and has adopted a policy consistent with Metro "Procedures for Siting a Sanitary Landfill" (page 29).

Conclusion: The City complies. However, the air quality section the the plan should be revised when the City next amends its plan.

#### Goal #7 Natural Hazards

The plan inventories all applicable hazards defined by this goal (pages 4-24). Policies (pages 28-29) and implementing ordinances (Development Code pages 15 and 46) are included.

Because the City's hazard areas are located along the banks of the Fanno Creek and the Tualatin River, hazard protection is afforded by a Greenway Zone with Special Standards and review procedures for development. The plan map identifies Greenway areas in the north-west and southern corners of the city but only the former is currently shown on the zoning map.

Without application of a Greenway Zone to protect against hazard in the South Durham area, goal compliance is jeopardized. The City has prepared new zoning code provisions for a Greenway Overlay Zone which would be applied both to this area and an additional portion of land to the east of the current Greenway Zone. Adoption of the plan map and zoning code provisions which have been proposed would be adequate to remedy this deficiency.

Conclusion: Application of a Greenway Zone to the hazard area in south Durham will be adequate for compliance.

#### Goal #8 Recreation

The plan addresses all the applicable inventories required by the goal. In addition to the developed neighborhood parks, the plan

dedicates approximately 25 percent of the land area in the City to a Greenway along Fanno Creek and the Tualatin River which will serve as undeveloped recreational land. Analysis of future needs and location of facilities is presented (pages 28-34). Subdivision and Greenway Chapters of the Development Code are sufficient to ensure that recreation policies will be implemented.

#### Goal #9 Economy

The economic analysis presented in the plan (pages 47-52) is entirely appropriate given Durham's limited size. The plan explains the type and degree of economic growth the City desires and examines the reasons why such growth (primarily office parks) may be likely to occur in Durham. Sufficient land is zoned for the type of economic growth envisioned.

Conclusion: The City complies.

#### Goal #10 Housing

Because Durham has been the focus of a series of housing issues, it is instructive to review its history before analyzing its plan against the checklist.

The LCDC "Seaman Order" (April, 1978) found Durham in violation of Goal #10 because its ordinances were intended to maintain low-density housing and thus provide few housing opportunities for low-income households. The order warned other jurisdictions that LCDC would be examining plans to ensure that "jurisdictions which clearly lack meaningful diversity of housing do not turn the screws down even further." Subsequent drafts of Durham's plan showed that some multi-family housing had been added, but that minimum single family lot sizes had risen from 15,000 to 20,000 square feet. The Metro review in May, 1979 identified these extremely low densities as unacceptable. Metro staff attended two work sessions with the Durham City Council to explain again the Goal requirements. We pushed for a 65/35 single family/multi-family ratio and a variety of single family housing densities, including small single family lots (5,000 to 7,500 square feet). There was serious discussion among Council and Planning Commission members about simply submitting the unrevised plan but it was decided finally that the City Council would consider the amendments to be prepared by the consultant. These amendments were subsequently adopted and the revised plan submitted to Metro and LCDC for compliance acknowledgment.

In general, the revised plan represents an important step forward towards goal compliance. However, although these changes have provided for more appropriate single family densities, some problems remain with review provisions for multi-family.

10.3.1.1. Sufficient land zoned for each needed housing type.

SINGLE FAMILY: All single family land is zoned for an average

minimum lot size of 10,000 square feet - twice the density provided for before the plan was amended. Some variation in actual lot sizes is provided for by means of planned development provisions and provisions for density transfers in areas located partially within the Greenway, but these provisions are discretionary in their application and, in any case, do not clearly result in any cost savings per lot. The new amendments currently being considered include revisions which specify standards for the approval of such density bonuses in a sufficiently clean and objective manner to provide assurance that some development can take place on smaller lots. Although these changes, if adopted, will strengthen the City's housing plan, Metro finds that current provisions for single family housing are adequate for goal compliance for the following reasons:

1. Until the plan's most recent amendment, Durham has been a suburban community with a minimum lot size of 15,000 square feet. The City has significantly "loosened the screws;"
2. The plan has presented ample evidence that there has been and will continue to be a demand for large lots in Durham. Metro recognizes that not all communities need have identical housing mixes and that some communities are more appropriate and efficient locations for certain types of housing than others;
3. Durham's housing mix has an insignificant impact on regional housing. Even if 50 percent of Durham's vacant buildable single family land were upzoned to R-7.5, the overall density increase would amount to one unit per year between now and the year 2000 (when buildout is assumed to occur).
4. A minimum lot size of 10,000 square feet allows for single family development densities consistent with those assumed needed in Metro's UGB Findings; in addition, the overall density of new development, including multi-family, will be over seven units an acre, above that assumed necessary in the UGB Findings.
5. Densities are sufficient to allow for the efficient sewerage of new development.

**MULTI-FAMILY:** The City has zoned a 13 acre area in south Durham for multi-family housing. Although some of this land lies in the flood-plain, density requirements are set on a gross acreage basis to allow for a total of 212 new units on however much or little of the land is used for actual development. Proposed amendments will help clarify these provisions.

Data from several sections in the plan can be assembled into the following summary of projected new development:



Durham: Synthesis of Housing Data  
from the Comprehensive Plan

	Single Family	Multifamily
Units existing (1979)	235	18
Percentage of existing Units	93	7
Vacant buildable land	42.6 acres (net) =56.8 acres (gross)	approximately 10 acres (net) 13.3 acres (gross)
Density permitted	4 units/net acre	16 units/gross acre up to 25.6 units/net acre
Potential new units	170	212
Percentage of potential units	45	55
Total units of buildout	405	231
Percentage of total	64	36

It is apparent that the City has taken a giant step forward towards meeting its housing needs and has designated sufficient land for multi-family developments at sufficient density to allow for new multi-family development which is consistent with goal requirements and well in excess of that assumed needed in Metro's UGB Findings.

**MOBILE HOMES:** The plan does not include any reference to mobile homes. Nothing in the plan would preclude providing for mobile homes as needed in the future, nor is there anything to insure that such provisions will be made. Because of the City's small size and the small amount of vacant buildable land which might be suitable for a mobile home park; the fact that the plan does not contain any negative policy on mobile homes; the absence of any state or regional policy requiring that mobile homes be evaluated as a potentially needed "type" of housing; and because Durham has come so far in providing for other lower cost housing alternatives, Metro does not believe that the failure to address mobile homes jeopardizes goal compliance.

10.3.2 Approval standards clear, objective and reasonable when applied to a needed housing type.

All multi-family and all single family subdivisions must be approved as "planned developments." Current provisions for planned developments violate LCDC's "St. Helens" policy for the following reasons:

1. The Planning Commission may approve the development, deny it,

or approve with conditions. No limits are placed on the grounds for denial, nor is there an inclusive list of the range of conditions which may be attached; the partial list includes those that ensure that "the proposal is in harmony with the surrounding area."

2. A number of "program elements" are required with the preliminary plat (such as "contribution to the local economic base") which place an unfair burden on the developer and which are either superfluous or, if used in the decision process, inappropriate.
3. The proposal must also be found to be in conformance with the plan itself. The plan itself contains many vague policy statements including general standards on "physical attractiveness" which could be used to deny proposed developments.

In addition, the plan contains "residential development criteria" for services which place the burden for all service provision on the development without specifying how these criteria can be met. Requirements with respect to "adequate fire protection," "adequate drainage," "adequate recreation improvements," and "adequate provision for mass transit access" all may be sensible in theory; but how "adequacy" is to be measured and what types of design features can meet it must be specified or these criteria can be used to impose unreasonable conditions for approval which substantially increase the cost of housing or otherwise make its production unfeasible. Policies on park dedications or fees in lieu of are also contained in other sections of the plan but nowhere defined.

4. Finally, there are provisions for design review with no associated standards or criteria. Design review itself is acceptable but only where the range of features reviewed and the review standards are stated.

The problems here are not as much with standards which are altogether inappropriate as with a lack of clarity about which standards are used, when, and how. The amendments now being considered by the City would remedy this problem by:

1. Exempting multi-family housing from application of the planned development and design review approval processes;
2. Applying design review only to a limited range of conditions and only as necessary for the approval of special permits or variances;
3. Replacing vague approval standards and procedures from the planned development provisions with clear and objective conditions for approval;

4. Adding policy to the plan itself limiting the application of vague standards therein to use as guidelines for the development of specific and non-exclusionary standards in the ordinances; and
5. The addition of a few specific requirements for multi-family housing.

Metro has reviewed these amendments in draft form and finds them adequate to meet goal requirements.

**SUMMARY:** Durham has responded to the Seaman Order by considering regional as well as local housing needs, and in consequence, up-zoning its single family residential land, expanding opportunities for multi-family developing and committing to participation in the Areawide Housing Opportunity Plan to meet its fair share of regional needs for assisted housing. If the City had submitted its plan in its current form at the time the Seaman suit was filed, it would probably have received compliance acknowledgment. Since that time, however, LCDC has adopted new review standards in the form of the St. Helens policy paper. The City has demonstrated its good faith and its commitment to expediting construction of lower cost housing alternatives by undertaking the amendments necessary to eliminate violation of this policy.

**CONCLUSIONS:** Adoption of the amendments currently proposed will be adequate to achieve goal compliance.

#### Goal #11 Public Facilities

The plan addresses most of the criteria on the checklist. Though the City has limited responsibility with respect to public facilities, it has checked with service providers to ensure that its projected population can be accommodated. The plan is consistent with applicable regional plans.

The reduced lot sizes in the revised plan allow development to be sewered efficiently and the plan requires sewerage of new subdivisions and multi-family development.

**Conclusion:** The City complies.

#### Goal #12 Transportation

The plan contains appropriate inventories, analysis, and policy for a City of its size. Some of its objectives with respect to traffic patterns (e.g., the closing of Upper Boones Ferry Road to truck traffic) are inconsistent with current local, regional, and state plans, but the plan policy is to "pursue measures" to achieve these objectives, rather than to take any immediate action on them, and plan policy on local and regional coordination is adequate to insure that no action will be taken which is inconsistent with these plans.

**CONCLUSION:** The City complies.

Goal #13 Energy

The sources, consumption, and distribution of energy are all discussed (pages 25 and 56). The plan identifies methods of and policies for conserving energy (page 34), which have been adequately implemented in the plan itself and in accompanying ordinances.

Conclusion: The City complies.

Goal #14 Urbanization

Durham is entirely within (that is, is nowhere coterminus) with the regional UGB, is planning for its city limits only and has signed an Urban Planning Area Agreement with Washington County to that effect.

All buildable land within city limits (approximately 70 acres, net) is considered ready for urban development and will be provided with a full range of urban services. The plan identifies the likely timing of development in the urban area (page 64). Although the urbanization element of the plan has not been reviewed at this time for consistency with Metro policies adopted August 23, 1979, no conflicts are apparent. The City may need to adopt additional policy at a later date, however, in order to insure consistency.

Conclusion: The City complies.

Goal #15 Willamette River Greenway -- Does not apply.

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