

**DURHAM, NORTH CAROLINA
MONDAY, JANUARY 19, 2021
7:00 P.M.**

The Durham City Council met in a regular session on the above date and time virtually via Zoom with the following members present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Javiera Caballero, Pierce Freelon, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Absent: None

Also Present: Interim City Manager Wanda Page, City Attorney Kim Rehberg, City Clerk Diana Schreiber, Deputy City Clerk Ashley Wyatt, Governor Roy Cooper and Secretary of Health

Mayor Schewel called the meeting to order, welcomed everyone in attendance and called for a moment of silent meditation.

Council Member Reece led the Pledge of Allegiance.

[CEREMONIAL ITEMS]

Mayor Schewel read into the record the proclamation Honoring Dr. Mandy K. Cohen and awarding her the Key to the City. Mayor Schewel virtually presented the Key to the City to Dr. Mandy K. Cohen.

North Carolina Governor Roy Cooper spoke highly of Dr. Mandy K. Cohen and her hard work ethic in regard to keeping the public abreast of pertinent coronavirus information. He also commended the local leadership of Durham City and County for their handling of the coronavirus.

Dr. Cohen thanked the Durham City Council, as well as Roy Cooper, for their kind words and expressed that she was honored to receive the proclamation. She thanked her family and recognized her full team of staff for their help and encouragement.

Council Member Caballero read into the record the proclamation Celebrating and Honoring the Life and Service of Dr. Martin Luther King, Jr. and virtually presented it to DeWarren Langley.

Mr. Langley thanked the Council for annually presenting the proclamation and appreciated being its recipient.

Council Member Reece read into the record the National Day of Racial Healing Proclamation and presented it to Deborah Giles, Director of the Equity and Inclusion Department.

Ms. Giles thanked Council for presenting the proclamation and spoke to the ongoing changes taking place to promote equity and inclusion.

Actual Key to the City and other proclamations will be provided to the recipients following the meeting.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Reece noted that the Durham County Department of Public Health began vaccinations for Group 2, residents over the age of 65. He provided the contact number of 919-560-4357 to set up appointments and mentioned that they had been experiencing very high call volume. He went on to highlight the violence interruption program; the non-discrimination ordinance that was expected to pass at the Council Meeting; and thanked the City Attorney's Office and Council Member Freeman for their work on the item.

Mayor Pro Tempore Johnson expressed her excitement for the non-discrimination ordinance and celebrated Durham being a community for all residents. She thanked the efforts of the City Attorney's Office, Interim City Manager Page, and the Neighborhood Improvement Services Department who would create the enforcement mechanisms for the ordinance.

Council Member Middleton recognized the ceremonial items that were presented; spoke to the guaranteed income initiative; appreciated the remembrance displayed by President-Elect Joe Biden and Vice President-Elect Kamala Harris for the 400,000 Americans that died over the course of the previous year due to COVID-19; advocated for black women; noted that Durham was a city for all people; and looked forward to voting on the non-discrimination ordinance.

Council Member Caballero spoke in favor of the non-discrimination ordinance, acknowledged other North Carolina cities that passed similar ordinances; provided encouraging words to the LGBTQ community; and highlighted the upcoming presidential inauguration.

Council Member Freelon referenced a quote by Dr. Martin Luther King Jr. regarding the "moral arc of the universe towards justice" and stated that Durham and the country were continuing to bend that principle in a positive way with the non-discrimination ordinance, guaranteed income initiative, and by electing the first woman and woman of color as the Vice-President of the United States.

Council Member Freeman appreciated the words of her Council colleagues; spoke to the positivity of the meeting; and noted how far the state had come regarding the non-discrimination ordinance and the General Assembly leadership.

[PRIORITY ITEMS BY THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK]

Interim City Manager Page noted that items 5, 10, 21, 22, 23, 24, and 25 had additional information.

City Attorney Rehberg and City Clerk Schreiber did not have any priority items.

[CONSENT AGENDA]

SUBJECT: DURHAM HOUSING AUTHORITY BOARD OF COMMISSIONERS – APPOINTMENT (ITEM 1/ PR #14388)

MOTION by Council Member Reece, seconded by Council Member Caballero, to appoint Pebble Lucas to the Durham Housing Authority Board of Commissioners with the term to expire on September 28, 2025, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION – APPOINTMENTS (ITEM 3/ PR #14387)

MOTION by Council Member Reece, seconded by Council Member Caballero, to appoint Maria Solis-Guzman to represent Hispanic/Latino Female and to appoint Stacy D. Whitenight to represent Other Racial Group Female on the Human Relations Commission with the terms to expire on June 30, 2022, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: INTERLOCAL AGREEMENT WITH DURHAM COUNTY REGARDING DURHAM COUNTY CRISIS RESPONSE CENTER (ITEM 4/ PR #14393)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the Interim City Manager to execute an interlocal agreement to convey funds not to exceed \$85,508 to Durham County, which Durham County will contribute to the Durham County Crisis Response Center, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: NON-DISCRIMINATION ORDINANCE (ITEM 5/ PR #14420)

MOTION by Council Member Reece, seconded by Council Member Caballero, to adopt amendments to Chapter 34 of the Durham City Code adding protections against discrimination in employment and public accommodation within the City of Durham to

existing protections against fair housing discrimination, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15762

SUBJECT: AMENDMENT TO CONTRACT #17116 WITH DURHAM COUNTY FOR THE PROVISION OF THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) HOUSING ASSISTANCE AND RELATED SUPPORTIVE SERVICES (ITEM 7/ PR #14410)

MOTION by Council Member Reece, seconded by Council Member Caballero, to approve the first amendment to the Contract #17116 with the Durham County for the delivery of Housing Opportunities for Persons with AIDS (HOPWA) short term rental/mortgage and utility assistance, permanent housing placement and related supportive services, to extend the term of the contract from January 1, 2020 - December 31, 2020 to June 30, 2021, to increase the contract value by \$168,525 from \$193,795 to \$362,320 in HOPWA funds, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: AMENDMENT TO CONTRACT #17351 WITH THE HOUSING AUTHORITY OF THE CITY OF DURHAM FOR THE PROVISION OF THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) TENANT BASED RENTAL ASSISTANCE SERVICES (ITEM 8/ PR #14408)

MOTION by Council Member Reece, seconded by Council Member Caballero, to approve the first amendment to Contract #17351 with the Housing Authority of the City of Durham for the delivery of the Housing Opportunities for Persons with AIDS (HOPWA) funded Tenant Based Rental Assistance (TBRA) voucher program administration in order to extend the term of the contract to June 30, 2021, and increase the contract value by \$112,227.42 from \$172,186, for a total of \$284,413.42 in HOPWA and Dedicated Housing Funds, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: INTERLOCAL AGREEMENT WITH DURHAM COUNTY TO PROVIDE FUNDING FOR MINOR REPAIR AND SUBSTANTIAL REHABILITATION PROGRAMS (ITEM 9/ PR #14406)

MOTION by Council Member Reece, seconded by Council Member Caballero, to resolve that the City Manager be authorized to the execute an Interlocal Agreement with Durham County to support Minor Repair and Substantial Rehabilitation programs managed by the City, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro

Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: PURCHASE CONTRACT FOR SIX (6) 40-FOOT ELECTRIC BUSES WITH GILLIG LLC (ITEM 10/ PR #14418)

MOTION by Council Member Reece, seconded by Council Member Caballero, to find it is in the best interest of the City that the bidding requirements for the purchase of six 40-foot electric buses from Gillig LLC be waived for a contract negotiated on the same or more favorable terms of the competitively bid contract executed by the Town of Chapel Hill on January 29, 2020 pursuant to N.C. Gen. Stat. 143-129(g); and to authorize the City Manager to execute a purchase contract with Gillig LLC for the purchase and delivery of six (6) 40-foot electric buses, including related power outfit, in the amount of \$976,532 per bus for a total purchase contract of \$5,859,192, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: AMENDMENT #2 TO THE FAYETTEVILLE ROAD LIFT STATION AND FORCE MAIN UPGRADE PROFESSIONAL ENGINEERING SERVICES CONTRACT (ITEM 11/ PR #14389)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a contract Amendment #2 with CDM Smith, Incorporated for Professional Engineering Services in an amount not to exceed \$3,980,987 for the Fayetteville Road Lift Station and Force Main Upgrades contract, for a total revised contract amount of \$4,654,187; to establish additional contingency funds for the contract in the amount not to exceed \$239,000, for a total revised contingency of \$306,400; and to authorize the City Manager to negotiate change orders for the contract provided that the total project cost does not exceed \$4,960,587, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: ENO RIVER OUTFALL PHASE II – WEST, AWARD OF CONSTRUCTION CONTRACT TO J. F. WILKERSON CONTRACTING, INCORPORATED (ITEM 12/ PR #14350)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a contract with J. F. Wilkerson Contracting, Incorporated for the Eno River Outfall Phase II - West in the amount of \$5,988,733;

To establish a contingency fund for the contract in the amount of \$598,267; and

To authorize the City Manager to negotiate change orders for the contract provided that the cost of all change orders together with the total contract cost does not exceed \$6,587,000, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor

Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: TRIANGLE LAND CONSERVANCY DAYE WATERSHED PROTECTION PROJECT –AUTHORIZATION TO FUND (ITEM 13/ PR #14381)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the expenditure of \$57,500 from the City's Watershed Protection funds for the Triangle Land Conservancy Daye Watershed Protection Project, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: RADIO SOFTWARE UPGRADE AGREEMENT WITH MOTOROLA SOLUTIONS, INC. (ITEM 14/ PR #14413)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a new 6-year Software Upgrade Agreement with Motorola Solutions, Inc. starting January 2021 for a total cost of \$2,153,292, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: AMENDMENT TO INTERLOCAL AGREEMENT WITH THE DURHAM HOUSING AUTHORITY TO PROCURE SECURITY CAMERAS AND LIGHTING (ITEM 15/ PR #14412)

MOTION by Council Member Reece, seconded by Council Member Caballero, to resolve to authorize the City Manager to execute the amendment to the interlocal cooperation agreement between the Durham Housing Authority (DHA) and the City of Durham to procure security cameras and lighting, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: LAND LEASE WITH CROWN CASTLE SOUTH LLC - 301 ARCHDALE DRIVE (ITEM 16/ PR #14416)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a land lease with Crown Castle South LLC for a ten (10) year term for the purpose of the continued operation of its cellular tower located on a portion of 301 Archdale Drive, Parcel ID 134658, together with the following: (1) a non-exclusive twenty (20) foot wide access easement that extends to the adjoining public right-of-way; (2) a utility easement for the purpose of providing electrical service to the leased site; and (3) a non-exclusive easement for ingress and egress across areas specified in the lease; and to authorize the City Manager to execute subsequent documents permitted by or required by either the lease or lease-related documents, was approved at 7:53 p.m. by the

following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: NINTH AMENDMENT TO ASSIGNMENT AGREEMENT FOR THE DURHAM ATHLETIC PARK OPERATING AGREEMENT (ITEM 17/ PR #14411)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute the Ninth Amendment to Assignment Agreement for the DAP Operating Agreement with The Durham Bulls Baseball Club, Inc. extending the operation of the Durham Athletic Park an additional twelve (12) months to September 30, 2021, at the contract amount of \$119,228.16 annually, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: SECOND AMENDMENT TO THE TRAINING TO WORK REENTRY GRANT 4 CONTRACT WITH ECKERD YOUTH ALTERNATIVES, INC. DOING BUSINESS AS ECKERD KIDS (ITEM 18/ PR #14385)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute an amendment to the Training To Work Reentry Grant 4 contract with Eckerd Youth Alternatives, Inc. doing business as Eckerd Kids, extending the completion date to June 30, 2021, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: CONTRACT WITH RECOVERY INNOVATIONS FOR A LICENSED CLINICIAN (ITEM 19/ PR #14419)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a contract with Recovery Innovations in the amount of \$85,261 for a Licensed Clinician, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: EXPANSION OF BULL CITY UNITED (ITEM 6/ PR #14417)

Mayor Schewel introduced the item and requested Council comment.

Council Member Freelon noted a concern Mayor Schewel had previously mentioned due to budgetary constraints that the city was facing and suggested asking the County to split the cost of the program. However, Council Member Freelon expressed concerns about waiting on the County due to possible delays in the rollout.

Mayor Pro Tempore Johnson stated that theoretically she liked the idea; however, shared the concern about waiting on the County due to possible delays in the rollout and spoke in favor of funding four Census tracts.

Council Member Freeman preferred funding four Census tracts; however, she did have concerns on utilizing so much funding for the one 'cure violence' model instead of incorporating other potential models.

Council Member Middleton felt that it was important to convey to the community that he was consistent on the issues; and noted that gun violence and COVID-19 were the most important issues to him- both of which represented imminent dangers to the residents. He supported moving forward with the item.

Council Member Caballero stated that she did have reservations on funding four Census tracts, but would be supportive of the majority will of Council. She expressed concerns on Council initiatives not being funded due to budgetary restraints and suggested that the work of the Community Safety and Wellness Taskforce could supplement some of the funding for the item through its work.

Council Member Middleton stated that the Community Safety and Wellness Taskforce was not designed for that purpose and was not comfortable limiting resources for the item in anticipation of what another resource could do.

Council Member Freeman stated that the item was of high importance to her and advocated for support from the county for the work that needed to be done within the community.

Mayor Schewel supported the merits of the item, but not the implementation regarding the funding and four Census tracts. He suggested a more incremental approach due to budgetary restraints for two Census tracts.

MOTION by Council Member Middleton, seconded by Council Member Freeman, to receive a presentation on Bull City United Expansion Options; to approve the proposed Bull City United expansion service areas; and

To authorize the City Manager to negotiate an Interlocal Agreement with Durham County to expand Bull City United, was approved at 8:25 p.m. by the following vote: Ayes: Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: Mayor Schewel. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]**SUBJECT: CONSOLIDATED ANNEXATION - 3016 PAGE ROAD TOWNHOMES
(ITEM 22/ PR #14403)**

Alexander Cahill, Senior Planner stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and the affidavit of the notice were on file in the Planning Department and provided the following staff report:

A request for an annexation, utility extension agreement and zoning map change had been received from Stephen Dorn of Lennar Corporation for 26.86 acres of land located around 3016 Page Road.

The site was presently zoned Residential Rural (RR) and was being proposed to be rezoned to Planned Development Residential 7.200 (PDR 7.200). The applicant had proposed developing up to 193 townhouse residential units on the site.

The zoning map change request had been reviewed by staff and determined to be consistent with UDO requirements. Summaries of the commitments in excess of UDO requirements could be found on the development plan. Some of the commitments included:

- The construction of an exclusive northbound left-turn lane with adequate storage, and the dedication of an additional 25' of right-of-way along the Page Road frontage;
- The location of tree coverage areas, site access points, building and parking envelopes, stream crossings, and project boundary buffers; and
- Design commitments that include a variety of exterior building materials and architectural features that include projected bays, vertically proportioned windows, gable end walls with accent siding,
- and at least 40% of the townhomes will offer a maximum 1-car garage stall,
- and at least 40% of the townhouse units will offer a rear-loaded garage.

Staff recommended that the City Council approve the utility extension agreement, voluntary annexation, and consistency statement for the proposed zoning map change. Staff recommended approval based on several key findings including the contiguous nature of the annexation, the minimal impacts to city services, and the revenue positive result of the cost-benefit analysis.

In addition, the proposal expanded upon the residential development pattern to the east and southwest of the site. The residential development would create a cohesive transition of uses between the existing residential, and it would have removed the potential of industrial uses being built adjacent to the existing residential area. Other key criteria that went into the recommendation included: the abundance of land zoned industrial in Durham, the construction of an exclusive north-bound left-turn lane to mitigate traffic impacts, and the text and design commitments on the Development Plan that were in excess of the UDO requirements. The Planning Commission, by a vote of 13-0 at their November 10, 2020 meeting, recommended approval of the request.

There were three motions required for the application. The first was to adopt an ordinance annexing '3016 Page Road Townhomes' into the City of Durham effective March 31, 2021; and enter into a Utility Extension Agreement with Lennar Carolinas, LLC; the second was to adopt a Consistency Statement as required by NCGS 160A-383; and the third was to adopt an ordinance amending the Future Land Use Map designation from Industrial to Medium Density Residential and amending the Unified Development Ordinance by taking property out of the Residential Rural (RR) District and establishing the same as Planned Development Residential 7.200 (PDR 7.200) District.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Nil Ghosh, Attorney from Morningstar Law Group and representative of the applicant, gave a presentation to Council on the item and spoke to the following regarding the item: price points of 250k-300k, only town homes were being proposed, different garage options, a left turn lane on page road, 25 feet of right-of-way, and a bike lane.

Mayor Schewel asked about the reference to an "abundance of industrial land" in Durham.

Mr. Cahill advised that an adopted tool called the industrial land use study which identified different suitability scores, which made more options available for that designation.

Ms. Young, Director of Planning, agreed with the statements made by Mr. Cahill.

Mayor Schewel asked for an executive summary of the study to be made available to the Council.

Mayor Schewel asked if the applicant had considered a donation to Durham Public Schools and the Durham Affordable Housing Fund.

Mr. Ghosh stated that the applicant would donate 40k to the Durham Affordable Housing Fund and 10,500k to Durham Public Schools.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance annexing '3016 Page Road Townhomes' into the City of Durham effective March 31, 2021; and enter into a Utility Extension Agreement with Lennar Carolinas, LLC, was approved at 8:42 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15763

MOTION by Council Member Freeman, seconded by Council Member Reece, to approve the appropriate consistency statement, was approved at 8:43 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2000001, 3016 Page Road Townhomes

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding zoning map change Z2000001, 3016 Page Road Townhomes, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable;

That the proposed zoning map change designation is consistent with the Future Land Use Designation on the property; and

That the proposed zoning map change is reasonable and in the public interest based upon the information provided within the staff memo and associated documents submitted to the City Council, and the information provided through the public hearing.

MOTION by Council Member Freeman, seconded by Council Member Freelon, to adopt an ordinance amending the Durham Unified Development Ordinance by taking property out of Residential Rural (RR) County jurisdiction and establishing the same as Planned Development Residential 7.200 (PDR 7.200) City jurisdiction, was approved at 8:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15764

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT - NCGS CHAPTER 160D AMENDMENTS (ITEM 23/ PR #14404)

Michael Stock, Senior Planner stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and the affidavit of the notice were on file in the Planning Department and provided the following staff report:

Text amendment TC200004 proposed revisions to various provisions of the Unified Development Ordinance (UDO) in order to comply with statutory revisions associated with the new state enabling legislation NCGS Chapter 160D. This included necessary corrections, clarifications, re-organization, or other minor changes, and also included other

technical changes for clarity or to remove redundancies. In short, 160D combines city enabling statutes and county enabling statutes into one set of statutes.

Most changes are technical in nature. Some others that are more policy-related included:

1. Requiring constructive notice when an official interpretation was provided by the director,
2. Recordation of special use permits, and
3. Requiring appeals of historic preservation commission actions to go to superior court instead of the board of adjustment.

The Planning Commission recommended approval on November 10th, 2020. Another change that was not reflected in ordinance was a change to consistency statements. State statute allowed for the minutes of a hearing to meet the requirements of consistency and reasonableness statements for zonings and text amendments. After discussion and advice with the city and county Attorney’s offices, planning staff was going to implement this method once the ordinance was effective, most likely starting in February. The City Clerk had been made aware of this procedure change, which would also require staff reading statements specifying information provided in agenda items into the minutes. No separate consistency statement documents, therefore, would be required.

Two actions were requested, first on the consistency statement, and then action on the ordinance.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Seeing no speakers, Mayor Schewel declared the public hearing closed.

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt the appropriate consistency statement as required per NCGS 160A-383, was approved at 8:49 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
 TEXT AMENDMENT CONSISTENCY STATEMENT
 BY THE DURHAM CITY COUNCIL REGARDING
 TC2000004, Amendments due to NCGS Chapter 160D

WHEREAS the Durham City Council, upon acting on a text amendment to the Unified Development Ordinance and pursuant to NCGS § 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting on a text amendment to the Unified Development Ordinance and pursuant to NCGS § 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding text amendment TC2000004, Amendments due to NCGS Chapter 160D, is based upon review of, and consistency with, the Durham Comprehensive Plan, as provided in the “Issues” and “Consistency with the Comprehensive Plan; Reasonable and in the Public Interest” sections of the memo to the City Manager, dated January 19, 2021, regarding the subject “Unified Development Ordinance Text Amendment, Amendments due to NCGS Chapter 160D (TC2000004),” along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The text amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the City of Durham as supported in the “Issues” and “Consistency with the Comprehensive Plan; Reasonable and in the Public Interest” sections of the memo to the City Manager, dated January 19, 2021, regarding the subject “Unified Development Ordinance Text Amendment, Amendments due to NCGS Chapter 160D (TC2000004),” along with additional agenda information provided to the City Council and information provided at the public hearing. Additionally, are intended to comply with the new state enabling legislation and incorporate revised application and appeal procedures, along with making minor technical corrections. Therefore, the amendment is reasonable and in the public interest.

MOTION by Council Member Reece, seconded by Council Member Freeman, to adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 1, General; Article 2, Review Authority; Article 3, Applications and Permits; Article 4, Zoning Districts; Article 5, Use Regulations; Article 8, Environmental Protection; Article 12, Infrastructure and Public Improvements; Article 13, Additional Requirements for Subdivisions; Article 15, Enforcement; and Article 17, Definitions, was approved at 8:50 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15765

SUBJECT: ZONING MAP CHANGE - FOREST AT DUKE (ITEM 24/ PR #14405)

Michael Stock, Senior Planner stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and the affidavit of the notice were on file in the Planning Department and provided the following staff report:

Case Z2000012 was a request to amend the development plan approved under P88-31 to allow for additional height. The zoning approved for P88-31 would remain the effective zoning for the site. The request did not create a new zoning map change.

The Forest at Duke application involved a 42.12-acre site located at 2701 Pickett Road. The Durham City Council approved the zoning map change with a development plan for the site on July 25, 1988 (Case P88-31). The zoning is Planned Density Residential (PDR) district (PDR 0.000).

The amendment modified the allowed height based upon PDR district requirements specified, which allowed for buildings up to 90 feet, but must identify the buildings on the development plan if over 35 feet. The applicant had specified that buildings used for congregate care facilities and associated uses within the Forest at Duke Loop to be a maximum of 78 feet (as specified on Attachment 5 of your agenda item), and staff had determined that it satisfied the UDO requirement. The Planning Commission recommended approval on November 10th, 2020

Council was requested to take two actions- first on the statement of consistency and then on the ordinance for the zoning amendment.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Council Member Reece asked if staff had an opinion on the comments made by Commissioner Miller regarding the 35 foot building height requirements.

Mr. Stock stated that after review, the department felt that after the applicant identified what the building use and its height was going to be used for, did satisfy the requirement.

Council Member Freelon stated the he was comfortable with the staffs' explanation, as he had also wanted to raise awareness regarding commissioner miller's comments.

Council Member Freeman asked if the building would be at the street or closer to the center?

Mr. Stock stated that the applicants' presentation would depict the area more clearly.

Anita Holt a representative of the applicant provided a presentation to Council and spoke to the following aspects of the property: The forest at duke is a retirement community; the community has raised money for the City of Durham; the property is landlocked; there were 401 residents; and looked to add a community center.

Katie Hamilton a representative of the applicant continued the presentation and made herself available to any questions by Council.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt a Consistency Statement as required by NCGS 160A-383, was approved at 9:03 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z200012 – Forest at Duke – Development Plan Amendment

WHEREAS the Durham City Council, upon acting upon a zoning map amendment to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting upon a zoning map amendment to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding Z2000012, Forest at Duke Development Plan Amendment, is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as discussed in the staff memo and attachments, dated January 19, 2021, regarding the subject “The Forest at Duke Development Plan Amendment (Z2000012)”, along with additional agenda information provided to the City Council and information provided at the public hearing; and It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency, and the health, safety, and general welfare of the community. This zoning item promotes this objective by offering fair and reasonable development regulations as discussed in the staff memo and attachments, dated January 19, 2021, regarding the subject “The Forest at Duke Development Plan Amendment (Z2000012)”, along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance amending the Unified Development Ordinance By Amending the Development Plan for the Planned Density Residential 0.000 (PDR Zoning District approved per Case P88-31, was approved at 9:04 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None

ORDINANCE #15766

SUBJECT: ZONING MAP CHANGE- CORNERS AT BRIER CREEK TOWNHOMES SOUTH (ITEM 25/ PR #14415)

Danny Cultra, Senior Planner stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and the affidavit of the notice were on file in the Planning Department and provided the following staff report:

A request for a utility extension agreement and zoning map change had been received from Stephen Dorn of Lennar Corporation and Jessie Hardesty of McAdams Company for an 18.94-acre portion of a 60.54-acre area located at 4228 Corners Parkway.

The site was presently zoned Commercial General with a Development Plan (CG(D)) as part of legacy development plan Z1200019 which allowed for a total gross floor area of 390,000 square feet within the 60.54-acre area. The applicant sought to replace the portion of the 18.91-acre site area with a new development plan which would allow for 130 townhouses and would be zoned with the same CG(D) designation.

A Utility Extension Agreement (UEA), as a revision to the previous UEA and also included with this case, was being presented before City Council for approval. The revised UEA was required based on the change in use for the proposed development.

The area was designated Commercial on the Future Land Use Map (FLUM) which was consistent with the rezoning request. Staff determined that the request was consistent with the Comprehensive Plan and applicable polices and ordinances.

Key text commitments on the development plan included a maximum of 130 townhouse units, constructing the site driveway as a full movement driveway, constructing an exclusive east bound left-turn lane on Corners Parkway at the site driveway, and restriping the northbound approach of the existing Harris Teeter driveway as an exclusive left-turn lane and shared through/right-turn lane. The Planning Commission recommended approval by a vote of 9-1 at their October 13, 2020 meeting.

There were three motions required for the application. The first was to authorize the City Manager to enter into a utility extension agreement with "Lennar Carolinas, LLC", the second was to adopt a consistency statement and the third was to adopt the zoning ordinance.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Council Member Freeman asked for clarification regarding the open space on the property.

Nil Ghosh, a representative for the applicant spoke in favor the item and stated that there were no changes to the dedicated open spaces. He asserted that the rezoning was taking place on a portion of the overall property that was already zoned for development.

Mayor Schewel asked if the applicant intended to make a donation to Durham Public Schools.

Mr. Ghosh advised that the property was actually in Wake County and not Durham County, but the territorial jurisdiction, so there would be no additional children in the Durham School System.

Mayor Schewel asked if the applicant intended to make a donation to the Durham Affordable Housing Fund.

Mr. Ghosh stated that the applicant would donate 20k to the Durham Affordable Housing Fund.

Council Member Freeman asked about walkability near the project.

Mr. Ghosh stated that there was no planned connectivity to other properties, but that there would be direct walkability to brier creek and a preexisting transit stop.

Council Member Freeman asked that the planning department have more conversations and plans around future planning with youths in mind regarding walkability and accessibility.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to enter into a utility extension agreement with Lennar Carolinas, LLC, was approved at 9:19 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None

MOTION by Council Member Freelon, seconded by Council Member Freeman, to adopt a Consistency Statement as required by NCGS 160A-383, was approved at 9:20 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900057 - Corners at Brier Creek Townhomes South

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding zoning map change Z1900057, Corners at Brier Creek Townhomes South is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as provided in the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated January 19, 2021, regarding the subject 'Corners at Brier Creek Townhomes South' (Z1900057) along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This zoning map change promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated January 19, 2021, regarding the subject 'Corners at Brier Creek Townhomes South' (Z1900057) along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Commercial General District with a Development Plan (CG(D)) and establishing the same as the Commercial General District with a Development Plan (CG(D)), was approved at 9:20 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None

ORDINANCE #15767

[ADJOURNMENT]

Seeing no further business to come before the Council, Mayor Schewel adjourned the meeting at 9:21 P.M.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk

