

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 15, 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 (arrived at 7:38pm), 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, and Deputy City Clerk Ashley Wyatt.

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

The Girl Scouts of North Carolina Coastal Pines recited the Pledge of Allegiance

[CEREMONIAL ITEMS]

Mayor Schewel read into the record the Robert D. Teer Jr, Day Proclamation and presented it to Mr. Robert D. Teer, Jr.

Mr. Landguth, CEO of Raleigh-Durham Airport made congratulatory remarks based on Mr. Teer's years of service.

Council Member Reece read into the record the March for Meals Month Proclamation and presented it to Jason Peace, Director of Meals on Wheels Durham.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Middleton recognized the teachers and students of southwest elementary school and in the entire Durham School system.

Mayor Schewel advised that additional Council announcements would take place later in the meeting.

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

Interim City Manager Page stated that items 5, 8, and 23 had additional information added.

City Attorney Rehberg and City Clerk Schreiber had no priority items.

[CONSENT AGENDA]

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION – APPOINTMENT (ITEM 1/ PR #14504)

MOTION by Council Member Reece, seconded by Council Member Caballero, to appoint Kera' D. Robinson to the Durham City-County Appearance Commission with the term to expire on April 1, 2024, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: DURHAM WORKERS' RIGHTS COMMISSION – APPOINTMENT (ITEM 2/ PR #14507)

MOTION by Council Member Reece, seconded by Council Member Caballero, to appoint Melanie Stratton to the Durham Workers' Rights Commission to represent the category of Diverse Backgrounds, with the term to expire on April 30, 2023, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: PARTICIPATORY BUDGETING STEERING COMMITTEE – APPOINTMENTS (ITEM 3/ PR #14502)

MOTION by Council Member Reece, seconded by Council Member Caballero, to appoint Victoria Bright, Thomas Fletcher, Susan Goodman, Marion T. Johnson, Sarah Mye, Raymond Palma, Jessica C. Uba, A. Demarcus Williams, AJ Williams and Constance Wright to the Participatory Budgeting Steering Committee representing At- Large and Riley Reeves representing Youth, with the terms to expire on June 30, 2022, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: DURHAM AFFORDABLE HOUSING IMPLEMENTATION COMMITTEE – APPOINTMENT (ITEM 4/ PR #14501)

MOTION by Council Member Reece, seconded by Council Member Caballero, to appoint Tammy Ferrell to the Durham Affordable Housing Implementation Committee for a resident from the Durham Housing Authority properties, with the term to expire on March 15, 2024, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: INTERLOCAL AGREEMENT WITH DURHAM COUNTY TO EXPAND BULL CITY UNITED (ITEM 5/ PR #14534)

MOTION by Council Member Reece, seconded by Council Member Caballero, to approve the Interlocal Agreement with Durham County to expand the Bull City United program to census tracts 11.00, 13.04, 17.09, and 23.00; and

To authorize the City Manager to negotiate changes to the Interlocal Agreement as long as annual costs do not exceed \$935,488; and

To adopt a budget ordinance amending the City of Durham Budget Ordinance Fiscal Year 2020-21, as amended, the same being ordinance 15772, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

ORDINANCE #15784

SUBJECT: FAMILIES MOVING FORWARD OF DURHAM, FY2020-2023, SUBRECIPIENT CONTRACT FOR CASE MANAGEMENT SERVICES USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (ITEM 6/ PR #14532)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the expenditure of \$243,000 in Community Development Block Grant (CDBG) funds consisting of FY2020-21 and future FY2021-22 and FY2022-23 funding allocations; and

To authorize the City Manager to execute a three-year contract with Families Moving Forward in the total amount of \$243,000 to provide Case Management services to households experiencing homelessness in Durham, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: URBAN MINISTRIES OF DURHAM, FY2020-2023, SUBRECIPIENT CONTRACT FOR CASE MANAGEMENT SERVICES USING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (ITEM 7/ PR #14533)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the expenditure of \$288,000 in Community Development Block Grant (CDBG) funds consisting of FY2020-21 and future FY2021-22 and FY2022-23 funding allocations; and

To authorize the City Manager to execute a three-year contract with Urban Ministries of Durham in the total amount of \$288,000 to provide Case Management services to households experiencing homelessness in Durham, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: CONTRACT FOR CONSTRUCTION OF CITY OWNED TRAFFIC SIGNALS IN DURHAM (ITEM 8/ PR #14515)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a contract with Fulcher Electric of Fayetteville, Inc. in the amount of \$417,609.78 for the installation of new traffic signals;

To establish a project contingency fund in the amount of \$41,760.98; and

To authorize the City Manager to negotiate change orders to the project provided the cost of the contract, including all change orders, does not exceed the total project cost of \$459,370.76, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: ACADEMY ROAD WATERLINE EXTENSION CONSTRUCTION – AWARD OF CONSTRUCTION CONTRACT TO J. F. WILKERSON CONTRACTING, INCORPORATED (ITEM 9/ PR #14514)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a contract with J. F. Wilkerson, Incorporated in the amount of \$888,883 for the Academy Road Waterline Extension;

To establish a contingency fund for the contract in the amount of \$88,883; and

To authorize the City Manager to negotiate change orders for the contract provided that the total project cost does not exceed \$977,766, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: ASBESTOS CEMENT AND CONTINENTAL DRIVE WATER LINE REPLACEMENT – AWARD OF CONSTRUCTION CONTRACT TO J. F. WILKERSON CONTRACTING COMPANY, INC. (ITEM 10/ PR #14509)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute a contract with J. F. Wilkerson Contracting Company, Inc. in the amount of \$1,108,820 for the Asbestos Cement and Continental Drive Water Line Replacement contract;

To establish a contingency fund for the contract in the amount of \$110,882; and

To authorize the City Manager to negotiate change orders for the contract provided that the total project cost does not exceed \$1,219,702, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: TAR RIVER LAND CONSERVANCY CAPEHART WATERSHED PROTECTION PROJECT – AUTHORIZATION TO FUND (ITEM 11/ PR #14511)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the expenditure of \$39,550 from the City's Watershed Protection funds for the Tar River Land Conservancy Capehart Watershed Protection Project, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: EXTENSION OF THE ORDINANCE TO PROMOTE EQUAL BUSINESS OPPORTUNITIES IN CITY CONTRACTING (ITEM 12/ PR #14528)

MOTION by Council Member Reece, seconded by Council Member Caballero, to adopt the Ordinance Extending the Sunset Period for the Ordinance to Promote Equal Business Opportunities in City Contracting, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

ORDINANCE #15785

SUBJECT: ACQUISITION FOR REPLACEMENT OF CELESTE CIRCLE LIFT STATION (ITEM 13/ PR #14517)

MOTION by Council Member Reece, seconded by Council Member Caballero, to approve the fee simple acquisition of 0.461 acres located at 103 Crossland Drive (PID # 141826) from Kyle Austin Worsham in the amount of \$415,000, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: ACQUISITION FOR REPLACEMENT OF GITHENS SCHOOL LIFT STATION (ITEM 14/ PR #14520)

MOTION by Council Member Reece, seconded by Council Member Caballero, to approve the fee simple acquisition of 0.938 acres located at portions of 4830 Old Chapel Hill Road (PID # 140074) and 3891 Southwest Durham Drive (PID # 140073) from Patterson Park LLC in the amount of \$520,000, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: PROFESSIONAL ENGINEERING DESIGN SERVICES WITH JOHN R. MCADAMS COMPANY, INC. FOR FEDERAL TRANSPORTATION PROJECT EB-5904 DURHAM BELT LINE TRAIL (ITEM 15/ PR #14529)

MOTION by Council Member Reece, seconded by Council Member Caballero, to receive a presentation on the Durham Belt Line Trail Project; To receive a presentation on the Durham Belt Line Trail Project;

To authorize the City Manager to execute a design contract with John R. McAdams Company, Inc. for Federal Transportation Project EB-5904 Durham Belt Line Trail project up to the amount of \$966,952.36;

To establish a contingency fund for the contract in the amount of \$361,700; and

To authorize the City Manager to negotiate and execute amendments to the design contract provided the total project cost does not exceed \$1,328,652.36, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: PROPOSED ACQUISITION OF 0.289 ACRES AT 814 CARROLL STREET IN FEE SIMPLE FROM B WELL, LLC (ITEM 16/ PR #14530)

MOTION by Council Member Reece, seconded by Council Member Caballero, to approve the acquisition of 0.289 acres at 814 Carroll Street, Durham, NC 27701 in fee simple from B Well, LLC for a purchase price of \$250,000, plus an additional \$5,000 for costs associated with title search, title insurance, and attorney fees, for the Department of Water Management, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: HUMAN RELATIONS COMMISSION 2020 ANNUAL REPORT (ITEM 17/ PR #14477)

MOTION by Council Member Reece, seconded by Council Member Caballero, to receive the 2020 Annual Report of the Durham Human Relations Commission, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: BRADFORD CIRCLE DRAINAGE IMPROVEMENTS (SD-2021-01) (ITEM 18/ PR #14518)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute Contract SD-2021-01, Bradford Circle Drainage Improvements, with Roadworks Construction Company, LLC in the amount of \$468,358.70;

To establish a contingency fund in the amount of \$70,253.81; and

To authorize the City Manager to negotiate change orders for Contract SD-2021-01 provided that the total contract cost does not exceed \$538,612.51, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: BRADFORD CIRCLE DRAINAGE IMPROVEMENTS - AMENDMENT NO. ONE (ITEM 19/ PR #14513)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to amend the existing Supplemental Services Agreement One, Bradford Circle Drainage Improvements, with Rummel, Klepper & Kahl, LLP in the amount of \$77,921.46 for a revised, total contract amount of \$177,647.37;

To establish a contingency fund in the amount of \$11,688.22; and

To authorize the City Manager to negotiate change orders for Contract SSA-1, RK&K provided that the total contract cost does not exceed \$189,335.59, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

SUBJECT: CONTRACT AMENDMENT NO. 2 FOR SW-49C CONSULTANT PROJECT MANAGER (ITEM 20/ PR #14513)

MOTION by Council Member Reece, seconded by Council Member Caballero, to authorize the City Manager to execute Contract Amendment No. 2 for SW-49C Consultant Project Manager with Horvath Associates, P.A. in the amount not to exceed \$102,300, for a total revised contract amount of \$1,086,800, was approved at 7:26 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: CONSOLIDATED ANNEXATION - GILLINGS TRACT (ITEM 22/ PR #14526)

Alexander Cahill, stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and affidavits of all notices 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 20.84 acres of land located around 4001 Page Road. The site was presently zoned Residential Rural (RR) and was being proposed to be rezoned to Planned Development Residential 4.447 District (PDR 4.447).

The applicant had proposed developing up to 90 townhouse residential units on the site.

The property was designated Industrial on the Future Land Use Map (FLUM) (Attachment 3). The proposed Planned Development Residential 4.447 (PDR 4.447) zoning was inconsistent with the designated Future Land Use. If the proposed zoning was approved, the FLUM was to be re-designated to Low Medium Density Residential (4-8 du/ac) to ensure a consistency with the zoning. The change would take effect concurrently with the zoning map change ordinance and did not require a separate motion. If approved, the request would become effective on March 31, 2021.

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 may be found on the development plan in attachment 11b.

Some of the commitments included:

- The construction of an exclusive northbound right-turn lane with adequate storage, and appropriate tapers along Page Road at site access 1;
- The construction of an exclusive southbound left-turn lane with adequate storage, and appropriate tapers along Page Road at site access 1;
- A block length commitment of no more than 600 feet
- An open space amenity; and
- Distinctive architectural features

The proposed rezoning would add an additional 2 students from the existing RR zoning. The Planning Commission, by a vote of 12-0 at their January 12, 2021 meeting, recommended approval of the request. The case was an example of how different stakeholder and advisory groups could work together to make a project stronger. The applicant took feedback from the Planning Commission, staff, and community members, and worked to incorporate it into their proposal.

Staff recommended that the City Council approve the voluntary annexation petition, utility extension agreement, zoning map change request, and consistency statement. The recommendation was based on the contiguous nature of the proposed annexation, the minimal or limited impact to existing City services, the commitment to protecting the environmental features on the site, the strong text and design commitments, the increase in the inventory of townhouse units at a low-mid market rate, and the removal of an Industrial FLUM designation that did not fit into the character and context of the area. There were three motions required for the application. The first was to adopt an ordinance annexing 'Gillings' 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 an ordinance amending the Unified Development Ordinance By Taking Property out of Residential Rural (RR) and establishing the same as Planned Development Residential 4.447 (PDR 4.447), and the third was to adopt a Consistency Statement as required by NCGS 160D-605.

Mayor Schewel opened the public hearing and asked for any speakers to the item.

Nil Ghosh, a representative for the applicant, spoke briefly about the proposed item and asked Council for their support.

Council Member Reece thanked staff for their presentation; spoke to his support of the item; and requested that the nearby artwork be photographed for future preservation.

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

MOTION by Council Member Reece, seconded by Council Member Middleton, to adopt an ordinance annexing 'Gillings Tract' into the City of Durham effective March 31, 2021; and to authorize the City Manager to enter into a utility extension agreement with Lennar Carolinas, LLC, was approved at 7:37 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: Council Member Freelon.

ORDINANCE #15786

Council Member Freelon arrived at 7:38 p.m.

MOTION by Council Member Middleton, seconded by Council Member Reece, to adopt an ordinance amending the Unified Development Ordinance By Taking Property out of Residential Rural (RR) and establishing the same as Planned Development Residential 4.447 (PDR 4.447), was approved at 7:38 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 #15787

MOTION by Council Member Caballero, seconded by Mayor Pro Tempore Johnson, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 7:38 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 Z2000005, GILLINGS TRACT

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 Z2000005, Gillings Tract, is based upon review of 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 11c, 'Comprehensive Plan Consistency Analysis'; dated March 15, 2021, regarding the subject Z2000005, Gillings Tract, along with additional agenda information provided to the City Council and information provided at the public hearing; and

Although the proposed zoning map change designation is inconsistent with the Future Land Use designation as provided on the Future Land Use Map (FLUM) of the Comprehensive Plan in Attachment 04, the zoning change will amend the FLUM to a designation consistent with the proposed zoning change and other land use designations in the vicinity of the subject area.

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 request 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 11c, 'Comprehensive Plan Consistency Analysis'; dated March 15, 2021, regarding the subject ' Z2000005, Gillings Tract', 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.

[ANNOUNCEMENTS BY COUNCIL CONT'D]

Mayor Schewel announced that Interim City Manager had been selected as the City Manager in closed session and called for a motion to make the decision official and transparent for the public.

MOTION by Council Member Freeman, seconded by Council Member Freelon, to appoint Wanda S. Page, City Manager of the City of Durham, was approved at 7:44 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.

The full Council offered their congratulations and appreciation toward Ms. Page and celebrated having a black female as the City Manager.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS CONT'D]

**SUBJECT: CONSOLIDATED ANNEXATION - OLIVE BRANCH RESERVE (ITEM 23/
PR #14521)**

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

A request for voluntary annexation, utility extension agreement, future land use map (FLUM) change, and zoning map change had been received from Tim Sivers of Horvath and Associates for 113.579 acres located at 1607 Olive Branch Road, and 802 and 830 Virgil Road.

The site was zoned Residential Rural (RR) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), and was located within the Suburban Development Tier. The applicant was proposing to rezone the property to Planned Development Residential 3.220 (PDR 3.220) for up to 350 single-family and townhouse residential dwelling units.

The property was designated Very Low Density Residential at less than 2 dwelling units per acre on the FLUM. The proposed PDR 3.220 zoning was inconsistent with the designated Future Land Use. If the proposed zoning was approved, the FLUM will be re-designated to Low Density Residential at less than four units per acre to ensure a consistency with the zoning. The change would take effect concurrently with the zoning map change ordinance and did not require a separate motion. If approved, the request would become effective on March 31, 2021.

The zoning map change request had been reviewed by staff and determined to be consistent with UDO requirements. There were many commitments in excess of UDO requirements and also transportation commitments resulting from a required traffic impact analysis. Monetary proffers were included to the affordable housing fund and Durham Public Schools. The Planning Commission, by a vote of 0-13 at their November 10, 2020 meeting, recommended denial of this request.

There were three motions required for the application. The first was to adopt an ordinance annexing 'Olive Branch Reserve' into the City of Durham effective March 31, 2021; and enter into a Utility Extension Agreement with MF Development, LLC; The second was to adopt an ordinance amending the Unified Development Ordinance By Taking Property out of Residential Rural (RR) Falls/Jordan Lake Watershed Protection District-B (F/J-B), County Jurisdiction, and establishing the same as Planned Development Residential 3.220 (PDR 3.220), Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), City Jurisdiction, and the third was to adopt a Consistency Statement as required by NCGS 160D-605.

Mayor Schewel opened the public hearing and asked for any speakers to the item.

Mayor Schewel asked for an update on the timeline for the Small Area Planning in the area of the proposed item.

Sara Young, Director of Planning, estimated that the Small Area Planning would conclude either in the upcoming summer or fall.

Mayor Schewel asked if there was a fixed boundary that the Small Area Planning was comprised of.

Director Young stated that the boundaries were South of Highway 98, East of Sherron Road, West of Carpenter Pond, and North of U.S. 70.

Mayor Schewel asked that a map be sent to Council outlining the area.

Council Member Freeman asked if there was any coordination of with the Joint City County Planning Commission regarding the workflow of planning cases.

Director Young stated that currently there was not.

Nil Ghosh, a representative of the applicant, spoke to the legacy of the property, its location, mixed housing features, price points, a 30-foot-wide buffer, the wildlife corridor, open space, disruption to a gravesite on the property and its relocation to Maplewood Cemetery, and addressed the concerns of the Planning Commission.

Stephen Knill, a resident of Durham, spoke in opposition of the item and cited the abundance of almost 1,000 new homes in the area as the primary reason for his concerns and requested a moratorium on development in the area until the Small Area Plan was completed.

Council Member Freeman recognized the comments of Mr. Knill and agreed with his assessment of the area of the proposed development.

Council Member Middleton expressed concerns for appearing capricious in regard to decisions made on planning items; supported Council making a decision on instituting a moratorium one way or another; asked how the gravesite was discovered on the property; and asked if the family of the deceased on the property asked for the relocation or if the option was presented by the developer.

Mr. Ghosh stated that the family of the deceased could not afford the relocation, so the developer offered to do it as a part of the development plan in order to reunite with deceased family members at Maplewood Cemetery.

Council Member Middleton asked how the identity of the deceased on the site was discovered and the process that was taken to locate relatives.

Deborah Joy, a representative of the applicant, stated that there were some marked head stones on the property and that allowed them to conduct research online through marriage

records, census data, and death certificates to locate living descendants.

Council Member Middleton asked if Ms. Joy was involved personally with the conversations about the gravesite relocation process.

Ms. Joy stated that she was the contact person for the living descendants to contact and that a few actually went to the location on the property.

Council Member Middleton asked who initiated the relocation process.

Ms. Joy stated that the development team proposed the relocation process.

Council Member Freeman asked if Mr. Knill could specify the area to which he proposed a moratorium on development.

Mr. Knill stated that he was referencing that exact area that Director Young mentioned previously.

Council Member Freeman asked when the Comprehensive Plan would be updated.

Director Young stated that the Planning Department expected to complete the new Comprehensive Plan by end of 2022.

Council Member Freeman asked if there were any guard rails to hold off on similar items until the plan was completed.

Director Young advised that legally if a planning item was submitted, it had to be processed and noted that there were specific requirements that needed to be met for a moratorium.

Council Member Middleton clarified that he was not suggesting there be a moratorium on all development, but was referring to the area in question, if that was the will of the Council.

Council Member Caballero asked if a moratorium was put in place if it would speed up the completion of the Small Area Plan.

Director Young stated that the staff that processed land use cases, was not the same staff that was working on the Comprehensive Plan, so it would not speed up that process, but would help create a more normal work load for staff.

Council Member Caballero stated that she was unsure of how she intended to vote on the item and requested more information on staff capacity in the Planning Department.

Mayor Pro Tempore Johnson asked for more context on what was and was not included in

a Small Area Plan.

Director Young stated that there was no specific definition and that it varied by location; however, the City of Durham evaluated land usage, environmental components, historic preservation and open spaces when creating a Small Area Plan.

Mayor Pro Tempore Johnson asked if the specific area could only support a low density Residential designation.

Director Young stated that she believed the area would be residential.

Mayor Pro Tempore Johnson asked if the area could withstand a higher density or if the proposed item was the best option.

Director Young stated that it was a complex issue, but that a PDR of 3.2 was appropriate.

Mayor Pro Tempore Johnson asked about the price point of the project as well as the amount of proposed single homes and town homes.

Mr. Ghosh stated that the town homes would be in the mid 200k range; the single family homes would be in the mid 300k range; and that there would be at least 20% of each type of home due to the zoning designation requirement.

Tim Sivers, a representative for the applicant, stated that the project would be roughly 70% or 60% single family homes and 30% or 40% town homes.

Mayor Pro Tempore Johnson asked for more information on any wild life, environmental, or open space features.

Mr. Ghosh noted that there were two stream crossings, the first of which the applicant was looking to remove, highlighted certain commitments that would provide trail heads and active open space.

Council Member Freelon parsed through the pros and cons of instituting a moratorium on development in the area and asked what would happen if there was a 3-month delay. Mr. Ghosh stated that he would need to consult with his client.

Mr. Knill stated that developing a plan before approving developments, was the benefit to Having a delay.

Council Member Reece recognized that even if the Council instituted a delay to implement a Small Area Plan in the area, developers would still have to come before Council to request similar projects, since the area was not zoned for it; spoke to future sustainability of the city; and stated that he would not be supporting the item.

Council Member Freeman asked if the price point of the homes was before upgrades were

factored in.

Mr. Ghosh advised that the projected prices were for fully completed homes. Council Member Middleton thanked Council Member Reece for his comments; noted that there were other legacy in the city such as Braggtown and Hayti that were also requesting a Small Area Plan; and stated that he was unsure of his position on the item.

Mayor Pro Tempore Johnson asked what would be built on the property without the annexation and rezoning.

Mr. Ghosh advised that his client would not move forward without the annexation and rezoning.

Council Member Middleton asked if the proposal to move the gravesite was included in the plan submitted to the city.

Mr. Cultra advised that it was not in the text commitment, but was included on the development plan.

Mike Foley, a representative of the applicant, advised that the relocation of the gravesite at the property required a separate approval that was being taken up by the Durham County Board of Commissioners in the near future.

Council Member Freeman asked how long the property had been vacant.

Mr. Ghosh and Mr. Sivers stated that they were unclear as to long it had been vacant.

Mr. Ghosh also noted that his client would not be interested in a 3-month delay.

Council Member Freeman asked if the applicant was open to setting aside additional open space.

Mr. Ghosh stated that his applicant would not be opposed to that suggestion.

Council Member Freeman suggested a delay on the item for further review.

Mayor Schewel asked how many additional homes proposed through rezoning's could Council expect to see before them.

Director Young responded that there were roughly more than 3000.

Mayor Schewel asked how would the City obtain more open space if it were recommended through the Small Area Plan.

Director Young suggested that the Unified Development Ordinance could require a higher percentage of dedicated open space with its rezonings.

Mayor Schewel asked if density was an enemy of open space.

Director Young stated that there was a delicate balance between the two.

Mayor Schewel asked how long would it be before any changes could be seen in regard to transportation requirements if they were included in a Small Area Plan.

Bill Judge, Assistant Director of Transportation, that it would take roughly 3-5 years before transportation changes appeared in a Small Area Plan.

Mayor Schewel asked about placing amenities/ facilities in the open space corridor and the City's practices on such requests.

Mr. Cultra stated that the Planning Department did not come across such requests in the area that often and that there was little language that dictated those types of improvements there.

Mayor Schewel expressed concerns for the project regarding how it will affect the Wildlife Corridor as well as the process on the gravesite relocation.

Council Member Freeman asked if it was possible to include a sidewalk requirement in the future Small Area Plan.

Director Young stated that there were certain legal limitations with that suggestion and it also depended on who owned the roads.

Mr. Judge agreed with Director Young and also noted that there limited sidewalk funds that the city had access to.

Council Member Freeman asked if donated open space could be utilized as a recreation facility.

Director Young stated that it could be proffered as part of a development plan.
Mr. Ghosh advised that the applicant was willing to commit to building the 30 foot Greenway and clarified earlier statements regarding the family burial plot at the Maplewood Cemetery.

Mayor Schewel suggested keeping the public hearing open until a date certain. The full Council agreed.

No vote was taken. The public hearing was left open until the May 3, 2021 Council Meeting.

SUBJECT: CONSOLIDATED ANNEXATION - 920 SHERRON ROAD (ITEM 24/ PR #14523)

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

A request for voluntary annexation, utility extension agreement, and zoning map change had been received from Jarrod Edens of Edens Land Corp. for two parcels totaling 7.67 acres located at 920 and 922 Sherron Road.

The site was presently zoned Residential Rural (RR) Residential Suburban-20 (RS-20), and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), and was located within the Suburban Development Tier. The applicant was proposing to rezone the property to Planned Development Residential 7.171 (PDR 7.171) for up to 55 townhouse residential dwelling units.

The property was currently designated Low-Medium Density Residential on the Future Land Use Map (FLUM). The proposed PDR 7.171 zoning was consistent with the designated Future Land Use.

The zoning map change request had been reviewed by staff and determined to be consistent with UDO requirements. There were several commitments in excess of UDO requirements which could be found on the development plan cover sheet.

The Planning Commission, by a vote of 11-1 at their January 12, 2021 meeting, recommended approval of this request. There are three motions are required for this application. The first is: To adopt an ordinance annexing '920 Sherron Road' into the City of Durham effective March 31, 2021; and enter into a Utility Extension Agreement with Edens Land Corp.; The second is: To adopt an ordinance amending the Unified Development Ordinance By Taking Property out of Residential Rural (RR), Residential Suburban-20 (RS-20), and Falls/Jordan Lake Watershed Protection District-B (F/J-B), County Jurisdiction, and establishing the same as Planned Development Residential 7.171 (PDR 7.171), Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), City Jurisdiction, and the third is: To adopt a Consistency Statement as required by NCGS 160D-605.

Mayor Schewel opened the public hearing and asked for any speakers to the item.

Jarro Edens, a representative for the applicant, spoke to the specifics of the proposed 55 Townhome development item; proffered \$3,000 to the Durham Public School System and \$8,250 to the Durham Affordable Housing Fund; and made himself available for any questions by Council.

Council Member Reece asked what use to be on the property.

Mr. Edens stated that it was a large piece of land with one or two homes on it.

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

MOTION by Council Member Middleton, seconded by Council Member Reece, to adopt an ordinance annexing 920 Sherron Road into the City of Durham effective March 31, 2021; and to authorize the City Manager to enter into a utility extension agreement with Edens Land Corp, was approved at 10:18 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: None. Absent: None. Abstention: Council Member Freeman.

ORDINANCE #15788

MOTION by Council Member Middleton, seconded by Council Member Reece, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Rural (RR), Residential Suburban-20 (RS-20), Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), County Jurisdiction and establishing the same as Planned Development Residential 7.171 (PDR 7.171), Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), City Jurisdiction, was approved at 10:19 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: None. Absent: None. Abstention: Council Member Freeman.

ORDINANCE #15789

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 10:20 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: None. Absent: None. Abstention: Council Member Freeman.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2000013, 920 SHERRON ROAD

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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:

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE IS ADOPTED,

That final action regarding zoning map change Z2000013, 920 SHERRON ROAD, is based upon review of 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 12c, 'Comprehensive Plan Consistency Analysis'; dated March 15, 2021, regarding the subject Z2000013, 920 SHERRON ROAD' along with additional agenda information provided to the City Council and information provided at the public hearing; and

That the proposed zoning map change designation is consistent with the Future Land Use Designation as provided on the Future Land Use Map of the Comprehensive Plan in Attachment 4.

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 request 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 the applicant's responses to the 'Comprehensive Plan Consistency Analysis'; dated March 15, 2021 regarding the subject 'Z2000013, 920 SHERRON ROAD' 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.

SUBJECT: ZONING MAP CHANGE - 4523 HOPE VALLEY ROAD (ITEM 25/ PR #14522)

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

A request zoning map change had been received from Tim Sivers of Horvath and Associates for one parcel of land totaling 3.44 acres located at 4523 Hope Valley Road.

The site was zoned Residential Suburban-Multifamily with a development plan (RS-M(D)) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), and was located within the Suburban Development Tier. The site was zoned previously with a development plan (P93-79) to allow for up to 21,900 square feet of floor area in a congregate living facility. The applicant was proposing to rezone the property to the same Residential Suburban-Multifamily with a development plan RS-M(D) zoning designation to allow for up to 32,000 square foot, for a congregate living facility.

The use table in Unified Development Ordinance (UDO) 5.1.2 required congregate living facilities proposed within residential districts to receive a minor special use permit (mSUP) in order to allow the use within the district. However, UDO paragraph 3.5.6.D.10 eliminated the use permit requirement when the zoning was approved with a development plan where the use, location, access, building height, and size were defined. The applicant had elected to re-zone the property in order to eliminate the required use permit. The property was designated Medium Density Residential on the Future Land Use Map (FLUM). The proposed RS-M(D) zoning was consistent with the designated Future Land Use at the density proposed on the development plan.

The zoning map change requested has been reviewed by staff and determined to be consistent with UDO requirements. There were several commitments in excess of UDO requirements. The Planning Commission, by a vote of 12-0 at their January 12, 2021 meeting, recommended approval of the request.

There were two motions are required for the application. The first was to adopt an ordinance amending the Unified Development Ordinance By Taking Property out of Residential Suburban-Multifamily with a development plan (RS-M(D)) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), and establishing the same as Residential Suburban-Multifamily with a development plan (RS-M(D)) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B); and the second was to adopt a Consistency Statement as required by NCGS 160D-605.

Mayor Schewel opened the public hearing and asked for any speakers to the item.

Tim Sivers and Eric Morton, representatives for the applicant, gave a presentation on the item that outlined the primary intent, proposed changes for the rezoning, building square footage limitations, storm water, design commitments that included 48 units, project boundary buffers, and traffic calming measures.

Alisa Peterson, a resident of Durham, stated that she was not opposed to the project; however, she did express concerns on the increased capacity and storm water issues that affect the area.

Council Member Freeman asked how the storm water concerns were going to be addressed.

Mr. Sivers advised that the city Stormwater Division reviewed and approved the site plan as it pertained to storm water.

Council Member Freeman asked for the date of the last inspection at the property.

Sara Young, Director of Planning, stated that she did not have that information, but would follow up after the meeting.

Council Member Freeman asked to hold off on moving forward with the item in an effort to allay resident concerns.

Mr. Sivers stated that an inspection and clean-up of leaves and debris had been done in November of the previous year.

Council Member Freeman noted that climate change could have been affecting environmental issues contributing to the resident concerns.

Mayor Schewel asked what the status of the site plan was.

Mr. Cultra stated that the site plan was in mid-review.

Mr. Sivers advised that the site plan was ready to be approved, pending the outcome of the rezoning.

Mayor Schewel asked what specific measures had been taken in regards to mitigating storm water issues near the proposed development.

Mr. Sivers advised that an analysis of the existing storm water conditions was required by the city to ensure the project would not increase those conditions and was approved.

Council Member Freeman expressed ongoing concerns in regard to the storm water and other environmental impacts to the area and noted that she did not feel comfortable moving forward on the item.

Council Member Reece thanked Council Member Freeman and Ms. Peterson for their comments. He addressed the storm water concerns; however, he noted that since the storm water component had been reviewed by the city staff, he felt comfortable supporting the item.

Council Member Freeman expressed a desire to seek out possible solutions to the storm water issue.

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

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban-Multifamily with a development plan (RS-M(D)) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), and establishing the same as Residential Suburban-Multifamily with a development plan (RS-M(D)) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), was approved at 10:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: Council Member Freeman. Absent: None.

ORDINANCE #15790

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Freelon, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 10:45 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: Council Member Freeman. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2000004, 4523 HOPE VALLEY ROAD

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 Z2000004, 4523 HOPE VALLEY ROAD, is based upon review of 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 06, 'Comprehensive Plan Consistency Analysis'; dated March 15, 2021, regarding the subject Z2000004, 4523 HOPE VALLEY ROAD' along with additional agenda information provided to the City Council and information provided at the public hearing; and

That the proposed zoning map change designation is consistent with the Future Land Use Designation as provided on the Future Land Use Map of the Comprehensive Plan in Attachment 03.

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 request 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 the applicant's responses to the 'Comprehensive Plan Consistency Analysis', Attachment 06; dated March 15, 2021 regarding the subject Z2000004, 4523 HOPE VALLEY ROAD' 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.

[ADJOURNMENT]

Seeing no further business to come before the Council, Mayor Schewel adjourned the meeting at 10:50 P.M.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk