

**DURHAM, NORTH CAROLINA
MONDAY, APRIL 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, 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.

[CEREMONIAL ITEMS]

Council Member Reece read into the record the Proclamation recognizing National Crime Victims' Right's Awareness Week.

Council Member Freeman read into the record the Proclamation recognizing Durham as a Breastfeeding Family Friendly Community and presented it to Love Anderson, Director of Breastfeed Durham.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Middleton congratulated Chief C.J. Davis for her new position as the Director of the Memphis, Tennessee Police Department; spoke to the historical connection between Memphis and Durham due to Dr. Martin Luther King Jr.'s assassination; looked forward to new leadership that would continue to transform policing; and spoke to other community issues.

Council Member Freelon echoed the comments made by Council Member Middleton; thanked Chief Davis for her service; spoke to gun violence in the city; and encouraged creative ideas on addressing violence.

Council Member Caballero thanked Chief Davis and congratulated her for her service. She also spoke in opposition to three anti-trans bills in front of the General Assembly (House Bill 358, and Senate Bills 514 and 515) and encouraged all people to come to Durham where they would be welcomed.

[PRIORITY ITEMS]

City Manager Page noted the following priority items had information added: Items 13, 18, and 21.

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

Council Member Freeman noted that the Durham Youth Works applications were available for city residents aged 14-24 and that the deadline was April 25, 2021.

[CONSENT AGENDA]

Council Member Freeman asked for item 6 to be pulled from the agenda.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES (ITEM 1/ PR #14564)

MOTION by Council Member Reece, seconded by Council Member Freeman, to approve City Council Minutes for the following meetings: February 25, 2021 Budget Retreat and February 26, 2021 Budget Retreat, was approved at 7:33 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: CAROLINA THEATRE OF DURHAM BOARD OF TRUSTEES – APPOINTMENT (ITEM 2/ PR #14552)

MOTION by Council Member Reece, seconded by Council Member Freeman, to appoint Jonathan Espitia to the Carolina Theatre of Durham Board of Trustees with skills in the areas of business, finance, arts and culture or community relations, with the term to expire on June 30, 2024, was approved at 7:33 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: DURHAM CULTURAL ADVISORY BOARD – APPOINTMENT (ITEM 3/ PR #14560)

MOTION by Council Member Reece, seconded by Council Member Freeman, to appoint Shana E. Adams to the Durham Cultural Advisory Board with the term to expire on June 30, 2022, was approved at 7:33 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: DURHAM WORKERS' RIGHTS COMMISSION – APPOINTMENTS (ITEM 4/ PR #14561)

MOTION by Council Member Reece, seconded by Council Member Freeman, to reappoint Priscilla D. Smith representing the category of Low Wage Industry and Nancy Kalow representing the category of Durham's Largest Workplace, with the terms to expire on April 30, 2023, was approved at 7:33 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: RESOLUTION IN SUPPORT OF IMMEDIATE ACTION TO SOLVE THE BLACK MATERNAL HEALTH CRISIS (ITEM 5/ PR #14570)

MOTION by Council Member Reece, seconded by Council Member Freeman, to approve the Resolution in Support of Immediate Action to Solve the Black Maternal Health Crisis, was approved at 7:33 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.

RESOLUTION #10208

SUBJECT: DURHAM PERFORMING ARTS CENTER (DPAC) OVERSIGHT COMMITTEE FY2019-20 ANNUAL REPORT (ITEM 7/ PR #14558)

MOTION by Council Member Reece, seconded by Council Member Freeman, to receive the Durham Performing Arts Center (DPAC) Oversight Committee's FY2019-20 Annual Report, was approved at 7:33 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: ASHTON PLACE APARTMENTS NOTICE OF INTENT TO AWARD CONDITIONAL PERMANENT FINANCING (ITEM 8/ PR #14579)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to issue to Self Help Venture Fund and DHIC, Inc. or its designated affiliate approved by the City, a notice of intent to award conditional permanent financing in an amount up to \$2,000,000 in Dedicated Housing Funds for the development of 51 affordable rental units at Ashton Place Apartments;

To authorize the City Manager to execute any and all documents and instruments, necessary, reasonable and appropriate in order to carry out the purpose and intent of this conditional notice of intent to award permanent financing, including the City's customary loan documents;

To authorize the City Manager to make necessary and sundry changes to the notice of intent for conditional permanent financing and the City's corresponding and customary loan documents so long as the changes do not increase the financial obligations of the City, and the changes taken as a whole, are not less favorable to the City; and

To authorize the City Manager to amend the Agreement for Development of the Willard/Jackson Street Affordable Housing Project to extend the deadline for the submittal of alternate Phase II proposals, was approved at 7:33 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: HARDEE STREET APARTMENTS NOTICE OF INTENT TO AWARD CONDITIONAL PERMANENT FINANCING (ITEM 9/ PR #14578)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to issue to Self Help Venture Fund and DHIC, Inc. or its designated affiliate approved by the City, a notice of intent to award conditional permanent financing in an amount up to \$4,950,000 for the development of 132 affordable rental units at Hardee Street Apartments;

To authorize the City Manager to execute any and all documents and instruments, necessary, reasonable and appropriate in order to carry out the purpose and intent of this conditional notice of intent to award conditional permanent financing; and

To authorize the City Manager to make necessary and sundry changes to the notice of intent to award conditional permanent financing so long as the changes do not increase the financial obligations of the City, and the changes taken as a whole, are not less favorable to the City, was approved at 7:33 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: REVISED AND RESTATED LOAN COMMITMENT TO DEVELOPMENT VENTURES, INC. FOR COMMERCE STREET APARTMENTS (ITEM 10/ PR #14577)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to issue to Development Ventures, Inc. or its designated affiliate approved by the City, a revised and restated conditional binding commitment of construction-to-permanent financing in the amount up to \$2,690,000, the source of which funding is the City Affordable Housing Bond funds;

To authorize the City Manager to execute any and all documents and instruments, necessary, reasonable and appropriate in order to carry out the purpose and intent of this

conditional binding commitment of construction-to-permanent financing, including the City's customary loan documents; and

To authorize the City Manager to make necessary changes to the conditional binding commitment and the City's customary and corresponding loan documents, including any and all related documents and instruments and including assignment of the commitment, so long as the changes do not increase the financial obligations of the City, and the changes taken as a whole, are not less favorable to the City, was approved at 7:33 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: MUNICIPAL AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) FOR R. KELLY BRYANT, JR. BRIDGE DIRECTIONAL SIGNS (ITEM 11/ PR #14516)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to enter into a municipal agreement with the North Carolina Department of Transportation (NCDOT) in the amount of \$3,800 to complete the fabrication and construction of two R. Kelly Bryant, Jr. Bridge signs along NC-147, was approved at 7:33 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: AIR RELEASE VALVE AND FORCE MAIN ASSESSMENT – PROFESSIONAL SERVICES CONTRACT AWARD TO BROWN AND CALDWELL, INC (ITEM 12/ PR #14542)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to execute a contract with Brown and Caldwell, Inc. for professional engineering services in the amount not to exceed \$1,210,852 for the Air Release Valve and Force Main Assessment project;

To establish a contingency fund for the contract in the amount of \$121,000; and

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to negotiate a change order for the contract provided that the total cost does not exceed \$1,331,852, was approved at 7:33 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: SOUTH DURHAM PHASE III HYDRAULIC MODEL - AMENDMENT #1 TO THE PROFESSIONAL SERVICES CONTRACT (ITEM 13/ PR #14562)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to execute a contract amendment with Freese and Nichols, Inc. for professional engineering services in the amount not to exceed \$201,500 for a total revised contract amount of \$1,353,330; and

To authorize the City Manager to negotiate a change order for the contract provided that the total cost does not exceed \$1,387,330, which includes the existing contingency amount of \$34,000, was approved at 7:33 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: CHANGE ORDER FOR CONSTRUCTION CONTRACT WITH BAR CONSTRUCTION COMPANY, INC. AT VALLEY SPRINGS PARK (ITEM 14/ PR #14569)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to negotiate and execute a change order to the contract with Bar Construction Company, Inc. for the accessibility improvements at Valley Springs Park project, for an amount of \$90,526;

To establish a contingency fund for the contract in the amount of \$40,000;

To authorize the City Manager to negotiate and execute change orders to the construction contract provided the total project cost does not exceed \$492,282; and

To adopt an ordinance amending the General Capital Improvements Project Ordinance, Fiscal Year 2020-21, as amended, the same being Ordinance #15627, for the purpose of adding the amount of \$150,000 to the Valley Springs Park project, was approved at 7:33 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 #15792

SUBJECT: PURCHASE CONTRACT WITH BARBIZON CHARLOTTE, INC. FOR THE DURHAM PERFORMING ARTS CENTER (DPAC) PERFORMANCE LIGHTING UPGRADE (ITEM 15/ PR #14573)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to enter into a purchase contract with Barbizon Charlotte, Inc. to purchase lighting equipment without competitive bidding for the Durham Performing Arts Center (DPAC) Performance Lighting Upgrade, as authorized by G.S. 143-129(e)(6) on the grounds that standardization or compatibility is the overriding consideration, in the amount of \$318,984.16;

To establish a contingency fund for the contract in the amount of \$57,368.84; and

To authorize the City Manager to negotiate and execute amendments to the contract provided the total project cost does not exceed \$376,353, was approved at 7:33 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: MAYOR'S HISPANIC/LATINO COMMITTEE 2020 REPORT (ITEM 16/ PR #14478)

MOTION by Council Member Reece, seconded by Council Member Freeman, to receive the 2020 Annual Report of the Mayor's Hispanic/Latino Committee, was approved at 7:33 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 SW-41C INSPECTIONS AND OMBUDSMAN SERVICES FOR ROXBORO STREET SIDEWALK (ITEM 17/ PR #14555)

MOTION by Council Member Reece, seconded by Council Member Freeman, to authorize the City Manager to execute a professional services contract for SW-41c Inspections and Ombudsman Services for Roxboro Street Sidewalk with SEPI Engineering and Construction, Inc. in the amount not to exceed \$125,000, was approved at 7:33 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.

[ITEMS PULLED FROM THE AGENDA]

SUBJECT: RESOLUTION IN SUPPORT OF THE LOCAL NEW HOPE AUDUBON SOCIETY CHAPTER DESIGNATION OF THE CITY OF DURHAM AS A BIRD-FRIENDLY COMMUNITY (ITEM 6/ PR #14559)

Lynn Richardson, Co- Chair of the New Hope Society Chapter Designation of the City of Durham as a Bird-Friendly Community expressed appreciation for the item and thanked council for advancing it on the agenda.

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to approve the resolution supporting the local New Hope Audubon Society Chapter's designation of the City of Durham as a bird-friendly community, was approved at 7:41 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.

RESOLUTION #10209

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: ANNEXATION ITEM - TRIPLE CROWN (ITEM 20/ PR #14574)

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 utility extension agreement, voluntary annexation and initial zoning map change had been received from Nil Ghosh with Morningstar Law Group acting as agent for individual land owners Triple Crown Farm, Earnest W. Warner Jr., and David E. Blake for four parcels of land totaling 183.4388 acres located at 5424, 5430, 5432, and 5438 Wake Forest Highway. The annexation petition (Case BDG2000017) is for a non-contiguous expansion of the existing satellite corporate. Staff did recognize that, as for the purposes of the North Carolina General Statutes related to voluntary annexation petitions, the case was to be processed as non-contiguous because it was non-contiguous at the time it was submitted. However, subsequent to the submittal, there was another voluntary annexation petition (BDG1900022 – 551 Olive Branch) approved in the immediate area which resulted in the site being contiguous (once the City's boundary is reconciled).

The site was presently zoned Residential Rural (RR) and Residential Suburban – 20 (RS-20). If the annexation was approved, staff recommended an exact translation of the zoning designation and the request would become effective on April 30, 2021.

Staff determined that the request was reasonable given 1) that the development of the property proposed for annexation was found to be revenue positive based upon a cost-benefit analysis conducted by the city's Budget and Management Services Department; 2) no city department identified an operational impact associated with providing city services to the proposed area and; 3) the site was technically contiguous due to another recently approved voluntary petition.

The Public Works and Water Management departments also performed the utility impact analysis for the utility extension agreement and determined that the existing water and sanitary sewer infrastructure had capacity to serve the project.

There were three motions required for this application. The first was to adopt an ordinance annexing 'Triple Crown' and to authorize the City Manager to enter into a utility extension agreement with Lennar Carolinas, LLC. The second was to adopt an ordinance for the transitional rezoning. The third was to adopt a Consistency Statement.

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

Patrick Byker a representative for the applicant, gave a presentation to council that highlighted greenspace, environmental standards, and spoke to limited traffic implications of the development.

Matthew Kartes, a resident of Olive Branch Road, spoke in opposition of the item and cited increased development and traffic in the area as the basis of his position.

Mr. Byker noted that a traffic impact analysis was required and that it met the requirements needed to move forward.

Mayor Schewel asked if Mr. Judge had any comments on the item.

Mr. Judge, Assistant Director of Transportation agreed with the applicant regarding the minimal impact to traffic based on the traffic impact analysis.

Mayor Schewel asked about the status of a study on Highway 98.

Mr. Judge stated that he did not have any update on the study.

Council Member Caballero asked what the traffic improvements were going to be for the development.

Mr. Nate, the traffic engineer for the project outlined the traffic improvements as: an overlay and right hand turning lane on Hester Road and a turn lane and signal at the intersection of Highway 98 and Kemp Road.

Council Member Reece asked where the road connections were in the development.

Sarah Young, Director of Planning stated that due to the item being only an annexation, it was not required to have an accompanying development plan.

Council Member Reece asked if there was going to be an access point at Hester Road.

Mr. Byker stated that Hester Road was a planned access point.

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

Council Member Middleton asked a clarifying question regarding the purview of the Planning Commission in a direct translation process.

Ms. Young advised that development plans were within the purview of the Planning Commission; however, since they were not required with direct translations of zoning designations, that is why they were not involved.

Mayor Schewel applauded Ms. Young's explanation of the process.

Council Member Caballero expressed her opposition for the item.

Mayor Schewel appreciated the concerns made by opponent, spoke to his decision making process as it pertained to traffic, and expressed support for the item.

Council Member Freeman expressed her opposition for the item.

Council Member Reece expressed his opposition for the item and supported the remarks made by Council Members Caballero and Freeman.

Mayor Pro Tempore Johnson asked if Durham County allowed the same density as the direct translation zoning within the City.

Mr. Cultra advised that the density was the same, but the lot requirements were different.

Mayor Pro Tempore Johnson asked how many additional homes did the annexation allow.

Mr. Byker responded that there was no difference.

Ms. Young stated that the main difference was only how the development was designed and expressed her support for the item due to limited housing in the city.

Council Member Freeman referenced the Northgate Mall and the engagement surrounding that project as an example of equitable engagement in the city. She compared that to the size of the current item and their levels of engagement with the community which were not at similar levels in her opinion.

Council Member Middleton appreciated the discussion by his colleagues; agreed with the comments made by Mayor Pro Tempore Johnson, and expressed his support for the item.

Council Member Freelon expressed his support for the item.

MOTION by Council Member Middleton, seconded by Council member Freelon, to adopt an ordinance annexing 'Triple Crown' into the City of Durham effective April 30, 2021; and to authorize the City Manager to enter into a utility extension agreement with Lennar Carolinas, LLC, was approved at 8:31 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Freelon, and Middleton. Noes: Council Members Caballero, Freeman and Reece. Absent: None.

ORDINANCE #15793

MOTION by Council Member Middleton, seconded by Council member Freelon, to adopt an ordinance amending the Unified Development Ordinance By Taking Property out of the Residential Rural (RR) Residential Suburban - 20 (RS-20), and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), County Jurisdiction and establishing the same as Residential Rural (RR), Residential Suburban - 20 (RS-20), and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), City Jurisdiction, was approved at 8:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Freelon, and Middleton. Noes: Council Members Caballero, Freeman and Reece. Absent: None.

ORDINANCE #15794

MOTION by Council Member Middleton, seconded by Council member Freelon, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 8:33p.m. by the

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

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2000035A, Triple Crown Annexation

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 Z2000035A, Triple Crown Annexation, 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 12, 'Planning Commission Resolution'; dated April 19, 2021, regarding the subject 'Z2000035A, Triple Crown Annexation' 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 04.

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, in Attachment 04, and Attachment 12, 'Planning Commission Resolution'; dated April 19, 2021 regarding the subject 'Z2000035A, Triple Crown Annexation' 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: CONSOLIDATED ANNEXATION - FALLS VILLAGE NORTH (ITEM 21/
PR #14576)**

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:

Requests for a utility extension agreement, voluntary annexation, Future Land Use Map (FLUM) Amendment and zoning map change for cases Z1900011 and BDG1900005 had been received from Jacob Anderson, Falls Village Development LLC for 209.19 acres with a proposal for up to 425 single-family and townhouse residential units, located at 739 Baptist Road and 117 Santee Road.

The site was presently zoned Residential Rural (RR) and was being proposed to be rezoned to Planned Development Residential 2.883 (PDR 2.883) and Residential Rural with a development plan (RR(D)). The area to be rezoned to PDR was located within the Suburban Development Tier and in the Falls/Jordan Watershed Protection District B (F/J-B), and the area to be rezoned RR(D) was located in the Rural Development Tier and Falls/Jordan Watershed Protection District A (F/J-A).

The site was designated Very Low Density Residential and Recreation/Open Space on the Future Land Use Map (FLUM). The request for Low Density Residential designation at less than four dwelling units per acre in the PDR zoning would exceed the current FLUM designation of Very Low Density Residential which was two units per acre or less and was inconsistent with the designated Future Land Use. If the proposed zoning was approved, the FLUM will be re-designated to Low Density Residential only for the PDR portion of development to ensure a consistency with the zoning, and the request would become effective on April 30, 2021. The Planning Commission recommended approval at their January 12, 2021 meeting by a vote of 12-0. There were three motions required to approve the item. The first motion was to adopt an ordinance annexing "Falls Village North" and to authorize the City Manager to enter into a utility extension agreement with Falls Village Development, LLC. The second motion was to adopt an ordinance for the rezoning and amend the future land use map. The third motion was to adopt a Consistency Statement.

Mayor Pro Tempore Johnson opened the public hearing and called for any speakers to the item.

Bob Zumwald, a representative for the applicant gave a presentation to council that highlighted the Planning Commission's support of the item, proximity to shopping centers, and the need for 55+ housing in the area.

Matthew Kartes, a resident of Durham, spoke in opposition of the item and cited increased development and traffic in the area as the basis of his position.

Mr. Zumwald responded that there would be zero peak hour trips due to the development being age restricted.

Council Member Caballero asked if the open space in the development was open to the public.

Mr. Zumwald advised that it was.

Council Member Caballero asked how many neighborhood meetings there had been.

Mr. Zumwald advised that there were 4 neighborhood meetings.

Council Member Freeman asked how many of the elements of the project would be able to be tracked and analyzed.

Mr. Cultra stated that all of the commitments had to be shown on the site plan and that the age restrictions needed to be verified every year.

Ms. Adams, a resident of Durham inquired as to the fair housing practices of the development regarding protected classes and if they were for rent or purchase.

Mr. Zumwald acknowledged being aware of all federal fair housing practices.

Council Member Freeman asked if the developer would be willing to include LGBTQ and Trans residents as a part of the protected classes within the fair housing practices.

Mr. Zumwald responded that LGBTQ and Trans residents would be a part of the protected classes within the fair housing practices at the development.

Seeing no additional speakers, Mayor Pro Tempore Johnson declared the public hearing closed.

Council Member Reece expressed support for the item and thanked specific members of the Planning Commission for their comments.

Council Member Freeman echoed the comments made by Council Member Reece and spoke to the equitable engagement and the environmental components of the project such as solar panels as the basis for her support.

Mayor Schewel expressed his support for the HOA being required to allow solar panels and was shocked to learn that HOA's could prohibit them.

Ms. Young noted that there was positive legislation by way of the General Assembly that would make solar panels more accessible.

MOTION by Council Member Reece, seconded by Council Member Freeman, to adopt an ordinance annexing 'Falls Village North' into the City of Durham effective April 30, 2021; and to authorize the City Manager to enter into a utility extension agreement with Falls Village Development, LLC, was approved at 9:03p.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 #15795

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) District, Falls/Jordan Lake Watershed Protection District-B (F/J-B), County Jurisdiction, and establishing the same as Planned Development Residential 2.883 (PDR 2.883), Falls/Jordan Lake Watershed Protection District-B (F/J-B), City Jurisdiction; by Taking Property out of the Residential Rural (RR) District, Falls/Jordan Lake Watershed Protection District-A (F/J-A), County Jurisdiction, and establishing the same as Residential Rural with a development plan (RR(D)), Falls/Jordan Lake Watershed Protection District-A (F/J-A), City jurisdiction; by amending the Future Land Use Map of the Comprehensive Plan from Very Low Density Residential for areas sited within the Suburban Tier to Low Density residential for areas sited within the Suburban Tier, per map entitled 'Attachment 04 - FLUM Map, was approved at 9:04p.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 #15796

MOTION by Council Member Freelon, seconded by Council Member Freeman, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 9:04p.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 Z1900011, Falls Village North

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 Z1900011, Falls village North, 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 9c, 'Comprehensive Plan Consistency Analysis'; dated April 19, 2021, regarding the subject 'Z1900011, Falls Village North' 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 4, 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, in Attachment 9, and Attachment 9c, 'Comprehensive Plan Consistency Analysis'; dated April 19, 2021 regarding the subject 'Z1900011, Falls Village North' 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 - CHANDLER RUN (ITEM 22/ PR #14575)

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:

Tony Whitaker, of Civil Consultants, Inc., on behalf of Cimland, LLC., proposed to change the zoning designation of 24.79 acres of land located between Chandler Road and Clayton Road. The site was presently zoned Planned Development Residential 8.5 (PDR 8.5), Residential Surburan-10 (RS-10), and Residential Surburan-8 (RS-8). The applicant proposed to change the designation to Planned Development Residential 3.118 (PDR 3.118). The development plan associated with the request committed to a maximum of 66 single-family detached residential dwelling units and/or allowed accessory units. The properties were designated Low Density Residential on the Future Land Use Map (FLUM) which was consistent with the rezoning request.

At the November 10, 2020 Planning Commission hearing, the commission voted to continue the case to the January 12, 2021 Planning Commission hearing. Commissioners asked the applicant to engage the adjacent property owners, and enhance the text and design commitments on the development plan. At the January 12, 2021 Planning Commission hearing, staff requested a month continuance so the applicant could finish addressing comments heard at the neighborhood meeting and from staff.

At the February 9, 2021 Planning Commission hearing, the applicant added a proffer of \$5,000 to the Dedicated Housing Fund, which is demonstrated as text commitment #6 on the development plan. The Planning Commission, by a vote of 13-0 at their February 9, 2021 meeting, recommended approval of the request. Two motions were required for the application. The first motion was to approve the zoning ordinance. The second motion was to approve the consistency statement.

Mayor Pro Tempore Johnson opened the public hearing and called for any speakers on the item.

Larry Herman, a representative for the applicant provided a presentation for council and referenced the unusual nature of the request for downzoning, partnering with a local builder, historical background of the property, its location to route 70 and modest price points.

Seeing no additional speakers, Mayor pro Tempore Johnson declared the public hearing closed.

MOTION by Council Member Freeman, seconded by Council Member Caballero, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban-8 (RS-8), Residential Suburban-10 (RS-10), Planned Development Residential 8.500 (PDR 8.500), Falls/Jordan Lake Watershed Protection District B (F/J-B) and establishing the same as Planned Development Residential 3.118 (PDR 3.118), Falls/Jordan Lake Watershed Protection District B (F/J-B), was approved at 9:31p.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 #15797

MOTION by Council Member Freeman, seconded by Council Member Reece, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 9:32p.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 2000010, Chandler Run

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 Z2000010, Chandler Run 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 April 19, 2021, regarding the subject Z2000010, Chandler Run 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; 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 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, the applicant's responses to the Public Interest Statements, and Attachment 06, 'Comprehensive Plan Consistency Analysis'; dated April 19, 2021 regarding the subject Z2000010, Chandler Run 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: PUBLIC HEARING ON THE DRAFT FY2021-22 ANNUAL ACTION PLAN (ITEM 24/ PR #14572)

Reginald Johnson, Director of the Community Development Department introduced the item and stated for the record that the public 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 Community Development Department and provided the following staff report:

The purpose of the Public Hearing was to receive citizen comments on the Draft 2021-2022 Annual Action Plan. The Annual Action Plan specified how the City of Durham would address housing and community development needs for the use of Community Development Block Grant (CDBG) funds, HOME Investment Partnership Program (HOME)

Consortium funds, Emergency Solutions Grant (ESG) funds, and Housing Opportunities for Persons With AIDS (HOPWA) funds. For FY 2021-2022, the City expected to receive \$2,107,077 in CDBG funds, \$1,199,161 in HOME Consortium funds, \$174,344 in ESG funds, and \$542,712 in HOPWA funds from the U.S Department of Housing and Urban Development (HUD). The Annual Action Plan was made available for public review from March 19, 2021 through April 19, 2021.

Notice of the meeting was properly advertised in the Herald Sun, and Que Pasa newspapers, posted on the Department's website, and also disseminated via a general list serve to interested citizens and stakeholders. As a recipient of CDBG, HOME, ESG, and HOPWA funds, the City was required to hold at least two public meetings prior to the submission of the Annual Action Plan. Previously, two public hearings on community needs were held on January 4 and March 1, 2021. A summary of comments from all three public hearings along with other written comments received would be included in the final Plan.

In closing, on May 3, 2021 the City Council would be asked to vote to approve the Draft 2021-2022 Annual Action Plan for submission to HUD by May 15, 2021.

Mayor Pro Tempore Johnson opened the public hearing and called for any speakers to the item.

Irene Laurence, a resident of Durham, spoke on behalf of Bull City Tenants United; asked council to invest funding in various rent relief programs; and advocated for a city wide tenants bill of rights.

Larisa Seibel, a resident of Durham, spoke on behalf of the People's Alliance Housing Team; requested eviction diversion programs and home owner's relief; and shared a video from a Durham City resident who discussed the struggles of long term housing struggles in North East Central Durham.

Constance Wright, a resident of Durham, spoke on behalf of the Braggtown Community Association and called for long term improvements to the Braggtown area with the CDBG funding.

Howard Machtinger, a resident of Durham, spoke on the increased housing crisis in the City of Durham and asked how rent issues would be handled after the rent moratorium was to be lifted in the future.

Marie Hill Faison, a resident of Durham, echoed the comments made regarding the Braggtown community and suggested that any improvements could be used as a positive reference for other under serviced neighborhoods.

Stella Adams, a resident of Durham, encouraged meaningful engagement with the community regarding CDBG funding; uplifted the comments made in regard to the

Braggtown neighborhood; and asked for a reallocation of \$50,000.00 in the annual action plan.

Lee Ganz, a resident of Durham, spoke on behalf of Bull City Tenants United and requested that the city investigate real estate practices that contributed to large increases in rent, homelessness, and gentrification.

Mayor Pro Tempore Johnson asked all speakers to speak more slowly so that the sign language interpreter could match their words.

Reginald Champman, a resident of Durham, voiced support for the Braggtown community to receive funding for a small area plan in the neighborhood.

Kamaria Faison, a resident of Durham, advocated for rental assistance funding due to the economic crisis caused by the COVID-19 pandemic.

Vanessa Mason Evans, a resident of Durham, stressed the importance of community trust, expressed concerns of the funding allocations in the annual action, and echoed previous comments regarding the Braggtown community.

Mayor Pro Tempore Johnson clarified that the item was specific to federal entitlement money and noted that the Community Development Department did not do small area plans. She advised that future conversations and meetings would take place regarding the needs of the Braggtown community and called on Planning Director Sarah Young to provide an update on the small area planning process.

Seeing no additional speakers, Mayor Pro Tempore Johnson declared the public hearing closed.

Ms. Young stated that the Comprehensive Plan was still being put together by the Planning Department and that they were meeting with representatives of Braggtown to focus on a scope of the small area plan.

Mayor Schewel asked for a timeline regarding the area of focus in the Braggtown community.

Ms. Young estimated that the Planning Department would be able to hone in on the small area plan near the end of summer and that the timeline for completion would depend on the scope of the focus area.

Mayor Schewel reiterated that the funding for the small area plan would not come from the Community Development Department, but rather the Planning Department; commended City Staff for Community Outreach efforts; and shared concerns on rental assistance, the eviction moratorium, as well as future federal funding for those needs.

Council Member Freeman thanked Mayor Schewel for his comments and noted that Community Development was the appropriate department for where funding was spent on projects; spoke to creating a homelessness prevention program; and recognized the speakers from Braggtown.

Council Member Middleton echoed the comments made by Mayor Schewel; acknowledged the comments made by all speakers; spoke to small area plans in other legacy communities; and encouraged activists to specify their needs in real time.

Council Member Freelon expressed gratitude to the members of the community that spoke on behalf of others who were unable to attend the meeting and spoke to being confident in the City of Durham community engagement under City Manager Page.

Mayor Pro Tempore Johnson thanked everyone for their comments on important issues.

SUBJECT: ZONING MAP CHANGE - HARRIET'S PLACE (ITEM 23/ PR #14565)

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:

Request zoning map change had been received from Howard Partner, RLA, of Howard A. Partner Landscape Architecture, representing Joel R. Skillern Jr. of Reinvestment Partners LLC and Harriet's Place LLC for two parcels of land totaling 0.7093 acres, and located at 312 East Umstead Street and 1206 Dawkins Street.

The site was presently zoned Residential Urban-5(2) (RU-5(2)) and was located within the Urban Development Tier. The applicant proposed to change the designation to Residential Urban Multifamily with a development plan (RU-M(D)) to convert an existing structure into a maximum of 17 dwelling units for either a congregate living facility and/or affordable housing. The use table in Unified Development Ordinance (UDO) paragraph 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 and the use, location, access, building height, and size are defined. The applicant had elected to re-zone the property to illustrate these requirements in order to eliminate the required use permit.

The properties were currently designated Medium-High Density Residential on the Future Land Use Map (FLUM). The proposed RU-M(D) zoning was consistent with the designated Future Land Use.

At the February 9, 2021 Planning Commission hearing, the commission voted 13-0 to recommended approval to the City Council. There was one modification which was

referenced in an updated staff report. Subsequent to the recommendation for approval from the Planning Commission, there was an issue identified with previously proffered text commitment #3, which stated “Prior to the issuance of a certificate of occupancy, a sidewalk shall be constructed on the west side of Dawkins Street along the frontage of PID 118300.” The Durham Department of Public Works Engineering Division evaluated the constructability of that section of public sidewalk. Due to insufficient right-of-way, existing utility impediments of a power pole and fire hydrant within the right-of-way, and proximity of the existing dwelling to the right-of-way being approximately four feet from the back of curb to corner of house at nearest point, Pubic Works staff determined that the public sidewalk section was non-constructable. As such, it was agreed that the applicant would remove the text commitment from the development plan. There were two motions required for the application. The first was to adopt an ordinance to approve the rezoning and the second was to adopt a Consistency Statement.

Mayor Pro Tempore Johnson opened the public hearing and asked for any speakers on the item.

Peter Skillern, a representative for the applicant, provided a presentation to Council and highlighted the following: 15 studio efficiency apartments, service to low income residents, and restoring the interior of the building.

Jarvis Martin, a resident of Durham, spoke in support of the item and noted that the revitalization of the building would be a positive step.

April Johnson, Executive Director of Preservation Durham, spoke in support of the item and requested that Council supported it.

Peter Crispell, a resident of Durham, spoke in support of the item and advocated for more affordable housing.

David Crispell, a property owner in Durham, spoke in support of the item and hoped that the item would serve as an example for future projects of a similar nature.

Council Member Reece expressed his support for the item.

Council Member Freeman thanked community members for their work on trying to stabilize the area; spoke to increased crime rates; calls for more police presence by residents; and expressed the need for accountability measures.

Council Member Middleton expressed the importance of maintaining the building and referred to it as sacred space.

Mayor Schewel thanked everyone for their comments on the item and spoke in support of historic preservation and affordable housing.

Seeing no additional speakers, Mayor Pro Tempore Johnson declared the public hearing closed.

MOTION by Council Member Freelon, seconded by Council Member Caballero, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Urban-5(2) (RU-5(2)) and establishing the same as Residential Urban Multifamily with a development plan (RU-M(D)), was approved at 11:13p.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 #15797

MOTION by Council Member Reece, seconded by Council Member Caballero, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 11:14p.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 Z2000021, HARRIET'S PLACE

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 Z2000021, Harriet's Place, 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 6, 'Comprehensive Plan Consistency Analysis'; dated April 19, 2021, regarding the subject 'Z2000021, Harriet's Place' 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 3.

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 6, 'Comprehensive Plan Consistency Analysis'; dated April 19, 2021 regarding the subject 'Z2000021, Harriet's Place' 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 Pro Tempore Johnson adjourned the meeting at 11:14 P.M.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk