The Durham City Council met in a regular session on the above date and time in the Council Chambers at 101 City Hall Plaza with the following members present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Vernetta Alston, Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Absent: None.

Also Present: City Manager Tom Bonfield, City Attorney Kimberly Rehberg, City Clerk Diana Schreiber and Deputy City Clerk Ashley Wyatt.

Mayor Schewel called the meeting to order, welcomed everyone in attendance.

Mayor Schewel asked for a moment of silence and expressed condolences for Dr. Evelyn Schmidt and Zion Person. He also spoke to the state of gun violence in the country.

Council Member Reece led the Pledge of Allegiance to the Flag.

[CEREMONIAL ITEMS]

Mayor Schewel read into the record the proclamation recognizing Celaya, Mexico as a Sister City of Durham and presented it to Rebeca Lomelin Velasco, Councilor, Adiel Augusto Ramos Horta, General Director for Economic Development, and Raul Jimenez Arreola, General Director, Tourism Council.

Mayor Schewel presented the Neighbor Spotlight Award to Vannessa Evans, a resident of PAC II.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Caballero expressed condolences to the Person Family and suggested that the city create a Community Safety Taskforce in response to gun violence.

Council Member Middleton expressed condolences to the Person Family and stated that residents had declared the city to be in a state of emergency. He encouraged the city and City Council to do more by way of creating a concrete plan in response to the frequent gun violence that affected numerous children in various neighborhoods.

Council Member Freeman expressed condolences to the Person Family and echoed the sentiments of her Council colleagues. She expressed concerns regarding gun fire near her own home and stated that there would be increased police presence in that area. She also advised that the City do more than have conversations regarding gun violence, but act on it.
[PRIORITY ITEMS OF THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK]

City Manager Bonfield announced that Item 16, Oregon Street Closing, would be referred back to the Administration.

MOTION by Council Member Alston, seconded by Council Member Reece, to approve the City Manager’s priority item, was approved at 7:39 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

City Attorney Rehberg had no priority items.

City Clerk Schreiber introduced the Boards, Committees, and Commissions recruitment video titled, Count on Durham.

[CONSENT AGENDA]

Mayor Schewel read the Consent Agenda into the record; explained the Consent Agenda was passed with one motion and asked if there were any items that needed to be pulled from the Consent Agenda. If so, the items would be removed from the Consent Agenda and discussed later at the meeting. No items were removed for discussion and/or approval.

SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION – APPOINTMENTS (ITEM 1/ PR #13367)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to appoint Ariana F. Bevilacqua (representing Bicycle Commuting) and to reappoint Chassem Anderson (representing NCCU Liaison) and Emily Egge (representing Recreation/Recreation Business) to the Durham Bicycle & Pedestrian Advisory Commission with the terms to expire on August 31, 2022, was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: DURHAM HISTORIC PRESERVATION COMMISSION – REAPPOINTMENTS (ITEM 2/ PR #13369)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to reappoint Jonathan Dayan (representing Regular Member/Real Estate Agent and April Johnson (representing At-large Member/Historian) to the Durham Historic Preservation Commission with the terms to expire on September 1, 2022 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.
SUBJECT: DURHAM HOUSING AUTHORITY BOARD OF COMMISSIONERS – REAPPOINTMENT (ITEM 3/ PR #13371)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to reappoint Daniel C. Hudgins to the Durham Housing Authority Board of Commissioners with the term expiring on September 28, 2022 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: CITY/COUNTY INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION LOCAL GOVERNMENT MANAGEMENT FELLOW INTERLOCAL AGREEMENT (ITEM 4/ PR #13365)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to ratify by resolution the interlocal agreement (ILA) to allow the City to pay to the County of Durham one-half of the expenses associated with sponsoring an International City/County Management Association Local Government Management Fellow as specified in the ILA; and

To authorize the City Manager to execute the ILA on behalf 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 Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: MAINTENANCE SUPPORT FOR PERFORMANCE MANAGEMENT SYSTEM (ITEM 5/ PR #13377)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute a contract for an enhanced performance measurement system with Ascendant Strategy Management for a 3-year period in the amount of $156,000 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: NATIONAL LEAGUE OF CITIES GRANT AWARD FOR CITIES ADDRESSING FINES AND FEES EQUITABLY (ITEM 6/ PR #13381)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to adopt the National League of Cities grant project ordinance for Cities Addressing Fines and Fees Equitably in the amount of $10,000 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15534

3
SUBJECT: EB-5703 LASALLE STREET SIDEWALK PROJECT SUPPLEMENTAL AGREEMENT (ITEM 7/ PR #13379)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to accept the Federal Highway Administration Funding from the North Carolina Department of Transportation (NCDOT) for the Purpose of Constructing Sidewalks along LaSalle Street Grant Project Ordinance superseding Grant Project Ordinance #10007; and

To authorize the City Manager to execute the grant agreement with NCDOT, was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15535

SUBJECT: EB-5704 RAYNOR STREET SIDEWALK PROJECT SUPPLEMENTAL AGREEMENT (ITEM 8/ PR #13380)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to accept the Federal Highway Administration Funding from the North Carolina Department of Transportation (NCDOT) for the Purpose of Constructing Sidewalks along Raynor Street Grant Project Ordinance superseding Grant Project Ordinance #10008; and

To authorize the City Manager to execute the grant agreement was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15536

SUBJECT: EB-5715 N. DUKE STREET SIDEWALK PROJECT SUPPLEMENTAL AGREEMENT (ITEM 9/ PR #13382)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to accept the Federal Highway Administration Funding from the North Carolina Department of Transportation (NCDOT) for the Purpose of Constructing Sidewalks along North Duke Street Grant Project Ordinance superseding Grant Project Ordinance #10010; and

To authorize the City Manager to execute the grant agreement was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15537
SUBJECT: PROPOSED SALE OF AN EASEMENT ACROSS A PORTION OF TWIN LAKES PARK TO DAN RYAN BUILDERS – NORTH CAROLINA, LLC (ITEM 10/ PR #13378)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to authorize conveying an easement covering approximately 5,461 square feet to Dan Ryan Builders - North Carolina, LLC for compensation totaling $10,000; and

To authorize depositing $10,000 into account #0H500100-723500; and
To authorize the City Manager to convey the easement by non-warranty deed pursuant to N.C.G.S. 160A-273 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: 2019 NATIONAL RECREATION AND PARK ASSOCIATION MEET ME AT THE PARK GRANT AGREEMENT AND BUDGET ORDINANCE (ITEM 11/ PR #13375)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to adopt the 2019 National Recreation and Park Association Meet Me at the Park Grant Budget Ordinance; and

To authorize the City Manager to execute a grant agreement in the amount of $30,000 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15538

SUBJECT: AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DURHAM AND DURHAM COUNTY FOR THE CITY TO PROVIDE RECYCLING PROCESSING AND HAUL SERVICES TO DURHAM COUNTY FOR TARGET RECYCLING MATERIALS (ITEM 12/ PR #13376)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to resolve that the City Manager be authorized to execute Amendment No. 1 to the Interlocal Agreement Between the City of Durham and Durham County for the City to Provide Recycling Processing and Haul Services to Durham County for Target Recycling Materials was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.
SUBJECT: LICENSE AND MAINTENANCE AGREEMENT FOR THE CITYWORKS SOFTWARE UPGRADE (ITEM 13/ PR #13373)

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute the Cityworks License and Maintenance Agreement with Azteca Systems, LLC in the amount of $352,500 for a three-year period was approved at 7:44 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: CONSOLIDATED ITEM - TOWERVIEW BUSINESS CENTER MTC I-40 BUFFER REDUCTION (ITEM 17/ PR #13363)

Nil Ghosh, Attorney for the applicant, acknowledged that he would be speaking on behalf of the applicant.

Bill Brian, Attorney for the applicant, acknowledged that he would be speaking on behalf of the applicant.

Before we begin, Planning Staff requests that all agenda materials submitted for the public hearing be made part of the public record with any necessary corrections as noted.

Eliza Monroe, Planner with the Planning Department, provided the following staff report and stated for the record that all Planning Department hearing items had been advertised and noticed in accordance with state and local law, and affidavits of all notices were on file in the Planning Department."

Staff noted for the record a correction within the staff report, on page 6 of Attachment 3, where it stated that the development plan had been approved prior to the requirement of the MTC buffer. A 100’ buffer was required component of the development plan done in 1993.

Summary

Requests for a major special use permit (M1800002), and a major site plan (D1800246) had been received from Bill Brian with Morningstar Law Group representing Nelson Partners, and from Milestone Developments, LLC, respectively to reduce the required Major Transportation Corridor (MTC) buffer width from 100 feet to 40 feet to construct a two-story office building totaling 12,452 square feet on a 1.61 acre site, zoned Light Industrial (D) [LI(D)] and located within the Triangle Metro Center Commercial Neighborhood (CN) Tier.

The buffer width and amount of landscape materials required may be reduced through the issuance of a Major Special Use Permit (MSUP) by the Governing Body pursuant to Unified Development Ordinance (UDO) Section 4.9.3D.2.
The 1st item that required action was the public hearing item for the Major Special Use Permit (M1800002)

The applicant was requesting approval of a 60% buffer reduction from 100 feet to 40 feet on the Northeastern side of the site.

A site plan had been submitted in conjunction with the request (Attachment 3b, case D1800246). That site plan was currently under review and was clear of comments.

Per UDO Section 3.9.8, there were four general findings and thirteen review factors that had to be addressed in order to grant the use permit. The findings and review factors were identified in the staff report.

The four findings of the proposed use were:

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. In conformance with all special requirements applicable to the use;
3. Will not adversely affect the health or safety of the public; and
4. Will adequately address the review factors identified below.

The 13 review factors must address how the development manages:

a. Circulation
b. Parking and loading
c. Service entrances and areas
d. Lighting
e. Signs
f. Utilities
g. Open spaces
h. Environmental protection
i. Screening, Buffering, and landscaping
j. Effect on adjacent property, including but not limited to noise, odor, lighting, and traffic
k. Compatibility
l. Consistency with policy
m. Other factors

Staff had analyzed the application and finds that most of the factors met Ordinance compliance based on the site plan submitted. Effects on adjacent properties and compatibility were not addressed through site plan review.

The applicant must provide evidence to demonstrate that the findings and review factors were being met. If the Governing body failed to find conformance with the conditions and factors listed then the proposed permit must be denied. However, if the applicant provided evidence that demonstrates the findings and review factors were being met, the Governing body must have approved the use permit.
Council Member Freeman asked for clarification regarding the item.

Ms. Monroe advised that the applicant was requesting a buffer reduction from the required 100ft to 40ft.

**MOTION** by Council Member Freeman, seconded by Council Member Reece, to conduct a quasi-judicial public hearing and receive evidence regarding the consolidated item - Towerview Business Center MTC I-40 buffer reduction was approved at 7:54 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

Mayor Schewel opened the public hearing.

Nil Ghosh, spoke in support of the item.

Carlton Midgette, member of the Creekstone Office Park Origination Group, spoke in support of the item.

Bill Daniels, Site Planner, spoke in support of the item.

Jarvis Martin, General Appraiser, spoke in support of the item.

Staff recommended approval of the Major Special Use Permit (M1800002) provided that the improvements would have been substantially consistent with the plans and information submitted to the Council as part of the application.

Mayor Schewel declared the public hearing closed.

**MOTION** by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, Adoption of an Order approving a Major Special Use Permit for the Towerview Business Center MTC I-40 Buffer Reduction (M1800002) was approved at 8:20 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

CITY/COUNTY OF DURHAM
ORDER GRANTING, UPON CERTAIN CONDITIONS,
A MAJOR SPECIAL USE PERMIT TO ALLOW A 60% REDUCTION TO BE APPLIED TO THE WIDTH OF THE MAJOR TRANSPORTATION CORRIDOR BUFFER.
(M1800002)
PIDS: 158060

The Durham City Council ("Council"), having conducted a hearing on “Towerview Business Center Major Transportation Corridor I-40 Buffer Reduction" (M1800002) on August 19, 2019, and having considered all written and oral evidence presented at such hearing, hereby determines that the Ordinance requirements for the granting of a major special use
permit in this case have been met, and that the Use Permit should be granted upon certain conditions.

THE COUNCIL HEREBY MAKES THE FOLLOWING FINDINGS AND CONCLUSIONS, based on the evidence presented at the public hearing:

The proposed use, as described in the application, with such further conditions as may be described below, meets the requirements of Section 3.9 of the Unified Development Ordinance, and:

1. Is in harmony with the area and not substantially injurious to the value of properties in the general vicinity
2. Conforms with all general and special requirements applicable to the use and the Review Factors identified in Section 3.9.8B;
3. Will not adversely affect the health or safety of the public.

IN SUPPORT OF THESE FINDINGS AND CONCLUSIONS, THE COUNCIL finds as fact that the descriptions and statements of fact set forth in the staff report presented as evidence to the Council are the facts describing the proposed use, surrounding conditions, and ordinance requirements and the Council adopts by reference and includes in this decision and order all such facts and, in particular, the conclusions in the staff report entitled “Staff Analysis” as if set forth herein.

THEREFORE, THE COUNCIL HEREBY GRANTS THE MAJOR SPECIAL USE WITH THE CONDITIONS THAT MAY BE SET FORTH BELOW:

1. The improvements shall be substantially consistent with the plans and information submitted to the Council as part of the application.

IN ADDITION, as indicated in Section 3.9.14 of the Unified Development Ordinance this permit will become null and void in the following cases:

1. If a site plan or architectural review, as applicable, is not approved within 12 months of the date of permit approval.
2. Where an approved site plan, architectural review application, or building permit expires.
3. Where a building permit is not issued within two years of the date of approval, in cases where a corresponding site plan or architectural review is not required.
4. If a substantial violation of the conditions of the permit, as determined by the Planning Director or designee occurs.

IN WITNESS WHEREOF, the Durham City Council has caused this Major Special Use Permit to be issued in its name, together with all conditions, as binding on the applicant, and their successors in interest.
An appeal of this action by the Durham City council can be filed pursuant to procedures noted in the North Carolina General Statutes, Chapter 160A, Article 19, Part 3, Section 160A-388 or Chapter 153A, Article 18, Part 3, Section 153A-345 with Superior Court of Durham County within 30 days after the date this order is served on you.

**ORDINANCE #15539**

**MOTION** by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to approve a major site plan for the Towerview Business Center MTC I-40 Buffer Reduction (D1800246) was approved at 8:21 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

**[ADJOURNMENT]**

Being no additional business to come before Council, Mayor Schewel adjourned the meeting at 8:23 p.m.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk