

**DURHAM, NORTH CAROLINA
MONDAY, SEPTEMBER 16, 2019
7:00 P.M.**

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 Javiera Caballero and Charlie Reece. Absent: Council Members Vernetta Alston, DeDreana Freeman, and Mark-Anthony Middleton.

Also Present: Deputy 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 called for a moment of silent meditation.

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

Mayor Schewel acknowledged Council Member Middleton's excused absence and asked for excused absences for Council Members Alston and Freeman.

MOTION by Council Member Caballero, seconded by Council Member Reece, to excuse Council Members Alston and Freeman from the Council Meeting, was approved at 7:02 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

[CEREMONIAL ITEMS]

Mayor Schewel read into the record the Proclamation recognizing Sibiu, Romania as Durham's sister city and presented it to Mayor Astrid Fodor, Mayor of Sibiu, Romania.

Council Member Reece read into the record the Proclamation recognizing Durham Senior Hunger Awareness Week and presented it to Gale Adlin, Director of Durham Meals on Wheels.

Council Member Reece read into the record the Proclamation recognizing National Hunger Awareness Month and presented it to Jim Keaten, Director of Durham Public Schools Nutrition Services and Sky Harris, Program Coordinator for DPS Nutrition Services.

Eddie Davis, City Historian, presented a History Moment on Sam Reed and the Five Freedoms of the US Constitution.

Council Member Caballero read into the record the Proclamation recognizing Diaper Need Awareness Week and presented it to Michelle Old, Founder and Executive Director – Diaper Bank of NC.

Mayor Pro Tempore Johnson read into the record the Proclamation recognizing National Preparedness Month and presented it to Jim Groves, Director of Durham County Emergency Management Division.

Mayor Schewel presented to the Neighbor Spotlight Award to Marcella Thompson of PAC1.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Caballero noted that Hispanic Heritage Month began on September 15th and recognized the following countries: Mexico, Nicaragua, Costa Rica, Guatemala, Honduras, El Salvador, and Chile.

Council Member Reece thanked the Neighbor Spotlight recipient again for her work in the community. He also informed the meeting that early voting for the Municipal Primary Election would begin on September 18, 2019.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to approve the salary increases of the City Manager to \$255,191.00 and the City Clerk to \$97,335.00, was approved at 7:53 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

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

Deputy City Manager Wanda Page, City Attorney Kim Rehberg, and City Clerk Schreiber did not have priority items.

[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.

Council Member Reece asked to pull item 19 from the Consent Agenda.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES (ITEM 1/ PR #13420)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to approve the City Council Minutes for August 5, 2019 and August 8, 2019 was approved at

7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: HUMAN RELATIONS COMMISSION – APPOINTMENT (ITEM 2/ PR #13427)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to appoint Jennifer W. Belle to the Human Relations Commission representing a Caucasian/Non-Hispanic Female with the term to expire on June 30, 2020 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: RECREATION ADVISORY COMMISSION – REAPPOINTMENT (ITEM 4/ PR #14329)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to reappoint Lesley J. Stracks-Mullem to the Recreation Advisory Commission with the term to expire on August 31, 2022 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: RECREATION ADVISORY COMMISSION – APPOINTMENT (ITEM 5/ PR #13439)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to appoint Jessica C. Slice to the Recreation Advisory Commission with the term to expire on August 1, 2021 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: DURHAM CITY-COUNTY ENVIRONMENTAL AFFAIRS BOARD – APPOINTMENT (ITEM 7/ PR #13440)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to appoint Juilee N. Malavade to the Durham City-County Environmental Affairs Board representing Biological Sciences with the term to expire on June 30, 2020 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: DISCUSSION ON THE COMMUNITY SAFETY TASKFORCE (ITEM 7/ PR #13452)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to conduct a discussion on the Community Safety Taskforce was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: AFFORDABLE HOUSING BOND ADVISORY COMMITTEE REPORT (ITEM 8/ PR #13454)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to receive a report from the Affordable Housing Bond Advisory Committee was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: FY 2017-2018 EMERGENCY SOLUTIONS GRANT WITH URBAN MINISTRIES OF DURHAM – SUBRECIPIENT CONTRACT AMENDMENT FOR RAPID RE-HOUSING SERVICES (ITEM 9/ PR # 13426)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a contract amendment with Urban Ministries of Durham that would release them from the contracted obligation to provide matching funds for ESG funds expended on client services and would allow the City of Durham, as the Grantee, to fulfill any and all matching requirements associated with the Emergency Solutions Grant was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: ELECTRIC BUS PROCUREMENT (ITEM 11/ PR #13404)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a purchase contract with Gillig LLC for the purchase and delivery of two 40ft electric buses in the amount of \$1,042,913 per bus for a total purchase amount of \$2,085,826 was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: U-4724 CORNWALLIS ROAD SIDEWALK AND BIKE LANE MUNICIPAL AGREEMENT (ITEM 12/ PR #13431)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt the Federal Highway Administration and NC Department of Transportation Cornwallis

Road Sidewalk and Bike Lane Grant Project Ordinance Superseding Grant Project Resolution #9938; and

To authorize the City Manager to execute the grant agreement with NCDOT, was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: FIRST AMENDMENT TO CONTRACT FOR UNIFORMED, UNARMED SECURITY GUARD SERVICES IN THE PARKING GARAGES

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to execute an amended contract with Universal Protection Service, LLC to provide security guard services for city parking facilities for a total contract amount not to exceed \$2,753,717.40, was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: CELL TOWER LEASE AND LICENSE AGREEMENT WITH T-MOBILE (1701 COLE MILL ROAD) (ITEM 14/ PR #13432)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a Cell Tower Lease and License Agreement with T-Mobile for a 10-year term to attach antennas to the City-owned cell tower located at 1701 Cole Mill Road, Durham, NC, Parcel ID 174121; and

To authorize the City Manager to execute a Memorandum of Lease and License Agreement, was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: CULTURAL AND PUBLIC ART RESOLUTION TO INCORPORATE MEMBERSHIP CHANGES AND DEPARTMENT AFFILIATION (ITEM 15/ PR 13442)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt the Cultural and Public Art Resolution, was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

RESOLUTION #10154

SUBJECT: PRIVATE DRAINAGE ASSISTANCE PROJECTS (SD-2018-06) – AMENDMENT NO. 2 (ITEM 16/ PR # 13417)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to amend the existing contract SD-2018-06, Private Drainage Assistance Projects, with Horvath Associates, P.A. in the amount of \$13,040 for a revised, total contract amount of \$132,145.69;

To establish a revised contingency fund in the amount of \$1,956; and

To authorize the City Manager to negotiate additional change orders for contract SD-2018-06 provided that the cost of the contract including all amendment change orders does not exceed \$134,101.69, was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: PRIVATE DRAINAGE ASSISTANCE PROJECTS (SD-2018-08) – AMENDMENT NO. 1 (ITEM 17/ PR #13390)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to amend the existing contract SD-2018-08, Private Drainage Assistance Projects, with Summit Design and Engineering, PLLC in the amount of \$108,361.19 for a revised, total contract amount of \$286,322.19;

To amend the existing contingency fund by an increase in the amount of \$16,254.18 for a revised, total contingency amount of \$42,948.33; and

To authorize the City Manager to negotiate change orders for contract SD-2018-08 provided that the total cost of the contract together with all amendment change orders does not exceed \$329,270.52, was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: STORMWATER INFRASTRUCTURE REPAIRS (SD-2019-01) (ITEM 18/ PR #13436)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to execute Contract SD-2019-01, Stormwater Infrastructure Repairs, with FSC, II, LLC dba Fred Smith Company in the amount of \$599,337;

To establish a contingency fund in the amount of \$89,900.55; and

To authorize the City Manager to negotiate change orders for Contract SD-2019-01 provided that the total project cost does not exceed \$689,237.55, was approved as amended at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore

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

SUBJECT: AMENDMENT #6 TO THE SCRAP TIRE DISPOSAL/RECYCLING SERVICE CONTRACT BETWEEN THE CITY OF DURHAM AND CENTRAL CAROLINA HOLDINGS, LLC (ITEM 21/ PR #13419)

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a two year contract extension with Central Carolina Holding, LLC through September 30, 2021, for scrap tire disposal and recycling services, with the option to renew for one additional two-year contract term, at an estimated annual cost of \$237,500.00 per year was approved at 7:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

[ITEMS PULLED FROM THE AGENDA]

SUBJECT: MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) INSPECTIONS (SD-2019-06 AND SD-2019-07) (ITEM 19/ PR #13438)

Council Member Reece spoke to the employment demographics of one of the contractors on the project. He advised that sub-contracting opportunities that customarily were open to Minority and Women Owned Business were not required based on the type of project and that there were no Minority and Women Owned Businesses located in the databank that perform the specified work should the contractor have needed to use them.

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute Contract SD-2019-06, Municipal Separate Storm Sewer System (MS4) Inspections, with Hydrostructures, P.A. in the amount of \$98,000; and

To authorize the City Manager to execute Contract SD-2019-07, Municipal Separate Storm Sewer System (MS4) Inspections, with Vision NC, LLC in the amount of \$132,000, was approved at 8:00 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

SUBJECT: STORMWATER INFRASTRUCTURE REPAIRS (SD-2019-02) – AMENDMENT NO. 2 (ITEM 20/ PR #13418)

Ben Andrews, a resident of 508 N. Buchanan Blvd, expressed concerns regarding the repairs of the stormwater infrastructure and advocated for total replacement.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to authorize the City Manager to amend the existing contract SD-2019-02, Stormwater Infrastructure Repairs, with White Oak Construction Corp. of N.C. in the amount of \$237,885 for a revised, total contract amount of \$961,482;

To amend the existing contingency fund by an amount of \$35,682.75 for a revised, total contingency amount of \$144,222.30; and

To authorize the City Manager to negotiate additional change orders for contract SD-2019-02 provided that the cost of all amendment change orders does not exceed \$35,682.75 and the total contract amount does not exceed \$1,105,704.30 was approved at 8:05 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: CONSOLIDATED ITEM - NEW HAVEN TOWNHOUSES (ITEM 23/ PR #13391)

Jamie Sunyak, Senior Planner 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.

A request for a future land use map amendment, and zoning map change had been received from Jarrod Edens of Edens Land for one parcel of land located at 2600 Ellis Road, totaling 9.116 acres. The applicant had applied for a zoning map change from Residential Suburban-20 to Planned Development Residential 6.239, with an associated development plan that stipulated up to 55 townhouse units. The area was designated Industrial and Open Space on the Future Land Use Map, and the applicant was seeking Low-Medium Density Residential which would coincide with the rezoning request. Key commitments included limiting the number of units, stipulating the housing type, setting a maximum impervious surface of 70%, dedicating additional asphalt along Ellis Road, and additional asphalt for the construction of a future bicycle lane. The Durham Planning Commission, at their June 11, 2019 meeting, recommended approval of the proposed by a vote of 12-1. Staff determined that the requests were consistent with the Comprehensive Plan and applicable policies and ordinances. Three motions were required for the application. The first was to adopt a resolution amending the Future Land Use Map, the second was to adopt a consistency statement and the third was for the zoning ordinance.

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

Jarroed Edens of 2314 S. Miami Blvd, stated that the property was in a great location for the project, that it already had adequate water and sewer lines, and providing townhomes would allow for a lower cost in homes. He also provided a proffer of \$8,250.00 to the City of Durham’s Affordable Housing Fund prior to the first final plat.

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

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt a resolution amending the Future Land Use Map to Low-Medium Density Residential for the site was approved at 8:11 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

RESOLUTION #10155

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt a Consistency Statement as required by NCGS 160A-383 was approved at 8:11 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900002 – New Haven Townhouses

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

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

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

That final action regarding zoning map change Z1900002, New Haven Townhouses is based upon review of, and consistency with, the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report and Attachment 6, ‘Comprehensive Plan Consistency Analysis’; dated September 16, 2019, regarding the subject ‘New Haven Townhouses’ (Z1900002) along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This zoning map change promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated September 16, 2019, regarding the subject 'New Haven Townhouses' (Z1900002) along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban-20 (RS-20) Zoning District and establishing the same as Planned Development Residential 6.239 (PDR 6.239) Zoning District was approved at 8:11 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15548

SUBJECT: ZONING MAP CHANGE - MAGNOLIA CREEK PHASE IV (ITEM 24/ PR #13398)

Jamie Sunyak, Senior Planner 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.

A request for a zoning map change had been received from Jarrod Edens of Edens Land for one parcel of land located at 4700 Danube Lane/1018 Old Evergreen Drive, totaling 6.71 acres. The site was included in the Belvins Property Development Plan (P02-55) which was approved by City Council in 2003. The area corresponding to the current zoning map change request called for 13 single family lots. The applicant had applied for a zoning map change from Planned Development Residential 4.990 to Planned Development Residential 7.899, with an associated development plan that stipulated up to 53 townhouse units. The area was designated Low-Medium Density on the Future Land Use Map, which was consistent with the rezoning request. The original PDR zoning was compliant with all provisions of that approved development plan (including project boundary buffers, impervious area, tree coverage, and open space). The Durham Planning Commission, at their June 11, 2019 meeting, recommended approval of the proposed by a vote of 8-3. Staff determined that the requests were consistent with the Comprehensive Plan and applicable policies and ordinances. Two motions were required for the application. The first was to adopt a consistency statement and the second was for the zoning ordinance.

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

Mayor Pro Tempore Johnson asked for clarification on any legal ramifications they could have come up regarding sectioning off a piece of property that had previously already been zoned residential.

Ms. Sunyak advised that there was some concern, but that both the Planning Department Director and the City Attorney's office had reviewed the request.

Pat Young, Director of the Planning Department advised that the calculated density did not exceed the parameters of the original zoning.

Mayor Schewel asked fir staff to comment on Commissioner Baker's comments in the report and if they would be things that would be addressed in the rewrite of the comprehensive plan.

Mr. Young advised that some of the items addressed in Commissioner Baker's comments were being addressed through Omnibus changes as well as additional forthcoming changes that they Planning Department would be proposing.

Jarrod Edens of 2314 S. Miami Blvd, advocated for the increased density and asserted that if the property were to remain designated for only single family homes, that it would be too costly for contractors and would remain undeveloped. Mr. Edens also proffered \$1,000.00 to Durham Public Schools prior to the first final plat and \$7,950.00 to the City's Affordable Housing Fund prior to the first final plat.

Giselle Freiger of 1014 Evergreen Drive, stated that the proposed property was behind her property and asked if there would be a tree buffer that would remain.

Ms. Sunyak advised that there would still be a tree buffer between the properties.

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

MOTION by Council Member Caballero, seconded by Council Member Reece, to adopt a Consistency Statement as required by NCGS 160A-383 was approved at 8:25 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900006 – Magnolia Creek Phase IV

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

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

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

That final action regarding zoning map change Z1900006, Magnolia Creek Phase IV is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as provided in the “Consistency with Adopted Plans” and “Reasonable and in the Public Interest” sections of the staff report and in Attachment 6, “Comprehensive Plan Consistency Analysis,” dated September 3, 2019, regarding the subject “Magnolia Creek Phase IV” (Z1900006), along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency, and the health, safety, and general welfare of the community. This zoning item promotes this objective by offering fair and reasonable development regulations 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 September 3, 2019, regarding the subject “Magnolia Creek Phase IV” (Z1900006), along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

MOTION by Council Member Caballero, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Planned Development Residential 4.990 (PDR 4.990) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B) and establishing the same as the Planned Development Residential 7.899 (PDR 7.899) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B) was approved at 8:25 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15549

SUBJECT: CONSOLIDATED ANNEXATION - ALL SAINTS UNITED METHODIST CHURCH (ITEM 25/ PR #13421)

Jamie Sunyak, Senior Planner 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.

A request for a utility extension, voluntary annexation and initial zoning map change had been received from Tim Sivers for two parcels of land located at 116 and 120 Smallwood Drive, totaling 11.27 acres. The properties were owned by All Saints United Methodist Church. The purpose of the annexation was to serve the existing church. The area was zoned Residential Rural (RR) and staff recommended an exact translation of the zoning district.

The annexation petition was for a contiguous expansion of the corporate city limits. Approval of the annexation petition and zoning would become effective on September 30, 2019.

City and County operational departments such as Solid Waste, Fire and EMS had reviewed the request and had not identified any significant, negative service delivery costs or impacts. The Public Works and Water Management departments performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham water and sanitary sewer mains had capacity to serve the project. The Budget and Management Services Department performed a fiscal impact analysis, which determined that the proposed annexation would become revenue negative immediately upon annexation since the application is for a non-profit. Staff determined that the requests were consistent with the *Comprehensive Plan* and applicable policies and ordinances. Three motions were required for the application. The first was to adopt an ordinance annexing the property and entering into a utility extension agreement, the second was for the consistency statement, the third was to adopt the zoning ordinance.

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

Tim Sivers of 16 Consultant Place, thanked planning staff for their work on the project and advised council that he was available for any questions they had.

Mayor Pro Tempore Johnson asked if there were any plans to expand the church.

Mr. Sivers advised that the church did not have plans to expand.

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

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Caballero, to adopt an ordinance annexing All Saints United Methodist Church into the City of Durham effective September 30, 2019; and to authorize the City Manager to enter into a utility extension agreement with All Saints United Methodist Church was approved at 8:30 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15550

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt a Consistency Statement as required by NCGS 160A-38, was approved at 8:30 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900033A, All Saints UMC

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

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

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

That final action regarding zoning map change Z1900033A, All Saints UMC is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable;

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

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

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt an Ordinance Amending the Durham Unified Development Ordinance by taking the Property out of Residential Rural Zoning District (RR), County Jurisdiction and establishing the same as Residential Rural Zoning District, (RR), City Jurisdiction was approved at 8:31 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15551

SUBJECT: CONSOLIDATED ANNEXATION - 5510 BARBEE CHAPEL ROAD (ITEM / PR #13422)

Jamie Sunyak, Senior Planner 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.

A request for a utility extension, voluntary annexation and initial zoning map change had been received from Angela Bailey with International Montessori School for a 38.51 acre parcel located at 5510 Barbee Chapel Road. The annexation was a contiguous expansion of the existing city limits.

The area was zoned Residential Residential (RR), and Falls/Jordan Lake Watershed Protection Overlay District B and staff recommends an exact translation of this zoning district. The proposed annexation area was designated as Very Low Density Residential on the *Comprehensive Plan's* Future Land Use Map, which was consistent with the zoning request. The proposed educational facility and soccer club, which currently had a site plan under review (Case D1800241), would be permitted with a minor special use permit. Should the council act favorably, approval of the annexation petition and zoning would become effective on September 30, 2019.

City and County operational departments such as Solid Waste, Fire and EMS had reviewed the request and had not identified any significant, negative service delivery costs or impacts. The Public Works and Water Management departments performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham water and sanitary sewer mains have capacity to serve the project. The Budget and Management Services Department performed a fiscal impact analysis, which determined that the proposed annexation would become revenue negative since the school was a non-for-profit. Staff determined that the requests were consistent with the *Comprehensive Plan* and applicable policies and ordinances. Three motions were required for the application. The first was to adopt an ordinance annexing the property and entering into a utility extension agreement, the second was for the consistency statement, the third was to adopt the zoning ordinance.

Mayor Schewel asked what would be going on the property.

Ms. Sunyak advised that it was a proposed educational facility with a soccer club.

Mayor Pro Tempore Johnson asked what was currently on the site.

Mr. Young advised that the site was formerly a church.

Council Member Reece asked what the public policy rationale was for annexation since the applicant would not be paying property taxes.

Mr. Young stated that it would be to the Council's discretion to determine the community benefit the site may bring if annexed.

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

Angela Bailey, Head of the International Montessori School responded to Council Member Recce's inquiry. She stated that the school was currently within the city limits, but that they had since outgrown it and would need a larger space to operate to accommodate all of the youth education and youth sports.

Mayor Schewel asked if there was a soccer field.

Ms. Bailey advised that it would be 2 outdoor fields and 1 indoor soccer field, in which one was a competition sized field.

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 annexing 5510 Barbee Chapel Road into the City of Durham effective September 30, 2019 was approved at 8:49 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15552

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

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900032A, 5510 Barbee Chapel Road

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

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

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

That final action regarding zoning map change Z1900032A, 5510 Barbee Chapel Road is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable;

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

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

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt an Ordinance Amending the Durham Unified Development Ordinance by taking Property out of Residential Rural Zoning District, Falls/Jordan Lake Watershed Protection Overlay District B (RR, F/J-B), County Jurisdiction and establishing the same as Residential Rural Zoning District, Falls/Jordan Lake Watershed Protection Overlay District B (RR, F/J-B), City Jurisdiction was approved at 8:49 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15553

SUBJECT: CONSOLIDATED ANNEXATION - HUNTINGTON VALLEY (ITEM 27/ PR #13423)

Jamie Sunyak, Senior Planner 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.

A request for a utility extension, voluntary annexation and initial zoning map change had been received from Robert Shunk for 50.255 acres of land located south of Walsenburg Drive, including the area along the unopened Rushmore Place and Ripplebrook Road. The current configuration of the area included 102 single family lots, one open space lot and one City owned greenway parcel. The applicant intended on recombining the parcels into 90 single family lots and open space parcel. The City owned greenway parcel has been included in the request to avoid creating a donut-hole situation.

The area was zoned Residential Suburban-10 (RS-10) and Eno River Watershed Protection Overlay District and staff recommends an exact translation of this zoning district. Approval of the annexation petition and zoning would become effective on September 30, 2019.

City and County operational departments such as Solid Waste, Fire and EMS have reviewed this request and have not identified any significant, negative service delivery costs or impacts. The Public Works and Water Management departments performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham water and sanitary sewer mains have capacity to serve the project. The Budget and Management Services Department performed a fiscal impact analysis, which determined that the proposed annexation will become revenue positive immediately upon annexation. Staff determined that the requests were consistent with the *Comprehensive Plan* and applicable policies and ordinances. Three motions were required for the application. The first was to adopt an ordinance annexing the property and entering into a utility extension agreement, the second was for the consistency statement, the third was to adopt the zoning ordinance.

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

Council Member Reece asked for clarification on the requested number of parcels, specifically how the amount had gone from 102 to 90.

Mr. Young advised that the applicant was able to reconfigure the amount of lots.

Robert Shunk of 101 W. Main Street, stated that the parcel had been annexed a few years ago and that the developer was only looking to develop the northern half of the site.

Mayor Schewel asked if the applicant had considered making any proffers to the city.

Mr. Shunk advised that he was under the impression that proffers were only for if a site was being rezoned.

Mayor Schewel advised Mr. Shunk that proffers were voluntary and could occur at any time.

Mr. Shunk stated that he had not come prepared with a proffer.

Ms. Sunyak advised that without a development plan, they could not receive any proffers.

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

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt an ordinance annexing Huntington Valley into the City of Durham effective September 30, 2019 was approved at 8:49 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman and Middleton.

ORDINANCE 15554

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt a Consistency Statement as required by NCGS 160A-383 was approved at 8:50 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900031A, Huntington Valley

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

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

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

That final action regarding zoning map change Z1900031A, Huntington Valley is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable;

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

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

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Rural Zoning District, Eno River Watershed Protection Overlay District B, (RR, E-B, County Jurisdiction) and establishing the same as Residential Rural Zoning District, Eno River Watershed Protection Overlay District B (RR, E-B, City Jurisdiction) was approved at 8:50 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15555

SUBJECT: CONSOLIDATED ANNEXATION - HOPEWELL ACADEMY (ITEM 28/ PR #13424)

Jamie Sunyak, Senior Planner 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.

A request for a utility extension, voluntary annexation and initial zoning map change had been received from Chad Abbot of C3 Design & Engineering on behalf of RTP International Education for a 47.707 acre parcel located at 4651 Comstock Road. The property was at the edge of the Durham/Wake County border. If annexed, one parcel south of the site owned by Raleigh Durham Airport would remain in the county.

The area was zoned Industrial Light (IL) and staff recommended an exact translation of the zoning district. If the zoning was approved as recommended, the proposed three story school building, four story dormitory building, and soccer field would be permitted. A site plan for the improvements had been submitted and was under review (D1900054).

Approval of the annexation petition and zoning would become effective on September 30, 2019.

City and County operational departments such as Solid Waste, Fire and EMS had reviewed the request and had not identified any significant, negative service delivery costs or impacts. The Public Works and Water Management departments performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham water and sanitary sewer mains had capacity to serve the project. The Budget and Management Services Department performed a fiscal impact analysis, which determined that the proposed annexation would become revenue positive immediately upon annexation. Staff determined that the requests were consistent with the *Comprehensive Plan* and applicable policies and ordinances. Three motions were required for the application. The first was to adopt an ordinance annexing the property and entering into a utility extension agreement, the second was for the consistency statement, the third was to adopt the zoning ordinance.

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

Mayor Schewel asked if the school was a for profit school.

Ms. Sunyak advised that to her understanding the school was for profit.

Chad Abbott, representing RTP International, stated that the project was intended to build dormitories for the private international school and he was unable to say if the school was nonprofit or for profit.

Mayor Schewel asked Mr. Abbott what his role was with the project.

Mr. Abbott advised that he was the civil engineer on the project and that there was already a developed property across the street where they could tap into the water and sewer.

Mayor Pro Tempore Johnson expressed concern that there was not anyone from the school in attendance to answer questions.

Acre Medina of 12 Hayti Lane, expressed concern that many students in the area of the school would not be able to attend the school and suggested that a certain amount of city students be allowed to attend.

Mayor Schewel asked if the item could be continued to another meeting where a representative from the school could be heard.

Ms. Sunyak advised that due to the concurrent annexation application, the council would only have until September 30, 2019 before the application became ineffective.

Steve Hubrich of 3100 Trail Wood Drive, stated that he was a contractor on the project and that the school's intention was to have international students as well as local students. He also advised that there were significant impact fees associated with the project.

Mayor Pro Tempore Johnson stated that she reviewed the schools website and it reflected that the school was nonprofit, so she was unclear as to why it was deemed revenue positive.

Mr. Young stated that the decision as to whether a project was revenue positive or not were reviewed by the Budget Management staff.

Council Member Reece expressed that he did not think that the presence of the international school would adversely affect the surrounding areas.

Randy Taylor, Head of Hopewell Academy arrived to the meeting and advised council that he was available for any question they had.

Mayor Schewel asked if the school was a nonprofit or for profit school.

Mr. Taylor advised that the school was a nonprofit school, but the parent company was building/financing the dormitory.

Mayor Schewel asked the demographics of the school.

Mr. Taylor stated that the school had international students and would continue marketing to other high school students across the county.

Mayor Pro Tempore Johnson asked who the actual applicant was.

Mr. Taylor responded that the civil engineer was the applicant.

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 annexing Hopewell Academy into the City of Durham effective September 30, 2019, and to authorize the City Manager to enter into a utility extension agreement with RTP International Education LLC was approved at 9:07 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15556

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt a Consistency Statement as required by NCGS 160A-383, was approved at 9:08 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900034A, Hopewell Academy

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

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

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

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

That final action regarding zoning map change Z1900034A, Hopewell Academy is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable;

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

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

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance amending the Unified Development Ordinance by taking Property out of Industrial Light Zoning District (IL), County Jurisdiction and establishing the same as Industrial Light (IL), City Jurisdiction was approved at 9:08 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, and Reece. Noes: None. Absent: Council Members Alston, Freeman, and Middleton.

ORDINANCE #15557

[ADJOURNMENT]

Being no additional business to come before Council, Mayor Schewel adjourned the meeting at 9:09 p.m.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk