

**DURHAM, NORTH CAROLINA
MONDAY, OCTOBER 19, 2015
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber located at 101 City Hall Plaza with the following members present: Mayor William V. “Bill” Bell, Mayor Pro-Tempore Cora Cole-McFadden and Council Members Eugene Brown, Diane Catotti, Eddie Davis, Don Moffitt and Steve Schewel. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Dianalynn Schreiber.

Mayor Bell called the meeting to order with a moment of silent meditation followed by the Pledge of Allegiance led by Council Member Brown.

[CEREMONIAL ITEMS]

Mayor Bell read the National Lead Poison Prevention Week Proclamation and presented it to Lenora S. Smith, Program Director of the Partnership Effort for the Advancement of Children’s Health (PEACH).

Ms. Smith recognized her board members in attendance; recognized Council and staff for their contributions; spoke to the RRP Rule (Renovation, Repair and Paint Rule) and associated work practices; addressed efforts in the targeted areas of the Mayor’s Poverty Initiative in NE Central Durham; and called for contractors to utilize RRP work practices throughout Durham where applicable.

Mayor Bell read the Conflict Resolution Day Proclamation and presented it to Raquel Dominquez, Mediation Manager of the Elna B. Spaulding Conflict Resolution Center; and Board Members Bonnie Ansley and Barbara Thomas.

Ms. Dominquez expressed appreciation for the proclamation; spoke to conflict resolution and mediation in schools’ truancy courts; and explained the collaboration between schools and parents.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Davis recognized college students from the University of Tennessee who volunteered at the local food bank, cleared brush/leaves from the Geer Cemetery, amongst other activities; and spoke to work by the Friends of Geer Cemetery and the 150th Anniversary of the 13th Amendment.

Mayor Pro-Tempore Cole-McFadden expressed gratitude to the City Manager for his assistance and support regarding the needs of students at Lakeview School.

October 19, 2015

[PRIORITY ITEMS]

City Manager Bonfield stated he had two priority items on the Supplemental Agenda; Item #26, Preliminary Economic Development Incentive Agreement between the City of Durham and the Proposed Project Cavalier within the Community Development Area within the City Limits; and Item #27, Preliminary Economic Development Incentive Agreement between the City of Durham and the Proposed Project Ironman within the Community Development Area within the City Limits.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Davis, to accept the City Manager's priority items was approved at 7:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

City Attorney Baker and City Clerk Gray stated they had no priority items.

The Mayor 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 for discussion later in the meeting.

Mayor Bell stated that a citizen had requested that Agenda Item #11, Proposed Acquisition of the Former Duke Diet and Fitness Center Property located at 808 West Trinity Avenue, be pulled.

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to approve the Consent Agenda as amended was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: MAYOR'S NOMINEE FOR APPOINTMENT - HOUSING APPEALS BOARD

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to appoint Fredrick Davis to the Housing Appeals Board as a Mayor's Appointee - Regular Member representing At-Large with the term to expire on June 30, 2017 was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: WORKFORCE DEVELOPMENT BOARD - APPOINTMENT

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to appoint Quillie Coath, Jr. to the Workforce Development Board representing Out-of-School Youth Organization with the term to expire on June 30, 2019 was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

October 19, 2015

SUBJECT: DURHAM HOUSING AUTHORITY BOARD OF COMMISSIONERS - REAPPOINTMENTS

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to reappoint Gloria M. Nottingham (representing a person directly assisted by the public housing authority) and George K. Quick to the Durham Housing Authority Board of Commissioners with the terms to expire on September 28, 2020 was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: REQUEST TO CARRYOVER FUNDS FROM FY2014-15 TO FY2015-16 BUDGET AND OTHER BUDGET, GRANT AND CAPITAL PROJECT ORDINANCES

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2015-16, as amended, the same being Ordinance #14778 for the purpose of reallocating funding sources for various projects;

To adopt a Budget Ordinance Amending the City of Durham Budget Ordinance as amended, Fiscal Year 2015-16, the same being Ordinance #14808 to appropriate fund balance for the carryover request, and recognize encumbrances brought forward;

To adopt the FY 2016 Square 1 Bank Grant Project Ordinance for the purpose promoting long-term economic growth and funding for the Durham YouthWork Program;

To adopt the FY 2013-14 CDBG Grant Project Ordinance superseding GPO # 14507 for the purpose of adjusting for actual program income totals;

To adopt the FY 2013-14 HOME Grant Project Ordinance superseding GPO # 14506 for the purpose of adjusting for actual program income totals;

To adopt the FY 2015 Susteen Mobile Forensic Equipment Grant Project Ordinance for the purpose of purchasing a Next-Gen Secure View Mobile Forensic System;

To adopt the FY 2015 US Marshals Service 2015 Fugitive Apprehension Task Force Grant Project Ordinance superseding GPO # 14643 for the purpose of recognizing additional funds for the project;

To adopt the FY 2010-11 FTA Section 5307 STPDA Grant Project Ordinance superseding GPO # 14107, for the purpose of adjusting for actual project expenditures;

To adopt the FY 2010-11 FTA Section 5309 Grant Project Ordinance superseding GPO # 14136 for the purpose of a minor technical correction;

October 19, 2015

To adopt the FY 2014-15 Transit Planning and Capital Grant Project Ordinance superseding GPO # 14717 for the purpose of adjusting the grant to the actual allocation amount;

To adopt the FY 2015-16 Transit Capital Grant Project Ordinance superseding GPO # 14789 for the purpose of adding the FTA's interest of a transit facility to the ordinance;

To adopt the FY 2013-14 State Apprentice Program Grant Project Ordinance superseding GPO # 14683 for the purpose of a minor technical correction;

To adopt the FY 2014-15 State Apprentice Program Grant Project Ordinance superseding GPO # 14770 for the purpose of adjusting the grant to actual expenses;

To adopt the FY 2012-13 State Technology Grant Project Ordinance superseding GPO # 14309 for the purpose of adjusting the grant to actual expenses;

To adopt the FY 2009-10 State Technology Grant Project Ordinance superseding GPO # 14053 for the purpose of adjusting the grant to actual expenses; and

To adopt a Resolution superseding Resolution #9930 to amend the Risk and Employee Insurance Internal Service Funds Fiscal Year 2015-16 Financial Plans for the purpose of recognizing encumbrance carry forwards was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

ORDINANCE #'s 14846; 14847; 14848; 14849; 14850; 14851; 14852; 14853; 14854; 14855; 14856; 14857; 14858; 14859; 14860; RESOLUTION #9944

SUBJECT: ORDINANCE TO REVISE THE TEMPORARY STREET CLOSING PROCEDURES FOR SPECIAL EVENTS

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to adopt an Ordinance to Revise the Temporary Street Closing Procedures, to Revise Prohibitions on Obstructing and Impeding Pedestrian and Vehicular Travel on Sidewalks, and to Set a Fixed Civil Penalty for Violation of Article II (Sales and Solicitations in the Street Right-of-Way) of Article 54 of the City Code was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

ORDINANCE #14845

SUBJECT: CONTRACT AWARD TO L-J, INC. FOR CONTRACT SR-62 EASEMENT MAINTENANCE – TREE REMOVAL

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to authorize the City Manager to execute a contract with L-J, Inc. for Contract SR-62 Easement Maintenance –

October 19, 2015

Tree Removal in an amount not to exceed \$437,860.00 was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: CONTRACT WITH FOUNTAINWORKS, LLC TO PROVIDE PROFESSIONAL SERVICES IN SUPPORT OF THE JORDAN LAKE PARTNERSHIP

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to authorize the City Manager to execute the service contract between Fountainworks, LLC and the City in the amount not to exceed \$120,000.00 on behalf of the Jordan Lake Partnership was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: RESOLUTION AUTHORIZING CITY AUCTION

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to adopt a Resolution Authorizing the City Auction to be held on Saturday, October 24, 2015 at 10:00 a.m. was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

RESOLUTION #9945

SUBJECT: AUCTIONEERING SERVICES – WESTER AUCTION & REALTY, INC.

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to accept the proposal from Wester Auction & Realty, Inc., in the sum of 6.8% of the gross sales for providing the City with Auctioneering Services; and

To authorize the City Manager to enter into a contract with Wester Auction & Realty, Inc., in the sum of 6.8% of the gross sales for providing the City with Auctioneering Services was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: PROPOSED ADVANCE ACQUISITION FOR THE FUTURE EXPANSION OF LAKE MICHIE, PROPERTY OF JAMES FRANKLIN ROBERTS, ET AL

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to approve the fee simple acquisition of three parcels with a total of +/-318.39 acres for \$2,400,000.00; the first is located at 2902 Bahama Road consisting of +/- 134.14 acres (Parcel #191888), the second at 2620 Roberts Road consisting of +/- 141.55 acres (Parcel #191886); and the third at 2802 Bahama Road

October 19, 2015

consisting of +/- 42.70 acres (Parcel #191879) from James Franklin Roberts and wife, Lila Kay Teague Roberts, Betsy Roberts Miller and husband Christopher Eric Miller, Jeanette Kaye Roberts (unmarried), Virginia Pettigrew and husband, Thomas Pettigrew, Kelly Pettigrew (unmarried), and Kara Pettigrew (unmarried) was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: LEASE OF NON-RESIDENTIAL PROPERTY AND CONTRACT FOR SERVICE WITH ACHIEVEMENT ACADEMY OF DURHAM

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to authorize the City Manager to execute the lease for non-residential property and contract for service with Achievement Academy of Durham for use of the W. I. Patterson Recreation Center was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER AND DELEGATES TO EXECUTE ENCROACHMENT AGREEMENTS WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) AND RAILROAD COMPANIES

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to adopt a Resolution Authorizing the City Manager and Delegates to execute Encroachment Agreements with North Carolina Department of Transportation and Railroad Companies was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

RESOLUTION #9946

SUBJECT: REPORT ON CHILD SEX TRAFFICKING IN DURHAM

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to receive a report on Child Sex Trafficking in Durham by the Durham-Orange Women Attorneys' Sex Trafficking Committee; and

To adopt a Resolution calling for the creation of a county-wide child sex trafficking task force and a Durham Response Protocol on child sex trafficking was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

RESOLUTION #9947

October 19, 2015

SUBJECT: RESOLUTION IN SUPPORT OF RESETTLEMENT OF SYRIAN REFUGEES IN DURHAM

MOTION by Council Member Moffitt, seconded by Council Member Catotti, to adopt a Resolution in support of Resettlement of Syrian Refugees in Durham was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

RESOLUTION #9948

The City Council disposed of the following agenda items at the October 8, 2015 Work Session:

14. Presentation on Long Term Capital Needs
(A presentation was received at the 10-08-15 Work Session)

20. Linda Rogers
(Comments were received at the 10-08-15 Work Session)

21. Elois Johnson
(Comments were received at the 10-08-15 Work Session)

22. B. J. Smith
(Comments were received at the 10-08-15 Work Session)

23. Gwyn Silver
(Comments were received at the 10-08-15 Work Session)

24. Brady Surles
(Comments were received at the 10-08-15 Work Session)

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: COMPREHENSIVE PLAN AMENDMENT - GARRETT RIDGE MULTI-FAMILY PHASE 3 (A1500006)

Patrick Young, Assistant Planning Director, certified that the public hearing items were advertised in accordance to law and affidavits were on file in the Planning Department.

Mr. Young referenced the *Comprehensive Plan Amendment* request was to change the Future Land Use Map designation of 12.5 acres of property located at 4806 and 5010 Garrett Road from medium density residential to medium - high density residential to allow for consistency with the upcoming companion map change case involving density of 15 units per acre; staff recommended approval of item; and stated that at the Planning Commission meeting of August 11, 2015 recommended approval by a vote of 14/0.

Mayor Bell opened the public hearing.

October 19, 2015

Ron Horvath, representing Horvath Associates, stated he was available to answer questions.

Being no additional speakers, Mayor Bell declared the public hearing closed.

MOTION by Council Member Moffitt, seconded by Mayor Pro-Tempore Cole-McFadden, to adopt a Resolution to change the Future Land Use from Medium Density Residential to Medium High Density Residential was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

RESOLUTION #9949

**SUBJECT: ZONING MAP CHANGE - GARRETT RIDGE MULTIFAMILY PHASE 3
(Z1500013)**

Patrick Young, Assistant Planning Director, stated the item was the companion case to the previous Comprehensive Plan Amendment; noted the item was a request to change the zoning designation of 13.04 acres located at 4806 – 5010 Garrett Road, from Residential Suburban – 20 and Residential Suburban - Multifamily with a development plan to Residential Suburban – Multifamily with a development plan to allow for 36 additional apartment units to the existing 137 unit project, for a total of 173 units.

The development plan associated with the request included a number of commitments above UDO minimum standards that were incorporated into the previous zoning cases on the site in the years of 2001, 2006 and earlier this year, including the provisions of a mulched trail, vegetated berm with plantings, dedication of a bus shelter and site entrance improvements. A complete list of commitments could be found in the staff report associated with the item.

Staff determined the request was consistent with the *Comprehensive Plan* and other adopted policies and ordinances and the Planning Commission recommended approval on August 11, 2015 by a vote of 14-0.

Mayor Bell opened the public hearing.

Due the land disturbance; activity in the area and the current sequencing, Council Member Catotti asked the staff what was currently allowed; and how would it be changing with the rezoning request.

Mr. Young responded that there was not committed phasing of the improvements; if approved, 36 additional units would be allowed at the site.

Ron Horvath, representing Horvath Associates, referenced construction taking place with the widening of Garrett Road; stated Phase 3 would not have a driveway access; and noted once the construction of the road widening was completed, that should finalize it for single lane traffic; and the rest would take place on the site.

October 19, 2015

Council Member Schewel inquired if the developer considered a proffer of \$500 per student to Durham Public Schools for the additional seven students being added.

Mr. Horvath responded that the proffer had been approved by his client; and that a \$3,500.00 voluntary payment would be made to the Durham Public Schools, prior to the site plan being approved.

Being no additional speakers, Mayor Bell declared the public hearing closed.

MOTION by Council Member Moffitt, seconded by Council Member Schewel, to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1500013 out of Residential Suburban – 20 (RS-20) and Residential Suburban - Multifamily (RS-M(D)) and placing same in and establishing same as Residential Suburban – Multifamily with a development plan (RS-M(D)) was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

ORDINANCE #14861

MOTION by Council Member Schewel, seconded by Council Member Catotti, to adopt a consistency statement as required by GS 160A-383 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1500013, Garrett Ridge Multifamily Phase 3

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 Z1500013, Garrett Ridge Multifamily Phase 3, is based upon review of, and should the plan amendment be approved, consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable; and

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

October 19, 2015

At this time, Council Member Schewel recognized Adam Clark of World Relief Durham and Ellen Andrews of Church World Service; who were involved in resettlement of refugees in Durham from war-torn regions; and stated they would be helping with resettling the Syrian refugees.

**SUBJECT: CONSOLIDATED ANNEXATION - 4512 DENFIELD STREET
(BDG1500007)**

Patrick Young, Assistant Planning Director, stated the item was the consolidated initial zoning, utility extension agreement and voluntary annexation item for True Covenant Missionary Baptist Church located on a 2.15 acre parcel at 4512 Denfield Street; indicated if the request was approved, the applicant intended to construct a place of worship at the location.

Staff recommended an initial zoning of Industrial Light (IL), Falls/Jordan-B (IL, F/J-B) which was consistent with the FLUM of the *Comprehensive Plan* and the existing County zoning in the location and would allow for construction of the desired place of worship following required administrative approvals.

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 sanitary sewers and water mains had capacity for the proposed development.

Budget and Management Services performed the required fiscal impact analysis on the item and determined that the proposed annexation would become revenue-negative which was common for tax-exempt uses such as places of worship.

Based on the information in the staff report, staff recommended approval.

Mayor Bell opened the public hearing.

Council Member Schewel inquired about the Planning Commission resolution occurring whenever there was a transition from County zoning.

Mr. Young replied that was correct.

Mayor Bell stated there were speakers to the item.

Diane King, resident of Guess Road, spoke in favor of the annexation; detailed the planned construction of the True Covenant Baptist Church; and explained the planned landscaping. She stated by constructing a house of worship, it would enhance and provide aesthetic appeal to Denfield Street and surrounding areas.

Sonya McKinzie, of Mayfair Street, thanked the Council for listening to their request and asked them for their support.

Dr. Johnny Leake, Pastor of True Covenant Baptist Church, stated they wanted to construct a house of worship; referenced activities they were undertaking at their present location to help reduce some of the negative social outcome that takes place in certain segments of the community;

October 19, 2015

stated they wanted to further encourage people to enhance their educational and marketable skills; noted they already have about thirty feet of property in the City of Durham; referenced the property being 1100 feet long; and asked for Council's support of the item. In addition, he noted they had already removed a large amount of debris that was left within the community; and stated they had other projects on the horizon that would be a complement to the community.

Sam Mebane, owner of property on Denfield Street, stated he was not opposed to True Covenant building a church of worship; expressed concerns about the debris located on the parcel, running water across the property that had been contaminated over the years; and inquired who would be cleaning up the property. He stated the church had only cleaned up the front part of the property; and asked who would be responsible for cleaning the back end of the property.

City Manager Bonfield stated he would request code inspection officers from Neighborhood Improvement Services to investigate the situation referenced by Mr. Mebane.

Reverend Leake stated that they had already removed a large amount of the debris; collaborated with Army Corps of Engineers, the Water Works Department from Raleigh, the City's Planning Department, and a few vendors from Durham County in an effort to remove debris; and stated that when construction started, he would continue to collaborate with the previously mentioned organizations and intended to remain in compliance.

Being no additional speakers, Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Moffitt, to authorize the City Manager to enter into a utility extension agreement with True Covenant Missionary Baptist Church;

To adopt an Ordinance Annexing 4512 Denfield Street (BDG1500007) into the City of Durham effective December 31, 2015;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Industrial Light, Falls of the Neuse/Jordan-Lake (IL, F/J-B) zoning for the property was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

ORDINANCE #14862 & 14863

MOTION by Council Member Catotti, seconded by Mayor Pro-Tempore Cole-McFadden, to adopt a consistency statement as required by NCGS 160A-383 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1500029A, 4512 DENFIELD STREET

October 19, 2015

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 Z1500029A, 4512 Denfield Street, is based upon review of, and consistency with, the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable; and

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

SUBJECT: WEST VILLAGE COMPLEX – PARKING LOT, LOCAL HISTORIC LANDMARK DESIGNATION REMOVAL (LD1500001)

Patrick Young, Assistant Planning Director, presented the item; stating the case consisted of the West Village Complex – Parking Lot, LD1500001, located at 600 West Morgan Street, on the north side of the street, between Morris Street and North Duke Street; stated the applicant was Bryan Kane of FCP West Village Phase I Owner, LLC and the request was to repeal the landmark designation for 1.196 acres (a portion of one parcel adjacent to 600 West Morgan Street) that was currently a parking lot and historically, a railroad bed; noted that based on the finding that no significant historical resource existed at the site, staff recommended approval; and added the Historic Preservation Commission recommended approval on a 6–0 vote at its August 4, 2015 meeting.

Mayor Bell opened the public hearing.

Council Member Catotti stated her understanding of the item was that taking away the landmark status would mean a certificate of appropriateness would no longer be required for construction on the lot; and asked the staff to comment on the applicant’s intentions; and the implications of retaining or removal of the designation.

Mr. Young concurred that a certificate of appropriateness would no longer be required if the landmark status was removed; noted the parcel was located in the downtown design district and the development requirements; the traditional standard associated with the downtown district regulations, would provide sufficient protection which would result in a high quality design at the site; stated they did feel there was a loss of historic character or resources; and stated there were not any pending applications for developments for the site. Also, he stated as noted by Council

October 19, 2015

Member Catotti, the analysis of the impact of the planned development on how it is consistent with the adjacent historic resources would not occur if the designation was removed.

Council Member Schewel commented that the owner had received a break on paying property taxes for fourteen years.

Pursuant to the state statute, Mr. Young stated they would have to repay the last three years of tax abatement which totaled \$13,000.00.

Council Member Schewel voiced concern that the developer had been receiving fourteen years of tax abatement; and now was asking that the certificate of appropriateness be removed; which would allow them to build freely as they wish. Mr. Schewel asked the staff what were the Council's options.

Mr. Young replied he did not know of any legal mechanism to require repayment beyond the three year period.

Carla Rosenberg, of the Planning Department, verified that North Carolina General Statutes dictated a maximum repayment of three years for the tax abatement.

Council Member Schewel suggested asking that the tax abatement received for the past fourteen years be repaid on the basis of having the designation; which is now being requested to be removed. He stated it seemed fair to repay the City for the benefits they had received.

City Attorney Baker stated that the question of repaying in full could be asked, but could not be required; he noted the vote of Council could not contain that condition.

City/County Planning Director Steve Medlin stated that Council could ask for the return of fourteen years of tax abatement, but only three years would be required for repayment.

Mayor Bell referenced the history of why the landmark designation was provided initially; and the results of West Village; commented on objections faced by the developers when they wanted to build on the property; and stated if they are now allowed to build on the property, the City would have increased tax value. He stated he did want to place it entirely on the developers as to why they are asking for the removal; and referenced state statute only requiring reimbursement of only three years of taxes.

Mr. Medlin clarified that in 2001, it was customary to include all the property with the local landmark designation; and stated they no longer do that, noted there was a separate evaluation to determine if the land was eligible for the landmark designation; stated the property got caught up by prior practice; and stated should development occur on the property, more tax revenues would be collected from the development rather than leaving it with its current landmark designation.

For clarification, Council Member Catotti stated the certificate of appropriateness designation did not preclude development.

October 19, 2015

Mr. Medlin replied that is correct, it does not preclude development on the site; elaborated that the site was part of the West Village Redevelopment project that came through a year to two years ago; and spoke to issues pointed out by the Historic Preservation Commission which were not inconsistent with the design district, and commented on potential issues which the developer was not able to overcome to move forward with the project.

Council Member Catotti asked if the item could be continued for one cycle to have further dialogue with the applicant.

Mr. Medlin stated that it was possible to continue the item to a date certain if Council so desired.

Council Member Moffitt stated for point of clarification, if Council did not remove the landmark designation and if the developer developed the property exactly the same way that they would if Council removed the designation, then the developer would pay 50% of the property taxes that they would pay if Council removed the designation; and concluded if the developer was willing to pay 100% of the property taxes, he was willing to consider that carefully.

Council Member Brown reiterated that the Historic Preservation Commission in August voted 6-0 recommending that the City Council remove the historic landmark status; and stated he would support the request.

Council Member Schewel stated he was in favor of removing the landmark status; and stated he felt the developer should repay more than three years of back taxes.

Mayor Bell stated he thought the discussion tonight would be asking the developer to include affordable housing in the project.

Council Member Davis did not want Council's action to be interpreted that if an applicant wanted a removal, then the applicant would have to pay more than what was required by law; and stated he understood the concept, but did not feel it was something Council should do.

Mayor Pro-Tempore Cole-McFadden stated such a request to have the developer repay more than three years of back taxes to be unfair and inappropriate.

Being no comments from the public, the public hearing was closed by Mayor Bell.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to remove the local historic landmark designation from the West Village Complex parking lot was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

ORDINANCE #14864

[SUPPLEMENTAL ITEMS]

October 19, 2015

**SUBJECT: PRELIMINARY ECONOMIC DEVELOPMENT INCENTIVE
AGREEMENT BETWEEN THE CITY OF DURHAM AND A PROPOSED
PROJECT CAVALIER WITHIN THE COMMUNITY DEVELOPMENT
AREA WITHIN THE CITY LIMITS**

Kevin Dick, Director of Office of Economic and Workforce Development, referenced the staff memo that defined the proposed Project Cavalier; and was available for questions.

Council Member Moffitt stated that if there was a way to offer future incentives based on employing people who live within the city limits, that would be even more valuable; and stated he would be voting in favor of the item.

MOTION by Council Member Moffitt, seconded by Council Member Schewel, to authorize the City Manager to negotiate an economic development incentive agreement between the City of Durham and Project Cavalier for job creation within the community development area within the city limits in an amount not to exceed \$73,500.00 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: PRELIMINARY ECONOMIC DEVELOPMENT INCENTIVE
AGREEMENT BETWEEN THE CITY OF DURHAM AND A PROPOSED
PROJECT IRONMAN WITHIN THE COMMUNITY DEVELOPMENT
AREA WITHIN THE CITY LIMITS**

Kevin Dick, Director of Office of Economic and Workforce Development, stated he was available for questions.

Council Member Catotti inquired about the staff memo/page 2, the potential city incentives; and asked for clarification on the statement “additional City of Durham assistance may include expedited approval of permits.”

Mr. Dick responded that was not necessarily something that would be a contingency of the agreement; and noted it was something that could be possible if staff resources were available to provide for expedited approval of permits; an element of assistance.

City Manager Bonfield interjected that such expediting would require a petition to the city manager’s office; stated the expedited permit process was not automatic; that staff workloads and conditions that accompany the request would be assessed, then the city manager would have the authority to authorize an expedited review.

Council Member Catotti appreciated the explanation from the City Manager; and, reading from the documentation, inquired about the use of on-the-job training grant funds and the NC Works Career Center’s assistance for recruitment.

October 19, 2015

Mr. Dick indicated that the use of NC Works would be explicitly included into the agreement; and stated that on-the-job training grant funds would not necessarily be explicit due to having custom eligibility requirements attached to them.

MOTION by Council Member Schewel, seconded by Mayor Pro-Tempore Cole-McFadden, to authorize the City Manager to negotiate an economic development incentive agreement between the City of Durham and Project Ironman for job creation within the community development area within the city limits in an amount not to exceed \$64,500.00 was approved at 7:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

[ITEM PULLED FROM THE CONSENT AGENDA]

SUBJECT: PROPOSED ACQUISITION OF THE FORMER DUKE DIET AND FITNESS CENTER PROPERTY LOCATED AT 808 WEST TRINITY AVENUE

Sandy Wilburn, of Public Works Department/Stormwater Services Division, explained the item was an option to purchase property for the use of a stormwater constructed wetland in order to treat stormwater from several large drainage areas, including Downtown Durham, and to comply with Falls Lake Stage 1 requirements for nutrient reduction; and referenced what the next steps would be in terms of planning and design for the property, if the item was approved by the Council.

Mayor Pro-Tempore Cole-McFadden inquired about the timeline for the project; and referenced the Upper Neuse River Basin Board of Directors waiting for action on the project.

Ms. Wilburn noted if the purchase was finalized, they would start the RFP process which would take approximately six months; having a consultant provide a design; there would be a public input process; permitting process that would take about 1-2 years; and construction would take 1-2 years; and then there would be a maintenance phase once built.

Council Member Brown stated that neighborhood advocates wanted to know about recreational amenities for community access; and asked if there would be ways that funds could be used from the stormwater division for recreational community assets; or would those funds need to come from the Parks and Recreation Department.

Ms. Wilburn noted the existing trail along the property; and referenced community meetings where various amenities were suggested for incorporation into the project; regarding funds for amenities, she stated that would depend on the type of amenities.

Council Member Brown asked if there would be any prohibitions from the stormwater division for enhancing the site beyond the uses the staff deemed necessary for.

Assistant Director of Stormwater Division Paul Wiebke interjected that there would be opportunities to enhance it in some ways.

October 19, 2015

Council Member Schewel reflected on community support that the stormwater project be more than a water retention facility; encouraged staff to be constructive and have enthusiasm about what the possibilities could be; rather than just having a stormwater facility.

Ms. Wilburn concurred that they were positive about the project; making it something the City was proud of; commented on working with the neighborhood to include their input regarding recreational and educational amenities.

Mayor Bell stated there were speakers to the item.

Peter Katz, resident of East Trinity Avenue, made the following statement:

Before the Duke Diet and Fitness Center came to the forefront, I spoke in front of City Council at the conclusion of the fight over the Old North Durham Park. One of the requests that I made to you was that you think about storm water in your approach to that project, with a view toward this one. My hope was that by taking a broader and more holistic approach toward both projects we could maximize the community resources created in total.

Like a lot of people, I was disappointed when the city pulled funding for the original community center project at the Diet and Fitness Center and I thought that if people knew about the kinds of amenities that existed they would fight as hard for them as they did for the soccer field in OND Park. That didn't happen, and we spent almost a million dollars to build "the hydrological equivalent of a parking lot" a block away, and upstream from the Diet and Fitness Center. Let's not make that mistake again, this time with respect to the community place making aspects of this project.

In the last few years our neighborhood has become desirable but many of you may not realize that there are still several hundred low-income households living just within a two-block radius of the Diet and Fitness Center. I wish someone would speak up for them -- they could have really used a community center with after-school programs, two indoor basketball courts in a beautiful gymnasium, a pool, office space, two kitchens, and an activities room. We talk a lot about dealing with the root causes of crime and that project really could've gone a long way in that respect.

We may have given up on that vision, but the history at this location still requires us to make this property into a true resource... and so does the future. With all the new construction, we know there will be hundreds more people living and working nearby and this site will be highly visible.

What I want you to take away from this, is that we cannot afford to approach this project simply as a stormwater project - done out of necessity. And that means amenities, site design and additional uses have to be included in the scope and budget and be integrated into the design of the project very early on. At such a high-profile site which will be looked to later as a model, we need to be focused on doing what is necessary to make this project into the paragon of what an urban wetland project can be.

Chris Dreps, representing Ellerbe Creek Watershed Association, stated his association supported the purchase of the property for the prescribed project; stated as future owners of acreage to the north of the project; urged the City to partner with his organization and the neighborhoods during

October 19, 2015

the planning/design phase to make the project more than just a stormwater project; and spoke to the area being designed in the future as Durham's nature park.

Jackie MacLeod, resident of Old North Durham, referenced her correspondence to the Council sharing her concerns associated with the city's purchase of the Duke Diet & Fitness Center; thanked the Council for educating her on the process; the future planning process incorporating surrounding neighborhoods; and stated she was relieved and hopeful that the project would consist of recreational and educational assets.

Mayor Bell expressed support for the item; suggested that discussion of parks and recreation and trails be included in a master plan; stated the item would be a perfect candidate to be included as a part of the recreational facilities upgrade amenities; and asked the City Manager to bring it back for the Council to consider.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to approve the fee simple acquisition of 9.18 acres located at 808 West Trinity Avenue (Parcel #105281) from Duke University for \$1,000,000.00 was approved at 8:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

City Clerk Gray reminded Council that the Joint City/County Committee was scheduled to meet on Tuesday, October 20th at 9 a.m. in the County Commissioners' Chamber.

There being no further business to come before Council, the meeting was adjourned at 8:15 p.m.

Dianalynn Schreiber, CMC, NCCMC
Deputy City Clerk

D. Ann Gray, MMC, NCCMC
City Clerk