

**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 21, 2015
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers, First Floor at 101 City Hall Plaza with the following members present: Mayor William V. "Bill" Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eddie Davis, Jillian Johnson, Don Moffitt, Charlie Reece 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 Pro Tempore Cole-McFadden called the meeting to order with a moment of silent meditation; followed by the Pledge of Allegiance led by Council Member Davis.

[CEREMONIAL ITEM]

Mayor Bell administered the oath of office to Dr. Barry Angeloe Burch, Sr., who was appointed by Governor Pat McCrory, as a member of the North Carolina Credit Union Commission.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Johnson expressed appreciation to city staff for being supportive in her transition onto Council.

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

There were no priority items by the City Manager, City Attorney and City Clerk.

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. No items were removed from the Consent Agenda for further discussion.

MOTION by Council Member Johnson, seconded by Council Member Reece, to approve the Consent Agenda as printed was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Johnson, seconded by Council Member Reece, to approve the City Council Minutes for the following meeting dates: October 19, 2015; October 22, 2015 and November 2, 2015 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor

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Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel.
Noes: None. Absent: None.

**SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION
APPOINTMENTS**

MOTION by Council Member Johnson, seconded by Council Member Reece, to appoint Richard Crawford (term to expire on April 1, 2018) and Phillip Harry Schuler (term to expire April 1, 2016) to the Durham City-County Appearance Commission was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION APPOINTMENT

MOTION by Council Member Johnson, seconded by Council Member Reece, to appoint Luis Suau to the Durham Open Space and Trails Commission representing Ward 2 with the term to expire on June 30, 2016 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE APPOINTMENTS

MOTION by Council Member Johnson, seconded by Council Member Reece, to appoint Jarrod Gatewood (term to expire on June 30, 2017) and Bryant K. Sterling (term to expire on June 30, 2016) to the Citizens Advisory Committee was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

**SUBJECT: REQUEST TO AMEND THE FY2015-16 BUDGET AND OTHER GRANT
AND CAPITAL PROJECT ORDINANCES**

MOTION by Council Member Johnson, seconded by Council Member Reece, to adopt a Budget Ordinance Amending the City of Durham Budget Ordinance as amended, Fiscal Year 2015-16, the same being Ordinance # 14808;

To adopt the University of North Carolina at Chapel Hill Request for Temporary Law Enforcement Assistance, 2015 UNC Chapel Hill Mutual Aid Grant Project Ordinance in the amount of \$11,820.26; and

To adopt an Ordinance Amending the Capital Improvements Project Ordinance as amended, the same being Ordinance #14778 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

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ORDINANCE #14874; 14875 &14876

**SUBJECT: HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)
CONTRACT WITH DUKE UNIVERSITY**

MOTION by Council Member Johnson, seconded by Council Member Reece, to approve the selection of Duke University as a sole source Program Sponsor for the City of Durham; and

To authorize the City Manager to execute a six-month contract with Duke University for Housing Opportunities for Persons with AIDS in the amount of \$140,663.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT FOR PROFESSIONAL ENGINEERING
SERVICES FOR THE TURNAGE HEIGHTS LIFT STATION
ABANDONMENT PROJECT – AMENDMENT #1**

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a contract amendment with McKim and Creed, LLC for engineering services for detailed design, permitting and bid document for the Turnage Heights Lift Station Abandonment Project, for a total amount not to exceed \$468,200.00;

To authorize increasing the contingency fund for the contract by \$46,800.00; and

To authorize the City Manager to negotiate and execute change orders for the contract provided that the cost of all change orders together with the original contract cost does not exceed the total project cost of \$515,000.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES FOR THE
HYDRAULIC MODEL UPDATE, WATER DISTRIBUTION SYSTEM
STUDY AND WATER AUDIT PROJECT - AWARD OF CONTRACT TO
MCKIM AND CREED, INC.**

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a contract with McKim and Creed, Inc. for Professional Engineering Services in an amount not to exceed \$907,000.00 for the Hydraulic Model Update, Water Distribution System Study and Water Audit Project;

To establish a contingency fund for the contract in the amount not to exceed \$90,000.00; and

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To authorize the City Manager to negotiate amendments to the contract provided that the total project cost does not exceed \$997,000.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: CONTRACT AWARD TO JF WILKERSON CONTRACTING CO., INC. FOR CONTRACT SR-63 WILSON STREET AND ELLERBEE CREEK SEWER OUTFALL REPLACEMENT PROJECT

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a contract with JF Wilkerson Contracting Co. Inc. for construction services for Contract SR-63, Wilson Street and Ellerbee Creek Sewer Outfall Replacement Project in the amount of \$1,638,848.00;

To establish a contingency fund for the contract in the amount not to exceed \$164,152.00; and

To authorize the City Manager to negotiate change orders for the contract provided that the total cost of the project, including all change orders, does not exceed \$1,803,000.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: BIDS-TERMS CONTRACT FOR LIQUID FERRIC SULFATE SOLUTION (4,600 TONS) – KEMIRA WATER SOLUTIONS, INC.

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to enter into a contract with Kemira Water Solutions, Inc., in the amount of \$510,600.00 for providing the City with a term contract for Liquid Ferric Sulfate Solution (4,600 Tons) was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: BID-TERM CONTRACT FOR SODIUM HYDROXIDE – UNIVAR, INC.

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to enter into a contract with Univar Inc. in the amount of \$585,000.00 for providing the City with a term contract for Sodium Hydroxide (1,000 Tons) was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: BID-PURCHASE OF TWO (2) AUTOMATED REFUSE TRUCKS – TRANSOURCE, INC.

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MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to enter into a contract to purchase two (2) automated refuse trucks in the amount of \$571,760.00 from Transource, Inc. was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: BID-TERM CONTRACT FOR WATER METERS – HD SUPPLY WATERWORKS, LTD

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to enter into a contact with HD Supply Waterworks, LTD in the amount of \$604,715.00 for providing the City with a term contract for water meters (various sizes) was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY AND THE COUNTY OF DURHAM FOR THE MANAGEMENT OF THE FUTURE SOUTHVIEW PARK AND ASSOCIATED CONSERVATION AREAS

MOTION by Council Member Johnson, seconded by Council Member Reece, to adopt a Resolution Authorizing the City Manager to execute an Interlocal Cooperation Agreement for the Acquisition, Planning, and Operation of the Southview Property by the County of Durham and the City of Durham; and

To authorize depositing proceeds in the amount of \$200,000.00 from the conveyance to the County into Water Management's Future Supply/Source Protection account was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION REQUEST TO AMEND DURHAM CITY CODE SECTION 34-108 OF THE HUMAN RELATIONS COMMISSION ORDINANCE

MOTION by Council Member Johnson, seconded by Council Member Reece, to receive and accept a request from the City of Durham Human Relations Commission to adopt an Ordinance Amendment to the Durham City Code Section 34-108 of the Human Relations Commission Ordinance Entitled Composition; Appointment and Terms of Members; Filling Vacancies was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14877

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SUBJECT: CONTRACT EXTENSION WITH ENVIRONMENTAL CONSERVATION LABORATORIES, INCORPORATED (ENCO) FOR LABORATORY SERVICES FOR THE PUBLIC WORKS STORMWATER PROGRAM

MOTION by Council Member Johnson, seconded by Council Member Reece, to authorize the City Manager to execute a contract extension with Environmental Conservation Laboratories, Incorporated for laboratory services for the Public Works Stormwater Program through October 30, 2016 for the current contract amount of \$105,000.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: RESOLUTIONS IN SUPPORT OF UNIVERSAL ACCESS TO PRE-KINDERGARTEN AND OTHER APPROPRIATE STRATEGIES TO IMPROVE EARLY LITERACY IN DURHAM COUNTY

MOTION by Council Member Johnson, seconded by Council Member Reece, to adopt the Resolutions in Support of Universal Access to Pre-Kindergarten and Other Appropriate Strategies to Improve Early Literacy in Durham County from the City of Durham, County of Durham and Durham Public Schools was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

RESOLUTION #9952

The City Council disposed of the following agenda items at the December 10, 2015 Work Session:

17. Presentation on a Housing Profile of the City of Durham Prepared by Enterprise Community Partners, Inc.

(A presentation was received at the 12-10-15 Work Session)

18. GoDurham Service Performance Annual Report FY 2015

(A presentation was received at the 12-10-15 Work Session)

21. Scott Barndt

(Comments were received at the 12-10-15 Work Session)

22. Isaac Perez

(Comments were received at the 12-10-15 Work Session)

23. Elois Johnson

(Comments were received at the 12-10-15 Work Session)

24. James Chavis

(Comments were received at the 12-10-15 Work Session)

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25. Lorisa Seibel

(Comments were received at the 12-10-15 Work Session)

26. Maruka Rivers

(Comments were received at the 12-10-15 Work Session)

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: STREET CLOSING – WOODLAND DRIVE (SC1500005)

Jacob Wiggins, of the Planning Department, certified that all public hearing items this evening had been advertised as required by law with affidavits on file in the Planning Department.

Mr. Wiggins explained that Coulter Jewell Thames, PA requested to close 732.25 linear foot portion of Woodland Drive; and specified that the portion of Woodland Drive was located north of West Club Boulevard and South of I-85.

He noted if the request was approved, the right-of-way would be recombined with the adjacent properties, which were under single ownership. The application for the request listed the street name as ‘Sally Street’ based upon previous plats. Upon research after the initial submittal, City staff discovered that Sally Street had been renamed, likely between 1935-1945, to Woodland Drive.

The site was being proposed for residential redevelopment as part of ‘Rose Walk’ rezoning proposal; and staff expected the rezoning request to be heard by Council in early 2016.

No service impacts were indicated during the review of the request. Staff found that the portion of right-of-way had little value to the public and recommended closure of the street.

Mayor Bell opened the public hearing. Being no speakers to the item, he declared the public hearing closed.

MOTION by Council Member Moffitt, seconded by Council Member Schewel, to adopt an order permanently closing 732.25 linear feet of Woodland Drive was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14878

**SUBJECT: CONSOLIDATED ANNEXATION - RAVENSTONE-ANDERSON
MARLOWE (BDG1500012)**

Jacob Wiggins, of the Planning Department, explained the request for a utility extension agreement (EA), voluntary annexation, and initial zoning request received from Marlowe Builders for two

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contiguous parcels located along Wake Forest Highway (U.S. Highway-98). The parcels were located at 5200 and 5204 Wake Forest Highway and the total area proposed for annexation totaled 4.74 acres. The site was presently zoned CC(D) and was located in the Falls/Jordan-B (F/J-B) watershed overlay protection district.

The site was rezoned to Commercial Center with a Development Plan (CC-(D)) by City Council and the Durham County Board of Commissioners in 2006 and 2007, respectively. City Council's approval was required as a portion of the property located at 5200 Wake Forest Highway was currently in the City limits; and a copy of the approved development plan was made available in the Council's agenda.

Public Works and Water Management reviewed the request and indicated there were adequate utilities to serve the site. Mr. Wiggins acknowledged that the fiscal analysis performed by the Budget Department indicated that the site would be revenue positive immediately upon annexation; and stated the applicant requested an exact translation of the current zoning, which was not consistent with the City Council policy of designating the least intense zoning district based on the Development Tier and the size of the lot. A memo summarizing the zoning request was provided in the supporting information; and if the request was approved, staff recommended translating the existing zoning.

Mr. Wiggins explained that one motion, with three components, was required by law to approve the utility extension agreement, voluntary annexation petition, and the zoning map change. Staff recommended that Council approve the utility extension agreement, voluntary annexation, and initial zoning.

If Council approved the item, staff recommended the Council act on a separate vote to adopt the consistency statement as required by state law.

Mayor Bell opened the public hearing and stated there was a speaker to the item.

Jarrod Edens, of Edens Land Corporation, stated he was available for questions.

James Edward Brinkley, Jr., a resident of 5210 Wake Forest Highway, indicated he had spoken to the planning staff regarding the matter; expressed concerns about the traffic congestion in the area; people trying to beat the light at the intersection of Highway 98 and Sherron Road; stated approval of the request would create chaos; spoke regarding two cars coming through a field that entered his backyard; was concerned about open space requirements, vegetative screening between his property and the future development for the shopping center; and light pollution. Mr. Brinkley stated his property was located next door to the proposed development.

Jacob Wiggins, of the Planning Department, stated he had indicated to Mr. Brinkley that he was not aware of any means in the ordinance to reduce the 25 foot buffer along his property; stated the approved development plan indicated a 50 foot buffer between his property and the proposed development at the site; and confirmed that Mr. Brinkley's property was located east of the development.

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Steve Medlin, Planning Director, stated in terms of the question regarding lighting raised by Mr. Brinkley, he clarified that at the time of site plan approval, the lighting requirements would be evaluated as established by the Unified Development Ordinance.

For clarification, City Manager Bonfield asked if most of the concerns raised by Mr. Brinkley would be addressed during the site plan process.

Mr. Medlin replied yes, and stated that the Unified Development Ordinance had significant sets of development criteria which had to be evaluated and adhered to in order for a site plan to be approved; such as the buffer requirements; and noted there was no ability in the ordinance to reduce the buffer width because the buffer was actually shown as a 50 foot buffer.

Council Member Schewel referenced the parcel's current zoning classification as a commercial center with a development plan; appreciated the speaker's concerns; and asked if the shopping center could be built without the annexation taking place.

Mr. Medlin responded that the development plan was approved by the County Commissioners in 2006; noted the developer was bound by it; stated that if the developer was able to locate on site well and septic facilities to serve the property, the development could be constructed without annexation; however, since the developer needed to tie into city utilities, therefore according to city policy, the developer needed to petition Council and they can only receive those utilities if the property is annexed into the city.

Council Member Reece stated the applicant was requesting an exact translation of the zoning district from the surrounding area; which was not consistent with the city council policy and would designate the least in tense zoning; and inquired about the rationale for the policy.

Mr. Medlin clarified that when there was a development plan of record, the planning staff accepted it as an equivalent transition which was acceptable under the city's policy; he stated it is when you are going from a district such as - residential district which was not covered by a development plan - in the county there may be a rural residential component by which they would want to convert to a RS-20 which is the preferred minimum residential density. Mr. Medlin stated; therefore with the case this evening, it was following the policy envisioned by the Council.

Jarrod Edens, representing the applicant, stated they were requesting approval of the annexation and utility extension agreement; and not requesting approval of any particular site plan. He stated their full expectation was to have the existing zoning by which his client purchased the property to translate with the annexation.

Council Member Moffitt referenced the Council policy which was approved several years ago; stating that if a site plan was provided, whatever was shown graphically on the site plan, became a committed element. He referenced the site plan and asked if it was illustrative which was dated several years ago.

Mr. Medlin called Council's attention to page 5 in the staff report for the zoning request; pointed out that the committed elements on the face of the development plan limited the use to residential uses, with maximum square footages being capped at 27,800 feet; and noted three specific building

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envelope locations shown which the developer would need to adhere to; and stated the applicant themselves have committed to the site constraints.

Council Member Moffitt requested confirmation that where there were buildings shown on the development plan, would be the only places for buildings to be placed.

Mr. Medlin stated that is correct.

Mr. Brinkley responded that there was a large volume of traffic on the roadway, in some instances, involving fatalities; spoke to the traffic volume relevant to the time of day; and expressed concerns about vehicular ingress/egress from the shopping center.

Council Member Moffitt stated the building was sited up against the buffer and there was no loading/unloading behind the building; stated the 50 foot buffer with closed off site-lines was an advantage. He stated that this was a direct translation of zoning from county to city; indicated he had considered the case when he was on the Planning Commission; and he supported it then and was supportive of the request.

Between his fence and the structure; Mr. Brinkley requested to have metal fencing, a berm, or vegetative growth to divide his property from the new structure; and asked if that was possible.

Mr. Medlin confirmed that the development plan required a .8 opacity buffer, but was not sure if an additional buffer was possible due to limited space.

Council Member Schewel inquired if Mr. Edens would meet with Mr. Brinkley to discuss his concerns.

Mr. Edens agreed to meet with Mr. Brinkley if his company was hired to engineer the site.

There being no additional speakers, Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Schewel, to authorize the City Manager to enter into a utility extension agreement with Marlowe Builders;

To adopt an Ordinance Annexing Ravenstone-Anderson Marlowe (BDG1500012) into the City of Durham effective December 31, 2015; and

To adopt an Ordinance Amending the Unified Development Ordinance to establish Commercial Center with a Development Plan, Falls/Jordan-B (CC(D), F/J-B) zoning for the property was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14879 & 14880

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MOTION by Council Member Moffitt, seconded by Council Member Schewel, to adopt a consistency statement as required by NCGS 160A-383 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

Unified Development Ordinance
Zoning Map Change Consistency Statement
By the Durham City Council
Regarding Z15000038A, Ravenstone-Anderson Marlowe

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 Z15000038A, Ravenstone-Anderson Marlowe, 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.

There being no further business to come before Council, the meeting was adjourned at 7:34 p.m.

Dianalynn Schreiber, CMC, NCCMC
Deputy City Clerk

D. Ann Gray, MMC, NCCMC
City Clerk